

From: [Kelly Churney](#)  
To: [Lindgren](#)  
Subject: FW: A few very simple over due, question Ref. Carriage House Club. REPLACES FIRST EMAIL AS IT DID NOT INCLUDE THE ENTIRE STRING OF EMAILS I Thank you I  
Date: Monday, February 05, 2018 10:12:20 AM

FYI

*Kelly Churney*  
Office Assistant III

**Town of Palm Beach**  
Planning, Zoning & Building  
360 S. County Rd.  
Palm Beach, FL 33480  
561-227-6488  
561-855-4621 (fax)  
[www.townofpalmbeach.com](http://www.townofpalmbeach.com)

From: John Lindgren  
Sent: Monday, February 05, 2018 9:30 AM  
To: Logan Elliott <[LElliott@TownofPalmBeach.com](mailto:LElliott@TownofPalmBeach.com)>; Kelly Churney <[KChurney@TownofPalmBeach.com](mailto:KChurney@TownofPalmBeach.com)>  
Subject: FW: A few very simple over due, question Ref. Carriage House Club. REPLACES FIRST EMAIL AS IT DID NOT INCLUDE THE ENTIRE STRING OF EMAILS I Thank you I

fyi

**John Lindgren, AICP**  
**Planning Administrator**

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

From: Lory Volk <[lvolk@cityofpalm.com](mailto:lvolk@cityofpalm.com)>  
Sent: Saturday, February 03, 2018 3:24 PM  
To: Gail Coniglio <[GConiglio@TownofPalmBeach.com](mailto:GConiglio@TownofPalmBeach.com)>  
Cc: Town Council <[TCouncil@TownofPalmBeach.com](mailto:TCouncil@TownofPalmBeach.com)>; Town Clerks Staff <[TownClerks@TownofPalmBeach.com](mailto:TownClerks@TownofPalmBeach.com)>; John (Skip) C. Randolph <[SRandolph@townofpalm.com](mailto:SRandolph@townofpalm.com)>; John Lindgren <[JLindgren@TownofPalmBeach.com](mailto:JLindgren@TownofPalmBeach.com)>; Janet Murphy <[jmurphy@stillings.com](mailto:jmurphy@stillings.com)>; Emily Stillings <[emily@murphystillings.com](mailto:emily@murphystillings.com)>; Paul Castro <[PCastro@TownofPalmBeach.com](mailto:PCastro@TownofPalmBeach.com)>  
Subject: Re: A few very simple over due, question Ref. Carriage House Club. REPLACES FIRST EMAIL AS IT DID NOT INCLUDE THE ENTIRE STRING OF EMAILS I Thank you I

Dear Mayor Coniglio and Respective  
Town Council Members,

I would like to enter this email into the record for the upcoming  
Carriage House Club hearing of February 14, 2018.

Also of note at your last TC meeting of January 19, 2018 none of you acknowledge that I had in fact submitted an email for record. I am taking the liberty to attach that same email with the date it was sent, so that it maybe read and acknowledge, as part of the record for the upcoming Carriage House hearing.

Please read below the string of email communication with  
Mr. John Lindgren Planning Administration working with  
the Town's Preservation Program. I have asked Mr. Lindgren  
what, one would think is a very simple question. The question relates to who it is from the Town, that is responsible for reviewing, safeguarding and speaking to, in this case the potential impact of the Carriage House Club and the intensification of use and its impact on the Town's first Landmarked Phipps Plaza Historic District. If I understand  
what I am reading, Mr. Lindgren suggests/believes that there is NO necessity for a review of impact to the Phipps Plaza Historic District, as he only addresses the Carriage House building itself and the process of review for the structure, ignoring the abutting historic district, itself, not exactly sure how or why.  
Mr. Lindgren sites the following:

*The Landmarks Preservation Commission (LPC) reviews exterior changes to landmarked buildings, and they review interior changes too if the project is seeking tax abatement; however, no exterior changes to the building  
are proposed, and tax abatement is not being sought by the Carriage House. The LPC also makes recommendations to Town Council regarding zoning variances, but no zoning variance is being requested by the Carriage  
House. Therefore, nothing the Carriage House has applied for requires LPC review/approval, and this is why I had "No Comment" regarding the application that is before Town Council when I reviewed it with other Town  
staff at the Development Review Committee (DRC) meetings in July 2017 and January 2018.*

So the question remains who is to uphold the intent of the Sec. 54.1 of the Landmarks Ordinance? It is one thing for Mr. Lindgren to detail the review process given the Carriage House application itself, however how can it be as the noticed, effected Phipps Plaza Historic District and its proximity to the project, that it would not get a review as a  
listed historic resource of the Town?? It is most perplexing to say the least. It seems in direct contradiction of the intent of the Landmarks Ordinance, Chapter 54 that provided protection for the Town's historic resources.

Perhaps the Town Council can help those of us who are wondering where the support and review for protection of Historic Phipps Plaza District or any resource or district is to come from if not from the Town supported and enabled by Chapter 54 the Landmarks Ordinance.

ARTICLE I IN GENERAL Sec. 54-1. States the following:  
*Purpose and intent. It is declared to be a matter of public policy that the protection, enhancement and perpetuation of properties of special, notable, aesthetic or architectural character or historic interest or value is a public purpose and necessity and is required in the interest of health, prosperity, safety and general welfare of the people  
residing within and without the town.*

Landmarks Preservation Ordinance

Chapter 54 HISTORICAL PRESERVATION\*

ARTICLE I IN GENERAL Sec. 54-1. Purpose and intent.

It is declared to be a matter of public policy that the protection, enhancement and perpetuation of properties of special, notable, aesthetic or architectural character or historic interest or value is a public purpose and necessity and is required in the interest of health, prosperity, safety and general welfare of the people residing within and without  
the town. The purpose of this chapter is to:

- (1) Effect and accomplish the protection, enhancement and perpetuation of such properties and of districts that represent or reflect elements of the town's cultural, social, economic, political and architectural history.
- (2) Safeguard the town's historic and cultural heritage, as embodied and reflected in such landmarks and historic districts.
- (3) Stabilize and improve property values.
- (4) Foster civic pride in the beauty and notable accomplishments of the past.
- (5) Protect and enhance the town's attractions to residents and visitors.
- (6) Strengthen the economy of the town.
- (7) Promote the use of historic districts and landmarks for the education, pleasure and welfare of the residents of and visitors to the town.

(Code 1982, § 16-33)

Best regards,  
Lory Volk

From: Lory Volk <[lvolk@cityofpalm.com](mailto:lvolk@cityofpalm.com)>  
Date: February 2, 2018 at 11:08:05 AM EST  
To: John Lindgren <[JLindgren@TownofPalmBeach.com](mailto:JLindgren@TownofPalmBeach.com)>  
Cc: John (Skip) C. Randolph <[SRandolph@townofpalm.com](mailto:SRandolph@townofpalm.com)>; Tom Bradford <[TBradford@TownofPalmBeach.com](mailto:TBradford@TownofPalmBeach.com)>; Paul Castro <[PCastro@TownofPalmBeach.com](mailto:PCastro@TownofPalmBeach.com)>; Logan Elliott <[LElliott@TownofPalmBeach.com](mailto:LElliott@TownofPalmBeach.com)>; Janet Murphy <[jmurphy@stillings.com](mailto:jmurphy@stillings.com)>; Murphystillings <[emily@murphystillings.com](mailto:emily@murphystillings.com)>;  
[elizabeth.ausley@floridapreservation.com](mailto:elizabeth.ausley@floridapreservation.com)  
Subject: Re: A few very simple over due, question Ref. Carriage House Club..

Good Morning Mr. Lindgren,

Oh my I not sure in my 60 years, that I have ever read such a pass the buck reply...yet, I assume I am to take this reply with all seriousness. So, with that thought in mind should I assume from my first email and the question that you could not answer.

*That being ....One more question if I might at what point does your position normally step forward as the liaison of the landmarks program to assist in upholding the intent of protecting the historic district listing, in voicing a  
professional opinion in an attempt to assist the Town Council in their deliberation and the need or not to protect the Landmarked Phipps Plaza District ?*

it would have been best for you to suggested for me to reach out to the town's historic preservation consultants, Janet Murphy & Emily Stillings.

Very disappointing to think that you don't see any impact as to  
the intensification of use of Historic Phipps Plaza. Nor do I assume you have any thoughts or comments on the proposed Disneyfication of Historic Phipps Plaza Park that is part of our district listing.

Then again when I think back on just one of your many lame administrative approval, I realize just how insensitive you are to what is Historic Preservation. The administrative approval in particular that I speak of is when with a stroke of a pen you approved removing the 100 plus year old leaded glass Casement windows in Via Parigi, because  
they looked amazing.

Never mind again your division had no comment in 2014, when Mr. Schumacher illegally tore down the stunning Landmarked,  
1926 Marion Sims Weyth-designed Palladian-style home at  
[JCS.Casendon.Avenue](http://JCS.Casendon.Avenue).

Perhaps you recall this travesty...  
I have included the videos of the destruction for your recall.  
<https://youtu.com/111753295>.

I guess in retrospect and now that you have fully opened my eyes,  
I am trying very hard to understanding how the Town of Palm  
Beach can be a certified local government, under Historic Preservation Program when there is NO advocacy to protect the Town's Historic  
Resources.

Just NOT sure at this point if I understand the point of having a Landmarks Ordinance or a Landmarks Program if there is no one in your division to advocate review and protect the Town's historic Resources which consist of well over 250 Landmarked structures,  
7 Historic Districts and the various archeology sites !

Most disappointed to say the least,  
Lory Volk

Sent from my iPad

On Feb 2, 2018, at 9:36 AM, John Lindgren <[JLindgren@TownofPalmBeach.com](mailto:JLindgren@TownofPalmBeach.com)> wrote:

Ms. Volk,

I must apologize – I thought I had answered your questions. Neither the Planning Administrator nor the LPC traditionally comment on the use of a landmarked site; nor does ARCOM comment on the use of a non-landmarked site.  
The Town Council reviews the use of sites when a special exception application is submitted, and the Town staff person that handles these applications is the Zoning Administrator (Paul Castro). As I mentioned in my previous e-  
mail, Town Council does have the ability to ask the LPC for their input, but that is totally up to Town Council. The Town Council could also ask our historic preservation consultants (Murphy & Stillings) for their thoughts on the use  
of the site, and they could also ask me for my input as the Planning Administrator, even though as I mentioned before, the Planning Administrator has not traditionally made comments regarding the use of a property (landmarked or  
not). If I were to be asked for my input, I would say that the use of the site as a private club would have no adverse effect on the historic building or other historic buildings in Phipps Plaza, because no exterior alterations are being  
proposed to any landmarked buildings within the Plaza (at least not with this special exception application). As I see it, the possible adverse impacts from the use of the site as a private club relate to the potential for increased traffic  
and parking issues, and these are issues that have been reviewed in the past by Town Council with the input of Zoning Administrator, Engineering, Police Department, and Fire Department. Increased traffic and parking issues will  
not affect the physical character of the historic buildings in the Plaza, which is why I had no comment regarding the special exception application that is before Town Council.  
John

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

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

We are sure you are well aware by now that we along with the Schaefers, Geist's and Katherine Bryan are all being represented by attorney John Eubanks. And we trust you are in receipt of his many well written letters of objection .

As property owners of 206 Phipps Plaza, we along with many others in Phipps Plaza, are greatly concerned and oppose the major intensification of use by combining the two buildings at 264 and [270 So. County Rd.](#) into 11, 025 square foot application submitted by "Carriage House Club" (CHC).

If you continue to allow the Carriage House application to be heard despite the absence of requirements, inclusions and data needed for the application, you will be doing so with the knowledge that the applicant and presenter are functioning absent the rules required by all other applicants with regard to sufficiency in addition to serious non-compliance with zoning requirements and the Town's Comprehensive Plan.

Zoning Director Paul Castro cites issues including negative impacts to South County Road and Phipps Plaza and the facial deficiency of the application: "The principle of equivalency calculations are incorrect. The applicant cannot use previously granted relief for a different land use in its calculation."

Mr. Castro goes on to say "I believe there will be significant negative impacts to South County Road in that area and Phipps Plaza. There is absolutely no off-street parking for this use and assembly of Club members for events will increase parking demands in that area.

Mr. Castro also states: "In addition, Exhibit C of the application relating to the Parking Statement is not completed. The application requires a detailed parking statement which includes details of all available parking. There is no information regarding the number of employees per shift nor any indication where employees would park by day. The required information relates to the three parking items Mr. Castro cites, since they must be provided by Commercial properties. Furthermore, Planning, Zoning and Building Director John Page states in the DCR that the "intensification of use and absence of parking will create constant circulation problems".

Also, more importantly and of great concern, is that in addition to having filed a deficient application, the applicant is attempting to improperly gain approvals with the submission of a Special Exception with Site Plan Review application even though the request is for two entirely new land uses for each of the two parcels. One of the parcels, which formerly housed the restaurant located at [264 S. County Rd.](#), has been abandoned/discontinued for more than two years and we believe this should have triggered a new set of zoning requirements and associated applications including the fact that there is no off-street parking available to this applicant.

#### **Additional Reasons for Denial: Prohibited Intensification of use:**

1. The application is an intensification of use for this CT-S section of Town which abuts the Historic and Landmarked Phipps Plaza District, the first historic district in the town, (which is zoned as R-B). This intensification is contrary to the Town's Comprehensive Plan.

2. The intensification is also legally prohibited by the 1997 Declaration of Use Agreement, (DUA) (Exhibit B) agreed-to between the Town and the former owner and restaurant operator of the [264 South County Road](#) restaurant that was filed with the Palm Beach County Court. This agreed-to DUA was required/connected to Special Exception #36-97, as listed within the history section of the Carriage House Club (CHC) application. The Agreement was reaffirmed in 2005 (Most likely, the Agreement came to light when the new owner did a title search, as it is easily found in the court records.)

The DUA, under "Recitals," item # 6, states in part that

"Any new proposed restaurant operator at this location shall be required to obtain all new zoning approvals from the Town Council". It would seem that this Agreement runs with the property and is still in effect. Consequently, isn't there a legal requirement that any application for this property that comes before the Town Council for approval must contain all new zoning approvals including increase in size, parking, number of seats, loading and other zoning requirements? Additionally, with regard to zoning approval/relief given in the past for this location, it seems clear that the relief claimed by Attorney Ziska and the applicant is no longer in effect.

#### **Zoning Deficiencies and Life Safety Issues**

There is a whole section in the zoning code regarding parking and equivalency as well as a requirement for off-loading parking berths for C-TS use of this size which would require a loading berth to be created. Since there is no on-site parking, it would be impossible to fulfill this requirement, yet the application is suggesting it can get a lease from FDOT to use So. County Rd. as a loading zone although code requires it to be contained on sight.

Attorney Ziska promised at the Dec. TC meeting and the TC agreed that to be heard at the Jan. 10 meeting, Carriage House would have made application with FDOT for a lease agreement for 2 valet stand on So. County Rd. which they have NOT yet done. They have asked FDOT for a cross walk, first their request was for mid block which has been changed to a request for a crosswalk at Seaview Ave. it takes 2-6 months for an approval from FDOT on either matter they DON'T give preliminary approvals in either case. It goes through a comprehensive 13 step approval process. Approval or not will not be determined until the process is Complete ! So how the TC can even consider a conditional approval with such an uncertainty, makes absolutely no sense, does that leave the door open for Carriage House to come back and sue the Town, possibly.

As we all agree this block is part of a major north-south thoroughfare. This intensification of commercial activity would create an added burden to traffic flow in this area, including negatively impacting vehicles that are traveling north along South County Rd. and east bound cars on Royal Palm Way that will get backed up trying to make a left hand heading north onto South County Rd. Adding to this unsafe situation, to now be suggesting two sides of the street pick up and drop off independent valet stands is as unsafe as it gets, which staff has conjured with again as required to be heard tomorrow CH was to have made application with FDOT which they have not done.

Mr. Castro, as Zoning Administrator, can provide additional references as to zoning issues which will probably include this citation from the zoning code regarding Sec. 134-228 and the legal requirements for new applications – they are important to consider as they relate to the compatibility of the new major intensification of use the Carriage House application is asking for under a Special Exception as a Club. It is also important in relation to the Historic Phipps Plaza residential community and other nearby residential properties since this use and the negative impacts associated with it are incompatible with protections within our zoning codes and the Comprehensive Plan's Goals, Policies and Objectives. Since there is no automatic transfer of use per the zoning code coupled with item # 6 included in the 1997 Declaration of Use Agreement discussed above.

Sec. 134-229 - Requirements for granting.

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.

(2) The use is so designed, located and proposed to be operated that the public health, safety, welfare and morals will be protected.

(3) The use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.

(4) The use will be compatible with adjoining development and the intended purpose of the district in which it is to be located.

(5) The use will comply with yard, other open space, and any special requirements set out in article VI for the particular use involved.

(6) The use will comply with all elements of the comprehensive plan.

(7) The use will not result in substantial economic, noise, glare, or odor impacts on adjoining properties and properties generally in the district. (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.

(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.

(10) Location, availability and compatibility of utility service for the use shall be satisfactory to ensure health and safety.

(11) 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.

(12) 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.

(13) 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.

(14) 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.

(Ord. No. 2-74, § 6.40(a)—(m), (r), 3-26-74; Ord. No. 3-77, § 11, 3-29-77; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-79, § 12, 3-30-79; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 1-85, §§ 3(b), 4(d), (e), 2-11-85; Ord. No. 1-90, § 4(d), 2-5-90; Ord. No. 1-91, § 4(c), (d), [4-23-91](#); Ord. No. 1-96, § 7,

#### **Non-Compliance with the Town's Comprehensive Plan**

There are a number of citations in the Comprehensive Plan (CP) that are incompatible with the request to open a Club as a Special Exception in the C-TS Zoned District.

For example, the Executive Summary within the FUTURE LAND USE ELEMENT of the Town's Comprehensive Plan clearly states that: "the Town of Palm Beach is essentially "built-out", that we have developed into a "premiere residential community" with a focus on its protection while "maintaining the culture, serenity and the unique character". Page I-3.

Additionally, under Land Uses: (page I-3)

If 4,000 sf is still the maximum allowable GLA, this applicant should not/could not get a waiver since there is no parking to support the proposal and there is no hardship per the Comp Plan (page I-4)

Additional portions of the Comp Plan, (Page I-5) speak to minimizing impact to the Town as it relates to traffic and minimizing the change from low density to more intensive use.

The application for the Club is a new use, not "the same type of use that existed prior"

(I-8). Also, on (page I-13):

Page I-16 states that the

Contrary to the Town's Comprehensive Plan, this proposed use is not a gradual and graceful evolution of development. There are many other flaws with this application which have not been included in this letter but have been included in Mr. Eubanks many letters of objection submitted to the TC. We trust you will agree that, it is imperative that the burden of proof for the granting of any approvals must be satisfied by the applicant.

The Rule...

#### Consistency with the Comprehensive Plan

UPDATED TO REFLECT 2011 LEGISLATIVE AMENDMENTS.

##### Consistency is required.

Once a jurisdiction's comprehensive plan has been properly adopted, all "development" (see [What is the development LDRs can regulate](#)), both public and private, must be consistent with the comprehensive plan. §§163.3161(5) and 163.3194(1)(a), F.S. Similarly, all the jurisdiction's land development regulations must also be consistent with the plan. §163.3194(1)(b), F.S.

#### Consistency with the Comprehensive Plan

Posted on February 27, 2011 | 5 comments

UPDATED TO REFLECT 2011 LEGISLATIVE AMENDMENTS.

##### Consistency is required.

Once a jurisdiction's comprehensive plan has been properly adopted, all "development" (see [What is the development LDRs can regulate](#)), both public and private, must be consistent with the comprehensive plan. §§163.3161(5) and 163.3194(1)(a), F.S. Similarly, all the jurisdiction's land development regulations must also be consistent with the plan. §163.3194(1)(b), F.S.

**"The statute is framed as a rule, a command to cities and counties that they must comply with their own Comprehensive Plans .... The statute does not say that local governments shall have some discretion as to whether a proposed development should be consistent with the Comprehensive Plan. Consistency with a Comprehensive Plan is therefore not a discretionary matter."** [Pinecrest Lakes, Inc. v. Shidel, 795 So.2d 191, 198 \(Fla. 4th DCA 2001\).](#)

Consistency with a Comprehensive Plan is therefore not a discretionary matter." [Pinecrest Lakes, Inc. v. Shidel, 795 So.2d 191, 198 \(Fla. 4th DCA 2001\).](#)

Might we close with how absolutely despicable the attempt to commandeering PP road right away for Carriage Houses' private use to stage their construction equipment, which Ziska told you all at the Dec. meeting was quite common in town! We have been in business 34 years in Town and have never once seen Town RRW used for a private construction staging, never. On top of it there is the insult of having the nerve to suggest cutting a temporary road thru the top half of Phipps Plaza Park it's self and have to be at the mercy of a Flagman to ingress and egress The Plaza. Never mind the insane disgusting proposal of rolling their garbage from their location on the South side of the Plaza across the only entrance to Historic Phipps Plaza across the entrance (that would be attractive) to the residential side under the 5 condo units on the North side of the Plaza, contrary to code which says garbage must be contained on their site. Unconscionable that the entire TC last month could listen to Ziska describe this garbage detail and no one objected, not even the Mayor the owner of many restaurants. Really, no one that this really odd, no one thought it the least offensive to the historic district or the property owners, to have restaurant garbage rolled across the only entrance to Historic Phipps Plaza, from a commercial restaurant to under the balconies of residential units....Really!! We think this says it all!

Sincerely yours,  
Lory and John Volk