



HARVEY E. OYER, III
PARTNER
Shutts & Bowen LLP
1100 CityPlace Tower
525 Okeechobee Boulevard
West Palm Beach, Florida 33401
DIRECT (561) 650-8517
FAX (561) 822-5522
EMAIL hoyer@shutts.com

August 9, 2022

Via Email: mayor@townofpalmbeach.com / council@townofpalmbeach.com

Danielle H. Moore, Mayor
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

Town Council
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

Re: **ZON-22-100 (COA-22-035) - 800 S COUNTY RD (COMBO)**
(“Application”) submitted by Ann DesRuisseux (“Applicant”).

Dear Mayor Moore and Town Council:

This firm represents 790 S. County Rd. Land Trust (the **“Client”**), the owner of the home located at 790 South County Road, which directly abuts the property subject to the above-referenced Application (**“800 S. County”**). This correspondence shall serve as a formal objection to the variances requested by the Applicant.

Our Client possesses the requisite legal standing as a materially and adversely affected party because it is an adjacent property owner. Our Client objects to the granting of the six (6) variances requested by the Applicant to construct a 227 square foot (sq. ft.), 150 KW generator building with a 60-ton cooling tower enclosure at the northeast corner of the 800 S. County property. Specifically:

- 1) VARIANCE 1: Section 134-843(5): A variance for a front yard setback of 31.6 ft. in lieu of the 35 ft. minimum required for the construction of the new generator building;
- 2) VARIANCE 2: Section 134-843(8): A variance for a side yard setback of 10.9 ft. in lieu of the 30 ft. minimum required for lots over 60,000 sq. ft. for the construction of the new generator building;
- 3) VARIANCE 3: Section 134-843(11): A variance for lot coverage of 25.36% in lieu of the 24.99% previously approved, and the 25% maximum allowed, for the construction of the new generator building;

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4) VARIANCE 4: Section 134-843(12): A variance for a landscape open space of 42.8% in lieu of the 43.48% previously approved, and the 50% minimum required, for the construction of the new generator building;

5) VARIANCE 5: Section 134-1728(b)(1): A variance to permit a 60-ton cooling tower in a required side yard; and

6) VARIANCE 6: Section 134-1729: A variance to allow a 150 KW generator within the required front yard, where generators are prohibited.

Sections 94-131(a)(1) through (7) of the Town Zoning Code outlines the standards that must be complied with in order for the Town Council to approve a variance. The Applicant has failed to demonstrate or provide any legal justification to comply with any of these standards. As such, the Town Council cannot legally grant the requested variances.

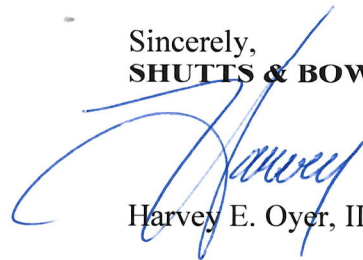
So you are aware, our Client attempted to work in good faith with the Applicant to achieve a reasonable solution for both parties. This is the reason we did not object at the Landmarks Preservation Commission meeting held on July 20, 2022. However, unfortunately, our client's good faith negotiations with the Applicant have reached an impasse.

Based on the foregoing, we respectfully request that the Town Council deny the requested variances. Nothing set forth herein shall be deemed to modify, limit, release, reduce, or waive any of the Client's rights, remedies, and/or privileges at law or in equity, all of which are specifically reserved.

Please ensure that this correspondence is placed in the official "record" of the proceedings for the Application.

Sincerely,

SHUTTS & BOWEN LLP

A handwritten signature in blue ink, appearing to read "Harvey", is written over the typed name.

Harvey E. Oyer, III, Esq.

cc: Skip Randolph, Esq.

Wayne Bergman, Director of Planning, Zoning and Building