



TOWN OF PALM BEACH

PLANNING, ZONING, & BUILDING DEPARTMENT

TOWN COUNCIL MEETING DEVELOPMENT REVIEW

TOWN HALL
COUNCIL CHAMBERS - SECOND FLOOR
360 SOUTH COUNTY ROAD

AGENDA

DECEMBER 9, 2020

9:30 AM

Welcome

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

I. CALL TO ORDER AND ROLL CALL

Gail L. Coniglio, Mayor
Margaret A. Zeidman, President
Bobbie Lindsay, President Pro Tem
Julie Araskog
Lew Crampton
Danielle H. Moore

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. COMMENTS OF MAYOR GAIL L. CONIGLIO

IV. COMMENTS OF TOWN COUNCIL MEMBERS

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

VI. APPROVAL OF AGENDA

VII. RESOLUTIONS

- A. RESOLUTION NO. 132-2020 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 272 Queens Lane 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. Pg. 13
- B. RESOLUTION NO. 133-2020 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 242 Jungle 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. Pg. 38
- C. RESOLUTION NO. 134-2020 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 167 Clarendon 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. Pg. 65

VIII. DEVELOPMENT REVIEWS

A. Appeals

1. ARCOM Appeals of B-063-2020 160 Royal Palm Way Pg. 93
2. ARCOM Appeal of B-043-2020 1045 S Ocean Blvd Pg. 147

B. Time Extensions and Waivers

1. Time Extension for 259 Worth Avenue Pg. 170

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. Z-19-00232 SPECIAL EXCEPTION WITH SITE PLAN Pg. 189

REVIEW AND VARIANCE(S) Zoning District: C-WA Worth Avenue The application of 125 Worth Partners, LLC, Applicant, relative to property located at **125 WORTH AVE**, legal description on file, is described below. The applicant requests Site Plan Review modification approval for revitalization, renovation and expansion of the 45 year-old nonconforming commercial building located at 125 Worth Avenue in the C-WA zoning district. The building will be completely renovated architecturally using design themes found in the Worth Avenue Design Guidelines. In addition, a two story addition is being proposed on the east end of the property. To make this project financially feasible, the owners are requesting to demolish and rebuild the existing fourth story and expand its footprint to add four residential units. In addition to the Site Plan Review proposed modifications, the applicant is requesting the following Special Exceptions and Variances required to complete the project: 1. Per Section 134-1163(8)b., a special exception for a two-story and fourth story addition. The existing building is four stories but it is being expanded. 2. Per Section 134-2182(b), a special exception for on-site shared parking, subject to a professional shared parking analysis. 3. Per Section 134-419, a variance to allow an expansion of an existing nonconforming building by increasing the height from 53' in lieu of the 49'2" existing and the 25' maximum allowed by code. 4. Section 134-419, a variance to allow an expansion of an existing nonconforming building by increasing the overall building height to 63'4" in lieu of the 53'8" existing and the 35' maximum allowed by current code. 5. Per Section 134-419, variance to allow an expansion of an existing nonconforming building by increasing the existing air conditioned floor area of the fourth story to 13,212.9 square feet from 3,448.75 square feet existing. An open fourth story trellis of 5,433 square feet is also proposed in this application and included in the calculation of lot coverage, below. There is an existing exterior fourth floor covered area of approximately 3,290 Square feet in addition to the existing air conditioned floor area on the fourth story of the building. 6. Per Section 134-1163(5), variance to allow a minimum front yard setback of 1'1" for portions of the building in lieu of the 5' existing and the 5' minimum required on the private property. The sidewalk is required to be a minimum of 10' wide and this proposal is a minimum of 8'2" in the area where the sidewalk is only 1'1" wide on private property. 7. Per Section 134-1163(9)b., variance for lot coverage of 71% on the first floor in lieu of the 57% existing and the 35% maximum allowable. 8. Per Section 134-1163(9)b., variance for lot coverage of 71% on the second floor in lieu of the 57% existing and the 35% maximum allowed for second story. 9. Per Section 134-1163(9)b., variance for lot coverage of 54% on the fourth floor in lieu of the 20% existing and the 35% maximum allowable by code. 10. Per Section 134-419, a variance to allow an expansion of an existing nonconforming building by increasing the existing building length at the east end of the building from

201'8" to 246' in lieu of the 150' permitted as of right in the C-WA zoning district. [Applicant's Representative: James M. Crowley Esq] **Request For Deferral To the January 13, 2020 Meeting Per Letter From James M. Crowley.**

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- b. **Z-20-00269 VARIANCES** Zoning District: R-B Low Density Residential The application of John Criddle and Franny Frisbie, Applicant, relative to property located at **143 REEF RD**, legal description on file, is described below. The applicant is proposing to construct a new 597 square foot one story garage to the west of the existing residence. The following variances are being requested: 1. Section 134-893(7): The applicant is requesting a variance for a west side yard setback of 5 feet in lieu of the 12.5 foot minimum required for a one story building. 2. Section 134-893(6): The applicant is requesting a variance for an angle of vision of 105 degrees in lieu of the 100 degrees maximum allowed. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. Motion carried 4-3.] [The Architectural Review Commission approved the project as presented. Carried 4-3.]

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- c. **Z-20-00289 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: C-B Commercial The application of LR Palm House LLC (Ian Livingstone, Executive Chairman), Applicant, relative to property located at **160 ROYAL PALM WAY**, legal description on file, is described below. Section 134-1304 (5): Request to modify Site Plan Review # 1-2016 with Special Exception to change the approved use from condo-hotel to hotel; modify the previously approved site plan; and amend the conditions of approval in the Declaration of Use Agreement, as identified in the proposed Third Amendment to the Declaration of Use which is Exhibit "F") of this application. The proposed site modifications being requested as follows: Section 134-1304(5): The existing Palm House hotel is located at 160 Royal Palm Way, Palm Beach, Florida. It is currently vacant and construction is partially completed. The structure is three stories with a partially enclosed basement containing parking and back-of-house functions. The hotel is 84,495 gross square feet in total. There is an East and West guest wing, and these wings are connected by a central core containing the Main Entrance and other partially completed public functions. A separate conference and events "Function Room" and partial pool deck was also constructed at the south east portion of the property. Section 134-227. 326 & 329 1729(2) (c): (Site Plan Review) The new owner/applicant is proposing new work for the hotel which includes the following site plan modifications: 1) Completion and conversion of guest rooms for

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a total of 79 keys. Two new presidential suites will be constructed within the building core, each with private outdoor balconies. 2) Completion of the lower level for back-of-house, administrative and housekeeping functions for the hotel. The interior modifications for the lower level includes renovation of partially completed areas including kitchen, food storage, housekeeping, staff areas and hotel administrative offices. The owner is requesting an additional 148 SF to provide a new service stair from the lower level to support the Pool Area. Additional areas for renovation include spaces for MEP Infrastructure such as electrical, hot water, and elevator systems. The proposed modifications remove all Hotel Guest program areas from the lower level. The lower level renovation includes restoration of parking area for 60 parking spaces including three accessible parking spaces. Two parking spaces which includes on Van Accessible parking space is located behind the existing function room. All parking will be Valet only per the Declaration of Use Amendment Three. Total on-site parking provided is 62 spaces. 3) A new pool deck will be constructed adjacent to the existing Function Room, with various amenities that include chaise lounges and outdoor seating, shade umbrellas, toilets, a towel/concierge stand, open-air bar with enclosed pantry behind, water features, lush native plantings, and Event Lawn to be used as a pre-function space, or for small wedding and/or overflow sun bathing; 4) The first level lobby and public spaces will be completed to include fine dining and lobby bar, with 88 indoor seats as well as 36 outdoor seating facing the new pool deck. The second floor dining that was previously approved has been eliminated to make room for the reconfigured hotel suites which include the new presidential suites; 5) The Function Room construction will be completed and the seating plan in the Function Room is being revised to add 50 more seats for a total of 200 seats (the total overall number of seats throughout the hotel that was previously approved is being reduced from 336 to 324); 6) A small 556 square foot banquet prep kitchen is proposed to be constructed adjacent to and on the east side of the existing Function Room. 7) Replace a 250 RW generator in the basement with the same size that exists today. - Other exterior Improvements will include new third floor railings, re-painting, new exterior floor finishes, trellises and a covered walkway leading to the existing Function Room. Fenestration requiring replacement will be replaced with similar windows and doors. Addition of a small 61 square foot pool service building; enclosing the 679 square foot function room pre-function space on the west side of the Function Room; addition of 588 square foot restroom for Function Room, addition of 556 square foot prep kitchen for Function Room and addition of 148 square foot stairwell to access Function Room prep kitchen. The following is a list of the proposed special exceptions and variances being requested for the hotel project: 1) Section 134-226 & 229: A

special exception request to modify the approved special exception by converting from a condominium hotel to hotel use and make the site modifications and change to the conditions of approval as identified in this application. 2) Section 134-1305: A special exception request to allow 36 seats for outdoor dining on the first floor on the north side of the pool deck; and 3) Section 134-1308(9): A variance for lot coverage to be 63.8% in lieu of the 62.8% existing and the 50% maximum allowed in the C-B Zoning District; 4) Section 134-1308(8): A variance for the addition of railings and solid wall on the east facade of the hotel above the second floor where only a two story building is allowed in the C-B Zoning District; 5) Section 134-1308(8): A variance for the addition of railings and solid wall on the east facade of the hotel with a height of 31.83 feet in lieu of the 25 foot maximum allowed; 6) Section 134-1669: A variance for the height of the wall enclosing the dumpster located at the southeast corner of the property to be 13.25 feet tall in lieu of the 7 foot maximum height allowed from the neighbor's grade; 7) Section 134-1308(8): A variance for the two story open air addition on the south side of the hotel for a hotel suite balcony on the second floor and covered dining on the first floor with a height of 33.58 feet in lieu of the 25 foot maximum allowed in the C-B Zoning District; 8) Section 134-1308(8): A variance for the two story open air addition on the south side of the hotel for a hotel suite balcony on the second floor and covered dining on the first floor with an overall height of 42 feet in lieu of the 35 foot maximum allowed in the C-B Zoning District; 9) Section 134-1669: A variance for the height of the wall along the rear property line to be 8.5 feet in lieu of the 7 foot maximum allowed from the neighbor's grade; 10) Section 134-1669: A variance for the height of the wall enclosing the existing chiller at the south west corner of the property to be 12 feet tall in lieu of the 7 foot maximum allowed from the neighbor's grade; 11) Section 134-1308(7): A variance for a rear yard setback for the chiller to be 2.25 feet in lieu of the 10 foot minimum required in the C-B Zoning District; 12) Section 134-1308(6): A variance for a west side yard setback for the chiller to be 5.8 feet in lieu of the 10 foot minimum required in the C-B Zoning District.

[Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 7-0.] [The Architectural Review Commission approved the project as presented with the landscape, service gate and paint colors to return to the November 20, 2020 meeting. Carried 6-1.]

Request For Deferral to the January 13, 2021 Meeting Per Letter from Maura Ziska.

- d. **Z-20-00291 VARIANCE(S)** Zoning District: R B Low Density Residential The application of Andreas Brandt, applicant, relative to property located at **756 HI MOUNT RD**, legal description on

file, is described below. The applicant is modifying the application to reduce the number of variances being requested for a new 10,371 square foot, two story residence, with a 5,378 square foot sub basement, on the subject property, that will require the following variances: Section 134 2 and 134 1611: The proposed sub basement is under the confines of the building above it and also below the lowest grade of the public street (Hi Mount Road) in front of the lot, however, it is not completely underground as required by code. A variance is being requested to allow a proposed sub basement where a portion is not completely underground as there is a substantial change of grade from Hi Mount Road to Lake Trail. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. Carried 7-0.] [The Architectural Review Commission approved the project as presented. Carried 7-0.]

- e. **Z-20-00293 SITE PLAN REVIEW WITH VARIANCE(S)** Pg. 378
 Zoning District: R-C Medium Density Residential The application of Elaine Hirsch, Applicant, relative to property located at **130 SUNRISE AVE, SUITE: PH 1**, legal description on file, is described below. A site plan modification with variances to allow a 365 square foot fixed awning over the terrace on the seventh floor of a seven story condominium building. The following variances are being requested: 1. Section 134-948(8): To allow the awning at a height of 61.5 feet in lieu of the 23 1/2 foot maximum height allowed in the R-C Zoning District. Section 134-948(8): To allow the awning at an overall height of 63.66 feet in lieu of the 26 1/2 foot maximum height allowed in the R-C Zoning District. Section 134-948(8): To allow the awning on the existing seventh floor penthouse of a seven story building in lieu of the two story building maximum allowed in the R-C Zoning District. Section 134-948(6): To allow a west side yard setback of 50.1 feet in lieu of the 61.5 foot minimum required. Section 134-948(7): To allow a rear street yard setback of 106.5 feet in lieu of the 123.16 foot minimum required. [Applicant's Representative: Maura Ziska Esq] **Request For Deferral To The January 13, 2021 Meeting Per Letter From Maura Ziska.**

2. New Business

- a. **Z-20-00297 VARIANCE(S)** Pg. 380
 Zoning District R-B Low Density Residential The application of Rotman Property Partnership, applicant, relative to property located at **256 RIDGEVIEW DR**, legal description on file, is described below. The Applicant is requesting a variance to construct a 66.5 square foot first floor addition on the east side of the existing house with a side yard setback of 10.16 feet in lieu of 12.5 feet minimum required. [Applicant's Representative: Tim Hanlon Esq]

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- b. **Z-20-00298 VARIANCE** Zoning District: R-AA Large Estate Residential The application of Paul Tudor Jones II, Applicant, relative to property located at **1300 S OCEAN BLVD**, legal description on file, is described below. Section 134 794: A request for variance to construct a 70 square foot, 3rd story hallway addition to connect the existing nonconforming two bedroom wings on the 3rd floor of a landmark house where only two stories is the maximum allowed in the R AA Zoning District under today's zoning code. [Applicant's Representative: Maura Ziska Esq] Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative impact to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation Commission approved the project with a condition. Carried 7-0.]
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- c. **Z-20-00300 SPECIAL EXCEPTION** Zoning District: C-TS Town-Serving Commercial The application of Flagler Holdings North Carolina Inc, Applicant, relative to property located at **223 ROYAL POINCIANA WAY & 227 ROYAL POINCIANA WAY SUITE A**, legal description on file, is described below. Pursuant to Section 134 2373 (13) of the Town Code, the applicant is requesting special exception approval to allow an internally illuminated, backlit business identification sign for Main Street by The Breakers, a new retail facility to be located at 223 Royal Poinciana Way. The applicant is also requesting an additional special exception to allow the same type of internally illuminated, backlit business identification sign for Shan, a retail clothing store to be located at 227 Royal Poinciana Way, Suite A. Both of these buildings are located at Via Flagler (221 Royal Poinciana Way) in the C TS zoning district, and the signs will be consistent with the backlit business identification sign that was approved by ARCOM and the Town Council for Henry's. Other than the special exception for an illuminated sign, no other special exceptions or variances are requested or required. [Applicant's Representative: James M. Crowley, Esq] **Request for Deferral To The January 13, 2021 Meeting Per Letter from James M. Crowley.**
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- d. **Z-20-00301 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of Bethesda by the Sea Church, Applicant, relative to property located at **141 S COUNTY RD**, legal description on file, is described below. Bethesda by the Sea Church requests a variance for an increase in the overall height from the existing 87 feet to a proposed 96 ft. of the church's bell tower in the R B district where the maximum overall height limit is 30 ft. Specifically, the request is to allow the installation of a nine foot tall lightning suppression device centrally

located on top of the church's 87 foot tall bell tower. [Applicant's Representative: Harvey E Oyer III Esq] [Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative impact to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation Commission approved the project as presented. Carried 7-0.]

- e. **Z-20-00302 VARIANCE(S)** Zoning District: R B Low Density Residential The application of 346 Seaspray LLC (Guy Rabideau, Trustee), Applicant, relative to property located at **346 SEASPRAY AVE**, legal description on file, is described below. A request for a flood plain variance in order to construct the previously approved additions, consisting of a 161 square foot addition to the existing loggia (which will be enclosed into a/c space); an 877 square foot two story addition to the northeast side of the property for a new garage and an upper level studio, and a 443 square foot pool loggia addition to the east side of the property all with a finished floor elevation of 3.13 feet North American Vertical Datum ("NAVD") in lieu of the 6 foot NAVD required when construction exceeds 50% of the market value of the residence. [Applicant's Representative: Maura Ziska Esq] Pg. 391
- f. **Z-20-00303 SPECIAL EXCEPTION WITH SITE PLAN REVIEW** Zoning District: C TS Town Serving Commercial The application of 2875 S Ocean Blvd LLC (Kenneth Silverman, Manager), Applicant, relative to property located at **2875 S OCEAN BLVD, STE 101 & 103**, legal description on file, is described below. A request for special exception with site plan approval pursuant to Condition #2 in the original 1980 approval to construct the existing building on the subject property (Special Exception #25 80). The condition requires any use other than an office and professional services to obtain Town Council approval. This request is to allow a 790 square foot expansion of the existing Acqua Cafe in order to add a take out only part of the restaurant (Acqua Cafe Express/Suite 103) with no seating. The total restaurant size will be 2,990 square feet. The hours are proposed to be 11:00 AM to 9:00 PM daily. [Applicant's Representative: Maura Ziska Esq] Pg. 394
- g. **Z-20-00304 VARIANCE(S)** Zoning District: R C Medium Density Residential The application of Mark D Gilbert, Applicant, relative to property located at **323 CHILEAN AVE**, legal description on file, is described below. The applicant is proposing to renovate and demolish the existing residence by more than 50% cubic footage and raise the existing landmarked house from the 3.73 foot NAVD finished floor elevation to 7 feet NAVD finished floor elevation to meet the new FEMA regulations. Pg. 397

The applicant is also proposing to slightly shift the house to the east to allow for a wider driveway to the rear guest house/garage. The following variances are being requested: Section 134 949 & 134 446(b) & 134 419: Request for a variance to demolish more than 50% by cubic footage which requires a variance to rebuild the house on a nonconforming lot with area of 9,395 square feet in lieu of the 10,000 square feet minimum required. Section 134 948 (6): to allow a 7.67 foot east side yard setback for the 49 square foot one story loggia with second floor deck above in lieu of the 10 foot minimum required in the R C Zoning District. Section 134 1757: to allow a swimming pool with an 8.6 foot east side yard setback in lieu of the 10 foot minimum required. Section 134 1607: to allow a chimney with a height of 34.7 feet in lieu of the 32.7 foot maximum allowed. Section 134 948 (7): to allow a new outside staircase in the rear of the guest house/garage with a 5.7 foot rear yard setback in lieu of the 15 foot minimum required. Section 134 948 (11): to allow the non conforming landscape open space to remain at 38.2% in lieu of the 45% minimum required. [Applicant's Representative: Maura Ziska Esq] [Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative impact to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation Commission approved the project with conditions. Carried 7-0.]

IX. ORDINANCES

A. Second Reading

1. ORDINANCE 16-2020 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 VIII, Supplementary District Regulations, Section 134-1728 Air Conditioning And Swimming Pool Heating Equipment, By Changing The Title; Reorganizing The Regulations; Allowing The Use Of A Neighbor's Concrete Wall For Screening Said Equipment; Providing For A Recorded Agreement With The Town To Build A Screening Wall As Provided For In The Code Should The Neighbor Remove Their Wall; Providing A Maximum Distance That Swimming Pool Equipment Can Be Located From A Swimming Pool Or Fountain; At Article VIII, Supplementary District Regulations, Section 134-1729, Generators And Swimming Pool Equipment, By Modifying The Title And Generator Regulations; Moving Swimming Pool Equipment Into Section 134-1728 Of The Code; Allowing More Than One Generator On A Property And Allowing The Use Of A Neighbor's Concrete Wall For Screening Said Equipment; Providing For A Recorded Agreement With The Town To Build A Screening Wall As Provided For In The Code Should The Neighbor Remove Their Wall; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

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X. ANY OTHER MATTERS

A. ARCOM's Request to Consider Demolitions

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XI. ADJOURNMENT

PLEASE TAKE NOTE:

- Note 1:** Please submit written comments/materials to council@townofpalmbeach.com or in person to the Town Clerk's Office, located at Town Hall, 360 South County Road. No written materials received after 3:30 p.m. on the Wednesday 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 Wednesday will be separately distributed to the Mayor and Town Council; however, depending upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.
- Note 2:** The progress of this meeting may be monitored by visiting the Town's website (townofpalmbeach.com) and clicking on "Meeting Audio" in the left column. If you have questions regarding that feature, please contact the Office of Information Technology (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: December 9, 2020

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 132-2020 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 272 Queens Lane 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

ATTACHMENTS:

- ▣ **Memorandum Dated November 24, 2020 from Wayne Bergman, Director of Planning, Zoning and Building**
- ▣ **Resolution No. 132-2020**
- ▣ **272 Queens Lane Designation Report**
- ▣ **Excerpt from the November 18, 2020 Landmarks Preservation Commission Meeting Minutes**
- ▣ **Landmark Designation Procedure**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 9, 2020

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, Director of Planning, Zoning & Building

Re: Landmark Designation of 272 Queens Lane

Date: November 24, 2020

STAFF RECOMMENDATION

Staff recommends ratification of the property known as 272 Queens Lane as a Town Landmark.

LANDMARKS PRESERVATION COMMISSION RECOMMENDATION

At the Public Hearing for Designation held November 18, 2020 meeting of the Landmarks Preservation Commission, the Commission voted (7-0) to recommend to the Town Council that the above mentioned property be designated as a landmark. In accordance with Section 54-164(a)(11) of Chapter 54 of the Town of Palm Beach Code of Ordinances, the Town Council shall hold a public hearing within ninety (90) days of the final decision of the Landmarks Commission to consider ratification of the Commission's recommendation.

GENERAL INFORMATION

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

- | | |
|-----------------|--|
| Sec. 54-161 (1) | Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town; and, |
| Sec. 54-161 (3) | Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or 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. |

OWNER CONSENT

The property owners, Christopher and Jennifer Lazzara, were properly notified of the hearing before the Landmarks Preservation Commission. The owners are fully supported the designation.

TOWN ATTORNEY REVIEW

Please be advised that the Town Attorney has reviewed Resolution No. 132-2020 relating to 272 Queens Lane and has approved it as to legal form and sufficiency.

Attachments

cc: Murphy Stillings, LLC

RESOLUTION NO. 132-2020

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 272 QUEENS LANE 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 landmarked 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 amended, pursuant to the provisions of Ordinance No. 2-84, and the provisions of the Town Code described herein, is known as **272 Queens Lane** and the property to be landmarked is legally described as follows:

Palm Beach Shores – Palm Beach East 1/2 of Lot 68 & Lots 69 – 75 INC

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 adoption 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 described above and 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 the Town Council of the Town of Palm Beach assembled this ____th day of _____, 2020.

Gail L. Coniglio, Mayor

ATTEST:

Queenester Nieves, Town Clerk

Page 2 of 2

272 Queens Lane



DESIGNATION REPORT

November 18, 2020

Landmark Preservation Commission

Palm Beach, Florida

DESIGNATION REPORT

272 Queens Lane

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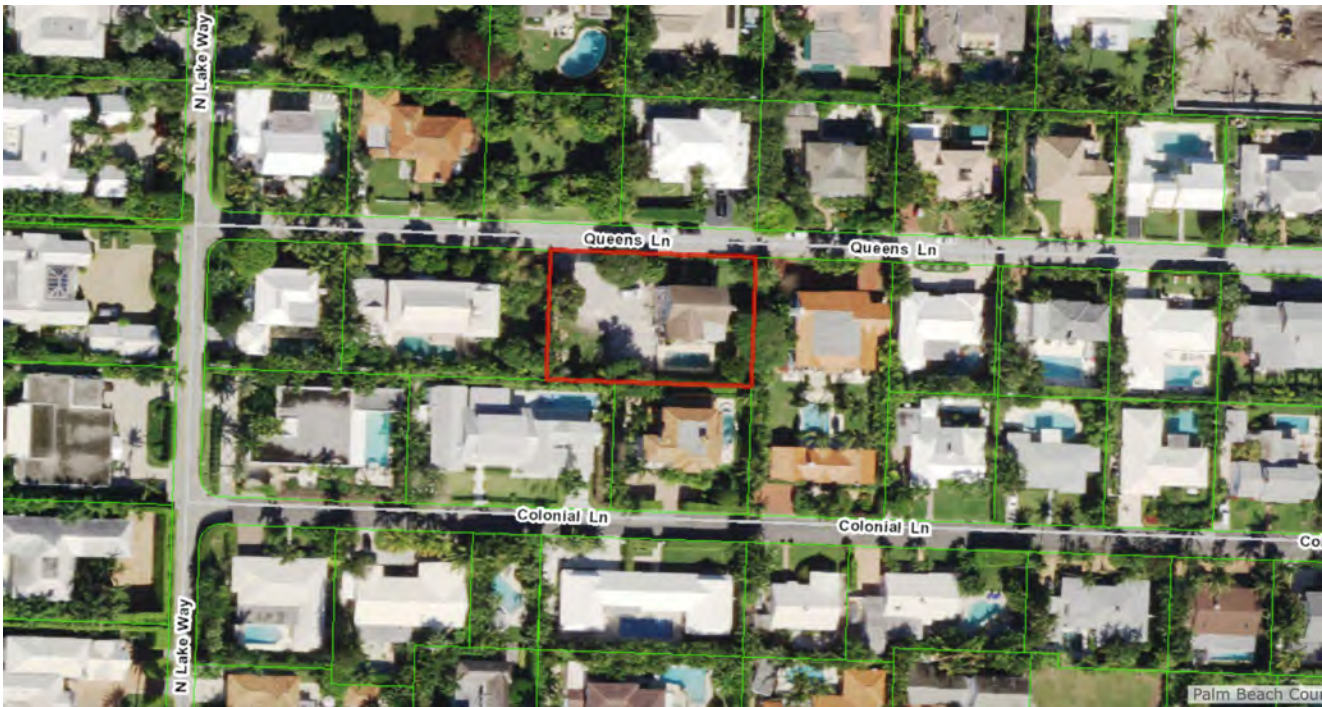
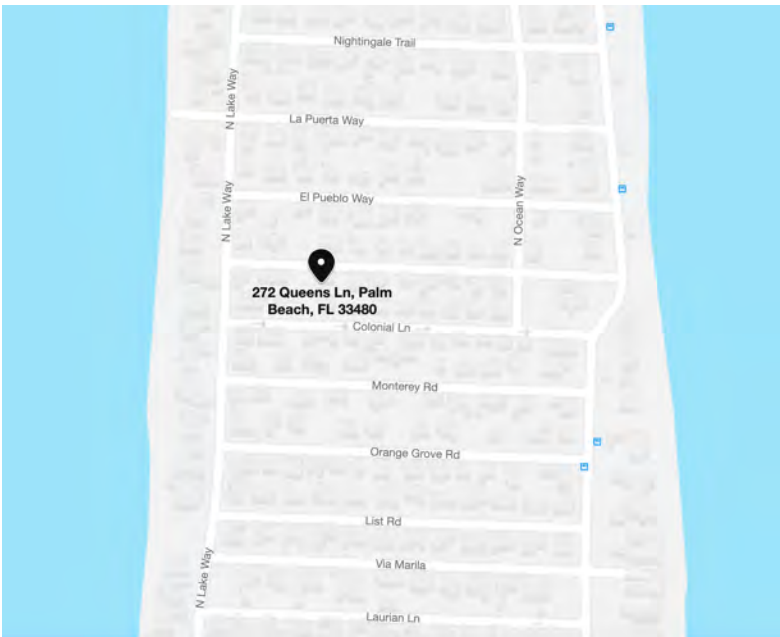
Report produced by Murphy Stillings, LLC

I. General Information

Location:	272 Queens Lane Palm Beach, Florida
Date of Construction:	1937
First Owner:	Arnold Construction Company
Current Owner:	Jennifer and Christopher Lazarro
Architect:	John Volk
Builder:	Arnold Construction Company
Present Use:	Residential
Present Zoning:	RB
Palm Beach County Tax Folio Number:	50-43-43-03-12-000-0681
Current Legal Description:	Palm Beach Shores – Palm Beach East 1/2 of Lot 68 & Lots 69 – 75 INC

II. Location Map

272 Queens Lane



III. Architectural Information

The residence located at 272 Queens Lane is a two-story structure designed by prominent architect John Volk and constructed by Arnold Construction Company in 1937 in the Georgian Revival style. This frame dwelling is covered with a brick veneer on the front and sides, with the rear being a combination of brick, stucco and wood siding. The brick is currently whitewashed.



One of the most common Colonial Revival subtypes is the Georgian Revival. The Georgian style was originally popular in the 18th century and was used frequently in early New England settlements. The Georgian Revival emerged in the early 1900s and remained popular into the 1950s. The structures evolved significantly from the elaborate, detailed façades of the 1900s and 1910s to the modest, simplified houses that were built from the 1920s to the 1950s.

Georgian Revival structures employed many of the details of their earlier Colonial predecessors. A classic Georgian Revival home is square or rectangular, generally two-stories, made of brick, and features symmetrical windows, shutters, and columns. Roofs are hipped or gabled and window sashes may have multiple lights

or a single pane of glass, with common configurations being 12/1, 6/6 or 1/1. Chimneys are also a common feature of Georgian Revival style houses.

272 Queens Lane reflects the Georgian Revival style with the three-bay wide symmetrical design with a center entry framed by a simple stucco pedimented surround. This center bay projects slightly forward from the façade. Flanking the center entry are 6/6 double-hung sash windows with brick lintels, louvered shutters, and panels below. There is also a small window just west of the center entry. The second story consists of three 6/6 double-hung sash windows with brick sills flanked by louvered shutters. The two edges of the front façade project slightly forward and are topped with a slim band creating subtle pilasters. Concrete tiles cover the side-gabled roof and there is a brick chimney on the east exterior wall. A white aluminum fence, gate and brick piers define the east yard.



Over the eighty-three years since the construction of 272 Queens Lane, there have been some additions and alterations to the exterior of the structure. The front entry door and surround was altered, shutters flanking the entry were removed, the sleeping porch on the east portion of the rear second-story was enclosed and the garage attached to the west side of the dwelling was demolished. In August 2020, plans were approved for an addition attached on the west side of the original dwelling. The plans for this addition include a two-story, three bay-wide section covered with stucco and a hip roof. The first story of this section has a bay window with three six-over-six double-hung sash windows and panels below while the

second story has three six-over-six double-hung sash windows flanked by louvered shutters. Attached to this section to the west is a stucco covered three car garage, mudroom, laundry room and cabana bath. This section is covered by a gable and hip roof. The mudroom is entered by a paneled door while the garage has a six-over-six double-hung sash window with shutters on the first floor south façade and dormer windows in the hip roof on both the south and west elevations. The garage doors on the west are louvered paneled impact doors. There is also a chimney with a brick cap on the west elevation. Despite these additions and alterations, the house retains its historical architectural integrity.

IV. Historical Information

The house at 272 Queens Lane was designed by prominent architect John Volk and built by Arnold Construction Company in 1937 at a cost of \$17,000. Located in the Palm Beach Shores subdivision on the south side of Queens Lane, this was one of the many speculative houses that kept Palm Beach architects and builders busy during the Depression years of the 1930s.¹ Queens Lane is an elegant street in Palm Beach's north end with many well-designed houses in similar scale designed by many of the most prominent Palm Beach architects, including John Volk, Howard Major, Maurice Fatio and Henry Harding. Though instead of grand estates designed by these architects, the houses on Queens Lane were more modest reflecting the change in architecture due to the Great Depression. An article in the Palm Beach Post titled "Medium Sized Homes Favored in Palm Beach, discusses this trend:

"Proof of the manner in which Palm Beach, once a city of Arabian Nights palaces, is becoming a city of real homes is to be found in a study of its building activity during 1940, when a large number of medium priced residences made up much of the \$1,309,135 program through mid-November, according to Inspector Edward Ehinger.

For several years the trend has been steadily veering away from the formal and ostentatious to the livable and informal. The palatial Spanish architecture, which Addison Mizner made popular, has given way to British Colonial, the Bermudan, the Southern Colonial, the modern. As simpler living has succeeded the Boom Time Palm Beach

¹ Palm Beach Building Permit # 2737, February 12, 1937.

life, when many homes were run as country clubs, smaller houses with fewer and fewer guest rooms have become the thing.”.²

272 Queens Lane is a very good example of a smaller-scale John Volk dwelling for this era of the late 1930s.

Mrs. Paula Uihlein purchased 272 Queens Lane from Arnold Construction Company shortly after it was completed in 1937. Paula Uihlein was a member of a wealthy Milwaukee brewing family, a philanthropist and an arts patron. She was the daughter of August E. Uihlein, whose uncle August Krug, founded the Joseph Schlitz Brewing Company in 1849. Her father August ran the company successfully for many years. For a number of years in the early 1900s, Schlitz was the largest producer of beer in the United States. Paula Uihlein was a longtime patron of art, drama and music and was a philanthropist to many students, the Milwaukee Art Center, Marquette University and Milwaukee’s Children’s Hospital. The Uihlein family had visited Palm Beach for many years prior to Paula purchasing her Queens Lane house. She was often mentioned in society news hosting relatives and friends from Milwaukee.

Paula Uihlein owned the house for over ten years before selling it to Mr. and Mrs. Alvin B McClelland. The McClelland’s were frequent visitors to Palm Beach prior to purchasing 272 Queens Lane. In the 1940s they were often noted in the society news as houseguests in Palm Beach, including with Mr. & Mrs. Paul Maddock, owners of Duck’s Nest. After purchasing 272 Queens Lane, the McClelland’s became active in Palm Beach joining the prestigious local clubs while Alvin McClelland continued work as a CEO of several petroleum refining and exploration companies.

In 1967, Reginald and Carolyn Stambaugh purchased 272 Queens Lane. Dr. Reginald Stambaugh, a prominent ophthalmologist, was a fifth-generation Floridian who fought to save and restore buildings that distinguished Palm Beach County. His pioneer family was among the first to settle in Palm Beach County. Sometime before 1910, Orrel Stambaugh and his wife Mabel came to Palm Beach with three children from Oklahoma. In 1929, Orrel’s son, Gleason Stambaugh founded the Florida Music Company that installed music systems in Palm Beach mansions and distributed the area’s jukeboxes. During World War II he commanded area Coast Guard Forces and rescued sailors from ships torpedoed by

² Although this article was about numbers from 1940, it talks about the trend of houses veering away from the formal and ostentatious to the livable and informal for several years.

Nazi submarines off Florida's east coast. In the 1950's he became chairman of the Port of Palm Beach. Dr. Stambaugh attended Palm Beach High School and led the fight to save the buildings of the high school, which were built in 1908 and stand today as the Dreyfoos School of the Arts. He was president of the Historical Society of Palm Beach County and the Historical Foundation of Palm Beach County, and also worked as a leader in working to unwrap and save the 1916 Palm Beach County Courthouse and establish a historical museum there. This was a very successful endeavor that produced an excellent Palm Beach County Historical Museum as well as offices and archives for the Historical Society of Palm Beach County. Carolyn Stambaugh moved to Palm Beach as a young girl and also attended Palm Beach High School. She became the University of Florida's first homecoming queen, an Orange Bowl Queen and in 1956 a television pioneer model on The Price of Right game show. She joined her husband and children on being a stalwart of historic preservation in Palm Beach and would only sell her house to owners who would pledge to preserve the dwelling.

V. Architects Biography

John L. Volk

John Volk has been called the last of the "original" Palm Beach architects. He was one of an elite group of early 1920s architects that included Addison Mizner, Maurice Fatio, and Marion Sims Wyeth who developed the architectural style of the island that came to be known as the "Palm Beach Style".

Volk was born in Graz, Austria in 1901. He came to the United States with his parents at the age of nine and grew up in New York. He attended Columbia University School of Architecture and L'Ecole des Beaux Arts. Volk opened his office in Palm Beach in 1925. Volk designed more than 1000 houses, theaters, clubs, shops, and other buildings and lived in Palm Beach from 1925 to his death in 1984. He designed homes for some of the wealthiest and most powerful people in America over his 58-year career in Palm Beach including Colonel Robert McCormack, William Paley, George Vanderbilt, Nicholas DuPont, Henry Ford II, Herbert Pulitzer, Matthew Mellon, George Storer, Horace Dodge II, and John S. Phipps. Included in the designs of John Volk are some of the most prominent commercial and private club buildings in the Palm Beach area including the First National Bank, the Royal Poinciana Plaza and Playhouse, the center section of the Town Hall, the Beach Club, Good Samaritan Hospital, and several shops on Worth

Avenue including the Everglades Colonnade. He also extensively modified and rebuilt the Bath and Tennis Club after a major hurricane.

Numerous other buildings are the result of Mr. Volk's labor and it must be noted that no particular style can be exclusively associated with Mr. Volk. Unlike other talented architects who developed or refined specific styles, John Volk understood and perfected many varying architectural styles from Mediterranean Revival to Contemporary Design.

VI. Statement of Significance

272 Queens Lane is significant as an example of the work of the prominent Palm Beach architect John Volk. It is important as an example of late Depression Era speculative architecture built in Palm Beach's North End in the 1930s. It clearly shows Volk's ability to adapt to the 1930's era in size and building costs, while maintaining style and high-quality architectural design.

VII. Criteria For Designation

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

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

272 Queens Lane reflects the broad economic and social history of the nation, state, county and Town of Palm Beach as it was developed in the late depression era when the nation, state, county and town were recovering from the Great Depression and new development in Palm Beach was starting to recover. Many houses on Queens Lane, like this residence, were built by Arnold Construction Company as speculative houses designed by many of the best Palm Beach architects including John Volk, Howard Major, Maurice Fatio and Henry Harding.

(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 house at 272 Queens Lane is a good example of the Georgian Revival style of architecture designed by John Volk during the Depression Era years of the 1930s. The symmetrical design, 6/6 double-hung sash windows, louvered shutters, brick lintels, side gabled roof and brick chimney are characteristic features of the Georgian Revival style. These features and the overall design reflect Volk's distinctive interpretation 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.”**

272 Queens Lane is a good representation of the design work of the architect John L. Volk. John Volk has been recognized as one of the most important architects to practice in the Town of Palm Beach. Unlike other talented architects who developed or refined specific styles, John Volk understood and perfected many varying architectural styles from Mediterranean Revival to contemporary designs. This house built on a smaller scale than most of his 1920s Boom Era designs shows how he adapted to the changing times while maintaining good architectural style.

VIII. Selected Bibliography

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

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

McAlester, Virginia Savage. A Field Guide to American Houses. New York: Alfred A. Knopf, Inc., 2015. Revised and expanded from the original edition written by Virginia and Lee McAlester.

The Palm Beach Daily News. Archived Articles Online

The Palm Beach Post. Archived Articles Online

The Preservation Foundation of Palm Beach. 272 Queens Lane file

Sanborn Insurance Map of Palm Beach. New York: Sanborn Map Co., 1926 updated to 1952. City of West Palm Beach Public Library, Florida Room.

Town of Palm Beach. Building Permits, 1937– 2020.

West Palm Beach City Directories. Asheville, NC: Florida-Piedmont Directory Company, 1937 -1986. These city directories included Town of Palm Beach directories and information on Palm Beach residents.

IX. Florida Master Site File Form



HISTORICAL STRUCTURE FORM

Electronic Version 1.1.0

Site #8 PB09435
Recorder # Jane S. Day
Field Date 11/1/2010
Form Date 12/12/2010
FormNo 201011
FormNo = Field Date (YYYYMM)

First Site Form Recorded for this Site? NO

GENERAL INFORMATION

Site Name (address if none) Carol Stambaugh, House Multiple Listing (DHR only)
Other Names _____ >> Shorehill
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
272 _____ Queens Lane

Cross Streets (nearest/ between) North Lake Way and North Ocean Blvd
City / Town (within 3 miles) Town of Palm Beach In Current City Limits? YES
County Palm Beach Tax Parcel #(s) 50-43-43-03-12-000-0681
Subdivision Name Palm Beach shores Block _____ Lot 68-75
Ownership Private-Corporate-Non-Profit
Name of Public Tract (e.g., park) _____
Route to (especially if no street address) On the north side of Queens Lane between North Lake Way and North Ocean Way

MAPPING

USGS 7.5' Map Name _____ Publication Date _____ >> PALM BEACH;1986
Township: _____ Range: _____ Section: _____ 1/4 section: _____ >> 43S ;43E ;03;UNSP
Irregular Section Name: _____
Landgrant _____
UTM: Zone _____ Easting _____ Northing _____
Plat or Other Map (map's name, location) _____

DESCRIPTION

Style Georgian 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) _____ >> Brick
Other Exterior Fabric(s) _____
Roof Type(s) _____ >> Gable
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) _____
Chimney Location(s) east exterior wall

HISTORICAL STRUCTURE FORM

8PB09435

DESCRIPTION (continued)

Window Descriptions 6/6 DHS, sliding windows

Main Entrance Description (stylistic details) centered on the south facade with a canvas awning and drapery

Porches: #open 1 #closed #incised Location(s) entry - n

Porch Roof Types(s)

Exterior Ornament shutters

Interior Plan Unknown

Other Interior Plan

Condition Good

Structure Surroundings

Commercial: NONE of this category

Residential: ALL this category

Institutional: NONE of this category

Undeveloped: NONE of this category

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

Archaeological Remains (describe): none observed

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

Narrative Description (optional)

HISTORY

Construction year 1937

Architect (last name first): Volk, John L.

Builder (last name first): Arnold Construction

Changes in Locations or Conditions

Type of Change	Year of Change	Date Change Noted	Description of Changes
>> Addition;	11/01/2010;		

Structure Use History

Use Year Use Started Year Use Ended >> Private residence;1927;

Other Structure Uses

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

RESEARCH METHODS

Research Methods >> Examine local property records

Other research methods tax records, windshield

SURVEYOR'S EVALUATION OF SITE

Potentially Eligible for a Local Register? INSUFF. INFO

Name of Local Register if Eligible Palm Beach Landmarks

Individually Eligible for National Register? NO

Potential Contributor to NR District? NO

Area(s) of historical significance

>> Architecture

Other Historical Associations

Explanation of Evaluation (required) This is a fine example of the Georgian revival style by noted architect, John L. Volk. It is in scale with the neighborhood and worthy of further study.

HISTORICAL STRUCTURE FORM

8PB09435

DOCUMENTATION (Photos, Plans, etc.)

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

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

RECORDER INFORMATION

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

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

Cultural Resource Type: Electronic Form Used: Form Type Code: Form Quality Ranking: Form Status Code: Supplement Information Status: Supplement File Status: Form Comments: _____ _____ _____	SHPO's Evaluation of Resource Date: _____ FMSF Staffer: Computer Entry Date:
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REQUIRED PAPER ATTACHMENTS

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

Item 1: 272 Queens Lane

Owner: Christopher and Jennifer Lazzara

Call for disclosure of ex parte communication: None.

Janet Murphy, MurphyStillings, LLC, testified to the architecture and history for this Georgian Revival style home. Ms. Murphy pointed out the design features of this building. Ms. Murphy testified that the building met 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.

Mr. Silvin asked for confirmation on proof of publication. Ms. Churney provided confirmation.

Motion made by Ms. Albarran and second by Ms. Patterson to make the designation report for 272 Queens Lane part of the record. Motion carried unanimously.

Many of the Commissioners were supportive of recommending this home to the Town Council as a landmarked home.

Mr. Silvin called for any public comment on the designation. There were no comments heard at this time.

Motion made by Ms. Coleman and seconded by Ms. Patterson to recommend 272 Queens Lane 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 unanimously.

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

ARTICLE IV. - DESIGNATION PROCEDURE

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

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

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

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

Sec. 54-165. - Voluntary restrictive covenants.

Secs. 54-166—54-195. - Reserved.

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

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

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

(Code 1982, § 16-38)

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

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

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

(Code 1982, §§ 16-38.1, 16-39)

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

The commission has the power to:

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

(Code 1982, § 16-42)

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

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

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

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

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

(Code 1982, § 16-43)

Sec. 54-165. - Voluntary restrictive covenants.

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

(Code 1982, § 16-48)

Secs. 54-166—54-195. - Reserved.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 9, 2020

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 133-2020 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 242 Jungle 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

ATTACHMENTS:

- ▣ **Memorandum Dated November 24, 2020 from Wayne Bergman, Director of Planning, Zoning and Building**
- ▣ **Resolution No. 133-2020**
- ▣ **242 Jungle Road Designation Report**
- ▣ **Excerpt from the November 18, 2020 Landmarks Preservation Commission Meeting Minutes**
- ▣ **Landmark Designation Procedure**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 9, 2020

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, Director of Planning, Zoning & Building

Re: Landmark Designation of 242 Jungle Road

Date: November 24, 2020

STAFF RECOMMENDATION

Staff recommends ratification of the property known as 242 Jungle Road as a Town Landmark.

LANDMARKS PRESERVATION COMMISSION RECOMMENDATION

At the Public Hearing for Designation held November 18, 2020 meeting of the Landmarks Preservation Commission, the Commission voted (7-0) to recommend to the Town Council that the above mentioned property be designated as a landmark. In accordance with Section 54-164(a)(11) of Chapter 54 of the Town of Palm Beach Code of Ordinances, the Town Council shall hold a public hearing within ninety (90) days of the final decision of the Landmarks Commission to consider ratification of the Commission's recommendation.

GENERAL INFORMATION

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

- | | |
|-----------------|--|
| Sec. 54-161 (1) | Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town; and, |
| Sec. 54-161 (3) | Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or 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. |

OWNER CONSENT

The property owners, K. Prescott and Susan Low, were properly notified of the hearing before the Landmarks Preservation Commission. According to their attorney, M. Timothy Hanlon, the owners fully supported the designation.

TOWN ATTORNEY REVIEW

Please be advised that the Town Attorney has reviewed Resolution No. 133-2020 relating to 242 Jungle Road and has approved it as to legal form and sufficiency.

Attachments

cc: Murphy Stillings, LLC

RESOLUTION NO. 133-2020

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 242 JUNGLE 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 landmarked 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 amended, pursuant to the provisions of Ordinance No. 2-84, and the provisions of the Town Code described herein, is known as **242 Jungle Road** and the property to be landmarked is legally described as follows:

26-42-42, SLY 175 FT OF NLY 752.5 FT OF WLY 268 FT OF S ½ OF GOV

LT 2 LYG W OF COUNTY RD & TR IN OR453P418

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 adoption 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 described above and 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 the Town Council of the Town of Palm Beach assembled this ____th day of _____, 2020.

Gail L. Coniglio, Mayor

ATTEST:

Queenester Nieves, Town Clerk

242 Jungle Road



DESIGNATION REPORT

April 22, 2020

Landmark Preservation Commission

Palm Beach, Florida

DESIGNATION REPORT

242 Jungle Road

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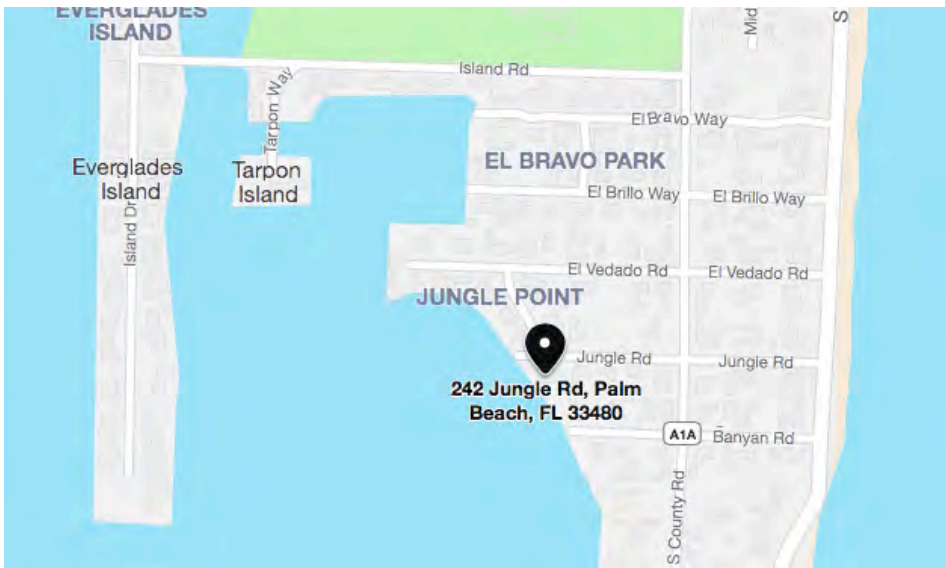
Report produced by Murphy Stillings, LLC

I. General Information

Location:	242 Jungle Road Palm Beach, Florida
Date of Construction:	1936
First Owner:	William Watt Jr.
Architect:	Marion Sims Wyeth
Builder/Contractor:	William Watt Jr.
Present Owner:	K. Prescott Low and Susan Tucker Low
Present Use:	Residential
Present Zoning:	R-A
Palm Beach County Tax Folio Number:	50-43-43-26-00-002-0360
Current Legal Description:	26-42-42, SLY 175 FT OF NLY 752.5 FT OF WLY 268 FT OF S ½ OF GOV LT 2 LYG W OF COUNTY RD & TR IN OR453P418

II. Location Map

242 Jungle Road



III. Architectural Information

The residence at 242 Jungle Road is a very unique example of the Georgian Revival architectural style with French influences as interpreted by Marion Sims Wyeth in 1936. The residence is located on the south side of Jungle Road along the Intracoastal Waterway and was designed for William Watt Jr., whose construction firm Watt and Sinclair constructed the residence.¹



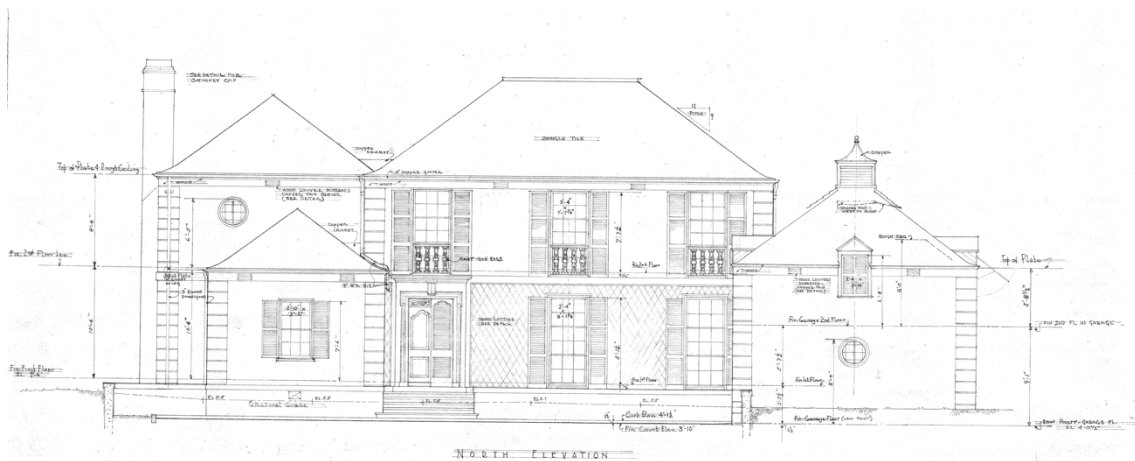
242 Jungle Road is a distinctive example of the Georgian Revival as it exhibits French influences that are not often seen on Georgian Revival residences in Palm Beach. The Georgian Revival style was popular throughout the country from 1880 to 1955. Variations on the style were popular throughout the Caribbean and were adapted in revival form in South Florida during the 1930s through the 1950s. General stylistic features of Georgian Revival architecture include symmetry in building mass and window and door placement, quoins, accentuated front entries, pediments or porches over the front entry and windows often flanked by decorative shutters. The French influences seen in this residence include the characteristic of very steeply pitched hipped roofs with flared eaves and the massing of the residence. Masses of varying heights, each with their own roof, create a rambling effect as seen in many French country and farmhouses.

242 Jungle Road is a two-story residence that was constructed of wood frame and tile surfaced with stucco. The roof is one of the character-defining feature of the residence. The multiple steeply pitched hipped roofs

¹ Building Permit # 17136, on file at the Town of Palm Beach, dated September 30, 1936.

with flared eaves are surfaced with slate tiles and exhibit the French influence to Wyeth's design. A simple cornice is located at the roofline. The roof of the garage contains a square cupola and several gabled roof wall dormers. Wall dormers are a dormer design that extends from the wall of a building, rather than punctuating the roof, and are not a design not often seen in Palm Beach.

The residence is comprised of multiple one and two-story masses. As originally designed, the main portion of the residence consists of a central three-bay section with wings on each side and a fore court leading into the property. The corners of the residence are highlighted with quoins and a simple cornice is located at the roofline. The entrance to the residence is located in the eastern bay of the central section and features a flat pediment door surround leading to a recessed pair of wood doors with an arched glass and decorative metal transom above. Each bay of the central section contains a very tall three-part sash window with a six-over-six-over-six (6/6/6) light configuration and colonial shutters on the first and second floors. The height of these windows is a focal point of the main façade. A stringcourse delineates the second floor and creates a base for the second floor windows.

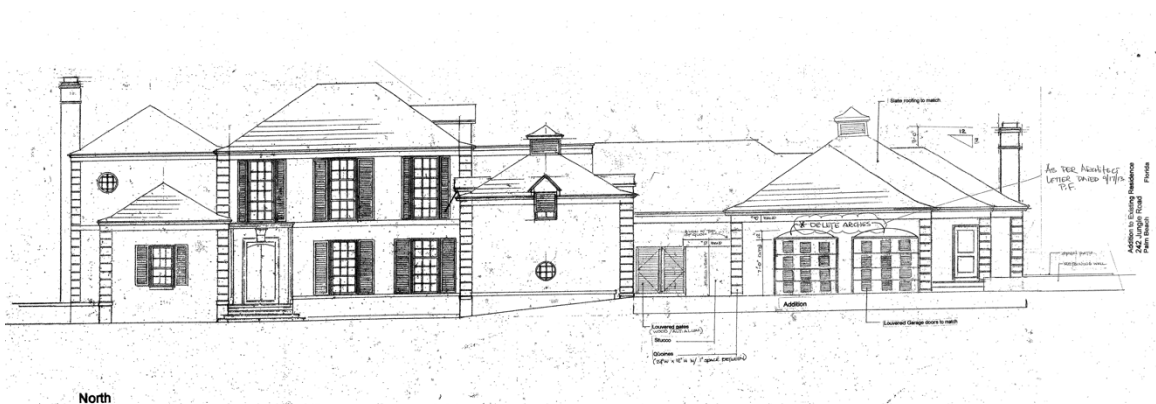


Drawing by Wyeth and King, 1936
 Courtesy of the Preservation Foundation of Palm Beach

The fore court is framed on the east and west by the two wings. To the east of the central section is a wing with a two-story section and a narrower one-story section in front. The one-story portion of this wing projects north of the central section of the residence. A chimney is located on the east façade of the two-story portion of this wing. To the west of the central section is a

wing that has a one-story section to the south and a two-story garage section which projects to the north. The two-car garage is accessed on the east façade and has two garage doors with a shutter design and recessed blind arches above.

Over the years there have been alterations and additions to the residence. Early alterations and additions include a second floor bedroom addition (designed by Wyeth, King and Johnson, 1948), installation of air-conditioning and a cooling tower (1958), addition of a pool, pool bathroom and interior renovations (designed by Wyeth, King and Johnson, 1967), as well as other interior renovations and re-roofing. More recent changes to the property include a two-story addition that was constructed in 2002 at the southeast corner of the residence and was designed by architect Robert L. Bell. In 2014, the property was unified with the property to the west and a one-story addition was constructed to the west of the original residence. The 2014 addition also designed by Robert L. Bell contains a second two-car garage and additional living space. It was designed in keeping with the design and character of the original residence and does not negatively impact the architectural integrity of Wyeth's 1936 design. This addition is also a good example of how a historic structure can change over time to meet the changing needs of homeowners while preserving the important characteristics of a residence's original design.



Drawing by Robert L. Bell of 2014 Addition

IV. Historical Information

The residence at 242 Jungle Road was built for William Watt Jr. during the late Depression/New Deal Era of the mid-1930s. William Watt Jr. had originally come to Palm Beach in 1927 from New York to construct Cielito

Lindo, James and Jessie Donahue's grand estate. Marion Sims Wyeth had designed Cielito Lindo for the Donahue's on a sprawling ocean-to-lake lot they had purchased a few years earlier. The Donahue's wished to occupy their house for the 1927-1928 winter season, so Watts and Sinclair, Inc. brought a "small army of workmen" to construct the house.² Just eleven months after the foundation was laid, Cielito Lindo was ready for occupancy.

After the construction of Cielito Lindo was complete, William Watt and his wife Florence Toop Watt continued to winter in Palm Beach and the firm of Watt and Sinclair moved to Palm Beach in 1929. In 1935, William Watt purchased the property at 242 Jungle Road as the site to construct his personal residence.³ While Watt was associated with many architects in the area, it was Marion Sims Wyeth who he commissioned to design the home at 242 Jungle Road.

The 1930s was a period of transition in the Town of Palm Beach. The building boom of the 1920s had ended and the Island was experiencing a period of economic instability, including a building slowdown that lasted until after World War II. The architecture in Palm Beach was also transitioning during the 1930s and less elaborate styles of architecture were being explored. A November 22, 1936 *Palm Beach Post* article described these changing times in Palm Beach, "Majority of homes now being erected are of moderate sized type; showplaces are now things of former years." The design of 242 Jungle Road is an example of these changing architectural times as designed by Wyeth and constructed by Watt and Sinclair who only a few years earlier together designed and constructed one of the Island's most elaborate estates, Cielito Lindo.

The Watt's continued to live at 242 Jungle Road for over 30 years. Following the Watt's, the property was owned by Baron and Baroness De Gunzburg (1968-1972), Chester and Ritchey LaRoche (1972-1985), Lucy Panill Sale (1985-1993), and Mary Ellen Cabot (1993-2001). The current

² "Donahue House on Boulevard Nearly Ready: Mr. and Mrs. Donahue, with Two Sons, Expected to Arrive December 22 for the Christmas Holidays." *Palm Beach Daily News*, 16 December 1927.

The palatial Palm Beach home on South Ocean Boulevard of James P. Donahue of No. 6 East 80th Street, New York City, will be complete and ready for occupancy on December 22, according to the announcement yesterday of Marion Sims Wyeth, architect in charge and designer of the Spanish type residence. With the last of the building work, supervised by Watt and Sinclair, Inc., New York contractors, drawing near, the small army of workmen who were employed on the grounds when the contract was let last February has now dwindled to about 50 men.

³ *Palm Beach Post*, 9 March 1935, page 3.

owners, K. Prescott Low and Susan Low, purchased the property in 2001 and have been excellent stewards of the residence.



Historic Photo, date unknown

V. Architect & Builder Biographies

Marion Sims Wyeth

Marion Sims Wyeth was as one of Palm Beach's foremost 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. 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.

William Watt, Jr. – Watt and Sinclair Inc.

William Watt, Jr. was a winter resident of Palm Beach since 1928. Mr. Watt was the founder of Watt & Sinclair of New York, a construction firm that built many buildings in Manhattan as well as numerous houses in Oyster Bay (NY), Red Bank (NJ) and Palm Beach.

William Watt first came to Palm Beach at the request of Jessie Woolworth Donohue in 1927 to supervise the construction of her Palm Beach villa, Cielito Lindo, designed by Marion Sims Wyeth. Watt was the builder for the Woolworth Building in New York City that Jessie's father F.W.

Woolworth commissioned in 1913. Cass Gilbert was the architect for the terra-cotta building that was dubbed “The Cathedral of Commerce” and at 792 feet was the tallest building in the world until 1930.

In 1929, the firm of Watt and Sinclair moved to Palm Beach and the Watt family became permanent winter residents of Palm Beach. Associated with leading architects of the area, Mr. Watt’s firm planned and built many residences in Palm Beach. One of Mr. Watt’s closest associates was Maurice Fatio, and together they designed and built a number of residential and commercial buildings.

Mr. Watt planned and supervised the building of the Morrison Field to serve as West Palm Beach’s Airport. When World War II was declared, he expanded the field to buildings for what was to become the ferrying base for the Air Transport Command. As a military base, Morrison Field became a port of embarkments for Army Air Force bomber crews headed for North Africa and England.

Mr. Watt was a successful developer and social member of the winter colonists with memberships to both the Everglades Club and the Bath and Tennis Club.

VI. Statement of Significance

The residence at 242 Jungle Road is an excellent example of the Georgian Revival style of architecture with French influences designed and constructed during the late Depression/New Deal Era in Palm Beach. The design by prominent architect Marion Sims Wyeth and constructed by Watt and Sinclair Inc. is also representative of the architectural, cultural and social changes occurring in Palm Beach during the mid 1930s.

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.”

242 Jungle Road reflects the broad cultural, economic and social history of the Town of Palm Beach. Designed and built in 1936, during the late Depression/New Deal Era for William Watt Jr., the residence is a very good example of the changing times in the Town. The end of the Boom Time Era in Palm Beach had signaled a change in development and construction of residences with many owners seeking mid-size residences with restrained designs.

Designed and built by the same team of architect, Marion Sims Wyeth, and construction firm, Watt and Sinclair, who were responsible only a few years earlier for the grand Donahue estate, Cielito Lindo, 242 Jungle Road is a good representation of the changing times and architectural preferences of the 1930s.

(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 242 Jungle Road, designed and constructed in 1936, is an excellent example of the Georgian Revival style of architecture with French influences as interpreted by Marion Sims Wyeth. This combination of Georgian Revival and French influences make this residence a unique example in Palm Beach. The residence embodies distinctive characteristics of the Georgian Revival style including symmetrical fenestration with shutters, quoins, an accentuated front entry with a flat pediment, and a simplified elegance. The multiple masses of varying heights and steeply pitched hipped roofs with flared eaves impart a French influence to the design, and the wall dormers enhance the residence’s distinctive design. Additions to the residence over the years were sensitive to the original design preserving its historic and architectural integrity.

(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.”

242 Jungle Road is a very good representation of the design work of architect Marion Sims Wyeth, 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. More than 100 of his notable designs were built for some of Palm Beach's most prominent patrons in a range of architectural styles from Mediterranean Revival to classical Georgian, French, and Colonial styles. 242 Jungle Road is a noteworthy example of Wyeth's masterful work.

VIII. Selected Bibliography

Curl, Donald W. Mizner's Florida: American Resort Architecture. Cambridge, Massachusetts: The MIT Press, 1987.

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

The Historical Society of Palm Beach County. Watt file.

Marconi, Richard A. and Murray, Debi. Images of America: Palm Beach. Charleston, South Carolina: Arcadia Publishing, 2009.

McAlester, Virginia Savage. A Field Guide to American Houses: The Definitive Guide to Identifying and Understanding America's Domestic Architecture. New York: Alfred A. Knopf, Inc., 2015.

The Palm Beach Daily News. Archived articles online and articles from the files of the Historical Society of Palm Beach County and the Preservation Foundation of Palm Beach.

The Palm Beach Post. Archived articles online and articles from the files of the Historical Society of Palm Beach County and the Preservation Foundation of Palm Beach.

Preservation Foundation of Palm Beach. 242 Jungle Road file and Wyeth archives.

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

Town of Palm Beach. Building Permits, 1936– 2020.

West Palm Beach City Directories. Asheville, NC: Florida-Piedmont Directory Company, 1936-1989.

IX. Florida Master Site File Form

		HISTORICAL STRUCTURE FORM Electronic Version 1.1.0	Site # <u>PS04235</u> Recorder # <u>Jane S. Day</u> Field Date <u>7/17/2010</u> Form Date <u>9/23/2010</u> Form No <u>201007</u> Form No = Field Date (YYYYMM)
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First Site Form Recorded for this Site? NO

GENERAL INFORMATION

Site Name (address if none) K. Prescott Low, House Multiple Listing (DHR only) _____

Other Names _____ >> Low Key

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>242</u>		<u>Jungle</u>	<u>Road</u>	

Cross Streets (nearest/between) South County Road and Lake Worth

City / Town (within 3 miles) Town of Palm Beach In Current City Limits? YES

County Palm Beach Tax Parcel # (s) 50-43-43-26-00-002-0260

Subdivision Name _____ Block _____ Lot 25

Ownership Private Individual

Name of Public Tract (e.g., park) _____

Route to (especially if no street address) On the south side of Jungle road between South County and Lake Worth.

MAPPING

USGS 7.5' Map Name _____ Publication Date _____ >> PALM BEACH/1986

Township: _____ Range: _____ Section: _____ 1/4 section: _____ >> 43S 43E 00A 0000000-0000000

Irregular Section Name: _____

Landgrant _____

UTM: Zone _____ Easting _____ Northing _____

Plot or Other Map (map's name, location) _____

DESCRIPTION

Style Georgian 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) _____ >> Shp

Other Roof Type(s) gable

Roof Material(s) _____ >> Composition shingles

Other Roof Material(s) _____

Roof Secondary Structure(s) (dormers etc) _____ >> Gable dormer

Other Roof Secondary Structure(s) _____

Number of Chimneys 1

Chimney Material Brick

Other Chimney Material(s) stucco

Chimney Location(s) east

HISTORICAL STRUCTURE FORM

8PB04235

DESCRIPTION (continued)

Window Descriptions 6/6/6 (3 tiered) and 6/6 DHS, fixed

Main Entrance Description (stylistic details) On the north facade with a classical surround

Porch(es): #open 1 #closed #incised Location(s) entry - n

Porch Roof Type(s)

Exterior Ornament belt course, shutters, quoins, cupola

Interior Plan Irregular

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 1936

Architect (last name first): unknown

Builder (last name first): Watt, William, Jr.

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/1936;

Other Structure Uses

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

RESEARCH METHODS

Research Methods >> Examine local property records

Other research methods windshield, tax records, historic files

SURVEYOR'S EVALUATION OF SITE

Potentially Eligible for a Local Register? YES

Name of Local Register if Eligible Palm Beach Landmarks

Individually Eligible for National Register? INSUFF. INFO

Potential Contributor to NR District? NO

Area(s) of historical significance >> Architecture

Other Historical Associations

Explanation of Evaluation (required) Although the architect of this house is not known, it remains a good example of the Regency style and is worthy of further study.

HISTORICAL STRUCTURE FORM

8PB04235

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 1014 NW 6th Drive Boca Raton, Fl. 561-447-2956
 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: Electronic Form Used: Form Type Code: Form Quality Ranking: Form Status Code: Supplement Information Status: Supplement File Status: Form Comments: _____ _____ _____	SHPO's Evaluation of Resource Date: _____ FMSF Staffer: Computer Entry Date:
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REQUIRED PAPER ATTACHMENTS

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

Item 2: 242 Jungle Road

Owner: K. Prescott and Susan Low

Mr. Silvin asked for confirmation on proof of publication. Ms. Churney provided confirmation.

Call for disclosure of ex parte communication: None.

Emily Stillings, MurphyStillings, LLC, testified to the architecture and history for this Georgian Revival style home. Ms. Murphy pointed out the design features of this building. Ms. Murphy testified that the building met 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 Ms. Albarran and second by Ms. Patterson to make the designation report for 242 Jungle Road part of the record. Motion carried unanimously.

Mr. Silvin called for any staff comment on the designation. Ms. Van Onna had no comments at this time.

Many of the Commissioners were supportive of recommending this home to the Town Council as a landmarked home.

Ms. Albarran stated she would love if the owners would change back to the original shutters.

Mr. Wong inquired about the owners and whether they supported the designation.

Tim Hanlon, attorney for the owners, stated that his clients supported the designation.

Motion made by Mr. Segraves and seconded by Ms. Metzger to recommend 242 Jungle Road 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 unanimously.

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

ARTICLE IV. - DESIGNATION PROCEDURE

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

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

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

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

Sec. 54-165. - Voluntary restrictive covenants.

Secs. 54-166—54-195. - Reserved.

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

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

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

(Code 1982, § 16-38)

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

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

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

(Code 1982, §§ 16-38.1, 16-39)

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

The commission has the power to:

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

(Code 1982, § 16-42)

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

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

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

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

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

(Code 1982, § 16-43)

Sec. 54-165. - Voluntary restrictive covenants.

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

(Code 1982, § 16-48)

Secs. 54-166—54-195. - Reserved.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 9, 2020

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 134-2020 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 167 Clarendon 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

ATTACHMENTS:

- ▣ **Memorandum Dated November 24, 2020 from Wayne Bergman, Director of Planning, Zoning and Building**
- ▣ **Resolution No. 134-2020**
- ▣ **167 Clarendon Avenue Designation Report**
- ▣ **Excerpt from the November 18, 2020 Landmarks Preservation Commission Meeting Minutes**
- ▣ **Landmarks Designation Procedure**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 9, 2020

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, Director of Planning, Zoning & Building

Re: Landmark Designation of 167 Clarendon Avenue

Date: November 24, 2020

STAFF RECOMMENDATION

Staff recommends ratification of the property known as 167 Clarendon Avenue as a Town Landmark.

LANDMARKS PRESERVATION COMMISSION RECOMMENDATION

At the Public Hearing for Designation held November 18, 2020 meeting of the Landmarks Preservation Commission, the Commission voted (7-0) to recommend to the Town Council that the above mentioned property be designated as a landmark. In accordance with Section 54-164(a)(11) of Chapter 54 of the Town of Palm Beach Code of Ordinances, the Town Council shall hold a public hearing within ninety (90) days of the final decision of the Landmarks Commission to consider ratification of the Commission's recommendation.

GENERAL INFORMATION

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

- | | |
|-----------------|--|
| Sec. 54-161 (1) | Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town; and, |
| Sec. 54-161 (3) | Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or 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. |

OWNER CONSENT

The property owners, Alfred and Barbara Marulli, were properly notified of the hearing before the Landmarks Preservation Commission. There were no objections made by the property owners at the meeting.

TOWN ATTORNEY REVIEW

Please be advised that the Town Attorney has reviewed Resolution No. 134-2020 relating to 167 Clarendon Avenue and has approved it as to legal form and sufficiency.

Attachments

cc: Murphy Stillings, LLC

RESOLUTION NO. 134-2020

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 167 CLARENDON 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 landmarked 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 amended, pursuant to the provisions of Ordinance No. 2-84, and the provisions of the Town Code described herein, is known as **167 Clarendon Avenue** and the property to be landmarked is legally described as follows:

Vita Serena Lot 14

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 adoption 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 described above and 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 the Town Council of the Town of Palm Beach assembled this ____th day of _____, 2020.

Gail L. Coniglio, Mayor

ATTEST:

Queenester Nieves, Town Clerk

167 Clarendon Avenue



DESIGNATION REPORT

Wednesday, April 22, 2020

Landmark Preservation Commission

Palm Beach, Florida

DESIGNATION REPORT

167 Clarendon Avenue

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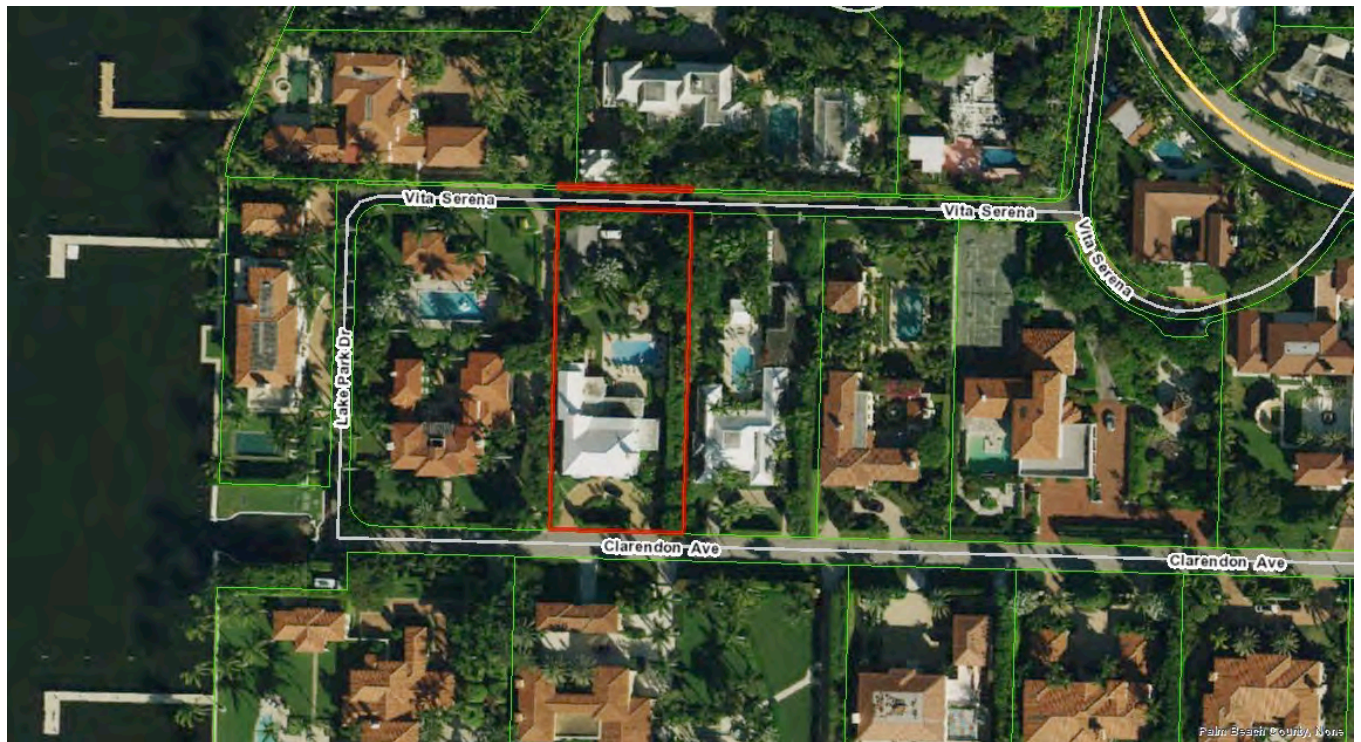
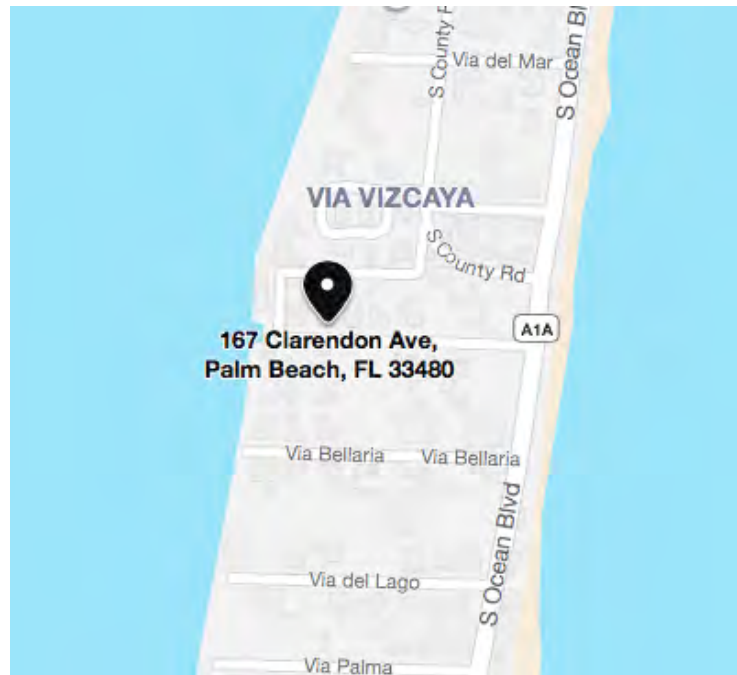
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Report produced by Murphy Stillings, LLC

I. General Information

Location:	167 Clarendon Avenue Palm Beach, Florida
Date of Construction:	1935
First Owner:	George C. Van Dusen
Architect:	Howard Major
Builder:	Charles J. Trevail
Current Owner:	Alfred N. and Barbara Marulli
Present Use:	Residential
Present Zoning:	RA
Palm Beach County Tax Folio Number:	50-43-43-35-03-00-0140
Legal Description:	Vita Serena Lot 14

II. Location Map



III. Architectural Information

The residence at 167 Clarendon Avenue is a two-story Georgian Revival style dwelling with Regency features designed by master architect Howard Major and built in 1935 by Charles J. Trevail. The well-designed and elegant south facing residence sits on a lot one house east of the intersection of Clarendon Avenue and Lake Park Drive just east of the Clarendon Avenue boat basin in the Vita Serena subdivision of Palm Beach's Estate Section.



The Georgian Revival style has the classic symmetrical Colonial shape and is one of the long-lived architectural styles in the United States. It dominated the English colonies of the 18th century and was popular throughout the country from 1880 to 1955. Based on Georgian and Adam prototypes from the northeastern states, variations on the style were popular throughout the Caribbean and were adapted in revival form in South Florida during the 1930s through the 1950s. Stylistic features include rigid symmetry in building mass as well as window and door placement, quoins, accentuated front entries, pediments or porches over the front entry and paired, triple or bay windows often flanked by decorative shutters. The Regency style often includes elements such as friezes, decorative horizontal banding near the

roofline, Greek columns, and balconies or bay windows that project beyond the surface of the primary wall.

The residence at 167 Clarendon Avenue, constructed of concrete block covered with smooth stucco, features a number of these Georgian Revival and Regency design elements. On the south facade the house is symmetrical in form and fenestration. The unique and character defining full-height projecting bays feature 6/9 double-hung sash windows on the first floor and 6/6 double-hung sash windows on the second floor. The top of these bays feature a cornice that projects out from the roofline and accentuates the tri-part shape of the projecting bays. Between the bays on the second floor is an 8/8 double-hung sash window centered over the front entry. Flanking this centered window on the second story are oval windows with interesting motifs that add to the unique design of the dwelling. Colonial shutters are found next to the first and second story bay windows as well as the central second story window.



The classic Georgian entryway is centered on the first floor of the south façade and features an entablature and pediment supported by classical Doric columns. Set

within this door surround is an arched wood paneled entry door flanked by pilasters. The dwelling is topped by a hipped roof covered with flat clay tiles and there are character-defining quoins at the southeast and southwest corners of the dwelling, creating a refined appearance to the main façade. A brick chimney with a stucco chimney cap is located on the east exterior façade while an additional brick chimney with a stucco chimney cap is located on the north facade, completing the houses main design features.

The dwelling sits on a deep lot that runs from Clarendon Avenue to Vita Serena, which are both accessed from South County Road. The Vita Serena entry from South County Road is marked with two stone columns indicating the entrance to the Vita Serena subdivision. The rear yard features a swimming pool, a one-story three-car garage and small one-story accessory building off of the garage. The driveway and motor court in the rear are accessed from Vita Serena, which essentially serves as an alleyway behind the house. There is a decorative metal driveway gate at this rear entrance to the property

Throughout the history of the 167 Clarendon Avenue there have been additions, alterations and repairs to the property. In 1951, a one-story room with a flat roof was added to the northeast corner of the dwelling. In 1977, there was an addition across the rear portion of the house including a breakfast room off the kitchen and in 1980 a swimming pool was added. Other additions include hurricane shutters and a hurricane impact front door. These additions and alterations had very minimal effect to the front façade and thus the house retains its significant historical architectural integrity.

IV. Historical Information

Clarendon Avenue is considered one of the most distinguished residential streets in Palm Beach, tucked between the Atlantic Ocean on the east and Lake Worth on the west. Clarendon Avenue and the Vita Serena subdivision were platted and developed by E. Clarence Jones in 1922. A picturesque historic boat basin with decorative urns

and a stone lion sits at the foot of Clarendon Avenue on the lakeside and an avenue of palms completes the streetscape.¹

167 Clarendon Avenue was built in 1935 during the late Depression/New Deal Era. In Palm Beach, this was also the beginning of the third architectural era. A November 22, 1936 article in the Palm Beach Post-Times titled “Construction Enters Third Era of Design: Majority of Homes Now Being Erected Are of Moderate Sized Type – Showplaces Are Now Things of Former Years” describes the change in building trends:

*“ With nearly 60 new residences as a permanent addition to the winter colony, Palm Beach passes into the third season of its **third architectural era**.*

For though a few spasmodic instances of the Colonial motif had been noted over a period of several years, it was not until the summer of 1934 that the definite trend away from the Spanish became an accepted fact. As construction has steadily mounted in 1934, 1935 and 1936, the white of the Colonial and the classic has replaced the pastels of the Spanish; simplicity of line and design has succeeded the elaborate.

In brief, Palm Beach houses are becoming homes rather than showplaces. The current cycle of architectural fashion has replaced the Spanish, just as after 1918, Addison Mizner’s palatial designs took the place of early barn-like structures of the pioneer era.”²

The design of 167 Clarendon Avenue reflects this historic and architectural change that took place in Palm Beach after the Great Depression. There were still large houses being constructed, but the styles were becoming more classical in design, as with this attractive Georgian Revival dwelling with Regency detailing.

Mrs. Frederick C. (Myra) Van Dusen was the first resident to live in 167 Clarendon Avenue.³ The Van Dusen family had been one of the early pioneer families to spend

¹ Clarendon Avenue Walking Tour Brochure. Preservation Foundation of Palm Beach. February 1, 2007.

² “Construction Enters Third Era of Design: Majority of Homes Now Being Erected Are of Moderate Sized Type – Showplaces Are Now Things of Former Years.” Palm Beach Post-Times. 22 November 1936. The article also noted that some Spanish style houses were being converted into the new British Colonial style.

³ Palm Beach Building Permit #3035 dated April 4, 1935. The owner on the permit is George C. Van Dusen, the son of Mrs. Frederick C. Van Dusen, but City Directories have Mrs. Frederick C. Van Dusen as the sole resident from 1935 to

the winter season in Palm Beach, first staying at the Royal Poinciana Hotel, then at Whitehall and later purchasing houses in town. The father of Frederick C. Van Dusen, George W. Van Dusen, was one of the founders of the Minneapolis grain trade. He began with a small pioneer elevator operation, which he developed into a major, privately-held national firm that saw the entire evolutionary process in the country's economic life that created the milling industry and grain marketing system.

Frederick C. Van Dusen was raised in Rochester, Minnesota and entered the grain business with his father at the age of 16 and later served as president of the company. He married Myra Cross in 1884 and they had a daughter Mary and a son George C. Van Dusen who succeeded his father and grandfather in the firm.⁴ Frederick C. Van Dusen died unexpectedly at the age of 65, only two months after his firm's public stock offering in May of 1928. Mrs. Frederick C. (Myra) Van Dusen continued to spend the summers in Minnesota and the winters in Palm Beach.⁵

An article in the March 26, 1935 edition of the Palm Beach Daily News titled "English Tropical House Will Be Constructed in Vita Serena" describes the house to be built at 167 Clarendon Avenue:

"Contract was awarded Monday afternoon for construction of a new English tropical home for Mrs. Frederick C. Van Dusen of Minneapolis in Vita Serena, work to begin immediately. Charles J. Trevail will be the builder.

Howard Major is architect for this house, which is designed in the mode with which his name is most associated. He will also do the decorations. The house will be in the eighteenth century manner, featured by bay windows and a two-story verandah. A garden to the north will replace the usual patio used here.

1938. George C. Van Dusen and his wife moved in after his mother passed away. The permit states that the house was constructed for \$29,000.

⁴ Frederick C. Van Dusen served on a great number of boards, most in related to the grain trade. He was president of the Minneapolis Foundation, a director of the Northwestern National Bank and Minnesota Loan and Trust Company, trustee of the Farmers and Mechanics Bank, and president of the Minneapolis Fire and Marine Insurance Company. He was also a member of many national committees in the grain trade. He was very active in civic affairs, and served as Director of the Minneapolis Chamber of Commerce and chairman of the board of Westminster Presbyterian Church.

⁵ The Van Dusen's house in Rochester Minnesota is listed on the National Register of Historic Places.

The house in addition to the living room, dining room, and kitchen quarters, will include three master bedrooms, three baths, two dressing rooms and four servants' rooms.

Mrs. Van Dusen is living this winter at 130 Chilean Avenue and expects to occupy her new house next winter. It will be located on the north side of Clarendon Avenue”

Mrs. Frederick Van Dusen moved into the Clarendon Avenue house for the 1935 – 1936 winter season, often entertaining family and friends from Minnesota. Unfortunately she was only able to spend three winter seasons in the house, passing away in April of 1938. After his mother's passing, George C. Van Dusen and his wife Blanche moved into 167 Clarendon Avenue, having previously lived on Peruvian Avenue. George and his family owned the house for twenty-five years before selling it to Clifford C. Childress in 1961.

The Childress family who had previously lived a few streets north at 145 Kings Road lived at 167 Clarendon Avenue for eleven years, selling the house to Louise W. Thomson in 1972. The house changed owners five years later when Louise Thomson sold the house to Caldwell C. (Blitz) and Ann C. Robinson in 1977. Caldwell “Blitz” Robinson served as a Town of Palm Beach Council member from 1978-1982. In 1979, he was listed by Town & Country magazine as one of the top 50 Palm Beach residents who were representative of the best of Palm Beach – philanthropists, art patrons, civic leaders, landed gentry and glamorous presences. And in 1980, he proposed restructuring of the Landmarks Preservation Ordinance to establish historic districts. The Robinsons sold 167 Clarendon Avenue to the current owners Alfred and Barbara Marulli in 1983. Alfred Marulli is the founder and president of the commercial real estate firm David and Associates. He was awarded the prestigious South Florida Business Man of the Year in 2003, 2004 and 2005. The Marulli's have owned 167 Clarendon Avenue for 35 years and have been wonderful stewards of the property.

V. Architect's Biography

Howard Brougham Major (1882–1974) was born in New York, the grandson of a lithographer and the son of a printer's artist. Major studied at the Pratt Institute and the New York Atelier of Beaux-Arts. As the chief draftsman for architect Charles Alonzo Rich, he designed a building at Dartmouth College and country houses for Long Island socialites. He opened his own firm on Fifth Avenue and married

Katherine Clark (1899-1958) in 1920, with whom he traveled overseas during most of 1920 and 1921. In 1923 he joined Addison Mizner's firm and began his Palm Beach career by designing Spanish style houses for Nelson Odman and Richard Cowell in Palm Beach, and Howard Whitney in Gulfstream.

Although Major started his Florida career in the Spanish style he soon became disenchanted with the results and opened his own architectural office. In a 1926 article for Architectural Forum entitled "A Theory Relating to Spanish and Italian Houses in Florida." he suggested that other styles of architecture were more appropriate to the Florida climate and the "national character." Major also was the author of a book entitled Domestic Architecture of the Early American Republic: The Greek Revival. He favored the Greek Revival style and was also a proponent of the British Colonial style and all its variants, including the Monterey style.

In Palm Beach Howard Major is best known for designing "Major Alley," a small complex of six Bermuda style town homes constructed on Peruvian Avenue in 1925. These homes are currently listed as Landmarks of the Town of Palm Beach. He also completed a home for Charles Merrill called "Merrill's Landing" that has been demolished. After the Depression, Major's more subdued style became more popular when showplaces may have been considered in poor taste. Some examples of Major's residential work that are protected by the Palm Beach Landmarks Preservation Commission, include Major Alley at 417 Peruvian Away, 235 Banyan Road, 234 El Bravo Way, 124 Via Bethesda, 745 Hi-Mount Road, 270 Queens Lane, 135 El Vedado Road, 224 and 228 Phipps Plaza, and 421 Peruvian Avenue. In 1929, Major renovated one of the earliest Palm Beach houses to be landmarked, the Vicarage on North Lake Way built in 1897, and the Majors lived there for many years.

Besides his work in Palm Beach, Howard Major did projects in Hobe Sound and Gulfstream, Florida. In Naples he laid out the development of Port Royal and designed the "Church of Trinity-by-the-Sea." In Nassau, Bahamas, Major designed the Porcupine Club and residences for Arthur Vining Davis and Edward Lynch.

The following excerpt from Gene Pandula's "Architects on Architects Talk" provides additional insight into the architectural career of Howard Major:

"Like Addison Mizner, architect Howard Major designed country homes on Long Island, N.Y., in the early days of his career before opening shop in Palm Beach. Major began working for Mizner's Worth Avenue office in 1923 and moved to Palm Beach two years later. The two could not have been more different in their professional approach and preferences. Mizner learned architectural design through

an apprenticeship; Major gained a formal education in architecture in New York. Mizner was known for having a pet monkey and a more freewheeling design process. Though Mizner's design of The Everglades Club and other projects made Mediterranean Revival style the dominant style in Palm Beach, Major carved out a successful career designing homes in the Greek Revival, Georgian and British Colonial styles.

Major was a cerebral person. He did research. He formed theses and opinion and his practice was rigorous in putting these ideas forward. Major's book, The Domestic Architecture of the Early American Republic: The Greek Revival, was published in 1926. He believed very strongly that America had a style of architecture. Major had two reasons for writing the book. One was to bring to light the fallacy of the impression that the 19th century was devoid of artistic expression. And the second was to place before the public irrefutable evidence that Greek Revival is America's national expression in architecture — the classic revival of the Greece and Rome styles perhaps more accurately called the federal style. Major didn't use the latter label because he didn't want to confuse people.

Though Major also designed Mediterranean Revival style houses in Palm Beach, he was the first to criticize it. The style became popular in Palm Beach but he believed it was not being refined for the United States from its origins. And he bases those comments on travels to Cuba, to Spain, to Portugal and other locales where he was very studious about crafting articles about essentially Spanish architecture. He claims it was not a simple matter for the Anglo-Saxon to assimilate to this form of architecture. Major even had a series of eight articles published in The Palm Beach Post dissecting Mediterranean Revival style that were designed to prod his cohorts into better design. He wanted architectural restraint.⁶

VI. Statement of Significance:

167 Clarendon Avenue is an excellent and unique example of the Georgian Revival style of architecture with Regency style details designed by prominent architect Howard Major. The two-story projecting bays are a distinctive and appealing feature rarely found in Palm Beach dwellings. The house was also commissioned by Mrs. Frederick C. (Myra) Van Dusen who was an early pioneer winter resident of Palm Beach and whose family owned the house for over 25 years.

⁶ Rogers, David. "Howard Major 'Rigorous' in Putting Idea Forward, Pandula says in Architect's Talk." Palm Beach Daily News. 22 January 2011.

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:

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

167 Clarendon Avenue was constructed during the Late Depression/New Deal Era. By the mid 1930s, Palm Beach started to experience a post Depression building boom that included buildings constructed with classic and innovative designs intended to stand the test of time. It was described as the third Palm Beach architectural era after the first Pioneer era of mostly large and small Bungalows and Vernacular styles and the second Mediterranean Revival era of the 1920s Land Boom. 167 Clarendon Avenue exemplifies this change with its classic Georgian Revival design with Regency features. The Van Dusen’s were well-known and long-time winter residents of Palm Beach and were a very prestigious family from Minnesota. In addition, Caldwell “Blitz” Robinson lived in this dwelling while serving as a Town of Palm Beach Council member from 1978-1982.

- (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 at 167 Clarendon Avenue is an excellent example of Howard Major’s adept interpretation of the Georgian Revival style enhanced with Regency features. The front facade of the house is symmetrical in form and fenestration with unique and character defining full-height projecting bays with cornices that also project from the roofline. The Georgian entryway with its entablature and pediment supported by classical Doric columns and pilasters along with the character-defining quoins are additional features that complete the classic and interesting design of the dwelling.

(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.”

Howard Major was one of the premier architects in Palm Beach beginning work on the Island in 1923 after a prosperous career designing country houses in New York. He was known for breaking away from the Mediterranean Revival style and promoting through both his writings and designs other styles such as the British Colonial, Georgian Revival, and Monterey that he believed were more appropriate for the south Florida climate and his Palm Beach clientele. The house at 167 Clarendon Avenue is an excellent example of one of Major’s classical designs so appropriate for Palm Beach’s prominent Estate Section.

VIII. Selected Bibliography

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IX. Florida Master Site File Form



HISTORICAL STRUCTURE FORM

Electronic Version 1.1.0

Site # PB04142

Recorder # Jane S. Day

Field Date 5/26/2010

Form Date 9/22/2010

Form No 201005

Form # = Field Date (YYYYMM)

First Site Form Recorded for this Site? NO

GENERAL INFORMATION

Site Name (address if none) Alfred & Barbara Marulli, 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>167</u>		<u>Clarendon</u>	<u>Avenue</u>	

 Cross Streets (nearest/between) South Ocean Blvd. & Lake Worth
 City / Town (within 3 miles) Town of Palm Beach In Current City Limits? YES
 County Palm Beach Tax Parcel # (s) 50-43-43-35-03-000-0140
 Subdivision Name Vita Serena Block Lot 14
 Ownership Private Individual
 Name of Public Tract (e.g. park)
 Route to (especially if no street address) On the north side of Clarendon Avenue between South Ocean Blvd. and Lake Worth.

MAPPING

USGS 7.5' Map Name Publication Date >> PAIM BEACH/1983
 Township: Range: Section: 1/4 section: >> 43S 43E 35.03W Section 4 irregular
 Irregular Section Name:
 Landgrant
 UTM: Zone Easting Northing
 Plat or Other Map (map's name, location)

DESCRIPTION

Style Georgian Revival Other Style
 Exterior Plan Irregular Other Exterior Plan
 Number of Stories 2
 Structural System(s) >> Concrete block
 Other Structural System(s)
 Foundation Type(s) >> Continuous
 Other Foundation Types
 Foundation Material(s) >> Unspecified
 Other Foundation Material(s)
 Exterior Fabric(s) >> Stucco
 Other Exterior Fabric(s)
 Roof Type(s) >> Hip
 Other Roof Type(s)
 Roof Material(s) >> Flat 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)
 Chimney Location(s) East exterior

HISTORICAL STRUCTURE FORM

8PB04142

DESCRIPTION (continued)

Window Descriptions DHS 6/6, 8/8, 6/9, fixed, bay

Main Entrance Description (stylistic details) pedimented front door with stoop

Porches: #open 2 #closed #incised Location(s) front door, 2nd story open terrace

Porch Roof Type(s) open

Exterior Ornament quoins, iron, shutters, stucco piers

Interior Plan Irregular

Other Interior Plan

Condition Good

Structure Surroundings

Commercial: NONE of this category

Residential: ALL this category

Institutional: NONE of this category

Undeveloped: NONE of this category

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

Archaeological Remains (describe): none observed

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

Narrative Description (optional)

HISTORY

Construction year 1935

Architect (last name first): Howard Major

Builder (last name first): Charles Trevail

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/1935;

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

Individually Eligible for National Register? NO

Potential Contributor to NR District? YES

Area(s) of historical significance

>> Architecture

Other Historical Associations

Explanation of Evaluation (required) This is a fine example of a Georgian Revival style residence with Regency features designed by a master architect, Howard Major during the Depression/New Deal Era.

HISTORICAL STRUCTURE FORM

8PB04142

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 1014 NW 6th Drive, Boca Raton, FL 561-447-2956
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: Electronic Form Used: Form Type Code: Form Quality Ranking: Form Status Code: Supplement Information Status: Supplement File Status: Form Comments: _____ _____ _____	SHPO's Evaluation of Resource Date FMSF Staffer: Computer Entry Date:
--	--

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"

Item 3: 167 Clarendon Avenue

Owner: Alfred and Barbara Marulli

Call for disclosure of ex parte communication: None.

Mr. Silvin asked for confirmation on proof of publication. Ms. Churney provided confirmation.

Janet Murphy, MurphyStillings, LLC, testified to the architecture and history for this Georgian Revival style home. Ms. Murphy pointed out the design features of this building. Ms. Murphy testified that the building met 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 Ms. Coleman and second by Ms. Metzger to make the designation report for 167 Clarendon Avenue part of the record. Motion carried unanimously.

Many of the Commissioners were supportive of recommending this home to the Town Council as a landmarked home.

Mr. Segraves inquired if the owners were supportive of the designation. Ms. Murphy stated she was not aware of the owners' wishes. Mr. Segraves was not in favor of the second story, bay windows but was supportive of the recommendation.

Mr. Silvin inquired about the addition on the west side of the property. Ms. Murphy responded.

Mr. Silvin called for any public comment on the designation. There were no comments heard at this time.

Motion made by Ms. Patterson and seconded by Ms. Albarran to recommend 167 Clarendon Avenue 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 unanimously.

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

ARTICLE IV. - DESIGNATION PROCEDURE

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

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

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

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

Sec. 54-165. - Voluntary restrictive covenants.

Secs. 54-166—54-195. - Reserved.

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

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

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

(Code 1982, § 16-38)

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

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

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

(Code 1982, §§ 16-38.1, 16-39)

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

The commission has the power to:

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

(Code 1982, § 16-42)

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

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

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

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

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

(Code 1982, § 16-43)

Sec. 54-165. - Voluntary restrictive covenants.

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

(Code 1982, § 16-48)

Secs. 54-166—54-195. - Reserved.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 9, 2020

Section of Agenda

Appeals

Agenda Title

ARCOM Appeals of B-063-2020 160 Royal Palm Way

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated November 24, 2020 from Wayne Bergman, Director of Planning, Zoning and Building**
- ▣ **Letter Dated November 6, 2020 from Donald J. Lunny, Jr., Esq.**
- ▣ **Letter Dated November 9, 2020 from John Eubanks**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 9, 2020

To: Mayor and Town Council

From: Wayne Bergman, Director of Planning, Zoning & Building



Cc: Kirk Blouin, Town Manager

Re: 160 Royal Palm Way – Palm House Hotel. Appeal of Arcom Decision to Approve Additions and Modifications

Date: November 24, 2020

GENERAL INFORMATION

Property owner LR Palm House LLC made an application to Arcom earlier this year to add additions and to modify the existing hotel at 160 Royal Palm Way. The matter was heard at the October 28, 2020 Arcom meeting and was approved, with the exception of the landscape plan, service gate and building paint color, which were scheduled to return to Arcom in November. During the meeting, Attorneys Donald J. Lunny, Jr., representing the owner of 133 Brazilian Ave., and John R. Eubanks, Jr., representing owners at 140, 141 and 149 Brazilian Ave., spoke in opposition to the project. Please see the partial minutes of the Arcom meeting that summarize the discussion and approval.

The appeal of the Arcom decision was filed by Attorney Lunny on November 6, 2020. Attorney Eubanks filed a “joinder” in the appeal of the Arcom decision on November 9, 2020. The filing of the appeal was in compliance with Town Code 18-177, which allows appeals from Arcom decisions to be filed within ten (10) calendar days of the meeting at which the decision of the Commission is rendered.

Attached:

Chapter 18, Section 18-177 – Appeals and Review

Attorney Lunny Appeal Packet, with Cover Letter dated November 6, 2020 Dated November 6, 2020

Attorney Eubanks Joinder Packet, with Letter Dated November 9, 2020

Partial Minutes from the October 28, 2020 Arcom Meeting

Sec. 18-177. - Appeals and review.

An applicant or any interested party may file an appeal to the town council on any ruling by the architectural commission or the director of the planning, zoning and building department or his/her designee made pursuant to this article. The appeal shall take the form of a letter addressed to the town clerk. In the case of an appeal from the architectural commission, the appeals shall be filed or made within ten calendar days of the date of the meeting at which the decision of the commission is rendered. In the case of an appeal from the decision of the director of planning, zoning and building, the appeal shall be filed or made within ten calendar days of the date the director of the planning, zoning and building department or his or her designee renders the decision in writing. Appeals shall set forth the alleged inconsistency or nonconformity with procedures or criteria set forth in this article or standards set forth in or pursuant to this Code. The town council shall decide an appeal within 45 days of the filing of such appeal unless an extension of time is consented to by the applicant, and such filing shall suspend any building permit issued pursuant to the ruling of the architectural commission or director of the planning, zoning and building department or his/her designee until the town council has decided the appeal. The town council may review any decision of the architectural commission or the director of the planning, zoning and building department and its disposition of the matter shall be final. In addition to appeals, the town council shall consider major projects as defined in the ARCOM Project Designation Manual at the next regularly scheduled town council meeting, subsequent to the meeting of the commission. The disposition of such matters by the town council shall be final. Appeals filed pursuant to this section shall be based on the record of the proceedings below and shall not be presented de novo. The time allotted for presentation of an appeal shall be determined by the town council president.

(Ord. No. 11-2015, § 1(Att.), 4-15-15)



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Please reply to Fort Lauderdale

November 6, 2020

Queenester Nieves
Town Clerk
Town of Palm Beach
360 S. County Road
Palm Beach, FL. 33480

Via Federal Express

Re: The Palm House Hotel
160 Royal Palm Way,
Palm Beach, Florida 33480

Dear Town Clerk Nieves:

This Firm Represents Virginia C. Simmons, individually and as Trustee of the Virginia C. Simmons Revocable Trust U/A/D May 4, 2018, the owner of single-family residential property having a street address of 133 Brazilian Avenue, Palm Beach, Florida. Because our client continues to be very concerned with aspects of proposed Palm House Hotel that will likely increase activity and noise in the rear and east of the Hotel, and expand buildings and structures that are already non-conforming, our client is reluctantly constrained to continue to take steps to preserve various positions to challenge such development's approval. Our client hopes that with the changes requested in this correspondence, the Application can be made more acceptable to her and the other adjacent single-family properties which will be affected by the proposed development.

Since the October 28, 2020 Town Architectural Commission ("ARCOM") Meeting was so close in time to the Town's consideration of the proposed development's variances and special exceptions, Part 1 of this letter is an Appeal of the ARCOM October 28, 2020 Decision, Part 2 of this letter is directed towards the Town Commission's November 13, 2020 consideration of the development's variances and special exceptions; Part 3 of this letter is directed at the proposed Third Amendment to Declaration of Use Agreement; and Part 4 of this letter is directed to some remaining aspects of the Site Plan.

Correspondence to Mr. Nieves
Town of Palm Beach Town Clerk
Re: The Palm House Hotel
November 6, 2020
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Part 1.
Appeal of 10/28/2020 ARCOM Decision for Major Project
Application No. B-063-2020 REV 2

Please consider Part 1 of this letter an Appeal of ARCOM's October 28, 2020 decision ("ARCOM Decision") with respect to The Palm House Hotel ("Applicant") Application No. B-063-2020 REV 2 ("Application"). We have enclosed a Trust Account Check made payable to the Town of Palm Beach for the required fee for this Appeal. While the Town has the video recordings of the September 25, 2020 ARCOM Meeting and the October 28, 2020 ARCOM Meeting, Application No. B-063-2020, Application No. B-063-2020 REV 2, our correspondence dated September 23, 2020, and our correspondence of October 26, 2020, it is our view that such entire record of the proceedings may not be needed by the Town Commission for purposes of the Appeal, and so unless the Town Commission otherwise requires such full record, or we direct you to prepare same; we think the Exhibits included in this Part should be sufficient for the Appeal's purposes.

The reasons for the Appeal are as follows:

1. This proposed development should not be reviewed in a "piecemeal fashion."

The ARCOM Decision results in the development being considered in a "piecemeal fashion," and thus the Town Commission's review of the Application will also be "piecemeal" in nature. Specifically, ARCOM has not approved the Application's landscape plans, and is requiring the proposed landscape plans along the southern and east property lines to be returned to ARCOM for further review. Our client raised concerns with the overall feasibility of the Application's landscape plans at the initial ARCOM hearing of September 25, 2020 and asked that the landscape plans be reviewed. When the application was revised and presented to ARCOM on October 28, 2020, our client pointed out that the landscape plans detailing the proposed landscape buffer and screening (See Exhibit 1, Application Plan Sheet A-121) was not drawn to scale. Further, in light of the Survey included with the initial application (see Exhibit "2") the Applicant did not own enough land South and East of the Hotel improvements and within its Property to accommodate the proposed plantings. (See Exhibit "3", Application Plan Sheet A-122). Thus, the Application's illustrated landscape buffers and screening in these areas is not feasible. We believe that this observation motivated ARCOM to require the proposed landscape buffers and screening to be re-evaluated and brought back to ARCOM for consideration.

Landscape buffers and screening are very important to both improve aesthetics and reduce adverse secondary effects that arise from locating a highly intense commercial development adjacent to single-family residential homes. Indeed Sec. 134-129(5) of the Town's Code provides that for a Site Plan to be approved:

"...the [t]own [c]ouncil shall make a finding that the approval of the site plan ... will not adversely affect the public interest and certify that the specific zoning requirements governing the individual use have ...been met and that further, satisfactory provision and an arrangement has ...been made concerning the following matters, where applicable....

(5) Proposed screens and buffers to preserve internal and external harmony and compatibility with uses inside and outside the property's boundaries.
..."

Further, a Project's proposed landscape buffers and screening are often considered in determining whether to grant various development orders such as the variances and special exceptions that are also requested for the overall Project.

We would encourage the Town Commission to vacate the ARCOM Decision, and remand the Application to ARCOM, so that when ARCOM's review of the Application is *entirely* complete, the Town Commission can then consider the Project instead of addressing this important major development in a piecemeal fashion.

2. ARCOM erred in approving the new full-service bar and restroom building.

The Application proposes a new full-service bar and restroom building which is located contiguous to and West of the expanded Function Room. (See Exhibit "4", Application Plan Sheet 1-104). Prior approved plans showed chemical storage and pool equipment area where this new full-service bar and restroom building are proposed (see Plan Sheets A-200 and A201, attached as Composite Exhibit "5"). The Exhibit "4" Application Plan Sheet No. A-104 clearly shows that this Bar/Restroom building is located within the rear yard setback area established by the CB Zoning District regulations. Therefore, its proposed location is contrary to the Town's Code.

Additionally, the expanded Function Room building is non-conforming to the Town's regulations, any addition or expansion of the Function Room must comply with the Town Code's rear yard setback requirements. In relevant part, Subsection 134-416(d) of the Town's Code states as follows:

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“(d) It is further the intent that, by the provisions of this chapter or by amendments that may be adopted, there may exist buildings or structures which were lawful before this chapter was adopted or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendments thereto. It is the intent of this chapter to permit these nonconforming buildings and structures to exist until they are voluntarily removed, removed by abandonment, or otherwise removed as required by this chapter, but not to encourage their survival. Such nonconforming buildings and structures are allowed to be enlarged, expanded or extended, provided that said enlargement, expansion or extension meets all of the lot yard and bulk regulations for the zoning district in which the building or structure is located and provided that said enlargement, expansion or extension is not used as grounds for adding other buildings or structures prohibited elsewhere, in the same district.” (Emph. Suppl).

Further, Sec. 134-417 of the Town’s Code states as follows:

“A building or structure which is nonconforming with any of the lot, yard and bulk, regulations may be enlarged, expanded or extended to occupy a greater area of land provided that the enlargement, expansion or extension complies with all lot, yard and bulk regulations for the zoning district in which the building or structure is located. This section shall not apply to a building or structure which is demolished by more than 50 percent, as provided for in section 134-419(1), in preparation for any proposed enlargement, expansion, or extension of a building or structure.”

In approving the location of the Bar/Restroom Building, it is our client’s contention that ARCOM did not *satisfy* Sec. 18-205 (a) (9) of the Town’s Code which indicates that in order for ARCOM to approve a proposed project, it must determine that:

“(9) The proposed development is in conformity with the standards of this Code and other applicable ordinances insofar as the location and appearance of the buildings and structures are involved.”

Thus, the ARCOM Decision to approve this new Full-Service Bar and Restroom Building should be REVERSED on Appeal.

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3. ARCOM erred in approving other structures in the rear yard setback area.

Other aspects of the proposed development's structure are also in the rear yard setback, such as the pool water fountain feature and the expansion of the Function Room to enclose more interior space.

There was no Town Staff Report prepared for the ARCOM hearing, however, our client learned at the October 28, 2020 ARCOM hearing; that the currently proposed fountain is *smaller* than what was previously approved, and provided this remains the case, our client will no longer object to same; however, if this is not the case, our client will continue to object to same.

Similarly, our client requested that significant efforts to sound-proof the Function Room's enclosed space be included in the Town's approval, and upon receiving a confirmation that this will be required *and provided*, our client will not object to the increase in the Function Room's enclosed space as also being an expansion to a nonconforming building that is prohibited by the Town's Code. The rationale for not objecting to the increase in the Function Room's enclosed space is that, hopefully, the resulting *indoor* activity will become very noise controlled.

Wherefore, our client would respectfully request that the Town Commission reverse or vacate the ARCOM Decision, and remand the Application to ARCOM for proceedings consistent with any instructions in the Town Commission's ruling if any, and further, our client would request any other relief the Town Commission may determine proper and appropriate.

Part 2. Comment on the Requested Variances and Special Exceptions

1. The Variances should be denied because they are "Self Created."

Our review of the Town's variance law would cause an objective reader to doubt whether sufficient grounds for granting a variance are present in this case. The Palm Beach County Property Appraiser records discloses that the applicant, LR Palm House LLC, a Delaware Limited Liability Company, obtained a Debtor in Possession Deed to the site on May 15, 2019, which is *after* the 2016 Town conditional development approvals. A copy of the Deed is attached as Exhibit "6".

The Exhibit "2" Application Survey prepared by Wallace Surveying Corporation discloses that The Palm House Hotel property is uniformly rectangular, having a 300' x

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200' dimension. Thus, the real property on which The Palm House Hotel sits has no irregular contours or shape which would support a variance request. Moreover, the dimensions of the Applicant's Property *more than satisfies* the C-B Zoning District's minimum lot area, lot width, and lot depth requirements (See Sec. 134-1308 (1), (2), (3) Town Code).

Given that the Applicant acquired the development *after* the 2016 Town approvals, and given that the Applicant's real property is not irregular and more than satisfies the Town's C-B District minimum dimensional requirements, any claimed "hardship" for the requested Variances should be viewed as "*self-created*" in as much as a *developed site* was acquired by the Applicant simply put, Application results from the Applicant's desire to change things. A "self-created" hardship cannot be the basis for granting a Zoning Variance. The Variances should be denied.

2. The Town's Zoning Regulations do not authorize the Town Commission to grant a Special Exception for the Palm House Hotel.

The Application states that Special Exceptions are needed for the Site Plan to be approved. Our review of the Town's Special Exception law would cause an objective reader to doubt whether the Town Commission can grant Special Exceptions in this case. Sec. 134-229 (1) of the Town Code reads as follows:

"The requirements for granting a special exception use under this chapter are as follows:

- (1) The use is a permitted special exception use as set forth in article VI of this chapter."

The Town's C-B District Regulations define the applicable Special Exception Use in Section 134-1304 (a) (5) as follows:

- (a) The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the C-B commercial district are as follows:
 - (5) Hotels at a maximum of 26 units per acre.

Our review of the Application's Survey discloses that The Palm House Hotel property is rectangularly shaped, with dimensions of 300.00' X 200.00 feet. Thus, the Applicant's Property is 60,000 SF in area, or $(60,000 \div 43,560 =) 1.376$ acres in size. The CB Zoning District regulations *as applied to the Applicant's Property* limit the Town Council's authority to grant a Special Exception to a Hotel having a maximum of 36 units. Since

Correspondence to Mr. Nieves
Town of Palm Beach Town Clerk
Re: The Palm House Hotel
November 6, 2020
Page 7 of 10

the Applicant's hotel is not a listed special exception use in the Town's CB Zoning District's regulations, the requested Special Exceptions cannot be granted.

PART III

The Draft 3rd Amendment to Declaration is not sufficient to mitigate potential adverse secondary effects of the Hotel.

1. In 2012, the historical digest received by our client for the zoning application discloses that the Town Commission conditioned its approval of the development orders it then granted to indicate in Condition 4 that *"The pool deck area shall be allowed only background music and light live music with the speaker system directed to the North. There shall be no music on the abutting grass area."* The Amendment to Declaration of Use Agreement recorded in Official Records Book 25694 at page 0633 indicates in Article IV, Paragraph 3 that there will be *no events* on the pool deck, the grass area will remain *"passive,"* and music on the pool deck will be only background or light live music with the speaker system directed to the North. (See Exhibit "7" for the Amendment to Declaration of Use Agreement). The proposed, draft Third Amendment to Declaration and Use Agreement indicates that *"Pre-function events will be allowed on both the pool deck and the grass area"*. While the proposed Third Amendment does not allow music in the grass area, it has no restrictions whatsoever on other forms of amplified sound. Our client would request that the Third Amendment be revised in this regard to:
 - a. Add the words *"noise controlled, passive"* before the words *"pre-function events"* for the grass area;
 - b. Prohibit such *"pre-function events"* on the pool deck;
 - c. Restrict the hours of noise controlled, passive pre-function events in the grass area to reasonable hours (from 10:00 am to 7:00 pm.)
 - d. State that there will be no *outdoor* music (live or recorded), no *outdoor* live entertainment, and no *outdoor* amplified sound permitted anywhere on the Land, with the exception of *background* live or *background* recorded music which will be permitted on the pool deck from 9:am to 7:00 PM. "Background live or recorded music" is defined music having a low enough volume that normal conversation can be held over the music. Background live music shall have speakers for same directed to the North.
2. The Applicant has represented to ARCOM that there will be no rooftop guest access to the Hotel or the Function Room; however, these restrictions have been *removed* from the proposed Third Amendment to Declaration of Use Agreement. Once removed, they will

Correspondence to Mr. Nieves
Town of Palm Beach Town Clerk
Re: The Palm House Hotel
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Page 8 of 10

no longer be considered a restriction or condition of Project approval. The Declaration of Use Agreement should clearly state: *"No hotel guests, or other social or leisure activity or entertainment of any kind will be permitted on the roofs of the hotel, the function room, or other accessory buildings"*.

3. Generally, the Declaration of Use Agreement refers to a "function area" and our client would request the more precise term "Function Room" be used instead.

Part IV. Other Site Plan Comment

1. Our client objects to the Function Service Building and Bar/Restroom Building.

- A. The Application now includes a "Function Service Building" which is contiguous to a portion of the East building face of the Function Room. (See Exhibit "4," Plan Sheet A-104) Our client objects to this expansion to the Function Building, as it increases the activity of the Site along the East property line. The Function Service Building's supportive activities (especially activities related to cleanup and removal of Function Room Events) will likely be after dark, and both noise and vehicle light will be caused by loading area activities (from vehicles turning in the loading area shown on the Site Plan, or being used to transport equipment, furnishings, food, and beverages into either the Function Room or Function Service Building).
- B. Our client has objected to the Function Room Bar/Restroom Facility Section 1 of this letter as being an expansion to a nonconforming building. We were informed by ARCOM that "use issues" were within the Town Commission's purview. Additional reasons supporting our client's objection to these areas are set forth herein.

The Hotel is currently a non-conforming use, and Sec. 134-387 of the Town's Code provides:

"Sec. 134-387. - Extension or expansion.

No nonconforming use shall be enlarged, increased, intensified, substituted or extended to occupy a greater area than it occupied at the effective date of adoption or amendment of this chapter, except as may be granted by variance under section 134-201. No such nonconforming use shall be relocated in whole or in part to any portion of a lot or parcel except the location occupied by such use at the effective date of adoption or amendment of this chapter."

The Town should not allow the nonconforming use to expand by granting Variances for the Function Service Building or the Function Room Full-Service Bar and Restroom Building, since the hardships are "self-created."

Correspondence to Mr. Nieves
Town of Palm Beach Town Clerk
Re: The Palm House Hotel
November 6, 2020
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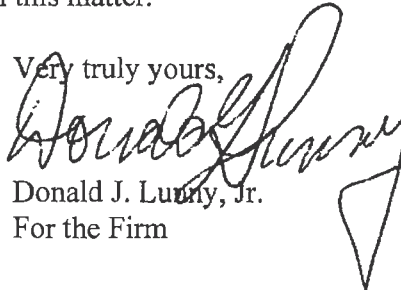
2. Our client shares the Zoning Administrator's concerns as expressed in the Town Staff's 11/2/2020 Staff Report.

- A. The Function Room Seats should remain restricted to 150 dining room seats. Granting additional seating, and removing dining room seating as requested, increases the intensity of the non-conforming use in the rear and eastern portion of the Property. As stated above, our client is very concerned with additional improvements and activity in these areas of the Property.
- B. The more than doubling of outside seating is problematic, as again, this increases the intensity of an existing non-conforming use. Our client would request that the amount of outside seating not exceed prior approvals. In view of the above, our client would request that the Town Commission not approve the Full-Service Bar and Restroom Building, not approve the Function Service Building, and limit outdoor seating as suggested. Additionally, our client would request whatever other relief the Town Commission may deem proper.
- C. Our clients comment in support of Staff's concerning the Declaration and the so called "Pre-function" events are set forth in Part III of this letter above.

Conclusion

Please ensure that a copy of this correspondence and its Exhibits are given promptly to the Mayor and Members of the Town Commission. We wish to thank the Town for its consideration of this matter. Finally, we reserve the right to raise additional objections and legal and factual arguments in connection with these matters should it become appropriate to do so as we continue to learn about and participate in this matter.

Very truly yours,



Donald J. Lunny, Jr.
For the Firm

Cc w/encl: (Via E-mail):
Mr. Wayne Berman;
John C. Randolph, Esq.
Maura Ziska, Esq.

OVERALL SOUTH ELEVATION - WITH PROPOSED LANDSCAPE SCREENING



Area (B7) Land-use Designation

7-477 First Year (3-Set Size)

412 First-Occupier

173 E Entry Parking Area

87 W Entry Parking Area

723 W Property Line Planting Strip

958 E Property Line Planting Strip

83 New Fertilizer - East Drive (A)

115 New Fertilizer - East Drive (B)

1,697 S Property Line Planting Strip

973 East-Lane

669 Pool Deck Plantings

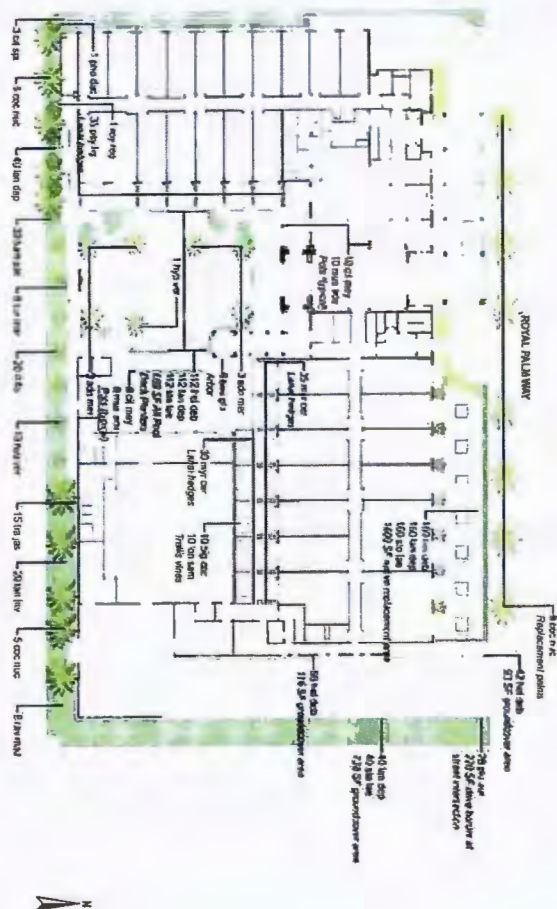
123 W Lane Deckers (dividers)

118 E Lane Deckers (dividers)

83 E Lane Southern hedges

85 Vines for Treels

P 315 sq. TOTAL LANDSCAPE AREA



The Palm House Hotel
1642 Boulevard

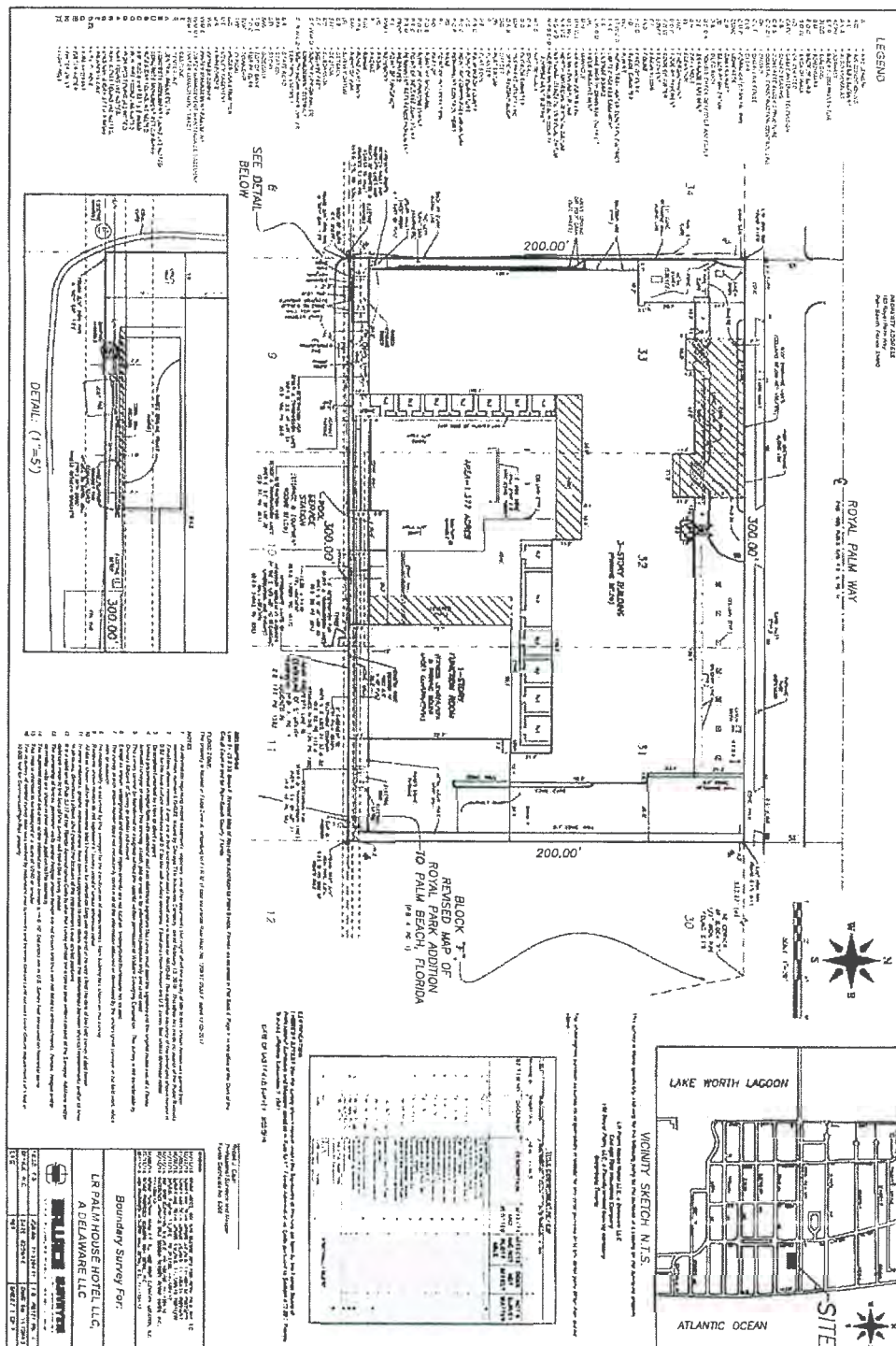


EXHIBIT 1



COOPER CARRY

OCTOBER 21ST, 2020 | 7:20-9:02 PM



PLANT SCHEDULE

PALMS

Key	Qty	Botanical Name	Common Name	Root	Size	Spacing	Native or Non-Native	Height at Planting	Spread at Planting	Height at Maturity	Spread at Maturity	Remarks
Ad mer	6	<i>Adonidia merillii</i>	Christmas Palm	25 gallon	5' clear trunk, single	As shown	Non-Native	8 feet	4 feet	25 feet	8 feet	Pool deck planting
Coc nuc	18	<i>Coccothrinax nucifera</i>	Coconut Palm	B&B	10' clear trunk, single	As shown	Non-Native	15 feet	8 feet	60 feet	20 feet	Street planting replacement palms
Hyd ver	14	<i>Hyophorba verschaffeltii</i>	Spindle Palm	25 gallon	5' clear trunk, single	As shown	Non-Native	7 feet	3 feet	25 feet	8 feet	Pool deck planting
Pho dec	1	<i>Phoenix decussata</i>	Dale Palm	B&B	8' clear trunk, single	As shown	Non-Native	12 feet	4 feet	70 feet	20 feet	Perimeter plantings
Rav mad	8	<i>Ravenea madagascariensis</i>	Traveler's Palm	25 gallon	3' clear trunk, multi-stem	As shown	Non-Native	6 feet	4 feet	30 feet	18 feet	South border screen planting
Roy reg	1	<i>Roystonia regia</i>	Royal Palm	B&B	10' clear trunk, single	As shown	Native	15 feet	8 feet	60 feet	20 feet	Perimeter plantings

TREES

Key	Qty	Botanical Name	Common Name	Root	Size	Spacing	Native or Non-Native	Height at Planting	Spread at Planting	Height at Maturity	Spread at Maturity	Remarks
Cil spi	3	<i>Citharexylum spicatum</i>	Fiddlewood	3 gallon	24"	As shown	Native	24 inches	18 inches	20 feet	15 feet	Perimeter plantings
Gym luc	3	<i>Gymnanthes lucida</i>	Craywood	3 gallon	24"	As shown	Native	24 inches	18 inches	20 feet	15 feet	Perimeter plantings

SHRUBS

Key	Qty	Botanical Name	Common Name	Root	Size	Spacing	Native or Non-Native	Height at Planting	Spread at Planting	Height at Maturity	Spread at Maturity	Remarks
Cit mey	18	<i>Citrus x meyeri</i>	Meyer Lemon	2 quart	12"	As shown	Non-Native	12 inches	8 inches	6 feet	3 feet	For use in pots at pool deck
Hart pal	30	<i>Hamelia patens 'Compacta'</i>	Dwarf Firebush	3 gallon	18"	24" O.C.	Native	18 inches	12 inches	4 feet	3 feet	Perimeter plantings
Ill flo	20	<i>Illicium floridanum</i>	Florida Anise	3 gallon	24"	36" O.C.	Native	24 inches	18 inches	12 feet	8 feet	Perimeter plantings
Lan inv	20	<i>Lantana involucrata</i>	Wild Sage	1 gallon	12"	36" O.C.	Native	12 inches	6 inches	4 feet	3 feet	Pool deck plantings
Mus acu	18	<i>Musa acuminata 'Dwarf Cavendish'</i>	Dwarf Banana	1 gallon	12"	As shown	Non-Native	12 inches	8 inches	6 feet	4 feet	For use in pots at pool deck
Myr cer	65	<i>Myrcia caribaea</i>	Wax Myrtle	1 gallon	12"	24" O.C.	Native	12 inches	8 inches	6 feet	3 feet	Lanal hedges
Piu eur	28	<i>Plumbago auriculata 'Imperial Blue'</i>	Blue Plumbago	1 gallon	12"	48" O.C.	Non-Native	12 inches	8 inches	6 feet	8 feet	Perimeter plantings
Psy lg	35	<i>Psychotria ligustrifolia</i>	Bahama Coffee	1 gallon	12"	24" O.C.	Native	12 inches	8 inches	4 feet	4 feet	Pool deck plantings and Lanal hedges
Sur mar	8	<i>Suriana maritima</i>	Bay Cedar	3 gallon	18"	As shown	Native	18 inches	12 inches	10 feet	8 feet	Perimeter plantings

VINES

Key	Qty	Botanical Name	Common Name	Root	Size	Spacing	Native or Non-Native	Height at Planting	Spread at Planting	Height at Maturity	Spread at Maturity	Remarks
Big cap	10	<i>Bignonia capreolata</i>	Crossvine	1 gallon	12"	12" O.C.	Native	NA	NA	NA	NA	Trellis planting
Bou gla	6	<i>Bougainvillea glabra</i>	Bougainvillea	1 gallon	12"	12" O.C.	Non-Native	NA	NA	NA	NA	Trellis planting
Lon sem	10	<i>Lonchocarpus sempervirens</i>	Coral Honey-suckle	1 gallon	12"	12" O.C.	Native	NA	NA	NA	NA	Trellis planting
Tra jas	15	<i>Trochodendron jasmynoides</i>	Star Jasmine	1 gallon	12"	12" O.C.	Non-Native	NA	NA	NA	NA	South border screen plant

PERENNIALS AND GROUNDCOVERS

Key	Qty	Botanical Name	Common Name	Root	Size	Spacing	Native or Non-Native	Height at Planting	Spread at Planting	Height at Maturity	Spread at Maturity	Remarks
Hel deb	370	<i>Helianthus debilis</i>	Beach Sunflower	1 gallon	6"	24" O.C.	Native	6 inches	6 inches	18 inches	18 inches	For use in groundcover areas
Lan dep	352	<i>Lantana depressa</i>	Weeping Lantana	1 gallon	8"	24" O.C.	Native	8 inches	6 inches	24 inches	48 inches	For use in groundcover areas
Sto lae	312	<i>Stokesia laevis</i>	Sticks Aster	1 gallon	6"	24" O.C.	Native	6 inches	5 inches	18 inches	18 inches	For use in groundcover areas

NATIVE PLANT CALCULATIONS

Landscape Designation	Area (SF)	Native Area (SF)	Plants designated for Native Area
Front Yard (East Side)	2472	1600 - 64%	Hel deb, Lan dep & Sto lae
New Planter - East Drive (A)	93	93 - 100%	Hel deb
New Planter - East Drive (B)	116	116 - 100%	Hel deb
S. Property Line Planting Strip	1697	1018 - 60%	Roy reg, Cit spi, Gym luc, Ham pal, Ill flo, Lan inv, Sur mar, Lan dep
Pool Deck Plantings	689	689 - 100%	Hel deb, Lan dep & Sto lae
W. Lantal Hedges (dividers)	133	133 - 100%	Psy lg
E. Lantal Hedges (dividers)	119	119 - 100%	Myr cer
E. Lantal Southern Hedges	65	65 - 100%	Myr cer
Vine Area for Trellis	65	65 - 100%	Big cap & Lon sem
Total Native Area	3918 SF		
Total Native Area (3918 SF) is 44% of Total Landscape Area (8815 SF) *see Planting Plan for total landscape area tabulation			

LANDSCAPE PLANTING SCHEDULE

A122

The Palm House Hotel

160 Royal Palm Trn

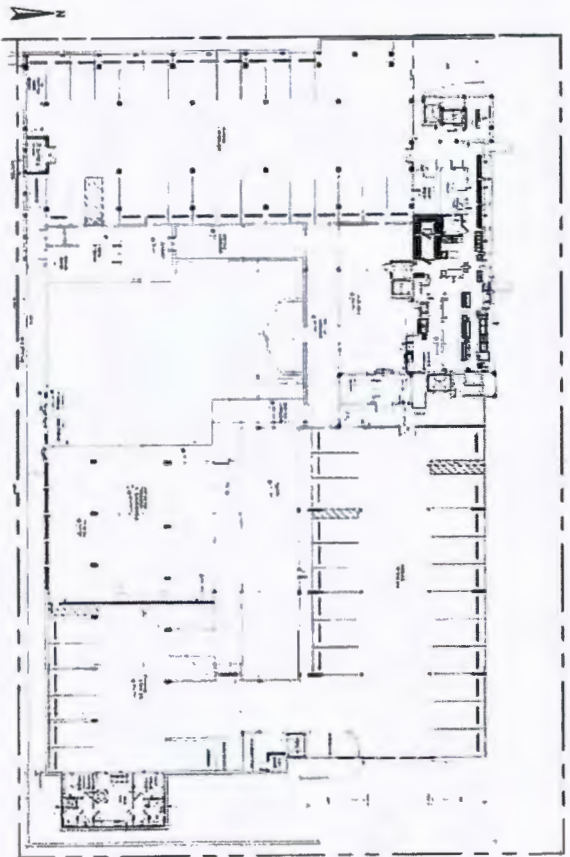


EXHIBIT 3



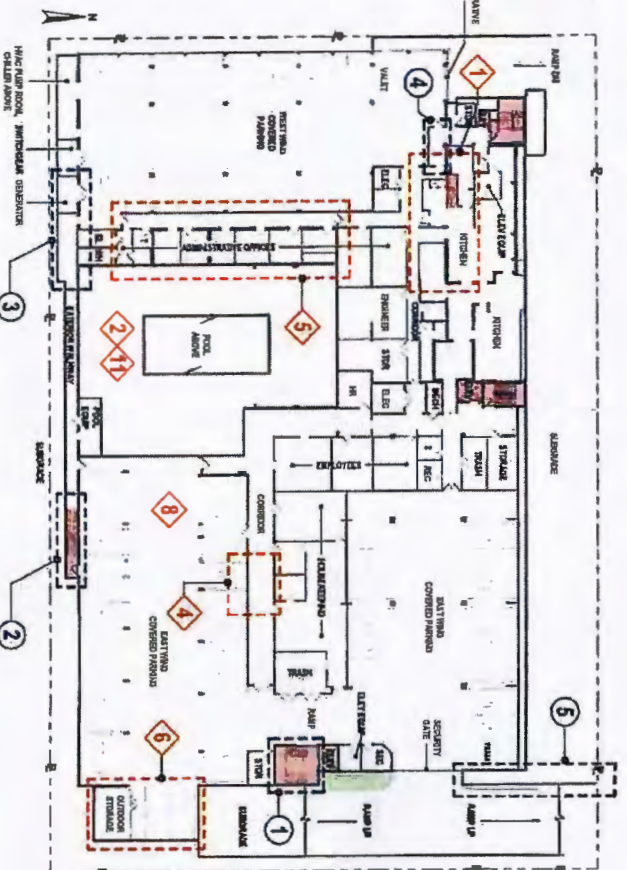
COOPER CARRY

License No. AA260005
OCTOBER 2011 2012



LOWER LEVEL FLOOR PLAN - APPROVED
(SPR SE 01-2016 PREPARED BY DAVID MILLER & ASSOCIATES, P.A.)

NON-CONFORMING DEFICIENCIES	PROPOSED CORRECTIONS
1 Demolish partially constructed elevator extension to roof-top above second floor dining room & lobby to the "Sunset" deck.	1 Demolish elevator shaft extension to the north roof deck. Patch roof to match existing. No assembly space at rooftop.
2 Complete construction of Function Room and Pool area consistent with plans previously approved by the Town of Palm Beach.	2 Construct new pool, pool deck and amenities as designed on the proposed improvement plans, for Town of Palm Beach approval.
3 Demolish partially constructed walkway, stairs and elevator access to roof above Function Room.	3 Demolish elevator shaft, elevated stair and walkway. Patch roof to match existing. No assembly space at rooftop.
4 Demolish approximately 1,140 SF of office space in area and restore previously approved service corridor and Laundry space.	4 Retain 1,140 square foot of new office space for hotel staff and administration.
5 Demolish partially constructed enclosure of portions of the Basement Garage on both east and west side of the property and restore 5 required off-street parking spaces.	5 Demolition to restore required parking spaces. Retain small area inaccessible for parking as outdoor storage.
6 Demolish partially constructed wall in basement parking area which was built to expand the Basement Function Room kitchen and restore required parking.	6 Demolition to restore required parking spaces.
7 Eliminate two pool area structures and relocate pool structure which includes service bar to previously approved location. The pool area will be retained as previously approved.	7 Demolish noncompliant pool area structures. Construct new pool support structures as designed on the proposed improvement plans, for Town of Palm Beach approval.



LOWER LEVEL FLOOR PLAN - PROPOSED

PROPOSED IMPROVEMENTS
1 Extend open-air stair to basement for fire safety egress from basement and parking.
2 Extend retaining wall and exterior walkway near south property line for fire safety egress and allow for staff access to the pool deck.
3 Replace existing 2500W, 480V/277V natural gas generator in base site, capacity and location. Construct raised enclosure for required fire separation from parking and egress path at Town of Palm Beach.
4 Enclose portion of parking area to provide the separated egress path from southwest portion of parking and mechanical spaces.
5 Construct new exterior retaining wall, stair and walkway for improved fire safety egress path to public way (Royal Palm Way).

LOWER LEVEL FLOOR PLAN

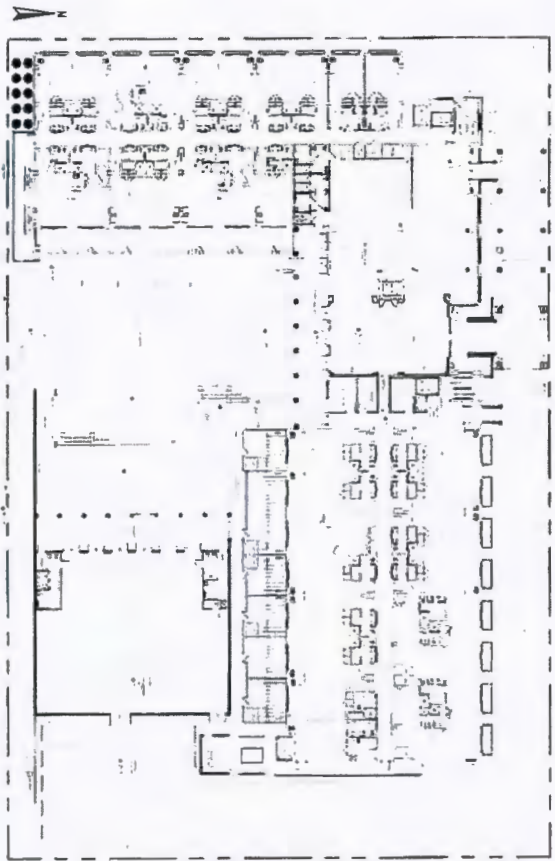
A200

The Palm House Hotel
100 Royal Palm II, N.



COOPER CARRY
1000 N. ANTIQUARIUM | 304-250-2000
OCTOBER 2017, 2020 | 17-25-00189

EXHIBIT 5



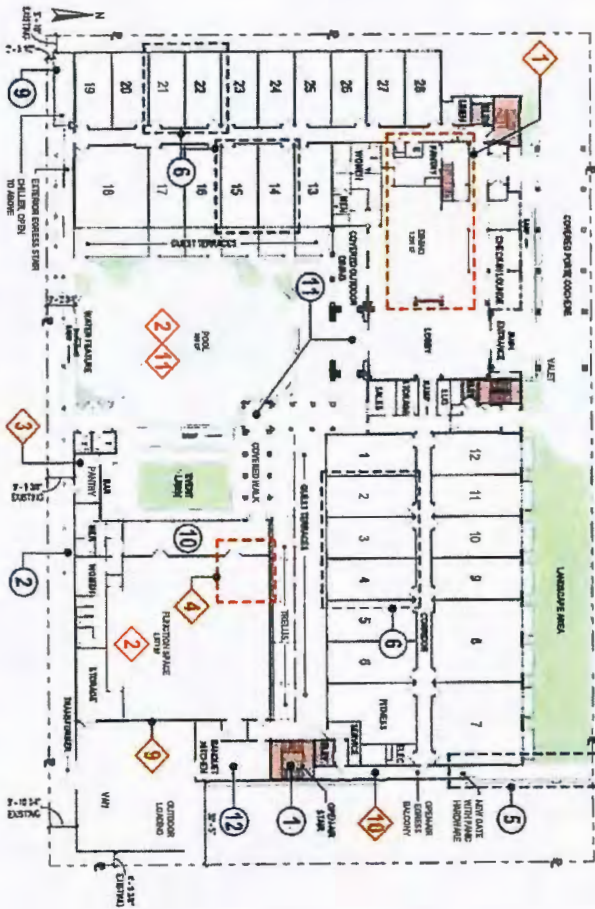
FIRST LEVEL FLOOR PLAN - APPROVED
(SPR SE 001-2016 PREPARED BY DAVID MILLER & ASSOCIATES, P.A.)

NON-CONFORMING DEFICIENCIES		PROPOSED CORRECTIONS	
1	Demolish partially constructed elevator extension to rooftop above second floor dining room & lobby to the "Sunset" deck.	1	Demolish elevator shaft extension to the north roof deck. Patch roof to match existing. No assembly space at rooftop.
2	Complete construction of Function Room and Pool area consistent with plans previously approved by the Town of Palm Beach.	2	Construct new pool, pool deck and amenities as designed on the proposed improvement plans, for Town of Palm Beach approval. Complete construction of Function Room.
3	Demolish partially constructed balconies on west side of Function Room and complete construction in new immediately adjacent to the Southwest corner of the Function Room.	3	Demolish bathroom building and construct new single-use toilets for pool, pool service pantry and life service bar adjacent to new event lawn.
4	Demolish partially constructed walkway, stairs and elevator access to roof above Function Room.	4	Demolish elevator shaft, elevator stair and walkway. Patch roof to match existing. No assembly space at rooftop.
9	Construct opening on the east side of the Function Room wall which was going to be an unauthorized stage.	9	Install opening at east side of Function Room and finish to match adjacent exterior walls.
10	Remove full framing at exterior walkways on east elevation.	10	Enclose existing, partially complete open-air egress balcony with new exterior walls and railings.
11	Eliminate two pool area structures and relocate pool structure which includes service bar to previously approved location. The pool area will be re-created as previously approved.	11	Demolish noncompliant pool area structures. Construct new pool support structures as designed on the proposed improvement plans.

FIRST LEVEL FLOOR PLAN

A201.A

The Palm House Hotel
1600 Road, Palm Beach



FIRST LEVEL FLOOR PLAN - PROPOSED

PROPOSED IMPROVEMENTS	
1	Extend existing open-air stair to basement for improved fire safety egress from basement spaces and parking.
2	Extend existing wall and exterior walkway near south property line for fire safety egress and allow for stair access to the pool deck.
3	Construct new exterior relating walk, stair and walkway for improved fire safety egress path to public way (Royal Palm Way).
4	Convert existing guest rooms as shown on the proposed improved plan to provide 130 beds total.
5	Extend existing wall and exterior walkway near south property line for fire safety egress and allow for stair access to the pool deck.
6	Construct new exterior relating walk, stair and walkway for improved fire safety egress path to public way (Royal Palm Way).
9	Replace existing roller, construct new screen walls to height of new equipment.
10	Enclose existing open-air covered walkway at Function Room to create conditioned circulation.
11	Reconfigure exterior terrace facing new proposed pool deck. Provide covered walkway from hotel lobby to Function Room.
12	Enclose area with new exterior walls and roof for new banquet prep kitchen adjacent to Function Room.

Exhibit "C"
Cont



COOPER CARRY
1600 Road, Palm Beach
OCTOBER 2017, 2018





Donald J. Lunny, Jr., Esq.
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Please reply to Fort Lauderdale

November 6, 2020

Queenester Nieves
Town Clerk
Town of Palm Beach
360 S. County Road
Palm Beach, FL. 33480

Via Federal Express

Re: The Palm House Hotel
160 Royal Palm Way,
Palm Beach, Florida 33480

Dear Town Clerk Nieves:

This Firm Represents Virginia C. Simmons, individually and as Trustee of the Virginia C. Simmons Revocable Trust U/A/D May 4, 2018, the owner of single-family residential property having a street address of 133 Brazilian Avenue, Palm Beach, Florida. Because our client continues to be very concerned with aspects of proposed Palm House Hotel that will likely increase activity and noise in the rear and east of the Hotel, and expand buildings and structures that are already non-conforming, our client is reluctantly constrained to continue to take steps to preserve various positions to challenge such development's approval. Our client hopes that with the changes requested in this correspondence, the Application can be made more acceptable to her and the other adjacent single-family properties which will be affected by the proposed development.

Since the October 28, 2020 Town Architectural Commission ("ARCOM") Meeting was so close in time to the Town's consideration of the proposed development's variances and special exceptions, Part 1 of this letter is an Appeal of the ARCOM October 28, 2020 Decision, Part 2 of this letter is directed towards the Town Commission's November 13, 2020 consideration of the development's variances and special exceptions; Part 3 of this letter is directed at the proposed Third Amendment to Declaration of Use Agreement; and Part 4 of this letter is directed to some remaining aspects of the Site Plan.

Part 1.
Appeal of 10/28/2020 ARCOM Decision for Major Project
Application No. B-063-2020 REV 2

Please consider Part 1 of this letter an Appeal of ARCOM's October 28, 2020 decision ("ARCOM Decision") with respect to The Palm House Hotel ("Applicant") Application No. B-063-2020 REV 2 ("Application"). We have enclosed a Trust Account Check made payable to the Town of Palm Beach for the required fee for this Appeal. While the Town has the video recordings of the September 25, 2020 ARCOM Meeting and the October 28, 2020 ARCOM Meeting, Application No. B-063-2020, Application No. B-063-2020 REV 2, our correspondence dated September 23, 2020, and our correspondence of October 26, 2020, it is our view that such entire record of the proceedings may not be needed by the Town Commission for purposes of the Appeal, and so unless the Town Commission otherwise requires such full record, or we direct you to prepare same; we think the Exhibits included in this Part should be sufficient for the Appeal's purposes.

The reasons for the Appeal are as follows:

1. This proposed development should not be reviewed in a "piecemeal fashion."

The ARCOM Decision results in the development being considered in a "piecemeal fashion," and thus the Town Commission's review of the Application will also be "piecemeal" in nature. Specifically, ARCOM has not approved the Application's landscape plans, and is requiring the proposed landscape plans along the southern and east property lines to be returned to ARCOM for further review. Our client raised concerns with the overall feasibility of the Application's landscape plans at the initial ARCOM hearing of September 25, 2020 and asked that the landscape plans be reviewed. When the application was revised and presented to ARCOM on October 28, 2020, our client pointed out that the landscape plans detailing the proposed landscape buffer and screening (See Exhibit 1, Application Plan Sheet A-121) was not drawn to scale. Further, in light of the Survey included with the initial application (see Exhibit "2") the Applicant did not own enough land South and East of the Hotel improvements and within its Property to accommodate the proposed plantings. (See Exhibit "3", Application Plan Sheet A-122). Thus, the Application's illustrated landscape buffers and screening in these areas is not feasible. We believe that this observation motivated ARCOM to require the proposed landscape buffers and screening to be re-evaluated and brought back to ARCOM for consideration.

Landscape buffers and screening are very important to both improve aesthetics and reduce adverse secondary effects that arise from locating a highly intense commercial development adjacent to single-family residential homes. Indeed Sec. 134-129(5) of the Town's Code provides that for a Site Plan to be approved:

"...the [t]own [c]ouncil shall make a finding that the approval of the site plan ... will not adversely affect the public interest and certify that the specific zoning requirements governing the individual use have ...been met and that further, satisfactory provision and an arrangement has ...been made concerning the following matters, where applicable....

(5) Proposed screens and buffers to preserve internal and external harmony and compatibility with uses inside and outside the property's boundaries.
..."

Further, a Project's proposed landscape buffers and screening are often considered in determining whether to grant various development orders such as the variances and special exceptions that are also requested for the overall Project.

We would encourage the Town Commission to vacate the ARCOM Decision, and remand the Application to ARCOM, so that when ARCOM's review of the Application is *entirely* complete, the Town Commission can then consider the Project instead of addressing this important major development in a piecemeal fashion.

2. ARCOM erred in approving the new full-service bar and restroom building.

The Application proposes a new full-service bar and restroom building which is located contiguous to and West of the expanded Function Room. (See Exhibit "4", Application Plan Sheet 1-104). Prior approved plans showed chemical storage and pool equipment area where this new full-service bar and restroom building are proposed (see Plan Sheets A-200 and A201, attached as Composite Exhibit "5"). The Exhibit "4" Application Plan Sheet No. A-104 clearly shows that this Bar/Restroom building is located within the rear yard setback area established by the CB Zoning District regulations. Therefore, its proposed location is contrary to the Town's Code.

Additionally, the expanded Function Room building is non-conforming to the Town's regulations, any addition or expansion of the Function Rom must comply with the Town Code's rear yard setback requirements. In relevant part, Subsection 134-416(d) of the Town's Code states as follows:

“(d) It is further the intent that, by the provisions of this chapter or by amendments that may be adopted, there may exist buildings or structures which were lawful before this chapter was adopted or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendments thereto. It is the intent of this chapter to permit these nonconforming buildings and structures to exist until they are voluntarily removed, removed by abandonment, or otherwise removed as required by this chapter, but not to encourage their survival. Such nonconforming buildings and structures are allowed to be enlarged, expanded or extended, provided that said enlargement, expansion or extension meets all of the lot yard and bulk regulations for the zoning district in which the building or structure is located and provided that said enlargement, expansion or extension is not used as grounds for adding other buildings or structures prohibited elsewhere, in the same district.” (Emph. Suppl).

Further, Sec. 134-417 of the Town’s Code states as follows:

“A building or structure which is nonconforming with any of the lot, yard and bulk, regulations may be enlarged, expanded or extended to occupy a greater area of land provided that the enlargement, expansion or extension complies with all lot, yard and bulk regulations for the zoning district in which the building or structure is located. This section shall not apply to a building or structure which is demolished by more than 50 percent, as provided for in section 134-419(1), in preparation for any proposed enlargement, expansion, or extension of a building or structure.”

In approving the location of the Bar/Restroom Building, it is our client’s contention that ARCOM did not *satisfy* Sec. 18-205 (a) (9) of the Town’s Code which indicates that in order for ARCOM to approve a proposed project, it must determine that:

“(9) The proposed development is in conformity with the standards of this Code and other applicable ordinances insofar as the location and appearance of the buildings and structures are involved.”

Thus, the ARCOM Decision to approve this new Full-Service Bar and Restroom Building should be REVERSED on Appeal.

3. ARCOM erred in approving other structures in the rear yard setback area.

Other aspects of the proposed development's structure are also in the rear yard setback, such as the pool water fountain feature and the expansion of the Function Room to enclose more interior space.

There was no Town Staff Report prepared for the ARCOM hearing, however, our client learned at the October 28, 2020 ARCOM hearing; that the currently proposed fountain is *smaller* than what was previously approved, and provided this remains the case, our client will no longer object to same; however, if this is not the case, our client will continue to object to same.

Similarly, our client requested that significant efforts to sound-proof the Function Room's enclosed space be included in the Town's approval, and upon receiving a confirmation that this will be required *and provided*, our client will not object to the increase in the Function Room's enclosed space as also being an expansion to a nonconforming building that is prohibited by the Town's Code. The rationale for not objecting to the increase in the Function Room's enclosed space is that, hopefully, the resulting *indoor* activity will become very noise controlled.

Wherefore, our client would respectfully request that the Town Commission reverse or vacate the ARCOM Decision, and remand the Application to ARCOM for proceedings consistent with any instructions in the Town Commission's ruling if any, and further, our client would request any other relief the Town Commission may determine proper and appropriate.

Part 2. Comment on the Requested Variances and Special Exceptions

1. The Variances should be denied because they are "Self Created."

Our review of the Town's variance law would cause an objective reader to doubt whether sufficient grounds for granting a variance are present in this case. The Palm Beach County Property Appraiser records discloses that the applicant, LR Palm House LLC, a Delaware Limited Liability Company, obtained a Debtor in Possession Deed to the site on May 15, 2019, which is *after* the 2016 Town conditional development approvals. A copy of the Deed is attached as Exhibit "6".

The Exhibit "2" Application Survey prepared by Wallace Surveying Corporation discloses that The Palm House Hotel property is uniformly rectangular, having a 300' x

200' dimension. Thus, the real property on which The Palm House Hotel sits has no irregular contours or shape which would support a variance request. Moreover, the dimensions of the Applicant's Property *more than satisfies* the C-B Zoning District's minimum lot area, lot width, and lot depth requirements (*See* Sec. 134-1308 (1), (2), (3) Town Code).

Given that the Applicant acquired the development *after* the 2016 Town approvals, and given that the Applicant's real property is not irregular and more than satisfies the Town's C-B District minimum dimensional requirements, any claimed "hardship" for the requested Variances should be viewed as "*self-created*" in as much as a *developed site* was acquired by the Applicant simply put, Application results from the Applicant's desire to change things. A "self-created" hardship cannot be the basis for granting a Zoning Variance. The Variances should be denied.

2. The Town's Zoning Regulations do not authorize the Town Commission to grant a Special Exception for the Palm House Hotel.

The Application states that Special Exceptions are needed for the Site Plan to be approved. Our review of the Town's Special Exception law would cause an objective reader to doubt whether the Town Commission can grant Special Exceptions in this case. Sec. 134-229 (1) of the Town Code reads as follows:

"The requirements for granting a special exception use under this chapter are as follows:

- (1) The use is a permitted special exception use as set forth in article VI of this chapter."

The Town's C-B District Regulations define the applicable Special Exception Use in Section 134-1304 (a) (5) as follows:

- (a) The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the C-B commercial district are as follows:
 - (5) Hotels at a maximum of 26 units per acre.

Our review of the Application's Survey discloses that The Palm House Hotel property is rectangularly shaped, with dimensions of 300.00' X 200.00 feet. Thus, the Applicant's Property is 60,000 SF in area, or $(60,000 \div 43,560 =) 1.376$ acres in size. The CB Zoning District regulations *as applied to the Applicant's Property* limit the Town Council's authority to grant a Special Exception to a Hotel having a maximum of 36 units. Since

the Applicant's hotel is not a listed special exception use in the Town's CB Zoning District's regulations, the requested Special Exceptions cannot be granted.

PART III

The Draft 3rd Amendment to Declaration is not sufficient to mitigate potential adverse secondary effects of the Hotel.

1. In 2012, the historical digest received by our client for the zoning application discloses that the Town Commission conditioned its approval of the development orders it then granted to indicate in Condition 4 that *"The pool deck area shall be allowed only background music and light live music with the speaker system directed to the North. There shall be no music on the abutting grass area."* The Amendment to Declaration of Use Agreement recorded in Official Records Book 25694 at page 0633 indicates in Article IV, Paragraph 3 that there will be *no events* on the pool deck, the grass area will remain *"passive,"* and music on the pool deck will be only background or light live music with the speaker system directed to the North. (See Exhibit "7" for the Amendment to Declaration of Use Agreement). The proposed, draft Third Amendment to Declaration and Use Agreement indicates that *"Pre-function events will be allowed on both the pool deck and the grass area"*. While the proposed Third Amendment does not allow music in the grass area, it has no restrictions whatsoever on other forms of amplified sound. Our client would request that the Third Amendment be revised in this regard to:
 - a. Add the words *"noise controlled, passive"* before the words *"pre-function events"* for the grass area;
 - b. Prohibit such *"pre-function events"* on the pool deck;
 - c. Restrict the hours of noise controlled, passive pre-function events in the grass area to reasonable hours (from 10:00 am to 7:00 pm.)
 - d. State that there will be no *outdoor* music (live or recorded), no *outdoor* live entertainment, and no *outdoor* amplified sound permitted anywhere on the Land, with the exception of *background* live or *background* recorded music which will be permitted on the pool deck from 9:am to 7:00 PM. "Background live or recorded music" is defined music having a low enough volume that normal conversation can be held over the music. Background live music shall have speakers for same directed to the North.
2. The Applicant has represented to ARCOM that there will be no rooftop guest access to the Hotel or the Function Room; however, these restrictions have been *removed* from the proposed Third Amendment to Declaration of Use Agreement. Once removed, they will

no longer be considered a restriction or condition of Project approval. The Declaration of Use Agreement should clearly state: *“No hotel guests, or other social or leisure activity or entertainment of any kind will be permitted on the roofs of the hotel, the function room, or other accessory buildings”*.

3. Generally, the Declaration of Use Agreement refers to a “function area” and our client would request the more precise term “Function Room” be used instead.

Part IV. Other Site Plan Comment

1. Our client objects to the Function Service Building and Bar/Restroom Building.

- A. The Application now includes a “Function Service Building” which is contiguous to a portion of the East building face of the Function Room. (See Exhibit “4,” Plan Sheet A-104) Our client objects to this expansion to the Function Building, as it increases the activity of the Site along the East property line. The Function Service Building’s supportive activities (especially activities related to cleanup and removal of Function Room Events) will likely be after dark, and both noise and vehicle light will be caused by loading area activities (from vehicles turning in the loading area shown on the Site Plan, or being used to transport equipment, furnishings, food, and beverages into either the Function Room or Function Service Building).
- B. Our client has objected to the Function Room Bar/Restroom Facility Section 1 of this letter as being an expansion to a nonconforming building. We were informed by ARCOM that “use issues” were within the Town Commission’s purview. Additional reasons supporting our client’s objection to these areas are set forth herein.

The Hotel is currently a non-conforming *use*, and Sec. 134-387 of the Town’s Code provides:

“Sec. 134-387. - Extension or expansion.

No nonconforming use shall be enlarged, increased, intensified, substituted or extended to occupy a greater area than it occupied at the effective date of adoption or amendment of this chapter, except as may be granted by variance under section 134-201. No such nonconforming use shall be relocated in whole or in part to any portion of a lot or parcel except the location occupied by such use at the effective date of adoption or amendment of this chapter.”

The Town should not allow the nonconforming use to expand by granting Variances for the Function Service Building or the Function Room Full-Service Bar and Restroom Building, since the hardships are “self-created.”

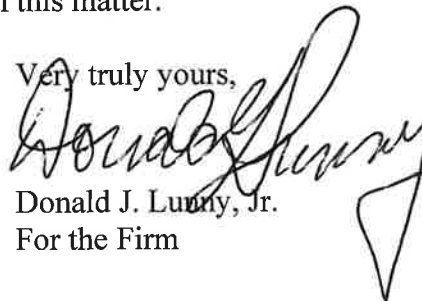
Correspondence to Mr. Nieves
Town of Palm Beach Town Clerk
Re: The Palm House Hotel
November 6, 2020
Page 9 of 9

2. Our client shares the Zoning Administrator's concerns as expressed in the Town Staff's 11/2/2020 Staff Report.
 - A. The Function Room Seats should remain restricted to 150 dining room seats. Granting additional seating, and removing dining room seating as requested, increases the intensity of the non-conforming use in the rear and eastern portion of the Property. As stated above, our client is very concerned with additional improvements and activity in these areas of the Property.
 - B. The more than doubling of outside seating is problematic, as again, this increases the intensity of an existing non-conforming use. Our client would request that the amount of outside seating not exceed prior approvals. In view of the above, our client would request that the Town Commission not approve the Full-Service Bar and Restroom Building, not approve the Function Service Building, and limit outdoor seating as suggested. Additionally, our client would request whatever other relief the Town Commission may deem proper.
 - C. Our clients comment in support of Staff's concerning the Declaration and the so called "Pre-function" events are set forth in Part III of this letter above.

Conclusion

Please ensure that a copy of this correspondence and its Exhibits are given promptly to the Mayor and Members of the Town Commission. We wish to thank the Town for its consideration of this matter. Finally, we reserve the right to raise additional objections and legal and factual arguments in connection with these matters should it become appropriate to do so as we continue to learn about and participate in this matter.

Very truly yours,



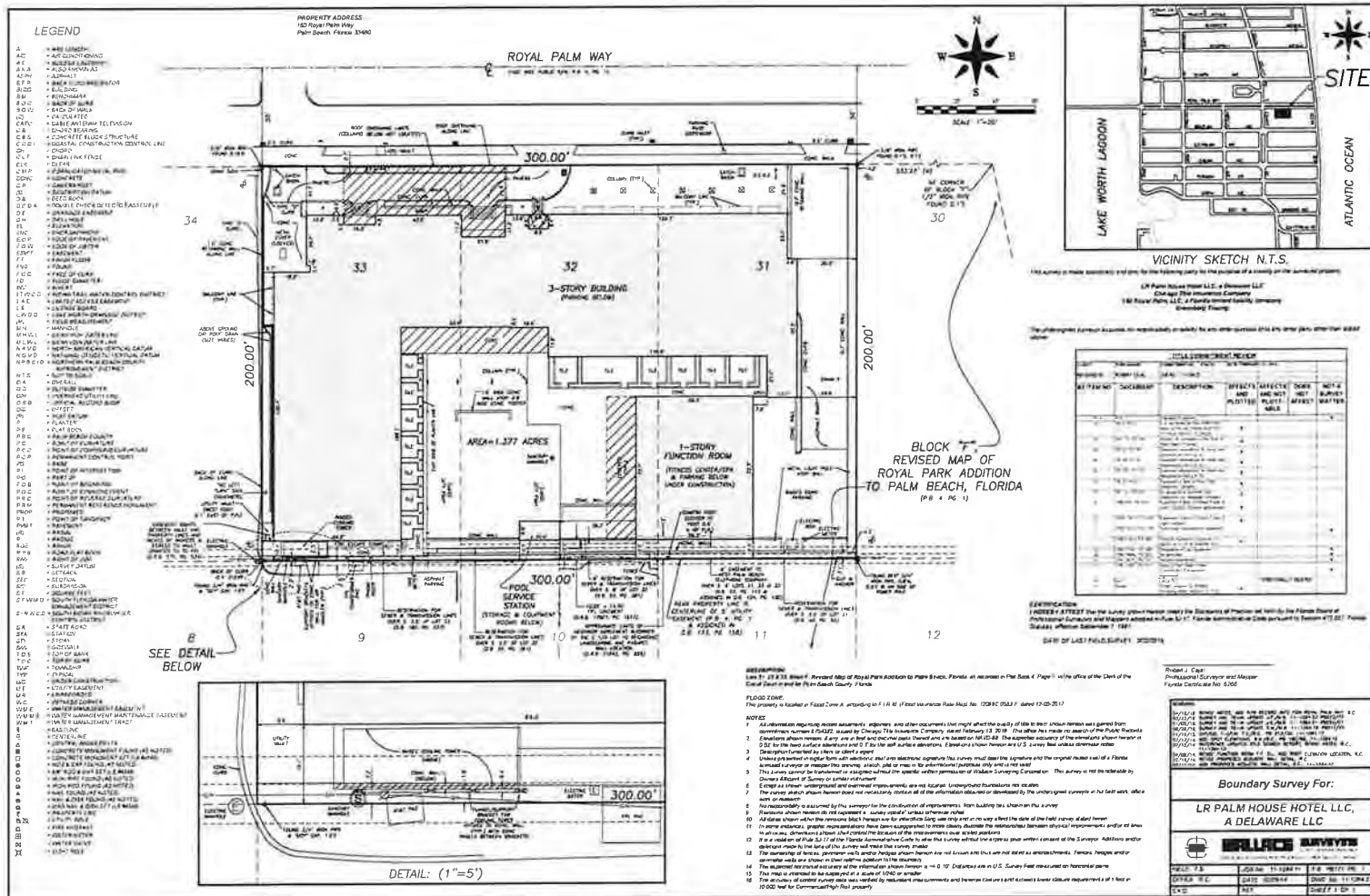
Donald J. Lunny, Jr.
For the Firm

Cc w/encl: (Via E-mail):
Mr. Wayne Berman;
John C. Randolph, Esq.
Maura Ziska, Esq.



Area (SF)	Landscape Designation
2 472	Front Yard (East Side)
412	Front-courtyard
97	E Entry Planning Area
173	W Entry Planning Area
733	W Property Line Planting Strip
936	E Property Line Planting Strip
59	New Planter - East Drive (A)
116	New Planter - East Drive (B)
1 697	S Property Line Planting Strip
973	Event Lawn
669	Pond Deck Planters
133	W Landscaped (dividers)
119	E Landscaped (dividers)
85	E Landscaped Southern Hedgess
86	View Area for Trellis
8155 SF	TOTAL LANDSCAPE AREA





PLANT SCHEDULE PALMS

Key	Qty	Botanical Name	Common Name	Root	Size	Spacing	Native or Non-Native	Height at Planting	Spread at Planting	Height at Maturity	Spread at Maturity	Remarks
Ado mer	6	<i>Adontia neri</i>	Christmas Palm	25 gallon	5' clear trunk, single	As shown	Non-Native	8 feet	4 feet	25 feet	8 feet	Pool deck planting
Coc nuc	18	<i>Cocos nucifera</i>	Coconut Palm	B&B	10' clear trunk, single	As shown	Non-Native	15 feet	8 feet	60 feet	20 feet	Street planting replacement palms
Hyd ver	14	<i>Hyophorbe verschaffeltii</i>	Spindle Palm	25 gallon	5' clear trunk, single	As shown	Non-Native	7 feet	3 feet	25 feet	8 feet	Pool deck planting
Pho dec	1	<i>Phoenix dactylifera</i>	Date Palm	B&B	8' clear trunk, single	As shown	Non-Native	12 feet	4 feet	70 feet	20 feet	Perimeter plantings
Rav mad	8	<i>Ravenea madagascariensis</i>	Traveler's Palm	25 gallon	3' clear trunk, multi-stem	As shown	Non-Native	6 feet	4 feet	30 feet	18 feet	South border screen planting
Roy reg	1	<i>Roystonea regia</i>	Royal Palm	B&B	10' clear trunk, single	As shown	Native	15 feet	8 feet	60 feet	20 feet	Perimeter plantings

TREES

Key	Qty	Botanical Name	Common Name	Root	Size	Spacing	Native or Non-Native	Height at Planting	Spread at Planting	Height at Maturity	Spread at Maturity	Remarks
Cit spi	3	<i>Citharexylum spinosum</i>	Fiddlewood	3 gallon	24"	As shown	Native	24 inches	18 inches	20 feet	15 feet	Perimeter plantings
Gym luc	3	<i>Gymnanthes lucida</i>	Crabwood	3 gallon	24"	As shown	Native	24 inches	18 inches	20 feet	15 feet	Perimeter plantings

SHRUBS

Key	Qty	Botanical Name	Common Name	Root	Size	Spacing	Native or Non-Native	Height at Planting	Spread at Planting	Height at Maturity	Spread at Maturity	Remarks
Cit mey	18	<i>Citrus x meyeri</i>	Meyer Lemon	2 quart	12"	As shown	Non-Native	12 inches	8 inches	6 feet	3 feet	For use in pots at pool deck
Ham pat	30	<i>Hamelia patens 'Compacta'</i>	Dwarf Firebush	3 gallon	18"	24" O.C.	Native	18 inches	12 inches	4 feet	3 feet	Perimeter plantings
Ill flo	20	<i>Illicium floridanum</i>	Florida Anise	3 gallon	24"	36" O.C.	Native	24 inches	18 inches	12 feet	8 feet	Perimeter plantings
Lan inv	20	<i>Lantana involucrata</i>	Wild Sage	1 gallon	12"	36" O.C.	Native	12 inches	6 inches	4 feet	3 feet	Pool deck planters
Mus acu	18	<i>Musa acuminata 'Dwarf Cavendish'</i>	Dwarf Banana	1 gallon	12"	As shown	Non-Native	12 inches	8 inches	6 feet	4 feet	For use in pots at pool deck
Myr cer	65	<i>Myrica cerifera</i>	Wax Myrtle	1 gallon	12"	24" O.C.	Native	12 inches	8 inches	6 feet	3 feet	Lanai hedges
Plu aur	28	<i>Plumbago auriculata 'Imperial Blue'</i>	Blue Plumbago	1 gallon	12"	48" O.C.	Non-Native	12 inches	8 inches	6 feet	8 feet	Perimeter plantings
Psy lig	35	<i>Psychotria ligustrifolia</i>	Bahama Coffee	1 gallon	12"	24" O.C.	Native	12 inches	8 inches	4 feet	4 feet	Pool deck planters and Lanai hedges
Sur mar	8	<i>Suriana maritima</i>	Bay Cedar	3 gallon	18"	As shown	Native	18 inches	12 inches	10 feet	8 feet	Perimeter plantings

VINES

Key	Qty	Botanical Name	Common Name	Root	Size	Spacing	Native or Non-Native	Height at Planting	Spread at Planting	Height at Maturity	Spread at Maturity	Remarks
Big cap	10	<i>Bignonia capreolata</i>	Crossvine	1 gallon	12"	12" O.C.	Native	NA	NA	NA	NA	Trellis planting
Bou gla	6	<i>Bougainvillea glabra</i>	Bougainvillea	1 gallon	12"	12" O.C.	Non-Native	NA	NA	NA	NA	Trellis planting
Lon sem	10	<i>Lonicera sempervirens</i>	Coral Honeysuckle	1 gallon	12"	12" O.C.	Native	NA	NA	NA	NA	Trellis planting
Tra jas	15	<i>Trachelospermum jasminoides</i>	Star Jasmine	1 gallon	12"	12" O.C.	Non-Native	NA	NA	NA	NA	South border screen plant

PERENNIALS AND GROUNDCOVERS

Key	Qty	Botanical Name	Common Name	Root	Size	Spacing	Native or Non-Native	Height at Planting	Spread at Planting	Height at Maturity	Spread at Maturity	Remarks
Hel deb	370	<i>Helianthus debilis</i>	Beach Sunflower	1 gallon	6"	24" O.C.	Native	6 inches	6 inches	18 inches	18 inches	For use in groundcover areas
Lan dep	352	<i>Lantana depressa</i>	Weeping Lantana	1 gallon	8"	24" O.C.	Native	8 inches	6 inches	24 inches	48 inches	For use in groundcover areas
Sto lae	312	<i>Stokesia laevis</i>	Stokes Aster	1 gallon	6"	24" O.C.	Native	6 inches	6 inches	18 inches	18 inches	For use in groundcover areas

NATIVE PLANT CALCULATIONS

Landscape Designation	Area (SF)	Native Area (SF)	Plants designated for Native Area
Front Yard (East Side)	2472	1600 - 64%	Hel deb, Lan dep & Sto lae
New Planter - East Drive (A)	93	93 - 100%	Hel deb
New Planter - East Drive (B)	116	116 - 100%	Hel deb
S. Property Line Planting Strip	1697	1018 - 60%	Roy reg, Cit spi, Gym luc, Ham pat, Ill flo, Lan inv, Sur mar, Lan dep
Pool Deck Planters	669	669 - 100%	Hel deb, Lan dep & Sto lae
W. Lanai Hedges (dividers)	133	133 - 100%	Psy lig
E. Lanai Hedges (dividers)	119	119 - 100%	Myr cer
E. Lanai Southern Hedges	85	85 - 100%	Myr cer
Vine Area for Trellis	85	85 - 100%	Big cap & Lon sem
Total Native Area		3918 SF	

Total Native Area (3918 SF) is 44% of Total Landscape Area (8815 SF)*see Planting Plan for total landscape area tabulation

LANDSCAPE PLANTING SCHEDULE



The Palm House Hotel
160 Royal Palm Way

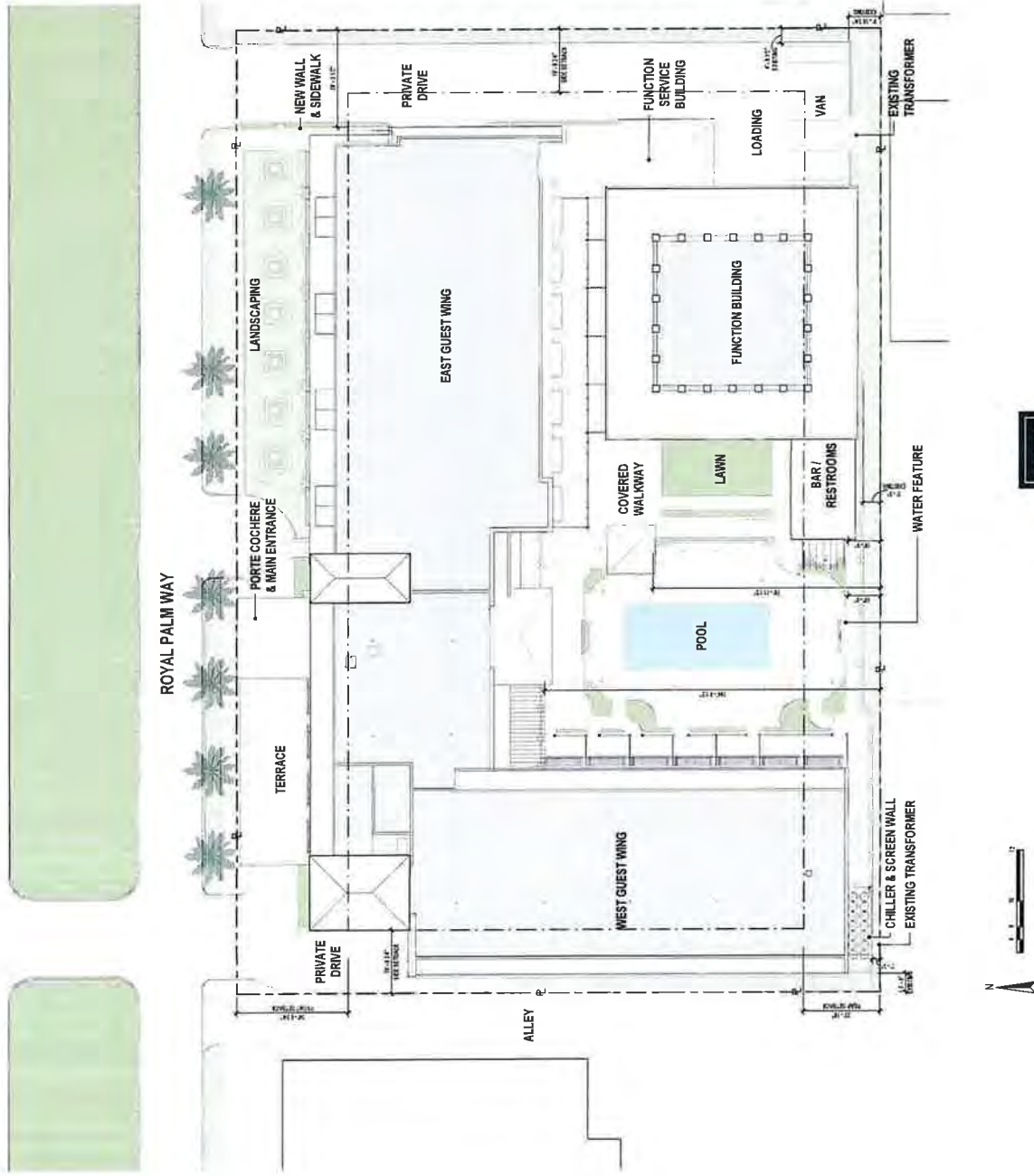


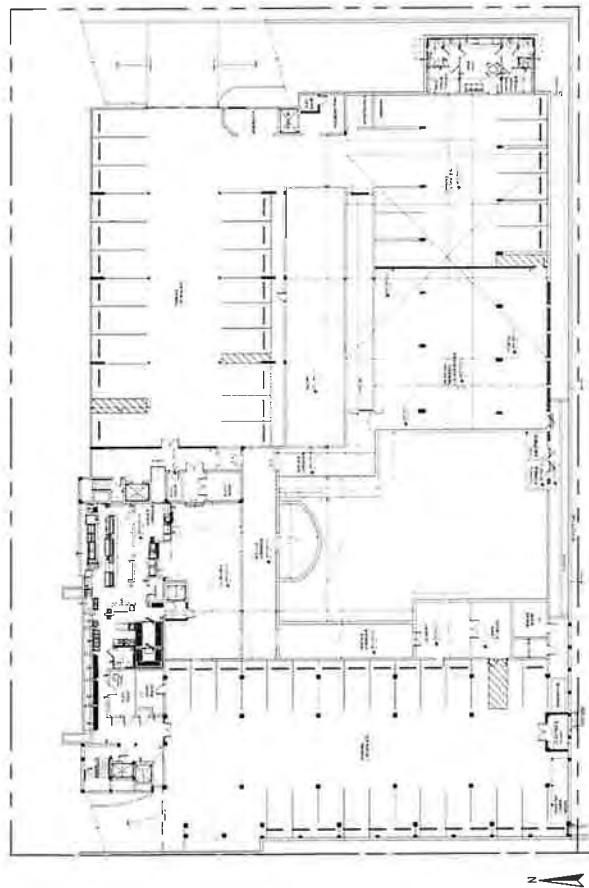
EXHIBIT 3

COOPER CARRY

License # AL20000466 | 8-03-2020
OCTOBER 30TH, 2020 | 7:30-8:00PM

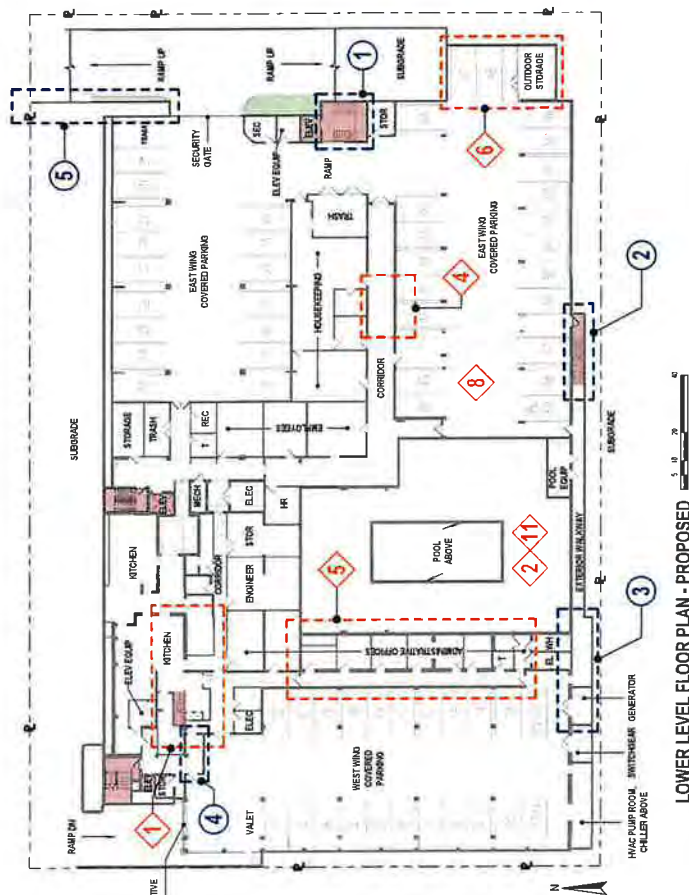
BUILDING	2017 Florida Building Code – Building, Part 5, Chapter (FBC) 2017 International Building Code, with amendments 2017 Florida Building Code – Energy Building Code, with amendments (FBC/EEBC) 2017 Florida Building Code – Energy Building Code, with amendments (FBC/EEBC)
FIRE & LIFE SAFETY	2017 Florida Fire Prevention Code, F. Chapter (FFPC) 2015 NFPA 101 – Life Safety Code, with amendments (FFC – 101) 2017 Florida Building Code – Energy Conservation, F. Edition (FBC/EEC) 2015 International Fire Code, with amendments
ENERGY	2017 Florida Building Code – Energy Conservation, F. Edition (FBC/EEC) 2015 International Energy Conservation Code, with amendments
ACCESSIBILITY	2010 Florida Building Code – Accessibility, F. Edition (FBC/AAFC) 2010 International Building Code, with amendments (IFC – 107) 2010 ADAAG and the ADA CP and 307
ELECTRICAL	2017 Florida Building Code – Electrical, F. Edition (FBC/EEFC) 2014 NFPA 70 – National Electrical Code, with amendments
MECHANICAL	2017 Florida Building Code – Mechanical, F. Edition (FBC/MEC) 2015 International Mechanical Code, with amendments
PLUMBING	2017 International Plumbing Code, with amendments
ELEVATOR	2017 Florida Building Code – Building, Part 5, Chapter 15 - Chapter 15 of the International Building Code, 2015 - ASME A17.1 – Safety Code for Elevators and Escalators, 2013 - Rule 15-06 of the Florida Administrative Code





LOWER LEVEL FLOOR PLAN - APPROVED
(SPR SE 001-2016 PREPARED BY DAVID MILLER & ASSOCIATES, P.A.)

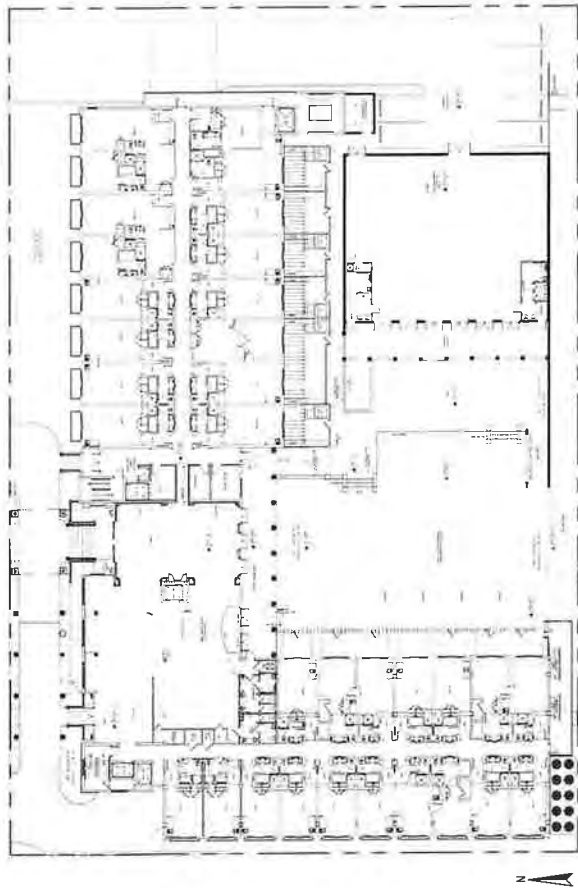
NON-CONFORMING DEFICIENCIES	PROPOSED CORRECTIONS
1 Demolish partially constructed elevator extension to rooftop above second floor dining room & lobby to the "Sunset" deck.	1 Demolish elevator shaft extension to the north roof deck. Patch roof to match existing. No assembly space at rooftop.
2 Complete construction of Function Room and Pool area consistent with plans previously approved by the Town of Palm Beach.	2 Construct new pool, pool deck and amenities as designed on the proposed improvement plans, for Town of Palm Beach approval.
4 Demolish partially constructed walkway, stairs and elevator access to roof above Function Room.	4 Demolish elevator shaft, elevated stair and walkway. Patch roof to match existing. No assembly space at rooftop.
5 Demolish approximately 1,140 SF of office space in area and restore previously approved service corridor and laundry space.	5 Retain 1,140 square foot of new office space for hotel staff and administration.
6 Demolish partially constructed enclosure of portions of the Basement Garage on both east and west side of the property and restore 5 required off-sheet parking spaces.	6 Demolition to restore required parking spaces. Retain small area inaccessible for parking as outdoor storage.
8 Demolish partially constructed wall in basement parking area which was built to expand the basement Function Room Kitchen and restore required parking.	8 Demolition to restore required parking spaces.
11 Eliminate two pool area structures and relocate pool structure which includes service bar to previously approved location. The pool area will be restored as previously approved.	11 Demolish noncompliant pool area structures. Construct new pool support structures as designed on the proposed improvement plans, for Town of Palm Beach approval.



LOWER LEVEL FLOOR PLAN - PROPOSED

PROPOSED IMPROVEMENTS
1 Extend open-air stair to basement for life safety egress from basement and parking.
2 Extend retaining wall and exterior walkway near south property line for life safety egress and allow for staff access to the pool deck.
3 Replace existing 250KW 480/277 volt natural gas generator in like size, capacity and location. Construct rated enclosure for required fire separation from parking and egress path of travel overhead.
4 Enclose portion of parking area to provide fire separated egress path from southwest portion of parking and mechanical spaces.
5 Construct new exterior retaining walls, stair and walkway for improved life safety egress path to public way (Royal Palm Way).





FIRST LEVEL FLOOR PLAN - APPROVED
(SPR SE 001-2016 PREPARED BY DAVID MILLER & ASSOCIATES, P.A.)

NON-CONFORMING DEFICIENCIES	PROPOSED CORRECTIONS
1 Demolish partially constructed elevator extension to rooftop above second floor dining room & lobby to the "Sunset" Deck.	1 Demolish elevator shaft extension to the north roof deck. Patch roof to match existing. No assembly space at rooftop.
2 Complete construction of Function Room and Pool area consistent with plans previously approved by the Town of Palm Beach.	2 Construct new pool, pool deck and amenities as designed on the proposed improvement plans, for Town of Palm Beach approval. Complete construction of Function Room.
3 Demolish partially constructed bathrooms on west side of Function Room and complete construction in area immediately adjacent to the Southwest corner of the Function Room.	3 Demolish bathroom building and construct new single-use toilets for pool, pool service party and full-service bar adjacent to new event lawn.
4 Demolish partially constructed walkway, stairs and elevator access to roof above Function Room.	4 Demolish elevator shaft, elevated stair and walkway. Patch roof to match existing. No assembly space at rooftop.
9 Construct opening on the east side of the Function Room wall which was going to be an unauthorized stage.	9 Infill opening at east side of Function Room and finish to match adjacent exterior walls.
10 Remove infill framing at exterior walkways on east elevation.	10 Enclose existing, partially complete open-air egress balcony with new exterior walls and railings.
11 Eliminate two pool area structures and relocate pool structure which includes service bar to previously approved location. The pool area will be restored as previously approved.	11 Demolish noncompliant pool area structures. Construct new pool support structures as designed on the proposed improvement plans.

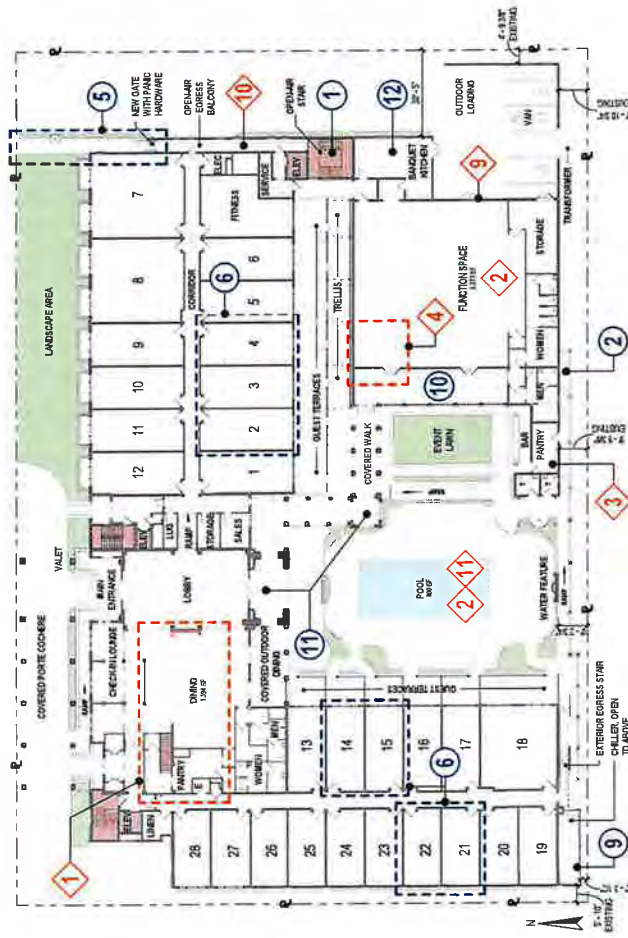


The Palm House Hotel

160 Royal Palm Way



COOPER CARRY
LAW FIRM, P.A.
OCTOBER 20TH 2020 7:20-60389



FIRST LEVEL FLOOR PLAN - PROPOSED

PROPOSED IMPROVEMENTS		
1 Extend existing open-air stair to basement for improved life safety egress from basement spaces and parking.	9	Replace existing chiller, construct new screen walls to height of new equipment.
2 Extend retaining wall and exterior walkway near south property line for life safety egress and allow for staff access to the pool deck.	10	Enclose existing open-air covered walkway at Function Room to create conditioned prefunction.
5 Construct new exterior retaining walls, stair and walkway for improved life safety egress path to public way (Royal Palm Way).	11	Reconfigure exterior facade facing new proposed pool deck. Provide covered walkway from Hotel Lobby to Function Room.
6 Convert existing guest rooms as shown on the proposed improved plans to provide 79 Keys Ball.	12	Enclose area with new exterior walls and roof for new banquet prep kitchen adjacent to Function Room.

(Exhibit "5")
Cont

Prepared by, Record and Return To:
Marcia H. Langley, Esq.
Greenberg Traurig, P.A.
5100 Town Center Circle, Suite 400
Boca Raton, FL 33486

Property Tax Folio No.: 50-43-43-23-05-026-0310

306554332 AMNC

DEBTOR-IN-POSSESSION DEED

THIS DEBTOR-IN-POSSESSION DEED is made on May 15, 2019, by **160 ROYAL PALM LLC**, a Florida limited liability company (the "Grantor"), whose address is 1118 Waterway Lane, Delray Beach, FL 33483, and **LR PALM HOUSE LLC**, a Delaware limited liability company (the "Grantee"), whose address is 185 W. Broadway, Suite 101, Jackson, WY 83001.

(Whenever used herein the terms "Grantor" and "Grantee" shall be construed to include all parties to this instrument and their successors and assigns and shall include singular, plural, masculine, feminine, or neuter as required by context.)

WITNESSETH:

Grantor, for and in consideration of TEN DOLLARS (\$10.00) and other good and valuable consideration paid by Grantee, the receipt and sufficiency of which are hereby acknowledged, does hereby grant, remise and quit-claim to Grantee forever, all the right, title, interest, claim and demand which Grantor has in and to the following described land and all improvements located thereon, situated in Palm Beach County, Florida (the "Property"):

Lots 31, 32, and 33, Block F, Revised Map of Royal Park Addition to Palm Beach, Florida, according to the Plat thereof, as recorded in Plat Book 4, Page 1, of the Public Records of Palm Beach County, Florida;

TO HAVE AND TO HOLD the same together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, IN Aequity and claim whatsoever of Grantor, either in law or equity, to the use and benefit of Grantee forever.

SUBJECT TO taxes for the year 2019 and thereafter not yet due and payable, and all matters of record in the Official Records of Palm Beach County, Florida, without reimposing same.

This Debtor-in-Possession Deed is being executed in accordance with the Order: (I) *Granting Expedited Motion Seeking Approval of Procedures for Amended Sale Process and* (II) *Scheduling Final Hearing to Consider Approval of Sale of Assets Free and Clear of Liens, Claims and Encumbrances* (the "Procedures Order") (Document No. 619) and *Order Approving*

Sale of Assets to LR U.S. Hotels Holdings LLC Free and Clear of All Liens, Claims and Encumbrances (the "Sale Order") (Document No. 651) entered on March 12, 2019 in Case 18-19441-EPK in the United States Bankruptcy Court for the Southern District of Florida, West Palm Beach Division. The Grantee is a wholly-owned assignee of LR U.S. Hotels Holdings LLC. Pursuant to paragraph 9 of the Sale Order, the Grantor has satisfied the requirements under 11 U.S.C. § 363(f) for transferring the Property. The undersigned signatory for Grantor is executing this Debtor-in-Possession Deed solely as the court appointed manager of Grantor, and not individually.

IN WITNESS WHEREOF, Grantor has executed this Debtor-in-Possession Deed as of the date above.

Signed, sealed and delivered in the presence of:

GRANTOR:

160 ROYAL PALM, LLC, a Florida limited liability company

By: Cary D. Glickstein, Manager

Print Name: MARUA L. [Signature]
Print Name: DOLORES C. [Signature]

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 14th day of May, 2019, by Cary D. Glickstein, as Manager of 160 ROYAL PALM, LLC, a Florida limited liability company, on behalf of the company, who is personally known to me or produced FL DRIVER'S LICENSE for identification.

[NOTARIAL SEAL]

Notary: [Signature]
Print Name: DOLORES C. COTT
Notary Public, State of Florida
My commission expires: _____

ACTIVE 42404854v1





CFN 20130005174
OR BK 25694 PG 0633
RECORDED 01/04/2013 12:30:48
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 0633 - 641; (9pgs)

Prepared by and return to:
Maura Ziska
Kochman & Ziska, PLC
222 Lakeview Ave., Suite 1500
West Palm Beach, FL 33401

AMENDMENT TO DECLARATION OF USE AGREEMENT
by
THE TOWN OF PALM BEACH
and
160 ROYAL PALM LLC (F/K/A ROYAL 160, LLC)

Dated: December, 2012

AMENDMENT OF DECLARATION OF USE AGREEMENT

THIS AMENDMENT TO DECLARATION OF USE AGREEMENT ("Amendment") is made and entered into this 28th day of December, 2012 by and between the TOWN OF PALM BEACH, a Florida municipal corporation, 360 South County Road, Palm Beach, Florida 33480 (hereinafter the "Town"); and 160 ROYAL PALM LLC, formerly known as ROYAL 160, LLC, 160 Royal Palm Way, Palm Beach, Florida 33480 hereinafter the ("Owner"), which terms "Town" and "Owner" will include and bind the successors and assigns of the parties, wherever the context so requires or admits.

WITNESSETH:

WHEREAS, the Town and Owner heretofore entered into a Declaration of Use Agreement made on July 30, 2007 and recorded in Official Records Book 21987, Page 499, of the Public Records of Palm Beach County ("Agreement");

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

WHEREAS, title to all of the Land is held by the Owner;

WHEREAS, the Palm House Hotel (hereinafter referred to as the "Hotel") is located and operated on the Land at 160 Royal Palm Way in the Town;

WHEREAS, the Town Council on July 11, 2012, approved the special exception portion of the Site Plan Review #6-2012 with Special Exceptions and Variances, which allowed the new Owner to operate the Hotel subject to a condition that the south perimeter landscaping having to be completely installed by September 30, 2012;

WHEREAS, the Town Council on August 15, 2012 granted conditional approval of Site Plan Review #6-2012 with Special Exception and Variances which amended Site Plan Review No. 2-2007 with Special Exceptions and Variances on the Land;

WHEREAS, the conditions of approval are set forth herein and the approval of this Agreement on the basis of the Owner's application and the testimony on behalf of the Owner;

WHEREAS, the Town made specific findings that the Owner met all applicable provisions of the Town Code governing site plan review, special exceptions, and variance requests;

WHEREAS, in approving the amendment to the Site Plan Review with Special Exceptions and Variances, the conditions of approval reflected herein are imposed in order to regulate the use, mitigate any adverse impacts of the use, and insure that said use shall not be adverse to the public interest;

WHEREAS, all of the representations made herein are true and accurate and the approval of the amended Site Plan with Special Exception and Variances are conditioned upon the representations made herein and all of the conditions herein imposed; and,

WHEREAS, in granting the approval, the Town Council relied upon the oral and written representations of the property Owner/applicant both on the record and as part of the application process.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, and in consideration of other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, it is agreed that the Agreement is hereby amended and modified as follows:

ARTICLE I **RECITALS**

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

ARTICLE II **REPRESENTATION OF OWNERSHIP**

Owner has full right to enter into this amendment to the 2007 Agreement and to bind the Land, Hotel and itself to the terms hereof. There are no covenants, restrictions or reservations of record that will prevent the use of the Hotel and Land in accordance with the terms and conditions of this Agreement. No consent to execution, delivery and performance hereunder is required from any person, partner, limited partner, creditor, investor, judicial or administrative body, governmental authority or other party other than any such consent which already has been unconditionally given or referenced herein. Neither the execution of this Amendment to the 2007 Agreement, nor the consummation of the transactions contemplated hereby will violate any restriction, court order or agreement to which Owner or the Land are subject.

ARTICLE III **CONDOMINIUM HOTEL USES**

The use of the Land shall be for hotel uses and accessory uses in compliance with all of the information and exhibits not inconsistent with the terms and conditions set forth herein, set forth in the application submitted to the TOWN for Site Plan Review No. 2-2007 with Special Exception and Variances, as amended and approved by Town Council on May 7, 2007, and as amended by Site Plan Review #6-2012 with Special Exceptions and Variances, as amended and approved by the Town Council on July 11, 2012 and August 15, 2012(hereinafter referred to as the "Approval"). The Town's approval of the Application is subject to that provision of the Town Code which provides that no subsequent deviation may be made from the application as approved by the Town Council except upon new application to and approval by the Town Council. Any additional uses of the Land shall be subject to approval by the applicable governmental authority including but not limited to the Town Council of the Town, the Architectural Commission of the Town, Palm Beach County, the State of Florida, the United States Government, and/or any agencies under any of the foregoing governmental authorities.

ARTICLE IV
ADDITIONAL CONDITIONS OF APPROVAL

The following new conditions are imposed as conditions of granting approval of the Site Plan Review with Special Exceptions and Variances and are required to be met as conditions of the continued operation of the Hotel.

1. The proposed 14 foot tall parapet wall between the proposed function room and the proposed employee pool service building shall have a water feature that runs the length of the wall. Said water feature shall be operational between the hours of 9:00 a.m. and midnight (12:00 a.m.).
2. The employee pool service building shall be only for the use of the Hotel staff and will not be used by Hotel guests to order or consume food and/or beverages. There shall be no chairs for hotel guests at the employee pool service building.
3. There shall be no events in the pool deck and grass area between the pool deck and Function Room. Those areas shall remain passive. The pool deck area shall be allowed only background music and light live music with the speaker system directed towards the hotel to the north. There shall be no music played on the abutting grass area. The pool deck hours and hours for music shall be as identified in the Agreement.
4. The air conditioning equipment on the roof of the Function Room shall be screened from the neighbors by a solid parapet wall on the three exterior sides.
5. Except for emergencies, the Function Room elevator and stairwells shall not be accessible to the sundeck from 7:00 p.m. to 9:00 a.m. so as not to allow hotel guests and employees on the Function Room roof during those hours. Fire-rescue accessibility shall be provided by knox-boxes and an elevator override system. The access points to the stairs leading to the sun deck on the Function Room shall be designed to be completely isolated from the ground floor with a full door and other separation to ensure that when they are locked there is no access to the sundeck.
6. Additional landscape material to completely screen the back of the Hotel from the neighbors shall be required and maintained on the south perimeter of the subject property in perpetuity. The landscaping of the entire property shall be approved by the Architectural Commission.
7. All construction must be completed by February 14, 2013 with the exception of the function room, spa/fitness area and second floor dining room above the lobby which shall be required to only have the shells (drywall, all life safety features, minimum electric and floor slab) completed by February 14, 2013. Any elements of the Hotel or Land not completed by February 14, 2013, including the function room, spa/fitness area and second floor dining room shall be required to obtain new approvals and permits.

ARTICLE V
PROVISIONS FOR NOTICE

For the issuance of any notice regarding the terms of the Agreement and this Amendment, notice shall be provided.

To the Town Manager:

The Town of Palm Beach, Town Hall
360 S. County Road
Palm Beach, FL 33480

To the Owner:

c/o Glenn F. Straub,
160 Royal Palm Way
Palm Beach, FL 33480

ARTICLE VI
PROVISIONS TO RUN WITH LAND/RECORDING

This Amendment shall run with the Land and shall be binding upon the Owner and its respective legal representatives and successors and assigns. This Amendment shall be recorded by the Owner in the Official Records of Palm Beach County, Florida upon full execution by the parties hereto. This Amendment shall be superior to any mortgages on the Land and shall be recorded prior to the recording of any such mortgages.

ARTICLE VII
ENTIRE AGREEMENT

This Amendment, as identified herein, only represents the modifications to the Agreement, as recorded in Official Records Book 21987, Page 499, of the Public Records of Palm Beach between the parties and may not be amended except by written agreement executed by both parties. All other provisions and conditions in the Agreement, as recorded in Official Records Book 21987, Page 499, of the Public Records of Palm Beach County, remain in full force and effect.

ARTICLE VIII
MISCELLANEOUS

Wherever the word "laws" appears in this Agreement, it shall be deemed to include all ordinances, rules and regulations as well as laws of the appropriate governmental authorities. This Amendment may not be amended except by written instrument signed by all parties hereto. Paragraph headings are inserted for convenience only and shall not be read to enlarge, construe, restrict or modify the provisions hereof. All references to numbered or lettered paragraphs, subparagraphs and exhibits refer (unless the context indicates otherwise) to paragraphs and subparagraphs of this Agreement and to exhibits attached hereto, which exhibits are by this

reference made a part hereof. This Agreement shall be binding upon the parties hereto and upon their successors and assigns. In the event of the invalidity of any provision of this Agreement, same shall be deemed stricken herefrom and this Agreement shall continue in full force and effect as if such invalid provision were never a part hereof. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

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

Signed, sealed and delivered
In the presence of:

Boyle-Gordon
Karen Temme

Boyle-Gordon
Karen Temme

Boyle-Gordon
Karen Temme

Maria Zisna
Cane Hole

TOWN OF PALM BEACH

By: Gail L. Coniglio
Gail Coniglio

By: David Rosow
David Rosow, President
Town Council

By: Peter Elwell
Peter Elwell
Town Manager

160 ROYAL PALM LLC

By: [Signature] *MANAGER*
Its: Manager/Member

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 21 day of December 2012, by Gail Coniglio, Mayor of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. She is personally known to me ~~or has produced~~ as identification.



(SEAL)

Patricia Gayle-Gordon

Notary Public-State of Florida
Commission Number: _____

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 21 day of December 2012, by David Rosow, the President of the Town Council of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me ~~or has produced~~ as identification.



(SEAL)

Patricia Gayle-Gordon

Notary Public-State of Florida
Commission Number: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 28th day of December, 2012, by Peter Elwell, the Town Manager of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me ~~or has produced~~ as identification.



(SEAL)

Patricia Gayle-Gordon

Notary Public-State of Florida
Commission Number: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 5 day of November, 2012, by Glenn F. Straub on behalf of the company. He is personally known to me or has produced as identification.



(SEAL)

Maura Ziska

Notary Public-State of Florida
Commission Number: _____

RECOMMEND APPROVAL:

11/13/12
Paul Castro
Paul Castro, AICP
Zoning Administrator

APPROVED AS TO LEGAL FORM AND
SUFFICIENCY:

John C. Randolph
John C. Randolph
Town Attorney

Exhibit "A"

Legal Description of the Land:

Being Lots 31, 32 and 33, Block F, Royal Park Addition, a subdivision in the Town of Palm Beach, Palm Beach County, Florida, as recorded in Plat Book 4, Page 1, Public Records of Palm Beach County, Florida.

This is not a certified copy

SNIFFEN & SPELLMAN, P.A.

Sender's Direct Line: (561) 721-4002
Email: jeubanks@sniffenlaw.com

Via E-mail

November 9, 2020

Queenester Nieves,
Town Clerk, Town of Palm Beach
360 South County Road
Palm Beach, Florida 33408

**Re: Joinder in Appeal of the October 28, 2020 ARCOM Decision in favor of
160 Royal Palm Way, Palm House Hotel (Application B-063-2020) ("Application")**

Dear Town Clerk:

Our office represents Thomas O. McCarthy, who resides at 140 Brazilian Avenue, as well as Timothy and Gayle DeVries, the owners of 141 and 149 Brazilian Avenue which back up to the Palm House Hotel ("Hotel") located at 160 Royal Palm Way. In that capacity, we are in receipt of a copy of that correspondence dated November 6, 2020 submitted by Donald Lunny, Jr., Esq. on behalf of his client the Simmons Trust, the owner of 133 Brazilian Avenue which includes an Appeal of the Architectural Commission ("ARCOM") approval of the approval of Application B-063-2020 ("Simmons Appeal").

Please be advised that our office, on behalf of our clients, hereby joins in the Simmons Appeal and adopts the issues and arguments set forth therein, along with any and all exhibits attached thereto. In addition our office incorporates any and all documents submitted by LR Palm House LLC ("Applicant") in support of its Application as well as any and all other public records regarding the Application in the possession of the Town of Palm Beach ("Town"). We would further add the following arguments.

A. Consideration of Appeal is Premature

In addition to the issues raised in the Simmons Appeal that the proposed development at the Hotel is being reviewed in a "piecemeal fashion,"¹ we would note that under the present circumstances an appeal would appear to be premature until the decision regarding the Applicant's Landscape Plan has been addressed and approved by ARCOM. As set forth in that correspondence from our office to the Town Council of today's date (a copy of which is attached as Exhibit "A") under the Town Code the Applicant cannot obtain a Special Exception with Site Plan until such time as a recommendation and approval of the Site Plan is complete. A Site Plan is required to have not only the location of the buildings, but also consider the location of screening of the property, along with a landscaping plan, including types, sizes, and locations of vegetation and decorative shrubbery, and showing provisions for irrigation and maintenance. *See*, Section 134-327(b)(4) and (11) The Town has tasked ARCOM with the obligation to review applications for Site Plan approval and make a recommendation, including any landscaping plan. As such, until such recommendation of a landscaping plan has been completed, any required Site Plan is incomplete for consideration by the Town Council. Therefore, ARCOM's decision as to the

¹ Such a "piecemeal fashion" review would further require any party opposing the Site Plan approval to file two separate Appeals, pay two separate fees for doing so, and pay for counsel to appear at two separate hearings.

REPLY TO:

605 NORTH OLIVE AVENUE, 2ND FLOOR
WEST PALM BEACH, FL • 33401
PHONE: 561.721.4000
FAX: 561.721.4001

WWW.SNIFFENLAW.COM

123 NORTH MONROE STREET
TALLAHASSEE, FL • 32301
PHONE: 850.205.1006
FAX: 850.205.3004

Application is not final (and therefore not appealable) until it has considered and made a recommendation on all parts of the Site Plan, including the Landscape Plan. This is especially true in the present case given the potential inability to install the landscape where indicated, which may well cause the need to make further changes in the Site Plan itself. As a result, in the present case ARCOM should be permitted to review and make recommendations as to the proposed Landscape Plan, prior to our clients or Mr. Lunny's clients being required to address or argue any appeal. Therefore, we would request that this Appeal be deferred until the consideration of the Landscape Plan is complete and there is a final Site Plan to be appealed.

B. ARCOM Erred in Approving New Non-Complying Buildings and Uses

In addition to being premature, our clients further assert that ARCOM's decision to approve all of the proposed buildings, structures and architecture within the Application was in error, in that several of the new buildings constitute the expansion of a non-conforming use and/or structure. As noted in the Simmons Appeal, under Section 18-305(a)(9) of the Code, ARCOM is required to ensure that the "proposed development is in conformity with the standards of this Code and other applicable ordinances insofar as the **location and appearance of the buildings and structures are involved.**" (emphasis added) In the present case, at least two structures were permitted to be constructed and located on the Site Plan in violation of the Town Code, namely the new full-service bar and single use outdoor restroom area and the new Function Room Prep-Kitchen, which is part of and housed in the "Function Services Building" to be attached to the east side of the Function Room.

The new full service bar and single use restroom building² will be placed in the rear setback area in contradiction to the Town Code. As such, it constitutes the expansion of a non-conforming structure under Section 134-416(d) and Section 134-417 of the Town Code, which does not permit such an expansion unless it meets all of the lot, yard and bulk regulations. The new full service bar and single use restrooms, however, extend into an area not previously occupied under the 2016 Approved Plans and will be located in the rear yard setback. Adding a new use such as a full service bar and single use restrooms to the pool deck further constitutes the improper expansion of a non-conforming use in the form of the Hotel itself, which is not a permitted (or even special exception) use as it has 79 rooms on only 1.377 acres which equates to only 36 permitted rooms. See, Section 134-1304(a)(4);³ see also, Section 134-387 and 134-386(d).⁴ As

² While the Applicant has stated under oath that there previously existed a bar in the pool deck area, such is not the case. Instead, the Survey attached to the Applicant's initial presentation clearly shows a "Pool Service Station" with Storage and Equipment Rooms Below. Similarly, within is presentation, the Applicant has referred to the area as a "new single use toilets for the pool, pool service pantry and full service bar adjacent to new event lawn." (emphasis added) Nowhere in the Site Plan Review of Section Exception #1-2016 is there mention of an outdoor full service (indicating the inclusion of alcohol and hard liquor) bar area or single use toilets, nor do such items appear on the 2016 Approved Plans by the Town Council.

³ Hotels are only permitted in the C-B Commercial district as a special exception "at a maximum rate of 26 units per acre." As such, today the Hotel could only be permitted as a variance.

⁴ Under Section 134-387 "non-conforming uses shall not be enlarged upon, expanded, intensified or extended, or to be used as grounds for adding other uses prohibited elsewhere in the same district." Similarly, under Section 134-387 states "[n]o nonconforming use shall be enlarged, increased, intensified, substituted or extended to occupy a greater area than it occupied ... except as may be granted by a variance under section 134-201."

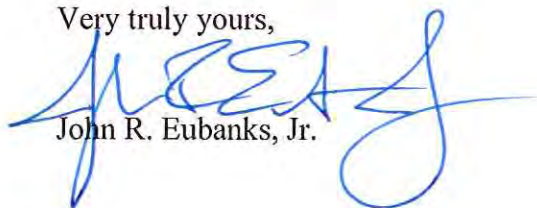
such, the approval and location of the new full service bar and single use restroom building was in error and should be reversed.

Similarly, the proposal to create a new Function Services Building (including a Function Room Prep-Kitchen), which is attached to and will become part of the Function Room, also constitutes the expansion of the non-conforming Function Room, which is located in the rear yard set back. Likewise, again, the creation of a new Function Service Room Pre-Kitchen constitutes the expansion of the non-conforming use of the Hotel. Therefore, ARCOM's decision to allow and approve of the location of such a new building, should be reversed as it would be in violation of the Town Code.

In light of the above, ARCOM's decision was not only legally improper, for failure to comply with the essential elements of the Town Code, but also not supported by competent, substantial evidence. Instead, the only evidence presented was by the Appellants that the above buildings and uses were improper expansions under the Town Code. As such, ARCOM's decision should be reversed.

Wherefore, as set forth herein and in the Simmons Appeal, our clients respectfully request that the Town Council reverse or vacate ARCOM's decision and remand the Application for further proceedings in accordance with the Town Council's ruling and instructions.

Very truly yours,



John R. Eubanks, Jr.

cc: Wayne Bergman, Director Planning, Zoning & Building
John Randolph, Esquire, Town Attorney
Kelly Churney, Administrative Specialist
Mayor and Town Council
Tim and Gayle DeVries
Thomas O. McCarthy

SNIFFEN & SPELLMAN, P.A.

Sender's Direct Line: (561) 721-4002
Email: jeubanks@sniffenlaw.com

Via E-mail

Mayor and Town Council
c/o Maggie Zeidman, President
Town Council of the Town of Palm Beach
360 South County Road
Palm Beach, Florida 33408

Re: Consideration of Zoning Application for 160 Royal Palm Way, Palm House Hotel (Zoning Application Z-20-00289) by Town Council is Premature

Dear Mayor and Town Council Members:

Our office represents Thomas O. McCarthy, who resides at 140 Brazilian Avenue, as well as Timothy and Gayle DeVries, the owners of 141 and 149 Brazilian Avenue which back up to the Palm House Hotel. In that capacity, we understand that the Town Council is scheduled to consider Zoning Application Z-20-00289 ("Application") by LR Palm House LLC ("Applicant") for the Palm House Hotel at its November 13, 2020 meeting. Please be advised that it is our clients' position that any such consideration would be premature given that ARCOM did not approve the Applicant's Landscape Plan at its October 28, 2020 meeting.¹

As you are aware, the Application includes a Special Exception **with Site Plan Review**, along with requests for a number of variances. Because the hotel is at best a special exception use² under Section 134-1304 (a)(5) of the Code, any special exception **"require[s] a site plan review** as provided in article III of this chapter." As a result, the Council cannot approve the Special Exception in the Application without having a proper, completed Site Plan at the time of approval.

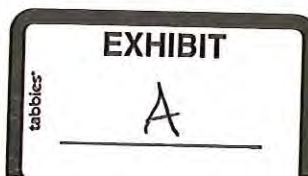
Under Section 134-326 of the Town Code "[t]he **primary purpose of the site plan review process is to examine for potential adverse impact on the adjacent area, neighborhood or town**, those uses having characteristics as possessing the potential for negative impact **and to ensure such uses are located, sited and designed that they result in a positive contribution to the area, neighborhood and town.**" (emphasis added) To do so, under Section 134-327(b) of the Code all Site Plan reviews must include a series of detailed filings, including, but not limited to, not only architectural elevations and buildings under subsection (b)(9), but also the location of **"all screens and buffers"** under subsection (b)(4)(f) and under subsection (b)(11) a **"[l]andscaping plan, including types, sizes and locations of vegetation and decorative shrubbery, and showing provisions for irrigation and maintenance."** (emphasis added) The Town has tasked ARCOM (or Landmarks if the structures are historic) with the obligation to review applications for a Site Plan approval, including any Landscape Plans, and make a recommendation to the Town

¹ There is also a pending appeal of ARCOM's October 28, 2020 decision, to which our clients have are filing a joinder, which would likewise make it premature for the Town Council to consider the Application.

² The hotel is a non-conforming use as it has 79 rooms on only 1.377 acres of property (as shown on the Survey submitted by the Applicant) which would only allow for 36 rooms, or less than half of the existing rooms on the property under Section 134-1304(a) (5) which allows for a hotel use "at a maximum of 26 units per acre."

REPLY TO:

605 NORTH OLIVE AVENUE, 2ND FLOOR
WEST PALM BEACH, FL • 33401
PHONE: 561.721.4000
FAX: 561.721.4001



123 NORTH MONROE STREET
TALLAHASSEE, FL • 32301
PHONE: 850.140.1456
FAX: 850.205.3004

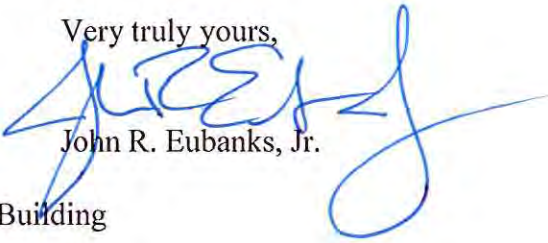
Council prior to any final approval of the Site Plan required for a Special Exception with Site Plan.

In the present case, while ARCOM considered the Site Plan of the Applicant and made a positive recommendation on the bulk of the architectural drawings and elevations, it specifically did not approve the Landscaping Plan presented by the Applicant. To the contrary, after both our firm on behalf of Mr. McCarthy and the DeVries, as well as Donald Lunny, Esq. on behalf of the Simmons (the owners of 133 Brazilian Ave.) raised significant issues of the ability of the Applicant to actually implement its proposed Landscape Plan, which included tall trees and "lush native plantings," in an easement as small as 2.5 feet, the issue was deferred for further consideration to the November 29, 2020 ARCOM Meeting.³ As a result, absent a demonstration that the proposed Landscape Plan is designed to protect the surrounding neighbors and is actually feasible, the Site Plan application is incomplete and does not meet the standards or purpose of Section 134-326. This will be especially true if there in fact is not enough room for landscaping and the Applicant has to relocate its proposed landscape to inside its own property within its Site Plan.

Therefore, until such time as ARCOM has been presented with, approved and recommended a Landscape Plan (a mandatory element of a Site Plan) which it confirms can actually be installed it would be improper for the Town Council to move forward with the consideration of the Special Exception with Site Plan. To the extent the Town Council nevertheless considers the Special Exception without ARCOM's further investigation and Site Plan approval, outside of opening the Town to a due process and failure to follow the essential requirements of the law argument, it will have established a dangerous precedent that any applicant can merely design a landscape plan that looks good on paper, but may not work in the real world, and yet take it directly to the Town Council for a Special Exception with Site Plan approval.

In light of the above, our clients request that the Town Council defer any consideration of the Application at its November 13, 2020 meeting.

Very truly yours,


John R. Eubanks, Jr.

cc: Wayne Bergman, Director Planning, Zoning & Building
John Randolph, Esquire, Town Attorney
Kelly Churney, Administrative Specialist
Town Clerk, Town of Palm Beach
Tim and Gayle DeVries
Thomas O. McCarthy

³ The Applicant's Survey by Wallace Surveying dated 2/5/2014 included in the record shows that the property line between the Hotel and its neighbors is located in the middle of a 5 foot utility easement for gas and water as well as an easement of 2.5 ft. (or less than a yard stick) to the south of the property line for sewer and transmission lines. As a result, there is little if any room for landscaping. An expanded copy of the Survey as well as pictures of the limited area available for landscaping are attached hereto as Exhibit "A" and Composite Exhibit "B" respectively.



EXHIBIT

tabbles

Camp B







TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 9, 2020

Section of Agenda

Appeals

Agenda Title

ARCOM Appeal of B-043-2020 1045 S Ocean Blvd

Presenter

ATTACHMENTS:

- ▣ **Memorandum and Backup Dated November 24, 2020 from Wayne Bergman, Director of Planning, Zoning and Building**
- ▣ **Letter Dated November 6, 2020 from Francis X. J. Lynch**
- ▣ **Letter and Backup Dated December 1, 2020 from Maura Ziska**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 9, 2020

To: Mayor and Town Council

From: Wayne Bergman, Director of Planning, Zoning & Building



Cc: Kirk Blouin, Town Manager

Re: 1045 S. Ocean Blvd. Appeal of Arcom Decision to Approve New Addition, Pool, Hardscape and Landscape

Date: November 24, 2020

GENERAL INFORMATION

Property owner Lionel K. Vickar made an application to Arcom earlier this year to add a two-story addition, with a basement, to the existing home at 1045 S. Ocean Blvd.; along with a new pool and pool deck, and enhanced hardscape and landscape. The matter was heard at the October 28, 2020 Arcom meeting and was approved, with the exception of the front doors, which were scheduled to return to Arcom in November. During the meeting Attorney Francis X. J. Lynch, representing owners at 1020 and 1030 S. Ocean Blvd., spoke in opposition to the project. Please see the partial minutes of the Arcom meeting that summarize the discussion and approval.

The appeal of the Arcom decision was filed by Attorney Lynch on November 6, 2020, who is representing the owner of 1030 S. Ocean Blvd. The filing of the appeal was in compliance with Town Code 18-177, which allows appeals from Arcom decisions to be filed within ten (10) calendar days of the meeting at which the decision of the Commission is rendered.

Attached:

Chapter 18, Section 18-177 – Appeals and Review
Attorney Lynch Letter, dated November 6, 2020
Partial Minutes from the October 28, 2020 Arcom Meeting

Sec. 18-177. - Appeals and review.

An applicant or any interested party may file an appeal to the town council on any ruling by the architectural commission or the director of the planning, zoning and building department or his/her designee made pursuant to this article. The appeal shall take the form of a letter addressed to the town clerk. In the case of an appeal from the architectural commission, the appeals shall be filed or made within ten calendar days of the date of the meeting at which the decision of the commission is rendered. In the case of an appeal from the decision of the director of planning, zoning and building, the appeal shall be filed or made within ten calendar days of the date the director of the planning, zoning and building department or his or her designee renders the decision in writing. Appeals shall set forth the alleged inconsistency or nonconformity with procedures or criteria set forth in this article or standards set forth in or pursuant to this Code. The town council shall decide an appeal within 45 days of the filing of such appeal unless an extension of time is consented to by the applicant, and such filing shall suspend any building permit issued pursuant to the ruling of the architectural commission or director of the planning, zoning and building department or his/her designee until the town council has decided the appeal. The town council may review any decision of the architectural commission or the director of the planning, zoning and building department and its disposition of the matter shall be final. In addition to appeals, the town council shall consider major projects as defined in the ARCOM Project Designation Manual at the next regularly scheduled town council meeting, subsequent to the meeting of the commission. The disposition of such matters by the town council shall be final. Appeals filed pursuant to this section shall be based on the record of the proceedings below and shall not be presented de novo. The time allotted for presentation of an appeal shall be determined by the town council president.

(Ord. No. 11-2015, § 1(Att.), 4-15-15)

SNIFFEN & SPELLMAN, P.A.

Sender's direct line: 561-721-4004
Sender's e-mail: flynnch@sniffenlaw.com

November 6, 2020

VIA E-MAIL

pgayle-gordon@townofpalmbeach.com

Town of Palm Beach
Town Clerk's Office
360 South County Road
Palm Beach, FL 33480
Attn: Ms. Pat Gayle-Gordon, Acting Town Clerk

Re: ARCOM #B-043-2020/1045 South Ocean Boulevard

Dear Ms. Gayle-Gordon:

Please be advised that I represent the owner of 1030 South Ocean Boulevard (the "Appellant").

The Appellant wishes to appeal the above-referenced decision by the Town of Palm Beach Architectural Review Commission ("ARCOM") at its October 28, 2020 meeting to approve an addition to the existing single-family residence on the property along with landscape and hardscape changes (the "Decision") to the Town of Palm Beach Town Council ("Town Council").

The appeal is based on the following grounds:

1. Is a Building Height Plan Variance Required?

Upon commencing its presentation of its opposition to the Application, the Appellant questioned whether a Building Height Plane variance as required of the Applicant.

Town Code requires, in the RA Zoning District, the following:

"Sec. 134-843. – Lot, yard and area requirements-Generally.

(a) Schedule of regulations. In the R-A estate residential district, the schedule of lot, yard and area requirements is as given in this section . . .

(7) Building height plane. The building height plane regulations are as follows: two feet of front setback for each one foot in building height"

Building Height Plane is defined in Code Section 134-2(b) as follows:

REPLY TO:

605 NORTH OLIVE AVENUE, 2ND FLOOR
WEST PALM BEACH, FL • 33401
PHONE: 561.721.4000
FAX: 561.721.4001

WWW.SNIFFENLAW.COM

123 NORTH MONROE STREET
TALLAHASSEE, FL • 32301
PHONE: 850.205.1996
FAX: 850.205.3004

"Building height plane means a height limiting plane extending at an inclined angle from the intersection of the front yard property line as determined in Section 134-1636(2) and the zero datum as defined in "height of building" and "overall height of building", or the minimum floodplain elevation as established in Chapter 50 of this Code, whichever is higher."

Obvious by its omission in the Applicant's Zoning Tabulation is any reference to the Town's Building Height Plane Requirement of two feet (2.0') of front yard setback for every one foot (1.0') of Building Height. Based on the Building Height proposed by the Applicant of 23'10", the proposed minimum front yard setback should be 47'8"; however, the Applicant, by its own admission on the Zoning Tabulation, proposed a front yard setback of 42'7". This, on its face, indicates that a variance is required, yet the Applicant had not filed a zoning application seeking same at the time of its presentation to ARCOM. At the ARCOM meeting, the Applicant's representatives addressed the building height plane issue, however, town staff did not confirm or refute the Applicant's position, nor was any representation made on the Application addressing this situation. Based on this, ARCOM had nothing to consider on the Building Height Plane issue, so the question remains, is a building plane variance required? Based on this, ARCOM should not have considered the Application.

2. Failure of ARCOM to consider Code Section 18-205(a)(10)

Town Code provides:

"Sec. 18-205. – Criteria for building permit.

(a) The architectural commission may approve, approve with conditions, or disapprove the issuance of a building permit in any matter subject to its jurisdiction only after consideration of whether the following criteria are complied with:

(10) The project's location and design adequately protects unique site characteristics such as those related to scenic views, rock outcroppings, natural vistas, waterways, and similar features."

The Appellant addressed the requirement that ARCOM consider the foregoing in making its decision, given that the Applicant was seeking to double the width of the existing house to almost 150 feet in length, equivalent to the maximum permitted length of a structure in the CTS Zoning District, a commercial zoning district. To counter this position, the Applicant's representatives chose to incorrectly assert a zoning ordinance to claim that an ocean vista was not required. As the Applicant's representatives were well aware, the zoning ordinance cited had no relevance whatsoever in the ARCOM proceedings. To the contrary, the aforementioned Code Section 18-205(a)(10) requires that ARCOM consider the preservation of one of the few remaining scenic views of the Atlantic Ocean from South Ocean Boulevard in the Town. This particular view as among the specific considerations made by ARCOM members in their review

of a recent application at 977 South Ocean Boulevard ("977"), for which ARCOM considered two (2) applications over a nearly two (2) year period before granting its approval. Discussed in reviewing the 977 application was that ARCOM was aware of the precedent 977 would set for one of the few remaining stretches of road in the Town from which the ocean was visible from Ocean Boulevard. As to this particular Application, ARCOM gave virtually no consideration to the preservation of this view.

The Applicant then took to compare the length of the structures at 1020 South Ocean Boulevard ("1020") and 1030 South Ocean Boulevard ("1030"), both of which lie west of South Ocean Boulevard, to the subject, ignoring the obvious fact that the lengths of neither 1020 nor 1030 impair the view of any person of the ocean, which is included in the criteria set forth in Section 18-205(a)(10).

Unfortunately, the Applicant's representatives placed nothing of relevance before ARCOM to counter the Appellant's contention that the Application adversely impacted a "scenic view . . . natural vista, waterways, . . .".

3. Code "Maximums" are not "Entitlements"

While the Applicant's representatives asserted that the house presented was undersized for the lot, the Zoning Tabulation tells a different story. This is a large lot, 32,120 square feet in area, well in excess of the minimum square footage required of a lot in the RA zoning district. Similarly, with a width north to south along South Ocean Boulevard of approximately 244 feet, this dimension significantly exceeds the 150-foot minimum required by code in this zoning district. Yet the proposed angle of vision for the house is at the maximum allowed by code of 120 degrees, indicating this is a very wide house, meaning most of the remaining existing vista of the ocean is now to be obscured by the approved addition. The lot coverage proposed is only 179 feet less than the maximum permitted by Code while the landscaped open space is less than 1.2%, or 379 square feet, more than the minimum required by Code. The Zoning Tabulation is replete with lot, yard or area amounts at, near or exceeding (as the existing portion of the house is non-conforming as to front yard setback, rear yard setback and building height) the maximum allowed by Code. When the possible need for a building height plane variance is included with the foregoing, the house that the Applicant has proposed is hardly undersized; to the contrary, the Applicant's Zoning Tabulation is replete with maximums for almost all of the lot, yard and area criteria of Code Section 134-843. ARCOM has long asserted that the code-stated maximums are not entitlements, especially for properties it considers important to the Town. This was the case for the homes approved for both 901 and 905 North Ocean Boulevard, and ARCOM scaled back the respective sizes of those homes prior to granting their approvals. In the instance case, the Applicant was granted the maximum, or near-maximum, permitted by Code.

4. Additional Curb Cut on South Ocean Boulevard

It was unclear in the Applicant's presentation and the Application if a third curb cut on South Ocean Boulevard was being proposed. The existing structure already has two (2) curb cuts; for years the Public Works Department has sought to reduce the number of curb cuts along both Ocean Boulevard and County Road for safety purposes. There would appear to be no need for an additional curb cut on a property on which two (2) curb cuts already exist. While the design of the additional may require it, it creates a potentially dangerous condition which the Town has sought to limit, not expand. This speaks to the design as not appropriate for the street. No other house on South Ocean Boulevard has two (2) cuts, let alone three (3) curb cuts that ARCOM approved. Absent confirmation from Public Works that a third (3rd) curb cut was acceptable to it, this Application should not have been considered by ARCOM.

5. Was the Applicant Required to Produce a Model?

The existing improvements on the property, which the Applicant is renovating, are shown as 7,245 air-conditioned square feet. The addition proposed by the Application is 4,590 air-conditioned square feet. Accordingly, the total square footage, both existing/renovated and proposed is 11,835 air-conditioned square feet. The ARCOM Application, under the heading "PROCEDURE FOR PRESENTING PROJECTS TO THE ARCHITECTURAL COMMISSION" provides:

"10. Models are required for projects over 10,000 square feet."

It would seem that, given that:

- a. renovations were being made to the existing structure,
- b. that the proposed addition is to be joined to the existing structure and
- c. the combined structures exceed 10,000 square feet,

the ARCOM Application requires that a model is required. It is the only way that ARCOM could consider the Application in its full context and not in a piecemeal fashion. The Applicant did not provide a model. Based on this, the Application was not complete and should not have been considered by ARCOM.

6. Coordination of Construction Effort

The Appellant raised concern that with 977, this property and the pending application for 1045 South Ocean Boulevard, it was possible that three (3) homes on South Ocean Boulevard would be under construction at the same time for at least a year or more. The Appellant is concerned

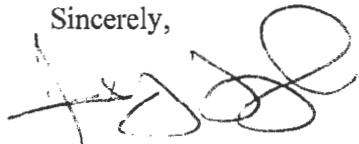
Town of Palm Beach
Town Clerk's Office
Re: ARCOM #B-043-2020/1045 South Ocean Boulevard
November 6, 2020
Page 5

that three (3) separate jobs with three (3) separate contractors along with their respective subcontractors and suppliers on a street with no on-street parking and smaller lots will mean that construction vehicles will back up on to South Ocean Boulevard will create a traffic, logistical and potential safety problem for the surrounding neighborhood. To this, the Applicant's representative replied that if it became a problem, staff would just "red tag" the job and shut down the project. It is this type of cavalier response to a legitimate concern that gives the Appellant significant concern for what lies ahead during construction. First, the neighbor would need to be upset enough to call the Town, then the staff would have to come out to review the situation and decide if the project was going to be shut down. This is not what the neighbors want nor is it anything the Town should encourage.

We ask that Town Council reverse the Decision, return the matter to ARCOM and direct that ARCOM consider the foregoing as it relates to the Applicant's Application.

Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Francis X. J. Lynch', with a large, stylized loop at the end.

FRANCIS X. J. LYNCH

FXJL/kh

cc: Maura Ziska, Esq.
John C. Randolph, Esq.
Mr. Kirk Blouin
Michael Small, Esq.



TOWN OF PALM BEACH
PLANNING, ZONING AND BUILDING
DEPARTMENT

MINUTES OF THE REGULAR ARCHITECTURAL REVIEW COMMISSION
MEETING HELD ON WEDNESDAY, OCTOBER 28, 2020

Please be advised that in keeping with a recent directive from the Town Council, the minutes of all Town Boards and Commissions will be "abbreviated" in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town's website at www.townofpalmbeach.com.

I. CALL TO ORDER

Mr. Small called the meeting to order at 9:00 a.m. All members participated via Zoom Webinar due to the COVID-19 situation.

II. ROLL CALL

Michael B. Small, Chairman	PRESENT
Robert N. Garrison, Vice Chairman	PRESENT
Alexander C. Ives, Member	PRESENT
Maisie Grace, Member	PRESENT
John David Corey, Member	PRESENT
Betsy Shiverick, Member	PRESENT
Jeffrey Smith, Interim Member	PRESENT
Katherine Catlin, Alternate Member	PRESENT
Dan Floersheimer, Alternate Member	PRESENT
Edward A. Cooney, Alternate Member	PRESENT

Staff Members present were:

Wayne Bergman, Director of Planning, Zoning and Building
Laura Groves van Onna, Historic Preservation Planner
Kelly Churney, Secretary to the Architectural Review Commission
Bradley Falco, Zoning Technician
John Randolph, Town Attorney

III. PLEDGE OF ALLEGIANCE

Chairman Small led the Pledge of Allegiance.

IV. RULES OF ORDER AND PROCEDURE

Mr. Small asked Jay Boodheshwar, Deputy Town Manager, to speak on the in-person meetings that will begin November and the safety measures that have been put in place.

dedicate and record a utility easement, or enter into an agreement ensuring said easement, if necessary to facilitate utility undergrounding in the area.

E. MAJOR PROJECTS – NEW BUSINESS

1. B-043-2020 Additions/Modifications

Address: 1045 S. Ocean Blvd.

Applicant: Kerry Vickar (Lionel Kerrin Vickar)

Professional: Roger Janssen/Dailey Janssen Architects

Project Description: New construction of a two story addition with basement.

New pool and pool deck. New hardscape and landscape, including civil/storm water management.

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

Mr. Janssen presented the architectural plans proposed for the new addition to the existing home.

Dustin Mizell, Environment Design Group, presented the landscape and hardscape modifications proposed for the existing home.

Mr. Small asked if the owner did voluntarily agree to dedicate a utility easement supporting the undergrounding project subject to the satisfaction of the Town. Mr. Janssen agreed to the easement.

Ms. Groves van Onna and Mr. Falco provided staff comments.

Mr. Small called for public comments.

Frank Lynch, attorney for the owners at 1020 and 1030 S. Ocean Blvd., stated his concerns for the proposed project.

Ms. Ziska provided rebuttal arguments to the arguments made by Mr. Lynch.

Kerry Vickar, owner, spoke about the proposal and some of the issues raised by the neighbors.

Mr. Janssen and Ms. Ziska provided further rebuttal to arguments raised by Mr. Lynch.

Mr. Garrison thought the landscape proposed was better than existing. He thought the addition would look like it had always been there once built. He was supportive of the project.

Mr. Ives questioned the aluminum panels on the second floor but otherwise supported the project.

Ms. Grace was concerned about the view when driving down S. Ocean Blvd but thought the architecture was acceptable.

Mr. Corey expressed concern that the existing home had some warmth and the proposed was rather harsh. He stated he could not support the aluminum panels proposed. He also thought the addition was competing with the main house and thought it should be more subservient. He thought the proposed design needed more charm and warmth. He was in favor of the landscape and hardscape proposal.

Ms. Shiverick was in favor of the eyebrow over the front door. She liked the clear glass walkway on the second floor and liked how the addition was stepped back. She supported the home.

Mr. Smith thought that Mr. Janssen did a good job. He was in favor of the addition. He was not in favor of the existing front door.

Ms. Catlin was in favor of the addition and of the project.

Mr. Floersheimer thought Mr. Janssen did an excellent job. Mr. Floersheimer inquired about the height plane issue raised by Mr. Lynch. Mr. Janssen responded and stated that he addressed the issue with the Town. Mr. Floersheimer inquired about the front site wall and its heights. Messrs. Janssen and Mizell responded.

Mr. Cooney was supportive of much of the project. He agreed with Mr. Smith and thought the front doors could be restudied.

Mr. Smith thought the addition was architectural compatible with the area.

Mr. Lynch responded to a comment about the length of the homes of the owners he represented.

Motion made by Ms. Shiverick and seconded by Mr. Garrison that the proposed project at 1045 S. Ocean Blvd. has met the criteria for approval listed in Sec. 18-205 of the Town's code of ordinances, and therefore make a motion to approve the project as presented with the caveat that the existing front doors would return to the November 20, 2020 meeting. Motion carried 5-2, with Mr. Corey and Ms. Grace opposed. This application was approved with the condition that prior to the issuance of a building permit, the applicant shall either dedicate and record a utility easement, or enter into an agreement ensuring said easement, if necessary to facilitate utility undergrounding in the area.

Please note: The Commission broke for the evening at 5:57 p.m. The meeting resumed on October 29, 2020 at 9:00 a.m.

SNIFFEN & SPELLMAN, P.A.

Sender's direct line: 561-721-4004
Sender's e-mail: flynnch@sniffenlaw.com

November 6, 2020

VIA E-MAIL

pgayle-gordon@townofpalmbeach.com

Town of Palm Beach
Town Clerk's Office
360 South County Road
Palm Beach, FL 33480
Attn: Ms. Pat Gayle-Gordon, Acting Town Clerk

Re: ARCOM #B-043-2020/1045 South Ocean Boulevard

Dear Ms. Gayle-Gordon:

Please be advised that I represent the owner of 1030 South Ocean Boulevard (the "Appellant").

The Appellant wishes to appeal the above-referenced decision by the Town of Palm Beach Architectural Review Commission ("ARCOM") at its October 28, 2020 meeting to approve an addition to the existing single-family residence on the property along with landscape and hardscape changes (the "Decision") to the Town of Palm Beach Town Council ("Town Council").

The appeal is based on the following grounds:

1. Is a Building Height Plan Variance Required?

Upon commencing its presentation of its opposition to the Application, the Appellant questioned whether a Building Height Plane variance as required of the Applicant.

Town Code requires, in the RA Zoning District, the following:

"Sec. 134-843. – Lot, yard and area requirements-Generally.

(a) Schedule of regulations. In the R-A estate residential district, the schedule of lot, yard and area requirements is as given in this section . . .

(7) Building height plane. The building height plane regulations are as follows: two feet of front setback for each one foot in building height"

Building Height Plane is defined in Code Section 134-2(b) as follows:

REPLY TO:

605 NORTH OLIVE AVENUE, 2ND FLOOR
WEST PALM BEACH, FL • 33401
PHONE: 561.721.4000
FAX: 561.721.4001

WWW.SNIFFENLAW.COM

123 NORTH MONROE STREET
TALLAHASSEE, FL • 32301
PHONE: 850.205.1006
FAX: 850.205.3004

"Building height plane means a height limiting plane extending at an inclined angle from the intersection of the front yard property line as determined in Section 134-1636(2) and the zero datum as defined in "height of building" and "overall height of building", or the minimum floodplain elevation as established in Chapter 50 of this Code, whichever is higher."

Obvious by its omission in the Applicant's Zoning Tabulation is any reference to the Town's Building Height Plane Requirement of two feet (2.0') of front yard setback for every one foot (1.0') of Building Height. Based on the Building Height proposed by the Applicant of 23'10", the proposed minimum front yard setback should be 47'8"; however, the Applicant, by its own admission on the Zoning Tabulation, proposed a front yard setback of 42'7". This, on its face, indicates that a variance is required, yet the Applicant had not filed a zoning application seeking same at the time of its presentation to ARCOM. At the ARCOM meeting, the Applicant's representatives addressed the building height plane issue, however, town staff did not confirm or refute the Applicant's position, nor was any representation made on the Application addressing this situation. Based on this, ARCOM had nothing to consider on the Building Height Plane issue, so the question remains, is a building plane variance required? Based on this, ARCOM should not have considered the Application.

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Unfortunately, the Applicant's representatives placed nothing of relevance before ARCOM to counter the Appellant's contention that the Application adversely impacted a "scenic view . . . natural vista, waterways, . . .".

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While the Applicant's representatives asserted that the house presented was undersized for the lot, the Zoning Tabulation tells a different story. This is a large lot, 32,120 square feet in area, well in excess of the minimum square footage required of a lot in the RA zoning district. Similarly, with a width north to south along South Ocean Boulevard of approximately 244 feet, this dimension significantly exceeds the 150-foot minimum required by code in this zoning district. Yet the proposed angle of vision for the house is at the maximum allowed by code of 120 degrees, indicating this is a very wide house, meaning most of the remaining existing vista of the ocean is now to be obscured by the approved addition. The lot coverage proposed is only 179 feet less than the maximum permitted by Code while the landscaped open space is less than 1.2%, or 379 square feet, more than the minimum required by Code. The Zoning Tabulation is replete with lot, yard or area amounts at, near or exceeding (as the existing portion of the house is non-conforming as to front yard setback, rear yard setback and building height) the maximum allowed by Code. When the possible need for a building height plane variance is included with the foregoing, the house that the Applicant has proposed is hardly undersized; to the contrary, the Applicant's Zoning Tabulation is replete with maximums for almost all of the lot, yard and area criteria of Code Section 134-843. ARCOM has long asserted that the code-stated maximums are not entitlements, especially for properties it considers important to the Town. This was the case for the homes approved for both 901 and 905 North Ocean Boulevard, and ARCOM scaled back the respective sizes of those homes prior to granting their approvals. In the instance case, the Applicant was granted the maximum, or near-maximum, permitted by Code.

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It was unclear in the Applicant's presentation and the Application if a third curb cut on South Ocean Boulevard was being proposed. The existing structure already has two (2) curb cuts; for years the Public Works Department has sought to reduce the number of curb cuts along both Ocean Boulevard and County Road for safety purposes. There would appear to be no need for an additional curb cut on a property on which two (2) curb cuts already exist. While the design of the additional may require it, it creates a potentially dangerous condition which the Town has sought to limit, not expand. This speaks to the design as not appropriate for the street. No other house on South Ocean Boulevard has two (2) cuts, let alone three (3) curb cuts that ARCOM approved. Absent confirmation from Public Works that a third (3rd) curb cut was acceptable to it, this Application should not have been considered by ARCOM.

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It would seem that, given that:

- a. renovations were being made to the existing structure,
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the ARCOM Application requires that a model is required. It is the only way that ARCOM could consider the Application in its full context and not in a piecemeal fashion. The Applicant did not provide a model. Based on this, the Application was not complete and should not have been considered by ARCOM.

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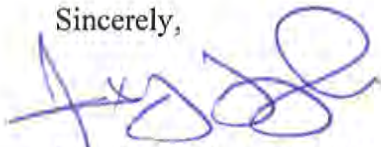
Town of Palm Beach
Town Clerk's Office
Re: ARCOM #B-043-2020/1045 South Ocean Boulevard
November 6, 2020
Page 5

that three (3) separate jobs with three (3) separate contractors along with their respective subcontractors and suppliers on a street with no on-street parking and smaller lots will mean that construction vehicles will back up on to South Ocean Boulevard will create a traffic, logistical and potential safety problem for the surrounding neighborhood. To this, the Applicant's representative replied that if it became a problem, staff would just "red tag" the job and shut down the project. It is this type of cavalier response to a legitimate concern that gives the Appellant significant concern for what lies ahead during construction. First, the neighbor would need to be upset enough to call the Town, then the staff would have to come out to review the situation and decide if the project was going to be shut down. This is not what the neighbors want nor is it anything the Town should encourage.

We ask that Town Council reverse the Decision, return the matter to ARCOM and direct that ARCOM consider the foregoing as it relates to the Applicant's Application.

Thank you for your consideration of this matter.

Sincerely,



FRANCIS X. J. LYNCH

FXJL/kh

cc: Maura Ziska, Esq.
John C. Randolph, Esq.
Mr. Kirk Blouin
Michael Small, Esq.

KOCHMAN & ZISKA PLC

Ronald S. Kochman*
Maura A. Ziska

Amy D. Bahl
*Also admitted in New York

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

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

VIA EMAIL

December 1, 2020

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

Re: Vickar Residence – Appeal of Addition Approved for 1045 South Ocean Boulevard, Palm Beach (B-043-2020)

Dear Madam Mayor and Members of the Town Council:

I represent Kerry and Simone Vickar, who own the property located at 1045 South Ocean Boulevard in Palm Beach. On October 28, 2020 the Architectural Review Commission approved an addition to the existing residence and specifically stated the project met the criteria of Town Code Section 18-205. The motion was made by Ms. Shiverick and seconded by Mr. Garrison. The project passed 5-2 with a condition to have the architect come back the following month to review the existing front doors. The property owner across the street at 1030 South Ocean Boulevard appealed the ARCOM decision and the appeal will be heard at the December 9th Town Council meeting.

As you know, an appeal must be based on the “record” and no new evidence can be presented before you that was not first presented at the ARCOM meeting. In response to Frank Lynch’s appeal letter dated November 6, 2020, I submit the following as a point-by-point response to the grounds for appeal:

1. The appeal stated that the application should not have been considered as the appellant believes a Building Height Plane variance was required. This is untrue. The Building Height Plane as well as all aspects of the project met the zoning code. I have attached an email confirmation from Paul Castro stating that the building height plane meets code.
2. The appeal stated that the project failed to meet the Code Section 18-205 because the project did not preserve a view of the ocean. It has long been decided by the courts that a property owner across the street from the ocean does not have a legal right to a view across the neighbor’s ocean front property. Furthermore, after all

Mayor and Town Council

December 1, 2020

Page 2

arguments, evidence and testimony, the vote by the commission specifically included language that the project DID meet the criteria of Section 18-205 of the Code, thus, it would be difficult to argue that the commission did not apply this criteria when the vote specifically included it. I have attached the ARCOM minutes and language of the vote for confirmation.

3. The appeal states that the project meets the "near" maximum of the zoning calculations. This is untrue as there are many aspects of the project that are under the allowable zoning requirements such as the front yard setback to the addition is well in excess of what is required and the north side yard setback is almost 70 feet from the property line when only 15 feet would be required by code.
4. The appeal argues an additional curb-cut should not be allowed. This argument was not made at the October 28th meeting and should not be considered as "new evidence".
5. The appeal questions whether a model was required. A model was not required. This is confirmed in the attached email from Laura Van Onna at the Town.
6. The appeal argues the amount of construction in the vicinity. This is not a grounds for an appeal and should not be considered. Furthermore, the Town Building Department has strict guidelines on construction projects and parking of construction vehicles.

Based on the above responses and supporting evidence attached, the subject appeal should be dismissed. Should you have any questions please call me.

Very truly yours,



Maura Ziska

/maz

Attachments

cc: John C. Randolph, Town Attorney
Wayne Bergman, Director of Planning, Zoning and Building
Paul Castro, Zoning Administrator
Kelly Churney

Maura Ziska

From: Lauren Urquhart <Lauren@daileyjanssen.com>
Sent: Thursday, November 19, 2020 8:02 AM
To: Maura Ziska
Subject: FW: 1045 S. Ocean Blvd_B-043-2020_Building Height Plane

FYI

Best regards,

Lauren Urquhart

DAILEY JANSSEN ARCHITECTS, P.A.
400 Clematis Street, Suite 200
West Palm Beach, FL 33401

Phone: (561) 833-4707
Fax: (561) 833-4705
E-mail: lauren@daileyjanssen.com

CONFIDENTIALITY NOTICE

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From: Paul Castro <PCastro@TownofPalmBeach.com>
Sent: Thursday, November 19, 2020 7:51 AM
To: Lauren Urquhart <Lauren@daileyjanssen.com>
Subject: RE: 1045 S. Ocean Blvd_B-043-2020_Building Height Plane

Lauren,

As I advised Maura, we do not provide written determinations on zoning but it appears to meet Code.

Paul Castro, AICP
Zoning Manager

360 South County Road
Palm Beach, FL 33480
(561)227-6406
pcastro@townofpalmbeach.com

From: Lauren Urquhart <Lauren@daileyjanssen.com>
Sent: Wednesday, November 18, 2020 4:24 PM
To: Maura Ziska <MZiska@floridawills.com>; Paul Castro <PCastro@TownofPalmBeach.com>; Bradley Falco <bfalco@TownOfPalmBeach.com>
Cc: Roger Janssen <roger@daileyjanssen.com>
Subject: RE: 1045 S. Ocean Blvd_B-043-2020_Building Height Plane

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Maura/Paul/Brad,

Can you please confirm via return email the project meets BHP?

Best regards,

Lauren Urquhart

DAILEY JANSSEN ARCHITECTS, P.A.
400 Clematis Street, Suite 200
West Palm Beach, FL 33401

Phone: (561) 833-4707
Fax: (561) 833-4705
E-mail: lauren@daileyjanssen.com

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From: Maura Ziska <MZiska@floridawills.com>
Sent: Tuesday, November 17, 2020 11:30 AM
To: Lauren Urquhart <Lauren@daileyjanssen.com>; Paul Castro <PCastro@TownofPalmBeach.com>; 'Bradley Falco' <bfalco@TownOfPalmBeach.com>
Cc: Roger Janssen <roger@daileyjanssen.com>
Subject: RE: 1045 S. Ocean Blvd_B-043-2020_Building Height Plane

Paul: Per our conversation and your review the Building Height Plan sketch we sent you, please confirm by email that the project at 1045 So. Ocean meets the BHP. Thanks, Maura

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

This electronic message transmission contains information from the law firm of Kochman & Ziska PLC which may be confidential or privileged. The information is intended to be for the use of the individual or entity named above. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this information is prohibited.

dedicate and record a utility easement, or enter into an agreement ensuring said easement, if necessary to facilitate utility undergrounding in the area.

E. MAJOR PROJECTS – NEW BUSINESS

1. B-043-2020 Additions/Modifications

Address: 1045 S. Ocean Blvd.

Applicant: Kerry Vickar (Lionel Kerrin Vickar)

Professional: Roger Janssen/Dailey Janssen Architects

Project Description: New construction of a two story addition with basement.

New pool and pool deck. New hardscape and landscape, including civil/storm water management.

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

Mr. Janssen presented the architectural plans proposed for the new addition to the existing home.

Dustin Mizell, Environment Design Group, presented the landscape and hardscape modifications proposed for the existing home.

Mr. Small asked if the owner did voluntarily agree to dedicate a utility easement supporting the undergrounding project subject to the satisfaction of the Town. Mr. Janssen agreed to the easement.

Ms. Groves van Onna and Mr. Falco provided staff comments.

Mr. Small called for public comments.

Frank Lynch, attorney for the owners at 1020 and 1030 S. Ocean Blvd., stated his concerns for the proposed project.

Ms. Ziska provided rebuttal arguments to the arguments made by Mr. Lynch.

Kerry Vickar, owner, spoke about the proposal and some of the issues raised by the neighbors.

Mr. Janssen and Ms. Ziska provided further rebuttal to arguments raised by Mr. Lynch.

Mr. Garrison thought the landscape proposed was better than existing. He thought the addition would look like it had always been there once built. He was supportive of the project.

Mr. Ives questioned the aluminum panels on the second floor but otherwise supported the project.

Ms. Grace was concerned about the view when driving down S. Ocean Blvd but thought the architecture was acceptable.

Mr. Corey expressed concern that the existing home had some warmth and the proposed was rather harsh. He stated he could not support the aluminum panels proposed. He also thought the addition was competing with the main house and thought it should be more subservient. He thought the proposed design needed more charm and warmth. He was in favor of the landscape and hardscape proposal.

Ms. Shiverick was in favor of the eyebrow over the front door. She liked the clear glass walkway on the second floor and liked how the addition was stepped back. She supported the home.

Mr. Smith thought that Mr. Janssen did a good job. He was in favor of the addition. He was not in favor of the existing front door.

Ms. Catlin was in favor of the addition and of the project.

Mr. Floersheimer thought Mr. Janssen did an excellent job. Mr. Floersheimer inquired about the height plane issue raised by Mr. Lynch. Mr. Janssen responded and stated that he addressed the issue with the Town. Mr. Floersheimer inquired about the front site wall and its heights. Messrs. Janssen and Mizell responded.

Mr. Cooney was supportive of much of the project. He agreed with Mr. Smith and thought the front doors could be restudied.

Mr. Smith thought the addition was architectural compatible with the area.

Mr. Lynch responded to a comment about the length of the homes of the owners he represented.

Motion made by Ms. Shiverick and seconded by Mr. Garrison that the proposed project at 1045 S. Ocean Blvd. has met the criteria for approval listed in Sec. 18-205 of the Town's code of ordinances, and therefore make a motion to approve the project as presented with the caveat that the existing front doors would return to the November 20, 2020 meeting. Motion carried 5-2, with Mr. Corey and Ms. Grace opposed. This application was approved with the condition that prior to the issuance of a building permit, the applicant shall either dedicate and record a utility easement, or enter into an agreement ensuring said easement, if necessary to facilitate utility undergrounding in the area.

Please note: The Commission broke for the evening at 5:57 p.m. The meeting resumed on October 29, 2020 at 9:00 a.m.

Maura Ziska

From: Laura Groves van Onna <lvanonna@TownOfPalmBeach.com>
Sent: Wednesday, November 25, 2020 2:54 PM
To: Lauren Urquhart
Cc: Roger Janssen; Maura Ziska; Wayne Bergman; Kelly Churney; Paul Castro; Bradley Falco
Subject: RE: B-043-2020 1045 S. Ocean Blvd_Appeal Response

Hi Lauren,

Thank you for reaching out. As I understand, historically physical models have been a requirement – but they have not recently proven helpful due to the virtual nature of meetings. Therefore, we are not requiring them during virtual presentations. And further, I believe you are correct – a physical model is noted as a requirement for any project involving 10,000 square feet or more of new construction (Sec. 18-207(16)).

Kind regards,
Laura

From: Lauren Urquhart <Lauren@daileyjanssen.com>
Sent: Wednesday, November 25, 2020 10:27 AM
To: Laura Groves van Onna <lvanonna@TownOfPalmBeach.com>
Cc: Roger Janssen <roger@daileyjanssen.com>; Maura Ziska <MZiska@floridawills.com>
Subject: B-043-2020 1045 S. Ocean Blvd_Appeal Response

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Hi Laura,

B-043-2020 1045 S. Ocean Blvd received ARCOM approval for a proposed 2 story structure on October 28th, 2020.

We would like to confirm, in response to an appeal letter from Attorney Francis Lynch (dated 6 November 2020 – point 5), that a physical model was not required to be presented to ARCOM. We did provide a 3D digital model and our understanding was that this was sufficient due to the current COVID protocols in place, and in addition the proposed addition is 4,590 sq ft which is less than the 10,000 SF requirement for a physical model.

Kindly confirm asap so we may respond to Francis Lynch and the Town Council.

Best regards,

Lauren Urquhart

DAILEY JANSSEN ARCHITECTS, P.A.
400 Clematis Street, Suite 200
West Palm Beach, FL 33401

Phone: (561) 833-4707
Fax: (561) 833-4705
E-mail: lauren@daileyjanssen.com

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 9, 2020

Section of Agenda

Time Extensions

Agenda Title

Time Extension for 259 Worth Avenue

Presenter

ATTACHMENTS:

- **Memorandum and Backup Dated November 30, 2020 from Wayne Bergman, Director of Planning, Zoning and Building**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 9, 2020

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, Director of Planning, Zoning & Building

Re: Waiver of Town Code Section 42-199, For Extended Working Hours at 259 Worth Avenue
– Second & Third Floor Buildout of the Tiffany Building – Third Request

Date: November 30, 2020

STAFF RECOMMENDATION

Staff recommends that the Town Council consider a request for an extension of work hours for the buildout of the second and third floors of the Tiffany Building, 259 Worth Avenue. If approved, staff recommends that it be conditioned upon the November 30, 2020 letter (attached) from Maura Ziska, Esq., along with the updated CPM construction schedule prepared by Shawmut Construction, which shows construction now revised to conclude on or about March 5, 2021.

Staff has notified the applicant that granting of extended working hours is the sole discretion of the Town Council.

GENERAL INFORMATION

The applicant is requesting to continue the project throughout the winter season with a new completion date on or about March 5, 2021. The Town Council approved this project starting two weeks early at your April 15, 2020 meeting, and then further allowed a brief time extension to complete the project to the beginning of December 2020 [at your October 14, 2020 meeting].

Ordinance 03-2018, passed by the Town Council on second reading on February 13, 2018, modified the construction working hours in the Town as follows:

Sec. 42-199. - Hours for construction work.

- (b) *Limited. Beginning on the Monday preceding Thanksgiving, and during the months of December, January, February, March, and April of each year, construction work not otherwise prohibited by section 42-198 or other work resulting in noise tending to disturb the people in the vicinity thereof shall not begin until the hour of 8:00 a.m., and shall cease at the hour of 5:00 p.m., except Saturday, Sunday, and legal holidays, when all construction work is prohibited. In no event shall heavy equipment or other construction-related noise be permitted before 9:00 a.m. At all other times such work may commence at 8:00 a.m. and cease at the hour of 6:00 p.m., except Saturdays, Sundays and legal holidays,*

including the Friday immediately after Thanksgiving, when all construction work is restricted or prohibited. Construction work is permissible on Saturdays from May through the Monday preceding Thanksgiving, but subject to the following restrictions: work shall not begin until the hour of 9:00 a.m. and shall cease at the hour of 5:00 p.m.; all work must be quiet in nature during which all of the noise and machinery prohibitions identified in section 42-198 are applicable; material deliveries are prohibited in all cases unless the Building Official waives such restriction due to compelling circumstances; concrete pours and concrete sawing is prohibited unless the Building Official waives such restriction due to compelling circumstances; and the razing of buildings is prohibited, with the exception of non-mechanized debris clean-up. The permitted hours for construction work in the C-WA zoning district shall be from 8:00 a.m. until 8:00 p.m. during the months commencing May 1 and ending on October 31, except Sundays and legal holidays, when all construction work is prohibited.

(c) Exceptions.

- (5) The town council, in its discretion, for the benefit of the health, safety and welfare of the residents of the town may, by resolution, temporarily amend the hours for construction work referenced herein.

The applicant was asked to notify surrounding property owners of the request and of the date of this meeting, as required.

Attachments – November 30, 2020 letter from Maura Ziska with the proposed construction schedule.

Staff Memo dated September 23, 2020

Staff Memo dated March 26, 2020

WRB

KOCHMAN & ZISKA PLC

Ronald S. Kochman*
Maura A. Ziska

Amy D. Bahl

*Also admitted in New York

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

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

November 30, 2020

VIA EMAIL

wbergman@townofpalmbeach.com

Mr. Wayne Bergman, Building Official
Town of Palm Beach
360 S County Road
Palm Beach, FL 33480

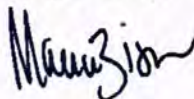
Re: Extension for construction time frame /259 Worth Avenue, Palm Beach, FL

Dear Wayne,

This letter shall serve as formal notice of the request for a waiver of the time schedule for completion of construction by the owner of 259 Worth Avenue, Palm Beach, Florida. This is to allow continued work on the 2nd and 3rd floor residential unit. Also enclosed is a construction schedule from Batten Construction. The reason for the delay and request for an extension is due to unforeseen events due to COVID-19. The new completion date would be the beginning of March 2021. I have also included a copy of the letter that will be sent notifying the abutting property owners and the owners across the street from the project.

Please place this request on the December 9, 2020 Town Council agenda.

Respectfully,



Maura Ziska

MZ/jc
Enclosures
cc: Client

KOCHMAN & ZISKA PLC

Ronald S. Kochman*
Maura A. Ziska

Amy D. Bahl
*Also admitted in New York

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

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

November 30, 2020

RE: 259 Worth Avenue, Palm Beach

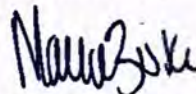
To Whom It May Concern:

A waiver of Town Ordinance 42-199, Hours of Construction, is being requested by 259 Worth Avenue, to allow work on the 2nd and 3rd floor residential units to continue during normal seasonal hours from November 1, 2020 through March 6, 2021. We would discontinue work during peak holiday times which includes December 23-27, 2020, and from December 30, 2020-January 1, 2021.

This matter will be presented to the Town Council at the regularly-scheduled meeting on December 9, 2020. Any concerns regarding this matter should be expressed at this meeting.

This notice is required to be postmarked no later than 10 days prior to the regularly scheduled meeting.

Respectfully,



Maura Ziska

Activity ID	Activity Name	Org	Ad	Rem	Start	Finish	IF	RESP	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
2021																										
2022																										
Tiffany & Co. Palm Beach Phase II - Residential & Retail Refl																										
Preconstruction																										
Tiffany & Co. Palm Beach Phase II - Retail																										
Estimating/Preconstruction																										
RET-1750	50% CO/Permit Set	1	1	0	25-Jan-20 A	25-Jan-20 A	60	ARCH																		
RET-1760	50% CO/Permit Set Picking	12	12	0	30-Jan-20 A	14-Feb-20 A		ARCH																		
RET-1770	95% CD Set	1	1	0	25-Feb-20 A	25-Feb-20 A		ARCH																		
RET-1780	95% CD Set Picking	24	24	0	28-Feb-20 A	30-Mar-20 A		ARCH																		
RET-1790	BD Book	29	29	0	28-Feb-20 A	06-Apr-20 A		CM																		
RET-1840	Client Review	5	5	0	07-Apr-20 A	13-Apr-20 A		OWN																		
RET-1850	Early Release Letter	0	0	0		13-Apr-20 A		OWN																		
RET-1860	Revised Early Release Letter / Contract Release	0	0	0		11-May-20 A		AE																		
RET-1900	Preliminary MEP Drawings	0	0	0		22-May-20 A		ARCH																		
RET-2100	Revised 100% CD Set	1	0	0	22-May-20 A	05-Jun-20 A		CM																		
RET-2700	100% CD Set Picking	10	10	0	22-May-20 A	05-Jun-20 A		CM																		
RET-2710	Client Review	5	117	0	06-Jun-20 A	19-Nov-20	48	OWN																		
Permitting																										
RET-1800	Apply for Demolition Permit	1	1	0	25-Mar-20 A	25-Mar-20 A		CM																		
RET-1810	Demolition Permit Submission Review	15	28	0	25-Mar-20 A	01-May-20 A		AUJ																		
RET-1820	Apply for Grant Improvement Permit	1	0	0	26-May-20 A	26-May-20 A		CM																		
RET-1830	11 Permit Submission Review	30	12	0	27-May-20 A	12-Jun-20 A		AUJ																		
RET-2090	Final Permitting	5	0	0	12-Jun-20 A	12-Jun-20 A		AUJ																		
RET-2690	Revised Revised Structural Drawings	1	0	0	09-Jul-20 A	09-Jul-20 A																				
RET-2700	City Review of Revised Structural Drawings	16	7	0	10-Jul-20 A	21-Jul-20 A		AUJ																		
RET-2710	Revised Revised Electrical Drawings	0	0	0	21-Aug-20 A	21-Aug-20 A																				
RET-2720	City Review of Revised Electrical Drawings	15	10	0	11-Aug-20 A	25-Aug-20 A		AUJ																		
Tiffany & Co. Palm Beach Phase II - Residential																										
Preconstruction																										
Document Development																										
RES-1000	Picking Drawings Issued	0	0	0	24-Jan-20 A	24-Feb-20 A		ARCH																		
RES-1020	95% Permit/CD Drawings Development	25	25	0	24-Jan-20 A	28-Feb-20 A		ARCH																		
RES-1040	95% Permit/CD Drawings Issued	0	0	0	28-Feb-20 A			ARCH																		
Estimating/Contracting																										
RES-1010	Final Bid Picking	14	14	0	24-Jan-20 A	12-Feb-20 A		CM																		
RES-1030	Submit Final Bid Picking	0	0	0		12-Feb-20 A		CM																		
RES-1050	Budget Development Per CD Drawings	5	5	0	28-Feb-20 A	05-Mar-20 A		CM																		
RES-1060	Revised Bid Picking	14	14	0	28-Feb-20 A	18-Mar-20 A		CM																		
RES-1110	Submit Revised Bid Picking	0	0	0		18-Mar-20 A		CM																		
RES-1120	Client Review	19	19	0	19-Mar-20 A	14-Apr-20 A		OWN																		
RES-1130	Client Release/Budget Approval Per CD Drawings	0	0	0	14-Apr-20 A			OWN																		
RES-1200	Subcontractor Buyout	13	13	0	15-Apr-20 A	01-May-20 A		CM																		
Permitting																										
RES-1070	Apply for Master Building Permit	0	2	0	02-Mar-20 A	04-Mar-20 A		CM																		
RES-1080	AUJ Review and Approve Master Building Permit	35	40	0	05-Mar-20 A	30-Apr-20 A		AUJ																		
RES-1240	Reconcile Master Building Permit	0	0	0		01-May-20 A		AUJ																		
RES-1110	Right of Way Permit Review and Approve	0	7	0	04-May-20 A	13-May-20 A		AUJ																		
Tiffany & Co. Palm Beach Phase II Project - Retail & Residential																										
Project Schedule - Full - Data Date: 19-Nov-20																										
BOTH PROJECTS																										

Activity ID	Activity Name	Org	Ad	Rem	Stat	From	To	RESP	Sup	CC	Mon	Tue	Wed	Thu	Fri	Sat	Sun	2021	2022
RES1020	Town of Palm Beach Council Meeting - Time Extension Request	0	0	0		14-Oct-20 A		AMU											
A1290	-- Water Meter Permit - Timeline TBD --	3	0	3		23-Nov-20*	28-Nov-20	40											
A1220	-- Pool Permit - Timeline TBD --	10	0	0		23-Nov-20*	07-Dec-20	46											
A1310	Town of Palm Beach Council Meeting - Time Extension Request	0	0	0		09-Dec-20*	60												
Procurement																			
Tiffany & Co. Palm Beach Phase II - Retail		216	156	63		08-Apr-20 A	15-Feb-21	10											
Submittal Processes																			
Structural		24	24	0		18-May-20 A	19-Jun-20 A												
RET1020	Structural Steel Submittal	10	4	0		18-May-20 A	22-May-20 A												
RET1030	Structural Steel Review & Approval	5	5	0		22-May-20 A	29-May-20 A												
RET1090	Structural Steel Fabrication & Shipping	15	15	0		01-Jun-20 A	19-Jun-20 A												
Drywall / Plaster		25	25	0		20-Jun-20 A	09-Jul-20 A												
RET1420	Security Mesh Submittal	10	25	0		20-Jun-20 A	25-Jun-20 A												
RET1430	Security Mesh Review & Approval	3	10	0		25-Jun-20 A	09-Jul-20 A												
Energy Title		10	3	0		22-Jun-20 A	25-Jun-20 A												
RET1450	Flooring Entry Title Submittal	10	3	0		22-Jun-20 A	25-Jun-20 A												
Electrical / Lighting		26	29	0		07-Jul-20 A	28-Aug-20 A												
RET1790	LED Thick Light Submittal	10	8	0		07-Jul-20 A	19-Aug-20 A												
RET1400	LED Thick Light Submittal Review & Approval	5	17	0		19-Aug-20 A	12-Jun-20 A												
RET1410	LED Thick Light Fabrication & Shipping	20	54	0		13-Jun-20 A	28-Aug-20 A												
HVAC Procurement																			
RET1010	HVAC Equipment Submittal (Per 100% CD SW)	5	8	0		18-May-20 A	26-May-20 A												
RET1060	HVAC Sheet Metal Submittal	10	5	0		18-May-20 A	26-May-20 A												
RET1020	HVAC Equipment Review & Approval	5	9	0		26-May-20 A	06-Jun-20 A												
RET1100	HVAC Sheet Metal Review & Approval	11	21	0		26-May-20 A	24-Jun-20 A												
RET1600	RTU Equipment Fabrication & Shipping	50	58	0		23-May-20 A	18-Aug-20 A												
RET1050	FCU Equipment Fabrication & Shipping	30	56	0		06-Jun-20 A	28-Aug-20 A												
RET1170	HVAC Sheet Metal Fabrication & Shipping	10	7	0		17-Jun-20 A	26-Jun-20 A												
RET1810	Identified Issue with Existing Condenser Water Lines Through BOH	0	0	0		11-Aug-20 A													
RET1820	Redesign of Condenser Water Lines	10	5	0		11-Aug-20 A	18-Aug-20 A												
RET1830	Shop Drawing Review - Per Redesign	5	1	0		18-Aug-20 A													
Pumping		20	29	0		19-Oct-20 A	23-Oct-20 A												
RET1410	Pumping Shop Drawings Submittal	10	17	0		18-May-20 A	11-Jun-20 A												
RET1420	Pumping Shop Drawings Review & Approval	5	1	0		11-Jun-20 A	12-Jun-20 A												
RET1430	Pumping Rough Material Acquisition	5	5	0		11-Jun-20 A	23-Jun-20 A												
Flooring p/g		15	20	0		05-Jul-20 A	31-Jul-20 A												
RET1270	Flooring VCT Submittal	10	1	0		06-Jul-20 A	07-Jul-20 A												
RET1390	Flooring VCT Review & Approval	5	2	0		07-Jul-20 A	09-Jul-20 A												
RET1440	Flooring VCT Fabrication & Shipping	10	17	0		09-Jul-20 A	31-Jul-20 A												
Owner Provided Materials on site dates		23	23	0		24-Aug-20 A	25-Sep-20 A												
Wall Ceiling		0	0	0		24-Aug-20 A													
RET1400	WC Acquisition	0	0	0		24-Aug-20 A													
Low Voltage		23	0	0		25-Sep-20 A	25-Sep-20 A												
RET1640	Low Voltage Equipment	0	0	0		25-Sep-20 A													
RET1650	Security System	0	0	0		25-Sep-20 A													
RET1660	Loss Prevention	0	0	0		25-Sep-20 A													
RET1670	Burglar System	0	0	0		25-Sep-20 A													
Tiffany & Co. Palm Beach Phase II Project - Retail & Residential																			
Proj 181374 & 200182	Start: 24-Jun-20																		
Filter TASK filter: All Activities	Finish: 06-Jul-21																		
Page 2 of 10	Date Date: 19-Nov-20																		
	Run Date: 25-Nov-20																		
	Actual Work																		
	Remaining Work																		
	Critical Remaining Work																		
	Milestone																		
	Summary																		
	Project Schedule - Full - Data Date: 19-Nov-20																		
	BOTH PROJECTS																		

Activity ID	Activity Name	Org	Act	Rem	Start	Finish	TR	RESP	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
RES-1690	CCTV System	0	0	0		25-Sep-20 A		SEC																		
RES-1690	Audio Video System	0	0	0		25-Sep-20 A		AV																		
RES-1740	POS System	0	0	0		25-Sep-20 A		SPEC																		
Tiffany & Co - Palm Beach Phase II - Residential																										
POC System																										
001000	Steel	216	158	63	63	08-Apr-20 A	19-Feb-21	10																		
SEC Procurement																										
001000	Steel	216	158	63	63	08-Apr-20 A	19-Feb-21	10																		
RES-4790	Steel Column C5.8 & Beam Connection Prying	10	5	0	11-Aug-20 A	31-Aug-20 A		STR																		
RES-4790	Steel Column C5.8 & Beam Connection Shop Drawing Approval	10	3	0	14-Aug-20 A	17-Aug-20 A		STR																		
RES-4770	Fabricate & Deliver Steel Column C5.8 & Beam Connection	5	18	0	17-Aug-20 A	31-Aug-20 A		STR																		
001000	Rough Construction	19	40	0	17-Jul-20 A	11-Sep-20 A																				
RES-4750	Wood Truss Shop Drawings Review - Rev 0	10	2	0	17-Jul-20 A	21-Jul-20 A		ELEC																		
RES-4730	Wood Truss Shop Drawings Review and Approval - Rev 1	10	9	0	12-Aug-20 A	24-Aug-20 A		ELEC																		
RES-4740	Wood Truss Fabrication and Shipping	10	9	0	31-Aug-20 A	11-Sep-20 A		ELEC																		
001000	Doors, Frames and Hardware	68	125	0	26-May-20 A	19-Nov-20	24																			
RES-1160	Subcontractor Buyout - Interior Doors & Hardware	10	29	0	26-May-20 A	07-Jul-20 A		CM																		
DOOR Procurement																										
RES-1300	Door Hardware Shop Drawings Submittal	10	5	0	07-Jul-20 A	14-Jul-20 A		DOOR																		
RES-1440	Door Hardware Shop Drawings Review and Approval	10	4	0	14-Jul-20 A	20-Jul-20 A		DOOR																		
RES-1540	Door Hardware Fabrication and Shipping	20	87	0	20-Jul-20 A	19-Nov-20	24	DOOR																		
DOOR Procurement																										
RES-1280	Interior Doors Shop Drawing Submittal	10	5	0	07-Jul-20 A	14-Jul-20 A		DOOR																		
RES-1430	Interior Doors Shop Drawing Review and Approval	10	4	0	14-Jul-20 A	20-Jul-20 A		DOOR																		
RES-1520	Interior Doors Fabrication and Shipping	20	87	0	20-Jul-20 A	19-Nov-20	24	DOOR																		
DOOR Procurement																										
001160	Flood Barriers	88	88	5	17-Jul-20 A	25-Nov-20	68																			
RES-6810	Flood Barrier Submittals	5	79	0	17-Jul-20 A	06-Nov-20 A																				
RES-6820	Flood Barrier Submittals Review and Approval	5	9	0	06-Nov-20 A	19-Nov-20 A																				
RES-6830	Flood Barrier Procurement	5	0	5	19-Nov-20 A	25-Nov-20	68																			
Flood Barrier Procurement																										
RES-1140	Subcontractor Buyout - Glass & Glazing	10	15	0	11-May-20 A	02-Jun-20 A		CM																		
GLAZ Procurement																										
RES-1330	Stars & Rating Shop Drawing Submittal	10	13	0	02-Jun-20 A	19-Jun-20 A		MISC																		
RES-1500	Stars & Rating Shop Drawing Review and Approval	10	11	0	25-Jun-20 A	12-Jul-20 A		MISC																		
RES-1600	Stars & Rating Fabrication & Shipping	20	37	0	13-Jul-20 A	02-Sep-20 A		MISC																		
RES-4800	Stars & Rating - Design Change to Wood - Final Direction	0	0	0	05-Nov-20 A	05-Nov-20 A		MISC																		
RES-4810	Engineered Star Shop Drawing Prep - Stars & Ratings	15	0	0	05-Nov-20 A	05-Nov-20 A		MISC																		
GLAZ Procurement																										
RES-1310	Windows & Exterior Doors Shop Drawing Submittal	10	11	0	02-Jun-20 A	17-Jun-20 A		GLAZ																		
RES-1460	Windows & Exterior Doors Shop Drawings Review and Approval	5	5	0	18-Jun-20 A	25-Jun-20 A		GLAZ																		
RES-1560	Windows & Exterior Doors Fabrication and Shipping	50	49	0	17-Jul-20 A	25-Sep-20 A		GLAZ																		
GLAZ Procurement																										
RES-1290	Glass Rating Submittal	10	14	0	02-Jun-20 A	19-Jun-20 A		GLAZ																		
RES-1470	Glass Rating Shop Drawings Review and Approval	5	3	0	22-Jun-20 A	25-Jun-20 A		GLAZ																		
RES-1580	Glass Rating Fabrication and Shipping - Per revised drawings	50	88	10	17-Jul-20 A	03-Oct-20	41	GLAZ																		
RES-4200	Revised Dimensions Received - Design Changes	1	1	0	21-Oct-20 A	21-Oct-20 A																				
A1110	Revised Proposal for Roofing Changes	5	1	0	18-Nov-20 A	25-Nov-20	41																			
A1210	Glass Gable Fabrication and Shipping	40	0	40	23-Nov-20	20-Jan-21	43	GLAZ																		
GLAZ Procurement																										
Tiffany & Co. Palm Beach Phase II Project - Retail & Residential																										
Project Schedule - Full - Data Date: 19-Nov-20																										
BOTH PROJECTS																										

Activity ID	Activity Name	Orig	Dur	Ad	Rm	Start	Finish	TF	RESP
(P1000) Fire Sprinkler		23	43	0		30-Jun-20 A	28-Aug-20 A		
RES-6840	Sprinkler Submittals	5	4	0		30-Jun-20 A	07-Jul-20 A		PP
RES-6850	Sprinkler Submittals Review and Approval	5	3	0		08-Jul-20 A	13-Jul-20 A		PP
RES-6860	Sprinkler Engineering & Permitting	20	25	0		27-Jul-20 A	28-Aug-20 A		PP
(230000) HVAC		112	46	0		12-May-20 A	17-Jul-20 A		
RES-4590	Subcontractor Buyout - HVAC	15	5	0		12-May-20 A	19-May-20 A		CM
RES-4600	HVAC Shop Drawings Submittals	7	3	0		20-May-20 A	25-May-20 A		ELEC
RES-4690	HVAC Equipment Submittals	4	4	0		20-May-20 A	25-May-20 A		ELEC
RES-4630	HVAC Shop Drawings Review and Approval	10	8	0		27-May-20 A	08-Jun-20 A		ELEC
RES-4600	HVAC Equipment Review and Approval	10	23	0		27-May-20 A	28-Jun-20 A		ELEC
RES-4610	HVAC Equipment Fabrication and Shipping	60	13	0		29-Jun-20 A	17-Jul-20 A		ELEC
(235000) Lighting		90	95	0		08-Apr-20 A	20-Aug-20 A		
RES-1210	Subcontractor Buyout - Electrical & Lighting Features	15	33	0		08-Apr-20 A	26-May-20 A		CM
RES-1400	Lifting Fixtures Shop Drawings Submittals	10	17	0		01-Jun-20 A	20-Jun-20 A		ELEC
RES-1490	Lighting Fixtures Shop Drawings Review and Approval - Rev 0 & 1	10	15	0		04-Jun-20 A	25-Jun-20 A		ELEC
RES-1900	Lighting Fixtures Fabrication and Shipping	40	40	0		25-Jun-20 A	20-Aug-20 A		ELEC
Pool Equipment & Fixtures - Added Scope		46	0	47		17-Nov-20 A	29-Jan-21		46
A1300	Pool Delivery	5	0	0		17-Nov-20 A	17-Nov-20 A		
A1160	Pool Tile (Owner Vendor)	9	0	9		23-Nov-20*	04-Dec-20	-35	
A1170	Landscape (Pending Plan Receipt)	15	0	15		08-Dec-20	29-Dec-20	-44	
A1310	Artificial Turf (Vendor Availability)	1	0	1		29-Jan-21*	29-Jan-21	-73	
Precast Window Return		61	0	61		23-Nov-20*	19-Feb-21	-87	
A1320	Structural Prep	5	0	5		23-Nov-20*	30-Nov-20	-87	
A1330	Structural Review & Approval	5	0	5		01-Dec-20	07-Dec-20	-87	
A1160	Precast Window Returns - Procurement & Sub Availability	51	0	51		08-Dec-20	19-Feb-21	-87	
Construction		226	155	73		15-Apr-20 A	05-Mar-21	0	
Modification		37	36	0		15-Apr-20 A	08-Jun-20 A		
Tiffany & Co. Palm Beach Phase II - Retail		0	0	0		01-May-20 A	01-May-20 A		
Modulation		0	0	0		01-May-20 A	01-May-20 A		
RET-1450	Pre-Site Coordination and U.N.C.R.	0	0	0		01-May-20 A			CM
RET-1460	Mobility to site	0	0	0		01-May-20 A			CM
RET-1990	Safety Kick off meeting	0	0	0		01-May-20 A			CM
Tiffany & Co. Palm Beach Phase II - Residential		37	36	0		15-Apr-20 A	08-Jun-20 A		
Modification		37	36	0		15-Apr-20 A	08-Jun-20 A		
RES-1250	Assess Site Conditions	4	11	0		15-Apr-20 A	30-Apr-20 A		CM
RES-1400	Mobility	0	0	0		04-May-20 A			CM
RES-1250	Recorded Notice of Commencement	0	0	0		12-May-20 A			CM
RES-1350	Temporary Field Office Setup/Signage	1	1	0		22-May-20 A	22-May-20 A		CM
RES-1340	Fence off Sidewalk and Parking Lot	5	5	0		02-Jun-20 A	08-Jun-20 A		CM
Rough Construction		207	140	54		04-May-20 A	05-Feb-21	48	
Tiffany & Co. Palm Beach Phase II - Retail		125	127	0		04-Jun-20 A	02-Nov-20 A		
Rough Construction		125	127	0		04-Jun-20 A	02-Nov-20 A		
RET-2000	Electrical and Low Voltage Caissons Disconnected	2	1	0		04-May-20 A	05-May-20 A		ELEC
RET-2010	Casework Reconnect/Protection	2	2	0		04-May-20 A	05-May-20 A		CASE
RET-2060	Carpet and Carpet Pad Removal	3	1	0		05-May-20 A	06-May-20 A		CRPT
RET-2020	Selective Demolition (Concrete Column and Existing Elevator Shaft)	7	3	0		05-May-20 A	08-May-20 A		DEMO
RET-1110	"RFI at Requesting Revised Architectural Sketch for Entry"	0	14	0		08-May-20 A	27-May-20 A		ARCH

Prof: 1813174 & 200182 Start: 24-Jan-20
 Files: TASK Sheet Activities Final: 05-Mar-21
 Page: 4 of 10 Data Date: 19-Nov-20 Run Date: 25-Nov-20

Actual Work Remaining Work Critical Remaining Work Milestones Summary

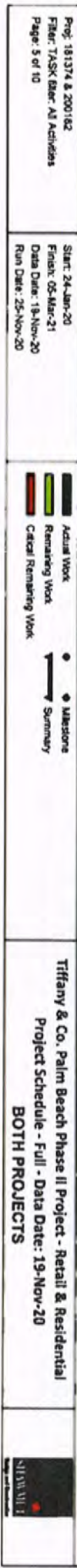
Tiffany & Co. Palm Beach Phase II Project - Retail & Residential

Activity ID	Activity Name	Org	Ad	Rem	Start	Finish	TR	RESP	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
RET-2060	Chimney Enclosure Installation	2	2	0	06-May-20 A	07-May-20 A		CASE																		
RET-4510	-- Uncovered Beam on 2nd Floor CL F - Meeting Held on 5/18, Final	5	10	0	15-May-20 A	29-May-20 A		CM																		
RET-2400	Shedding Demolition of Ceiling	7	7	0	18-May-20 A	27-May-20 A		DEMO																		
RET-2410	Demolition of the Existing Elevator Shaft	15	5	0	22-May-20 A	01-Jun-20 A		DEMO																		
RET-4220	Demolition of Existing Gables and Columns	5	3	0	25-May-20 A	29-May-20 A		DEMO																		
RET-4520	-- Electrical Central Removal at Ceiling --	5	3	0	25-May-20 A	29-May-20 A		DEMO																		
RET-4530	-- Uncovered Existing Conditions at 1st Floor Concrete Ceiling, Meet	3	3	0	25-May-20 A	29-May-20 A		DEMO																		
RET-4540	Shoring of the Existing Beam on CL F - 2nd Floor --	1	1	0	28-May-20 A	02-Jun-20 A		CM																		
RET-4510	Demolition of Existing Beam on CL F - 2nd Floor --	4	4	0	28-May-20 A	02-Jun-20 A		SHOR																		
RET-4560	Salvage Removal (for Salvage) at Staircase Entry	3	3	0	28-May-20 A	01-Jun-20 A		DEMO																		
RET-2070	Strong for the New Steel Columns	3	0	0	29-May-20 A	29-May-20 A		SHOR																		
RET-2000	Discontinued Fire Alarm from Existing Units (Johnson Controls)	5	0	0	29-May-20 A	29-May-20 A		ELEC																		
RET-2040	Shut off at Entry	8	2	0	08-Jun-20 A	10-Jun-20 A		CONC																		
RET-2130	FOH Concrete Column Work - Demo, Foundation & Column Install	10	4	0	08-Jun-20 A	13-Jun-20 A		CONC																		
RET-2200	Discontinued and Remove Existing AC Units - 3rd Floor	10	4	0	08-Jun-20 A	13-Jun-20 A		MECH																		
RET-4630	-- Electrical & FA Rough - Tiesing & Repair - FOH --	15	48	0	08-Jun-20 A	14-Jun-20 A		ELEC																		
RET-4570	Post Installation at Staircase Entry	5	2	0	10-Jun-20 A	12-Jun-20 A		STR																		
RET-2160	Concrete Lift at Elevator Shaft	5	0	0	11-Jun-20 A	11-Jun-20 A		CONC																		
RET-2080	FOH Chemical Grouting Complete (LL Work RES - 1450)	0	0	0	22-Jun-20 A	22-Jun-20 A		CONC																		
RET-2240	2nd Floor Deck Complete (LL Work RES - 6580)	2	2	0	23-Jun-20 A	30-Jun-20 A		CM																		
RET-2260	Provide Temporary Coating Throughout the Space	10	34	0	28-Jun-20 A	14-Jul-20 A		CM																		
RET-2270	HVAC Ductwork Relocation	4	11	0	06-Jul-20 A	21-Jul-20 A		HVAC																		
RET-2450	FOH Framing	3	18	0	06-Jul-20 A	31-Jul-20 A		DW																		
RET-4610	Final Rough Inspection: Framing & MEP - FOH	1	1	0	09-Jul-20 A	09-Jul-20 A		PLUMB																		
RET-2600	-- Tiffany Security Team Onsite to Review Existing Conditions --	0	0	0	17-Jul-20 A	17-Jul-20 A		PLUMB																		
RET-2150	Painting Rough FOH Complete (LL Work RES - 1530)	5	5	0	21-Jul-20 A	28-Jul-20 A		PLUMB																		
RET-4800	-- Tiffany Security Team - Rough Overhead LV Cleanup --	5	5	0	22-Jul-20 A	28-Jul-20 A		PLUMB																		
RET-1400	-- Final Structural Inspection and Int'l per Revised Structural Set --	0	0	0	31-Jul-20 A	31-Jul-20 A		WRRF																		
RET-4540	Temp Wall Separating Retail and Residential Core Work Complete & Waterproofing at 2nd Floor Ceiling Around Elevator Core --	5	4	0	03-Aug-20 A	07-Aug-20 A		WRRF																		
RET-4620	Electrical & Fire Alarm Rough - BOH	5	57	0	10-Aug-20 A	28-Oct-20 A		ELEC																		
RET-2860	HVAC Layout Team Meeting	0	0	0	01-Sep-20 A	01-Sep-20 A		HVAC																		
RET-4870	HVAC Layout Decision by Henderson & TCO	5	5	0	02-Sep-20 A	10-Sep-20 A		HVAC																		
RET-2170	AC Unit Support Installation at Elevator Shaft	5	0	0	03-Sep-20 A	03-Sep-20 A		MECH																		
RET-2280	FCU Installation at Elevator Shaft	4	0	0	03-Sep-20 A	03-Sep-20 A		HVAC																		
RET-4890	-- Revised Structural Drawings from Engineer - RTU Support --	0	0	0	11-Sep-20 A	11-Sep-20 A		AE																		
RET-2900	-- Revised Shop Drawings Prep for RTU Support --	5	5	0	15-Sep-20 A	22-Sep-20 A		STR																		
RET-3010	-- Revised Shop Drawings Review & Approval for RTU Support --	5	1	0	23-Sep-20 A	24-Sep-20 A		AE																		
RET-3020	-- RTU Support Steel Fabrication --	5	5	0	24-Sep-20 A	30-Sep-20 A		STR																		
RET-4230	Painting Rough at Retail Space (BOH Bathroom)	8	18	0	30-Sep-20 A	23-Oct-20 A		PLUMB																		
RET-4940	-- Search for RTU Additional Steel --	0	0	0	05-Oct-20 A	05-Oct-20 A		AE																		
RET-2950	-- Additional Cross Members for RTU Support Fabrication --	4	4	0	08-Oct-20 A	08-Oct-20 A		STR																		
RET-3060	-- Install Additional Cross Members for RTU Support --	2	3	0	08-Oct-20 A	14-Oct-20 A		STR																		
RET-4530	RTU Installation & Final Connections at Roof	10	13	0	14-Oct-20 A	02-Nov-20 A		HVAC																		
RET-2220	Rough Inspection: Mechanical Rough, Framing, Structural - BOH	3	4	0	15-Oct-20 A	15-Oct-20 A		HVAC																		

Proj: 1813174 & 200162
 FIRM: T&S/B/E/AE All Activities
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 Start: 24-Jun-20
 Finish: 05-Mar-21
 Data Date: 18-Nov-20
 Run Date: 25-Nov-20

Actual Work
 Remaining Work
 Critical Remaining Work
 Milestones
 Summary

Tiffany & Co. Palm Beach Phase II Project - Retail & Residential
 Project Schedule - Full - Data Date: 19-Nov-20
 BOTH PROJECTS



Activity ID	Activity Name	Org	Ad	Rem	Start	Finish	TF	RESP	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
RES-2210	BOH MEP Repairs (LL Work)	3	10	0	19-Oct-20A	02-Nov-20A		DEMO																		
RES-2220	Final Connection to FCU at Elevator Shaft	3	6	0	19-Oct-20A	26-Oct-20A		ELEC																		
RES-2190	LL Elevator Shaft Wall Completed/Elevator Walls (LL Work Rest - 1610)	0	0	0	20-Oct-20A	20-Oct-20A		DW																		
RES-2100	Removing the Shoring Complete (LL Work RES-1650)	0	0	0	20-Oct-20A	20-Oct-20A		SHOR																		
Tiffany & Co - Palm Beach Phase II - Residential		207	140	54	04-Sep-20A	05-Sep-21	48																			
Concrete Core - Elevator Shaft & Stair Wall		187	136	54	05-Sep-20A	05-Sep-21	68																			
Demolition		105	43	0	05-Aug-20A	07-Aug-20A																				
RES-1370	Demolition - 1st Mezzanine Elevator Lobby & 2nd Floor	5	35	0	05-Aug-20A	02-Jun-20A		DEMO																		
RES-4510	- RFI #11 - Structural Steel in Conflict with Elevator Shaft Construction	5	8	0	06-May-20A	15-May-20A		E																		
RES-1380	Remove and Salvage Wood Joist	3	4	0	11-May-20A	15-May-20A		DEMO																		
RES-4100	Chemical Grouting for 18 Footers - BOH - Concrete Core	5	19	0	26-May-20A	22-Jun-20A		CONC																		
RES-4500	Shoring of Second Floor Rafter (Post Engineering Approval)	15	4	0	15-Jun-20A	18-Jun-20A		DEMO																		
RES-1760	Demolition - 3rd Floor - BOH - Concrete Core	5	9	0	22-Jun-20A	07-Jul-20A		DEMO																		
Below Grade Steel Scope		86	64	0	22-Jun-20A	20-Oct-20A																				
RES-1420	Elevator Pit & Mail Soil Stabilization	10	24	0	22-Jun-20A	21-Jul-20A		SITE																		
RES-4600	- Walkup/Coastal/Water in Elevator Pit	5	11	0	22-Jun-20A	03-Aug-20A																				
RES-4610	- Weather - Non Work Days (Plumbing Issues)	5	3	0	30-Jul-20A	03-Aug-20A																				
RES-1550	Install Cast-in Place Elevator Pit & Mail Foundation (Blasting)	5	23	0	03-Aug-20A	29-Aug-20A		CONC																		
RES-4630	Reinforcing Bottom Elevator Pit, Preplaced & Vertical Walls (20)	3	1	0	04-Aug-20A	05-Aug-20A		CONC																		
RES-4710	Drawing Revisions for Inspection	6	4	0	05-Aug-20A	10-Aug-20A		CONC																		
RES-4840	Procure, Place and Inspect Additional Steel per Revised Drawings	6	4	0	11-Aug-20A	14-Aug-20A		CONC																		
RES-4640	Pour Elevator pit (18' mat and walls from 4'-6" to 2'-10")	1	2	0	15-Aug-20A	18-Aug-20A		CONC																		
RES-4670	Excavate Mail Foundation (0 to 30)	5	7	0	15-Aug-20A	22-Aug-20A		CONC																		
RES-4680	Chp Cofferdam Walls	5	5	0	17-Aug-20A	22-Aug-20A		CONC																		
RES-4690	Install Mail Reinforcing Steel	3	6	0	22-Aug-20A	26-Aug-20A		CONC																		
A1000	Changes to the design for 1 pour (2'-10" to 0'-2")	6	5	0	24-Aug-20A	28-Aug-20A																				
7	Cut down balustrade and install cap plates	2	1	0	24-Aug-20A	24-Aug-20A																				
8	Reinforcement of 18' mat & elev. Pit wall to 0'-2"	7	3	0	25-Aug-20A	28-Aug-20A																				
9	Inspect Mat & elev. Pit wall reinforcing (from 2'-10" to 0'-2")	1	0	0	28-Aug-20A	28-Aug-20A																				
10	Pour 18' mat foundation, walls & s.g. to elev. 0'-2" (one shot)	1	0	0	29-Aug-20A	29-Aug-20A		STR																		
RES-1690	Install Steel Column CS 8 & Beam Connection	2	0	0	21-Sep-20A	21-Sep-20A		STR																		
RES-1650	Remove 3rd Floor Shoring (down to the ground)	2	1	0	19-Oct-20A	20-Oct-20A		SHOR																		
Structural		48	25	10	15-Oct-20A	03-Dec-20	48																			
RES-1640	Road cone, Sub inspection & pour	5	2	0	16-Oct-20A	18-Oct-20A		CONC																		
RES-4620	3rd Fl. Concrete Curing Time (7d range 5,250 psi using mix 60540401)	5	5	0	16-Oct-20A	20-Oct-20A		CONC																		
RES-21140	- Replaced RFR#77 Rebar/Rein S-1	5	0	0	21-Oct-20A	21-Oct-20A																				
RES-4590	Install Ledges or Angles for Wood Joists at 3rd Floor - Concrete Core	5	0	0	21-Oct-20A	21-Oct-20A		STR																		
RES-1730	Entry Foyer Enclosure - RFR#77	10	17	0	22-Oct-20A	04-Nov-20A		GLAZ																		
RES-4600	Structural Wood Framing 3rd Floor - Concrete Core	8	2	0	23-Oct-20A	24-Oct-20A		CMHR																		
RES-4610	Strengthening 3rd Floor - Concrete Core	5	0	0	24-Oct-20A	24-Oct-20A		STR																		
RES-1780	Pour Concrete Slab for Elevator LUL	5	2	0	27-Oct-20A	28-Oct-20A		CONC																		
RES-670	Steel Floor Beam	5	0	0	03-Nov-20A	03-Nov-20A		STR																		
A1120	- Revised Layout for Main Stair	3	0	3	14-Nov-20A	23-Nov-20	45	MISC																		
RES-1770	- Form & Pour Slab at Main Stair	3	0	3	24-Nov-20	30-Nov-20	47	MISC																		
RES-1780	Install Main Stairs (1st to 2nd Floor)	3	0	3	01-Dec-20	03-Dec-20	47	MISC																		
Vertical Construction		43	42	0	31-Aug-20A	04-Sep-20A																				
16	New - 1st fl. of SW (7) (Rental, inspect, pour)	3	5	0	31-Aug-20A	24-Sep-20A																				

Activity ID	Activity Name	Org	Ad	Room	Start	Finish	TR	RESP	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
18	2nd flt of SW (7) (rent, inspect, pour)	3	8	0	05-Sep-20 A	16-Sep-20 A																				
20	3rd flt of SW (7) (rent, inspect, pour)	2	8	0	16-Sep-20 A	25-Sep-20 A																				
21	Weld embed plate to Cast-in-place beam (C 5.8 - Wall)	1	0	0	25-Sep-20 A	25-Sep-20 A																				
22	4th flt of SW (7) (rent, inspect, pour)	2	8	0	25-Sep-20 A	30-Sep-20 A																				
23	4th flt of SW (7) (rent, inspect, pour)	2	8	0	30-Sep-20 A	04-Oct-20 A																				
24	Roof conc. Slab: plywood deck, rebar, & Rough MEP	4	2	0	05-Oct-20 A	07-Oct-20 A																				
25	Roof panner and pool walls form, rent, inspect, pour	5	2	0	15-Oct-20 A	17-Oct-20 A																				
26	Strip pool & panner wall forms on the roof	1	0	0	17-Oct-20 A	17-Oct-20 A																				
27	Remove shoring	1	0	0	20-Oct-20 A	20-Oct-20 A																				
28	Pool Work - ADDED SCOPE	90	48	53	07-Sep-20 A	05-Feb-21	48																			
A1020	Discovered Issues with Tiffany Roof Spgs - Pool Design --	5	3	0	07-Sep-20 A	11-Sep-20 A																				
A1030	Received Approved Drawings for Pool Design --	5	0	0	24-Sep-20 A	24-Sep-20 A																				
RES-21200	RFI #70 & #71 - Concrete Weight and Specification (2nd Floor & Pt	5	22	0	05-Oct-20 A	04-Nov-20 A																				
RES-21220	Install Plywood & Waterproofing - Weather Permitting	10	8	0	26-Oct-20 A	06-Nov-20 A																				
RES-21230	Install Drains	1	1	0	09-Nov-20 A	09-Nov-20 A																				
RES-21250	Pour Lightweight Concrete	2	2	0	09-Nov-20 A	10-Nov-20 A																				
RES-21260	Pool Walling and Sealing in Place	3	0	0	20-Nov-20	24-Nov-20																				
A1140	Core for Pool Plumbing Rough	2	0	2	25-Nov-20	30-Nov-20																				
RES-21240	Pool Plumbing Rough	5	0	5	09-Dec-20	15-Dec-20																				
RES-21280	Install Pool Equipment	5	0	5	16-Dec-20	04-Jan-21																				
RES-21270	Install Pool Finishes - Tile & Coping	5	0	5	06-Jan-21	11-Jan-21																				
A1350	Install Landscaping	3	0	3	12-Jan-21	14-Jan-21																				
A1360	Install Artificial Turf	3	0	3	01-Feb-21	05-Feb-21																				
32	CMU to top of 1st TB at elevation 11'-6" (from 0'-0")	44	26	0	01-Sep-20 A	26-Oct-20 A																				
33	CMU to bottom of 2nd TB multiple elevations	5	16	0	08-Sep-20 A	05-Sep-20 A																				
A1010	CMU between 2nd TB & 3rd TB Around Pool	5	6	0	08-Oct-20 A	16-Oct-20 A																				
34	CMU to elevator Mt. Steel Head Beam and Concrete Lid	5	2	0	22-Oct-20 A	26-Oct-20 A																				
Rough Construction		51	69	0	31-Jul-20 A	06-Nov-20 A																				
RES-6650	Build Temp Wall Separating Retail & Residential Core Work	3	0	0	31-Jul-20 A	31-Jul-20 A																				
RES-6640	3rd Floor Wall Framing - Core Only	5	12	0	21-Oct-20 A	06-Nov-20 A																				
4.5 Months 3rd Floor & Roof Framing		184	140	31	04-Sep-20 A	05-Jun-21	50																			
Demo		20	19	0	04-May-20 A	23-May-20 A																				
RES-1260	Identify and locate MEP's for Toy Burch	4	2	0	04-May-20 A	06-May-20 A																				
RES-1390	Demolition - 1st Floor (Retail Area)	7	18	0	05-May-20 A	28-May-20 A																				
RES-1360	Provide Temporary A/C for Toy Burch	1	4	0	07-May-20 A	13-May-20 A																				
Structural		76	116	0	25-May-20 A	05-Nov-20 A																				
RES-1480	Chemical Grounding for 18 Footers - FCH - Main Area	5	19	0	26-May-20 A	22-Jun-20 A																				
RES-6570	Install Plywood 1st Layer Sheathing at 2nd Floor - FCH	5	6	0	12-Jun-20 A	19-Jun-20 A																				
RES-6580	Temp Dry in Complete - 2nd Floor (Using 2nd Cuts and PA W/P Men	3	3	0	19-Jun-20 A	23-Jun-20 A																				
RES-6510	Demolition - 3rd Floor - FCH - Main Area	10	10	0	23-Jun-20 A	27-Jun-20 A																				
RES-1910	Structural Steel Columns and Members 3rd Floor to Roof - Main Area	10	8	0	22-Jul-20 A	04-Aug-20 A																				
RES-1800	Steel Column Extensions 2nd to 3rd Floor - Main Area	10	8	0	22-Jul-20 A	04-Aug-20 A																				
RES-1890	Structural Wood Framing 3rd Floor - Main Area	12	26	0	29-Jul-20 A	25-Aug-20 A																				
RES-6620	Receipt of ASR #5 - Changes to Doors, Stucco, Plumbing, Elec, R	0	0	0	10-Aug-20 A	05-Nov-20 A																				
RES-1960	High Roof Wood Trusses	3	32	0	30-Sep-20 A	05-Nov-20 A																				
Rough Construction		137	121	51	01-Jan-20 A	05-Jun-21	50																			

Activity ID	Activity Name	Org	Ad	Rem	Start	Finish	TR	RESP	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
RES-1630	Install Underground Plumbing Rough (Transition to Plumbing) (FOH)	10	33	0	01-Jun-20	17-Jul-20		PLMB																		
RES-1900	Install Plywood Sheathing at 3rd Floor	5	39	0	06-Aug-20	04-Sep-20		CLMR																		
RES-2040	Floor Drains at High Roof	1	1	0	12-Oct-20	13-Oct-20		PLMB																		
RES-2050	3rd Floor Wall Framing - Main Area	5	8	0	13-Oct-20	23-Oct-20		CRPT																		
RES-21160	RFI #73 - Main Unit Support Clarification	5	8	0	14-Oct-20	28-Oct-20																				
RES-21150	RFI #78 - North Roof Pavilion Wall Reaction for Pool Equipment	5	10	0	19-Oct-20	02-Nov-20																				
RES-1770	Electrical Rough in 3rd Floor	20	24	10	20-Oct-20	04-Dec-20		ELEC																		
RES-1770	Electrical Rough in 3rd Floor	20	24	10	20-Oct-20	04-Dec-20		ELEC																		
RES-2010	High Roof Sheathing	2	1	0	05-Nov-20	05-Nov-20		CRPT																		
A1040	Main deck (2nd Floor) drainage procurement	10	12	7	05-Nov-20	01-Dec-20																				
A1240	RFI #90 - Roof Parapet Detail for Handrail	5	3	4	16-Nov-20	24-Nov-20																				
RES-1940	Install Equipment Cuts and Stands on 3rd Floor	2	0	2	19-Nov-20	20-Nov-20		PLMB																		
RES-2050	Install High Roof & Elevator Roofing	5	0	5	23-Nov-20	02-Dec-20		ROOF																		
A1250	Change order per RFI #90 - Review and Approval	5	0	5	23-Nov-20	02-Dec-20																				
A1230	Install Parapet Capping Waterproof Detail	5	0	5	23-Nov-20	02-Dec-20																				
RES-1930	Floor Drains at 3rd Floor	3	0	3	02-Dec-20	04-Dec-20		PLMB																		
A1070	Pour Lightweight Concrete Topping Slab - Added Scope	4	0	4	08-Dec-20	07-Dec-20																				
RES-1950	Install 3rd Floor Waterproofing 2nd Layer	4	0	4	10-Dec-20	17-Dec-20		ROOF																		
A1050	Install 3rd Floor Roofing (North)	3	0	3	18-Dec-20	05-Jan-21		PLMB																		
RES-2000	Install HVAC Equipment - Pending RFI #73	3	0	3	18-Dec-20	05-Jan-21		PLMB																		
A1200	Pour Concrete on 2nd Floor	3	0	3	18-Dec-20	05-Jan-21																				
Water Meter Added Scope		15	0	16	30-Nov-20	01-Dec-20																				
A1290	Demo Sump and Excavate to Locate Utility Lines	2	0	2	02-Dec-20	03-Dec-20																				
A1280	Run Lines	2	0	2	02-Dec-20	03-Dec-20																				
A1300	Testing & Inspection	10	0	10	04-Dec-20	17-Dec-20																				
A1270	Install Water Meter	2	0	2	18-Dec-20	04-Jan-21																				
Finishes		145	96	68	07-Jul-20	26-Feb-21																				
Finishes		145	96	68	07-Jul-20	26-Feb-21																				
Finishes		145	96	68	07-Jul-20	26-Feb-21																				
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Finishes		145	96	68	07-Jul-20	26-Feb-21																				
Finishes		145	96	68	07-Jul-20	26-Feb-21																				

Activity ID	Activity Name	Org	Act	Rem	Start	Finish	TR	RESP	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
Interior and Exterior Finishes for Residential																										
RES-1820	Install 1st Floor Entry Flooring	104	36	00	28-Sep-20	02-Oct-20	21	FLR																		
RES-21170	- RFI #75 & 71 - Top Elevation Detail for Sliding Glass Door Mats	5	19	0	05-Oct-20	30-Oct-20		MISC																		
RES-1750	Install Exterior Silestone Bridge (7'0" Hiscous/Merit)	2	2	0	06-Oct-20	07-Oct-20		MISC																		
RES-1790	Dimension/Masonry Opening 2nd Floor Walls and Windows	5	5	0	08-Oct-20	14-Oct-20		MASON																		
RES-21180	Weather Impact	5	4	0	17-Oct-20	23-Oct-20		GLAZ																		
RES-2110	Glazing 2nd Floor	5	4	0	27-Oct-20	06-Nov-20		GLAZ																		
A1090	Additional Steel Procurement - Per RFI #75 & 71	5	7	0	30-Oct-20	10-Nov-20		RAIN																		
RES-1830	Exterior Stucco at Toy Beach Side	3	3	0	04-Nov-20	06-Nov-20		RAIN																		
RES-1850	Airings Installation	2	3	0	09-Nov-20	09-Nov-20		SPCC																		
A1100	Install Additional Steel - Per RFI #75 & 71	5	2	3	17-Nov-20	23-Nov-20		RAIN																		
RES-21810	Exterior Stucco Hiscous & North Corner	6	0	3	19-Nov-20	23-Nov-20		GLAZ																		
RES-2120	Install Windows & Sliding Doors 3rd Floor - Detail Reviewed in RFI #75	10	0	10	25-Nov-20	09-Dec-20		RAIN																		
RES-2090	Exterior Stucco/Painting at 3rd Floor	3	0	3	30-Nov-20	02-Dec-20		DOOR																		
RES-2070	Install Exterior HUI Doors and Hardware at 3rd Floor	10	0	10	04-Dec-20	17-Dec-20		DW																		
RES-1820	Hang, Tape and Finish Drywall for Walls and Ceilings - Entry	5	0	5	15-Dec-20	04-Jan-21		GLAZ																		
A1060	Install Finishes - "J" & "T"	10	0	10	15-Dec-20	09-Jan-21		ELEC																		
RES-2100	Install Exterior Glass Railing	10	0	10	04-Jan-21	14-Jan-21		DOOR																		
RES-1890	Install Fire Alarm System	3	0	3	06-Jan-21	08-Jan-21		DOOR																		
RES-1840	Install HUI Doors at 2nd Floor	5	0	5	09-Jan-21	14-Jan-21		RAIN																		
RES-1870	Painting Doors, Walls and Ceilings	3	0	3	15-Jan-21	18-Jan-21		DOOR																		
RES-2080	Install Door Hardware	5	0	5	15-Jan-21	20-Jan-21		ELEC																		
RES-2090	Install Lighting Fixtures - 1st Floor Entry	2	0	2	21-Jan-21	22-Jan-21		ELEC																		
RES-1890	Electrical Fixtures	5	0	5	22-Feb-21	26-Feb-21		ELEC																		
A1340	Precast Window Return Install	25	33	0	21-Sep-20	04-Oct-20																				
Tiffany BOH Renovation																										
RES-21810	Recreate Tiffany's Bathroom and Hallway east of entry Shaft	2	5	0	21-Sep-20	26-Sep-20																				
40	Frame 2nd floor (beigns & joist)	1	5	0	21-Sep-20	26-Sep-20																				
41	2nd floor plywood 1st layer	1	5	0	21-Sep-20	26-Sep-20																				
37	2nd floor temporary dry-l with TPO	3	3	0	30-Sep-20	02-Oct-20																				
38	Drywall bottom of 2nd floor joists (fire tape) (work around shooting)	3	18	0	02-Oct-20	23-Oct-20																				
39	Ground R/C ceiling MEP Rough	4	18	0	06-Oct-20	26-Oct-20																				
RES-6800	Recreate Tiffany's Bathroom	10	10	0	19-Oct-20	31-Oct-20		DW																		
45	Drywall ceilings, tape & finish (By Retail)	4	5	0	22-Oct-20	28-Oct-20																				
44	Paint ceilings before closing	1	1	0	27-Oct-20	27-Oct-20																				
46	Paint ceilings (By Retail)	2	2	0	28-Oct-20	29-Oct-20																				
RET-9070	MEP Trimout Bathroom & Hallway (By Retail)	1	1	0	30-Oct-20	31-Oct-20		DW																		
47	MEP Trimout Bathroom & Hallway (By Retail)	2	2	0	30-Oct-20	31-Oct-20																				
Recreate Tiffany's BOH																										
49	Frame 2nd floor (beigns & joist)	1	1	0	26-Oct-20	26-Oct-20																				
53	2nd floor plywood 1st layer	1	1	0	27-Oct-20	27-Oct-20																				
50	Drywall bottom of 2nd floor joists (fire tape) (work around shooting)	2	1	0	02-Nov-20	03-Nov-20																				
51	Ground R/C ceiling framing (VOID leave as is)	3	1	0	02-Nov-20	03-Nov-20																				
59	Paint ceilings (By Retail) (VOID leave as is)	2	1	0	03-Nov-20	04-Nov-20																				
60	MEP Trimout (By Retail) (VOID leave as is)	2	1	0	03-Nov-20	04-Nov-20																				
52	Ground R/C Ceiling MEP Rough (VOID leave as is)	5	0	0	04-Nov-20	04-Nov-20																				

Project: 191374 & 200182
Files: TASK Item: All Activities
Page: 8 of 10

Start: 05-Jan-20
Finish: 19-Nov-20
Data Date: 19-Nov-20
Run Date: 25-Nov-20

Actual Work

Remaining Work

Critical Remaining Work

Milestones

Summary

Tiffany & Co. Palm Beach Phase II Project - Retail & Residential
Project Schedule - Full - Data Date: 19-Nov-20
BOTH PROJECTS

SUMMARY

Activity ID	Activity Name	Orig Dur	Ad Dur	Rem Dur	Start	Finish	TF	RESP	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
54	2nd floor temporary dry-in with TPO	1	0	0	04-Nov-20 A	04-Nov-20 A																				
56	Install meeting post & DW to comply w/ UL rated assembly	2	0	0	04-Nov-20 A	04-Nov-20 A																				
58	Drywall ceiling, tape & finish (By Retail) (VOC) (Leave as is)	5	0	0	04-Nov-20 A	04-Nov-20 A																				
55	Cut TPO, Plywood, & shoring to install post in contact with	1	1	0	04-Nov-20 A	04-Nov-20 A																				
57	Ceiling inspections before closing (VOC) (Leave as is)	1	1	0	04-Nov-20 A	04-Nov-20 A																				
Reasons: Tiffany's BOH Storage		23	32	0	21-Sep-20 A	04-Nov-20 A																				
62	Frame 2nd floor (beams & post)	2	5	0	21-Sep-20 A	26-Sep-20 A																				
63	2nd floor plywood 1st layer	1	5	0	21-Sep-20 A	26-Sep-20 A																				
64	2nd floor temporary dry-in with TPO	1	5	0	21-Sep-20 A	26-Sep-20 A																				
65	Drywall bottom of 2nd floor joists (fire tape) (work around shoring)	3	19	0	30-Sep-20 A	22-Oct-20 A																				
RES-2510	Restore 1st floor BOH to Temp Conditions (Wet Ceiling and Flooring)	20	25	0	30-Sep-20 A	04-Nov-20 A																				
66	Ground R/C ceiling MEP exposed	3	3	0	26-Oct-20 A	28-Oct-20 A																				
69	Paint ceiling (By Retail)	2	2	0	29-Oct-20 A	31-Oct-20 A																				
Elevator Install - By Owner Vendor		30	0	30	18-Dec-20	09-Feb-21	45																			
A1190	Install Elevator - Rough, Risk, & Cab Finishes	30	0	30	18-Dec-20	09-Feb-21	45																			
Final Inspection/Work Through/Closeout		92	15	31	23-Oct-20 A	05-Mar-21	47																			
Final Inspection/Work Through/Closeout		15	15	0	23-Oct-20 A	13-Nov-20 A																				
RET2270	Create Punchlist	1	0	0	23-Oct-20 A	23-Oct-20 A																				
RET2300	Excuse Punchlist	3	9	0	23-Oct-20 A	05-Nov-20 A																				
RET2390	Final Clean	1	8	0	03-Nov-20 A	13-Nov-20 A																				
RET2400	Final Inspections	3	7	0	04-Nov-20 A	13-Nov-20 A																				
RET2400	Substantial Completion	0	0	0		13-Nov-20 A																				
RET2410	Turn Over to Client	0	0	0		13-Nov-20 A																				
Tiffany & Co - Palm Beach Phase II - Residential		21	0	33	21-Jun-21	05-Sep-21	47																			
Final Inspection/Work Through/Closeout		21	0	33	21-Jun-21	05-Sep-21	47																			
RES2130	Pre-Walkthrough Cleaning	1	0	1	21-Jun-21	21-Jun-21	43																			
RES2140	Create Punch List	1	0	1	21-Jun-21	21-Jun-21	43																			
RES2160	Punch List Corrections	5	0	5	23-Jun-21	28-Jun-21	43																			
RES2170	Final Clean	1	0	1	28-Jun-21	28-Jun-21	43																			
RES2190	Final MEP and Building Inspections for CC	5	0	5	01-Jul-21	05-Jul-21	47																			
RES2180	PROJECT COMPLETE / TURNOVER	0	0	0		05-Jul-21	47																			

Proj: 181374 & 200182
 Filter: TASK filter All Activities
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Start: 24-Jun-20
 Finish: 05-Mar-21
 Data Date: 19-Nov-20
 Run Date: 25-Nov-20

Actual Work
 Remaining Work
 Critical Remaining Work

Milestone
 Summary

Tiffany & Co. Palm Beach Phase II Project - Retail & Residential
 Project Schedule - Full - Data Date: 19-Nov-20
 BOTH PROJECTS

Second
Request

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 14, 2020

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, Director of Planning, Zoning & Building

Re: Waiver of Town Code Section 42-199, For Extended Working Hours at 259 Worth Avenue

Date: September 23, 2020

STAFF RECOMMENDATION

Staff recommends that the Town Council consider a request for an extension of the days for construction work that is underway at 259 Worth Avenue (Tiffany & Co. Palm Beach). If approved, staff recommends that the approval is conditioned upon the September 3, 2020 letter and attachments from Maura Ziska, Esq., in which she describes the details of the request.

Staff has notified the applicant that granting of extended working hours is the sole discretion of the Town Council.

GENERAL INFORMATION

The applicant is requesting an extension of time to complete renovations at 259 Worth Avenue. The project involves interior and exterior work, converting the second floor to a single residential dwelling unit and adding a small third floor for the dwelling unit. The applicant is requesting work hours throughout the prohibited winter season, which begins on November 1, through the end of April. The proposed completion date is the beginning of December, 2020.

Ordinance 03-2018, passed by the Town Council on second reading on February 13, 2018, modified the construction working hours in the Town as follows:

Sec. 42-199. - Hours for construction work.

- (b) *Limited. Beginning on the Monday preceding Thanksgiving, and during the months of December, January, February, March, and April of each year, construction work not otherwise prohibited by section 42-198 or other work resulting in noise tending to disturb the people in the vicinity thereof shall not begin until the hour of 8:00 a.m., and shall cease at the hour of 5:00 p.m., except Saturday, Sunday, and legal holidays, when all construction work is prohibited. In no event shall heavy equipment or other construction-related noise be permitted before 9:00 a.m. At all other times such work may commence at 8:00 a.m. and cease at the hour of 6:00 p.m., except Saturdays, Sundays and legal holidays, including the Friday immediately after Thanksgiving, when all construction work is restricted or prohibited. Construction work is permissible on Saturdays from May through the Monday preceding Thanksgiving, but subject to the following restrictions: work shall not begin until the hour of 9:00 a.m.*

and shall cease at the hour of 5:00 p.m.; all work must be quiet in nature during which all of the noise and machinery prohibitions identified in section 42-198 are applicable; material deliveries are prohibited in all cases unless the Building Official waives such restriction due to compelling circumstances; concrete pours and concrete sawing is prohibited unless the Building Official waives such restriction due to compelling circumstances; and the razing of buildings is prohibited, with the exception of non-mechanized debris clean-up. The permitted hours for construction work in the C-WA zoning district shall be from 8:00 a.m. until 8:00 p.m. during the months commencing May 1 and ending on October 31, except Sundays and legal holidays, when all construction work is prohibited.

(c) Exceptions.

(5) The town council, in its discretion, for the benefit of the health, safety and welfare of the residents of the town may, by resolution, temporarily amend the hours for construction work referenced herein.

The applicant is requesting an extension of these working days to complete the renovation. The applicant was asked to notify surrounding property owners of the request and of the date of this meeting.

Staff recommends the Town Council consider the construction hour extension, as requested. For reference, the conditions attached by the Town Council for similar requests are:

- Saturday interior work only.
- The PZB Director has the authority to shut down work if problems or complaints arise.
- All contractor parking and deliveries of materials to be made from the side streets or from the Apollo or similar parking lots, not from Worth Avenue.
- Valet parking takes precedence over contractor parking in the Apollo parking lot, meaning if they ask the contractor to leave, the request must be followed.
- The contractor will take off the week of Thanksgiving (11/21 – 11/29) and during the Christmas / New Year holidays (12/19 – 1/3/21).
- Staff also requests that the contractor stop work on Hanukkah, Friday, 12/11.

Attachment – Letter, with attachments, from Maura Ziska, Esq., dated September 3, 2020

WRB

cc: Ben Alma, Police Department

TOWN OF PALM BEACH

First
Request

Information for Town Council Meeting on: April 15, 2020

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, Acting Director of Planning, Zoning & Building

Re: Waiver of Town Code Section 42-199, For Extended Working Hours at 259 Worth Avenue
– Second & Third Floor Buildout of the Tiffany Building

Date: March 26, 2020

STAFF RECOMMENDATION

Staff recommends that the Town Council consider a request for an extension of work hours for the buildout of the second and third floors of the Tiffany Building, 259 Worth Avenue. If approved, staff recommends that it be conditioned upon the March 26, 2020 letter (attached) from Maura Ziska, Esq., along with the draft CPM construction schedule, which shows construction to begin on or about April 15, 2020 (two weeks early), and to conclude October 31, 2020.

Staff has notified the applicant that granting of extended working hours is the sole discretion of the Town Council.

GENERAL INFORMATION

The applicant is requesting to start the work in the Worth Avenue zoning district two weeks prior to the normal May 1 start date. This addition two weeks of construction work would allow the completion of the project by the normal stop date for Worth Avenue work on October 31.

Ordinance 03-2018, passed by the Town Council on second reading on February 13, 2018, modified the construction working hours in the Town as follows:

Sec. 42-199. - Hours for construction work.

- (b) *Limited. Beginning on the Monday preceding Thanksgiving, and during the months of December, January, February, March, and April of each year, construction work not otherwise prohibited by section 42-198 or other work resulting in noise tending to disturb the people in the vicinity thereof shall not begin until the hour of 8:00 a.m., and shall cease at the hour of 5:00 p.m., except Saturday, Sunday, and legal holidays, when all construction work is prohibited. In no event shall heavy equipment or other construction-related noise be permitted before 9:00 a.m. At all other times such work may commence at 8:00 a.m. and cease at the hour of 6:00 p.m., except Saturdays, Sundays and legal holidays, including the Friday immediately after Thanksgiving, when all construction work is restricted or prohibited. Construction work is permissible on Saturdays from May through the Monday preceding*

Thanksgiving, but subject to the following restrictions: work shall not begin until the hour of 9:00 a.m. and shall cease at the hour of 5:00 p.m.; all work must be quiet in nature during which all of the noise and machinery prohibitions identified in section 42-198 are applicable; material deliveries are prohibited in all cases unless the Building Official waives such restriction due to compelling circumstances; concrete pours and concrete sawing is prohibited unless the Building Official waives such restriction due to compelling circumstances; and the razing of buildings is prohibited, with the exception of non-mechanized debris clean-up. The permitted hours for construction work in the C-WA zoning district shall be from 8:00 a.m. until 8:00 p.m. during the months commencing May 1 and ending on October 31, except Sundays and legal holidays, when all construction work is prohibited.

(c) *Exceptions.*

- (5) *The town council, in its discretion, for the benefit of the health, safety and welfare of the residents of the town may, by resolution, temporarily amend the hours for construction work referenced herein.*

The applicant was asked to notify surrounding property owners of the request and of the date of this meeting, as required.

Attachments – March 26, 2020 letter from Maura Ziska and the proposed construction schedule.

WRB

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 9, 2020

Section of Agenda

Development Review - Old Business

Agenda Title

Z-19-00232 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND

VARIANCE(S) Zoning District: C-WA Worth Avenue The application of 125 Worth Partners, LLC, Applicant, relative to property located at **125 WORTH AVE**, legal description on file, is described below. The applicant requests Site Plan Review modification approval for revitalization, renovation and expansion of the 45 year-old nonconforming commercial building located at 125 Worth Avenue in the C-WA zoning district. The building will be completely renovated architecturally using design themes found in the Worth Avenue Design Guidelines. In addition, a two story addition is being proposed on the east end of the property. To make this project financially feasible, the owners are requesting to demolish and rebuild the existing fourth story and expand its footprint to add four residential units. In addition to the Site Plan Review proposed modifications, the applicant is requesting the following Special Exceptions and Variances required to complete the project: 1. Per Section 134-1163(8)b., a special exception for a two-story and fourth story addition. The existing building is four stories but it is being expanded. 2 . Per Section 134-2182(b), a special exception for on-site shared parking, subject to a professional shared parking analysis. 3. Per Section 134-419, a variance to allow an expansion of an existing nonconforming building by increasing the height from 53' in lieu of the 49'2" existing and the 25' maximum allowed by code. 4. Section 134-419, a variance to allow an expansion of an existing nonconforming building by increasing the overall building height to 63'4" in lieu of the 53'8" existing and the 35' maximum allowed by current code. 5. Per Section 134-419, variance to allow an expansion of an existing nonconforming building by increasing the existing air conditioned floor area of the fourth story to 13,212.9 square feet from 3,448.75 square feet existing. An open fourth story trellis of 5,433 square feet is also proposed in this application and included in the calculation of lot coverage, below. There is an existing exterior fourth floor covered area of approximately 3,290 Square feet in addition to the existing air conditioned floor area on the fourth story of the building. 6. Per Section 134-1163(5), variance to allow a minimum front yard setback of 1'1" for portions of the building in lieu of the 5' existing and the 5' minimum required on the private property. The sidewalk is required to be a

minimum of 10' wide and this proposal is a minimum of 8'2' in the area where the sidewalk is only 1'1" wide on private property. 7 . Per Section 134-1163(9)b., variance for lot coverage of 71% on the first floor in lieu of the 57% existing and the 35% maximum allowable. 8 . Per Section 134-1163(9)b., variance for lot coverage of 71% on the second floor in lieu of the 57% existing and the 35% maximum allowed for second story. 9. Per Section 134-1163(9)b., variance for lot coverage of 54% on the fourth floor in lieu of the 20% existing and the 35% maximum allowable by code. 10. Per Section 134-419, a variance to allow an expansion of an existing nonconforming building by increasing the existing building length at the east end of the building from 201'8" to 246' in lieu of the 150' permitted as of right in the C-WA zoning district. [Applicant's Representative: James M. Crowley Esq] **Request For Deferral To the January 13, 2020 Meeting Per Letter From James M. Crowley.**

-
-

Presenter

ATTACHMENTS:

- ▣ **Letter Dated November 24, 2020 from James M. Crowley**
- ▣ **Kimley Horn Shared Parking Study**



GUNSTER
FLORIDA'S LAW FIRM FOR BUSINESS

Our File Number: 48395.00001
Writer's Direct Dial Number: (561) 650-0633
Writer's E-Mail Address: jcrowley@gunster.com

November 24, 2020

VIA E-MAIL

Paul Castro, Zoning Manager
Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480

Re: Z-19-00232 - 125 Worth Avenue

Dear Paul:

As you know, this project was deferred at the November 20th ARCOM meeting. Therefore, on behalf of our client, 125 Worth Partners, LLC, I would like to formally request to defer this matter from the December 9, 2020 to the January 13, 2021 Town Council agenda.

Thank you for your assistance.

Sincerely,

James M. Crowley, Esq.

JMC/op
Enclosures

cc:

Kelly Churney
Robert Frisbie (*via email*)

ACTIVE:12731857.1



November 8, 2019

Mr. Robert Frisbie, Jr.
125 Worth Partners LLC
125 Worth Avenue, Suite 112
Palm Beach, FL 33480

RE: 125 Worth Avenue - Parking Supply Evaluation
Palm Beach, Florida
Kimley-Horn # 140616000

Dear Rob:

Kimley-Horn and Associates, Inc. has undertaken the following review and analysis to evaluate the overall parking supply requirements for the proposed modification of the development program at the 125 Worth Ave site, which is located on the north side of Worth Avenue between South Ocean Boulevard and South County Road in the Town of Palm Beach, Florida. **Figure 1** illustrates the site location, and a site plan is attached for reference. The site currently includes 39,206 square feet of general office use and 19,738 square feet of commercial retail use. The proposed modifications to the site will enclose current open-air parking areas at grade level, eliminate remaining at-grade parking and add four residential units on the fourth floor of the building. **Table 1** summarizes the uses that are proposed on site following the site modifications.

Table 1 – Summary of Proposed Uses

Use	Intensity
Commercial / Retail	24,556 square feet
Residential (Condominium)	4 dwelling units
Office	39,608 square feet

Determination of Parking Supply Need

To evaluate the supply requirements for off-street parking for the overall site following redevelopment, a shared parking analysis was undertaken using the methodology and data published by the Urban Land Institute (ULI) in *Shared Parking, Second Edition*. The principle of shared parking can be applied to sites with multiple uses to reflect that the peak parking demand for each individual use may not coincide and therefore some efficiency can be achieved in the supply of parking provided to account for the variation on parking demand over different times of day as well as different times of the year. Following is a summary of the evaluation that was undertaken.



LEGEND



PROJECT SITE

FIGURE 1

SITE LOCATION

125 WORTH AVENUE

Baseline Parking Ratios

For the initial portion of the analysis, the baseline (unadjusted) parking supply was determined for each use on site using ratios published by ULI in *Shared Parking, Second Edition*. ULI does not publish a parking ratio for a coffee shop; therefore, the analysis uses the average parking demand data published by the Institute of Transportation Engineers (ITE) in *Parking Generation, Fourth Edition* for a “Coffee/Donut Shop without Drive-Through Window”. Different ratios are provided for weekday and weekend conditions as well as for employee/resident parking and customer/visitor parking. **Table 2** provides a summary of the baseline parking ratios for each use for weekday and weekend uses along with the number of parking spaces assigned to each component of the various land uses.

Table 2 - Baseline Parking Ratio Determination

Land Use	Quantity	Unit	User	Weekday	Weekend	Unit	Weekday	Weekend
				Base (# of spaces)	Base (# of spaces)		Parking Spaces	Parking Spaces
Community Shopping Center (<400,000 sq. ft.)	24.556	ksf	Visitors	2.90	3.20	/ksf GLA	71	79
			Employees	0.70	0.80		17	20
Residential, Owned	4	units	Guest	0.15	0.15	/unit	1	1
			Resident	1.70	1.70		7	7
Office (25,000 to 100,000 sq. ft.)	39.608	ksf	Visitors	0.29	0.03	/ksf GLA	11	1
			Employees	3.43	0.34		136	14

Parking Adjustment – Time of Day Variation and Monthly Variation

After the initial determination of the baseline (unadjusted) parking supply, time of day factors were applied to the employee and visitor/customer components of the parking demand for each use using hourly adjustment factors published by ULI in *Shared Parking, Second Edition*. Separate calculations have been undertaken for both weekday and weekend conditions. The weekend conditions also account for significantly reduced parking demand for the office use on those days.

Similarly, demand fluctuates for different uses on a month-to-month basis. Monthly adjustment factors published by ULI in *Shared Parking, Second Edition* have also been applied to account for the differences in parking demand on a monthly basis. Tables that show the hourly variation in parking needs for both weekdays and weekends have been prepared for each month, using the monthly adjustment factors, and are attached to this letter.

Average Demand Determination

To further evaluate the parking requirements for the site, the hour-by-hour total parking requirement was averaged over the course of the day on a weekday and weekend basis. This average calculation was conducted on a month-by-month basis to determine the average anticipated parking requirement for the site during each month of the year. **Table 3** provides a summary of these calculations

Table 3 – Month-By-Month Average Daily Parking Occupancy

	Month												
	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Late Dec.
Weekday Peak	204	204	209	208	210	211	202	205	209	210	216	237	87
Weekend Peak	73	74	79	79	81	82	79	83	79	81	88	112	86

The average of all of the values listed above is 142 parking spaces.

Public Parking Availability

The Town of Palm Beach allows for a reduced number of parking spaces required if public parking is accessible to the site patrons. 125 Worth Ave is directly situated on a roadway (Worth Avenue) with available public parallel parking on the north and south side of the street. Therefore, an additional calculation was conducted that applied an 85% adjustment to the calculation above. **Table 4** provides a summary of the reduced average peak parking demand by month.

Table 4 – Month-By-Month Average Daily Parking Occupancy with 15% Reduction

	Month												
	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Late Dec.
Weekday Peak	173	174	178	177	179	179	171	174	178	179	184	201	74
Weekend Peak	62	63	68	67	69	70	67	71	68	69	75	95	73

The average of all of the values listed above is 121 spaces. The parking supply available in the underground parking facility on site is 134 spaces. Because the parking supply provided on site exceeds the calculation of the overall average annual parking demand, it is not required to request a variance from the Town for the parking supply.

Conclusion

As documented in this evaluation, the average overall parking demand for the site with a 15% reduction is 121 parking spaces. A supply of 134 spaces will be provided; therefore, it is not required to seek a variance from the Town of Palm Beach. Should you have any questions, please contact me via e-mail at chris.heggen@kimley-horn.com or via telephone at (561) 840-0248.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.

Christopher W. Heggen, P.E.
Transportation Engineer

Florida Registration
Number 58636
Certificate of Authorization
Number 696

Attachments

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January

Use	Ratio	Unit	Monthly Factor	Hour	Weekday											Weekend								
					AM					Noon			PM			Midnight								
					6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	Midnight	
Shopping Center - Typical																								
Customer	2.90	25	56% /KGSF		0	2	6	14	26	34	38	40	38	36	36	38	38	38	32	20	12	4	0	
Time of Day Factor					1%	5%	15%	35%	65%	85%	95%	100%	95%	90%	90%	95%	95%	95%	80%	50%	30%	10%	0%	
Employee	0.70		80% /KGSF		1	2	6	10	12	13	14	14	14	14	14	13	13	13	12	10	6	2	0	
Time of Day Factor					10%	15%	40%	75%	85%	95%	100%	100%	100%	100%	100%	95%	95%	95%	90%	75%	40%	15%	0%	
Residential																								
Customer	0.15	4	100% /units		0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1	0	0	
Time of Day Factor					0%	10%	20%	20%	20%	20%	20%	20%	20%	20%	20%	40%	60%	100%	100%	100%	100%	80%	50%	
Employee	1.60		100% /units		6	6	5	5	5	4	4	4	4	4	5	5	6	6	6	6	6	6	6	
Time of Day Factor					100%	90%	85%	80%	75%	70%	65%	70%	70%	70%	75%	85%	90%	97%	98%	99%	100%	100%	100%	
Office																								
Visitor	0.29	40	100% /KGSF		0	0	2	7	11	5	2	5	11	5	2	1	1	0	0	0	0	0	0	
Time of Day Factor					0%	1%	20%	60%	100%	45%	15%	45%	100%	45%	15%	10%	5%	2%	1%	0%	0%	0%	0%	
Employee	3.43		100% /KGSF		4	41	102	129	136	136	122	122	136	136	122	68	34	14	10	4	1	0	0	
Time of Day Factor					3%	30%	75%	95%	100%	100%	90%	90%	100%	100%	90%	50%	25%	10%	7%	3%	1%	0%	0%	
Total Needed					12	51	121	166	190	193	180	186	204	195	179	126	92	72	61	41	26	13	7	
Excess					122	83	13	-32	-56	-59	-46	-52	-70	-61	-45	8	42	62	73	93	108	121	127	
Weekday Peak					204																			
Weekend Peak					73																			
Average Weekday Excess					23																			
Average Weekend Excess					89																			

Note:

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January

Use	Hour Ratio	AM							PM							Weekend				
		6	7	8	9	10	11	Noon	1	2	3	4	5	6	7	8	9	10	11	Midnight
Shopping Center - Typical																				
Customer	3.20	0	2	4	13	22	29	35	40	44	44	42	40	35	33	29	22	15	7	0
Time of Day Factor		1%	5%	10%	30%	50%	65%	80%	90%	100%	100%	95%	90%	80%	75%	65%	50%	35%	15%	0%
Employee	0.80	2	2	6	12	13	15	16	16	16	16	16	15	13	13	12	10	7	2	0
Time of Day Factor		10%	15%	40%	75%	85%	95%	100%	100%	100%	100%	100%	95%	85%	80%	75%	65%	45%	15%	0%
Residential																				
Customer	0.15	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1	0	0
Time of Day Factor		0%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	40%	60%	100%	100%	100%	100%	80%	50%
Employee	1.60	6	6	5	5	5	4	4	4	4	4	5	5	6	6	6	6	6	6	6
Time of Day Factor		100%	90%	85%	80%	75%	70%	65%	70%	70%	70%	75%	85%	90%	97%	98%	99%	100%	100%	100%
Office																				
Visitor	0.03	0	0	1	1	1	1	1	1	1	0	0	0	0	0	0	0	0	0	0
Time of Day Factor		0%	20%	60%	80%	90%	100%	90%	80%	60%	40%	20%	10%	5%	0%	0%	0%	0%	0%	0%
Employee	0.34	0	3	8	11	12	14	12	11	8	5	3	1	1	0	0	0	0	0	0
Time of Day Factor		0%	20%	60%	80%	90%	100%	90%	80%	60%	40%	20%	10%	5%	0%	0%	0%	0%	0%	0%
Total Needed																				
	8	13	25	42	54	63	69	72	72	73	70	65	62	55	52	47	39	29	16	7
Weekday Peak		126	121	109	92	80	71	65	62	61	64	69	72	79	82	87	95	105	118	127
Weekend Peak																				
Average Weekday Excess																				
Average Weekend Excess																				
Note:																				

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Kimley»Horn



February

Use	Ratio	Unit	Monthly Factor	Hour	AM												PM											Midnight
					6	7	8	9	10	11	Noon	1	2	3	4	5	6	7	8	9	10							
Shopping Center - Typical																												
Customer	2.90	25			0	2	6	14	26	35	39	41	39	37	37	39	39	39	32	20	12	4	0					
Time of Day Factor			57% /KGSF		1%	5%	15%	35%	65%	85%	95%	100%	95%	90%	90%	95%	95%	95%	80%	50%	30%	10%	0%					
Employee	0.70		80% /KGSF		1	2	6	10	12	13	14	14	14	14	14	13	13	13	12	10	6	2	0					
Time of Day Factor					10%	15%	40%	75%	85%	95%	100%	100%	100%	100%	100%	95%	95%	95%	90%	75%	40%	15%	0%					
Residential																												
Customer	0.15	4			0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1	0	0					
Time of Day Factor			100% /units		0%	10%	20%	20%	20%	20%	20%	20%	20%	20%	20%	40%	60%	100%	100%	100%	100%	80%	50%					
Employee	1.60		100% /units		6	6	5	5	5	4	4	4	4	4	5	5	5	6	6	6	6	6	6					
Time of Day Factor					100%	90%	85%	80%	75%	70%	65%	70%	70%	70%	75%	85%	90%	97%	98%	99%	100%	100%	100%					
Office																												
Visitor	0.29	40			0	0	2	7	11	5	2	5	11	5	2	1	1	0	0	0	0	0	0					
Time of Day Factor			100% /KGSF		0%	1%	20%	60%	100%	45%	15%	45%	100%	45%	15%	10%	5%	2%	1%	0%	0%	0%	0%					
Employee	3.43		100% /KGSF		4	41	102	129	136	136	122	122	136	136	122	68	34	14	10	4	1	0	0					
Time of Day Factor					3%	30%	75%	95%	100%	100%	90%	90%	100%	100%	90%	50%	25%	10%	7%	3%	1%	0%	0%					
Total Needed					12	51	121	186	190	193	181	186	204	196	179	126	92	72	61	42	26	13	7					
Excess					122	83	13	-32	-56	-59	-47	-52	-70	-62	-45	8	42	62	73	92	108	121	127					
Weekday Peak					204																							
Weekend Peak					74																							
Average Weekday Excess					22																							
Average Weekend Excess					88																							
Note:																												

Note:

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February

[illegible]

March

Use	Ratio	Unit	Monthly Factor	Hour	Weekday											Weekend							
					AM					Noon			PM			Saturday				Sunday			
					6	7	8	9	10	11	1	2	3	4	5	6	7	8	9	10	11	Midnight	
Shopping Center - Typical					0	2	7	16	30	39	43	46	43	41	41	43	43	43	36	23	14	5	0
Customer	2.90	25	64% /KGSF	1%	5%	15%	35%	65%	85%	95%	100%	95%	90%	90%	95%	95%	95%	80%	50%	30%	10%	0%	0
Time of Day Factor				1	2	6	10	12	13	14	14	14	14	14	14	13	13	13	12	10	6	2	0
Employee	0.70		80% /KGSF	10%	15%	40%	75%	85%	95%	100%	100%	100%	100%	100%	100%	95%	95%	95%	90%	75%	40%	15%	0%
Time of Day Factor																							
Residential					0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1	0	0
Customer	0.15	4	100% /units	0%	10%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	40%	60%	100%	100%	100%	80%	50%	0
Time of Day Factor				6	6	5	5	5	4	4	4	4	4	4	5	5	6	6	6	6	6	6	6
Employee	1.60		100% /units	100%	90%	85%	80%	75%	70%	65%	70%	70%	70%	70%	75%	85%	90%	97%	98%	99%	100%	100%	100%
Time of Day Factor																							
Office					0	0	2	7	11	5	2	5	11	5	2	1	1	0	0	0	0	0	0
Visitor	0.29	40	100% /KGSF	0%	1%	20%	60%	100%	45%	15%	45%	100%	45%	15%	10%	5%	2%	1%	0%	0%	0%	0%	0
Time of Day Factor				4	41	102	129	136	136	122	122	136	136	122	68	34	14	10	4	1	0	0	0
Employee	3.43		100% /KGSF	3%	30%	75%	95%	100%	100%	90%	90%	100%	100%	100%	90%	50%	25%	10%	7%	3%	1%	0%	0%
Time of Day Factor																							
Total Needed					12	51	122	168	194	198	185	191	209	200	184	131	97	77	65	44	28	14	7
Excess					122	83	12	-34	-60	-64	-51	-57	-75	-66	-50	3	37	57	69	90	106	120	127
Weekday Peak																							
Weekend Peak																							
Weekend Peak Excess																							
Average Weekday Excess																							
Average Weekend Excess																							
Note:																							

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March

Use	Hour Ratio	AM											Weekend											PM										
		6	7	8	9	10	11	Noon	1	2	3	4	5	6	7	8	9	10	11	Midnight														
Shopping Center - Typical																																		
Customer	3.20	1	3	5	15	25	33	40	45	50	50	48	45	40	38	33	25	18	8	0														
Time of Day Factor		1%	5%	10%	30%	50%	65%	80%	90%	100%	100%	95%	90%	80%	75%	65%	50%	35%	15%	0%														
Employee	0.80	2	2	6	12	13	15	16	16	16	16	16	15	13	13	12	10	7	2	0														
Time of Day Factor		10%	15%	40%	75%	85%	95%	100%	100%	100%	100%	100%	95%	85%	80%	75%	65%	45%	15%	0%														
Residential																																		
Customer	0.15	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1	0	0														
Time of Day Factor		0%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	40%	60%	100%	100%	100%	100%	80%	50%														
Employee	1.60	6	6	5	5	5	4	4	4	4	4	4	5	5	6	6	6	6	6	6														
Time of Day Factor		100%	90%	85%	80%	75%	70%	65%	70%	70%	70%	75%	85%	90%	97%	98%	99%	100%	100%	100%														
Office																																		
Visitor	0.03	0	0	1	1	1	1	1	1	1	0	0	0	0	0	0	0	0	0	0														
Time of Day Factor		0%	20%	60%	80%	90%	100%	90%	80%	60%	40%	20%	10%	5%	0%	0%	0%	0%	0%	0%														
Employee	0.34	0	3	8	11	12	14	12	11	8	5	3	1	1	0	0	0	0	0	0														
Time of Day Factor		0%	20%	60%	80%	90%	100%	90%	80%	60%	40%	20%	10%	5%	0%	0%	0%	0%	0%	0%														
Total Needed																																		
	8	14	26	44	57	67	67	74	77	79	77	71	67	60	57	51	42	32	17	7														
Weekday Peak																																		
	126	120	108	90	77	67	60	57	55	57	57	63	67	74	77	83	92	102	117	127														
Weekend Peak																																		
Average Weekday Excess																																		
Average Weekend Excess																																		

Note:

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Note:

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Weekday

Note:

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April

Use	Hour Ratio	Weekend											PM							
		6	7	8	9	10	11	Noon	1	2	3	4	5	6	7	8	9	10	11	Midnight
Shopping Center - Typical																				
Customer	3.20	0	2	5	15	25	32	40	45	50	50	47	45	40	37	32	25	17	7	0
Time of Day Factor		1%	5%	10%	30%	50%	65%	80%	90%	100%	100%	95%	90%	80%	75%	65%	50%	35%	15%	0%
Employee	0.80	2	2	6	12	13	15	16	16	16	16	16	15	13	13	12	10	7	2	0
Time of Day Factor		10%	15%	40%	75%	85%	95%	100%	100%	100%	100%	100%	95%	85%	80%	75%	65%	45%	15%	0%
Residential																				
Customer	0.15	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1	0	0
Time of Day Factor		0%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	40%	60%	100%	100%	100%	100%	80%	50%
Employee	1.60	6	6	5	5	5	4	4	4	4	4	5	5	6	6	6	6	6	6	6
Time of Day Factor		100%	90%	85%	80%	75%	70%	65%	70%	70%	70%	75%	85%	90%	97%	98%	99%	100%	100%	100%
Office																				
Visitor	0.03	0	0	1	1	1	1	1	1	1	0	0	0	0	0	0	0	0	0	0
Time of Day Factor		0%	20%	60%	80%	90%	100%	90%	80%	60%	40%	20%	10%	5%	0%	0%	0%	0%	0%	0%
Employee	0.34	0	3	8	11	12	14	12	11	8	5	3	1	1	0	0	0	0	0	0
Time of Day Factor		0%	20%	60%	80%	90%	100%	90%	80%	60%	40%	20%	10%	5%	0%	0%	0%	0%	0%	0%
Total Needed		8	14	26	44	56	67	73	77	79	76	71	67	60	57	51	42	31	17	7
Weekday Peak		126	120	108	90	78	67	61	57	55	58	63	67	74	77	83	92	103	117	127
Weekend Peak																				
Average Weekday Excess																				
Average Weekend Excess																				

Note:

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Note:

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May

Use	Ratio	Unit	Monthly Factor	Hour	Weekday																		
					AM						PM												
					6	7	8	9	10	11	Noon	1	2	3	4	5	6	7	8	9	10	11	Midnight
Shopping Center - Typical	Customer	2.90	25	66% /KGSF	0	2	7	16	31	40	45	47	45	42	42	45	45	45	38	24	14	5	0
	Time of Day Factor				1%	5%	15%	35%	65%	85%	95%	100%	95%	90%	90%	95%	95%	80%	50%	30%	10%	0%	
	Employee	0.70		80% /KGSF	1	2	6	10	12	13	14	14	14	14	14	13	13	13	12	10	6	2	0
	Time of Day Factor				10%	15%	40%	75%	85%	95%	100%	100%	100%	100%	100%	95%	95%	95%	90%	75%	40%	15%	0%
	Residential																						
Residential	Customer	0.15	4	100% /units	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1	0	0
	Time of Day Factor				0%	10%	20%	20%	20%	20%	20%	20%	20%	20%	20%	40%	60%	100%	100%	100%	100%	80%	50%
	Employee	1.60		100% /units	6	6	5	5	5	4	4	4	4	4	5	5	6	6	6	6	6	6	6
	Time of Day Factor				100%	90%	85%	80%	75%	70%	65%	70%	70%	70%	75%	85%	90%	97%	98%	99%	100%	100%	100%
	Office																						
Office	Visitor	0.29	40	100% /KGSF	0	0	2	7	11	5	2	5	11	5	2	1	1	0	0	0	0	0	0
	Time of Day Factor				0%	1%	20%	60%	100%	45%	15%	45%	100%	45%	15%	10%	5%	2%	1%	0%	0%	0%	0%
	Employee	3.43		100% /KGSF	4	41	102	129	136	136	122	122	136	136	122	68	34	14	10	4	1	0	0
	Time of Day Factor				3%	30%	75%	95%	100%	100%	90%	90%	100%	100%	90%	50%	25%	10%	7%	3%	1%	0%	0%
	Total Needed				12	51	122	168	195	199	187	193	210	202	185	133	98	78	66	45	28	14	7
Weekday Peak	210			Excess	122	83	12	-34	-61	-65	-53	-59	-76	-68	-51	1	36	56	68	89	106	120	127
Weekend Peak	81																						
Average Weekday Excess	19																						
Average Weekend Excess	84																						

Note:

Note:

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June

Use	Ratio	Unit	Monthly Factor	Hour	AM											PM										
					6	7	8	9	10	11	Noon	1	2	3	4	5	6	7	8	9	10	11	Midnight			
Shopping Center - Typical																										
Customer	2.90	25	67% /KGSF		0	2	7	17	31	41	45	48	45	43	43	45	45	45	38	24	14	5	0			
Time of Day Factor					1%	5%	15%	35%	65%	85%	95%	100%	95%	90%	90%	95%	95%	80%	50%	30%	10%	0%	0			
Employee	0.70		80% /KGSF		1	2	6	10	12	13	14	14	14	14	14	13	13	13	12	10	6	2	0			
Time of Day Factor					10%	15%	40%	75%	85%	95%	100%	100%	100%	100%	100%	95%	95%	95%	90%	75%	40%	15%	0%			
Residential																										
Customer	0.15	4	100% /units		0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1	0	0			
Time of Day Factor					0%	10%	20%	20%	20%	20%	20%	20%	20%	20%	20%	40%	60%	100%	100%	100%	80%	50%	0			
Employee	1.60		100% /units		6	6	5	5	5	4	4	4	4	4	5	5	5	6	6	6	6	6	6			
Time of Day Factor					100%	90%	85%	80%	75%	70%	65%	70%	70%	70%	75%	85%	90%	97%	98%	99%	100%	100%	100%			
Office																										
Visitor	0.29	40	100% /KGSF		0	0	2	7	11	5	2	5	11	5	2	1	1	0	0	0	0	0	0			
Time of Day Factor					0%	1%	20%	60%	100%	45%	15%	45%	100%	45%	15%	10%	5%	2%	1%	0%	0%	0%	0			
Employee	3.43		100% /KGSF		4	41	102	129	136	136	122	122	136	136	122	68	34	14	10	4	1	0	0			
Time of Day Factor					3%	30%	75%	95%	100%	100%	90%	90%	100%	100%	90%	50%	25%	10%	7%	3%	1%	0%	0%			
Total Needed					12	51	122	168	195	199	187	194	211	202	186	133	99	79	67	45	28	14	7			
Excess					122	83	12	-34	-61	-65	-53	-60	-77	-68	-52	1	35	55	67	89	106	120	127			
Weekday Peak					211																					
Weekend Peak					82																					
Average Weekday Excess					18																					
Average Weekend Excess					84																					
Note:																										

Note:

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June

Use		Weekend																			
		AM					PM					Midnight									
Hour Ratio	6	7	8	9	10	11	Noon	1	2	3	4	5	6	7	8	9	10	11	Midnight		
Shopping Center - Typical	Customer	3.20	1	3	5	16	26	34	42	47	53	53	50	47	42	39	34	26	18	8	0
	Time of Day Factor	1%	5%	10%	30%	50%	65%	80%	90%	100%	100%	95%	90%	80%	75%	65%	50%	35%	15%	0%	
	Employee	0.80	2	2	6	12	13	15	16	16	16	16	16	15	13	13	12	10	7	2	0
	Time of Day Factor	10%	15%	40%	75%	85%	95%	100%	100%	100%	100%	100%	95%	85%	80%	75%	65%	45%	15%	0%	
	Residential	Customer	0.15	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1	0	0
Residential	Time of Day Factor	0%	20%	20%	20%	20%	20%	20%	20%	20%	20%	40%	60%	100%	100%	100%	100%	80%	50%	0%	
	Employee	1.60	6	6	5	5	5	4	4	4	4	5	5	6	6	6	6	6	6	6	6
	Time of Day Factor	100%	90%	85%	80%	75%	70%	65%	70%	70%	70%	75%	85%	90%	97%	98%	99%	100%	100%	100%	
	Office	Visitor	0.03	0	0	1	1	1	1	1	1	0	0	0	0	0	0	0	0	0	0
	Time of Day Factor	0%	20%	60%	80%	90%	100%	100%	90%	80%	60%	40%	20%	10%	5%	0%	0%	0%	0%	0%	
Office	Employee	0.34	0	3	8	11	12	14	12	11	8	5	3	1	1	0	0	0	0	0	0
	Time of Day Factor	0%	20%	60%	80%	90%	100%	90%	80%	60%	40%	20%	10%	5%	0%	0%	0%	0%	0%	0%	
	Total Needed	8	14	26	45	58	69	75	80	82	79	74	69	62	59	53	43	32	17	7	7
	Visitor	126	120	108	89	76	65	59	54	52	55	60	65	72	75	81	91	102	117	127	127

Note:

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Weekday

Note:

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Use Ratio	Hour
Use	6 AM
	7
	8
	9
	10
	11
	Noon
	1
	2
	3
	4
	5
6 PM	
7	
8	
9	
10	
11	
Midnight	

Total Needed	8	14	25	43	56	66	73	77	79	76	71	67	60	57	51	42	32	17	7
	126	120	109	91	78	68	61	57	55	58	63	67	74	77	83	92	102	117	127

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August

Use	Ratio	Unit	Monthly Factor	Hour	Weekday																		
					AM						PM												
					6	7	8	9	10	11	Noon	1	2	3	4	5	6	7	8	9	10	11	Midnight
Shopping Center - Typical	Customer	2.90	25	69% /KGSF	0	2	7	17	32	42	47	49	47	44	44	47	47	47	39	25	15	5	0
	Time of Day Factor				1%	5%	15%	35%	65%	85%	95%	100%	95%	90%	90%	95%	95%	95%	80%	50%	30%	10%	0%
	Employee	0.70		80% /KGSF	1	2	6	10	12	13	14	14	14	14	14	13	13	13	12	10	6	2	0
	Time of Day Factor				10%	15%	40%	75%	85%	95%	100%	100%	100%	100%	100%	95%	95%	95%	90%	75%	40%	15%	0%
	Residential																						
Residential	Customer	0.15	4	100% /units	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1	0	0
	Time of Day Factor				0%	10%	20%	20%	20%	20%	20%	20%	20%	20%	20%	40%	60%	100%	100%	100%	100%	80%	50%
	Employee	1.60		100% /units	6	6	5	5	5	4	4	4	4	4	5	5	6	6	6	6	6	6	6
	Time of Day Factor				100%	90%	85%	80%	75%	70%	65%	70%	70%	70%	75%	85%	90%	97%	98%	99%	100%	100%	100%
	Office																						
Office	Visitor	0.29	40	95% /KGSF	0	0	2	7	11	5	2	5	11	5	2	1	1	0	0	0	0	0	0
	Time of Day Factor				0%	1%	20%	60%	100%	45%	15%	45%	100%	45%	15%	10%	5%	2%	1%	0%	0%	0%	0%
	Employee	3.43		95% /KGSF	4	39	97	123	129	129	116	116	129	129	116	65	32	13	9	4	1	0	0
	Time of Day Factor				3%	30%	75%	95%	100%	100%	90%	90%	100%	100%	90%	50%	25%	10%	7%	3%	1%	0%	0%
	Total Needed				12	49	117	162	189	193	183	189	205	197	181	131	99	80	68	46	29	14	7
Weekday Peak	205		Excess	122	85	17	-28	-55	-59	-49	-55	-71	-63	-47	3	35	54	66	88	105	120	127	
Weekend Peak	83																						
Average Weekday Excess	21																						
Average Weekend Excess	83																						

Note:

Note:

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August

Use	Hour Ratio	Weekend											PM										
		6	7	8	9	10	11	Noon	1	2	3	4	5	6	7	8	9	10	11	Midnight			
Shopping Center - Typical																							
Customer	3.20	1	3	5	16	27	35	43	49	54	54	52	49	43	41	35	27	19	8	0			
Time of Day Factor		1%	5%	10%	30%	50%	65%	80%	90%	100%	100%	95%	90%	80%	75%	65%	50%	35%	15%	0%			
Employee	0.80	2	2	6	12	13	15	16	16	16	16	16	15	13	13	12	10	7	2	0			
Time of Day Factor		10%	15%	40%	75%	85%	95%	100%	100%	100%	100%	100%	95%	85%	80%	75%	65%	45%	15%	0%			
Residential																							
Customer	0.15	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1	0	0			
Time of Day Factor		0%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	40%	60%	100%	100%	100%	100%	80%	50%			
Employee	1.60	6	6	5	5	5	4	4	4	4	4	4	5	5	6	6	6	6	6	6			
Time of Day Factor		100%	90%	85%	80%	75%	70%	65%	70%	70%	70%	75%	85%	90%	97%	98%	99%	100%	100%	100%			
Office																							
Visitor	0.03	0	0	1	1	1	1	1	1	1	1	0	0	0	0	0	0	0	0	0			
Time of Day Factor		0%	20%	60%	80%	90%	100%	90%	80%	60%	40%	20%	10%	5%	0%	0%	0%	0%	0%	0%			
Employee	0.34	0	3	8	10	12	13	12	10	8	5	3	1	1	0	0	0	0	0	0			
Time of Day Factor		0%	20%	60%	80%	90%	100%	90%	80%	60%	40%	20%	10%	5%	0%	0%	0%	0%	0%	0%			
Total Needed																							
	9	14	26	45	58	69	76	80	83	80	75	71	64	60	54	44	33	17	7	7			
Weekday Peak																							
Average Weekday Excess																							
Average Weekend Excess																							

Note:

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Note:

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September

Use	Ratio	Unit	Monthly Factor	Hour	Weekday											PM							
					AM					Noon						Midnight							
					6	7	8	9	10	11	1	2	3	4	5	6	7	8	9	10	11	Midnight	
Shopping Center - Typical																							
Customer	2.90	25	64% /KGSF	0	2	7	16	30	39	43	46	43	41	41	43	43	43	36	23	14	5	0	
Time of Day Factor				1%	5%	15%	35%	65%	85%	95%	100%	95%	90%	90%	95%	95%	95%	80%	50%	30%	10%	0%	
Employee	0.70		80% /KGSF	1	2	6	10	12	13	14	14	14	14	14	13	13	13	12	10	6	2	0	
Time of Day Factor				10%	15%	40%	75%	85%	95%	100%	100%	100%	100%	100%	95%	95%	95%	90%	75%	40%	15%	0%	
Residential																							
Customer	0.15	4	100% /units	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1	0	0	
Time of Day Factor				0%	10%	20%	20%	20%	20%	20%	20%	20%	20%	20%	40%	60%	100%	100%	100%	100%	80%	50%	
Employee	1.60		100% /units	6	6	5	5	5	4	4	4	4	4	5	5	6	6	6	6	6	6	6	
Time of Day Factor				100%	90%	85%	80%	75%	70%	65%	70%	70%	70%	75%	85%	90%	97%	98%	99%	100%	100%	100%	
Office																							
Visitor	0.29	40	100% /KGSF	0	0	2	7	11	5	2	5	11	5	2	1	1	0	0	0	0	0	0	
Time of Day Factor				0%	1%	20%	60%	100%	45%	15%	45%	100%	45%	15%	10%	5%	2%	1%	0%	0%	0%	0%	
Employee	3.43		100% /KGSF	4	41	102	129	136	136	122	122	136	136	122	68	34	14	10	4	1	0	0	
Time of Day Factor				3%	30%	75%	95%	100%	100%	90%	90%	100%	100%	90%	50%	25%	10%	7%	3%	1%	0%	0%	
Total Needed																							
				Excess	12	51	122	168	194	198	185	191	209	200	184	131	97	77	65	44	28	14	7
					122	83	12	-34	-60	-64	-51	-57	-75	-66	-50	3	37	57	69	90	106	120	127
Weekday Peak																							
				209																			
Weekend Peak																							
				79																			
Average Weekday Excess																							
				19																			
Average Weekend Excess																							
				85																			
Note:																							

Note:

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Weekend

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October

Use	Ratio	Unit	Monthly Factor	Hour	Frequency																		
					AM						PM												
					6	7	8	9	10	11	Noon	1	2	3	4	5	6	7	8	9	10	11	Midnight
Shopping Center - Typical																							
Customer	2.90	25	66% /KGSF		0	2	7	16	31	40	45	47	45	42	42	45	45	45	38	24	14	5	0
Time of Day Factor					1%	5%	15%	35%	65%	85%	95%	100%	95%	90%	90%	95%	95%	80%	50%	30%	10%	0%	0
Employee	0.70		80% /KGSF		1	2	6	10	12	13	14	14	14	14	14	13	13	13	12	10	6	2	0
Time of Day Factor					10%	15%	40%	75%	85%	95%	100%	100%	100%	100%	100%	95%	95%	95%	90%	75%	40%	15%	0%
Residential																							
Customer	0.15	4	100% /units		0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1	0	0
Time of Day Factor					0%	10%	20%	20%	20%	20%	20%	20%	20%	20%	20%	40%	60%	100%	100%	100%	100%	80%	50%
Employee	1.60		100% /units		6	6	5	5	5	4	4	4	4	4	5	5	6	6	6	6	6	6	6
Time of Day Factor					100%	90%	85%	80%	75%	70%	65%	70%	70%	70%	75%	85%	90%	97%	98%	99%	100%	100%	100%
Office																							
Visitor	0.29	40	100% /KGSF		0	0	2	7	11	5	2	5	11	5	2	1	1	0	0	0	0	0	0
Time of Day Factor					0%	1%	20%	60%	100%	45%	15%	45%	100%	45%	15%	10%	5%	2%	1%	0%	0%	0%	0%
Employee	3.43		100% /KGSF		4	41	102	129	136	136	122	122	136	136	122	68	34	14	10	4	1	0	0
Time of Day Factor					3%	30%	75%	95%	100%	100%	90%	90%	100%	100%	90%	50%	25%	10%	7%	3%	1%	0%	0%
Total Needed					12	51	122	168	195	199	187	193	210	202	185	133	98	78	66	45	28	14	7
Weekday Peak																							
Weekend Peak	210		Excess		122	83	12	-34	-61	-65	-53	-59	-76	-68	-51	1	36	56	68	89	106	120	127
Average Weekday Excess	81																						
Average Weekend Excess	19																						
Average Weekend Excess	84																						

Note:

Note:

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October

Use	Hour Ratio	Weekend											PM											11 Midnight																																				
		AM						Noon					1					2					3					4					5					6					7					8					9					10		
Shopping Center - Typical	Customer	3.20	1	3	5	16	26	34	41	47	52	52	49	47	41	39	34	26	18	8	0																																							
	Time of Day Factor	1%	5%	10%	30%	50%	65%	80%	90%	100%	100%	100%	95%	90%	80%	75%	65%	50%	35%	15%	0%																																							
	Employee	0.80	2	2	6	12	13	15	16	16	16	16	16	15	13	13	12	10	7	2	0																																							
	Time of Day Factor	10%	15%	40%	75%	85%	95%	100%	100%	100%	100%	100%	95%	85%	80%	75%	65%	45%	15%	0%																																								
Residential	Customer	0.15	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1	0	0																																							
	Time of Day Factor	0%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	40%	60%	100%	100%	100%	100%	80%	50%	0																																							
	Employee	1.60	6	6	5	5	5	4	4	4	4	4	5	5	6	6	6	6	6	6	6																																							
	Time of Day Factor	100%	90%	85%	80%	75%	70%	65%	70%	70%	70%	70%	85%	90%	97%	98%	99%	100%	100%	100%	100%																																							
Office	Visitor	0.03	0	0	1	1	1	1	1	1	1	1	0	0	0	0	0	0	0	0	0																																							
	Time of Day Factor	0%	20%	60%	80%	90%	100%	90%	80%	60%	40%	20%	10%	5%	0%	0%	0%	0%	0%	0%	0%																																							
	Employee	0.34	0	3	8	11	12	14	12	11	8	5	3	1	1	0	0	0	0	0	0																																							
	Time of Day Factor	0%	20%	60%	80%	90%	100%	90%	80%	60%	40%	20%	10%	5%	0%	0%	0%	0%	0%	0%	0%																																							
Total Needed		8	14	26	44	58	68	75	79	81	78	73	69	62	58	52	43	32	17	7																																								
Weekday Peak		126	120	108	90	76	66	59	55	53	56	61	65	72	76	82	91	102	117	127																																								
Weekend Peak																																																												
Average Weekday Excess																																																												
Average Weekend Excess																																																												

Note:

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Note:

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November

Use	Ratio	Unit	Monthly Factor	Hour	AM											PM										
					6	7	8	9	10	11	Noon	1	2	3	4	5	6	7	8	9	10	11	Midnight			
Shopping Center - Typical																										
Customer	2.90	25	72% /KGsf		1	3	8	18	33	44	49	51	49	46	46	49	49	49	41	26	15	5	0			
Time of Day Factor					1%	5%	15%	35%	65%	85%	95%	100%	95%	90%	90%	95%	95%	95%	80%	50%	30%	10%	0%	0		
Employee	0.70		90% /KGsf		2	2	6	12	13	15	15	15	15	15	15	15	15	15	14	12	6	2	0			
Time of Day Factor					10%	15%	40%	75%	85%	95%	100%	100%	100%	100%	100%	95%	95%	95%	90%	75%	40%	15%	0%	0		
Residential																										
Customer	0.15	4	100% /units		0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1	0	0			
Time of Day Factor					0%	10%	20%	20%	20%	20%	20%	20%	20%	20%	20%	40%	60%	100%	100%	100%	100%	80%	50%	0		
Employee	1.60		100% /units		6	6	5	5	5	4	4	4	4	4	5	5	6	6	6	6	6	6	6	6		
Time of Day Factor					100%	90%	85%	80%	75%	70%	65%	70%	70%	70%	75%	85%	90%	97%	98%	99%	100%	100%	100%	100%		
Office																										
Visitor	0.29	40	100% /KGsf		0	0	2	7	11	5	2	5	11	5	2	1	1	0	0	0	0	0	0	0		
Time of Day Factor					0%	1%	20%	60%	100%	45%	15%	45%	100%	45%	15%	10%	5%	2%	1%	0%	0%	0%	0%	0		
Employee	3.43		100% /KGsf		4	41	102	129	136	136	122	122	136	136	122	68	34	14	10	4	1	0	0	0		
Time of Day Factor					3%	30%	75%	95%	100%	100%	90%	90%	100%	100%	90%	50%	25%	10%	7%	3%	1%	0%	0%	0		
Total Needed					13	52	124	171	199	204	193	199	216	207	191	138	104	84	71	48	30	14	7	7		
Weekday Peak																										
Weekend Peak																										
Weekend Peak Excess																										
Average Weekday Excess																										
Average Weekend Excess																										
Note:																										

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November

Use	Hour Ratio	AM											PM									
		6	7	8	9	10	11	noon	1	2	3	4	5	6	7	8	9	10	11	Midnight		
Shopping Center - Typical	Customer	3.20	1	3	6	17	28	37	45	51	57	57	54	51	45	42	37	28	20	8	0	
	Time of Day Factor		1%	5%	10%	30%	50%	65%	80%	90%	100%	100%	95%	90%	80%	75%	65%	50%	35%	15%	0%	
	Employee	0.80	2	3	7	13	15	17	18	18	18	18	18	17	15	14	13	11	8	3	0	
	Time of Day Factor		10%	15%	40%	75%	85%	95%	100%	100%	100%	100%	100%	95%	85%	80%	75%	65%	45%	15%	0%	
Residential	Customer	0.15	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1	0	0	
	Time of Day Factor		0%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	40%	60%	100%	100%	100%	100%	80%	50%	
	Employee	1.60	6	6	5	5	5	4	4	4	4	4	5	5	6	6	6	6	6	6	6	
	Time of Day Factor		100%	90%	85%	80%	75%	70%	65%	70%	70%	70%	75%	85%	90%	97%	98%	99%	100%	100%	100%	
Office	Visitor	0.03	0	0	1	1	1	1	1	1	1	1	0	0	0	0	0	0	0	0	0	
	Time of Day Factor		0%	20%	60%	80%	90%	100%	90%	80%	60%	40%	20%	10%	5%	0%	0%	0%	0%	0%	0%	
	Employee	0.34	0	3	8	11	12	14	12	11	8	5	3	1	1	0	0	0	0	0	0	
	Time of Day Factor		0%	20%	60%	80%	90%	100%	90%	80%	60%	40%	20%	10%	5%	0%	0%	0%	0%	0%	0%	
Total Needed		9	14	27	47	62	73	81	85	88	85	79	75	67	63	57	47	35	18	7		
Weekday Peak		125	120	107	87	72	61	53	49	46	49	55	59	67	71	77	87	99	116	127		
Weekend Peak																						
Average Weekday Excess																						
Average Weekend Excess																						
Note:																						
K:\WPB_TPT\O14\O614\O616\O000 - 125		Copyright © 2019, Kimley-Horn and Associates, Inc.																				
		Kimley»Horn																				



Peak December

Use	Ratio	Unit	Monthly Factor	Hour	Weekday																		
					AM						PM												
					6	7	8	9	10	11	Noon	1	2	3	4	5	6	7	8	9	10	11	Midnight
Shopping Center - Typical	Customer	2.90	25	100% /KGSF	1	4	11	25	46	61	68	71	68	64	64	68	68	68	57	36	21	7	0
	Time of Day Factor				1%	5%	15%	35%	65%	85%	95%	100%	95%	90%	90%	95%	95%	95%	80%	50%	30%	10%	0%
	Employee	0.70		100% /KGSF	2	3	7	13	15	16	17	17	17	17	17	16	16	16	15	13	7	3	0
	Time of Day Factor				10%	15%	40%	75%	85%	95%	100%	100%	100%	100%	100%	95%	95%	95%	90%	75%	40%	15%	0%
	Residential																						
Residential	Customer	0.15	4	100% /units	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1	0	0
	Time of Day Factor				0%	10%	20%	20%	20%	20%	20%	20%	20%	20%	20%	40%	60%	100%	100%	100%	100%	80%	50%
	Employee	1.60		100% /units	6	6	5	5	5	4	4	4	4	4	4	5	5	6	6	6	6	6	6
	Time of Day Factor				100%	90%	85%	80%	75%	70%	65%	70%	70%	70%	70%	75%	85%	90%	97%	98%	99%	100%	100%
	Office																						
Office	Visitor	0.29	40	100% /KGSF	0	0	2	7	11	5	2	5	11	5	2	1	1	0	0	0	0	0	0
	Time of Day Factor				0%	1%	20%	60%	100%	45%	15%	45%	100%	45%	15%	10%	5%	2%	1%	0%	0%	0%	0%
	Employee	3.43		100% /KGSF	4	41	102	129	136	136	122	122	136	136	122	68	34	14	10	4	1	0	0
	Time of Day Factor				3%	30%	75%	95%	100%	100%	90%	90%	100%	100%	100%	90%	50%	25%	10%	7%	3%	1%	0%
	Total Needed				13	53	127	179	213	223	213	221	237	227	210	159	125	105	89	60	37	17	7
Weekday Peak	237			Excess	121	81	7	-45	-79	-89	-79	-87	-103	-93	-76	-25	9	29	45	74	97	117	127
Weekend Peak	112																						
Average Weekday Excess	2																						
Average Weekend Excess	67																						

Note:

Note:

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Peak December

Use	Hour Ratio	AM											PM											Midnight
		6	7	8	9	10	11	Noon	1	2	3	4	5	6	7	8	9	10	11					
Shopping Center - Typical																								
Customer	3.20	1	4	8	24	39	51	63	71	79	79	75	71	63	59	51	39	28	12	0				
Time of Day Factor		1%	5%	10%	30%	50%	65%	80%	90%	100%	100%	95%	90%	80%	75%	65%	50%	35%	15%	0%				
Employee	0.80	2	3	8	15	17	19	20	20	20	20	20	19	17	16	15	13	9	3	0				
Time of Day Factor		10%	15%	40%	75%	85%	95%	100%	100%	100%	100%	100%	95%	85%	80%	75%	65%	45%	15%	0%				
Residential																								
Customer	0.15	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1	0	0				
Time of Day Factor		0%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	40%	60%	100%	100%	100%	100%	80%	50%				
Employee	1.60	6	6	5	5	5	4	4	4	4	4	5	5	6	6	6	6	6	6	6				
Time of Day Factor		100%	90%	85%	80%	75%	70%	65%	70%	70%	70%	75%	85%	90%	97%	98%	99%	100%	100%	100%				
Office																								
Visitor	0.03	0	0	1	1	1	1	1	1	1	1	0	0	0	0	0	0	0	0	0				
Time of Day Factor		0%	20%	60%	80%	90%	100%	90%	80%	60%	40%	20%	10%	5%	0%	0%	0%	0%	0%	0%				
Employee	0.34	0	3	8	11	12	14	12	11	8	5	3	1	1	0	0	0	0	0	0				
Time of Day Factor		0%	20%	60%	80%	90%	100%	90%	80%	60%	40%	20%	10%	5%	0%	0%	0%	0%	0%	0%				
Total Needed																								
		9	16	30	55	74	89	100	107	112	109	102	97	86	81	73	59	43	22	7				
Weekday Peak																								
Weekend Peak																								
Average Weekday Excess																								
Average Weekend Excess																								
Note:																								

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Note: 

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 9, 2020

Section of Agenda

Development Review - Old Business

Agenda Title

Z-20-00269 VARIANCES Zoning District: R-B Low Density Residential The application of John Criddle and Franny Frisbie, Applicant, relative to property located at **143 REEF RD**, legal description on file, is described below. The applicant is proposing to construct a new 597 square foot one story garage to the west of the existing residence. The following variances are being requested: 1. Section 134-893(7): The applicant is requesting a variance for a west side yard setback of 5 feet in lieu of the 12.5 foot minimum required for a one story building. 2. Section 134-893(6): The applicant is requesting a variance for an angle of vision of 105 degrees in lieu of the 100 degrees maximum allowed. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. Motion carried 4-3.] [The Architectural Review Commission approved the project as presented. Carried 4-3.]

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated November 24, 2020 from Wayne Bergman, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**
- ▣ **Email Dated August 25, 2020 from David Lambert**
- ▣ **Email Dated August 25, 2020 from Maureen and Don Kandziora**
- ▣ **Email Dated August 25, 2020 from Jack Cooney**
- ▣ **Email Dated August 24, 2020 from Sean Bresnan**
- ▣ **Email Dated August 26, 2020 from Anne Metzger**
- ▣ **Letter Dated August 25, 2020 from John Eubanks**
- ▣ **Letter Dated September 4, 2020 from John Eubanks**
- ▣ **Exhibits to accompany John Eubanks Letter Dated September 4, 2020**
- ▣ **Email Dated September 8, 2020 from Anne and Bill Metzger**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 9, 2020

To: Mayor and Town Council

From: Wayne Bergman, Director, Planning, Zoning & Building Department

Subject: **Z-20-00269 VARIANCE(S)**
143 REEF RD

Date: November 24, 2020

BACKGROUND

An application has been received for the following project:

REQUEST:

The applicant is proposing to construct a new 597 square foot one story garage to the west of the existing residence. The following variances are being requested: 1. Section 134-893(7): The applicant is requesting a variance for a west side yard setback of 5 feet in lieu of the 12.5 foot minimum required for a one story building.

2. Section 134-893(6): The applicant is requesting a variance for an angle of vision of 105 degrees in lieu of the 100 degrees maximum allowed.

ADDRESS: 143 REEF RD

OWNER: CRIDDLE JOHN K

OWNER'S REPRESENTATIVE: KOCHMAN AND ZISKA

PROPERTY CONTROL NO.: 50-43-42-34-08-000-0450

ZONING DISTRICT: R-B Low Density Residential

LEGAL DESCRIPTION: NORTH SHORE ADD TO PALM BEACH LT 45

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 7/24/20

APPLICATION NO.: Z-20-00269 **APPLICATION TYPE:** VARIANCE(S)

ADDRESS: 143 REEF RD

DESCRIPTION:

The applicant is proposing to construct a new 597 square foot one story garage to the west of the existing residence. The following variances are being requested: 1. Section 134-893(7): The applicant is requesting a variance for a west side yard setback of 5 feet in lieu of the 12.5 foot minimum required for a one story building.
2. Section 134-893(6): The applicant is requesting a variance for an angle of vision of 105 degrees in lieu of the 100 degrees maximum allowed.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	Wayne Bergman, Director, Planning, Zoning & Building	7/29/2020	No Comment
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	8/28/2020	Driveway opening needs to conform to Public Works standards. Coordination between Landscape Architect and Stormwater Engineer not provided. Town's stormwater level of service is being meet.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	7/30/2020	There are no fire code concerns with this proposed project.
PZB DIRECTOR	Wayne Bergman, Director, Planning, Zoning & Building	7/29/2020	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	7/29/2020	The applicant is required to demonstrate the hardship for the variances being requested.

From: [DAVID G LAMBERT](#)
To: [Kelly Churney](#)
Subject: 143 Reef Road
Date: Tuesday, August 25, 2020 5:28:20 PM

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Dear Members of ARCOM and Town Council:

We write this email in support of the renovation plans submitted for 143 Reef Road, which will be heard at today's meeting (Wednesday). We are neighbors on Esplanade thrilled to have another young family move to the north end. Their request for a 2-car garage seems fair and practical. After all, new construction on the island always includes a 2-car garage, at the very minimum. The 2-car garage, as its designed incorporates lovely and tall landscaping to the west and actually helps to balance out the front facade of the existing home. Not to mention, the 2-car garage gets rid of the unsightly garbage receptacles that are visible from the street as you walk by. Their new landscape plan also looks like a great improvement and we love their desire to implement native species in the majority of the garden. The room addition to the north also seems reasonable and after reviewing their interior plans, they really improve the functionality of the home.

Thank you for considering to grant approval to their plans today. Take care and stay well.

Kindly,

David Lambert
200 Esplanade Way
Palm Beach, Fl 33480

From: [Raihle, Maureen](#)
To: [Kelly Churney](#)
Cc: [Donald Kandziora](#)
Subject: Letter of Support for our neighbors
Date: Tuesday, August 25, 2020 5:12:31 PM

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Dear Town Council and Members of ARCOM:

We hope this email finds everyone well. We are writing to support the plans submitted for the proposed renovation on 143 Reef Road (our westerly neighbors). We have personally met the family and believe them to be great new stewards for the property. They deeply care about our community and our neighbors. We can appreciate their need and therefore request for a 2-car, 1-story garage. Their intentions to honor the existing structure with thoughtful enhancements to the facade, landscape, and hardscape are very much in keeping with the overall aesthetic of our block. Please consider granting approval to their plans. Thank you and stay safe.

Kindly,
Maureen Raihle Kandziora
Don Kandziora

135 Reef Road
Palm Beach FL 33480

Maureen Raihle, CPWA®, CEPA
Managing Director, Wealth Manager
First Republic Investment Management
First Republic Private Wealth Management

155 North Wacker Drive, Suite 4250, Chicago, IL 60606

241 Royal Palm Way, Palm Beach, FL 33480
Office: (561) 803-1090 | Fax: (561) 803-1000

Registered Representative of First Republic Securities Company, LLC



First Republic Private Wealth Management encompasses First Republic Investment Management, Inc. ("FRIM"), an SEC-registered investment advisor, First Republic Securities Company, LLC ("FRSC"), Member FINRA/SIPC, First Republic Trust Company ("FRTC") and First Republic Trust Company of Delaware LLC ("FRTC-DE"). FRIM, FRSC, and FRTC-DE are wholly owned subsidiaries of First Republic Bank. FRTC is a division of First Republic Bank. Investment advisory services are provided through FRIM. Securities brokerage services are provided through FRSC. Trust and fiduciary services are provided through FRTC and FRTC-DE.

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From: [Jack Cooney](#)
To: [Kelly Churney](#)
Subject: 143 Reed Road
Date: Tuesday, August 25, 2020 6:25:40 PM

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Dear Members of ARCOM and Town Council:

We write this email in support of the renovation plans submitted for 143 Reef Road. As fellow North End residents, we are thrilled to welcome a young, year-round family with long-standing community ties to the neighborhood. We personally know the applicants and trust in their ability to tastefully improve the aesthetics and function of an outdated home that fits with the charm and character of the street. We understand the difficulty of not having a garage and respect their desire to create a more beautiful front facade instead of having vehicles, equipment, garbage cans and other “stuff” laying in plain sight for all to see. While it was probably easier to scrape the structure and build new, this applicant has chosen to undertake the more "life disruptive" process of renovating a home while living in it, and meanwhile preserving a traditional North End 1-story cottage that is becoming increasingly rare.

Thank you for considering the approval of their plans and thank you for your leadership.

Jack & Nikki Cooney
140 Seagate Rd

Jack Cooney
303.517.4484

From: [Sean P. Bresnan](#)
To: [Kelly Churney](#)
Subject: 143 Reef Road - ARCOM
Date: Monday, August 24, 2020 3:03:04 PM

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Dear Town Council and ARCOM Board Members:

I am writing to show support for the plans submitted for 143 Reef Road to be considered at the August 26th ARCOM hearing. We appreciate the applicants thoughtful effort to revitalize a 1950s cottage, especially at a time when most of these homes in the north end have been razed. The applicants request for a 2-car garage, arguably a necessity today, makes perfect sense for the protection of their vehicles, safety and security of bikes/equipment, etc. While closer in proximity to the property line, their plan for a hedge screening that matches their western neighbor's south hedge seems like a very reasonable offset.

Please consider approving this applicant's request.

Sincerely,
Sean Bresnan
236 Esplanade Way

The information contained in this e-mail, and any attachment, is confidential, may contain non-public information, and is intended solely for the use of the intended recipient(s). Unauthorized access, copying, distribution or other use of this e-mail or any attachment, or any information contained in the e-mail or attachment, is strictly prohibited and may be unlawful. If you are not the intended recipient of this e-mail, please immediately notify the sender and delete it from your computer.

From: [Anne Metzger](#)
To: msmall@smallawpalmbeach.com; RNG@garrisonarch.com; alexives@hotmail.com; amginny@aol.com; [John David Corey](#); betsyshiverick@gmail.com; catlinkt@gmail.com; dan.floersheimer@icloud.com; edward.cooney@gmail.com; info@fairfaxandsammons.com
Cc: [Wayne Bergman](#); [Kelly Churney](#)
Subject: Concerns re: 143 Reef Road - ARCOM meeting Today
Date: Wednesday, August 26, 2020 7:57:10 AM

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Dear Members of the Architectural Commission,

This letter is in regard to the proposed plans for 143 Reef Road that you are considering today.

We live one block to the north on Esplanade Way and are very familiar with the subject property. We walk our dog on Reef Road almost every day.

In our opinion, the proposed plans for the house need to be scaled back. The two car garage will look very squeezed so close to the west property line.

We are concerned that this will set an undesirable precedent in our neighborhood.

In addition, the front door looks out of scale for the house.

Please ask for the plans to be restudied.

Thank you,
Anne and Bill Metzger
277 Esplanade Way
Palm Beach

SNIFFEN & SPELLMAN, P.A.

Sender's Direct Line: (561) 721-4002
Sender's Email: jeubanks@sniffenlaw.com

August 25, 2019

Via E-mail

Architectural Commission
c/o Michael Small, Chair
Town Council of the Town of Palm Beach
360 South County Road
Palm Beach, Florida 33480

**Re: Objection to Application No. B-045-2020 for Proposed Garage at
143 Reef Road**

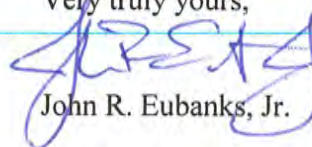
Dear Mr. Small:

Our office was hired this afternoon by Gayle P. Petersen, the owner of 151 Reef Road. Ms. Peterson's home lies immediately to the west of 143 Reef Road. In that capacity please be advised that Ms. Petersen objects to the two car garage proposed by the Applicant, along with the potential variance needed to approve the same.

In direct conflict with the Applicant's representations, the house at 143 Reef Road was built with a one car garage, which was later converted to living space. As a result, there is no hardship which would support a variance.

At the same time, the proposed garage would reduce the normal side yard setback and greenspace in half, change the appearance of the residence from the street, increase the massing next to Ms. Petersen's home, and impinge upon her privacy. Moreover, the Application is nothing more than the same proposal set forth in former Variance #11-2011, which was soundly rejected by the Town Council in July of 2011, resulting in its withdrawal at that time. A copy of the objections from the surrounding neighbors in July 2011, along with a copy of the withdrawal is attached hereto.

Very truly yours,



John R. Eubanks, Jr.

cc: ARCOM Committee Members
Wayne Bergman, Acting Director Planning, Zoning & Building
Kelly Churney, Administrative Specialist
Town Clerk, Town of Palm Beach

REPLY TO:

605 NORTH OLIVE AVENUE, 2ND FLOOR
WEST PALM BEACH, FL • 33401
PHONE: 561.721.4000
FAX: 561.721.4001

WWW.SNIFFENLAW.COM

123 NORTH MONROE STREET
TALLAHASSEE, FL • 32301
PHONE: 850.205.1006
FAX: 850.205.3004

July 1, 2011

RECEIVED

JUL - 6 2011

TOWN OF PALM BEACH
PZB DEPT

Town of Palm Beach

Zoning & Building Department

360 S. County Road

Palm Beach, Florida 33480

Re: 143 Reef Road *Variance # 11-2011*

To Whom it May Concern:

We have been residents of 144 Reef Road for 16 years, the home directly across the street from 143 Reef. We both have also been residents of the town of Palm Beach for 50 years, our entire lives. We are submitting this notice to preserve the ambiance on the north end. Reef Road is a quiet street with an Island appeal. Most of the residents like it that way and moved here because they hope to keep it this way. We understand a petition to build a two car garage has been filed. Our concerns are as follows:

The house is being rented and they are not the owners.

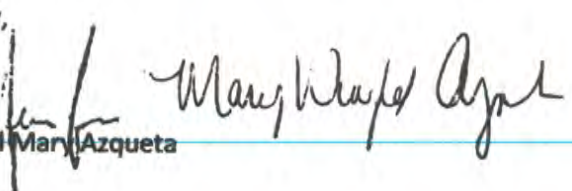
Why do they have to expand to a garage that is so large, the house originally had a one car garage.

The disruption to the safety of the families on the street and the disturbance of peace is overwhelming.

It would seem that the appropriate size garage for this street would be a one car garage, considering the size of the home and property, fitting in with the rest of the street, and the north end.

Thank you for your consideration in this matter.

Sincerely,


Jesse and Mary Azqueta

Paul Gingras, DMD
153 Reef Road
Palm Beach, FL 33480

TOWN OF PALM BEACH
JUL 06 2011
Town Manager's Office

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

30 June 2011

Dear Members of the Town Council:

My wife and I live at 153 Reef Road and we received a notice of a request for a zoning variance for a property located at 143 Reef Road. We have three concerns regarding the request.

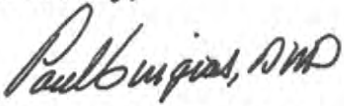
1. The application lists the property owners as David and Sarah Hruda. We are not sure Mr. and Mrs. Hruda own the property. We have been repeatedly told that someone else owns the property. The Town needs to determine who the owners are before proceeding with the application.

2. Under Exhibit A- Request For Variance, item 4, the applicant states that the residence was built without a garage. This house was originally built with a one car garage. This garage was later converted to a living space by a previous owner. A check with the Building Department will confirm this.

3. The addition of a two car garage would reduce the normal side yard setback by half which would change the appearance of the residence by reducing the greenspace surrounding it. This would set a bad precedent for the R-B zoning in this neighborhood. A one car garage addition would impose less on the normal setback.

We are opposed to a two car garage addition and we are not opposed to a one car garage addition.

Sincerely,


Paul and Sally Gingras



KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, *Counsel**

*Also admitted in New York

*Also admitted in Michigan

Esperanté

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

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

VIA FACSIMILE: 561-835-4621

July 21, 2011

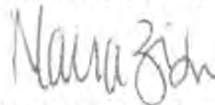
Mayor and Town Council
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

RE: Variance #11-2011/249/143 Reef Road, Palm Beach

Dear Mayor and Town Council:

Please **withdraw** the above referenced matter from the August 10, 2011 Town Council agenda. Please call me if you have any questions or comments with the foregoing. Thank you.

Sincerely yours,



Maura A. Ziska

MAZ/mr

cc: Paul Castro

Pat Seagraves

00011412

SNIFFEN & SPELLMAN, P.A.

Sender's Direct Line: (561) 721-4002
Email: jeubanks@sniffenlaw.com

September 4, 2020

Via E-mail

Mayor and Town Council
c/o Maggie Zeidman, President
Town Council of the Town of Palm Beach
360 South County Road
Palm Beach, Florida 33408

**Re: Lack of Hardship to Support Variances in Application No. Z-20-00269
("Present Application") for New 2 Car Garage on West Side of 143 Reef Road**

Dear Mayor and Town Council Members:

Our office represents Gayle P. Petersen, as Trustee of the Gayle P. Petersen Revocable Trust, ("Petersen"), the owner of 151 Reef Road located directly west of and abutting 143 Reef Road ("Property"). Ms. Petersen objects to the variances sought by John K. Criddle ("Owner")¹ to construct a new two car garage on the west side of the Property near her master bedroom and bathroom. The garage would reduce the protections of the side yard setback on the Property from 12.5 feet to 5 feet, impose the mass of a new garage close to her bedroom, subject her to additional noise, light and odors, and impinge upon her privacy, all without the requisite hardship needed for a variance. As a result, the Present Application should be denied.

I. Background

A. Original House Included a Garage Which was Converted to Living Space

The house at 143 Reef Road was built in 1951. The original plans included an enclosed one car garage. In 1972 the garage was converted into a bedroom and bathroom. The plans and approval for the conversion by the Building Department are attached as Exhibit "B." As such, at the time there was a conscious decision to trade garage space for living space on the Property, ostensibly to comply with the setbacks in the Town Code.

Nevertheless, the Owner now seeks to have his cake and eat it too by keeping the former garage living space and designing a two car garage (and rear BBQ area) which is too large for the lot. It requires two variances, including a massive 60% reduction in the west side yard set back. In doing so the Owner is forcing Ms. Petersen to bear burden of the new garage, because the Owner "**would like to have** a 2 car garage to park their cars, and store their bicycles." (emphasis added)

¹ The Present Application includes references to both John Criddle and Frances Frisbie. The owner of the Property, however, is only Mr. Criddle. See, Warranty Deed recorded on June 2, 2020 in the Public Records of Palm Beach County, a copy of which is attached as Exhibit "A." The ownership of the Property by just Mr. Criddle (and the lack of a homestead filing) begs the question as to his long term goals with the property. Mr. Criddle has indicated to Ms. Peterson that his plan is to upgrade and flip the house in order to make money to purchase a larger home in the future.

REPLY TO:

605 NORTH OLIVE AVENUE, 2ND FLOOR
WEST PALM BEACH, FL • 33401
PHONE: 561.721.4000
FAX: 561.721.4001

WWW.SNIFFENLAW.COM

123 NORTH MONROE STREET
TALLAHASSEE, FL • 32301
PHONE: 850.295.1006
FAX: 850.205.3004

To the extent the Owner “would like” a two car garage it could easily be constructed without the need for any variances. By merely sliding the new garage to the east and incorporating the former garage (which is 9 feet 6 inches in width) area into the new garage design, there would be no need for a 7.5 foot reduction in the west side yard set back.² In the alternative, as several ARCOM members, neighbors, and Ms. Petersen have suggested, the Owner could build a smaller one car garage. The Owner has refused to consider such options, despite the fact either would comply with the Town Code, preserve the side setback, and not impose upon Ms. Petersen.

B. Prior Attempt for Variances for a Two Car Garage and Withdrawal of Application

In May of 2011, an application (“Prior Application”)³ was filed by Maura Ziska seeking a variance to construct a two car garage at the Property with a 6.25 feet wide side yard setback in lieu of the 12.5 feet required and an angle of vision variance of 112 degrees in lieu of the 100 degrees allowed under the Code.⁴ The proposed two car garage was 20’ 6” in width, 24’ 4” in depth. The design included a new chimney and a BBQ area attached to the rear of the garage. *See*, Exhibit “D,” pages A-1, A-2, A-3, SP-1.

In support of the Prior Application, Ms. Ziska argued that the hardship supporting the variances included, but was not limited to, that: i) the residence was **built without a garage**; ii) the applicant would **“like to have” a 2 car garage to park their cars, and store their bicycles**, recreational equipment and vehicles; iii) because of the configuration of the house the only place to put the garage was on the west side of the house and iv) the garage “would only **slightly encroach** into the setback” and “was minimal **for a one story structure.**”⁵

Several nearby neighbors, including Jesse and Mary Azqueta, Anne and Bill Metzger, Paul and Sally Gingras, and Ms. Petersen all objected to the Prior Application and the reduction of the side yard setbacks.⁶ Ms. Ziska requested a deferral of the Prior Application in an effort to come to a consensus with the neighbors.⁷ She could not. As a result, the Prior Application was withdrawn by letter July 21, 2011, which withdrawal was accepted by the Town on August 10, 2011.⁸

² It would also eliminate the need for any angle of vision variance.

³ A copy of the Prior Application is attached hereto as Exhibit “C.”

⁴ A copy of the applicable portions of the Site Plan and Elevations for the Prior Application is attached as Exhibit “D.”

⁵ Ms. Ziska indicated, under oath, at the August 26, 2020 ARCOM Meeting, that the Prior Application objected to by the neighbors was for a **two story garage**. The Plans show that not to be true and the Prior Application clearly sought a taller garage which was still **“a one story structure.”** More importantly, the objections filed to the Prior Application were not based upon the height of the proposed garage but upon its encroachment into the side yard setback and adverse effects on Ms. Petersen. The Zoom recording of the August ARCOM meeting for the Present Application can be found beginning at 3:45:49 which is incorporated herein by reference.

⁶ A copy of the objections to the Prior Application are attached hereto as Exhibit “E.” Mr. Hanlon notes in his objection for Ms. Petersen that Ms. Ziska may have a conflict since she represented Ms. Petersen in the purchase of her home.

⁷ A copy of the request for the Deferral is attached as Exhibit “F.”

⁸ A copy of the letter by Ms. Ziska requesting the withdrawal and the confirmation of the withdrawal by Mr. Castro are attached hereto as Composite Exhibit “G.”

C. Present Application Is a Revamp of the Prior Withdrawn Application

The Present Application⁹ is seeking essentially the same variances as the Prior Application which was withdrawn, namely a (now larger) variance from the west side yard setback of 5 feet in lieu of the 12.5 foot minimum under the Town's Code and a variance for an angle of vision for 105 degrees in lieu of the 100 degrees maximum allowed per the Code. The proposed two car garage is 20 feet 10 inches in width, and 21 feet 2 inches in depth. The new design also includes a new chimney (with a slightly altered design from the Prior Application) and, again, includes a BBQ grill and bar area on the backside of the proposed garage. See, Exhibit "I," pages A-2.01, A-2.02, A-2.03, A-2.4, SP-1.01, and Sp-1.02.

As with the Prior Application, Ms. Ziska has indicated that the hardship by the Owner includes, but is not limited to, that: i) the **residence was built without a garage**; ii) the applicant **"would like to have" a 2 car garage to park their cars, and store their bicycles**, and recreational vehicles and equipment; iii) because of the configuration of the house the only place to put the garage was on the west side of the house; iv) the garage **"would slightly encroach into the setback;"** and v) **other properties in the area have garages and nonconforming setbacks** because they were built prior to the current zoning restrictions.¹⁰ Again, neighbors, including Ms. Petersen, have objected to the variances requested.¹¹

Regardless of the desires of the Owner, the Present Application simply does not meet the standards required for the approval of a variance under Section 134-201 of the Town Code and the case law thereon. As such, the Present Application should be denied.

II. Inability to Meet Variance Standards

A. Variances Are Direct Violations of the Code

Far too often used as an "innocent" tool to allow a specific project to slide by and be approved, a variance is nothing more than a Town sanctioned violation of the Town Code. Approving unsupported variances undermines the protections of the Code which are designed to maintain the character of the Town. As such, a variance should not be granted except in the most extreme circumstances in which the Code would not allow for virtually any use at all of the property. This is not one of those circumstances.

While homeowners often claim they have a "property right" to build on their lot, there simply is no "property right" for a variances in violation of the Town Code. Nor can a variance be based upon the "wish," "like," or "desire" of an owner to "upgrade" the home, make it more "modern" and "livable" or become their "forever home." Desires and wishes do not support a variance.

⁹ The Present Application and applicable Site Plan and Elevations are attached as Exhibits "H" and "I" respectively.

¹⁰ While both the Prior and Present Applications include references to changes in the Town Code which require a two car garage for new construction, the lack of a two car garage on the Property is clearly a prior non-conforming permitted use and as such cannot be the basis for any claim of a "hardship."

¹¹ A copy of the correspondence against the variances is attached as Exhibit "J."

Neighboring property owners, however, “have a right to rely on existing zoning conditions and they have a right to a continuation of these conditions in the absence of a showing that the variance is proper.” *Thompson v. Planning Com. of Jacksonville*, 464 So. 2d 1231 (Fla. 1st DCA 1985); *see also, Allapattah Cmty. Asso. v. Miami*, 379 So. 2d 387 (Fla. 3d DCA 1980). As such, often it is the “property rights” of neighbors, such as Ms. Petersen, which get trampled by the approval of an unsupported variance.

B. Owner’s Claimed “Hardship” Falls Short of Variance Standards
1. Insufficient Factual Basis for “Hardship” in Light of Original Garage

In the Present Application the Owner has indicated that “**the hardship** which runs with the land **is that the residence was built without a garage** and the zoning code has changed...” *See*, Present Application, Section III and Exhibit “A,” Criteria 4. (emphasis added) Such a statement is demonstrably incorrect. Therefore, it would be impossible for the Town to grant a variance based on the assertion that the “hardship” is that the residence was built without a garage when it was built with a garage, which was later intentionally converted into living space. As a result, the Owner has failed to meet the requirements of item III of the Application and Criteria 4 in Exhibit “A” of the Application. For this reason alone the Application must be denied.

In addition, the desire of the Owner to keep the old garage living space while adding a new two car garage that requires a 60% side yard variance cannot create a “hardship” either, especially in light of alternate designs available without a variance. Moving the proposed garage to the east and incorporating the old garage would not require a variance.¹² Likewise, a one car garage could easily meet the Town Code setbacks. The failure to build within the confines of the Town Code when it is clearly possible further dictates the denial of the Present Application.¹³

2. Insufficient Unnecessary and Undue “Hardship”

Section 134-201 of the Town Code is clear that only variances that “will result in **unnecessary and undue hardship**” can be granted (emphasis added). The Court’s are also clear that an applicant for a variance must demonstrate a “unique hardship” to qualify for a variance. *Bernard v. Town of Palm Beach*, 569 So. 2d 853 (Fla. 4th DCA 1990) (citing, *Nance v. Town of Indialantic*, 419 So. 2d 1041 (Fla. 1982)). By definition, a “**hardship**” **may not be found unless no reasonable use can be made of the property without the variance**; or, stated otherwise, “**the hardship must be such that it renders it virtually impossible to use the land for the purpose for which it is zoned.**” *Bernard* at 854 (citing, *Town of Indialantic v. Nance*, 485 So. 2d 1318, 1320 (Fla. 5th DCA); *see also Thompson v. Planning Comm’n*, 464 So. 2d 1231, 1237 (Fla. 1st DCA 1985)(emphasis added).

In the case of *Bernard v. Town of Palm Beach*, 569 So. 2d 853 (Fla. 4th DCA 1990) the

¹² The ability to use an alternate design with no variance(s) negates the Owner meeting the standards of Section 134-201(a)(5) of the Town Code that the variance sought is the minimum variance that will make possible the reasonable use of the land, building or structure, since the “minimum variance” would be no variance.

¹³ *See, Indialantic v. Nance*, 400 So. 2d 37, 40-41 (Fla. 5th DCA 1981)(existence of a viable alternate plan demonstrated a lack of hardship); *Auerbach v. City of Miami*, 929 So. 2d 693, 694 (Fla. 3d DCA 2006).

desire to construct a 35 to 40 foot master bedroom, bath and den above an existing southern portion of the house resulting in a rear setback of 5 feet instead of 15 feet was not a “hardship.”¹⁴ The house could continue to be used for its purpose, albeit with a smaller bedroom and bathroom.

So too here, the claim that the Owner “would like to have” a two car garage to store its cars, equipment and bicycles does not constitute a showing that no reasonable use can be made of the Property without it. To the contrary the house can continue to be used as it has been for over 38 years since the prior garage was converted to a bedroom in 1972. Or, if the Owners “would like to have” a two car garage, it can incorporate the former garage in its design and stay within the parameters of the Code. Therefore, the Applicant cannot meet the requisite unnecessary and undue hardship needed for a variance, leaving the Present Application to be denied.

3. Any “Hardship” Would be Self-Imposed

Even if the lack of a legally recognized hardship could be overlooked (which it cannot) any “hardship” alleged by the Owner would clearly be self-imposed. The courts have consistently found that a hardship must arise from circumstances **peculiar to the realty alone, unrelated to** the conduct or to **the self-originated expectations of any of its owners or buyers.**¹⁵ See, *Maturo v. Coral Gables*, 619 So. 2d 455 (Fla. 3d DCA 1993); *City of Coral Gables v. Geary*, 383 So. 2d 1127 (Fla. 3d DCA 1980).

As a result, situations in which purchasers **are fully aware of the shape and size of a lot, but still design a building which is too large for the lot, constitutes a self-created hardship.** *Thompson v. Planning Com. of Jacksonville*, 464 So. 2d 1231, 1237 (Fla. 1st DCA 1985); see also, *Namon v. State Dept. of Environ. Reg.*, 559 So. 2d 504 (Fla. 3d DCA 1990). In the present case, the Owner was (or should have been) fully aware of the Property’s size, location and set backs, yet designed a two car garage which was too large and encroached on the required side yard setbacks next to Ms. Petersen. Such a choice represents a self-centered, self-created “hardship” which cannot support the variances sought. As such, the Present Application must be denied.

4. Property Restrictions Are Not Unique

In addition to the above, there can be no “hardship” in the present case in light of the fact that several of the nearby homes admittedly share the same difficulties as the Property. Under Section 134-201(a)(1) of the Code an applicant must demonstrate that “special conditions and circumstances exist which are peculiar to the land, structure or building involved **which are not applicable to other land lands, structure or buildings in the same zoning.**” (emphasis added)

As a result, “a prerequisite to the granting of a hardship zoning variance is the presence of

¹⁴ See also, *Herrera v. Miami*, 600 So. 2d 561, 562 (Fla. 3d DCA 1992) (reversing approval of a variance where there is no finding that “it is virtually impossible to use the land as it is presently zoned.”); *Auerbach v. City of Miami*, 929 So. 2d 693, 694 (Fla. 3d DCA 2006) (“Florida courts have held that a legal hardship will be found to exist only in those cases where the property is **virtually unusable...**”)(citing to *Mauro v. City of Coral Gables*, 619 So. 2d 455,456 (Fla. 3d DCA 1993)).

¹⁵ Here, there is no peculiarity at all as to the size or shape of the Property.

an exceptional and unique hardship to the individual landowner; **unique to that parcel and not shared by other property owners in the area.**" *Indialantic v. Nance*, 400 So. 2d 37, 40 (Fla. 5th DCA 1981)(emphasis added). Therefore, as is the case here, where an applicant's lot has a similar size, shape and topography and is subject to the same zoning requirements, including the height, set-back, and landscaping, restrictions, the restrictions are common difficulties and cannot establish the unique hardship required to support the proposed variances.¹⁶

In the Present Application Ms. Ziska admits that the present house is "nonconforming to today's code" and further admits that "many properties and residences in the area have garages and non-conforming setbacks as the residences were built before the current zoning restrictions were in place."¹⁷ Moreover, the lots in the area are the same general shape and size. As such, the limitations on the Property are shared by other lands, structures and buildings in the same zoning district and cannot be the basis for a hardship. The Present Application therefore must be denied.

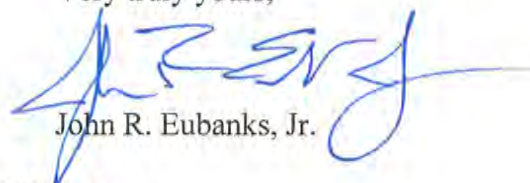
III. Conclusion

The circumstances in the Present Application simply do not factually or legally support the requisite "hardship" for a variance under the Town Code or the case law. The argument that the original house did not have a garage when it did cannot be used as the basis for a hardship. The home can reasonably continue to be used as it has been since 1972 without a two car garage. In the alternative, the plans can be modified to construct a two car garage without a variance.

The Owner's situation is not unique. Many other homes in the area have the same shape, size and issues. Therefore, any "hardship" is clearly self-imposed by the Owner by designing too large of a garage on too small of a lot, despite knowing the shape and size limitation of the Property. Under the circumstances, Ms. Petersen should be allowed to rely upon the protections in the Town Code and not be forced bear the burden of the Owner's desire for a two car garage which requires a 60% side yard set back reduction next to her master bedroom and bathroom.

The Application should be denied.

Very truly yours,



John R. Eubanks, Jr.

cc: Wayne Bergman, Director Planning, Zoning & Building
Paul Castro, Zoning Manager
John C. Randolph, Esq.
Kelly Churney, Administrative Specialist
Town Clerk, Town of Palm Beach

¹⁶ Likewise, a variance application **cannot rely upon previously approved variances in the jurisdiction.** See, *City of Jacksonville v. Taylor*, 721 So. 2d 1212 (Fla 1st DCA 1998); see also, *Herrera v. City of Miami*, 600 So. 2d 561, 563 (Fla 3d DCA 1992)("on review of an administrative grant of a zoning variance, **the standard is not whether variances have been granted to similarly-situated applicants in the community...**") (emphasis added)

¹⁷ Again, the mere fact that the Property may be non-conforming and grandfathered is not the basis for a variance.



CFN 20200188192

THIS INSTRUMENT PREPARED BY AND RETURN TO:

Maura Ziska, Esq
Kochman & Ziska, PLC
222 Lakeview Avenue, Suite 1500
West Palm Beach, Florida 33401
Our File No.: 1803-21

OR BK 31464 PG 0655
RECORDED 06/02/2020 12:06:22
AMT 1,850,000.00
Doc Stamp 12,950.00
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pg 0655 - 656; (2pgs)

Property Appraisers Parcel Identification (Folio) Number: 50-43-42-34-08-000-0450

SPACE ABOVE THIS LINE FOR RECORDING DATA

WARRANTY DEED

THIS WARRANTY DEED, made the 29th day of May, 2020 by Sean Heyniger, a married man, whose post office address is 3140 Washington Rd, West Palm Beach, FL 33401 herein called the Grantor, to John K Criddle whose post office address is 143 Reef Road, Palm Beach, FL 33480, hereinafter called the Grantee:

(Wherever used herein the terms "Grantor" and "Grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH that the Grantor, for and in consideration of the sum of TEN AND 00/100'S (\$10.00) Dollars and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee all that certain land situate in Palm Beach County, State of Florida, viz.:

Lot 45 of PLAT OF NORTH SHORE ADDITION TO PALM BEACH, according to the Plat thereof as recorded in Plat Book 10, Page 62, of the Public Records of Palm Beach County, Florida.

Subject to easements, restrictions and reservations of record and taxes for the year 2020 and thereafter.

This property does not constitute the homestead of the Grantor nor is it contiguous to the homestead of Grantor who reside on lands other than the lands described herein. The Grantor's address is: 3140 Washington Rd, West palm Beach, FL 33401

TOGETHER, with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND, the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land, and hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2019.

EXHIBIT A

IN WITNESS WHEREOF, the said Grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

Christine Belsky
Witness #1 Signature

Christine Belsky
Witness #1 Printed Name

Kristina Neville
Witness #2 Signature

Kristina Neville
Witness #2 Printed Name

Sean Heyniger
Sean Heyniger

State of Florida

County of Palm Beach

The foregoing instrument was acknowledged before me this 29th day of May, 2020, by Sean Heyniger who has/have appeared by ☒ physical presence or ☐ online notarization and has produced _____ as identification and ☐ did ☐ did not take an oath.

SEAL

My commission expires:



Kristina Neville
Notary Public

Printed Notary Name

Permit No. 80172

Palm Beach, Florida, August 9, 1972

TO THE BUILDING INSPECTOR
OF PALM BEACH, FLORIDA

The undersigned requests that you grant a building permit to

D. Wendell, Owner

TO CONSTRUCT Alter garage to bedroom and shower

in accordance with plans and specifications submitted with this application.

Located on Lot 45 Subdivision N. Shore

On 143 Reef Road Street, Between N. Lake Way and N. Lake Way

ZONING DISTRICT R-B

Occupancy Classification Single Family Dwelling Size of Addition NO Addition

Construction Classification Existing

Roofing Material Existing

Owner's Name D. Wendell

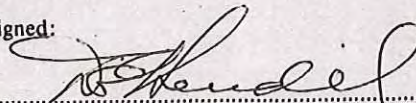
Builder's Name owner by Frank Johns

Architect and/or Engineer Herman Fernau Architect

Approximate Cost \$ 5,000 Height Story

Now, therefore, in consideration of this permit, the owner and builder agree to undertake said work in full compliance with Ordinances of the Town of Palm Beach, Florida, and further agree that no work shall be undertaken prior to securing a building permit, issued by the building inspector.

Signed:



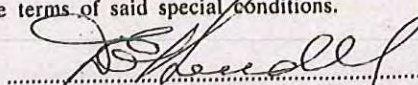
Applicant

The Building Inspector's notes, as shown on the approved plans, will be adhered to.

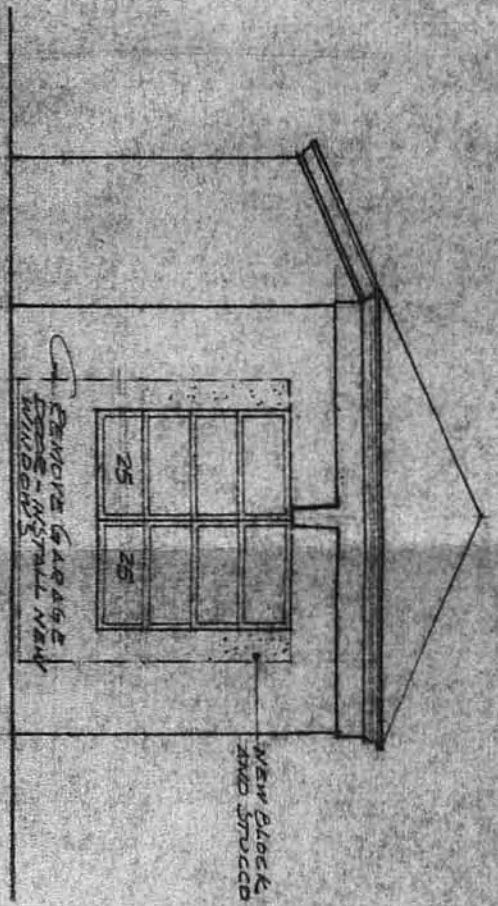
The granting of this building permit is subject to the following special conditions pertaining thereto, as directed by the building inspector:

This work is being done on an hourly wage basis, no contract is involved

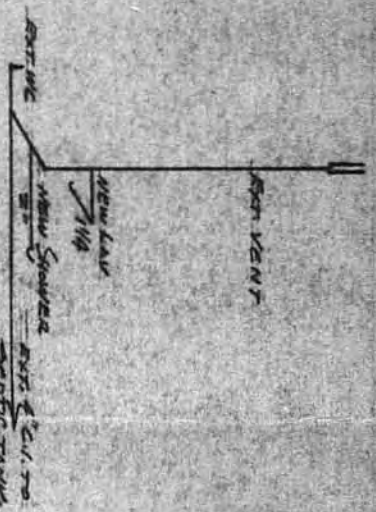
On behalf of the owner and builder, I agree to the terms of said special conditions.



Applicant



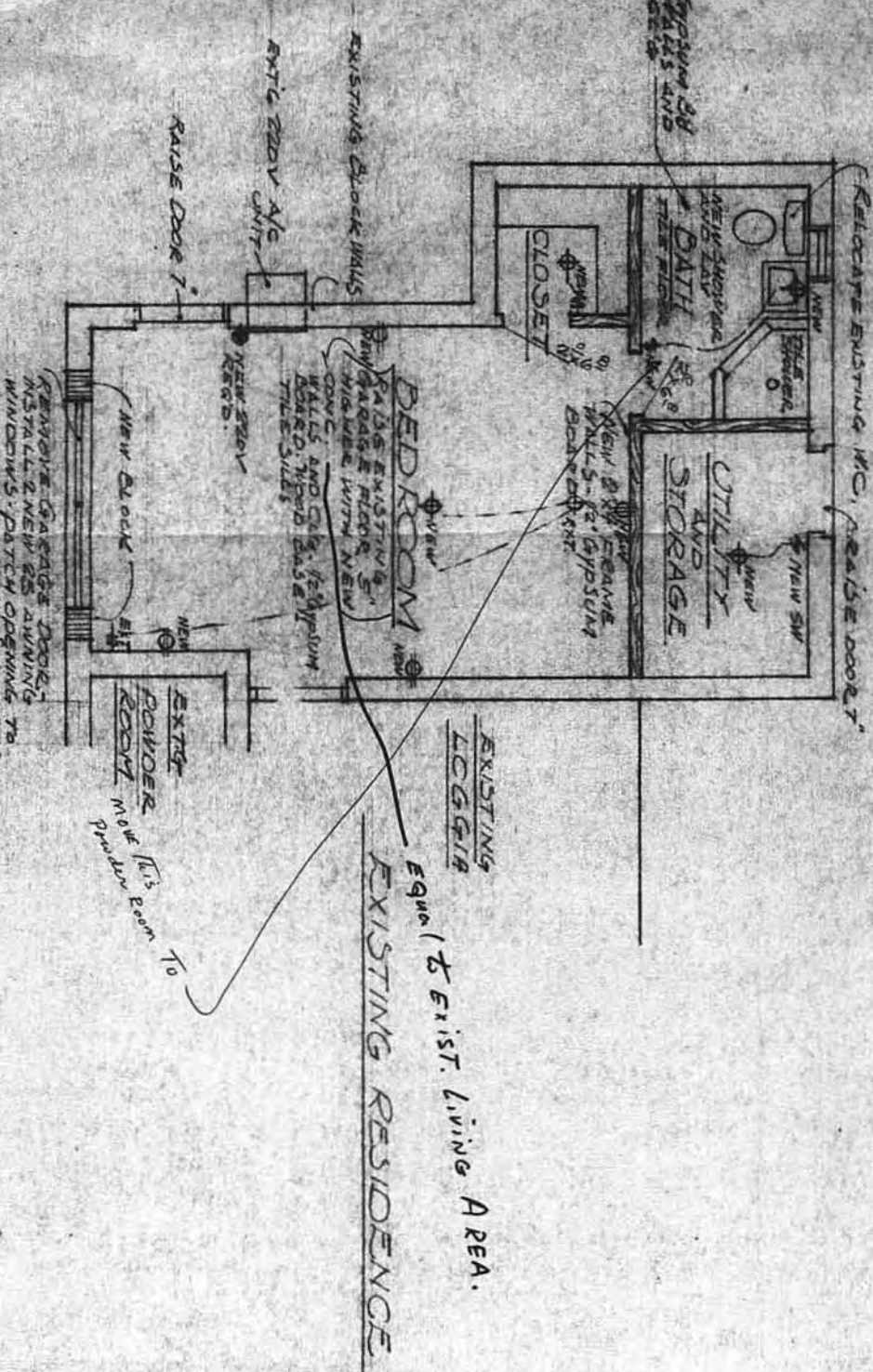
PENDING ISOMETRIC



ELEVATION

APPROVED
AS NOTED AND SUBJECT TO ALL THE CODE OF
BUILDING AND ZONING ORDINANCES THAT MAY
NOT BE CLEARLY EXHIBITED HEREIN
THIS 4TH DAY OF AUG 1972
Alfred E. O'Brien
SEAL
SEAL BUILDING OFFICIAL
PLANS REVIEWED AND CORRECTIONS
NOTATIONS AND CONDITIONS ARE
HEREBY ACKNOWLEDGED
Forrest C. Howard
THIS DAY OF 19

NO CHANGES TO BE MADE FROM
ORIGINAL PLANS FILED WITH THIS
APPLICATION, WITHOUT BEING AP-
PROVED BY BUILDING INSPECTOR
Office 644
80172

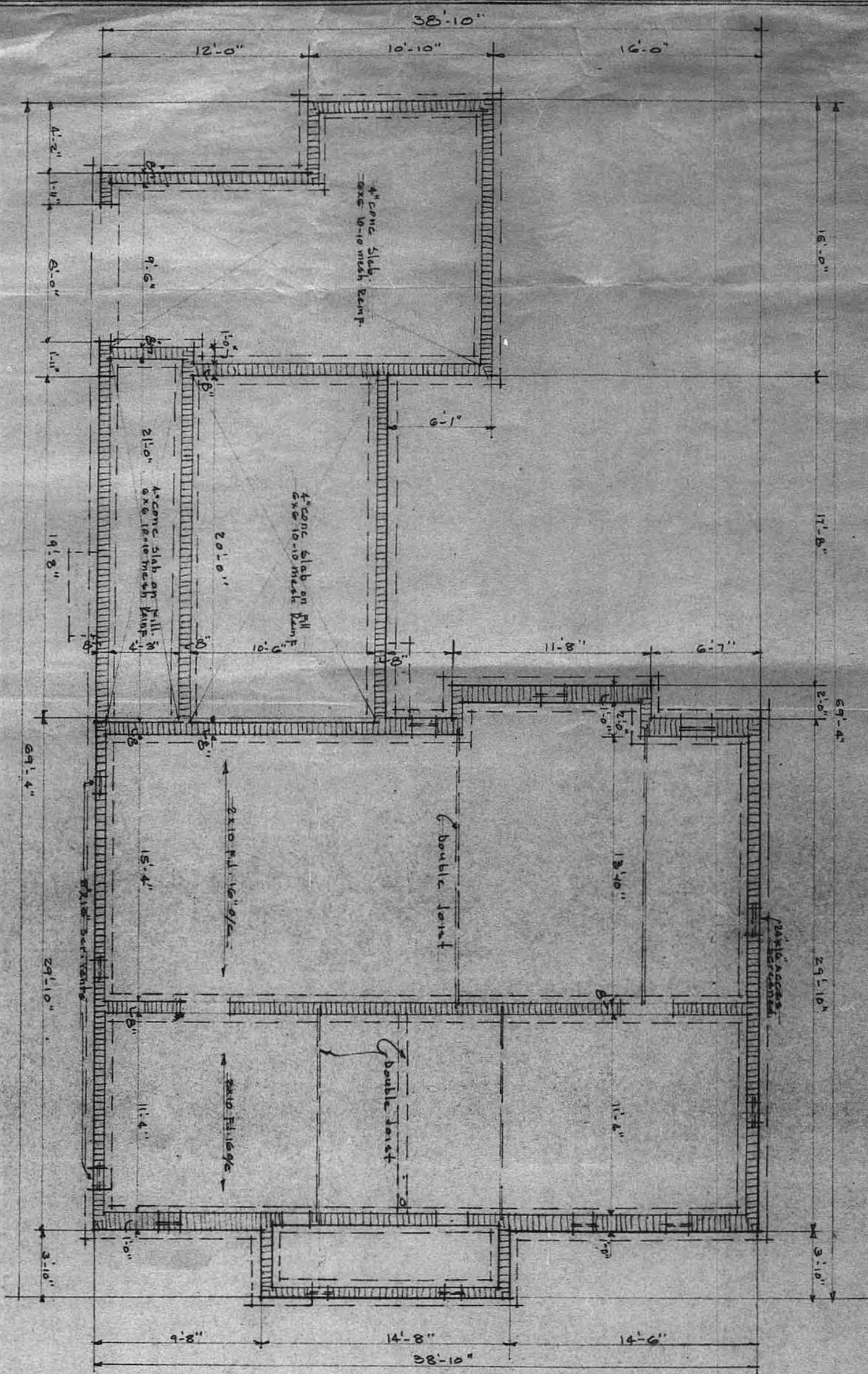


FLOOR PLAN

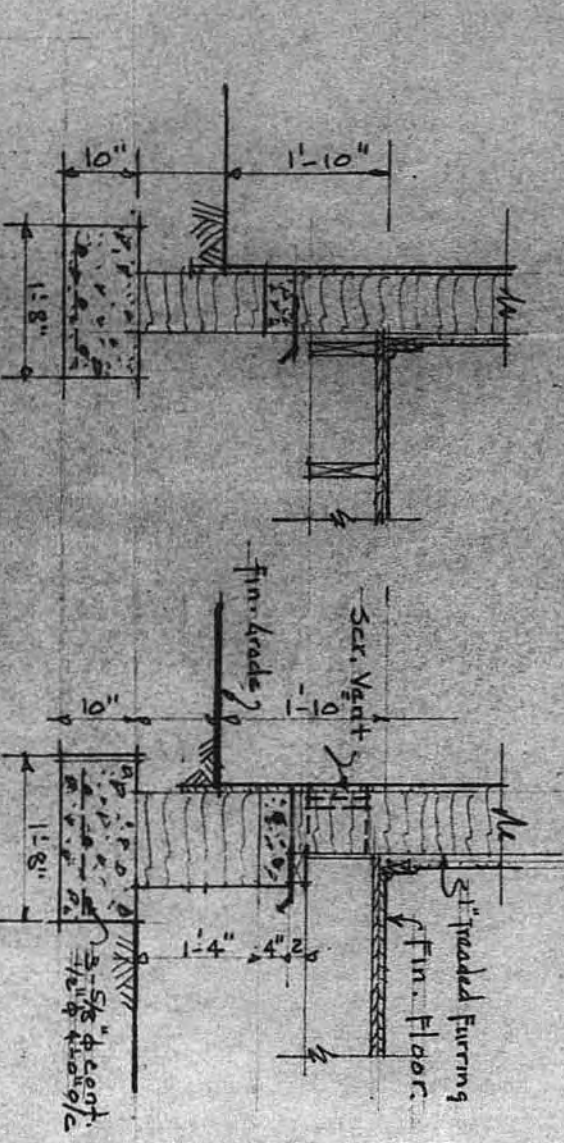
ALTERATIONS FOR JANE WENDEL

DATE	5-2-72	DRAWN BY	WEST PAUL BRACK, DIONIDA, PHOENIX, ARIZONA
FOR BUILDING	5-2-72	REVISIONS	
NO. OF SHEETS	1	DATE	5-2-72
148 Reg			

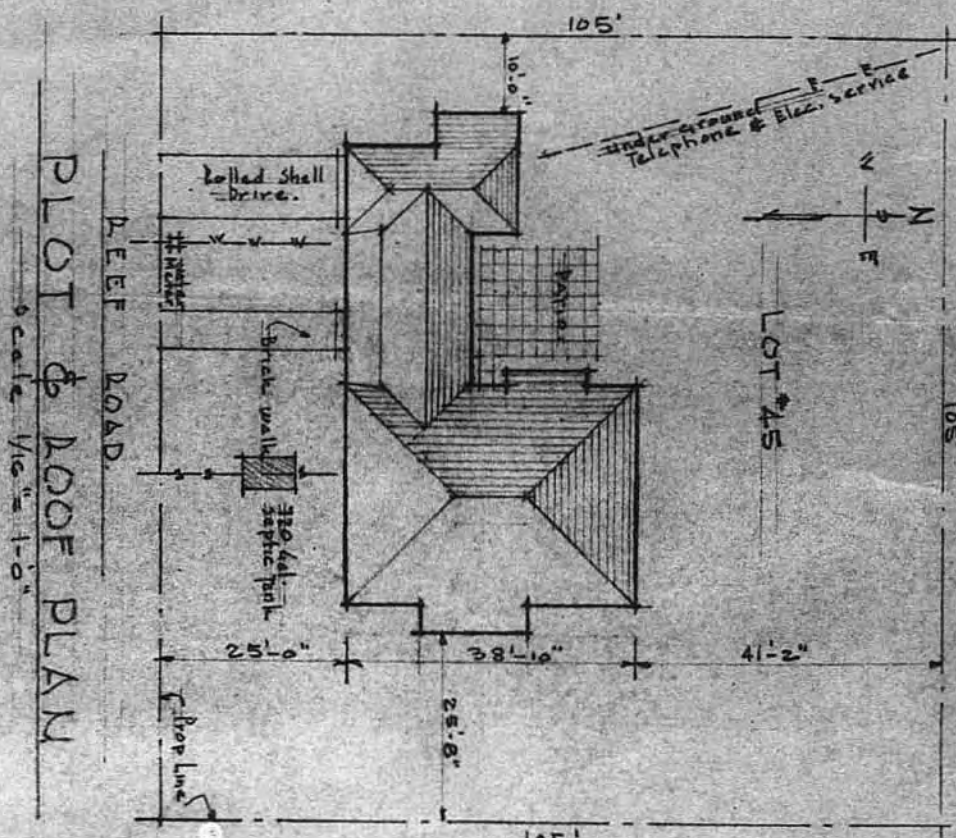
file 45
148 Reg
Forrest C. Howard

$$\text{Scale } 1/4'' = 1'0''$$


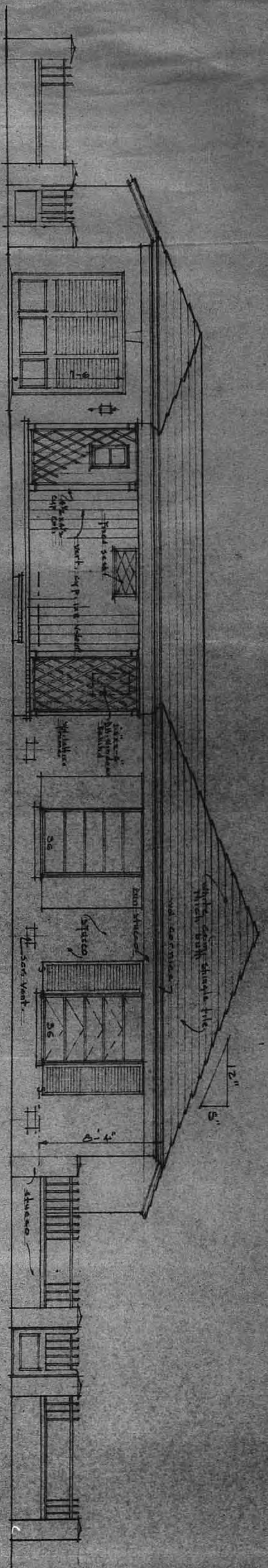
Typical FDOTING SECTION



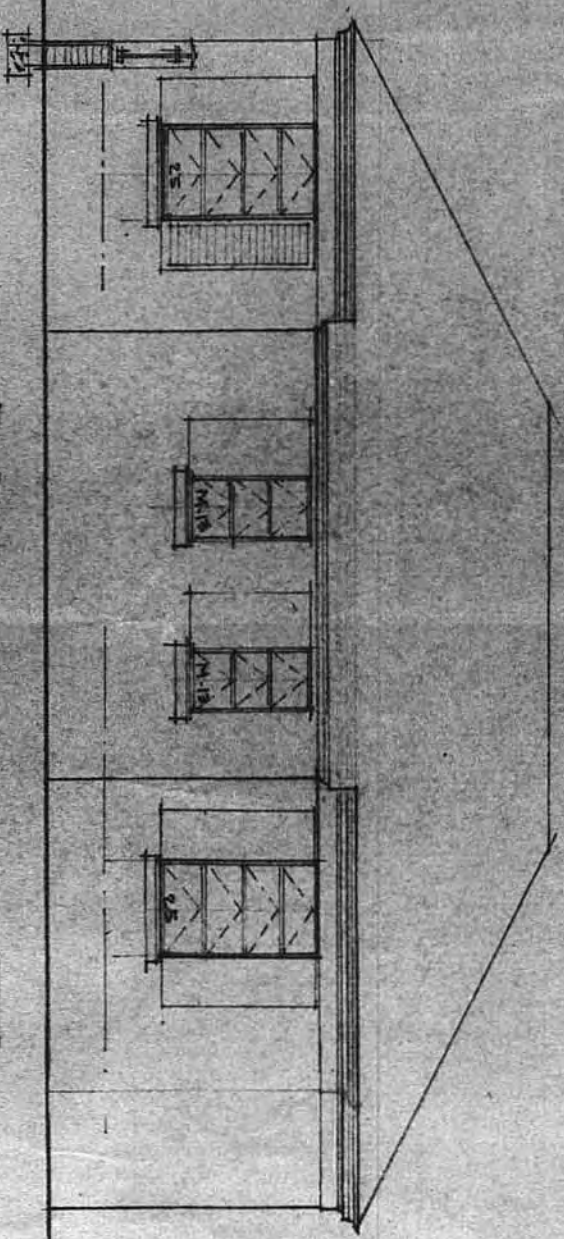
PLOT & ROOF PLAN



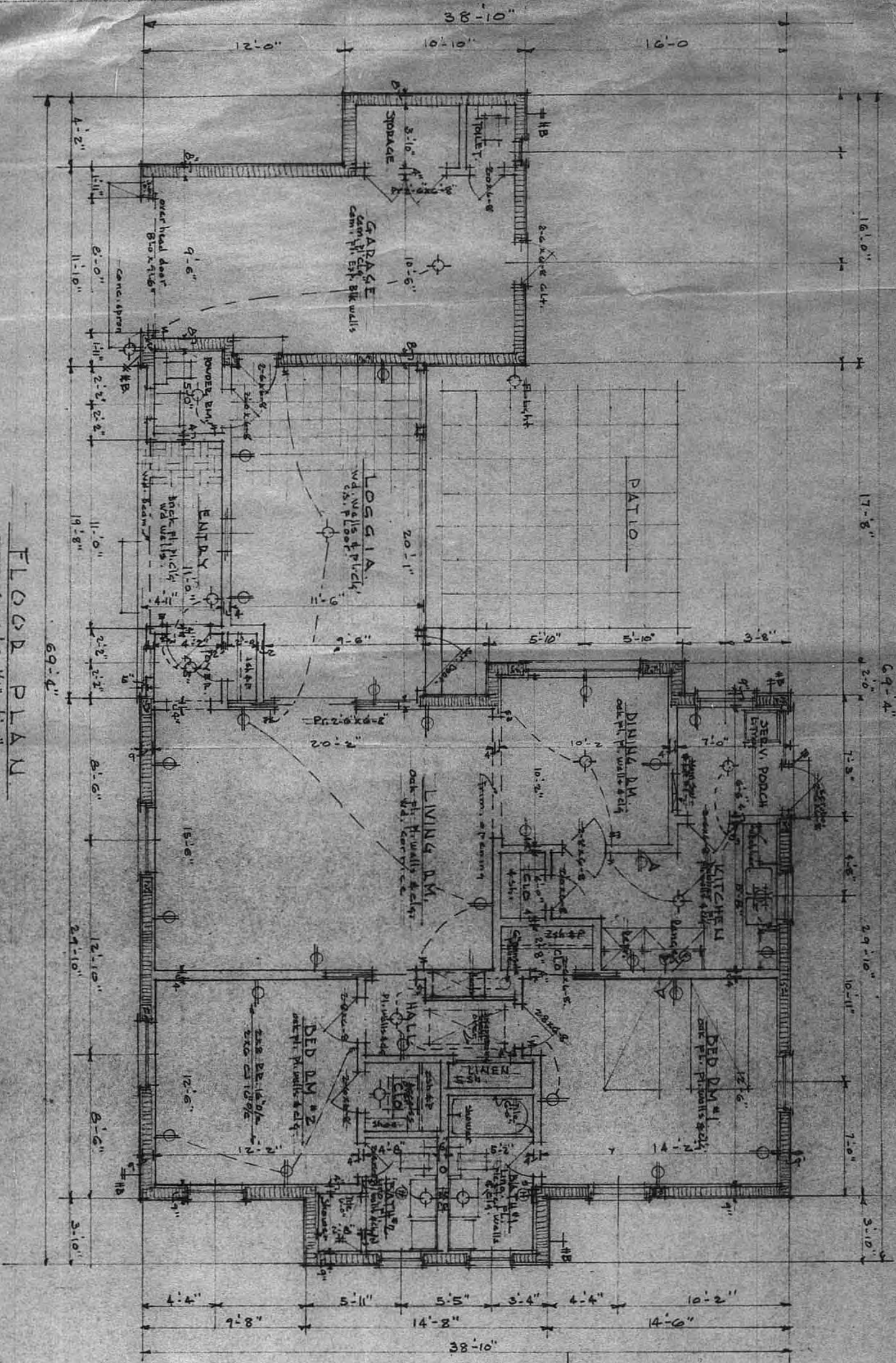
FOUNDATION & PLOT PLAN		DATE	NO.
CHANGED	REVISED	2422	24 JUN 55
HOUSE #2 FOR E. L. DODDY JR. DEEP BEACH LOT #45 P.L.M.			
DRAWN BY P	CHECKED P		
ARCHITECT	CALER AND PLOCKELMAN DAVE BEACH, FLA.	1	



SOUTH ELEVATION



EAST ELEVATION



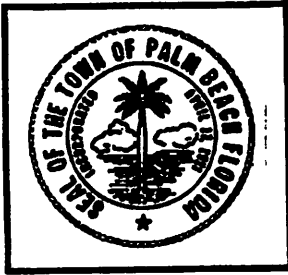
FLOOR PLAN

Scale 1/4" = 1'-0"

FLOOR PLAN & ELEVATIONS			
HOUSE #2 FOR	242	29 JUN 51	2
MR. RODDY JR.			
1000 S. BAY			
LOT #5			
ARCHITECT	CAIR AND PLOCKMAN		

5

417



**ZONING APPLICATION
TOWN OF PALM BEACH**

Variance # 11-2011

(Zoning Case Number)

This application includes requests for:

- ☐ Site Plan Review
☐ Special Exception
☒ Variance

TO BE HEARD BY THE TOWN COUNCIL ON JULY 13, 2011, AFTER 9:30 A.M., IN THE TOWN OF PALM BEACH COUNCIL CHAMBERS, LOCATED ON THE 2ND FLOOR, 360 SO. COUNTY ROAD, PALM BEACH. Pursuant to the Town Zoning Code of Ordinances, Sections 134-172 (Special Exceptions and Variances) and/or 134-328 (Site Plan Review), this application is being sent to all property owners within 300' of the location of the subject zoning application. A copy of this application along with all exhibits such as large drawings and other supporting documents that are not attached to this application are available for inspection at the Town's Planning, Zoning & Building Department, 360 S. County Rd., south entrance, weekdays between the hours of 8:30 a.m. and 4:30 p.m.

All interested persons may appear and be heard at said Public Hearing and may likewise submit written statements prior to and at said Public Hearing. If any person decides to appeal any decision made by the Town Council with respect to this matter, he/she will need to ensure that a verbatim record of the proceeding is made which record includes the testimony and evidence upon which the appeal is to be based.

I. **Subject Address:** 143 Reef Road

Zoning District R-B

Fee Simple Property Owner's Name: David and Sarah Hrudá

Legal Description: Lot 45 of NORTH SHORE ADDITION TO PALM BEACH, according to the Plat thereof as recorded in Plat Book 20, Page 62, of the Public Records of Palm Beach County, Florida.

Name and address of person who can receive service of process for purposes of litigation in Palm Beach County: Maura Ziska, Esquire, 222 Lakeview Avenue, Suite 1500, West Palm Beach, FL 33401

II. **DESCRIPTION OF THE REQUEST TO BE HEARD BY TOWN COUNCIL, citing applicable Town Zoning Code Section Number(s):**

A. **Applicable Zoning Code Section Number(s):**

1. **Section 134-201 Findings Prior to Authorization.**
2. **Section 134-893 (7) Side yard.**
3. **Section 134-893 (6) Angle of Vision.**

RECEIVED

MAY 20 2011

**TOWN OF PALM BEACH
PZB DEPT**

EXHIBIT C

Variance # 11-2011
Zoning Case Number

B. Description of request by Zoning Section Number(s):

A request for a variance to construct a two car garage with (i) a 6.25 foot west side yard setback in lieu of the 12.5 feet required in the R-B Zoning District; and (ii) an angle of vision of 112 degrees in lieu of the 100 degrees allowed in the R-B Zoning District.

III. APPLICATIONS CONTAINING VARIANCES

If the application contains requests for variances, please respond to the questions below, and complete Exhibit A (Findings for authorizing a variance as stated in the Town's Zoning Code at Section 134-201).

- a. Applicant should provide a brief description of the special conditions which when subjected to a literal enforcement of the provisions of the zoning ordinance will result in unnecessary and undue **HARDSHIP**. This explanation should be a summary of information provided in Exhibit A.**

The hardship, which runs with the land, is that the residence was built without a garage and the zoning code has changed since that time requiring a two-car garage for single family residence construction. The applicant would like to make their house conforming and provide a place for their automobiles and recreational equipment and vehicles. Because of the existing configuration of the house, the only location for the garage is on the west side of the house and would slightly encroach into the setback.

- b. Applicant should address how granting of a variance for these special conditions will not be contrary to the public's interest.**

The granting of the variance will not be contrary to the public's interest as the proposed garage will shield the cars and bikes from the street where they are currently out in plain view.

IV. SITE HISTORY

Please provide a detailed history in chronological order of all zoning-related requests processed on or after January 1, 1970 applicable to this property.

None.

Respectfully submitted,



Applicant's Signature

Maura A. Ziska, Atty. For David and Sarah Hruda
(561) 802-8960
(Typed name & telephone #)



Fee Simple Property Owner's Signature
(or his/her duly authorized attorney)

Maura A. Ziska, Atty. for David and Sarah Hruda
(561) 802-8960
(Typed name & telephone #)

EXHIBIT A - REQUEST FOR VARIANCE

CRITERIA FOR AUTHORIZING A VARIANCE

The Town Council must find the application in conformance with a number of criteria. Please address each of the criteria completely in order to provide the Council with sufficient information to make a determination on your application.

1. List the special conditions and circumstances peculiar to the land, structure or building which are not applicable to other lands, structures or buildings in the same zoning district.

The existing house is nonconforming to today's code by not having a two car garage. Although it is grandfathered, the Applicant would like to have a two car garage to park their cars and store their bicycles.

2. Indicate how the special conditions and circumstances do not result from the actions of the applicant.

The applicant was not the cause of the special conditions of the property or residence as the non-conformity of not having a garage existed prior to the applicant owning the property.

3. Demonstrate that the granting of the variance will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings or structures in the same zoning district.

The granting of the variance will not confer on the applicant a special privilege that is denied to the neighboring properties as many properties and residences in the area have garages and non-conforming setbacks as the residences were built before the current zoning restrictions were in place.

4. Demonstrate how literal interpretation of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.

The hardship, which runs with the land, is that the residence was built without a garage and the zoning code has changed since that time requiring a two-car garage for single family residence construction. The applicant would like to make their house conforming and provide a place for their automobiles and recreational equipment and vehicles. Because of the existing configuration of the house, the only location for the garage is on the west side of the house and would slightly encroach into the setback.

5. Demonstrate that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

Since the structure will be covering an existing driveway and not greenspace, it will not be detrimental to the landscaping or drainage. The non-conforming setback is minimal for a one story structure that is screened from the neighbor with landscaping.

6. Show how the granting of the variance will be in harmony with the general intent and purpose of this chapter, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

The granting of the variances will be in harmony with the general intent and purpose of this ordinance and will not be injurious to the neighborhood since the current code would require a two car garage and it will improve the aesthetics of the site.

EXHIBIT "B"

PARKING STATEMENT

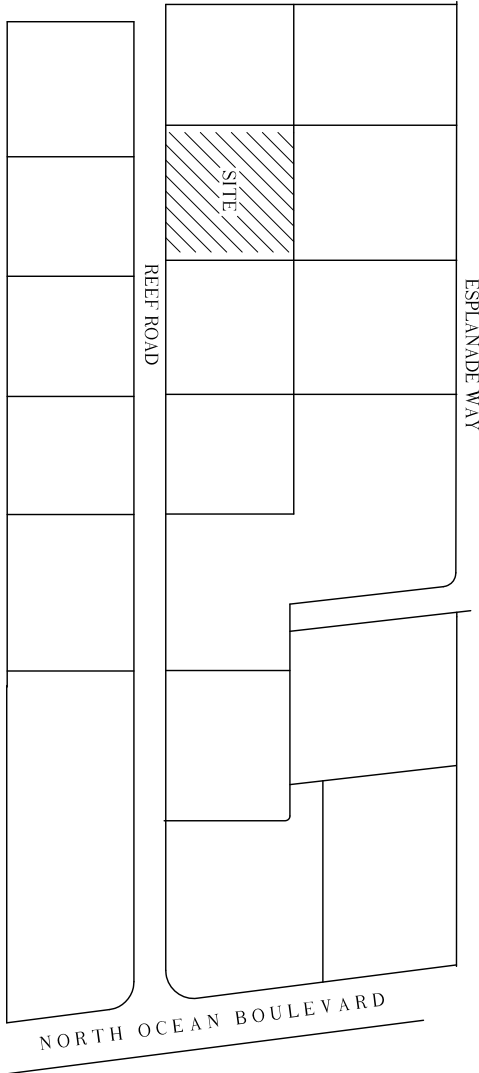
143 Reef Road

Variance #11-2011

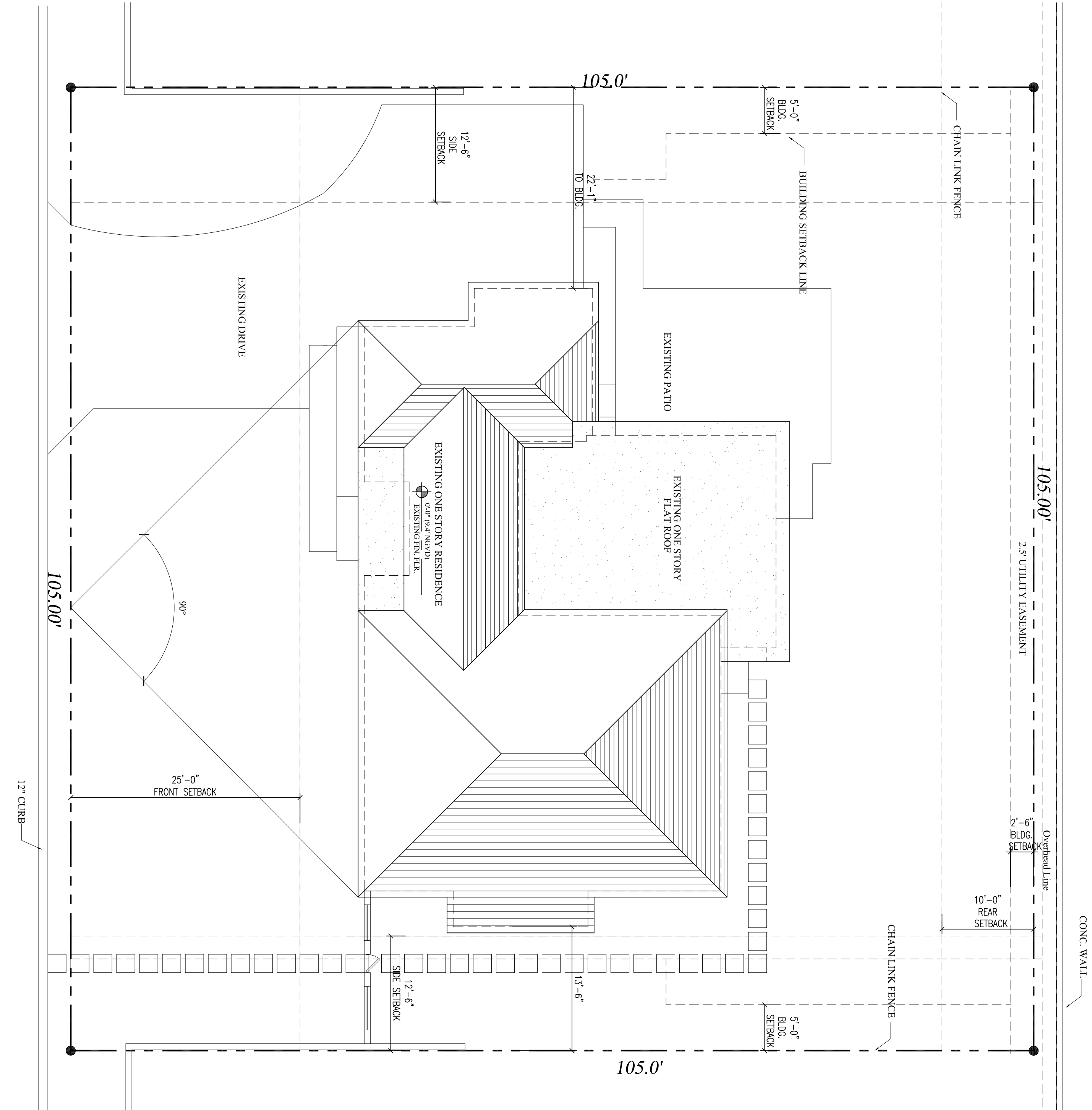
All construction vehicles will either park on the property or permitted parking on the right of way as allowed by the town.

SITE DATA	
SITE CALCULATIONS	R-8
SITE AREA	11,025 SQ. FT.
LOT COVERAGE	2,427 SQ. FT.
BUILDING FOOTPRINT	2,427 SQ. FT.
LANDSCAPE AREA	6,712 SQ. FT.
DRIVE, DECK AND OTHER IMPERVIOUS AREAS	1,368 SQ. FT.
TOTAL	11,025 SQ. FT.
FLOOR AREA	EXISTING
TOTAL A/C	2,427 SQ. FT.
CUBIC CONTENT RATIO	2.17 EXISTING
CR - MAX (exclusive dimensions) / w (to size)	3.97 ALLOWED
BUILDING HEIGHT	9'0"
ANGLE OF VISION	90°
CROWN OF ROAD - 7.73' NGVD	(applicable to R-8, R-8.5 and R-8.5A zoning districts only)

SITE CALCULATIONS- RB Zoning District	
REQUIREMENTS	REQUIRED
LOT AREA	MIN. 10,000 SF
LOT WIDTH	100 FT
LOT DEPTH	100 FT
FRONT YARD SETBACK	25' @ 1-STORY
ANGLE OF VISION	90 DEG.
SIDE YARD SETBACK	12.5' @ 1-STORY
REAR YARD SETBACK	10' @ 1-STORY
BUILDING HEIGHT	14.0' @ BOTTL/TOP CHORD
LOT COVERAGE	40% MAX. 1-STORY
LANDSCAPED OPEN SPACE	45% MIN. (4,981 SF)
LANDSCAPED FRONT YARD	40% MIN.



LOCATION MAP

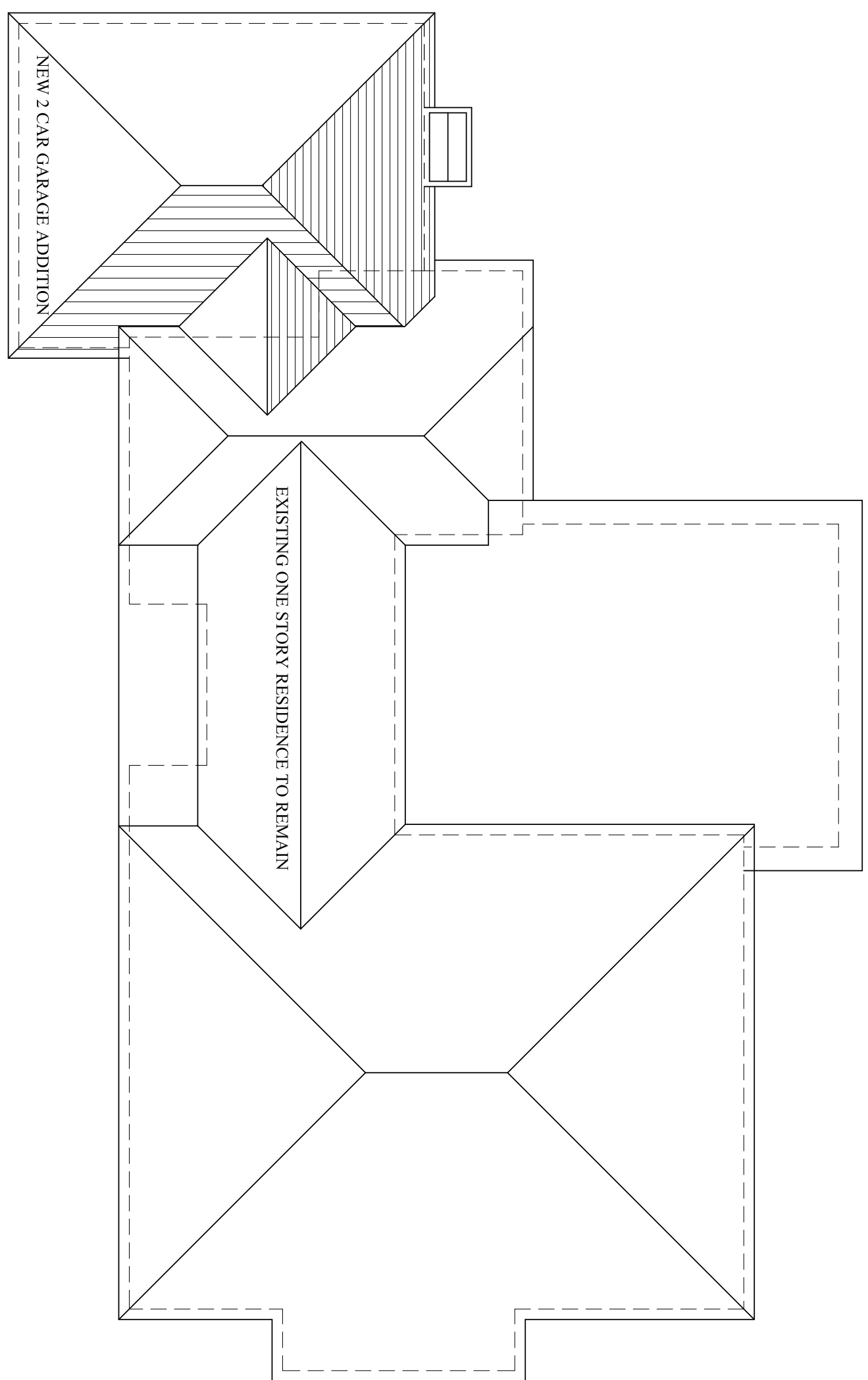


PROPOSED GARAGE ADDITION FOR
HRUDA RESIDENCE
143 REEF ROAD
PALM BEACH, FLORIDA 33480

A. A. # 001345
A. R. # 10,181

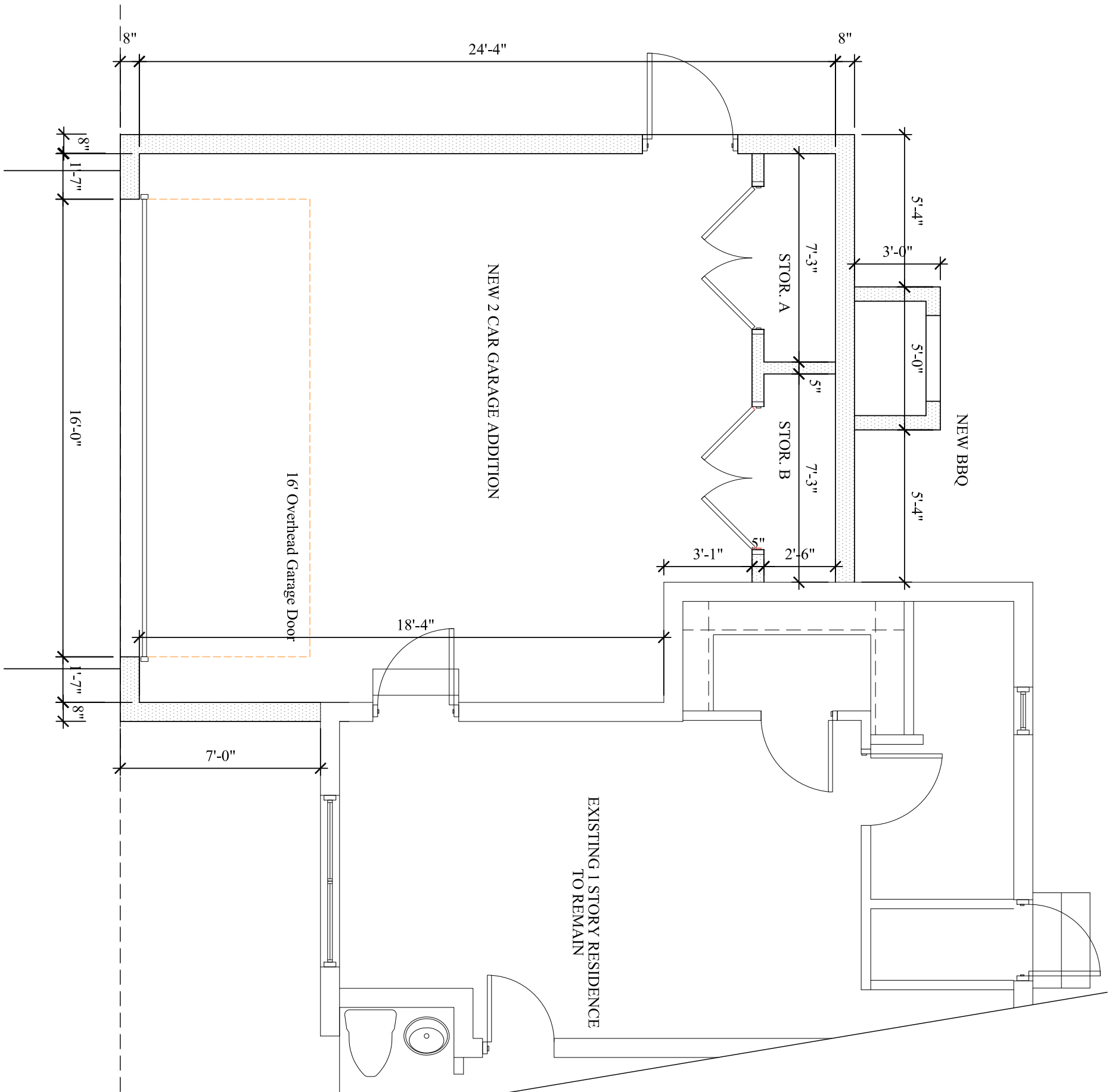
REVISIONS:

REVISIONS:



PROPOSED ROOF PLAN

SCALE: 1/8"=1'-0"

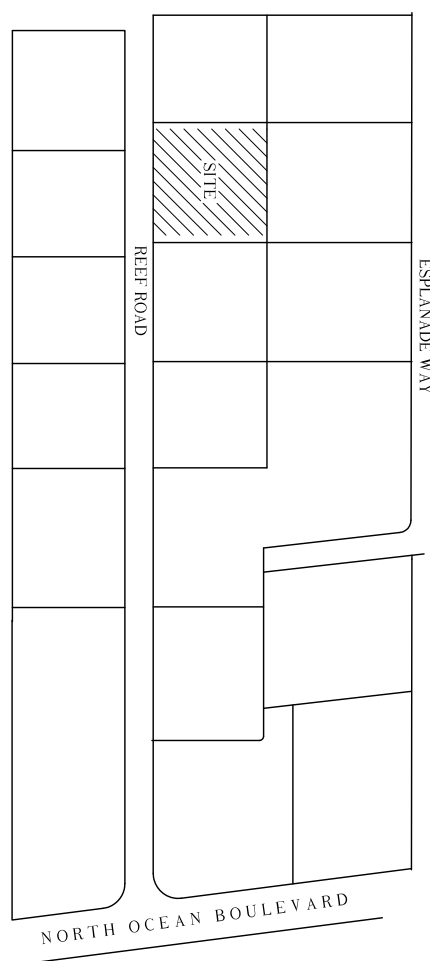


PROPOSED GARAGE ADDITION

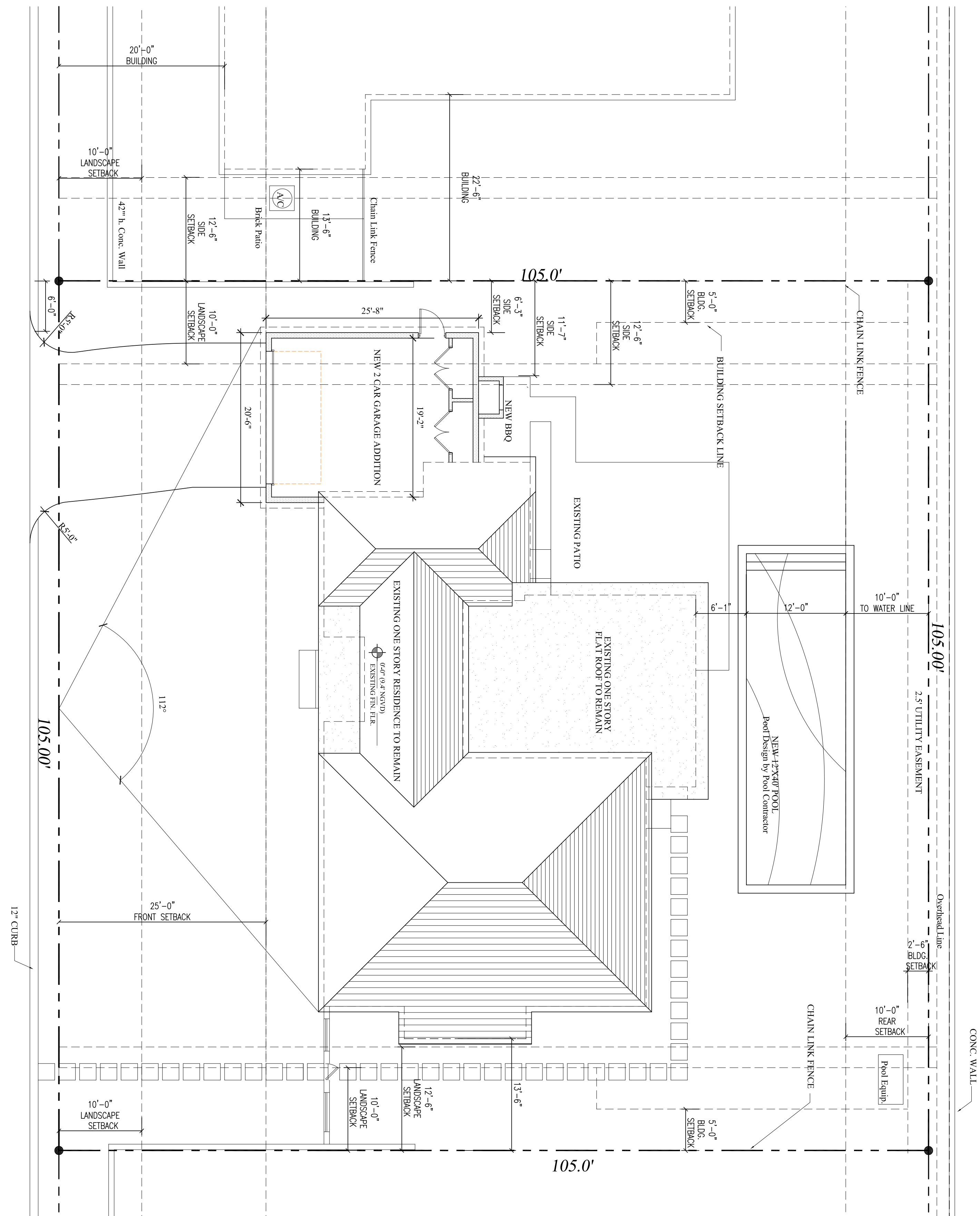
SCALE: 1/4"=1'-0"

SITE DATA			
SITE CALCULATIONS			
R#8			
SITE AREA	11,025 SQ. FT.		
LOT COVERAGE	29.78% SQ. FT.	27%	
BUILDING FOOTPRINT	2,978 SQ. FT.	27%	
LANDSCAPE AREA	6,497 SQ. FT.	59%	
PERCENT COVERED	1,549 SQ. FT.	14%	
SUPERVISION AREAS			
TOTAL	11,025 SQ. FT.	100.0%	
FLOOR AREA RATIO	EXISTING	NEW	
TOTAL, A.C.	2.475 SQ. FT.		
GARAGE ADDITION/FLOOR AREA		90 SQ. FT.	
CURB, CONCRETE RATIO	2.39 SQ. NEW	3.97' ALLOWED	
(curb area in feet x dimensions) / (in feet) (in feet)			
BUILDING VOLUME	997' Cubic Yards		
ANGLE OF VISION	100' New		
CROWN OF ROAD, 7.75' NORTH West Side			

SITE CALCULATIONS- RB Zoning District			
REQUIREMENTS	REQUIRED	EXISTING	
LOT AREA	MIN. 10,000 SF	11,025 SF	
LOT WIDTH	100 FT	105 FT	
LOT DEPTH	100 FT	105 FT	
FRONT YARD SETBACK	25' ± 1-STORY 30' ± 2-STORY	25' ± 1-STORY	
ANGLE OF VISION	100 DEG.	90 DEG. EXISTING 112 DEG. NEW	
SIDE YARD SETBACK	12.5' ± 1-STORY 15.0' ± 2-STORY	13'-6" ± 1-STORY EAST 6'-3" ± 1-STORY WEST	
REAR YARD SETBACK	10' ± 1-STORY 10' ± 2-STORY	10'-0" ± 1-STORY	
BUILDING HEIGHT	14.0' ± 1-STORY 22.0' ± BOTTL./TOP CHORD	9'-8" ± BOTTL./TOP CHORD	
LOT COVERAGE	40% MAX. 1-STORY 30% MAX. 2-STORY	27%	
LANDSCAPED OPEN SPACE	45% MIN. (4.96% ±)	50%	
LANDSCAPED FRONT YARD	40% MIN.	81.1%	
10' PERIMETER LANDSCAPE	50% MIN. (2.48% ±)	3.61% ± SOFT.	



LOCATION MAP



PROPOSED SITE PLAN

VAR 11-2011 143 REEF ROAD
Scale: 1/8" = 1'-0"

A. A. # 001345
A. R. # 10,181

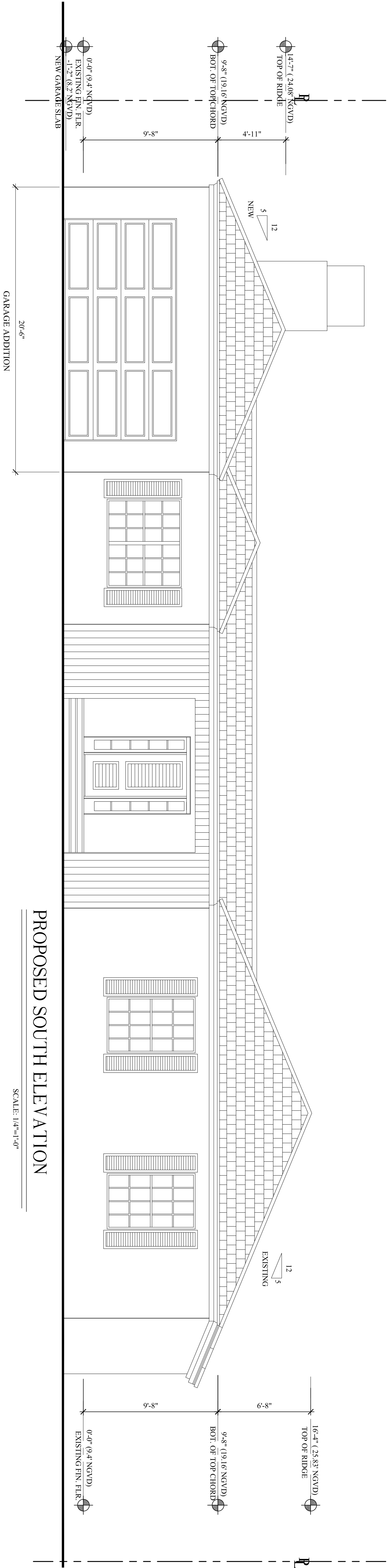
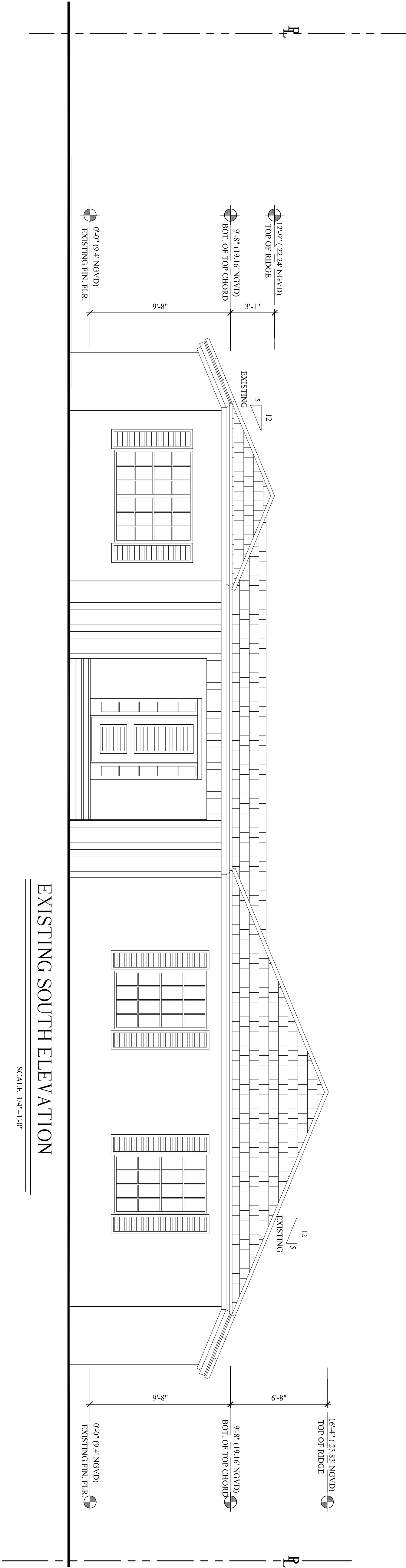
PROPOSED GARAGE ADDITION FOR HRUDA RESIDENCE

143 REEF ROAD
PALM BEACH, FLORIDA 33480

SKA
SKA ARCHITECT + PLANNER

OFFICE (561) 655-1116 FAX (561) 832-7828
324 ROYAL PALM WAY, SUITE 211, PALM BEACH, FL 33408

251 of 456



EXTERIOR ELEVATIONS

VAR 11-2011 143 REEF ROAD
Scale: 1/4" = 1'-0"

SHEET NUMBER: A-1	
DATE: 05/19/11	JOB # 00000

REVISIONS:	
△	
△	
△	
△	

A. A. # 001345	
A. R. # 10,181	

PROPOSED GARAGE ADDITION FOR
HRUDA RESIDENCE
143 REEF ROAD
PALM BEACH, FLORIDA 33480

SKA
SKA ARCHITECT + PLANNER
OFFICE (561) 655-1116 FAX (561) 832-7828
324 ROYAL PALM WAY, SUITE 211, PALM BEACH, FL. 33408
252 of 456

PROPOSED GARAGE ADDITION FOR

HRUDA RESIDENCE

143 REEF ROAD

PALM BEACH, FLORIDA 33480

A. A. # 001345

A. R. # 10.181

REVISIONS:

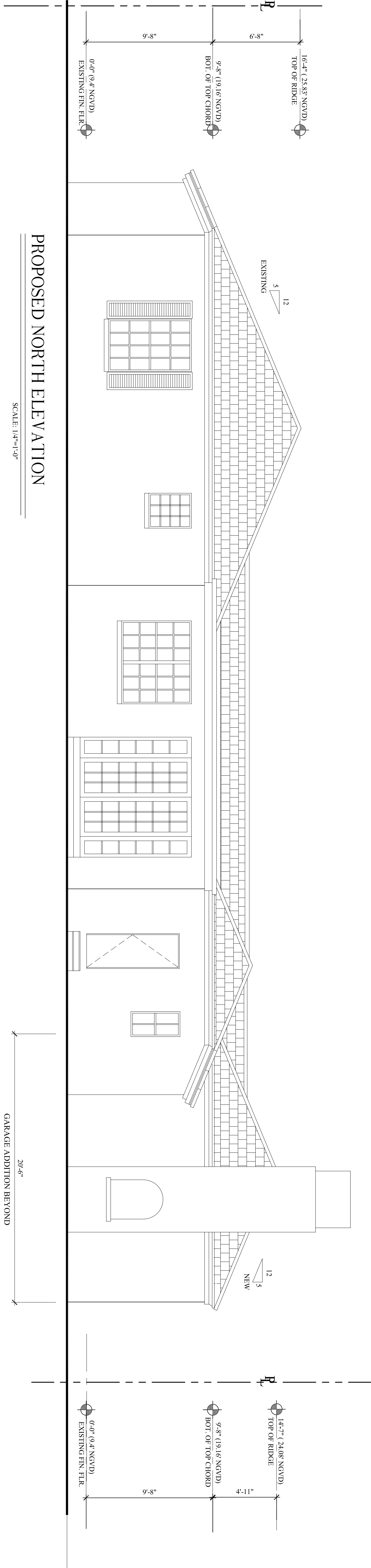
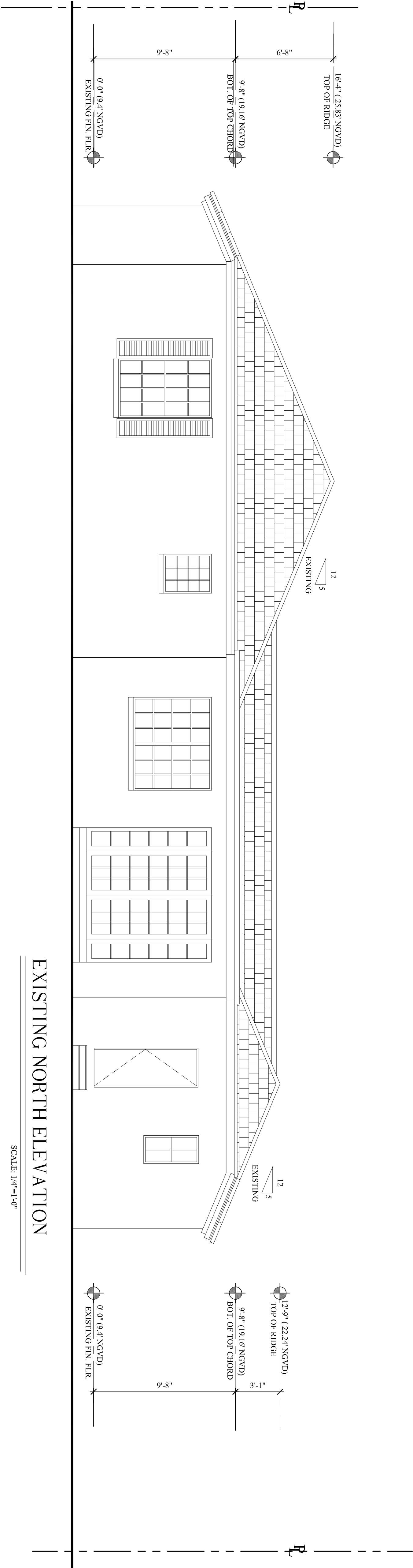
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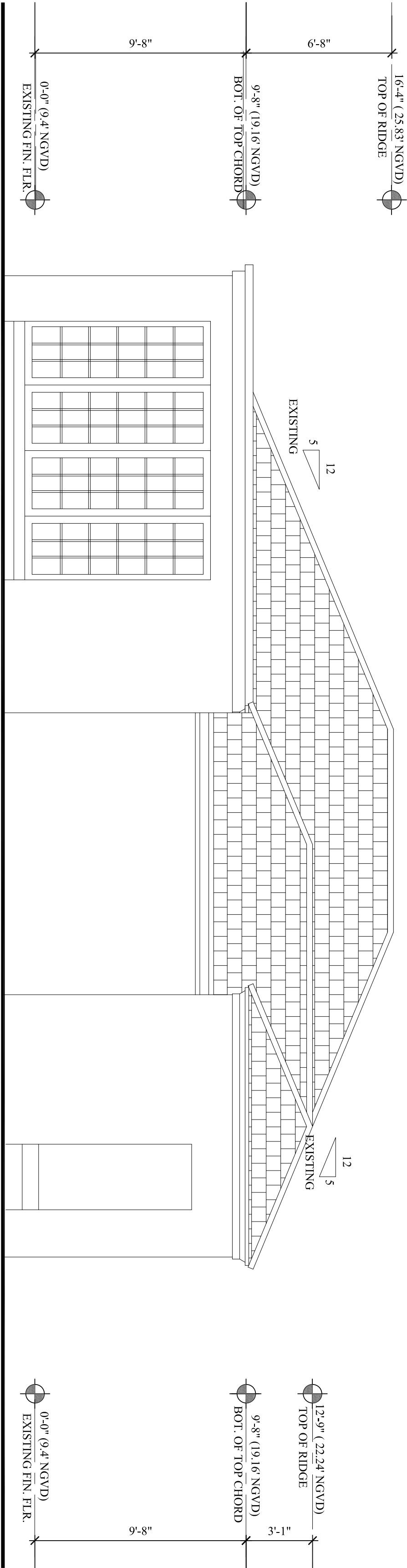
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SHEET NUMBER:	A-2
DATE:	05/19/11
JOB #	00000

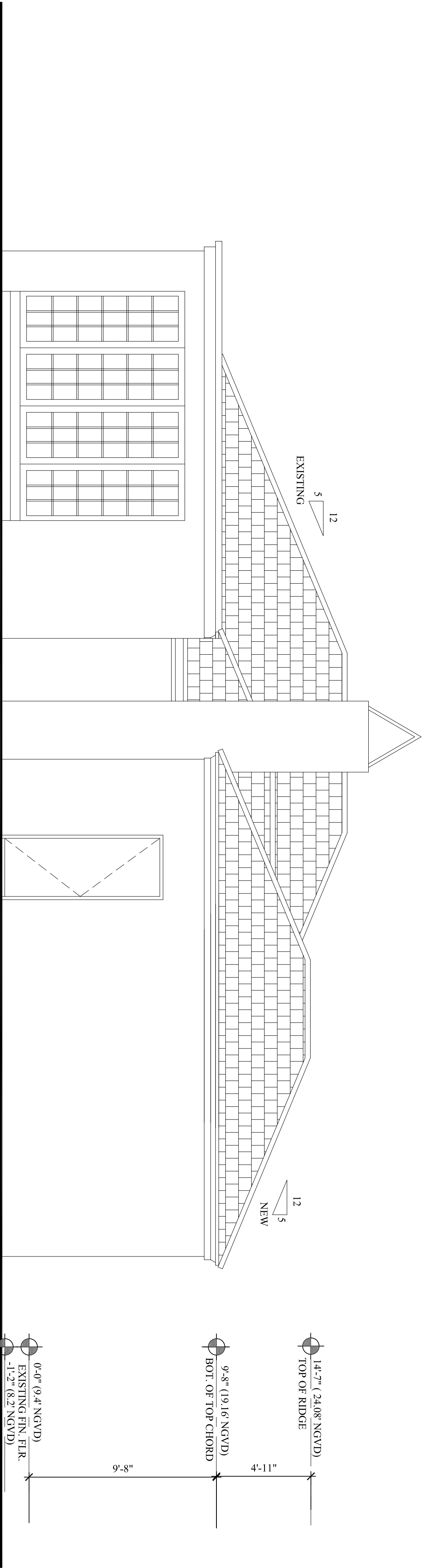


EXTERIOR ELEVATIONS



EXISTING WEST ELEVATION

SCALE: 1/4"=1'-0"



PROPOSED WEST ELEVATION

SCALE: 1/4"=1'-0"

GARAGE ADDITION

EXTERIOR ELEVATIONS

VAR 11-2011 143 REEF ROAD

Scale: 1/4" = 1'-0"

A. A. # 001345 A. R. # 10,181	
REVISIONS:	
A-3	
DATE:	05/19/11
JOB #	00000

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

340 ROYAL POINCIANA WAY, SUITE 321

POST OFFICE BOX 431

PALM BEACH, FLORIDA 33480-0431

(561) 659-1770

FACSIMILE (561) 833-2261

DOYLE ROGERS
ALAN LINDSAY
PAUL B. ERICKSON
DAVID H. BAKER
WILLIAM W. ATTERBURY III
LOUIS L. HAMBY III
ROBB R. MAASS
M. TIMOTHY HANLON
WARREN D. HAYES, SR.
STUART J. HAFT
BRUCE A. McALLISTER

RAYMOND C. ALLEY (1893-1975)
HAROLD G. MAASS (1923-2006)
DWIGHT A. MILLER (1945-2010)
KAREN S. MARX (1964-1994)

EDWARD D. LEWIS (OF COUNSEL)

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

July 8, 2011

**VIA E-MAIL &
REGULAR MAIL**

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

RECEIVED

By MORAKIS at 4:11 pm, Jul 08, 2011

**Re: Variance #11-2011
143 Reef Road**

Dear Mayor Coniglio and Members of Town Council:

This firm has been retained to represent Mrs. Gayle Petersen, who lives at 151 Reef Road. Mrs. Petersen lives immediately west of the property located at 143 Reef Road, which is the subject of Variance Application #11-2011 to be considered by you at your June 13, 2011 meeting.

Mrs. Petersen vehemently objects to the application because her bedroom is located at the point on her property closest to the proposed construction of the two car garage. Mrs. Petersen has suffered from sleep deprivation for the last several years due to the long term illness of her husband Raymond, and both the construction and completed garage would cause further noise and interruption to her attempts to sleep and could result in additional negative health issues.

Legally, there is no legal hardship presented in the application or applicable to this property. This lot is very similar to most of the other properties on Reef Road, and the owners were certainly aware (or should have been aware) of these size limitations when they purchased the property. In addition, a reasonable use of the property already exists and under applicable case law no variance should be granted. Mrs. Ziska acknowledges that no garage is currently required because the property is "grandfathered." Furthermore, the application states that the applicant "would like" a two car garage, but no hardship exists and a reasonable use of the property has existed for numerous years.

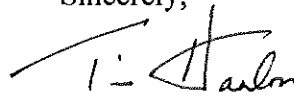
In addition, it is odd that Mrs. Petersen was approached by Sean Heiniger, a former owner of this property (he deeded the property to the Hrudas in 2004), who requested Mrs. Petersen's consent to the variance to accommodate Mr. Heiniger and his children. Mr. Heiniger is neither the property owner nor the applicant, and we respectfully request that you inquire about this inconsistency.

Interestingly, Mrs. Ziska represented Mrs. Petersen in her purchase of 151 Reef Road and she appears to have a conflict of interest in this matter.

For all of the reasons described above, on behalf of Mrs. Petersen, we respectfully request that you deny Variance Application #11-2011.

If you have any questions, do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Timothy Hanlon". The signature is stylized with a large, sweeping initial "M" and a cursive "H".

M. Timothy Hanlon

MTH/cmm

cc: Mrs. Gayle Petersen

From: Anne metzger <amet44@aol.com>
Subject: **143 Reef Road**
Date: July 8, 2011 7:57:31 AM EDT
To: annegm44@gmail.com
Cc: Anne metzger <amet44@aol.com>, Bill Metzger <JWMETZGER@aol.com>



July 8th, 2001

To the Members of the Town Council:

We live at 277 Esplanade Way and were noticed about the proposed changes to the house at 143 Reef Road, which is in our neighborhood. The requested variance would allow the standard 12.5-foot setback to be reduced by 50%, resulting in a 6.25-foot setback. We believe this would be *too narrow* a set back and would compromise privacy in the neighborhood. Additionally, we are concerned about the precedent that might be established by allowing structures to be built so close to adjoining neighbors' property.

Thank you,

Anne Metzger
Bill Metzger

Anne and Bill Metzger

RECEIVED
JUL - 8 2011
TOWN OF PALM BEACH
PZB DEPT

July 1, 2011

RECEIVED ^{PF}

JUL - 6 2011

TOWN OF PALM BEACH
PZB DEPT

Town of Palm Beach

Zoning & Building Department

360 S. County Road

Palm Beach, Florida 33480

Re: 143 Reef Road *Variance # 11-2011*

To Whom it May Concern:

We have been residents of 144 Reef Road for 16 years, the home directly across the street from 143 Reef. We both have also been residents of the town of Palm Beach for 50 years, our entire lives. We are submitting this notice to preserve the ambiance on the north end. Reef Road is a quiet street with an Island appeal. Most of the residents like it that way and moved here because they hope to keep it this way. We understand a petition to build a two car garage has been filed. Our concerns are as follows:

The house is being rented and they are not the owners.

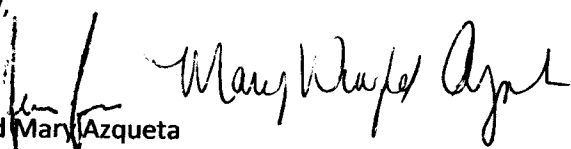
Why do they have to expand to a garage that is so large, the house originally had a one car garage.

The disruption to the safety of the families on the street and the disturbance of peace is overwhelming.

It would seem that the appropriate size garage for this street would be a one car garage, considering the size of the home and property, fitting in with the rest of the street, and the north end.

Thank you for your consideration in this matter.

Sincerely,


Jesse and Mary Azqueta

Paul Gingras, DMD
153 Reef Road
Palm Beach, FL 33480

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

30 June 2011

Dear Members of the Town Council:

My wife and I live at 153 Reef Road and we received a notice of a request for a zoning variance for a property located at 143 Reef Road. We have three concerns regarding the request.

1. The application lists the property owners as David and Sarah Hruda. We are not sure Mr. and Mrs. Hruda own the property. We have been repeatedly told that someone else owns the property. The Town needs to determine who the owners are before proceeding with the application.
2. Under Exhibit A- Request For Variance, item 4, the applicant states that the residence was built without a garage. This house was originally built with a one car garage. This garage was later converted to a living space by a previous owner. A check with the Building Department will confirm this.
3. The addition of a two car garage would reduce the normal side yard setback by half which would change the appearance of the residence by reducing the greenspace surrounding it. This would set a bad precedent for the R-B zoning in this neighborhood. A one car garage addition would impose less on the normal setback.

We are opposed to a two car garage addition and we are not opposed to a one car garage addition.

Sincerely,

Paul and Sally Gingras

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

July 11, 2011

VIA FACSIMILE: 561-835-4621

RECEIVED

By Deborah A. Morakis at 5:09 pm, Jul 11, 2011

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

RE: Variance #11/2011/ 143 Reef Road, Palm Beach

Dear Mayor and Town Council:

On behalf of the property owner, I would like to request a deferral of the above-referenced matter from the July 13, 2011 until the August 10, 2011 Town Council meeting. The reason for the deferral is so the applicant can have time to work out issues with the neighbors.

Please call me if you have any questions or comments with the foregoing. Thank you.

Sincerely yours,


Maura A. Ziska

MAZ/mr

cc: Paul Castro

00011258

EXHIBIT F

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, *Counsel**

*Also admitted in New York

*Also admitted in Michigan

Esperanté

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

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

VIA FACSIMILE: 561-835-4621

July 21, 2011

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

RE: Variance #11-2011/249/143 Reef Road, Palm Beach

Dear Mayor and Town Council:

Please **withdraw** the above referenced matter from the August 10, 2011 Town Council agenda. Please call me if you have any questions or comments with the foregoing. Thank you.

Sincerely yours,



Maura A. Ziska

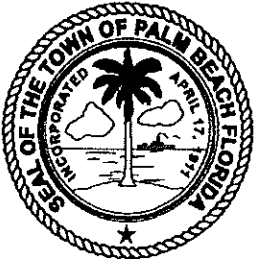
MAZ/mr

cc: Paul Castro

Pat Seagraves

00011412

EXHIBIT G



TOWN OF PALM BEACH

Planning, Zoning & Building Department

July 25, 2011

Ms. Maura Ziska, Esq.
222 Lakeview Avenue
Suite 1500
West Palm Beach, FL 33401

Subject: Variance #11-2011, 143 Reef Road

Dear Ms. Ziska:

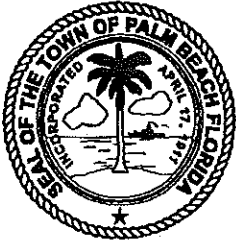
The Town Council, at its July 13, 2011 meeting, deferred the subject application at your client's request. The Town has subsequently received your client's request to withdraw the subject application. The Town Council will consider that request at the August 10, 2011 Council meeting.

If you have any questions, please feel free to contact me at 227-6406,

Sincerely,

Paul Castro, AICP
Zoning Administrator

cc: John S. Page, Director, Planning, Zoning & Building
Jeff Taylor, Building Official
John Lindgren, Planning Administrator
zf & pf



TOWN OF PALM BEACH

Planning, Zoning & Building Department

August 23, 2011

Ms. Maura Ziaska, Esq.
222 Lakeview Avenue
Suite 1500
West Palm Beach, FL 33401

Subject: Variance #11-2011, 143 Reef Road

Dear Ms. Ziaska:

The Town Council, at its August 10, 2011 meeting, accepted your client's request to withdraw the subject application. If you have any questions, please feel free to contact me at 227-6406.

Sincerely,

Paul Castro, AICP
Zoning Administrator

cc: John S. Page, Director, Planning, Zoning & Building
Jeff Taylor, Building Official
John Lindgren, Planning Administrator
zf & pf

ZONING APPLICATION
TOWN OF PALM BEACH



Z-20-00269
(Zoning Case Number)

This application includes requests for:

- ☐ Site Plan Review
- ☐ Special Exception
- ☒ Variance

TO BE HEARD BY THE TOWN COUNCIL ON SEPTEMBER 9, 2020 AFTER 9:30 A.M., IN THE TOWN OF PALM BEACH COUNCIL CHAMBERS LOCATED ON THE 2ND FLOOR, 360 SO. COUNTY ROAD, PALM BEACH. Pursuant to the Town Zoning Code of Ordinances, Sections 134-172 (Special Exceptions and Variances) and/or 134-328 (Site Plan Review), this application is being sent to all property owners within 300' of the location of the subject zoning application. A copy of this application along with all exhibits such as large drawings and other supporting documents that are not attached to this application are available for inspection at the Town's Planning, Zoning & Building Department, 360 S. County Rd., east entrance, weekdays between the hours of 8:30 a.m. and 4:30 p.m.

All interested persons may appear and be heard at said Public Hearing and may likewise submit written statements prior to and at said Public Hearing. If any person decides to appeal any decision made by the Town Council with respect to this matter, he/she will need to ensure that a verbatim record of the proceeding is made which record includes the testimony and evidence upon which the appeal is to be based.

I. SUBJECT ADDRESS: 143 Reef Road Zoning District: R-B

Fee Simple Property Owner's Name: John K. Criddle

Legal Description: Lot 45, Plat of North Shore Addition to Palm Beach, according to the Plat thereof, recorded in Plat Book 20, Page 63, as recorded in Public Records in and for Palm Beach County, Florida.

Name and address of person who can receive service of process for purposes of litigation in Palm Beach County: Maura Ziska, Esq. 222 Lakeview Ave, Suite 1500 West Palm Beach, FL 33401

Applicant Name: John Criddle and Franny Frisbie

Contact phone: c/o Maura Ziska 561-802-8960

II. **DESCRIPTION OF THE REQUEST TO BE HEARD BY TOWN COUNCIL, citing applicable Town Zoning Code Section Number(s):**

A. Applicable Zoning Code Section Number(s):

1. Section 134-201. Findings prior to authorization.
2. Section 134-893. Lot, yard and area requirements – Generally. (7) Side yard; and (6) Angle of Vision.

Z-20-00269

Zoning Case Number

B. Description of request by Zoning Section Number(s):

The applicant is proposing to construct a new 597 square foot one story garage to the west of the existing residence. The following variances are being requested:

- 1. Section 134-893(7): The applicant is requesting a variance for a west side yard setback of 5 feet in lieu of the 12.5 foot minimum required for a one story building.**
- 2. Section 134-893(6): The applicant is requesting a variance for an angle of vision of 105 degrees in lieu of the 100 degrees maximum allowed.**

III. **APPLICATIONS CONTAINING VARIANCES**

If the application contains requests for variances, please respond to the questions below, and complete **Exhibit A** (Findings for authorizing a variance as stated in the Town's Zoning Code at Section 134-201).

a. Applicant should provide a brief description of the special conditions which when subjected to a literal enforcement of the provisions of the zoning ordinance will result in unnecessary and undue **HARDSHIP**. This explanation should be a summary of information provided in Exhibit A.

The hardship, which runs with the land, is that the residence was built without a garage and the zoning code has changed since that time requiring a two-car garage for single family residences. The applicant would like to make their house conforming and provide a place for their automobiles and bicycles. Because of the existing configuration of the house, the only location for the garage is on the west side of the house and would slightly encroach into the setback.

b. Applicant should address how granting of a variance for these special conditions will not be contrary to the public's interest.

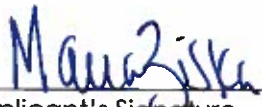
The variances being requested will not be contrary to the public's interest as the proposed garage will hide the cars and bikes from the street where they are currently out in plain view.

IV. **SITE HISTORY**

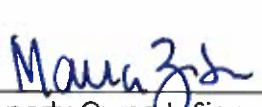
Please provide a detailed history in chronological order of all zoning-related requests processed on or after January 1, 1970 applicable to this property.

08/10/2011 – Variance #11-2011 – Requests variances to construct a two car garage with a 6.25 feet West side yard setback in lieu of the 12.5 feet required; and an angle of vision of 112 degrees in lieu of the 100 degrees allowed. WITHDRAWN per letter dated July 21, 2011.

Respectfully submitted,


Applicant's Signature

Maura Ziska, Attorney for John Criddle
Typed name & telephone # 561-802-8960


Property Owner's Signature
(or his/her duly authorized attorney)

Maura Ziska, Attorney for John Criddle
Typed name & telephone # 561-802-890

EXHIBIT A - REQUEST FOR VARIANCE

CRITERIA FOR AUTHORIZING A VARIANCE

The Town Council must find the application in conformance with a number of criteria. Please address each of the criteria completely in order to provide the Council with sufficient information to make a determination on your application.

1. List the special conditions and circumstances peculiar to the land, structure or building which are not applicable to other lands, structures or buildings in the same zoning district.

The existing house is nonconforming to today's code by not having a two car garage. The Applicant would like to have a garage to park their cars and store their bicycles.

2. Indicate how the special conditions and circumstances do not result from the actions of the applicant.

The applicant was not the cause of the special conditions of the property or residence as the non-conforming lack of garage existed prior to the applicant owning the property.

3. Demonstrate that the granting of the variance will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings or structures in the same zoning district.

The granting of the variance will not confer on the applicant a special privilege that is denied to the neighboring properties as many properties and residences in the area have garages and non-conforming setbacks as the residences were built before the current zoning restrictions were in place.

4. Demonstrate how literal interpretation of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.

The hardship, which runs with the land, is that the residence was built without a garage and the zoning code has changed since that time requiring a two-car garage for single family residence construction. The applicant would like to make their house conforming and provide a place for their automobiles and recreational equipment and vehicles. Because of the existing configuration of the house, the only location for the garage is on the west side of the house and would slightly encroach into the setback.

5. Demonstrate that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

Since the structure will be covering an existing driveway and not greenspace, it will not be detrimental to the landscaping or drainage. The non-conforming setback is minimal for a one story structure that is screened from the neighbor with landscaping.

6. Show how the granting of the variance will be in harmony with the general intent and purpose of this chapter, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

The granting of the variances will be not be injurious to the neighborhood since the code today would require a two car garage and it will improve the aesthetics of the site.

Z-20-00269

Zoning Case Number

EXHIBIT B - PARKING STATEMENT

Please provide a detailed parking statement which includes details of all available off-street parking, including information regarding the number of parking spaces designated for service use (for example: lawn service, pool service, etc), staff/employee use, etc.

COMMERCIAL PROPERTIES MUST:

PROVIDE NUMBER OF OFF-STREET PARKING SPACES AVAILABLE
FOR EMPLOYEES ON THE SUBJECT PROPERTY: _____

PROVIDE NUMBER OF EMPLOYEES/STAFF PER SHIFT: _____

INDICATE LOCATION WHERE EMPLOYEES PARK OFF SITE: _____

All construction vehicles and/or visitors will park on site or in the permitted right of way.

PROPOSED ALTERATIONS AND ADDITIONS AT:

143 REEF ROAD

TOWN OF PALM BEACH

B-045-2020; ARCOM: 26 AUGUST, 2020

PALM BEACH COUNTY, FLORIDA

Z-20-00269 TOWN COUNCIL: SEPT 9, 2020



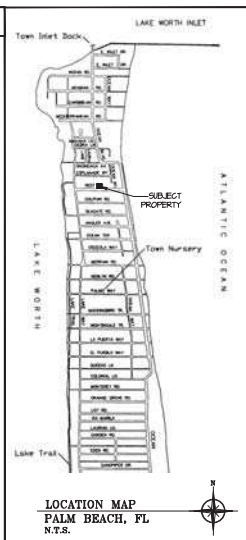
SCOPE OF WORK:			
1-	ALTERATIONS AND ADDITIONS TO EXISTING		
2-	HISTORY RESIDENCE		
3-	NEW HARDSCAPE		
4-	NEW LANDSCAPE		
5-	CIVIL, STORM WATER MANAGEMENT PLAN		
LOT INFORMATION:			
PROPERTY ADDRESS: 143 REEF ROAD			
PALM BEACH, FL 33401			
ZONING DATA: RS			
FLOOD: ACHF AND LINE 5, FLOOD: 100/500FT			

ZONING TABULATION			
ZONING DISTRICT	REQUIRED/ALLOWED	EXISTING	PROPOSED
RS	RS	RS	RS
LOT AREA	10,000 SF MIN.	11,000 SF	-
LOT WIDTH	100' MIN.	100'-0"	-
LOT DEPTH	100' MIN.	100'-0"	-
DENSITY	2.5 UNITS/ACRE	-	-
FRONT YARD SETBACK	10' STORY: 25'-0" 2ND STORY: 30'-0"	10' STORY: 30'-0" 2ND STORY: 25'-0"	10' STORY: 25'-0" 2ND STORY: 30'-0"
REAR YARD SETBACK	10' STORY: 10'-0" 2ND STORY: 15'-0"	10' STORY: 15'-0" 2ND STORY: 10'-0"	10' STORY: 10'-0" 2ND STORY: 15'-0"
SIDE YARD SETBACK	10' STORY: 5'-0" 2ND STORY: 5'-0"	10' STORY: 5'-0" 2ND STORY: 5'-0"	10' STORY: 5'-0" 2ND STORY: 5'-0"
ANGLE OF VISION	10' AS MIN. 12' FOR DA BY OVER 100'	100'	100'
MAX. BUILDING HEIGHT	10' STORY: 14'-0" 2ND STORY: 22'-0"	14'-0"	14'-0"
MAX. OVERALL HEIGHT	22'-0" 18'-0" TO REAR 180'-0" TOTAL	18'-0"	18'-0"
CUBIC CONTENT	5,180 C.C.F. 450% OF ALLOWED	2,946 C.F.	4,500 C.F.
LOT COVERAGE	ONE STORY: 40% 4000 SF MAX. 2ND STORY: 20% 2000 SF MAX.	27%	27%
LANDSCAPE OPEN SPACE	40% MIN.	SEE LA DINGS	-
REAR YARD OPEN SPACE	10' STORY: 10' MIN. 2ND STORY: 15' MIN.	SEE LA DINGS	-
REAR YARD LANDSCAPE OPEN SPACE	40% MIN.	SEE LA DINGS	-

STYLE AND DESCRIPTION:	
STYLE:	EXISTING
DESCRIPTION:	
NUMBER OF STORIES:	ONE
ROOF MATERIAL:	CEMENT TILE
CEILING:	YES
FRAME:	NO
COLORS:	BENJAMIN MOORE CHANTILLY LACE OC-65
RAILINGS:	N/A
ROOF:	WHITE - CEMENT TILE
TRIM:	BENJAMIN MOORE DOVE KING OC-18
SHUTTERS:	BENJAMIN MOORE JAMES RIVER GRAY AC-25
HINDOCS:	WHITE ALUMINUM

INDEX OF DRAWINGS

- A-0.00 COVER SHEET
- A-0.01 LARGE SCALE SITE PLAN
- SP-1.01 EXISTING SITE PLAN
- SP-1.02 PROPOSED SITE PLAN
- A-1.01 EXISTING FLOOR PLAN
- D-1.01 DEMOLITION PLAN - GROUND
- A-1.02 PROPOSED FLOOR PLAN
- A-1.03 EXISTING ROOF PLAN
- D-1.02 DEMOLITION PLAN - ROOF
- A-1.04 PROPOSED ROOF PLAN
- A-2.01 EXSITING & PROPOSED ELEVATIONS
- A-2.02 EXSITING & PROPOSED ELEVATIONS
- A-2.03 EXSITING & PROPOSED ELEVATIONS
- A-2.04 EXSITING & PROPOSED ELEVATIONS
- A-2.05 SITE SECTION
- A-2.06 DETAIL SHEET
- A-2.07 DETAIL SHEET
- A-2.08 DETAIL SHEET
- A-0.02 STREETScape Drawings/ NEIGHBORHOOD
- L-1-L-12 LANDSCAPE PLANS
- C-1 SITE GRADING & DRAINAGE PLAN
- EC-1 EROSION CONTROL PLAN
- A-0.03 CCR PLAN
- SURVEY



LOCATION MAP
PALM BEACH, FL
N.T.S.

CONSULTANTS AND ENGINEERS:				CIVIL ENGINEER:	LANDSCAPE ARCHITECT:	SURVEYOR:	JOB NUMBER:
				GRUBER CONSULTING ENGINEERS, INC. 2475 HENGER AVE. SUITE 305 WEST PALM BEACH, FL 33411 561-912-2041	ENVIRONMENTAL DESIGN GROUP 194 NORTH COUNTY ROAD SUITE 204-B, PALM BEACH, FL 561-852-4800	WALLACE SURVEYING CORP. 5555 VILLAGE BOULEVARD WEST PALM BEACH, FL 33411 561-640-4951	20-108 ISSUED FOR TOWN COUNCIL/ ARCOM APPROVAL: 07.16.20 ARCOM APPROVAL: + TC APPROVAL: + ISSUED FOR PERMIT: + ISSUED FOR CONSTRUCTION: +

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D.J.A. DAILEY JANSSEN ARCHITECTS
LICENSE #A40001974
400 CLEMENTS STREET, SUITE 200
WEST PALM BEACH, FLORIDA, 33411
TEL: 561-852-4951

Proposed Alterations and Additions
143 REEF ROAD
TOWN OF PALM BEACH

REVISIONS
NO. 1
DATE
DESCRIPTION
BY
DATE
DESCRIPTION
BY

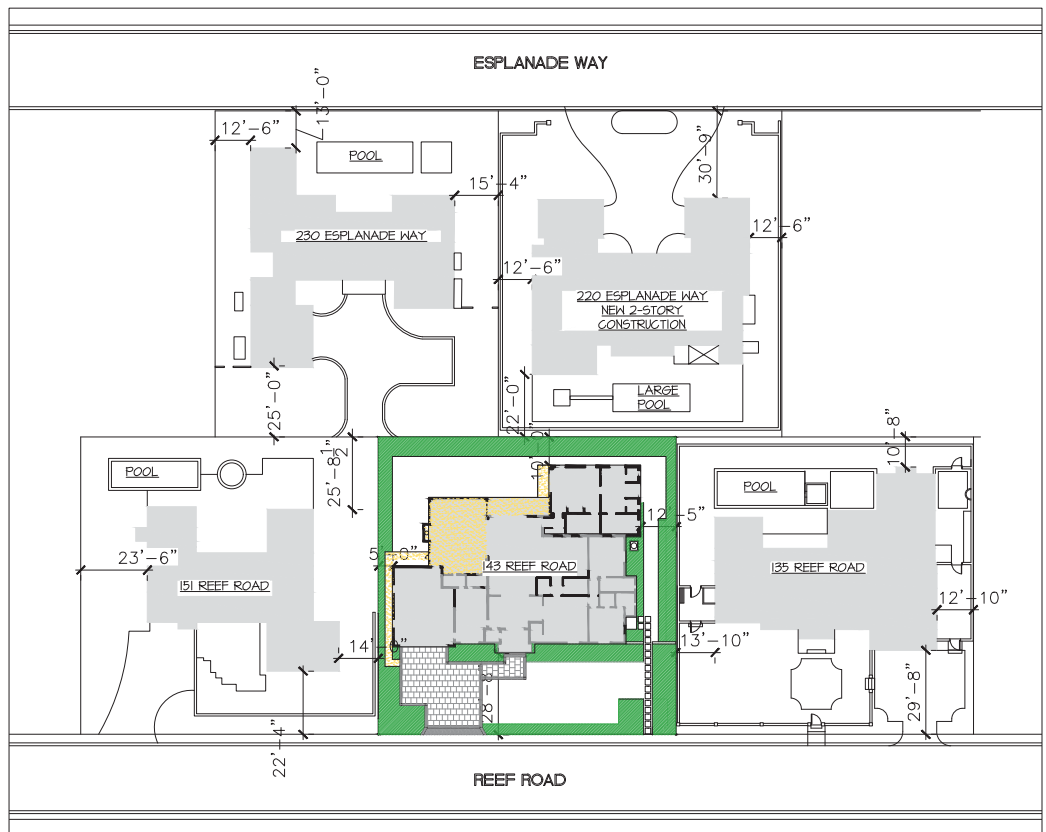
Job No.
20-108

Sheet

DATE
BY
CHECKED
DATE
CHECKED

Drawing No.

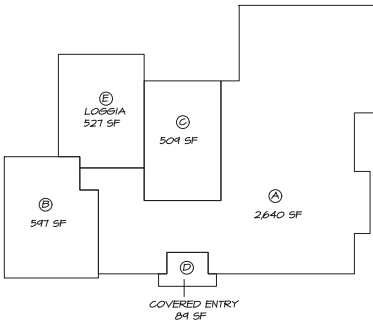
A-0.00



1 NEIGHBORHOOD SITE PLAN
 SCALE: 1" = 20'-0"

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DJA DAILEY JANSSEN ARCHITECTS 400 CLEMENTS STREET, SUITE 300 WEST PALM BEACH, FLORIDA, 33411 TEL: 561.853.1177	
Proposed Alterations and Additions 143 REEF ROAD FOUR BEDROOM CONDOMINIUM	
DATE: 02/20/2020 DRAWN BY: DJA CHECKED BY: DJA SCALE: 1" = 20'-0"	JOB NO.: 20-108 SHEET: 1 OF 1 BY: DJA DATE: 02/20/2020
Drawing No. A-0.01	



CUBIC CONTENT RATIO DATA FOR R-B DISTRICT - PROPOSED			
LOT SIZE, 10340 SF	SQ. FT. AREA	HEIGHT	CUBIC FOOT VALUE
A- ENCLOSED ONE STORY	2640 SF	8'-0"	21120 CF
B- ENCLOSED ONE STORY	547 SF	8'-0"	4376 CF
C- ENCLOSED ONE STORY	504 SF	8'-0"	4032 CF
TOTAL ENCLOSED			39528 CF
D- COVERED UNENCLOSED ENTRY	84 SF	8'-0"	672 CF
E- COVERED UNENCLOSED LOBBY	527 SF	8'-0"	4216 CF
TOTAL UNENCLOSED			4888 CF
CALCULATIONS ARE TAKEN FROM 6.5' HAVO TO THE BOTTOM OF THE TOP CHORD.			
* Working height of application only in R-B district means the vertical distance from the top of the floor slab (including garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs.			
MAX. ALLOWABLE CGR = 150' / (26000-1000) * 100000' X 0.01			
= 3.41 OR 4888 CF			
PROPOSED TOTAL ENCLOSED AREA OF CGR = 4808 CF OF 4888 CF ALLOW			
TOTAL ALLOWABLE FOR UNENCLOSED COVERED = 5.0% OF CG OR 245' CF MAX ALLOWED			

CUBIC CONTENT - PROPOSED

ZONING TABULATION			
EXISTING DISTRICT	PROPOSED DISTRICT	EXISTING	PROPOSED
RESIDENTIAL	RESIDENTIAL	80	80
LOT AREA	10340 SF MIN.	8000 SF	-
LOT FRONT	100' MIN.	50'-0"	-
LOT DEPTH	100' MIN.	50'-0"	-
SETBACKS	10' MIN.	5'-0"	-
FRONT YARD SETBACK	30' MIN.	5'-0"	-
REAR YARD SETBACK	30' MIN.	5'-0"	-
ANGLE OF VISION	100' MIN.	100'	100'
MAX. BUILDING HEIGHT	35' MIN.	35'	35'
MAX. OVERALL HEIGHT	35' MIN.	35'	35'
CUBIC CONTENT	4888 CF	4888 CF	4888 CF
LOT COVERAGE	40% MIN.	40%	40%
ROOF MATERIAL	SEE LA DIVERS	SEE LA DIVERS	SEE LA DIVERS
PAVING	SEE LA DIVERS	SEE LA DIVERS	SEE LA DIVERS

SCOPE OF WORK	
1. ALTERNATIVE AND ADDITIONS TO EXISTING	
2. NEW/RENOVATE	
3. CIVIL/STORM WATER MANAGEMENT PLAN	
GENERAL NOTES	
1. REFER TO PLANS BY LANDSCAPE ARCHITECT FOR ALL LANDSCAPE AND Hardscape INFORMATION.	
2. REFER TO PLANS BY CIVIL ENGINEER FOR ALL DRAINAGE INFORMATION.	
SYMBOL LEGEND	
+ 0.0	EXISTING ELEVATIONS
0.0	PROPOSED ELEVATIONS
LOT INFORMATION	
PROPERTY ADDRESS: 143 REEF ROAD, PALM BEACH, FL 33408	
ZONING DATA: RESIDENTIAL	
FLOOD ZONE: AND X, FIRM 100/200	
ALL SURVEY INFORMATION BASED ON SURVEY BY LANDSCAPE ARCHITECT FOR ALL LANDSCAPE AND Hardscape INFORMATION.	
BUSINESS NAME: GRAND L. MALLACE	
FLORIDA CERTIFICATE NO. 9897	
DATE OF FIELD SURVEY: 04/04/2020	
SEE SURVEY	
THE ARCHITECT SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OF ANY SURVEY INFORMATION.	

SQUARE FOOT DATA	
LOT AREA FOR CALCULATIONS	10340 SF
1ST FLOOR	3441 SF
2ND FLOOR	3441 SF
TOTAL AGC	6882 SF
COVERED ENTRY	84 SF
LOBBY	527 SF
GRAND TOTAL	4382 SF
DISCUSSION:	
REFER TO LANDSCAPE AND Hardscape PLANS BY LANDSCAPE ARCHITECT FOR ALL LANDSCAPE AND Hardscape INFORMATION.	

STYLE AND DESCRIPTION:

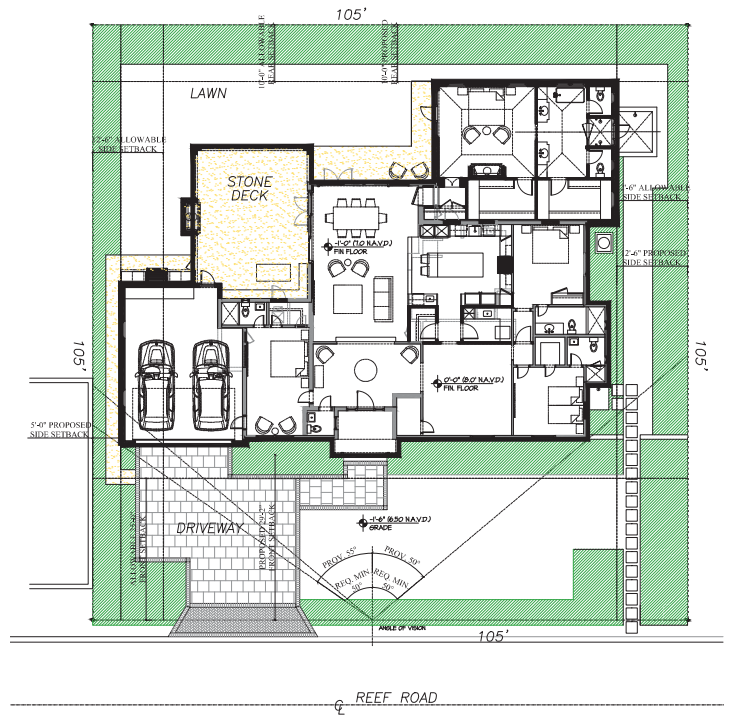
STYLE	EXISTING
DESCRIPTION	ONE
NUMBER OF STORIES	CEMENT TILE
ROOF MATERIAL	YES
PAVING	NO
COLORS:	
BUILDINGS	BENJAMIN MOORE CHANTILLY LACE OC-65
BUILDINGS	W/VA
ROOF	WHITE - CEMENT TILE
TRIM	BENJAMIN MOORE COVER HING OC-10
SHUTTERS	BENJAMIN MOORE JAMES RIVER GRAY AC-25
WINDOVS	WHITE ALUMINUM

SITE DATA

Side Setback:
5'-0" vs 12'-6" allowable

Angle of vision
105° vs 100° allowable

VARIANCES



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DJA DAILEY JANSSEN ARCHITECTS
400 CLEMENTS STREET, SUITE 200
WEST PALM BEACH, FLORIDA, 33411
TEL: 561.853.1177
FAX: 561.853.1177

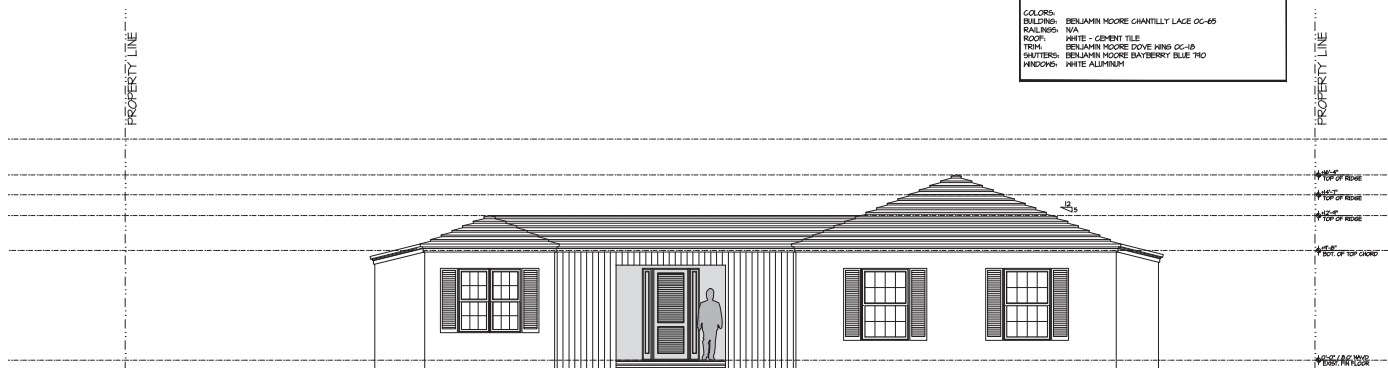
143 REEF ROAD
PROPOSED Alterations and Additions
TYPE OF PALM BEACH

PROJECT NO. 2020-0001
DATE: 04/04/2020
DRAWN BY: J. JANSSEN
CHECKED BY: J. JANSSEN
SCALE: 1/8\"/>

Job No.
20-100
Sheet
1 of 1
Date
04/04/2020
By
J. Janssen
Title
Architect

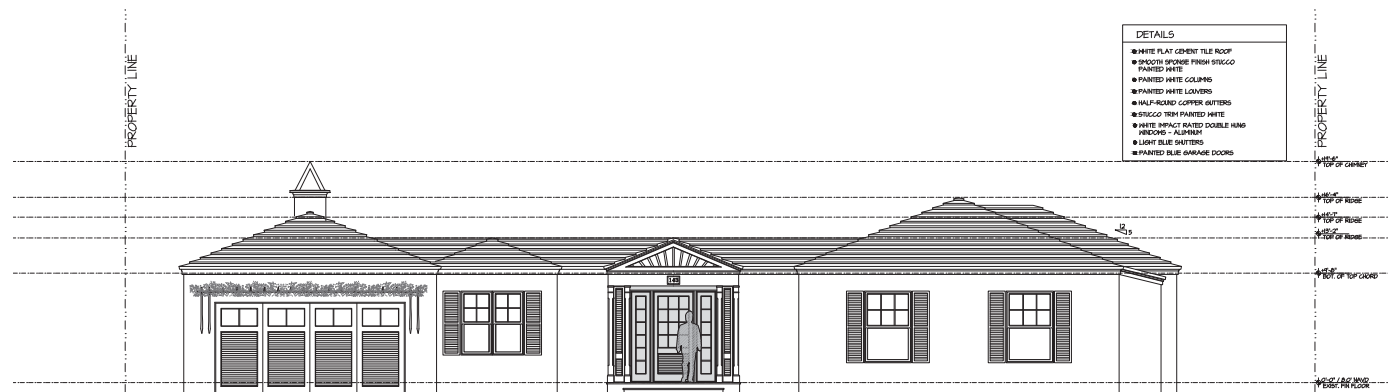
Drawing No.
SP-1.02

STYLE AND DESCRIPTION:	
STYLE:	EXISTING
DESCRIPTION:	
NUMBER OF STORIES:	ONE
ROOF MATERIAL:	CEMENT TILE
CIDS:	YES
FRAME:	NO
COLORS:	
BUILDING:	BENJAMIN MOORE CHANTILLY LACE OC-65
RAILINGS:	W/
ROOF:	WHITE - CEMENT TILE
SKIN:	BENJAMIN MOORE DOVE WING OC-15
SHUTTERS:	BENJAMIN MOORE DAYBERRY BLUE T50
WINDOWS:	WHITE ALUMINUM



EXISTING FRONT (SOUTH) ELEVATION
SCALE 1/4" = 1'-0"

DETAILS	
■	WHITE FLAT CEMENT TILE ROOF
■	SHUTTERS: SPINNE FISH STILGO
■	PAINTED WHITE
■	PAINTED WHITE COLUMNS
■	PAINTED WHITE LAMBS
■	HALF-ROUNDED COPPER SHUTTERS
■	STILGO TRIM PAINTED WHITE
■	WHITE IMPACT PAINTED DOUBLE HUNG
■	WINDOWS - ALUMINUM
■	LIGHT BLUE SHUTTERS
■	PAINTED BLUE GARAGE DOORS



PROPOSED FRONT (SOUTH) ELEVATION
SCALE 1/4" = 1'-0"

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D.J.A. DALEY JANSSEN ARCHITECTS
143 REF ROAD
WEST PALM BEACH, FLORIDA 33411
TEL 561 853-1177
LICENSE #A40001974

Proposed Alterations and Additions
143 REF ROAD
WEST PALM BEACH, FLORIDA 33411

DATE: 03/15/2020
DRAWN BY: J. JANSSEN
CHECKED BY: J. JANSSEN
SCALE: 1/4" = 1'-0"

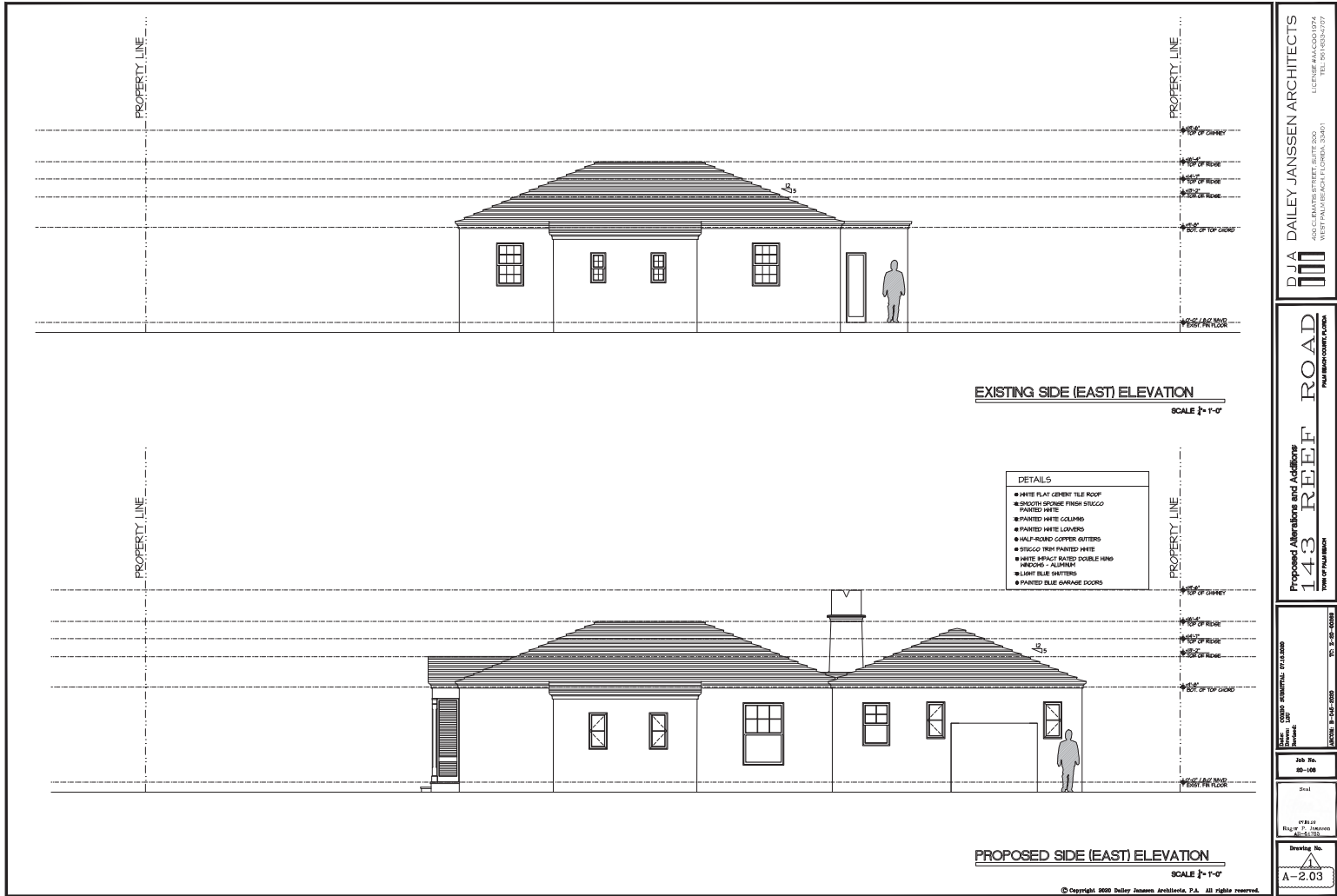
Job No.
20-100

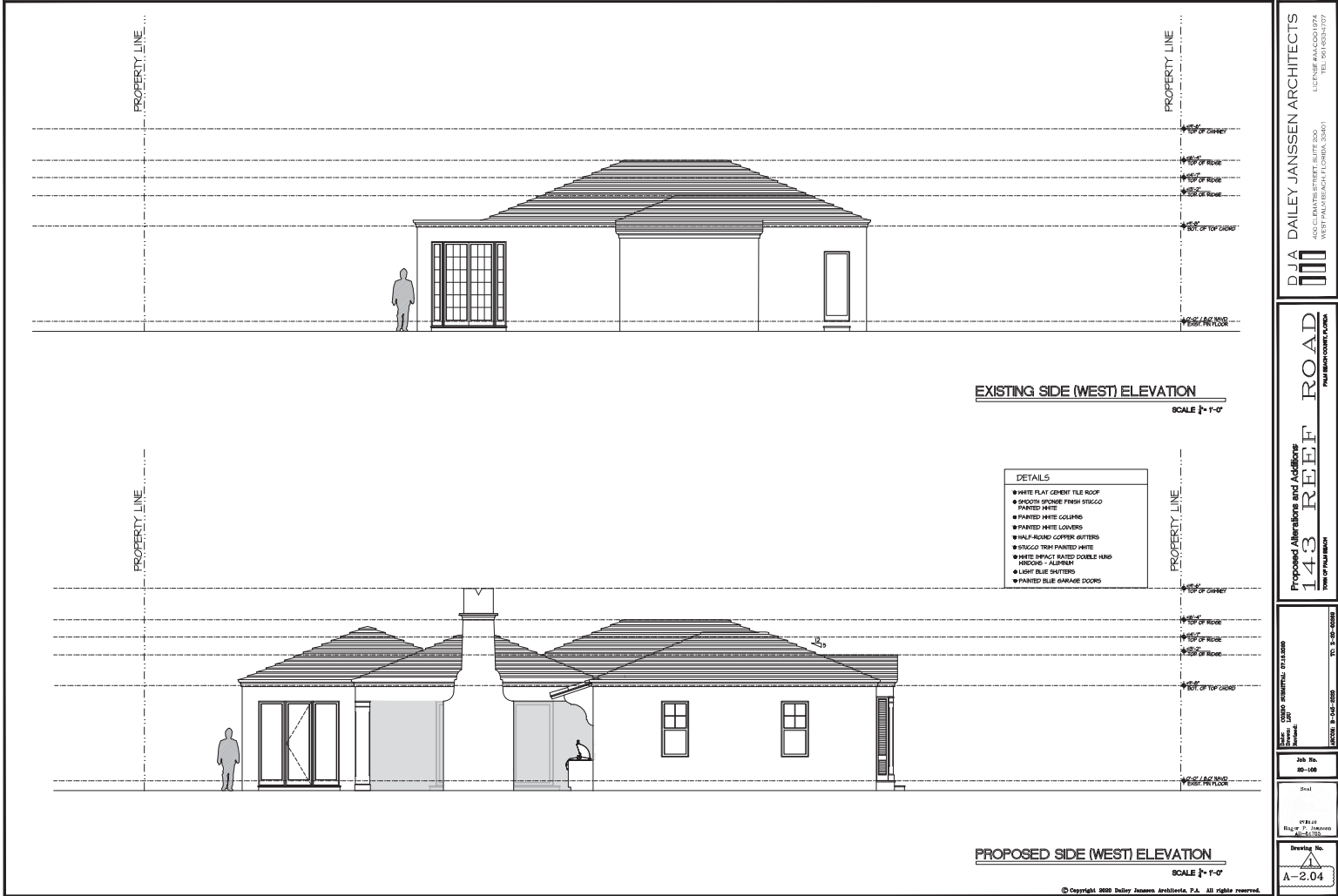
Sheet

143 REF

143 REF

Drawing No.
A-2.01





SNIFFEN & SPELLMAN, P.A.

Sender's Direct Line: (561) 721-4002
Sender's Email: jeubanks@sniffenlaw.com

August 25, 2019

Via E-mail

Architectural Commission
c/o Michael Small, Chair
Town Council of the Town of Palm Beach
360 South County Road
Palm Beach, Florida 33480

**Re: Objection to Application No. B-045-2020 for Proposed Garage at
143 Reef Road**

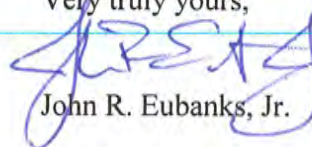
Dear Mr. Small:

Our office was hired this afternoon by Gayle P. Petersen, the owner of 151 Reef Road. Ms. Peterson's home lies immediately to the west of 143 Reef Road. In that capacity please be advised that Ms. Petersen objects to the two car garage proposed by the Applicant, along with the potential variance needed to approve the same.

In direct conflict with the Applicant's representations, the house at 143 Reef Road was built with a one car garage, which was later converted to living space. As a result, there is no hardship which would support a variance.

At the same time, the proposed garage would reduce the normal side yard setback and greenspace in half, change the appearance of the residence from the street, increase the massing next to Ms. Petersen's home, and impinge upon her privacy. Moreover, the Application is nothing more than the same proposal set forth in former Variance #11-2011, which was soundly rejected by the Town Council in July of 2011, resulting in its withdrawal at that time. A copy of the objections from the surrounding neighbors in July 2011, along with a copy of the withdrawal is attached hereto.

Very truly yours,



John R. Eubanks, Jr.

cc: ARCOM Committee Members
Wayne Bergman, Acting Director Planning, Zoning & Building
Kelly Churney, Administrative Specialist
Town Clerk, Town of Palm Beach

EXHIBIT J

REPLY TO:

605 NORTH OLIVE AVENUE, 2ND FLOOR
WEST PALM BEACH, FL • 33401
PHONE: 561.721.4000
FAX: 561.721.4001

WWW.SNIFFENLAW.COM

123 NORTH MONROE STREET
TALLAHASSEE, FL • 32301
PHONE: 850.205.1006
FAX: 850.205.3004

July 1, 2011

RECEIVED

JUL - 6 2011

TOWN OF PALM BEACH
PZB DEPT

Town of Palm Beach

Zoning & Building Department

360 S. County Road

Palm Beach, Florida 33480

Re: 143 Reef Road *Variance # 11-2011*

To Whom it May Concern:

We have been residents of 144 Reef Road for 16 years, the home directly across the street from 143 Reef. We both have also been residents of the town of Palm Beach for 50 years, our entire lives. We are submitting this notice to preserve the ambiance on the north end. Reef Road is a quiet street with an Island appeal. Most of the residents like it that way and moved here because they hope to keep it this way. We understand a petition to build a two car garage has been filed. Our concerns are as follows:

The house is being rented and they are not the owners.

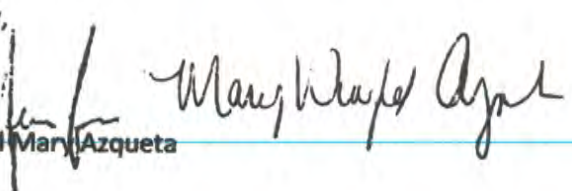
Why do they have to expand to a garage that is so large, the house originally had a one car garage.

The disruption to the safety of the families on the street and the disturbance of peace is overwhelming.

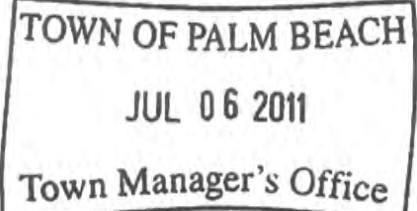
It would seem that the appropriate size garage for this street would be a one car garage, considering the size of the home and property, fitting in with the rest of the street, and the north end.

Thank you for your consideration in this matter.

Sincerely,


Jesse and Mary Azqueta

Paul Gingras, DMD
153 Reef Road
Palm Beach, FL 33480



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

30 June 2011

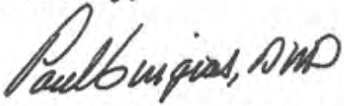
Dear Members of the Town Council:

My wife and I live at 153 Reef Road and we received a notice of a request for a zoning variance for a property located at 143 Reef Road. We have three concerns regarding the request.

1. The application lists the property owners as David and Sarah Hruda. We are not sure Mr. and Mrs. Hruda own the property. We have been repeatedly told that someone else owns the property. The Town needs to determine who the owners are before proceeding with the application.
2. Under Exhibit A- Request For Variance, item 4, the applicant states that the residence was built without a garage. This house was originally built with a one car garage. This garage was later converted to a living space by a previous owner. A check with the Building Department will confirm this.
3. The addition of a two car garage would reduce the normal side yard setback by half which would change the appearance of the residence by reducing the greenspace surrounding it. This would set a bad precedent for the R-B zoning in this neighborhood. A one car garage addition would impose less on the normal setback.

We are opposed to a two car garage addition and we are not opposed to a one car garage addition.

Sincerely,

 
Paul and Sally Gingras

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, *Counsel**

*Also admitted in New York

*Also admitted in Michigan

Esperanté

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

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

VIA FACSIMILE: 561-835-4621

July 21, 2011

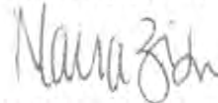
Mayor and Town Council
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

RE: Variance #11-2011/249/143 Reef Road, Palm Beach

Dear Mayor and Town Council:

Please **withdraw** the above referenced matter from the August 10, 2011 Town Council agenda. Please call me if you have any questions or comments with the foregoing. Thank you.

Sincerely yours,



Maura A. Ziska

MAZ/mr

cc: Paul Castro

Pat Seagraves

00011412

From: [Anne Metzger](#)
To: msmall@smallawpalmbeach.com; RNG@garrisonarch.com; alexives@hotmail.com; amginny@aol.com; [John David Corey](#); betsyshiverick@gmail.com; catlinkt@gmail.com; dan.floersheimer@icloud.com; edward.cooney@gmail.com; info@fairfaxandsammons.com
Cc: [Wayne Bergman](#); [Kelly Churney](#)
Subject: Concerns re: 143 Reef Road - ARCOM meeting Today
Date: Wednesday, August 26, 2020 7:57:10 AM

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Dear Members of the Architectural Commission,

This letter is in regard to the proposed plans for 143 Reef Road that you are considering today.

We live one block to the north on Esplanade Way and are very familiar with the subject property. We walk our dog on Reef Road almost every day.

In our opinion, the proposed plans for the house need to be scaled back. The two car garage will look very squeezed so close to the west property line.

We are concerned that this will set an undesirable precedent in our neighborhood.

In addition, the front door looks out of scale for the house.

Please ask for the plans to be restudied.

Thank you,
Anne and Bill Metzger
277 Esplanade Way
Palm Beach

From: [Antonette Fabrizi](#) on behalf of [Town Council](#)
To: [Town Council & Mayor](#)
Cc: [Pat Gayle-Gordon](#); [Queenester Nieves](#); [Wayne Bergman](#); [Kelly Churney](#); [Paul Castro](#); [Kirk Blouin](#); [Jay Boodheshwar](#)
Subject: Fw: 143 Reef Road
Date: Tuesday, September 08, 2020 12:30:44 PM

From: jwmetzger <jwmetzger@aol.com>
Sent: Tuesday, September 8, 2020 10:11 AM
To: Town Council
Subject: 143 Reef Road

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Dear Members of the Town Council and Mayor,

This letter is in regard to the proposed plans for 143 Reef Road.

We live one block to the north on Esplanade Way and are very familiar with the subject property in that block of Reef Road. We very often walk our dog on Reef Road.

In our opinion, the house as proposed with the reduced setback would be too close to the property line with the adjoining neighbor and would set a precedent for our neighborhood that we do not support.

The proposed plans for the house need to be scaled back. The two car garage will look very squished so close to the west property line and the neighbor's house and yard.

Please deny the request for the side yard variance and suggest the plans be restudied.

Thank you,
Anne and Bill Metzger
277 Esplanade Way
Palm Beach

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 9, 2020

Section of Agenda

Development Review - Old Business

Agenda Title

Z-20-00289 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)

Zoning District: C-B Commercial The application of LR Palm House LLC (Ian Livingstone, Executive Chairman), Applicant, relative to property located at **160 ROYAL PALM WAY**, legal description on file, is described below. Section 134-1304 (5): Request to modify Site Plan Review # 1-2016 with Special Exception to change the approved use from condo-hotel to hotel; modify the previously approved site plan; and amend the conditions of approval in the Declaration of Use Agreement, as identified in the proposed Third Amendment to the Declaration of Use which is Exhibit "F") of this application. The proposed site modifications being requested as follows: Section 134-1304(5): The existing Palm House hotel is located at 160 Royal Palm Way, Palm Beach, Florida. It is currently vacant and construction is partially completed. The structure is three stories with a partially enclosed basement containing parking and back-of-house functions. The hotel is 84,495 gross square feet in total. There is an East and West guest wing, and these wings are connected by a central core containing the Main Entrance and other partially completed public functions. A separate conference and events "Function Room" and partial pool deck was also constructed at the south east portion of the property. Section 134-227. 326 & 329 1729(2)(c): (Site Plan Review) The new owner/applicant is proposing new work for the hotel which includes the following site plan modifications: 1) Completion and conversion of guest rooms for a total of 79 keys. Two new presidential suites will be constructed within the building core, each with private outdoor balconies. 2) Completion of the lower level for back-of-house, administrative and housekeeping functions for the hotel. The interior modifications for the lower level includes renovation of partially completed areas including kitchen, food storage, housekeeping, staff areas and hotel administrative offices. The owner is requesting an additional 148 SF to provide a new service stair form the lower level to support the Pool Area. Additional areas for renovation include spaces for MEP Infrastructure such as electrical, hot water, and elevator systems. The proposed modifications remove all Hotel Guest program areas from the lower level. The lower level renovation includes restoration of parking area for 60 parking spaces including three accessible

parking spaces. Two parking spaces which includes on Van Accessible parking space is located behind the existing function room. All parking will be Valet only per the Declaration of Use Amendment Three. Total on-site parking provided is 62 spaces. 3) A new pool deck will be constructed adjacent to the existing Function Room, with various amenities that include chaise lounges and outdoor seating, shade umbrellas, toilets, a towel/concierge stand, open-air bar with enclosed pantry behind, water features, lush native plantings, and Event Lawn to be used as a pre-function space, or for small wedding and/or overflow sun bathing; 4) The first level lobby and public spaces will be completed to include fine dining and lobby bar, with 88 indoor seats as well as 36 outdoor seating facing the new pool deck. The second floor dining that was previously approved has been eliminated to make room for the reconfigured hotel suites which include the new presidential suites; 5) The Function Room construction will be completed and the seating plan in the Function Room is being revised to add 50 more seats for a total of 200 seats (the total overall number of seats throughout the hotel that was previously approved is being reduced from 336 to 324); 6) A small 556 square foot banquet prep kitchen is proposed to be constructed adjacent to and on the east side of the existing Function Room. 7) Replace a 250 RW generator in the basement with the same size that exists today. - Other exterior Improvements will include new third floor railings, re-painting, new exterior floor finishes, trellises and a covered walkway leading to the existing Function Room. Fenestration requiring replacement will be replaced with similar windows and doors. Addition of a small 61 square foot pool service building; enclosing the 679 square foot function room pre-function space on the west side of the Function Room; addition of 588 square foot restroom for Function Room, addition of 556 square foot prep kitchen for Function Room and addition of 148 square foot stairwell to access Function Room prep kitchen. The following is a list of the proposed special exceptions and variances being requested for the hotel project: 1) Section 134-226 & 229: A special exception request to modify the approved special exception by converting from a condominium hotel to hotel use and make the site modifications and change to the conditions of approval as identified in this application. 2) Section 134-1305: A special exception request to allow 36 seats for outdoor dining on the first floor on the north side of the pool deck; and 3) Section 134-1308(9): A variance for lot coverage to be 63.8% in lieu of the 62.8% existing and the 50% maximum allowed in the C-B Zoning District; 4) Section 134-1308(8): A variance for the addition of railings and solid wall on the east facade of the hotel above the second floor where only a two story building is allowed in the C-B Zoning District; 5) Section 134-1308(8): A variance for the addition of railings and solid wall on the east facade of the hotel with a height of 31.83 feet in lieu of the 25 foot maximum allowed; 6) Section 134-1669: A variance for the height of the wall enclosing the dumpster located at the southeast corner of the property to be 13.25 feet tall in lieu of the 7 foot maximum height

allowed from the neighbor's grade; 7) Section 134-1308(8): A variance for the two story open air addition on the south side of the hotel for a hotel suite balcony on the second floor and covered dining on the first floor with a height of 33.58 feet in lieu of the 25 foot maximum allowed in the C-B Zoning District; 8) Section 134-1308(8): A variance for the two story open air addition on the south side of the hotel for a hotel suite balcony on the second floor and covered dining on the first floor with an overall height of 42 feet in lieu of the 35 foot maximum allowed in the C-B Zoning District; 9) Section 134-1669: A variance for the height of the wall along the rear property line to be 8.5 feet in lieu of the 7 foot maximum allowed from the neighbor's grade; 10) Section 134-1669: A variance for the height of the wall enclosing the existing chiller at the south west corner of the property to be 12 feet tall in lieu of the 7 foot maximum allowed from the neighbor's grade; 11) Section 134-1308(7): A variance for a rear yard setback for the chiller to be 2.25 feet in lieu of the 10 foot minimum required in the C-B Zoning District; 12) Section 134-1308(6): A variance for a west side yard setback for the chiller to be 5.8 feet in lieu of the 10 foot minimum required in the C-B Zoning District.

[Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 7-0.] [The Architectural Review Commission approved the project as presented with the landscape, service gate and paint colors to return to the November 20, 2020 meeting. Carried 6-1.] **Request For Deferral to the January 13, 2021 Meeting Per Letter from Maura Ziska.**

Presenter

ATTACHMENTS:

- ▣ **Letter Dated November 23, 2020 from Maura Ziska**
- ▣ **Memorandum Dated October 29, 2020 from Wayne Bergman, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**
- ▣ **Email Dated September 18, 2020 from Jorge Sanchez**
- ▣ **Letter Dated September 21, 2020 from Donald Lunny**
- ▣ **Letter Dated September 22, 2020 from John Eubanks**
- ▣ **Letter Dated October 26, 2020 from Donald Lunny**
- ▣ **Letter Dated October 26, 2020 from John Eubanks**
- ▣ **Letter Dated November 9, 2020 from John Eubanks**

KOCHMAN & ZISKA PLC

Ronald S. Kochman*
Maura A. Ziska

Esperanté
222 Lakeview Avenue, Suite 1500
West Palm Beach, Florida 33401
Telephone 561-802-8960
Facsimile 561-802-8995

*also admitted in NY

VIA EMAIL

November 23, 2020

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

RE: Z-20-00289
160 Royal Palm Way, Palm Beach, Florida

Dear Paul and Kelly:

Please **defer** the above referenced matter from the **December 9, 2020** Town Council meeting to the **January 13, 2021** Town Council meeting. Thank you.

Sincerely,

Maura Ziska

Maura A. Ziska

maz/jc
cc: Client

A Florida Professional Limited Liability Company Including Professional Associations

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 13, 2020

To: Mayor and Town Council

From: Wayne Bergman, Director, Planning, Zoning & Building Department

Subject: **Z-20-00289 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARI/**
160 ROYAL PALM WAY

Date: October 29, 2020

BACKGROUND

An application has been received for the following project:

REQUEST:

Section 134-1304 (5): Request to modify Site Plan Review # 1-2016 with Special Exception to change the approved use from condo-hotel to hotel; modify the previously approved site plan; and amend the conditions of approval in the Declaration of Use Agreement, as identified in the proposed Third Amendment to the Declaration of Use which is Exhibit "F") of this application. The proposed site modifications being requested as follows: Section 134-1304(5): The existing Palm House hotel is located at 160 Royal Palm Way, Palm Beach, Florida. It is currently vacant and construction is partially completed. The structure is three stories with a partially enclosed basement containing parking and back-of-house functions. The hotel is 84,495 gross square feet in total. There is an East and West guest wing, and these wings are connected by a central core containing the Main Entrance and other partially completed public functions. A separate conference and events "Function Room" and partial pool deck was also constructed at the south east portion of the property. Section 134-227. 326 & 329 1729(2)(c): (Site Plan Review) The new owner/applicant is proposing new work for the hotel which includes the following site plan modifications: 1) Completion and conversion of guest rooms for a total of 79 keys. Two new presidential suites will be constructed within the building core, each with private outdoor balconies. 2) Completion of the lower level for back-of-house, administrative and housekeeping functions for the hotel. The interior modifications for the lower level includes renovation of partially completed areas including kitchen, food storage, housekeeping, staff areas and hotel administrative offices. The owner is requesting an additional 148 SF to provide a new service stair from the lower level to support the Pool Area. Additional areas for renovation include spaces for MEP Infrastructure such as electrical, hot water, and elevator systems. The proposed modifications remove all Hotel Guest program areas from the lower level. The lower level renovation includes restoration of parking area for 60 parking spaces including three accessible parking spaces. Two parking spaces which includes on Van Accessible parking space is located behind the existing function room. All parking will be Valet only per the Declaration of Use Amendment Three. Total on-site parking provided is 62 spaces. 3) A new pool deck will be constructed adjacent to the existing Function Room, with various amenities that include chaise lounges and outdoor seating, shade umbrellas, toilets, a towel/concierge stand, open-air bar with enclosed pantry behind, water features, lush native plantings, and Event Lawn to be used as a pre-function space, or for small wedding and/or overflow sun bathing; 4) The first level lobby and public spaces will be completed to include fine dining and lobby bar, with 88 indoor seats as well as 36 outdoor seating facing the new pool deck. The second floor dining that was previously approved has been eliminated to make room for the reconfigured hotel suites which include the new presidential suites; 5) The Function Room construction will be completed and the seating plan in the Function Room is being revised to add 50 more seats for a total of 200 seats (the total overall number of seats throughout the hotel that was previously approved is being reduced from 336 to 324); 6) A small 556 square foot banquet prep kitchen is proposed to be constructed adjacent to and on the east side of the existing Function Room. 7) Replace a 250 RW generator in the basement with the same size that exists today. - Other exterior Improvements will include new third floor railings, re-painting, new exterior floor finishes, trellises and a covered walkway leading to the existing Function Room. fenestration requiring replacement will be replaced with similar windows and doors. Addition of a small 61 square foot pool service building;

enclosing the 679 square foot function room pre-function space on the west side of the Function Room; addition of 588 square foot restroom for Function Room, addition of 556 square foot prep kitchen for Function Room and addition of 148 square foot stairwell to access Function Room prep kitchen.

The following is a list of the proposed special exceptions and variances being requested for the hotel project: 1) Section 134-226 & 229: A special exception request to modify the approved special exception by converting from a condominium hotel to hotel use and make the site modifications and change to the conditions of approval as identified in this application. 2) Section 134-1305: A special exception request to allow 36 seats for outdoor dining on the first floor on the north side of the pool deck; and

3) Section 134-1308(9): A variance for lot coverage to be 63.8% in lieu of the 62.8% existing and the 50% maximum allowed in the C-B Zoning District; 4) Section 134-1308(8): A variance for the addition of railings and solid wall on the east facade of the hotel above the second floor where only a two story building is allowed in the C-B Zoning District; 5) Section 134-1308(8): A variance for the addition of railings and solid wall on the east facade of the hotel with a height of 31.83 feet in lieu of the 25 foot maximum allowed; 6) Section 134-1669: A variance for the height of the wall enclosing the dumpster located at the southeast corner of the property to be 13.25 feet tall in lieu of the 7 foot maximum height allowed from the neighbor's grade; 7) Section 134-1308(8): A variance for the two story open air addition on the south side of the hotel for a hotel suite balcony on the second floor and covered dining on the first floor with a height of 33.58 feet in lieu of the 25 foot maximum allowed in the C-B Zoning District;

8) Section 134-1308(8): A variance for the two story open air addition on the south side of the hotel for a hotel suite balcony on the second floor and covered dining on the first floor with an overall height of 42 feet in lieu of the 35 foot maximum allowed in the C-B Zoning District; 9) Section 134-1669: A variance for the height of the wall along the rear property line to be 8.5 feet in lieu of the 7 foot maximum allowed from the neighbor's grade; 10) Section 134-1669: A variance for the height of the wall enclosing the existing chiller at the south west corner of the property to be 12 feet tall in lieu of the 7 foot maximum allowed from the neighbor's grade; 11) Section 134-1308(7): A variance for a rear yard setback for the chiller to be 2.25 feet in lieu of the 10 foot minimum required in the C-B Zoning District; 12) Section 134-1308(6): A variance for a west side yard setback for the chiller to be 5.8 feet in lieu of the 10 foot minimum required in the C-B Zoning District.

ADDRESS: 160 ROYAL PALM WAY

OWNER: 160 ROYAL PALM LLC

OWNER'S REPRESENTATIVE: KOCHMAN AND ZISKA

PROPERTY CONTROL NO.: 50-43-43-23-05-026-0310

ZONING DISTRICT: C-B Commercial

LEGAL DESCRIPTION: ROYAL PARK ADD LTS 31 TO 33 INC
BLK F

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Page Two

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 8/21/20

APPLICATION NO.: Z-20-00289 **APPLICATION TYPE:** SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)
ADDRESS: 160 ROYAL PALM WAY **TENANT:**THE PALM HOUSE



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 8/21/20

DESCRIPTION:

Section 134-1304 (5): Request to modify Site Plan Review # 1-2016 with Special Exception to change the approved use from condo-hotel to hotel; modify the previously approved site plan; and amend the conditions of approval in the Declaration of Use Agreement, as identified in the proposed Third Amendment to the Declaration of Use which is Exhibit "F") of this application. The proposed site modifications being requested as follows: Section 134-1304(5): The existing Palm House hotel is located at 160 Royal Palm Way, Palm Beach, Florida. It is currently vacant and construction is partially completed. The structure is three stories with a partially enclosed basement containing parking and back-of-house functions. The hotel is 84,495 gross square feet in total. There is an East and West guest wing, and these wings are connected by a central core containing the Main Entrance and other partially completed public functions. A separate conference and events "Function Room" and partial pool deck was also constructed at the south east portion of the property. Section 134-227. 326 & 329 1729(2)(c): (Site Plan Review) The new owner/applicant is proposing new work for the hotel which includes the following site plan modifications: 1) Completion and conversion of guest rooms for a total of 79 keys. Two new presidential suites will be constructed within the building core, each with private outdoor balconies. 2) Completion of the lower level for back-of-house, administrative and housekeeping functions for the hotel. The interior modifications for the lower level includes renovation of partially completed areas including kitchen, food storage, housekeeping, staff areas and hotel administrative offices. The owner is requesting an additional 148 SF to provide a new service stair form the lower level to support the Pool Area. Additional areas for renovation include spaces for MEP Infrastructure such as electrical, hot water, and elevator systems. The proposed modifications remove all Hotel Guest program areas from the lower level. The lower level renovation includes restoration of parking area for 60 parking spaces including three accessible parking spaces. Two parking spaces which includes on Van Accessible parking space is located behind the existing function room. All parking will be Valet only per the Declaration of Use Amendment Three. Total on-site parking provided is 62 spaces. 3) A new pool deck will be constructed adjacent to the existing Function Room, with various amenities that include chaise lounges and outdoor seating, shade umbrellas, toilets, a towel/concierge stand, open-air bar with enclosed pantry behind, water features, lush native plantings, and Event Lawn to be used as a pre-function space, or for small wedding and/or overflow sun bathing; 4) The first level lobby and public spaces will be completed to include fine dining and lobby bar, with 88 indoor seats as well as 36 outdoor seating facing the new pool deck. The second floor dining that was previously approved has been eliminated to make room for the reconfigured hotel suites which include the new presidential suites; 5) The Function Room construction will be completed and the seating plan in the Function Room is being revised to add 50 more seats for a total of 200 seats (the total overall number of seats throughout the hotel that was previously approved is being reduced from 336 to 324); 6) A small 556 square foot banquet prep kitchen is proposed to be constructed adjacent to and on the east side of the existing Function Room. 7) Replace a 250 RW generator in the basement with the same size that exists today. - Other exterior Improvements will include new third floor railings, re-painting, new exterior floor finishes, trellises and a covered walkway leading to the existing Function Room. fenestration requiring replacement will be replaced with similar windows and doors. Addition of a small 61 square foot pool service building; enclosing the 679 square foot function room pre-function space on the west side of the Function Room; addition of 588 square foot restroom for Function Room, addition of 556 square foot prep kitchen for Function Room and addition of 148 square foot stairwell to access Function Room prep kitchen.

The following is a list of the proposed special exceptions and variances being requested for the hotel project: 1) Section 134-226 & 229: A special exception request to modify the approved special exception by converting from a condominium hotel to hotel use and make the site modifications and change to the conditions of approval as identified in this application. 2) Section 134-1305: A special exception request to allow 36 seats for outdoor dining on the first floor on the north side of the pool deck; and 3) Section 134-1308(9): A variance for lot coverage to be 63.8% in lieu of the 62.8% existing and the 50% maximum allowed in the C-B Zoning District; 4) Section 134-1308(8): A variance for the addition of railings and solid wall on the east facade of the hotel above the second floor where only a two story building is allowed in the C-B Zoning District; 5) Section 134-1308(8): A variance for the addition of railings and solid wall on the east facade of the hotel with a height of 31.83 feet in lieu of the 25 foot maximum allowed; 6) Section 134-1669: A variance for the height of the wall enclosing the dumpster located at the southeast corner of the property to be 13.25 feet tall in lieu of the 7 foot maximum height allowed from the neighbor's grade; 7) Section 134-1308(8): A variance for the two story open air addition on the south side of the hotel for a hotel suite balcony on the second floor and covered dining on the first



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 8/21/20

floor with a height of 33.58 feet in lieu of the 25 foot maximum allowed in the C-B Zoning District; 8) Section 134-1308(8): A variance for the two story open air addition on the south side of the hotel for a hotel suite balcony on the second floor and covered dining on the first floor with an overall height of 42 feet in lieu of the 35 foot maximum allowed in the C-B Zoning District; 9) Section 134-1669: A variance for the height of the wall along the rear property line to be 8.5 feet in lieu of the 7 foot maximum allowed from the neighbor's grade; 10) Section 134-1669: A variance for the height of the wall enclosing the existing chiller at the south west corner of the property to be 12 feet tall in lieu of the 7 foot maximum allowed from the neighbor's grade; 11) Section 134-1308(7): A variance for a rear yard setback for the chiller to be 2.25 feet in lieu of the 10 foot minimum required in the C-B Zoning District; 12) Section 134-1308(6): A variance for a west side yard setback for the chiller to be 5.8 feet in lieu of the 10 foot minimum required in the C-B Zoning District.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	Wayne Bergman, Director, Planning, Zoning & Building	8/28/2020	No Comment
PUBLIC WORKS DEPARTMENT			No Comment
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	11/3/2020	. This use is not in conflict with the adopted fire code. There will be code concerns going forward since the building has a lot of fire code violations left in place from the previous construction work. This building was fully sprinkled and is required to remain protected with a sprinkler system. The code requires this system to be restored as soon as they begin their work. We agreed with the court appointed legal representative to hold off on fines in order to get the legal concerns resolved. This is a building that needs to restore the designed life safety features that were built into the building and are required to be maintained throughout the life of the building.
PZB DIRECTOR	Wayne Bergman, Director, Planning, Zoning & Building	8/28/2020	No Comment



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 8/21/20

PZB - ZONING

Paul Castro, Zoning
Administrator

11/2/2020

The conversion from a cond-hotel to a more transient hotel use may lessen the parking demand for the hotel. In addition, many of the proposed changes to the hotel are related to function. The east enclosure of the open balcony walkways; the new prep kitchen to the rear of the Function Room; and the covered walkway changes from the hotel lobby to the Function Room are intended to improve the use of the hotel. The basement kitchen and service area improvements and the loss of the basement spa are also improvements to help with the function of the hotel operation.

There are also necessary changes required to the Declaration of Use Agreement related to the loss of the third floor deck and second floor dining area above the lobby and the loss of stairs and elevator at the Function Room. However, there is concern by Staff about some of the other modifications to the Declaration of Use Agreement. Other proposed modifications would allow an additional 50 seats in the Function Room, from 150 seats to 200 seats. While they are eliminating dining room seats, the additional seats being requested in the Function Room may create more impact to the valet and parking operation for the hotel. This space, unlike the dining room seating, will generate more traffic during events being held in the Function Room as visitors will be coming and leaving around the same time. The intent of the existing Agreement is to open the business for a period of time to evaluate how the Function Room would operate and assess any impact prior to consideration of the additional seating.

In addition, the applicant is proposing to more than double the outside seating in the new pool deck area (16 approved seats to 36 seats). This, coupled with request for extended outdoor hours for service is a concern. Lastly, the request to change the Agreement to allow for later hours in the Function Room and the use of the outdoor pool deck and lawn area in front of the Function Room for pre-function events (no hours mentioned) is also a concern for staff as it may also impact the neighbors to the south. Staff requests that the Council address these concerns with the applicant and return with a modified Agreement for Council consideration.

Lastly, staff recommends a Construction Management Agreement, similar to the previous Agreement for the subject property, with a construction schedule and defined completion date to monitor and ensure completion on time.

From: [Lynnette R Ballard](#)
To: [Kelly Churney](#)
Cc: [Jorge Sanchez](#)
Subject: FW: Palm House
Date: Friday, September 18, 2020 11:22:48 AM
Attachments: [image001.png](#)
[2020-09-16 COVER PAGE - 160 ROYAL PALM WAY PRESENTATION.pdf](#)

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Kelly,

At the request of Jorge Sanchez, I am forwarding the below e-mail to you regarding Palm House Hotel at 160 Royal Palm Way, ARCOM No. B-063-2020 and Zoning Case No. Z-20-00289. He would like to have this e-mail sent to the ARCOM Members. For your convenience, I have attached the cover page from the presentation regarding this item.

Please let me know if you have any questions.

Thank you!

Lynnette R. Ballard
Administrative Assistant
SMI Landscape Architecture, LLC
140 Royal Palm Way, Suite 206
Palm Beach, FL 33480
(561) 655-9006
(561) 655-9007 Fax
lynnette@smila.net
www.smila.net



From: Jorge Sanchez <jorge@smila.net>
Sent: Friday, September 18, 2020 11:10 AM
To: Lynnette R Ballard <Admin@smila.net>
Subject: Palm House

To the Architectural Commissioners:

We would greatly appreciate if the existing East wall Clusia hedge were to remain in place. We

struggled with the past owners for a privacy hedge, which they eventually installed. It is finally growing, so please leave it in place. Our agreement at time of install was it would be allowed to grow to 25' in height.

Much appreciated,



Jorge A. Sánchez

SMI Landscape Architecture, LLC

140 Royal Palm Way # 206

Palm Beach, FL 33480

(561) 655-9006

www.smila.net

Recipient of the Arthur Ross Award



Donald J. Lunny, Jr., Esq.
donald.lunny@brinkleymorgan.com

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Please reply to Fort Lauderdale

September 21, 2020

The Honorable Members of the Town of Palm Beach Architectural Review Commission

Michael B. Small, Chairman
Robert N. Garrison, Vice Chairman, Architect
John David Corey, Member, Master Gardner
Maisie Grace, Member
Alexander C. Ives, Member
Betsy Shiverick, Member
Richard Sammons, Member, Architect
Katherine Catlin, Alternate Member
Dan Floershemier, Alternate Member
Ted Cooney, Alternate Member

Via E-mail Request to Ms. Kelly Churney and Ms. Laura Groves van Onna

Re: September 23, 2020
Agenda Item X C. 7
Major Project
Application No. B-063-2020:
The Palm House Hotel
160 Royal Palm Way,
Palm Beach, Florida 33480

Dear Commission Members:

This Firm Represents Virginia C. Simmons, individually and as Trustee of the Virginia C. Simmons Revocable Trust U/A/D May 4, 2018, the owner of single-family residential property having a street address of 133 Brazilian Avenue, Palm Beach, Florida. The Simmons property is within 200 feet of The Palm House Hotel as demonstrated by the Composite Exhibit "1" location map prepared by Cooper Gary, and an except of the Simmons' property aerial map

from the Palm Beach County Property Appraiser website. Our Firm has been retained to provide preliminary comment on Application No. B-063-2020 (the "Application") which is pending before the Architectural Review Commission ("ARCOM").

At this time, our client is concerned about the following:

- (1) Whether the Town's Notice Requirements have been met for the September 23, 2020 ARCOM Meeting;
- (2) There is no Town professional Staff report which has been prepared for the ARCOM Meeting;
- (3) ARCOM's consideration of the *aesthetic* and *design* aspects of the Application is premature because Town Commission pre-requisite development orders in the form of granting special exceptions and variances and increasing non-conformities would be required to approve the Site Plan; furthermore, to the extent that ARCOM is requested to make recommendations concerning the Applicant's requests for variances, special exception, and Site Plan approval, our client would request that ARCOM **recommend denial** of those requested development orders; and
- (4) The Application's failure to fully illustrate its short comings.

Each of these four (4) concerns are explained in more detail in the sections that follow.

1. Notice

Our first concern is notice. The Application bears a date of August 21, 2020. Unfortunately, a complete copy of the Application was not received by our client in the mail and was only obtained by the undersigned last week to discover what was on the Agenda for the September 23, 2020 ARCOM Meeting. Attached as Exhibit 2 are the only documents which our client received in the mail with respect to The Palm House Hotel development. As can be seen, much of the Application material is not included in Exhibit "2." At the outset, our client desires to know whether the Town's notice requirements for the scheduled September 23, 2020 ARCOM Meeting have been met and would request the Commission to make a specific determination in

this regard before considering the Application¹. If the Town's notice requirements have not been met, the Application should be re-advertised, and its consideration deferred.

2. No Professional Staff Report

Our second concern is that there is no written Staff report for the upcoming ARCOM Meeting, and thus, there is no Staff comment concerning the Application, or the accuracy of the representations and statements made in the Application. This creates a concern for citizens who do not have the practical expertise or ability, or time, to review and verify such matters. It also appears from the Agenda format that ARCOM is expected to make recommendations concerning the variances and special exceptions and request for Site Plan approval contemplated in the Application; however, there is no Town Professional Staff Comment concerning its evaluation of the applicable standards as applied to the Application which must be met for such development orders to be granted. It is common in our experience for local advisory commissions to have Staff's evaluation and reports when taking action - - even when part of such action is advisory in nature. Our client would request that ARCOM ask the Town's professional development Staff to review the Application and comment on the various statements or representations of the Application, upon ARCOM's standards for review as applied to the Application², and upon the requested special exceptions, variances, and Site Plan Approval.

Without a written report from the Town's professional Staff, it is likely that some important details might be missed. For example, the Application discloses that music and other activities might occur on the pool deck and in the grass area near the pool deck. In 2012, the historical digest received by our client for the zoning application discloses that the Town Commission conditioned its approval of the development orders it then granted to indicate in Condition 4 that *"The pool deck area shall be allowed only background music and light live music with the speaker system directed to the North. There shall be no music on the abutting grass area."* The Amendment to Declaration of Use Agreement recorded in Official Records Book 25694 at page 0633 indicates in Article IV, Paragraph 3 that there will be no events on the pool deck, the grass area will remain *"passive,"* and music on the pool deck will be only background or light live music with the speaker system directed to the North. In the Second Amendment to Declaration of Use Agreement recorded in Official Records Book 26251 at page 0078, Article IV, Section 2 states that the activity allowed on the rooftop of the function room

¹ As our client's land is within 200 feet of The Palm House Hotel, and the Application requires Site Plan Approval, Variances, and Special Exceptions, she should have been provided with a copy of Application No. B-063-2020, and did not receive same. Please see Sec. 18-202 (1) of the Town Code.

² We have reviewed Sec. 18-205 (a) of the Town's Code, and several of ARCOM's standards for review lend themselves to Staff Comment, such as standard (a)(4) [harmony with the Town Comprehensive Plan and any precise plans adopted pursuant to the Comprehensive Plan], (a)(5) [conformity with the Town's Code and other ordinances], (a)(6) [degree of excessive dissimilarity], and (a)(8) [appropriateness in relation to established character of other structures in the immediate area or surrounding areas relative to design features viewable from public and private rights of way].

was transferred to the rooftop of the hotel, provided no events of any kind or recorded or live music were allowed. The foregoing conditions and restrictions are amended and *removed* by the proposed, draft Third Amendment to Declaration and Use Agreement. One is left to wonder *where* is live and recorded outdoor music and entertainment and activity contemplated, *what* is contemplated, and most importantly *why* is this intensification being considered? Our client opposes any increase in noise or outdoor activity that generates noise, and would prefer that very light, live or recorded background music be limited to defined areas, be limited to daylight hours only, have enforceable decibel limits, and require speakers facing North. Other problematic compatibility issues may be disclosed by a written Staff Report.

3. ARCOM Aesthetic Architectural and Design Review is premature; furthermore, ARCOM should recommend that development orders be denied.

The Application discloses that The Palm House Hotel is non-conforming, and that for the proposed Site Plan to be approved, certain special exceptions and numerous variances will need to be granted by the Town Commission. Our client (and we believe other Town citizens) plan(s) on opposing some of the requested special exceptions and variances which are necessary for Site Plan Approval. It is our understanding that the Town's ARCOM approval is needed relative to aesthetic design and architectural matters prior to an application for a building permit being approved. Further, it is our understanding that an application for a building permit should take place after Site Plan Approval. Indeed, Sec. 18-205 (a) (9) of the Town's Code indicates that in order for ARCOM to approve a proposed project, it must determine that:

"(9) The proposed development is in conformity with the standards of this Code and other applicable ordinances insofar as the location and appearance of the buildings and structures are involved."

In a case such as this which involves Town Commission required development orders as a prerequisite to Site Plan Approval, it would seem premature for the applicant to seek ARCOM aesthetic architectural and design approval at this time, and our client would request that the Architectural Review Commission defer its consideration of these aspects of the subject application until after the Town Commission considers the pre-requisite development orders and determines whether to grant Site Plan Approval.

Since it is apparent from the Agenda that the Architectural Review Commission is considering making recommendations to the Town Commission concerning whether the Town Commission should grant or deny the requested Special Exceptions, Variances, and approve a Site Plan which increases nonconformities, the following Sections 3A, 3B, and 3C provide some preliminary observations as to why the Architectural Review Committee should recommend that these development orders be **denied**.

A. Claimed Hardships Seem “Self Imposed” Suggesting that
Variances should be Denied

As stated above, variances are needed for the Site Plan requested to be approved. Our preliminary review of the Town’s variance law would cause an objective reader to doubt whether sufficient grounds for granting a variance are present in this case. Our review the Palm Beach County Property Appraiser records discloses that the applicant, LR Palm House LLC, a Delaware Limited Liability Company, obtained a Debtor in Possession Deed to the site on May 15, 2019, which is *after* the 2016 Town conditional development approvals. While our investigation is on-going, we would note that the boundary survey which is contained in the subject Application and was prepared by Wallace Surveying Corporation discloses that The Palm House Hotel site is uniformly rectangular, having a 300’ x 200’ dimension. Thus, the real property on which The Palm House Hotel sits has no irregular contours or shape which would support a variance request. Moreover, the real property *more than satisfies* the C-B Zoning District’s minimum lot area, lot width, and lot depth requirements (*See* Sec. 134-1308 (1), (2), (3) Town Code). Given that the current owner acquired the site *after* the 2016 conditional town approvals and *after* the Town’s 2017 Comprehensive Plan Amendments, and given that the real property on which the hotel is not irregular and more than satisfies the Town’s C-B District minimum dimensional requirements, any claimed “hardship” for a requested variance should be viewed as “self-created” in as much as a *developed site* was purchased, and the Application results from the property owner’s desire to change things. A self-created hardship can not be the basis for granting a variance.

- B. A Hotel having in excess of 26 Units Per Acre is presently not a listed Special Exception Use in the C-B Zoning District; therefore, the requested Special Exception Approvals are not available.

As stated above, the Application states that special exceptions granted by the Town Commission are needed for the Site Plan to be approved. Our preliminary review of the Town’s special exception law would cause an objective reader to doubt whether the Town Commission can consider the subject Application as a Special Exception. Sec. 134-229 (1) of the Town Code reads as follows:

“The requirements for granting a special exception use under this chapter are as follows:

- (1) The use is a permitted special exception use as set forth in article VI of this chapter.”

The Town's C-B District Regulations define the applicable Special Exception Use in Section 134-229 (a) (5) as follows:

- (a) The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the C-B commercial district are as follows:
 - (5) Hotels at a maximum of 26 units per acre.

Our review of the Application discloses that The Palm House Hotel presently has more than a maximum of 26 units per acre, and therefore, an application for the Hotel *as currently developed* does not qualify as a Special Exception Use since it is not a listed special exception use in the C-B Zoning District. Therefore, this special exception can not be granted.

C. Non-conformities should not be allowed to increase and enlarge.

As stated above, the Application discloses The Palm House Hotel is a non-conforming structure, and some of the requests in the Application increase the extent of such nonconformities, and this does not appear to be permitted under the Town's Code. The Town's Code makes a distinction between regulations that relate to non-conforming uses, and regulations that relate to non-conforming structures, and the Code is less flexible for expansions to non-conforming structures. As the Members may know, non-conformities should be *reduced* over time, and when this occurs, such action should not be viewed as justifying an increase in non-conformities elsewhere in the development (or "traded" for an increase in non-conformities elsewhere within the development). As an example, the Application advises that the rear yard setback requirement is 23.88 feet, and yet new construction is proposed which would encroach within the rear yard setback so that a 10-foot rear yard setback is requested. The new construction would include, an enclosed dumpster area, electric transformer, pool water feature, pool concierge, portion of the pool deck, retaining walls, a bar and restroom facility, a chiller, a screen wall, and a second transformer. These all engender noise and activity and loss of separation which form the policy considerations protected by yard setback regulations. We also note that the apparent maximum allowed lot coverage requirement is 50%, and the Application proposes to *increase* the current non-conformity of 62.8% to 63.8%. Finally, the Application discloses that the maximum allowed building height is two stories, and not only are three (3) stories existing, but the space on the third floor may be activated which increases the extent of non-conformity. A proposed expansion or enlargement of nonconformities goes against zoning legal policy considerations and all concepts of proper use of the property and should not be allowed.

4. Failure to Highlight Extent of Shortcomings

Our fourth concern is the Application's apparent focus between what was conditionally approved in 2016 as opposed to what is requested now. It is important to note that one very

significant difference between conditional approvals in 2016 and requested approvals in 2020 is that the Town completed its Comprehensive Plan Evaluation and Appraisal Report and adopted Comprehensive Plan Amendments when the Town Commission enacted Ordinance No. 9-2017 which was passed on Second Reading on August 9, 2017. Section 5 of this Ordinance repealed all ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with Ordinance No. 9-2017 or any part of Ordinance No. 9-2017. From a practical perspective, therefore, the proper focus of the Town should not merely concentrate on the claimed-and-not-yet-Staff-verified "differences" between the 2016 conditional Town approval versus what is requested in 2020; but instead, the proper focus should be on what is being requested in 2020 versus what is allowed under the Town's land development regulations, and whether any of the changed provisions of the Comprehensive Plan affect the Application. The true extent of the development's various shortcomings will then be apparent and disclosed, and this will enhance the development review process.

Conclusion

As stated above, our client is: (1) concerned about whether the Town's Notice Requirements have been met for the September 23, 2020 ARCOM Meeting, (2) concerned that there is no Town professional Staff report which has been prepared for the ARCOM Meeting, (3) concerned that ARCOM's consideration of the aesthetic architectural or design aspects of the Application is premature because Town Commission pre-requisite development orders have not been granted; and furthermore, ARCOM should recommend that such development orders be denied, and (4) is concerned with fact that the Application does not demonstrate the extent of its shortcomings.

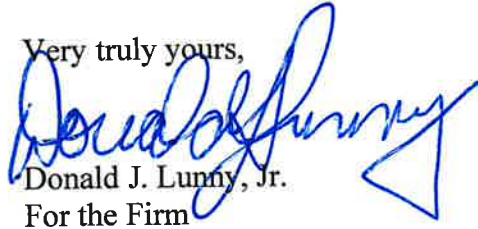
If the matter is to proceed after the Notice concern is evaluated, our client would request that consideration of the aesthetic architectural and design aspects of the Application be deferred until after the Town Commission considered the Applicant's requests for Site Plan Approval, special exception approvals, and numerous variances. Further, our client would request that the Architectural Review Commission recommend that the requested special exceptions, variances, and Site Plan Approval be denied.

We reserve the right to revise our preliminary comment as our investigation continues to add additional reasons why our client's requests should be granted.

Thank you for your kind attention to this matter.

Correspondence addressed to
Town of Palm Beach Architectural Review Commission
September 21, 2020
Page 8 of 8

Very truly yours,

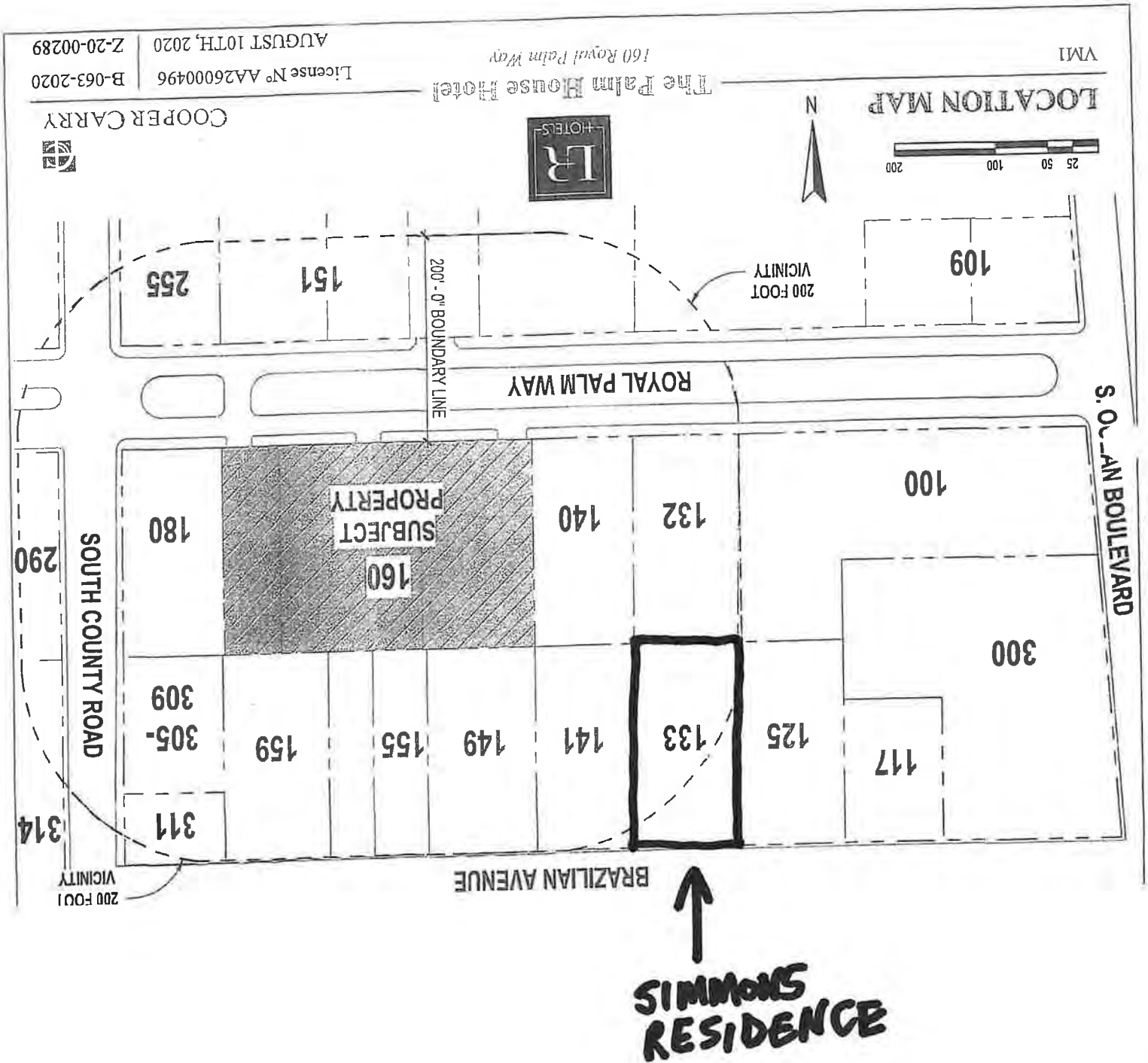
A handwritten signature in blue ink, appearing to read "Donald J. Lunny, Jr.", with a stylized flourish at the end.

Donald J. Lunny, Jr.
For the Firm

Cc w/encl: (Via E-mail):

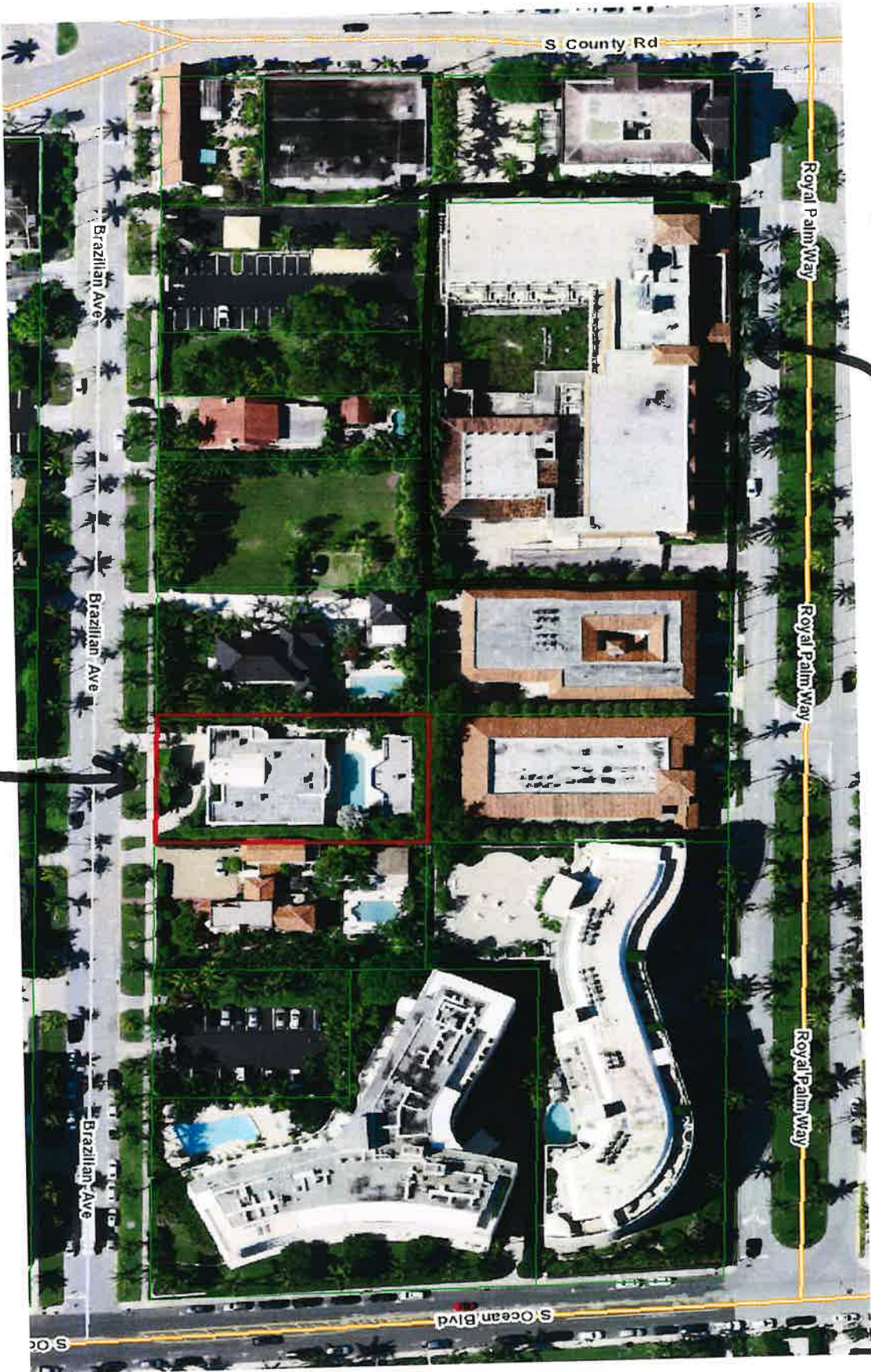
Mr. Wayne Berman;
Ms. Debbie Moody;
Ms. Virginia C. Simmons;
Harris K. Solomon, Esq.; and,
Maura Ziska, Esq.

Composite Exhibit “1”





The Palm House Hotel



SIMPSONS RESIDENCE

Composite Exhibit “2”

ZONING APPLICATION
TOWN OF PALM BEACH



Z-20-00289
(Zoning Case Number)

This application includes requests for:

<u>X</u>	Site Plan Review
<u>X</u>	Special Exception
<u>X</u>	Variance

TO BE HEARD BY THE TOWN COUNCIL ON OCTOBER 14, 2020 AFTER 9:30 A.M., IN THE TOWN OF PALM BEACH COUNCIL CHAMBERS LOCATED ON THE 2ND FLOOR, 360 SOUTH COUNTY ROAD, PALM BEACH. Pursuant to the Town Zoning Code of Ordinances, Sections 134-172 (Special Exceptions and Variances) and/or 134-328 (Site Plan Review), this application is being sent to all property owners within 300' of the location of the subject zoning application. A copy of this application along with all exhibits such as large drawings and other supporting documents that are not attached to this application are available for inspection at the Town's Planning, Zoning & Building Department, 360 S. County Rd., east entrance, weekdays between the hours of 8:30 a.m. and 4:30 p.m. All interested persons may appear and be heard at said Public Hearing and may likewise submit written statements prior to and at said Public Hearing. If any person decides to appeal any decision made by the Town Council with respect to this matter, he/she will need to ensure that a verbatim record of the proceeding is made which record includes the testimony and evidence upon which the appeal is to be based. Please be advised that the Town does not enforce private covenants or deed restrictions.

I. SUBJECT ADDRESS: 160 Royal Palm Way

Zoning District C-B

Legal Description: Being all of Lots 31, 32 and 33, Block F, ROYAL PARK ADDITION to the Town of Palm Beach, Florida, according to the plat thereof as recorded in Plat Book 4, Page 1 Public Records of Palm Beach County, Florida.

Fee Simple Property Owner's Name: LR Palm House LLC (Ian Livingstone, Executive Chairman)

Name and address of person who can receive service of process for purposes of litigation in Palm Beach County: Maura Ziska, Esquire, Kochman & Ziska PLC, 222 Lakeview Ave. Suite 1500 West Palm Beach, FL 33401

Applicant Name: LR Palm House LLC (Ian Livingstone, Executive Chairman)

Contact Phone c/o Kochman & Ziska PLC 561-802-8960

II. **DESCRIPTION OF THE REQUEST TO BE HEARD BY TOWN COUNCIL**, citing applicable Town Zoning Code Section Number(s):

A. Applicable Zoning Code Section Number(s):

Section 134-226. Special Exception Request to modify the approved Special Exception.

Section 134-227. Town council authorization, compliance and site plan review required.

Section 134-329. Review by town council.

Section 134-201. Findings prior to authorization.

Section 134-1304. Special Exception uses. (5) Hotels.

Section 134-1305. Outdoor dining.

Section 134-1308. Lot, yard and area requirements (6) Side yard; (7) Rear yard; (8) Height and Overall height; (9) Lot coverage

Section 134-1669. Side and rear yard walls.

Section 134-1729. Generators and swimming pool equipment. (2) c.

B. Description of request by Zoning Section Number(s): Project Overview:

Section 134-1304 (5): Request to modify Site Plan Review # 1-2016 with Special Exception to change the approved use from condo-hotel to hotel; modify the previously approved site plan; and amend the conditions of approval in the Declaration of Use Agreement, as identified in the proposed Third Amendment to the Declaration of Use which is Exhibit "F") of this application. The proposed site modifications being requested as follows:

Section 134-1304(5): The existing Palm House hotel is located at 160 Royal Palm Way, Palm Beach, Florida. It is currently vacant and construction is partially completed. The structure is three stories with a partially enclosed basement containing parking and back-of-house functions. The hotel is 84,495 gross square feet in total. There is an East and West guest wing, and these wings are connected by a central core containing the Main Entrance and other partially completed public functions. A separate conference and events "Function Room" and partial pool deck was also constructed at the south east portion of the property.

Section 134-227, 326 & 329 1729(2)(c): (Site Plan Review) The new owner/applicant is proposing new work for the hotel which includes the following site plan modifications:

- 1) Completion and conversion of guest rooms for a total of 79 keys. Two new presidential suites will be constructed within the building core, each with private outdoor balconies.
- 2) Completion of the Lower Level for back-of-house, administrative and housekeeping functions for the hotel. The interior modifications for the lower level includes renovation of partially completed areas including kitchen, food storage, housekeeping, staff areas and hotel administrative offices. The Owner is requesting an additional 148 SF to provide a new service stair from the Lower Level to support the Pool Area. Additional areas for renovation include spaces for MEP infrastructure such as electrical, hot water, and elevator systems. The proposed modifications remove all Hotel Guest program areas from the Lower Level. The Lower Level renovation includes restoration of parking area for 60 parking spaces including three accessible parking spaces. Two parking spaces which includes on Van Accessible parking space is located behind the existing function room. All parking will be Valet only per the Declaration of Use Amendment Three. Total on-site parking provided is 62 spaces.
- 3) A new pool deck will be constructed adjacent to the existing Function Room, with various amenities that include chaise lounges and outdoor seating, shade umbrellas, toilets, a towel/concierge stand, open-air bar with enclosed pantry behind, water features, lush native plantings, and Event Lawn to be used as a pre-function space, or for small wedding and/or overflow sun bathing;
- 4) The first level lobby and public spaces will be completed to include fine dining and lobby bar, with 88 indoor seats as well as 36 outdoor seating facing the new pool deck. The second floor dining that was previously approved has been eliminated to make room for the reconfigured hotel suites which include the new presidential suites;
- 5) The Function Room construction will be completed and the seating plan in the Function Room is being revised to add 50 more seats for a total of 200 seats (the total overall number of seats throughout the hotel that was previously approved is being reduced from 336 to 324);
- 6) A small 556 square foot banquet prep kitchen is proposed to be constructed adjacent to and on the east side of the existing Function Room.
- 7) Replace a 250 RW generator in the basement with the same size that exists today.

Other exterior improvements will include new third floor railings, re-painting, new exterior floor finishes, trellises and a covered walkway leading to the existing Function Room. Fenestration requiring replacement will be replaced with similar windows and doors. Addition of a small 61 square foot pool service building; enclosing the 679 square foot function room pre-function space on the west side of the Function Room; addition of 588 square foot restroom for Function Room, addition of 556 square foot prep kitchen for Function Room and addition of 148 square foot stairwell to access Function Room prep kitchen.

The following is a list of the proposed special exceptions and variances being requested for the hotel project:

- 1) Section 134-226 & 229: A special exception request to modify the approved special exception by converting from a condominium hotel to hotel use and make the site modifications and change to the conditions of approval as identified in this application.
- 2) Section 134-1305: A special exception request to allow 36 seats for outdoor dining on the first floor on the north side of the pool deck; and
- 3) Section 134-1308(9): A variance for lot coverage to be 63.8% in lieu of the 62.8% existing and the 50% maximum allowed in the C-B Zoning District;
- 4) Section 134-1308(8): A variance for the addition of railings and solid wall on the east façade of the hotel above the second floor where only a two story building is allowed in the C-B Zoning District;
- 5) Section 134-1308(8): A variance for the addition of railings and solid wall on the east façade of the hotel with a height of 31.83 feet in lieu of the 25 foot maximum allowed;
- 6) Section 134-1669: A variance for the height of the wall enclosing the dumpster located at the southeast corner of the property to be 13.25 feet tall in lieu of the 7 foot maximum height allowed from the neighbor's grade;
- 7) Section 134-1308(8): A variance for the two story open air addition on the south side of the hotel for a hotel suite balcony on the second floor and covered dining on the first floor with a height of 33.58 feet in lieu of the 25 foot maximum allowed in the C-B Zoning District;
- 8) Section 134-1308(8): A variance for the two story open air addition on the south side of the hotel for a hotel suite balcony on the second floor and covered dining on the first floor with an overall height of 42 feet in lieu of the 35 foot maximum allowed in the C-B Zoning District;
- 9) Section 134-1669: A variance for the height of the wall along the rear property line to be 8.5 feet in lieu of the 7 foot maximum allowed from the neighbor's grade;
- 10) Section 134-1669: A variance for the height of the wall enclosing the existing chiller at the south west corner of the property to be 12 feet tall in lieu of the 7 foot maximum allowed from the neighbor's grade;
- 11) Section 134-1308(7): A variance for a rear yard setback for the chiller to be 2.25 feet in lieu of the 10 foot minimum required in the C-B Zoning District;
- 12) Section 134-1308(6): A variance for a west side yard setback for the chiller to be 5.8 feet in lieu of the 10 foot minimum required in the C-B Zoning District;

III. APPLICATIONS CONTAINING SITE PLAN REVIEW

If the application contains Site Plan Review, complete Exhibit A, and briefly describe below the reasons why such application should be approved. This explanation should be a summary of information provided in Exhibit A (Site Plan Review by Town Council as stated in the Town's Zoning Code at Section 134-329).

The Site Plan should be approved as part of the Special Exception approval as the proposed site plan is completing unfinished work, correcting unauthorized work and adding functional space to improve the hotel operations and property.

Zoning Case Number

IV. APPLICATIONS CONTAINING SPECIAL EXCEPTIONS

If the application contains requests for Special Exceptions, complete **Exhibit B**, and briefly describe below the reasons why such application should be approved. This explanation should be a summary of information provided in Exhibit B (Requirements for granting Special exceptions by the Town Council as stated in the Town's Zoning Code at Section 134-229).

The Special Exception should be approved as the Palm House hotel has been in existence since the 1961 (previously the Heart of Palm Beach Motor Hotel) and has been an asset to the community for many years. However, the site has been abandoned and is in need of completion and the opportunity to open a viable business in this location. The new owner/application has tremendous experience in the hotel business (globally) and has every intention of making this hotel a beautiful site for many years to come. The proposed completion of the project will be a tremendous asset to future guests of the hotel as well as the neighboring properties.

V. APPLICATIONS CONTAINING VARIANCES

If the application contains requests for variances, please respond to the questions below, and complete **Exhibit C** (Findings for authorizing a variance as stated in the Town's Zoning Code at Section 134-201).

- a. Applicant should provide a brief description of the special conditions which when subjected to a literal enforcement of the provisions of the zoning ordinance will result in unnecessary and undue **HARDSHIP**. This explanation should be a summary of information provided in Exhibit C.

The hardship that runs with the land is that the existing hotel is non-conforming to today's code. The additional square footage will improve amenities, livability and aesthetics within the confines of the existing building and property. This would be challenging without zoning relief from the current code.

- b. Applicant should address how granting of a variance for these special conditions will not be contrary to the public's interest.

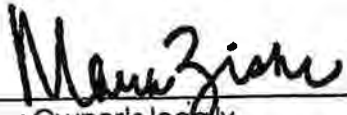
Granting the variances is reasonable as the total number of off-street parking spaces remains the same as the previous approval and will be all valet spaces. The overall seating within the hotel property has been reduced from that which was previously approved.

VI. SITE HISTORY

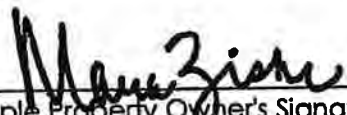
Please provide a detailed history in chronological order of all zoning-related requests processed on or after January 1, 1970 applicable to this property.

See attached Exhibit "E".

Respectfully submitted,



Owner or Owner's legally
Authorized Agent*
Maura Ziska, Esq., Attorney LR Palm House LLC
561-802-8960



Fee Simple Property Owner's Signature
(or his/her duly authorized attorney)
Maura Ziska, Esq. Attorney for LR Palm House LLC
561-802-896

EXHIBIT A – REQUEST FOR SITE PLAN REVIEW

In order to assist the Town Council in reviewing the site plan application, please ensure that the following items have been addressed.

1. Sufficiency of statements on ownership and control of the subject property and sufficiency of conditions of ownership or control, use and permanent maintenance of common open space, common facilities or common lands to ensure preservation of such lands and facilities for their intended purpose and to ensure that such common facilities will not become a future liability for the Town.

The owner in control of the property is LR Palm House LLC, a Delaware limited liability company.

2. Intensity of use and/or purpose of the proposed development in relation to adjacent and nearby properties and the effect thereon.

The proposed modifications to the previously approved hotel project does not intensify the use as the same number of "keys" are being proposed with the same number of parking spaces previously approved and an overall reduction in seating throughout the hotel.

3. Ingress and egress to the property and the proposed structure thereof, with particular reference to automotive and pedestrian safety; separation of automotive traffic; traffic flow and control; provision of services and servicing of utilities and refuse collection; and access in case of fire, catastrophe or emergency.

Ingress, egress, utilities, and refuses collection will remain the same along Royal Palm Way.

4. Location and relationship of off-street parking and off-street loading facilities to thoroughfares and internal traffic patterns within the property, with particular reference to automotive and pedestrian safety, traffic flow and control, access in case of fire or catastrophe, and screening and landscaping.

The proposed reorganization of off-street parking and off-street loading facilities will improve internal traffic patterns within the property including: automotive/pedestrian safety, traffic flow and control (valet operations), access in case of fire or catastrophe, and screening and landscaping.

5. Proposed screens and buffers to preserve internal and external harmony and compatibility with uses inside and outside the property boundaries.

Landscaping will be tremendously enhanced via this proposal.

6. Manner of drainage on the property, with particular reference to the effect of provisions for drainage on adjacent and nearby properties and the consequences of such drainage on overall town capacity.

Drainage will be improved if required by the Town of Palm Beach.

7. Utilities, with reference to hook-in locations and availability and capacity for the uses projected.

The utility hook ups will remain the same.

8. Recreation facilities and open spaces, with attention to the size, location and development of the areas as to adequacy, effect on privacy of adjacent and nearby properties and uses within the

property, and relationship to community-wide open spaces and recreation facilities.

N/A.

8. Such other standards as may be imposed by this chapter for the particular use or activity involved.

N/A.

10. Height of commercial structures with reference to adjoining buildings, the effect on uniformity in height, and the general principle of retaining the low profile scale of commercial architecture.

The proposed height of the new addition to the existing structures match the existing height of the hotel, which are non-conforming to today's code but grandfathered.

11. Visible size and bulk. The proposed development should be so arranged that it minimizes the visible bulk of the structures to drivers and pedestrians on abutting roadways, the point of reference being the centerline of the abutting roadways, with the intent being to maintain visual impact of multistory buildings at the same relative level of intensity as a single-story building at the minimum required setback.

The proposed modifications to the hotel will not create additional visible size and bulk as most of the changes are internal to the property.

EXHIBIT B - REQUEST FOR SPECIAL EXCEPTION

The Town Council must find the application in conformance with a number of requirements. Please provide sufficient information on each of the requirements to enable the Council to make a determination on your application.

1. The use is a permitted special exception use as set forth in article VI of this chapter.
A hotel is a permitted Special Exception use in the C-B Zoning District under Section 134-1304 of the Town of Palm Beach Zoning Code.
9. The use is so designed, located and proposed to be operated that the public health, safety, welfare and morals will be protected.
The proposed uses and innovative site design will not adversely impact the public or neighborhoods but alternatively will provide a much aesthetically-improved site for the future users and adjacent neighbors of the site.
10. The use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.
The proposed uses associated with the modifications to the hotel development will have a positive impact on the value of neighboring properties as the modifications to the hotel will be elegant and the hotel and restaurant will serve as another choice for Royal Palm Way and the Town visitors.
11. The use will be compatible with adjoining development and the intended purpose of the district in which it is to be located.
The proposed modifications to the hotel will be compatible with the neighborhood as there has been a hotel in this location since 1961.
12. The use will comply with yard, other open space, and any special requirements set out in article VI for the particular use involved.
The proposed modifications to the hotel will comply with all yard, other open space, and any special requirements set forth in Article VI, that are grandfathered with the property except the minor relief being requested herein.
13. The use will comply with all elements of the comprehensive plan.
The proposed modifications to the hotel will comply with the Comprehensive Plan, where applicable.
7. The use will not result in substantial economic, noise, glare, or odor impacts on adjoining properties and properties generally in the district.
The proposed modifications to the hotel and site will not result in substantial economic, noise, glare, or odor impacts on adjoining properties and properties generally in the district since the activity is internal to the buildings except minor outdoor uses,
8. Adequate ingress and egress to property and proposed structures thereon and off-street parking and loading areas will be provided where required, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or

catastrophe.

Adequate ingress, egress, and parking is provided on Royal Palm Way and in the underground parking garage. All off-street parking will be subject to valet parking operations.

9. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, and economic impact shall be compatible and in harmony with properties in the district.

Any proposed signage will comply with the applicable Town standards.

10. Location, availability and compatibility of utility service for the use shall be satisfactory to ensure health and safety.

The utility service will remain the same or be upgraded if required by the Town.

14. Refuse and service areas for the use shall not adversely affect automotive and pedestrian safety and convenience, traffic flow and control, or access in case of fire or catastrophe.

The refuse and service areas will remain the same or will be upgraded if required by the Town.

15. In all districts except the C-OPI district, and also with the exception of hotel, motel and timeshare uses, the proposed special exception use will not attract the principal portion of its customers/clients from off-island locations. The applicant shall submit evidence satisfactory to the town council that not less than 50 percent of the customers of the proposed use will be town persons. Evidence submitted in support of this contention shall include credible data or information suitable for review by the town to determine the credibility and the appropriateness of the applicant's conclusion. The submittal shall include a description of the types of information used and the methodology employed to arrive at the conclusion. Information used shall include, but shall not be limited to, lists of customer/client addresses or certification thereof by an independent certified public accountant approved by the town, market studies prepared by independent professional firms, or data from similar operations under the control of the applicant. The town may in the future require the applicant to demonstrate to the satisfaction of the town council that the special exception use is continuing to be town-serving.

Hotels by definition under the code are "town serving".

16. If historic/specimen trees are located on the subject property, the location of said historic/specimen trees shall be identified on a signed and sealed survey. In addition, adequate landscaping, screening and barricade protection of historic/specimen trees shall be demonstrated to be provided as required in this chapter.

N/A.

17. The proposed use will not place a greater burden than would be caused by a permitted use on municipal police services due to increased traffic or on fire protection services due to the existence of or increased potential for fire/safety code violations.

The proposed modifications to the hotel and will meet the fire code and safety requirements and will have controlled parking using a valet service operation. Therefore, it should not create a greater burden to the Town.

EXHIBIT C - REQUEST FOR VARIANCE

CRITERIA FOR AUTHORIZING A VARIANCE

The Town Council must find the application in conformance with a number of criteria. Please address each of the criteria completely in order to provide the Council with sufficient information to make a determination on your application.

1. List the special conditions and circumstances peculiar to the land, structure or building which are not applicable to other lands, structures or buildings in the same zoning district.

The special conditions and circumstances peculiar to the land and structure is that the hotel was constructed in 1961 (as Heart of Palm Beach Motor Hotel) and is in need of completion and further development to bring it up to today's living standards and community needs.

2. Indicate how the special conditions and circumstances do not result from the actions of the applicant.

The special circumstances do not result from the actions of the applicant as the site and building have pre-existed the purchase by the applicant.

3. Demonstrate that the granting of the variance will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings or structures in the same zoning district.

Granting the variances will not confer special privileges as other buildings in the C-B Zoning District are non-conforming to today's code and are similarly situated with the need to update.

4. Demonstrate how literal interpretation of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.

The hardship that runs with the land is that the existing hotel is non-conforming to today's code. The additional square footage will improve amenities, livability and aesthetics within the confines of the existing building and property. This would be challenging without zoning relief from the current code.

5. Demonstrate that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

The variances being granted are the minimum necessary to bring the property and hotel up to world class status and complete a dormant abandoned building.

6. Show how the granting of the variance will be in harmony with the general intent and purpose of this chapter, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Granting the variances will be in harmony with the intent of the code to protect the neighborhood and town and will not be injurious to the public welfare as the hotel is in need of completion and updating to open and be a viable business in Town.

EXHIBIT D - PARKING STATEMENT

Please provide a detailed parking statement which includes details of all available off-street parking, including information regarding the number of parking spaces designated for service use (for example: lawn service, pool service, staff/employee use, etc.)

COMMERCIAL PROPERTIES MUST:

- PROVIDE NUMBER OF OFF-STREET PARKING SPACES AVAILABLE FOR EMPLOYEES ON THE SUBJECT PROPERTY: 10
- PROVIDE NUMBER OF EMPLOYEES/STAFF PER SHIFT: 20 employees per shift
- INDICATE LOCATION WHERE EMPLOYEES PARK OFF-SITE: West Palm Beach Marriott (also owned by L+R Hotels) 1001 Okeechobee Blvd., West Palm Beach

RESIDENTIAL PROPERTIES MUST:

- PROVIDE NUMBER OF OFF-STREET PARKING SPACES AVAILABLE ON THE SUBJECT PROPERTY: _____
- PROVIDE NUMBER OF EMPLOYEES/STAFF PER SHIFT: _____
- INDICATE LOCATION WHERE EMPLOYEES/STAFF PARK OFF-SITE: _____

EXHIBIT E – SITE HISTORY

Please provide a detailed history of all zoning-related requests applicable to this property processed on or after January 1, 1970, in chronological order, including but not limited to variances, special exceptions, site plan reviews, and existing agreements.

1971 – Variance #42-71 was approved for permission to install a sign, which is (8'-6") two feet from the front street line

07/08/1975 - Special Exception – #8-75 was approved to construct a hotel building having forty-five rooms with the following conditions:

- 1. front yard kept in natural land cover**
- 2. two or more shade trees at least twelve feet and with a spread of not more than ten feet upon planting be provided in the front yard**
- 3. The Town will be furnished with a letter that existing hotel and approved hotel will never be connected**

1975 - Special Exception – #8-75 Town Council approved a six month extension

12/11/1979 – Variance to Commercial Moratorium No. 5-79 – Permission to expand existing hotel by constructing a 3-story, 45 unit hotel with related parking. Deferred from 10/9/1979 meeting. DENIED

**12/11/1979 - Special Exception No. 22-79 – Permission to construct three story hotel in lieu of two story with density of 45 units/acre in lieu of 22. CB District.
APPROVED with special amendments:**

- 1. A sufficient dimension be allowed in the proposed parking lot at the rear and an additional hedging along the South line of the property line be installed at a height of six feet.**
- 2. Five foot wall conforming to the existing wall now at the rear of the existing hotel property be continued along the South property line to the Eastern terminus of the property.**
- 3. 30 units be allowed in lieu of the requested 32.**
- 4. Applicant is required to participate in the sanitary and storm sewer construction in the future on a equitable basis as we approved for other applicants in the same sewer.**

01/12/1982 – Special Exception No. 2-82 – Permission to modify Special Exception No. 22-79 by constructing a vinyl awning structure over walkway between East and West buildings that will not be visible from the street. C-TS District. APPROVED – No enclosures on the sides of this awning permitted.

**12/11/2001 – Site Plan Review No. 21-2001 With Special Exceptions and Variances – Approval requested for a modified site plan to the Heart of Palm beach hotel to include one and two story additions to provide for a ballroom and associated service area, elevator, handicap restroom and storage building; and
SPECIAL EXCEPTION – approval requested to allow a two story addition to the existing hotel located in the C-TS District; and
SPECIAL EXCEPTION – approval requested to provide for supplemental off-site shared parking in the C-TS District in conjunction with a signed parking license agreement with JP Morgan Chase to provide 53 shared spaces; and
VARIANCE – to allow an expansion of a non-conforming hotel use in existence over 15 years; and
VARIANCE – to allow the expansion of a non-conforming building or structure by completing the proposed site plan changes; and**

VARIANCE – for a total building length of 264 feet in lieu of the required maximum of 150 feet for a variance of 114 feet; and
VARIANCE – to allow floor area within the C-TS Zoning District of 27,101 square feet in lieu of the 25,388 square feet existing and 15,000 square feet allowed maximum for a variance of 1713 square feet; and
VARIANCE – to allow a 25.09 foot front setback in lieu of the 30.29 foot required setback for a variance of 5.2 feet; and
VARIANCE – to allow a rear setback of 11.48 feet in lieu of the 15 foot minimum required setback for a variance of 3.52 feet; and
VARIANCE – to allow the proposed modifications without providing the additional 33 off-street parking spaces required by code.

DEFERRED to January 8, 2002 meeting per Town Council.

01/08/2002 – Modified Site Plan Review No. 21-2001 With Special Exceptions and Variances – Approval requested for a modified site plan to the Heart of Palm Beach Hotel to include one and two story additions to provide for a ballroom/function place and associated service area, elevator, handicap chair lift, meeting room, new handicap restroom and storage building;

SPECIAL EXCEPTION – approval requested to allow a two story addition to the existing hotel located in the C-TS District; and

VARIANCE – to allow an expansion of a non-conforming hotel use in existence over 15 years; and

VARIANCE – to allow the expansion of a non-conforming building or structure by completing the proposed site plan changes; and

VARIANCE – for a total building length of 264 feet in lieu of the required maximum of 150 feet for a variance of 114 feet; and

VARIANCE – to allow floor area within the C-TS Zoning District of 27,101 square feet in lieu of the 25,388 square feet existing and 15,000 square feet allowed maximum for a variance of 1713 square feet; and

VARIANCE – to allow a 25.09 foot front setback in lieu of the 30.29 foot required setback for a variance of 5.2 feet; and

VARIANCE – to allow valet only parallel parking in existing parking areas and a reduction in aisle width to 13' in lieu of the required 25' for valet parking only for a variance of 12'; and

VARIANCE – to allow parallel parking automobiles to block another automobile requiring one automobile to be moved to allow another to be taken from the property which is contrary to Section 134-2172.

DEFERRED to February 12, 2002 meeting per December 21, 2001 letter from James R. Brindell, Esq.

02/12/2002 – Modified Site Plan Review No. 21-2001 With Special Exceptions and Variances – Site plan approval requested for a modified site plan to the Heart of Palm Beach Hotel. Request has been reduced since its origination in two regards: the elimination of the proposed enclosure of a pool area and a storage/bathroom proposed to be located slightly into a setback. **DEFERRED** to March 12, 2002 meeting for further review by the Town's Traffic Consultant.

03/12/2002 – Modified Site Plan Review No. 21-2001 With Special Exceptions and Variances – Site plan approval requested for the Heart of Palm Beach Hotel to construct one and two story additions for function/pre-function areas, elevator, handicap chair lift and a new handicap restroom; special exception approval to allow a two story addition to the existing hotel located in the C-TS District; and, variances to allow:

VARIANCE – expansion of a non-conforming building or structure by completing the proposed site plan changes; and

VARIANCE – connecting both building to allow a total building length of 264 feet in lieu of the required maximum 160 feet; and

VARIANCE – floor area of 27,101 square feet in lieu of the 25,388 square feet existing and 15,000 square feet maximum allowed; and

VARIANCE – a 25.09 foot front setback in lieu of the 30.29 foot required setback for a variance of 5.2 feet; and

VARIANCE – valet only parallel parking in existing parking areas during function events;; and

VARIANCE – reducing the drive aisle width to 13' in lieu of the required 25' maximum allowed for valet parking only; and

VARIANCE – allowing parallel parking of automobiles to block another automobile requiring one automobile to be moved to allow another to be taken from the property which is contrary to Section 134-2172.

APPROVED with the following conditions:

1. Functions during breakfast shall be limited to 74 guests.
2. Functions during lunch shall be limited to 49 guests.
3. Functions with less than 25 guests will not be required to have valet parking attendants.
4. Functions of 25 to 50 guests shall be required to have a minimum of two valet parking attendants and one parking supervisor.
5. Functions of 75 to 110 guests shall be required to have a minimum seven valet parking attendants and two parking supervisors.
6. Any time valet parking operations are required to be provided by the hotel, there shall be one special duty Town of Palm Beach police officer, payed for by the hotel, on duty at that location. If the Town determines that one police officer is not sufficient, the applicant at his own expense, shall be required to provide one additional Town of Palm Beach special duty place officer at the hotel for those functions that are of the size that have been determined to be a problem.
7. When valet operations are required as stated above, the hotel shall being valet operations 24 hours prior to the event.
8. When the West garage becomes full during valet operation, no further valet drop-offs will occur in that garage.
9. If the Town determines that the valet operations are not adequate to handle the parking requirements for the functions at the hotel, the applicant shall be required to come back to the Town Council to determine what adjustments, limitations or other accommodations need to be imposed to address such problem. In addition, the applicant shall also be required to return in one year after the proposed function/pre-function addition is completed to re-evaluate the valet parking and traffic circulation issues at the hotel. If the Town determines that the valet operation during the events in the function/pre-function area are not working, the Council may take remedial action, up to and including further limiting the use of said area.

05/14/2002 - Modified Site Plan Review No. 21-2001 Council clarified the conditions of approving with the following conditions (changes underlined):

1. Functions during breakfast shall be limited to 74 non-hotel guests
2. Functions during lunch shall be limited to 49 non-hotel guests
3. Functions with less than 25 non-hotel guests will not be required to have valet parking attendants
4. Functions of 25 to 50 non-hotel guests shall be required to have a minimum of 2 valet parking attendants and 1 parking supervisor

5. **Functions of 75 or more non-hotel guests shall be required to have a minimum of 7 valet parking attendants and 2 parking supervisors. The maximum capacity for the function/pre-function area shall be 110 total guest**

12/09/2003 – Site Plan Review #10-2003 with Special Exception – Modifying Site Plan Review #21-2001 with Special Exception and Variances – to expand the previously approved hotel (a special exception used) by constructing a 452 square foot basement addition below the service area and previously approved function room. The additions will consist of a hallway, storage room, elevator machine room and elevator hoist way. APPROVED.

01/13/2004 – Site Plan Review #1-2004 with Special Exception and Variances – Site Plan approval for a modified site plan for the Heart of Palm Beach Hotel including a partial third floor addition on the East building to add 6,984 square feet for 7 rooms and a corridor, and a basement parking garage of 8,237 square feet under the existing surface parking lot, raising the surface parking lot in the back, for a net gain of 17 off-street parking spaces. These seven additional hotel units will allow the hotel to provide a few suites which it currently lacks.

SPECIAL EXCEPTION – to expand the previously approved hotel special exception.

VARIANCE – to allow a partial third story addition to the existing hotel in the C-B Zoning District, where only two stories are allowed; and

VARIANCE – to allow the expansion of a non-conforming building or structure by completing the proposed changes and extending the overall length of the third floor of the building to 264 feet in lieu of the 150 feet allowed; and

VARIANCE – to allow 63.33 hotel rooms per Palm Beach acre in lieu of the 58.67 existing and the maximum 26 hotel rooms per Palm beach acre allowed by adding 7 additional rooms on the third floor of the East part of the building; and

VARIANCE – to allow a building height of 34.92 feet from zero datum in lieu of the 25 foot maximum height allowed for a two-story building for the East building addition; and

VARIANCE – to allow an overall building height of 36.0 feet from zero datum in lieu of the 30 foot maximum overall height allowed for a two-story building for the East building addition.

DEFERRED to the February 10, 2004 meeting.

02/10/2004 – Site Plan Review #1-2004 with Special Exception and Variances – Site Plan approval for a modified site plan for the Heart of Palm Beach Hotel including a partial third floor addition on the East building to add 6,984 square feet for 7 rooms and a corridor, and a basement parking garage of 8,237 square feet under the existing surface parking lot, raising the surface parking lot in the back, for a net gain of 17 off-street parking spaces. These seven additional hotel units will allow the hotel to provide a few suites which it currently lacks.

SPECIAL EXCEPTION – to expand the previously approved hotel special exception.

VARIANCE – to allow a partial third story addition to the existing hotel in the C-B Zoning District, where only two stories are allowed; and

VARIANCE – to allow the expansion of a non-conforming building or structure by completing the proposed changes and extending the overall length of the third floor of the building to 264 feet in lieu of the 150 feet allowed; and

VARIANCE – to allow 63.33 hotel rooms per Palm Beach acre in lieu of the 58.67 existing and the maximum 26 hotel rooms per Palm beach acre allowed by adding 7 additional rooms on the third floor of the East part of the building; and

VARIANCE – to allow a building height of 34.92 feet from zero datum in lieu of the 25 foot maximum height allowed for a two-story building for the East building addition; and

VARIANCE – to allow an overall building height of 36.0 feet from zero datum in lieu of the 30 foot maximum overall height allowed for a two-story building for the East building addition.

APPROVED with the following conditions:

1. Applicant must provide 2 inch storm water retention as required by Code.

2. Fire sprinkle the entire building prior to the certificate of occupancy for the improvements identified above.

04/13/2004 – Special Exception #10-2004 – Special Exception modification requested from the Heart of Palm Beach Hotel to provide a gift shop on the second floor of approximately 160 square feet. DEFERRED to the May 11, 2004 meeting.

05/11/2004 – Special Exception #10-2004 – Special Exception modification requested from the Heart of Palm Beach Hotel to provide a gift shop on the second floor of approximately 160 square feet. DEFERRED to the June 8, 2004 meeting.

06/08/2004 – Special Exception #10-2004 – With Site Plan Review and Variances (MODIFIED) – Modify the Special Exception and Site Plan Approval Granted under Site Plan Review #1-2004 with Special Exception and Variances

VARIANCE – addition of 800 square feet of office and storage in the basement, and to add 1,380 square feet of storage on the roof of the third floor of the East wing; and

VARIANCE – a gift shop on the second floor; and

VARIANCE – an increase for a building height of 35.58 feet from zero datum (a variance of 10.58 feet) in lieu of the previously approved building height of 34.92 feet from zero datum (a variance of 9.92 feet) and the 25 foot maximum height allowed for a two-story building to the East wing addition; and

VARIANCE – a modification to allow an increase in the existing variances for an overall building height of 36.67 feet from zero datum (a variance of 6.67 feet), in lieu of the previously approved overall building height of 36.0 feet from zero datum (a variance of 6.0 feet) and the 30 foot maximum overall building height allowed for a two-story building for the East wing addition; and

VARIANCE – a modification to allow an access aisle width on the new part of the basement garage at 17.67 feet in lieu of the 20 feet minimum required; and

VARIANCE – two air conditioning cooling towers which are 72 square feet in area and 9.58 feet high and are to be installed on an existing 2 foot high basement wall 3.75 feet from the rear property line in lieu of the minimum 15 foot required by Code for accessory structures (a variance of 11.25 feet); and

VARIANCE – a screen wall for the new air conditioning units to be 11.58 feet high in lieu of the maximum 7 foot height allowed by Code (a variance of 4.58 feet).

APPROVED with the following conditions:

1. Applicant must continue to meet all previous conditions of the approval

2. Fire sprinkle the entire building and additions prior to the certificate of occupancy for the improvements identified above.

3. Provide signage in the new portion of the parking garage basement that allows only valet and employee parking in that portion of said garage.

01/09/2007 – Site Plan Review #2-2007 with Special Exceptions and Variances and Waiver of Zoning In Progress – Request special exception approval for continued operation of hotel under new ownership. Applicant believes prior zoning applications are vested and not subject to the zoning in progress, but if Town attorney concludes that the applicant is not vested, the Applicant requests that the Town waive the application of the zoning in progress for this application.

SPECIAL EXCEPTION – for expansion of hotel's accessory uses, including 1,500 square foot expansion of spa facility; addition of 1,335 square feet of public space, plus 360 square feet of back room space, for function room in a building in lieu of existing tent facility; replacement of the existing second floor function space with a 3,600 total square foot dining room including 840 square feet for outdoor seating on balcony; and

SPECIAL EXCEPTION – to permit outdoor dining with maximum of 56 seats on 840 square foot second floor balcony on front façade; and

SITE PLAN APPROVAL – for expansion of an existing hotel within nonconforming building. This site plan request includes the addition of a 1,940 square foot porte-cochere/covered drop off and relocation of the loading dock from the front façade to under the West wing of guest rooms; relocation and construction of new lobby; the construction of a 1,695 total square foot addition in the rear yard to serve as function space in lieu of the existing tent facility space; an expansion of the spa facility to 4,100 square feet; replacement of the existing second floor function space with a 3,600 total square foot dining room, including 840 square foot dining area on balcony; renovation of guestrooms (net

reduction of units: 95 to 80); construction of an enclosure for an existing outdoor fire stairwell; new roof design and materials; infilling the walls of the balconies; a new 2,160 square foot loggia in the back pool area of the building fronting the swimming pool; and adoption of exclusively valet parking for the site.

VARIANCE – to permit construction of a porte-cochere/covered drop off with front set back of .34 feet, in lieu of 34.72 foot minimum required front yard setback required by code.

VARIANCE – to permit construction of a relocated curb cut and porte-cochere/covered drop off, expansion of existing spa and construction of a permanent function space, which increases lot coverage to 66.4%, in lieu of the 61.4% existing lot coverage and the 50% maximum lot coverage allowed by code.

VARIANCE – to permit construction of relocated curb cut and porte-cochere/covered drop off expansion of the existing spa and construction of permanent function space, with overall landscape space of 23% overall landscaped space (no change from existing) in lieu of the 30% minimum overall landscaped space required by Code.

VARIANCE – to accommodate new mansard roofing design and material, to permit overall building height of 35.27 feet from zero datum (no change from existing) in lieu of the 30 foot maximum overall building height allowed by Code.

VARIANCE – to accommodate new mansard roofing design and material to permit building height of 34.61 feet from zero datum (no change from existing) in lieu of 25 feet maximum building height allowed by Code.

VARIANCE – to have two architectural tower features in lieu of the two (2) maximum tower features allowed by Code.

VARIANCE – for two (2) of the architectural tower features and four dormer windows with front yard setbacks of 24.5 feet and 24.88 feet in lieu of the 39.72 foot minimum front yard setback required by Code.

VARIANCE – for two (2) architectural towers, 5 feet maximum in height, with an overall building height of 40.27 feet, in lieu of the 35 feet maximum overall building height allowed by Code for the towers.

VARIANCE – to construct a 3,000 total square foot function room to replace current tent facility, with a 10.0 foot rear yard setback, in lieu of 28.88 minimum rear yard setback required by Code.

VARIANCE – to accommodate new mansard roof design and materials with a 5.8 feet side yard setback (no change from existing) at Western property line, in lieu of the 19.72 foot minimum side yard setback required by Code.

VARIANCE – to allow outdoor dining room seating on the front and back outside balconies where said use is required by Code to be entirely within the principal building.

VARIANCE – to allow a marquee wider than the entry way and with support closer than eighteen inches to the face of the curb.

VARIANCE – to construct 9,100 square foot of additional improved space, without providing the one additional loading berth required by Code.

VARIANCE – to provide 67 off street parking spaces, in lieu of 97 existing spaces and the 147 required by Code.

VARIANCE – to allow required parking to be stacked in a method which required the movement of other vehicles in order to move another vehicle.

DEFERRED to the February 13, 2007 meeting.

02/13/2007 – Site Plan Review #2-2007 with Special Exceptions and Variances and Waiver of Zoning in Progress – Request special exception approval for continued operation of hotel under new ownership. Applicant believes prior zoning applications are vested and not subject to the zoning in progress, but if Town attorney concludes that the applicant is not vested, the Applicant requests that the Town waive the application of the zoning in progress for this application.

DEFERRED to the March 13, 2007 meeting to allow more research to address Town Council's questions.

03/13/2007 – Site Plan Review #2-2007 with Special Exceptions and Variances and Waiver of Zoning in Progress – Request special exception approval for continued operation of hotel under new ownership. Applicant believes prior zoning applications are vested and not subject to the zoning in progress, but if Town attorney concludes that the applicant is not vested, the Applicant requests that the Town waive the application of the zoning in progress for this application.

DEFERRED to the April 10, 2007 meeting.

04/10/2007 – Site Plan Review #2-2007 with Special Exceptions and Variances and Waiver of Zoning in Progress – Request special exception approval for continued operation of hotel under new ownership. Applicant believes prior zoning applications are vested and not subject to the zoning in progress, but if Town attorney concludes that the applicant is not vested, the Applicant requests that the Town waive the application of the zoning in progress for this application.
DEFERRED to the May 7, 2007 meeting.

05/07/2007 – Site Plan Review #2-2007 with Special Exceptions and Variances and Waiver of Zoning in Progress – Request special exception approval for continued operation of hotel under new ownership. Applicant believes prior zoning applications are vested and not subject to the zoning in progress, but if Town attorney concludes that the applicant is not vested, the Applicant requests that the Town waive the application of the zoning in progress for this application.

APPROVED with the following conditions:

1. Applicant enter into a Construction Agreement and a Declaration of Use Agreement which incorporated the conditions of approval for the operation of the hotel and its amenities.
2. Applicant is also required to design and construct new median cuts in the 100 block of Royal Palm way to the satisfaction of the Town's Public Works Department.

07/11/2012 – Site Plan Review #6-2012 with Special Exception and Variances – The subject condominium hotel is currently under renovation pursuant to the approval of the Town Council in May 2007. The site plan has been modified from the original plan which requires approval from the Town Council. The following is a list of the proposed changes to the approved plan:

- Elimination of two pool structures and relocation of a pool structure;
- Relocation of pool restrooms to inside of Function Room;
- Relocation of bar area;
- Elimination of the mansard roof on the East elevation and addition of a mansard roof on the North elevation and East guest wing elevation;
- Relocation of pool equipment and storage to under pool service building;
- Approval of landscaping, cabanas and pool terrace for the entire site;
- Addition of plunge pools to the pool terrace area;
- Addition of interior floor above lobby to total 1,486 square feet of which 500 square feet is dining area;
- Addition of parapet to connect East and West stair towers;
- Addition of roof deck lounge on existing rooftop of hotel;
- Addition of elevator to the show on roof plan of function roof where previously not shown

A request for Special Exception approval is required for the new owner of the condominium hotel and changes and modification of the hotel which is a special exception. The following variances are requested in conjunction with the modification to the site plan:

VARIANCE – for the height and overall height of the new mansard roofing design and material to be 35.27 feet from zero datum (no change from existing) in lieu of the 30 foot maximum overall building height allowed by code in the C-B Zoning District;

VARIANCE – for 7 parking spaces due to the additional floor 986 square feet created above the lobby for additional dining and kitchen facilities (no increase in number of seats) and finished kitchen prep area which totals 831 square feet in the basement;

VARIANCE – to allow construction of the new function room building, spa and second floor dining room to be phased and completed after the hotel has a certificate of occupancy and open for business. The applicant is requesting a 5 year extension from the certificated of occupancy to construct and/or build out the function room building, spa and dining room on the second floor.

APPROVED – The Council approved the change in hotel operators with the following conditions:

1. The hotel, with the exception of the spa/fitness area in the basement and second floor dining room above the lobby, shall be completed and have a certificate of occupancy by February 14, 2013.
2. The spa/fitness area and second floor dining room above the lobby shall have the shell (exterior space drywall, all life safety features, minimum electric and floor slab) completed by

February 14, 2013. Those areas shall be completed following issuance of building permit(s) and final certificate of occupancy when commercial tenants are secured.
3. The South perimeter landscape buffer shall be approved and completed by September 30, 2012.

The remainder of the site plan review with variances shall be considered at the August 15, 2012 Council meeting.

08/15/2012 – Modified Site Plan Review #6-2012 with Special Exception and Variances – Additional changes to the 07/11/2012 request are as follows:

- Replace solid parapet on function room with balustrade railing;
- Increase height of doors in main lobby overlooking pool deck by 3 feet;
- Add a breezeway from the main lobby to function room;
- Add a 7 foot tall hedge with a 42 inch rail on South side of proposed swimming pool to run length of pool deck area;
- Add pergola on south elevation and extend balconies on North, South and East elevations;
- Addition of service corridors and expansion of kitchen and laundry room which totals

approximately 3,625 square feet;

- Shift location of approved function room 25 feet to the East and add back the 4 of the 6 parking spaces that are lost. Size of the spa facility is decreased from 7,325 square feet to 5,948 square feet which eliminates the need for 2 parking spaces that were lost. Net effect is zero loss of parking spaces;
- Replace solid concrete railing on stairway on South side of West wing fire escape with precast balustrade railing.

A request for Special Exception approval is required for the new owner of the condominium hotel and changes and modification of the hotel which is a special exception. The following variances are requested in conjunction with the modification to the site plan:

VARIANCE – for the height and overall height of the new parapet roofing design and material to be 35.27 feet from zero datum (no change from existing) in lieu of the 30 foot maximum overall building height allowed by Code in the C-B Zoning District;

VARIANCE – for 4 parking spaces due to the additional floor 986 square feet created above the lobby for additional dining and kitchen facilities (no increase in number of seats);

VARIANCE – for 3 parking spaces due to the addition of a kitchen prep area which totals 831 square feet in the basement for a total of 7 parking spaces that would be required;

VARIANCE – to increase the height of the parapet wall above the parking deck to be 14 feet in lieu of the 5 foot maximum allowed and the 3.5 feet existing.

APPROVED MODIFIED SITE PLAN REVIEW REQUEST #S 2,3,4,6,7,8,10, 11, 13, 14, 15 AND 16. REQUEST #S CORRESPOND TO PRESENTATION FROM 8/15/2012. REQUEST #12, TO ADD A BREEZEWAY BETWEEN THE HOTEL AND THE PROPOSED FUNCTION ROOM WAS WITHDRAWN BY THE APPLICANT. REMAINING REQUESTS WERE APPROVED, SUBJECT TO THE FOLLOWING CONDITIONS:

1. The proposed 14 foot tall parapet wall between the proposed function room and the proposed service bar shall have a water feature that runs the length of the wall. Said water feature shall be operational as determined by the Town Council as outlined in the proposed Declaration of Use Agreement.
2. The service bar shall remain for the use of only the hotel staff. Service shall not be provided to hotel guests. In addition, no chairs shall be allowed for hotel guest at the service bar.
3. The pool deck area and abutting grass area between the pool deck and proposed Function Room to the East shall remain passive and no events shall be held in those areas.
4. The pool deck area shall be allowed only background music and light live music with the speaker system directed toward the hotel to the North. There shall be no music on the abutting grass area.
The hours shall be as identified in the original Declaration of Use Agreement.
5. The air conditioning equipment on the proposed Function Room roof shall be screened from the neighbors by a solid parapet wall.

6. The Function Room elevator and stairwells shall not be accessible from 7:00 p.m. to 9:00 a.m. Fire-rescue accessibility shall be provided by Knox-boxes and an elevator override system.
7. Additional landscape material to completely screen the back of the hotel from the neighbors shall be required and maintained on the South perimeter of the subject property in perpetuity. The landscaping of the entire property shall be approved by the Architectural Commission.
8. These new conditions of approval shall be incorporated in the Declaration of Use Agreement.

ALL 3 VARIANCE REQUESTS APPROVED.

APPLICANT IS REQUIRED TO COMPLETE THE FUNCTION ROOM, MESSANINE DINING ROOM AND FITNESS CENTER/SPA CONSTRUCTION TO MINIMUM "SHELL" COMPLETION PRIOR TO FEBRUARY 14, 2013; THEREAFTER ONLY INSIDE QUIET WORK WILL BE ALLOWED.

01/09/2013 – Site Plan Review #3-2013 with Special Exception and Variance – Requesting a modification to the site plan and special exception from the approved zoning application Site Plan Review #6-2012 with Special Exception and Variances which requires approval from the Town Council.

- Relocation of the roof top sundeck on the proposed Function Room, including the removal of the two stairwells and elevator going to that area. The sundeck was allowed to be relocated on top of the second floor roof above the lobby dining room. This approval included required stairs and an elevator to the new proposed sundeck area and physical separation of the proposed sundeck from the South ten feet of the building. In addition, other roof areas that are not part of the approved new sundeck area shall also have a structural separation from the new sundeck. The previous conditions of approval of the sundeck on the Function Room apply to this new sundeck area.

- Relocation of the air conditioning equipment from the Function Room roof to the Northeast corner of the surface parking lot as identified on the plans.

- Elimination of the outside stairs to the spa area.

- Modification of the service double doors on the East side of the proposed Function room.

- Modification to create a niche on only the West end of the proposed water wall between the

Function room and the outside service area building on the South side of the subject property. The Council denied the sliding doors on the West entrance to the Function Room, the niche on the East side of the water wall and the bar area abutting the South doors from the lobby dining room leading out to the outside seating area.

APPROVED with the following conditions:

1. The East and South boundary of the subject property shall be screened in a manner which is approved by the neighbors to the East.

2. The relocated air conditioning equipment shall also be fully screened by a wall and landscape material. Said screening shall be maintained in perpetuity.

3. Applicant is required to come back to the February 13, 2013 Town Council meeting for approval of a second amendment to the Declaration of Use Agreement, which addresses all of the proposed modifications changing the Agreement. All other conditions of approval in the Declaration of Use Agreement remain valid.

09/10/2014 – Site Plan Review #12-2014 with Special Exceptions and Variances – Requesting a modification of the site plan which requires approval from the Town Council. Proposed changes to the SPR #3-13 approved hotel plan:

SPECIAL EXCEPTION – addition of 1,006 square feet of basement level spa/salon/fitness area and 6,719 square feet of hotel lounge, business center, guest recreation and services area ("Premier Guest Service Area") to primarily serve hotel guests; addition of 3,804 square feet for back of house support services in the basement level and change of such uses to administrative offices, employee break room, restrooms, housekeeping and kitchen coolers/freezers; addition of 75 square feet for pool deck restrooms; addition of 573 square feet for exterior Function Room bathrooms; change of use to pool deck and adjacent Function Room courtyard area to allow for pre-function events; redesign and reduction of main kitchen by 100 square feet; addition of 1,483 square feet for Function Room finishing kitchen, "green room" and speaker area; reintroduction of previously approved function room

sundeck to private spa deck on roof; addition of 39 dining seats to interior second floor restaurant and relocation of those seats to the previously approved third floor deck; and conversion of one hotel room to a private dining room and relocation of 12 previously approved second floor interior restaurant dining room seats to such room.

SPECIAL EXCEPTION – to permit outdoor dining with a maximum of 39 seats on the previously approved third floor deck and addition of three bar/beverage stations customarily associated with a hotel use; one on the third floor deck, one to serve the second floor North dining terrace and one portable station for the Function room courtyard area for pre-function events (total approved outside seating in other areas is 66 seats). Total outdoor seating proposed to be 105 seats.

VARIANCE – to permit construction of an addition to the basement level (for area not below existing building footprint) to allow for back of house space, expanded spa and Premier Guest Service Area which increases lot coverage to 71%, in lieu of the 66.4% existing and the 50% maximum lot coverage allowed by Code.

VARIANCE – to allow a basement addition to extend further outside the confines of the existing building footprint which is not permitted by code.

VARIANCE – to allow a landscaped open space of 12.2% in lieu of the 12.7% existing and the 30% minimum required by Code.

VARIANCE – for a front yard setback of 7.66 feet in lieu of the 29.54 foot minimum front yard setback required to install a retractable awning which covers the second floor doors and the previously approved outdoor seating area on the North dining terrace.

VARIANCE – for a 10 foot rear yard setback in lieu of the 15 feet required to relocate previously approved pool cabanas.

VARIANCE – for a 10 foot rear yard setback in lieu of the 15 foot minimum required for the location of a men's restroom to service the pool area.

VARIANCE – for a 10 foot rear yard setback in lieu of the 15 foot minimum required to construct an addition to the East side of the previously approved Function Room.

VARIANCE – for the non-conforming hotel to not provide an additional required loading space for commercial deliveries based on the additional accessory commercial square footage of 7,864 proposed for the hotel.

VARIANCE – to allow changes to the use of the 1,881 square foot third floor deck as Town Code provides for a two story limitation. The prior variance limited the use of the third floor deck to a private spa deck and there is a proposed change of use associated with that variance to allow for the addition of 39 outdoor dining seats, a bar/beverage station customarily associated with hotel uses (with 410 square feet of decorative, open trellis), 80 square foot enclosed storage room and 1,132 square foot expansion of deck area.

VARIANCE – for height and overall height to allow a 410 square foot open trellis on the third floor deck associated with the proposed outdoor dining area. The variance request is for the height of the trellis on the third floor to be 41 feet high in lieu of the 25 foot maximum allowed which is 16 feet over the maximum building height of 25 feet and the maximum overall height of 41 feet in lieu of the 30 foot maximum allowed.

VARIANCE – for 68 off-street parking spaces for the proposed addition of the finishing kitchen, "green room" and speaker are for the Function Room, the increase in spa square footage, the loss of parking spaces resulting from the addition of the Function Room addition, the additional back of house space to serve the hotel, the additional 39 dining seats and the Premium Guest Services Area located in the basement level.

DEFERRED to October 13, 2014, Special Town Council Meeting.

FOUR OUTSTANDING ISSUES THAT HAVE TO BE RESOLVED BY OCTOBER 13, 2014 MEETING:

1. Provide a letter from the City of West Palm Beach that there is adequate portable water capacity for the project.

2. Provide the Town's Public Works Department with the sewer capacity analysis from a licensed engineer. That has to be reviewed and signed off on by Public Works and accepted by John Page, Director of Planning, Zoning and Building.

3. Discussions with Building Official Bill Bucklew note that handicap accessibility requirements are not being met for proposed parking, even if it is completely valet. Please contact Bill Bucklew to address the issue.

4. Provide John Randolph, Town Attorney, the draft waiver language as discussed at the Council meeting from both the client and Mr. Straub, for his review. Once approved by Mr. Randolph, the waivers are to be executed and submitted to this office prior to the October 13 Council meeting. A newly revised Declaration of Use Agreement is also to be provided.

10/13/2014 – Site Plan Review #12-2014 with Special Exceptions and Variances – Requesting a modification of the site plan which requires approval from the Town Council. DENIED FOR SPECIAL EXCEPTIONS AND VARIANCES. SITE PLAN MODIFICATIONS DENIED WITH THE EXCEPTION OF THE FOLLOWING FIVE:

1. Reintroduction of a rectangular shaped pool (26' x 48') previously approved by the Town Council from curvilinear design decision by prior owner.
2. Reintroduction of an awning to connect main hotel and Function Room previously approved by the Town Council but eliminated by prior owner.
3. Design change to front door (North), West restaurant and East egress doors.
4. Enclosure of first through third level exterior access corridors on most Eastern elevation, above garage entrance.
5. Change of building color to custom pink hue.

01/13/2016 – Site Plan Review #1-2016 with Special Exception – for modification to hotel approved plans to comport with previous approvals with exception of minor changes to improve service areas and access to those areas via stairs and elevators. The Intent of the following proposed site plan changes is to address and secure the Town's approval for certain improvements that (A) are already partially constructed, (B) will improve the function of the hotel, but (C) will not increase the intensity of the use of the Property or require any additional variances of any nature:

1. Complete construction of Function room and pool area consistent with plans previously approved by the Town.
2. Demolish partially constructed bathrooms on West side of Function Room and complete construction in area immediately adjacent to the Southeast corner of the Function room per plans previously approved by the Town.
3. Demolish partially constructed walkway, stairs and elevator in so far as it provides access to roof above Function Room.
4. Demolish approximately 1,140 square feet of office space in area previously approved as service corridor and laundry space.
5. Demolish partially constructed enclosures of portions of the basement garage on both East and West side of the Property, to restore 5 required off-street parking spaces.
6. Completion of partially constructed stair and elevator from basement to third floor on North side of hotel building and demolish partially constructed elevator extension to roof top.
7. Restore guest room area on third floor which was converted to private dining over-looking the second floor dining room.
8. Demolish partially constructed partial wall in the Function Room kitchen.
9. Construction of new access stairs from the basement kitchen area to the lobby dining room.
10. Construct new stairs, elevator and dining area on the second floor dining room.
11. Construct redesigned mezzanine dining room stairs.
12. Construct opening on the East side of the Function Room wall identified as the state.
13. No reduction of condo-hotel units. The condo-hotel units remain at 79 units.
14. Remove infill framing at exterior walkways on East elevation (installed subsequent to staff's identification of non-approved construction).

APPROVED.

01/11/2017 – Request for One Year Time Extension, Site Plan Review # 1-2016 – APPROVED for 12-month time extension.

01/10/2018 – Request for One Year Time Extension, Site Plan Review # 1-2016 – APPROVED for 12-month time extension.

Prepared by and return to:
Maura Ziska, Esq.
Kochman & Ziska, PLC
222 Lakeview Ave. Suite 1500
West Palm Beach, FL 33401

THIRD AMENDMENT TO DECLARATION OF USE AGREEMENT

By

THE TOWN OF PALM BEACH

and

**LR PALM HOUSE LLC
(F/K/A 160 ROYAL PALM LLC and ROYAL 160, LLC)**

Dated September, 2020

EXHIBIT "F"

AMENDMENT OF DECLARATION OF USE AGREEMENT

THIS THIRD AMENDMENT TO DECLARATION OF USE AGREEMENT ("Amendment") is made and entered into this ____ day of _____, 2020 by and between the TOWN OF PALM BEACH, a Florida municipal corporation, 360 South County Road, Palm Beach, Florida 33480 (hereinafter the "Town"); and LR PALM HOUSE LLC, formerly known as ROYAL 160, LLC and ROYAL 160, LLC, 160 Royal Palm Way, Palm Beach, Florida 33480 hereinafter the ("Owner"), which terms "Town" and "Owner" will include and bind the successors and assigns of the parties, wherever the context so requires or admits.

WITNESSETH:

WHEREAS, the Town and Owner heretofore entered into a Declaration of Use Agreement, dated July 30, 2007 and recorded in Official Records Book 21987, Page 499, and an Amendment to the Declaration of Use Agreement, dated December 28, 2021 and recorded in Official Records Book 25694, Page 633, and further amended in the Second Amendment to the Declaration of Use Agreement, dated August 13, 2013 and recorded in Official Records Book 26251, Page 78, all in the Public Records of Palm Beach County, Florida ("Agreement");

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

WHEREAS, title to all of the Land is held by the Owner;

WHEREAS, the Palm House Hotel (hereinafter referred to as the "Hotel") is located and operated on the Land at 160 Royal Palm Way in the Town;

WHEREAS, the Town Council on October 9, 2020, approved the Site Plan Revise with Special Exception and Variances number Z-20-00__ to modify the previously approved Site Plan Review #16-2016 with Special Exception, which allowed the new Owner to operate the Hotel subject to the modified conditions, which modified previous conditions of approval;

WHEREAS, the modifications to the previous conditions of approval are set forth herein and the approval of this Agreement is on the basis of the Owner's application and the testimony on behalf of the Owner;

WHEREAS, the Town made specific findings that the Owner met all applicable provisions of the Town Code governing site plan review, special exceptions, and variance requests;

WHEREAS, in approving the Site Plan Review with Special Exceptions and Variances, the modifications to the previous conditions of approval reflected herein are imposed in order to regulate the use, mitigate any adverse impacts of the use, and insure that said use shall not be adverse to the public interest;

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

WHEREAS, in granting the approval, the Town Council relied upon the oral and written representations of the property owner/applicant both on the record and as part of the application process.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, and in consideration of other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, it is agreed that the Agreement is hereby amended and modified as follows:

ARTICLE I **RECITALS**

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

ARTICLE II **REPRESENTATION OF OWNERSHIP**

Owner has full right to enter into this amendment to the 2007 Declaration of Use Agreement, as amended, and to bind the Land, Hotel and itself to the terms hereof. There are no covenants, restrictions or reservations of record that will prevent the use of the Hotel and Land in accordance with the terms and conditions of this Agreement. No consent to execution, delivery and performance hereunder is required from any person, partner, limited partner, creditor, investor, judicial or administrative body, governmental authority or other party other than any such consent which already has been unconditionally given or referenced herein. The execution of this Amendment will not violate any restrictions, court orders or agreements to which Owner or the Land are subject.

ARTICLE III **CONDOMINIUM HOTEL USES**

The use of the Land shall be for hotel uses and accessory uses in compliance with all of the information and exhibits not inconsistent with the terms and conditions set forth herein and as set forth in the applications previously submitted to, and approved by, the Town (hereinafter referred to as the "Approvals"). The Town's approval of the Application is subject to that provision of the Town Code which provides that no subsequent deviation may be made from the application as approved by the Town Council except upon new application to and approval by the Town Council. Any additional uses of the Land shall be subject to approval by the applicable governmental authority including but not limited to the Town Council of the Town, the Architectural Commission of the Town, Palm Beach County, the State of Florida, the United States Government, and/or any agencies under any of the foregoing governmental authorities.

ARTICLE IV **MODIFICATIONS TO PREVIOUS CONDITIONS OF APPROVAL**

The following modifications to previous conditions of approval are imposed as conditions of granting approval of the Site Plan Review with Special Exceptions and Variances contained in Z-20-00289 and are required to be met as conditions of the continued operation of the Hotel.

DECLARATION OF USE DATED JULY 30, 2007

1. Paragraph 3 shall be amended as follows:

~~The second floor dining room area is approved for a total 120 seats with the ability to relocate 50 of those seats to the second floor balcony patios (a maximum of 25 seats on the front balcony and 25 seats on the back balcony terrace). In addition, The first floor dining room is approved for 65~~ 88 indoor seats with the ability to relocate 16 and 36 outdoor seats facing the new pool deck outdoors on the covered pool loggia. The dining room may serve meals to the public and hotel guests in the dining rooms from 5:00 AM to 1:00 AM. Outside dining shall only be allowed from 9:00 AM to 10:00 PM ~~on the covered pool loggia. However, seating for patrons for dining on the covered pool loggia shall not occur after 9:00 PM. Outside dining shall only be allowed from 6:00 AM to 11:00 PM on the second floor dining room balconies. However, seating for patrons for dining on the second floor outside dining shall not occur after 9:00 PM. This shall not preclude 24 hours room service.~~

2. Paragraph 7 shall be amended as follows:

The function area shall only be allowed ~~150~~ 200 seats with recorded or live music or other entertainment between the hours of 12:00 Noon and ~~11:30 PM.~~ 12:00 AM. ~~No sooner than one year from the date of the certificate of occupancy, the applicant may apply for a special exception with variance for a maximum of 50 additional seats in the function area.~~

3. Paragraph 8 shall be deleted in its entirety as follows:

~~The upper deck sun deck on top of the function room shall only be used for sunning or lounging. There shall be no events of any kind or live or recorded music provided on said sun deck.~~

AMENDMENT TO DECLARATION OF USE DATED DECEMBER 28, 2012

1. Paragraph 1 shall be amended as follows:

The proposed ~~14~~ 15.16 foot tall parapet wall between the ~~proposed function room and the proposed employee pool service building~~ west wing of the hotel shall have a water feature that runs the length of the wall. Said water feature shall be operational between the hours of 9:00 a.m. and midnight (12:00 a.m.).

2. Paragraph 3 shall be amended as follows:

~~There shall be no Pre-function events in the pool deck and grass area between the pool deck and Function Room~~ shall be allowed. These areas shall remain passive. The pool deck area shall be allowed only background music and light live music with the speaker system directed towards the hotel to the north. There shall be no music played on the

abutting grass area. The pool deck hours and hours for music shall be as identified in the Agreement.

3. Paragraph 5 shall be deleted in its entirety as follows:

~~Except for emergencies, the Function Room elevator and stairwells shall not be accessible to the sundeck from 7:00 PM to 9:00 AM so as not to allow hotel guests and employees on the Function Room roof during those hours. Fire rescue accessibility shall be provided by know boxes and an elevator override system. The access points to the stairs leading to the sundeck on the Function Room shall be designed to be completely isolated from the ground floor with a full door and other separation to ensure that when they are locked there is no access to the sundeck.~~

4. Paragraph 7 shall be deleted in its entirety as follows:

~~All construction must be completed by February 14, 2013 with the exception of the function room, spa/fitness area and second floor dining room above the lobby which shall be required to only have the shells (drywall, all life safety features, minimum electric and floor slab) completed by February 14, 2013. Any elements of the Hotel or Land not completed by February 14, 2013, include the function room, spa/fitness area and second floor dining room shall be required to obtain new approvals and permits.~~

SECOND AMENDMENT TO DECLARATION OF USE DATED AUGUST 13, 2013

1. Paragraph 1 shall be deleted in its entirety as follows:

~~The air conditioning equipment previously approved to be located on the roof of the Function Room shall be relocated to the planters on the east side of the Function Room and are required to be screened from the neighbors.~~

2. Paragraph 2 shall be deleted in its entirety as follows:

~~The previously approved activity and restrictions for the roof top of the Function Room shall be transferred to the roof top area above the Hotel lobby on the third floor of the hotel. The following restrictions now apply to the roof top of the Hotel in lieu of the roof top of the Function Room: (a) the sundeck shall only be used for sunning or lounging; (b) there shall be no events of any kind or live or recorded music provided on said sundeck; (c) except for emergencies, the Hotel elevator and stairwells shall not be accessible to the sundeck from 7:00 p.m. to 9:00 a.m. so as not to allow hotel guests and employees on the Hotel sundeck during those hours. Fire rescue accessibility shall be provided by know boxes and an elevator override system. There shall be a barrier constructed to the satisfaction of the Town which precludes access to the roof top of the hotel to the east and south of the sundeck.~~

3. Paragraph 4 shall be deleted in its entirety as follows:

~~All construction must be completed by February 14, 2013 function room, spa/fitness area and second floor dining room. be required to only have the shells (drywall, all life safety and floor slab) completed by February 14, 2013. Any element~~

~~completed by February 14, 2013, including the function room, spa/fitness area and second floor dining room shall be required to obtain new approvals and permits.~~

ARTICLE V **PROVISIONS FOR NOTICE**

For the issuance of any notice regarding the terms of the Agreement and this Amendment, notice shall be provided.

To the Town Manager:

The Town of Palm Beach, Town Hall
360 S. County Road
Palm Beach, FL 33480

To the Owner:

LR Palm House LLC
160 Royal Palm Way
Palm Beach, FL 33480

ARTICLE VI **PROVISIONS TO RUN WITH LAND/RECORDING**

This Amendment shall run with the Land and shall be binding upon the Owner and its respective legal representatives and successors and assigns. This Amendment shall be recorded by the Owner in the Official Records of Palm Beach County, Florida upon full execution by the parties hereto. This Amendment shall be superior to any mortgages on the Land and shall be recorded prior to the recording of any such mortgages.

ARTICLE VII **ENTIRE AGREEMENT**

This Amendment, as identified herein, only represents the modifications to the Agreement, as recorded in Official Records Book 21987, Page 499 and Amendment to the Agreement as recorded in Official Records Book 25694, Page 633 and Second Amendment to the Agreement as recorded in Official Records Book 26251, Page 78, of the Public Records of Palm Beach County between the parties and may not be amended except by written agreement executed by both parties. All other provisions and conditions in the Agreement, as recorded in Official Records Book 21987, Page 499 and Official Records Book 25694, Page 633 and Official Records Book 26251, Page 78 of the Public Records of Palm Beach County, remain in full force and effect.

ARTICLE VIII **MISCELLANEOUS**

Wherever the word "laws" appears in this Agreement, it shall be deemed to include all ordinances, rules and regulations as well as laws of the appropriate governmental authorities. This Amendment may not be amended except by written instrument signed by all parties hereto. Paragraph headings are inserted for convenience only and shall not be read to enlarge, construe, restrict or modify the provisions hereof. All references to numbered or lettered paragraphs, subparagraphs and exhibits refer (unless the context indicates otherwise) to paragraphs and subparagraphs of this Agreement and to exhibits attached hereto, which exhibits are by this reference made a part hereof. This Agreement shall be binding upon the parties hereto and upon their successors and assigns. In the event of the invalidity of any provision of this Agreement,

same shall be deemed stricken herefrom and this Agreement shall continue in full force and effect as if such invalid provision were never a part hereof. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

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

Signed, sealed and delivered
In the presence of:

TOWN OF PALM BEACH

By: _____
Gail Coniglio, Mayor

By: _____
Maggie Zeidman, President
Town Council

By: _____
Kirk Blouin
Town Manager

LR PALM HOUSE LLC

By: _____
Its: Manager/Member

STATE OF FLORIDA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2020, by Gail Coniglio, the Mayor of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation/limited liability company/partnership, who ☐ is personally known to me or who ☐ has produced _____ as identification.

Notary Public – State of Florida

Notary Seal: _____

STATE OF FLORIDA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2020, by Maggie Ziedman, the President of the Town Council of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation/limited liability company/partnership, who ☐ is personally known to me or who ☐ has produced _____ as identification.

Notary Public – State of Florida

Notary Seal: _____

STATE OF FLORIDA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2020, by Kirk Blouin, the Town Manager of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation/limited liability company/partnership, who ☐ is personally known to me or who ☐ has produced _____ as identification.

Notary Public – State of Florida

Notary Seal: _____

STATE OF FLORIDA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2020, by _____, the _____ of LR Palm House LLC, a Florida limited liability company, on behalf of the corporation/limited liability company/partnership, who ☐ is personally known to me or who ☐ has produced _____ as identification.

Notary Public – State of Florida

Notary Seal: _____

APPROVED AS TO LEGAL FORM AND
SUFFICIENCY:

John C. Randolph
Town Attorney

Exhibit "A"

Legal Description of the Land:

Being Lots 31, 32 and 33, Block F, Royal Park Addition, a subdivision in the Town of Palm Beach, Palm Beach County, Florida, as recorded in Plat Book 4, Page 1, Public Records of Palm Beach County, Florida.

BRAZILIAN AVENUE

S. OCEAN BOULEVARD

300

117

125

133

141

149

155

157

100

132

140

160

SUBJECT
PROPERTY

ROYAL PALM WAY

109

200 FOOT
VICINITY

200' - 0" BOUNDARY LINE

151

25 50 100 200



LOCATION MAP



VM1

The Palm House Hotel

160 Royal Palm Way

License N°

AUGU



**Town of Palm Beach
Notification to Property Owners**

Architectural Review Commission Project Notice

TO BE HEARD BY THE ARCHITECTURAL REVIEW COMMISSION ON September 23, 2020
AFTER 9:00 A.M., in the Town of Palm Beach Council Chambers located on the 2nd floor, 360 South County Road, Palm Beach. Pursuant to Section 18-202 (1) of the Town Architectural Review Ordinance, this application is being sent to all property owners within 250' radius of the location of the subject application.

All interested persons may appear and be heard at said Public Hearing and may likewise submit written statements prior to and at said Public Hearing. If any person decides to appeal any decision made by the Architectural Review Commission with respect to this matter, he/she will need to ensure that a verbatim record of the proceeding is made which record includes the testimony and evidence upon which the appeal is to be based. Please be advised that the Town does not enforce private covenants or deed restrictions.

ARCOM#: B-063-2020

Address: 160 Royal Palm Way, Palm Beach Florida 33480

Applicant: LR Palm House LLC

Project Description:

The existing Palm House hotel is located at 160 Royal Palm Way, Palm Beach, Florida. It is currently vacant and construction is partially completed. The structure is three stories with a partially enclosed basement containing parking and back-of-house functions. The proposed new work for the hotel includes completion and conversion of guest rooms for a total of 79 keys. A new pool deck will be constructed adjacent to the existing Function Room. Other exterior improvements will include re-painting, new exterior floor finishes, trellises and a covered walkway leading to the existing Function Room. Fenestration requiring replacement will be replaced with similar windows and doors.

This notification is not to solicit approval or disapproval. It is a required notification to surrounding property owners. The plans for the project are on file in the Planning, Zoning & Building Department and are available for review Monday through Friday between 8:30 a.m. and 4:30 p.m. or may be available via the Town's website at www.townofpalmbeach.com/index.aspx?NID=676. Please note that the applicant may submit revised plans and materials up to 9 days prior to the meeting date; therefore, if you are an interested party, you will need to contact the Town using the information below to verify if revisions have or have not been submitted.

If you would like to be automatically informed of changes to the ARCOM Agenda and Back-up Material, please visit our website www.townofpalmbeach.com and click on the "Stay Informed" button on the main page and follow the instructions provided and select Architectural Commission (ARCOM).

If you need further information relative to this project, please contact Josh Martin, Director of Planning, Zoning and Building at 561-227-6401 or jmartin@townofpalmbeach.com.



TOWN OF PALM BEACH
Planning, Zoning & Building Department
360 S. County Rd.
Palm Beach, FL 33480

APPLICATION FOR PROJECT REVIEW BY THE ARCHITECTURAL REVIEW COMMISSION

Application Number: B-063-2020

Date: August 21st, 2020

Application Type:

☐

Major
Minor

☒

Combination*
Minor with notice

*If Town Council review required, include Zoning Application Number: Z-20-00289

- I. **PROJECT ADDRESS:** 160 Royal Palm Way, Palm Beach Florida 33480
- II. **DESCRIPTION OF THE REQUEST:** The exact wording in this section will appear on the ARCOM Agenda. Please include a comprehensive summarized description of the proposed project.
The existing Palm House hotel is located at 160 Royal Palm Way, Palm Beach, Florida. It is currently vacant and construction is partially completed. The structure is three stories with a partially enclosed basement containing parking and back-of-house functions. The proposed new work for the hotel includes completion and conversion of guest rooms for a total of 79 keys. A new pool deck will be constructed adjacent to the existing Function Room. Other exterior improvements will include re-painting, new exterior floor finishes, trellises and a covered walkway leading to the existing Function Room. Fenestration requiring replacement will be replaced with similar windows and doors.

Whole Structure Demolition? Yes or No X

Number of Stories: 3 Roof Material (type): Clay tile & modified bitumen membrane
Concrete Clay Tile, Low
Const. Type: CBS: IIIA Frame: & Steel Colors: Building: Pink Roof: Slope Roofs: Gray
Stucco, Stone
Trim: & Wood Shutters: N/A *this information to be included on the cover sheet of the ARCOM plans

III. **DESIGN PROFESSIONAL(S):**

☒
☐
☐

Architect
Landscape Architect
Other:

☐
☐
☐

Design Consultant
Engineer

Check if you are an ARCOM member and this project will result in a voting conflict for you.

Name of Professional: Michael Sean McLendon License #: AR95062

Phone number: 404-240-9537 Email address: seanmclendon@coopercarry.com

IV. **OWNER/AGENT INFORMATION:**

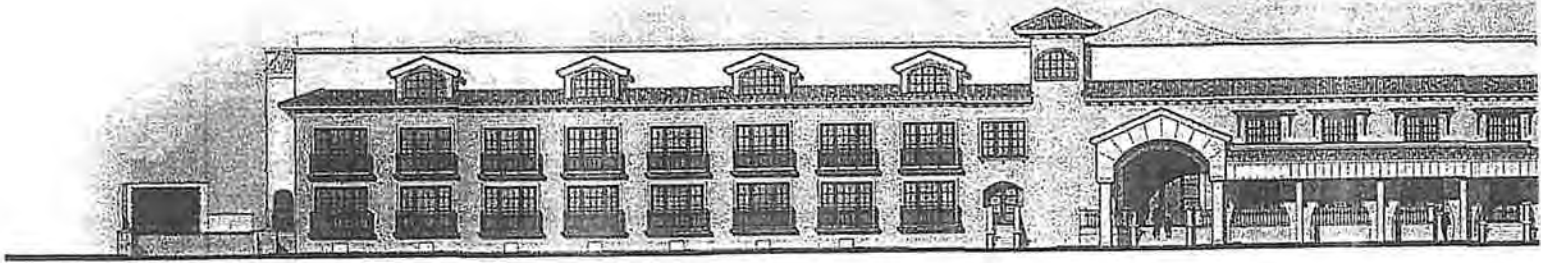
Property Owner's Name: LR Palm House LLC

Owner's Address (if different from Subject Address): c/o Kochman & Ziska PLC

222 Lakeview Avenue, Suite 1500 Phone number: 561-802-8960

Signature (owner or owner's legally authorized agent*): Maura Ziska
*if signed by a legally authorized agent, must be accompanied by a Power of Attorney or statement from the property owner authorizing the signer to sign on the owner's behalf.

(printed name and title) Maura Ziska



NORTH ELEVATION - ROYAL PALM WAY



ELEVATION 

EL1.B

The Palm House Hotel

160 Royal Palm Way

License N° .

AUGUS

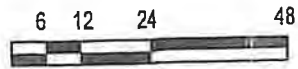




NORTH ELEVATION - ROYAL PALM WAY



ELEVATION



EL1.A

The Palm House Hotel
160 Royal Palm Way

License N°
AUGU

SNIFFEN & SPELLMAN, P.A.

Sender's Direct Line: (561) 721-4002
Email: jeubanks@sniffenlaw.com

September 22, 2020

Via E-mail

Architectural Commission
c/o Michael Small, Esq., Chair
360 South County Road
Palm Beach, Florida 33408

**Re: Neighborhood Concerns Regarding ARCOM Application B-063-2020
("Application") by LR Palm House LLC ("Owner")
160 Royal Palm Way, Palm House Hotel**

Dear Mr. Small:

Our office represents Thomas O. McCarthy who resides at 140 Brazilian Avenue in the neighborhood immediately behind the Palm House Hotel ("Hotel"). While Mr. McCarthy is cautiously optimistic about those portions of the revised plans which eliminate the "Sunset Deck," eliminate outdoor second floor dining, eliminate the use of the Function Room roof and eliminate other items confirmed in the attached e-mail, he (along with other neighbors including the Devries who reside at 141 Brazilian Avenue and own the vacant lot at 149 Brazilian Avenue, directly behind the Hotel) still harbor some concerns.

With the proposed addition of a prep-kitchen, an outside bar, updated pool deck bathrooms, the glass enclosure of a portion of the Function Room, the increase in the number of seats in the Function Room and the active use of the Event Lawn, it appears to the neighbors that the Hotel will be quickly become a wedding reception destination. The neighbors are concerned about the inescapable noise, light and odors from such an expanded use, along with other modifications to the Hotel, including, but not limited to,:

- The operating hours of the indoor dining room until 1:00 a.m., leaving patrons and staff to exit the Hotel area at the quietest part of the early morning hours in the neighborhood.
- The addition of 36 pool level outdoor dining seats which are open until 10 p.m.
- The increase in the Function Room seating from 150 to 200 seats, resulting in up to 200 guests potentially over and above those staying in the hotel, and the large influx in the number of vehicles for such functions, many of which will inevitably end up parking in the residential neighborhoods, including Brazilian Avenue.
- The proposed active use (and accompanying rise in noise level) of the Event Lawn being used as a pre-staging and bar area for receptions and parties for up to 200 attendees, excluding employees and wait staff.

REPLY TO:

605 NORTH OLIVE AVENUE, 2ND FLOOR
WEST PALM BEACH, FL • 33401
PHONE: 561.721.4000
FAX: 561.721.4001

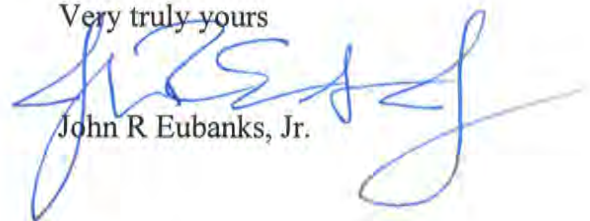
WWW.SNIFFENLAW.COM

123 NORTH MONROE STREET
TALLAHASSEE, FL • 32301
PHONE: 850.205.1006
FAX: 850.205.3004

- The potential use of live bands, a DJ, or amplified speakers as part of any reception or use of the Event Law, Function Room, and/or on the pool deck.
- The proposed extension of the hours of operation of the Function Room until 12:00 a.m., again resulting in guests and staff leaving in the normally quite early morning hours.

As a result, while the neighbors recognize the steps taken by the Applicant to comply with the Town Council's 2016 mandates, they request that ARCOM (and the Town Council) take into consideration how best to protect the adjacent residential homes and neighborhood from the above issues.

Very truly yours

A handwritten signature in blue ink, appearing to read "John R. Eubanks, Jr.", is written over the typed name.

John R Eubanks, Jr.

Attachment

cc: ARCOM Committee Members
Wayne Bergman, Acting Director Planning, Zoning & Building
Kelly Churney, Administrative Specialist
Town Clerk, Town of Palm Beach
Thomas O. McCarthy
Gayle and Timothy DeVries

From: [Maura Ziska](#)
To: [John Eubanks Jr](#)
Subject: FW: 160 Royal Palm Way - Palm House Hotel
Date: Friday, September 18, 2020 2:40:16 PM

John see responses below from the architect. Let me know if you need any further information. Tx

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

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From: Sean McLendon <seanmclendon@coopercarry.com>
Sent: Friday, September 18, 2020 10:44 AM
To: Maura Ziska <MZiska@floridawills.com>; Mark Banfield <mbanfield@tpgcompanies.com>; Kathy Logan <kathylogan@coopercarry.com>
Subject: RE: 160 Royal Palm Way - Palm House Hotel

Maura:

Kathy and I have reviewed the comments below from John Eubanks with Sniffen & Spellman. The list is an accurate description of the proposed modifications/remediation for the Palm House.

1. The Hotel will become only a Hotel (not a condominium) and retain a total number of Rooms at 79. **Cooper Carry Response: Correct, Hotel use; no condominium;**
2. The will be 62 parking on site (in the garage) with all remaining parking via valet off site on Okeechobee Blvd location. **Cooper Carry Response: 62 spaces are provided on-site; all on-site parking will be valet, most staff parking facilitated at an off-site location owned by L+R.**
3. There will be no on street parking requested or parking in the neighborhoods. **Cooper Carry Response: No street parking utilized to meet "required" parking**
4. The elevator shafts will be eliminated to the third floor and there will be no rooftop "sundeck." **Cooper Carry Response: Correct, sunset rooftop deck & associated elevator towers will be removed;**
5. There will be no third floor private dining area overlooking what was to be the second

floor dining area. Cooper Carry Response: Correct, the previous Level 2/3 dining areas are reprogrammed as Presidential Suites. All Dining functions occur on the Lobby Level.

6. The walkways, stairs and elevator to the Function Room will be removed so that there is no access to or use of the roof of the Function Room. Cooper Carry Response: Correct, the access to the Function Room Roof is proposed to be removed;
7. The second floor dining area and 120 dining seats, including the outside dining seats, will no longer exist, but will be replaced with new Presidential Suites. Cooper Carry Response: Correct
8. There is a proposed Increase in number of seats in Function Room Seats from 150 to 200. Cooper Carry Response: Correct. The previous Declaration of Use agreement allowed for an increase in seating from 150 to 200 seats after 12 months of operation. The new Owner is requesting 200 seats for the Function Room. Please note that the total number of seats for the project as proposed is below previous seat count as approved.
9. There is a proposed addition of or active use of an Event Lawn in front of Function Room which will be used as a Pre-Function Area. Cooper Carry Response: Correct.
10. There is a proposed enclosure of the existing walkway to the Function Room. Cooper Carry Response: Correct, the covered portico of the Function Room is proposed to be enclosed and serve as a Pre-Function space and serve as a vestibule for the Function Room.
11. There is a proposed new set of bathrooms and full service bar next to new Event Lawn, which will replace the partially constructed bathrooms. Cooper Carry Response: Correct; our design goal is to keep restroom entrances separated from the Function Room; our intent is to use the addition to provide screening and separation from properties to the South
12. There is a proposed addition of a new Banquet Prep Kitchen next to Function Room on northeast side. Cooper Carry Response: Correct. The main kitchen space is located on the Basement level. L+R Hotels has requested a warming/prep area on the Lobby Level behind the Function Room to facilitate service expectations.
13. The dining in Lobby Area Dining is proposed to be increased from 65 to 88 seats. Cooper Carry Response: Correct, 88 interior seats at Lobby Level Dining/Bar; all previously approved upper level dining seats are removed.
14. There is a proposal to add Presidential Suites in the former second floor dining area along with south facing balconies Cooper Carry Response: Correct; the south facing & north facing balconies are accessed via proposed Level 2 Presidential Suites.

15. There is a proposed addition of covered walkway from the Lobby to Function Room.
Cooper Carry Response: Correct, the covered walkway is not enclosed. We think a covered connection is important for Hotel events
16. There is a proposal for the extension of several walls and heights of same. **Cooper Carry Response:** Correct, wall modifications along the south property line are to provide for a service stair from the Basement Level to the Pool Deck area.
17. The pool area is proposed to be reconfigured to now include 36 outside pool deck dining seats along with supporting structures and a water feature. **Cooper Carry Response:** Correct.
18. There will be much more landscaping screening the Hotel from all sides including tall trees on southern portion of the Hotel facing the neighborhood. **Cooper Carry Response:** Yes, our landscape team has increased screening and plantings at the perimeter of the site. We have focused on improving the percentage of Native species.

Please advise if you have additional questions.

v/R,

Sean

Sean McLendon, AIA
Principal

D: 404.240.9537
C: 404.317.3444

COOPER CARRY

THE CENTER FOR CONNECTIVE ARCHITECTURE

191 PEACHTREE STREET NE, SUITE 2400, ATLANTA, GA 30303-1770
TEL (404) 237-2000 • FAX (404) 237-0276 • WWW.COOPERCARRY.COM

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Please consider the environment before printing this e-mail

From: Maura Ziska [mailto:MZiska@floridawills.com]
Sent: Friday, September 18, 2020 9:59 AM
To: Mark Banfield <mbanfield@tpgcompanies.com>; Kathy Logan <kathylogan@coopercarry.com>; Sean McLendon <seanmclendon@coopercarry.com>
Subject: FW: 160 Royal Palm Way - Palm House Hotel

Hi All: See below from a lawyer who is representing some neighbors. Who is best to respond to his questions? Thanks. Maura

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

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From: John Eubanks Jr <jeubanks@sniffenlaw.com>

Sent: Friday, September 18, 2020 9:50 AM

To: Maura Ziska <MZiska@floridawills.com>

Subject: 160 Royal Palm Way - Palm House Hotel

Maura:

I represent Tom McCarthy who lives at 140 Brazilian Avenue in the neighborhood behind the Palm House Hotel. I have also received calls from other neighbors on Brazilian that they are concerned that the Hotel will impinge upon the neighborhood.

In reviewing the Plans, however, it looks like the new owner has addressed some of the earlier issues identified by the Town regarding open dining on the second floor, use of the third floor roof as a Sunset Deck," the use of the roof of the Function Room and parking. As a result, if you or your client would confirm the below points it would go a long way to help the neighbors to understand the Project and exactly what is and is not being proposed going forward.

1. The Hotel will become only a Hotel (not a condominium) and retain a total number of Rooms at 79.
2. There will be 62 parking on site (in the garage) with all remaining parking via valet off site on Okeechobee Blvd location.
3. There will be no on street parking requested or parking in the neighborhoods.
4. The elevator shafts will be eliminated to the third floor and there will be no rooftop "sundeck."
5. There will be no third floor private dining area overlooking what was to be the second floor dining area.
6. The walkways, stairs and elevator to the Function Room will be removed so that there is no access to or use of the roof of the Function Room.
7. The second floor dining area and 120 dining seats, including the outside dining seats, will no longer exist, but will be replaced with new Presidential Suites.
8. There is a proposed Increase in number of seats in Function Room Seats from 150 to

200.

9. There is a proposed addition of or active use of an Event Lawn in front of Function Room which will be used as a Pre-Function Area.
10. There is a proposed enclosure of the existing walkway to the Function Room.
11. There is a proposed new set of bathrooms and full service bar next to new Event Lawn, which will replace the partially constructed bathrooms.
12. There is a proposed addition of a new Banquet Prep Kitchen next to Function Room on northeast side.
13. The dining in Lobby Area Dining is proposed to be increased from 65 to 88 seats.
14. There is a proposal to add Presidential Suites in the former second floor dining area along with south facing balconies
15. There is a proposed addition of covered walkway from the Lobby to Function Room.
16. There is a proposal for the extension of several walls and heights of same.
17. The pool area is proposed to be reconfigured to now include 36 outside pool deck dining seats along with supporting structures and a water feature.
18. There will be much more landscaping screening the Hotel from all sides including tall trees on southern portion of the Hotel facing the neighborhood.

Again, responses to these issues may go a long way in dispelling any misinformation which is out in the neighborhood. Thanks.

John R Eubanks, Jr.



605 North Olive Avenue, 2nd Floor
West Palm Beach, Florida 33401
T (561) 721-4000 / F (561) 721-4001 / D (561) 721-4002
E-mail: jeubanks@sniffenlaw.com
Website: www.sniffenlaw.com / Twitter: @Sniffenlaw

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Donald J. Lunny, Jr., Esq.
donald.lunny@brinkleymorgan.com

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(954) 522-9123 Facsimile

2255 Glades Road, Suite 414E
Boca Raton, FL 33431
(561) 241-3113
(561) 241-3226 Facsimile

www.brinkleymorgan.com

Please reply to Fort Lauderdale

October 26, 2020

The Honorable Members of the Town of Palm Beach Architectural Review Commission

Michael B. Small, Chairman

Robert N. Garrison, Vice Chairman, Architect

John David Corey, Member, Master Gardener

Maisie Grace, Member

Alexander C. Ives, Member

Betsy Shiverick, Member

Richard Sammons, Member, Architect

Katherine Catlin, Alternate Member

Dan Floershemier, Alternate Member

Ted Cooney, Alternate Member

Via E-mail Request to Ms. Kelly Churney and Ms. Laura Groves van Onna

Re: October 28, 2020
ARCOM Agenda Item VII D. 10 (Rev.2)
Major Project
Application No. B-063-2020:
The Palm House Hotel
160 Royal Palm Way,
Palm Beach, Florida 33480

Dear Commission Members:

This Firm Represents Virginia C. Simmons, individually and as Trustee of the Virginia C. Simmons Revocable Trust U/A/D May 4, 2018, the owner of single-family residential property having a street address of 133 Brazilian Avenue, Palm Beach, Florida. The Simmons' property is located Southeast to, and within 200 feet of, The Palm House Hotel.

As you may know, the Agenda and back-up material for this Wednesday's Meeting was not posted as of last Thursday, but we requested and received from the Town's Staff late Thursday the Revised Plans. Based on the Chairperson's advice at last Month's Meeting, we will reserve for the Town Commission hearing our evidence and argument to the effect that the

Town's legal requirements for the many requested variances and special exceptions contemplated by the revised application have not been met in this case, we will not comment of the Declaration's proposed Amendment at this time, and we will limit our comment to those matters which we understand are within ARCOM's purview.

We have reviewed the Revised Plans with our client and would note that some of the Revised Plans are an improvement over the prior versions considered last month. Particularly, our client was pleased that the dumpster previously proposed at the Southeast corner of the subject property has been relocated, and that no garbage, recycling, or trash storage or collection will occur in the vicinity of that corner. Also, our client was pleased that the pool concierge structure seems to have been relocated out of the rear yard setback area, that the glass dome structure has been removed, and the covered walkway has been redesigned. Our client was also pleased with the roof-line revision of the main structure, and with the added embellishments on such structure's Southern façade. Finally, our client was relieved that the Revised Plans still seemingly prevent the use of rooftops for any assembly or guest use.

At this time, our client remains concerned about the following four Architectural Matters:

1. The Application still contemplates expansions to a non-conforming building which is not allowed by the Town's land development regulations. Subsection 134-416(d) of the Town's Code states as follows:

“(d) It is further the intent that, by the provisions of this chapter or by amendments that may be adopted, there may exist buildings or structures which were lawful before this chapter was adopted or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendments thereto. It is the intent of this chapter to permit these nonconforming buildings and structures to exist until they are voluntarily removed, removed by abandonment, or otherwise removed as required by this chapter, but not to encourage their survival. Such nonconforming buildings and structures are allowed to be enlarged, expanded or extended, provided that said enlargement, expansion or extension meets all of the lot yard and bulk regulations for the zoning district in which the building or structure is located and provided that said enlargement, expansion or extension is not used as grounds for adding other buildings or structures prohibited elsewhere, in the same district.” (Emphasis Supplied).

Further, Sec. 134-417 of the Town's Code states as follows:

“A building or structure which is nonconforming with any of the lot, yard and bulk, regulations may be enlarged, expanded or extended to occupy a greater area of land provided that the enlargement, expansion or extension complies with all lot, yard and bulk regulations for the zoning district in which the building or structure is located. This section shall not apply to a building or structure which is demolished by more than 50 percent, as

provided for in section 134-419(1), in preparation for any proposed enlargement, expansion, or extension of a building or structure.” (Emphasis Supplied).

The Function Room is a non-conforming structure as a portion of such building is currently located in the rear yard setback area which the Applicant has computed to be 23.88 feet in the Zoning Tabulation Table on Plan Sheet A104. We also note that the Zoning Tabulation Table on Plan Sheet A104 discloses that the zoning district maximum lot coverage requirement of 30,000 SQ FT has been exceeded by 8,397 SQ FT. With the above in mind, we note that:

- A. The proposed expansion of the Function Building to include the enclosed pool bar and single use restroom facility building is contrary to the above Code provisions since that new addition of the non-conforming Function Building is also within the 23.88 rear yard setback.
- B. The proposed expansion of the Function Building to include the new Function Service building is contrary to the above Code provisions because such expansion can not be achieved without exceeding the maximum lot coverage requirement.

Our client objects to the above two proposed expansions. Removing these proposed additions would not in our view materially compromise the subject property’s overall architectural design.

- 2. Our client would ask the ARCOM Members to require as much internal soundproofing measures as is reasonably possible for the interior of the Function Room. We do not know what measures are proposed, if any, or whether such measures will be effective.
- 3. Our client would request that the Pool Water Feature be moved so that it is not located in the rear yard setback area.
- 4. Our client remains concerns about whether the proposed planting plan along the Southern boundary of the Site is feasible. The Survey on the last page of last Month’s application discloses that there is little ground area along the Site’s Southern border that is not currently improved with impervious surfaces. A field inspection discloses significant elevation changes in this area of the Site. Finally, the utility easement area in the rear of the site is not all within the Applicant’s property, but also covers land to the immediate south of the Applicant’s land. We do not believe that the Applicant has the right to install landscaping within easement areas outside of property the Applicant owns, and this is regardless of whether such landscape is installed after the utility’s infrastructure is placed underground. Even if such were the case, “off site” landscaping should not satisfy an “on site” planting or

screening requirement. Our client believes that plantings in the rear are critical to screening and helpful to minimize adverse impacts to the adjacent single family homes; however, we are uncertain how the planting shown on the Revised Plans can be implemented unless the Southern portion of the site is redeveloped with the removal and relocation of impervious improvements which are shown in the Revised Plans as remaining.

We wish to remind the ARCOM Members that our client is an *interested party* in these proceedings and is not a mere member of the public at large. This means that we must be given the right to fully participate in the presentation of the matter, which includes not being subject to the customary 3 minute public comment cut-off, being allowed to cross examine witnesses and present argument, and not being shut out of the Zoom session until after the Commission takes action on the matter. Last month, the Zoom Moderator removed my “presenter status” when I was finished speaking, and I could not examine the developer’s witnesses during their continuing presentation or respond to Attorney Ziska’s final conclusions. We think that this can be easily managed giving us full “presenter” status as long as the Developer or its lawyer are permitted to participate in the hearing. In short, due process requires that all parties have the same privileges. With the foregoing being said, we do plan on tailoring our comments so that they are respectful of the Members’ time and the Chair’s need to manage the long Agenda.

Unfortunately, we still have not received a copy of the correspondence received by the ARCOM Members from attorney Ziska, which was mentioned in last month’s meeting as being in response to my correspondence of September 21, 2020. I have made two (2) written requests of Staff for this correspondence. If any of you have it in your possession, please send it to Mr. Bergman or Mr. Randolph so that I can obtain same as soon as possible. I am unable to complete suitably preparing for the Meeting without being able to review this correspondence.

Finally, if any of you have received any other e-mail or correspondence from Attorney Ziska or any member of her Firm which mentions or comments upon any statement or position made by this Firm or by John Eubanks Esq. relative to The Palm House Hotel Application and which was not shown as being sent to me, please similarly furnish me with a copy of same as soon as possible.

Thank you for your kind attention to this matter.

Correspondence addressed to
Town of Palm Beach Architectural Review Commission
October 26, 2020
Page 5 of 5

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Donald J. Lunny, Jr.", with a stylized flourish at the end.

Donald J. Lunny, Jr.
For the Firm

Cc w/encl: (Via E-mail):

Mr. Wayne Berman;
Ms. Kelly Churney;
Ms. Virginia C. Simmons;
Harris K. Solomon, Esq.;
Maura Ziska, Esq.
John Eubanks, Esq.
John Randolph, Esq.

018618-20001 [4041526]

SNIFFEN & SPELLMAN, P.A.

Sender's Direct Line: (561) 721-4002
Email: jeubanks@sniffenlaw.com

October 26, 2020

Via E-mail

Architectural Commission
c/o Michael Small, Esq., Chair
360 South County Road
Palm Beach, Florida 33408

**Re: Objections and Concerns to ARCOM Application B-063-2020 ("Application")
by LR Palm House LLC ("Owner")
160 Royal Palm Way, Palm House Hotel ("Hotel")**

Dear Mr. Small:

Along with Thomas O. McCarthy, who resides at 140 Brazilian Avenue, our office now also represents Timothy and Gayle DeVries, the owners of their home at 141 Brazilian Avenue, as well as 149 Brazilian Avenue, which is the presently vacant lot directly behind the Palm House Hotel on which the DeVries plan to construct a separate home in the future. Reviewing the Revised Plans, the DeVries have a series of objections and concerns regarding the latest proposal.¹

1. **Function Service Building/Banquet Prep Kitchen** – The DeVries object to the creation of a new 556 square foot Function Service Building which would house a Banquet Prep Kitchen attached to the Function Room. Outside of the fact that new construction may very well constitute the expansion of a nonconforming structure, and therefore not be permitted, the proposed new Function Service Building would be located at the top of the ramp of the east Private Drive at the height of a two- story building directly behind their property. *See*, Composite Exhibit "A." As such, the Function Service Building will become a source of constant noise, odors and headlights of vehicles going up and down the ramp not only to deliver food, flowers, and decorations for any function, but also to reverse that process during the take down and clean up of whatever event has ended, which will typically be late at night. Additionally, due to the limited space, any vehicles delivering to the Function Service Building will be required to back up in a small area in order to turn around and go back down the ramp. On top of the above, is the fact that there is virtually no setback between the outside wall of the ramp and loading area and the DeVries property at 149 Brazilian Avenue.² Without the Function Service Building, food, decorations, and flowers could simply come through the lobby or up from the existing kitchen area accessed from

¹ While our clients have a number of other objections with the proposed project, including, but not limited to, the addition of 36 new seats located on the pool deck, the hours of operation, the need for restrictions on live and loud music, the increase in the number of seats in the Function Room, the increase in lot coverage, the Applicant's apparent failure to meet the standards for a special exception or variance, the expansion of a non-conforming use and/or structure, and the terms of the Amended Declaration of Use Agreement, they are not waiving such issues, but will address those objections in further detail with the Town Council.

² In fact, the survey form Wallace Surveying contained in the Hotel's prior presentation shows that the rear property line of the Hotel is the centerline of a 5 foot utility easement. As such, there is only 2.5 feet available on the Hotel side for plantings to shield the DeVries property from the noise and light of the use of the Function Service Building.

REPLY TO:

605 NORTH OLIVE AVENUE, 2ND FLOOR
WEST PALM BEACH, FL • 33401
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FAX: 561.721.4001

WWW.SNIFFENLAW.COM

123 NORTH MONROE STREET
TALLAHASSEE, FL • 32301
PHONE: 850.205.1006
FAX: 850.205.3004

the West Private Drive A (next to commercial buildings which are unoccupied at night) and walked to the Function Room via the proposed covered walkway.

2. Function Room Insulation and Enclosure – The DeVries are also concerned that the Function Room itself will be the source of continued noise, including loud music as well as the vibration of music through the walls to the surrounding property. As such, they ask that the Function Room walls are required to be sufficiently insulated to stifle the noise of any music or bands as well as the 200 proposed guests, along with any required wait staff and other employees. While the DeVries do not object *per se* to the enclosing of the Function Room walkway/arcade, they assume the area would be air conditioned and would request that double doors be used to reduce any noise from the Pre-Function area escaping into the neighborhood.

3. New Single Use Restrooms, Full Service Bar Area and Activated Event Lawn– The DeVries also object to the construction of new single use bathrooms along with a new full service bar area on the west side of the Function Room. As originally designed, the bathrooms provided only internal entrances and exits to make sure that any odors stayed inside. As redesigned, there are also two single use bathrooms which would exit directly onto the pool patio area backed up to the south property line allowing noxious odors to escape.

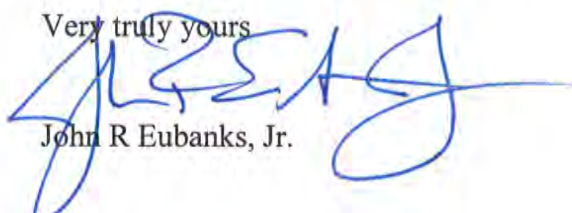
At the same time, the addition of a newly proposed external bar³ (which again, may well be an improper expansion of a nonconformity) would introduce a new source of noise and light into the surrounding neighborhood as guests from both the pool area and those waiting for a function to begin will congregate in front of the bar. Similarly, the new bar area will result in the active use the nearby Lawn area, which was specifically not permitted under the prior approval and Declaration of Use Agreement for the Hotel.

4. South Property Line Walkway, Wall and Walkway – Finally, the DeVries do not understand, nor it is clear from the plans, the exact location of the proposed 8.5 foot extended south retaining wall (which the DeVries agree should be extended), as well as the location of the proposed walkway for staff access to the pool, and/or where exactly the proposed lush vegetation and trees identified in the landscape plan will be placed. Again, from the survey there clearly does not appear to be enough space from the existing concrete wall in the easement to the neighboring property line to plant the large trees in what appears to be only 2-3 feet of space. Recent pictures of the area, demonstrate that the present retaining wall sits in the middle of the Town's utility easement with apparent gas and electric lines attached thereto. Even assuming such lines could be placed underground, again there simply is no room for a walkway and/or any plantings on the south side of the wall in the easement which is presently a ditch filled with weeds and water. *See*, Composite Exhibit "B." At the same time, the hotel cannot encroach on the neighboring owner's property to install plantings which are required to fulfill its Site Plan. Added to these difficulties is the fact that the easement has a change in elevation. As a result, absent additional information, it would appear that any improvements and plantings will necessarily need to be placed inside the Hotel's retaining wall.

³ Again, in accordance with the prior survey and plans, there was no outside bar located near the pool, but instead only a "pool service station" for the storage of equipment was approved for the area.

In light of the above, the DeVries would respectfully request that the plans as presently proposed be denied.

Very truly yours


John R Eubanks, Jr.

Attachments

cc: ARCOM Committee Members
Wayne Bergman, Director Planning, Zoning & Building
Kelly Churney, Administrative Specialist
Town Clerk, Town of Palm Beach
Thomas O. McCarthy
Gayle and Timothy DeVries



WARNING
THIS AREA IS A SEPARATED
CONSTRUCTION SITE AND ANYONE
ENTERING OR EXITING THE SITE
WITHOUT THE PROPER AUTHORITY
WILL BE SUBJECT TO PROSECUTION
PUNISHMENT TO CHAPTER 810, FLORIDA STATUTES.















SNIFFEN & SPELLMAN, P.A.

Sender's Direct Line: (561) 721-4002
Email: jeubanks@sniffenlaw.com

Via E-mail

Mayor and Town Council
c/o Maggie Zeidman, President
Town Council of the Town of Palm Beach
360 South County Road
Palm Beach, Florida 33408

Re: Consideration of Zoning Application for 160 Royal Palm Way, Palm House Hotel (Zoning Application Z-20-00289) by Town Council is Premature

Dear Mayor and Town Council Members:

Our office represents Thomas O. McCarthy, who resides at 140 Brazilian Avenue, as well as Timothy and Gayle DeVries, the owners of 141 and 149 Brazilian Avenue which back up to the Palm House Hotel. In that capacity, we understand that the Town Council is scheduled to consider Zoning Application Z-20-00289 ("Application") by LR Palm House LLC ("Applicant") for the Palm House Hotel at its November 13, 2020 meeting. Please be advised that it is our clients' position that any such consideration would be premature given that ARCOM did not approve the Applicant's Landscape Plan at its October 28, 2020 meeting.¹

As you are aware, the Application includes a Special Exception **with Site Plan Review**, along with requests for a number of variances. Because the hotel is at best a special exception use² under Section 134-1304 (a)(5) of the Code, any special exception "**require[s] a site plan review** as provided in article III of this chapter." As a result, the Council cannot approve the Special Exception in the Application without having a proper, completed Site Plan at the time of approval.

Under Section 134-326 of the Town Code "[t]he **primary purpose of the site plan review process is to examine for potential adverse impact on the adjacent area, neighborhood or town**, those uses having characteristics as possessing the potential for negative impact **and to ensure such uses are located, sited and designed that they result in a positive contribution to the area, neighborhood and town.**" (emphasis added) To do so, under Section 134-327(b) of the Code all Site Plan reviews must include a series of detailed filings, including, but not limited to, not only architectural elevations and buildings under subsection (b)(9), but also the location of "**all screens and buffers**" under subsection (b)(4)(f) and under subsection (b)(11) a "**[l]andscaping plan, including types, sizes and locations of vegetation and decorative shrubbery, and showing provisions for irrigation and maintenance.**" (emphasis added) The Town has tasked ARCOM (or Landmarks if the structures are historic) with the obligation to review applications for a Site Plan approval, including any Landscape Plans, and make a recommendation to the Town

¹ There is also a pending appeal of ARCOM's October 28, 2020 decision, to which our clients have are filing a joinder, which would likewise make it premature for the Town Council to consider the Application.

² The hotel is a non-conforming use as it has 79 rooms on only 1.377 acres of property (as shown on the Survey submitted by the Applicant) which would only allow for 36 rooms, or less than half of the existing rooms on the property under Section 134-1304(a) (5) which allows for a hotel use "at a maximum of 26 units per acre."

REPLY TO:

605 NORTH OLIVE AVENUE, 2ND FLOOR
WEST PALM BEACH, FL • 33401
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PHONE: 850.365.1456
FAX: 850.205.3004

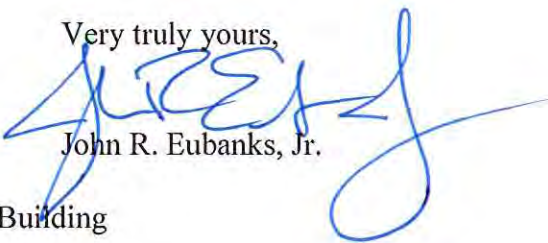
Council prior to any final approval of the Site Plan required for a Special Exception with Site Plan.

In the present case, while ARCOM considered the Site Plan of the Applicant and made a positive recommendation on the bulk of the architectural drawings and elevations, it specifically did not approve the Landscaping Plan presented by the Applicant. To the contrary, after both our firm on behalf of Mr. McCarthy and the DeVries, as well as Donald Lunny, Esq. on behalf of the Simmons (the owners of 133 Brazilian Ave.) raised significant issues of the ability of the Applicant to actually implement its proposed Landscape Plan, which included tall trees and "lush native plantings," in an easement as small as 2.5 feet, the issue was deferred for further consideration to the November 29, 2020 ARCOM Meeting.³ As a result, absent a demonstration that the proposed Landscape Plan is designed to protect the surrounding neighbors and is actually feasible, the Site Plan application is incomplete and does not meet the standards or purpose of Section 134-326. This will be especially true if there in fact is not enough room for landscaping and the Applicant has to relocate its proposed landscape to inside its own property within its Site Plan.

Therefore, until such time as ARCOM has been presented with, approved and recommended a Landscape Plan (a mandatory element of a Site Plan) which it confirms can actually be installed it would be improper for the Town Council to move forward with the consideration of the Special Exception with Site Plan. To the extent the Town Council nevertheless considers the Special Exception without ARCOM's further investigation and Site Plan approval, outside of opening the Town to a due process and failure to follow the essential requirements of the law argument, it will have established a dangerous precedent that any applicant can merely design a landscape plan that looks good on paper, but may not work in the real world, and yet take it directly to the Town Council for a Special Exception with Site Plan approval.

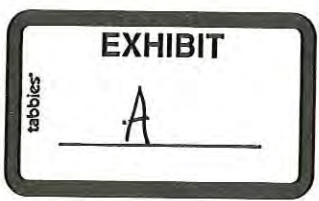
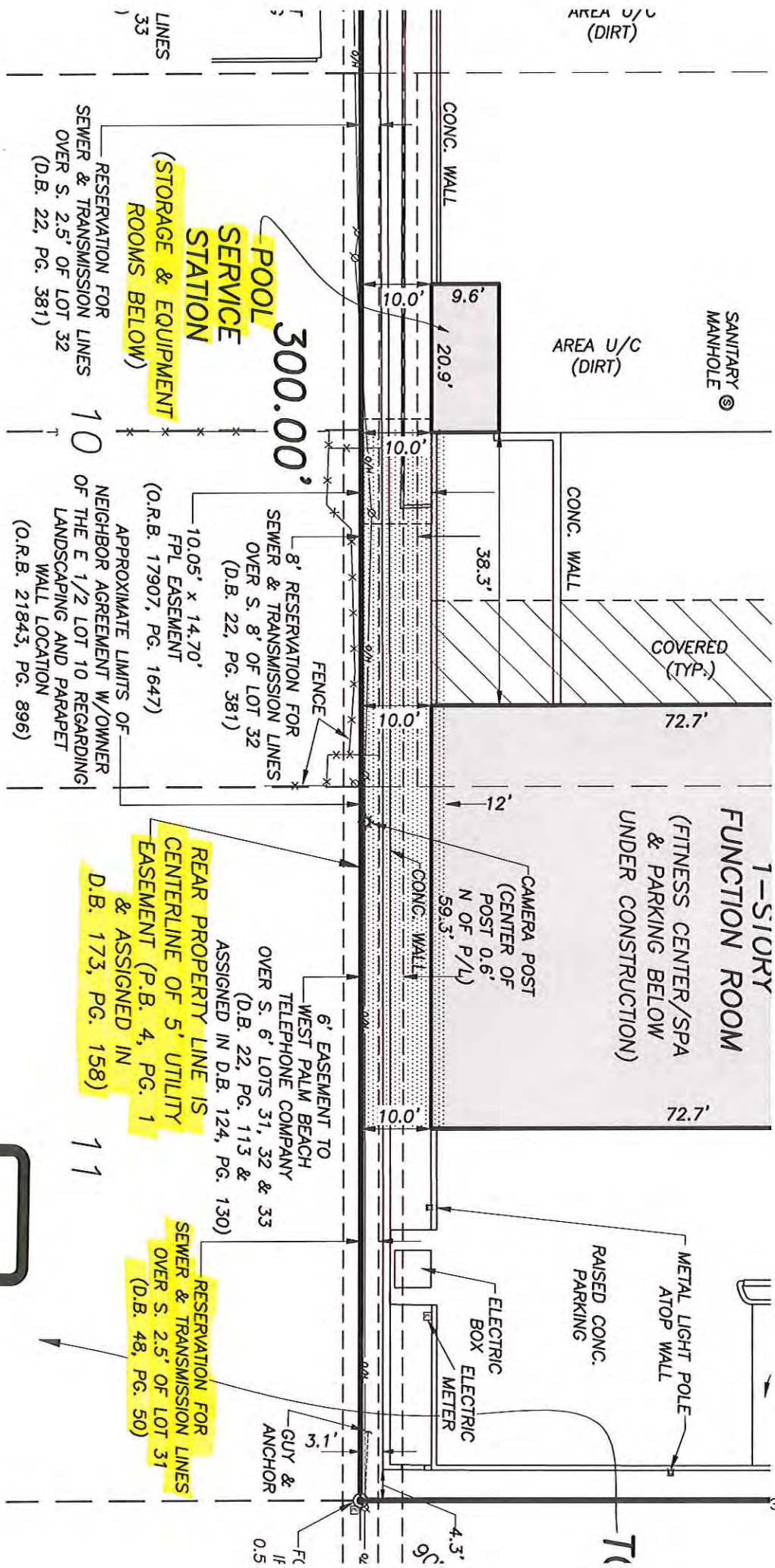
In light of the above, our clients request that the Town Council defer any consideration of the Application at its November 13, 2020 meeting.

Very truly yours,


John R. Eubanks, Jr.

cc: Wayne Bergman, Director Planning, Zoning & Building
John Randolph, Esquire, Town Attorney
Kelly Churney, Administrative Specialist
Town Clerk, Town of Palm Beach
Tim and Gayle DeVries
Thomas O. McCarthy

³ The Applicant's Survey by Wallace Surveying dated 2/5/2014 included in the record shows that the property line between the Hotel and its neighbors is located in the middle of a 5 foot utility easement for gas and water as well as an easement of 2.5 ft. (or less than a yard stick) to the south of the property line for sewer and transmission lines. As a result, there is little if any room for landscaping. An expanded copy of the Survey as well as pictures of the limited area available for landscaping are attached hereto as Exhibit "A" and Composite Exhibit "B" respectively.





EXHIBIT

tabbles

Camp B







TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 9, 2020

Section of Agenda

Development Review - Old Business

Agenda Title

Z-20-00291 VARIANCE(S) Zoning District: R B Low Density Residential The application of Andreas Brandt, applicant, relative to property located at **756 HI MOUNT RD**, legal description on file, is described below. The applicant is modifying the application to reduce the number of variances being requested for a new 10,371 square foot, two story residence, with a 5,378 square foot sub basement, on the subject property, that will require the following variances: Section 134 2 and 134 1611: The proposed sub basement is under the confines of the building above it and also below the lowest grade of the public street (Hi Mount Road) in front of the lot, however, it is not completely underground as required by code. A variance is being requested to allow a proposed sub basement where a portion is not completely underground as there is a substantial change of grade from Hi Mount Road to Lake Trail. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. Carried 7-0.] [The Architectural Review Commission approved the project as presented. Carried 7-0.]

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated November 23, 2020 from Wayne Bergman, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 09, 2020

To: Mayor and Town Council

From: Wayne Bergman, Director, Planning, Zoning & Building Department

Subject: **Z-20-00291 VARIANCE(S)**
756 HI-MOUNT RD

Date: November 23, 2020

BACKGROUND

An application has been received for the following project:

REQUEST:

The applicant is proposing a new 10,371 square foot, two story residence, with a 5,378 square foot sub-basement, on the subject property, that will require the following variances: Section 134-2 and 134-1611: The proposed sub-basement is under the confines of the building above it and also below the lowest grade of the public street (Hi Mount Road) in front of the lot, however, it is not completely underground. A variance is being requested to allow a proposed sub-basement where a portion is not completely underground as there is a substantial change of grade from Hi Mount Road to Lake Trail.

ADDRESS: 756 HI-MOUNT RD

OWNER: BRANDT ANDREAS

OWNER'S REPRESENTATIVE: KOCHMAN AND ZISKA

PROPERTY CONTROL NO.: 50-43-43-10-04-000-1240

ZONING DISTRICT: R-B Low Density Residential

LEGAL DESCRIPTION: MARK RAFALSKY TR LOT 124

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Attachment

cc: John C. Randolph, Town Attorney
pf & zf

**PLANNING, ZONING AND BUILDING DEPARTMENT**

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT**DRC MEETING:** 8/21/20**APPLICATION NO.:** Z-20-00291 **APPLICATION TYPE:** VARIANCE(S)**ADDRESS:** 756 HI-MOUNT RD**DESCRIPTION:**

The applicant is proposing a new 10,371 square foot, two story residence, with a 5,378 square foot sub-basement, on the subject property, that will require the following variances: Section 134-2 and 134-1611: The proposed sub-basement is under the confines of the building above it and also below the lowest grade of the public street (Hi Mount Road) in front of the lot, however, it is not completely underground. A variance is being requested to allow a proposed sub-basement where a portion is not completely underground as there is a substantial change of grade from Hi Mount Road to Lake Trail.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	Wayne Bergman, Director, Planning, Zoning & Building	8/28/2020	No Comment
BUILDING OFFICIAL	Wayne Bergman, Director, Planning, Zoning & Building	8/28/2020	No Comment
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	11/5/2020	No comment: Town's stormwater level of service is being meet.
FIRE RESCUE DEPARTMENT			No Comment
PZB - PLANNING AND ARCHITECTURAL REVIEW	Laura Groves van Onna, Historic Preservation Planner	11/25/2020	This proposed project was approved as revised by the Architectural Commission (ARCOM) on 11/20/2020 as Application B-056-2020. The Commission found that implementation of the proposed variances will not cause negative architectural impact to the subject property.
PZB DIRECTOR	Wayne Bergman, Director, Planning, Zoning & Building	8/28/2020	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	8/31/2020	The subject property has a substantial grade change from the street to Lake Trail. The house is larger than the homes on either side and the house does not step down as the topography steps down from east to west. Consequently the property owner is requesting for a variance to allow the proposed sub-basement to not be located entirely under the grade outside its walls. In addition, applicant is requesting a variance for retaining walls. The applicant must demonstrate to the satisfaction of the Town Council that variance relief should be granted for this project.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 9, 2020

Section of Agenda

Development Review - Old Business

Agenda Title

Z-20-00293 SITE PLAN REVIEW WITH VARIANCE(S) Zoning District: R-C Medium Density Residential The application of Elaine Hirsch, Applicant, relative to property located at **130 SUNRISE AVE, SUITE: PH 1**, legal description on file, is described below. A site plan modification with variances to allow a 365 square foot fixed awning over the terrace on the seventh floor of a seven story condominium building. The following variances are being requested: 1. Section 134-948(8): To allow the awning at a height of 61.5 feet in lieu of the 23 1/2 foot maximum height allowed in the R-C Zoning District. Section 134-948(8): To allow the awning at an overall height of 63.66 feet in lieu of the 26 1/2 foot maximum height allowed in the R-C Zoning District. Section 134-948(8): To allow the awning on the existing seventh floor penthouse of a seven story building in lieu of the two story building maximum allowed in the R-C Zoning District. Section 134-948(6): To allow a west side yard setback of 50.1 feet in lieu of the 61.5 foot minimum required. Section 134-948(7): To allow a rear street yard setback of 106.5 feet in lieu of the 123.16 foot minimum required. [Applicant's Representative: Maura Ziska Esq] **Request For Deferral To The January 13, 2021 Meeting Per Letter From Maura Ziska.**

Presenter

ATTACHMENTS:

- ▣ **Letter Dated November 24, 2020 from Maura Ziska**

KOCHMAN & ZISKA PLC

Ronald S. Kochman*
Maura A. Ziska

Esperanté
222 Lakeview Avenue, Suite 1500
West Palm Beach, Florida 33401
Telephone 561-802-8960
Facsimile 561-802-8995

*also admitted in NY

VIA EMAIL

November 24, 2020

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

RE: Z-20-00293
130 Sunrise Avenue, PH 1, Palm Beach, Florida

Dear Paul and Kelly:

Please **defer** the above referenced matter from the **December 9, 2020** Town Council meeting to the **January 13, 2021** Town Council meeting. Thank you.

Sincerely,

Maura Ziska

Maura A. Ziska

maz/jc
cc: Client

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 9, 2020

Section of Agenda

Development Review - New Business

Agenda Title

Z-20-00297 VARIANCE(S) Zoning District R-B Low Density Residential The application of Rotman Property Partnership, applicant, relative to property located at **256 RIDGEVIEW DR**, legal description on file, is described below. The Applicant is requesting a variance to construct a 66.5 square foot first floor addition on the east side of the existing house with a side yard setback of 10.16 feet in lieu of 12.5 feet minimum required. [Applicant's Representative: Tim Hanlon Esq]

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated November 23, 2020 from Wayne Bergman, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 09, 2020

To: Mayor and Town Council

From: Wayne Bergman, Director, Planning, Zoning & Building Department

Subject: **Z-20-00297 VARIANCE(S)**
256 RIDGEVIEW DR

Date: November 23, 2020

BACKGROUND

An application has been received for the following project:

REQUEST:

The Applicant is requesting a variance to construct a 66.5 square foot first floor addition on the east side of the existing house with a side yard setback of 10.16 feet in lieu of 12.5 feet minimum required.

ADDRESS: 256 RIDGEVIEW DR

OWNER: ROTMAN PROPERTY PARTNERSHIP

OWNER'S REPRESENTATIVE: ALLEY MAASS ROGERS AND LINDSAY PA

PROPERTY CONTROL NO.: 50-43-43-10-04-000-0990

ZONING DISTRICT: R-B Low Density Residential

LEGAL DESCRIPTION: MARK RAFALSKY TRACT LTS 99 & 100

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT
Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 10/20/20

APPLICATION NO.: Z-20-00297 **APPLICATION TYPE:** VARIANCE(S)

ADDRESS: 256 RIDGEVIEW DR

DESCRIPTION: The Applicant is requesting a variance to construct a 66.5 square foot first floor addition on the east side of the existing house with a side yard setback of 10.16 feet in lieu of 12.5 feet minimum required.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	Wayne Bergman, Director, Planning, Zoning & Building	11/23/2020	No Comment
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	11/25/2020	No comment regarding variance. Stormwater Management Plan provided did not contain calculation. Existing Stormwater Management System for the site has a direct connection to the Town's catch basin, which removal may be required as a condition of the permit. Additionally, treat may be required.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	11/24/2020	There are no fire code concerns with this project.
PZB - PLANNING AND ARCHITECTURAL REVIEW	Laura Groves van Onna, Historic Preservation Planner	11/25/2020	This proposed project is on the tentative agenda for the regularly scheduled Architectural Commission (ARCOM) meeting on 12/18/2020 as Application B-072-2020. Upon initial review, staff does not see immediate issue with the project as proposed.
PZB DIRECTOR	Wayne Bergman, Director, Planning, Zoning & Building	11/23/2020	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	11/23/2020	The applicant is required to demonstrate a hardship based on Sec. 134-201 to the satisfaction of the Town Council.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 9, 2020

Section of Agenda

Development Review - New Business

Agenda Title

Z-20-00298 VARIANCE Zoning District: R-AA Large Estate Residential The application of Paul Tudor Jones II, Applicant, relative to property located at **1300 S OCEAN BLVD**, legal description on file, is described below. Section 134 794: A request for variance to construct a 70 square foot, 3rd story hallway addition to connect the existing nonconforming two bedroom wings on the 3rd floor of a landmark house where only two stories is the maximum allowed in the R AA Zoning District under today's zoning code. [Applicant's Representative: Maura Ziska Esq] Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative impact to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation Commission approved the project with a condition. Carried 7-0.]

Presenter

ATTACHMENTS:

- ▢ **Memorandum Dated November 23, 2020 from Wayne Bergman, Director of Planning, Zoning and Building**
- ▢ **Comments from the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 09, 2020

To: Mayor and Town Council

From: Wayne Bergman, Director, Planning, Zoning & Building Department

Subject: **Z-20-00298 SPECIAL EXCEPTION**
1300 S OCEAN BLVD

Date: November 23, 2020

BACKGROUND

An application has been received for the following project:

REQUEST:

Section 134-794: A request for variance to construct a 70 square foot 3rd story hallway addition to connect the existing nonconforming two bedroom wings on the 3rd floor where only two stories is the maximum allowed in the R-AA Zoning District under today's zoning code.

ADDRESS: 1300 S OCEAN BLVD

OWNER: JONES PAUL TUDOR II

OWNER'S REPRESENTATIVE: KOCHMAN AND ZISKA

PROPERTY CONTROL NO.: 50-43-44-02-11-000-0052

ZONING DISTRICT: R-AA Large Estate Residential

LEGAL DESCRIPTION: CASA APAVA S 10 FT OF LT 5 & LT 6 (LESS N 82 FT)

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 10/21/20

APPLICATION NO.: Z-20-00298 **APPLICATION TYPE:** SPECIAL EXCEPTION

ADDRESS: 1300 S OCEAN BLVD

DESCRIPTION: Section 134-794: A request for variance to construct a 70 square foot 3rd story hallway addition to connect the existing nonconforming two bedroom wings on the 3rd floor where only two stories is the maximum allowed in the R-AA Zoning District under today's zoning code.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	Wayne Bergman, Director, Planning, Zoning & Building	11/9/2020	No Comment
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	11/24/2020	No comment regarding variance. A Recertification of the 2005 Stormwater Management System and sequential improvements will be required as a condition of the permit.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	11/9/2020	The town requires homes over 10,000 square feet to be sprinkled. The proposal does not indicate what the new structure would now have as a total square feet. This can be a concern depending on when the house was built and what the extent of the construction renovation is with the entire house.
PZB - PLANNING AND ARCHITECTURAL REVIEW	Laura Groves van Onna, Historic Preservation Planner	11/25/2020	This proposed project was approved by the Landmarks Preservation Commission (LPC) on 11/18/2020 as Application for Certificate of Appropriateness (COA) #048-2020. The Commission found that implementation of the proposed variance will not cause negative architectural impact to the subject Landmarked property.
PZB DIRECTOR	Wayne Bergman, Director, Planning, Zoning & Building	11/9/2020	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	11/23/2020	The proposed addition is on a nonconforming three story, landmarked home. The addition connects two three story elements.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 9, 2020

Section of Agenda

Development Review - New Business

Agenda Title

Z-20-00300 SPECIAL EXCEPTION Zoning District: C-TS Town-Serving Commercial The application of Flagler Holdings North Carolina Inc, Applicant, relative to property located at **223 ROYAL POINCIANA WAY & 227 ROYAL POINCIANA WAY SUITE A**, legal description on file, is described below. Pursuant to Section 134 2373 (13) of the Town Code, the applicant is requesting special exception approval to allow an internally illuminated, backlit business identification sign for Main Street by The Breakers, a new retail facility to be located at 223 Royal Poinciana Way. The applicant is also requesting an additional special exception to allow the same type of internally illuminated, backlit business identification sign for Shan, a retail clothing store to be located at 227 Royal Poinciana Way, Suite A. Both of these buildings are located at Via Flagler (221 Royal Poinciana Way) in the C TS zoning district, and the signs will be consistent with the backlit business identification sign that was approved by ARCOM and the Town Council for Henry's. Other than the special exception for an illuminated sign, no other special exceptions or variances are requested or required. [Applicant's Representative: James M. Crowley, Esq] **Request for Deferral To The January 13, 2021 Meeting Per Letter from James M. Crowley.**

Presenter

ATTACHMENTS:

- **Letter Dated November 24, 2020 from James M. Crowley**



GUNSTER
FLORIDA'S LAW FIRM FOR BUSINESS

Our File Number: 01446.09000
Writer's Direct Dial Number: (561) 650-0633
Writer's E-Mail Address: jcrowley@gunster.com

November 24, 2020

VIA E-MAIL

Paul Castro, Zoning Manager
Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480

**Re: Z-20-00300 – 223 Royal Poinciana Way & 227 Royal Poinciana Way,
Ste A. – Via Flagler Signage**

Dear Paul:

As you know, this project was deferred at the November 20th ARCOM meeting. Therefore, on behalf of our client, Flagler Holdings North Carolina, Inc., I would like to formally request to defer this matter from the December 9, 2020 to the January 13, 2021 Town Council agenda.

Thank you for your assistance.

Sincerely,

James M. Crowley, Esq.

JMC/op
Enclosures

cc: Kelly Churney (*via email*)

ACTIVE:12731867.1

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 9, 2020

Section of Agenda

Development Review - New Business

Agenda Title

Z-20-00301 VARIANCE(S) Zoning District: R-B Low Density Residential The application of Bethesda by the Sea Church, Applicant, relative to property located at **141 S COUNTY RD**, legal description on file, is described below. Bethesda by the Sea Church requests a variance for an increase in the overall height from the existing 87 feet to a proposed 96 ft. of the church's bell tower in the R B district where the maximum overall height limit is 30 ft. Specifically, the request is to allow the installation of a nine foot tall lightning suppression device centrally located on top of the church's 87 foot tall bell tower. [Applicant's Representative: Harvey E Oyer III Esq] [Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative impact to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation Commission approved the project as presented. Carried 7-0.]

Presenter

ATTACHMENTS:

- **Memorandum Dated November 23, 2020 from Wayne Bergman, Director of Planning, Zoning and Building**
- **Comments from the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 09, 2020

To: Mayor and Town Council

From: Wayne Bergman, Director, Planning, Zoning & Building Department

Subject: **Z-20-00301 VARIANCE(S)**
141 S COUNTY RD SUITE: CHURCH

Date: November 23, 2020

BACKGROUND

An application has been received for the following project:

REQUEST:

Bethesda by the Sea Church ("Church") requests a variance for an increase in the overall height from the existing 87 feet (ft.) to a proposed 96 ft. of the church's bell tower in the R-B district where the maximum overall height limit is 30 ft. Specifically, the request is to allow the installation of a nine-foot tall lightning suppression device ("Lightning Suppressor") centrally located on top of the church's 87-foot tall bell tower ("Bell Tower").

ADDRESS: 141 S COUNTY RD SUITE: CHURCH

OWNER: BETHESDA BY THE SEA CHURCH

OWNER'S REPRESENTATIVE: HARVEY E OYER III ESQ

PROPERTY CONTROL NO.: 50-43-43-23-01-000-0010

ZONING DISTRICT: R-B Low Density Residential

LEGAL DESCRIPTION: PENDLETON TR E G LTS 1 THRU 8

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 10/21/20

APPLICATION NO.: Z-20-00301 **APPLICATION TYPE:** VARIANCE(S)

ADDRESS: 141 S COUNTY RD SUITE: CHURCH **TENANT:**BETHESDA BY THE SEA

DESCRIPTION:

Bethesda by the Sea Church ("Church") requests a variance for an increase in the overall height from the existing 87 feet (ft.) to a proposed 96 ft. of the church's bell tower in the R-B district where the maximum overall height limit is 30 ft. Specifically, the request is to allow the installation of a nine-foot tall lightning suppression device ("Lightning Suppressor") centrally located on top of the church's 87-foot tall bell tower ("Bell Tower").

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	Wayne Bergman, Director, Planning, Zoning & Building	11/9/2020	No Comment
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	11/9/2020	No Comments.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	11/9/2020	There is no fire code violation to prevent this.
PZB - PLANNING AND ARCHITECTURAL REVIEW	Laura Groves van Onna, Historic Preservation Planner	11/25/2020	This proposed project was approved by the Landmarks Preservation Commission (LPC) on 11/18/2020 as Application for Certificate of Appropriateness (COA) #049-2020. The Commission found that implementation of the proposed variance will not cause negative architectural impact to the subject Landmarked property.
PZB DIRECTOR	Wayne Bergman, Director, Planning, Zoning & Building	11/9/2020	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	11/10/2020	The applicant must demonstrate a hardship to the satisfaction of the Town Council.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 9, 2020

Section of Agenda

Development Review - New Business

Agenda Title

Z-20-00302 VARIANCE(S) Zoning District: R B Low Density Residential The application of 346 Seaspray LLC (Guy Rabideau, Trustee), Applicant, relative to property located at **346 SEASPRAY AVE**, legal description on file, is described below. A request for a flood plain variance in order to construct the previously approved additions, consisting of a 161 square foot addition to the existing loggia (which will be enclosed into a/c space); an 877 square foot two story addition to the northeast side of the property for a new garage and an upper level studio, and a 443 square foot pool loggia addition to the east side of the property all with a finished floor elevation of 3.13 feet North American Vertical Datum ("NAVD") in lieu of the 6 foot NAVD required when construction exceeds 50% of the market value of the residence. [Applicant's Representative: Maura Ziska Esq]

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated November 23, 2020 from Wayne Bergman, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 09, 2020

To: Mayor and Town Council

From: Wayne Bergman, Director, Planning, Zoning & Building Department

Subject: **Z-20-00302 VARIANCE(S)**
346 SEASPRAY AVE

Date: November 23, 2020

BACKGROUND

An application has been received for the following project:

REQUEST:

A request for a flood plain variance in order to construct the previously approved 161 square foot addition to the existing loggia (which will be enclosed into a/c space); an 877 square foot two story addition to the northeast side of the property for a new garage and an upper level studio; and a 443 square foot pool loggia addition to the east side of the property all with a finished floor elevation of 3.13 feet North American Vertical Datum ("NAVD") in lieu of the 6 foot NAVD required when construction exceeds 50% of the market value of the residence.

ADDRESS: 346 SEASPRAY AVE

OWNER: 346 SEASPRAY LLC

OWNER'S REPRESENTATIVE: KOCHMAN AND ZISKA

PROPERTY CONTROL NO.: 50-43-43-22-07-000-3690

ZONING DISTRICT: R-B Low Density Residential

LEGAL DESCRIPTION: POINCIANA PARK 2ND ADD LTS 369 371 373
375 377 & 379

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 10/22/20

APPLICATION NO.: Z-20-00302 **APPLICATION TYPE:** VARIANCE(S)

ADDRESS: 346 SEASPRAY AVE

DESCRIPTION:

A request for a flood plain variance in order to construct the previously approved 161 square foot addition to the existing loggia (which will be enclosed into a/c space); an 877 square foot two story addition to the northeast side of the property for a new garage and an upper level studio; and a 443 square foot pool loggia addition to the east side of the property all with a finished floor elevation of 3.13 feet North American Vertical Datum ("NAVD") in lieu of the 6 foot NAVD required when construction exceeds 50% of the market value of the residence.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	Wayne Bergman, Director, Planning, Zoning & Building	11/23/2020	No Comment
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	11/25/2020	No comment regarding variance. Stormwater Management Plan provided did not contain calculation for review. Existing Stormwater Management System for the site has a direct connection to the Town's catch basin, which removal may be required as a condition of the permit.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	11/24/2020	There are no fire code concerns with this project
PZB - PLANNING AND ARCHITECTURAL REVIEW	Laura Groves van Onna, Historic Preservation Planner	11/25/2020	This proposed project was approved by the Landmarks Preservation Commission (LPC) on 10/21/2020 as Application H-001-2020. The Commission found that implementation of the proposed variance will not cause negative architectural impact to the subject Historically Significant Building.
PZB DIRECTOR	Wayne Bergman, Director, Planning, Zoning & Building	11/23/2020	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	11/23/2020	I have no comments on this application request.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 9, 2020

Section of Agenda

Development Review - New Business

Agenda Title

Z-20-00303 SPECIAL EXCEPTION WITH SITE PLAN REVIEW Zoning District: C TS Town Serving Commercial The application of 2875 S Ocean Blvd LLC (Kenneth Silverman, Manager), Applicant, relative to property located at **2875 S OCEAN BLVD, STE 101 & 103**, legal description on file, is described below. A request for special exception with site plan approval pursuant to Condition #2 in the original 1980 approval to construct the existing building on the subject property (Special Exception #25 80). The condition requires any use other than an office and professional services to obtain Town Council approval. This request is to allow a 790 square foot expansion of the existing Acqua Cafe in order to add a take out only part of the restaurant (Acqua Cafe Express/Suite 103) with no seating. The total restaurant size will be 2,990 square feet. The hours are proposed to be 11:00 AM to 9:00 PM daily. [Applicant's Representative: Maura Ziska Esq]

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated November 23, 2020 from Wayne Bergman, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 09, 2020

To: Mayor and Town Council

From: Wayne Bergman, Director, Planning, Zoning & Building Department

Subject: **Z-20-00303 SPECIAL EXCEPTION WITH SITE PLAN REVIEW**
2875 S OCEAN BLVD SUITE: 103

Date: November 23, 2020

BACKGROUND

An application has been received for the following project:

REQUEST:

A request for special exception with site plan approval pursuant to Condition #2 in the original 1980 approval to construct the existing building on the subject property (Special Exception #25-80). The condition requires any use other than an office and professional services to obtain Town Council approval. This request is to allow a 790 square foot expansion of the existing Acqua Cafe in order to add a take-out-only part of the restaurant (Acqua Cafe Express/Suite 103) with no seating. The total restaurant size will be 2,990 square feet. The hours are proposed to be 11:00 AM to 9:00 PM daily.

ADDRESS: 2875 S OCEAN BLVD SUITE: 103

OWNER: 2875 S OCEAN BLVD LLC

OWNER'S REPRESENTATIVE: KOCHMAN AND ZISKA

PROPERTY CONTROL NO.: 50-43-44-23-00-002-0190

ZONING DISTRICT: C-TS Town-Serving Commercial

LEGAL DESCRIPTION: 23/26-44-43, S 430 FT OF W 200FT OF GOV LT 2
LYG E OF A1A & W 200 FT OF GOV LT 1 SEC 26
LYG BET S LI SEC 23 & N R/W LI OF LAKE AVE E
OF SR A1A

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Attachment

cc: John C. Randolph, Town Attorney
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 10/23/20

APPLICATION NO.: Z-20-00303 **APPLICATION TYPE:** SPECIAL EXCEPTION WITH SITE PLAN REVIEW

ADDRESS: 2875 S OCEAN BLVD SUITE: 103 **TENANT:**ACQUA EXPRESS

DESCRIPTION:

A request for special exception with site plan approval pursuant to Condition #2 in the original 1980 approval to construct the existing building on the subject property (Special Exception #25-80). The condition requires any use other than an office and professional services to obtain Town Council approval. This request is to allow a 790 square foot expansion of the existing Acqua Cafe in order to add a take-out-only part of the restaurant (Acqua Cafe Express/Suite 103) with no seating. The total restaurant size will be 2,990 square feet. The hours are proposed to be 11:00 AM to 9:00 PM daily.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	Wayne Bergman, Director, Planning, Zoning & Building	10/30/2020	No Comment
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	11/5/2020	No Comments.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	11/2/2020	The proposal is not in conflict with the adopted fire codes however plans would need to be reviewed for clarification.
PZB - PLANNING AND ARCHITECTURAL REVIEW	Laura Groves van Onna, Historic Preservation Planner	11/25/2020	Exterior work is subject to design review. All proposed improvements appear to be on the interior of the existing building, with the exception of signage and minor storefront modifications. If compliant to Code, these proposed changes can be reviewed by staff under criteria for the Architectural Commission (ARCOM).
PZB DIRECTOR	Wayne Bergman, Director, Planning, Zoning & Building	10/30/2020	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	11/23/2020	The proposed use is a permitted use in the C-TS zoning district. However, a previous condition of approval on the subject property requires any use, other than office use, to obtain Town Council approval.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 9, 2020

Section of Agenda

Development Review - New Business

Agenda Title

Z-20-00304 VARIANCE(S) Zoning District: R C Medium Density

Residential The application of Mark D Gilbert, Applicant, relative to property located at **323 CHILEAN AVE**, legal description on file, is described below. The applicant is proposing to renovate and demolish the existing residence by more than 50% cubic footage and raise the existing landmarked house from the 3.73 foot NAVD finished floor elevation to 7 feet NAVD finished floor elevation to meet the new FEMA regulations. The applicant is also proposing to slightly shift the house to the east to allow for a wider driveway to the rear guest house/garage. The following variances are being requested: Section 134 949 & 134 446(b) & 134 419: Request for a variance to demolish more than 50% by cubic footage which requires a variance to rebuild the house on a nonconforming lot with area of 9,395 square feet in lieu of the 10,000 square feet minimum required. Section 134 948 (6): to allow a 7.67 foot east side yard setback for the 49 square foot one story loggia with second floor deck above in lieu of the 10 foot minimum required in the R C Zoning District. Section 134 1757: to allow a swimming pool with an 8.6 foot east side yard setback in lieu of the 10 foot minimum required. Section 134 1607: to allow a chimney with a height of 34.7 feet in lieu of the 32.7 foot maximum allowed. Section 134 948 (7): to allow a new outside staircase in the rear of the guest house/garage with a 5.7 foot rear yard setback in lieu of the 15 foot minimum required. Section 134 948 (11): to allow the non conforming landscape open space to remain at 38.2% in lieu of the 45% minimum required. [Applicant's

Representative: Maura Ziska Esq] [Landmarks Preservation Commission Recommendation:

Implementation of the proposed variances will not cause negative impact to the subject landmarked property.

Carried 7-0.] [The Landmarks Preservation Commission approved the project with conditions. Carried 7-0.]

Presenter

ATTACHMENTS:

Memorandum Dated November 23, 2020 from Wayne Bergman, Director

- ▢ **of Planning, Zoning and Building**
- ▢ **Comments from the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 09, 2020

To: Mayor and Town Council

From: Wayne Bergman, Director, Planning, Zoning & Building Department

Subject: **Z-20-00304 VARIANCE(S)**
323 CHILEAN AVE

Date: November 23, 2020

BACKGROUND

An application has been received for the following project:

REQUEST:

The applicant is proposing to renovate and demolish the existing residence by more than 50% cubic footage and raise the existing landmarked house from the 3.73 foot NAVD finished floor elevation to 7 feet NAVD finished floor elevation to meet the new FEMA regulations. The applicant is also proposing to slightly shift the house to the east to allow for a wider driveway to the rear guest house/garage. The following variances are being requested: Section 134-949 & 134-446(b) & 134-419: Request for a variance to demolish more than 50% by cubic footage which requires a variance to rebuild the house on a nonconforming lot with area of 9,395 square feet in lieu of the 10,000 square feet minimum required. Section 134-948 (6): to allow a 7.67 foot east side yard setback for the 49 square foot one story loggia with second floor deck above in lieu of the 10 foot minimum required in the R-C Zoning District. Section 134-1757: to allow a swimming pool with an 8.6 foot east side yard setback in lieu of the 10 foot minimum required. Section 134-1607: to allow a chimney with a height of 34.7 feet in lieu of the 32.7 foot maximum allowed. Section 134-948 (7): to allow a new outside staircase in the rear of the guest house/garage with a 5.7 foot rear yard setback in lieu of the 15 foot minimum required. Section 134-948(11): to allow the non-conforming landscape open space to remain at 38.2% in lieu of the 45% minimum required.

ADDRESS: 323 CHILEAN AVE

OWNER: GILBERT MARK D &

OWNER'S REPRESENTATIVE: KOCHMAN AND ZISKA

PROPERTY CONTROL NO.: 50-43-43-23-05-006-0420

ZONING DISTRICT: R-C Medium Density Residential

LEGAL DESCRIPTION: ROYAL PARK ADD LTS 42 TO 44 INC
BLK 6

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Page Two

Attachment

cc: John C. Randolph, Town Attorney
pf & zf

**PLANNING, ZONING AND BUILDING DEPARTMENT**

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT**DRC MEETING:** 10/30/20**APPLICATION NO.:** Z-20-00304 **APPLICATION TYPE:** VARIANCE(S)**ADDRESS:** 323 CHILEAN AVE**DESCRIPTION:**

The applicant is proposing to renovate and demolish the existing residence by more than 50% cubic footage and raise the existing landmarked house from the 3.73 foot NAVD finished floor elevation to 7 feet NAVD finished floor elevation to meet the new FEMA regulations. The applicant is also proposing to slightly shift the house to the east to allow for a wider driveway to the rear guest house/garage. The following variances are being requested: Section 134-949 & 134-446(b) & 134-419: Request for a variance to demolish more than 50% by cubic footage which requires a variance to rebuild the house on a nonconforming lot with area of 9,395 square feet in lieu of the 10,000 square feet minimum required. Section 134-948 (6): to allow a 7.67 foot east side yard setback for the 49 square foot one story loggia with second floor deck above in lieu of the 10 foot minimum required in the R-C Zoning District. Section 134-1757: to allow a swimming pool with an 8.6 foot east side yard setback in lieu of the 10 foot minimum required. Section 134-1607: to allow a chimney with a height of 34.7 feet in lieu of the 32.7 foot maximum allowed. Section 134-948 (7): to allow a new outside staircase in the rear of the guest house/garage with a 5.7 foot rear yard setback in lieu of the 15 foot minimum required. Section 134-948(11): to allow the non-conforming landscape open space to remain at 38.2% in lieu of the 45% minimum required.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	Wayne Bergman, Director, Planning, Zoning & Building	11/5/2020	No Comment
PUBLIC WORKS DEPARTMENT	Craig Hauschild, Civil Engineer	11/5/2020	Stormwater Management Systems depicted on plans for Basin A and Basin B do not meet Town's Level of Service required. Due to the elevation of the roadway, compliance may not be obtainable.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	11/4/2020	There are no fire code concerns with this proposed project
PZB - PLANNING AND ARCHITECTURAL REVIEW	Laura Groves van Onna, Historic Preservation Planner	11/25/2020	This proposed project was approved by the Landmarks Preservation Commission (LPC) on 11/18/2020 as Application for Certificate of Appropriateness (COA) #043-2020 with conditions that a restudy of the façade be conducted per a historic photo provided by the Preservation Foundation of Palm Beach and that clay barrel tile be used instead of concrete tile for roofing material. The restudy is on the tentative agenda for the regularly scheduled LPC meeting on 12/16/2020. The Commission found that implementation of the proposed variances will not cause negative architectural impact to the subject Landmarked property.
PZB DIRECTOR	Wayne Bergman, Director, Planning, Zoning & Building	11/5/2020	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	11/23/2020	This is a landmark house that the owner wants to move, raise and renovate to restore and improve. The owner is requesting the variances in order to accomplish this without completely demolishing the home.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 9, 2020

Section of Agenda

Ordinances - Second Reading

Agenda Title

ORDINANCE 16-2020 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 VIII, Supplementary District Regulations, Section 134-1728 Air Conditioning And Swimming Pool Heating Equipment, By Changing The Title; Reorganizing The Regulations; Allowing The Use Of A Neighbor's Concrete Wall For Screening Said Equipment; Providing For A Recorded Agreement With The Town To Build A Screening Wall As Provided For In The Code Should The Neighbor Remove Their Wall; Providing A Maximum Distance That Swimming Pool Equipment Can Be Located From A Swimming Pool Or Fountain; At Article VIII, Supplementary District Regulations, Section 134-1729, Generators And Swimming Pool Equipment, By Modifying The Title And Generator Regulations; Moving Swimming Pool Equipment Into Section 134-1728 Of The Code; Allowing More Than One Generator On A Property And Allowing The Use Of A Neighbor's Concrete Wall For Screening Said Equipment; Providing For A Recorded Agreement With The Town To Build A Screening Wall As Provided For In The Code Should The Neighbor Remove Their Wall; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Presenter

ATTACHMENTS:

- ▣ **Memorandum from Wayne Bergman, Director of Planning, Zoning and Building**
- ▣ **Ordinance No. 16-2020**

TOWN OF PALM BEACH

Information for Local Planning Agency and Town Council meeting on:
November 13, 2020

To: Town Council

From: Wayne Bergman, Planning, Zoning and Building Director

Re: Consideration of Proposed Zoning Text Amendments regarding Air Conditioning, Swimming Pool and Fountain Equipment and Generators in Chapter 134 of the Code of Ordinances.
Ordinance No. 16-2020

Date: November 2, 2020

STAFF RECOMMENDATION

Staff recommends the Local Planning Agency recommend approval and the Town Council approve attached Ordinance No. 16-2020 on first reading.

PLANNING AND ZONING COMMISSION RECOMMENDATION

The Planning and Zoning Commission, at its on June 16, 2020 and July 21, 2020 meetings, considered and unanimously recommended approval of the proposed Zoning Code modifications as outlined in Ordinance No. 16-2020.

BACKGROUND

The Planning and Zoning Commission, at its June 16, 2020, reviewed the proposed language staff presented on proposed changes to the mechanical equipment regulations. They deferred the item and at their July 21, 2020 meeting reconsidered the proposed zoning text amendments with changes they requested staff make. The proposed changes recommended by the Commission to Sections 134-1728, Air conditioning and pool heating equipment, and Section 134-1729, Generators and swimming pool equipment, are outlined in add/delete format in the Planning and Zoning Commission Record and Report.

The Town Council, at its October 14, 2020, meeting considered that Record and Report and directed staff to draft an ordinance consistent with the Commission's recommendation. The amendments that are incorporated into proposed Ordinance No. 16-2020, consolidates and reorganizes the regulations in Section 134-1728 for air conditioning, cooling tower, and swimming pool and fountain equipment; requires pool and fountain equipment to be within 25 feet of the pool or fountain; and allows the use of an abutting neighbor's concrete wall to meet the screening requirements for that mechanical equipment (excluding cooling towers) provided a

recorded agreement is provided that requires the owner to construct the required concrete wall if the neighbor's wall is removed.

The amendments in the proposed Ordinance related to Section 134-1729, Generators and swimming pool equipment, eliminates pool equipment from that section and moves those provisions to Section 134-1728; allows for more than one generator on a property; and provides the same use of a neighbor's concrete wall with an agreement similar to what is proposed for air conditioning and swimming pool equipment. The specific changes to the Code are identified in add/delete format in attached Ordinance No. 16-2020.

TOWN ATTORNEY REVIEW

Ordinance No. 16-2020 has been approved by Town Attorney John C. Randolph for legal form and sufficiency.

cc: Kirk Blouin, Town Manager
Jay Boodheshwar, Deputy Town Manager
John C. Randolph, Town Attorney
Planning and Zoning Commission
Paul Castro, Zoning Manager

ORDINANCE NO. 16-2020

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 VIII, SUPPLEMENTARY DISTRICT REGULATIONS, SECTION 134-1728 AIR CONDITIONING AND SWIMMING POOL HEATING EQUIPMENT, BY CHANGING THE TITLE; REORGANIZING THE REGULATIONS; ALLOWING THE USE OF A NEIGHBOR'S CONCRETE WALL FOR SCREENING SAID EQUIPMENT; PROVIDING FOR A RECORDED AGREEMENT WITH THE TOWN TO BUILD A SCREENING WALL AS PROVIDED FOR IN THE CODE SHOULD THE NEIGHBOR REMOVE THEIR WALL; PROVIDING A MAXIMUM DISTANCE THAT SWIMMING POOL EQUIPMENT CAN BE LOCATED FROM A SWIMMING POOL OR FOUNTAIN; AT ARTICLE VIII, SUPPLEMENTARY DISTRICT REGULATIONS, SECTION 134-1729, GENERATORS AND SWIMMING POOL EQUIPMENT, BY MODIFYING THE TITLE AND GENERATOR REGULATIONS; MOVING SWIMMING POOL EQUIPMENT INTO SECTION 134-1728 OF THE CODE; ALLOWING MORE THAN ONE GENERATOR ON A PROPERTY AND ALLOWING THE USE OF A NEIGHBOR'S CONCRETE WALL FOR SCREENING SAID EQUIPMENT; PROVIDING FOR A RECORDED AGREEMENT WITH THE TOWN TO BUILD A SCREENING WALL AS PROVIDED FOR IN THE CODE SHOULD THE NEIGHBOR REMOVE THEIR WALL; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, after public hearings 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 Town Council considered the Planning and Zoning Commission's Record and Report and all evidence and testimony and as the Local Planning Agency 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 VIII, SUPPLEMENTARY DISTRICT REGULATIONS, Sec. 134-1728, Air conditioning and swimming pool heating equipment, is hereby amended to read as follows:

Sec. 134-1728. - Air conditioning and swimming pool, heating and fountain equipment.

~~(a) No portion of any air conditioning and/or swimming pool equipment shall be located closer than five feet from a side or rear property line. In addition, such air conditioning or swimming pool equipment within ten feet from the side or rear property line shall be completely screened with a wall as high as said equipment from the neighboring property. Except as provided for in subsection (b) of this section, air conditioning and/or swimming pool equipment, in excess of two units or more than four feet in height, as measured above the natural grade or minimum flood elevation, whichever is greater, or occupying more than 25 square feet in total area, shall be considered an enclosed accessory structure and shall be constructed, erected or placed in compliance with all the provisions of the ordinance applicable thereto.~~

~~(b) In the R-AA, R-A and R-B zoning districts, where setbacks for principal structures are increased based on a larger lot width, the air conditioning and/or swimming pool equipment which are in excess of number, height and area restrictions identified in subsection a of this section shall only be required to meet the minimum yard setback requirements for an enclosed accessory structure on a minimum size lot in that district.~~

~~(c) Cooling towers shall be required to meet the same minimum yard setback requirements as the principal structure, and shall be screened from the neighbors and/or a street by a three-sided, concrete block masonry finished wall at least as high as said cooling tower. If the required wall is higher than the Code allows in a setback in order to screen the cooling tower from the neighbors and/or a street, said wall shall also meet the minimum yard setback requirement as the principal structure.~~

~~(d) No air conditioning or swimming pool equipment shall be allowed in a front yard setback.~~

~~(e) Any house that fronts on two or more streets shall be allowed to place air conditioning (excluding cooling towers) and/or swimming pool equipment in each required street side or street rear yard setback provided that the combination of said equipment does not exceed two in each of said setbacks; are not more than four feet in height above the natural grade or the minimum flood elevation, whichever is greater, occupy no more than 25 square feet in total area; and are setback a minimum of 20 feet from the street side or street rear property line and are screened from view by a wall as high as said equipment and three foot high hedge outside said wall.~~

(a) Air conditioning/chiller equipment (excluding cooling towers):

Air conditioning equipment shall not be allowed in a required front yard setback. Said equipment shall be allowed in a required side, rear, street side and street rear yard setback provided the following requirements are met:

1. The equipment shall have a minimum five-foot side and rear yard setback.
2. The equipment shall have a minimum twenty-foot street side and street rear yard setback.

3. A maximum of two pieces of air conditioning equipment not exceeding six feet in height above grade or the minimum flood elevation, whichever is higher, shall be allowed.
4. The equipment shall be completely screened from the neighboring property and the street by a concrete wall as high as said equipment. Said wall cannot exceed the maximum height allowed by Code. A neighbor's existing concrete wall can satisfy said requirement provided that wall meets the height requirement to completely screen said equipment from the adjacent neighbor and the applicant enter into a recorded agreement with the town to construct said wall as provided for in the Code to meet the screening requirement should the neighbor remove their wall.
5. If the equipment and required new screening wall can be seen from the street, said equipment and wall shall be approved by either the Architectural Commission or Landmark Preservation Commission, whichever is applicable. Intervening landscape material shall not be considered when determining air conditioning/ chiller equipment visibility.
6. Where required setbacks for principal structures are increased based on a larger lot width or depth, the air conditioning equipment (not including cooling towers) shall meet the same requirements as the standard size lots in the district it is located.

(b) Cooling tower/chiller equipment:

Cooling tower/chiller equipment shall meet the following requirements:

1. The equipment and screening wall required below shall meet the same minimum required yard setbacks as the principal structure.
2. The equipment shall be screened from the neighbors and/or a street by a three-sided, concrete wall at least as high as said cooling tower.
3. If the equipment and required screening wall can be seen from the street without intervening landscape material, said equipment and wall shall be approved by either the Architectural Commission or Landmark Preservation Commission, whichever is applicable.

(c) Swimming pool and fountain equipment:

Swimming pool and fountain equipment shall be allowed in a required side, rear, street side and street rear yard setback provided the following requirements are met:

1. Swimming pool and fountain pump and filter equipment shall have a minimum five foot side and rear yard setback and shall in all situations be located no further than twenty-five feet from the pool or fountain water's edge.
2. Swimming pool heater equipment shall have a minimum ten-foot side and rear yard setback and shall in all situations be located no further than twenty-five feet of the swimming pool water's edge.
3. Swimming pool heater and pump equipment and fountain equipment (excluding filters) shall not exceed four pieces of equipment.

4. Swimming pool heater, pump and filter equipment and fountain equipment shall not exceed a maximum height of four feet above grade or the minimum flood elevation, whichever is higher.
5. All swimming pool and fountain equipment, including a heater and filter equipment, shall have a minimum twenty-foot street side yard setback and a fifteen-foot street rear yard setback and in all situations shall be located no further than twenty-five feet from the water's edge of the swimming pool and/or fountain.
6. Swimming pool and fountain pump and filter equipment, excluding swimming pool heater equipment, shall be enclosed in a pump house and shall be located no further twenty-five from the swimming pool or fountain water's edge.
7. Swimming pool heater equipment shall be completely screened from a neighboring property and a street by a building or concrete wall as high as said equipment. Said wall cannot exceed the maximum height allowed by Code. A neighbor's existing concrete wall can satisfy said requirement provided the wall meets the height requirement to completely screen said equipment from the adjacent neighbor and the applicant enters into a recorded agreement with the town to construct said wall as provided for in the Code to meet the screening requirement should the neighbor remove their wall.
8. If the equipment and required new screening wall or pump house can be seen from the street, said equipment and wall shall be approved by either the Architectural Commission or Landmark Preservation Commission, whichever is applicable. Intervening landscape material shall not be considered when determining swimming pool and fountain pump, heating and filter equipment visibility.
9. Where required setbacks for principal structures are increased based on a larger lot width or depth, the swimming pool and fountain pump, filter and heating pool equipment shall meet the same requirements as the standard size lots in the district it is located.

Section 2. Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, Sec. 134-1729, Generators and swimming pool equipment, is hereby amended to read as follows:

Sec. 134-1729. - Generators and swimming pool equipment.

Except for generators serving a public purpose and owned and operated by the town or temporary generators used during or after a natural disaster such as a tropical storm or hurricane event, and which are therefore exempt from these regulations, portable or permanent generators temporarily or permanently placed on the ground, on a stand or on a trailer, shall not be placed in the required front, street side or street rear yard setbacks; provided, however, not more than one such generator shall be placed in any given within the same required side or rear yard setback ~~or yard area~~.

(1) One or a combination of more than one portable or permanent generators with an combined output of not more than 60 KW shall be allowed provided only one generator is within the same required yard area and no closer than ten-foot side or rear yard property line. Said

generator(s) shall be allowed five feet from a side or rear property line be allowed in a required side or rear yard setback provided said generator meets the following conditions requirements:

a. ~~The generator is set back a minimum of five feet from the property line. There is only one generator within that required yard area.~~

b. The generator(s) shall not, at any time or for any purpose, exceed the maximum decibels allowed at the property line as set forth in section 42-228.

c. The highest point on the generator(s) shall not exceed a maximum of seven feet above the neighboring property owner's grade or zero datum as defined in the appropriate definition of building height in section 134-2.

d. ~~The generator(s) is shall be completely screened from a street and the neighboring property owners by a concrete block masonry finished wing wall (three-sided wall), at least four feet high or the same height as the generator (including the height of the exhaust muffler); whichever is greater. An adjacent property owner's existing side or rear concrete wall that completely screens the generator from the neighbor adjacent to that generator can count towards screening neighbor's existing concrete wall can satisfy said requirement provided the wall meets the height requirement to screen the generator and the applicant enters into a recorded agreement with the town to construct said wall as provided for in the Code to meet the screening requirement should the neighbor remove their wall.~~

e. If the generator(s) is visible from a street or public way, its location shall be subject to approval by the architectural commission or landmarks preservation commission, whichever is applicable. Intervening landscape material shall not be considered when determining a generator's visibility.

ef. The generator's exhaust shall, as much as practically feasible, vented upwards or directed away from neighboring properties.

fg. The generator(s) shall be used only during periods of power outages or for periodic testing and necessary maintenance operation and shall not be used to sell power back to a power company or for use by power customers during periods of peak demand.

gh. The generator(s) shall be operated for routine testing and maintenance purposes not more than one time in any seven-day period and no test shall exceed 30 minutes. Testing of emergency generators is permitted Monday through Thursday only (excluding holidays), between the hours of 11:00 a.m. and 12:00 p.m. or 2:00 pm. and 3:00 p.m.

hi. ~~Testing may be conducted when the unit is being repaired, provided that such testing period shall not exceed 30 minutes and shall be conducted only between the hours of 10:00 a.m. and 5:00 p.m. Monday through Saturday, excluding holidays.~~

ij. Generators shall not be permitted on the roof of a building.

(2) Temporary or permanent generators with a combined output of greater than 60 KW or more may be temporarily placed on the ground, on a stand or on a trailer. A portable or permanent generator may be permanently or temporarily placed on the ground, on a stand, or on a trailer outside of required yard setback areas; provided, however, said generator(s) meets the following conditions requirements:

a. If the A generator(s)'s output capability is greater than 60KW, it shall be placed on the property only in conformance with meet the minimum setback requirements applicable to a principal structure and not more than one generator shall be within the same required setback or yard area.

b. The generator shall not, at any time or for any purpose, exceed the maximum decibels allowed at the property line as set forth in section 42-228.

c. If the generator exceeds an output capacity of 100 KW or the combined output capacity of multiple generators output capacity is greater than 100 exceeds 120 KW, it said generator(s) shall be subject to site plan review as defined in sections 134-326-134-330, and If any individual generator output capacity exceeds 100 KW it shall be housed in an enclosed building with landscaping as approved by the architectural commission or landmarks preservation commission, whichever is appropriate applicable.

d. If the generator is greater than exceeds 60KW and is 100KW or less, and is visible from a street or public way, it shall be screened from view at the street and from the neighboring properties by a concrete block masonry finished wing wall (three-sided wall), at least four feet high or the same height as the generator (including the height of the exhaust muffler); whichever is greater. An adjacent property owner's side or rear concrete wall that completely screens the generator from the neighbor adjacent to said generator can count towards screening provided that the wall meets the height requirement to screen the generator and the applicant enters into a recorded agreement with the town to construct said wall as provided for in the Code to meet the screening requirement should the neighbor remove their wall.

e. If the generator is 60KW or less and is visible from a street or public way, its location shall be subject to approval by the architectural commission or landmarks preservation commission, as applicable. Intervening landscape material shall not be considered when determining a generator's visibility.

f. The generator'(s) exhaust is shall, as much as practically feasible, be vented upwards or directed away from neighboring properties.

g. The generator(s) shall be used only during periods of power outages, periods of power reductions resulting from the exercise of utility load control programs or for periodic testing and necessary maintenance operation and shall not be used to sell power back to a power company.

h. The generator(s) shall be operated for routine testing and maintenance purposes not more than one time in any seven-day period and no test shall exceed 30 minutes. Testing of

emergency generators is permitted Monday through Thursday only (excluding holidays), between the hours of 11:00 a.m. and 12:00 p.m. or 2:00 pm. and 3:00 p.m.

i. Testing may be conducted when the unit is being repaired, provided that such testing period shall not exceed 30 minutes and shall be conducted only between the hours of 10:00 a.m. and 5:00 p.m. Monday through Saturday, excluding holidays.

j. Generators ~~are~~ shall not be permitted on the roof of a building.

(3) Notwithstanding subsection (a), the director or designee may grant a waiver allowing a one generator with an output capability in excess of 60KW to be located within a required side or rear yard setback, provided the applicant submits to the town a site plan and evidence or testimony substantiating each of the following conditions:

a. The output of a 60 KW or less generator is incapable of providing enough electricity for the basic necessity of occupying a building and/or protecting interiors or possessions in a building from the damaging effects of prolonged loss of power.

b. The proposed location is not merely for the convenience or preference of the applicant, but that there is no other location outside of the required setbacks that will provide for safe placement of the generator.

c. The proposed location represents the minimum intrusion into the required setback(s) necessary to safely accommodate the generator.

(4) If an administrative waiver is not granted pursuant to subsection (c) the applicant may appeal the administrative decision to the town council pursuant to sections 134-131—134-145.

~~In addition, swimming pool pumps and filters shall be allowed in a required side or rear yard provided said equipment is placed no closer than five feet from the side or rear property line and is enclosed in a pump house not exceeding a height of four feet. However, any lot that fronts on two or more streets shall be allowed to place one swimming pool filter and pump in a required street side and/or street rear yard setback provided that said swimming pool filter and pump, in combination with a pool heater and/or air conditioning unit does not exceed three pieces of said equipment; is set back a minimum of 25 from the street side or street rear property line; and, is screened from view from the neighboring property owner by a five foot high wall and from the street by a minimum five foot high wall and three foot high hedge.~~

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 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 13th day of November, 2020, second reading and final adoption on this ____ day of _____, 2020.

Gail L. Coniglio, Mayor

Margret A. Zeidman, Town Council President

Bobbie Lindsay, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Danielle H. Moore, Town Council Member

Queenester Nieves, Town Clerk

Lewis S.W. Crampton, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting Development Review on: December 9, 2020

Section of Agenda

Any Other Matters

Agenda Title

ARCOM's Request to Consider Demolitions

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated November 25, 2020 from Wayne Bergman, Director of Planning, Zoning and Building**
- ▣ **Email Dated October 8, 2020 from Jay Serzan**
- ▣ **Email Dated October 10, 2020 from Anne Pepper**
- ▣ **Email Dated October 12, 2020 from Anne Pepper**
- ▣ **Email Dated October 12, 2020 from Steven Greenwald**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 9, 2020

To: Mayor and Town Council

From: Wayne Bergman, Director of Planning, Zoning & Building



Cc: Kirk Blouin, Town Manager

Re: Demolitions

Date: November 25, 2020

GENERAL INFORMATION

During your meeting of October 14, 2020, Arcom Chairman Michael Small made a presentation in which he asked the Council to consider amending the Town code to automatically forward any application for demolition to the Landmarks Preservation Commission for a 60-day review. The goal would be to allow the Landmarks Preservation Commission to evaluate each building slated for demolition on whether it should be Landmarked, and if so, to proceed with the Landmark designation process, which would preserve the historic building.

Prior to the October 14, 2020 Town Council meeting, Skip Randolph provided the Council with backup from similar discussions held in 2008, 2014 and 2017.

The Council voted, 3-2, to defer the discussion to their December 9, 2020 meeting.

WRB

Attached: October 14, 2020 Partial Minutes of the Town Council Development Review
Skip Randolph's Letter to the Town Council, with Backup



TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on October 14, 2020

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order October 14, 2020 at 9:41 a.m. On roll call, all of the elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Administrative Specialist Churney gave the invocation. Council President Zeidman led the Pledge of Allegiance.

III. COMMENTS OF MAYOR GAIL L. CONIGLIO

None

IV. COMMENTS OF TOWN COUNCIL MEMBERS

Council Member Crampton reminded staff that the previous day Council had received assurance they would be provided with the unresolved issues regarding South Lake Drive marina park, and he would like an update on what would come before Council in the future.

Council President Zeidman commented regarding 800 South County Road that she had been on the prevailing side of the motion, and therefore would open the item and revisit the vote, for the following reasons: Council had been unaware and unprepared for discussion; no one who testified was sworn in; Counsel for Ms. DesRuisseaux was called to produce evidence in a late fashion. She stated this was basically an issue of notice, and in her opinion notice is the responsibility of the person receiving the notice. She pointed out that staff gave proper notice, and all procedures were followed by staff and professionals for the Town. There had been two actions in yesterday's motion (1) Whether two parties could come together and come up with a compromise, and (2) If they could not compromise, Town Council would revisit the entire situation, which was over reach. Council President Zeidman stated this was not the issue of Town

Aimee Sunny, Preservation Foundation of Palm Beach, thanked the Town Council for deferring the demolition item and added she believed the landmark incentives would save time and money for homeowners.

C. ARCOM's Request to Consider Demolitions

This item was taken prior to Item, Landmark Incentives

Michael Small, Chairman of ARCOM, presented a request to the Town Council to consider amending the ordinance regarding demolition. Mr. Small requested that any worthy structure in the view of ARCOM be deferred for 60 days to allow Landmarks to review the property prior to demolition.

Planning, Zoning and Building Director Bergman reviewed the standards currently available to ARCOM. He agreed with Mr. Small's suggestion to send the property to Landmarks for review. He suggested once the historic site surveys were submitted to the Town, for any home that was 50 years or older, if application for demolition was submitted, it would be sent to Landmarks automatically. Additional criteria for demolition could be added.

Attorney Randolph stated that this item had been presented three times and reviewed the decisions of previous councils.

Council President Zeidman expressed concern whether the Town had firm legal ground to give ARCOM the decision to postpone the demolition. Attorney Randolph responded and stated it would be unfair to home owners relying on information that property was not landmarked. If the home was historically significant and the home was designated as historic and the ordinance was written as such, it could go to LPC. Council President Zeidman inquired about a legal issue if a person had trouble selling their historically significant home. Attorney Randolph responded it could have a negative impact and could lead to a problem for the Town.

Mayor Coniglio expressed concern that historic site surveys had been around since 1979 but that did not make a property landmarked. The new tools for historically significant buildings were there to help buildings older than 50 years old and needed to be raised to FEMA standards. She did not think ARCOM and LPC should mix.

Council President Pro Tem Lindsay discussed tools for HSB and properties over 50 years old, and stated she was not comfortable granting this.

Council Member Araskog commented historic site surveys could be used to place more homes under consideration. She was in agreement but thought there was another way to proceed.

Council Member Moore discussed budgetary concerns that restricted landmarks. She thought Council would be opening a can of worms with unintended consequences.

Mayor Coniglio suggested doubling the budget and extending the time for a year.

Council Member Araskog responded and suggested placing all homes under consideration in one year.

In response to Mayor Coniglio, Attorney Randolph commented if landmarked or under consideration by ARCOM they could not be demolished.

Council President Zeidman proposed not to let ARCOM decide on demolitions for the reasons stated, and to discuss next month what Council could do for Landmarks, such as possibly give more money.

Public Comment

Amanda Skier, Preservation Foundation of Palm Beach, commented this was an important issue and requested Council hold off on making any decisions and study the item further. Council President clarified this would be discussed at next month's meeting.

Rene Silvin, 422 Australian Avenue, strongly agreed with Amanda Skier and thought this was an important issue. He thought it was a good idea if the consultants had more money.

Aimee Sunny, Preservation Foundation of Palm Beach, agreed with Amanda Skier and thought the issue deserved further study.

Council Member Araskog suggested deferring the issue for restudy.

Motion made by Council Member Araskog to defer the item until the historic site surveys were received in December. Motion failed for lack of a second.

Motion made by Council President Zeidman and seconded by Council Member Moore to deny ARCOM's request to consider demolitions for reasons already stated. Motion failed 2-3 with Council Member Araskog, Council Member Crampton, and Council President Pro Tem Lindsay opposed.

Motion made by Council Member Araskog and seconded by Council Member Crampton to defer the entire conversation until the December 9, 2020 meeting. Motion carried 3-2 with Council Member Moore and Council Member Zeidman opposed.

- D. Waiver of Fees for Special Exception Zoning Applications to Eliminate the Annual Town-Serving Requirement that were Previous Special Exception Conditions of Approval for Thirteen Businesses in the Town

Mayor Coniglio asked if clubs were included; the answer was no.

Motion made by Council Member Crampton and seconded by Council Member Araskog to approve waiver of fees for Special Exception Zoning Applications to eliminate the Annual Town-Serving Requirement that were Previous Special Exception Conditions of Approval for Thirteen Businesses in the Town. Motion carried unanimously.

- E. 800 S County Road

Council President Zeidman stated this item was for reconsideration of the motion.

Attorney Randolph explained Harvey Oyer had communicated with additional evidence, which should be considered and any evidence from Attorney Ziska should also be considered. He advised the item could proceed.

Council President Zeidman discussed the reason she opened the item again, as to whether notice was given and her opinion was it was incumbent upon the recipient to get the notice. The Town gave notice, and a certified mail receipt was signed, which was all the Town could know; the other issue was additional evidence had been received today.

Attorney Randolph discussed the notice issue. He read from the Town code the verbiage for notice to be published in a newspaper which had not published the correct information. He stated Town Council should make a decision whether they want to change their vote or ratify their vote from yesterday.

Council President Zeidman thought the mailed notice was more important than the notice in the paper.

Council Member Araskog confirmed with Attorney Randolph the town had received a proof from the newspaper but did not correct it.

Maura Ziska, attorney for the owners at 800 S. County Road, asked why the property owner was being punished when they had met their obligation for notice, and were not receiving their due process. She felt reversing an approval from July would cost millions of dollars, and she felt this should be taken to court, not to the Town.

Dear Mayor and Town Council;

At its meeting of August 27, the Architectural Commission passed unanimously, a motion to request that the Mayor and Town Council give consideration to amending the Town code relating to demolitions which are within the jurisdiction of Arcom so as to allow the Commission more authority in regard to demolitions.

In that regard, the commission asked that I prepare a memo to the Mayor and Town Council relating to their request. The concern of the commission is that, under the current code, Arcom has no authority to deny a demolition unless the property is a landmark property or under consideration for landmark status. Therefore, a request for demolition must be granted even though a property is deemed by Arcom to be an historical property worth preserving. Very few such requests come before the Commission throughout the year but on the unusual occasion that such a property comes before the Commission, it is the very strong opinion of the members of the Commission that they would like to have the authority to refer the matter to the Landmark Preservation Commission for review prior to Arcom acting on the application.

This matter has been considered by previous Town Councils based upon similar requests of the Architectural Commission on at least three separate occasions, in 2008, and 2014, and 2017. The attached memos regarding 2008 and 2014 reflect those requests, the suggested amendments to the code and the actions of previous Councils which did not support the proposals to give Arcom more authority in regard to demolition requests. I have also attached the minutes of the Town Council meeting of September 19, 2017, where the Council considered this matter and decided, once again, not to make a change. I had neglected to mention this 2017 consideration to the members of Arcom when they considered this matter. In regard to the 2017 consideration, for informational purposes, please also see the email from Jay Serzan attached.

The Architectural Commission requests that the Mayor and Town Council, once again, consider this matter with the hope that this Council will support this request by Arcom and amend the Town code so as to give authority to Arcom to allow an application to be referred to the Landmark

Preservation Commission for review as previously proposed and outlined in the attached memos.

I am happy to provided further information or answer any questions you may have.

Wayne Bergman

From: Jay Serzan <jayserzan@comcast.net>
Sent: Saturday, August 29, 2020 8:56 AM
To: Wayne Bergman; Laura Groves van Onna
Cc: John (Skip) C. Randolph
Subject: ARCOM and Demolitions

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Hello Wayne and Laura and WELCOME Laura,

I listened with interest to the ARCOM discussion on demolitions at their meeting this past Thursday. At the meeting, they voted to ask the Town Council to allow ARCOM to forward selected properties to the Landmarks Preservation Commission (LPC) for review.

As you may know, this exact same matter was discussed at the Council meeting three years ago on September 19, 2017.

At that time, the Council did not take any action on the matter and I feel that the reasons therefor, as explained by Mayor Coniglio and Councilpersons Moore, Lindsay and Zeidman are as valid today as they were then.

You can find an audio link to this discussion here:

https://townofpalmbeach.granicus.com/MediaPlayer.php?view_id=5&clip_id=1901&meta_id=186350

During the discussion, the Council mentioned increasing the LPC funding to allow more properties to be landmarked.

I think this is a good idea if funding allows. I might point out that at the present time twelve properties are 'under consideration' for landmark status.

Also, at the ARCOM discussion, a commission member suggested that demolition be made a staff level approval.

This is a positive suggestion that would hopefully remove some of the angst commissioners have in approving demolition as basically a ministerial function.

If you were to pursue this suggestion, I'm sure you would want to keep ARCOM review over the Landscape Demolition & Construction Screening Plan and the Construction Staging and Truck Logistics Plan.

Lastly, thanks to your efforts, the Council recently approved the Historic Conservation Districts Ordinance which will help to reduce the number of demolitions.

Already, a property at 346 Seaspray Avenue is taking advantage of this Ordinance to renovate and expand a 1925 home.

I write all this simply to assist you as you guide the Council on this matter.

As always, thank you for your time and consideration.

Jay Serzan

[illegible]

Jay Serzan

353 Seabreeze Avenue | Palm Beach FL 33480

t 401.846.5902

jayserzan@comcast.net

[illegible]



TOWN OF PALM BEACH

Town Clerk's Office

MINUTES OF THE TOWN COUNCIL MEETING HELD ON TUESDAY, SEPTEMBER 19, 2017

1 **I. CALL TO ORDER AND ROLL CALL**

2
3 The Regular Town Council meeting was called to order on Tuesday,
4 September 19, 2017, at 9:30 a.m., in the Town Council Chambers. On roll
5 call, all of the elected officials were found to be present.
6
7

8 **II. INVOCATION AND PLEDGE OF ALLEGIANCE**

9
10 Town Clerk Dominguez gave the invocation. Council President Kleid led
11 the Pledge of Allegiance.
12

13 **III. APPROVAL OF AGENDA**

14
15 The following changes were made to the Agenda:
16

- 17 • Resolution No. 188-2017 was added after Item IX.B. 7

18
19 **Motion was made by Council Member Araskog, and seconded by Council**
20 **Member Zeidman, to approve the Agenda, as amended. On roll call, the**
21 **motion carried unanimously.**
22

23 **IV. PRESENTATIONS**

24
25 **A. Royal Poinciana Playhouse Update**

26
27 *Alex Patterson, UpMarkets*

28
29 John Page, Director of Planning, Zoning and Building, presented on
30 behalf of Samantha David and Alex Patterson from UpMarkets of the

1 Royal Poinciana Plaza development and tenant status. Mr. Page
2 also reported that there was no damage to the building from
3 Hurricane Irma.
4

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

6
7 Mayor Coniglio applauded the community for their preparation, evacuation
8 and restoration efforts before and after Hurricane Irma and presented a
9 proclamation in honor of the Town staff and community partners declaring
10 September 18th as "Thank an Employee Day." She also cautioned
11 residents to remain vigilant and urged them to subscribe to the Town's
12 Hurricane Alerts and to register their employees for ID cards.
13

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

15
16 President Kleid applauded the Town's Emergency Planning Team on their
17 dedication and professionalism before, during and after the storm.
18

19 President Pro Tem Moore thanked the employees for their positive
20 attitudes and willingness to serve the residents of the Town right after the
21 storm. Ms. Moore also congratulated Kathleen Dominguez on becoming
22 the Town Clerk and Patricia Gayle-Gordon on becoming the Deputy Town
23 Clerk.
24

25 Council Member Araskog thanked the Town staff for their efforts and
26 commented on the photos of the clean-up and restoration efforts.
27 Ms. Araskog inquired about having one designated person to check on
28 businesses and homes.
29

30 Council Member Lindsay complimented personnel and the contractors on
31 their restoration efforts that began on the very first day after the storm.
32

33 Council Member Zeidman lauded the employees for their efforts during
34 and after the storm and informed the residents that a post-storm review
35 process will be taking place in order to evaluate what worked well and
36 what didn't work so the Town can improve their efforts in the future. She
37 also thanked Bill Hanes and Daniel Stanton for being at the meeting to
38 report on retirement matters.
39

40 **VII. COMMUNICATIONS FROM CITIZENS**

41
42 Jack Cohen, 3450 South Ocean Boulevard, spoke regarding the courteous
43 police personnel who manned the Lake Worth bridge checkpoint after the
44 hurricane.

1 *Kirk W. Blouin, Director of Public Safety*
2

3 Chief Donatto provided an overview of the return for
4 ambulance runs and the billing system.
5

6 **Motion was made by Council Member Araskog, and seconded by**
7 **Council Member Zeidman, to approve Resolution No. 183-2017. On**
8 **roll call, the motion passed unanimously.**
9

- 10 8. Authorization of Ordinance, Rules and Standards Committee
11 to Study a Possible 60 Day Allowance for ARCOM to Send a
12 Home of Special Historical Value to the Landmarks
13 Preservation Commission for Review Prior to Granting
14 Demolition Approval.
15 *Jay Boodheshwar, Deputy Town Manager*
16

17 Discussion ensued regarding concerns for the property owners,
18 process concerns with holding up the property to be Landmarked,
19 financial concerns, jeopardizing the Landmarks Preservation
20 program, Bert Harris law, not opening up the Town to lawsuits, and
21 the possibility of increasing the budget for Landmarks Commission
22 to study more houses.
23

24 **It was the consensus of the Town Council to not send this item to the**
25 **Ordinances, Rules and Standards Committee.**
26

27 **XIII. ORDINANCES**
28

29 **A. Second Reading**
30

- 31 1. ORDINANCE NO. 25-2017 An Ordinance of the Town Council of the
32 Town of Palm Beach, Palm Beach County, Florida, Amending the
33 Town Code of Ordinances At Chapter 130, Vehicles For Hire, Article
34 II, Taxicabs And Limousines, By Amending Section 130-31,
35 Definitions; By Rescinding Sections 130-32 And 130-33; By
36 Incorporating A New Section 130-32 To Provide That Vehicles For
37 Hire Permitted In The Town, Along With Their Drivers, Comply With
38 Palm Beach County's Code, Chapter 19, Article IX Relating To
39 Vehicles For Hire As Amended From Time To Time; Amending
40 Section 130-34 Relating To Taxi Stands; Amending Section 130-36 –
41 Penalties; Rescinding In Their Entirety Sections 130-61 and 130-62 of
42 Division 2 Relating To Certificates of Public Convenience and
43 Necessity and Permit; Amending Section 130-63 Relating To Approval
44 of Application, Denial; Amending Section 130-64 - Permit Fee;
45 Rescinding Section 130-65 In Its Entirety; Amending Section 130-67
46 – Town Council To Determine The Number of Permits Available;
47 Amending Section 130-68 Relating To Annual Renewal of Permits;
48 Amending Section 130-69 Relating To Inspection of Vehicles;

1 Amending Section 130-70 Relating To Sale, Assignment or Transfer;
2 Rescinding Section 130-71 Relating To Automobile Liability Insurance
3 Requirement In Its Entirety; Amending Section 130-72, Suspension
4 and Revocation; Rescinding In Their Entirety Sections 130-96, 130-97,
5 130-98, and Section 130-99 Of Division 3 Relating To Chauffer's;
6 Providing For Severability; Providing For Repeal of Ordinances In
7 Conflict; Providing For Codification; Providing An Effective Date.
8

9 **Motion was made by Council President Pro-Tem Moore, and was**
10 **seconded by Council Member Lindsay, to adopt Ordinance No. 25-**
11 **2017, on second and final reading. On roll call, the motion passed**
12 **unanimously.**
13

14 RESOLUTION NO. 186-2017 A Resolution of the Town Council of the
15 Town of Palm Beach, Palm Beach County, Florida, Amending the
16 Town of Palm Beach Master Fee Schedule by Increasing the Vehicle
17 Permits for Limousines and Taxis, Permit Transfer Fees, and
18 Application Fee for Random Drawings; Removing Other Various Fees
19 Related to Vehicles for Hire; and Providing an Effective Date.

20 *Jay Boodheshwar, Deputy Town Manager*
21

22 **Motion was made by Council President Pro-Tem Moore, and**
23 **seconded by Council Member Lindsay, to approve Resolution No.**
24 **186-2017. On roll call, the motion passed unanimously.**
25

26 **B. First Reading**
27

- 28 1. ORDINANCE NO. 26-2017 An Ordinance of the Town Council of
29 the Town of Palm Beach, Palm Beach County, Florida, Amending
30 the Town Code of Ordinances at Chapter 82, Personnel, Article
31 II, Employee Benefits, Division 3, Other Post-Employment
32 Benefits, At Section 82-150, Definitions; Section 82-151,
33 Statement of Purpose; Section 82-154, Contributions to OPEB
34 Trust; Section 82-158, Miscellaneous; Providing for Severability;
35 Providing for Repeal of Ordinances in Conflict; Providing for
36 Codification; Providing an Effective Date.

37 *Jane Struder, Director of Finance*
38

39 **Motion was made by Council Member Zeidman, and was seconded by**
40 **Council Member Lindsay, to adopt Ordinance No. 26-2017. On roll**
41 **call, the motion passed unanimously.**
42

- 43 2. ORDINANCE NO. 27-2017 A Ordinance of the Town
44 Council of the Town of Palm Beach, Palm Beach County,
45 Florida, Providing for an Amendment to the Town's Budgets
46 Adopted for the Fiscal Year Commencing October 1, 2016,
47 Providing an Effective Date.

48 *Jane Struder, Director of Finance*
49

Memo

To: John Page
From: John C. Randolph
Date: February 13, 2014
Subject: ARCOM/Demolitions

Dear JP,

The Architectural Commission has recently raised the issue as to the extent of its authority to deny requests for demolition permits, particularly for homes which the Commission members might feel should be saved from the wrecking ball. Another question, as I understand it, is in the event the Architectural Commission has no authority to prevent demolition, why should applications be submitted to the Commission, as opposed to staff dealing with applications for demolition administratively?

The current code provides as follows in regard to applications for demolition permits. First, Section 18-175 it provides:

"(a) *Approval of request.* Unless requests for demolition (requests shall be reviewed considering proposed date to demolish, construct and future use of new construction) . . . have been approved by the Architectural Commission, or by the Town Council on appeal, no permit shall be issued for any such demolition . . ."

Section 18-206 of the code provides specific criteria for the granting of a demolition permit. That section provides as follows:

"Sec. 18-206. Criteria for demolition permit.

A demolition permit shall be granted upon the following conditions being met:

- (1) The property is not designated a landmark and is not included on a list of properties within the planning, zoning and building department placed under consideration as a landmark structure.

- (2) That all precautions be taken as required by the planning, zoning and building department to protect adjacent properties from dust, vibration, pests, etc. and shall be in compliance with all provisions of section 18-242, 104.1.11 relating to demolition permits.
- (3) That perimeter landscaping and other landscaping considered by the architectural commission to be worthy of saving be left in place and/or preserved in a manner satisfactory to the architectural commission.
- (4) If construction is not to begin within thirty days subsequent to demolition, the lot shall be completely sodded and irrigated so as to assure that the property will have a neat and clean landscaped appearance.
- (5) An agreement is entered into between the property owner and the town wherein the property owner agrees, in writing, to the conditions for demolition established by the architectural commission and further agreeing that in the event of a violation of any of the conditions placed upon the granting of the demolition permit, the property owner shall pay to the town a fee of \$250.00 per violation per day. In the event the property owner refuses to pay any fine as required within 15 days after a notice of violation, the town may, at its expense, correct the violation and present a bill to the owner for the cost of correction. In the event the bill is not paid within 30 days of the date of the bill, the town may place a lien against the property for the costs incurred by the town. Further, no permit to construct shall be given until the fine or lien has been satisfied."

Section 18-206 currently affords the Architectural Commission some discretion in the consideration of applications for demolition in order that all precautions are taken in regard to protecting adjacent properties, that perimeter landscaping be considered and remain in place in a manner satisfactory to the Architectural commission, etc. The conditions, however, do not address what appears to be an immediate concern of members of the Architectural Commission who may like to see, provided within the code, a provision which would allow demolitions to be prevented in the event a determination is made by the Architectural Commission that a home is worth saving. The only provision relating to that at the present time is the provision that states that a

property will not receive a demolition permit if it has been designated a landmark or is included on a list of properties placed under consideration as a landmark structure.

The issue that is being raised at the present time has been raised before, specifically in 2008. The question then was identical to the question that is being raised now when consideration was given to including the following language:

"In the event the Architectural Commission has a question as to the architectural or historical significance of a property, the request for demolition may be referred to the Landmarks Preservation Commission of the Town and deferred for a period of sixty (60) days until the Landmarks Preservation Commission has been able to make a determination as to whether or not the property shall be placed under consideration as a landmark property. In the event the Landmarks Preservation Commission places the property under consideration, the Architectural Commission shall no longer have jurisdiction over the property, but the jurisdiction over the property shall rest with the Landmarks Preservation Commission while under consideration. In the event the Landmarks Preservation Commission does not place the property under consideration within sixty (60) days of deferral from the Architectural Commission, the property shall remain under the jurisdiction of the Architectural Commission and shall be returned to the Architectural Commission for consideration for the demolition permit."

This matter was discussed at length at the Town Council level, with a great amount of deliberation, the ultimate determination being that a property owner who makes application for a demolition permit at a time when their property is not landmarked or placed under consideration for landmarks should not be delayed in regard to the demolition process for a period of time which would allow the Architectural Commission to refer the matter to Landmarks. It was felt that the duty and obligation to place properties under consideration is with the Landmarks Commission and that Landmarks should undertake this task diligently in order to place under consideration all buildings which they believe to have historic and/or architectural merit. Ultimately, therefore, the proposed Ordinance was rejected.

A copy of the backup memorandum relating to the proposed amendments to the ARCOM ordinance, as well as the proposed amendments, which were not passed, is attached for the information of the Architectural Commission members.

This matter was again addressed by Town Council at its meeting of February 12, 2014, when it considered an appeal of the ARCOM decision to defer demolition on a project. The Council granted the appeal, overturning ARCOM 's decision to defer, and the Town Council President strongly advised ARCOM Commissioners to apply the existing criteria when considering an application for demolition.

The second question raised by individual members of ARCOM is, because ARCOM has no discretion to deny applications for demolition other than described above, whether or not demolition applications should be a matter left to staff. Staff recommends against this and points out that the Architectural Commission now has discretion, not to prevent demolition, but, in considering demolition, to ascertain that all of the criteria set forth in 18-206 are met. These criteria are similar to criteria which are incorporated within ordinances in other municipalities and allow discretion in determining the manner of demolition so as to protect adjacent property owners, preserve and protect landscaping, etc. Other criteria not currently included within the Town's ARCOM ordinance which are included in other jurisdictions with which staff is familiar are as follows:

1. The proposed demolition will result in the complete removal of all evidence of the former structure or building.
2. If the demolition affects all of the buildings on the lot, all impermeable surfaces that were accessory to the demolished structures or buildings including, but not limited to, driveways, terraces, courts, slabs, and foundations, will also be removed.
3. The landscape treatment along the front lot line will remain comparable to the character and quantity of the streetscape along lot frontage on the same public road for a distance of 1,000 feet in both directions, or will be planted such that it is comparable to the character and quantity of said streetscape if its existing condition is that it is not comparable in character or quantity.
4. The demolition will not unnecessarily affect existing landscape buffers and landscape buffers that are affected will be restored upon completion of the demolition.
5. The demolition will be staged such that noise will be minimized in terms of duration and volume.
6. The demolition equipment shall be screened from view from neighboring properties and public rights-of-way to the maximum feasible extent.

February 13, 2014

Page 5

7. No traffic on public streets in the Town will be stopped during the period from December 1 to April 30.
8. Debris will be removed from the site in a manner that minimizes the number and length of additional trips to the public streets in the Town
9. Demolition activities will have a minimal impact on adjacent infrastructure.
10. All exposed soil will be stabilized with plant material within ten days of completion of the demolition.

Incorporating any of these criteria, if so desired, will require an ordinance amendment with Town Council approval.

I hope this information is helpful to the Architectural Commission in regard to its consideration of this matter. I will be happy to answer any questions or provide further information upon request.

p:\docs\13156\00008\mem\1156332 docx

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 8, 2008

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John C. Randolph, Town Attorney

Re: Amendments to ARCOM Ordinance

Date: September 2, 2008

STAFF RECOMMENDATION

It is requested that the Mayor and Town Council give consideration to the draft amendment to the ARCOM ordinance in the manner and form attached.

GENERAL INFORMATION

At the Council meeting in August a draft ordinance was prepared amending the ARCOM ordinance so as to give consideration as to criteria which must be met in order for a demolition permit to be granted. The purpose of this ordinance was to give the Architectural Commission an opportunity to refer a matter to the Landmarks Preservation Commission in the event there was a question as to the architectural or historical significance of a property. A copy of the letter dated August 5, 2008, explaining these changes, along with the then proposed ordinance is attached. At the Council meeting, it was requested that more specific criteria be included relating to when a property may be referred to the Landmarks Preservation Commission. Jane Day was contacted and requested to advise as to what criteria might be appropriate in this regard. She responded with a letter dated August 21, 2008, a copy of which is also attached. In essence, the letter provides that all properties in the Town are reviewed and a determination is made whether to include the property on a form called *Historical Structure Form: Florida Master Site File (FMSF)*. It was suggested that this form be used as a tool for further review when an applicant applies to ARCOM for a demolition permit. It is pointed out that although these forms presently only include properties that are over fifty years old, there is no prohibition for including outstanding examples of architecture that are less than fifty years old. It was suggested that these new forms could be included in the 2009 review of properties within the Town. The draft ordinance which is placed before the Mayor and Town Council for consideration at this meeting, modifies the previous ordinance so as to provide that a demolition permit shall be granted in the event a

property has not previously been designated a landmark, is not under consideration as a landmark or is not listed on the *Historical Structure Form: Master Site File* and designated as a property which "may qualify as a local landmark." Other conditions which must be met in order for a demolition permit to be granted are those previously suggested, including the fact that all precautions be taken to protect adjacent properties, that perimeter landscaping and other landscaping considered by the Architectural Commission to be worthy of saving be left in place and/or preserved in a manner satisfactory to the Architectural Commission and that if construction is not to begin within thirty days subsequent to demolition, that the lot be sodded and/or seeded and irrigated as prescribed by the Planning, Building and Zoning Department in a manner and form approved by the department so as to assure that the property will have a neat and clean landscaped appearance.

It is noted that ORS gave consideration to issues of sodding, seeding and landscaping at its recent meeting, as well as to issues relating to declaration of use agreements. Because of the recent nature of those discussions and the fact that the full Council has not yet discussed same, this ordinance does not include proposed amendments regarding those matters.

ATTACHMENTS

Letter dated August 5, 2008, to Peter Elwell
Letter dated August 21, 2008, from Jane S. Day
Proposed Ordinance

P:\DOCS\13156\00008\MEM\1359042.DOC

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AT CHAPTER 18, BUILDING AND BUILDING REGULATIONS, ARTICLE III, ARCHITECTURAL REVIEW, DIVISION 2, ARCHITECTURAL COMMISSION, SECTION 18-175, ISSUANCE OF PERMITS, AND SECTION 18-201, REQUIRING AN APPLICANT FOR A DEMOLITION PERMIT TO SUBMIT A DEMOLITION REPORT INCLUDING, BUT NOT LIMITED TO A REPORT RELATING TO THE HISTORICAL AND ARCHITECTURAL SIGNIFICANCE OF A PROPERTY; AMENDING SECTION 18-205 RELATING TO CRITERIA FOR BUILDING PERMIT TO INCLUDE A NEW ITEM 10 TO PROVIDE THAT A DEMOLITION PERMIT SHALL BE GRANTED IN THE EVENT A STRUCTURE IS NOT CONSIDERED A STRUCTURE OF ARCHITECTURAL OR HISTORICAL MERIT WORTHY OF PRESERVATION AS A LANDMARK STRUCTURE AND SETTING FORTH OTHER CONDITIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

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

Section 1. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 18, Building and Building Regulations; Article III, Architectural Review; Division 2, Architectural Commission; Section 18-175, Issuance of Permits, to read as follows:

"Sec. 18-175 Issuance of permits.

(a) *Approval of request.* Unless requests for demolition ~~(request shall be reviewed considering proposed date to demolish, construct, and future use of new construction)~~, building and landscaping plans, elevations and proposed signs for buildings or structures, or alterations thereto, including reroofing that involves a significant change in materials or appearance, have been approved by the architectural commission, or by

the town council on appeal, no permit shall be issued for any such demolition, building, structure, sign, or other development of property, or appurtenances or alterations thereto.

(b) *Exceptions.*

- (1) When in the opinion of the building-official Planning, Zoning and Building Department Director or his/her designee the approval of an application for a minor or insignificant permit does not defeat the purposes and objects of this article, he may grant the permit without submitting the matter to the architectural commission for its approval, notwithstanding any other provisions of this section or this article. The decision of the building-official Planning, Zoning and Building Department Director or his/her designee shall be subject to appeal made to the town council in accordance with the provisions of section 18-177.
- (2) Individual structures and/or properties that have been designated or are under consideration or in an historic district are subject to review by the landmark preservation commission and shall not be subject to review by the architectural commission."

Section 2. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 18, Building and Building Regulations; Article III, Architectural Review; Division 3, Procedure and Requirements, Section 18-201, Preliminary Sketch; Site Plan; Final Plan, to read as follows:

"Sec. 18-201. Preliminary sketch; site plan; final plan.

(a) Preliminary sketches of the design of a proposed structure or major alteration may be submitted to the building-official Planning, Zoning and Building Department Director or his/her designee for informal review so that an applicant may be informed of architectural commission policies prior to preparing working drawings. If approved, such sketches shall serve as a guide in further consideration of the same proposed building or structure.

(b) The applicant for a building permit, when subject to the requirements of this article, shall submit to the building-official Planning, Zoning and Building Department Director or his/her designee 30 days prior

to the next regular meeting date a site plan, as defined by section 18-207, and exterior elevations and such other data as will assist the architectural commission and the building official Planning, Zoning and Building Department Director or his/her designee in evaluating the proposed building or structure or major alteration. Final plans and elevations shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that it will conform to the provisions of this Code. The first sheet of each set of plans shall give the street address of the work and the name and address of the owner and the person who prepared them. The final plot plan shall conform to section 18-207. Work not thus presented may be rejected by the building official Planning, Zoning and Building Department Director or his/her designee.

(c) The applicant for a demolition permit shall submit to the Planning, Zoning and Building Department Director or his/her designee, thirty (30) days prior to the next regular meeting date, a demolition report which shall include the historical significance, if any, of the structure on the property, including, if one exists, the Historical Site Survey Evaluation on file with the Town. The report shall also include the date of construction, the architect and contractor, if known, the date and description of any modifications or renovations, the architectural significance of the property, if any, and the present owners of the property and previous owners."

Section 3. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 18, Building and Building Regulations; Article III, Architectural Review; Division 3, Procedure and Requirements, Section 18-205, Criteria for Building Permit, to read as follows:

"Sec. 18-205. Criteria for building permit.

(a) The architectural commission may approve, approve with conditions, or disapprove the issuance of a building permit in any matter subject to its jurisdiction only after consideration of whether the following criteria are complied with:

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

- (2) The plan for the proposed building or structure indicates the manner in which the structures are reasonably protected against external and internal noise, vibrations, and other factors that may tend to make the environment less desirable.
- (3) The proposed building or structure is not, in its exterior design and appearance, of inferior quality such as to cause the nature of the local environment to materially depreciate in appearance and value.
- (4) The proposed building or structure is in harmony with the proposed developments on land in the general area, with the comprehensive plan for the town, and with any precise plans adopted pursuant to the comprehensive plan.
- (5) The proposed building or structure is not excessively similar to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application within 200 feet of the proposed site in respect to one or more of the following features of exterior design and appearance:
 - a. Apparently visibly identical front or side elevations;
 - b. Substantially identical size and arrangement of either doors, windows, porticos or other openings or breaks in the elevation facing the street, including reverse arrangement; or
 - c. Other significant identical features of design such as, but not limited to, material, roof line and height of other design elements.
- (6) The proposed building or structure is not excessively dissimilar in relation to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application within 200 feet of the proposed site in respect to one or more of the following features:
 - a. Height of building or height of roof.
 - b. Other significant design features including, but not limited to, materials or quality of architectural design.

Ordinance No. _____

Page 4 of 8

- c. Architectural compatibility.
 - d. Arrangement of the components of the structure.
 - e. Appearance of mass from the street or from any perspective visible to the public or adjoining property owners.
 - f. Diversity of design that is complimentary with size and massing of adjacent properties.
 - g. Design features that will avoid the appearance of mass through improper proportions.
 - h. Design elements that protect the privacy of neighboring property.
- (7) The proposed building or structure is appropriate in relation to the established character of other structures in the immediate area or neighboring areas in respect to significant design features such as material or quality or architectural design as viewed from any public or private way (except alleys).
- (8) The proposed development is in conformity with the standards of this Code and other applicable ordinances insofar as the location and appearance of the buildings and structures are involved.
- (9) The project's location and design adequately protects unique site characteristics such as those related to scenic views, rock outcroppings, natural vistas, waterways, and similar features.
- (10) A demolition permit shall be granted upon the following conditions:
- a. The structure is not considered a structure of architectural or historical merit worthy of preservation as a landmark structure pursuant to Chapter 54 of the Town Code of Ordinances relating to Landmarks Preservation. In the event the Architectural Commission has a question as to the architectural or historical significance of a property, the request for

Ordinance No. _____

Page 5 of 8

demolition may be referred to the Landmarks Preservation Commission of the Town and deferred for a period of sixty (60) days until the Landmarks Preservation Commission has been able to make a determination as to whether or not the property shall be placed under consideration as a landmark property. In the event the Landmarks Preservation Commission places the property under consideration, the Architectural Commission shall no longer have jurisdiction over the property, but the jurisdiction over the property shall rest with the Landmarks Preservation Commission while under consideration. In the event the Landmarks Preservation Commission does not place the property under consideration within sixty (60) days of deferral from the Architectural Commission, the property shall remain under the jurisdiction of the Architectural Commission and shall be returned to the Architectural Commission for consideration for the demolition permit;

- b. The property is not included on a list of properties within the Planning, Zoning and Building Department placed under consideration as a landmark structure;
- c. That all precautions be taken as required by the Planning, Zoning and Building Department to protect adjacent properties from dust, vibration, pests, etc. and shall be in compliance with all provisions of Section 18-242, 104.1.11 relating to demolition permits.
- d. That perimeter landscaping and other landscaping considered by the Architectural Commission to be worthy of saving be left in place and/or preserved in a manner satisfactory to the Architectural Commission.
- e. If construction is not to begin within thirty days subsequent to demolition, the lot be sodded and/or seeded and irrigated as prescribed by the Planning, Building and Zoning Department in a manner and form approved by the department so as to assure that the property will have a neat and clean landscaped appearance.

(b) If the above criteria are met, the application shall be approved. Conditions may be applied when the proposed building or structure does not comply with the above criteria and shall be such as to bring such building or structure into conformity. If an application is disapproved, the architectural commission shall detail in its findings the criterion or criteria that are not met. The action taken by the architectural commission shall be reduced to writing and signed by the chair, and a copy thereof shall be made available to the applicant upon request.

(c) A decision or order of the commission or the building official Planning, Zoning and Building Department Director or his/her designee shall not become effective until the expiration of ten working days after the date upon which a ruling of the commission or the building official Planning, Zoning and Building Department Director or his/her designee has been made."

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 immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this _____ day of _____, 2008, and for second and final reading on this _____ day of _____, 2008.

Jack McDonald, Mayor

Richard M. Kleid, Town Council President

Gail Coniglio, Town Council President Pro Tem

Denis P. Coleman, Town Council Member

ATTEST:

Susan Markin, Town Council Member

Susan A. Elchhorn, Town Clerk

David A. Rosow, Town Council Member

P:\DDCS\13156\00008\DDCS\13H9721.DOC

From: [Antonette Fabrizi](#) on behalf of [Town Council](#)
To: [Kirk Blouin](#); [Jay Boodheshwar](#)
Cc: [Kelly Churney](#); [Town Clerks Staff](#)
Subject: FW: ARCOM's Request to Consider Demolitions
Date: Thursday, October 08, 2020 12:28:09 PM
Attachments: [Palm Beach property values 8-28-2020.docx](#)

From: Jay Serzan <jayserzan@comcast.net>
Sent: Thursday, October 08, 2020 8:17 AM
To: Gail Coniglio <GConiglio@TownofPalmBeach.com>; Danielle Hickox Moore <DMoore@TownofPalmBeach.com>; Margaret Zeidman <MZeidman@TownofPalmBeach.com>; Julie Araskog <jaraskog@TownOfPalmBeach.com>; Lew Crampton <lcrampton@TownOfPalmBeach.com>; Bobbie Lindsay <BLindsay@TownofPalmBeach.com>
Cc: Town Council <TCouncil@TownofPalmBeach.com>; Wayne Bergman <wbergman@TownOfPalmBeach.com>; Laura Groves van Onna <lvanonna@TownOfPalmBeach.com>
Subject: ARCOM's Request to Consider Demolitions

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Dear Mayor Coniglio and Council Members,

I am writing in reference to Item # IX.C ARCOM's *Request to Consider Demolitions* on your agenda of October 14, 2020.

As most of you know, this exact same matter was discussed in great detail at the Council meeting three years ago on September 19, 2017.

At that time, the Council did not take any action on the matter and I feel that the reasons therefor, as explained by Mayor Coniglio and Councilpersons Moore, Lindsay and Zeidman are as valid today as they were then.

You can find an audio link to this discussion here:

https://townofpalmbeach.granicus.com/MediaPlayer.php?view_id=5&clip_id=1901&meta_id=186350

The Council also mentioned increasing the LPC funding to allow more properties to be landmarked. I think this is a good idea. I might point out that the LPC is doing their job with thirteen properties presently 'under consideration' for landmark status.

Also, at the ARCOM meeting on August 27th, a commission member suggested that demolition be made a staff level approval. This is a positive suggestion that would hopefully remove some of the angst commissioners have in approving demolition as basically a ministerial function.

With Palm Beach property values up, owners in town could be taxed at the lowest rate in the county, new estimates show

The total market value of residential, commercial and other real estate in town hit \$24.7 billion, according to the preliminary figures from the Palm Beach County Property Appraiser's office.

Darrell Hofheinz Palm Beach Daily News
August 28, 2020

Palm Beach property owners also would pay the lowest tax rate of any municipality or unincorporated area in the county, if the trends revealed by the preliminary figures hold steady. Real estate observers agree that Palm Beach's favorable tax picture has become one of the island's biggest draws for residents of states with far higher tax profiles, including New York and parts of New England as well as California.

The total market value of residential, commercial and other real estate in town hit \$24.7 billion, according to the preliminary figures. That amount includes real estate but not taxable items — such as business equipment — known as “tangible personal property.”

Total market values for Palm Beach real estate saw a 2.6% increase over the valuations in the final tax rolls for 2019. The overall market values used to compute last year's tax rolls totaled about \$24.08 billion.

The total market figures are the starting point for calculating property taxes. Once homestead and other exemptions are figured into the picture, the “taxable value” of real estate on the island clocked in, preliminarily, at \$19.93 billion — a 4.6% rise over the final figures from last year.

“I thought it was another very good year for Palm Beach,” Jacks said Thursday.

Part of the reason for the hike in property values, she said, was the amount of new construction completed last year in time for the Jan. 1 valuations for 2020.

New construction in the latest preliminary tax rolls has been appraised at \$129 million, she said, compared to just \$59 million in the previous year.

“We had (finished) construction (in 2019) on 75 single-family homes — both new and renovations,” Jacks said. “It’s pretty easy to see that, too, on the ground if you drive around.

“The other thing that’s interesting about it is that this value is brand new value — it’s not re-assessed value. This (value) has never been taxed before,” she said.

Last year’s busy real estate market, which picked up significantly in the late spring, resulted in a remarkably high number of residential sales, including three deals that hit or topped \$99 million, according to their documented prices.

“We hit \$1.2 billion for the first time in single-family sales last year — a record,” confirmed Jim McCann, immediate past president of the Palm Beach Board of Realtors and an agent at Premier Estate Properties.

And more real estate sales at stronger prices can result in higher valuations, especially when a homesteaded property sells to someone who won’t be seeking an exemption in the new tax rolls.

Palm Beach, Jacks acknowledged, is “an amazing area,” albeit a relatively small one, geographically, when compared to the rest of the county.

In the county, she added, there are about 650,000 parcels counted in the tax rolls. Of those, Palm Beach has about 9,000.

“But there are 34 (single-family properties) worth over \$40 million” in Palm Beach, she said.

In fact, the majority of the town's parcels are classified as residential — single-family homes and vacant land, along with apartment buildings, condominiums and co-operative units.

The total market value of the island's residential property is \$22.48 billion, according to the preliminary data. That figure reflects an increase of 2.6% over the previous year's final numbers.

The taxable value of the town's residential real estate — figuring in exemptions and so-called "tax caps" — clocks in at \$18.12 billion, a year-over-year rise of 4.7%, the preliminary figures show.

Single-family homes, by far, generate the largest share of the total market value assigned to Palm Beach real estate. Those properties have a market value of \$16.11 billion — up 2.8% over last year — and a taxable value of \$12.57 billion, a hike of 5.3% over the final 2019 tax rolls, the new figures show.

Taxing authorities

The estimates for property values could change for owners who successfully challenge them. Owners have until Sept. 14 to negotiate with Jacks' staff or to file a petition to have the state-chartered Value Adjustment Board review the valuation. Alternatively, owners can pursue a challenge with a lawsuit in Palm Beach County circuit court.

The taxable values are used by officials in Palm Beach, the county, the school board and other taxing authorities to estimate tax revenue and set tax rates for budget years that begin Oct. 1.

Palm Beach property owners' total taxes will be figured using the lowest rate in the county — \$16.57 per \$1,000 of their properties' taxable values, according to the latest preliminary estimates.

The town's gets to keep about 19% of the tax revenue generated by its properties. The rest goes to the county, school district and other taxing authorities.

Palm Beach's proposed rate compares to rates in municipalities such as Manalapan (at \$16.80 per \$1,000 in taxable value); Gulf Stream (\$17.26); Highland Beach (\$17.29), Boca Raton (\$18.06), Jupiter (\$18.72) and West Palm Beach (\$21.97).

Pahokee and Belle Glade are tied with the highest proposed tax rates — \$24.08 per \$1,000 of taxable value.

Town budget, tax rate

Last month, Palm Beach Town Manager Kirk Blouin presented a proposed budget of \$80.9 million to the Town Council, trimmed by about \$3 million from last year.

The budget, which will be finalized in September, demanded a modest municipal tax increase for property owners who lack a homestead exemption. Town property taxes and accompanying assessments will remain all but flat for homesteaded owners, whose properties make up about 35% of the total.

Blouin proposed to lower the town's tax rate to \$2.99 per \$1,000 of taxable value, down from the \$3.06 per \$1,000 of taxable value set last year. His proposed rate also is lower than the preliminary tax rate for the town released in July by Jacks' office of about \$3.68 per \$1,000 of taxable value.

Because taxable property values in town have risen, owners without a homestead exemption will still pay an average of \$68 more per \$1 million of value, according to the town.

A homestead exemption prevents a property's value assessment from increasing more than 3 percent per year or more than the change in the Consumer Price Index, whichever is lower. The exemption also offers property owners a discount on each year's taxes.

In its preliminary budget hearing in July, the tax rate endorsed by the town provides some wiggle room if circumstances demanded budget revisions before the final budget hearing next month. But the fact that the Town Council plans to lower its tax rate was not lost on Jacks.

“It speaks to fiscal responsibility,” she said. “The goal is to have the tax rate go down as the values go up.”

She also noted that items that need to be paid for with tax dollars vary widely in the county, so making apples-to-apples comparisons among towns and cities can be difficult when it comes to tax rates and revenue.

The overall tax estimates could change, once the town and other taxing authorities finalize their budgets next month.

The town’s budget and final property tax rate will be adopted at public hearings on Sept. 10 and 16.

From: [Anne Pepper](#)
To: [Kelly Churney](#)
Subject: Fwd: Demolitions
Date: Saturday, October 10, 2020 12:04:43 PM

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Kelly,
Please forward this to the ARCOM commissioners.

Dear ARCOM,

I listened to your discussion about the need for demolition review which I completely support. Below is my letter to the Council. Although as a Sea Streets resident I hope to see as much of its fabric as possible as it has had the greatest integrity. However, having only the older 50+ years be subject to demolition would continue to put them at a disadvantage given the negative view that real estate agents have managed to paint landmarking with. I hope that all of you will write the Council or attend the meeting on Oct. 14th to support your need to have demolition review and that it is in the best interest of the Town. Combining it with some of the other ideas you have all expressed at other times regarding this problem, would be helpful to put forward. Perhaps one of you has an idea of how to write the details of this ordinance so that it is fair to all, clear to real estate agents, etc. and doesn't have unintended consequences. Thank you all for your hard work and thoughtful deliberations.
Anne Pepper

Begin forwarded message:

From: Anne Pepper <annepepper@mac.com>
Subject: Demolitions
Date: October 10, 2020 at 11:40:04 AM EDT
To: Anne Pepper <annepepper@mac.com>
Cc: Palm Beach Town of <council@townofpalmbeach.com>, mayer@townofpalmbeach.com, kblouin@townofpalmbeach.com, Wayne Bergman <wbergman@townofpalmbeach.com>

Dear Council, Mayor, Town Manager and Planning, Zoning and Building Director,

Isn't it time that the Town of Palm Beach stops giving lip service to preserving the character of the town's unique neighborhoods? Is it not also time to support our hardworking volunteer commissions? Over many years ARCOM has expressed great frustration when they are powerless to save older houses which are not landmarked or on the list for landmarking from demolition. These structures often constitute a vital part of the overall fabric of a neighborhood. Their loss rips holes in our built environment and, with current FEMA building codes(that's another email topic), what replaces them destroys the street scape. ARCOM is charged in the Town's code with the responsibility for preserving the

beauty of Palm Beach. To fulfill their obligation, they need to be able to review demolition requests. Worthy and desirable houses can often be rehabilitated, expanded, modernized without demolition and destruction of their integral relationship to the neighborhood. If owners, sellers and buyers knew that demolition was not automatic, more consideration to working with a structure might be given at the outset. A recent action on Root Trail is a case in point. The question is how to write an ordinance that is simple and clear and that all real estate agents can understand. What is most fair, as one commissioner suggested, is that all demolitions be subject to review. Putting only older houses under the ordinance would continue to have real estate agents discourage purchases of the very structures which the ordinance seeks to review. Logically, ARCOM would be the commission to review demolition requests. They are responsible for the built environment-what is too large, too similar, too dissimilar, not beautiful, ruins neighbor's views, privacy etc. They would look at a proposed demolition and see what is worthy of saving. ARCOM has also discussed the need to approve what will take place on a property that is approved for demolition. This avoids the sodded lot which is a blight on the neighborhood, reduces values and causes anxiety for neighbors not knowing what might be built next door.

Landmarks has such a small budget that it can only bring to consideration 10-12 properties a year. This leaves so many significant and contributing properties at risk. Furthermore, The Council has recently postponed and postponed even voting on the few that have been proposed. Property owners ask for automatic demolitions to avoid being Landmarked or put on the list for consideration. This has to stop. Landmarks has lost many significant houses because they cannot get designations or Council caves in to an owner who doesn't want his property landmarked. Our Landmarks ordinance is one of the strongest as it does not require owner approval. When it was written there was obviously a greater will on the part of the Town to support landmarking. How else would we have been able to landmark the signature structures we have? But the ordinance has not been upheld in numerous cases where the owner or buyer lawyers up. There are many advantages and incentives and more ought to be provided to encourage landmarking.

The historic resources are known. There is Jane Day's list, the recent historic structures list completed last year and the Landmarks consideration list. We must come up with a plan since the Town doesn't seem to support historic districts which are the best way to preserve neighborhood character. Make our code clear that neighborhood character preservation is primary to the intrinsic value of Palm Beach. Demolition review for all properties is the most equitable way to make sure valuable assets of our town's built environment are not lost. Keep it broad so that no property of any age is disadvantaged or advantaged and require ARCOM approval of any new structure before approving demolition.

Sincerely,

Anne Pepper
333 Seaspray Ave

From: [Aly Serrano](#) on behalf of [Town Council](#)
To: [Town Council & Mayor](#)
Cc: [Kelly Churney](#)
Subject: FW: Demolitions
Date: Monday, October 12, 2020 10:33:46 AM

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

From: Anne Pepper <annepepper@mac.com>
Sent: Saturday, October 10, 2020 11:40 AM
To: Anne Pepper <annepepper@mac.com>
Cc: Town Council <TCouncil@TownofPalmBeach.com>; Gail Coniglio <GConiglio@TownofPalmBeach.com>; Kirk Blouin <KBlouin@TownofPalmBeach.com>; Wayne Bergman <wbergman@TownOfPalmBeach.com>
Subject: Demolitions

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The question is how to write an ordinance that is simple and clear and that all real estate agents can understand. What is most fair, as one commissioner suggested, is that all demolitions be subject to review. Putting only older houses under the ordinance would continue to have real estate agents discourage purchases of the very structures which the ordinance seeks to review. Logically, ARCOM would be the commission to review demolition requests. They are responsible for the built environment-what is too large, too similar, too dissimilar, not beautiful, ruins neighbor's views, privacy etc. They would look at a proposed demolition and see what is worthy of saving. ARCOM has also discussed the need to approve what will take place on a property that is approved for demolition. This avoids the sodded lot which is a blight on the neighborhood, reduces values and causes anxiety for neighbors not knowing what might be built next door.

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most equitable way to make sure valuable assets of our town's built environment are not lost. Keep it broad so that no property of any age is disadvantaged or advantaged and require ARCOM approval of any new structure before approving demolition.

Sincerely,

Anne Pepper
333 Seaspray Ave

From: [Steven Jeffrey Greenwald, Esq.](#)
To: [Wayne Bergman](#); [Julie Araskog](#); [Margaret Zeidman](#); [Kirk Blouin](#); [Lew Crampton](#); [Paul Castro](#); [Danielle Hickox Moore](#); [Bobbie Lindsay](#); [John \(Skip\) C. Randolph](#); [Gail Coniglio](#); [Kelly Churney](#); [Jay Boodheshwar](#)
Subject: ARCOM and Demolitions and a Vegetation Height rule
Date: Monday, October 12, 2020 12:45:19 PM

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Honorable Council, Town Attorney, Mayor and Staff:

Wayne Bergman and Town Staff worked hard on the new Historic Conservation Ordinance approved just three months ago. It was a nice balance. *Preservationists* were pleased at the historic designation of the older homes in town.

For *owners* who actually foot the bill for preservation, there was a “release valve” in the ordinance **which should remain**, that was promised to owners. Barely 3 months later some are unhappy about rare situations where it is illogical to restore a home, or financially *impractical*. The ability to have the rare demolition was left in the ordinance to protect a life’s financial investment. Nobody takes demolishing an older home lightly. But as the reality of climate change and hurricanes get worse, yes some homes will need to be *completely* rebuilt as fortified or elevated, and designed to look like they *really* belong with the surrounding homes. This procedure has really worked out fine, and so it **was** upheld **three times**.

This week 3 items before council are all related to this, and to one another:

1.
October 13, consideration of a simple rule that would assure protection of old (1920’s) lot line structures from vegetation that helps iguanas and their feces to roofs of neighbors’ homes; a simple rule that would also *preserve* the many Town historic lot line structures from dampness, wood rot, etc. This rule would make it possible and practical to continue to preserve an older home.
2.
October 14, ARCOM’s concern that they have less authority to deny demolition. It should be noted that ARCOM regularly approves plans described in number 1 above. ARCOM and LPC both regularly approve massive vegetation at neighboring older 1920’s lot line homes and structures, making it difficult or impossible for those neighbors to *preserve* their older homes. These *neighboring* structures threatened by tall huge plants are almost always historic (or Landmarked).
3.
October 14, sort of a test case: whether our neighbor (131 Seaview) can place tall massive trees just at our **lot line** structure (128 Seaspray, built 1925) with the real

threat of returning iguanas and a mass amount of feces to the roof, possibly making our house obsolete, not liveable, and thus not practical to preserve.

In the case of our home now for sale, of the dozen or so prospective buyers in the past year, all wanted to save the home. These buyers had proposed (for description simplicity) a range from 20% on up to 60% improvement. None wanted to totally demolish. So our house was not going anywhere, **as long as the town would allow us to protect it.**

What *preservation* minded buyers have been most interested in at our house, is its garage apartment structure sitting just at our rear property line. Grandfathered with its unique large apartment, and extreme soffits just at the very edge of the lot, it provides open space for a great look from the street (see pic below).

But if 131 Seaview behind us were to have 35 feet of huge trees and hedges carrying massive iguana feces to the roof, who would want to buy or live in this home? Preservation minded buyers would have second thoughts. Should they demolish the entire home, and rebuild away from lot lines?

Iguanas are not the only issue, there is also concern of 131 Seaview's tall ever growing trees possibly smashing against this interesting 1920's building and its soffits during storms, and carrying bugs and termites. Buyers may argue to the town that this home and its grand soffits are too close to the lot line, and thus the entire house should not be saved.

We as sellers (Martha a Florida RE Broker, Steve a lawyer) are obligated to reveal to buyers about the problems of the 131 Seaview tree plans and its potential impact.

ARCOM's approval of mass trees at our structure cannot be blamed totally on ARCOM. The issues were not revealed at the ARCOM 131 Seaview meeting by the landscape planner (listen to the Town ARCOM meeting, 131 Seaview online). Nobody pointed out at the 131 Seaview ARCOM hearing, the extreme proximity of our soffits just at the property line, just where planned giant trees and hedges are to be. Nor did ARCOM ask about it.

If the simple Town code was passed as described in number 1 above, it would cause ARCOM to ask additional questions: *how close is that neighbor's structure or soffits to the applicant's proposed tall trees? Have you spoken to the neighbor about this?*

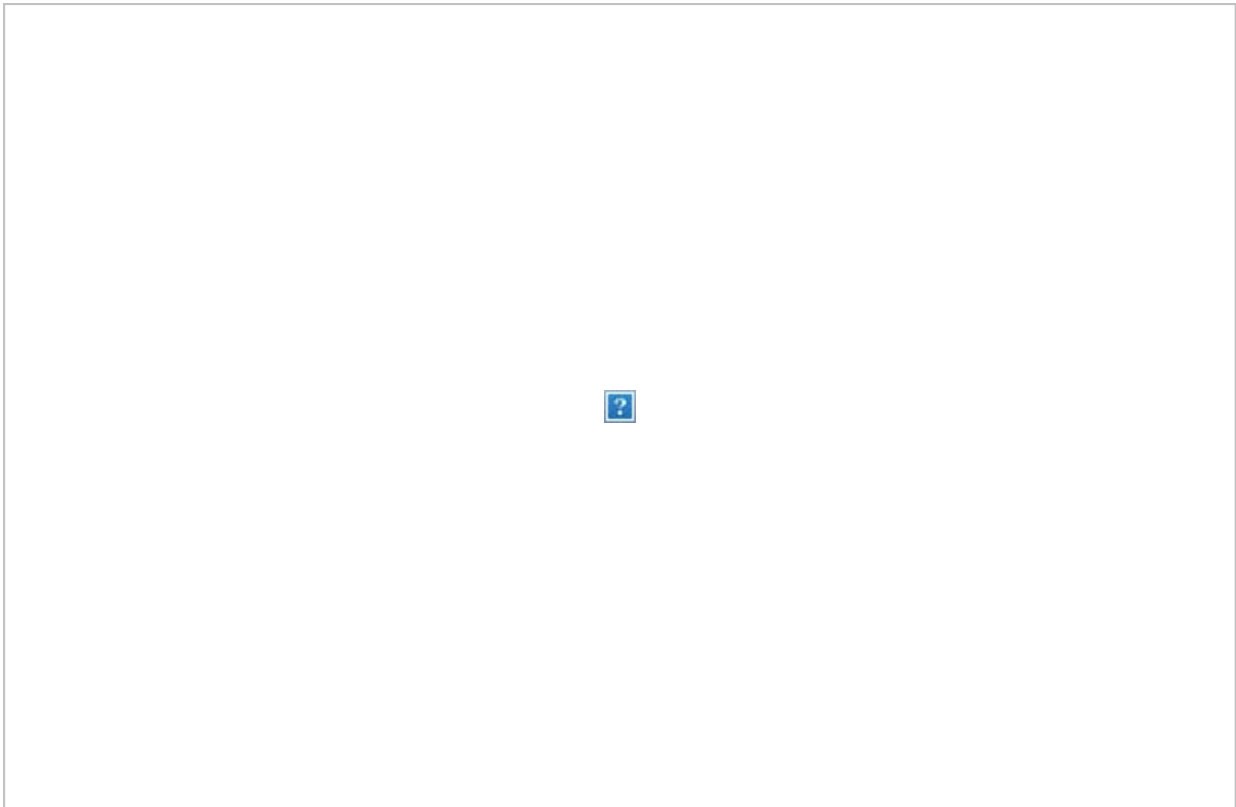
Respectfully, your neighbors,
Martha and Steven Jeffrey Greenwald

K Churney or Council Clerk: Please re-copy Council, Mayor and all concerned, and please place a copy in backup for **both** "*Arcom's request to consider demolitions*" on **October 14** (at IX "C") and also the **October 13** (at X "C") "*Consideration for ORS Study of*

Vegetation Height Limitations.” Thank you.

Attachments: Photo **below** of 128 Seaspray, showing the nice garage apartment setback that brightens up the entire Ocean block. That interesting garage apartment building is now at risk from the 131 Seaview landscape huge tree and hedge plans to be at its soffits. In the link below also the **Shiny Sheet article about 128 Seaspray Ave with interesting photos:**

In the link, the **Shiny Sheet article about 128 Seaspray Ave with interesting photos:**



Shiny Sheet article about 128 Seaspray with interesting photos, click the blue link below:

<https://www.palmbeachdailynews.com/photogallery/LK/20190711/NEWS/711009995/PH/1>

Steven Jeffrey Greenwald, Esq.

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Mailing address: P.O. Box 3407

Palm Beach, Florida 33480 - U.S.A.