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Via E-mail

December 30, 2024

Kelly Churney, Acting Town Clerk
Town of Palm Beach
360 South County Road
Palm Beach, Florida 33480

**Re: Appeal of ARCOM Approval of Pedestrian Gate
ARC -24-0027 - Darlene & Gerald Jordan (“Applicants”)
Property Address: 203 S. Lake Trail (“Property”)**

Dear Ms. Churney:

Our firm represents Leslie and Wayne Wyrzes, the owners of 444 Seabreeze Avenue, which abuts the Applicant’s Property on northeast side. While the Property sprawls along the Lake Trail from Seaspray Avenue to Seabreeze Avenue, there is no access to the Property from Seabreeze. After a prior attempt to create a vehicular access onto the Property from Seabreeze was unsuccessful, at its December 20, 2024, meeting the Architectural Commission (ARCOM) approved a pedestrian gate leading from the Property to Seabreeze Avenue (“Approval”) right next to the Wyrzes property.

The Wyrzes believe the Approval was improper, should be reversed and the Application denied. Reversal is warranted given that: a) ARCOM’s decision was made without critical information due to the Applicant’s failure to provide accurate drawings of the surrounding homes; b) the Approval was made without taking into consideration the context of the neighborhood and applicable Code provisions; c) the Applicant gave no basis for its request and failed to meet its burden to do so; and d) the failure of the last LOI Update to even include the pedestrian gate.

Approval Made Without Critical Information

The Applicant is tasked with making sure that its Application is **complete and contains all the information** required for ARCOM to make an informed decision **prior to presentation**. Here it failed to do so. Instead, the Applicant omitted significant information within its Plans, namely the existence and location of a western driveway on the Wyrzes’ property the exit of which would clearly interact with the pedestrian gate. Given its existence, the Applicant should have provided detailed information on the location, size, and length of the Wyrzes’ driveway as well as where it exited onto the cul-de-sac to ensure the pedestrian gate would not interfere with the driveway and there would be no safety or other issues but did not. Instead ARCOM and the public were left with vague drawings which ARCOM relied upon, but only showed the Wyrzes’ eastern driveway despite the long-term existence of their western driveway.

Even though many of the ARCOM Commissioners indicated at the time of ex-parte disclosures they had reviewed the plans and were “familiar with the neighborhood” in general they apparently were not familiar with 444 Seabreeze. A quick drive by the Wyrzes’ home would have clearly demonstrated the existence of two driveways. More importantly, the Applicant’s own Application demonstrates clearly in the pictures on page A-7 that the Wyrzes’ home has two driveways with the western one exiting close to the middle of the curve of the cul-de-sac where the pedestrian gate was to be placed. *See*, Exhibit A.

REPLY TO:

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To make matters worse, ARCOM acted in reliance on the Applicant's incomplete information, while ignoring the testimony of Ms. Wyrzes, the only person with direct knowledge. In response to Mr. Nievera's pointing a cursor to the location of the gate (*See*, Exhibit B), Ms. Wyrzes indicated "So that's right by my driveway" which ends at the tip of the white area. Transcript, p. 41. Mr. Smith emphatically indicated "Your driveway is on the other side of your property. Your driveway is on the east side, and this is the west property." *See*, Transcript, p. 41-42 Ms. Wyrzes responded that she had two driveways, "Yeah, we have a driveway on the other side." "Yeah, on the west side." Transcript, p. 42. She further confirmed that it "was there when we moved in." *Id.* There was no testimony disputing the existence of the western driveway or its location, yet ARCOM treated the Wyrzes property as if it had only the eastern driveway.¹

Clearly the location of the pedestrian gate could radically change the Wyrzes use of their driveway as well as create a safety issue of having pedestrians cross directly behind a vehicle backing out of the western driveway or delivery trucks blocking the driveway thinking they could gain access to the Property from the pedestrian gate. Ms. Wyrzes testified that even without the gate she had to "chase an Amazon truck down the street yesterday because they were headed for the lake trail trying to make a delivery to the Jordans." Transcript, p. 40 "I'm worried that I'm going to have packages in my driveway being left at that gate, if there's another gate." Transcript, p. 40.

At that point, ARCOM should have deferred any further consideration of the pedestrian gate until such time as the Applicant came back with additional information on the exact location of the gate and whether it would or would not interfere with the use of Wyrzes' western driveway. In choosing to move forward and unanimously approving the gate anyway ARCOM acted without such crucial information. As such, its Approval was not based on competent substantial evidence and should be reversed.

Reversal is further required to maintain the integrity of the ARCOM process. Decisions by ARCOM, as well as other commissions, should always be based upon complete and accurate plans, information, and representations by the Applicant. To the extent there is a material omission (regardless of whether intentional or accidental) which is allowed to go unchecked and results in an approval, the public will deem the process not trustworthy. In this case, the incomplete plans excluding the details of the Wyrzes western driveway were relied upon for Approval over the clear picture of the same in Exhibit A and Ms. Wyrzes unopposed testimony. The result is that the Wyrzes will be left to deal with the consequences and burden of that omission, including a decrease in their ability to use their driveway and potential decline in property value. Such a result should not stand, and the Approval should be reversed to make sure that all the relevant information is before the Commission.

¹ The video for the meeting, which is incorporated herein, can be found at the link below beginning at 33:49 and ending at 1:34:24. The portions regarding the pedestrian gate begin with public comments at 1:17:08 to 1:34:24. https://townofpalmbeach.granicus.com/player/clip/3103?view_id=5&redirect=true

Failure to Consider the Context of the Neighborhood and Code Provisions

In addition to the Approval of the pedestrian gate without detailed information, the Approval also failed to consider the context and contrast between the street and houses on Seaspray and the tight knit neighborhood community of Seabreeze as expressed by our client and other neighbors. The Town Development Review Checklist and Uniform Development Review Instructions both require a context component to make sure an Application blends into the surrounding neighborhood. Similarly, Section 18-146 of the Code describes the purpose of ARCOM to include the search for beauty. Subsection (d) indicates that while the purpose of the Comprehensive Plan and Zoning Code are powerful legal tools, “[t]he task of the architectural commission is ... to preserve the various elements of urban beauty and require that new projects enhance the existing elements.” Subsection (e) reminds ARCOM that “the essential **foundation of beauty in communities is harmony.**” Finally, even the Section 18-205(1) criteria for ARCOM requires “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.”

In this case, the public comment testimony demonstrates a huge distinction and contrast between the communities of Seaspray and Seabreeze. Ms. Nicole Betts of 409 Seabreeze Avenue commented that Seabreeze is a “charming historic neighborhood here in Palm Beach” and when she “started to envision how it [new home] would fit into our neighborhood and at this point it doesn’t. It’s enormous scale and added height would loom over the neighborhood and the lake trail.” “It ignores the scale and historical integrity of our street.” Transcript, p.37

Ms. Bettes made a further distinction of the two neighborhoods based on the ultimate question or “**why do they [Applicant] need a pedestrian gate on Seabreeze?**”

The only place it leads to is a service area. There is no such gate on our street. Yes, we have several gates on Seabreeze, including at my home, but they all lead to a front door; not a service area, as we have none on Seabreeze. ... With that said, I believe that ARCOM was established to ensure that homes built in historic areas such as ours, are built with regard to scale, historical integrity and context. **The homes are built with a sympathetic eye that blends into the surrounding area, not dwarfing the neighborhood and creating problems with an unnecessary gate at the end of Seabreeze.** Transcript, p. 37-38.

As a result, the pedestrian gate itself is excessively dissimilar to any other gate in the Seabreeze neighborhood. Ms. Wyrzes raised similar questions and concerns regarding the pedestrian gate.

But the pedestrian gate, I don’t see a reason for it... You know, we look across the street at two other homes on South Lake Trail. They don’t have any barriers to their house. They’re beautiful homes **and the only gate they have is the access to the lake trail on the Intracoastal side.** They don’t even have privets or hedges in the front of their houses. Most of our houses are open to the world. Our house is. Trans, p. 40-41

The testimony of Ms. Betts and Ms. Wyrzes raises a major context distinction between the communities of Seaspray and Seabreeze while also raising a dissimilarity issue. Seabreeze is a small

community with smaller houses with no need for gates other than those to the front door. As such, a gate (especially one to a service area) will be excessively dissimilar and the first in its community.

Applicant has the Burden to Demonstrate the Need for the Pedestrian Gate

The testimony of Ms. Betts and Ms. Wyrzes raises yet another issue. It is the Applicant’s burden to demonstrate the need for a request before ARCOM. Curiously neither the Applicant nor any of its representatives have ever stated on the record a reason for the pedestrian gate. While Mr. Smith speculated maybe the owner “wants to go for a walk” it was pointed out that he/she could exit via the gate at the Lake Trail and walk around. It should not be ARCOM’s duty to make up a reason. The Applicant should clearly state the reason for its request.

A more cynical answer is that after the Applicant was told there could be no vehicular driveway from Seabreeze, a pedestrian gate is the next best thing. Seabreeze has no resident parking restrictions. As Ms. Wyrzes testified Seabreeze is being used as an “overflow of the Jordan’s house, especially when they have parties, they all park on Seabreeze and **we’re the only street in Palm beach that does not have restrictions...** Now this will make it very easy because they will have gate right there.” Transcript, p. 43. One can easily imagine large parties in which the guests are dropped off at the main entrance and Seabreeze becomes a valet parking lot with the valets returning through the gate. Likewise, service personnel could be urged to park on Seabreeze and enter through the gate. Clearly, the Applicant is never going to admit such uses and has instead taken a don’t ask, don’t tell Policy as to the use of the pedestrian gate. In doing so the Applicant failed to meet its burden to provide the Town any reason to grant the gate, while the surrounding neighbors on a smaller street have provided multiple reasons not to do so.

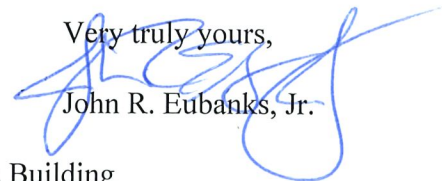
Failure of the Last LOI Update to Include Pedestrian Gate

Finally, added to the above, the Applicant’s December 4, 2024, LOI Resubmission – updated #2 which despite identifying every change to the Application in bright red, did not include any reference whatsoever to a pedestrian gate. *See*, Exhibit C. As such, the surrounding neighbors, who are not familiar with plans, drawings and surveys but can read LOI’s were never put on notice that the pedestrian gate was even an issue. Such a lack of due process alone should be grounds for reversal.

Conclusion

In light of all of the above, the Wyrzes believe the Approval was improper, should be reversed for the reasons stated, and the Application for the pedestrian gate denied. We reserve the right to further supplement our request prior to the hearing at which this Appeal will be heard. Please do not hesitate to contact me if you have any questions or need additional information.

Very truly yours,



John R. Eubanks, Jr.

Attachments

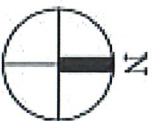
- cc: Wayne Bergman, Director of Planning, Zoning & Building
- James Murphy, Assistant Director of Planning, Zoning & Building
- JoAnne O’Connor, Esq. Town Attorney

Exhibit A



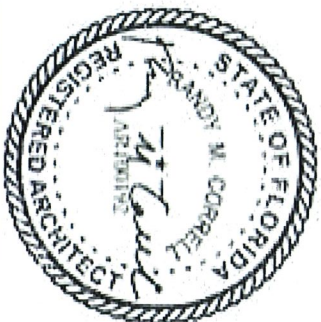
444 SEABREEZE AVE

N.T.S.



ROBERT .

81



PROJECT NO: A23054

DRAWING NO:

A-7



11 S LAKE TRAIL (TRAIL VIEW)



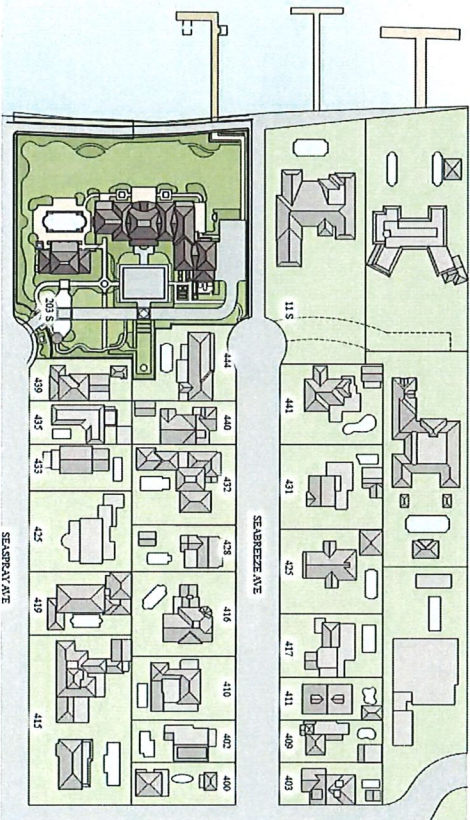
425 SEABREEZE AVE



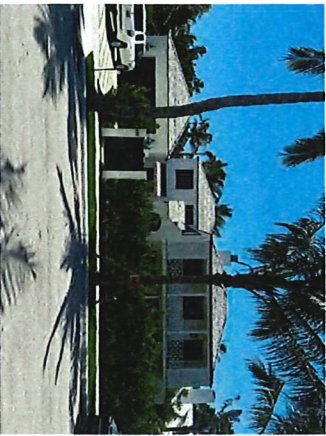
428 SEABREEZE AVE



431 SEABREEZE AVE



KEY PLAN



432 SEABREEZE AVE



440 SEABREEZE AVE



441 SEABREEZE AVE



444 SEABREEZE AVE

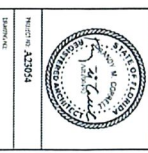
PHOTOS OF EXISTING SITE CONDITIONS - SEABREEZE AVE



N.T.S.

A-7

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RESIDENCE IN
 PALM BEACH
 2015 S LAKE TRAIL
 PALM BEACH, FL 33480

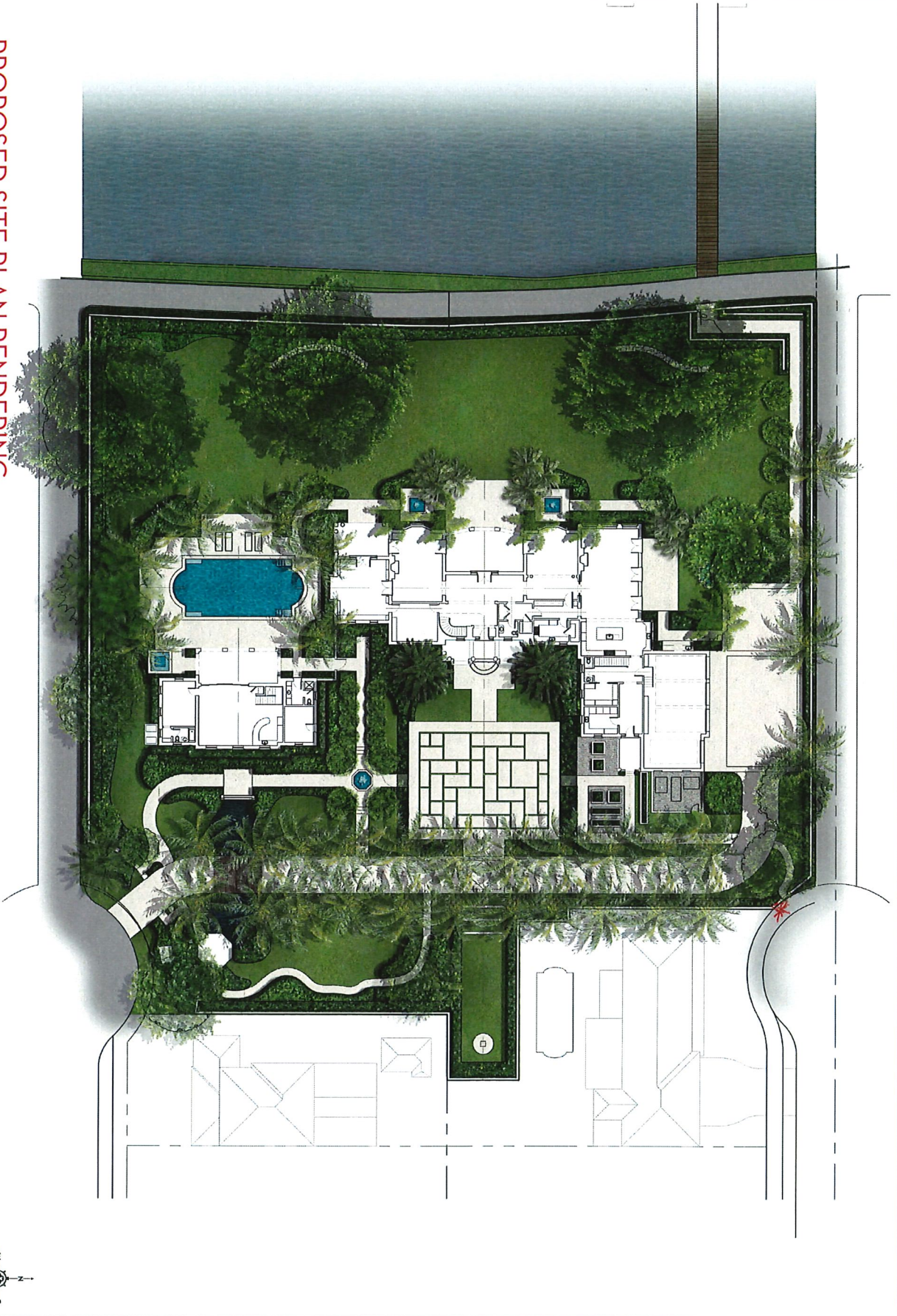
ARCOM
 RESUBMITTAL
 DECEMBER 20, 2014

NOT FOR
 CONSTRUCTION
 PURPOSES

ARC-24-0027

Exhibit B

PROPOSED SITE PLAN RENDERING



MARIO F. NIEVERA
 State of Florida
 Landscape Architect
 Registration No.
 464699

SCALE: 1/16" = 1'-0"

SITE PLAN
 203 S. LAKE TRAIL
 PALM BEACH, FLORIDA

04 DECEMBER 2024
 07 OCTOBER 2024
 01 JULY 2024 - SECOND SUBMITTAL
 15 JUNE 2024 - FIRST SUBMITTAL



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LO
 ZONING 4004
 ADC 24-00-27

Exhibit C

December 04, 2024
Page 1 of 3

Re: 203 S Lake Trail, Palm Beach, FL 33480
ARC-24-0027
Letter of Intent (LOI) RESUBMISSION – **UPDATE #2**

RAMSA

Site History:

The property of 203 S Lake Trail has a lengthy record of owners dating back to early 1930s. However, when Mr. C.D. Strout took ownership of the property, he commissioned local architect, John L. Volk, to complete the design of his single-family residence in 1937. Volk's design included a main house, pool, and a pool pavilion to the south.

The homestead had numerous repairs over the last 87 years, few of which included major additions and renovations in the late 1970s and late 1990s. The 1990s renovations included major interior and exterior character updates, as well as the addition of a garage wing and a free-standing storage structure. Most recently, the current owners made minor repairs to the exterior and remodeled a few interior rooms in 2010-11.

The Proposal:

This project consists of the demolition of an existing two-story residence, one-story pool house, two-story garage, and one-story generator structure and the construction of a new two-story single-family residence with integrated garage and two-story pool house. A new pool is proposed in the approximate location of the existing pool. New landscaping and hardscaping are proposed on the entirety of the site. The existing dock will remain.

The proposed house and pool house structures conform to, or exceed, the setbacks requirements for the property. The current FEMA base flood elevation requirement for the site is 7.0 NAVD. The finished first floor elevation of the proposed two-story portion of the house will be at **elevation 9.0** to mitigate any potential future flooding. The proposed pool house is designed to also have a floor at **elevation 9.0**. The garage will be at **elevation 7.16**. The fill proposed across the site will not exceed the maximum lot fill height of 3.5 feet.

The existing driveway entrance into the site along the right-of-way connecting the Seaspray cul-de-sac to the South Lake Trail will be removed and a new driveway entrance is proposed at the Seaspray Avenue cul-de-sac. The proposed entry gates will be set back at a minimum of 18'-0" from the cul-de-sac for appropriate off-street queuing space.

The maximum lot coverage for the zoning district R-A Estate Residential is 18,206 square feet (25%) with the proposed coverage at 13.8% (10,075 square feet). This is smaller than the existing 16.2% (11,766 square feet).

Per Section 18-205, the proposed project is designed in good taste and of a scale and character compatible with its neighborhood. The overall siting of the house, accessory structure, and pool mimic the historic home and pool house locations. The design is inspired by and references details from the original 1937 John Volk house designed for the property and subsequently obscured by later additions. The accessory space remains subservient to the massing of the main house yet continues the sequence of two-story structures along Seaspray Avenue. The two-story house massing incorporates covered porches, bays, and steps in the façade to create architectural interest and to enhance the visible perspective to neighbors and the public. The pitched roof will be at an overall building height of **34'-0"**.

December 04, 2024

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RAMSA

Design Revisions following 2024-10-23 ARCOM Response:

Following the comments from the ARCOM committee and neighbors at the October 23, 2024 meeting, we have revised the design per below:

- The north curb cut along Seabreeze Avenue has been removed from the current scope
- The overall building height has been reduced to 34'-0", under the maximum allowed of 35'-0"
- The finished floor elevation of the house has been lowered to elevation 9.0
- Landscape Open Space (LOS) has increased further from 67.92% (49,045 square feet) to 69.3% (50,052 square feet)
- The site plan depicts significant changes:
 - The house plan is flipped north to south with the service court and garage at the north
 - The garage is incorporated into the house, eliminating an additional structure
 - The pool house is rotated to capture more views out to the lake and includes a covered porch, eliminating the lanai
 - The service court is sited along the north
- The glazing along the west façade has been reduced
- There are no roof pitches lower than 4:12
- The guest house roof height has been reduced from 30'-6" to 28'-1"
- Detail comparison sheets now include RAMSA details compared to John Volk's details at the same drawing scale to show similar human scale and proportion
 - A-34: The proposed entry parallels the proportion and scale from the referenced Volk drawings
 - A-36: The scale of the bay window is shown to mimic the scale from Volk's design
 - A-37: These reflect the same spring line of arches on the west loggia from our design to the John Volk reference
- A-40: The materials and color of the structures have been more clearly identified
 - The roof will be Ludowici Morando glazed closed shingle in Ash Gray blend color. The roof is not to be slate
 - The exterior stucco color is proposed to be a warmer tone, Benjamin Moore Vanilla Milkshake. The walls are not to be white
 - The limestone accents will complement the stucco in a beige tone
- The pool house redesign incorporates matching detail from the main house
- The landscape to the east side of the property has been further developed to incorporate more interest as you enter the site with landscaped walking paths mimicking the original Chinese garden, a pond, and a footbridge, making it more of a destination
- The fountain at the front entry has been removed
- The height of the palm trees was increased over the massing of the house
- The paved terracing along the west has been reduced
- Open metal fencing has been added at the upper portion of the Seaspray Avenue entrance wall to allow pedestrian visibility to the existing gazebo

Design Revisions following 2024-08-28 ARCOM Response:

Following the comments from the ARCOM committee and neighbors at the August 28, 2024 meeting, we have revised the design per below:

- Sport padel court has been removed from the project
- The previously proposed Observation tower has been removed from the project
- Existing generator building at the east has been removed from the project


December 04, 2024

Page 3 of 3

RAMSA

- The previously proposed guest wing at the east along the driveway, connecting the main house to the pool house, has been removed
- The overall lot coverage has been reduced from 18.2% (13,821 square feet) to 13.8% (10,113 square feet)
- Enclosed square footage has been reduced from 16,578 square feet to 13,812 square feet
- Landscape Open Space (LOS) has increased from 52% (37,583 square feet) to 67.92% (49,045 square feet)
- Existing driveway along the right-of-way connecting the Seaspray cul-de-sac to the Lake Trail along with additional guest parking area has been removed
- The proposed driveway and entry court has shifted to the west, pulling it further from the neighbors to the east
- The existing garden gazebo is incorporated into the proposed landscape
- A larger area for mechanical equipment has been identified outside the setbacks and includes a perimeter wall and significant landscaping.
- The massing of the main house has shifted 5'-0" west, allowing a greater setback to the neighbors at the east
- The projecting massing of the east main entry of the house has been removed
- The façade facing the lake (west) has been modified so that flanking wings have been pulled back from the central massing of the house
- The west terraces have been reduced in depth
- The detailing of the exterior has been refined and continues to be informed by the historic elements from the pre-existing John L. Volk
- The pool house has been pulled back from the Lake Trail and redesigned
- Due to a client request, the lanai adjacent to the pool has been elongated in the north-south direction. This has resulted in the addition of 180 SF of unconditioned space to our program.

Sincerely,



Randy Correll
Partner RAMSA