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2018 DEC 28 PM 1:55 TOWN CLERK  
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December 28, 2018

**VIA HAND DELIVERY**

Town Clerk  
360 S. County Rd.  
Palm Beach, FL 33480



**FILE COPY**

Re: Administrative Appeal (Section 134-141, et. seq.): 1236 South Ocean Boulevard

Dear Sir or Madam:

This Firm represents 100 Emerald Beach Way LC. Please accept this appeal of an administrative decision or determination by an administrative official, pursuant to Town of Palm Beach Code Section 134-141, *et. seq.* Enclosed is the \$1500 filing fee for Appeal, administrative decision, set forth in the Master Fee Schedule. If you have any questions with regard to this filing, I can be reached at 305-733-2800.

Thank you in advance for your assistance.

LEHTINEN SCHULTZ PLLC

By:   
Amanda Quirke Hand, P.A.



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December 28, 2018

**VIA HAND DELIVERY AND  
ELECTRONIC MAIL**

Josh Martin  
Director, Planning, Building and Zoning Dept.  
360 S. County Rd.  
Palm Beach, FL 33480  
jmartin@townofpalmbeach.com

Paul Castro  
Zoning Administrator  
pcastro@townofpalmbeach.com



**FILE COPY**

Re: Administrative Appeal (Section 134-141, et. seq.): 1236 South Ocean Boulevard

Dear Messrs. Martin and Castro:

This Firm represents 100 Emerald Beach Way LC ("Abutting Neighbor"), owner of the property located at 100 Emerald Beach Way. Pursuant to Town of Palm Beach Code Section 134-141, *et. seq.*, this is an appeal of the administrative decision or determination by an administrative official. On or about December 13, 2018, the Town made an administrative determination that no special exception would be required for the construction of two tennis courts at 1236 South Ocean Boulevard. However, the Town administration does not have the authority or discretion to circumvent the Code requirements for a special exception for tennis courts<sup>1</sup> or for Supplemental Parking<sup>2</sup> in the R-AA zoning district, and therefore, Abutting Neighbor appeals. Abutting Neighbor is the immediate neighbor, is an aggrieved person, and is directly affected by the decision of the administrative official.

**The Application**

John L. Thornton and Margaret B. Thornton ("Applicants") filed an application for a special exception and site plan approval to permit "construction of two tennis courts and associated details including 10-12 feet high landscaping and fencing and small service parking area." (Ex. A, the "Special Exception Application.") The Special Exception Application (Z-18-00162) was actually scheduled for public hearing before the Town Council on January 9, 2019.

<sup>1</sup> § 134-1759 (e)

<sup>2</sup> § 134-790

However, on December 13, 2018, Applicants withdrew the Special Exception Application “based on the Town’s determination<sup>3</sup> that no special exception or site plan approval is required for the Applicant’s tennis courts.” (Ex. B). Subsequently, on December 19, 2019, Applicants submitted the same plans for ARCOM review for the “[a]ddition of two tennis courts. One court will be a hard court and the other a grass court. The courts will be surrounded by a fence approximately 10’ tall and various landscaping at or above the height of the fence. Additional landscaping will be provided to buffer courts accordingly. Separate staff parking area ~~will be~~ is also included.” (the “ARCOM Application,” Ex. C).

The reality is the two tennis courts and “separate staff parking area” are ALREADY CONSTRUCTED. There is no mention in either the Special Exception Application, nor the ARCOM Application, that this is actually a request for an after the fact approval for major construction without the required permits. Applicants, with the assistance of the Town administration, are attempting to avoid a special exception to be heard before the Town Council where these violations will be aired at a public hearing. It is evident that the Town and the Applicants are working together to make an end run at the lawsuit filed by Abutting Neighbor against them for constructing the tennis court without proper approval. (Ex. D).

#### **A Special Exception and Site Plan Review Are Mandatory for Tennis Courts**

The Code of the Town of Palm Beach does not give the Town administration the authority or discretion to decide that a special exception is not required because the Code is absolutely clear:

§ 134-1759 (e) The construction of any tennis court, shuffleboard court or similar use upon any structure in the town shall be subject to an application for special exception as specified in section 134-227 through section 134-233.

The subject property at 1236 South Ocean Blvd. is located in the R-AA zoning district. Several accessory uses are enumerated in the Town Code which are permitted without a special exception, including private nurseries, private greenhouses, private garages, private swimming pools, etc. § 134-788. Notably absent from the list of permitted accessory uses are private tennis courts. Therefore, as the zoning staff initially determined, a special exception must be required in accordance with § 134-1759, and the Town’s administrative determination that a special exception is not required is erroneous and must be reversed.

#### **A Special Exception and Site Plan Review Are Mandatory for Supplemental Parking**

Applicant has also illegally constructed a parking lot in an R-AA zoning district which requires a special exception. Although the Special Exception Application and the ARCOM Application casually refer to a “small service parking area” and a “separate staff parking area” respectively, such parking area also requires a special exception. Section 134-790(7) specifically states that all supplemental parking requires a special exception in the R-AA zoning district, and is “allowed only in a manner consistent with the zoning of the district in which it is located.” Supplemental parking is

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<sup>3</sup> Counsel for Abutting Neighbor has requested copies of the Town’s determination, but has not received a copy of any written determination as of the date of this Appeal.



defined as parking in addition to the required parking. § 134-2. The parking lot, which is ALREADY CONSTRUCTED AND BEING USED, holds at least ten (10) trucks. (Ex. E) Conspicuously absent from the plans is (a) the total number of parking spaces in the “small service parking area”; (b) any parking calculations whatsoever; and (c) the setback of the parking area from Emerald Beach Way. Supplemental parking in the R-AA zoning district can only be permitted by special exception. Therefore, the Town’s administrative determination that a special exception is not required is erroneous and must be reversed.

**The Town Council has Exclusive Jurisdiction to Grant or Deny Special Exceptions**

Most importantly, the Town Council is the entity vested with authority to grant or deny special exceptions:

§134-226 (a) The town council shall hear and decide special exceptions, decide such questions as are involved in determining if and when special exceptions should be granted, and grant special exceptions with appropriate conditions and safeguards or deny special exceptions when not in harmony with the purpose and intent of this chapter.

As stated in the Special Exception Application, the application must comply with the criteria for site plan review set forth in § 134-226, et. seq. and the requirements for granting a special exception set forth in §134-229. Furthermore, residents, including Abutting Neighbor, would be afforded the opportunity for due process at a public hearing on the Special Exception Application.

The Town’s administrative determination that a special exception is not required for tennis courts (a) is clearly contrary to § 134-1759 (e), which provides that a special exception is mandatory; (b) is clearly contrary to § 134-790, which specifically requires a special exception for Applicant’s parking lot; (c) illegally divests the Town Council of their exclusive jurisdiction and authority to decide whether to grant or deny the special exception; and (d) deprives residents, including Abutting Neighbor, of their due process right to appear and object at the public hearing, which was originally scheduled for January 9, 2019.

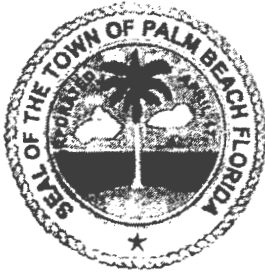
For these reasons and the reasons set forth in the Lawsuit (incorporated herein as part of this appeal), Abutting Neighbor appeals the Town’s administrative decision that a special exception is not required for two tennis courts and small service parking area at 1236 South Ocean Boulevard. Abutting Neighbor respectfully requests that this appeal be scheduled for hearing before the Town Council at the next available meeting in accordance with §134-141, et. seq.

Abutting Neighbor reserves all rights and remedies. Abutting Neighbor continues to object to the illegal construction of the two tennis courts, commercial parking area, and associated improvements at 1236 South Ocean Boulevard. Counsel for Abutting Neighbor has made a public records request for all documents and communications related to 1236 South Ocean Boulevard, and reserves the right to supplement this appeal accordingly.

Please govern yourselves accordingly.

LEHTINEN SCHULTZ PLLC

By:   
Amanda Quirke Hand, P.A.



**ZONING APPLICATION**  
TOWN OF PALM BEACH

7-18-00162  
(Zoning Case Number)

This application includes requests for:

- ☒ Site Plan Review  
☒ Special Exception  
☐ Variances

**TO BE HEARD BY THE TOWN COUNCIL ON JANUARY 9, 2019 AFTER 9:30 A.M., IN THE TOWN OF PALM BEACH COUNCIL CHAMBERS LOCATED ON THE 2<sup>ND</sup> 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.

Please be advised that the Town does not enforce private covenants or deed restrictions.

I. **SUBJECT ADDRESS:** 1236 South Ocean Blvd. Zoning District R-AA

Legal Description See Exhibit "A"

Fee Simple Property Owner's Name John L. Thornton and Margaret B. Thornton

Name and address of person who can receive service of process for purposes of litigation in Palm Beach County M. Timothy Hanlon, Alley, Mauss, Rogers & Lindsay, P.A., 340 Royal Poinciana Way, Suite 321, Palm Beach, FL 33480

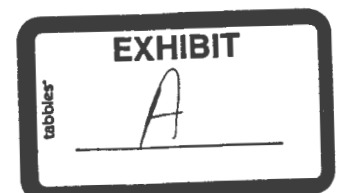
Applicants Name John L. Thornton and Margaret B. Thornton

Contact Phone (561) 659-1770

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 134-226: Town Council Powers.
2. Section 134-227: Town Council authorization, compliance and site plan review required.
3. Section 134-229: Requirements for granting.
4. Section 134-326: Purpose of review process; building permit denial pending approval; costs of extraordinary professional advice.
5. Section 134-1759: Tennis, shuffleboard and racquetball courts.



B. Description of request by Zoning Section Number(s):

1. **134-1759. Special Exception and Site Plan Approval requested to permit construction of two tennis courts and associated details including 10-12 feet high landscaping and fencing and small service parking area. One court will be a hard court and the other a grass court.**

III. **APPLICATIONS CONTAINING SITE PLAN REVIEW**

If the application contains Site Plan Review, 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 (Site Plan Review by Town Council as stated in the Town's Zoning Code at Section 134-329).

See Exhibit B and the plans prepared by Environment Design Group. The proposed tennis courts will be surrounded by fencing and landscaping between 10 and 12 feet high to screen the courts from the two contiguous neighbors and from the neighbor across the street. The Applicants' entire property is already screened by hedges and walls, and the courts have an additional layer of screening from within their property. The Applicants own the portion of Emerald Beach Way that passes through their property within the east and west boundaries and over which only the three residents of Emerald Beach Way have an ingress and egress easement. The south border of the portion of Emerald Beach Way that the Applicants own is screened with calophyllum and clusia (the north border of the Applicants' private road is between 11 and 15 feet south of the north boundary of their property). The proposed location of the tennis courts will have no negative impact on any neighbors and will not in any way create any additional burden on Town provided services. In fact, if the Applicants terminated the existing Unity of Title, the portion of Applicants' property on which the courts are to be located qualifies as a single family lot in the R-AA zoning district, and a large home, swimming pool and accessory structure could be built on the property. As a result, the proposed use decreases the potential burden on the neighbors and the Town Services.

IV. **APPLICATIONS CONTAINING SPECIAL EXCEPTIONS**

If the application contains requests for Special Exceptions, complete **Exhibit C**, and briefly describe below the reasons why such application should be approved. This explanation should be a summary of information provided in Exhibit C (Requirements for granting Special exceptions by the Town Council as stated in the Town's Zoning Code at Section 134-229).

The tennis courts are a permitted special exception use under the Zoning Code, and multiple neighbors have existing tennis courts. The tennis courts represent a less intense use and lower impact on the neighbors and the Town versus a new single family residence, swimming pool and accessory structure which are allowed if the Unity of Title were terminated (In 2007, ARCOM and Town Council approved a 13,789 sq. ft. home on this portion of property when it was known as 200 Emerald Beach Way). In addition, the courts will be well screened through attractive landscaping and fencing, and the potential massing and size of a single family home would create dramatically more impact on the neighbors and Town services versus the courts. See the attached plans prepared by Environmental Design Group, which show landscaping at 10-12 feet in height; a 10 foot high fence surrounding the courts and screened by 10-12 foot (at least) Areca palms. Density is also reduced, which is a goal under the Town's comprehensive plan.

In addition,

- on the east boundary of the property, there is a wall over 6 feet on top of which is a ficus hedge of over 10 feet (so combined height over 16 feet);
- on the north boundary, there is a hedge of ficus and hibiscus approximately 12 feet high;
- on the west boundary, there is a wall of over 6 feet bordered by 10-12 foot palms;
- and to the south, the Applicants' property extends over 300 feet with a garden dense with trees over 25-30 feet.

V. APPLICATIONS CONTAINING VARIANCES

If the application contains requests for variances, please respond to the questions below, and complete **Exhibit D** (Findings for authorizing a variance as stated in the Town's Zoning Code at Section 134-201).

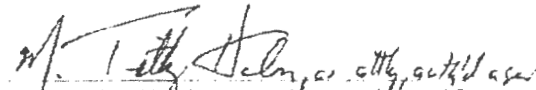
N/A

- a. Applicants 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 D.
- b. Applicants should address how granting of a variance for these special conditions will not be contrary to the public's interest.

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. This information should be attached as **Exhibit E - SITE HISTORY**.

Respectfully submitted,

  
M. Timothy Hanlon, as attorney/agent for  
John L. Thornton and Margaret B. Thornton

Applicants' Signature

M. Timothy Hanlon  
Alley, Maass, Rogers & Lindsay, P.A.  
Attorney/Agent for Property Owner  
340 Royal Poinciana Way, Suite 321  
Palm Beach, FL 33480  
(561) 659-1770

  
M. Timothy Hanlon, as attorney/agent for  
John L. Thornton and Margaret B. Thornton

Fee Simple Property Owner's Signature  
(or his/her duly authorized attorney)

c/o M. Timothy Hanlon  
Alley, Maass, Rogers & Lindsay, P.A.  
340 Royal Poinciana Way, Suite 321  
Palm Beach, FL 33480  
(561) 659-1770

**EXHIBIT A - LEGAL DESCRIPTION**

**Parcel 1:**

Being that part of the South 300 feet of the North 649 feet of Government Lot 1 in Section 2, Township 44 South, Range 43 East, Palm Beach County, Florida, lying between the waters of the Atlantic Ocean and the center line of Ocean Boulevard. Subject to the right-of-way of Ocean Boulevard.

and

**Parcel 2:**

Lot 2, REPLAT OF THE REPLAT OF THE EMERALD, according to the Plat thereof, recorded in Plat Book 45, Page 177, of the Public Records of Palm Beach County, Florida.



**EXHIBIT B – 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 proposed tennis courts and landscaping are all within the Applicants' property and there are no common elements applicable to this property. The courts and landscaping will be maintained to the same high standard as the balance of the Applicants' property is maintained.

2. Intensity of use and/or purpose of the proposed development in relation to adjacent and nearby properties and the effect thereon.

The intensity of use and purpose of the tennis courts are both dramatically less impactful than what is permitted under the Zoning Code. The portion of Applicants' property on which the courts are proposed qualifies as a single family lot, and a new home, swimming pool and accessory structure could all be constructed in lieu of the courts. In 2007, both ARCOM and Town Council approved the construction of a 13,789 sq. ft. single family residence on said portion (and none of the current neighbors objected), which is a much more intense use and represents dramatically more size and massing than two unlighted, heavily screened tennis courts.

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.

The proposed improvements do not affect ingress, egress or Town services in any way. Access to Applicants' property is already provided from the main entrance on S. Ocean Blvd. and also from Emerald Beach Way. Most of Emerald Beach Way is owned by Applicants, which is a private ingress/egress easement located on Applicants' property and owned by Applicants and which serves only three property owners. The portion of Emerald Beach Way not owned by the Applicants is owned by SMM Realty, LLC over which the Applicants have an ingress and egress easement. Mr. Maoli, the owner of SMM Realty, has written a letter in support of the Applicants' application for the addition of two tennis courts. The owners of 100 Emerald Beach Way merely possess an easement to use Emerald Beach Way solely for ingress and egress to its property. The proposed use actually reduces the impact on Town Services and traffic because density is reduced.

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.

No new traffic will result because use is only by the Applicants' family and guests. All parking for Applicants' property is on-site. Access is already existing through S. Ocean

Blvd. (main entrance) and through the portion of Emerald Beach Way owned by SMM Realty over which Applicants have an ingress/egress easement. Again, parking impact is actually reduced as compared to the alternative of construction of a new single family residence.

5. Proposed screens and buffers to preserve internal and external harmony and compatibility with uses inside and outside the property boundaries.

**See Landscape Plan for landscape screening. The proposed new fencing and landscaping are between 10 and 12 feet in height and will provide excellent screening from the neighbors' properties and the private ingress/egress easement at the north end of their property. Specifically, landscape and buffering will include a 10 foot high fence around the courts, enclosed by 10-12 foot Areca Palms.**

**In addition:**

- on the east boundary of the property, there is a wall over 6 feet on top of which is a ficus hedge of over 10 feet (so combined height over 16 feet) ;
- on the north boundary, there is a hedge of ficus and hibiscus approximately 12 feet high;
- on the west boundary, there is a wall of over 6 feet bordered by 10-12 foot palms;
- and to the south, the Applicants' property extends over 300 feet with a garden dense with trees and palms over 25-30 feet.

**In addition, within the Applicants' property there is an additional layer of screening along the south border of their privately owned road (which is within their property boundaries). With the exception of the easternmost oceanfront property boundary, which is unrelated to this application, all boundaries have walls and hedges in excess of ten feet.**

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.

**See the attached drainage plan prepared by Gruber Consulting Engineers, Inc. All drainage required under the Zoning Code is provided.**

7. Utilities, with reference to hook-in locations and availability and capacity for the uses projected.

**Utilities are fully available to the property. No demand for new services is created by the proposed use. The courts will not be lighted**

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.

**The tennis courts meet all open space and landscape requirements and will actually lead to far greater open space than what would be created if a new single family home were constructed.**

9. Such other standards as may be imposed by this chapter for the particular use or activity involved.

**No other standards apply to the tennis court use.**

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 tennis courts will be for the use of Applicants' family and guests and will not be commercial structures.**

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 tennis courts will greatly reduce size, mass and bulk as compared to the result had a new single family residence been constructed (especially compared to the 13,789 sq. ft. residence approved in 2007). No buildings are proposed, and the courts will be well landscaped and screened. No impact will result to pedestrians or drivers as no additional traffic will result. The access to the tennis courts is through an ingress egress easement over SMM Realty's privately owned road and thus its entrance does not abut a public roadway. The property has three neighbors all of whose properties are well screened: to the east, there is a wall over 6 feet high on top of which is a hedge over 10 feet tall (combined height over 16 feet); to the north, there are two layers, the 12 foot tall hedge along the northern boundary and a second hedge bordering the Applicants' private road along its southern edge which will exceed ten feet; and to the west, there is a wall of 6'8" with a hedge of palms over 10 feet high. The visual impact of the tennis courts will be well screened and the result will be softer and significantly less impactful than the homes of surrounding neighbors. Obviously, the height and mass of the tennis courts are dramatically less than the neighboring homes or a new home if constructed there. See attached plans prepared by Environment Design Group.

**EXHIBIT C - 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.

**Tennis courts are permitted special exception uses per Section 134-1759 of the Zoning Code.**

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

The design, location and operation of the tennis courts will protect the public health, safety, welfare and morals because the use is typical in the neighborhood and sound and views will be extremely limited due to the landscaping and fencing to serve as screening and buffering. Specifically landscape and buffering will include a 10 foot high fence around the courts, enclosed by 10-12 foot Areca Palms.

In addition:

- on the east boundary of the property, there is a wall over 6 feet on top of which is a ficus hedge of over 10 feet (so combined height over 16 feet) ;
- on the north boundary, there is a hedge of ficus and hibiscus approximately 12 feet high;
- on the west boundary, there is a wall of over 6 feet bordered by 10-12 foot palms;
- and to the south, the Applicants' property extends over 300 feet with a garden dense with trees and palms over 25-30 feet.

Further, the use as a tennis court reduces density and mass which would result had a separate house, pool and accessory structure be constructed on the lot, which are all permitted under the Zoning Code if the Unity of Title were terminated.

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

The use as tennis courts will not cause any substantial injury to the value of other properties because density is reduced and attractive sight screening is included. Open space will be increased, which is valued in the real estate industry. The neighbors are receiving the benefit of Parcel 2 remaining as open space (see Section 134-1759, which does not count tennis courts under the lot coverage calculation) versus the massive almost 14,000 sq. ft. residence previously approved by the Town.

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

Tennis courts are permitted special exception uses, and several neighbors in the vicinity also have tennis courts. Furthermore, the Applicants' property is unusual in its large acreage (approximately 6 acres) and as such can easily accommodate a hard tennis court and a grass tennis court without creating any negative impact on the neighbors or the Town.



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

**Yes. No variances are requested. The courts fully comply with all Zoning Code requirements.**

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

**The use is permitted and desired under the Town's comprehensive plan. Further, density is reduced by unifying this single family property with the main residence property and using it as a tennis court, which meets a goal of the Town's 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.

**The tennis courts will not result in substantial economic, noise, glare, or odor impacts on adjoining properties and properties generally in the district because the courts will not have lighting and the proposed landscaping and fencing will prevent all of such impacts. In addition, density will be reduced and open space will be increased, both of which provide a positive impact on adjoining properties and other properties in this 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.

**Emerald Beach Way is a private road, the eastern portion of which is owned by the Applicants and the western portion by SMM Realty over which the Applicants have an ingress and egress easement. Applicants own the portion of Emerald Beach Way that lies immediately north of the proposed tennis courts and none of Emerald Beach Way lies on the 100 Emerald Beach Way property. As a result, the street yard setback for the courts is actually increased and provides additional buffer. A parking area for staff is also proposed between the courts and Emerald Beach Way, but the use will not create any additional parking or traffic demand because the courts are for use only by Applicants' family and guests. In addition, the owner of the property immediately to the west, SMM Realty, (Tom Maoli), has written a letter of support for the Applicants' proposed addition of two tennis courts.**

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.

**No signs are proposed.**

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

**All utilities are available to the property. No new utility service is required.**

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.

**There is an existing designated refuse area on the Applicants' property, a feature supported by Public Works, so there is no need for refuse on the street, absent abnormal**

circumstances. Use of the proposed tennis courts will have no adverse affect on the Emerald Beach Way ingress/egress easement located on Applicants' property or on the SMM Realty property over which the Applicants have an ingress/egress easement because use is only for Applicants' family and guests and the use as tennis courts will not create any additional demand for refuse and service areas. As a result, safety, convenience, traffic flow and control and access for Town emergency services will be unaffected.

12. In all districts except the C-OP1 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 Applicants 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 Applicants' 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 Applicants to demonstrate to the satisfaction of the town council that the special exception use is continuing to be town-serving.

**This section does not apply to Applicants' request as the use is residential only.**

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.

**No historic/specimen trees exist in the proposed location of the tennis courts.**

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.

**No increased traffic or fire protection services will result from the use as tennis courts. In fact, the use as private tennis courts will reduce the potential burden on municipal police or fire services as compared to the demand that would result if the property were developed as a new single family residence, swimming pool and accessory structure, which are all permitted under the Zoning Code.**

**EXHIBIT D - REQUEST FOR VARIANCE**

N/A

**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.
2. Indicate how the special conditions and circumstances do not result from the actions of the applicant.
3. Demonstrate that the granting of the variance will not confer on the Applicants any special privilege that is denied by this ordinance to other lands, buildings or structures in the same zoning district.
4. Demonstrate how literal interpretation of this ordinance would deprive the Applicants 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.
5. Demonstrate that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
6. For granting of a variance to sections 134-387, or 134-390 through 134-392, pertaining to the regulation of nonconforming uses, the following additional findings must be demonstrated: pertaining to the nonconforming use for which the variance is requested:
  - a. It is the continuance of a unique hotel or residential use that has, for at least 15 years proven compatible with the surrounding uses; and
  - b. Neither rezoning to a district which would allow the use, nor inclusion of the subject use as a permitted or special exception use in the district would act to achieve the preservation of the subject use without opening the possibility of the incursion of uses incompatible with the immediately surrounding area and, further, such variance shall
    1. Be granted only for the continuation of the same hotel or residential use; and,
    2. Require the Applicants to submit a declaration of use limiting the utilization of the property for which the variance was granted to the same use as that existing at the time the variance was granted.
7. 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.

**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.

**Parcel 1:**

- 10/12/93: Variance #55-93. Town Council approved the following variances:
- a). Establish the point of measurement for building height at elevation 22.5 feet in lieu of elevation 7.5 feet as required;
  - b). Allow kitchen facilities in the guest house and staff residence with the provision that the owner execute a typical kitchen removal agreement;
  - c). Allow a building height of 27'6" in lieu of 25 feet allowed. The overall building height will be 35 feet as allowed; and
  - d). Allow entrance walls, gateposts and gates to be constructed as shown, but no more than 8 feet for walls and 14 feet for gates and gateposts.

**Parcel 2:**

- 1/85: The Town changed the name of Woods Rd. to Emerald Beach Way
- 6/19/07: SPR #10-2007. Town Council approved the site plan for the construction of a 13,789 sq. ft. single family residence.

**Both Parcels:**

- 12/29/16 Unity of Title Agreement recorded, which requires that 1236 S. Ocean Blvd. and the property formerly known as 200 Emerald Beach Way be unified in title as one single parcel as long as the Unity is in effect.



**EXHIBIT F – 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:**                      **N/A**

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: \_\_\_\_\_

**RESIDENTIAL PROPERTIES MUST:**

PROVIDE NUMBER OF OFF-STREET PARKING SPACES AVAILABLE ON THE SUBJECT  
PROPERTY: 0 off-street parking spaces are needed or used.

PROVIDE NUMBER OF EMPLOYEES/STAFF PER SHIFT: 5

INDICATE LOCATION WHERE EMPLOYEES/STAFF PARK OFF-SITE: Service driveway.  
The proposed plan includes a new parking area for staff, which will also be used  
for staff parking.

1236 S. Ocean Blvd.

### Bath & Tennis Club

1170

1170

Year	Number of people
2000	300
2001	400
2002	200
2003	300
2004	100
2005	200

Emerald Beach Way 100

1220  1230

1236

1255  
S Ocean Blvd  
70  
Blossom Way  
10 60

1275

1290  
Florida State Ro  
5821

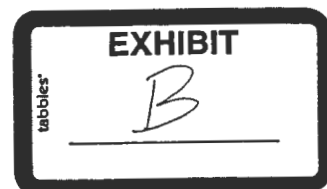


**NOTICE OF APPLICATION WITHDRAWAL**

December 13, 2018

Re: 1236 South Ocean Boulevard

Application Z-18-00162 has been withdrawn based on the Town's determination that no special exception or site plan approval is required for the Applicant's tennis courts. ARCOM approval is still required.



Z-18-00162 Termination  
Zoning Case Number

1236 S. Ocean Blvd.  
Property Address

### AFFIDAVIT OF NOTICE MAILING

STATE OF FLORIDA

COUNTY OF PALM BEACH

Before me this day personally appeared M. Timothy Hanlon who, being duly sworn deposes and says:

1. He/she is the owner, or the owner's authorized agent, of the real property legally described in Exhibit A contained within the Zoning Application Case number as referenced above, and;
2. The accompanying Property Owners List is to the best of his/her knowledge a complete and accurate list of all property owners' mailing addresses and property control numbers dated no more than 90 days prior to the Town Council hearing at which the subject application will be heard. The list of property owners is based on the latest official tax records for the subject property and all other property within three hundred (300) feet of the real property wholly or in part as described in Exhibit A, and;
3. Each envelope, along with any required certified mail receipts and return receipts, was prepared for mailing using the labels provided by the Property Appraiser's Office, and;
4. Each envelope included the zoning case # and Town of Palm Beach, Planning, Zoning and Building Department, PO Box 2029, Palm Beach, FL 33480 as the return address, and;
5. Each envelope contained the complete application along with any other documentation as outlined in the Zoning Application Procedures; and;
6. Each envelope bears a postmark date which was no later than 4 days after the submittal deadline; postmark date: 12/13/18, in compliance with all applicable legal NOTICE REQUIREMENTS.
7. Failure to submit this affidavit (along with validated certified mail receipts) to the Zoning Administrator a **MAXIMUM OF FIVE (5) DAYS AFTER THE SUBMITTAL DEADLINE** date will result in the deferral of the project.

FURTHER AFFIANT SAYETH NOT.

SIGNATURE OF AFFIANT: M. Timothy Hanlon

PRINTED NAME OF AFFIANT: M. Timothy Hanlon

Sworn to and subscribed before me this 13<sup>th</sup> day of November, 2018

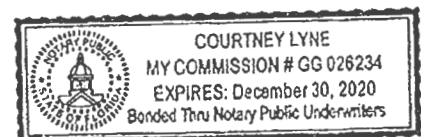
Courtney Lyne  
SIGNATURE OF NOTARY PUBLIC

Print, Type or Stamp Commissioned Name of Notary Public: Courtney Lyne

Affiant is personally known to Notary Public X OR Affiant produced Identification \_\_\_\_\_ and if so,  
Type of Identification Produced: \_\_\_\_\_

Rev 6/15/2017

Date stamp when received by PZB:



**RECEIVED**  
By Kelly Churney at 3:04 pm, Dec 13, 2018





**TOWN OF PALM BEACH**  
Planning, Zoning & Building Department  
360 S. County Rd.  
Palm Beach, FL 33480

Additions to the original  
application are underlined and  
deletions are lined through

**APPLICATION FOR PROJECT REVIEW BY THE ARCHITECTURAL REVIEW COMMISSION**

Application Number: 8-046-2017 (Revised) Date: 5/24/17 (Original)  
12/13/18 (Revised)

Application Type:

<input checked="" type="checkbox"/>
<input type="checkbox"/>

Major  
Minor

<input type="checkbox"/>
<input type="checkbox"/>

Combination\*  
Minor with notice

\*If Town Council review required, include Zoning Application Number: N/A

- I. PROJECT ADDRESS: 1236 S. Ocean Blvd.
- 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.

Addition of two tennis courts. One court will be a hard court and the other a grass court. The courts will be surrounded by a fence approximately 10' tall and various landscaping at or above the height of the fence. Additional landscaping will be provided to buffer courts accordingly. Separate staff parking area will be is also included.

Number of Stories: \_\_\_\_\_ Roof Material (type): \_\_\_\_\_

Const. Type: CBS: \_\_\_\_\_ Frame: \_\_\_\_\_ Colors: Building: \_\_\_\_\_ Roof: \_\_\_\_\_

Trim: \_\_\_\_\_ Shutters: \_\_\_\_\_ \*this information to be included on the cover sheet of the ARCOM plans

III. DESIGN PROFESSIONAL(S):

<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>

Architect  
Landscape Architect  
Other: \_\_\_\_\_

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Design Consultant  
Engineer  
Check if you are an ARCOM member and this project will result in a voting conflict for you.

Name of Professional: Dustin Mizell / Environment Design Group License #: RLA#6666784

Phone number: 561-832-4600 Email address: dustin@environmentdesigngroup.com

IV. OWNER/AGENT INFORMATION:

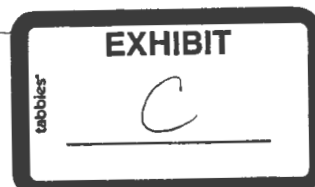
Property Owner's Name: John L. Thornton and Margaret B. Thornton

Owner's Address (if different from Subject Address): c/o M. Timothy Hanlon

340 Royal Poinciana Way, Suite 321, Palm Beach, FL 33480 Phone number: 561-659-1770

Signature (owner or owner's legally authorized agent\*): M. Timothy Hanlon, as Atty/Agent  
\*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) M. Timothy Hanlon, as Attorney and Agent





ARCOM # B-046-2017 (Revised)

# **NOTICE AFFIDAVIT**

STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME THIS DAY PERSONALLY APPEARED M. Timothy Hanlon  
WHO BEING DULY SWORN, DISPOSES AND SAYS THAT:

- 1) He/She is the owner, or the owner's authorized agent\*, of the real property legally described in the Architectural Commission Application.
- 2) The accompanying Property Owners List is, to the best of his/her knowledge, a complete and accurate list of all property owners' mailing addresses and property control numbers dated no later than 90 days prior to the Architectural Commission hearing at which the subject application will be heard, and as recorded in the last official tax rolls for the subject property and all other properties within **two hundred fifty (250) feet** of the real property as described in the Application for Architectural Review, or all property within **two hundred fifty (250) feet** of all contiguous property owned wholly or in part by the owner of the real property described in the Application for Architectural Review.
- 3) A copy of the ARCOM application, a Notification to Property Owners and a single page graphic depiction showing a building and landscaping elevation of the intended project will be included in each envelope mailed to surrounding property owners, and will be mailed **at least 30 days prior** to the ARCOM meeting using the labels provided by the Property Appraiser's Office (unless this is a combo notice).

## **FURTHER AFFIANT SAYETH NOT.**

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of December, 2018, by  
Month/Year

M. Timothy Hanlon who is personally known to me or who has produced  
(Name of person acknowledging)

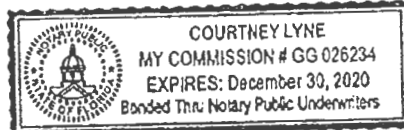
\_\_\_\_\_ as identification.  
(type of identification)

M. Timothy Hanlon  
Applicant's (or Agent's\*) Signature

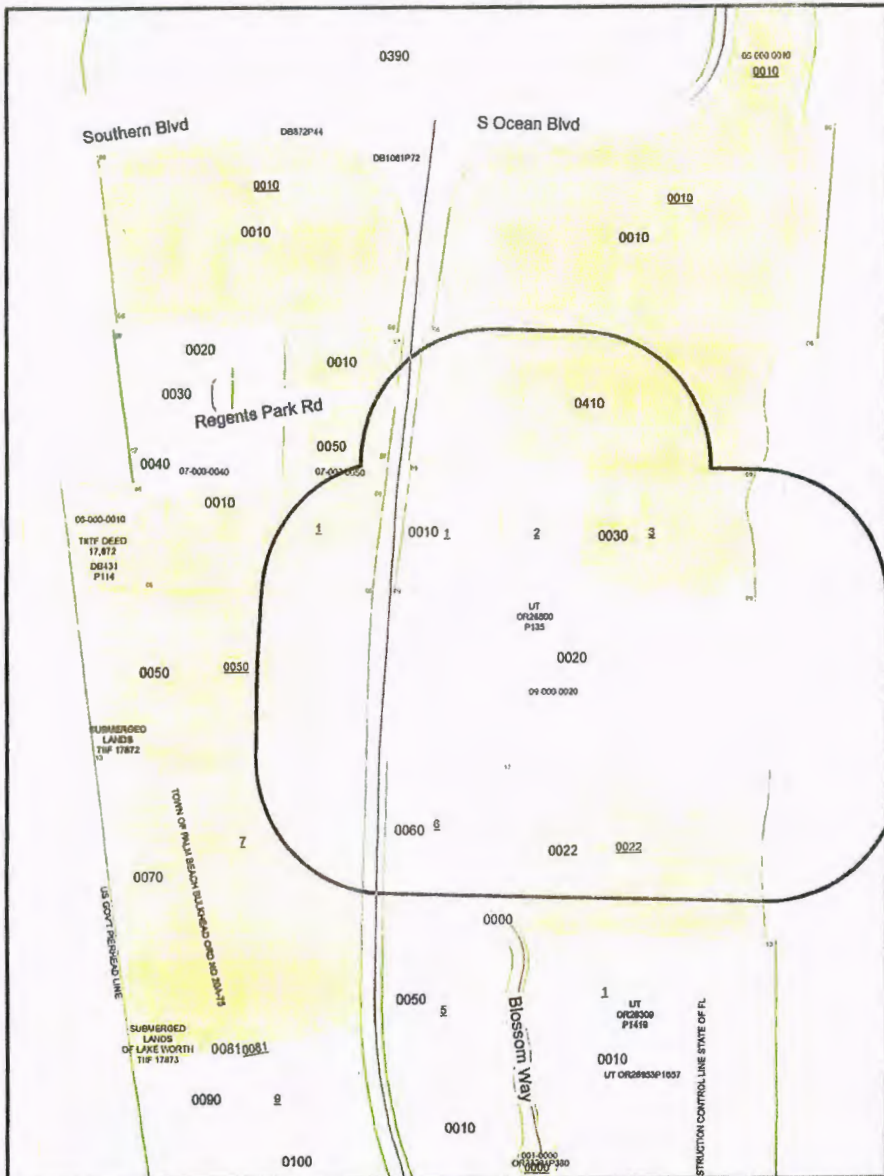
Courtney Lyne  
Notary as to Owner or to Authorized Agent

M. Timothy Hanlon  
Applicant's (or Agent's) Printed Name  
340 Royal Poinciana Way, Suite 321  
Palm Beach, FL 33480  
Applicant's (or Agent's\*) Address

My Commission Expires: \_\_\_\_\_



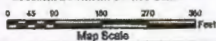
\*If Agent, you must attach a Power of Attorney or Authorization from the Property Owner.



Dorothy Jacks, CFA  
Palm Beach County  
Property Appraiser

Notes:

Location: Downtown Service Center



Key

Selected Parcels 100 300 500  
Others 200 400

Produced on: 12/10/2018

Property Appraiser GIS - Property Detail list by parcel control number
--

## Buffer:

50434402090000020	Acres 5.90	Sales Instr	QC	MTG	EMERALD REPIAT OF REPIAT
THORNTON JOHN L &	Value \$ 79,636,971.00	Price \$ 10.00		PUSE SINGLE FAMILY	LT 2 &
PO BOX 3163	Taxbl \$ 53,001,218.00	Date 4/17/2008		TaxDist 50447	2-44-43, S 300 FT OF N 649 FT OF GOV LT 1
	Bldg \$ 10,688,935.00	Book 27587			
PALM BEACH FL 33480 1363	Land \$ 68,948,036.00	Page 1568		NAV	

## Buffer: 250

50434335000000410	Acres 3.58	Sales Instr	WD	MTG	35-43-43, S 135 FT OF GOV LT 2 E OF CO RD, 2-44-43, N 99 FT
GRFENE JEFFREY &	Value \$ 45,159,055.00	Price \$ 24,000,000.00		PUSE SINGLE FAMILY	OF GOV LT 1 E OF CO RD
1200 S OCEAN BLVD	Taxbl \$ 40,552,357.00	Date 12/3/2009		TaxDist 50417	
	Bldg \$ 11,863,048.00	Book 23589			
PALM BEACH FL 33480 5000	Land \$ 33,296,007.00	Page 1979		NAV	

50434335060000010	Acres 11.70	Sales Instr		MTG	P B CAUSEWAY PARK REVISED PLAT LOTS A TO M INC (LESS CO RD
BATH & TENNIS CLUB INC	Value \$ 23,700,000.00	Price \$		PUSE CLB/LDG/UN HAI L	R/W) & N 707 FT OF S 767 FT OF GOV LT 2 LYG F & ADJ TO OCFAN
1170 S OCEAN BLVD	Taxbl \$ 20,843,730.00	Date		TaxDist 50417	BLVD
	Bldg \$ 0.00	Book			
PALM BEACH FL 33480 5004	Land \$ 0.00	Page		NAV	

50434335070000010	Acres 0.51	Sales Instr	WD	MTG	REGENTS PARK LT 1
MURRY PAUL THOMAS &	Value \$ 5,043,619.00	Price \$ 4,250,000.00		PUSE SINGLE FAMILY	
100 REGENTS PARK RD	Taxbl \$ 3,903,571.00	Date 9/16/2011		TaxDist 50417	
	Bldg \$ 1,708,674.00	Book 24755			
PALM BEACH FL 33480 5009	Land \$ 3,334,945.00	Page 1665		NAV	

50434335070000050	Acres 0.71	Sales Instr	WD	MTG	REGENTS PARK
JANKOWSKY JOEL &	Value \$ 6,268,279.00	Price \$ 10.00		PUSE SINGLE FAMILY	LT 5 &
1333 NFW HAMPSHIRE AVE NW STE 400	Taxbl \$ 6,268,279.00	Date 1/20/2017		TaxDist 50417	2-44-43, S 50 FT OF N 149 FT OF E 200 FT OF GOV LT 1 LYG W
	Bldg \$ 1,673,688.00	Book 78877			
WASHINGTON DC 20036 1532	Land \$ 4,594,591.00	Page 1181		NAV	



Property Appraiser GIS - Property Detail list by parcel control number
--

50434402000010022 MCCOURT FRANK 60 BLOSSOM WAY  PALM BEACH FL 33480 5002	Acres 3.59 Value \$ 69,604,832.00 Taxbl \$ 69,554,832.00 Bldg \$ 13,471,552.00 Land \$ 56,133,280.00	Sales Instr WD Price \$77,060,000.00 Date 4/5/2017 1 Book 29000 Page 53	MTG PUSF SINGLE FAMILY TaxDist 50447  NAV	2-44-43, TH PT OF GOV LT 1 LYGE OF OCEAN BLVD AS IN OR3752 P1353
50434402000010050 AUDUBON SOCIETY OF THE EVERGLADES INC PO BOX 16914  WEST PALM BEACH FL 33416 6914	Acres 3.76 Value \$ 1,015.00 Taxbl \$ 0.00 Bldg \$ 0.00 Land \$ 1,015.00	Sales Instr Price \$ Date Book Page	MTG PUSE OUTDR REC/PARK LAND TaxDist 50447  NAV	2-44-43/34 43-43 S 300 FT OF N 649 FT OF GOV LT 1 LYG W OF OCEAN BLVD & TR IN DB431P114 (LESS TR IN DB887P451) & TH PT OF SUBMRG LANDS ADJ THERETO WITHIN
50434402090000010 SMM REALTY LLC 130 ROUTE 10  WHIPPANY NJ 07981 2107	Acres 0.97 Value \$ 9,302,835.00 Taxbl \$ 8,368,467.00 Bldg \$ 1,329,794.00 Land \$ 7,973,041.00	Sales Instr WD Price \$6,820,000.00 Date 3/20/2007 Book 215B1 Page 5	MTG PUSE SINGLE FAMILY TaxDist 50447  NAV	EMERALD REPLAT OF REPLAT LT 1
50434402090000030 100 EMERALD BEACH WAY 350 ROUND HILL RD  GREENWICH CT 06831 3343	Acres 2.01 Value \$ 43,286,465.00 Taxbl \$ 43,286,465.00 Bldg \$ 6,827,167.00 Land \$ 36,459,298.00	Sales Instr DT Price \$17,528,000.00 Date 5/15/2002 Book 13715 Page 1153	MTG PUSE SINGLE FAMILY TaxDist 50447  NAV	EMERALD REPLAT OF REPLAT LT 3
50434402100000060 CPPB HOLDINGS LLC 131 S DEARBORN ST  CHICAGO IL 60603 5517	Acres 1.45 Value \$ 14,372,498.00 Taxbl \$ 14,372,498.00 Bldg \$ 2,068,206.00 Land \$ 12,304,292.00	Sales Instr WD Price \$15,250,000.00 Date 6/29/2015 Book 27640 Page 36	MTG PUSE SINGLE FAMILY TaxDist 50447  NAV	BLOSSOM ESTATE REPL. LT 6
50434402100000070 PETERFFY THOMAS P 1255 S OCEAN BLVD  PALM BEACH FL 33480 5008	Acres 5.98 Value \$ 37,075,424.00 Taxbl \$ 37,075,424.00 Bldg \$ 6,264,644.00 Land \$ 30,810,780.00	Sales Instr DT Price \$22,660,000.00 Date 4/8/2011 1 Book 24453 Page 539	MTG PUSE SINGLE FAMILY TaxDist 50447  NAV	BLOSSOM ESTATE REPL LT 7 & LT 8 (LESS S 7.50 FT)

**Property Appraiser GIS - Property Detail list by parcel control number**

50434402100010000	Acres 0.58	Sales Instr	MTG	BLOSSOM ESTATE REPI	PRIVATE RD K/A BLOSSOM WAY
BLOSSOM EST HMOOWNERS ASSN INC	Value \$ 0.00	Price \$	PUSE RESIDENTIAL COMMON AR		
505 5 FLAGLER DR STE 1002	Taxbl \$ 0.00	Date	TaxDist 50447		
	Bldg \$ 0.00	Book			
WEST PALM BEACH FL 33401 5349	Land \$ 0.00	Page	NAV		

Town of Palm Beach  
Planning, Zoning & Building Dept.  
360 South County Road  
P.O. Box 2029  
Palm Beach, FL 33480  
B-046-2017

SAMPLE



**TOWN OF PALM BEACH**  
Planning, Zoning & Building Department  
360 S. County Rd.  
Palm Beach, FL 33480

Additions to the original  
application are underlined and  
deletions are lined through

**APPLICATION FOR PROJECT REVIEW BY THE ARCHITECTURAL REVIEW COMMISSION**

Application Number: B-046-2017 (Revised) Date: 5/24/17 (Original)  
12/13/18 (Revised)

Application Type:

☒

Major  
Minor

☐

Combination\*  
Minor with notice

\*If Town Council review required, include Zoning Application Number: N/A

I. PROJECT ADDRESS: 1236 S. Ocean Blvd.

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.

Addition of two tennis courts. One court will be a hard court and the other a grass court. The courts will be surrounded by a fence approximately 10' tall and various landscaping at or above the height of the fence. Additional landscaping will be provided to buffer courts accordingly. Separate staff parking area will be is also included.

Number of Stories: \_\_\_\_\_ Roof Material (type): \_\_\_\_\_

Const. Type: CBS: \_\_\_\_\_ Frame: \_\_\_\_\_ Colors: Building: \_\_\_\_\_ Roof: \_\_\_\_\_

Trim: \_\_\_\_\_ Shutters: \_\_\_\_\_ \*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: Dustin Mizell / Environment Design Group License #: RLA#6666784

Phone number: 561-832-4600 Email address: dustin@environmentdesigngroup.com

IV. OWNER/AGENT INFORMATION:

Property Owner's Name: John L. Thornton and Margaret B. Thornton

Owner's Address (if different from Subject Address): c/o M. Timothy Hanlon

340 Royal Poinciana Way, Suite 321, Palm Beach, FL 33480 Phone number: 561-659-1770

Signature (owner or owner's legally authorized agent\*): M. Timothy Hanlon, as Atty/Agent  
\*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) M. Timothy Hanlon, as Attorney and Agent



## Town of Palm Beach Notification to Property Owners

### Architectural Review Commission Project Notice

TO BE HEARD BY THE ARCHITECTURAL REVIEW COMMISSION ON January 23, 2019  
AFTER 9:00 A.M., in the Town of Palm Beach Council Chambers located on the 2<sup>nd</sup> 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-046-2017 (Revised)

Address: 1236 S. Ocean Blvd.

Applicant: John L. Thornton and Margaret B. Thornton

Project Description: Addition of two tennis courts. One court will be a hard court and the other a grass  
court. The courts will be surrounded by a fence approximately 10' tall and various landscaping at or  
above the height of the fence. Additional landscaping will be provided to buffer courts accordingly.  
Separate staff parking area is also included.

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](http://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](http://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 John Lindgren, Planning Administrator at 561-227-6414 or [jlindgren@townofpalmbeach.com](mailto:jlindgren@townofpalmbeach.com).



11.14.2018
   
 11.14.2018

Private Residence
   
 1256 South Ocean Boulevard
   
 Palm Beach

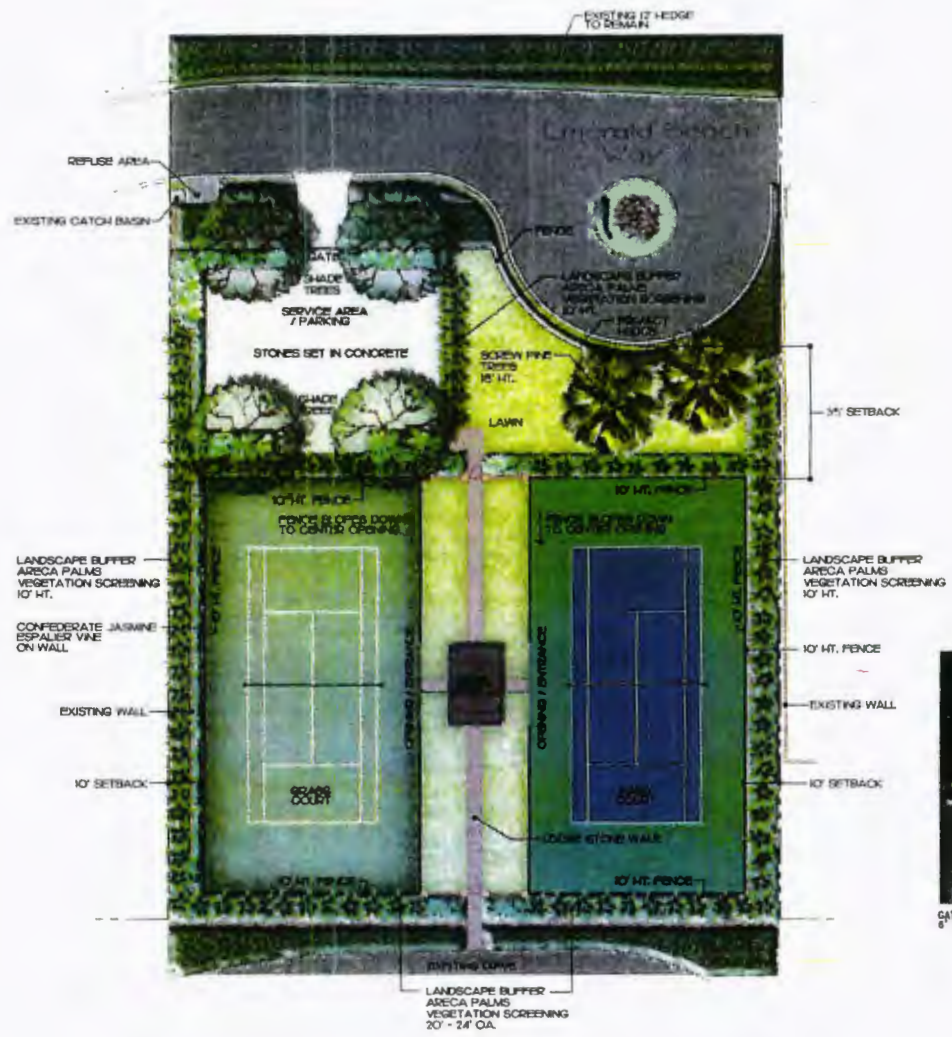


JOB NUMBER: 17018-00 CA
   
 DRAWN BY: [Signature]
   
 DATE: 05.18.2017
   
 ARCON SUBMITTAL: 05.24.2017
   
 REVISED ARCON SUBMITTAL: 06.07.2017
   
 REVISIONS: 11.14.2018

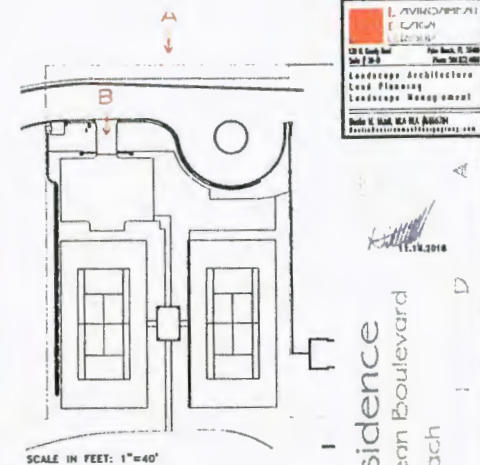
B-046-2017



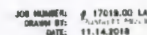
Garden Plan
   
 SCALE IN FEET 0' 16' 52' 48'







Private Residence  
12365 South Ocean Boulevard  
Palm Beach



B-046-2017

SCALE IN FEET 0' 8' 16' 24'



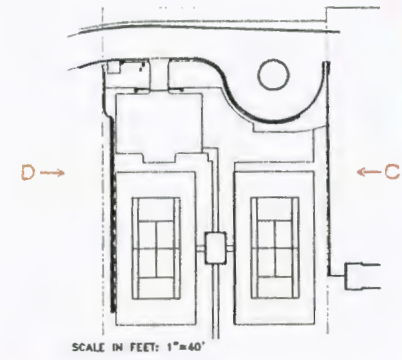
L. T. VANCE, INC.  
 L.A. 17018-02  
 1300 South Beach Blvd.  
 Suite 100, Torrance, CA 90501  
 Phone: (310) 201-1000  
 Fax: (310) 201-1001  
 Landscape Architecture  
 Land Planning  
 Landscape Management  
 Betsy H. Vance, M.S., M.P., P.L.A.  
 Betsy@lancevance.com

11.14.2018

Private Residence  
 1256 South Ocean Boulevard  
 Palm Beach

JOB NUMBER: 17018-02 LA  
 DRAWN BY: L. T. VANCE  
 DATE: 11.14.2018

B-046-2017



Elevation C - East Property Line



Elevation D - West Property Line



2018  
 2018  
 ALL RIGHTS RESERVED. NO PART OF THIS DOCUMENT MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF L. T. VANCE, INC.













D

7



6 of



254 of

Garden Plan

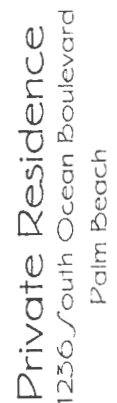
SCALE IN FEET 0' 16' 32' 48'




2018




**2018**  
 Leadership, as I see it, is generally  
 understood, and that **UNDERSTAND** is CRUCIAL  
 to the success of any organization. Understanding  
 the needs, desires, and capabilities of all who  
 are part of the organization, including ourselves,  
 is the first step. Then, we must develop a  
 vision and strategy that aligns with the needs  
 and capabilities of the organization. Finally,  
 we must communicate this vision and strategy  
 effectively to all who are part of the organization.  
 Leadership is not a title or a position; it is a  
 mindset and a way of thinking. It is the ability  
 to inspire and motivate others to achieve  
 their best. It is the ability to see the potential  
 in others and to help them realize it. It is the  
 ability to create a vision and to lead others  
 to achieve it. Leadership is a responsibility,  
 and it is one that we all share. We are all  
 leaders in our own right, and we all have the  
 potential to make a difference in the world.

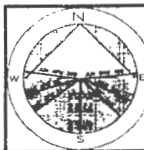
48 HOURS BEFORE DRIVING  
CALL 1-800-442-4770  
TALKER II CALL





TREES AND PALMS			
SYMBOLS	PLANT NAME	QTY.	DESCRIPTION
	CLADA RUTIFERA (HALL) CLAD RUTIFERA TREES	4	Q 15 8 5 PG 7 C1 M/TD-67
	DIPLOS LITSEAE AGLA PALM	10	10 14
	PANGLOSS LITSE PANGLOSS PALM TREES	8	18 17

SHRUBS AND GROUNDCOVERS			
SYMBOL/KEY	PLANT NAME	QTY	DESCRIPTION
 (S)	OLIBA BUTIFABA (BANYAN LEAF OR OLIBA TREE)	48	8 FT.
 (S)	POLEA MICROCARPA (GREEN BANYAN PLANT)	4000	5 GAL.
 (G)	TRACHYSPERMUM JAMBHONES (CONCRETE-SET JAMBHON)	40	EXPANDED TO WALL



JOB NUMBER: 17019.00 LA  
DRAWN BY: 17019.00 LA  
DATE: 05.19.2017  
ARCOM SUBMITAL: 05.24.2017  
REVISIONS: 11.14.2018

B-046-2017

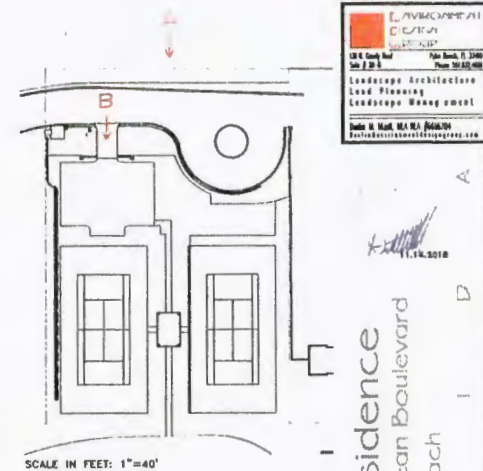
SHUJI 12

[illegible]

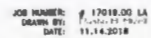
48 HOURS BEFORE DOING  
CALL TOLL FREE  
**1-800-482-6770**  
DURING HOURS OF CALL

### Planting Plan

256 et.



Private Residence  
1236 South Ocean Boulevard  
Palm Beach



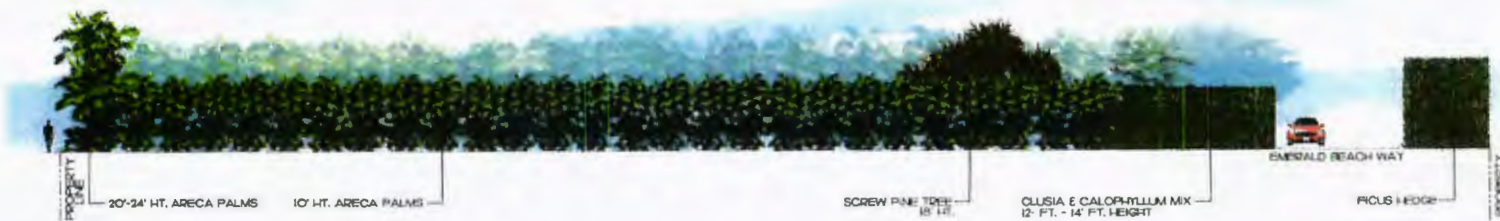
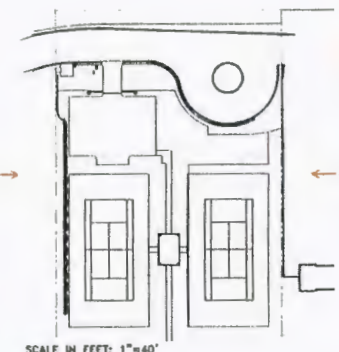
B-046-2017

48 HOURS BEFORE DEPARTING  
CALL 800-432-1770  
BOOKING YOUR BUS CALL  
800-432-1770

SCALE IN FEET 0' 8' 16' 24'

6-6 af

**Private Residence**  
 12345 South Ocean Boulevard  
 Palm Beach



Elevation C - East Property Line



Elevation D - West Property Line

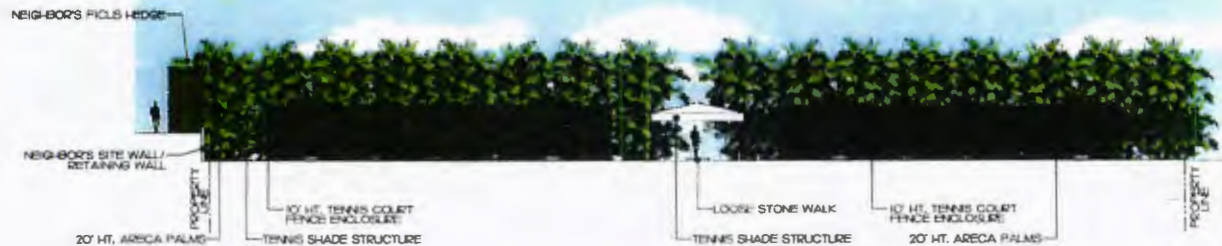
**2018**  
 48 HOURS BEFORE CHANGING  
 7-800-432-4770  
**PLUS 12**

**Buffer Elevations**  
 SCALE IN FEET 0' 10' 20' 30'

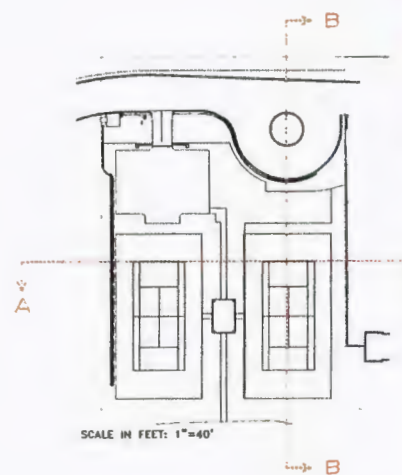
JOB NUMBER: 17018-00-1A  
 DRAWN BY: [Signature]  
 DATE: 11.14.2018







Section A



SCALE IN FEET: 1"=40'



Section B

**LANDSCAPE ARCHITECTURE**  
L.A. LANDSCAPE ARCHITECTS  
1214 South Hill Ave. Suite 200  
San Jose, CA 95128  
Phone: (408) 291-1111  
Fax: (408) 291-1112  
Email: info@lalandscape.com  
www.lalandscape.com

Private Residence  
1256 South Ocean Boulevard  
Palm Beach  
FL 33480

JOB NUMBER: # 17019-00 LA  
DRAWING BY: J. L. L. & J. L. L.  
DATE: 11-14-2018

B-046-2017

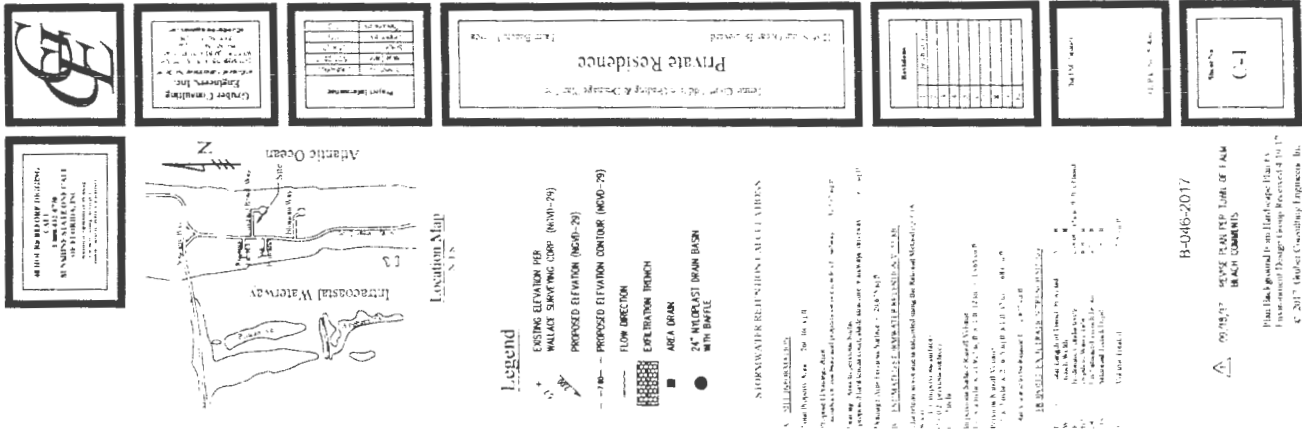
**2018**  
L.A. LANDSCAPE ARCHITECTS  
1214 South Hill Ave. Suite 200  
San Jose, CA 95128  
Phone: (408) 291-1111  
Fax: (408) 291-1112  
Email: info@lalandscape.com  
www.lalandscape.com

40 HOURS DESIGN DRAWING  
100% COMPLETE  
1-800-452-4770  
www.lalandscape.com

Buffer Sections

SCALE IN FEET 0' 10' 20' 30'





November 29, 2018

Town of Palm Beach

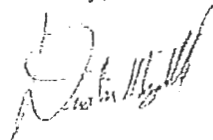
Re: 1236 S. Ocean Boulevard - Landscape Architecture- Town of Palm Beach  
(Sports court additions)

The following revisions have been made to the submittal plans dated 11.14.2018:

- Existing pedestrian gate and service access has been removed
- Additional landscape screening has been added to fill in the gap from the gate and service access removal
- Tennis court "fence" note has been expanded to add 10' ft. ht. specification
- Interior coconut palms have been removed
- Large 18' ft. ht. Screw Pine trees have been added (2) – providing additional buffer screening
- Landscape buffer note has been added  
*Areca palms*  
*Vegetation screening*  
*10' ft. ht.*
- Additional areca palms along the east side of the service area have been added to provide more vegetation screening
- Vehicular gate has been reduced from 8' ft. ht. to 6' ft. ht.
- Existing 12'ft. – 14'ft. vegetation / landscape buffer (north of Emerald Beach Way) Has been added on the plan
- Tennis court color has been revised
- Confederate jasmine vines have been added in espalier pattern along interior of west wall
- Elevation of tennis shade structure had been added on the plan
- Additional landscape buffer elevations have been submitted (sheets L4 & L5)
- Buffer sections were included in submittal (sheet L6)

Thank you.

Sincerely,



Dustin M. Mizell, MLA RLA #6666784  
Environment Design Group

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

100 EMERALD BEACH WAY LC

Case No. \_\_\_\_\_

Plaintiff.

v.

JOHN THORNTON, MARGARET  
THORNTON, and TOWN OF PALM BEACH,

Defendants.  
\_\_\_\_\_ /

**COMPLAINT**

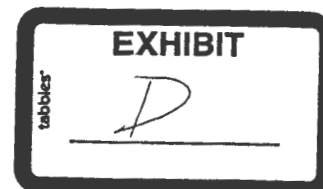
Plaintiff, 100 EMERALD BEACH WAY LC ("100 Emerald" or "Plaintiff"), by and through its undersigned counsel and pursuant to the Florida Rules of Civil Procedure, hereby sues Defendants, JOHN and MARGARET THORNTON (the "Thorntons") and nominal Defendant, TOWN OF PALM BEACH (the "Town"), and alleges as follows:

**NATURE OF ACTION**

1. This is an action for declaratory and injunctive relief.

**PARTIES, JURISDICTION, AND VENUE**

2. Plaintiff, 100 Emerald, is a Florida Limited Liability Company that owns property in Palm Beach, Florida.
3. The Town of Palm Beach is a municipal corporation of the State of Florida.
4. Upon information and belief, John Thornton resides in the Town of Palm Beach, Palm Beach County, Florida and has an ownership interest in the property containing the Thorntons' residence at 1236 South Ocean Boulevard and the unpermitted tennis court lot located at 200 Emerald Beach Way in the Town of Palm Beach.





5. Upon information and belief, Margaret Thornton resides in the Town of Palm Beach, Palm Beach County, Florida and has an ownership interest in the property containing the Thorntons' residence at 1236 South Ocean Boulevard and the unpermitted tennis court lot located at 200 Emerald Beach Way in the Town of Palm Beach.

6. This Court has jurisdiction pursuant to Article V, Florida Constitution (1968), Florida Rule of Civil Procedure 1.630, and Chapter 86, Florida Statutes.

7. Venue is proper in Palm Beach County because the property that is the subject of this matter is located in Palm Beach County, Florida and the causes of action contained herein accrued in Palm Beach County, Florida.

8. All conditions precedent to maintain this cause of action have accrued, have been waived, or have been otherwise excused.

#### **GENERAL ALLEGATIONS**

9. Plaintiff, 100 Emerald is a Florida Limited Liability Company that owns a home and property located at 100 Emerald Beach Way in the Town of Palm Beach, Florida (the "100 Emerald Home").

10. The 100 Emerald Home is located in a small cul-de-sac that provides access to three (3) lots: (A) the 100 Emerald Home; (B) 1230 South Ocean Boulevard, a single-family home; and (C) a property called Lot 2.

11. Lot 2 is located between the 100 Emerald Home and 1230 South Ocean Boulevard.

12. Lot 2 was intended to be developed into a single-family house when the area was platted.

13. The Thorntons own Lot 2 and an oceanfront home directly to the South of the 100 Emerald Home, known as 1236 South Ocean Boulevard.

14. The 100 Emerald Home, Lot 2, 1230 South Ocean Boulevard and 1236 South Ocean Boulevard are located in the R-AA, Large Estate Residential zoning district and an area designated as Single-Family under the Town's Comprehensive Plan.

15. On May 24, 2017, Defendant Margaret Thornton filed an Application for Project Review for a Major Project by the Architectural Commission of the Town of Palm Beach ("ARCOM") which sought approval for development of a tennis court and canopy (the "Tennis Complex") on Lot 2. The Application did not include elevations and did not demonstrate that any fence or wall would be contiguous to the Tennis Complex; did not identify the height or nature of fencing or other barrier around the Tennis Complex; and, did not identify the height of the landscaping that was intended to be used to buffer the Tennis Complex.

16. On June 27, 2017, 100 Emerald submitted a letter of objection to the Application. The Objection sets forth numerous ground why ARCOM should have denied the Application.

17. On June 28, 2017, ARCOM held a hearing on the Application, at the conclusion of which ARCOM unanimously approved the Application over 100 Emerald's objections.

18. ARCOM made no findings that Defendant Margaret Thornton had met the criteria for approval.

19. On July 7, 2017, 100 Emerald timely appealed ARCOM's decision to grant the Application to allow the development of the Tennis Complex on Lot 2.

20. The Town Council held a hearing on the Appeal on August 9, 2017.

21. After the presentations were completed, the Town Council voted to deny the Appeal, without findings.

22. On August 16, 2017, John Page, Director of the Town's Planning, Zoning & Building Department, sent 100 Emerald's counsel a letter informing 100 Emerald of the Town

Council's decision to deny the Appeal.

23. On September 15, 2017, 100 Emerald timely filed a Petition for Issuance of Writ of Certiorari in the matter styled *100 Emerald Beach Way, LC v. Palm Beach Town Council and Margaret B. Thornton*, Palm Beach County Case No. 502017CA010274XXXXMB, Fifteenth Judicial Circuit (Civil Appellate Division), seeking that the Court quash the August 16, 2017 decision of the Town Council to deny the Appeal and reverse ARCOM's June 28, 2017 approval of the Application.

24. Sometime after the Town Council's denial of this appeal, the Thorntons completed construction of the Tennis Complex on Lot 2. The construction of the Tennis Complex on Lot 2 is now complete.

25. On August 30, 2018, the Fifteenth Judicial Circuit (in its appellate capacity), granted 100 Emerald's Petition for Writ of Certiorari, finding that:

Upon review of the Petition for Writ of Certiorari, we find that the Town Council failed to rely on competent, substantial evidence when it denied [100 Emerald's] appeal from the Town Architectural Committee. The Town Architectural Committee did not make findings sufficient to ensure that Respondent Thornton's 'proposed development [would be] 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.' See Res. App. at 7. Specifically, there was no finding by the Town Architectural Committee or Town Council, or evidence in the record, to suggest that Respondent Thornton's proposed development would comply with section 134-1759. See Res. App. at 16. Because the Town Council's failure to rely on competent, substantial evidence is sufficient cause to grant the Petition, we issue no opinion regarding the remaining arguments on appeal. We GRANT the Petition for Writ of Certiorari and QUASH the decision of the Town Council.

See Exhibit 1.

26. Both Defendant Margaret Thornton and the Town Council each filed a Motion for Rehearing on September 14, 2018. On November 1, 2018, this Court denied both Motions for Rehearing.

27. On November 5, 2018, this Court issued a Mandate commanding such further proceedings be had in accordance with its August 30, 2018 Opinion. *See* Exhibit 2.

28. As adjudicated by this Court, the Thorntons built the Tennis Complex on Lot 2 without first obtaining proper permitting for the structure.

29. Chapter 18, Section 18-233 of the Town of Palm Beach Code of Ordinances adopts the Florida Building Code which requires building permits to construct a building or structure. The Town of Palm Beach requires all structures constructed without building permits to be taken down.

30. Either because the Thorntons built the Tennis Complex on Lot 2 without first obtaining proper permitting for its construction or any such permit has been rendered null and void by this Court's August 30, 2018 decision, it must be taken down.

31. The Thorntons' construction of an unpermitted tennis court seems par for the course. Mr. Thornton has a long and unfortunate history of questionable tactics. According to the New York Times Bestseller, *Money and Power*, Mr. Thornton is quoted as saying the following regarding pitching a potential client: "If we do not get this mandate, I will personally slit the throats of all my team and drink their blood." William Cohan, *Money and Power*, 417 (First Anchor Books ed., Random House, Inc., 2012). A former colleague said Mr. Thornton "has a huge number of enemies...he knocks people about." *Id.*

#### **COUNT I – DECLARATORY ACTION**

32. Plaintiff restates and realleges paragraphs 1 through 31 as if fully set forth herein.

33. In accordance with Fla. Stat. § 86.011, this Court has the authority to declare rights, status, and other equitable or legal relations whether or not further relief is or could be

claimed. The Court has the authority to render declaratory judgments on the existence or nonexistence of: (a) any immunity, power, privilege, or right; or of (b) any fact upon which the existence or nonexistence of such immunity, power, privilege, or right does or may depend, whether such immunity, power, privilege or right now exists or will arise in the future.

34. As described above, there is a bona fide, actual, and present practical need for a declaration regarding whether the Tennis Complex on Lot 2, which was either constructed without building permits in violation of Chapter 18, Section 18-233 of the Town of Palm Beach Code of Ordinances and the Florida Building Code or any such permit has been rendered null and void by this Court's August 30, 2018 decision, must be demolished immediately. Such declaration deals with present and ascertainable facts, as detailed above. 100 Emerald's rights, arising from its ownership of the neighboring 100 Emerald Home, are dependent upon the facts detailed above and the law applicable to such facts.

35. 100 Emerald, the Thornton and the Town Council have an actual, present, adverse, and antagonistic interest in the subject matter hereof, either in fact or law. The antagonistic and adverse interests are, or will be, before the Court by proper process. Moreover, the relief sought herein by 100 Emerald is not merely the giving of legal advice by the Court to questions propounded by curiosity.

36. Under the facts outlined above, 100 Emerald is entitled to a declaration that the Tennis Complex on Lot 2 must be demolished immediately because it constitutes unauthorized structures either built without the permits required under the Town of Palm Beach Code of Ordinances and the Florida Building Code or built pursuant to a permit that has been rendered null and void by this Court's August 30, 2018 decision.

**WHEREFORE,** 100 Emerald prays that this Court enter a declaratory judgment declaring that: (a) the Tennis Complex on Lot 2 was constructed either without building permits in violation of Chapter 18, Section 18-233 of the Town of Palm Beach Code of Ordinances and the Florida Building Code or constructed pursuant to a permit that has been rendered null and void by this Court's August 30, 2018 decision; (b) the Tennis Complex on Lot 2 must be demolished immediately; and (c) providing for such other relief as this Court deems just and proper.

### **COUNT II – INJUNCTIVE RELIEF**

37. Plaintiff restates and realleges paragraphs 1 through 31 as if fully set forth herein.

38. As described above, the Tennis Complex which borders the 100 Emerald Home, was constructed either without building permits or constructed pursuant to a permit that has been rendered null and void by this Court's August 30, 2018 decision, and must therefore be demolished pursuant to the Town of Palm Beach Code of Ordinances and the Florida Building Code.

39. To date, the unpermitted Tennis Complex continue to remain on Lot 2. Therefore, 100 Emerald requires a court order instructing the Thorntons and, if necessary the Town Council, to take immediate action to demolish this unpermitted structure.

40. 100 Emerald has no adequate remedy at law because its harm is caused by the continued existence of the unpermitted Tennis Complex on Lot 2, which borders the 100 Emerald Home.

41. 100 Emerald has a substantial likelihood of success on the merits because this Court has already quashed the August 16, 2017 decision of the Town Council to deny Plaintiff's Appeal and reversed ARCOM's June 28, 2017 approval of the Application, thereby

rendering any permit issued to the Thorntons to construct the Tennis Complex null and void.

42. Unless the Court issues an order instructing the Thorntons and, if necessary the Town Council, to take immediate action to demolish the unpermitted Tennis Complex, 100 Emerald will suffer irreparable injury as the owner of the 100 Emerald Home, which borders Lot 2 where this unpermitted Tennis Complex unlawfully remains.

43. Moreover, injunctive relief serves the public interest by requiring that unauthorized structures (either built without permits in violation of the Town of Palm Beach Code of Ordinances and the Florida Building Code or pursuant to a permit which has been rendered null and void by this Court), be taken down.

**WHEREFORE**, 100 Emerald prays that this Court enter an order: (a) commanding the Thorntons to immediately demolish and otherwise remove the unpermitted Tennis Complex located on Lot 2; (b) commanding the Town Council to take any action that is necessary to effectuate the demolition and removal of the unpermitted Tennis Complex on Lot 2; and (c) for such other relief this Court deems just and proper.

Date: November 20, 2018

LEVINE KELLOGG LEHMAN  
SCHNEIDER + GROSSMAN LLP  
*Counsel For 100 Emerald Beach Way LC*  
201 South Biscayne Blvd., 22nd Floor  
Miami, Florida 33131  
Telephone: 305.403.8788  
Facsimile: 305.403.8780

By: /s/ Jeffrey C. Schneider, P.A.  
Jeffrey C. Schneider, P.A.  
Florida Bar No. 933244  
Primary Email: [jcs@lklsg.com](mailto:jcs@lklsg.com)  
Secondary Email: [lv@lklsg.com](mailto:lv@lklsg.com)  
Jezabel P. Lima  
Florida Bar No. 519431  
Primary Email: [jl@lklsg.com](mailto:jl@lklsg.com)  
Secondary Email: [ah@lklsg.com](mailto:ah@lklsg.com)



# Exhibit 1

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

APPELLATE DIVISION (CIVIL): AY  
CASE NO.: 502017CA010274XXXXMB

100 EMERALD BEACH WAY,  
Petitioner,  
v.

THE PALM BEACH TOWN COUNCIL  
AND MARGARET B. THORNTON,  
Respondents.

---

Opinion filed: AUG 30 2018

Petition for Writ of Certiorari from the Town of Palm Beach Town Council.

For Petitioner: Robert Jeffrey Hauser  
415 South Olive Avenue  
West Palm Beach, Florida 33401  
hauser@pankauskilawfirm.com  
courtfilings@phfloirida.com

For Respondents: Karl Sanders  
505 South Flagler Drive, Suite 1100  
West Palm Beach, Florida 33401  
ksanders@jonesfoster.com

Santo DiGangi  
303 Banyan Boulevard, Suite 400  
West Palm Beach, Florida 33401  
sdigangi@lawclc.com

PER CURIAM.

Upon review of the Petition for Writ of Certiorari, we find that the Town Council failed to rely on competent, substantial evidence when it denied Petitioner's appeal from the Town Architectural Committee. The Town Architectural Committee did not make findings sufficient to ensure that Respondent Thornton's "proposed development [would be] 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." *See* Resp. App. at 7. Specifically, there was no finding by the Town Architectural Committee or Town Council, or evidence in the record, to suggest that Respondent Thornton's proposed development would comply with section 134-1759. *See* Resp. App. at 16. Because the Town Council's failure to rely on competent, substantial evidence is sufficient cause to grant the Petition, we issue no opinion regarding the remaining arguments on appeal. We **GRANT** the Petition for Writ of Certiorari and **QUASH** the decision of the Town Council.

SASSER, GOODMAN, CURLEY JJ. concur.

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

APPELLATE DIVISION (CIVIL): AY  
CASE NO.: 502017CA010274XXXXMB

100 EMERALD BEACH WAY,  
Petitioner,

Opinion/Decision filed: AUG 30 2018

v.

Petition for Writ of Certiorari from the  
Town of Palm Beach Town Council

THE PALM BEACH TOWN COUNCIL  
AND MARGARET B. THORNTON,  
Respondents.

Date of Appeal: September 15, 2017

DATE OF PANEL: AUGUST 20, 2018

PANEL JUDGES: SASSER, GOODMAN, CURLEY

AFFIRMED/REVERSED/OTHER: GRANT PETITION

PER CURIAM OPINION/DECISION BY: PER CURIAM

CONCURRING: 3/28/18 ) DISSENTING: ) CONCURRING SPECIALLY: )  
 ) With/Without Opinion ) With/Without Opinion )  
 ) ) )  
 ) ) )  
DATE: J. ) ) )  
 ) ) )  
 ) ) )  
DATE: J. ) ) )  
 ) ) )  
 ) ) )  
DATE: J. ) ) )

# Exhibit 2

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

APPELLATE DIVISION (CIVIL): AY  
CASE NO.: 502017CA010274XXXXMB

100 EMERALD BEACH WAY,  
Petitioner,  
v.

THE PALM BEACH TOWN COUNCIL  
AND MARGARET B. THORNTON,  
Respondents.

---

Opinion filed: AUG 30 2018

Petition for Writ of Certiorari from the Town of Palm Beach Town Council.

For Petitioner: Robert Jeffrey Hauser  
415 South Olive Avenue  
West Palm Beach, Florida 33401  
hauser@pankauskilawfirm.com  
courtfilings@phflorida.com

For Respondents: Karl Sanders  
505 South Flagler Drive, Suite 1100  
West Palm Beach, Florida 33401  
ksanders@jonesfoster.com

Santo DiGangi  
303 Banyan Boulevard, Suite 400  
West Palm Beach, Florida 33401  
sdigangi@lawclc.com

PER CURIAM.

Upon review of the Petition for Writ of Certiorari, we find that the Town Council failed to rely on competent, substantial evidence when it denied Petitioner's appeal from the Town Architectural Committee. The Town Architectural Committee did not make findings sufficient to ensure that Respondent Thornton's "proposed development [would be] in conformity with the standards of this Code and other applicable ordinances insofar as the location and appearance of

# M A N D A T E

FROM

CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT, IN AND FOR  
PALM BEACH COUNTY, FLORIDA

## APPELLATE DIVISION

This cause having been brought to this Court by appeal, and after due consideration the Court having issued its opinion;

YOU ARE HEREBY COMMANDED that such further proceedings be had in said Cause in accordance with the opinion of this Court, and with the rules of procedure and Laws of the State of Florida.

WITNESS THE HONORABLE JUDGE MEENU SASSER Presiding Judge of the Appellate Division (Civil) of the Fifteenth Judicial Circuit and seal of the said Court at West Palm Beach, Florida on this day Monday, November 5, 2018.

CIRCUIT APPEAL CASE NO.; 502017CA010274XXXXMB AY

Style: 100 EMERALD BEACH WAY V THE PALM BEACH TOWN COUNCIL AND MARGARET B. THORNTON



SHARON R. BOCK, CLERK &  
COMPTROLLER

Palm Beach County, Florida

By: Catherine Markisen, Deputy Clerk

CC:

ROBERT JEFFREY HAUSER [hauser@pankauskilawfirm.com](mailto:hauser@pankauskilawfirm.com), [courtfilings@phflorida.com](mailto:courtfilings@phflorida.com)

KARL SANDERS [ksanders@jonesfoster.com](mailto:ksanders@jonesfoster.com)

SANTO DIGANGI [sdigangi@lawclc.com](mailto:sdigangi@lawclc.com)

**FILED**  
NOV 05 2018  
SHARON R. BOCK  
CLERK & COMPTROLLER  
CIRCUIT CIVIL DIVISION



the buildings and structures are involved.” *See* Resp. App. at 7. Specifically, there was no finding by the Town Architectural Committee or Town Council, or evidence in the record, to suggest that Respondent Thornton’s proposed development would comply with section 134-1759. *See* Resp. App. at 16. Because the Town Council’s failure to rely on competent, substantial evidence is sufficient cause to grant the Petition, we issue no opinion regarding the remaining arguments on appeal. We **GRANT** the Petition for Writ of Certiorari and **QUASH** the decision of the Town Council.

SASSER, GOODMAN, CURLEY JJ. concur.

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

APPELLATE DIVISION (CIVIL): AY  
CASE NO.: 502017CA010274XXXXMB

100 EMERALD BEACH WAY,  
Petitioner.

Opinion/Decision filed: AUG 30 2018

 $\gamma$ 

Petition for Writ of Certiorari from the  
Town of Palm Beach Town Council

THE PALM BEACH TOWN COUNCIL  
AND MARGARET B. THORNTON,  
Respondents.

Date of Appeal: September 15, 2017

DATE OF PANEL: AUGUST 20, 2018

PANEL JUDGES: SASSER, GOODMAN, CURLEY

AFFIRMED/REVERSED/OTHER: GRANT PETITION

PER CURIAM OPINION/DECISION BY: PER CURIAM

CONCURRING:	DISSENTING:	CONCURRING SPECIALLY:
	With/Without Opinion	With/Without Opinion
DATE: J. )	DATE: J. )	DATE: J. )
DATE: J. )	DATE: J. )	DATE: J. )
DATE: J. )	DATE: J. )	DATE: J. )
DATE: J. )	DATE: J. )	DATE: J. )

