



# TOWN OF PALM BEACH

TOWN MANAGER'S OFFICE

## TOWN COUNCIL MEETING DEVELOPMENT REVIEW

TOWN HALL  
COUNCIL CHAMBERS-SECOND FLOOR  
360 SOUTH COUNTY ROAD

### AGENDA

APRIL 12, 2017

9:45 AM

## Welcome!

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

### I. CALL TO ORDER AND ROLL CALL

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

### II. INVOCATION AND PLEDGE OF ALLEGIANCE

### III. RECOGNITIONS

### IV. PRESENTATIONS

- A. Palm House Receiver's Request for an Extension of the Conditional Abatement Conferred in December 2016  
*John S. Page, Director of Planning, Zoning & Building*

**V. COMMENTS OF MAYOR GAIL L. CONIGLIO**

**VI. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER**

**VII. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE**

**VIII. APPROVAL OF AGENDA**

**IX. PUBLIC HEARINGS**

- A. RESOLUTION NO. 55-2017 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 210 Dunbar Road 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*

- B. RESOLUTION NO. 56-2017 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 125 Australian 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*

**X. RESOLUTIONS**

**XI. DEVELOPMENT REVIEWS**

**A. Appeals**

**B. Time Extensions and Waivers**

1. Request for One Year Time Extension, Variance No. 3-2016, 1050 North Ocean Boulevard

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

**C. 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 April 26, 2017 meeting. Carried 7-0] **Request for Deferral to the May 10, 2017, Town Council Meeting Per Letter Dated March 24, 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 deferred the Project to the April 26, 2017 meeting. Carried 7-0] **Request for Deferral to the May 10, 2017, Town Council Meeting Per Letter Dated March 28, 2017 from Maura Ziska.**

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

- c. SPECIAL EXCEPTION #30-2016 WITH SITE PLAN REVIEW AND VARIANCES The application of Town of Palm Beach (Tom Bradford, Town Manager); relative to property commonly known as **340 Seaview Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a special exception with site plan review to approval to allow a new two-story 33,810 square foot Recreation Center for the Town of Palm Beach that will include a new athletic field, parking lot, gymnasium, tennis pro shop, multi-purpose room, fitness center with locker rooms, concession area, classrooms, offices and new maintenance building, new tennis backboard, new scoreboard. A second special exception request is to allow for a rebound wall to be constructed on the north side of the new maintenance building. The following variances are being requested in order to construct the new community center: 1) A west side yard setback of 10 feet in lieu of the 30 foot minimum required for properties that are in excess of 20,000 square feet; 2) A north side yard setback of 8 feet in lieu of the 30 foot minimum required for properties that are in excess of 20,000 square feet; 3) A street rear yard setback for the new parking lot on Royal Palm Way of 4 feet in lieu of the 35 foot minimum required for properties that are in excess of 20,000 square feet;

4) an east side yard setback of 4 feet in lieu of the 30 foot minimum required for the new parking lot on Royal Palm Way for properties that are in excess of 20,000 square feet; 5) a height of 27 feet in lieu of the 22 foot maximum allowed; 6) an overall height of 35 feet in lieu of the 30 foot maximum allowed; 7) a vertical distance to the top of beam of 30.75 feet in lieu of the 26 foot maximum distance allowed from the crown of street to top of beam; 8) landscaped open space of 43% in lieu of the 55% minimum required for properties that are in excess of 20,000 square feet; 9) parking lot interior landscaped open space of 5% in lieu of the 10% minimum required; 10) to allow signage on the proposed scoreboard which would exceed the maximum signage allowed (of one for each street frontage); 11) to allow three (3) air-conditioning units to be on the roof that is in excess of the 4 foot maximum allowed. The proposed A/C units will be 5 feet tall plus the height of the stand. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property with existing parking or Option B. Carried 4-3] [Architectural Commission conditionally approved the project. The condition of the approval was to make changes to the interior of the building and to bring materials back for consideration. Carried 4-3]

**TIME CERTAIN 11:00 A.M.**

a) Funding Update and Cash Flow Analysis

b) Approval of Updated Donor Opportunities List

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

- d. SPECIAL EXCEPTION #5-2017 The application of 305 Concepts, LLC ("Coyo Taco"); relative to property commonly known as 340 Royal Poinciana Way, Ste. 337A, described as lengthy legal description on file; located in the C-PC Zoning District. The applicant is requesting a special exception approval to operate a 3,260 square foot (196 square feet of open standing area, 2,103 square feet of dining and taqueria, and 961 square feet of support), 80 seat restaurant, which will feature Mexican cuisine. The proposed restaurant will be located in the southwest corner of the Royal Poinciana Plaza (formerly "Edwards" salon). The proposed hours of operation are as follows: Sunday through Thursday – Lunch and Dinner – 11 a.m. to 1 a.m. Friday and Saturday – Lunch and Dinner – 11 a.m. to 2 a.m. The existing 2,130 square foot retail space attributed to seating accounts for only 7 parking spaces. The subject tenant space can only support 21 seats based on the off-street parking requirements and principle of equivalency determination. The special exception request is also to allow the transfer of 59 seats grandfathered from the former McCarty's restaurant in the Plaza to this proposed

restaurant. This would leave a maximum of 92 seats that could be used at the former McCarty's restaurant tenant space. [Attorney: Maura Ziska, Esq.] Special Exception was conditionally approved on March 15, 2017. **Consideration of Proposed Declaration of Use Agreement incorporating conditions of approval now pending.**

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

## **2. New Business**

- a. 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. The applicant is requesting a special exception with site plan approval to allow twenty (20) seats to be shifted from inside Sant Ambroeus and relocated around the fountain for outdoor dining when weather permits. The proposed restaurant is located in the northeast corner of the Plaza and the outdoor dining will be adjacent to the restaurant on the newly created patio around the east fountain. The outdoor dining will share the same hours as the restaurant: Sunday through Thursday – Breakfast, Lunch and Dinner – 8 a.m. to 10 p.m., Friday and Saturday – Breakfast, Lunch and Dinner – 8 a.m. to 11 p.m. [Attorney: Maura Ziska, Esq.] [Landmarks Preservation Commission Recommendation: Implementation of the proposed special exception with site plan review will not cause negative architectural impact to the subject landmarked property. Carried 7-0]

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

- b. SPECIAL EXCEPTION #7-2017 WITH SITE PLAN REVIEW The application of Palm Beach Country Club, Inc. (Steven Bielsky, Manager); relative to property commonly known as **760 N. Ocean Blvd**, described as lengthy legal description on file; located in the R-A Zoning District. The applicant is requesting a special exception approval with site plan review to allow construction of an 87 square foot security booth located at the southernmost entrance to the Palm Beach County Country Club on North Ocean Boulevard. [Attorney: Maura Ziska, Esq.]

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

- c. 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. The applicant is requesting a special exception approval to expand the existing restaurant "Palm Beach Grill" by 1,596 square feet, which will increase the total restaurant square footage to 8,596 square feet and add 55 seats. The expansion will be in adjacent tenant space to the east and will be a separate concept called "The

Honor Bar @ Palm Beach Grill". This is an existing concept which focuses on creating a casual, intimate space with high quality food. The proposed expansion to the restaurant will operate lunch and dinner service as follows: Sunday through Thursday – Lunch and Dinner – 11 a.m. to 11 p.m., Friday and Saturday – Lunch and Dinner – 11 a.m. to 1 a.m. The existing 1,596 square foot retail space that will be converted into restaurant space attributed to 5 parking spaces (1 parking space per 300 SF of GLA). The subject tenant space can only support 15 seats based on the off-street parking requirement (1 space per 3 seats) and principle of equivalency determination. The special exception request is also to allow the transfer of 40 seats grandfathered from the former McCarty's restaurant in the Royal Poinciana Plaza to The Honor Bar @ Palm Beach Grill. This transfer will leave a maximum of 52 seats that could be used at the former McCarty's restaurant tenant space. [Attorney: Maura Ziska, Esq.]

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

- d. 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. The applicant is requesting a special exception with site plan approval to allow a private club "Old Guard Society of Palm Beach" to operate at 165 Bradley Place in the C-TS Zoning District. The Old Guard has been in existence for 99 years and is open for lunch daily from noon until 2:30 p.m. Monday through Saturday. The club does not service dinner but has occasional special events at night. The club is town serving as over 50% of the members are "townspeople". A variance is being requested for parking spaces for 100 members which would require 25 parking spaces and only 15 parking spaces are provided pursuant to the principle of equivalency calculation. [Attorney: Maura Ziska, Esq.]

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

- e. VARIANCE #10-2017 The application of Leo and Kathryn Vecellio; relative to property commonly known as **120 Jungle Rd.**; described as lengthy legal description on file; located in the R-A Zoning District. The applicant is proposing to demolish and rebuild a 2 story 677 square foot garage and add 227 square feet to the first floor and 428 square feet to the second floor. This will require a variance request to match the existing building height of 27.4 feet in lieu of the 25-foot maximum allowed. [Attorney: Maura Ziska, Esq.]

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

## **XII. ORDINANCES**

### **A. Second Reading**

1. ORDINANCE NO. 2-2017 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Text Of The Future Land Use Element Of The Town Of Palm Beach's Comprehensive Plan By Amending Policy 2.3.1 By Changing The Town-Serving Threshold Requirement For Businesses Within The Commercial Planned Center (C-PC) Zoning District From 2,000 Square Feet Gross Leasable Area To 3,000 Square Feet Gross Leasable Area; Providing For Incorporation Of Recitals; Providing For Severability; Providing For Repeal Of Ordinances In Conflict Hereof; Providing For Codification; Providing An Effective Date.

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

2. ORDINANCE NO. 3-2017 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, By Modifying Sections 134-1257, Permitted Uses And 134-1259, Special Exception Uses In The C-PC Zoning District, To Increase The Maximum Gross Leasable Area Of Commercial Uses To Demonstrate Town-Serving From 2,000 Square Feet Gross Leasable Area To 3,000 Square Feet Gross Leasable Area; 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*

3. ORDINANCE NO. 8-2017 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, At Article VI, District Regulations, Sections 134-1107, 134-1157, 134-1207 And 134-1302, Permitted Uses, By Conditionally Allowing Storage Facilities In The C-TS, C-WA C-OPI And C-B Commercial Zoning Districts Related To Permitted Or Special Exception Uses In The Same Zoning District In Which The Storage Facility Is To Be Located; By Creating A New Section 134-1760 Which Provides For Conditions In Which Said Storage Facility Is Permitted; 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*

#### **A. First Reading**

1. Request to Consider Ordinance No. 12-2017 Prior to 5:00 p.m. at a Public Hearing

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

2. 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*

### **XIII. ANY OTHER MATTERS**

- A. A Closed-Door executive session of the Town Council of the Town of Palm Beach has been called for Wednesday, April 12, 2017, to begin immediately following the conclusion of the special Town Council meeting close-door session of this date, in Town Hall, 360 South County Road, Palm Beach, Florida, for the purpose of discussing collective bargaining issues between the Town of Palm Beach and the IAFF Local 2928, pursuant to Section 447.065 of the Florida Public Employees Relations Act.

*Thomas G. Bradford, Town Manager*

### **XIV. 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](http://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: April 12, 2017

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Section of Agenda  
Presentations

Agenda Title  
Palm House Receiver's Request for an Extension of the Conditional Abatement  
Conferred in December 2016

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

ATTACHMENTS:

- ▣ **Letter Dated March 24, 2017 From Gregg H. Glickstein**

**GREGG H. GLICKSTEIN, P.A.**

54 S.W. BOCA RATON BOULEVARD

BOCA RATON, FL 33432-4708

GREGG H. GLICKSTEIN

BOCA RATON: (407) 361-9600

WEST PALM BEACH: (407) 844-4090

FT. LAUDERDALE (954) 922-0930

FAX: (407) 361-9770

March 24, 2017

Mayor Gail L. Coniglio, Town of Palm Beach  
c/o Thomas G. Bradford, Town Manager (via email)  
360 S. County Road  
Palm Beach, FL 33480

Re: Palm House Receiver's Request for Extension of Abatement Period for Conditional  
Abatement of Daily Non-completion Fee for the Palm House Project

Dear Mayor Coniglio and Town Council Members:

Cary Glickstein, as Receiver for the Palm House Property/Project located at 160 Royal Palm Way, respectfully requests the opportunity to show the Town Council that good cause exists for extending the Town's 120-day abatement period for the conditional abatement of the \$2,000 per day daily fee in effect since December 14, 2016.

As stated in the attached letter from John (Skip) Randolph for the Town, dated January 20, 2017:

On the Receiver's request, a motion was initially made at the Town Council meeting in November 2016 and modified by the Town on December 14, 2016, to reflect the Town's decision to abate the \$2,000 per day daily fee otherwise accruing in accordance with Mr. Page's letter, effective December 14, 2016, contingent upon the utilization of the Funds, as described in the Agreed Order and consistent with the Receivership Order. In the event, however, the Funds are used in a manner inconsistent with the Receivership Order, the abatement shall end; the entire abated amount of daily fees retroactive to December 14, 2016 shall be reinstated; and, daily fees of \$2,000 per day for each day that a violation exists shall continue to accrue in accordance with Mr. Page's letter of February 22, 2013. Subject to the conditions imposed by the Town for abatement of the daily fees, the abatement shall remain in effect for a period of 120 days subject to an extension, for good cause shown, on motion made and approved by the Town Council before the abatement period expires.

Before addressing the Receiver's request for an extension of the abatement period set forth in Mr. Randolph's letter, the Receiver confirms to the Town adherence to the conditions imposed by the Town for the abatement granted as of December 14, 2016.

The original impetus for the Receiver's efforts to pursue a conditional abatement in October 2016 was the Receiver's anticipated receipt of funds described in that certain Agreed Order Granting



Plaintiff's Motion for Appointment of Receiver to Take Custody of Funds in the Federal Court's Registry, dated September 22, 2016, in *Palm House Hotel, LLLP v. Robert Matthews, et al.*, Case No.: 502015CA014480XXXXMB AB, pending in the Circuit Court of Palm Beach County, Florida (the "Agreed Order"). This action is a separate but related action from *Ryan Black v. Gerry Matthews and Palm House, LLC*, Case No.: 502014CA014846XXXXMB AG (the "Receivership Action") in which Cary Glickstein was appointed as receiver for the Palm House Project/Property in July 2015 based on an amended agreed order appointing receiver (the "Receivership Order").

Pursuant to the Agreed Order, proceeds from the private sale of the yacht known as the M/Y ALIBI (the 'Yacht') in the approximate amount of \$2,323,179.95 (the 'Funds') that were previously deposited into the Registry of the Federal Court in Case No. 9:15 CV-81606-KAM, United States District Court for the Southern District of Florida (the 'Federal Case') were delivered to the Receiver.

The Agreed Order appoints Cary Glickstein as Receiver for the Funds. Pursuant to paragraph 5 of the Agreed Order, the Receiver may apply to the Court for utilization of the funds for "reasonable purposes." Based on the Town Council meeting in September 2016, the Receiver intended to apply to the Court, pursuant to the Agreed Order, to utilize the funds to correct the "public safety issues" that were the subject of the Town Council Actions for that Town Council meeting.

Based on the September 2016 Town Council meeting, the Receiver authorized the Town to inspect the Palm House site and identify public safety issues in need of correction. Mr. Randolph provided the Receiver with a report for that inspection, which is attached to the Receiver's Fourth Quarterly Receiver's Report filed in the Receivership action on October 17, 2016.

Thereafter discussion ensued between the Receiver, Tom Bradford and Eric Brown in an effort to better identify the scope of the work necessary to correct the public safety issues outlined in the Town's inspection report and the estimated cost to complete that corrective work. The Receiver's expressed his intent to incorporate that scope of work and cost information in a motion to the court seeking court permission to use the Funds to reimburse the Town for emergency work completed on its behalf in October 2016 and to pay for completion of the remaining necessary work. In November 2016 the Receiver sought a cost proposal from the Town for completing the balance of work directed to public safety issues/conditions but got no further than an estimate prepared by Hedrick Brothers for the Town for preparing an estimate for that work, as reflected in the a separate exhibit to the Receiver's quarterly report.

As was discussed at that time, the Funds represent a potential source of funding for payment and/or reimbursement of the cost of the work necessary to correct the subject public safety issues. The Funds also represent a source of funding for the receivership for the Property that the Receiver has, by and large, been without for the duration of the receivership since July 2015.



Under the Receivership Order, the only source of funding for the receivership apart from the initial funding provided by Palm House Hotel, LLLP ("PHH"), is shortfall funding that PHH is obliged to provide. The funding mechanism in the Receivership Order has been inconsistent and unreliable and it has severely restricted the Receiver's ability to operate, preserve and protect the Property.

In an effort to secure the Funds for purposes of the receivership, the Receiver sought from the Town an abatement of the daily fee being assessed against the Palm House Property for an initial term, with possible extensions, conditioned on utilization of the Funds for purposes consistent with the Receivership Order, as it may be amended, and to reimburse PHH for its funding of the receivership to date under the Receivership Order. At that time there was a pending motion in the Receivership Action filed by PHH to supplement the Receiver's powers which was subsequently heard on December 30, 2016 and decided in an order dated January 23, 2017.

Consistent with the Receiver's objectives with regard to the Funds, PHH filed and the Receiver separately joined in an amended motion seeking court authority to use the Funds consistent with the above purposes. That motion was also heard and decided on January 23, 2017. The outcome of that hearing and the order itself was reported to Mr. Randolph shortly after the order was entered.

Consistent with the Town's abatement of the daily fee as set forth in Mr. Randolph's letter of January 20, 2017, the Court authorized the Receiver to reimburse the Town for public safety storm preparation work, as reflected in the billing summary that was attached as an exhibit to the Receiver's quarterly report filed in the Receivership Action. With regard to funding for completion of the balance of the public safety Property conditions/issues, the Receiver requested authority to use up to \$50,000 of the Funds for that purpose without further court order because he did not have an estimate for the actual cost to complete that work.

At the hearing on the motion seeking authority to use the Funds by the Receiver, counsel for the Property owner, objected to the Receiver's proposal and the Court was accepted the owner's argument that the amount needed to complete the work should be quantified before the court authorizes use of the Funds to complete the work. To that end, the Court authorized the Receiver's use of the Funds to secure the necessary cost estimate, which in turn will lay a foundation for a subsequent motion to use the Funds to pay for completion of that work. The Receiver also sought payment of the two code violation cases set forth in a January 2017 Code Enforcement letter attached to the Receiver's report. However, counsel for the Property owner, whose bills the Receiver was seeking to pay, argued that payment of the fines was not necessary at that time and could be paid later. The Receiver also intends to once again seek court authorization to use the Funds for payment of both code enforcement actions when it receives the cost estimate from Hedrick Brothers for completion of the public safety issues/conditions on the Property.

Following entry of the order authorizing the Receiver's use of the Funds, as set forth in the order, the Receiver reimbursed the Town for completed work and has contracted with Hedrick Brothers



directly to prepare an estimate for completion of the remaining public safety Property conditions/issues. The Receiver expects Hedrick Brothers will complete its estimate in April 2017. Since the Town's abatement went into effect on December 14, 2016, no use of the Funds has occurred or been permitted apart from the authorization conferred by the Court in its order of January 23, 2017.

In support of the renewed motion to the Town for abatement of the daily fee in December 2016, the Receiver pointed out that the abatement sought by the Receiver was based on the premise that attainment of the Receiver's objectives as stated in the Receivership Order (which were reaffirmed and expanded in a separate court order dated January 23, 2017 to entertain purchase offers for the Property/Project) are aligned with the Town's interests for the Property/Project.

Based on that premise, the Receiver suggested any use of the Funds for purposes inconsistent with the Receivership Order would be detrimental to the attainment of the Receiver's court-ordered objectives. Of principal concern to the Receiver was the potential application by parties to the pending litigation to use the Funds to pay their attorneys' fees and/or litigation costs which would deplete or exhaust the Funds and deprive the Receiver of the ability to use the Funds for purposes consistent with the Receivership Order. Accordingly, the conditional abatement afforded by the Town was intended to operate as a material inducement to use the Funds consistent with the Receivership Order and it was also intended to operate as a powerful deterrent to any application for use of the Funds inconsistent with the Receivership Order.

A motion has been filed by the defendants in *Palm House Hotel, LLLP v. Robert Matthews, et al* seeking authorization to use the Funds to pay defendants' attorneys' fees and litigation costs totaling \$286,741.13. That motion has been specially set for hearing and will be heard by the Court sometime between May 8, 2017 and June 30, 2017. Extension of the abatement period will allow the Receiver to argue the conditional abatement as further grounds for denying the motion. If the defendants' motion is granted, despite the Receiver's opposition to it, the abatement will end and the entire abated amount of daily fees retroactive to December 14, 2016 shall be reinstated; and, daily fees of \$2,000 per day for each day that a violation exists shall continue to accrue in accordance with John Page's letter to the Property owner of February 22, 2013.

It can be argued that abatement of the daily fine represents a loss of leverage in favor of the Town to compel completion of the Project. However, as reflected in the Receivership Order, completion of the Project is the primary objective of the receivership. In the Receiver's view, the conditional abatement of the daily fee is a better utilization of that leverage further to that objective for which there is no prejudice to the Town if the condition for abatement is not fulfilled. Accordingly, the Receiver respectfully submits that the same reasons that supported the Town's conditional abatement in December 2016 remain in full force and effect at this time and those reasons constitute good cause for the Town's extension of the abatement period for an additional 120-day abatement period.

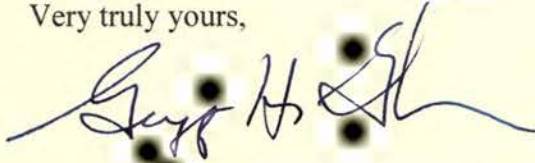


March 24, 2017

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Thank you for the opportunity to present this motion and for your consideration of its merits.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Gregg H. Glickstein", with a stylized flourish at the end.

Gregg H. Glickstein  
Counsel for Receiver, Cary Glickstein  
Attachment

cc: John (Skip) Randolph, Esquire (via email)  
Cary Glickstein, Receiver (via email)

**John C. Randolph**  
*Attorney*  
(561) 650-0458  
Fax: (561) 650-5300  
jrandolph@jonesfoster.com

January 20, 2017

***Via U.S. Mail & Email (cg@ironwoodproperties.com)***

Cary Glickstein  
Receiver, Palm House, 160 Royal Palm Way, West Palm Beach, FL  
1118 Waterway Lane  
Delray Beach, Florida 33483

Re: Palm House - Receiver's Request for Conditional Fine Abatement  
Palm House Hotel, LLLP v. Robert Matthews, et al.,  
Case No. 502015CA014480XXXXMB AB, Fifteenth Judicial Circuit

Dear Mr. Glickstein:

I am the attorney for the Town of Palm Beach. I am writing, on behalf of the Town, to confirm certain actions of the Town Council relating to a request you made of the Council. As Receiver for the Palm House at 160 Royal Palm Way in Palm Beach (the "Property") under an Amended Agreed Order on Plaintiff's Motion for Appointment of Receiver (the "Receivership Order") entered in *Ryan Black vs. Gerry Matthews and Palm House, LLC*, Case No: 502014CA014846XXXXMB AG, you requested a conditional abatement of the Town's enforcement of the Property owner's violation of the Declaration of Use Agreement between the Town and the Property owner, 160 Royal Palm, LLC.

In connection with your request, the Town was apprised of that certain Agreed Order Granting Plaintiff's Motion for Appointment of Receiver to Take Custody of Funds in the Federal Court's Registry, dated September 22, 2016, in *Palm House Hotel, LLLP v. Robert Matthews, et al.*, Case No.: 502015CA014480XXXXMB AB, pending in the Circuit Court of Palm Beach County, Florida (the "Agreed Order").

As you are aware and as more particularly set forth in John Page's letter to the Property owner dated February 22, 2013, the Town has been enforcing the Property's owner's violation of that Declaration of Use Agreement as provided in the Remedies for Violation section of the Agreement which requires the Property owner to pay the Town a liquidated amount of \$2,000 on a per day basis for each day that a violation exists. As set forth in Mr. Page's letter, the daily fee (effective February 15, 2013), will continue until such time that the Town issues a Certificate of Occupancy verifying that the project has been completed in accordance with all Town Codes and requirements.

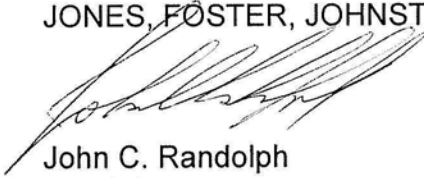
Cary Glickstein  
Receiver, Palm House, 160 Royal Palm Way, West Palm Beach, FL  
January 20, 2017  
Page 2

You appeared before the Town Council, as Receiver for the Property, seeking an abatement of the daily fees currently accruing for the reasons stated in Mr. Page's February 22, 2013 letter for an initial term, with possible extensions, conditioned on utilization of the Funds, as described in the Agreed Order, for purposes consistent with the Receivership Order, as it may be amended.

On the Receiver's request, a motion was initially made at the Town Council meeting in November 2016 and modified by the Town on December 14, 2016, to reflect the Town's decision to abate the \$2,000 per day daily fee otherwise accruing in accordance with Mr. Page's letter, effective December 14, 2016, contingent upon the utilization of the Funds, as described in the Agreed Order and consistent with the Receivership Order. In the event, however, the Funds are used in a manner inconsistent with the Receivership Order, the abatement shall end; the entire abated amount of daily fees retroactive to December 14, 2016 shall be reinstated; and, daily fees of \$2,000 per day for each day that a violation exists shall continue to accrue in accordance with Mr. Page's letter of February 22, 2013. Subject to the conditions imposed by the Town for abatement of the daily fees, the abatement shall remain in effect for a period of 120 days subject to an extension, for good cause shown, on motion made and approved by the Town Council before the abatement period expires.

Sincerely,

JONES, FOSTER, JOHNSTON & STUBBS, P.A.



John C. Randolph  
JCR/jcl

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# TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 12, 2017

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## Section of Agenda

Public Hearings

## Agenda Title

RESOLUTION NO. 55-2017 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 210 Dunbar Road 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 March 27, 2017 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Resolution No. 55-2017**
- ▣ **210 DUNBAR ROAD DESIGNATION REPORT**
- ▣ **Excerpt from Landmarks Preservation Commission Meeting of March 16, 2017**
- ▣ **Designation Procedure**

# TOWN OF PALM BEACH

Information for Town Council Meeting on: April 12, 2017

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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 210 Dunbar Road  
**Resolution No. 55-2017**

Date: March 27, 2017

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## **STAFF RECOMMENDATION**

Staff recommends ratification of the property known as 210 Dunbar Road as a Town landmark.

## **LANDMARKS PRESERVATION COMMISSION RECOMMENDATION**

At the Public Hearing for Designation held during the March 16, 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 (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,

Sec. 54-161 (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.

### **OWNER CONSENT**

The property owner, Vlado Dukceovich, was properly notified of the hearing before the Landmarks Preservation Commission. He has not consented nor objected to the pending designation. No person attended for the owner.

### **TOWN ATTORNEY REVIEW**

Please be advised that the Town Attorney has reviewed Resolution No. 55-2017 relating to 210 Dunbar Road, and has approved it as to legal form and sufficiency.

#### Attachments

cc: John C. Randolph, Town Attorney  
John Lindgren, AICP, Planning Administrator  
Janet Murphy, Town Consultant  
Emily Stillings, Town Consultant  
Vlado Dukceovich



## **RESOLUTION NO. 55-2017**

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 210 DUNBAR ROAD 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 **210 Dunbar Road** and the property to be landmarked is legally described as follows:

**LOT 65, ADAMS ADDITION TO PALM BEACH, ACCORDING TO THE PLAT THEREOF, RECORDED IN THE OFFICE OF THE CLERK OF THE COURT, IN AND FOR PALM BEACH, COUNTY, FLORIDA IN PLAT BOOK 7, PAGE 68.**

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 12<sup>th</sup> day of April, 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

# **210 Dunbar Road**



## **DESIGNATION REPORT**

**March 16, 2017**

**Landmark Preservation Commission**

**Palm Beach, Florida**



# **DESIGNATION REPORT**

## **210 Dunbar Road**

### **Table of Contents**

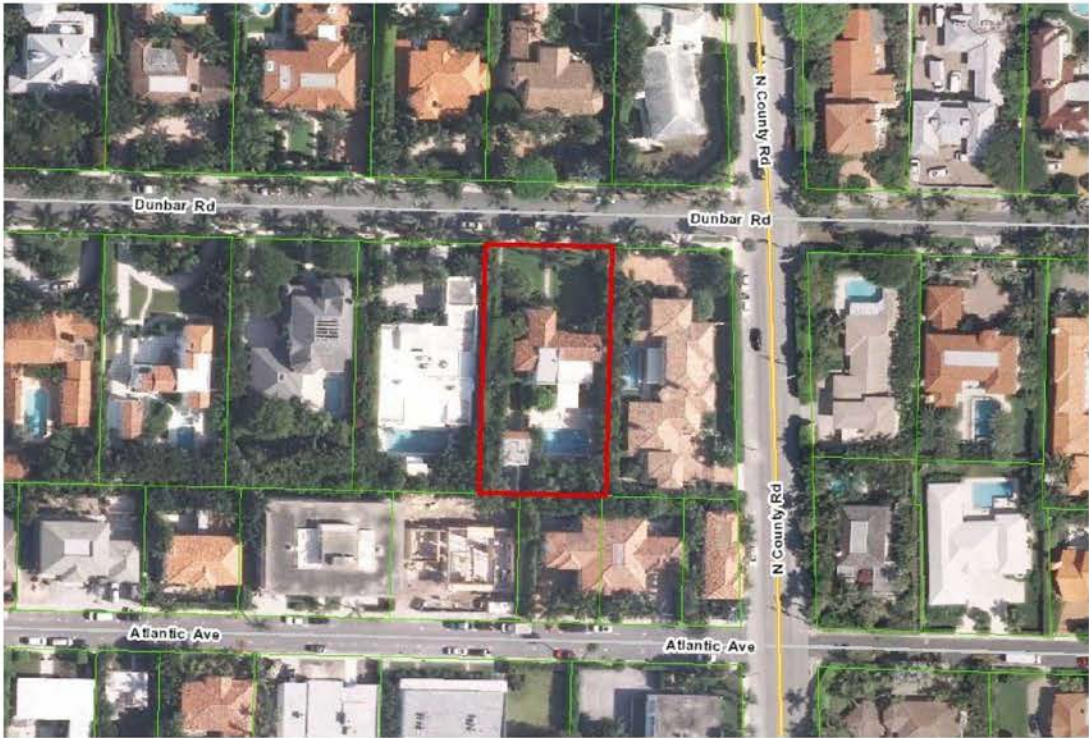
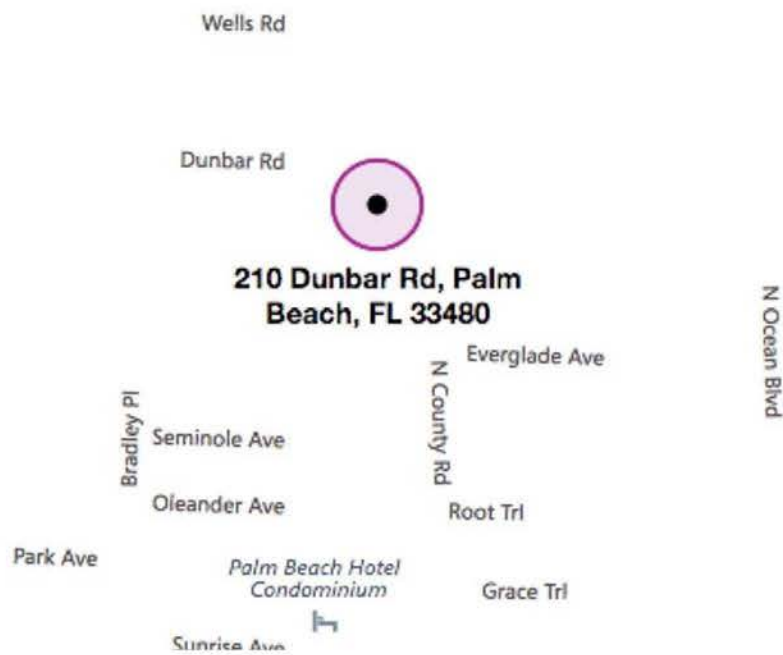
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Report produced by Murphy Stillings, LLC

## **I. General Information**

|                                        |                                                                                                                                                                                                |
|----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Location:                              | 210 Dunbar Road<br>Palm Beach, Florida                                                                                                                                                         |
| Date of Construction:                  | 1930                                                                                                                                                                                           |
| First Owner:                           | Alexander Geiger                                                                                                                                                                               |
| Architect:                             | Julius Jacobs                                                                                                                                                                                  |
| Builder/Contractor:                    | George Stuhris                                                                                                                                                                                 |
| Present Owner:                         | Vlado R. Dukceovich                                                                                                                                                                            |
| Present Use:                           | Residential                                                                                                                                                                                    |
| Present Zoning:                        | R-B                                                                                                                                                                                            |
| Palm Beach County<br>Tax Folio Number: | 50434314070000650                                                                                                                                                                              |
| Current Legal Description:             | Lot 65, ADAMS ADDITION TO PALM BEACH,<br>according to the Plat thereof recorded in the Office<br>of the Clerk of the Court, in and for Palm Beach<br>County, Florida, in Plat Book 7, Page 68. |

II. LOCATION MAP



### III. Architectural Information

The residence located at 210 Dunbar Road is an outstanding house designed by Julius Jacobs and constructed by builder George Sturhis in 1930. The house is a very distinctive and dramatic two-story Mediterranean Revival style dwelling constructed during Palm Beach's post building boom era at the start of the country's Great Depression. The north-facing house sits on a deep lot on the south side of Dunbar Road in Palm Beach's Adams Addition subdivision.



Mediterranean Revival style architecture is an eclectic design style that was inspired by Spanish, Italian, North African and Moorish structures and became popular in Florida during the 1920s. Buildings of this style often have asymmetrical massing and fenestration, balconies, arched openings and ornate cast-stone elements. In addition, stone or stucco facades, decorative ironwork, tile floors, pecky cypress ceilings and clay barrel tile roofs are typical features of Mediterranean Revival style buildings. Julius Jacobs' Mediterranean Revival style buildings were all highly detailed and unique. At 210 Dunbar Road he used all of these Mediterranean Revival style features to in his design.

210 Dunbar Road is an eclectic house with many different features blending together. The stucco covered frame and hollow clay tile house has the main entrance on the front façade facing north. The first story, east section of the front façade features a pair of two plate glass, drop sash windows separated by ornate stone



columns topped with heavy stone cornices and irregular shaped stone surrounds. Above these windows on the second story are 6/6 double-hung sash windows flanked by wood shutters. The windows on the first and second stories are not aligned, adding interest to the design. Slightly to the west of these windows is the main entryway with a balcony above. A straight coral stone path leads to three stone steps rising to the front entrance. This inviting entrance features a wood framed and glass door with full height ornately carved wood spindles. The entryway also features small, stone brackets and an irregular stone door surround with a heavy cornice similar to the adjacent windows. Three symbols are carved into this stone cornice, providing additional appeal. Above this entryway is a fanciful balcony with carved wooden columns, spindles, and a cornice with cutout floral designs and wood scallops. The balcony is covered by a projecting overhang of the main roof and is supported by carved wooden brackets. A side-gable roof covered with red clay barrel old Cuban tiles tops this east portion of the house and along the east elevation is a tall exterior chimney with a curved chimney cap.



Windows on East End on North Façade



Entrance

Main Façade Balcony



The prominent west section of the front facade projects northward toward the street. The focal points of this section are the heavy stone brackets supporting the balcony and the two twenty-four light awning windows just below the brackets. Other north



facing features of this section include a decorative metal balcony rail and French doors flanked by full height wood shutters opening onto the balcony. The east wall of this section includes two twenty-four light awning windows on the first story with a six-over-six double-hung sash window flanked by wood shutters directly above on the second story. The west wall has two twenty-four light awning windows, an entry-door recessed behind an arched opening on the first floor and a six-over-six double-hung sash window above. This section is capped by a hipped roof covered with red clay barrel old Cuban tiles and has an interesting cornice of stone arches and pendants with small decorative square tiles along the roofline.

West End of North Façade

Cornice Detail



The massing of the house is asymmetrical and there is a small section that is set back and extends west to border the driveway. This section features a fifteen-light awning window with a balcony above on the north façade. This balcony is supported by a heavy stone arched bracket and has a decorative metal rail and a single multi-light door opening to the balcony. The west wall of this section has another entry door accessed by a stoop on the first story.<sup>1</sup>

The property also includes a two-story garage apartment that was constructed at the same time of the house in 1930. The garage apartment has two overhead garage doors on the ground floor, six-over-six double-hung sash windows flanked by wood shutters above and outside stairs on the west wall. The building has a side gable roof covered with red clay barrel tiles. The most interesting feature of the garage apartment is the incised step design leading from the overhead garage doors to the double-hung windows above.



Garage Apartment

Architect Julius Jacobs was one of Addison Mizner's chief designers at a young age and it is likely in Mizner's office where he started designing Mediterranean Revival style dwellings.<sup>2</sup> When Mizner was off on one of his frequent buying excursions, Jacobs helped supervise the office's ongoing projects in Palm Beach:

“When Mizner went to Europe in 1921, he left G. Sherman Childs and Julius Jacobs, his two chief designers, in charge of the office. Their summer projects included supervising a house on Lake Worth for Leonard Thomas, one in the El Bravo Addition for the

---

<sup>1</sup> This area is visible from the street but due to the landscaping it was not possible to get photographs that showed the architectural features.

<sup>2</sup> Julius Jacobs was 18 or 19 years old when he began working for Addison Mizner.

Honorable Charles Winn, another for Alfred Kay, a similar house for O. Frank Woodward, an oceanfront mansion for John S. Phipps, further additions to the Everglades Club and a new house for Mizner.”<sup>3</sup>



North Façade Elevation by Julius Jacobs, 1930<sup>4</sup>

Although Jacobs did not design a large number of houses in Palm Beach, those he did design were exceptional. Polly Anne Earl, in her book Palm Beach: An Architectural Legacy described Jacobs in the following way:

<sup>3</sup> Donald W. Curl. Mizner's Florida: American Resort Architecture. The Architectural History Foundation, New York, 1984. Leonard Thomas house 450 Worth Avenue, Charles J. Winn house, 121 El Bravo Way, Alfred Kay house, 582 S. Ocean Boulevard, O. Frank Woodward house 163 Seminole Road, John S. Phipps house 434 North County Road and Addison Mizner house 102 Jungle Road.

<sup>4</sup> The drawing has the address of the house on Brazilian Avenue. However, the site plan has handwritten notes that state the lot was changed to the Dunbar Road location.



“Julius Lee Jacobs, an architect whose propensity for drama and whose talent for combining all the evocative elements of the Mediterranean Revival style, such as elaborate windows, arches, decorative outside stairs and asymmetric massing, fully rivaled Mizner’s. Jacob’s, one of the most gifted architects to work in Palm Beach, came from New York City. Although he practiced with Mizner and another early architect Bruce Kitchell, he is largely a man of mystery.”<sup>5</sup>

Junglewood at 133 Banyan Road appears to be Jacob’s first Palm Beach commission while under his own practice. The house was designed in 1927 for Stanley Warwick, Palm Beach’s early entertainment tycoon.<sup>6</sup> Jacobs followed this with his most prestigious commission at 860 South Ocean Boulevard for E.Z. Nutting in 1928 and another large commission for John Segar next door at 850 South Ocean also in 1928. These three houses are all dramatically detailed exceptional Mediterranean Revival designs.

Over the years, there have been some additions and alterations to 210 Dunbar Road. In 1937, Julius Jacobs was hired by the new owners to design a Bar Room at the southwest corner of the house, remodel a second floor bathroom and design an addition to the garage apartment.<sup>7</sup> In 1969, a swimming pool was added and the rear loggia was enclosed. And in 2015, double-hung sash impact windows were added to the second story replacing multi-light awning windows.<sup>8</sup> Despite these changes, 210 Dunbar Road retains its historic architectural character and integrity.

#### **IV. Historical Information**

By World War I, Henry Flagler had established Palm Beach as the winter capital of American high society. During the early years, most visitors stayed at Flagler’s grand Royal Poinciana or Breaker’s Hotel. However, by the 1920s, many seasonal

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<sup>5</sup> Polly Anne Earl. *Palm Beach: An Architectural Legacy*. New York: Rizzoli, 2002, page 129.

<sup>6</sup> Between 1922 and 1928, Stanley Warwick opened three movie theaters and a nightclub in Palm Beach. In keeping with Warwick’s theatrical enterprises, Jacob created a grand theatrical setting for Junglewood. Polly Anne Earl. *Palm Beach: An Architectural Legacy*. New York: Rizzoli, 2002, page 129.

<sup>7</sup> There were additions to both the east and west sides of the garage apartment including the outside stair on the west wall. A new garage door was also added to match the existing.

<sup>8</sup> The permit lists 14 windows were replaced. There appears to be a few alterations that were not documented. The metal rails on both balconies do not match the original drawings and do not appear to be original. Also, the drawings show barrel tiles on the chimney cap but they do not exist today. Access to the east and south elevations was not available at the time the report was written so only documented changes for these elevations are included.

visitors built or purchased houses for the winter season and the ensuing building boom radically changed the face of the small community with grand estates, fine commercial corridors and numerous platted subdivisions. The South Florida land and building boom reached its height in late 1925, but by the end of the 1920's, the "Boom Times" were ending for much of South Florida as speculation had pushed prices so high that speculators and developers could no longer find buyers and many banks in the state failed. Fortunately, for Palm Beach, the land bust did not drastically affect many of the seasonal residents and real estate development on the island slowed but did not halt. In fact, the Palm Beach Daily News reported that in July of 1930 Palm Beach building operations passed the quarter million mark, far ahead of the previous year.

The first owners of the house were Mr. and Mrs. Alexander Geiger. A July 24, 1930 article in the Palm Beach Post stated:

“ ‘Geiger Will Build Home.’ A New residence for the Dunbar Road District was forecast Wednesday with the issuance of a permit for erection of a house by Alexander Geiger. The permit was taken out by George Stuhris, builder, for \$34,000. Julius Jacobs, who designed the E.Z. Nutting residence on the South Ocean Boulevard, is architect. The house will be in the Spanish style, with a large patio and will be two stories high. Work has just begun on the new structure and will be completed in time for occupancy this coming season.”

The house was completed in four months, as a November 29, 1930 Palm Beach Post article stated that “Mr. and Mrs. Alexander Geiger of New York City have arrived for the season and will occupy their \$75,000 home recently completed on Dunbar Road. Julius Jacobs was the architect.”

Alexander and Louise Geiger were from Brooklyn, New York, and had been spending the winters in Palm Beach since 1919. They were mentioned often in Palm Beach social news entertaining at the clubs, on their yacht and in their home. Louise Geiger passed away in 1933 and Alexander sold the house to Colonel Robert H. Morse in 1937.

Colonel R.H. Morse of Chicago was a well-known figure in Palm Beach. He started coming to Florida with his parents in 1890 and could recall the Florida scene of the Gay Nineties. Morse was the president of Fairbanks, Morse and Company, a corporation that played an important role in America's industrial development. After purchasing 210 Dunbar Road, Morse retired and made plans for development

and investment in Palm Beach.<sup>9</sup> In late 1937, Morse bought lots on the north side of Dunbar Road in the lake block, where he developed two speculative houses designed by John L. Volk and constructed by C.J. Travail.<sup>10</sup> In 1938, he purchased 502 feet of Lake to County Road property on the North Lake Trail known as the Helen H. Vail estate.<sup>11</sup> The property, which cost in excess of \$90,000, was to be “improved and used for development and improvement.”<sup>12</sup> In 1938, he purchased 225 Clarke Avenue, where his son John Morse spent the winter seasons.<sup>13</sup> Colonel Morse passed away in 1964 and 210 Dunbar Road was sold to Scott Fuller, who owned it for five years. John Benz then purchased and owned the house for 25 years from 1969 – 1994. The current owners, Mr. and Mrs. Vlado R. Dukceovich, purchased 210 Dunbar Road in 1994 and have been excellent stewards of this historic property.

## V. Architect’s Biography

### Julius Jacobs

Julius Jacobs was born in Pittsburgh, Pennsylvania on March 11, 1901. Little is known about his early schooling, especially in architecture. He came to Florida in 1918 and went to work as a draftsman for G. Sherman Childs in Lake Worth. On April 27, 1920, at age 19, he applied for licensure as an architect from an address at 1313 Florida Avenue in West Palm Beach. He passed the State Board exam to receive license certificate #AR0000234 on June 15, 1923. In Palm Beach he was a lead draftsman for Addison Mizner and Bruce Kitchell before embarking on his own practice. His first major house in Palm Beach was Junglewood at 133 Banyan Road for Stanley Warwick in 1927. His most prestigious Palm Beach commission was that for the E.Z. Nutting residence at 860 South Ocean Boulevard in 1928. Also in 1928, he had another large commission next door at 850 South Ocean Boulevard for John Segar. By self-study and foreign travel, he managed to master the European Renaissance philosophy and details that dominated this eclectic period.

Some later projects included commercial buildings at 247 and 309 Worth Avenue in 1935, a drugstore in Lake Worth on Dixie Highway in 1939, a residence at 205 Belmont Road in West Palm Beach in 1939 and the Murray Apartments at 106

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<sup>9</sup> Prior to purchasing 210 Dunbar Avenue, Colonel and Mrs. Morse stayed at the Breakers.

<sup>10</sup> Three New Projects Planned at Resort: Colonel Morse to Build Two Homes For Investment,” Palm Beach Post, 6 January 1938. One house, 167 Dunbar Road, was sold to George A. Bates of Lake Bluff, Illinois in 1944 for \$37,500. “Robert Morse House Sold For \$37,500,” Palm Beach Post, 19 December 1944.

<sup>11</sup> The Helen Vail estate was along the north Lake Trail a few lots south of the Palm Beach Country Club.

<sup>12</sup> “Morse Purchase Big Resort Estate,” Palm Beach Post, 18 March 1938.

<sup>13</sup> “R.H. Morse Purchase Frank C. Kolb Property,” Palm Beach Post, 25 October 1938.

Hammon Avenue in 1940.<sup>14</sup> Like other architects, Jacobs was also hired to do additions and alterations for residential and commercial buildings in Palm Beach.

Julius was married to his wife, Muriel, in 1939. In ill health, he retired and surrendered his Florida license in 1950. He died in Miami at the age of 55.

## **VI. Statement of Significance:**

210 Dunbar Road is an exceptional example of the Mediterranean Revival style of architecture designed by Julius Jacobs in 1930. Jacobs' design combined many decorative and original elements that combine for a dramatic and distinctive Palm Beach residence.

## **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, which relate to this property and justification for designation:

### **(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.”**

210 Dunbar Road is a dramatic and distinctive example of the Mediterranean Revival style of architecture designed during the post land and housing boom in south Florida. The asymmetrical massing and fenestration, irregular stone window and door surrounds, ornate stone columns, decorative porches, large multi-light windows, unique front entry, and striking stone pendants and tiles along a section of the roofline are all important elements of this historic house. These features have been executed in 210 Dunbar Road to present a specimen inherently valuable for study.

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<sup>14</sup> There were newspaper articles stating Julius Jacobs was designing a hotel in West Palm Beach across from the Courthouse in 1937 and a house on Australian Avenue in Palm Beach for Kurt Hanson in 1940 but no address could be found for either of these properties.



**(4) “Is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized or has influenced his age.”**

Julius Jacobs was an innovative architect who designed exceptional houses in Palm Beach. He worked with G. Sherman Childs and was a lead draftsman for Addison Mizner and Bruce Kitchell before embarking on his own practice. Jacobs’ distinctive design for 210 Dunbar Road is an excellent example of his work in Palm Beach and the dwelling is important to the historic composition of the town.

## VIII. Bibliography

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--- Palm Beach County: An Illustrated History. Northridge, California: Windsor Publications, Inc., 1987.

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Hoffstott, Barbara D. Landmark Architecture of Palm Beach (Third Edition). Pittsburgh: Pittsburgh History & Landmarks Foundation, 1991.

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The Palm Beach Daily News and The Palm Beach Post. Archived Articles

Preservation Foundation of Palm Beach. 210 Dunbar Road File; Julius Jacobs Biography

Sanborn Insurance Map of Palm Beach. New York: Sanborn Map Co., 1919 and 1924 updated to 1946

Town of Palm Beach. Building Permits and Microfiche Records 1919– 2016.

West Palm Beach City Directories. Palm Beach Section, 1916-1979.

\*The Florida Master Site File form has the incorrect date and builder for 210 Dunbar Road; correct date is 1930 and correct builder is George Sturhis.

## X. Florida Master Site File Form



### HISTORICAL STRUCTURE FORM

Electronic Version 1.1.0

Site # PB06493  
Recorder # Jane S. Day  
Field Date 7/20/2010  
Form Date 9/28/2010  
Form No 201007  
Form No = Field Date (YYYYMM)

First Site Form Recorded for this Site? NO

#### GENERAL INFORMATION

Site Name (address if none) Vlado Dukhovich, 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>210</u> |           | <u>Dunbar</u> | <u>Road</u> |                  |

Cross Streets (nearest/ between) Bradley Place & North County Rd.  
City / Town (within 3 miles) Town of Palm Beach In Current City Limits? YES  
County Palm Beach Tax Parcel # (s) 50-43-43-14,07-000-0650  
Subdivision Name Adams Addition Block \_\_\_\_\_ Lot 65  
Ownership Private Individual  
Name of Public Tract (e.g., park) \_\_\_\_\_  
Route to (especially if no street address) On the south side of Dunbar Road between Bradley Place and N. County Rd.

#### MAPPING

USGS 7.5' Map Name \_\_\_\_\_ Publication Date \_\_\_\_\_ >> PAIM BEACH, 1986  
Township: \_\_\_\_\_ Range: \_\_\_\_\_ Section: \_\_\_\_\_ 1/4 section: \_\_\_\_\_ >> 43S ; 43E ; 14 ; 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) \_\_\_\_\_ >> Masonry - General  
Other Structural System(s) \_\_\_\_\_  
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) \_\_\_\_\_ >> Hip  
Other Roof Type(s) \_\_\_\_\_  
Roof Material(s) \_\_\_\_\_ >> Spanish tile  
Other Roof Material(s) \_\_\_\_\_  
Roof Secondary Structure(s) (dormers etc) \_\_\_\_\_ >> Shed extension  
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

8FB06493

## DESCRIPTION (continued)

Window Descriptions awning, fixed, french doors

Main Entrance Description (stylistic details) On the north facade with cast stone surround and balcony above

Porches: #open 2 #closed        #incised        Location(s) (2) 2nd floor balconies

Porch Roof Type(s) shed on central balcony

Exterior Ornament shutters, cast stone, wooden balcony

Interior Plan Unknown

Other Interior Plan       

Condition Excellent

### 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 1926

Architect (last name first): Jacobs, Julius

Builder (last name first): Trevail, Charles J.

### 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; 1926;

Other Structure Uses       

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

## RESEARCH METHODS

Research Methods        >> Examine local property records

Other research methods       

## SURVEYOR'S EVALUATION OF SITE

Potentially Eligible for a Local Register? YES Name of Local Register if Eligible Town of Palm Beach Landmark

Individually Eligible for National Register? INSUFF. INFO

Potential Contributor to NR District? INSUFF. INFO

Area(s) of historical significance        >> Architecture

Other Historical Associations       

Explanation of Evaluation (required) This is a good example of the work of Julius Jacobs from the Boom years of the 1920s. It is worthy of local designation.



# HISTORICAL STRUCTURE FORM

8FB06493

## 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. 33532 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>18</u><br>Electronic Form Used: <u>1110</u><br>Form Type Code: <u>1000</u><br>Form Quality Ranking: <u>1000</u><br>Form Status Code: <u>1000</u> | <b>SHPO's Evaluation of Resource</b><br>Date _____           |
| Supplement Information Status: <u>NO SUPPLEMENT</u><br>Supplement File Status: <u>NO SUPPLEMENT FILE</u>                                                                    | FMSF Staffer: _____<br>Computer Entry Date: <u>9/18/2010</u> |
| Form Comments: _____<br>_____<br>_____                                                                                                                                      |                                                              |

## 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"

## DESIGNATION HEARINGS

### Item 1: 210 Dunbar Rd.

Owner: Dukceovich, Vlado R.

Call for disclosure of ex parte communication: None.

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.

Janet Murphy, MurphyStillings, LLC, testified to the architecture and history for this Mediterranean Revival style, 1930 Julius Jacobs home. Ms. Murphy pointed out the design features, some of which include the home's front façade with plate glass, drop sash windows, ornate stone columns with heavy stone cornices, the front door with ornate wood spindles, a balcony with carved wooden details and the home's asymmetrical massing. Ms. Murphy testified that the building meets the following criteria for designation as a landmark:

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; and

Sec. 54-161 (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.

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

Mr. Cooney asked for public comment and there was none.

Mr. Silvin asked Ms. Murphy if she had contacted the owners. Ms. Murphy stated she met with the owners and believed they were in favor of the Landmark Designation. She reviewed the home's alternations that she witnessed on her visit to the home.

Ms. Hufty asked about the other homes on Palm Beach that were designed by Jacobs. Ms. Murphy reviewed the homes for the Commission.

Ms. Fairfax asked if the other Jacobs designed homes were landmarked. Ms. Murphy stated that they were landmarked.

**Motion made by Mr. Silvin and second by Ms. Albarran that 210 Dunbar Road be recommended to the Town Council for designation as a Landmark of the Town of Palm Beach based on criteria 3 and 4 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 >>**

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**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: April 12, 2017

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## Section of Agenda

Public Hearings

## Agenda Title

RESOLUTION NO. 56-2017 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 125 Australian 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 March 27, 2017 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Resolution No. 56-2017**
- ▣ **125 AUSTRALIAN AVE DESIGNATION REPORT**
- ▣ **Excerpt from Landmarks Preservation Commission Meeting of March 16, 2017**
- ▣ **Designation Procedure**



# TOWN OF PALM BEACH

Information for Town Council Meeting on: April 12, 2017

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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 125 Australian Avenue  
**Resolution No. 56-2017**

Date: March 27, 2017

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## **STAFF RECOMMENDATION**

Staff recommends ratification of the property known as 125 Australian Avenue as a Town landmark.

## **LANDMARKS PRESERVATION COMMISSION RECOMMENDATION**

At the Public Hearing for Designation held during the March 16, 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.

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,

Sec. 54-161 (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.



### **OWNER CONSENT**

The property owners were properly notified of the hearing before the Landmarks Preservation Commission. Mr. John Lindgren, Town Planning Administrator, had a brief telephone conversation with one of the owners who consented to the pending designation. No person attended for the owner.

### **TOWN ATTORNEY REVIEW**

Please be advised that the Town Attorney has reviewed Resolution No. 56-2017 relating to 125 Australian Avenue, and has approved it as to legal form and sufficiency.

#### Attachments

cc: John C. Randolph, Town Attorney  
John Lindgren, AICP, Planning Administrator  
Janet Murphy, Town Consultant  
Emily Stillings, Town Consultant  
Ingeburg Chambers, Property Owner

## **RESOLUTION NO. 56-2017**

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 125 AUSTRALIAN 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 **125 Australian Avenue**

and the property to be landmarked is legally described as follows:

**EAST ½ OF LOT 48, ALL OF LOTS 49 AND 50, BLOCK H OF ROYAL PARK ADDITION TO THE TOWN OF PALM BEACH, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 4, PAGE 1 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 12<sup>th</sup> day of April, 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



# **125 Australian Avenue**



## **DESIGNATION REPORT**

**March 16, 2017**

**Landmark Preservation Commission**

**Palm Beach, Florida**

# **DESIGNATION REPORT**

## **125 Australian Avenue**

### **Table of Contents**

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Report produced by Murphy Stillings, LLC

## **I. General Information**

|                                        |                                                                                                                                                                                                                                    |
|----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Location:                              | 125 Australian Avenue<br>Palm Beach, Florida                                                                                                                                                                                       |
| Date of Construction:                  | 1924                                                                                                                                                                                                                               |
| First Owner:                           | E.B. Walton                                                                                                                                                                                                                        |
| Architect:                             | Original by E.B. Walton<br>Additions by Marion Sims Wyeth                                                                                                                                                                          |
| Builder/Contractor:                    | E.B. Walton                                                                                                                                                                                                                        |
| Present Owner:                         | Ingeburg R. Chambers and Christopher<br>Kubon, Ingeburg R. Chambers and Horst<br>Kubon, trustees of the Ingeburg R.<br>Chambers Living Trust                                                                                       |
| Present Use:                           | Residential                                                                                                                                                                                                                        |
| Present Zoning:                        | R-B                                                                                                                                                                                                                                |
| Palm Beach County<br>Tax Folio Number: | 50-43-43-23-05-028-0481                                                                                                                                                                                                            |
| Current Legal Description:             | East ½ of Lot 48, All of Lots 49 and 50,<br>Block H of Royal Park Addition to the<br>Town of Palm Beach according to the plat<br>thereof recorded in Plat Book 4, Page 1 of<br>the Public Records of Palm Beach County,<br>Florida |



## II. Location Map

**125 Australian Avenue**





### III. Architectural Information

125 Australian Avenue is located on the north side of Australian Avenue between South Ocean Boulevard and South County Road in the Royal Park subdivision. The residence, along with an accessory structure, was designed and constructed in the Mediterranean Revival style in 1924 by E.B. Walton. It is an excellent example of design work of E.B. Walton with additions by Marion Sims Wyeth.<sup>1</sup>



Main (South) Facade

125 Australian Avenue is a very good example of the Mediterranean Revival style of architecture that was popular in Palm Beach during the Land Boom of the 1920s and is still considered the signature style of the Island. The Mediterranean Revival style is an eclectic style incorporating architectural elements derived from the area around the Mediterranean Sea, especially Italy and Spain. The style is found most frequently in states that have a Spanish Colonial heritage, but its use gained national popularity after the Pan-American Exhibition held in San Diego in 1915. In Palm Beach, the style was first popularized in 1919 by Addison Mizner's design for the Everglades Club. The popularity of the style soared in the 1920s for both commercial and residential buildings. The style remained a pervasive influence on building design until World War II. Buildings of this style are often decorated with ornate cast-stone columns, pilasters and window surrounds. Arched openings, balconies, asymmetrical massing and windows of varying sizes and shapes

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<sup>1</sup> Town of Palm Beach Building Permit Records 1924-2016.



are also common features. In addition, stone or stucco facades, decorative wrought ironwork, tile floors, pecky cypress ceilings and clay barrel tile roofs are typical features of Mediterranean Revival style buildings. The design of the residence at 125 Australian Avenue incorporates these design elements into a residence that has the feeling of a small Mediterranean Revival style estate at an ideal in-town location.



Main (South) Façade

125 Australian Avenue is constructed of wood framing and hollow clay tile surfaced with stucco on a continuous block foundation. The two-story residence has an asymmetrical plan with multiple roof types including gable and hip roofs surfaced with barrel tiles and highlighted with exposed rafters, as well as flat roofs.

The main façade of the residence faces south and is comprised of one and two-story elements. The two-story wing that projects to the south has a front facing gable roof. The first floor features tall arched windows with cast stone surrounds. The second floor has two French doors separated by an engaged twisted column with a pecky cypress header and a balcony with a metal railing. A cartouche is located in the gable end and cast stone details are located at each end where the front plane narrows on the second floor.<sup>2</sup> The west façade of this wing also contains a tall arched window with a cast stone surround on the first floor and French doors with a balcony on the second floor. A chimney is located to the north of the balcony.

---

<sup>2</sup> The cartouche and the eastern cast stone wall detail were not original to the design and added at some point after 1955.



To the west of the two-story wing is a one-story section with multi-light casement windows that runs east-west with a two-story section behind. This leads to the west end of the residence, which is highlighted by a charming breezeway that projects to the south. The breezeway has a front facing gable roof and an arched opening on the south façade emphasized with quoins and contains a decorative metal gate. The breezeway's roof is supported by pairs of pecky cypress wood posts and has a pecky cypress vaulted ceiling with exposed rafters.



Breezeway – South Facade

Access to the residence is through a wall with a decorative metal gate at the east end of the property, which creates a secluded entrance courtyard. The main entrance, while not prominent, is a significant feature of the residence. It is located at an angle on the first floor of the hexagonal tower element that is on the east façade, recessed from the front plane of the residence. The entrance contains a multi-paneled arched wood door with a cast stone surround. A six-over-six sash window is located above the doorway on the second floor of the tower. To the east of the tower, the south façade contains multi-light French doors on the first and second floors. The doors on the second floor are separated by an engaged twisted column and lead to a balcony with a metal railing.



Entrance Courtyard at East End of Property



Entrance Door

At the western end of the property a driveway with a wood gate leads to a one-story, flat roofed garage at the northwest corner of the property. A two-story accessory structure, which was also designed and built by E.B. Walton in 1924, is located at the northeast corner of the property.

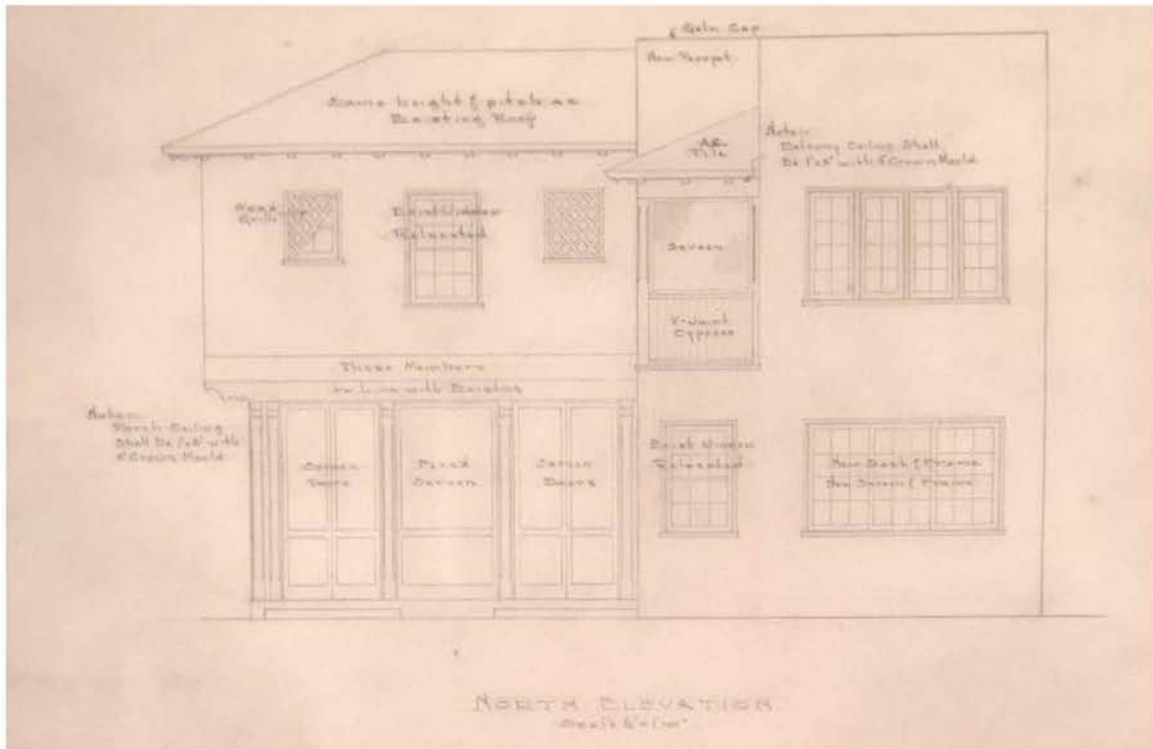
Throughout the history of 125 Australian Avenue there have been additions, alterations and repairs to the property. The most significant changes were done in the 1930's when the property owner, Homer Sawyer, acquired additional property to the west and commissioned prominent architect Marion Sims Wyeth to design additions to the residence. In 1932, Wyeth designed a two-story addition to the west of the original house, which contained a garden room, a dining room porch and a dressing room.<sup>3</sup> Then in 1937 Wyeth designed the breezeway on the main facade, a loggia, and the one-story garage at the northwest corner of the property.<sup>4</sup> The additions by Wyeth complement the original design and add architectural significance to the residence.

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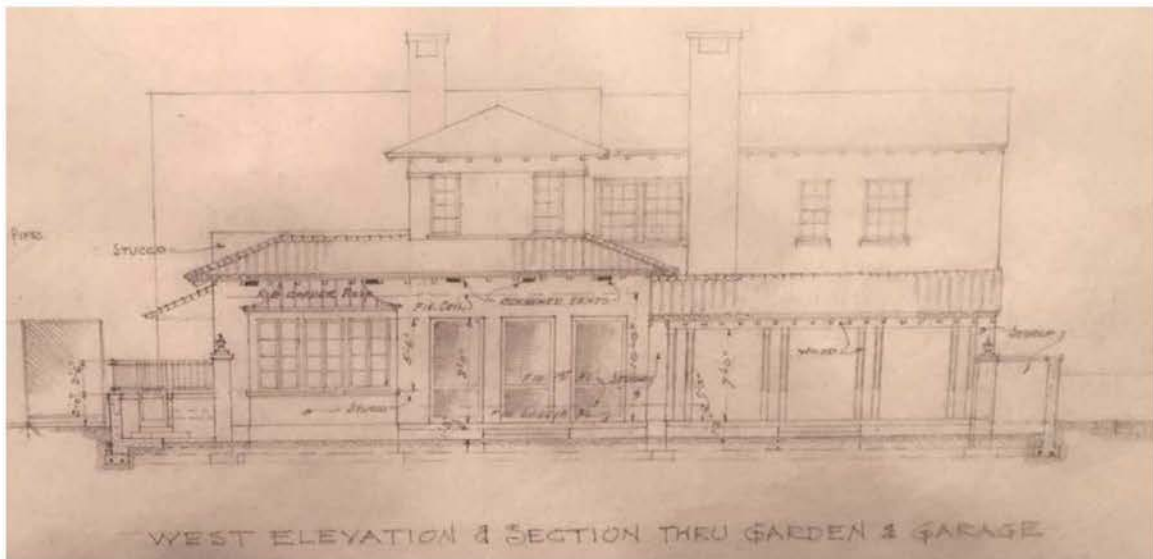
<sup>3</sup> Building Permit Number 3132, dated May 23, 1932, Town of Palm Beach Building Permit Records.

<sup>4</sup> Building Permit Number 9537, dated May 6, 1937, Town of Palm Beach Building Permit Records.





North Façade of 1932 Addition by Wyeth



West Façade of 1937 Breezeway Addition by Wyeth

Other alterations to the property over the years include the addition of an open cabana to the west side of the two-story accessory structure in 1977, re-roofing, swimming pool installation, interior remodeling, and ordinary repair and maintenance.<sup>5</sup>

<sup>5</sup> Town of Palm Beach Building Permit Records 1924-2016.

#### **IV. Historical Information**

The residence at 125 Australian Avenue was built in 1924 during the 1920s boom era in the Town of Palm Beach. The early 1920s was a period of tremendous growth and the Island had become the winter resort of America's most influential families and the building boom was radically changing the face of the small community. As Addison Mizner and other prominent Palm Beach architects were designing large estates along the ocean and lake in the Mediterranean Revival style, demand for hotels, apartments and smaller residences grew. Many of these smaller homes were taking their design cues from the larger estates and were being built in the Mediterranean Revival style as well, increasing the style's popularity. Residences such as 125 Australian Avenue were constructed as part of Captain E.N. Dimick and Harvey Geer's development called Royal Park.

Captain Dimick, the first mayor of Palm Beach, and Harvey Geer formed the Palm Beach Improvement Company in 1908. Their Royal Park subdivision included 160 acres of land that contained jungle, sand and muck. The area included land 290 feet north of Royal Palm Way south to 140 feet south of Worth Avenue, from the Atlantic Ocean to Lake Worth. In 1912, Lewis H. Green, a renowned developer from New York, who had just sold lots in the Floral Park subdivision, formed an agreement with the Palm Beach Improvement Company where Green was responsible for the management, design, and sale of land in Royal Park. It was decided that the entire area was to be developed in its entirety at one time. A sea wall was built, areas of the land were filled in, as much of it was under water, the area graded, and the streets constructed. A bridge was constructed to connect Royal Park to West Palm Beach at Royal Palm Way. Lighting, water mains, electricity and telephone lines were also installed.

The residence at 125 Australian Avenue was designed and built by E. B. Walton as a speculative venture.<sup>6</sup> In 1919 Ernest Benjamin Walton began a long and distinguished career of designing and building in the Palm Beach area.<sup>7</sup> His construction firm, E.B. Walton Inc., was a prominent construction

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<sup>6</sup> Building Permit Number 32024, August 15, 1924. Town of Palm Beach Building Permit Records.

<sup>7</sup> Several of E.B. Walton's residential designs have been designated Landmarks in the Town of Palm Beach. These include 212 Australian Avenue, 222 El Brillo Way, 271 El Vedado Road, 111 Seabreeze Avenue, 140 Seaspray Avenue, 152 Wells Road, and 160 Wells Road.

company responsible for building numerous residential and commercial buildings within the Town of Palm Beach, the City of West Palm Beach, as well as, throughout the southeast United States. E.B. Walton designed many of the residences in addition to constructing them. During the 1920's his designs were primarily in the popular Mediterranean Revival style. E.B. Walton Inc. was also responsible for successfully developing numerous streets in the north end of Palm Beach. The firm also constructed designs by prominent architects such as Addison Mizner, Maurice Fatio, John Volk, and Marion Sims Wyeth.

The first residents of the home at 125 Australian Avenue were Burke and Phyllis Bradner of Chicago, Illinois. The Bradner's owned the residence for six years (1925-1931) before it was purchased by Homer Eugene Sawyer and his wife Catherine of New York City. The Sawyer's purchased the home in 1931 and over the next few years commissioned one of Palm Beach's most distinguished architects, Marion Sims Wyeth, to design alterations and additions to the residence.

## **V. Architects Biography**

### **Ernest Benjamin (E.B.) Walton, Sr.**

Ernest Benjamin Walton was born in Genoa, Nebraska in 1881. The Walton's, whose American origins date to the mid 1650s, had a family home "Mosswood" in Harford County, Maryland. When Walton's father, William, was appointed an Agent to the Indian Bureau by President Ulysses S. Grant in 1869, he and his wife moved to Nebraska.

In 1893 the Walton family returned to Maryland where Ernest and his five siblings continued their education. Walton's youth in Nebraska and summer vacations on family farms in Maine left him with a lifelong love of the outdoors.

In his senior year at college Walton convinced his father to invest in 260 acres of land on Lake George, New York. Upon completing his studies at Lehigh University in 1901 with a degree in Civil Engineering Walton returned to Lake George to begin surveying the area and planning on future development which became Glenburnie Inn. Walton and his father eventually constructed a

cottage colony and hotel. Winters were spent in New York City with various building firms. Each spring Walton returned to Glenburnie.

Walton and his wife, Julia, made their first trip to Florida in 1916-17. A side trip to Fort Lauderdale from Sanibel convinced Walton of the possibilities of Florida's east coast. Eventually Walton decided upon the Palm Beach area as a source of winter work. World War I and a First Lieutenant's commission postponed the family's move until after the war.

By the 1920s Walton began his long and successful career in South Florida with the construction of some small houses in the El Cid area of West Palm Beach and the construction of four apartment buildings in West Palm Beach and Palm Beach. Demand for Walton's company continued from the Boom Times into the Depression Era. The company successfully developed numerous streets throughout the northern section of Palm Beach, which included North Shore Addition, Monterey Road, Colonial Lane, and Sanford Avenue. Walton also constructed large estates designed by Palm Beach's prominent architects.

In the 1940s Walton again served in the United States Army. During World War II he served as Assistant Post Engineer. His classified work included sketches of old military buildings north of Cape Canaveral. These sketches were included in the start of the Cape Canaveral Space Center.

Walton's success was not limited to residential construction. His company built numerous Mount Vernon and Howard Johnson Motor Lodges throughout the southeastern United States. Local commercial buildings include the West Palm Beach Women's Club, Palm Beach Town Hall Additions (1960s), Seminole Building, U.S. Trust Office Building, and the Heart of Palm Beach Hotel.

In the 1950s Walton's two sons, Ben and Bill, joined him in the family business. It is interesting to note that the project which gave Walton the most satisfaction was his construction of the Cluett Memorial Garden at the Bethesda-by-the-Sea Church in Palm Beach.

### **Marion Sims Wyeth**

Marion Sims Wyeth was as one of Palm Beach's leading architects in a career that spanned over fifty years. Wyeth was noted for his "quiet, subdued and



rational" interpretations of both the Spanish and Italian styles. With Addison Mizner, Maurice Fatio, Joseph Urban and John Volk, he is credited with creating the "Palm Beach Style".

Wyeth was born in 1889 in New York, a son of Florence Nightingale Sims and Dr. John Allan Wyeth. Dr. Wyeth was a Civil War poet, surgical pioneer, and founder of New York's Polyclinic Hospital, the first postgraduate medical school in the United States. Marion's grandfather, Dr. James Marion Sims, founded the field of gynecology and the first woman's hospital in history. Marion Sims Wyeth began his architectural studies at Princeton University and completed his classic training at the École des Beaux-Arts in Paris in 1914. At the time, the École was considered the one of the finest schools in the world. It was a style of education based on studying the classics, mostly Roman architecture. After completing school, Wyeth served as secretary to the U.S. Ambassador in Rome. Upon his return to New York, Wyeth became associated with the architectural offices of Bertram Grosvenor Goodhue and later with Carrere and Hastings, the firm that designed Whitehall for Henry Flagler.

Arriving in Palm Beach at the age of 30, Wyeth met with immediate success. From 1920, Wyeth shared a New York office with Frederic Rhinelanders King, a friend from his student days in Paris, until 1934 when they formalized the relationship with the Wyeth and King partnership. William Royster Johnson joined Wyeth's Palm Beach office as a draftsman in 1924. In 1944 he became a partner and the firm name changed to Wyeth, King and Johnson. Over the years, the firm designed buildings ranging from Mediterranean Revival to classical Georgian, French, and Colonial styles.

The socially popular Wyeth was a prolific craftsman and more than 100 of his designs have graced the Island, including eight built on El Brillo Way. Some of his well-known Palm Beach designs include Qui Si Sana, Casa Juanita, Hogarcito, Casa de Los Arcos, Vita Serena, Southwood and the Bethesda by the Sea rectory. His largest and most impressive project was Cielito Lindo, a 45,000-square-foot Spanish Moorish-Revival-style mansion built for James Donohue and Jessie Woolworth Donohue in 1927. In 1946-1947, it was sold to developers, who split the property and created five houses. And while Joseph Urban is credited with Mar-a-Lago, Wyeth's association with the project was essential for its original design and completion. Wyeth also had an impressive list of prominent works outside of Palm Beach. Some of these include Good Samaritan Hospital and the Norton Gallery of Art in West Palm

Beach, the Governor's Mansion in Tallahassee, and Doris Duke's Shangri La in Honolulu.

Wyeth served as a trustee of the Society of the Four Arts (1936-1969) and as its president (1956-1961). He became the first Palm Beach architect to be elected a fellow of the American Institute of Architecture in 1954, and received the Test of Time Award from its Palm Beach Chapter in 1981. Marion Sims Wyeth passed away in 1982 at the age of 93.

## **VI. Statement of Significance**

125 Australian Avenue is a very good example of the early fabric of Palm Beach and the Royal Park subdivision and exhibits many of the features that are characteristic of the Mediterranean Revival style of architecture. It is also a good representation of the design work of Ernest Benjamin Walton, a prolific builder whose construction company was responsible for many of Palm Beach's residential and commercial buildings, and Marion Sims Wyeth, one of Palm Beach's most important architects.

## **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 the criteria which 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."**

125 Australian Avenue reflects the broad cultural and economic history of the Town of Palm Beach. Australian Avenue is part of the Royal Park subdivision, a successful early subdivision in the heart of Palm Beach. While Palm Beach's reputation rested upon the individual grand estates and fashionable hotels, residences such as 125 Australian Avenue are symbolic of the rise of cohesive neighborhoods comprised of more modest single family homes in Palm Beach during the 1920s.

**(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 125 Australian Avenue, designed and constructed in 1924, is a very good example of the Mediterranean Revival style of architecture popularized in Palm Beach during the Land Boom of the 1920s and still recognized as the “Palm Beach Style.” The residence embodies distinctive Mediterranean Revival characteristics including asymmetrical massing, multi-leveled barrel tile covered roofs, tower elements, arched windows, decorative cast stone surrounds, columns, and pecky cypress details. These features have been executed in the residence at 125 Australian Avenue to present a specimen inherently valuable for the study of the style.

**(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.”**

125 Australian Avenue is an excellent representation of the design work E.B. Walton and Marion Sims Wyeth. E.B. Walton owned a prominent construction firm responsible for building numerous residences and commercial buildings in the Town of Palm Beach. In addition, Walton was also responsible for the design of many of the buildings he constructed. The large number and high quality of works by Walton have made a lasting impression on the Town of Palm Beach. The residence at 125 Australian Avenue is an example of Walton’s abilities as both a designer and builder. Marion Sims Wyeth was one of Palm Beach’s most important architects. Wyeth’s influential career spanned more than fifty years and he is recognized as one of the creators of the Mediterranean Revival “Palm Beach” style. The additions Wyeth designed for the residence add to its architectural character.

## VIII. Selected Bibliography

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McAlester, Virginia and Lee. A Field Guide to American Houses. New York: Alfred A. Knopf, Inc., 1984.

O'Sullivan, Maureen and Dianna Shpritz. Palm Beach: Then and Now. Lickle Publishing, November 2003.

The Palm Beach Daily News and Palm Beach Post. Archived Articles.

Preservation Foundation of Palm Beach. 125 Australian Avenue file.

Town of Palm Beach. Building Permits, 1924– 2016.

West Palm Beach City Directories. Asheville, NC: Florida-Piedmont Directory Company, 1924-1989.



## IX. Florida Master Site File Form



### HISTORICAL STRUCTURE FORM

Electronic Version 1.1.0

Site # PB06313  
 Recorder # Jane S. Day  
 Field Date 9/29/2010  
 Form Date 10/2/2010  
 Form No 201009  
 Form No = Field Date (YYYYMM)

First Site Form Recorded for this Site? NO

#### GENERAL INFORMATION

Site Name (address if none) Jack C. Chambers, 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>125</u> |           | <u>Australian</u> | <u>Avenue</u> |                  |

Cross Streets (nearest/ between) South County Rd & So. Ocean Blvd  
 City / Town (within 3 miles) Town of Palm Beach In Current City Limits? YES  
 County Palm Beach Tax Parcel # (s) 50-43-43-23-05-028-0481  
 Subdivision Name Royal Park Addition Block H Lot 48-50  
 Ownership Private Individual  
 Name of Public Tract (e.g., park) \_\_\_\_\_  
 Route to (especially if no street address) On the north side of Australian Avenue between South County Road and South Ocean Blvd.

#### MAPPING

USGS 7.5' Map Name \_\_\_\_\_ Publication Date \_\_\_\_\_ >> PAIM BEACH, 1946  
 Township: \_\_\_\_\_ Range: \_\_\_\_\_ Section: \_\_\_\_\_ 1/4 section: \_\_\_\_\_ >> 43S ; 43E ; 23 ; 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) \_\_\_\_\_ >> Hip  
 Other Roof Type(s) \_\_\_\_\_  
 Roof Material(s) \_\_\_\_\_ >> Concrete tile  
 Other Roof Material(s) \_\_\_\_\_  
 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) offset

Page 1 of 3

# HISTORICAL STRUCTURE FORM

8PB06313

## DESCRIPTION (continued)

Window Descriptions: casement

Main Entrance Description (stylistic details): unknown

Porches: #open 1 #closed      #enclosed      Location(s): 2nd floor balcony - s

Porch Roof Type(s):     

Exterior Ornament: exposed rafters, decorative metal balcony, pilasters, cast stone

Interior Plan: Unknown

Other Interior Plan:     

Condition: Excellent

### 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): This house has been renovated since the last survey

## HISTORY

Construction year: 1924

Architect (last name first): Wyeth, Marion Sims

Builder (last name first): Walton, E.B.

### 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; 1924;

Other Structure Uses:     

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

## RESEARCH METHODS

Research Methods:      >> Examine local property records

Other research methods:     

## SURVEYOR'S EVALUATION OF SITE

Potentially Eligible for a Local Register? INSUFF. INFO Name of Local Register if Eligible: Town of Palm Beach Landmark

Individually Eligible for National Register? INSUFF. INFO

Potential Contributor to NR District? NO

Area(s) of historical significance:      >> Community planning & development

Other Historical Associations:     

Explanation of Evaluation (required): This is a good example of the Mediterranean Revival style by well known architect Marion Sims Wyeth. It is worthy of further study.

# HISTORICAL STRUCTURE FORM

8PB06313

## 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 Drive, 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>SH</u><br>Electronic Form Used: <u>SHD</u><br>Form Type Code: <u>FORM</u><br>Form Quality Ranking: <u>FORM</u><br>Form Status Code: <u>FORM</u> | <b>SHPO's Evaluation of Resource</b><br>Date: _____         |
| Supplement Information Status: <u>NO SUPPLEMENT</u><br>Supplement File Status: <u>NO SUPPLEMENT FILE</u>                                                                   | FMSF Staffer: _____<br>Computer Entry Date: <u>5/5/2008</u> |
| Form Comments: _____<br>_____<br>_____                                                                                                                                     |                                                             |

## 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"

## DESIGNATION HEARINGS

### Item 2: 125 Australian Ave.

Owner: Chambers, Ingeburg R., Kubon, Christopher, Kubon, Horst

Call for disclosure of ex parte communication: None.

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.

Emily Stillings, MurphyStillings, LLC, testified to the architecture and history for this Mediterranean Revival style, 1924 E.B. Walton home and additions by Marion Sims Wyeth. Ms. Stillings pointed out the design features, some of which include the home's asymmetrical massing, tile covered roofs with exposed rafter tails, tall arched windows with cast stone surrounds, French doors and balconies with railings. Ms. Stillings 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; and

Sec. 54-161 (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.

**Motion made by Mr. Silvin and second by Ms. Albarran that the designation report be made part of the record. Motion carried with all in favor.**

Mr. Cooney asked for public comment and there was none.

Mr. Silvin asked Ms. Stillings if she had contacted the owners. Ms. Stillings stated she attempted to contact the owners but was unsuccessful.

Mr. Lindgren stated he spoke to the owner, Ms. Chambers, on the phone and she indicated that she was not opposed to the Landmark Designation.

Ms. Hufty asked whether the breezeway changed the entrance. Ms. Stillings stated it did not.

Mr. Cooney stated he thought the additions complimented and enhanced the main house. He pointed out some interesting design features.

Ms. Albarran also pointed out some of the design features and thought the house was very charming.

**Motion made by Ms. Hufty and second by Mr. Silvin that 125 Australian Avenue be recommended to the Town Council for designation as a Landmark of the Town of Palm Beach based on criteria 1, 3 and 4 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 >>**

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**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: April 12, 2017

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## Section of Agenda

Time Extensions

## Agenda Title

Request for One Year Time Extension, Variance No. 3-2016, 1050 North Ocean Boulevard

## Presenter

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

## ATTACHMENTS:

- ▣ **Memorandum from John Page dated March 30, 2017**
- ▣ **Letter from Maura Ziska dated January 31, 2017**

# TOWN OF PALM BEACH

Information for Town Council Meeting on: April 12, 2017

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To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Request for One Year Time Extension, Variance No. 3-2016, 1050 North Ocean Boulevard

Date: March 30, 2017

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## **STAFF RECOMMENDATION**

Staff recommends that the Town Council approve a one-year time extension of Variance No. 3-2016 in order to change the address based on the orientation of the proposed new house, enter into the required Unity of Title Agreement and obtain a building permit.

## **GENERAL INFORMATION**

On April 13, 2016, the property owner was granted a variance (Variance #3-2016) to allow construction of a new two story house with a west side setback of 15.08 feet in lieu of the 28 foot minimum required for a lot with a width of 201.06 feet, and a rear street yard setback of 15.2 feet for the garage and 18.7 feet for the playroom in lieu of the 35 foot minimum required for a lot in excess of 20,000 sq.ft. and with a depth of 164.81 feet. The conditions of approval were that the applicant plant palm trees on the south property line of 1060 North Ocean Boulevard to the satisfaction of that property owner; change the address on the street based on the orientation of the new house; and enter into a Unity of Title Agreement to combine both lots. To date, the property owner has not changed the address, entered into the required Unity of Title Agreement nor applied for a building permit. The owner has until April 13<sup>th</sup> before the variances expire.

Maura Ziska, attorney for the property owner, has submitted the attached letter requesting a one-year time extension “due to health reasons.” Staff recommends that the Council allow the property owner an additional one-year time extension of approval to complete the required paper work and begin construction. If the extension is approved, the applicant will have until April 11, 2018 to obtain a building permit and begin construction.

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

Attachment

cc: Jay Boodheshwar, Deputy Town Manager

Susan Owens, Town Clerk  
Paul W. Castro, AICP, Zoning Administrator  
pf & zf

# 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 EMAIL

January 31, 2017

John Page, Director of Planning, Zoning & Building  
Town of Palm Beach  
360 South County Road  
Palm Beach, FL 33480

**Re: 1050 N Ocean Boulevard, Palm Beach, Florida  
Variance 3-2016**

Dear Mr. Page:

On April 13, 2016, Town Council conditionally granted the above referenced zoning application to allow the property owner to construct a new two-story house with a west side setback of 15.08 feet in lieu of the 28 foot minimum required for a lot with a width of 201.06 feet; and, a rear street yard setback of 15.2 feet for the garage and 18.7 feet for the playroom in lieu of the 35 foot minimum required for a lot in excess of 20,000 square feet with a depth of 164.81 feet. The condition of approval is that the owner plant palm trees on the south property line of 1060 North Ocean Boulevard to the satisfaction of that property owner.

The project approval will expire on April 13, 2017. Due to health reasons, the owner has been unable to start construction. On behalf of the property owner, I am requesting a one year extension of the project approval until April 13, 2018. Please place this matter on the next Town Council Agenda so I may request the extension. Please let me know if you require any additional information.

Thank you for your attention to this matter.

Sincerely,



Maura Ziska

cc: Paul Castro  
client

00034395



# TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 12, 2017

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## 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 April 26, 2017 meeting. Carried 7-0] **Request for Deferral to the May 10, 2017, Town Council Meeting Per Letter Dated March 24, 2017 from David E. Klein.**

## Presenter

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

## ATTACHMENTS:

- ▣ **Letter Dated March 24, 2017 From David E Klein**

# RABIDEAU LAW

PALM BEACH - TORONTO

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

March 24, 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 April 12, 2017 be deferred to the following Town Council Meeting occurring on May 10, 2017.

The matter will be heard at ARCOM on April 26, 2017 due to an automatic deferral. As such, we request a one-month deferral from the April 12, 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](mailto:kruderman@townofpalmbeach.com)  
Kelly Churney, via e-mail [kchurney@townofpalmbeach.com](mailto:kchurney@townofpalmbeach.com)

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 12, 2017

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## 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 deferred the Project to the April 26, 2017 meeting. Carried 7-0] **Request for Deferral to the May 10, 2017, Town Council Meeting Per Letter Dated March 28, 2017 from Maura Ziska.**

## Presenter

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

## ATTACHMENTS:

- **Letter Dated March 28, 2017 From Maura Ziska**

## KOCHMAN & ZISKA PLC

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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

March 28, 2017

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

**RE: SE 29-2016 320 Seabreeze Avenue**

Dear Paul and Kelly:

Please defer the above referenced matter from the April 12, 2017 Town Council agenda to the May 10, 2017 Town Council agenda. The reason for the deferral is because ARCOM deferred the matter at the March 22, 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  
00035026



# TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 12, 2017

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## Section of Agenda

Development Review - Old Business

### Agenda Title

SPECIAL EXCEPTION #30-2016 WITH SITE PLAN REVIEW AND VARIANCES The application of Town of Palm Beach (Tom Bradford, Town Manager); relative to property commonly known as **340 Seaview Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a special exception with site plan review to approval to allow a new two-story 33,810 square foot Recreation Center for the Town of Palm Beach that will include a new athletic field, parking lot, gymnasium, tennis pro shop, multi-purpose room, fitness center with locker rooms, concession area, classrooms, offices and new maintenance building, new tennis backboard, new scoreboard. A second special exception request is to allow for a rebound wall to be constructed on the north side of the new maintenance building. The following variances are being requested in order to construct the new community center: 1) A west side yard setback of 10 feet in lieu of the 30 foot minimum required for properties that are in excess of 20,000 square feet; 2) A north side yard setback of 8 feet in lieu of the 30 foot minimum required for properties that are in excess of 20,000 square feet; 3) A street rear yard setback for the new parking lot on Royal Palm Way of 4 feet in lieu of the 35 foot minimum required for properties that are in excess of 20,000 square feet; 4) an east side yard setback of 4 feet in lieu of the 30 foot minimum required for the new parking lot on Royal Palm Way for properties that are in excess of 20,000 square feet; 5) a height of 27 feet in lieu of the 22 foot maximum allowed; 6) an overall height of 35 feet in lieu of the 30 foot maximum allowed; 7) a vertical distance to the top of beam of 30.75 feet in lieu of the 26 foot maximum distance allowed from the crown of street to top of beam; 8) landscaped open space of 43% in lieu of the 55% minimum required for properties that are in excess of 20,000 square feet; 9) parking lot interior landscaped open space of 5% in lieu of the 10% minimum required; 10) to allow signage on the proposed scoreboard which would exceed the maximum signage allowed (of one for each street frontage); 11) to allow three (3) air-conditioning units to be on the roof that is in excess of the 4 foot maximum allowed. The proposed A/C units will be 5 feet tall plus the height of the stand. [Attorney: Maura Ziska, Esq.]

[Architectural Commission Recommendation: Implementation of the proposed

variance will not cause negative architectural impact to the subject property with existing parking or Option B. Carried 4-3] [Architectural Commission conditionally approved the project. The condition of the approval was to make changes to the interior of the building and to bring materials back for consideration. Carried 4-3]

**TIME CERTAIN 11:00 A.M.**

- a) Funding Update and Cash Flow Analysis
- b) Approval of Updated Donor Opportunities List

Presenter

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

ATTACHMENTS:

- ▣ **Memorandum Dated April 5, 2017 From Beth Zickar, Director of Recreation**
- ▣ **Projected Cash Flow Recreation Center**
- ▣ **Proposed Recreation Center Project Budget Update**
- ▣ **Donor Opportunities List**
- ▣ **Resolution No. 112-2016**

# TOWN OF PALM BEACH

Information for Town Council Meeting on: April 12, 2017

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To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Beth Zickar, Director of Recreation

Re: Recreation Center and Seaview Park Development Project

Date: April 5, 2017

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## **STAFF RECOMMENDATION**

Staff recommends that Town Council review the following report, which includes a historical summary of the proposed Recreation Center and Improvements to Seaview Park, funding update, project cash flow analysis, and proposed donor opportunities, and approve the following:

- Requested variances, special exceptions and site plan review associated with the proposed project.
- Modifications to Exhibit B (donor opportunities list) of the Morton and Barbara Mandel Family Foundation Capital Grant Agreement, which was initially approved in Resolution 112-2016, with modifications, at the July 12, 2016 and August 16, 2016, Town Council meeting.

## **PROJECT HISTORY/EVOLUTION OF DESIGN**

Staff began surveying community recreation interests back in 2014. The need for a long term Master Plan for Seaview Park and the Recreation Center was confirmed by the Recreation Advisory Commission in November of 2014. In August of 2015 those discussions resumed.

In October of 2015, the Morton and Barbara Mandel Family Foundation provided a donation to the Town to fund a recreation needs assessment and master planning for a renovated or new Recreation Center and other improvements at Seaview Park. The study and master plan designs were fully funded by the Morton and Barbara Mandel Family Foundation.

Stephen Boruff AIA Architects + Planners, Inc. was retained as part of the overall project, to design the facility. An initial conceptual plan included a 2 story structure of approximately 28,000 square feet under air. This plan was unanimously supported by the Recreation Advisory Commission at their May 4, 2016 meeting. At the June 14, 2016 Town Council meeting, the conceptual plan was initially approved and staff was directed to complete the necessary planning required to move forward and to return to Council with a detailed funding plan and project schedule.

Resolutions concerning the formation of a tri-party public/private funding partnership with the Friends of Recreation, the Morton and Barbara Mandel Family Foundation and the Town of Palm Beach were approved, without the referenced exhibits, at the July 12, 2016 Town Council meeting. In addition, the conceptual master plan received unanimous Council approval and staff was directed to move forward with the ARCOM review process.

The exhibits (A&B) to the Morton and Barbara Mandel Family Foundation Capital Grant Agreement were submitted for consideration at the August 16, 2016, Town Council Meeting. These exhibits included the Grant Computation Schedule and the Community Center Donor Opportunities list. Town Council approved both exhibits at said meeting.

The initial ARCOM presentation of the Recreation Center and Seaview Park improvements took place at the October 26, 2016 meeting. The demolition request for the existing facility was approved by the Commission. A motion to defer the project design for one month was also approved with direction to restudy, with attention to reducing the mass and addressing the elimination of most of the north lawn.

Public meetings were held on November 1, 2016, and November 15, 2016, to receive additional input on the design of proposed project. The feedback received from the public included concerns regarding building size, loss of green space, ensuring the facility remains town-serving, the needs assessment survey and opinions regarding renovation versus reconstruction

A Special Recreation Advisory Commission meeting was held on November 17, 2016, to review modified project plans, which incorporated ARCOM's and the public's input. A motion to support the modified project plans failed.

At the November 30, 2016, ARCOM meeting, the modified design was presented, which included a reduction in total square footage by 22%, preservation of the north lawn, resizing and repositioning of the gymnasium, addition of exterior accessible restrooms, enlarged outdoor basketball court/play space, relocation/reduction of office spaces, and a dedicated game room. A motion to approve the variances and special exceptions was approved. The review of the architecture resulted in a vote to defer with recommendations to continue to restudy the project, seeking ways to further reduce the mass and height, study window and tower placement and the addition of artistically driven architectural features.

A change in direction of the building design was proposed at the December 13, 2016, Town Council meeting. Based upon feedback received from the community and ARCOM, it was felt that a much smaller one-story concept could be designed to meet the existing needs of the community, while maintaining flexibility for changing needs in the future. Town Council deferred any further action until the January 10, 2017, meeting. A request for deferral of the project from the Development Review meeting on December 14 and the ARCOM meeting on December 28, 2016 was approved.

The revised one story design for the recreation center was presented at the January 10, 2017, Town Council meeting. The new design included approximately 15,000 square feet under air, an expanded and improved playground, improvements to the multi-purpose field, a new tennis



pavilion and enhanced landscaping. Town Council conceptually approved the updated plans on the condition that the design be referred back to the Recreation Advisory Commission for review. Council also referred the plan to the February 22, 2017, ARCOM meeting for a complete review of the architectural plans. Town Council requested the parking configuration remain as it currently exists.

The modified one story design of the Recreation Center was presented to the Recreation Advisory Commission at the February 8, 2017 meeting. The Commission voted to endorse the revised conceptual plan.

The newly proposed architectural plans were presented at the February 22, 2017 ARCOM meeting. Feedback was positive and suggestions were made for some additional modifications. A motion was approved to defer the project for one additional month to the March 22, 2017 meeting so that the architect could study the incorporation of the feedback received.

At the March 22, 2017, ARCOM meeting the Commission reviewed the additional changes made to the plans and approved them with the condition that the architect switch the locations of the office spaces and fitness center. Said changes were made to the fitness center and offices spaces and the plans to be presented at the April 12, 2017, Town Council Development Review meeting are recommended for approval so the architect can proceed with detailed construction drawings and the CMAR can proceed with finalizing pre-construction services.

### **FUNDING UPDATE AND CASH FLOW ANALYSIS**

The proposed tri-party public/private partnership for funding of the proposed recreation center and improvements to Seaview Park require a financial commitment by the Town of up to one-third of the cost of the project. Preliminary costs for this project are estimated at \$11,213,601, with each partner's share representing \$3,737,822.

In an effort to keep the project moving forward, as the design is developed and moves through the various steps in the approval process, the Morton and Barbara Mandel Family Foundation and the Friends of Recreation have provided advanced payments on their committed 1/3 shares to fund the project (also known as grant offset funds) to cover the cost of various professional services. Said funds were considered non-recourse, so if the project did not go forward the Town would not be liable to repay anything to our partners.

In addition to funds provided to the Town for pre-construction services, the Friends of Recreation have also covered the costs associated with the Business Plan and a community education/marketing campaign above and beyond their 1/3 share commitment to the project.

A Recreation Center Project Budget Update has been developed to illustrate actual and anticipated costs associated with design services, pre-construction services and construction costs. An update on advanced payments (grant offsets) from our partners has also been provided to show what has actually been spent or encumbered thus far. See attached. In addition, a Projected Cash Flow Chart for the project has been created to ensure a clear, transparent process is utilized regarding the expenditure of both Town and privately donated funds over the course of the project. See attached.

## **UPDATED DONOR OPPORTUNITIES LIST**

The Morton and Barbara Mandel Family Foundation Capital Grant Agreement, with modifications, was approved at the July 12, 2016, Town Council meeting. This agreement contained reference to two (2) exhibits which were inadvertently not included in the back-up documentation provided. These items included the following:

|                  |                                           |
|------------------|-------------------------------------------|
| <u>Exhibit A</u> | Grant Payment Computation Schedule        |
| <u>Exhibit B</u> | Community Center Donor Opportunities List |

The exhibits were subsequently submitted for Council consideration at the August 16, 2016, Town Council meeting and approved.

The Friends of Recreation committed to providing funding support for the proposed new recreation center as part of the public/private partnership that had been developed, which also includes the Town of Palm Beach and the Morton and Barbara Mandel Family Foundation. The development of naming opportunities for the Recreation Center was a tool designed to assist in the efforts to solicit financial support for the project. The Recreation Center design has undergone several transformations since approval of the initial donor opportunities list. The modifications of Exhibit B reflect the most current donor opportunities being offered through the Friends of Recreation fundraising campaign and council approval of the updated list is recommended.

### Attachments

cc: Recreation Advisory Commission  
Jay Boodheshwar, Deputy Town Manager  
H. Paul Brazil, Director of Public Works  
Jane Struder, Director of Finance  
Rod Gardiner, Assistant Director of Recreation  
Morton and Barbara Mandel Family Foundation  
Friends of Recreation, Inc.

## Projected Cash Flow for The Morton and Barbara Mandel Recreation Center

April, 2017

|                                      | Needs<br>Assessment | Pre-<br>construction<br>Design | June 1, 2017 | Construction<br>40% Complete<br>(Dec 2017) | Construction<br>80% Complete<br>(Sept 2018) | Completion<br>(Dec 2018) | TOTAL         |
|--------------------------------------|---------------------|--------------------------------|--------------|--------------------------------------------|---------------------------------------------|--------------------------|---------------|
| <b>1. Cash Receipts</b>              |                     |                                |              |                                            |                                             |                          |               |
| (a) Mandel Foundation Grant          | \$ 140,960          | \$ 687,478                     |              | \$ 1,307,870                               | \$ 1,307,870                                | \$ 293,689               | \$ 3,737,867  |
| (b) Friends of Recreation            |                     | \$ 76,142                      | \$ 3,661,725 |                                            |                                             |                          | \$ 3,737,867  |
| (c) Town of Palm Beach               |                     |                                |              |                                            | \$ 1,569,753                                | \$ 2,168,115             | \$ 3,737,868  |
| <b>2. Total Cash Receipts</b>        |                     |                                |              |                                            |                                             |                          |               |
| [2a + 2b + 2c]                       | \$ 140,960          | \$ 763,620                     | \$ 3,661,725 | \$ 1,307,870                               | \$ 2,877,623                                | \$ 2,461,804             | \$ 11,213,602 |
| <b>3. Cash Paid Out</b>              |                     |                                |              |                                            |                                             |                          |               |
| (a) Needs Assessment                 | \$ 140,960          |                                |              |                                            |                                             |                          | \$ 140,960    |
| (b) Design Fees                      |                     | \$ 763,620                     |              |                                            |                                             |                          | \$ 763,620    |
| (c) Misc Expenses (Bid costs)        |                     |                                |              |                                            |                                             |                          | \$ -          |
| (d) Construction Administration Fees |                     |                                |              | \$ 40,312                                  | \$ 40,312                                   | \$ 20,156                | \$ 100,780    |
| (e) Construction                     |                     |                                |              | \$ 3,883,297                               | \$ 3,883,297                                | \$ 1,941,648             | \$ 9,708,242  |
| (f) Furniture, Fixtures & Equipment  |                     |                                |              |                                            |                                             | \$ 500,000               | \$ 500,000    |
| (g) Subtotal                         | \$ 140,960          | \$ 763,620                     | \$ -         | \$ 3,923,609                               | \$ 3,923,609                                | \$ 2,461,804             | \$ 11,213,602 |
| <b>4. Cash Position</b>              |                     |                                |              |                                            |                                             |                          |               |
| [End of month]                       | \$ -                | \$ 0                           | \$ 3,661,725 | \$ 1,045,986                               | \$ -                                        | \$ -                     |               |

### Cost Assumptions

|                                  |               |
|----------------------------------|---------------|
| Construction Costs               | \$ 9,708,242  |
| Construction Administration Fees | \$ 100,780    |
| Furniture, Fixtures & Equipment  | \$ 500,000    |
| Design Fees                      | \$ 763,620    |
|                                  | \$ 11,072,642 |

# Proposed Recreation Center Project Budget Update

4/6/2017

| Professional Services                                           | Budget Estimate        | Actual To Date       | Savings (\$)        | Funds Remaining (\$) | Funds Remaining (%) |
|-----------------------------------------------------------------|------------------------|----------------------|---------------------|----------------------|---------------------|
| *Needs Assessment & Master Plan                                 | \$ 140,960.00          | \$ 134,022.00        | \$ 6,938.00         | \$ 6,938.00          | 5%                  |
| Architectural/Engineering Services: ARCOM Review and Approval   | \$ 118,210.00          | \$ 106,389.00        | \$ -                | \$ 11,821.00         | 10%                 |
| Architectural/Engineering Services: Design Development          | \$ 207,125.00          | \$ 62,137.50         | \$ -                | \$ 144,987.50        | 70%                 |
| Architectural/Engineering Services: Construction Documents      | \$ 274,160.00          |                      | \$ -                | \$ 274,160.00        | 100%                |
| Architectural/Engineering Services: Bidding/Negotiation         | \$ 21,980.00           |                      | \$ -                | \$ 21,980.00         | 100%                |
| Architectural/Engineering Services: Permitting                  | \$ 11,210.00           |                      | \$ -                | \$ 11,210.00         | 100%                |
| Architectural/Engineering Services: Construction Administration | \$ 100,780.00          |                      | \$ -                | \$ 100,780.00        | 100%                |
| Traffic Concurrency Study - American Consulting                 | \$ 4,896.58            | \$ 4,896.58          | \$ -                | \$ -                 | 0%                  |
| Traffic Impact Statement - Simmons & White                      | \$ 3,800.00            | \$ 3,800.00          | \$ -                | \$ -                 | 0%                  |
| Title Search - Brown & Phillips                                 | \$ 750.00              | \$ 750.00            | \$ -                | \$ -                 | 0%                  |
| Traffic Concurrency- Palm Beach County                          | \$ 135.00              | \$ 135.00            | \$ -                | \$ -                 | 0%                  |
| *Pre-Construction Services - Initial Phase Only                 | \$ 121,353.00          | \$ 33,088.00         |                     | \$ -                 | 0%                  |
| *Pre-Construction Services - GMP Phase                          |                        | \$ 43,054.00         | \$ 45,211.00        | \$ 45,211.00         | 37%                 |
| <b>Sub-Total Professional Services</b>                          | <b>\$ 1,005,359.58</b> | <b>\$ 388,272.08</b> | <b>\$ 52,149.00</b> | <b>\$ 617,087.50</b> | <b>61.38%</b>       |



| Construction Costs                                                                                                          | Budget Estimate        | Actual To Date       | Savings (\$) | Funds Remaining (\$)    | Funds Remaining (%) |
|-----------------------------------------------------------------------------------------------------------------------------|------------------------|----------------------|--------------|-------------------------|---------------------|
| Main Building (10,311 SF @ \$350 SF)                                                                                        | \$ 3,608,850.00        | \$ -                 |              | \$ 3,608,850.00         | 0%                  |
| Gymnasium (4,549 SF @ \$300 SF)                                                                                             | \$ 1,364,700.00        | \$ -                 |              | \$ 1,364,700.00         | 0%                  |
| Covered Porch (2,032 SF @ \$280 SF)                                                                                         | \$ 568,400.00          | \$ -                 |              | \$ 568,400.00           | 0%                  |
| Accessory Porches (Unconnected Porches, Maintenance Building, Pro Foundation Allowance for pilings or demucking/dewatering) | \$ 450,000.00          | \$ -                 |              | \$ 450,000.00           | 0%                  |
|                                                                                                                             | \$ 600,000.00          | \$ -                 |              | \$ 600,000.00           | 0%                  |
| Playground Equipment and Safety Surface                                                                                     | \$ 450,000.00          | \$ -                 |              | \$ 450,000.00           | 0%                  |
| Renovation of Multipurpose Field                                                                                            | \$ 400,000.00          | \$ -                 |              | \$ 400,000.00           | 0%                  |
| Site Landscape                                                                                                              | \$ 300,000.00          | \$ -                 |              | \$ 300,000.00           | 0%                  |
| Site Hardscape                                                                                                              | \$ 200,000.00          | \$ -                 |              | \$ 200,000.00           | 0%                  |
| Demolition and Other Site Work                                                                                              | \$ 500,000.00          | \$ -                 |              | \$ 500,000.00           | 0%                  |
| Contingency(15%)                                                                                                            | \$ 1,266,292.00        | \$ -                 |              | \$ 1,266,292.00         | 0%                  |
| Sub-Total Construction Costs                                                                                                | \$ 9,708,242.00        |                      |              | \$ 9,708,242.00         | 0%                  |
| Furniture, Fixtures & Equipment                                                                                             | \$ 500,000.00          | \$ -                 |              | \$ 500,000.00           | 0%                  |
| <b>Total Expenses</b>                                                                                                       | <b>\$11,213,601.58</b> | <b>\$ 388,272.08</b> |              | <b>\$ 10,825,329.50</b> | <b>97%</b>          |
| <b>Total Estimated Share of Project Costs Per Partner</b>                                                                   | <b>\$ 3,737,867.19</b> |                      |              |                         |                     |

\*Professional Services tasks have come in under budget resulting in some initial cost saving

Summary of Partner Advanced Payments/Commitments (Grant Offsets)

|                                    | Town of Palm Beach | Mandel Foundation | Friends of Recreation |
|------------------------------------|--------------------|-------------------|-----------------------|
| Total Share of Project             | \$ 3,737,867.19    | \$ 3,737,867.19   | \$ 3,737,867.19       |
| Needs Assessment                   | \$ -               | \$ 134,022.00     | \$ -                  |
| Professional Services Paid To Date | \$ -               | \$ 178,108.08     | \$ 33,088.00          |
| Professional Services Committed    |                    | \$ 464,158.50     | \$ 43,054.00          |
| Total Paid/Committed to Date       | \$ -               | \$ 776,288.58     | \$76,142.00           |
| Total Remaining Each Partner       | \$ 3,737,867.19    | \$2,961,578.61    | \$3,661,725.19        |

~~Town of Palm Beach Community Center~~

The Morton and Barbara Mandel Recreation Center

Donor Opportunities

**\$1,000,000 Level**

Gymnasium

Fitness Center

**\$750,000 Level**

Soccer/Multipurpose Field

Playground

Fitness Center

**\$500,000 Level**

Lobby

Multipurpose Room

Clock Tower

After School Room

Outdoor Basketball Court

Royal Palm Way Archway

Colonnade from Royal Palm Way

**\$250,000 Level**

Seaview Entry Plaza

Gate to Playground

Parking Lot

Playground Porch

Tennis Viewing Pavilion

Tennis Pro Shop

Main Stair to Fitness Center

Fitness Terrace (2<sup>nd</sup> floor)

Seaview Entry Porch

Seaview Entry Walk

Multipurpose Rooms (2)

Seaview Garden

Clock

Great Lawn

Gymnasium Porch

**\$150,000 Level**

Spectator Porch 1

Spectator Porch 2

August 4, 2016

Modified March 31, 2017

**\$100,000 Level**

~~Seaview Gateway~~  
~~Tennis Plaza~~  
~~Tennis Garden Walk~~  
~~Juice Bar Garden~~  
~~East Entrance (from playground)~~  
~~Craft Center~~  
~~Locker Rooms (2)~~  
~~Classroom~~  
~~Soccer Viewing Porch~~  
~~Elevator~~  
~~Reception Desk – 1st Floor~~  
~~Gymnasium Seating~~  
~~Tennis Pro Office~~  
~~Concession/ Juice Bar~~  
Game Room  
North Colonnade  
South Colonnade  
Snack Bar  
Tennis Pro Shop  
Tennis Hitting Wall

**\$75,000 Level**

Gymnasium Garden  
Seaviw Entry Stairs  
South Entry Stairs  
Craft Center

**\$50,000 Level**

~~Flagpoles (2)~~  
~~Multipurpose Field Covered Bleachers (4)~~  
~~Recreation Director Office~~  
~~Breezeway to Gym~~  
~~Kitchen and Staff Break Room~~  
~~Lightning Prediction System~~  
~~Conference Room~~  
~~Fitness Center Reception~~  
~~Fitness Center South Patio~~  
~~Fitness Center Stair Landing~~  
Administration  
Multipurpose Field Scoreboard  
South Plaza



**\$25,000 Level**

Fitness Storage  
~~Multipurpose Field Storage Building~~  
~~Multipurpose Field Scoreboard~~  
~~Assistant Recreation Director Office~~  
~~Recreation Supervisor's Office (2)~~  
Gym Storage  
~~Gym Administration Desk~~  
~~Tennis Hitting Wall~~  
Gymnasium Scoreboard  
Afterschool Storage  
Men's Lounge  
Women's Lounge  
Family Lounge 1  
Family Lounge 2

**\$10,000 Level**

~~Playground Benches (10)~~  
~~Team Benches (2)~~  
Water Fountains (3) (each)  
~~Gymnasium Scoreboard~~  
Multipurpose Storage

**\$5,000 Level**

~~Tennis Viewing Benches (10) (each)~~  
Memorial Trees (each)  
Playground Benches (each)

**\$2,500 Level**

Team Benches (each)  
Planters (each)

**RESOLUTION NO. 112-2016**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING A CAPITAL GRANT AGREEMENT IN AN AMOUNT UP TO \$5,000,000 WITH THE MORTON AND BARBARA MANDEL FAMILY FOUNDATION, AS PART OF A PUBLIC/PRIVATE PARTNERSHIP, FOR THE PURPOSE OF CONSTRUCTING A NEW COMMUNITY CENTER FOR THE TOWN AT SEAVEW PARK AND AUTHORIZING THE TOWN MANAGER TO EXECUTE THE SAME ON BEHALF OF THE TOWN.**

**WHEREAS,** The Town of Palm Beach has developed a conceptual master plan for the development of a new community center at Seaview Park based upon the findings from the Community Needs Assessment which was conducted in December of 2015; and

**WHEREAS,** The Morton and Barbara Mandel Family Foundation has agreed to make a challenge grant for the capital campaign that will be undertaken by the Town in conjunction with the Friends of Recreation, Inc.; and

**WHEREAS,** the grant will match cash contributions and quality pledges received by the Friend of Recreation, Inc. up to five million dollars; and

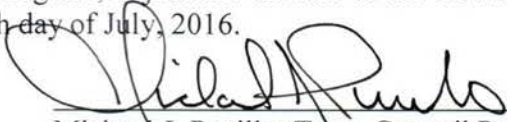
**WHEREAS,** the Town of Palm Beach wishes to enter into a capital grant agreement with the Morton and Barbara Mandel Family Foundation.

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

The Capital Grant Agreement for the Town of Palm Beach capital campaign for the new community center at Seaview Park between the Town of Palm Beach and Morton and Barbara Mandel Family Foundation, attached hereto as Exhibit A and incorporated by reference as a part of this resolution, is hereby approved and the Town Manager is authorized to execute the same on behalf of the Town.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 12th day of July, 2016.

  
Gail L. Coniglio, Mayor

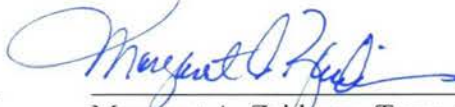
  
Michael J. Pucillo, Town Council President

  
Richard M. Kleid, Town Council President Pro Tem

  
Bobbie Lindsay, Town Council Member

  
Danielle H. Moore, Town Council Member

  
  
Susan Owens, MMC, Town Clerk

  
Margaret A. Zeidman, Town Council Member

## MORTON AND BARBARA MANDEL FAMILY FOUNDATION

### CAPITAL GRANT AGREEMENT

The Morton and Barbara Mandel Family Foundation (the "Foundation") has agreed to make a grant (the "Grant") to the Town of Palm Beach, Florida, a municipality (the "Town" and together with the Foundation, the "Parties") in an amount up to five million U.S. dollars (\$5,000,000).

This Capital Grant Agreement (the "Agreement"), prepared in two (2) originals, shall become effective on the date of its signature by the Foundation and the Town, acting through each of their duly authorized representatives identified on the Acknowledgment page to this Agreement (the "Effective Date").

Upon the Effective Date, the following terms and conditions shall apply:

1. The Grant.

A. The Grant is a challenge grant for the capital campaign (the "Campaign") that will be undertaken by the Town in conjunction with the Friends of Recreation, Inc. (a citizens' fundraising organization founded to benefit the Town of Palm Beach Recreation Department's capital and operational needs, referred to as the "Friends of Recreation") for the purpose of constructing a new community center for the Town (the "Community Center"). The Grant is a "matching grant" meaning that the Foundation will match the amount of cash contributions and quality pledges received by the Friends of Recreation pursuant to the Campaign up to five million dollars (\$5,000,000) (the "Matched Donations").

- i. A "quality pledge" means a written pledge or testamentary bequest of sufficient quality that a third-party bank or other lender will use as collateral under some type of borrowing arrangement (e.g., a line of credit). To be clear, the value of in-kind donations received by the Friends of Recreation shall not be considered or included as Matched Donations; however, cash contributions and quality pledges made to the Friends of Recreation by other grant-making organizations shall be considered and included as Matched Donations.
- ii. Upon request from the representatives and staff of the Foundation (the "Foundation Staff"), the Town agrees that it will provide (or it will require the Friends of Recreation to provide) one or both of the following for Matched Donations: (i) a copy of the assignment of Matched Donations to be used as collateral by a third-party bank in making a loan or other type of borrowing arrangement to the Town for the Community Center or (ii) a copy of the pledge agreements executed on behalf of the donors of the specified Matched Donations.



**MORTON AND BARBARA MANDEL FAMILY FOUNDATION****CAPITAL GRANT AGREEMENT**

- B. The Town and the Friends of Recreation agree that the Grant is the lead donation to the Campaign and shall be referred to as “The Morton and Barbara Mandel Challenge Grant” in all Campaign marketing materials.
- C. The purpose of the Grant is to provide up to one-third of the funding needed by the Town for the design and construction of the Community Center, as well as the furnishings, fixtures and related equipment. In the event the Campaign results in more funds than what is necessary to cover the costs of the Community Center, any portion of the Grant that is not used toward the construction of the Community Center shall be used for the purpose of establishing an endowment for the purpose of supporting programs to be carried on at the Community Center; the Foundation and the Town shall mutually agree whether any such excess payment of the Grant shall be paid to, and establish an endowment at, the Town or paid to, and establish an endowment at, the Friends of Recreation. All items related to any such endowment (including, but not limited to, reporting requirements, naming rights associated therewith, and the purpose of the endowment) shall be set forth in a separate endowment agreement to be entered into by the Town or the Friends of Recreation, as applicable, and the Foundation at the time it is determined excess funds exist. In the event the Town wishes to use any part of the Grant for a purpose other than that stated in this Section 1.C, it must first obtain the written permission of the Foundation.
- D. Offsets to the Grant.
- i. Needs Assessment. The Foundation engaged the firm of Barth Associates, LLC to conduct a needs assessment on behalf of the Town to evaluate the needs and interests of the Town’s residents to determine if the Current Recreation Center (as defined below) should be renovated or replaced. The aggregated cost of the needs assessment was one hundred thirty-one thousand nine hundred sixty dollars (\$131,960). Additionally, the Foundation gave a grant to the Town of up to five thousand dollars (\$5,000) for ancillary expenses related to the needs assessment of which one thousand two hundred twenty-five dollars and thirty-five cents has been paid to the Town as of the date of this Agreement; additional payments may be pending that will increase the amount which offsets the Grant (the aggregate amounts paid for the ancillary expenses and the aggregate fees associated with the needs assessment are collectively

## MORTON AND BARBARA MANDEL FAMILY FOUNDATION

### CAPITAL GRANT AGREEMENT

referred to herein as the “Needs Assessment Fees”). The Needs Assessment Fees shall offset the amount of the Grant (the remaining amount of the Grant referred to herein as the “Offset Grant Amount”) that would otherwise be paid to the Town pursuant to this Agreement. Thus, for example, if the Friends of Recreation raises five million dollars in Matched Donations and assuming the Foundation does not provide a grant to the Town for additional ancillary expenses, the Offset Grant Amount would be up to four million eight hundred sixty-six thousand eight hundred fifteen dollars (rounding to the nearest dollar) (\$4,866,815). The actual Offset Grant Amount shall be determined once the Foundation makes the final payment of the up to five thousand dollar grant to the Town for the purpose of covering the ancillary expenses related to the needs assessment.

- ii. Pre-Construction Phase. The Foundation agrees, subject to the satisfaction of the condition set forth in Section 2.A, to engage Steven Boruff, of the firm Steven Boruff, AIA Architects + Planners, Inc. (the “Architect”) to provide architectural design services, project bidding/negotiation services and permitting services for the Community Center for the benefit of the Town, at a cost of approximately six hundred thirty-three thousand dollars (\$633,000) (the “Architect Fees”). The Offset Grant Amount shall be further reduced by these Architect Fees; thus, for example, assuming the same facts stated in Section 1.D.i, above, the amount of the Grant paid to the Town for the construction of the Community Center would be up to four million two hundred thirty-three thousand eight hundred fifteen dollars (\$4,233,815).
- iii. Construction Phase. The Town has represented that it anticipates the need to hire an architect or a construction administration consultant for construction administration services and LEED Certification (or similar certification) once the construction of the Community Center begins. If the Foundation engages a party for these services, the fees paid for such services (the “Construction Administration Fees”) by the Foundation shall further reduce the Offset Grant Amount paid to the Town for the construction of the Community Center. To be clear, the Foundation has no obligation to engage the construction management consultant, whether it’s the Architect or someone else, for construction management services related to the Community Center.

**MORTON AND BARBARA MANDEL FAMILY FOUNDATION****CAPITAL GRANT AGREEMENT****2. Miscellaneous Conditions and Expectations.**

- A. The Foundation must receive written confirmation from the Town's Manager or Deputy Town Manager that the Town, through its Town Council, has officially resolved to move forward with the planning and fundraising phase for the project. It is expected that this will occur at the Town Council meeting currently scheduled for July 12, 2016.
- B. If in the Foundation's reasonable opinion, the likelihood of the project moving forward has substantially diminished, for whatever reason, the Foundation shall have the right to terminate the engagement with the Architect and to terminate this Agreement. Furthermore, the Town reserves the right to terminate this Agreement and cancel the project without recourse from the Foundation in the event that final construction bids exceed the anticipated costs and/or the Friends of Recreation fails to meet its one-third (1/3<sup>rd</sup>) match.
- C. Matched Donations must be received by the Friends of Recreation prior to the commencement of construction. The payment of all Matched Donations consisting of quality pledges (and any pledges not treated as Matched Donations) must occur no later than June 1, 2018.
- D. It is the expectation of the Foundation that the Town will commit up to five million dollars (\$5,000,000) of its own funds (which is deemed to include state and federal funding or any other grants paid directly to the Town from a party other than the Friends of Recreation) to cover at least one-third (1/3<sup>rd</sup>) of the costs to construct the Community Center. The Town, through its Town Council, shall formally commit to such once the Friends of Recreation receives at least five million dollars (\$5,000,000) in Matched Donations. The Town further represents that it will not move forward with the construction of the Community Center until it has sufficient funding from all sources to cover the costs of construction.
- E. It is hoped that construction of the Community Center will begin in the summer of 2017 and will be completed by the end of 2018. This schedule assumes progression of design and necessary approvals without any major obstacles. The Town must advise the Foundation immediately of any material deviation from this expected time frame.

**MORTON AND BARBARA MANDEL FAMILY FOUNDATION****CAPITAL GRANT AGREEMENT****3. The Community Center.**

- A. The Community Center shall be located at Seaview Park in Palm Beach, Florida. A new physical facility (the "Building") will be constructed to replace the current recreational building (the "Current Recreation Center"), which is located at 340 Seaview Ave, Palm Beach, FL 33480. The Current Recreation Center will be demolished in order to make space to construct the Building.
- B. It is anticipated that the Community Center will include: (a) the Building; (b) an expanded parking lot on Royal Palm Way; (c) a new and expanded outdoor playground space; (d) a multipurpose field; and (e) a new maintenance/storage building(s). Furthermore, the Town anticipates that the Building will include a fitness center with showers and lockers, group exercise spaces, an indoor gymnasium, a tennis pro shop, a central lobby space with concession stands and healthy snack offerings, several educational, art and meeting rooms, and offices for the Town's Recreation Department staff. The Foundation acknowledges that the final design plans for the Community Center (including the Building) may differ from the current anticipated design.

**4. Design and Construction Plans.**

- A. Design Approval. It is anticipated that the design, construction and outfitting of the Community Center will cost approximately fifteen million dollars (\$15,000,000) to complete. The Town will ensure that Morton L. Mandel ("MLM") (and/or his designated representative(s)), and the Foundation Staff are fully informed at every stage of the design process of the Community Center and are granted every reasonable opportunity to participate in all aspects of the design process including, but not limited to, approving the development and finalization of the conceptual design plans for the Community Center. The Foundation agrees that any such conceptual design plans approved subject to this Section 4.A will be subject to the approval of the Architectural Review Commission ("ARCOM") of the Town and may be subject to change. The Town agrees to inform the Foundation of any changes ARCOM requires to the Foundation approved conceptual design plans.
- i. The design plans for the Community Center, related maintenance building(s), shade structures, hardscape, and landscape will include all



## MORTON AND BARBARA MANDEL FAMILY FOUNDATION

## CAPITAL GRANT AGREEMENT

significant design elements, both interior and exterior, including but not limited to, finishes and furnishings for the Building.

- B. Construction Plan Approval. The Town shall present to the Foundation Staff a written construction budget and financing plan (the “Construction Plan”), which must be approved by the Town Council and the Foundation Staff prior to breaking ground on the Community Center. In order to be considered for approval by the Foundation Staff, the Construction Plan must include a detailed description, estimated completion date and source and use of funding for each of the various stages of construction of the Community Center, including the demolition of the Current Recreation Center.
    - i. Once the Foundation Staff has approved the Construction Plan for the Community Center, the Town must provide the Foundation Staff with timely written notice of any proposed material changes. The Town is expected to use good judgement in consultation with the Architect and contractor prior to approving any change orders.
  - C. Interim Financing. In no event will the Foundation provide funding in addition to the Grant for interim financing of the construction of the Community Center (such interim financing shall not include the Architect Fees or any other fees paid to the Architect by the Foundation pursuant to a written agreement for services between the two parties) due to outstanding quality pledges; thus, if the Town intends to break ground prior to the collection of all outstanding quality pledges, it must identify a third-party source of financing (i.e., a line of credit or bridge loan) to support the sources and uses identified in the Construction Plan (unless the Town’s own cash resources will be used to support the sources and uses until the quality pledges are fully paid to the Town). The purpose of this requirement is to assure that sufficient financial resources are available for completion of the Community Center before ground is broken.
5. Payment of the Grant. Subject to the requirements set forth in Section 2, above, and the receipt of the relevant status report described in Section 6, below, the Foundation shall pay the Offset Grant Amount to the Town pursuant to the following payment schedule:
- A. First Installment: Upon completion by the Town of the preparation and publication of requests for bids from contractors, the receipt and review of such bids, selection of contractors for the Community Center, the Foundation shall

## MORTON AND BARBARA MANDEL FAMILY FOUNDATION

### CAPITAL GRANT AGREEMENT

make the first installment payment of the Grant to the Town. The amount of the first installment payment of the Offset Grant Amount shall equal the lesser of (i) one-third ( $1/3^{\text{rd}}$ ) of the costs incurred by the Town for the services and activities set forth in this Section 5.A or (ii) the Offset Grant Amount less the Architect Fees and the Construction Administration Fees (if any) incurred as of the date of the First Installment Status Report (as such term is defined in Section 6.A, below).

- B. Second Installment: Upon completion of forty percent (40%) of the construction of the Community Center, the Foundation shall make the second installment of the Grant to the Town. The amount of the second installment of the Grant shall equal the lesser of (i) one-third ( $1/3^{\text{rd}}$ ) of the costs incurred by the Town for the construction of the Community Center as of the date of the completion of forty percent (40%) of the construction, less the first installment of the Grant or (ii) the Offset Grant Amount less the (x) Architect Fees, (y) Construction Administration Fees (if any) incurred as of the date of the Second Installment Status Report (as such term is defined in Section 6.B, below) and (z) first installment of the Grant.
  
- C. Third Installment: Upon completion of eighty percent (80%) of the construction of the Community Center, the Foundation shall make the third installment of the Grant to the Town. The amount of the third installment of the Grant shall equal the lesser of (i) one-third ( $1/3^{\text{rd}}$ ) of the costs incurred by the Town for the construction of the Community Center as of the date of the completion of eighty percent (80%) of the construction, less the first installment and the second installment of the Grant or (ii) the Offset Grant Amount less the (w) Architect Fees, (x) Construction Administration Fees (if any) incurred as of the date of the Third Installment Status Report (as such term is defined in Section 6.C, below), (y) first installment of the Grant and (z) second installment of the Grant.
  
- D. Final Installment: Upon completion of the construction of the Community Center, as certified by the architect, including installation of the furniture, fixtures and equipment, followed by the Town's receipt of the Certificate of Occupancy for the Building, the completion of the installation of the signage of the Building and the receipt of the final invoice for any Construction Administration Fees, the Foundation shall pay the final installment of the Grant to the Town. The amount of the final installment of the Grant shall equal the excess of the Offset Grant Amount over (i) the first installment of the Grant, (ii) the second installment of the Grant, (iii) the third installment of the Grant, (iv) the Architect Fees, and (v) the aggregate Construction Administration Fees (if any).

**MORTON AND BARBARA MANDEL FAMILY FOUNDATION****CAPITAL GRANT AGREEMENT**

6. Reports. Each of the reports listed below must be acknowledged and signed by the Town's Deputy Town Manager, Director of Recreation and Director of Public Works.
- A. First Installment Status Report. Within a reasonable time following the completion of the activities listed in Section 5.A, above, the Town shall provide the Foundation Staff a status report that shall include (i) a summary of any material changes made to the approved Construction Plan, (ii) a description of the construction and budgetary activities incurred as of the date of the completion of such activities, and (iii) the Grant Payment Computation Schedule used to determine the amount of the first installment, in a form substantially similar to Exhibit A (which shall be attached hereto upon approval of such Exhibit A by the Town Council, which is expected to occur within a reasonable period of time after the Effective Date of this Agreement).
- B. Second Installment Status Report. Within a reasonable time following the completion of forty percent (40%) of the construction of the Community Center, the Town must provide the Foundation Staff a status report that shall include (i) a summary of any material changes made to the approved Construction Plan since the date of the last Status Report, (ii) a description of the construction and budgetary activities incurred as of the date of the completion of forty percent (40%) of the construction of the Community Center, and (iii) the Grant Payment Computation Schedule used to determine the amount of the second installment, in a form substantially similar to Exhibit A (which shall be attached hereto upon approval of such Exhibit A by the Town Council, which is expected to occur within a reasonable period of time after the Effective Date of this Agreement).
- C. Third Installment Status Report. Within a reasonable time following the completion of eighty percent (80%) of the construction of the Community Center, the Town must provide the Foundation Staff a status report that shall include (i) a summary of any material changes made to the approved Construction Plan since the date of the last Status Report, (ii) a description of the construction and budgetary activities incurred as of the date of the completion of eighty percent (80%) of the construction of the Community Center, and (iii) the Grant Payment Computation Schedule used to determine the amount of the third installment, in a form substantially similar to Exhibit A (which shall be attached hereto upon approval of such Exhibit A by the Town Council, which is expected to occur within a reasonable period of time after the Effective Date of this Agreement).

## MORTON AND BARBARA MANDEL FAMILY FOUNDATION

### CAPITAL GRANT AGREEMENT

- D. Final Status Report. Within a reasonable time following the completion of activities listed in Section 5.D, above, the Town must provide the Foundation Staff, and the Foundation Staff must approve of, a status report, which shall include (i) a summary of any material changes made to the approved Construction Plan since the date of the last Status Report, (ii) a description of the construction and budgetary activities incurred as of the date of the report, (iii) the Grant Payment Computation Schedule used to determine the amount of the final installment and (iv) a certification by the Architect stating that the construction of the Community Center is complete. If the Town determines that an excess of the Grant exists that will be used to create an endowment subject to Section 1.C, above, if it is not already in consultation with the Foundation regarding the place and terms of any such endowment, the Town should indicate in this Status Report that an excess exists and that it would like to initiate discussions with respect to establishing an endowment.
- E. Annual Report. After completion of the Community Center, the Town shall provide to the Foundation Staff, on an annual basis for a period of five (5) fiscal years, a general report summarizing the previous year's activities carried on by the Town at the Community Center.

### 7. Naming Rights.

- A. In honor of making the Grant, the Town hereby gives the Foundation the naming rights to the Building, in perpetuity. The Foundation has chosen to name the Building "The Morton and Barbara Mandel Community Center."
- i. In the event the Town wishes to change the name of the Building the Town shall reimburse the Foundation on a prorated basis from the date of the ribbon-cutting ceremony as outlined below, less fees paid directly to the design professionals by the Foundation:
- a. Prior to 20 years: 100%
  - b. Between 20 – 24 years: 80%
  - c. Between 25– 29 years: 60%
  - d. Between 30 – 34 years: 40%
  - e. Between 35 – 39 years: 20%
  - f. After 40 years: 0%



## MORTON AND BARBARA MANDEL FAMILY FOUNDATION

### CAPITAL GRANT AGREEMENT

- ii. The Town shall formally announce the name at a groundbreaking, ribbon-cutting or other type of celebratory ceremony, to be scheduled on a date and time that Morton L. Mandel and Barbara A. Mandel (and their respective invitees) are available to participate, if they so desire.
- B. Signage recognizing the name of the Building as “The Morton and Barbara Mandel Community Center” shall be placed on the façade of the Building and any other locations at Seaview Park reasonably designated by the Town and the Foundation Staff. The design and placement of all such signage shall be approved, in writing, by the Foundation Staff; provided, however, that all such signage must comply with the Town’s Code of Ordinances.
- C. In addition to any rights and remedies available under law, the Foundation or the Town may require the Town to change the Building name from “The Morton and Barbara Mandel Community Center” if, in the unlikely event, the Foundation or the Town determines in its reasonable and good faith opinion that circumstances have changed such that the chosen name would adversely impact the reputation, image, mission or integrity of the Foundation, Morton L. Mandel and/or Barbara A. Mandel or the Town of Palm Beach.
- D. If in the future, the Building is significantly renovated, upgraded, or modified, the naming rights granted to the Foundation pursuant to this Agreement shall continue and the signage recognizing the name of the Building as “The Morton and Barbara Mandel Community Center” shall remain the prominent signage for the Building.
- E. If the Building is closed, deconstructed, destroyed or severely damaged without repair, such that the Building is not used by the Town, then the naming right shall cease.

#### 8. Donor Recognition.

- A. The Town agrees that no other donor shall be recognized on the façade of the Building, including any exterior entrances of the Building, and that there will be appropriate recognition of Morton and Barbara Mandel in the main lobby of the Building, unless otherwise agreed to, in writing, by the Foundation. The Town, in consultation with the Foundation, shall determine an appropriate area within the

## MORTON AND BARBARA MANDEL FAMILY FOUNDATION

### CAPITAL GRANT AGREEMENT

Building to place a tasteful recognition of donors that are recognized in the Current Recreation Center and a tasteful recognition of the donors to the Community Center (which would include those that have donated to specific areas of the Community Center and all other donors).

- B. The Foundation agrees that certain physical spaces within the Building, certain areas (including benches and trees) on the grounds surrounding the Building and certain programs carried on by the Town at the Community Center may be named for other donors; provided, however, that any signage recognizing such other donors shall not detract from the signage recognizing the name of the Building as “The Morton and Barbara Mandel Community Center.” The design and placement of any signage recognizing any named area for another donor is subject to the approval of the Foundation Staff. A list of naming opportunities that the Foundation consents to being named for other donors shall be attached hereto as Exhibit B upon approval of such exhibit by the Town Council, which is expected to occur within a reasonable period of time after the Effective Date of this Agreement. A list of currently named areas and programs will be included as part of Exhibit B. The Town shall provide the Foundation Staff a revised Exhibit B at the completion of the Campaign, or as needed from time-to-time to update the list of naming opportunities that have been designated by the Town and approved by the Foundation. To be clear, the Foundation’s approval rights pursuant to this Section 8.B, are limited to approving areas in and around the Building that may be named and the design and placement of any signage recognizing such named areas; the Foundation’s approval rights do not, and shall not, extend to the donor’s choice of name with respect to an opportunity listed on Exhibit B.

#### 9. Third Party/Media Communications.

- A. All publicity, including general public announcements or releases, a groundbreaking or dedication ceremony and other donor tributes, related to all aspects of this Grant will be coordinated with the Foundation Staff.
- B. The Town shall inform the Foundation Staff about, and refer to the Foundation Staff as appropriate, any media inquiries about the Foundation, Morton L. Mandel, Barbara A. Mandel or the Grant. Neither of the Parties, nor their representatives, shall speak on behalf of the other party without the other party’s prior written explicit instructions or approvals.

**MORTON AND BARBARA MANDEL FAMILY FOUNDATION****CAPITAL GRANT AGREEMENT****10. Events.**

- A. All invitations, notices, posters and other forms of announcement or advertising for any and all events that will occur anywhere in the Building shall identify the location for the event as occurring at "The Morton and Barbara Mandel Community Center" or "The Mandel Community Center."
- B. To the extent the Town holds a groundbreaking ceremony with respect to the construction of the Community Center; such event shall be coordinated with the Foundation Staff to ensure that Morton and Barbara Mandel are given the opportunity to participate in such event.
- C. The Town shall host a ribbon-cutting ceremony upon completion of construction to celebrate the grand opening of the Community Center to the public. This ceremony shall be coordinated with the Foundation Staff. The Town must advise Morton L. Mandel and the Foundation Staff as soon as possible about the anticipated completion of construction so the planning process for the ribbon-cutting can begin.

11. Maintenance. The Foundation will not provide funding for the maintenance and upkeep of the Community Center. However, the Town agrees to maintain the Community Center and Seaview Park in compliance with the Town's ordinances, guidelines and high standards, to ensure a positive reflection upon the Foundation and the Town.

**12. Indemnification and Insurance.**

- A. The Town agrees, subject to the limitations and provisions of Florida Statute 768.28, to defend, indemnify and hold harmless the Foundation and its officers, employees and agents, from and against any and all claims, liabilities, losses and expenses (including reasonable attorneys' fees), directly or indirectly, wholly or partially arising from or in connection with any act or omission of the Town or its respective officers, employees or agents, in obtaining or accepting the Grant, in expending or applying the proceeds of the Grant, or in carrying out the construction of the Community Center, except to the extent that such claims, liabilities, losses or expenses arise from or in connection with the negligence of the Foundation or its officers, employees or agents. The Town agrees to include an indemnification provision giving itself full indemnification protections in all

**MORTON AND BARBARA MANDEL FAMILY FOUNDATION****CAPITAL GRANT AGREEMENT**

sub-grants or subcontracts that are related to or in fulfillment of the purposes of the Grant.

- B. The Town agrees to implement and maintain throughout the duration of the construction of the Community Center insurance in types and amounts that are reasonable and appropriate for the activities being funded by the Grant.

13. Compliance with Laws. The Town shall at all times comply with applicable laws, executive orders, rules and regulations, and shall obtain all necessary approvals, permits and licenses.
14. Termination. This Agreement may be terminated by either of the Parties for cause including, but not limited to: (a) the breach of any material term or condition of this Agreement by the other party that remains uncured after reasonable notice; or (b) the Town's inability to carry out the purposes of the Grant.
15. Amendments. This Agreement may not be amended except by an instrument in writing signed by the Foundation and the Town. No provision of this Agreement and no right or obligation under this Agreement may be waived except by an instrument in writing signed by the party waiving the provision, right or obligation in question.
16. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.
17. Assignment; Successors and Assigns. No party shall assign its rights or obligations under this Agreement in whole or in part, without the prior written approval of the other party, which approval shall not be unreasonably withheld, conditioned or delayed. The terms and conditions contained herein shall apply to, be binding upon, and inure to the benefit of the Parties and their respective permitted successors and assigns.
18. Governing Law and Jurisdiction. This Agreement shall be construed under and governed by the laws of the State of Florida without regard to its conflict of laws rules. The courts of Palm Beach County, Florida shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this Agreement.
19. Entire Agreement. This Agreement, together with all referenced exhibits (including those attached after the Effective Date), contains the entire agreement between and



**MORTON AND BARBARA MANDEL FAMILY FOUNDATION**

**CAPITAL GRANT AGREEMENT**

among the Foundation and the Town in relation to this subject matter and supersedes any prior or contemporaneous understandings, communications, representations, agreements or term sheets relating to this subject matter.

(Signatures on the following page)

## MORTON AND BARBARA MANDEL FAMILY FOUNDATION

### CAPITAL GRANT AGREEMENT

We agree to the terms and conditions set forth above:

#### ACKNOWLEDGMENT

Town of Palm Beach

By: Thomas G. Bradford  
Thomas G. Bradford

#### ACKNOWLEDGMENT

Morton and Barbara Mandel Family Foundation

By: Morton L. Mandel  
Morton L. Mandel

Title: Town Manager

Title: Chairman and CEO

Date: 7/27/16

Date: 8/8/16

#### APPROVED FOR LEGAL FORM AND SUFFICIENCY:

By: John C. Randolph  
John C. Randolph

Title: Town Attorney

Date: 7/27/16

**MORTON AND BARBARA MANDEL FAMILY FOUNDATION****CAPITAL GRANT AGREEMENT****ADDENDUM**

As a working partner of the Town in the Campaign, the Friends of Recreation, Inc. expresses its enormous gratitude for the support set forth in this Agreement and agrees to assist the Town in carrying out its obligations with respect to the Grant as set forth in this Agreement, including complying with all restrictions related to donor recognition set forth in Section 8 of this Agreement and providing support for any Matched Donations that consist of quality pledges.

ACKNOWLEDGED BY:

FRIENDS OF RECREATION, INC.

By:  \_\_\_\_\_Title: ChairmanDate: 7/26/16

**EXHIBIT A****GRANT PAYMENT COMPUTATION SCHEDULE  
First Installment of Grant****TOWN OF PALM BEACH****EXAMPLE****FIRST INSTALLMENT PAYMENT COMPUTATION****Input Data:**

|                                                                                 |    |           |
|---------------------------------------------------------------------------------|----|-----------|
| Actual costs incurred as of the date of completion First Installment activities | \$ | 3,000,000 |
| Matched Donations (Capped at \$5,000,000)                                       | \$ | 5,000,000 |
| Needs Assessment Fees                                                           | \$ | 133,185   |
| Offset Grant Amount (Matched Donations less Needs Assessment Fees)              | \$ | 4,866,815 |
| Architect Fees                                                                  | \$ | 633,000   |
| Construction Administration Fees Incurred as of the date of the report (if any) | \$ | -         |

|                                                                               |           |                         |
|-------------------------------------------------------------------------------|-----------|-------------------------|
| <b><u>Amount of First Installment Payment (the lesser of (A) or (B)):</u></b> | <b>\$</b> | <b><u>1,000,000</u></b> |
|-------------------------------------------------------------------------------|-----------|-------------------------|

|                                                                                       |    |                  |
|---------------------------------------------------------------------------------------|----|------------------|
| (A) One-third of costs Incurred as date of completion of First Installment activities | \$ | <u>1,000,000</u> |
| (B) Offset Grant Amount                                                               | \$ | 4,866,815        |
| Minus Architect Fees                                                                  | \$ | (633,000)        |
| Minus Construction Administration Fees as of the date of the report (if any)          | \$ | -                |
|                                                                                       | \$ | <u>4,233,815</u> |

**Total Grant & Fees Paid as of Payment of First Installment**

|                                                          |           |                         |
|----------------------------------------------------------|-----------|-------------------------|
| Needs Assessment Fees                                    | \$        | 133,185                 |
| Architect Fees                                           | \$        | 633,000                 |
| Construction Administration Fees (if any)                | \$        | -                       |
| First Installment of Grant                               | \$        | <u>1,000,000</u>        |
| <b>Aggregate Amount of Grant &amp; Fees Paid to Date</b> | <b>\$</b> | <b><u>1,766,185</u></b> |



**EXHIBIT A****GRANT PAYMENT COMPUTATION SCHEDULE  
Second Installment Payment****TOWN OF PALM BEACH****EXAMPLE****SECOND INSTALLMENT PAYMENT COMPUTATION****Input Data:**

|                                                                                 |              |
|---------------------------------------------------------------------------------|--------------|
| Actual costs incurred as of date of completion of 40% of construction           | \$ 8,000,000 |
| Offset Grant Amount                                                             | \$ 4,866,815 |
| Architect Fees                                                                  | \$ 633,000   |
| Construction Administration Fees Incurred as of the date of the report (if any) | \$ -         |

**Amount of Second Installment Payment (the lesser of (A) or (B)):** **\$ 1,666,667**

|                                                                                     |                       |
|-------------------------------------------------------------------------------------|-----------------------|
| (A) One-third of the costs incurred as of date of completion of 40% of construction | \$ 2,666,667          |
| Minus: First Installment of Grant from Foundation                                   | <u>\$ (1,000,000)</u> |
|                                                                                     | <u>\$ 1,666,667</u>   |

|                                                                              |                       |
|------------------------------------------------------------------------------|-----------------------|
| (B) Offset Grant Amount                                                      | \$ 4,866,815          |
| Minus Architect Fees                                                         | \$ (633,000)          |
| Minus Construction Administration Fees as of the date of the report (if any) | \$ -                  |
| Minus: First Installment of Grant                                            | <u>\$ (1,000,000)</u> |
|                                                                              | <u>\$ 3,233,815</u>   |

**Total Grant & Fees Paid as of Payment of Second Installment**

|                                                          |                            |
|----------------------------------------------------------|----------------------------|
| Needs Assessment Fees                                    | \$ 133,185                 |
| Architect Fees                                           | \$ 633,000                 |
| Construction Administration Fees (if any)                | \$ -                       |
| First Installment of Grant                               | \$ 1,000,000               |
| Second Installment of Grant                              | <u>\$ 1,666,667</u>        |
| <b>Aggregate Amount of Grant &amp; Fees Paid to Date</b> | <b><u>\$ 3,432,852</u></b> |

**EXHIBIT A****GRANT PAYMENT COMPUTATION SCHEDULE  
Third Installment Payment****TOWN OF PALM BEACH****EXAMPLE****THIRD INSTALLMENT PAYMENT COMPUTATION****Input Data:**

|                                                                                 |               |
|---------------------------------------------------------------------------------|---------------|
| Actual costs incurred as of date of completion of 80% of construction           | \$ 12,000,000 |
| Offset Grant Amount                                                             | \$ 4,866,815  |
| Architect Fees                                                                  | \$ 633,000    |
| Construction Administration Fees Incurred as of the date of the report (if any) | \$ -          |

|                                                                               |                            |
|-------------------------------------------------------------------------------|----------------------------|
| <b><u>Amount of Third Installment Payment (the lesser of (A) or (B)):</u></b> | <b><u>\$ 1,333,333</u></b> |
|-------------------------------------------------------------------------------|----------------------------|

|                                                                                     |                     |
|-------------------------------------------------------------------------------------|---------------------|
| (A) One-third of the costs incurred as of date of completion of 80% of construction | \$ 4,000,000        |
| Minus: First Installment of Grant from Foundation                                   | \$ (1,000,000)      |
| Minus: Second Installment of Grant from Foundation                                  | \$ (1,666,667)      |
|                                                                                     | <u>\$ 1,333,333</u> |

|                                                                              |                     |
|------------------------------------------------------------------------------|---------------------|
| (B) Offset Grant Amount                                                      | \$ 4,866,815        |
| Minus Architect Fees                                                         | \$ (633,000)        |
| Minus Construction Administration Fees as of the date of the report (if any) | \$ -                |
| Minus: First Installment of Grant                                            | \$ (1,000,000)      |
| Minus: Second Installment of Grant                                           | \$ (1,666,667)      |
|                                                                              | <u>\$ 1,567,148</u> |

**Total Grant & Fees Paid as of Payment of Third Installment**

|                                                          |                            |
|----------------------------------------------------------|----------------------------|
| Needs Assessment Fees                                    | \$ 133,185                 |
| Architect Fees                                           | \$ 633,000                 |
| Construction Administration Fees (if any)                | \$ -                       |
| First Installment of Grant                               | \$ 1,000,000               |
| Second Installment of Grant                              | \$ 1,666,667               |
| Third Installment of Grant                               | <u>\$ 1,333,333</u>        |
| <b>Aggregate Amount of Grant &amp; Fees Paid to Date</b> | <b><u>\$ 4,766,185</u></b> |

**EXHIBIT A****GRANT PAYMENT COMPUTATION SCHEDULE TOWN OF PALM BEACH  
Final Installment Payment****EXAMPLE****FINAL INSTALLMENT PAYMENT COMPUTATION****Input Data:**

|                                                                                 |              |
|---------------------------------------------------------------------------------|--------------|
| Offset Grant Amount                                                             | \$ 4,866,815 |
| Architect Fees                                                                  | \$ 633,000   |
| Construction Administration Fees Incurred as of the date of the report (if any) | \$ -         |
| First Installment of Grant from Foundation                                      | \$ 1,000,000 |
| Second Installment of Grant from Foundation                                     | \$ 1,666,667 |
| Third Installment of Grant from Foundation                                      | \$ 1,333,333 |

**Amount of Final Installment Payment:**

|                                                       |                   |
|-------------------------------------------------------|-------------------|
| Offset Grant Amount                                   | \$ 4,866,815      |
| Minus Architect Fees                                  | \$ (633,000)      |
| Minus Final Construction Administration Fees (if any) | \$ -              |
| Minus: First Installment of Grant from Foundation     | \$ (1,000,000)    |
| Minus: Second Installment of Grant from Foundation    | \$ (1,666,667)    |
| Minus: Third Installment of Grant from Foundation     | \$ (1,333,333)    |
|                                                       | <u>\$ 233,815</u> |

**Total Grant Paid as of Payment of Final Installment**

|                                                          |                            |
|----------------------------------------------------------|----------------------------|
| Needs Assessment Fees                                    | \$ 133,185                 |
| Architect Fees                                           | \$ 633,000                 |
| Construction Administration Fees (if any)                | \$ -                       |
| First Installment of Grant                               | \$ 1,000,000               |
| Second Installment of Grant                              | \$ 1,666,667               |
| Third Installment of Grant                               | \$ 1,333,333               |
| Final Installment of Grant                               | \$ 233,815                 |
| <b>Aggregate Amount of Grant &amp; Fees Paid to Date</b> | <b><u>\$ 5,000,000</u></b> |

Community Center Donor Opportunities

**\$1,000,000 Level**

Gymnasium  
Fitness Center

**\$750,000 Level**

Soccer/Multipurpose Field  
Playground

**\$500,000 Level**

Lobby  
Colonnade from Royal Palm Way

**\$250,000 Level**

Seaview Entry Plaza  
Gate to Playground  
Parking Lot  
Playground Porch  
Tennis Viewing Pavilion  
Tennis Pro Shop  
Main Stair to Fitness Center  
Fitness Terrace (2nd floor)  
Seaview Entry Porch  
Seaview Entry Walk  
Multipurpose Rooms (2)

**\$100,000 Level**

Seaview Gateway  
Tennis Plaza  
Tennis Garden Walk  
Juice Bar Garden  
East Entrance (from playground)  
Craft Center  
Locker Rooms (2)  
Classroom (Rovinsky)  
Soccer Viewing Porch  
Elevator  
Reception Desk -1st Floor  
Gymnasium Seating  
Tennis Pro Office  
Concession/ Juice Bar

August 4, 2016



**\$50,000 Level**

Flagpoles (2)  
Multipurpose Field Covered Bleachers (4)  
Recreation Director Office  
Breezeway to Gym  
Kitchen and Staff Break Room  
Lightning Prediction System  
Conference Room  
Fitness Center Reception  
Fitness Center South Patio  
Fitness Center Stair Landing

**\$25,000 Level**

Fitness Storage  
Multipurpose Field Storage Building  
Multipurpose Field Scoreboard  
Assistant Recreation Director Office  
Recreation Supervisor's Office (2)  
Gym Storage  
Gym Administration Desk  
Tennis Hitting Wall

**\$10,000 Level**

Playground Benches (10)  
Team Benches (2)  
Water Fountains (3)  
Gymnasium Scoreboard

**\$5,000 Level**

Tennis Viewing Benches (10)  
Memorial Trees

August 4, 2016

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 12, 2017

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## Section of Agenda

Development Review - Old Business

## Agenda Title

**SPECIAL EXCEPTION #5-2017** The application of 305 Concepts, LLC (“Coyo Taco”); relative to property commonly known as 340 Royal Poinciana Way, Ste. 337A, described as lengthy legal description on file; located in the C-PC Zoning District. The applicant is requesting a special exception approval to operate a 3,260 square foot (196 square feet of open standing area, 2,103 square feet of dining and taqueria, and 961 square feet of support), 80 seat restaurant, which will feature Mexican cuisine. The proposed restaurant will be located in the southwest corner of the Royal Poinciana Plaza (formerly “Edwards” salon). The proposed hours of operation are as follows: Sunday through Thursday – Lunch and Dinner – 11 a.m. to 1 a.m. Friday and Saturday – Lunch and Dinner – 11 a.m. to 2 a.m. The existing 2,130 square foot retail space attributed to seating accounts for only 7 parking spaces. The subject tenant space can only support 21 seats based on the off-street parking requirements and principle of equivalency determination. The special exception request is also to allow the transfer of 59 seats grandfathered from the former McCarty’s restaurant in the Plaza to this proposed restaurant. This would leave a maximum of 92 seats that could be used at the former McCarty’s restaurant tenant space. [Attorney: Maura Ziska, Esq.] Special Exception was conditionally approved on March 15, 2017. **Consideration of Proposed Declaration of Use Agreement incorporating conditions of approval now pending.**

## Presenter

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

## ATTACHMENTS:

- ▢ **Memorandum from John Page dated April 4, 2017**

# TOWN OF PALM BEACH

Information for Town Council Meeting on: April 12, 2016

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To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Special Exception #5-2017, Proposed Declaration of Use Agreement for Coyo Taco, 304 Royal Poinciana Way, Suite 337A

Date: April 4, 2017

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## **STAFF RECOMMENDATION**

Staff recommends that the Town Council defer the proposed Coyo Taco Declaration of Use Agreement to the June 14, 2017 Council meeting.

## **GENERAL INFORMATION**

The Town Council conditionally approved the subject zoning application on March 15, 2017, to operation of a 3,260 square foot (196 square feet of open standing area, 2,103 square feet of dining and taqueria, and 961 square feet of support), 80 seat restaurant. The special exception conditionally allows the transfer of 59 seats grandfathered from the former McCarty's restaurant in the Plaza to this proposed restaurant. As a condition of approval, the applicant is required to enter into a Declaration of Use Agreement which incorporates the conditions of approval.

The applicant has filed another special exception application which will be considered at the June 14, 2017 Council meeting. The proposed zoning application is a request to allow Coyo Taco to transfer some of the approved indoor seats to outside dining. Staff has been working with Maura Ziska, the restaurant's attorney, on the draft Agreement. However, it is anticipated that if the outdoor seating is approved, there may be additional conditions of approval that would need to be incorporated into the Agreement. Therefore, Staff is requesting that the Agreement be deferred to the June 14<sup>th</sup> Council meeting in order to consider the outdoor seating request and the proposed Declaration of Use Agreement for the restaurant at the same time. The applicant concurs with Staff's recommendation to defer consideration of the proposed Agreement.

In the interim, Staff will be working with the applicant to resolve any outstanding differences Staff has with the draft Agreement. 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

Benjamin Alma, Code Enforcement  
Maura Ziska  
zf & pf



# TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 12, 2017

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## Section of Agenda

Development Review - New Business

## 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. The applicant is requesting a special exception with site plan approval to allow twenty (20) seats to be shifted from inside Sant Ambroeus and relocated around the fountain for outdoor dining when weather permits. The proposed restaurant is located in the northeast corner of the Plaza and the outdoor dining will be adjacent to the restaurant on the newly created patio around the east fountain. The outdoor dining will share the same hours as the restaurant: Sunday through Thursday – Breakfast, Lunch and Dinner – 8 a.m. to 10 p.m., Friday and Saturday – Breakfast, Lunch and Dinner – 8 a.m. to 11 p.m. [Attorney: Maura Ziska, Esq.] [Landmarks Preservation Commission Recommendation: Implementation of the proposed special exception with site plan review will not cause negative architectural impact 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: April 12, 2017

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## Section of Agenda

Development Review - New Business

## Agenda Title

SPECIAL EXCEPTION #7-2017 WITH SITE PLAN REVIEW The application of Palm Beach Country Club, Inc. (Steven Bielsky, Manager); relative to property commonly known as **760 N. Ocean Blvd**, described as lengthy legal description on file; located in the R-A Zoning District. The applicant is requesting a special exception approval with site plan review to allow construction of an 87 square foot security booth located at the southernmost entrance to the Palm Beach County Country Club on North Ocean Boulevard. [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: April 12, 2017

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## Section of Agenda

Development Review - New Business

### 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. The applicant is requesting a special exception approval to expand the existing restaurant “Palm Beach Grill” by 1,596 square feet, which will increase the total restaurant square footage to 8,596 square feet and add 55 seats. The expansion will be in adjacent tenant space to the east and will be a separate concept called “The Honor Bar @ Palm Beach Grill”. This is an existing concept which focuses on creating a casual, intimate space with high quality food. The proposed expansion to the restaurant will operate lunch and dinner service as follows: Sunday through Thursday – Lunch and Dinner – 11 a.m. to 11 p.m., Friday and Saturday – Lunch and Dinner – 11 a.m. to 1 a.m. The existing 1,596 square foot retail space that will be converted into restaurant space attributed to 5 parking spaces (1 parking space per 300 SF of GLA). The subject tenant space can only support 15 seats based on the off-street parking requirement (1 space per 3 seats) and principle of equivalency determination. The special exception request is also to allow the transfer of 40 seats grandfathered from the former McCarty’s restaurant in the Royal Poinciana Plaza to The Honor Bar @ Palm Beach Grill. This transfer will leave a maximum of 52 seats that could be used at the former McCarty’s restaurant tenant space.

[Attorney: Maura Ziska, Esq.]

### Presenter

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

### ATTACHMENTS:

- ❑ **Letter Dated April 6, 2017 From Simon Taylor**
- ❑ **PB Theater Guild Doc**

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

April 6, 2017

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

Honorable Mayor and Council Members:

As a Town resident concerned with cultural and community life on the island and the landmarked, highly-regarded Poinciana Playhouse and club, I am writing to you to object to an application by the Palm Beach Grill for expanded daytime dining and parking at the Poinciana Plaza, which will adversely affect parking, seating and revenues for the theater and club. The Grill has submitted a Special Exception Application to the Town Council that seeks to unlawfully “transfer” seats and parking from the empty McCarty’s restaurant space. That parking allocation should instead be applied to remedy the prior illegal taking of 135 seats from the Playhouse in 2016 to give daytime dining and parking to the Sant Ambroeus restaurant at the Plaza.

The Special Exception Application by the Grill is scheduled to be heard by the Town Council on April 12, 2017. It was submitted under the Applicant Name “Hillstone Restaurant Group (The Palm Beach Grill and The Honor Bar in Palm Beach Grill),” with Zoning Application Case Number Special Exception #8-2017. This Application by the Grill, with the participation of the owner and the manager of the Plaza, Up Markets, is objectionable and should be rejected by the Council for a number of reasons, including the following.

- The Application requests to “transfer” parking spaces from the empty Michael McCarty’s restaurant space to an expanded “Honor Bar” for the Grill. “Transfer” of such spaces at the Plaza is unlawful. The illegality of an attempted transfer, 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.

- The Application by the Grill wrongly asserts that the expanded, all-day dining for the Grill’s Honor Bar “will have a positive impact on the value of other properties in the

neighborhood” and “will not result in substantial economic...impacts on adjoining properties and properties generally in the district.” By entrenching and exacerbating the unlawful taking of theater seats, parking and daytime dining opportunities from the Playhouse and club, the expanded Grill will improperly, adversely affect the theater and club, as well as other nearby properties. The negative effects that the expanded Grill will have are shown 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.

- 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 unlawful “transfers” of parking spaces from McCarty’s should be allowed until the improper taking of parking spaces, seating and revenue streams from the Poinciana Playhouse and club has been remedied and the 135 seats have been returned to the theater. Any such further “transfers” should also be regarded as void.

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. That problem for the Town, I believe, 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. 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. 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.

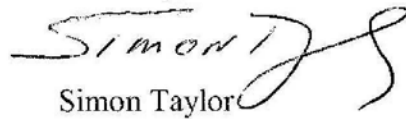
Like the prior Zoning Applications by Sant Ambroeus and Coyo Taco to unlawfully transfer seating and parking from the Playhouse and adjoining club, the Application by the Grill also fails to satisfy the applicable standards under the Town Code, including the requirements (i) that the use requested will 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 the Grill 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 Application 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 grant the above Zoning Application at this time.

Sincerely,

A handwritten signature in cursive script that reads "Simon Taylor". The signature is written in dark ink and is positioned above the printed name.

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 Ambroeus, 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.

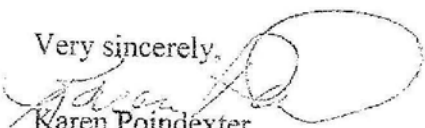
The economic damage to the Playhouse and its club and restaurant from the elimination of theater seating and parking and the impairment of daytime dining opportunities could amount to millions of dollars in lost revenue.

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](http://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?



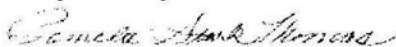
## National Arts Institute, Inc. (continued)

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

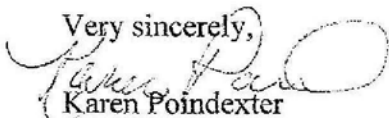
Mayor and Town Council of Palm Beach  
360 South County Road  
Palm Beach, Florida 33480

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:

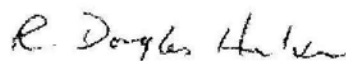
I note that the Town Council next week may hear proposals by the manager of the Poinciana Plaza regarding square footage limitations and outdoor dining at the Plaza. As a Town resident, I'm concerned that any such initiatives should not be advanced at an August Council meeting, when a substantial number 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](http://pbtheaterguild.org) or  
call (561) 818-0170.



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## 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



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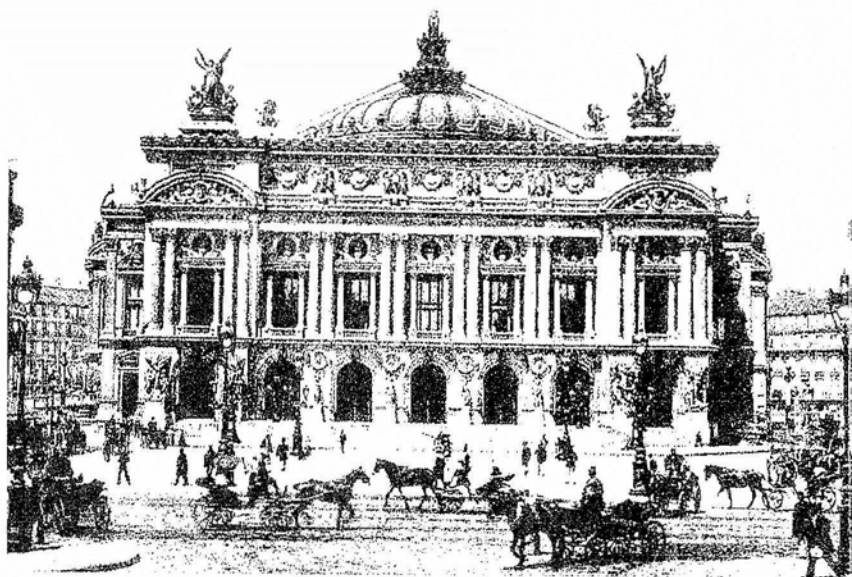
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Palm Beach Theater Guild, Palm Beach, FL, (561) 818-0170





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](http://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

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Tickets \$125 each

For tickets call (561) 818-0170,  
visit our website at [pbtheaterglass.org](http://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

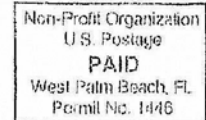
264 South County Road

Palm Beach

For tickets at \$25 for breakfast and presentation, please R.S.V.P. and pay online at [www.pbbusinessguildpb.com/shop](http://www.pbbusinessguildpb.com/shop)

For more information call the Guild at (561) 818-0170 or the PB Business Group at (561) 820-1379

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](http://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](http://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](http://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](http://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](http://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](http://pbtheaterguild.org) or call us at (561) 818-0170. For information on Legends Radio, go to [www.legendradio.com](http://www.legendradio.com).

With best regards,

Simon Taylor

Chairman and President

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**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

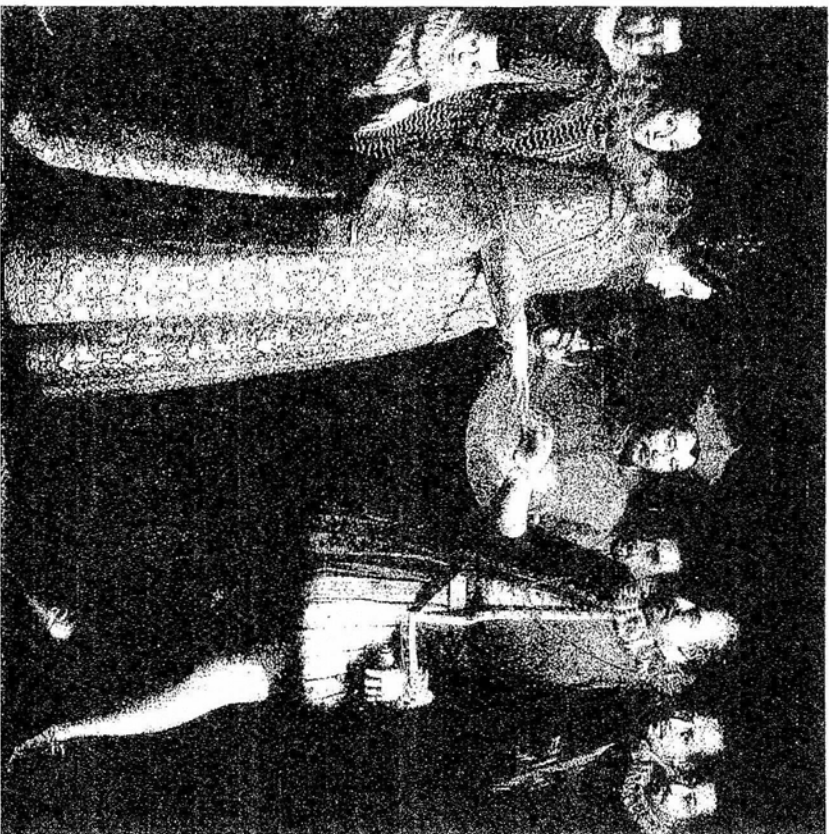
**Tickets \$125 Each**

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



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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](http://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**

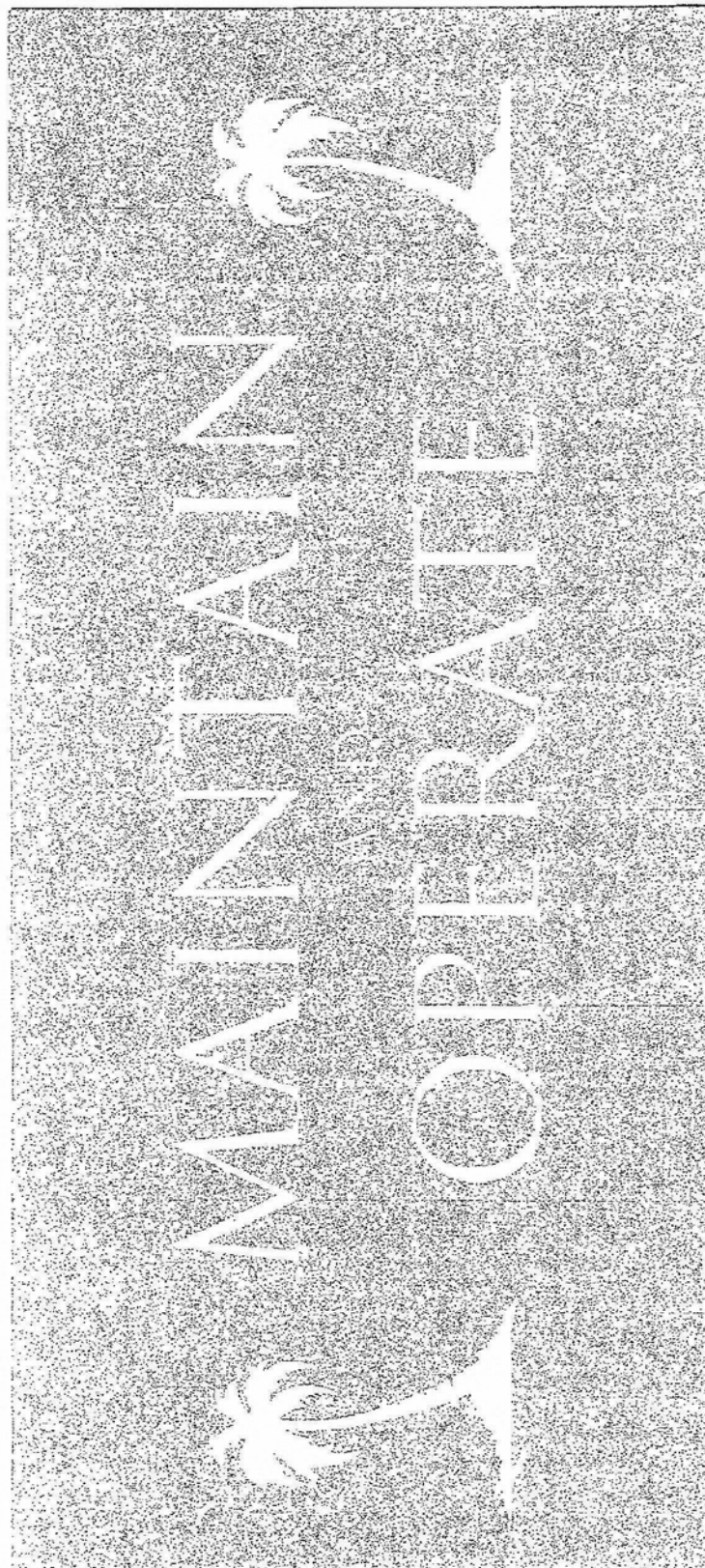
Hors d'oeuvres and open bar at 6 p.m.

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



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## "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](http://pbtheaterguild.org).

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 12, 2017

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## Section of Agenda

Development Review - New Business

## 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. The applicant is requesting a special exception with site plan approval to allow a private club “Old Guard Society of Palm Beach” to operate at 165 Bradley Place in the C-TS Zoning District. The Old Guard has been in existence for 99 years and is open for lunch daily from noon until 2:30 p.m. Monday through Saturday. The club does not service dinner but has occasional special events at night. The club is town serving as over 50% of the members are “townspersons”. A variance is being requested for parking spaces for 100 members which would require 25 parking spaces and only 15 parking spaces are provided pursuant to the principle of equivalency calculation. [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: April 12, 2017

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## Section of Agenda

Development Review - New Business

## Agenda Title

VARIANCE #10-2017 The application of Leo and Kathryn Vecellio; relative to property commonly known as **120 Jungle Rd.**; described as lengthy legal description on file; located in the R-A Zoning District. The applicant is proposing to demolish and rebuild a 2 story 677 square foot garage and add 227 square feet to the first floor and 428 square feet to the second floor. This will require a variance request to match the existing building height of 27.4 feet in lieu of the 25-foot maximum allowed. [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: April 12, 2017

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## Section of Agenda

Ordinances - Second Reading

## Agenda Title

ORDINANCE NO. 2-2017 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Text Of The Future Land Use Element Of The Town Of Palm Beach's Comprehensive Plan By Amending Policy 2.3.1 By Changing The Town-Serving Threshold Requirement For Businesses Within The Commercial Planned Center (C-PC) Zoning District From 2,000 Square Feet Gross Leasable Area To 3,000 Square Feet Gross Leasable Area; Providing For Incorporation Of Recitals; Providing For Severability; Providing For Repeal Of Ordinances In Conflict Hereof; Providing For Codification; Providing An Effective Date.

## Presenter

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

## ATTACHMENTS:

- ▣ **Memorandum Dated March 29, 2017 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Ordinance No. 2-2017**

# TOWN OF PALM BEACH

Information for Town Council Meeting on: April 12, 2017

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To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Proposed Amendment to Policy 2.3.1 of the Future Land Use Element of the Town Comprehensive Plan to Increase the Town-Serving Threshold in the C-PC Zoning District with the Commercial Future Land Use Category.  
**Ordinance No. 2-2017**

Date: March 29, 2017

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## **STAFF RECOMMENDATION**

Staff recommends that the Town Council approve Ordinance No. 2-2017, amending Policy 2.3.1 of the Town Comprehensive Plan and authorize staff to transmit the proposed amendment to the Florida Department of Economic Opportunity.

## **PLANNING AND ZONING COMMISSION RECOMMENDATION**

The Planning and Zoning Commission, at its November 15, 2016 meeting, on a vote of 7-0 recommended adoption of the proposed comprehensive plan amendment identified in Ordinance No. 2-2017.

## **GENERAL INFORMATION**

The Town Council considered the Planning and Zoning Commission's Record and Report at its December 14, 2016 Town Council meeting. The Council directed Staff to draft the attached Ordinance for consideration by the Local Planning Agency and Town Council. The proposed Ordinance modifies Policy 2.3.1 of the Future Land Use Element of the Town's Comprehensive Plan to increase the Town-serving threshold from 2,000 square feet gross leasable area to 3,000 square feet gross leasable area in the C-PC zoning district (a.k.a. Royal Poinciana Plaza).

Staff recommends that prior to second reading of Ordinance No. 2-2017, the Applicant be required to acknowledge in writing that they are bound by the terms of the 1979 Agreement and that the applicant will not contest in any legal proceeding, or otherwise, that the amendments in Ordinance No. 2-2017 provide for "further development possibilities" in contravention of the terms of paragraph 3 of that Agreement.

The proposed changes in attached Ordinance No. 2-2017 are in add/delete format. If you have any questions about any of the attached information, please contact Paul Castro, Zoning Administrator, at 227-6406.

**TOWN ATTORNEY REVIEW**

Ordinance No. 2-2017 was approved by Town Attorney John C. Randolph for legal form and sufficiency.

Attachment

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

## **ORDINANCE NO. 2-2017**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TEXT OF THE FUTURE LAND USE ELEMENT OF THE TOWN OF PALM BEACH'S COMPREHENSIVE PLAN BY AMENDING POLICY 2.3.1 BY CHANGING THE TOWN-SERVING THRESHOLD REQUIREMENT FOR BUSINESSES WITHIN THE COMMERCIAL PLANNED CENTER (C-PC) ZONING DISTRICT FROM 2,000 SQUARE FEET GROSS LEASABLE AREA TO 3,000 SQUARE FEET GROSS LEASABLE AREA; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREOF; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.**

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

**WHEREAS**, the Town created the Town of Palm Beach Comprehensive Plan with the adoption of Ordinance No. 11-89, and last amended the Comprehensive Plan on July 16, 2014 with the adoption of Ordinance No. 9-14; and

**WHEREAS**, the Town is amending the Goals, Objectives, and Policies (GOPs) portions of the Future Land Use Element of the Town's Comprehensive Plan, specifically Policy 2.3.1 as it relates to square-footage thresholds for town-serving businesses; and,

**WHEREAS**, after a public hearing pursuant to notice required by law, the Planning and Zoning Commission considered all testimony and recommended modification to the Town's Comprehensive Plan; and

**WHEREAS**, after public hearing pursuant to notice required by law, the Town Council, acting as the Local Planning Agency (LPA) at their January 11, 2017 meeting, considered the Planning and Zoning Commission's Record and Report and all evidence and testimony and recommended that the Town Council approve on first reading the subject Ordinance amending the Town's Comprehensive Plan, and transmit said ordinance to the Florida Department of Economic Opportunity (DEO); and,

**WHEREAS**, after public hearing on January 11, 2017, 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 Comprehensive Plan, be amended as hereinafter set forth, and transmitted to the Florida Department of Economic Opportunity (DEO).



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

**Section 1.      Incorporation of Recitals**

The above recitals are incorporated as fully setforth herein.

**Section 2.    Amendment of the Comprehensive Plan**

Policy 2.3.1 will be amended as follows (added language underlined; removed language stricken):

**POLICY 2.3.1**

The following definitions shall pertain to the application of the non-residential land use designations and associated policies:

- a.      “Town-serving” shall mean establishments principally oriented to serving the needs of Town persons and not substantially relying on the patronage of persons not defined as Town persons. Commercial establishments (other than those uses in the “Commercial – Office, Professional & Institutional” (C-OPI) zoning district, which are not required to meet town-serving requirements) of ~~2,000 square-foot or less of gross leasable area in the “Commercial Planned Center” (C-PC) zoning district,~~ 3,000 square-foot or less of gross leasable area in the C-PC, C-TS and C-B zoning districts, and 4,000 square-foot or less of gross leasable area in the C-WA zoning district are assumed to meet the intent of the first part of this definition.

**Section 3.      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 4.      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 5.      Codification.**

This Ordinance shall be codified and made a part of the official Comprehensive Plan of

the Town of Palm Beach.

**Section 6.      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 11<sup>th</sup> day of January 2017, and for second and final reading on this 12<sup>th</sup> day of April 2017.

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Gail L. Coniglio, Mayor

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Richard M. Kleid, Town Council President

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Danielle H. Moore, Council President Pro Tem

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Julie Araskog, Town Council Member

ATTEST:

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Bobbie Lindsay, Town Council Member

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Susan A. Owens, MMC, Town Clerk

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Margaret A. Zeidman, Town Council Member

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 12, 2017

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## Section of Agenda

Ordinances - Second Reading

## Agenda Title

ORDINANCE NO. 3-2017 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, By Modifying Sections 134-1257, Permitted Uses And 134-1259, Special Exception Uses In The C-PC Zoning District, To Increase The Maximum Gross Leasable Area Of Commercial Uses To Demonstrate Town-Serving From 2,000 Square Feet Gross Leasable Area To 3,000 Square Feet Gross Leasable Area; 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 March 29, 2017 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Ordinance No. 3-2017**

# TOWN OF PALM BEACH

Information for Town Council Meeting on: April 12, 2017

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To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Proposed Modifications and Changes to Chapter 134, Zoning, relative to Town-serving Requirements in the C-PC Zoning Districts  
**Ordinance No. 3-2017**

Date: March 29, 2017

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## **STAFF RECOMMENDATION**

Staff recommends that the Town Council consider Ordinance No. 3-2017, amending Chapter 134, Zoning, relative to increasing the Town-serving threshold requirement from 2,000 square feet gross leasable area to 3,000 square feet gross leasable area.

## **PLANNING AND ZONING COMMISSION RECOMMENDATION**

The Planning and Zoning Commission, at its November 15, 2016 meeting, on a vote of 7-0 recommended adoption of the zoning text amendments identified in Ordinance No. 3-2017.

## **GENERAL INFORMATION**

The Town Council considered the Planning and Zoning Commission's Record and Report at its December 14, 2016 Town Council meeting. The Council directed Staff to draft the attached Ordinance for consideration by the Local Planning Agency and Town Council. The proposed Ordinance modifies Chapter 134, Zoning, to increase the Town-serving threshold in the C-PC zoning district (a.k.a. Royal Poinciana Plaza) from 2,000 square feet gross leasable area to 3,000 square feet gross leasable area. This is a companion ordinance to Ordinance No. 2-2017 that makes the same modification within Policy 2.3.1 of the Town's Comprehensive Plan.

Staff recommends that prior to second reading of Ordinance No. 3-2017, the Applicant be required to acknowledge in writing that they are bound by the terms of the 1979 Agreement and that the applicant will not contest in any legal proceeding, or otherwise, that the amendments in Ordinance No. 3-2017 provide for "further development possibilities" in contravention of the terms of paragraph 3 of that Agreement.

The proposed changes in attached Ordinance No. 3-2017 are in add/delete format. If you have any questions about any of the attached information, please contact Paul Castro, Zoning Administrator, at 227-6406.

**TOWN ATTORNEY REVIEW**

Ordinance No. 3-2017 was approved by Town Attorney John C. Randolph for legal form and sufficiency.

Attachment

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



## ORDINANCE NO. 3-2017

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, BY MODIFYING SECTIONS 134-1257, PERMITTED USES AND 134-1259, SPECIAL EXCEPTION USES IN THE C-PC ZONING DISTRICT, TO INCREASE THE MAXIMUM GROSS LEASABLE AREA OF COMMERCIAL USES TO DEMONSTRATE TOWN-SERVING FROM 2,000 SQUARE FEET GROSS LEASABLE AREA TO 3,000 SQUARE FEET GROSS LEASABLE AREA; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

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

**WHEREAS**, after public hearing pursuant to notice required by law, the Local Planning Agency considered the Planning and Zoning Commission's Record and Report and all evidence and 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 134-1257, Permitted uses. is hereby amended to read as follows:

### **Sec. 134-1257. Permitted uses.**

(a) The permitted uses in the C-PC planned center district are as follows:

(1) *No limitations on gross leasable area (GLA).*

a....

(2) *Maximum ~~2,000~~ 3,000 square feet of GLA.* All other retail shops, personal services and banks and financial institutions not specifically cited under the permitted uses in subsection.

(b) Regulation of existing nonconforming commercial uses. Any existing uses contained on the list of permitted uses under subsection (a)(2) of this section which contain more than ~~2,000~~ 3,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses (refer to division 2 of article IV of this chapter). However, all future changes of use shall be limited to those uses listed as permitted uses in subsection (a) of this section with a maximum gross leasable area of ~~2,000~~ 3,000 square feet, and if a change of use is contemplated from one general commercial category (retail and services; office, professional and business services; or banks and financial institutions) to another, or from one generic use (residential, commercial, public/private group use) to another, wherein the new use will involve a gross leasable area exceeding ~~2,000~~ 3,000 square feet, the contemplated new use shall be subject to prior approval of a special exception application by the town council before the change is made (refer to sections 134-227 through 134-233 pertaining to special exception uses). In effect, this will allow any existing use over ~~2,000~~ 3,000 square feet, in a district with a ~~2,000~~ 3,000-square-foot limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council approval. No existing commercial use which is subject to the ~~2,000~~ 3,000 square feet maximum gross leasable area (GLA) regulation may occupy additional space within 1,500 feet of the existing licensed businesses, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than ~~2,000~~ 3,000 square feet.

**Section 2.** Article VI, DISTRICT REGULATIONS, Section 134-1259, Special exception uses, is hereby amended to read as follows:

Sec. 134-1259. Special exception uses.

(a) 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-PC planned center district are as follows:

...

(10) All retail and personal service activities exceeding ~~2,000~~ 3,000 square feet gross leasable area not specifically cited under the permitted uses in subsection 134-1257(a)(2).

**Section 3.** 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 4.** Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which

Ordinance No. 3-2017 Page 2 of 3

conflict with this or any part of this Ordinance are hereby repealed.

**Section 5.      Codification.**

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

**Section 6.      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 11th day of January, 2017, and for second and final reading on this 12<sup>th</sup> day of April, 2017.

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Gail L. Coniglio, Mayor

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Richard M. Kleid, Town Council President

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Danielle H. Moore, Council President Pro Tem

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Julie Araskog, Town Council Member

ATTEST:

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Bobbie Lindsay, Town Council Member

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Susan A. Owens, MMC, Town Clerk

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Margaret A. Zeidman, Town Council Member

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 12, 2017

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## Section of Agenda

Ordinances - Second Reading

## Agenda Title

ORDINANCE NO. 8-2017 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, At Article VI, District Regulations, Sections 134-1107, 134-1157, 134-1207 And 134-1302, Permitted Uses, By Conditionally Allowing Storage Facilities In The C-TS, C-WA C-OPI And C-B Commercial Zoning Districts Related To Permitted Or Special Exception Uses In The Same Zoning District In Which The Storage Facility Is To Be Located; By Creating A New Section 134-1760 Which Provides For Conditions In Which Said Storage Facility Is Permitted; 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 March 3, 2017 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Ordinance No. 8-2017**

# TOWN OF PALM BEACH

Information for Local Planning Agency and Town Council Meetings on:  
March 15, 2017

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To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Commercial Storage Zoning Amendments  
**Ordinance No. 8-2017**

Date: March 3, 2017

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## **STAFF RECOMMENDATION**

Staff recommends that the Town Council, as the Local Planning Agency, approve Ordinance No.8-2017, at first reading.

## **PLANNING AND ZONING COMMISSION RECOMMENDATION**

The Planning and Zoning Commission, at its January 17, 2017 meeting, by a 7-0 vote, recommended approval of revised Zoning Code modifications as identified in Ordinance No. 8-2017.

## **GENERAL INFORMATION**

On January 17, 2017, the Planning and Zoning Commission re-examined its original recommendation related to zoning text amendments that would conditionally allow storage uses in most commercial zoning districts in the Town (C-PC commercial district is not included). Attorney John Eubanks (representing an owner on Worth Avenue) and Staff collaborated to prepare several changes to proposed storage rules that allow proprietors to utilize off-site storage without distraction to the surrounding shopping environs. After deliberation on the matter, changes to the original language were recommended to the Town Council.

On February 15, 2016, the Council considered the Commission's recommended changes to the zoning text and directed Staff to draft an Ordinance. Attached Ordinance No. 8-2017 reflects the Council's direction. The proposed Ordinance allows a separate storage facility use, including storage of inventory and supplies, office for shipping and receiving of merchandise, employee break room and/or an employee restroom, related to another permitted or special exception use in the C-TS, C-WA, C-OPI and C-B Commercial Zoning Districts. The proposed conditions are as



follows:

- 1) The storage use is related to an existing permitted or special exception use in the same zoning district;
- 2) Is located within a tenant space which has no windows fronting a main road, esplanade or via;
- 3) Is located behind a door in a manner that its contents cannot be seen from a main road, esplanade or via;
- 4) The storage use does not independently exceed the maximum town-serving threshold for the zoning district in which it is located;
- 5) The movement of merchandise from the accessory storage facility use to the principal use cannot unduly block or otherwise interfere with orderly pedestrian movement or commercial enterprise.

#### **TOWN ATTORNEY REVIEW**

Ordinance No. 8-2017 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

Attachment

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. 8-2017**

**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, AT ARTICLE VI, DISTRICT REGULATIONS, SECTIONS 134-1107, 134-1157, 134-1207 AND 134-1302, PERMITTED USES, BY CONDITIONALLY ALLOWING STORAGE FACILITIES IN THE C-TS, C-WA, C-OPI AND C-B COMMERCIAL ZONING DISTRICTS RELATED TO PERMITTED OR SPECIAL EXCEPTION USES IN THE SAME ZONING DISTRICT IN WHICH THE STORAGE FACILITY IS TO BE LOCATED; BY CREATING A NEW SECTION 134-1760 WHICH PROVIDES FOR CONDITIONS IN WHICH SAID STORAGE FACILITY IS PERMITTED; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.**

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

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

**WHEREAS**, after public hearing pursuant to notice as required by law, the Town Council does hereby find, determine, and declare that the public health, safety, morals and general welfare of the citizens of the Town of Palm Beach 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 134-1107, Permitted Uses uses, is hereby amended to read as follows:

**Sec. 134-1107. Permitted uses.**

a. *Enumeration; maximum gross leasable area.* The permitted uses in the C-TS town-serving commercial district, with a maximum of 3,000 square feet gross leasable area (GLA), are as follows:

(1)....

....

(6) Storage facility related to a permitted or special exception use in the district provided said use meets all additional conditions in section 134-1760 of this chapter.

(7) Essential services.

(8) Public Parks.

**Section 2.** Article VI, DISTRICT REGULATIONS, Section 134-1157, Permitted uses, is hereby amended to read as follows:

**Sec. 134-1157. Permitted uses.**

a. *Enumeration; maximum gross leasable area.* The permitted uses in the C-WA Worth Avenue commercial district, with a maximum of 4,000 square feet gross leasable area (GLA), are as follows:

(1)....

....

(29) Storage facility related to a permitted or special exception use in the district provided said use meets all additional conditions in section 134-1760 of this chapter.

(30) Combinations of the uses in subsections(a)(1) through (28) of this section.

**Section 3.** Article VI, DISTRICT REGULATIONS, Section 134-1207, Permitted uses, is hereby amended to read as follows:

**Sec. 134-1207. Permitted uses.**

a. *Enumeration; maximum gross leasable area.* The permitted uses in the C-OPI, office, professional and institutional district are as follows:

(1)....

....

(5) Storage facility related to a permitted or special exception use in the district provided said use meets all additional conditions in section 134-1760 of this chapter.

(6) Essential services.

**Section 4.** Article VI, DISTRICT REGULATIONS, Section 134-1302, Permitted uses, is hereby amended to read as follows:

**Sec. 134-1302. Permitted uses.**

a. *Enumeration; maximum gross leasable area.* The permitted uses in the C-B commercial district require a site plan and review as required in article III of this chapter.

b. The permitted uses in the C-B commercial district are as follows:

(1)....

....

(5) Storage facility related to a permitted or special exception use in the district provided said use meets all additional conditions in section 134-1760 of this chapter.

(6) Essential services.

**Section 5.** Article VI, DISTRICT REGULATIONS, Section 134-1760, Storage facility, is hereby created to read as follows:

**Sec. 134-1760. Storage facility.**

A storage facility use (including, but not limited to, storage of inventory and supplies, office for shipping and receiving of merchandise, employee break room and/or employee restroom) is allowed in the C-TS, C-WA, C-OPI and C-B commercial zoning districts provided the following conditions are met.

- 1) It is related to an existing permitted or special exception use in the same zoning district;
- 2) It is not located within a tenant space which has windows fronting a main road, esplanade or via;
- 3) It is located behind a door in a manner that its contents cannot be seen from a main road, esplanade or via;
- 4) It does not independently exceed the maximum town-serving threshold for the zoning district in which it is located;
- 5) Movement of merchandise from the accessory storage facility use to the principal use shall not unduly block or otherwise interfere with orderly pedestrian movement or commercial enterprise.

**Section 6. 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 7.      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 8.      Codification.**

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

**Section 9.      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 15<sup>th</sup> day of March 2017, and for second and final reading on this 12<sup>th</sup> day of April, 2017.

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Gail L. Coniglio, Mayor

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Richard Kleid, Town Council President

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Danielle H. Moore, Council President Pro Tem

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Julie Araskog, Town Council Member

ATTEST:

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Bobbie Lindsay, Town Council Member

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Susan A. Owens, MMC, Town Clerk

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Margaret A. Zeidman, Town Council Member



# TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 12, 2017

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## Section of Agenda

Ordinances - First Reading

## Agenda Title

Request to Consider Ordinance No. 12-2017 Prior to 5:00 p.m. at a Public Hearing

## Presenter

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

## ATTACHMENTS:

- ▣ **Memorandum from John Page dated March 30, 2017**

# **TOWN OF PALM BEACH**

## **Information for Town Council Meeting on: April 12, 2017**

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To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Request to Consider Ordinance No. 12-2017 Prior to 5:00 p.m. at a Public Hearing

Date: March 30, 2017

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### **STAFF RECOMMENDATION**

Staff recommends that the Town Council conduct the public hearings on Ordinance No. 12-2017 at the Town Council meetings at which the proposed Ordinance is to be heard prior to 5:00 p.m. The proposed Ordinance will be heard on first reading at the April 12, 2017 meeting, and it is anticipated that the second reading of Ordinance No. 12-2017 will be on May 10, 2017.

### **GENERAL INFORMATION**

Florida Statutes require the Town Council hold at least one of two public hearings to adopt a comprehensive plan amendment or zoning amendment ordinance after 5:00 p.m. However, the Statute provides that the time can be changed if a majority plus one of the local governing body elect to have a hearing at another time. Staff is requesting that the Town Council elect to conduct the public hearings on Ordinance No. 12-2017, during the course of the normal Council business. All public hearings may occur before 5:00 p.m.

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

# TOWN OF PALM BEACH

Town Council Meeting Development Review on: April 12, 2017

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## Section of Agenda

Ordinances - First 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 March 30, 2017 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Zoning Map**
- ▣ **Ordinance 12-2017**

# TOWN OF PALM BEACH

Information for Local Planning Agency and Town Council Meetings on:  
April 12, 2017

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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: March 30, 2017

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## **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**

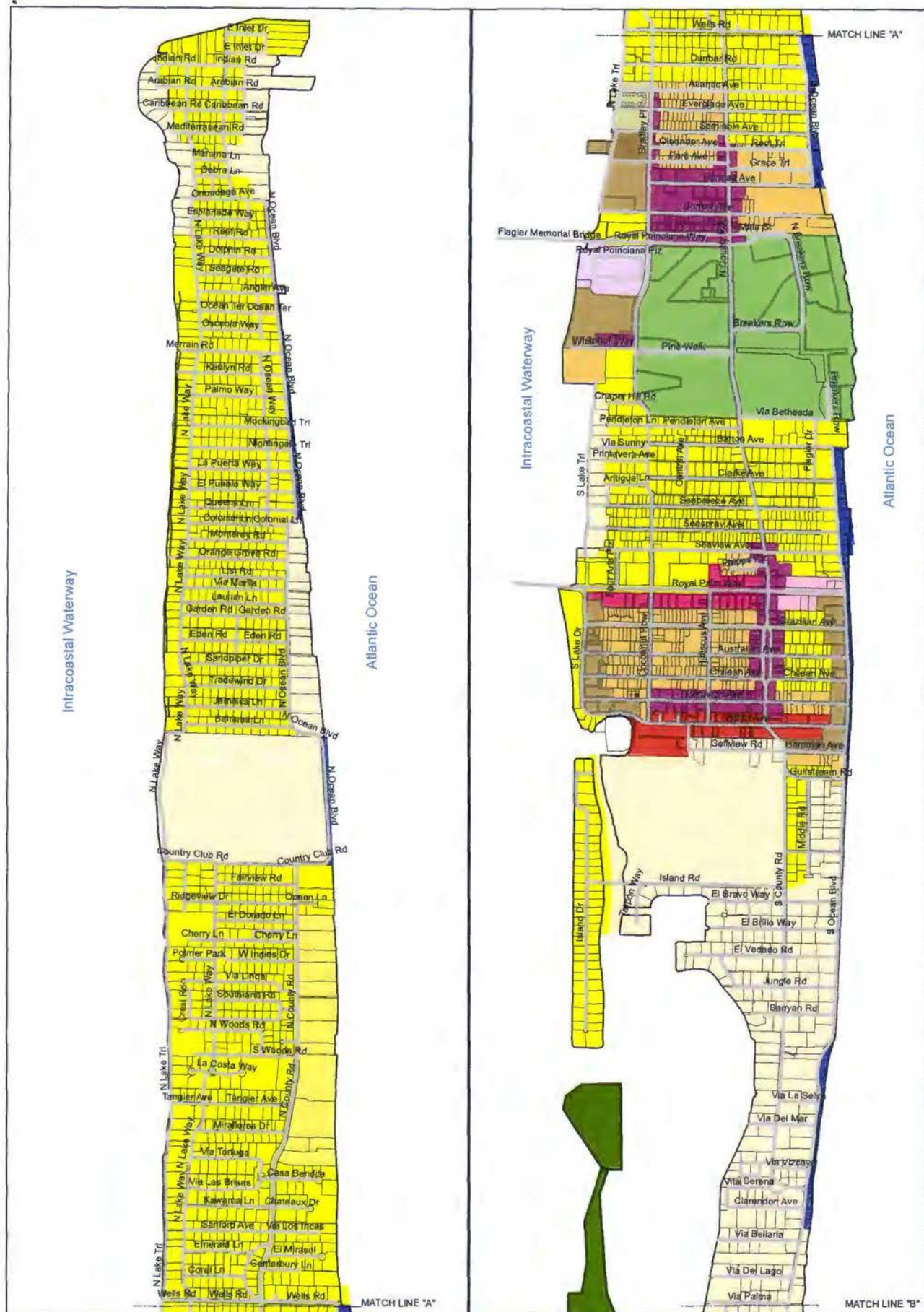
Ordinance No. 12-2017 was approved by Town Attorney John C. Randolph for legal form and sufficiency.

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





**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 Servicing)   | PUD-C (Planned Unit Dev)  |
| R-D(1) (Moderate Density Residential) | C-WA (Commercial Worth Ave)        | BA (Beach Area)           |
|                                       | C-B (Commercial Offices)           |                           |

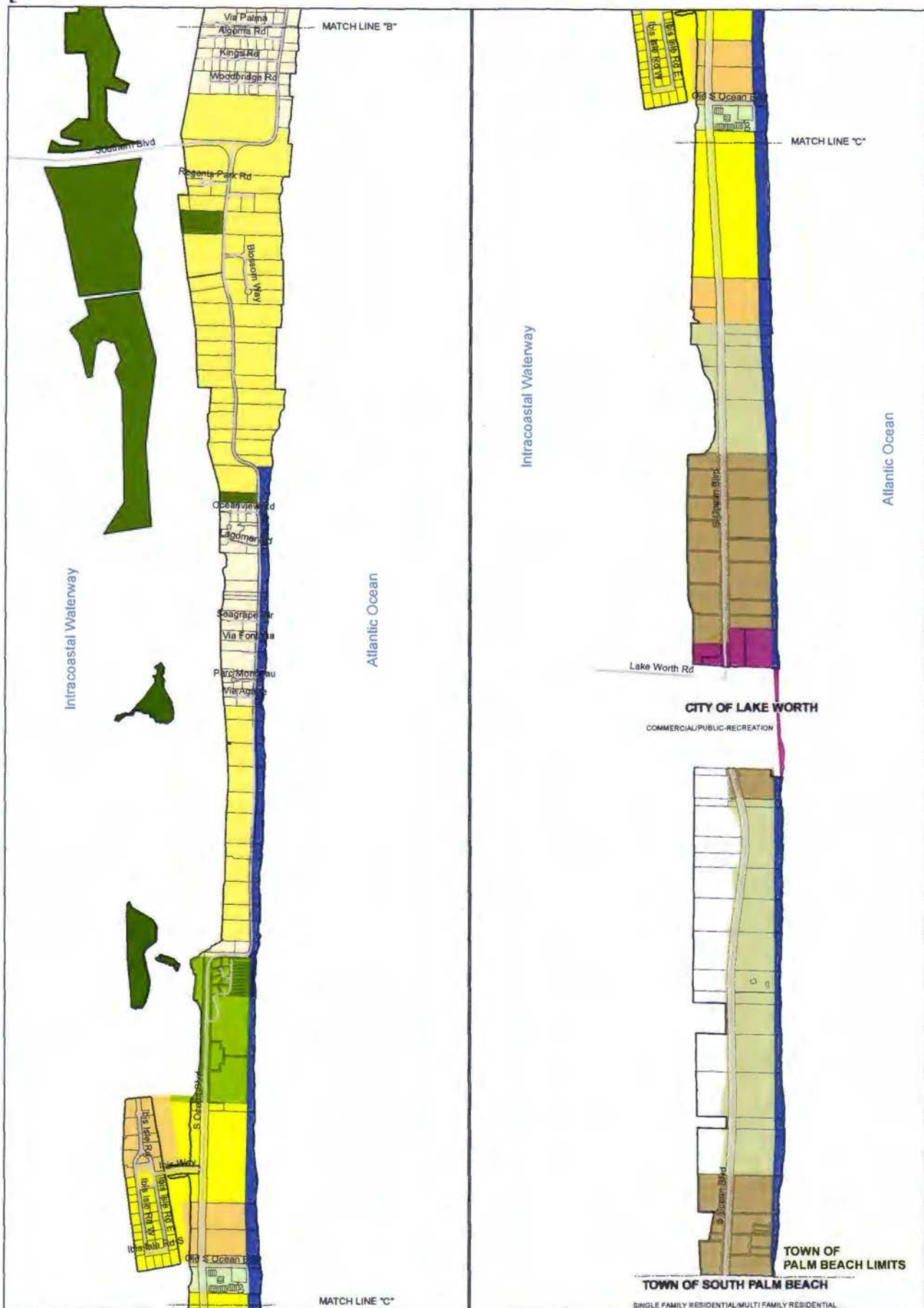


0 1,000 2,000 Feet

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





**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 12<sup>th</sup> day of April, 2017, and for second and final reading on this \_\_\_\_ day of \_\_\_\_\_, 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

Town Council Meeting Development Review on: April 12, 2017

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## Section of Agenda

Any Other Matters

## Agenda Title

A Closed-Door executive session of the Town Council of the Town of Palm Beach has been called for Wednesday, April 12, 2017, to begin immediately following the conclusion of the special Town Council meeting close-door session of this date, in Town Hall, 360 South County Road, Palm Beach, Florida, for the purpose of discussing collective bargaining issues between the Town of Palm Beach and the IAFF Local 2928, pursuant to Section 447.065 of the Florida Public Employees Relations Act.

## Presenter

Thomas G. Bradford, Town Manager

## ATTACHMENTS:

No Attachments Available