

TENTATIVE:
SUBJECT TO
REVISION



TOWN OF PALM BEACH

TOWN MANAGER'S OFFICE

TOWN COUNCIL MEETING DEVELOPMENT REVIEW

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

AGENDA

MAY 10, 2017

9:30 AM

Welcome!

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

I. CALL TO ORDER AND ROLL CALL

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

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. PUBLIC HEARINGS

- A. RESOLUTION # 59-2017 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As **228 Seaspray Avenue** Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

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

VIII. DEVELOPMENT REVIEWS

A. Declaration of Use Agreements

1. SPECIAL EXCEPTION #6-2017 The application of Sant Ambroeus (Dimitri Pauli); relative to property commonly known as **340 Royal Poinciana Way, Ste. 304**, described as lengthy legal description on file; located in the C-PC Zoning District. Special Exception approval was granted at April 12, 2017 Town Council meeting, with a condition to submit a Declaration of Use Agreement outlining applicable terms of operation. [Attorney: Maura Ziska]

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

2. SPECIAL EXCEPTION #8-2017 The application of Hillstone Restaurant Group (The Palm Beach Grill and The Honor Bar in Palm Beach Grill); relative to property commonly known as **340 Royal Poinciana Way, Ste. 336**, described as lengthy legal description on file; located in the C-PC Zoning District. Special Exception approval was granted at April 12, 2017 Town Council meeting, with a condition to submit a Declaration of Use Agreement outlining applicable terms of operation. [Attorney: Maura Ziska]

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

3. SPECIAL EXCEPTION #9-2017 WITH SITE PLAN REVIEW AND VARIANCE The application of Old Guard Society of Palm Beach; relative to property commonly known as **165 Bradley Place**, described as lengthy legal description on file; located in the C-TS Zoning District. Special Exception With Site Plan Review and Variance approval was granted at April 12, 2017 Town Council meeting, with a condition to submit a Declaration of Use Agreement outlining applicable terms of operation. [Attorney: Maura Ziska]

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

B. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. VARIANCE #1-2017 The application of Rosemin Stanoytchev; relative to property commonly known as **157 Peruvian Ave.**,

described as lengthy legal description on file; located in the R-C Zoning District. The applicant is requesting a variance to build a two-story, 3,911 square foot (including the garage) single-family residence on a lot with an area of 6,250 square feet, in lieu of the 10,000 square foot minimum required, and a lot width of 50 feet, in lieu of the 75 foot minimum required. [Attorney: David E. Klein, Esq.] [Architectural Commission deferred the project to the May 24, 2017 meeting. Carried 7-0] **Request for Deferral to the June 14, 2017, Town Council Meeting Per Letter Dated April 28, 2017 from David E. Klein**

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

- b. **SPECIAL EXCEPTION #29-2016 WITH SITE PLAN REVIEW AND VARIANCES** The application of Gregory Fisher; relative to property commonly known as **320 Seabreeze Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting for approval of a special exception with site plan review to allow the construction of a 2,713 square foot two-story, single family residence on two platted lots which combined creates a lot that is 50 feet in width in lieu of the 100 foot minimum required and 6,125 square feet in area in lieu of the 10,000 square foot minimum area required. The following variances are being requested. To allow a 6 foot east side yard setback for the two story portion in lieu of the 15 foot minimum required and to allow a 6 foot west side yard setback for the one story portion in lieu of the 12.5 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Implementation of the proposed special exception with site plan review and variances will not cause negative architectural impacts to the subject property. Carried 5-2] [Architectural Commission approved the project as presented. Carried 5-2]

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

- c. **SITE PLAN REVIEW #1-2017** The application of 235 Via V PB LLC (Stuart Kapp, Manager); relative to property commonly known as **235 Via Vizcaya**, described as lengthy legal description on file; located in the R-A Zoning District. The applicant is requesting a site plan review to allow the construction of a 7,444 square foot two-story, single family residence on a non-conforming platted lot which is 15,344 square feet in area in lieu of the 20,000 square foot minimum area required; 47.25 in width in lieu of the 125 foot minimum required; and 97.58 feet in depth in lieu of the 150 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission deferred the project to the June 28, 2017 meeting. Carried 7-0] **Request for Deferral to the July 12, 2017, Town Council Meeting Per Letter Dated May 2, 2017 from Maura A. Ziska.**

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

- d. **SITE PLAN REVIEW #2-2017** The application of JDC Florida

Properties LLC (Stuart Kapp, Manager); relative to property commonly known as **12 Via Vizcaya**., described as lengthy legal description on file; located in the R-A Zoning District. The applicant is requesting a site plan review to allow the construction of a 6,958 square foot two-story, single family residence on a non-conforming platted lot which is 15,102 square feet in area in lieu of the 20,000 square foot minimum area required; 106.67 in width in lieu of the 125 foot minimum required; and 100.17 feet in depth in lieu of the 150 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission deferred the Project to the June 28, 2017 meeting. Carried 7-0] **Request for Deferral to the July 12, 2017, Town Council Meeting Per Letter Dated May 2, 2017 from Maura A. Ziska.**

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

2. New Business

- a. **VARIANCE #12-2017** The application of 202 Onondaga, LLC; relative to property commonly known as **202 Onondaga Ave.**., described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting approval to demolish greater than fifty percent (50%) of the existing cubic footage by taking off existing roof trusses and adding a second story addition with a pitched roof. The following variances are being requested: a) an east side yard setback of 11.8 feet in lieu of the 15 foot minimum required for the proposed second story addition, b) a west side yard setback to remain of 9.8 feet in lieu of the 12.5 foot minimum setback required for the one story portion to remain as existing. [Attorney: Francis X. J. Lynch, Esq.] [Architectural Commission Recommendation: The proposed project can be designed in an architecturally suitable manner which conforms to our code of ordinances without the need for a variance. Carried 5-2]

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

- b. **VARIANCE #13-2017** The application of Kelly M. Williams; relative to property commonly known as **288 Sandpiper Dr.**., described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a variance to construct a two-story addition on the west side of the property with a second story street side yard setback of 27.0 feet in lieu of the 35 foot minimum. [Attorney: David E. Klein, Esq.]

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

- c. **VARIANCE #14-2017** The application of Waterfront Properties, Inc.; relative to property commonly known as **333 Peruvian Ave., Ste. #1**, described as lengthy legal description on file; located in the C-TS Zoning District. The applicant is requesting a variance to permit the operation of a real estate office containing approximately 1,237 sq. ft. on the first floor which does not meet the requirements to allow an office use on the first floor in this

situation. The Applicant is assuming the existing lease and proposes to change the use from a yacht brokerage office to a real estate brokerage office. The proposed use does not meet the special exception uses requirement in Section 134-1109 (18) that there are at least 50% existing office uses on all floors in the building or the requirement that there are more than 50% existing office uses on the first floor within 300 feet of the proposed use within the same zoning district. [Attorney: M. Timothy Hanlon, Esq.]

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

- d. **VARIANCE #15-2017** The application of 3200 Washington, LLC; relative to property commonly known as **1055 N. Ocean Blvd.**, described as lengthy legal description on file; located in the R-A Zoning District. The applicant is proposing to modify the existing one-story house by adding a 4,665 square foot second story pitched roof addition and adding a pitched roof and loggia element onto the existing one story portions of the house that are to remain. The following four variances are being requested in order to accomplish this: 1) A south side yard setback ranging from 7.4 feet to 9.9 feet in lieu of the 15 feet minimum setback required to add the pitched roof onto the one story south wing of the house and the second story addition; 2) A north side yard setback ranging from the 5.1 feet to 8 feet in lieu of the 15 foot minimum setback required to add the pitched roof and loggia onto the one story north wing of the house and the second story addition. Both sides are proposed to have 2 foot overhangs for the pitch roof which is allowed by code. [Attorney: Joel P. Koeppel, Esq.] [Architectural Commission Recommendation: Implementation of the proposed variance will cause negative architectural impacts to the subject property and the proposed project can be designed in an architecturally suitable manner which conforms to our Code of Ordinances without the need for a variance. Carried 5-2]

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

- e. **VARIANCE #16-2017** The application of Harvey E. Oyer, Esq., on behalf of the Paramount Church, Inc.; relative to property commonly known as **139 N. County Rd.**, described as lengthy legal description on file; located in the CT-S Zoning District. The applicant is requesting the approval of a sign variance to replace the existing Paramount sign with an identical business sign of the same size, height, number of bulbs, color, appearance and location. The following variance is requested: To increase the maximum gross surface area for a business sign for the Paramount Theatre to 156.20 square feet in lieu of the 20 square feet maximum as required by code. A requested variance of 136.20 square feet. [Attorney: Harvey E. Oyer, Esq.] [Landmarks Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impacts to the

subject landmarked property. Carried 7-0]

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

- f. **SPECIAL EXCEPTION #10-2017 WITH SITE PLAN REVIEW AND VARIANCES** The application of Gregory and Valerie Frost; relative to property commonly known as **1430 N. Ocean Blvd.**, described as lengthy legal description on file; located in the R-B/B-A Zoning District. The applicant is requesting a special exception with site plan review to allow construction of a 164.5 square foot beach cabana that requires the following variances: 1) To construct a 164.5 square foot beach cabana that is on a lot with frontage of 90.52 feet in lieu of the 100 foot required, 2) To allow the beach cabana to have a west setback of 4.37 feet from the property line in lieu of the 10 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Implementation of the special exception with site plan review and variances will not cause negative architectural impacts to the subject property. Carried 7-0] [Architectural Commission approved the project as presented. Carried 7-0]

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

- g. **SPECIAL EXCEPTION #11-2017 WITH SITE PLAN REVIEW** The application of Style Bar (Ngoc Bich Thi Nguyen); relative to property commonly known as **2875 S. Ocean Blvd.**, described as lengthy legal description on file; located in the C-TS Zoning District. The applicant is requesting a special exception with site plan approval pursuant to Condition #2 in the original 1980 approval to construct the existing building on the subject property (Special Exception #25-80). The condition requires any use other than an office and professional services to obtain Town Council approval. This request is to allow a nail salon ('Style Bar Day Spa') totaling 779 square feet to operate in Suite 108. [Attorney: Maura Ziska, Esq.]

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

- h. **SPECIAL EXCEPTION #12 -2017 WITH SITE PLAN REVIEW** The application of Paul N. Leone, Chief Executive Officer of The Breakers Palm Beach, Inc.; relative to property commonly known as **1 S. County Rd.**, described as lengthy legal description on file; located in the PUD-A Zoning District. The applicant is requesting a special exception with site plan approval for the construction of a new retail shop in The Palm Court. The shop, called Mary Lily's, will sell primarily ice cream and candy. It will total 404 square feet, and will be constructed in the breezeway connecting The Palm Court and the porte-cochere at the main hotel entrance. The square footage for this business will bring the total overall commercial square footage in The Palm Court area to 10,062 and the total retail square footage to 7,565, and so will not cause the 10,700 overall commercial square footage or the 8,200 retail square footage approved in 1990 for The Palm Court area by Resolution No. 17-90 to be exceeded. This application also

requests special exception approval to expand the existing seafood restaurant and bar. Internal hotel space was reconfigured to allow an additional 1,781 square feet of space and 37 additional seats, for a total of 6,111 square feet and 177 seats. [Attorney: James M. Crowley, Esq.] [Landmarks Commission Recommendation: Implementation of the proposed special exception with site plan review will not cause negative architectural impacts to the subject landmarked property. Carried 7-0]

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

- i. **SITE PLAN REVIEW #3-2017** The application of Harvey E. Oyer, Esq., on behalf of The 2100 Condominium Association, Inc.; relative to property commonly known as **2100 S. Ocean Blvd.**, described as lengthy legal description on file; located in the PUD-B Zoning District. The applicant is requesting a site plan review to modify the vehicular drives west of both buildings and construct 22 surface parking spaces. There are currently 10 surface parking spaces in the north parking lot and 8 spaces in the south parking. The redesign will provide 12 spaces in the north lot and 10 in the south lot. A total of 4 additional spaces will be added. If approved, 2100 Sloan's Curve will provide a total of 219 off-street street parking spaces including those in the garages. [Attorney: Harvey E. Oyer, III, Esq.]

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

IX. ORDINANCES

A. Second Reading

1. **ORDINANCE NO. 12-2017** An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning, As Follows: At Article VI, District Regulations, Section 134-1353 By Eliminating The Reference To Permitted Uses, Section 134-1354 By Eliminating The Word "And"; And Creating Section 134-1355, Prohibited Activity, Requiring Permits For Landscape Activities; And, Prohibiting The Use Of Landscape Material For Allowing Or Promoting The Use Of Land For Other Than That Allowed By Special Exception Use Within The Conservation Zoning District; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

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

X. ADJOURNMENT

PLEASE TAKE NOTE:

Note 1: No written materials received after 3:30 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 3:30 p.m. on Thursday will be separately distributed to the Mayor and Town Council; however, depending

upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.

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

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

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

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

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

PROCEDURES FOR PUBLIC PARTICIPATION

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

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

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

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

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

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 10, 2017

Section of Agenda

Public Hearings

Agenda Title

RESOLUTION # 59-2017 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As **228 Seaspray Avenue** Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

Presenter

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

ATTACHMENTS:

- ❑ **Memorandum Dated April 25, 2017 Form John S. Page, Director of Planning, Zoning & Building**
- ❑ **Resolutiuon No. 59-2017**
- ❑ **228 Seaspray Designation Report**
- ❑ **Excerpt of Landmarks Preservation Commission Meeting on April 19, 2017**
- ❑ **Designation Procedure**

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 10, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Landmark Designation of 228 Seaspray Avenue
Resolution No. 59-2017

Date: April 25, 2017

STAFF RECOMMENDATION

Staff recommends ratification of the property known as 228 Seaspray Avenue as a Town landmark.

LANDMARKS PRESERVATION COMMISSION RECOMMENDATION

At the Public Hearing for Designation held during the April 19, 2017 meeting of the Landmarks Preservation Commission, the Commission voted (7-0) to recommend to the Town Council that the above mentioned property be designated as a landmark. In accordance with Section 54-164 (a) (11) of Chapter 54 of the Town of Palm Beach Code of Ordinances, the Town Council shall hold a public hearing within ninety (90) days of the final decision of the Landmarks Commission to consider ratification of the Commission's recommendation.

GENERAL INFORMATION

The property meets the following criteria for designation as a landmark of the Town of Palm Beach:

Sec. 54-161 (1) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town; and,

Sec. 54-161 (3) Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmen; and,

OWNER CONSENT

Owners Gergana and Zachary Shipley concur with the proposed designation. Mr. Shipley attended the Landmarks meeting of April 19, 2017 and confirmed his pleasure with this action.

TOWN ATTORNEY REVIEW

Please be advised that the Town Attorney has reviewed Resolution No. 59-2017 relating to 228 Seaspray Avenue, and has approved it as to legal form and sufficiency.

Attachments

cc: John C. Randolph, Town Attorney
John Lindgren, AICP, Planning Administrator
Gergana and Zachary Shipley, Owners
Janet Murphy, Town Consultant
Emily Stillings, Town Consultant

RESOLUTION NO. 59-2017

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY KNOWN AS 228 SEASPRAY AVENUE MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 54, ARTICLE IV OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH; AND DESIGNATING SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 54, ARTICLE IV OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

WHEREAS, pursuant to the provisions of Ordinance No. 2-84, (Chapter 54, Article IV, Code of Ordinances of the Town of Palm Beach) the Landmarks Preservation Commission of the Town of Palm Beach held a public hearing and recommended to the Town Council that certain property described herein be designated as a landmark as described in said Ordinance and Code; and

WHEREAS, after due notice to the property owner(s) affected, a public hearing was held at which all parties interested were given an opportunity to be heard and express their views and opinions with respect to the property and its designation as a landmark; and

WHEREAS, the Town Council does hereby find and determine that the property described herein meets the criteria required by the Ordinance to designate a landmark, and shall be designated as a landmark;

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

Section 1. The foregoing recitals are hereby ratified and confirmed.

Section 2. The recommendation and determination of the Landmarks Preservation Commission as to the property hereinafter described in Section 3 of this Resolution, being designated as a landmark is hereby ratified, approved and confirmed.

Section 3. The landmark herein designated, pursuant to the provisions of Ordinance No. 2-84, and the provisions of the Town Code described herein, is known as **228 Seaspray Avenue Way** and the property to be landmarked is legally described as follows:

LOTS 437 AND 439, POINCIANA PARK 2ND ADDITION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6, PAGE 86, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

Section 4. The Town Clerk is hereby ordered to furnish the property owner of the landmarked property a copy of this Resolution.

Section 5. Within thirty (30) days from the date of this Resolution, the Landmarks Preservation Commission shall cause to be filed in the Office of the Recorder of Deeds in and for Palm Beach County, Florida, a certificate that the above-described property comprises a landmark, as defined in and subject to the provisions of Ordinance No. 2-84 and the Code of Ordinances of the Town of Palm Beach, Florida.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 10TH day of May, 2017.

Gail L. Coniglio, Mayor

Richard M. Kleid, Town Council President

Danielle H. Moore, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member

228 Seaspray Avenue



DESIGNATION REPORT

January 18, 2017

Landmark Preservation Commission

Palm Beach, Florida

DESIGNATION REPORT

228 Seaspray Avenue

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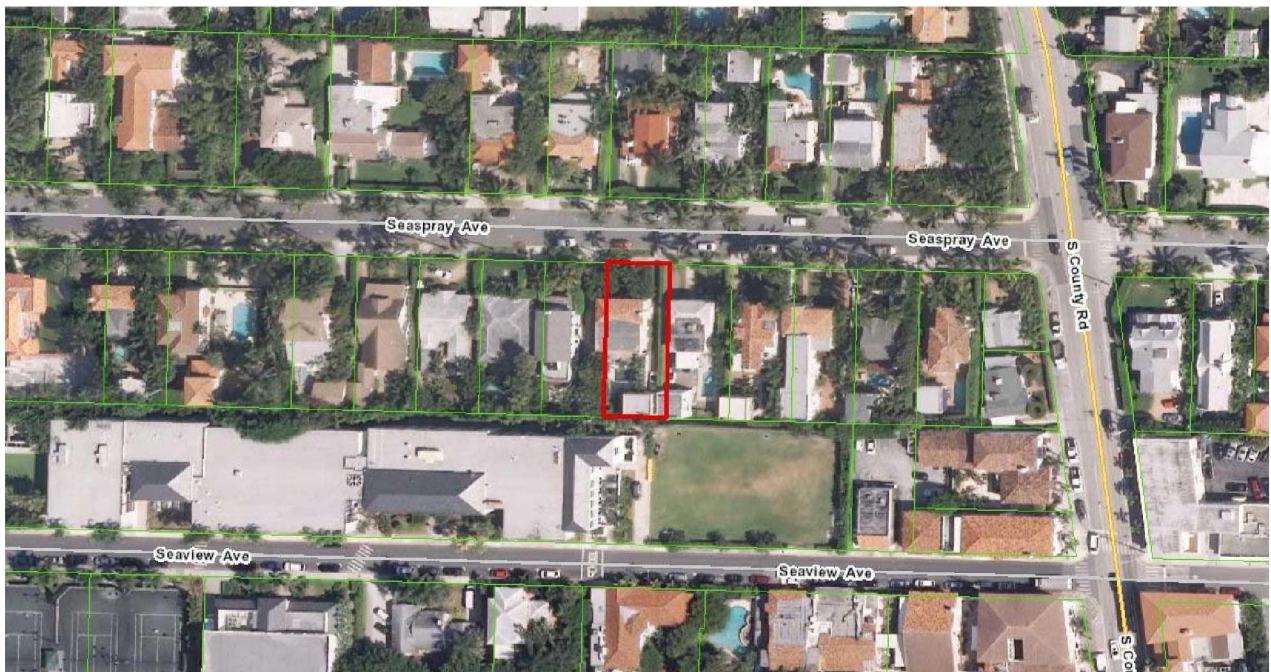
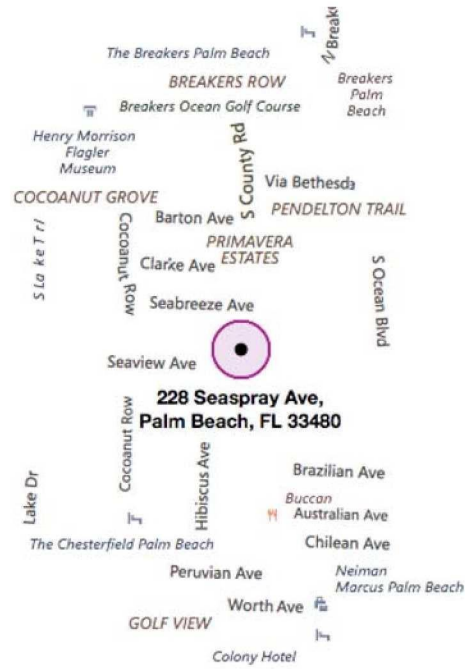
Report produced by Murphy Stillings, LLC

I. General Information

Location:	228 Seaspray Avenue Palm Beach, Florida
Date of Construction:	1925
First Owner:	Edward R. Tolfree
Current Owner:	Gergana and Zachary Shipley
Builder/Contractor:	City Builders Realty Company
Present Use:	Residential
Present Zoning:	RB
Palm Beach County Tax Folio Number:	50434322070004370
Current Legal Description:	Lots 437 and 439, POINCIANA PARK 2 ND . ADDITION, according to the Plat thereof, as recorded in Plat Book 6, Page 86, of the Public Records of Palm Beach County, Florida.

II. Location Map

228 Seaspray Avenue



III. Architectural Information

The single-family residence located at 228 Seaspray Avenue is an attractive example of the Mediterranean Revival style of architecture designed and built by City Builder's Realty Company. The house was constructed in 1926 during the height of Palm Beach's housing boom and sits on a lot on the south side of Seaspray Avenue in the heart of the Poinciana Park subdivision.

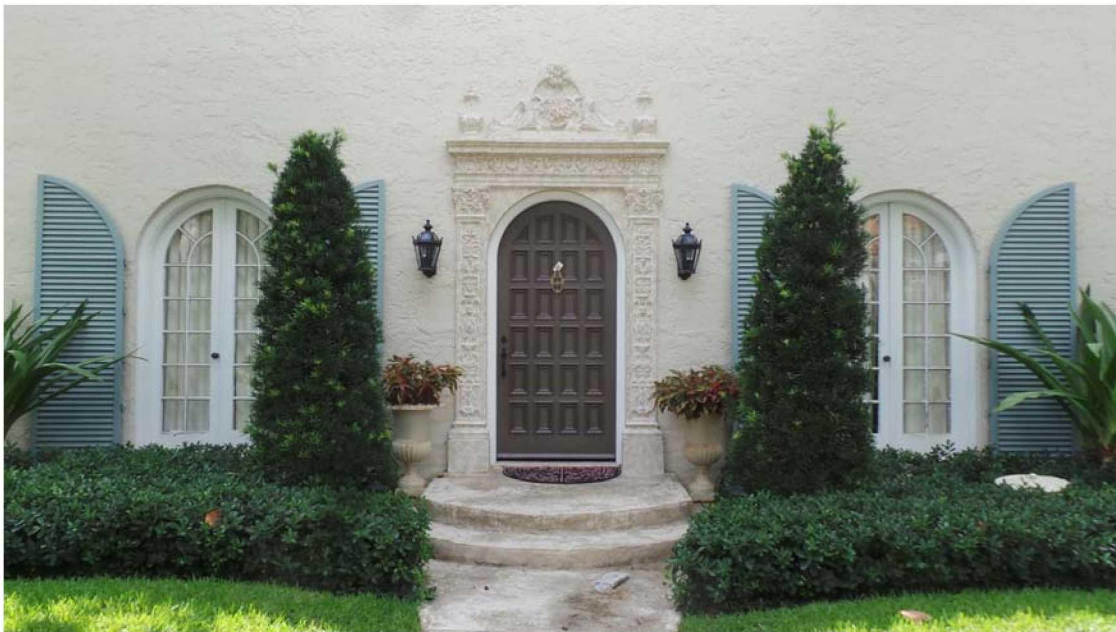
Mediterranean Revival style architecture is an eclectic design style that was inspired by the architecture of countries bordering the Mediterranean Sea, particularly Spain, Italy, France and North Africa. Buildings of this style often have asymmetrical massing and fenestration, balconies, arched openings, ornate cast-stone elements, decorative ironwork and clay barrel tile roofs. The style was extremely popular throughout South Florida during the 1920's building boom.



North Facade

228 Seaspray Avenue is a three-bay wide, two-story dwelling constructed of wood and hollow clay tile covered with rough stucco. The roof has a slight eave overhang covered with red clay barrel tiles and carved wood brackets below. The focal point of the house is the very ornate stone door surround featuring Corinthian pilasters, classical carved designs and a cornice topped

with urns and a cartouche.¹ The substantial arched and paneled front door and the decorative metal sconces enhance the Mediterranean Revival composition of the front entryway. Flanking the center entryway are arched multi-light French doors with full-height louvered shutters. Large arched multi-light casement windows are featured on the first floor of the east and west facades. Other appealing features of the house include decorative metalwork, an exterior chimney on the east wall and an asymmetrical fenestration of six-over-one double hung sash windows throughout the house.²



Entrance

Centered along the sidewalk in front of the house is an ornamental metal front entry gate. Along the east side of the dwelling is a narrow driveway leading to a simple flat-roof, two-story, garage apartment that was constructed along with the main house in 1926.³ A swimming pool was added to the property in 2008.

¹ There is a similar carved motif around the living room's fireplace.

² Christine Davis, *Palm Beach Daily News*, 22 May 2008. Susan and Tom Turner renovated the house from 2007-2009. At that time the full-height louvered shutters were added, the double-hung sash windows were replaced with hurricane impact windows, the loggia on the rear was slightly altered and there were numerous interior alterations. A photo from 2007 also awning windows on the second story front façade, small metal balconies in front of the arched French doors and a very ornate wood screen door at the center entry.

³ The garage doors were originally tilt-up doors. They were replaced with overhead garage doors to match. Clay barrel tiles were added to the parapet of the garage apartment. The west bay of the garage was turned into a cabana after the pool was added.

IV. Historical Information

The house at 228 Seaspray Avenue is located in the Poinciana Park Subdivision. Poinciana Park was platted and largely developed by Oscar A. Jose and his City Builders Realty Company. Jose created Poinciana Park by purchasing tracts of land south of the Breakers and the Royal Poinciana Hotel from Lake Worth to the Atlantic Ocean. This area became the “Sea” streets with Sea Breeze platted in 1914 followed by Sea Spray in 1917 and the north side of Sea View in 1923.⁴ A brochure designed and distributed by City Builders Realty Company titled “Poinciana Park, The Preferred Location,” goes into great detail about the many advantages of wintering in Palm Beach and the benefits of owning a house in centrally located Poinciana Park, close to all of the town’s amenities but removed from the “rush and bustle of the hotel center.”⁵

Oscar Jose was one of the early developers to recognize the potential in Palm Beach for building something other than a grand estate or spending the season at a hotel. Poinciana Park was an attempt to make Palm Beach more family oriented and the Palm Beach life-style more accessible to the “upper-middle class.”⁶ In addition to building, selling and leasing properties, City Builders Realty Company sold many lots in Poinciana Park to individual buyers and other developers. Lot sales came with stipulations regarding the quality of houses to be built so that no “cheap” houses could be built in Poinciana Park.⁷

As early as 1919, City Builder’s had difficulty keeping up with the housing demand. Houses were selling quickly and there were not enough rental properties to keep up with all of the seasonal requests. Despite this demand,

⁴ Sea Breeze, Sea Spray and Sea View were the original spellings of the Poinciana Park Avenues. A January 28, 1917 City Builders Realty Company advertisement in the Palm Beach Post stated, “We have platted a new addition to Poinciana Park and we are advertising for a name for the new street. \$10.00 for an acceptable name.” The street was named Sea Spray Avenue.

⁵ “Poinciana Park, The Preferred Location,” Brochure distributed by City Builders Realty. No Date. Located in the Poinciana Park file at the Preservation Foundation of Palm Beach. Ownership or seasonal rental of a house in Poinciana Park included a membership in the Sea Spray Beach Club. Located on the ocean side of South Ocean Boulevard and Seaspray Avenue, the fashionable club provided members with an Olympic-sized salt water pool, tennis courts, changing rooms, a solarium, and popular dining facilities. They had sports programs for children and Oscar Jose’s son, who had been a boxing champion, taught John F. Kennedy to box at the Sea Spray Beach Club.⁵ Beginning in 1929, Oscar Jose recognized that many residents of Poinciana Park were becoming year round residents rather than just seasonal occupants so they opened the Sea Spray Beach Club as the “Summer Bath Club” for their members who stayed in town during the summer months.⁵

⁶ “Preservationist’s Home Gets Landmarks’ OK,” Palm Beach Daily News, 22 January 1998.

⁷ Advertisement in Palm Beach Post.

City Builders did not construct cookie-cutter houses. Each house was unique and of high quality. An August 4, 1919 Palm Beach Post article stated,

“With six houses underway now, the City Builders Realty Company will at once start seven more houses in Poinciana Park. Each of the houses will vary in style of construction in order to avoid monotony. Some of the houses are for clients who have bought lots; others will be available for sale or rental.”

Many of the earlier houses were bungalows or a variation of the Colonial Revival style, including a number of Dutch Colonial Revival style houses. At the time, the houses were called “cottages” and residents were considered part of the “cottage colony.” In the 1920s, City Builders Realty Company began building more Mediterranean Revival style houses as the popularity of the style grew rapidly in Palm Beach.

The first owners of 228 Seaspray Avenue were Mr. and Mrs. Edward Rogers (E.R.) Tolfree. Newspaper articles indicate that Mr. E.R. Tolfree worked in New York and came to Palm Beach for long stays during the season. He was also one of the original stockholders of the Mizner Development Corporation in Boca Raton. Mrs. Tolfree stayed in Palm Beach during the season and was very involved with the Women’s Guild at Bethesda-by-the-Sea.⁸ They had other residences in New York City and Brookhaven, Long Island. Mrs. Tolfree’s obituary provides interesting information about the first owner of 228 Seaspray Avenue:

“Mrs. Edward Rogers Tolfree for many years a winter resident of Palm Beach died August 27, 1944. Under her maiden name of Aline Gorren, Mrs. Tolfree was a well-known writer at the turn of the century and one of her books “Anglo-Saxons and Others” was widely read and quoted. She was an editorial writer for Scribners and Century magazines. Educated abroad she spoke several languages and did a number of translations. Mrs. Tolfree was also an accomplished pianist and had studied in Rome under Sgambata. Mrs. Tolfree’s northern home was Tangier House at Brookhaven, Long Island, New York and her resort residence was at 228 Sea Spray Avenue. She was an active worker in the Church

⁸ Mrs. Tolfree was President of the Women’s Guild of Bethesda-By-The-Sea in the early 1930s. She was also involved in the Animal Rescue League and was a avid bridge player.

of Bethesda-by-the-Sea and was a member of the Cosmopolitan Club in New York. She is survived by her husband.”

In December of 1944, shortly after Mrs. Tolfree’s death, E.R. Tolfree sold 228 Seaspray Avenue to Mr. and Mrs. G. E. Johnson for \$19,050. The current owners, Gergana and Zachary Shipley, purchased 228 Seaspray Avenue in 2010 and have been excellent stewards of the historic property.

V. Builders Biography

City Builders Realty Company

One of the earliest companies to successfully construct and promote real estate development in the Town of Palm Beach was the Indianapolis based City Builders Realty Company headed by Oscar A. Jose. In 1914, City Builders Realty Company became part of a growing number of successful Midwestern firms who opened offices in South Florida prior to the 1920s Boom Time Era. Indiana contemporaries of Jose included City of Hollywood developer Joseph Young and Miami Beach developer Carl Fisher. These astute businessmen were instrumental in promoting South Florida as a desirable place to reside.

Beginning in 1914, City Builders Realty Company purchased tracts of land from Palm Beach pioneers including William Lanehart, Elisha Dimick, Frederick Robert, Henry Maddock, H.F. Hammon, E.M. Brelsford and Harvey Geer.⁹ These combined parcels, renamed Poinciana Park by Jose, extended from Lake Worth to the Atlantic Ocean south of the Royal Poinciana Hotel and the Breakers Hotel. The streets were named Sea Breeze Avenue, Sea Spray Avenue and Sea View Avenue, and included 820 lots, though most properties encompassed three or four of the twenty-five foot wide lots. The Company provided water, electric and sewer connections, sidewalks and lush landscaping. In the 1910s, houses were marketed as complete packages for families, fully furnished for a seasonal residence, however, by the 1920s they were being marketed for both seasonal and permanent residence. Additional amenities included the private Sea Spray Beach Club, nearby public and private schools, dockage for private yachts and attractive term financing for

⁹ Information found in the Poinciana Park file at the Preservation Foundation of Palm Beach. The paper lists land title searches of properties in Poinciana Park.

those who desired to finance their house. Commercial buildings were prohibited from the Poinciana Park Subdivision.

City Builders Realty Company designed and constructed a number of the houses in Poinciana Park. The company also marketed lots to other Palm Beach builders and architects who maintained the size, scale and quality of residences as originally established within the subdivision. Designed to impress an upscale market of both the permanent homebuyers and those interested in leasing seasonal Palm Beach residences, City Builders Realty Company made a lasting impression on Palm Beach architecture and lifestyle.

IV. Statement of Significance

The residence located at 228 Seaspray Avenue was designed and constructed by City Builder's Realty Company at the height of the South Florida Land Boom. The elaborate entryway, multi-light arched openings and mixed fenestration are distinguishing Mediterranean Revival style features of this house.

VII. Criteria For Designation

Section 54-161 of the Town of Palm Beach Landmarks Preservation Ordinance outlines the criteria for designation of a landmark or landmark site and suggests that at least one criterion must be met to justify the designation. Listed below are criteria that relate to this property and justification for designation:

- (1) "Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town."

The house located at 228 Seaspray Avenue reflects the broad cultural and economic history of the Town of Palm Beach. Seaspray Avenue is part of the Poinciana Park subdivision that was one of the Island's first successful large residential developments. Poinciana Park was specifically aimed at the upper middle class family who desired either a Palm Beach winter residence or a permanent year round residence. While Palm Beach's reputation rested upon the individual grand estates and fashionable hotels, the success of Poinciana Park helped establish another dimension to the development of Palm Beach. The house is also important because it helps maintain the historic fabric of

Seaspray Avenue, the Sea Streets, and the development of the town during the 1920's. Therefore 228 Seaspray Avenue deserves protection under criterion (1) of the Landmarks Preservation Ordinance.

(3) "Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship."

The residence located at 228 Seaspray Avenue is a very good example of the smaller-scale Mediterranean Revival style of architecture designed and constructed in 1926. The focal point of the house is the very ornate stone door surround featuring Corinthian pilasters, classical carved designs and a cornice topped with urns and a cartouche. The substantial arched and paneled front door and the decorative metal sconces enhance the Mediterranean Revival composition of the front entryway. Other appealing features of the house include arched multi-light French doors flanked by full-height louvered shutters, and exterior chimney on the east wall, a mixed fenestration of arched casement windows and six-over-one double hung sash windows and decorative metalwork. Therefore 228 Seaspray Avenue deserves protection under criterion (3) of the Landmarks Preservation Ordinance.

VIII. Selected Bibliography

Curl, Donald W. Palm Beach County: An Illustrated History. Northridge, California: Windsor Publications, Inc., 1987.

The Historical Society of Palm Beach County. Historical and Architectural Files; Palm Beach County History Online

The Palm Beach Daily News. Archived Articles Online

The Palm Beach Post. Archived Articles Online

The Preservation Foundation of Palm Beach. Files on Poinciana Park; 228 Seaspray Avenue file

Sanborn Insurance Map of Palm Beach. New York: Sanborn Map Co., 1919 and 1926. City of West Palm Beach Public Library, Florida Room.

Town of Palm Beach. Building Permits, 1919– 2016.

West Palm Beach City Directories. Asheville, NC: Florida-Piedmont Directory Company, 1916 -1986. These city directories included Town of Palm Beach directories and information on Palm Beach residents.

IX. Florida Master Site File Form



HISTORICAL STRUCTURE FORM

Electronic Version 1.1.0

Site # PB06751
 Recorder # Jane S. Day
 Field Date 10/6/2010
 Form Date 10/19/2010
 Form No 201010
 Form No = Field Date (YYYYMM)

First Site Form Recorded for this Site? NO

GENERAL INFORMATION

Site Name (address if none) 228 Seaspray Land Trust, House Multiple Listing (DHR only) _____
 Other Names _____ >> _____
 Survey or Project Name Palm Beach Historic Sites Survey, Phase V Survey# _____
 National Register Category Building(s)

LOCATION & IDENTIFICATION

Address

Street No.	Direction	Street Name	Street Type	Direction Suffix
<u>228</u>		<u>Seaspray</u>	<u>Avenue</u>	

Cross Streets (nearest/ between) Cocoanut Row & S. County Rd.
 City / Town (within 3 miles) Town of Palm Beach In Current City Limits? YES
 County Palm Beach Tax Parcel#(s) 50-43-43-22-07-000-4370
 Subdivision Name Poinciana park, 2nd Add Block _____ Lot 437, 439
 Ownership Private-Corporate-for Profit
 Name of Public Tract (e.g., park) _____
 Route to (especially if no street address) On the south side of Seaspray Ave. between Cocoanut Row and S. County Rd.

MAPPING

USGS 7.5' Map Name _____ Publication Date _____ >> PAIM BEACH;1983
 Township: _____ Range: _____ Section: _____ 1/4 section: _____ >> 43S ;43E ;22;UNSP
 Irregular Section Name: _____
 Landgrant _____
 UTM: Zone _____ Easting _____ Northing _____
 Plat or Other Map (map's name, location) _____

DESCRIPTION

Style Mediterranean Revival Other Style _____
 Exterior Plan Irregular Other Exterior Plan _____
 Number of Stories 2
 Structural System(s) _____ >> Wood frame
 Other Structural System(s) hollow clay tile
 Foundation Type(s) _____ >> Continuous
 Other Foundation Types _____
 Foundation Material(s) _____ >> Concrete Block
 Other Foundation Material(s) _____
 Exterior Fabric(s) _____ >> Stucco
 Other Exterior Fabric(s) _____
 Roof Type(s) _____ >> Flat
 Other Roof Type(s) hip
 Roof Material(s) _____ >> Tar & gravel
 Other Roof Material(s) spanish tile
 Roof Secondary Structure(s) (dormers etc) _____ >> _____
 Other Roof Secondary Structure(s) _____
 Number of Chimneys 1
 Chimney Material Brick
 Other Chimney Material(s) stucco on exterior
 Chimney Location(s) east exterior wall

Page 1 of 3

HISTORICAL STRUCTURE FORM

8FB06751

DESCRIPTION (continued)

Window Descriptions: 6/1 DHS, French Doors

Main Entrance Description (stylistic details) Centered on the north facade with an elaborate cast stone door surround

Porches: #open 2 #closed #incised Location(s) (2) small terraces - n

Porch Roof Type(s)

Exterior Ornament cast stone, exposed rafters

Interior Plan Unknown

Other Interior Plan

Condition Good

Structure Surroundings

Commercial: NONE of this category

Residential: ALL this category

Institutional: NONE of this category

Undeveloped: NONE of this category

Ancillary Features (Number / type of outbuildings, major landscape features)

Archaeological Remains (describe): none observed

If archaeological remains are present, was an Archaeological Site Form completed?

Narrative Description (optional)

HISTORY

Construction year 1925

Architect (last name first): unknown

Builder (last name first): City Builders Realty Co.

Changes in Locations or Conditions

Type of Change	Year of Change	Date Change Noted	Description of Changes
>>			

Structure Use History

Use Year Use Started Year Use Ended >> Private residence;1925;

Other Structure Uses

Ownership History (especially original owner, dates, profession, etc.)

RESEARCH METHODS

Research Methods >> Informal inspection

Other research methods

SURVEYOR'S EVALUATION OF SITE

Potentially Eligible for a Local Register? INSUFF. INFO

INSUFF. INFO

Name of Local Register if Eligible Palm Beach Landmarks

Individually Eligible for National Register? INSUFF. INFO

INSUFF. INFO

Potential Contributor to NR District? INSUFF. INFO

INSUFF. INFO

Area(s) of historical significance

>> Architecture

Other Historical Associations

Explanation of Evaluation (required) The elaborate doorway distinguishes this Mediterranean Revival style house from others on the street. It was built by one of the early developers of the area and is worthy of further study.

HISTORICAL STRUCTURE FORM

8PB06751

DOCUMENTATION (Photos, Plans, etc.)

Photographic Negatives or Other Collections Not Filed with FMSF, Including Field Notes, Plans, other Important Documents.

Document type: _____ Maintaining Organization: _____
 File or Accession #: _____ Descriptive Information: _____
 >> _____

RECORDER INFORMATION

Recorder Name (Last, First) Day, Jane S.
 Recorder Address / Phone 728 Granada Dr., Boca Raton, FL 33432 561-362-4473
 Recorder Affiliation Research Atlantica Other Affiliation Town of Palm Beach
 Is a Text-Only Supplement File Attached (Surveyor Only)? _____

***** MASTER SITE FILE USE ONLY *****

Cultural Resource Type: <u>SS</u> Electronic Form Used: <u>SI10</u> Form Type Code: <u>NORM</u> Form Quality Ranking: <u>NEW</u> Form Status Code: <u>SCAT</u> Supplement Information Status: <u>NO SUPPLEMENT</u> Supplement File Status: <u>NO SUPPLEMENT FILE</u> Form Comments: _____ _____ _____	SHPO's Evaluation of Resource _____ Date _____ FMSF Staffer: _____ Computer Entry Date: <u>11/15/2004</u>
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REQUIRED PAPER ATTACHMENTS

- (1) USGS 7.5" MAP WITH STRUCTURE PINPOINTED IN RED
- (2) LARGE SCALE STREET OR PLAT MAP
- (3) PHOTO OF MAIN FACADE, B&W, AT LEAST 3"X5"

I. DESIGNATION HEARINGS

Item 1: 228 Seaspray Ave.

Owner: Shipley, Gergana K. and Zachary

Call for disclosure of ex parte communication: Disclosure by Mr. Segraves.

Janet Murphy, MurphyStillings, LLC, testified to the architecture and history for this 1926 City Builders' Mediterranean Revival style home. Ms. Murphy pointed out the design features, which included an ornate stone door surround with Corinthian pilasters, arched multi-light French doors with full height shutters, decorative metal work, an exterior chimney and mixed fenestration of double hung windows. She also spoke about the history of the owners over the years. Ms. Murphy testified that the building meets the following criteria for designation as a landmark:

Sec. 54-161 (1) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town: and,

Sec. 54-161 (3) Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable of the study of a period, style, method of construction or use of indigenous materials or craftsmanship.

Mr. Page informed the Commission that Jamie Gavigan would be standing in for Town Attorney Skip Randolph, should they have any legal questions.

Mr. Page asked Mr. Segraves if he thought he had a conflict of interest with this hearing. Mr. Segraves stated he did not think he had a conflict.

Mr. Silvin asked if the owners were in agreement with the recommendation for landmarking their home.

Mr. Cooney asked for confirmation that the Town had proof of publication and notice with regard to this landmark designation hearing. Ms. Churney provided confirmation.

Motion made by Mr. Silvin and seconded by Mr. Gannon that the designation report be made part of the record. Motion carried with all in favor.

Chairman Cooney stated that Ms. Coleman would be voting in the absence of Ms. Hufty.

Mr. Shipley, owner, discussed the renovations that were recently completed at his home and stated that they were flattered that their home was considered to be landmarked and did not see this as an impairment.

A second motion was made by Mr. Silvin and seconded by Mr. Gannon that 228 Seaspray Avenue be recommended to the Town Council for designation as a Landmark of the Town of Palm Beach based on criteria 1 and 3 in Section 54-161. Motion carried with all in favor.

Palm Beach, Florida, Code of Ordinances >> PART II - CODE OF ORDINANCES >> **Chapter 54 - HISTORICAL PRESERVATION >> ARTICLE IV. - DESIGNATION PROCEDURE >>**

ARTICLE IV. - DESIGNATION PROCEDURE

Sec. 54-161. - Criteria for landmarks and landmark sites.

Sec. 54-162. - Creation of historic districts.

Sec. 54-163. - Commission powers with respect to landmarks, landmark sites and historic districts.

Sec. 54-164. - Landmark, landmark site and historic district designation and undesignation procedures.

Sec. 54-165. - Voluntary restrictive covenants.

Secs. 54-166—54-195. - Reserved.

Sec. 54-161. - Criteria for landmarks and landmark sites.

A landmark or landmark site shall meet at least one of the following criteria:

- (1) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town.
- (2) Is identified with historic personages or with important events in national, state or local history.
- (3) Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship.
- (4) Is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized or who influenced his age.

(Code 1982, § 16-38)

Sec. 54-162. - Creation of historic districts.

- (a) *Authorized.* For preservation purposes, the commission shall identify geographically defined areas within the town to be designated as historic districts and shall cite the guideline criteria upon which such designation shall be made. An historic district may be designated for any geographic area of particular historic, architectural or cultural significance to the town that:
 - (1) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town.
 - (2) Is identified with historic personages or with important events in national, state or local history.
 - (3) Embodies distinguishing characteristics of one or more architectural types, or contains specimens inherently valuable for the study of a period, style or methods of construction or use of indigenous materials or craftsmanship.
 - (4) Is representative of the notable works of one or more master builders, designers or architects whose individual ability has been recognized to have influenced their age.
 - (5) Constitutes a unique area of architecture, landscaping and planning.
- (b) *Petition for special historic district category.* Following the designation of each landmark or landmark site, the commission may petition the town council for the categorizing of such

property as special district H. Following the designation of each historic district, the commission may petition the town council for the categorizing of each property in such district to special district HD.

(Code 1982, §§ 16-38.1, 16-39)

Sec. 54-163. - Commission powers with respect to landmarks, landmark sites and historic districts.

The commission has the power to:

- (1) Designate a building, together with its accessory buildings and its lot of record, or a vacant site or a district as historic and worthy of preservation as a landmark, landmark site or historic district, as the case may be, within the jurisdiction of the commission, provided such designation is ratified by the town council.
- (2) Recommend appropriate legislation for the preservation of any building, site or district which it has so designated.
- (3) Make application for public and private funds when appropriate and available for the purposes set forth in this article subject to the approval of the town council.
- (4) Review applications proposing erection, alteration, restoration or moving of any building it has so designated or any building located in a district it has so designated, and to issue or deny certificates of appropriateness accordingly.
- (5) Review applications for demolition permits proposing demolition of all or part of any landmark or any building located in an historic district, and to issue certificates of appropriateness or to deny them for one year.
- (6) Cooperate with the owner of a landmark or a property located in an historic district throughout the year following a refusal to issue a certificate of appropriateness pursuant to an application for a demolition permit, and to seek alternative economic uses for such landmark or property.
- (7) Review its denial of a certificate of appropriateness for demolition of such landmark or property annually, during a public hearing at which time the owner of the affected landmark or property shall be afforded an opportunity to appear with counsel and to present testimony.
- (8) Prohibit the issuance of building, exterior remodeling or demolition permits affecting any property under consideration for landmark designation without a certificate of appropriateness, this prohibition to remain in effect for the length of time required by the commission and the town council for final action on the proposed designation. The commission shall accomplish such prohibition by furnishing the building official a list of all property under consideration for landmark designation.

(Code 1982, § 16-42)

Sec. 54-164. - Landmark, landmark site and historic district designation and undesignation procedures.

- (a) The following procedure shall be adhered to by the commission in designating any building, building site or district that is worthy of preservation:
 - (1) The commission shall consider for landmark designation any property proposed by the owner of record or by a member of the commission.
 - (2)

Notice of a proposed designation shall be sent by certified mail to the owner of record of property proposed for designation as a landmark or landmark site and to each owner of record of property in a district proposed for designation as an historic district, describing the property proposed and announcing a public hearing by the commission to consider such a designation to be held not less than 30 days after the mailing of such notice.

- (3) The commission shall also cause notice of each such proposed designation to be posted at least 30 days prior to the public hearing on the bulletin board in the lobby of the town hall, and in addition the commission shall cause such notice to be published in a newspaper having general circulation in the town.
 - (4) The commission may retain or solicit expert testimony regarding the historic and architectural importance of the buildings and districts under consideration for designation.
 - (5) The commission may present testimony or documentary evidence of its own to establish a record regarding the historic and architectural importance of the proposed landmark, landmark site or historic district.
 - (6) The commission shall afford the owner of each affected property reasonable opportunity to present testimony or documentary evidence regarding the historic and architectural importance of such property.
 - (7) The owner of each affected property shall be afforded a right of representation by counsel and reasonable opportunity to cross examine witnesses presented by the commission.
 - (8) Any interested party may present testimony or documentary evidence regarding the designation of a proposed landmark, landmark site or historic district at the public hearing and may submit to the commission documentary evidence within three days after the hearing.
 - (9) Within not more than 30 days after a public hearing, the commission shall render a final decision regarding the proposed designation and give written notice of its decision to each owner of property affected by the designation, setting forth the reasons for the decision.
 - (10) The commission shall maintain a record of testimony and documentary evidence submitted to it for consideration of the designation of a proposed or previously designated landmark, landmark site or historic district.
 - (11) In accordance with section 54-163(1), the town council shall, within 90 days of the commission's final decision, hold a public hearing to consider ratification of the determination of the commission prior to the designation of a property as a landmark or landmark site or of a district as an historic district becoming effective. Absent ratification by the town council, the commission's determination shall be ineffective.
 - (12) Within 30 days of the date on which the town council ratifies the commission's designation of a landmark, landmark site or historic district, the commission shall cause to be filed in the office of the county recorder of deeds a certificate of notification that such property is designated a landmark or landmark site or is located within a district designated an historic district; and the certificate of notification shall be maintained on the public record until such time as such designation may be withdrawn by the commission and the town council.
- (b) Designation and undesignation hearings before the commission shall be held only during the months of November, December, January, February, March and April.
- (c)

Designation of a landmark, landmark site or a historic district may be withdrawn by following the same procedure as listed above.

(Code 1982, § 16-43)

Sec. 54-165. - Voluntary restrictive covenants.

The owner of any landmark or landmark site may, at any time following the designation of his property, enter into a restrictive covenant on the property after negotiation with the commission. The commission may assist the owner in preparing such a covenant in the interest of preserving the landmark or the landmark site. The owner shall record such covenant in the office of the county recorder of deeds and shall notify the town clerk, building official and town council and may notify the office of the county property appraiser of such covenant and the conditions thereof.

(Code 1982, § 16-48)

Secs. 54-166—54-195. - Reserved.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 10, 2017

Section of Agenda

Declaration of Use Agreements

Agenda Title

SPECIAL EXCEPTION #6-2017 The application of Sant Ambroeus (Dimitri Pauli); relative to property commonly known as **340 Royal Poinciana Way, Ste. 304**, described as lengthy legal description on file; located in the C-PC Zoning District. Special Exception approval was granted at April 12, 2017 Town Council meeting, with a condition to submit a Declaration of Use Agreement outlining applicable terms of operation. [Attorney: Maura Ziska]

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum Dated April 28, 2017 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Exhibit A, Proposed Declaration of Use Agreement**
- ▣ **Letter Dated May 4, 2017 From Simon Taylor**
- ▣ **Palm Beach Theater Guild Info**

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 10, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Special Exception #6-2017 with Site Plan Review, Proposed Declaration of Use Agreement for Sant Abroeus, 340 Royal Poinciana Way, Suite 304

Date: April 27, 2017

STAFF RECOMMENDATION

Staff recommends that the Town Council approve the proposed Declaration of Use Agreement, as modified by Staff.

GENERAL INFORMATION

At the April 12, 2017 meeting, the Council conditionally approved the subject application to allow twenty (20) seats to be relocated from inside Sant Ambroeus to around the fountain for outdoor dining when weather permits. The outdoor dining is adjacent to the restaurant on the newly created patio around the east fountain. As part of the approval, the applicant is required to enter into a Declaration of Use Agreement which outlines the conditions of approval.

Staff has made proposed minor changes to the applicant's draft Declaration of Use Agreement which are identified in add/delete format (See Exhibit A). Those changes do not include any modifications to the Applicant's proposed conditions of approval in the proposed Agreement. Staff received the Agreement on April 27, 2017, and did not have sufficient time to review Staff's proposed changes with the Applicant. However, Applicant's attorney, Maura Ziska, has since been provided with a copy of Staff's comments. Both Staff and the applicant are prepared to address the Agreement at the meeting.

If you have any questions about the proposed Agreement please contact Paul Castro, Zoning Administrator, at 227-6406.

TOWN ATTORNEY REVIEW

The proposed Declaration of Use Agreement was approved by Town Attorney John C. Randolph for legal form and sufficiency.

cc: Jay Boodheshwar, Deputy Town Manager
Veronica W. Close, Asst. Director, Planning, Zoning & Building
Susan A. Owens, Town Clerk
Kirk Blouin, Director of Public Safety
zf & pf

DECLARATION OF USE AGREEMENT

by

THE TOWN OF PALM BEACH

and

SANT AMBROEUS

MAY 2017

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

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DECLARATION OF USE AGREEMENT

THIS DECLARATION OF USE AGREEMENT is made and entered into this ____ day of _____, 2017 by and between the TOWN OF PALM BEACH, a Florida municipal corporation, 360 South County Road, Palm Beach, Florida 33480 (hereinafter called the "Town" and SANT AMBROEUS, 340 Royal Poinciana Way Suite 304, Palm Beach, Florida 33480 (hereinafter called "~~Tenant~~ the Restaurant"), which terms "Town" and "~~Tenant~~ the Restaurant" will include and bind the ~~successors and assigns~~ of the parties, wherever the context so requires or admits.

WITNESSETH :

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

WHEREAS, ~~Tenant~~ the Restaurant is a ~~restaurant which is a permitted~~ special exception use in the C-PC Zoning District ~~with Special Exception approval~~; and

WHEREAS, site plan review is required as part of the approval of a special exception use; and

WHEREAS, the Town Council approved Special Exception Number 6-2016 with Site Plan Review on March 9, 2016 which approved ~~Tenant~~ the Restaurant to open as a ~~restaurant~~ at the above referenced location with 120 indoor seats; and

WHEREAS, the Town Council approved Special Exception Number 6-2017 with Site Plan Review on April 12, 2017 to allow 20 of the indoor seats to be relocated to the outside courtyard, subject to the conditions set forth herein and the approval of this Agreement on the basis of ~~Tenant's~~ the Restaurant's application, the testimony on behalf of ~~Tenant~~ the Restaurant, and the specific finding of the Town Council that the proposed restaurant ~~be~~ is beneficial and compatible with the neighborhood, and upon a finding by the Town Council that the applicable provisions of the Town Code governing the use of the Land and special exception criteria have been met; and

WHEREAS, should the Restaurant fail to comply with the conditions set forth by the Town Council on April 12, 2017 (as further set forth in Article III and Article IV below), the approval of the Special Exception with Site Plan Review may be revoked and the Restaurant operation shall be required to cease; and

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

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

ARTICLE I

RECITALS

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

ARTICLE II

REPRESENTATION OF LEASE

~~Tenant~~ The Restaurant has full right to enter into this Agreement and to bind the Land and itself to the terms hereof. There are no covenants, restrictions or reservations of record that will prevent the use of the Land in accordance with the terms and conditions of this Agreement. No consent to execution, delivery and performance hereunder is required from any person, partner, limited partner, creditor, investor, judicial or administrative body, governmental authority or other party other than any such consent which already has been unconditionally given or referenced herein. Neither the execution of this Agreement nor the consummation of the transactions contemplated herein will violate any restriction, court order or agreement to which ~~Tenant~~ Restaurant or the Land are subject. In addition, there are no covenants, restrictions or reservations of record that will prevent the use of the Land in accordance with the terms and conditions of this Agreement and the Agreement between the Town and Poinciana Properties, Ltd. dated March 6, 1979, as amended.

ARTICLE III

SANT AMBROEUS USE

The use that is the subject of this Declaration of Use shall be as set forth in the application submitted to the Town for Special Exception Number 6-2017 with Site Plan Review and approved by Town Council on April 12, 2017 as the same may be amended from time to time (hereinafter referred to as the "Approval).

ARTICLE IV

CONDITIONS

The approval to allow outdoor seating for the ~~Tenant~~ Restaurant is conditioned upon the following:

- 1) The outdoor dining shall be allowed Sunday through Thursday – Breakfast, Lunch and Dinner – 8 a.m. to 10 p.m. and Friday and Saturday – Breakfast, Lunch and Dinner – 8 a.m. to 11 p.m.
- 2) No type of music shall be allowed in the outdoor seating area.
- 3) The seating may be reconfigured within the outdoor seating area and may be moved inside in inclement weather.

- 4) The maximum number of outside seats shall not exceed twenty (20).

ARTICLE V

VOLUNTARY AGREEMENT AND HOLD HARMLESS

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

ARTICLE VI

REMEDIES FOR VIOLATION

1. Upon determination by the Town Council of a violation of any of the terms or conditions of this agreement that is based on competent substantial evidence, ~~Tenant~~ Restaurant shall pay to the Town a liquidated amount of \$2,000 per violation. On the occurrence and finding by the Town Council of a third violation that is based on competent substantial evidence, the Town Council at a future meeting may rescind the approval of the use.

In the event ~~Tenant~~ the Restaurant disputes the determination of the Town Council that a violation of this Agreement has occurred, ~~Tenant~~ the Restaurant may appeal ~~their~~ its decision to the Circuit Court in and for Palm Beach County, Florida.

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

ARTICLE VII

PROVISIONS TO RUN WITH LAND/RECORDING

~~This Agreement shall NOT run with the Land and shall be binding upon the Tenant only and shall terminate upon the termination of Tenant's Lease or rescission of approval by the Town Council. This Agreement shall be recorded by the Tenant in the Official Records of Palm Beach County, Florida upon full execution by the parties hereto. This Agreement shall be superior to any mortgages on the Land and shall be recorded prior to the recording of any such mortgages.~~

This Agreement shall run with only the Restaurant. The approval of the Special Exception and Site Plan Review granted herein and this agreement shall terminate upon the termination of the Restaurant's ownership, the business tax receipt for the Restaurant or rescission of approval by the Town Council. This Agreement shall be recorded by the Restaurant in the Official Records of Palm Beach County, Florida upon full execution by the parties hereto.

ARTICLE VIII

ENTIRE AGREEMENT

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

ARTICLE IX

EFFECTIVE DATE

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

ARTICLE X

MISCELLANEOUS

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

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

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

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

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

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

Signed, sealed and delivered
In the presence of:

TOWN

Print Name: _____

By: _____
Gail Coniglio, Mayor

Print Name: _____

By: _____
Richard Kleid, President

Print Name: _____

Print Name: _____

By: _____
Thomas Bradford, Town Manager

Print Name: _____

Print Name: _____

THE RESTAURANT

Print Name: _____

By: _____
Its: _____

Print Name: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

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

Signature of Notary Public

Printed Name of Notary Public

Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

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

Signature of Notary Public

Printed Name of Notary Public

Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

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

Signature of Notary Public

Printed Name of Notary Public

Commission Expires: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____ 2017, by _____, on behalf of the Restaurant (Sant Ambroeus). He/She is personally known to me and he did not take an oath.

Signature of Notary Public

Printed Name of Notary Public
Commission Expires: _____

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

By: _____
John C. Randolph, Esquire

EXHIBIT “A”

LEGAL DESCRIPTION

SIMON TAYLOR
777 South Flagler Drive
Suite 800 West Tower
West Palm Beach, Florida 33401
(561) 818-0170

May 4, 2017

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

Subject: Special Exception #6-2017
Declaration of Use Agreement for Sant Ambroeus

Honorable Mayor and Council Members:

As a Town resident, I believe that the Town Council should defer any action on a proposed Declaration of Use Agreement for outdoor dining for the Sant Ambroeus at the Poinciana Plaza until the Plaza owner-managers have reported that they have signed credible agreements to reopen the Poinciana Playhouse. Rather than entrench piecemeal actions taking parking, seats and millions in revenue from the theater and adjoining club, the Town Council should return to the approach of previous Councils and decline to reduce the Playhouse without a responsible, comprehensive plan for the Plaza, with the Playhouse open as required by law. At least three main reasons compel this conclusion that action on Sant Ambroeus and other restaurant seating and parking should be deferred.

1. The last “update” by the manager on leasing of the Playhouse was ambiguous and may conceal a long-running, alternative goal of leaving the theater and club empty and eventually demanding to tear them down.
2. The 135 theater seats and parking that were unlawfully taken away for Sant Ambroeus daytime dining in 2016 will have to be returned to the Playhouse and club, since the taking is void for illegality and misrepresentation.
3. The restricted vision of the Plaza as a shopping destination with restaurant food as its “differentiator” and “magnet” fails to consider the negative impacts on existing neighbors and businesses in Palm Beach, fails to show how the Plaza shopping mall will survive in the face of online shopping and competition with existing stores and restaurants and fails to implement the better, pragmatic and sustainable vision of the Playhouse and club as “magnets” and drivers for

social, cultural and community life and for prosperous, town-serving establishments at the Plaza and throughout Palm Beach.

If and when any narrow vision for the Poinciana Plaza stumbles, the Town Council will have to clean up the mess left by piecemeal actions taken without responsible, comprehensive review and planning, which has to include the inevitable but too-long-delayed reopening of the Playhouse. The three reasons that demand deferral of the Declaration of Use requested by Sant Ambroeus under Zoning Application Special Exception #6-2017 are discussed in greater detail below.

1. The April 13 “update” by the Plaza manager on leasing of the Playhouse was ambiguous and may conceal a long-running, alternative goal of leaving the theater and club empty and eventually demanding to tear them down. At the April 13, 2017 Town Council meeting, a representative of the Plaza manager, Up Markets, reported that the manager was negotiating a lease with a potential operator for the Playhouse but declined to give any information about the one candidate that the manager was claiming to have. When asked how long the announced “negotiation” would take to conclude a lease, the Up Markets representative said it might take “months” or “years.” This evasive update in April was exactly parallel to the announcement made by the prior manager, the Sterling group, in 2012, which led only to a suspect and failed “lease,” while procuring three plus years of delay for the owner-managers to leave the Playhouse vacant in defiance of their obligations to reopen it. At the April 12, 2017 Town Council meeting, the Plaza manager’s representative made the disturbing assertion that “great food” would be the “differentiator” that would attract people to the Plaza. This narrow vision for competition with Worth Avenue and other food and shopping destinations could be taken as a change from previous statements by the Plaza manager that the reopened Playhouse would be a primary “magnet” for visitors to the Plaza.

The Town Council should follow the responsible approach of prior Town Councils and defer action on the Sant Ambroeus outdoor dining Declaration of Use until there is clarity on the reopening of the Playhouse, including a solution for the unlawful taking of 135 theater seats in 2016 to accommodate daytime dining and parking for Sant Ambroeus.

2. The 135 theater seats and parking that were unlawfully taken away for Sant Ambroeus daytime dining in 2016 will have to be returned to the Playhouse and club, since the taking is void for illegality and misrepresentation.

A Declaration of Use Agreement between the Town and Sant Ambroeus regarding outdoor seating would be void and would merely seek to entrench the unlawful taking of 135 theater seats, parking and millions in revenue from the Playhouse and club in 2016 to give Sant Ambroeus daytime dining and parking. As I have pointed out to the Town Council previously, the taking of 135 theater seats to accommodate daytime dining for Sant Ambroeus, and the related Declaration of Use agreement between the Town and the Plaza manager, are void, in no small part because the actions were illegal and were procured by misrepresentation. The

illegality of the attempted “transfer” of daytime parking to Sant Ambroeus, without any variance based on a showing of hardship, was exhaustively shown and documented when Del Frisco’s Grille and the Plaza owner/managers made the same plea to transfer parking to Del Frisco’s in 2012. The Town Council then rightly voted unanimously to reject that unlawful transfer and the related intensification of use.

Misrepresentations by the Plaza owner-manager induced the Town Council to unlawfully take 135 seats away from the Playhouse in March and April 2016 in order to “transfer” parking to Sant Ambroeus for daytime dining. That improperly induced and illegal action and arrangement for Sant Ambroeus is void. No further action to implement the unlawful giveaway of parking and seating to Sant Ambroeus should be permitted by the Town Council until the taking of theater seating has been remedied and agreements to reopen the Playhouse and club have been signed. The misrepresentations that were used to induce the void taking and Declaration of Use for the San Ambroeus taking in 2016 include the following: (a) the falsehood that the Americans with Disabilities Act (ADA) “requires” removing the 135 seats; (b) the failure to disclose to the Council that the 2013 lessee of the Playhouse, the National Arts Institute, planned for 1,000 to 1,200 seats and viewed daytime dining as a vital revenue stream for the Playhouse; and (c) the removal of a Power of Attorney from the copy of the application that was sent to nearby residents, prior to the taking of theater seating by Sant Ambroeus in 2016, which concealed that Power of Attorney’s authorization of Plaza managers to seek to amend or terminate the 1979 Agreement protecting the Playhouse and submit documents to build condominiums on the site. See the attached letters regarding the lack of any ADA requirement to remove Playhouse seats, plans to expand seating and the loss of millions in revenue by taking parking, seating and daytime dining opportunities from the Playhouse and club.

By entrenching and exacerbating the unlawful taking of theater seats, parking and daytime dining opportunities from the Playhouse and club, any Declaration of Use Agreement with Sant Ambroeus will improperly, adversely affect the theater and club, as well as other nearby properties. The negative effects are illustrated in the attached letters, one letter from a Town resident, which projects \$4.36 million or more in annual losses from the taking of seats and revenue, and three letters from a former lessee of the Playhouse, which describes the “potentially devastating effect” of taking the theater and club seating and revenue streams. Those letters also refute the false claim that the Americans with Disabilities Act (ADA) “requires” the removal of 135 seats from the Playhouse. The potential effect of the ADA on reducing or increasing the number of seats will depend on the configuration of the theater when it is reopened.

3. The restricted vision of the Plaza as a shopping destination with restaurant food as its “differentiator” and “magnet” fails to consider the negative impacts on existing neighbors and businesses in Palm Beach, fails to show how the Plaza shopping mall will survive in the face of online shopping and competition with existing stores and restaurants and fails to implement the winning, pragmatic and sustainable vision of the Playhouse and club as “magnets” and drivers

for social, cultural and community life and for prosperous, town-serving establishments at the Plaza and throughout Palm Beach.

The restricted vision of the Poinciana Plaza as a shopping destination that “differentiates” itself from competitors and attracts visitors with “great food” runs the risk of diminishing Palm Beach, not enhancing it. The problem that the unlawful closing of the Poinciana Playhouse has created for the Town can only be productively addressed by reopening the Playhouse as required by law, not by piecemeal taking of parking, seating and revenues from the Playhouse and club. In our larger, pragmatic and sustainable vision, the Playhouse will drive prosperity, business, culture and community in Palm Beach and will help the Plaza owner-managers overcome the very daunting challenges of operating a shopping mall in an age of electronic shopping and intense competition with Worth Avenue and other shopping and dining locations.

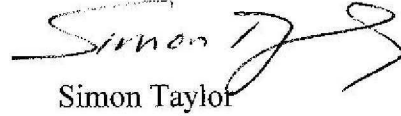
The continued efforts by the Plaza owner/managers to impair the Playhouse by taking away its parking and revenue streams, while leaving it vacant in defiance of the law, are not acceptable. An administrative appeal I filed on April 8, 2016 to challenge the unlawful taking of 135 seats, parking and revenue from the Playhouse is still pending. The Town attorney attempted to unilaterally “reject” that appeal without a required hearing by the Town Council, but he has no authority to do so. I will be renewing my call for the Town Council to hear the administrative appeal. I also request that the Town, the Plaza owner/managers, Sant Ambroeus and other restaurants implicated in the improper taking from the Playhouse enter into voluntary mediation to come to a resolution of the problem of the Plaza.

I clearly have standing to raise these issues, as shown in the attached summary of my background and the examples of performances and gatherings that I have presented in Palm Beach.

Like the prior Zoning Applications by Sant Ambroeus to unlawfully transfer seating and parking from the Playhouse and adjoining club, the proposed Declaration of Use Agreement with Sant Ambroeus also fails to satisfy the applicable standards under the Town Code, including the requirements (i) that the use requested will not cause substantial injury to the value of the Playhouse and other properties in the neighborhood; (ii) that the use will be compatible with the district and adjoining development; (iii) that the use will not result in substantial economic impacts on adjoining properties and properties generally within the district; (iv) that the requested use be demonstrated to be Town-serving; and (v) that the Application should seek a variance, with a showing of hardship, rather than a Special Exception. In addition, the requested concessions for Sant Ambroeus may jeopardize and violate the 1979 Agreement between the Town and the Plaza owner regarding the Poinciana Playhouse and intensify use in the area. Further, it is not clear from the proposal on the Declaration of Use that appropriate studies, reports and other background support and information have been adequately completed, reviewed or verified.

For reasons including the foregoing, I submit that the Town Council should not authorize the above Declaration of Use Agreement with Sant Ambroeus at this time.

Sincerely,

A handwritten signature in black ink, appearing to read "Simon Taylor", with a stylized flourish extending to the right.

Simon Taylor

“MAINTAIN AND OPERATE” THE PLAYHOUSE

In 2007 the Palm Beach County Circuit Court

“ORDERED AND ADJUDGED” that the 1979 Agreement between the Town of Palm Beach and the owner of the Poinciana Plaza “requires that the Poinciana Theater, located in the Plaza, be maintained and operated as a theater”. Final Judgment of Judge David Crow, July 10, 2007

The owner of the Plaza had closed the Poinciana Playhouse Theater in 2004. The Town’s attorney delivered a letter to the owner on May 18, 2005 demanding that the owner comply with its “continuing obligation” to lease the Playhouse as a theater and “continue the theater operation”.

The Plaza owner sued the Town in June 2005 asking the Circuit Court for permission to demolish the Playhouse. The Town countersued explicitly asking for an order from the Court that the 1979 Agreement requires that the Poinciana Theater “be maintained and operated as a theatre”. In that September 2005 Answer and countersuit contesting the owner’s lawsuit, the Town’s attorneys clearly stated that the 1979 Agreement requires the owner “to continue the operation of the Theatre” and that “it was the intention of the parties to the 1979 agreement that the Poinciana Theatre continue to remain in existence and continue to be operated as a theater”.

On July 10, 2007, Judge Crow granted exactly the binding Court order that the Town requested requiring that the Playhouse “be maintained and operated as a theater”.

When the Plaza owner appealed the July 2007 Circuit Court order, the Town’s attorneys stated in their answering appeal brief that “the court held that the 1979 Agreement, in paragraph 2E and F specifically, requires that the Poinciana Theater, located in the Plaza, be maintained and operated as a theater....Clearly, the Theater must be used as a Theater, which appellant recognizes (In.Br. at 36), and further, it is to continue in use as a theater.” The owner dropped its appeal.

KAREN POINDEXTER
National Arts Institute
P.O. Box 2457
Palm Beach, Florida 33480

June 8, 2016

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

Honorable Mayor and Council Members:

As a producer and artistic director who has worked to reopen the Poinciana Playhouse in Palm Beach, I was very surprised and alarmed that the Town Council recently voted to take away 135 seats and vital parking and dining revenue streams from this historic gem of a theater and its club and restaurant. Any elimination of theater seats and critical revenue sources in order to grant parking and daytime dining to a new restaurant, Sant Ambrocius, could be very damaging to the economic viability of the Playhouse and violate the Poinciana Plaza owner's 1979 Agreement protecting the Playhouse. The Town Council's approval for this questionable course seems to have been based on misleading information. The exhaustive studies that we conducted for the National Arts Institute, when NAI had its lease of the Playhouse from October 2013 to October 2015, led us to the following conclusions, which belie the incorrect information and arguments that seem to have been relied on to support the ill-advised reduction of the Playhouse from a current level of 860 seats to only 725.

- 1,000 to 1,200 Seats Preferable. Our business plans and projections called for 1,000 to 1,200 seats in the Playhouse to maximize flexibility, viability and revenue. We shared these seating plans and numbers with the new manager of the Poinciana Plaza, Up Markets, before NAI made a presentation of our vision for the Playhouse to the Town Council in October 2014.

- Americans with Disabilities Act (ADA) Does Not "Require" Reducing Seats. At no time did we or our expert advisors conclude that the Americans with Disabilities Act would "require" that the number of seats in the Playhouse had to be reduced. ADA was considered by our team as one factor affecting Playhouse renovation and design. Without considering all the possibilities for the space, it is not possible to determine that ADA will mandate that the Playhouse will have to lose seats. Any assertion that seating in the Playhouse has to be reduced to comply with the Americans with Disabilities Act is pure guess work. We understand that the number of seats could even be increased while still complying with any ADA requirements.

- Playhouse Parking Should Not Be Reduced. The business plans and projections that we shared with the Poinciana Plaza managers assumed that parking for the Playhouse and its restaurant and club could not be reduced. That parking is vital for the theater, club and restaurant and their revenues and viability.

- Daytime Dining Revenues Are Critical for the Playhouse and Club. The business plan and projections that we presented to the Poinciana Plaza managers showed that daytime and evening dining revenues are a vital component of the ability of the Playhouse and its club and restaurant to be economically viable. I am surprised and disturbed that the Plaza owner/managers would attempt to take away theater seats and parking in order to accommodate expanded parking and daytime dining for a new restaurant in the Plaza, Sant Ambroeus, that would drain away daytime dining revenue from the Playhouse club and restaurant.

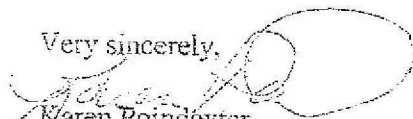
The economic damage to the Playhouse and its club and restaurant from the elimination of theater seating and parking and the impairment of daytime dining opportunities could amount to millions of dollars in lost revenue.

In addition to this potentially devastating effect, I have also been disturbed by other information that I have learned. When I was working hard on the artistic and business plans for the Playhouse under the NAI lease, for example, I was not aware that the Plaza owner was simultaneously granting to the new Plaza manager a Power of Attorney authorizing her to seek to amend or terminate the 1979 agreement protecting the Playhouse and submit condominium applications for the site. I am also concerned that the Playhouse and its beautiful interior and beloved murals have not had any adequate air conditioning for more than a year, ever since the copper wiring was stolen and power was lost from the unsecured building in February 2015.

As a producer and artistic director, I know that the cultural opportunity presented by the Playhouse can be one of the most exciting in the country. If handled right, it will give us a leading performing arts venue that will be a mainstay of the cultural and social life of Palm Beach for generations to come. I am sure that the Playhouse and its restaurant and club will also be a vibrant center for community and social events and activities and will be a key driver for the revival of the Poinciana Plaza, just as other theater venues have contributed to thriving performing arts centers and communities around the country and the world.

The Palm Beach Town Council should not allow itself to be misdirected into allowing the impairment and destruction of the Playhouse and its supporting dining and social venues. I urge the Council to take all action necessary to stop any taking of theater seats and vital restaurant revenues from the Poinciana Playhouse and its restaurant and club.

Very sincerely,


Karen Poindexter
Producing Artistic Director



National Arts Institute

A 501(c)(3) charitable corporation dedicated to Performing Arts, Education & Youth-throughout-Life with career-based, self-sustaining programs and professional performances. GOAL: Establish a world-class life-enriching Palm Beach Performing Arts Center. Arts work!

Post Office Box 2457 | Palm Beach, FL 33480 | (561) 351-5012 | www.PB-PAC.org

March 12, 2017

Town of Palm Beach Mayor and Members of the Town Council:

The National Arts Institute, Inc. (NAI) continues its fervent educational efforts regarding the importance of Performing Arts. NAI's mission includes to preserve and regenerate the iconic Royal Poinciana Playhouse and club as a Palm Beach cornerstone for performing arts including locally-mounted star-studded Broadway Musicals, opera, symphony, ballet and more. Accordingly, the further taking of parking spots away from those previously designated to the Playhouse to give to a new taco restaurant chain and late-night bar at the Poinciana Plaza is of grave concern. The continuing efforts of the Poinciana Plaza owner and managers to strip parking, seating and revenue from the Playhouse calls into question whether the owner-managers have ever in good faith intended to comply with their legally required mandates and agreements to reopen and maintain the Poinciana Playhouse and club. ←

Relative to those legal obligations in place, NAI calls on the Town Council to immediately take measures to return to the Playhouse *all* of the parking and the associated 135 theater seats that were imprudently taken from the Playhouse last spring to make way for daytime parking and dining for the Plaza's new Sant Ambroeus restaurant. Our studies have concluded that removing the theater seats [associated with these parking spaces] will have a very negative effect on vital revenues for the Playhouse, and that reducing the number of seats is not required by the Americans with Disabilities Act (ADA).

NAI questions whether Palm Beach residents are aware of the judge's ruling in 2007 and continuing forward that the Royal Poinciana Playhouse MUST be maintained and operated as a theater for performing arts. It is baffling that members of the Town Council, or anyone else, might further critically disrupt the financial viability of the Playhouse. This is, in fact, a repeat move by the Plaza manager UpMarkets, to take parking that should be for the Playhouse to instead allocate it to a new Mexican restaurant in the Plaza. These parking spots legally should be reserved for the Playhouse. UpMarket's request is in direct conflict with preserving the Playhouse in compliance with the 1979 Agreement between the Plaza owner and the Town. Just last year, the Town Council of Palm Beach bowed to UpMarket's request to take away the parking allocated for 135 theater seats at the Playhouse to instead transfer the parking to Sant Ambroeus restaurant for daytime dining. Are residents aware, and will they now allow, a repeat negative allocation of Playhouse parking to the Coyo Taco chain and bar? NAI expresses deep concern should the Town *again* allow UpMarkets' further deliberate dismantling of the Playhouse's economic viability.

Comparably, which will our Town leaders choose in response to residents' consistently-stated desire for renowned performing arts at the Royal Poinciana Playhouse? Will Palm Beach's key decision-makers respect residents' desires and uphold our forebears' sound efforts in the Town's '79 Agreement requiring the Playhouse be preserved specifically for performing arts? Will Palm Beach's Town Council respect and uphold the judge's specific rulings in 2007 to preserve Palm Beach's Playhouse, which is not only central to the arts, but central to the economic well-being of *all* of Palm Beach? Or, will Town of Palm Beach leaders choose to ignore its forebears' requirements – and the judges' rulings – and its residents *by again* bowing to UpMarkets' sabotage of Playhouse parking spots to instead award them to a fast-food Mexican restaurant? Which is of greater importance to Palm Beach, an iconic performing arts cornerstone or a chain taco restaurant and bar?

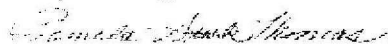
National Arts Institute, Inc. (continued)

Palm Beach Tower residents next door to the Royal Poinciana Plaza have repeatedly expressed major concerns over the potential of noise, traffic or intensified use stemming from the Plaza. One would be intrigued how a chain Mexican restaurant and late-night bar might prove to be absent of those concerns.

NAI provides strong documentation supporting the direct significant, wide-ranging benefits tied to its mission providing top performing arts offering arts and cultural exposure and immersion to Palm Beach. Higher academic achievement; a magnet for intellectually involved audiences; attracting and retaining the desired employee pool; increasing empathy, compassion, problem solving, perseverance, confidence and self-expression; decreasing depression and sense of isolation; and equalizing social-economic participants - lists just a few of performing arts' powerfully positive effects.

NAI's efforts directly respond to the needs, interests and requests of Palm Beach's residents, serves Palm Beach's businesses and drives the economy of *all of Palm Beach*. On behalf of the National Arts Institute, Inc., we ask our important town leaders to exercise special wisdom in support of preserving its legendary "Royal Playhouse". Further dismantling of its allotted parking spaces lowers the curtain on an enriched quality of life for Palm Beach.

Respectfully,



Pamela Stark Thomas, CEO
National Arts Institute, Inc.

KAREN POINDEXTER
National Arts Institute
P.O. Box 2457
Palm Beach, Florida 33480

August 11, 2016

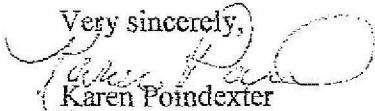
Mayor and Town Council of Palm Beach
360 South County Road
Palm Beach, Florida 33480

Honorable Mayor and Council Members:

I understand that the manager of the Poinciana Plaza in Palm Beach, Up Markets, may come to the Town Council again next week with proposals that may impact the size of stores and daytime dining at the Plaza. It is unclear to me and other advocates for the historic Poinciana Playhouse whether such bit-by-bit changes to Town Code requirements will affect the outlook for the Playhouse and its revenues and economic vitality. My June 8 letter to the Town Council (attached) pointed out that millions of dollars in lost revenue would result from the manager's shocking taking of 135 seats and daytime dining opportunities from the Playhouse. As concerned theater professionals, we know that having adequate parking, theater seating and dining and club revenue are crucial for the Playhouse as a performing arts gem, as a vibrant cultural and social center for Palm Beach and as a main driver for revitalizing the Plaza. Neither the Americans with Disabilities Act (ADA) nor other renovation or creative considerations would "require" that seating or parking at the Playhouse be reduced. In fact, our business and architectural studies for the National Arts Institute called for the number of seats in the Playhouse to be increased.

We continue to hope that the Town Council will be vigilant in safeguarding the Playhouse, as mandated by the 1979 agreement and the 2007 court order protecting this very exciting cultural and social landmark.

Very sincerely,



Karen Poindexter

Producing Artistic Director
National Arts Institute

R. Douglas Hulse
139 Sunrise Avenue
Apartment 208
Palm Beach, Florida 33480

August 11, 2016

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

Honorable Mayor and Council Members:

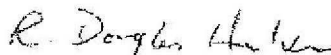
I note that the Town Council next week may hear proposals by the manager of the Poinciana Plaza regarding square footage limitations and outdoor dining at the Plaza. As a Town resident, I'm concerned that any such initiatives should not be advanced at an August Council meeting, when a substantial number of residents will not be in Town to hear or respond to the case presented by the Plaza manager, Up Markets. I'm also concerned that a series of piecemeal changes at the Plaza are being pursued by Up Markets, while residents are away, without us being able to hear and fully understand how those proposed changes of Town rules may affect the viability of the landmarked Poinciana Playhouse and the 1979 agreement protecting it. Up Markets also seems to have proceeded without adequate public input in its recent effort to take 135 seats and daytime dining revenue opportunities from the Playhouse and its restaurant and club, which I estimate could cause a loss of \$4.36 million annually for the Playhouse.

I was a Board member and treasurer of the Palm Beach Theater Guild for a number of years and remain a supporter of the Guild's efforts and programs. I was actively involved in the feasibility plans for reopening and operating the Playhouse that were prepared in the period 2008-2010, after a Court order was issued in 2007 requiring that the Playhouse be maintained and operated as a theater.

When I learned this past spring that the Plaza owner/managers propose to remove 135 seats from the Playhouse and give away competing daytime dining opportunities to a new restaurant, Sant Ambroeus, I made an estimate of the revenue loss arising from losing the 135 theater seats and lunch revenue for the Playhouse restaurant and club. At full capacity, the reduction in seats would represent a loss of \$1.9 million in revenue annually for the Playhouse, while the loss of the lunches would represent a loss of \$2.46 million in revenue annually (not including in this calculation any losses of dining revenue for times other than lunch). The total loss of \$4.36 million annually would represent nearly 25% of ticket and dining revenues for the Playhouse and its dining facilities. Many of us believe strongly that this damage to the theater and its crucial restaurant revenue stream should not be permitted.

I would be happy to share the details and assumptions behind these calculations.

Sincerely,



R. Douglas Hulse

SIMON TAYLOR

Simon Taylor is a corporate, litigation, finance and intellectual property attorney based in New York and Palm Beach, Florida. His broad experience includes corporate and securities law, investment banking and venture capital, litigation, motion picture and theater financing and distribution, licensing and technology transfer, contract and commercial law and mergers and acquisitions. Trained in the rigorous and demanding setting of general practice law firms in New York, he has worked in law and finance fields that include life sciences, biotechnology, medical devices, motion pictures and theater, information and computer technology, cleantech and manufacturing industries. His law practice has included, for more than thirty years, extensive involvement in international matters and transactions involving Japan, China, India, Latin America and Europe.

From 1988 to 2004, Simon was an attorney with the corporate, securities and general practice law firm Snow Becker Krauss in New York, which he joined as a partner and where he became of counsel in 1995, when he co-founded a venture capital industry advisory firm. He formed his own law firm in July 2004 as an outgrowth of the practice he built at Snow Becker. Prior to Snow Becker, Simon was an attorney with Finley, Kumble, Wagner, then the largest law firm in the United States.

In addition to his long experience as a corporate, litigation, intellectual property and international practice attorney, Simon has been a principal, attorney and compliance officer for a licensed investment banking firm.

Simon graduated from Columbia College at Columbia University in New York (Phi Beta Kappa, magna cum laude and John Jay Scholar) and from Harvard Law School. He was born in England and grew up in California in Palo Alto and Lodi in the state's Central Valley. He resides in Palm Beach, Florida.

Simon has been involved in a number of not-for-profit activities in the arts and community-based social services. He is the President and Chairman of the Palm Beach Theater Guild. He has also served as chairman of the board of an Off-Broadway theater and as a board member of an opera school and a regional opera company.

The Palm Beach Theater Guild thanks all supporters
for our 2013-14 Season, including

A "triumph,"
"absolutely magnificent,"
"one of the best events in Palm Beach"

The Palm Beach Theater Guild Presents



*A Night in Florence
with the
Florentine Camerata*

Thank you for coming to the Guild's last show,
our April 23 "Night in Florence" featuring singers
performing favorite opera arias and images and
fashions of Renaissance Florence.

With "world class" performances, we told the story
of the invention of opera by 1600 in the gatherings of
the group called the Florentine Camerata and heard
arias from the centuries since.

Barrie Ingham, of the Royal Shakespeare Company,
Broadway and the London stage and star of the Guild's
January production of "Keep Calm and Sing On" called it
"One of the finest evenings of entertainment I have
ever experienced anywhere in the world. The most
perfectly wonderful evening..."

Learn about the Theater Guild's upcoming
events at our website pbtheaterguild.org or
call (561) 818-0170.

PALM BEACH AND FLORENCE

Can't we see in the Palm Beach community many of the forces and elements that made Renaissance Florence so fruitful in fostering the arts? Can we take some lessons from Florence in the 1400s and 1500s to see how they cultivated arts in storied homes, studios, salons and social settings? The Palm Beach Theater Guild will raise these lively (and fun) questions in a stimulating evening of cocktails and opera arias, our 'Night in Florence with the Florentine Camerata.'

Our chosen focus for this gathering is the Florentine Camerata, a group of gentry, composers, writers and literati who met in notable houses in Florence and, by 1600, invented the art form of opera. The first opera ever composed, 'Dafne' by Jacopo Peri (1598), is lost to us, but we have the second opera, 'Euridice' by Peri and Giulio Caccini, which was created to be performed at the wedding of Marie de Medici to King Henry IV of France in 1600. We'll play parts of that opera and show images of the homes, personages and fashions of the



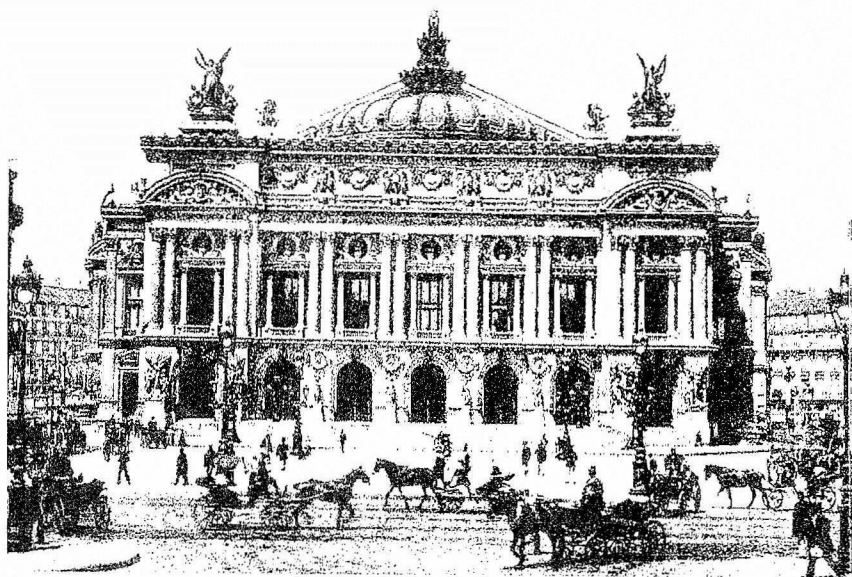
time (see Peri above), followed by selected arias from the centuries since then, including transcendent favorites from operas by Mozart, Verdi and Puccini.

So join us for the story of the Camerata in Florence and the art form of opera that found its start there, an inspirational history challenging us in gatherings and activities in our community to pursue culture and cosmopolitan entertaining in social and cultural settings that can foster the performing and theater arts.

Palm Beach Theater Guild, Palm Beach, FL, (561) 818-0170



The Palm Beach Theater Guild
Tribute to Paris: Opera, Salons and the Moulin Rouge



Palais Garnier Opera House, Paris

For tickets call (561) 818-0170,
visit our website at pbtheaterguild.org
or send checks payable to the

Palm Beach Theater Guild
P.O. Box 667
Palm Beach, Florida 33480

*Tickets will be held at
the door, not mailed.*

A Tribute to Paris
**Nights In
PARIS**
The Opera, Salons and the
Moulin Rouge

Wednesday, March 16, 2016 at

The Colony

155 Hammon Avenue

Palm Beach

Tickets \$150 each

6:00 p.m. - Passed Hors d'Oeuvres and Open Bar
by the Palm Court Pool

7:00 to 9:00 p.m. - We'll celebrate Paris through
performances of the New York Baroque
Dance Company, Opera Arias,
Music of the Salons and the Can Can,
Mistinguett and Piaf at the
Moulin Rouge

9:00 p.m. - Cash Bar, Coffee,
Cookies & Conversation

One Intermission



The Palm Beach Theater Guild

Through music, dance and images, our timely and evocative tribute to Paris will vividly show the arts and cultural and social settings in that "City of Light" - from the court of Louis XIV in the 1600s, through opera, salons and "popular" arts culture in the 1700s and 1800s, to the Can Can, the 1920s star Mistinguett and the night Edith Piaf sang at the reopening of the Moulin Rouge when Paris was liberated in 1944.

On the front: 'At the Moulin Rouge' by
Henri de Toulouse-Lautrec (1890)



BRITAIN IN WORLD WAR TWO

A great nation at risk...
The courage, love stories, humor and song...
The inspirational words of
Churchill, Roosevelt, Shakespeare...

The Palm Beach Theater Guild
Presents
BARRIE INGHAM



Songs, Stories and Humor of Britain
in World War Two

Thursday, January 16, 2014

The Colony

155 Hammon Ave.
Palm Beach

Cocktails by the pool at 6 p.m.

Performance in the
Pavilion Room

7 p.m. to 8:30 p.m.

Coffee and conversation
to follow the show

Tickets \$125 each

For tickets call (561) 818-0170,
visit our website at pbtheaterglass.org
or send checks payable to the
Palm Beach Theater Guild
P.O. Box 667
Palm Beach, Florida 33480

PALM BEACH THEATER GUILD

Join Co-Hosts

Palm Beach Theater Guild and Palm Beach Business Group

For a Breakfast Presentation on

"The Arts, Preservation and Prosperity in Palm Beach"

A Business and Performing Arts Perspective

Speakers: Simon Taylor and Baine Ingham

Friday, November 14, at 7:45 a.m. at

264 The Grill

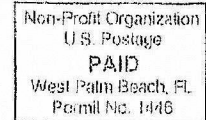
264 South County Road

Palm Beach

For tickets at \$25 to breakfast and presentation, please R.S.V.P. and pay online at www.pbbusinessguild.com/shop

For more information call the Guild at (561) 818-0170 or the PB Business Group at (561) 820-1579

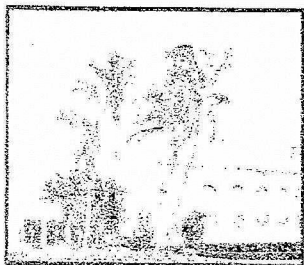
Palm Beach Theater Guild
P.O. Box 667
Palm Beach, FL 33480



Our November 14 speakers will show how clusters of theaters - big, small and mid-size (like the mid-size Polinciana Playhouse in Palm Beach) - can drive local business and prosperity while preserving the historic and aesthetic setting in their communities. Theater Guild Chairman Simon Taylor is a corporate, litigation, finance and intellectual property attorney based in New York and Palm Beach. Barrie Ingham of the Royal Shakespeare Company, National Theater and Old Vic in Britain is a star of Broadway and London stage and many films and TV series, who this month starts his British Theater workshop series at the Society of Four Arts, (www.fourarts.org/event/british-theater-immersion).

AND SAVE THE DATE: March 26, 2015, 6 p.m. at The Colony, Palm Beach
For the Palm Beach Theater Guild Spring Gala and Performance

For details, contact us at (561) 818-0170, pbtheaterguild.org
or P.O. Box 667, Palm Beach, FL 33480.



Palm Beach Theater Guild

Board

Danielle deBenedictis
Florence E. Flynn
Anne Marie Haymes
Carolyn Jenkins-Jaeger
Ellis J. Parker
Thomas Putnam
Simon Taylor
Board Chairman

October 2014

To Members, Friends and Supporters of the Palm Beach Theater Guild -

Thank you for all your support during our **success-full 2013-14 season**. We presented **five shows** and **two theater parties** for Palm Beach audiences last season. **We're excited about our 2014-15 plans**, including our **opening party** and performance on **November 5**, co-hosted with the Palm Beaches' Legends Radio.

Join Co-Hosts

Palm Beach Theater Guild and Legends Radio for

"Legends We Love"

A Season Opening Party and Performance with

Composer, Pianist and Voice of Elegant Wit

Jimmy Roberts

Wednesday, November 5, at 264 The Grille

**264 South County Road
Palm Beach**

When he isn't composing hits like "I Love You, You're Perfect, Now Change" (the second longest-running Off Broadway show), **Jimmy Roberts** is enchanting audiences with **Beethoven, Beatles and Bach, Gershwin, Sondheim, Vivaldi** and more in his **virtuoso blend of humor, pathos and classical and popular music**. As our featured "Legend" at the **Theater Guild's season-opening party** in Palm Beach, Jimmy will also share stories and insights about how hits are made, including the shows he's working on now in New York. **His performance will start at 8:15** and run till 9:15, following **hors d'oeuvres and cash bar at 6:30 p.m.** and **dinner with a glass of wine at 7:00 (\$100 per person)**.

To complete this night of fun and intriguing exploration of **musical traditions and hits**, the **Palm Beach Theater Guild** is proud to **co-host this opening party and performance with Legends Radio**, the station at 100.3 FM founded by **Palm Beach's Dick Robinson** to showcase the **Great American Songbook** and artists including **Sinatra, Rod Stewart, Ella Fitzgerald, Diana Krall, Harry Connick, Jr.** and more. After Jimmy Roberts' show, **the evening will continue with a mix of hits put together for us by Legends Radio**. Don't hesitate to break away from talk and your table of old and new friends and dance to these classics. (We'll also sneak in a brief update on news and the 2014-15 plans of the Theater Guild.)

(561) 818-0170 • www.PBTheaterGuild.org • P.O. Box 667 • Palm Beach, FL 33480
The Palm Beach Theater Guild is a registered 501(c)(3) non-profit organization

For tickets to our November 5 opening party and performance, call (561) 818-0170, visit our website at pbtheaterguild.org or send checks payable to the Palm Beach Theater Guild to our P.O. Box 667, Palm Beach, Florida 33480. The tickets (\$100 per person) will be held at the door, not mailed.

"Rhythmically perceptive voice. Jimmy Roberts showed how such songs should be done."

"Mr. Roberts has listened carefully and learned from his forebears,
from Rodgers to Sondheim."

New York Times



"An unexpectedly refreshing experience. He made the well known melodies sound new and different by ingenious variations and unusual harmonies."

Review by Rolf Kaltenborn in The Palm Beach Daily News



In 2014-2015 the Theater Guild will continue pursuing one of our principal missions: In events and gatherings, bringing together common spirits and friends to support the performing and theater arts. In our social and cultural offerings this season, **our Guild of arts devotees, patrons, creators and performers will embark on fun and stimulating forays together** to see and put on shows and to explore the worlds of drama, music and other performing arts. We'll also **report to you on** our visits to the **thriving clusters of multiple theaters, large and small**, in the Berkshires, Mass., and at the Shakespeare Festival in rural Ashland, Oregon (www.osfashland.org), where **mid-size theaters like Palm Beach's landmarked Poinciana Playhouse** are key elements in making those communities robust and prosperous regional **cultural centers where arts thrive and exquisite, historic settings are preserved**. Learn more about the Guild and its upcoming events at our website pbtheaterguild.org or call us at (561) 818-0170. For information on Legends Radio, go to www.legendradio.com.

With best regards,

Simon Taylor

Chairman and President

Join the Palm Beach Theater Guild
for our 10-year Anniversary Celebration
at The Colony, Palm Beach

And Our Tribute to
Cherished Colleague and Artistic Advisor,
The Inspired and Inspiring Star

Barrie Ingham



1932-2015

Come Celebrate the Guild's
10-year Anniversary
And Join in Our Tribute to
Barrie Ingham

Thursday, March 26, 2015 at
The Colony
155 Hammon Avenue
Palm Beach

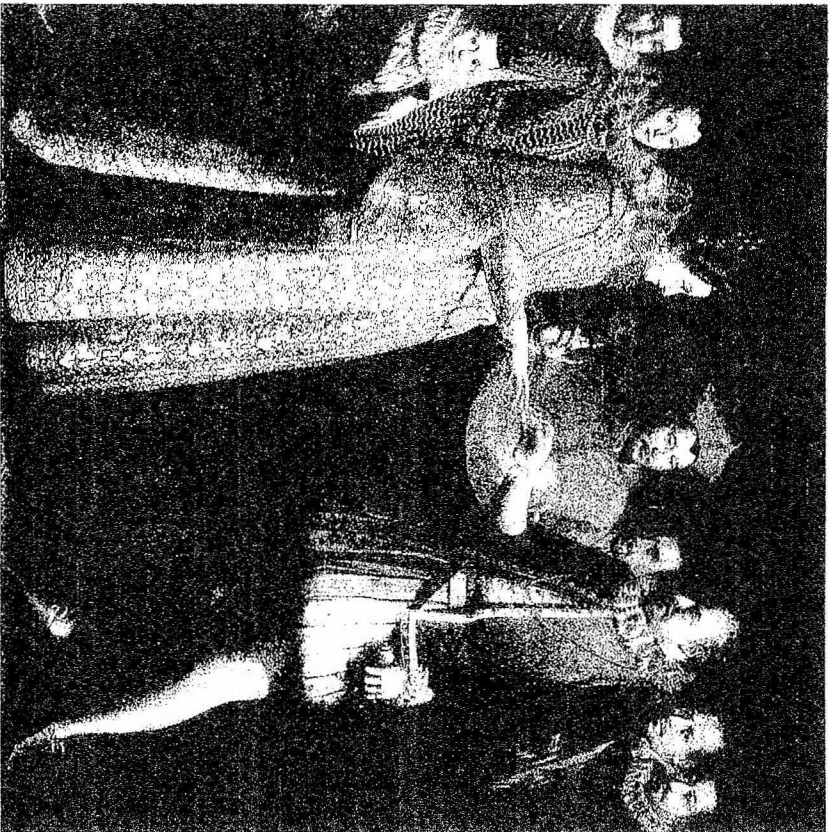
6:30 p.m. hors d'oeuvres and cash bar
7:30 to 9 p.m. Anniversary Program,
Music and Song

And Tribute to Barrie Ingham of the
Royal Shakespeare Company,
National Theater and Old Vic and
Star of London Stages, Broadway,
Film and Television

Tickets \$125 Each

For tickets call (561) 818-0170,
visit our website at pbtheaterglass.org
or send checks payable to the
Palm Beach Theater Guild
P.O. Box 667
Palm Beach, Florida 33480

The Palm Beach Theater Guild Presents



A Night in Florence
with the
Florentine Camerata



Composer Jacopo Peri in costume for performance
of the first opera created, now lost, 'Dafne,' (1598)

For tickets call (561) 818-0170
visit our website at pbtheaterguild.org
or send checks payable to the
Palm Beach Theater Guild
P.O. Box 667
Palm Beach, Florida 33480

Each \$125 ticket will include an invitation
to a reception showing the richness of
Florentine fabrics and fashions at
Van Lear,
Number 2 Via Parigi, Palm Beach

A Night in Florence with the Florentine Camerata

Wednesday, April 23, 2014 at

Brazilian Court Hotel
in the Fountain Courtyard
and **Café Boulud**

301 Australian Avenue,
Palm Beach

Tickets \$125 each

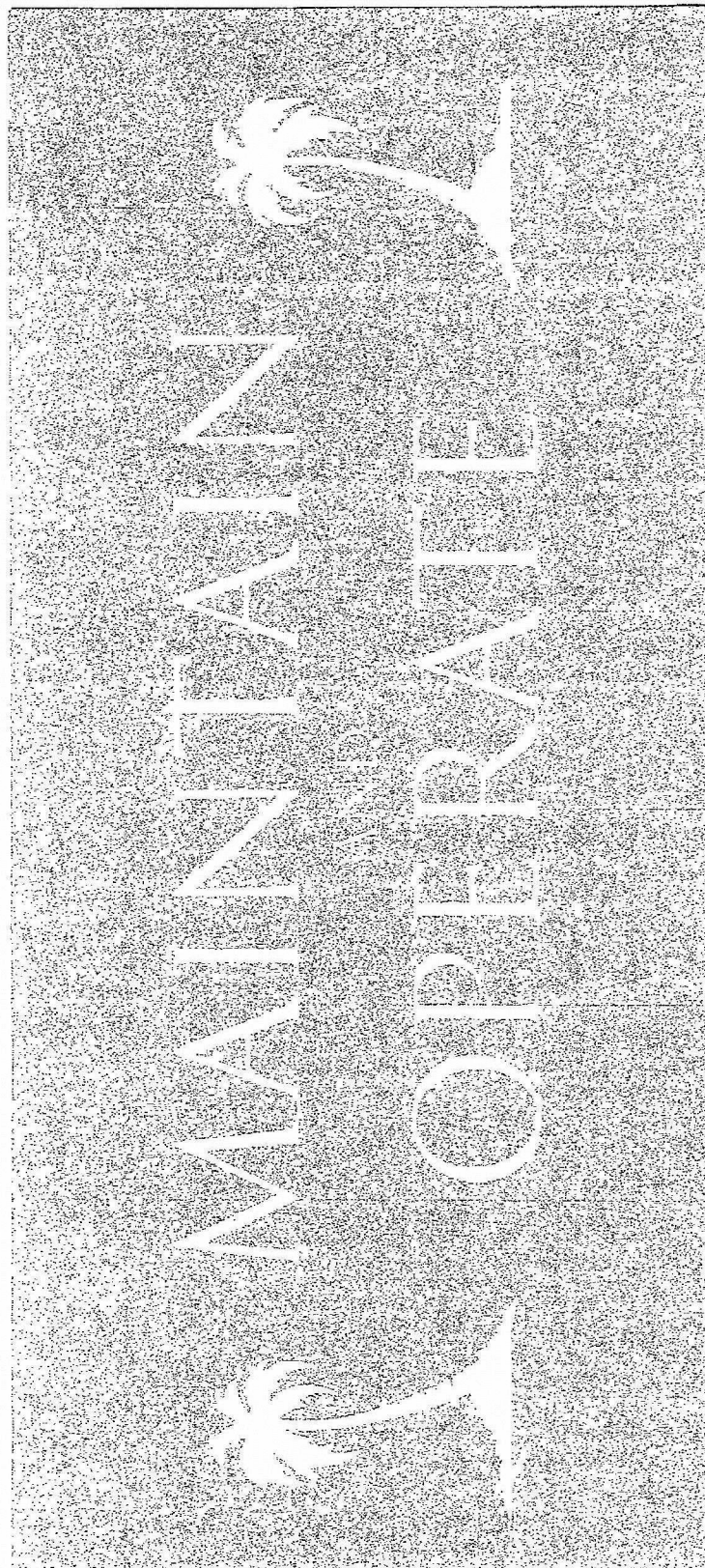
Hors d'oeuvres and open bar at 6 p.m.

7:30 to 9 p.m. show with the
inspiring story of the Renaissance
Florentine Camerata that invented
opera by 1600 and selected opera arias
from the centuries that followed,
Mozart, Verdi, Puccini and more



Daphne Chased by Apollo
Giovanni Battista Tiepolo, 1744

On the front: The Wedding of Marie de Medici
to Henry IV of France, 1600.
Oil on canvas, by Jacopo Chimenti
Uffizi Gallery, Florence



“MAINTAIN AND OPERATE” THE PLAYHOUSE

In 2007 the Palm Beach County Circuit Court

“ORDERED AND ADJUDGED” that the 1979 Agreement between the Town of Palm Beach and the owner of the Poinciana Plaza “requires that the Poinciana Theater, located in the Plaza, be maintained and operated as a theater”. Final Judgment of Judge David Crow, July 10, 2007

The owner of the Plaza had closed the Poinciana Playhouse Theater in 2004. The Town’s attorney delivered a letter to the owner on May 18, 2005 demanding that the owner comply with its “continuing obligation” to lease the Playhouse as a theater and “continue the theater operation”.

The Plaza owner sued the Town in June 2005 asking the Circuit Court for permission to demolish the Playhouse. The Town countersued explicitly asking for an order from the Court that the 1979 Agreement requires that the Poinciana Theater “be maintained and operated as a theatre”. In that September 2005 Answer and countersuit contesting the owner’s lawsuit, the Town’s attorneys clearly stated that the 1979 Agreement requires the owner “to continue the operation of the Theatre” and that “it was the intention of the parties to the 1979 agreement that the Poinciana Theatre continue to remain in existence and continue to be operated as a theater”.

On July 10, 2007, Judge Crow granted exactly the binding Court order that the Town requested requiring that the Playhouse “be maintained and operated as a theater”.

When the Plaza owner appealed the July 2007 Circuit Court order, the Town’s attorneys stated in their answering appeal brief that “the court held that the 1979 Agreement, in paragraph 2E and F specifically, requires that the Poinciana Theater, located in the Plaza, be maintained and operated as a theater....Clearly, the Theater must be used as a Theater, which appellant recognizes (In.Br. at 36), and further, it is to continue in use as a theater.” The owner dropped its appeal.

For more, please go to pbtheaterguild.org.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 10, 2017

Section of Agenda

Declaration of Use Agreements

Agenda Title

SPECIAL EXCEPTION #8-2017 The application of Hillstone Restaurant Group (The Palm Beach Grill and The Honor Bar in Palm Beach Grill); relative to property commonly known as **340 Royal Poinciana Way, Ste. 336**, described as lengthy legal description on file; located in the C-PC Zoning District. Special Exception approval was granted at April 12, 2017 Town Council meeting, with a condition to submit a Declaration of Use Agreement outlining applicable terms of operation. [Attorney: Maura Ziska]

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum Dated April 28, 2017 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Exhibit A, Proposed Declaration of Use Agreement**

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 10, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Special Exception #8-2017 with Site Plan Review, Proposed Declaration of Use Agreement for The Honor Bar at Palm Beach Grill, 340 Royal Poinciana Way Suite 336

Date: April 28, 2017

STAFF RECOMMENDATION

Staff recommends that the Town Council approve the proposed Declaration of Use Agreement, as modified by Staff.

GENERAL INFORMATION

At the April 12, 2017 meeting, the Council conditionally approved the subject application to expand the existing restaurant "Palm Beach Grill" by 1,596 square feet in an adjacent tenant space, increasing the total restaurant square footage to 8,596 square feet. The approval included the addition of 55 seats. The special exception also allowed the transfer of 40 seats grandfathered from the former McCarty's restaurant in the Royal Poinciana Plaza Beach Grill. As part of the approval, the applicant is required to enter into a Declaration of Use Agreement which outlines the conditions of approval.

Staff has made several proposed changes to the applicant's draft Declaration of Use Agreement which are identified in add/delete format (See Exhibit A). Staff has not received input from the applicant's attorney, Maura Ziska, on most of Staff's proposed changes. However, in terms of the condition related to music, Staff has been unable to come to terms with the applicant. Staff believes that the type of music allowed within the restaurant should be more specifically described. Both Staff and the applicant are prepared to address the Agreement at the meeting.

If you have any questions about the proposed Agreement please contact Paul Castro, Zoning Administrator, at 227-6406.

TOWN ATTORNEY REVIEW

The proposed Declaration of Use Agreement was approved by Town Attorney John C. Randolph for legal form and sufficiency.

cc: Jay Boodheshwar, Deputy Town Manager
Veronica W. Close, Asst. Director, Planning, Zoning & Building
Susan A. Owens, Town Clerk
Paul Castro, Zoning Administrator
zf & pf

DECLARATION OF USE AGREEMENT

by

THE TOWN OF PALM BEACH

and

**THE HONOR BAR AT PALM BEACH GRILL
(HILLSTONE RESTAURANT GROUP)**

MAY 2017

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

00035317

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DECLARATION OF USE AGREEMENT

THIS DECLARATION OF USE AGREEMENT is made and entered into this ____ day of _____, 2017 by and between the TOWN OF PALM BEACH, a Florida municipal corporation, 360 South County Road, Palm Beach, Florida 33480 (hereinafter called the "Town"); and THE HONOR BAR AT PALM BEACH GRILL (HILLSTONE RESTAURANT GROUP) RPP PALM BEACH PROPERTY LP, 340 Royal Palm Way, Palm Beach, Florida 33480, Suite 336 (hereinafter called "~~Tenant~~ the Restaurant") which terms "Town" and "~~RPP the Restaurant~~" will include and bind the ~~successors and assigns of the parties~~, wherever the context so requires or admits.

WITNESSETH :

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

~~WHEREAS, RPP is the entity who has the authority to make the changes to the Royal Poinciana Plaza as identified in this Agreement pursuant to the Power of Attorney from Sidney Spiegel, Trustee, under the provisions of a certain Trust Agreement dated October 25, 1984 and known as Trust No. 31520371, and Island Properties of Palm Beach, Inc. dated September 9, 2014 and attached hereto as Exhibit "B".~~

WHEREAS, ~~The Honor Bar at Palm Beach Grill~~ is a Restaurant which is a permitted special exception use in the C-PC Zoning District ~~with Special Exception approval~~; and

WHEREAS, site plan review is required as part of the approval of a special exception use; and

WHEREAS, the Town Council approved Special Exception Number 8-2017 with Site Plan Review on April 12, 2017 which approved the Restaurant ~~Honor Bar~~ as a restaurant at the above referenced location; and

WHEREAS, Special Exception Number 8-2017 with Site Plan Review was approved, subject to the conditions set forth herein and the approval of this Agreement on the basis of ~~Honor Bar's~~ the Restaurant's application, the testimony on behalf of ~~Honor Bar~~ The Restaurant, and the specific finding of the Town Council that the proposed restaurant ~~be~~ is beneficial and compatible with the neighborhood, and upon a finding by the Town Council that the applicable provisions of the Town Code governing the use of the Land and special exception criteria have been met; and

WHEREAS, should the ~~RPP~~ the Restaurant fail to comply with the conditions set forth by the Town Council on April 12, 2017 (as further set forth in ~~Paragraph 2 of Article III and Article IV~~ below), the approval of the Special Exception with Site Plan Review may be revoked and the ~~R~~Restaurant operation ~~may~~ shall be required to cease; and

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

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

ARTICLE I

RECITALS

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

ARTICLE II

REPRESENTATION OF AUTHORITY LEASE

~~RPP~~ The Restaurant has full right to enter into this Agreement and to bind the Land and itself to the terms hereof. ~~pursuant to the Power of Attorney from Sidney Spiegel, Trustee, under the provisions of a certain Trust Agreement dated October 25, 1984 and known as Trust No. 31520371, and Island Properties of Palm Beach, Inc. dated September 9, 2014 and attached hereto as Exhibit "B".~~ There are no covenants, restrictions or reservations of record that will prevent the use of the Land in accordance with the terms and conditions of this Agreement and the Agreement between the Town and Poinciana Properties, Ltd. dated March 6, 1979, as amended. No consent to execution, delivery and performance hereunder is required from any person, partner, limited partner, creditor, investor, judicial or administrative body, governmental authority or other party other than any such consent which already has been unconditionally given or referenced herein. Neither the execution of this Agreement nor the consummation of the transactions contemplated herein will violate any restriction, court order or agreement to which ~~Tenant~~ Restaurant or the Land ~~are~~ is subject. In addition, there are no covenants, restrictions or reservations of record that will prevent the use of the Land in accordance with the terms and conditions of this Agreement and the Agreement between the Town and Poinciana Properties, Ltd. dated March 6, 1979, as amended.

ARTICLE III

RESTAURANT USE

The use that is the subject of this Declaration of Use shall be as set forth in the application submitted to the Town for Special Exception Number 8-2017 with Site Plan Review and approved by Town Council on April 12, 2017 as the same may be amended from time to time (hereinafter referred to as the "Approval"). The set of plans which are part of Special Exception Number 8-2017 with Site Plan Review conditional approval, and as identified on sheet drawings SP-1, A-1.0, A-1.1 and A-2.0 prepared by Glidden Spina & Partners, stamp dated February 23, 2017, may not be deviated from unless prior special exception approval is granted by the Town Council.

ARTICLE IV

CONDITIONS

The approval to operate ~~Honor Bar~~ the Restaurant is conditioned upon the following:

- 1) The hours of operation will be 11:00 a.m. until 11:00 p.m. Sunday through Thursday and 11:00 a.m. until 12:00 midnight Friday and Saturday.
- 2) There shall be no live music or Disc Jockey ("DJ"). For the purposes of this Agreement, a DJ is defined as an individual who plays recorded music or actively entertains an audience while playing recorded music. This restriction shall not be construed to prohibit recorded background music being played for the enjoyment of dining patrons, provided no ~~active~~ DJ is involved.

ARTICLE V

VOLUNTARY AGREEMENT AND HOLD HARMLESS

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

ARTICLE VI

REMEDIES FOR VIOLATION

1. Upon determination by the Town Council of a violation of any of the terms or conditions of this agreement that is based on competent substantial evidence, ~~RPP~~ the Restaurant shall pay to the Town a liquidated amount of \$5,000 ~~\$2,000 for the first per violation and \$10,000 for the second violation~~. On the occurrence and finding by the Town Council of a third violation that is based on competent substantial evidence, the Town Council at a future meeting may rescind the approval of the use.

In the event ~~RPP~~ the Restaurant disputes the determination of the Town Council that a violation of this Agreement has occurred, ~~RPP~~ the Restaurant may appeal ~~their~~ its decision to the Circuit Court in and for Palm Beach County, Florida.

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

ARTICLE VII

PROVISIONS TO RUN WITH LAND/RECORDING

This Agreement shall run with ~~only the Land and shall be binding upon RPP only~~ Restaurant. The approval of the Special Exception and Site Plan Review granted herein and this agreement shall terminate upon the termination of ~~Honor Bar' Lease ownership~~, the business tax receipt for the Restaurant or rescission of approval by the Town Council. This Agreement shall be recorded by ~~RPP~~ the Restaurant in the Official Records of Palm Beach County, Florida upon full execution by the parties hereto.

ARTICLE VIII

ENTIRE AGREEMENT

This Agreement and Special Exception ~~Permit #~~ Number 8-2017 with Site Plan Review represent the entire agreement between the parties as to its subject matter and it may not be amended except by written agreement executed by both parties.

ARTICLE IX

EFFECTIVE DATE

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

ARTICLE X

MISCELLANEOUS

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

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

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

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

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

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

Signed, sealed and delivered
In the presence of:

TOWN

Print Name: _____

By: _____
Gail Coniglio, Mayor

Print Name: _____

Print Name: _____

By: _____
Richard Kleid, President

Print Name: _____

Print Name: _____

By: _____
Thomas Bradford, Town Manager

Print Name: _____

THE RESTAURANT

Print Name: _____

By: _____
Hillstone Restaurant Group
Its general partner

Print Name: _____

By: _____
Its: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

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

Signature of Notary Public

Printed Name of Notary Public

Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

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

Signature of Notary Public

Printed Name of Notary Public

Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

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

Signature of Notary Public

Printed Name of Notary Public

Commission Expires: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 2017, by _____, on behalf of ~~RPP Palm Beach Property GP, LLC, as the general partner of RPP Palm Beach Property LP~~ the Restaurant (Hillstone Restaurant Group). He/She is personally known to me and he did not take an oath.

Signature of Notary Public

Printed Name of Notary Public

Commission Expires: _____

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

By: _____
John C. Randolph, Esquire

EXHIBIT “A”

LEGAL DESCRIPTION

EXHIBIT "B"

POWER OF ATTORNEY

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 10, 2017

Section of Agenda

Declaration of Use Agreements

Agenda Title

SPECIAL EXCEPTION #9-2017 WITH SITE PLAN REVIEW AND

VARIANCE The application of Old Guard Society of Palm Beach; relative to property commonly known as **165 Bradley Place**, described as lengthy legal description on file; located in the C-TS Zoning District. Special Exception With Site Plan Review and Variance approval was granted at April 12, 2017 Town Council meeting, with a condition to submit a Declaration of Use Agreement outlining applicable terms of operation. [Attorney: Maura Ziska]

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum from John Page dated April 28, 2017**

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 10, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Special Exception #9-2017 with Site Plan Review and Variance, Proposed Declaration of Use Agreement for the Old Guard, 165 Bradley Place

Date: April 28, 2017

STAFF RECOMMENDATION

Staff recommends that the Town Council defer consideration of the proposed Old Guard Declaration of Use Agreement to the June 14, 2017 Council meeting.

GENERAL INFORMATION

The Town Council conditionally approved the subject zoning application on April 12, 2017, to allow a private club "Old Guard Society of Palm Beach" to operate at 165 Bradley Place in the C-TS Zoning District. As a condition of approval, the applicant is required to enter into a Declaration of Use Agreement which incorporates the conditions of approval.

To date, the Town has not received the proposed Declaration of Use Agreement. Therefore, Staff recommends that the Council defer the subject application to the June 14, 2017 Town Council meeting. If you have any questions regarding the proposed Agreement, please contact Paul Castro, Zoning Administrator at 227-6406.

cc: Jay Boodeshwar, Deputy Town Manager
Paul Castro, Zoning Administrator
Maura Ziska
zf & pf

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 10, 2017

Section of Agenda

Development Review - Old Business

Agenda Title

VARIANCE #1-2017 The application of Rosemin Stanoytchev; relative to property commonly known as **157 Peruvian Ave.**, described as lengthy legal description on file; located in the R-C Zoning District. The applicant is requesting a variance to build a two-story, 3,911 square foot (including the garage) single-family residence on a lot with an area of 6,250 square feet, in lieu of the 10,000 square foot minimum required, and a lot width of 50 feet, in lieu of the 75 foot minimum required. [Attorney: David E. Klein, Esq.] [Architectural Commission deferred the project to the May 24, 2017 meeting. Carried 7-0] **Request for Deferral to the June 14, 2017, Town Council Meeting Per Letter Dated April 28, 2017 from David E. Klein**

Presenter

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

ATTACHMENTS:

- ▣ **Letter Dated April 28, 2017 From David E. Klein**

RABIDEAU LAW

PALM BEACH - TORONTO

*David E. Klein, Esq.
direct: 561.402.7412
dklein@rabideau-law.com*

April 28, 2017

Via E-Mail – pcastro@townofpalmbeach.com

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

Re: Property: 157 Peruvian Avenue
Owner: Rosemin Stanoytchev
Variance #1-2017

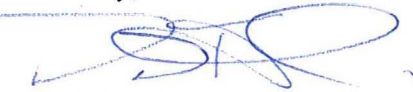
Dear Mr. Castro:

In connection with the above-referenced matter, I request that the variance matter that is scheduled to appear before Town Council on May 10, 2017 be deferred to the following Town Council Meeting occurring on June 14, 2017.

The matter will be heard at ARCOM on May 24, 2017 due to a deferral. As such, we request a one-month deferral from the May 10, 2017 Town Council Meeting.

Please let me know if you have any questions.

Sincerely,



David E. Klein

DEK/cac

cc: Kathleen Ruderman, via e-mail kruderman@townofpalmbeach.com
Kelly Churney, via e-mail kchurney@townofpalmbeach.com

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 10, 2017

Section of Agenda

Development Review - Old Business

Agenda Title

SPECIAL EXCEPTION #29-2016 WITH SITE PLAN REVIEW AND VARIANCES The application of Gregory Fisher; relative to property commonly known as **320 Seabreeze Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting for approval of a special exception with site plan review to allow the construction of a 2,713 square foot two-story, single family residence on two platted lots which combined creates a lot that is 50 feet in width in lieu of the 100 foot minimum required and 6,125 square feet in area in lieu of the 10,000 square foot minimum area required. The following variances are being requested. To allow a 6 foot east side yard setback for the two story portion in lieu of the 15 foot minimum required and to allow a 6 foot west side yard setback for the one story portion in lieu of the 12.5 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Implementation of the proposed special exception with site plan review and variances will not cause negative architectural impacts to the subject property. Carried 5-2] [Architectural Commission approved the project as presented. Carried 5-2]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 10, 2017

Section of Agenda

Development Review - Old Business

Agenda Title

SITE PLAN REVIEW #1-2017 The application of 235 Via V PB LLC (Stuart Kapp, Manager); relative to property commonly known as **235 Via Vizcaya.**, described as lengthy legal description on file; located in the R-A Zoning District. The applicant is requesting a site plan review to allow the construction of a 7,444 square foot two-story, single family residence on a non-conforming platted lot which is 15,344 square feet in area in lieu of the 20,000 square foot minimum area required; 47.25 in width in lieu of the 125 foot minimum required; and 97.58 feet in depth in lieu of the 150 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission deferred the project to the June 28, 2017 meeting. Carried 7-0] **Request for Deferral to the July 12, 2017, Town Council Meeting Per Letter Dated May 2, 2017 from Maura A. Ziska.**

Presenter

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

ATTACHMENTS:

- ▣ **Letter Dated May 2, 2017 From Maura Ziska**

KOCHMAN & ZISKA PLC

Ronald S. Kochman*
Maura A. Ziska
Marvin S. Rosen, Counsel*

*Also admitted in New York
*Also admitted in Michigan

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

Telephone: (561) 802-8960
Facsimile: (561) 802-8995

VIA E-MAIL

May 2, 2017

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

RE: SPR 1-2017 - 235 Via Vizcaya and SPR 2-2017 - 12 Via Vizcaya

Dear Paul and Kelly:

Please defer the above referenced matters from the May 10, 2017 Town Council agenda to the July 12, 2017 Town Council agenda. The reason for the deferral is because ARCOM deferred the projects at the April 26, 2017 meeting. Please call me if you have any questions or comments with the foregoing. Thank you.

Sincerely,



Maura A. Ziska

MAZ/jch
cc: Architect
00035373

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 10, 2017

Section of Agenda

Development Review - Old Business

Agenda Title

SITE PLAN REVIEW #2-2017 The application of JDC Florida Properties LLC (Stuart Kapp, Manager); relative to property commonly known as **12 Via Vizcaya.**, described as lengthy legal description on file; located in the R-A Zoning District. The applicant is requesting a site plan review to allow the construction of a 6,958 square foot two-story, single family residence on a non-conforming platted lot which is 15,102 square feet in area in lieu of the 20,000 square foot minimum area required; 106.67 in width in lieu of the 125 foot minimum required; and 100.17 feet in depth in lieu of the 150 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission deferred the Project to the June 28, 2017 meeting. Carried 7-0] **Request for Deferral to the July 12, 2017, Town Council Meeting Per Letter Dated May 2, 2017 from Maura A. Ziska.**

Presenter

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

ATTACHMENTS:

- ▣ **Letter Dated May 2, 2017 From Maura Ziska**

KOCHMAN & ZISKA PLC

Ronald S. Kochman*
Maura A. Ziska
Marvin S. Rosen, Counsel*

*Also admitted in New York
*Also admitted in Michigan

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

Telephone: (561) 802-8960
Facsimile: (561) 802-8995

VIA E-MAIL

May 2, 2017

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

RE: SPR 1-2017 - 235 Via Vizcaya and SPR 2-2017 - 12 Via Vizcaya

Dear Paul and Kelly:

Please defer the above referenced matters from the May 10, 2017 Town Council agenda to the July 12, 2017 Town Council agenda. The reason for the deferral is because ARCOM deferred the projects at the April 26, 2017 meeting. Please call me if you have any questions or comments with the foregoing. Thank you.

Sincerely,



Maura A. Ziska

MAZ/jch
cc: Architect
00035373

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 10, 2017

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #12-2017 The application of 202 Onondaga, LLC; relative to property commonly known as **202 Onondaga Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting approval to demolish greater than fifty percent (50%) of the existing cubic footage by taking off existing roof trusses and adding a second story addition with a pitched roof. The following variances are being requested: a) an east side yard setback of 11.8 feet in lieu of the 15 foot minimum required for the proposed second story addition, b) a west side yard setback to remain of 9.8 feet in lieu of the 12.5 foot minimum setback required for the one story portion to remain as existing.

[Attorney: Francis X. J. Lynch, Esq.] [Architectural Commission

Recommendation: The proposed project can be designed in an architecturally suitable manner which conforms to our code of ordinances without the need for a variance. Carried 5-2]

Presenter

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

ATTACHMENTS:

- ❑ **E-Mail Dated April 18, 2017 From Kathy Delaney**
- ❑ **Letter Dated April 19, 2017 From Jennifer C. Garrigues**
- ❑ **Letter Dated April 19, 2017 From Maureen Wilkins**
- ❑ **Letter Dated April 21, 2017 From B. Turnipseed**
- ❑ **Letter Dated April 21, 2017 From Maria Drelich**
- ❑ **Letter Dated April 22, 2017 From Susan K. & W. Bradford Gary**
- ❑ **Letter Dated April 22, 2017 From Lawrence Moens**
- ❑ **Letter Dated April 23, 2017 From Susie Rose**
- ❑ **Letter Dated April 24, 2017 From John C. Dotterer**
- ❑ **Letter Dated April 23, 2017 From Per & Rachel Lorentzen**
- ❑ **Letter Dated April 24, 2017 From Molly Noonan**

From: [Paul Castro](#)
To: [Kathleen Ruderman](#)
Subject: FW: 202 ONONDAGA
Date: Thursday, April 20, 2017 12:35:55 PM

You may already have this.

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

From: John Lindgren
Sent: Wednesday, April 19, 2017 3:59 PM
To: amginny@aol.com; avanneck@mac.com; betsyshiverick@gmail.com; Bob Vila <bvtvbob@gmail.com>; johncorey84@gmail.com; msmall@smallawpalmbeach.com; msmallpb@gmail.com; rng@garrisonarch.com; rsammons@fairfaxandsammons.com
Cc: John Page <JPage@TownofPalmBeach.com>; John C. Randolph (jrandolph@jones-foster.com) <jrandolph@jones-foster.com>; Kelly Churney <KChurney@TownofPalmBeach.com>; Paul Castro <PCastro@TownofPalmBeach.com>; Pat Gayle-Gordon <PGayle-Gordon@TownofPalmBeach.com>
Subject: FW: 202 ONONDAGA

FYI

John Lindgren, AICP
Planning Administrator

Town of Palm Beach
Planning, Zoning & Building Department
360 S. County Road
Palm Beach, FL 33480
Phone: 561-227-6414
www.townofpalmbeach.com

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

From: Kathy Delaney [<mailto:kdelaneypb@gmail.com>]
Sent: Tuesday, April 18, 2017 12:45 PM
To: John Lindgren <JLindgren@TownofPalmBeach.com>
Subject: Fwd: 202 ONONDAGA

> Begin forwarded message:

>
>
>
>
>
>

> Kathy Delaney
> 1465 North Lake Way
> Palm Beach, FL 33480
>
>
>

> Hon. Gail L. Coniglio, Mayor
> Members of the Town Council
> Architectural Review Commission
> C/O Mr. John Lindgren AICP Planning Administrator

April 18, 2017

Please Distribute to Town Officials

> Re: 202 ONONDAGA ARCOM# B-020-2017 ZONING VARIENCE #12-2017

>

>

> Dear Mayor, Town Council and Architectural Review Commission,

>

> After reviewing the proposed application for 202 Onondaga, I kindly ask that the project be scaled back in height and size more compatible with existing structures on the street and in the neighborhood. While I am not opposed to improvement, I do object to the disproportionate size of the proposed renovation. It is proposed to be twice the height and mass of any of the two dozen homes that comprise the unique and charming cottage enclaves. It is therefore excessively dissimilar to several structures within 200 feet.

>

> I have been the home owner for over twenty years at 1465 North Lake Way and am sad to see homes that dwarf their lot size going up all over the north end. Yes, new building and renovations are an asset, but maximizing every cubic inch of properties is ruining the charm of the north end. When I bought my house my realtor called the north end 'not the estate section'. Now the size of homes is being pushed to change dramatically but lot sizes are still the same. We are losing green space, blue sky and ocean breeze because of this over building!

>

> I ask that proposed renovations at 202 Onondaga be rejected and kept to a level suitable for lot size, halving both the height and mass.

> Warm regards,

>

> Kathy Delaney

To: Arcom, Mayor, Town Council

19 April 2017

**Re. 202 Onondaga Applications;
Letter of Objection and Request for Denial**

I have recently received notification of 2 Town meetings for Arcom Approval and recommendation, variances and site plan approval of the above project that is oversized in Height and Mass, presents no hardship, does not seek minimal variance and would denigrate the balance, spaciousness, harmony and charm of surrounding properties including those within 200 feet. It is excessively dissimilar to those properties.

Onondaga, Laurie and Debra Lanes, and Esplande comprise a unique quiet low rise, low key environment in which I have chosen to live for 22 years. I was attracted by the smaller scale and cottage like feel of the houses. I enjoy walking dogs in it nearly every day.

ARCOM and the Town Council have the opportunity here to preserve and protect one of the original 1 story bungalow/cottage enclaves. Developers should not be encouraged to enclose yet more open skies.

The proposal is excessive for the lot and the neighborhood, is excessively dissimilar under all applicable criteria and should be denied. Developers' perpetual quests for profits should not be allowed to destroy the charm and harmony we have always had. Both Applications should be denied.

In the event that I am not able to attend these Town meetings when they are conducted, I ask that this letter be considered as fully as if I had attended. Thank you for your kind attention and consideration.



Jennifer C. Garrigues
246 Esplande Way
Palm Beach

RECEIVED

APR 24 2017

Town of Palm Beach
PZB Dept

Maureen Wilkens
1491 North Ocean Blvd.
Palm Beach, Florida 33480

Hon. Gail L. Coniglio, Mayor
Members of the Town Council
Members of Arcom, Town of Palm Beach

April 19, 2017

Re. Applications (ARCOM and Council) for New Residence – 202 Onondaga

Dear Mayor, Town Council, and Architectural Review Commission

I reside at 1491 North Ocean Boulevard, across North Ocean Boulevard from 202 Onondaga, and a few houses to the north. That property is part of what has historically been a tiny quaint way, in the open air, quiet North End that now seems to be threatened anew everyday.

I am concerned about and oppose the project that is proposed to be packed into parcel and the overdevelopment precedent it will undoubtedly incentivize.

Debra and Laurie Lanes and Onondaga are 3 surviving delightful lanes that for some 60+ years have been homogenously lined with single-story bungalows. They are proportioned perfectly to the small lots on which they were built by those who platted this especially beautiful end of Palm Beach. It is to this quiet islandscape that my late husband and I were drawn to spend our winters several decades ago.

Among the responsibilities of the Town Boards involved here are:

ARCOM:

- to preserve special local characteristics of site, aesthetic tradition, vistas, visual cohesiveness
- to assure spaciousness, balance, taste and charm
- to prevent excessive dissimilarity, including with respect to height, compatibility of appearance and mass, complimentary sizing with adjacent properties, avoiding improper proportions
- to protect privacy of neighboring properties

Sections 18-146, 18-205.

Town Council

- protecting against imbalanced intensity in relation to nearby and adjacent properties
- ensuring screens and buffers
- minimize invisible bulk of structures to drivers and pedestrians
- minimizing nonconformities
- granting variances only in cases of genuine hardship
- restricting variances to the minimum necessary

Sections 134-201, 327,329.

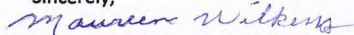
The proposed 202 Onondaga spec development project defies all of these codified standards.

It is massed larger and higher than any of the Debra/Onondaga properties. It boasts a roof rising far above the surrounding houses on those lanes.

The applicant Developer will sell it, and be gone, encouraging others to fill in the sky space as other lots become available. The result would be a canyon.

My family and I have treasured walks and bike rides on these charming Lanes for years. For profit, a Developer proposes to fill them in. Preservation of harmony, spaciousness, charm, special characteristics should prevail over short-term profit.

Sincerely,



Maureen Wilkens

PS/ While our home is large, it is recessed on large acreage on the ocean far from the street and so heavily landscaped, that is barely visible from any thoroughfare.

**G. Ben Turnipseed
211 Esplanade Way
Palm Beach Fl 33480**

April 21, 2017

Mayor
Town Council
Architectural Review Commission
Town of Palm Beach

Re: 202 Onondaga Ave.
Opposition to Applications

My wife and I, only in February, 2 months ago, selected and closed on the purchase of the charming single story home at 211 Esplanade through a trust of which I am Trustee. We selected the house specifically because of the alluring cottage feel of the neighborhood. Esplanade, especially on our side is lined with low scale informal dwellings as are all of Onondaga, Laurie and Debra. That is exactly why we chose to locate here in Palm Beach.

However, soon after moving in, we received the disturbing notifications that a much larger, much higher, much more massive project is proposed on speculation by a Developer "kitty cornered" to our pool area and backyard on Onondaga. This is imposing and out of character to the environs. It will be excessively dissimilar in height and mass from surrounding homes within 200 feet including ours and therefore should be prevented by TPB Sections 18-146, 18-205(a)6. Surely, there is no hardship simply because a Developer wishes to build something bigger decades on. And so,

variances should be denied too. TPB Sections 134-201; 134-327 - 329.

The Commission and Council should take their responsibilities under the above ordinances seriously and recognize how deeply immediate neighbors can be affected by invading overdevelopment.

There is a charmed ambience that should be saved here. Once the Developers demolish it, forever it will be lost. Please exercise your powers as you are rightfully and legally enabled to do, and wisely; decline these Applications.

Yours truly,

A handwritten signature in blue ink, appearing to read "G. Ben Turnipseed", with a stylized flourish at the end.

G. Ben Turnipseed

Maria Drelich
215 Onondaga Avenue
Palm Beach, FL 33480
April 21, 2017

Dear ARCOM, Mayor, and Council,

I am deep in the process of redoing my home on Onondaga Avenue and am very upset upon hearing of applications to knock down and rebuild across the street from me. I understand that the application is for a home that is massive compared to others on Onondaga.

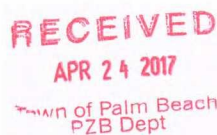
Do not let this happen. I decided to make a substantial investment on remodeling precisely because I love Onondaga Avenue. I bought here in the first place because of the natural beauty. If I walk to the beach or ride my bike I am inundated with a myriad of greens and the blue sky. The same goes if I walk or bike toward the Lake Trail. If you approve this application, what I have here (and what I am doing with my renovation) would be destroyed. It is completely out of character for the neighborhood.

It is excessively dissimilar and not in harmony with the other homes on Onondaga. I urge you not to do this to the owners on Onondaga. I am aware that there are precedents for not allowing this travesty to happen.

Sincerely,



Maria Drelich



April 22, 2017

229 Onondaga Avenue

Palm Beach, Florida 33480

The Mayor, Town Council of Palm Beach, ARCOM members

RE: 202 ONONDAGA APPLICATION

We respectfully request that you deny this application.

We are full time residents at 229 Onondaga Avenue and have lived in this small scale and family friendly north end neighborhood for eighteen years. We cherish the blue sky, ocean breezes and the cottages that dominate the neighborhood.

I was told by the architect for this project that 202 Onondaga is a developer- lead project where the goal is to maximize the square footage of the home to increase the profit! Those are his words.

Where does this leave the residents of this narrow, one-way street filled with homes that are half the size and mass of the proposed home? We will be left here to deal with this eyesore for the remaining years of our lives.

I am writing to request you deny this proposed plan as it does not currently comply with the ARCOM ordinances. It is not harmonious with anything on Onondaga and it is excessively dissimilar to ALL (not just ANY) of the eight existing homes with an Onondaga address.

The proposed 202 Onondaga plan would double the height and mass relative to other homes in the immediate area. The existing homes on Onondaga, Laurie Debra and the north side of Esplanade - have roof heights averaging fourteen feet or less and contain approximately 2,300 square feet. The cubic ratio of the homes

RECEIVED

APR 24 2017

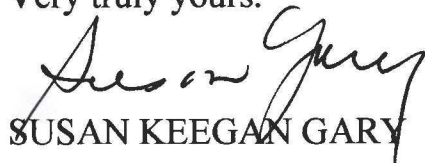
Town of Palm Beach
PZB Dept

in the surrounding area is less than 2.0 while the proposed home at 202 Onondaga has a cubic ratio of nearly 4.0.

The developer is an out of state real estate speculator with no apparent connection to our community. Once the developer leaves the residents must deal with the consequences forever. We will no longer experience the spaciousness, enjoy the charm, or the lovely ocean breezes of our street. All of the reasons we moved here suddenly disappear due to the intrusion of the new "botoxed" home at 202 Onondaga. It will be massive when viewed by the public from the street.

The ARCOM ordinance notes in Section 18-146, Statement of Findings and Purpose concludes that it is "The intent of this article is to achieve a pleasant and comprehensive cohesiveness in community development." The current plans for 202 Onondaga do not achieve the desired result. We therefore request you deny this proposal.

Very truly yours.

A handwritten signature in cursive script, appearing to read "Susan Gary", written over the printed name "SUSAN KEEGAN GARY".

SUSAN KEEGAN GARY

W. BRADFORD GARY

229 Onondaga Avenue

Palm Beach, Florida 33480

Lawrence A. Moens
1480 North Lake Way
Palm Beach, Florida 33480
(561) 655-5510

April 22, 2017

Hon. Gail L. Coniglio, Mayor
Hon. President and Members of the Town Council
Members of the Architectural Review Commission
Town of Palm Beach

Subject: 202 Onondaga; Council and Arcom Applications

Dear Mayor, Council and Arcom Members:

I reside at 1480 North Lake Way, and by way of LLC also own the 1 floor cottage style residence fronting on Debra Lane (1473 N. Lake Way), in the same enclave as the proposed Spec Development Project sought at 202 Onondaga. Like my Debra Lane cottage, the proposed structure will front on Onondaga – now a quaint little row of single story cottage/bungalow type dwellings.

In the 202 Onondaga Applications, a speculator seeks approval for a structure that is excessively dissimilar in height and mass from the 8 low rise houses on Onondaga, both houses on Laurie Lane and all of Debra Lane. It seeks to almost double those immediate surroundings in both height and mass. For these reasons, I am opposed the submitted project, and believe both Council and Commission retain more than adequate codified authority to decline this proposal. 18-146, 18-205

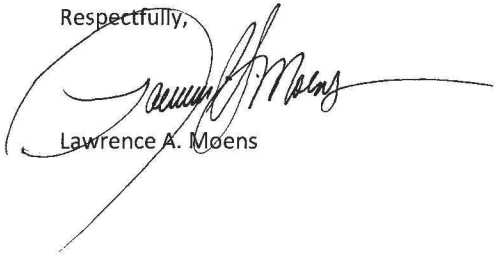
Onondaga, and Laurie and Debra Lanes, are legacies to the quiet understated open sky North End heritage. They should be preserved. I also believe that the scale of the residences such as we have on Onondaga, Laurie and Debra Lanes have their desirability and economic niche; in the long-term, may

prove of comparable value to the sometimes overpursued quest for maximized mass. There is certainly a demand and market for one floor living which many buyers seem to prefer.

The disparate mass is not in harmony or balance. Moreover, no hardship is presented. 134-201.

On these principles, these subject Applications should be accordingly declined.

Respectfully,

A large, stylized handwritten signature in black ink, appearing to read 'Lawrence A. Moens', is written over the printed name. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Lawrence A. Moens

Susie Rose

April 23, 2017

Re. 202 Onondaga Proposed Project: Letter in Opposition

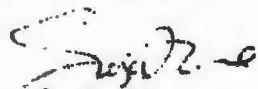
To: Mayor, Arcom, Town Council

I am a daughter and beneficiary of Walter and Moira Veith (deceased) of 1464 North Ocean Blvd., our family home, held in a family trust, is 2 houses north of the proposed Development project at 202 Onondaga. It was our childhood home and has been the family home for decades. My family was attracted to the neighborhood by the simple low scale architectural and quiet way of island life so close to the sea. I know that in recent times larger, taller, more massive Development Projects were proposed as incursions to neighborhood landscape and our Mom wrote letters and appeared at meetings to oppose them.

Similarly, now, we think the 202 Onondaga project is too high and too massive to be compatible with the surrounding structures and is not in harmony and as a result excessively dissimilar under Sections 18-146 and 18-205. There is also no hardship that justifies the request for variance to the former 1 story setback when a new 2 story is proposed. In addition, a minimal variance is not sought. Section 134-201. The applications should therefore be declined or scaled back to compatible size, mass and proportions, without variance.

Thank you for your attention and consideration.

Sincerely,


Susie Rose

JOHN C. DOTTERRER
1470 North Ocean Blvd.
Palm Beach, FL 33480

April 24, 2017

**Architectural Review Commission,
Town of Palm Beach**

Richard Sammons, Chairman
Ann L. Vanneck, Vice Chair
Robert N. Garrison
Maisie Grace
Alexander C. Ives
Michael B. Small
Robert J. Villa
John David Corey
Betsy L. Shevrick

c/o John Lindgren, ACIP
Planning Administrator
jlindgren@townofpalmbeach.com

**Town Council
Town of Palm Beach**

Hon. Gail L. Coniglio,
Mayor

Richard M. Kleid, Pres.
Danielle H. Moore, Pres. *PT*
Julie Araskog
Bobbie Lindsay
Margaret Zeidman

c/o Paul W. Castro, ACIP
Zoning Administrator
pcastro@townofpalmbeach.com

Re: 202 Onondaga Ave: LETTER IN OPPOSITION

ARCOM Application B-22-2017 (202 Onondaga LLC)
Hearing Date: Wednesday, April 26, 2017
Variance # 12-2017

Dear Madame Mayor, Members of Council and Commission:

The endearing and, for 7 decades, enduring, enclave of Onondaga, Laurie, Debra, Esplanade ("Enclave") would be disassembled by the incongruent, excessive height, mass and resultant dissimilarity the LLC's proposed Spec Development Project would impose upon the particular charm and characteristics of this unique environ that should be instead preserved. Once destroyed, it is unredeemable. Many neighbors deplore the ominous prospect.

The Project would set horrifically bad precedent that would shrink tiny Onondaga, Debra and Laurie lanes to narrow gulches. Allowing the oversized, crammed construction onto such small lots would initiate, after 70 years of proportioned architectural peacefulness, a march of new projects that will overbear this Enclave of one story bungalows, intrude on their equal-linear privacy, block their natural sunlight, create canyons of the lanes, and chasms between rising too tightly packed structures.

Instead, the Commission should adhere to the wise precedent it established at 257 Sandpiper [Arcom Case # B-002-2015], in which the objections of neighbors on that one story Street were heeded and respected, the two-story application denied. Afterward, a one floor program was harmoniously completed, and that Spec Development sold just weeks ago for \$ 6,000,000. By approving a harmoniously heightened proposal, the LLC Developer and neighbors can both win.

That is the right result; it can easily and should be applied here.

Because the Developer has, with its Arcom Application, simultaneously filed with Council, application for variances, and because the data and precepts before both chambers overlap, opposition to the companion Council application is here included.

I. OPPOSITION TO 202 IS SUBSTANTIAL

Largely concerned with the devastating potential negative precedential effect, opposition to 202 has swelled. Many residents have already registered their objections. More may be on the way.

The opposition is overwhelming and widespread among longstanding residents and recent purchasers alike. At least 2 recent purchasers at 220 Onondaga and 211 Esplanade (behind the Project) inform that they **recently purchased specifically to enjoy life in the understated low rise charm of the Enclave**. They too, protest the project

The neighborhood doesn't want this escalation and ARCOM is fully and legislatively empowered to decline the Project, including under Code Sections 18-146 and 18-205, and ARCOM'S Sandpiper precedent.

III. DOES NOT MEET Sec. 18-205 Criteria.

While technical RB “District Regulations” of the Code furnish maximum mathematical parameters, initially left to the planning and building departments, those provisions “alone do not create beauty, an aesthetic order, or amenity.” 18-146(d). Rather, ARCOM’s principal mission is fulfilled by applying the codified aesthetic criteria of Sec. 18-205. **That is precisely why ARCOM was created.** ARCOM is not a mere plan checker. Those criteria include:

(a)(1) “conformity with good taste”, contributing to “**spaciousness, balance,** taste, fitness, charm . . .” [emphasis added].

The Spec Project does not contribute to the spaciousness, balance and charm of the neighborhood, but rather invades it with Boca style crowding.

(a)(4) “ . . .the proposed structure is in **harmony** . . .” [emphasis added].

This project is dissonant. 8 out of the 8 houses on Onodaga, and all houses on adjoining Laurie and Debra are low rise, low mass structures with which the LLC Project is notably out of tune.

(a)(6). “The proposed . . . Structure is not excessively dissimilar in relation to **any other structure** existing . . . within 200 feet of the proposed site in respect to one or more of the following features: ”

[18-205(a)(6) is undoubtedly the preeminent provision of the Town of PB Code that ARCOM has the responsibility to enforce to protect existing residents. Importantly, if the Project is excessively dissimilar in relation to **any i.e. one structure within 200 feet** of the proposed site, it must be denied.

And if it is excessively dissimilar as to **even one feature** to even one nearby structure, that alone can warrant, can militate for denial.

Here, a simple 200’ sweep with a scaled draftsman’s compass on the tax appraisers map and analysis of the properties within that ring establishes that there is not only one, but are at least **14 structures** that are excessively dissimilar in, at least, **height, and mass**. They are: 201,210,215,220,221 Onondaga; 211,245, 251, 253 Esplanade (northside backing up to the project south side of Onondaga); 1464, 1465 Laurie Lane; 1440 North Ocean Way; 1464, 1470 North Ocean Blvd.

a. **"Height of building or height of roof."**

The LLC's proposed project height is 24.5 feet. In contrast, the **average height of 14 homes** within 200 feet, as extracted from sheets 12-13 of the data reported to the Commission by the 201 Debra applicant, and a scaled from existing drawings on file with the building department, is **14.6 feet**. For many of those existing homes, the peak height is only for part of the structure, not all. Thus, at 10 feet higher - **67% more**. The LLC proposed structure is excessively dissimilar **not only to one**, but to **14 structures** within the radius.

LLC may try to compare to 1460 North Ocean Blvd., but that 2 story is on the widest part of North Ocean Blvd. Despite its existence, there still are at least 14 excessively dissimilar structures within 200 feet of the project site, establishing a clear cut basis for denial under the Ordinance.

b. **"Architectural compatibility."**

The Spec proposition is incompatible. All homes in the Enclave are bungalows-ranch, not overbuilt over elevated "Monterey". There is no visual consonance, or compatibility with its long-standing neighbors.

c. **"Avoid the appearance of mass through improper proportions."**

The mass of this project is not only visually disproportionate to other structures in the 200 foot radius, it is measurably and objectively excessively dissimilar in mass.

LLC's proposed Cubic Content Ratio ("**CCR**"), by code defined as the gross cubic content (volume) in cubic feet/the lot area in square feet (Section 134-2) is **3.73**. The CCR is a requirement of RB district regulations and is therefore a codified measure of massing, both mathematically and apparent. In stark and excessively dissimilar contrast to the **average CCR of 14 homes** within the 200 foot radius is a modest **2.08 CCR**. The LLC therefore presumes to impose a full **80% more mass**. This is unacceptable.

The apparent and actual mass is overbearing for the little Lane. It is importioned.

d. “ . . . Is appropriate in relation to the **established character** of other **structures** in the immediate area or neighboring areas . . . as viewed from any public or private way.”

This is among the greatest and most disqualifying faults of the speculation here. This developer has burst into the neighborhood with a deeply and venerated uniform established character that has served its small size, admirably and the aesthetically for some 70 years. Allowance of this project would destroy all that and with each cottage that would change hands, attract developers to do the same. The sad result would be a chasm of buildings in what is now charmed, palm lined, spaciousness. Not every hovel in ZIP Code 33480 is required to be a McMansion.

There is a need, a niche, and a place for petite cottages and bungalows too.

One such place is this Enclave, where the original proportioned houses survive. Its post-war style and minimalism, allowed persons, not of astounding wealth or income to stake their claim to the alluring island of Palm Beach – intrinsic to fabric and character of the Town. That tradition is alive today. But this project would begin to eliminate that spectrum. It should not be allowed to cause extinction. Preservation is integral to the purpose and need for this Commission. After the Spec Developer sells, he is gone, but, with us, the aftermath remains.

It is expected that recent sales and opinions may show a demand a value for well renovated or built low rise residences.

(a)(10) “The project’s location and design adequately protects unique site characteristics, such as scenic views . . .”

Again, the project does not protect unique site characteristics; it derogates them. Perpetration of the project and its likely progeny will fill our eyespace and skyspace.

Summary – Sec. 18-205

Failure to meet any one of the above criteria as to any[1] structure within 200' is sufficient alone for denial. Here, the proposed Project offends at least 14 such structures and to them, violates not just 1, but multiple criteria as to all 14. With such ranging offense, in this unique location, denial is a compelling and obvious outcome.

IV. THE PRECEDENT IN SANDPIPER SHOULD BE FOLLOWED HERE

Arcom's seminal and courageous 2015 decision in 257 Sandpiper should be respected as both applicable and controlling precedent. There as here, the project was too high and too massive to be in harmony. And Onondaga is much smaller; about half the width of Sandpiper.

Two years ago, an Application for a two-story Spec Project on the one story North End street of Sandpiper was considered and denied. [ARCOM Case B- 002 - 2015, 257 Sandpiper Dr., denied March 25, 2015] . See, Arcom action letter of denial. *Onondaga* is more compelling for denial than ARCOM'S decision in **Sandpiper**.

In *257 Sandpiper*, the Commission reviewed a proposed Spec Project on a principally one story street that is approximately 36 feet wide, nearly 2 times the width of one way Onondaga. In *257 Sandpiper*, only 6-7 neighbors filed objections; at 202 Onodaga, more neighbors oppose the Project.

After 3 successive hearings the excessively high two-story application was denied on the basis of Code Sections 18 – 205(a) 1, 4 & 5[sic]. [the minutes of the March 25, 2015 hearing state "(a)(5)",sic, however, this is an entry error, as (a)(5) relates to excessive similarity, and the audio recording reflects that excessive dissimilarity was the basis for denial, a ground that is expressly covered by (a)(6)].

To treat the neighbors of the Enclave and environs differently than those on Sandpiper in application and adherence to the ARCOM Ordinances would be unfair and unequal.

At the time of Applicant's acquisition of 202 in January 2017, the decision in 257 Sandpiper had already been on the books, in the public record for 2 years and published as a significant story in the Palm Beach Daily News.

As a result of Arcom's March 25, 2015 denial, in April 2015, Mr. Jansen submitted a new one story application, Arcom Case # B – 041 – 2015. As reflected in the May 27th, 2015 minutes at page 10:

"Mr. Janssen reminded that he had previously presented a two-story residence which was denied by ARCOM. Since then, the program has been revised to a one-story residence with a center axis front door with a symmetrical façade."

Sandpiper, as a one story program was approved, constructed with a huge bonus for the Developer, selling a month ago for **\$6,000,000**. See PB Daily News, March 31, 2017, lead article p. B-1. The article reported that the Spec House's "single floor plan was a key marketing point", attractive to the many buyers who prefer not to climb stairs or use elevators. *Id.* at B-4. A similar forced triumph for a Spec Developer of 225 West Indies began as a 2 story application, converted to 1 story sold in 2015 for **\$ 5,645,000**. Deed, ORB 27314 P 1119.

Such should become the case here. Adequate square footage, 4,560 (40%) is allowed for a one story. There are numerous examples of 1 story recent constructions on the North End, including one recently completed at nearby 1475 N. Lake Way, on the corner of, and facing Manana Lane.

Following the sound decision of Arcom at 257 Sandpiper, the objecting neighbors to 202 Onondaga should be treated equally, and the subject Application denied.

TOWN COUNCIL APPLICATION

Council should defer to Arcom's action or recommendation on the petition for variances that entirely relies upon the very same drawings submitted to Council. This established and current protocol would promotes efficiency, reduces deliberative labor, and best provides for consistent results.

V. The Requested Variance Should be Denied.

A. No Actionable Hardship.

This LLC closed on the existing low rise home and site on February 1, 2017 (ORB 28865 Page 1791), obviously knowing both its limitations and that 8 out of 8 homes on Onodaga have remained at much lower average heights with low massing for decades. These facts were obvious before purchase, but apparently ignored on the ambition of doubling the size and mass through an undeserved Variance request despite the clear 18-205 violations and lack of real hardship.

Thus any asserted claim of special conditions and circumstances do result from the actions of the applicant, contravening Section 134-201 (a) (2). Any claim of hardship, is imagined, or at best, self-imposed. There is no literal interpretation here that would deprive the applicant or work an unnecessary or undue hardship. Section 134 – 201 (a) (4). A lower scale house served the owners and neighbors admirably for 6 decades. The existing structure was built in 1954. Never a complaint was heard nor an application for enlargement filed in all that time. It is only the speculative ambitions of this LLC that impel it to seek this variance.

And Developer provides no cognizable reason in the LLC's Application for hardship as the law requires. 202 Onondaga LLC's answer to Item 4, "Exhibit D-Request For Variance blithely offers only an unsupported generalism: "A literal interpretation of the ordinance would deprive the Applicant of the opportunities enjoyed by neighboring properties in the area". This is both untrue and unsupported. No examples are provided. In fact, there is no uncommon, variant deprivation. Applicant merely wants to build in a setback where RB district regulations do not allow in self aggrandizement. There is no unique feature peculiar to this land, 202, not applicable to other lands, that deprives this LLC of anything. 134-201(a)(1). The site enjoys dimensions (100' x 114') *identical* to most lots in Esplanade Estates. The requirement of real, not conjured or invented, hardship should be adhered by Arcom and Council. 134-201. Otherwise district regulations are worthless.

B. Would Confer Special Privilege.

The LLC requests a major 2 story east side setback variation. Applicant seeks to project upward from an existing 1 story nonconformity of 11.8 feet for 2 stories without setting back the new proposed second story to the current 15'

minimum, which would have thereby reduced mass. This expansion demands an unneeded special privilege, violating 134-201(a)(2).

C. Not Minimum Variance.

As shown above, the variance is not minimum; it could have been much less. Applicant could meet the current east setback for both and certainly the second proposed story. Reasonable use could be made with full or better compliance. Therefore it must be denied. 134-201(a)(5)

D. Not Harmonious.

The oversize, double high, double massed, proposed structure is not in harmony with the neighborhood nor general intent and purpose of the chapter. Section 134 – 201 (a) (7).

Accordingly, ARCOM should recommend denial of, and Council should deny, the requested Variance.

CONCLUSION

Oversized, overmassed, too high, dissonant from long established neighborhood character and tradition, the LLC's Spec Project applications that importune to aggrandize maximization should be denied. The unredeemable cottage charm that has lived on for six to seven decades should be preserved, not annihilated. If this development is allowed, others will surely follow, claiming precedent, and a gorge of overbearing structures erected on what was once proportioned pleasant spaciousness.

Respectfully Submitted,



John C. Dotterer

Cc: John C. Randolph, Esq.

*Per and Rachel Lorentzen
231 Osceola Way
Palm Beach FL 33480*

April 23, 2017

Hon. Gail L. Coniglio, Mayor
Architectural Review Commission
Town Council

**Subject: 202 Onondaga Arcom and Variance Applications;
Letter in Opposition.**

As longtime residents of Palm Beach, now living a few blocks from the above proposed project, we feel strongly that Onondaga along with the other small lanes nearby constitute a neighborhood having a pleasant sense of openness and charm derived from the historical proportioning of the bungalow houses and gardens to the little lanes and lots. We are fortunate that this special character has been preserved since original construction. We often enjoy this unique low scaled area of the town.

However, Developers, at an increasing pace seem to be attempting to invade this harmony by proposing much larger projects for profit, then leaving the longstanding residents with the overdeveloped aftermath. It is a burgeoning problem all over our unique and charming North End and if allowed would despoil our community and convert us to becoming like developments elsewhere Florida that we all sought to avoid.

Here, the Developer's dual applications for 202 Onondaga would for the first time, apparently since mid-century, change the neighborhood and begin an onslaught of maximized for profit larger hovering structures. The height and steepness of what is now proposed would imposingly tower over the lane and its existing bungalows, and spoil the spaciousness. It is excessively dissimilar from so many structures within 200 feet in height and mass and should be denied. 18-146, 18-205.

Also, for a home that has been perfectly adequate for so many decades, there is no hardship to justify the requested variances which are

not minimized. The Town has for far too long doled out variances without hardships. So what is the point of the variance ordinance ? Here, a 2 story variance is sought to the 1 story former setback for a new project, doubled in size. The request should be denied. 134-201.

Any project that is built on the site should be scaled to the existing lot, lane and architecture. The proposed disproportionate project is just too much. It should be disapproved by both boards.

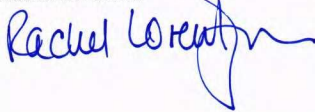
Thank you for your attention and consideration of this important townwide issue.

Sincerely,

Per Lorentzen

A handwritten signature in blue ink, appearing to read "Per Lorentzen", with a horizontal line underneath.

Rachel Lorentzen

A handwritten signature in blue ink, appearing to read "Rachel Lorentzen", with a large loop at the end.

ARCOM

April 24, 2017

c/o John Lindgren

Re: 202 Onondaga

I live at the corner of North Lake Way and Debra Lane. Unfortunately I am not able to attend the meeting April 26, 2017.

As was the case with 201 Debra Lane, the idea of approving a large house on Onondaga is not a good one for this neighborhood. The small, one-story homes have size and appropriate setbacks that create a lovely sense of openness and charm. Larger and two story houses dwarf these houses and create privacy concerns. Please reject approval of the project for 202 Onondaga.

Sincerely,


Molly Noonan

with permission

1469 North Lake Way

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 10, 2017

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #13-2017 The application of Kelly M. Williams; relative to property commonly known as **288 Sandpiper Dr.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a variance to construct a two-story addition on the west side of the property with a second story street side yard setback of 27.0 feet in lieu of the 35 foot minimum. [Attorney: David E. Klein, Esq.]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 10, 2017

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #14-2017 The application of Waterfront Properties, Inc.; relative to property commonly known as **333 Peruvian Ave., Ste. #1**, described as lengthy legal description on file; located in the C-TS Zoning District. The applicant is requesting a variance to permit the operation of a real estate office containing approximately 1,237 sq. ft. on the first floor which does not meet the requirements to allow an office use on the first floor in this situation. The Applicant is assuming the existing lease and proposes to change the use from a yacht brokerage office to a real estate brokerage office. The proposed use does not meet the special exception uses requirement in Section 134-1109 (18) that there are at least 50% existing office uses on all floors in the building or the requirement that there are more than 50% existing office uses on the first floor within 300 feet of the proposed use within the same zoning district. [Attorney: M. Timothy Hanlon, Esq.]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 10, 2017

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #15-2017 The application of 3200 Washington, LLC; relative to property commonly known as **1055 N. Ocean Blvd.**, described as lengthy legal description on file; located in the R-A Zoning District. The applicant is proposing to modify the existing one-story house by adding a 4,665 square foot second story pitched roof addition and adding a pitched roof and loggia element onto the existing one story portions of the house that are to remain. The following four variances are being requested in order to accomplish this: 1) A south side yard setback ranging from 7.4 feet to 9.9 feet in lieu of the 15 feet minimum setback required to add the pitched roof onto the one story south wing of the house and the second story addition; 2) A north side yard setback ranging from the 5.1 feet to 8 feet in lieu of the 15 foot minimum setback required to add the pitched roof and loggia onto the one story north wing of the house and the second story addition. Both sides are proposed to have 2 foot overhangs for the pitch roof which is allowed by code. [Attorney: Joel P. Koeppel, Esq.] [Architectural Commission Recommendation: Implementation of the proposed variance will cause negative architectural impacts to the subject property and the proposed project can be designed in an architecturally suitable manner which conforms to our Code of Ordinances without the need for a variance. Carried 5-2]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 10, 2017

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #16-2017 The application of Harvey E. Oyer, Esq., on behalf of the Paramount Church, Inc.; relative to property commonly known as **139 N. County Rd.**, described as lengthy legal description on file; located in the CT-S Zoning District. The applicant is requesting the approval of a sign variance to replace the existing Paramount sign with an identical business sign of the same size, height, number of bulbs, color, appearance and location. The following variance is requested: To increase the maximum gross surface area for a business sign for the Paramount Theatre to 156.20 square feet in lieu of the 20 square feet maximum as required by code. A requested variance of 136.20 square feet. [Attorney: Harvey E. Oyer, Esq.] [Landmarks Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impacts to the subject landmarked property. Carried 7-0]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 10, 2017

Section of Agenda

Development Review - New Business

Agenda Title

SPECIAL EXCEPTION #10-2017 WITH SITE PLAN REVIEW AND VARIANCES

The application of Gregory and Valerie Frost; relative to property commonly known as **1430 N. Ocean Blvd.**, described as lengthy legal description on file; located in the R-B/B-A Zoning District. The applicant is requesting a special exception with site plan review to allow construction of a 164.5 square foot beach cabana that requires the following variances: 1) To construct a 164.5 square foot beach cabana that is on a lot with frontage of 90.52 feet in lieu of the 100 foot required, 2) To allow the beach cabana to have a west setback of 4.37 feet from the property line in lieu of the 10 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Implementation of the special exception with site plan review and variances will not cause negative architectural impacts to the subject property. Carried 7-0] [Architectural Commission approved the project as presented. Carried 7-0]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 10, 2017

Section of Agenda

Development Review - New Business

Agenda Title

SPECIAL EXCEPTION #11-2017 WITH SITE PLAN REVIEW The

application of Style Bar (Ngoc Bich Thi Nguyen); relative to property commonly known as **2875 S. Ocean Blvd.**, described as lengthy legal description on file; located in the C-TS Zoning District. The applicant is requesting a special exception with site plan approval pursuant to Condition #2 in the original 1980 approval to construct the existing building on the subject property (Special Exception #25-80). The condition requires any use other than an office and professional services to obtain Town Council approval. This request is to allow a nail salon ('Style Bar Day Spa') totaling 779 square feet to operate in Suite 108. [Attorney: Maura Ziska, Esq.]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 10, 2017

Section of Agenda

Development Review - New Business

Agenda Title

SPECIAL EXCEPTION #12 -2017 WITH SITE PLAN REVIEW The application of Paul N. Leone, Chief Executive Officer of The Breakers Palm Beach, Inc.; relative to property commonly known as **1 S. County Rd.**, described as lengthy legal description on file; located in the PUD-A Zoning District. The applicant is requesting a special exception with site plan approval for the construction of a new retail shop in The Palm Court. The shop, called Mary Lily's, will sell primarily ice cream and candy. It will total 404 square feet, and will be constructed in the breezeway connecting The Palm Court and the porte-cochere at the main hotel entrance. The square footage for this business will bring the total overall commercial square footage in The Palm Court area to 10,062 and the total retail square footage to 7,565, and so will not cause the 10,700 overall commercial square footage or the 8,200 retail square footage approved in 1990 for The Palm Court area by Resolution No. 17-90 to be exceeded. This application also requests special exception approval to expand the existing seafood restaurant and bar. Internal hotel space was reconfigured to allow an additional 1,781 square feet of space and 37 additional seats, for a total of 6,111 square feet and 177 seats. [Attorney: James M. Crowley, Esq.] [Landmarks Commission Recommendation: Implementation of the proposed special exception with site plan review will not cause negative architectural impacts to the subject landmarked property. Carried 7-0]

Presenter

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

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 10, 2017

Section of Agenda

Development Review - New Business

Agenda Title

SITE PLAN REVIEW #3-2017 The application of Harvey E. Oyer, Esq., on behalf of The 2100 Condominium Association, Inc.; relative to property commonly known as **2100 S. Ocean Blvd.**, described as lengthy legal description on file; located in the PUD-B Zoning District. The applicant is requesting a site plan review to modify the vehicular drives west of both buildings and construct 22 surface parking spaces. There are currently 10 surface parking spaces in the north parking lot and 8 spaces in the south parking. The redesign will provide 12 spaces in the north lot and 10 in the south lot. A total of 4 additional spaces will be added. If approved, 2100 Sloan's Curve will provide a total of 219 off-street street parking spaces including those in the garages. [Attorney: Harvey E. Oyer, III, Esq.]

Presenter

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

ATTACHMENTS:

- ▣ **Letter Dated April 4, 2017 from Susan G. Rieser**

Susan G Rieser
2100 South Ocean Blvd.
Apt 305 North
Palm Beach FL 33480
847.707.7107
susanrieser1342@gmail.com

RECEIVED
APR 17 2017
Town of Palm Beach
PZB Dept

April 4, 2017

Planning, Zoning and Bldg Dept
Town of Palm Beach
360 S County Rd
Palm Beach FL 33480

RE: Request for denial of 2100 South Ocean Blvd Condo's Application for a Site Review and Variance,
Zoning Case # SP-3-2017

Dear Dept Head and Members of the Planning, Zoning, and Bldg. Board and Town Council Members:

I live in and own Unit #305N in the 2100 South Ocean Blvd condo.

Our condo association, the 2100 Condominium Association, Inc, has requested a site review to obtain your approval of its plans to move, replace and expand the visitor parking in front of our building. Specifically, my understanding is the Association is asking for your approval to increase from 10 to 12 spaces the visitor parking in front of the North Bldg where I reside and, more importantly, to move the expanded visitor parking area from the east of the tennis courts between the tennis courts and the front of our North building to the south of the tennis courts between the tennis courts and the entrance to the grounds and gatehouse. The area where the Condo Association proposes to relocate the expanded visitor parking is currently a green space filled with lush trees and plantings and grass.

I respectfully request the Town of Palm Beach deny 2100 Condo Association's request because landscaped green space would be reduced and replaced by additional hardscape for parking.

I vigorously object to the 2100 Condo Association's unsatisfactory proposal. My unit, 305 N, is on the 4th story of the North Bldg at the southeast corner. Currently, my view from the west side of my unit [long balcony outdoors and living room, dining room and kitchen, and two bedrooms inside] overlooks green space with its mature plantings, palm trees and grass and the green clay surface of the tennis courts. Looking out further west, we have pleasant views of the Inland Waterway. If the Condo Association's proposal is approved by the Town of Palm Beach, from my and my neighbors' natural line of sight, our new view will be an enlarged, hardscaped visitor parking lot and the tennis courts. Certainly, all three units above us, and more than likely one of the two units below us, will suffer the same diminution in views. Our neighbors in the northwest tier will also be adversely effected.

Three further comments seem warranted :

First, you might be wondering why we would prefer to maintain the parking as it is now; that is, immediately east of the tennis courts between the courts and the front of our building. The answer is,

from our vantage point about 30 feet up, the current visitor parking is basically below us -- at an angle that makes it hard to notice, whereas moving it further west, as 2100 Condo Association now proposes, puts the hardscaped visitor parking, unavoidably, directly in our line of sight.

Second, we have some concerns that the destruction of the rolling green topography in front of our tier of apartments and its replacement with a level parking lot will allow additional traffic noise to filter to our units largely facing the Waterway. At a minimum, this possibility warrants further inquiry and analysis.

Third, I wanted you to know we have exhausted our remedies internally with the Condo Board. We have not only spoken to the President of the 2100 Condo Association Board, Robert Davidow, about withdrawing this beastly idea, but also my husband has brought him and the landscape designer to our long balcony to see the problem for themselves. This does not seem to have had dissuaded the Board from its unwise course of action, so you are the court of last resort for us and our neighbors. **We respectfully request you use your authority to intercede to preserve the green space we currently enjoy.**

Lastly, we request you share our concerns as expressed in this letter with the Town of Palm Beach Council and all Commissioners involved in the land planning and zoning process, since I will be unable to attend your May 10th meeting in person.

If you have any questions or comments, please call or email me at the above addresses

Sincerely,



Susan G Rieser, Owner 305N

TOWN OF PALM BEACH

Town Council Meeting Development Review on: May 10, 2017

Section of Agenda

Ordinances - Second Reading

Agenda Title

ORDINANCE NO. 12-2017 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning, As Follows: At Article VI, District Regulations, Section 134-1353 By Eliminating The Reference To Permitted Uses, Section 134-1354 By Eliminating The Word “And”; And Creating Section 134-1355, Prohibited Activity, Requiring Permits For Landscape Activities; And, Prohibiting The Use Of Landscape Material For Allowing Or Promoting The Use Of Land For Other Than That Allowed By Special Exception Use Within The Conservation Zoning District; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Presenter

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

ATTACHMENTS:

- ❑ **Memorandum Dated April 23, 2017 From John S. Page**
- ❑ **Ordinance No. 12-2017**
- ❑ **Zoning Map**

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 10, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Proposed Regulations Regarding Landscape Activity within the Conservation Zoning District
Ordinance No. 12-2017

Date: April 23, 2017

STAFF RECOMMENDATION

Staff recommends that the Town Council, as the Local Planning Agency, approve Ordinance No. 12-2017, at first reading.

PLANNING AND ZONING COMMISSION RECOMMENDATION

The Planning and Zoning Commission, at its March 21, 2017 meeting, by a 7-0 vote, recommended approval of Zoning Code modifications as identified in Ordinance No. 12-2017.

GENERAL INFORMATION

The Town's Comprehensive Plan contains provisions in the Coastal Management/Conservation Element that provide for the protection of native vegetative communities and the removal of exotic, non-native vegetation from the shoreline in the Lake Worth Lagoon. Objective 2 of that Element states that the Town shall protect native vegetation communities and their associated wildlife by implementing policies that protect and restore native vegetation. It also states that the measurement of Objective 2 is the degree in which the Policies in Objective 2 are implemented, including modification of regulations (Chapter 66) to incorporate standards for tree removal, landscaping aesthetics and minimum native vegetation requirements.

The regulations for removal, relocation and the replanting of native vegetation on undeveloped property in the Conservation Zoning District have not yet been created (but now are in process of approval). The Conservation Zoning District is identified in dark green on the attached Zoning Map. In order to make the land development regulations and other code provisions consistent with the Comprehensive Plan, Staff has drafted proposed zoning regulations to protect, control and allow for the removal, relocation and/or planting of landscape material in the Conservation Zoning District. This includes the removal of exotic or nuisance plant material; planting and/or

relocating of native species of plant material; and/or prohibiting the use of any landscape material or activities that would promote the active use of conservation land. Those proposed Code modifications, which were endorsed by the Planning and Zoning Commission, are incorporated in Ordinance No. 12-2017. The Ordinance is intended to implement the Goals, Objectives and Policies in the Comprehensive Plan by creating regulations allowing and controlling the removal of exotic non-native species on land in the Conservation Zoning District. In addition, two proposed small housekeeping changes eliminate the reference to accessory uses related to permitted uses identified in Section 134-1353 (since there are no “permitted uses”) and the removal of the word “and” as identified in Section 134-1354 in the proposed Ordinance.

TOWN ATTORNEY REVIEW

Ordinance No. 12-2017 was approved by Town Attorney John C. Randolph for legal form and sufficiency.

Please contact Paul Castro at 227-6406 if you have any questions about these recommendations.

Attachments

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

ORDINANCE NO. 12-2017

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 134, ZONING, AS FOLLOWS: AT ARTICLE VI, DISTRICT REGULATIONS, SECTION 134-1353 BY ELIMINATING THE REFERENCE TO PERMITTED USES, SECTION 134-1354 BY ELIMINATING THE WORD “AND”; AND CREATING SECTION 134-1355, PROHIBITED ACTIVITY, REQUIRING PERMITS FOR LANDSCAPE ACTIVITIES; AND, PROHIBITING THE USE OF LANDSCAPE MATERIAL FOR ALLOWING OR PROMOTING THE USE OF LAND FOR OTHER THAN THAT ALLOWED BY SPECIAL EXCEPTION USE WITHIN THE CONSERVATION ZONING DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

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

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

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

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

Section 1. Article VI, DISTRICT REGULATIONS, Section 134-1353, Accessory uses, is hereby amended to read as follows:

Sec. 134-1353. Accessory uses.

The accessory uses in the C conservation district are other accessory uses customarily incident to ~~permitted or~~ approved special exception uses.

Section 2. Article VI, DISTRICT REGULATIONS, Section 134-1353, Special exception uses, is hereby amended to read as follows:

Sec. 134-1354. Special exception uses.

The special exception uses require a site plan and review as provided in article III of this chapter. The special exception uses in the C conservation district are as follows:

- (1) Municipally owned and operated parks and recreation areas.
- (2) Essential services, excluding wireless telecommunication towers and distribution electrical substations.

Section 3. Article VI, DISTRICT REGULATIONS, Section 134-1355, Prohibited activity, is hereby created to read as follows:

Sec. 134-1355. Prohibited activity.

It shall be unlawful for any person, organization or governmental entity to use, remove, relocate or plant any landscape material on uplands within the Conservation District without a permit pursuant to Chapter 66 of the Code of Ordinances. This includes the use of mulch, removal of exotic plant material and/or the planting of native landscape material. It shall be unlawful to make any alterations for the purpose of allowing or promoting the use of conservation land for any public or private purpose other than that allowed by special exception use.

Section 4. Severability.

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

Section 5. Repeal of Ordinances in Conflict.

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

Section 6. Codification.

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

Section 7. Effective Date.

This Ordinance shall take effect thirty-one days after its adoption, 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 12th day of April, 2017, and for second and final reading on this 10TH day of May, 2017.

Gail L. Coniglio, Mayor

Richard M. Kleid, Town Council President

Danielle H. Moore, Council President Pro Tem

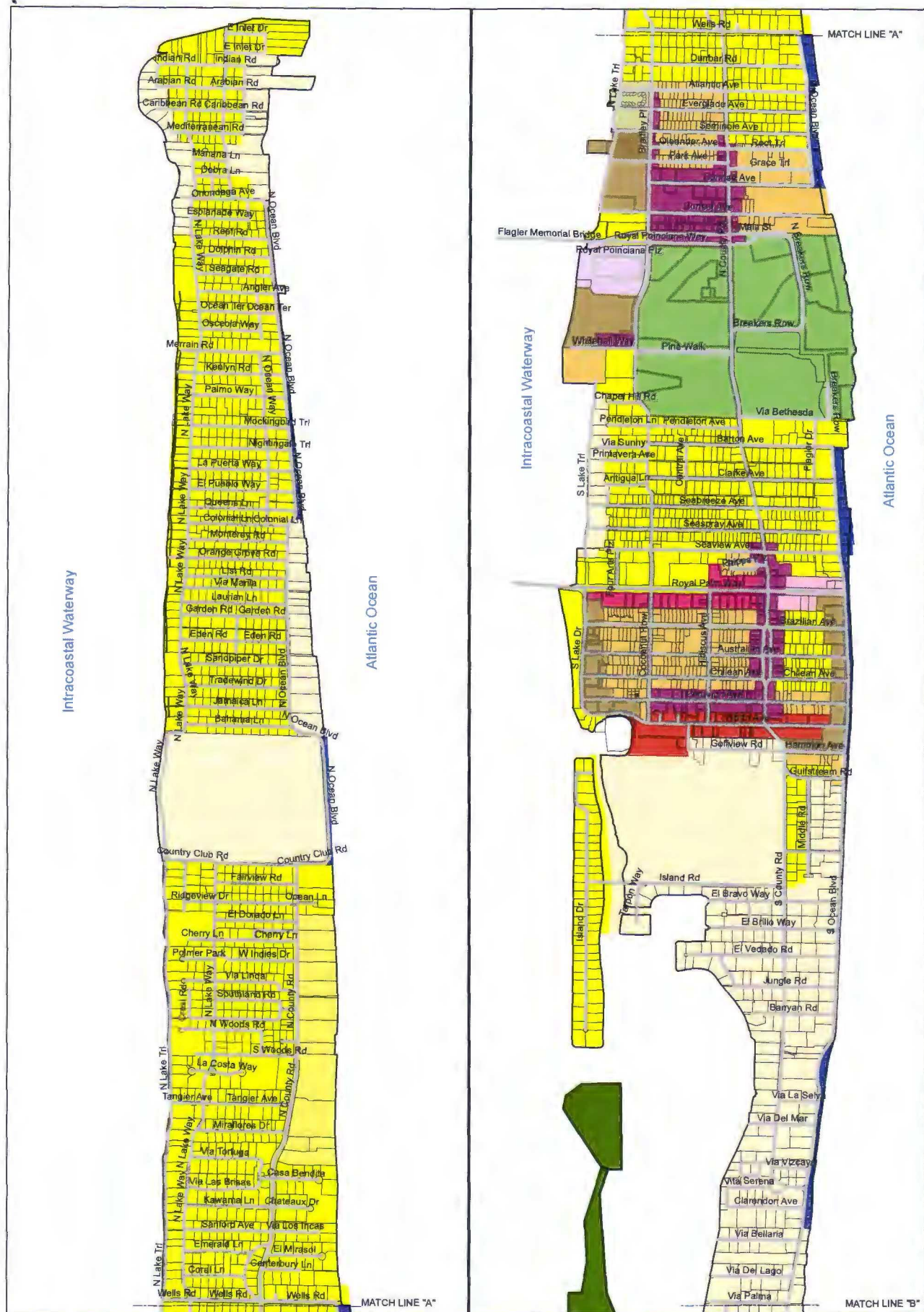
Julie Araskog, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member



TOWN OF PALM BEACH ZONING MAP - 2016
Planning, Zoning & Building Department

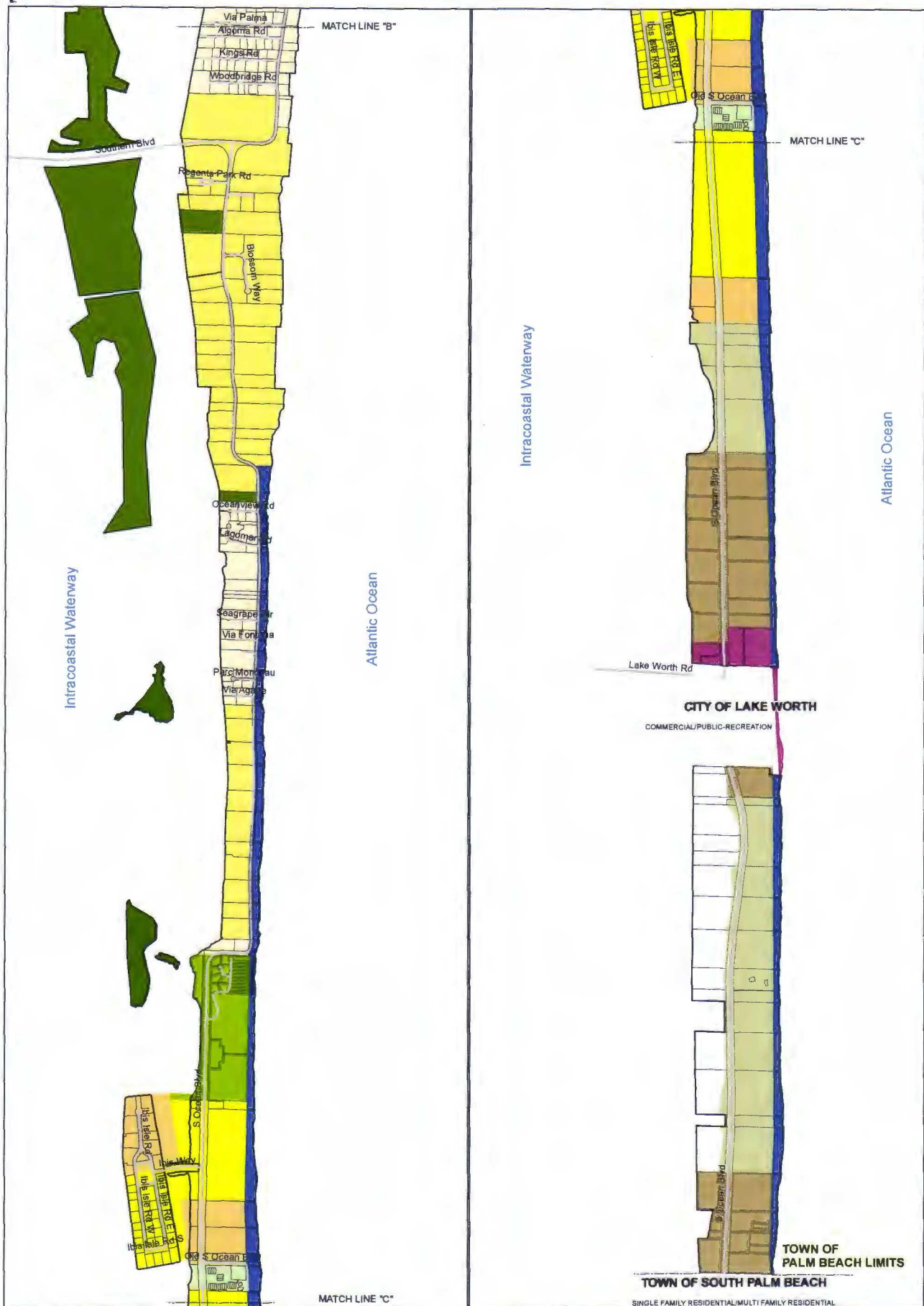
R-AA (Large Estate Residential)	R-D(2) (Heavy Density Residential)	C (Conservation District)
R-A (Estate Residential)	C-OP1 (Commercial Off, Prof, Inst)	PUD-A (Planned Unit Dev)
R-B (Low Density Residential)	C-PC (Commercial Planned Ctr)	PUD-B (Planned Unit Dev)
R-C (Medium Density Residential)	C-TS (Commercial Town Serving)	PUD-C (Planned Unit Dev)
R-D(1) (Moderate Density Residential)	C-WA (Commercial Worth Ave)	BA (Beach Area)
	C-B (Commercial Offices)	



0 1,000 2,000 Feet
 Map Created: November 1, 2016
 Town of Palm Beach
 Information Technologies GIS Division
 Planning, Zoning & Building Department
 (561) 838-5430
 Email: pz@townofpalmbeach.com
 Website: www.townofpalmbeach.com



MAP I - 1



TOWN OF PALM BEACH ZONING MAP - 2016
Planning, Zoning & Building Department

- | | | |
|--|--|---|
| R-AA (Large Estate Residential) | R-D(2) (Heavy Density Residential) | C (Conservation District) |
| R-A (Estate Residential) | C-OP1 (Commercial Off, Prof, Inst) | PUD-A (Planned Unit Dev) |
| R-B (Low Density Residential) | C-PC (Commercial Planned Ctr) | PUD-B (Planned Unit Dev) |
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MAP I - 1