

LETTER OF INTENT
RELATED TO 224 ATLANTIC AVENUE

On May 8, 1979, The Town Council granted Special Exception application # 10-79 to allow a developer to create seven (7) supplemental parking spaces in conjunction with the construction of a two unit development and which parking spaces were to be used by the subject property (224 Atlantic) and a condominium across the street (223 Atlantic) which was also owned by the developer. The Special Exception approval was granted with a condition that a Unity of Title be executed and recorded to tie the two properties together. A Unity of Title was recorded on October 26, 1979 (SEE ATTACHED).

The Applicant purchased both units in the duplex (224 Atlantic Avenue) in 2013 and converted the two units into one single family residence. As the structure is now a single family residence, the condominium documents for 224 Atlantic Avenue were terminated.

Section 134-229; 134-329 and 134-201: The Applicant would like to modify the previous Special Exception # 10-79 to remove the condition of the Unity of Title and remove the seven (7) supplemental parking spaces that were shared by both condominiums and only have a minimum of two (2) required parking spaces remain that would be required for a single family residence. Since the condominium across the street is non-conforming to today's parking requirement in the zoning code, a variance is being requested to eliminate the seven (7) supplemental parking spaces to the single-family dwelling which are now considered required for the 19 unit condominium building on the north side of Atlantic Avenue (223 Atlantic Avenue).

A) LANDMARKS PRESERVATION COMMISSION 54-122 & 54-161

Not applicable - This property is not landmarked

B) ARCOM 18-205

Not applicable

B) ARCOM 18-206

Not applicable

C) SPECIAL EXCEPTION 134-229

A Special Exception request is required to eliminate the condition of approval for the Unity of Title Agreement that was a part of the 1979 approval for the supplemental parking spaces. The request should be granted as the parking spaces are only supplemental and were not required for the 223 Atlantic condominium building at the time of its construction, thus they should be able to be removed. Since the subject property is no longer a condominium but a single family residence. It is appropriate to remove the supplemental parking.

1. The use is a permitted special exception use as set forth in article VI of this chapter.

In order to have allowed supplemental parking in 1979, a special exception request was required. A special exception request is now required to remove the condition of approval for the unity of title to tie the two properties together.

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

The supplemental parking spaces and unity of title are no longer necessary as the character of the property has changed from a duplex/condominium to a single family residence.

3. The use will not cause substantial injury to the value of other property in the neighborhood where it is to be located. **Removal of the supplemental parking and terminating the unity of title will not cause substantial injury to the value of other properties in the neighborhood as density has been reduce from two units to one single family residence and there is no need for a unity of title nor the supplemental parking.**

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

A single family residence without supplemental parking or a unity of title is compatible with the neighborhood as it is less density and preferable.

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

The single family residence will meet the required parking for the site.

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

Removing the supplemental parking and unity of title will be compatible with the Comprehensive Plan.

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

Removing the supplemental parking and unity of title will not have a negative impact on adjoining properties as the parking for the 223 Atlantic building is the same as it was when constructed and the spaces that are being removed were "supplemental."

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.

There will be adequate ingress and egress and off-street parking for the existing single family residence.

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. N/A

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

Utility service will remain unchanged, thus there will no negative impact on health and safety.

11. Refuse and service areas for the use shall not adversely affect automotive and pedestrian safety and convenience, traffic flow and control, or access in case of fire or catastrophe.

Refuse and service areas will remain unchanged, thus there will no negative impact on automotive and pedestrian safety and convenience, traffic flow and control, or access in case of fire or catastrophe.

12. The proposed use will not attract the principal portion of its customers/clients from off-island locations. The applicant shall submit evidence satisfactory to the town council that not less than 50 percent of the customers of the proposed use will be townpersons. Evidence submitted in support of this contention shall include credible data or information suitable for review by the town to determine its credibility and the appropriateness of the applicant's conclusions. 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. N/A

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. N/A

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.

The proposed single family residence and removal of seven (7) supplemental parking spaces and condition of the unity of title will not place a greater burden on police or fire protection services.

D) SITE PLAN REVIEW 134-329 N/A

E) VARIANCES 134-201

The hardship, which runs with the land, is that the 223 Atlantic Condominium was approved, permitted and constructed without the need for the seven (7) supplemental parking spaces and since the two condominium building were not properly tied together by a Unity of Title and the duplex at 224 Atlantic is now a single family residence, and no longer a condominium as their documents have been terminated, it would be a hardship to require the seven (7) parking spaces to remain for a condominium across the street.

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.

The special conditions related to the property and building is that the subject property was constructed as a 2 unit condominium but has since been combined into a single family residence and the condominium documents have been terminated, thus severing all ties to the condominium across the street. As such, there is no reason to maintain the seven (7) supplemental parking spaces on a property that contains a single family residence.

2. Indicate how the special conditions and circumstances do not result from the actions of the applicant.

The Applicant was not the cause of the special conditions of the property or residence, as the supplemental parking arrangement and approvals were in existence since 1979 and the applicant only purchased the property in 2013.

Demonstrate that the granting of the variance will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings or structures in the same zoning district.

The granting of the variance will not confer on the applicant a special privilege as it is not appropriate nor allowed to have supplemental parking on a property with a single family residence and removing the seven (7) supplemental parking spaces from a single family residence is consistent with other single family residences that would not be allowed to have supplemental parking.

4. Demonstrate how literal interpretation of this ordinance would deprive the applicant 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.

The hardship, which runs with the land, is that the 223 Atlantic Condominium was approved, permitted and constructed without the need for the seven (7) supplemental parking spaces and since the two condominium building were not properly tied together by a Unity of Title and the duplex at 224 Atlantic is now a single family residence, and no longer a condominium as their documents have been terminated, it would be a hardship to require the seven (7) parking spaces to remain for a condominium across the street.


5. Demonstrate that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

The variance requested is the minimum to make reasonable use of the land as the duplex has been combined into a single family residence and its condominium documents have been terminated. There is no reason to continue to tie both 223 Atlantic and 224 Atlantic together.

6. 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.

Granting the variance request is reasonable and will not be injurious to the neighborhood as the parking was "supplemental" and not required at the time the 223 Atlantic building was built.

Sincerely,



Maura Ziska

UNITY OF TITLE AGREEMENT

RAYMOND H. NORDINE, TRUSTEE, in consideration of the approval by the Town of Palm Beach, Florida, on May 8, 1979, of an Application For Zoning Special Exception (#10-79), and for other good and valuable considerations, restricts the use of the following described lands located in Palm Beach County, Florida:

Lots 53 (less the East 5.06 feet) and Lots 54 to 57, inclusive, ORANGE GROVE PARK, Palm Beach, Florida, according to the plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, recorded in Plat Book 5, page 97,

and
Lots 26, 27, 28 and 29, ORANGE GROVE PARK, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, recorded in Plat Book 5, page 97,

as follows: All of said lands shall be considered as one plot and parcel of land and no portion thereof shall be sold separately. However, this restriction shall not be applicable to the mortgaging of either parcels or to the sale, transfer, devise, assignment or mortgaging of condominium units located upon either parcel, when all such units and the condominium of which they are a part are operated by a single condominium Association, or to any provisions for the joint use of recreational and other facilities by the owners of such units.

These restrictions shall be deemed covenants running with said lands and shall remain in full force and effect, and be binding upon the undersigned, his heirs and assigns, until such time as they may be released by the Town of Palm Beach, Florida.

IN WITNESS WHEREOF, RAYMOND H. NORDINE, TRUSTEE, does hereunto set his hand and seal this 26th day of October, 1979.

Signed, sealed and delivered in the presence of:

H. Jean Norian
Charles H. Albright

Raymond H. Nordine (SEAL)
RAYMOND H. NORDINE, TRUSTEE

STATE OF FLORIDA)
COUNTY OF PALM BEACH) SS.

Before me personally appeared RAYMOND H. NORDINE, TRUSTEE, to me well known and known to me to be the individual described in and who executed the foregoing instrument, and acknowledged before me that he executed the same for the purposes therein expressed.

WITNESS my hand and official seal this 26th day of October, 1979.

This Document Prepared By:
PHILIP H. REID
REID & HEEKE
250 Royal Palm Way
Palm Beach, Fla. 33480



H. Jean Norian
Notary Public
State of Florida at Large
My commission expires: 11-8-79

RECORD VERIFIED
PALM BEACH COUNTY, FLA.
JOHN B. DUNKLE
CLERK CIRCUIT COURT