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December 14, 2021

Town Council
Town of Palm Beach
360 South County Road
P.O. Box 2029
Palm Beach, FL 33480

Mr. Wayne Bergman
Director of Planning, Zoning & Building
360 South County Road
P.O. Box 2029
Palm Beach, FL 33480

Re: Special Exception Request for Beachfront Concessionaire at 2800 South Ocean Boulevard
(ZON-21-025)

Dear Members of the Town Council and Mr. Bergman:

We are writing regarding the above referenced application submitted by Boucher Brothers Management, Inc. and PB Hotel Property, LLC (collectively referred to as the "Applicant") for a Special Exception to operate a beachfront concessionaire at the Four Seasons, 2800 South Ocean Boulevard. Our client, the Ambassador II, is a residential building with 95 units located at 2780 South Ocean Boulevard. Due to its location immediately north and adjacent to The Four Seasons, the Ambassador II is impacted to a greater extent than other members of the public.

The Town Council has the item scheduled for the December 15, 2021 Town Council meeting. In the interest of preserving the quality of life in Palm Beach, and for the specific detrimental impacts on the neighborhood which we will detail in this letter, we urge you to deny the application. We ask that this letter be distributed to the members of the Town Council prior to the hearing.

I. Detrimental Impact on Neighborhood

As part of the required site plan review, the Town Council is tasked with examining the proposed use "for potential adverse impact on the adjacent area, neighborhood or town" and ensuring that the proposed use will "result in a positive contribution to the area, neighborhood and town." Sec. 134-326(a), Code of Ordinances, Town of Palm Beach, Florida (the "Code"). Prior to approval of any Site Plan, the Town Council must determine whether approval of the site plan will "adversely affect the public interest." Sec. 134-329.

This proposal will have adverse impacts on the adjacent area, neighborhood, and town, as well as to the public interest. Palm Beach is a small town that prides itself on its residential nature. Many residents moved to Palm Beach specifically to enjoy this high quality of life safely and peacefully. Even the Four Seasons, on its own website, touts the "easygoing pace of life by the water" and the "authentic Palm Beach experience." The beach concessionaire will take away from this peaceful Palm Beach experience.

The concessionaire use, according to the revised plans submitted by the Applicant on October 4, 2021, would have two beach huts, 200 lounge chairs, 75 umbrellas, and 10 daybeds, along with multiple storage bins, trash bins, and towel bins. Each beach hut is 10'-6" tall and 8' wide. Each large storage bin is 8' wide and 4'6" high.

Along with the physical presence of the above, Applicant will be serving food and beverages to guests on the beach. This will contribute to a "party" atmosphere that diminishes the enjoyment of adjacent residents due to the additional noise and visual impact of the proposed use. Residents of the Ambassador II will face strain from the increase in delivery trucks, garbage, noise, and food odors. In addition, the residents are concerned about trespassing and security issues, along with a loss in property values. As it relates to property values, the difference in values between the Ambassador II and its sister building, the Ambassador, are easily identifiable and show the negative impact resulting from being directly adjacent to the resort and its activities.

No other special exception requests under this specific provision of the Code have been approved. In 2010, the Omphoy Hotel (the "Omphoy"), located at the site of the current Tideline, 2842 South Ocean Boulevard, just south of the Four Seasons, submitted a similar application for a Special Exception for a beach hut under the prior version of the Code. The Town Council denied this application, and we respectfully urge you to deny the current application as well.

II. The Applicant *Is* Requesting a Change

In the September 14, 2021 letter signed by Todd Hill, Vice President of Business Development for Boucher Brothers Management, Inc. and submitted as part of the application packet, the Applicant states that "No structures or alterations will be added or made to the Beach Area. Your residents and guests will not be impacted in any way."

Applicant's improper opening of the beach concessionaire prior to obtaining approval should not change the way this application is evaluated. In fact, it shows that the Applicant is not a good neighbor as they began their disruptive use without authority. The proper comparison to make is between what is permissible under the Code today versus what would be permissible under the Code with this approval. Applicant cannot cast this as a renewal or as something that will not change anything. Without this approval, the concessionaire use would not be permitted, and again, they should not benefit from the existing non-approved use.

This is similar to the Town Council's 2010 denial of a Special Exception application from the Omphoy. The Omphoy installed structures and began food and beverage operations without obtaining approval. The Town Council denied the Special Exception application and ordered the removal of the structures and end to the use. We urge you to do the same in this current matter.

Although Applicant has requested a deferral of its hearing until January 2022, we understand that they are continuing the unauthorized operation of the special exception use. For the many reasons described in this letter, the operation of the concessionaire is causing extreme harm to the neighboring community. Residents of the Ambassador II would be placed at an additional disadvantage by this additional delay if the use continues without authorization. Should you decide to defer the hearing, we would ask that the Town Council enforce the current zoning limitations

and ask that the deferral be conditional upon the Four Seasons ceasing operations of the concessionaire pending the hearing date.

III. Concerns Specific to the Four Seasons

Much to the neighborhood's chagrin, the Four Seasons has a history of bad actions. Recently, neighbors have been outraged at several incidents where the Four Seasons held day-long parties with concert-level DJ music and special lighting, with performances on a specially constructed stage above the pool. One event, on November 15, 2021, ran for 15 hours and lasted until midnight. The noise level destroyed the peace, quiet, and tranquility of the neighborhood, with an unrelenting assault on the adjacent Ambassador II. Earlier this year, the Four Seasons was cited for multiple building and fire code violations that it had not fixed despite notifications from the Town. And this concessionaire itself was initially opened without the proper approval.

Residents of The Ambassador II want to preserve and maintain their unique quality of life and the small-town character that brought them to Palm Beach. The approval of the Special Exception will disrupt life in Palm Beach as they know it and bring unwanted noise and unwanted change. The concessionaire is part of the overall move towards a party atmosphere with excessive noise and lighting that does not have a place in this tranquil beach area.

IV. Proposed Use Exceeds the Code Provisions

As detailed in Section 134-1473(a)(2) of the Code, a beach concessions use can include food and drink service, sale of sunblock and lotions, and rental of non-motorized watercraft. Beach chairs and umbrellas are already permitted by right in the Beach Area under Section 134-1472. Neither of these sections mentions daybed rentals as a use, yet the Applicant is requesting approval for daybeds.

Similarly, Section 134-1473(a)(1) discusses the Special Exception uses and structures for beach concessions as including "one beach house structure." Here, the Applicant is requesting two beach huts plus two to three large storage boxes (two are shown on the aerial drawing but three are referenced in the operation plan). The beach huts are 10'-6" tall and 8' wide, while the storage boxes are 4'-6" tall and 8' wide. This is in addition to the trash and towel bins.

The addition of daybeds and this large number of structures is very concerning. The Special Exception use has limitations in place, and Applicant's expansion on the language in the Code will increase the visual impact of the use on neighbors and detract from the natural beauty of the Palm Beach beachfront.

Any approval of a Special Exception use should fit within the hotel and neighborhood and respect the limits contemplated by the Code. The expanded proposed use at the Four Seasons has too great of an impact on the neighborhood.

V. Parking, Traffic, and Safety Concerns

The Application is premised upon the assertion that the beach concessionaire will be utilized by resort guests only. In its parking statement, the Applicant notes that there are 210 parking spots allocated to resort guests, employees, and contractors/vendors, with no spots for public use. No additional parking is required as part of this concessionaire application.

Residents of the Ambassador II have observed overflow cars from the Four Seasons parked on the grass along South Ocean Boulevard. We are concerned that the concessionaire will increase the parking demands on an already overburdened property by drawing non-overnight guests to the facilities. Over the years, the owners of the Four Seasons have returned to the Town Council again and again for Special Exceptions that have expanded the property from the originally conceived hotel into a full-scale resort. These include expansions to the spa and pool areas. The concessionaire would continue this trajectory that is converting the property into a resort beyond what fits within the town of Palm Beach. By approving the concessionaire, you would be increasing the additional strains on the neighborhood caused by this transition.

Residents of the Ambassador II are likewise disturbed that the increase in delivery trucks, garbage removal, recycling, janitorial services, and employees associated with the concessionaire put even more pressure on an area not set up for this additional traffic and contribute to a decline in vehicular safety. In terms of safety, the Ambassador II has noticed increased trespassing from hotel guests on its beachfront property. These concerns are in addition to the general deterioration in enjoyment and decrease in the unique quality of life in Palm Beach.

VI. Conclusion

We respectfully ask for the denial of the application so that you may protect the unique place and lifestyle of Palm Beach. A beach concessionaire at the Four Seasons contributes to the unwanted party atmosphere that diminishes the peaceful enjoyment of Palm Beach by its residents.

If you approve the concessionaire, neighbors will have to live with the amplification of noise levels, odors, congestion, parking issues, and additional pressure on beach areas, along with other interruptions to their rightful quality of life.

We reserve the right to supplement this letter with additional information, and we look forward to speaking at the hearing.

Very truly yours,

SACHS SAX CAPLAN

Rebecca Zissel

REBECCA ZISSEL