

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 10, 2021

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

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

Re: Proposed Construction Management Agreement- Z-20-00289, 160 Royal Palm Way.

Date: November 2, 2021

STAFF RECOMMENDATION

Staff recommends that the Town Council consider the proposed Construction Management Agreement with the modifications proposed by Staff in add/delete format (copy attached).

GENERAL INFORMATION

The Town Council conditionally approved the subject zoning application for special exception with site plan review and variance modifications on February 10, 2021. As part of the approval of that portion of the zoning application, the Council at its March 3, 2021 meeting approved staff accepting a Phase I Construction Management Agreement for partial demolition and cleanup. The Council also placed a condition on the approval that proposed Phase II Construction Management Agreement which outlines the construction of the complete job be reviewed at the July 14, 2021 Council meeting. The Phase II Agreement has been delayed because the owner was in the process of retaining a contractor and developing the construction timeline.

The proposed Agreement, which was provided by the applicant's attorney Maura Ziska, has been reviewed and modified by Staff to address a specific completion date; elimination of on-street construction parking and to address construction trailer. In addition staff modified Section J of the proposed Agreement to add the violation language that was in the original Construction Management Agreement for the project. Those proposed modifications are in add/delete format. The Agreement also includes a logistics and site layout plan, construction schedule, and conditions related to property security, site storage, delivery and screening; hours of construction, dust control and construction parking requirements. The applicant was provided the proposed changes to the Agreement and they have agreed to those changes.

TOWN ATTORNEY REVIEW

The draft "Construction Management Agreement" has been reviewed by Town Attorney John C. Randolph for legal form and sufficiency.

Attachment

cc: Jay Boodheshwar, Deputy Town Manager
James Murphy, Asst. Director, Planning, Zoning & Building
Paul Castro, Zoning Manager
Nicolas Caristo, Police Chief
Darrell Donatto, Fire-Rescue Chief
Paul Brazil, Public Works Director
zf & pf

Construction Management Agreement Phase II
160 Royal Palm Way, Palm Beach, Florida

LR Palm House LLC ("Owner") and the Town of Palm Beach, Florida ("Town") enter into the following Agreement on this ____ day of _____, 2021.

WHEREAS, Owner owns property located at 160 Royal Palm in the Town of Palm Beach ("Property") as identified in the legal description (Exhibit A attached); and

WHEREAS, Owner received approval by the Town Council of Special Exception with Site Plan Review and Variances Z-20-00289 on February 10, 2021 ("Approval") for the renovation of Property; and

WHEREAS, at the Town Council meeting on February 10, 2021 the Town required that the Owner enter into this Construction Management Agreement ("Agreement") prior to the issuance of a building permit.

NOW THEREFORE, Owner and Town agree as follows:

RECITALS

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

CONDITIONS

2. The Owner shall follow the Schedule of Construction as set forth in Exhibit B ("Schedule") attached hereto and made a part of this Agreement. The completion date of October 1, 2025 in said Schedule may only be modified with the consent of the Town Council. The dates within the Schedule may be modified provided that construction does not exceed the October 1, 2025 deadline for completion of the project ~~the maximum number of days as approved~~ allowed by the Town Council as ~~provided for~~ in the attached Schedule. ~~The Town shall use its best efforts to expedite review and issuing of the building permit and/or any modifications to the building permit. Such modifications shall be monitored and approved by the Building Official.~~ The Owner's construction personnel shall provide to the Town's Building Official a progress report on the Schedule on the 1st business day of each month starting _____, 2022.

The construction is approved subject to the following conditions:

A. Dust Control During Construction.

Prior to the issuance of a construction permit the contractor shall provide the Town with an acceptable plan that identifies the staging area for debris accumulated on the site.

Said plan shall provide detailed information on how the contractor will screen the debris staging area from the neighboring property owners and street.

Dust control shall be as prescribed by the Town Code of Ordinances as set forth in Section 42-164. Water spray suppression shall be provided by the contractor, as deemed necessary by the Building Official.

B. Property Security. Any security lighting shall be shielded so that it shines downward and does not produce any light or glare which would adversely affect surrounding property owners.

C. Worker Parking. Construction workers shall park on the Property at all times or be shuttled to the Property for drop off. Parking by all construction workers and management personnel in the public rights--of--way (~~other than the allowed three (3) parking spaces provided by the Code~~) is prohibited. Failure of any worker or construction manager to comply with this condition shall be deemed a violation of this Agreement.

D. Site Storage Areas, Screening and Deliveries. Storage and delivery area plans shall be submitted and approved by the Town prior to the issuance of a building permit. The Property shall be fenced and screened from view by a six (6) foot high green mesh fence or greater, as determined by the Planning, Zoning and Building Director. All construction deliveries shall be conducted on site and not in the public rights--of--way, unless prior approval from the Town's Department of Public Works is obtained. In addition, prior approval shall also be required from the Town Police department to bring in large deliveries that may block the street or access into the site.

E. Hours of Construction. Hours of construction shall be governed by Section 42-199 of Town's Code of Ordinances. No construction activity shall be allowed on Saturdays in the Season (except for interior work allowed by the Town Code), on Sundays, or on holidays. Hours may be modified by special approval by the Town Council.

F. Complaints. If valid noise, odor, dust control or other valid complaints are reported to the Town, the Town may order a cessation or modification of construction activities on the Property (for that portion of the work only that caused the alleged noise, odor, dust control or valid complaints, allowing the rest of the work to continue), until such time as the Town is satisfied that such complaints have been resolved. Upon receipt of a complaint which the Director of Planning, Zoning, and Building believes may be valid, the Director shall notify Owner and obtain Owner's response to the complaint prior to making a determination on the complaint. Owner shall have the right to appeal the Director's determination to the Town Council at the next scheduled Council meeting.

G. Project Management.

The owner's general contractor shall schedule and attend a pre-construction meeting with all of the subcontractors and Town Staff prior to the commencement of demolition or structural work. The owner's general contractor shall designate one project manager who can

be contacted by the Town with respect to any issues involved with the construction. The name of those person shall be provided in writing to the Town and shall be updated upon any change. At least one project supervisor shall be on the Property at all times when construction work is being done on the Property.

I. Construction Trailers N/A. Construction trailers, if provided, shall only be for the general contractor and subcontractors. No trailer shall be allowed on the site for the Hotel unless previously approved by the Town Council.

J. Violations

~~If valid noise, odor, dust control or other complaints are reported to the Town, the Town may order a cessation or modification of construction activities of the Hotel (for that portion of the work only that caused the alleged noise, odor dust control or other complaints, allowing the rest of the work to continue), until such time as the Town is satisfied that such complaints have been resolved. Upon receipt of a noise, odor, dust or other complaint which the Director of the Planning, Zoning and Building Department believes may be valid, the Director shall notify Owner and obtain Owner's response to the complaint. Owner shall have the right to appeal the Director's determination in regard to the remedies described in this section to the Town Council at the next scheduled meeting of the Town Council, which is at least fifteen (15) days subsequent to the date of the notice of appeal for all outstanding amounts imposed by this provision.~~

1. If the owner fails to complete the construction in the maximum number of days allowed as identified in this Agreement, the Owner shall pay to the Town a liquidated amount of \$2,000.00 per day for each calendar day pas the maximum number of days allowed.
2. In addition to the above, for violations of any of the conditions of this Agreement, Owner shall pay the Town a liquidated amount of \$2,000.00 for each day that any of the conditions of this Agreement are violated, which amount shall accrue on a per day basis for each day a violation of this Agreement exists and which shall increase annually beginning one year from the date of this Agreement based upon the Consumer Price Index for South Florida.
3. If a valid noise, odor, dust control or other complaint is reported to the Town, the Town may order a cessation or modification of construction activities of the Hotel, until such time as the Town is satisfied that such complaint has been resolved. Upon receipt of a noise, odor, dust or other complaint which the Director of the Planning, Zoning and Building Department believes may be valid, the Director of Planning, Zoning and Building Department believes may be valid, the Director shall notify Owner and obtain Owner's response to the complaint prior to making a determination in regard to the remedies described in this section to the Town Council at the next scheduled meeting of the Town Council, which is at least fifteen (15) days subsequent

to the date of the notice of appeal for all outstanding amounts imposed by this provision.

4. All outstanding amounts imposed under this provision shall be paid by the Owner prior to the issuance of a certificate to occupy any building or structure on the Property.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals the day and year first above. Signed, sealed and delivered in the presence of:

By: _____
Wayne Bergman,
Director of Planning, Zoning and Building
Town of Palm Beach

Approved as to Legal Form and Sufficiency:

John C. Randolph, Town Attorney

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by Wayne Bergman, the Director of the Planning Zoning and Building Department, Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. He is personally known to me and he did not take an oath.

Signature of Notary Public
Printed Name of Notary Public
Commission No: _____
Commission Expires: _____

LR Palm House LLC.

By: _____
Its: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by _____, on behalf of LR Palm House LLC, a Florida limited liability company. He/She is personally known to me and did not take an oath.

Signature of Notary Public
Printed Name of Notary Public
Commission No: _____
Commission Expires: _____

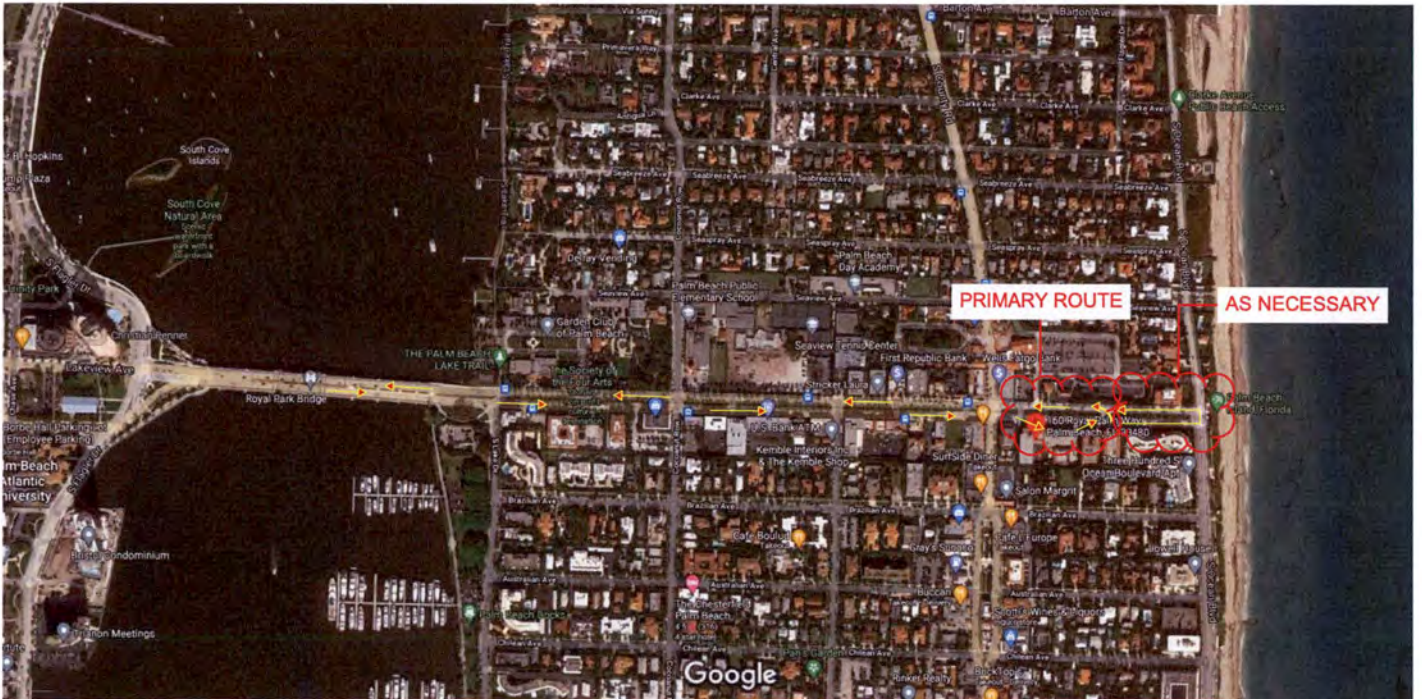
Activity ID	Activity Description	Orig Dur	Early Start	Early Finish	2021												2022												2023												2024												2025												2026											
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100	100% Design Development	20	07SEP21	04OCT21	100% Design Development																																																																							
110	50% CD's	34	05OCT21	19NOV21	50% CD's																																																																							
120	100% CD's	61	22NOV21	14FEB22	100% CD's																																																																							
130	GMP 100% DD's	31	12OCT21	23NOV21	GMP 100% DD's																																																																							
140	GMP 50% CD's	32	30NOV21	12JAN22	GMP 50% CD's																																																																							
150	Bldg Dept Review 1	25	30NOV21	03JAN22	Bldg Dept Review 1																																																																							
160	Arch Incorporate Comments	15	04JAN22	24JAN22	Arch Incorporate Comments																																																																							
170	Bldg Dept Review 2	15	25JAN22	14FEB22	Bldg Dept Review 2																																																																							
180	Issue Permit	0	15FEB22		Issue Permit																																																																							
190	Final GMP - 100% CD's	30	15FEB22	28MAR22	Final GMP - 100% CD's																																																																							
200	AWARD CONTRACT	3	29MAR22	31MAR22	AWARD CONTRACT																																																																							
8000	CONSTRUCTION START	0	01APR22		CONSTRUCTION START																																																																							
6030	STRUCTURAL ENHANCEMENTS - WEST	55	01APR22	16JUN22	STRUCTURAL ENHANCEMENTS - WEST AREA																																																																							
6040	INTERIOR WORK - WEST AREA	150	03JUN22	29DEC22	INTERIOR WORK - WEST AREA																																																																							
6050	STRUCTURAL ENHANCEMENTS - EAST	55	30DEC22	16MAR23	STRUCTURAL ENHANCEMENTS - EAST AREA																																																																							
6060	INTERIOR WORK - EAST AREA	150	17MAR23	12OCT23	INTERIOR WORK - EAST AREA																																																																							
6065	LOBBY / DINING / BAR	175	29SEP23	30MAY24	LOBBY / DINING / BAR																																																																							
6070	STRUCTURAL ENHANCEMENTS - POOL	45	08DEC23	08FEB24	STRUCTURAL ENHANCEMENTS - POOL AREA																																																																							
6080	GROUND FLOOR WORK - POOL AREA	110	09FEB24	11JUL24	GROUND FLOOR WORK - POOL AREA																																																																							
6090	STRUCTURAL ENHANCEMENTS -	45	31MAY24	01AUG24	STRUCTURAL ENHANCEMENTS - FUNCTION AREA																																																																							
6100	INTERIOR WORK - FUNCTION AREA	100	02AUG24	19DEC24	INTERIOR WORK - FUNCTION AREA																																																																							
8110	PARKING GARAGE - WEST	130	31MAY24	28NOV24	PARKING GARAGE - WEST																																																																							
8115	PARKING GARAGE - WEST	130	29NOV24	29MAY25	PARKING GARAGE - WEST																																																																							
8120	STRUCTURAL ENHANCEMENTS - KITCHEN	50	25OCT24	02JAN25	STRUCTURAL ENHANCEMENTS - KITCHEN AREA																																																																							
8130	INTERIOR WORK - KITCHEN AREA	175	25DEC24	26AUG25	INTERIOR WORK - KITCHEN AREA																																																																							
8140	EXTERIOR BUILDING	195	17JUN22	16MAR23	EXTERIOR BUILDING																																																																							
8150	SITework / LANDSCAPE / HARDSCAPE	120	29NOV24	15MAY25	SITework / LANDSCAPE / HARDSCAPE																																																																							
7000	FINAL INSPECTIONS / PUNCHLIST	25	27AUG25	30SEP25	FINAL INSPECTIONS / PUNCHLIST																																																																							
7010	PROJECT COMPLETION	1	01OCT25	01OCT25	PROJECT COMPLETION																																																																							

Sheet Date: 07/26/21
 Finish Date: 01/02/25
 Issue Date: 07/26/21
 Print Date: 22OCT21 12:41

HEDRICK BROTHERS CONSTRUCTION
 PALM HOUSE HOTEL
 CMA PHASE II CONSTRUCTION SCHEDULE 10/22/21

Sheet 1 of 1


LOGISTICS AND SITE LAYOUT PLANS FOR PHASE 2



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Palm House Hotel

LOGISTICS AND SITE LAYOUT PLANS FOR PHASE 2

Vehicular Movement and Flagman

Legend

📍 160 Royal Palm Way

160 Royal Palm Way

Flagman As Required

Google Earth

© 2021 Google

100 ft



6/29/2021

Google Earth



Palm House Hotel

West Parking

LOGISTICS AND SITE LAYOUT PLANS FOR PHASE 2

Legend

📍 160 Royal Palm Way

BASEMENT PARKING TO BE UTILIZED AS REQUIRED FOR PARKING AND STORAGE.

160 Royal Palm Way

GATE

🟩 DUMPSTER

🟡 TOILET

THIS AREA SLOPES DOWN TO THE BASEMENT

100 ft



Palm House Hotel

East Parking

LOGISTICS AND SITE LAYOUT PLANS FOR PHASE 2

Legend

160 Royal Palm Way

BASEMENT PARKING TO BE UTILIZED AS REQUIRED FOR PARKING AND STORAGE.

ADDITIONAL PARKING AND MATERIAL STORAGE AREA

GATE

DUMPSTER TRUCK

TOILET

Google Earth

© 2021 Google

100 ft







Palm House Hotel

West Parking

LOGISTICS AND SITE LAYOUT PLANS FOR PHASE 2

Legend

📍 160 Royal Palm Way

HOISTING AREA.
REMOVE HEDGES
AND PLANTERS
BEHIND FENCING

160 Royal Palm Way

Google Earth

© 2021 Google

100 ft

