

# SNIFFEN & SPELLMAN, P.A.

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September 26, 2022

**Via E-mail**

Architectural Commission  
c/o Jeffrey W. Smith, Chair  
Town Council of the Town of Palm Beach  
360 South County Road  
Palm Beach, Florida 33480

**Re: Objection to Application ARC 22-200 (Zon-22-132) ("Application")  
165 Bradley Place – Special Exception, Site Plan Review and  
Variance for Proposed New Daycare/Preschool**

Dear Mr. Smith and ARCOM Commissioners:

Our office represents Palm Beach Biltmore Condominium Association, Inc. and its 126 Units ("Biltmore"). In that capacity we have reviewed the above Application by Biltmore Galleria LLC ("Applicant"). In doing so we have found a litany of shortcomings. As a result, the Biltmore Objects to the Applicant's proposal to create a new private daycare/preschool ("Daycare"), which will accommodate 68 students and 6 employees, to be located at 165 Bradley Place ("Property").

**I. Application is in Violation of Town Agreements and Code**

There are a number of requests by the Applicant which simply cannot be granted as they would be in direct violation of prior existing agreements with the Town and/or the Town Code. Neither ARCOM nor the Town Council should allow the Application to be considered unless and until such conflicts are resolved or variances requested. These issues include, without limitation:

- **Failure to Meet the Standards for Places of Assembly.** Section 134-1517 of the Town Code requires that Places of Assembly (including schools) **must have a minimum site of 20,000 square feet and a minimum lot width of 100 feet.** The Property does not meet either requirement as it is **only 10,513 square feet with a width of 70 feet.** (see, Sheet A001.1) As such, the Application must be amended to seek a variance for the failure to meet such minimum standards.
- **Playground Equipment not Permitted in Commercial Zoning.** The Applicant is seeking permission to place playground equipment in the present parking area. Such equipment is not permitted under the Town Code. Section 134-1734 which specifically states that **"playground equipment shall only be allowed in residential zoning districts."** Again, any deviation from the Code would require the Application be amended to include a request for an additional variance.

**REPLY TO:**

605 NORTH OLIVE AVENUE, 2ND FLOOR  
WEST PALM BEACH, FL • 33401  
PHONE: 561.721.4000  
FAX: 561.721.4001

WWW.SNIFFENLAW.COM

123 NORTH MONROE STREET  
TALLAHASSEE, FL • 32301  
PHONE: 850.205.1996  
FAX: 850.205.3004

- **Artificial Turf Restrictions.** The Application is also in violation of the Town Code's Artificial Turf restrictions. Section 66-313 of the Code provides that artificial turf "may be installed in **limited areas of rear and side yards**". The Applicant is seeking to install a massive **2,209 square feet of artificial turf** to create a playground on a 10,513 square foot lot. This is far **in excess of a "limited area" of the rear yard**. Once again, a variance would be required to do so.
- **Inclusion of Artificial Turf in Landscape Open Space.** The Applicant has also **included the proposed artificial turf area in its calculation of Landscape open space of 2,362 square feet**. Without the inclusion of the playground area the only other landscape open space on the Property consists of a small strip of grass and shrubs on the east end of the Property. The inclusion of the turf area is in violation of Section 66-314(b) of the Code which provides that "**Artificial turf is calculated as impervious surface and shall not count towards landscape open space.**"
- **Failure to Submit C-TS Town Serving Report.** Section 134-229(12) of the Code **requires that the Applicant submit evidence that not less than 50 percent of the customers of the proposed use will be town persons**. Evidence of the same must include credible data and information. While the **Applicant** has made a statement that over 50 percent of its students will be town persons, it **has not submitted any credible data or information to support its conclusion**.
- **Closing the Entrance from Park Avenue.** Closing the access from Park Avenue on the Property is crucial to the Application. However, such request is in direct violation of that Unity of Title between the Applicant and the Town (*see*, Exhibit "A") recorded on December 1, 1978, in ORB 296, PG 112 of the Public Records. Under the Unity of Title, the Developer (defined as the Applicant) agreed that it "**shall maintain a one-way driveway gate permitting the traffic to flow only from Park Avenue onto the property...**" Absent the removal of such restriction, the Application directly violates the Applicant's obligations. Any changes to the Unity of Title should be made prior to examination of the Application to ensure the Unity of Title can be altered without creating a new zoning nightmare with the remaining unified property and buildings.
- **Removal of existing Kitchen.** The Applicant has requested the kitchen to remain on the Property. Under Article IV, Section 7 of that Declaration of Use Agreement with the Town, recorded in ORB 29276, PG 1572 of the Public Records (*see*, Exhibit "B") the prior occupant, Old Guard Society, Inc., "**shall be responsible to obtain a building permit to remove the kitchen if the Club vacates the subject Property.**" Any failure to do so would violate the Declaration of Use negotiated by the Town and undermine the consideration for the same.

Each of the above conflicts with existing obligations to the Town and violations of the Town Code should be resolved prior to the Application being permitted to move forward. Failure to do so would leave the Application incomplete, and its consideration premature.

## II. Additional Deficiencies

Even if the Application could proceed in its present form (which it cannot) there remains a series of additional red flags within the Application ranging from issues of traffic, drop off/pick up circulation, shared parking, and safety concerns, including, but not limited to:

### A. Shared Parking and Access Agreements

- **Lack of Shared Parking Approval.** Section 134-2177 of the Town Code requires that “**parking spaces for all uses or structures ... shall be located on the same lot ...**” The 9 designated parking spaces relied upon by the Application **are not within the boundaries of either the 165 Bradley Place lot or the other commercial lots within the Unity of Title.** See, Survey Sheet A001.1; Sheet A002; and Property Appraiser aerials attached as Exhibit “C”. While **shared parking is permitted under Section 134-2182** of the Town Code in the C-TS zoning **it cannot be used to expand or intensify the use of a property.** Here, the **intensification of use is readily apparent from the need to get 68 children and 6 employees into and out of the Daycare at the busiest times of every work day.** The Applicant’s Traffic study further demonstrates clearly that **peak a.m. trips will increase from 6 trips to 26 trips, and peak p.m. trips will increase from 12 trips to 27 trips** the time when traffic along when Bradley Place is often already at a standstill, especially when the Flagler bridge is open. See, Traffic Analysis, p.3. As such, use of the proposed 9 spaces on a separate lot **requires the Applicant obtain a special exception approval for shared parking.**
- **Lack of Access Agreement.** Similarly, the parking access aisle into and out of the Daycare is not located on the Property but on the lot to the south. The Applicant should **obtain an access easement** to assure the continued use of the aisle.
- **Insufficient Size of Sunrise Avenue Access.** The Applicant may claim that Sunrise Avenue may also be used as an access point It cannot. Prior Applicant submittals demonstrate it is 16 feet 6 inches wide (see, Exhibit “D”) which does not meet the 25 foot wide aisle required for two way traffic under Section 134- 2172 of the Code.

### B. Parking Space Issues

- **Non-compliant Parking Spaces.** While the Applicant relies exclusively on the use of the 9 parking spaces (8 spaces and 1 handicap space)<sup>1</sup> abutting the south of the Property, **such spaces do not meet the Town Code.** Under Sections 134-2171 and 134-2172 of the Town Code, parking spaces **must be a minimum of 9 feet wide and 18 feet long.** The Applicant’s Site Plan (Sheet A002) demonstrates that, outside of the handicap parking space, the remaining **proposed parking spaces are**

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<sup>1</sup> The Applicants continued reference to 9 spaces is somewhat disingenuous given that 1 space is a handicapped van accessible space, which cannot be used except by a handicapped parent, or it will result in a \$250.00 fine. As a practical matter all 68 children must be dropped off and picked up using 8 spaces and an occasional use of the one van space.

**8 feet 4 inches wide.** As such, they are non-compliant and should be restriped to meet the Town Code at the same time the handicapped parking space is being created. The result will be at least one less parking space and the need to increase the parking variance requested.

- **Inadequate Number of Parking Spaces.** The Applicant claims that with the use of the 9 designated parking spaces it is only short 6 spaces, the exact number of spaces it removes under the Application, for which it seeks a variance. However, it **fudges the number of spaces needed by admittedly using the parking space requirements for students in 1st to 6th grade under the Town Code.** There is a vast difference between Daycare and elementary school parking needs. Elementary students can get in and out of a car and enter the building without assistance, requiring fewer spaces. Parents of daycare children must park and walk their children into the Daycare. Given the missing standard in the Town Code for the number of parking spaces required for a daycare, the **Town should look to and adopt the Minimum Parking and Loading Requirements for Palm Beach County, Article 6 (Exhibit "E").** The County standards for a daycare dictate the need for **1 space per 5 persons (not students), plus 1 drop off stall per 20 persons.** With 68 students and 6 employees the Daycare will need 15 spaces (i.e.  $74 \text{ persons} / 5 = 14.8$ -rounded to 15) plus 4 drop off spaces (i.e.  $74 / 20 = 3.7$ -rounded to 4) for a total of 19 spaces to ensure the safety of parents and children. **The result is the need for 14 more parking spaces than accounted for by the Applicant creating an 18 space variance.**<sup>2</sup> Again, in addition to a variance, such spaces will **require a special exception for shared parking** as they will not be on the same lot and will increase the intensification of the use of the Property.
- **Failure to Provide Parking Spaces for Employees.** Again, by not using standards for a preschool/daycare, the Application makes **no provision for either parking spaces or traffic trips for its 6 employees.** Clearly, employees will account for an additional 6 trips in and out of the Daycare each day at primarily peak hours as well as require parking outside of the 9 assigned spaces, **yet again further triggering the need for shared parking.**

### C. Parking Circulation Deficiencies

- **Insufficient queuing.** The Application provides **no queuing for the Daycare drop off and pick up.** This is an impossibility in the real world. According to the Application **"Parents or guardians will park in one of the nine designated parking spaces on the south side of the building and escort their child through the front entrance (west side of the building) to be signed in."** The distance from Bradley Place to the eastern edge of the 9 parking spaces is 100-110 feet. According to the NADA the average car is 14.7 feet long.<sup>3</sup> As a result, it will only

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<sup>2</sup> Adding the additional 14 spaces to the required 80 spaces yields the need for 94 spaces total with a proposal of only 76 spaces (after proposed modification), for a variance of 18 parking spaces using the County daycare numbers.

<sup>3</sup> <https://www.nadaguides.com/Cars/Shopping-Guides/how-long-is-the-average-car>

take **6.8 to 7.4 cars to fill the entire drop off/pick up area**. The Applicant also fails to take into consideration that cars entering from Bradly Place **will necessarily have to wait for parents to pull into and out of the 9 parking spaces** creating backups in the parking aisle and onto Bradley Place. Likewise, the Applicant has neglected the real potential for parents who have managed to navigate into one of the proposed 9 spaces being **blocked from getting out by cars waiting for parking spaces or trying to exit onto Bradley Place**.

- **Dueling Parking.** Unable to get into or out of the identified 9 spaces, the natural result will be that **parents will begin parking in the spaces across the parking aisle on the righthand side as they enter from Bradly Park** at the former bank building. This will further impede access, and create a situation of cars jockeying to pull into and out of the spaces on both sides of the parking aisle at the same time. Again, at 14.7 feet average per car **there will be little room for the maneuvering of 2 cars backing up at the same in the 25foot parking aisle**.
- **Lack of Safe Path to Entrance for Parents and Children.** Added to the chaos of the parking areas, is the fact that **there is no safe path to the entrance of the Daycare**. There is **no sidewalk or pathway** in front of the 9 parking spaces to the entrance. As a result, **parents and children will be forced to run the gauntlet behind the flow of cars entering, exiting, and parking during pick up and drop off**. This is a recipe for disaster.
- **Increased circulation through Park Avenue.** The ability to both enter and exit from Bradley Place during drop off and pickup, **will necessarily result in more traffic in the Park Avenue neighborhood**. During peak hours **parents exiting the Daycare will not be able to turn left to go south out of the access aisle onto Bradley Place** without drivers on both sides of the road giving way. **The result will be a steady stream of cars turning right onto Bradly Place and right again on Park Avenue** to proceed to N. County Road and head south.
- **Failure to Provide for Safety and Enforcement.** Added to the above is **the complete absence of any provisions for a teacher, employee or safety officer assigned to monitor, facilitate, and enforce the drop off and pick up process** using the 9 spaces, as well as preventing the improper discharge of children on the apron, parking access aisle, the sidewalk, or on the Bradly Place sidewalk.

### **III. Failure to Meet Standards for Site Plan, Special Exception, or Variance**

While ultimately the purview of the Town Council, ARCOM should be aware that, based upon the above shortcomings, the Applicant does not meet the legal standards for granting a site plan, special exception or variance.

- A. Failure to Meet Site Plan Standards.** Section 134-329 of the Town requires the Applicant to demonstrate, and the Town Council to make a finding, that a **proposed**

**Site Plan will not adversely impact the public interest.** As detailed above, the Applicant has **failed to meet the standards** of Sections 134-329(2) (3), (4) and 8 of the Town Code and its Site Plan cannot be approved.

**B. Failure to Meet Special Exception Standards.** The Applicant has further failed to meet the standards for the various special exceptions required for a school in the C-TS zoning district and the required shared parking given that:

- The special exceptions are not in harmony with the purpose and intent of the CT-S zoning district under Section 134-226(a) of the Town Code.
- The special Exceptions will adversely affect the public interests in violation of Section 134-226(b) or the Town Code.
- The use of the Property as a Daycare is not designed, located, or proposed to be operated in a manner that the public health, safety, welfare, and morals will be protected in violation of Section 134-229(2) of the Town Code.
- The use of the Property as a Daycare will not be compatible with the existing adjoining commercial development and intended purposes of the C-TS zoning district under Section 134-229(4) of the Town Code.
- The Daycare will not comply with the yard, and other open space and other special requirements for the use as a Daycare under Section 134-229(5) of the Town Code, as detailed above.
- There will not be adequate ingress and egress to the Property, adequate off street parking on the 165 Bradley Place lot, or a design and circulation which will promote automotive and pedestrian safety, convenience and proper traffic flow and control in violation of Section 134-229(8).

**C. Failure to Meet Standards for a Variance.** The Applicant has also failed to meet virtually all of the criteria required for a variance under Section 134-201(a) of the Code, including without limitation:

- The failure to demonstrate the requisite undue hardship under Section 134-201(a). There can be no hardship given that the Property can be used for a myriad of commercial purposes under the C-TS zoning. Furthermore, any hardship would be self-created.
- The failure to establish that special conditions and circumstances exist which are peculiar to the land, structure of building which are not applicable to other land, structures of in the C-TS zoning district under Section 134-201(a)(1). There are not special conditions or circumstances as the Property is a regular sized lot within the C-TS Zoning which was used for Town Serving purposes for many

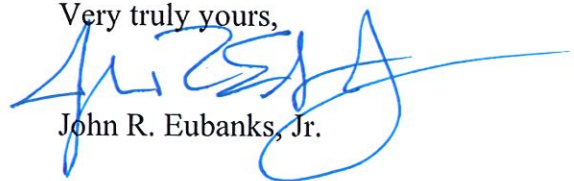


years while **subject to the same circumstances as presently exist at other properties in the C-TS zoning district.**

- **The failure to demonstrate any special conditions and circumstances do not result from the actions of the applicant under Section 134-201(a)(2). Any special circumstances which may exist are the direct the result of the Applicant.**
- **Granting the variance requested will confer on the Applicant special privileges that are denied to other lands, buildings, or structures in the same zoning district in violation under Section 134-201(a)(3).**
- **The failure to demonstrate that a literal interpretation of the Code would deprive the Applicant of rights commonly enjoyed by other properties in the CT-S zoning district or work an unnecessary and under hardship on the Applicant under Section 134-201(a)(4). The Property enjoys the same rights enjoyed by other neighboring properties, there is no unnecessary hardship, and any hardship claimed would be self-created.**
- **The failure to show that the variance requested is the minimum variance that will make possible the reasonable use of the land, building or structure under Section 134-201(a)(5). Under the Application the minimum variance would be no variance as the Applicant has created a self-imposed hardship by removing parking spaces. The Property can and has been reasonably used for years.**
- **The failure to demonstrate that the grant of the variance will be in harmony with the general intent and purpose of the C-TS zoning district under Section 134-201(a)(7). Granting of the variance would not be in harmony but create a direct conflict with commercial purpose of the C-TS zoning district.**

Considering the Application as a whole in light of the above facts and circumstances, the Biltmore requests the Application be denied.

Very truly yours,



John R. Eubanks, Jr.

Attachments

cc: ARCOM Committee Members  
Wayne Bergman, Director of Planning, Zoning & Building  
James Murphy, Assistant Director of Planning, Zoning & Building  
Kelly Churney, Deputy Town Clerk  
Town Clerk, Town of Palm Beach

AGREEMENT FOR UNITY OF TITLE AND OTHER RESTRICTIONS

THIS AGREEMENT, dated this 30<sup>th</sup> day of Nov., 1978, by  
and between BILTMORE GALLERIA, LIMITED, and TOWN OF PALM BEACH,

W I T N E S S E T H:

In consideration of the granting of the Zoning Variance and Site Plan Request Number 23-78 as modified, (the "Request"), to Stanley J. Harte on October 10, 1978 approving the use of the westernly twenty-five feet of Lot 37 of the BUNGALOW PARK ADDITION property for a driveway and maneuvering aisleway, and for other good and valuable consideration received from the TOWN OF PALM BEACH, the Developer, which as used herein shall mean the BILTMORE GALLERIA LIMITED, a limited partnership, its successors and/or assigns, (the "Developer"), agrees to restrict the use of the real property described in Exhibit "A" attached by the conditions which follow which shall be covenants running with the land unless and until such time as the same shall be released or modified in writing by the TOWN OF PALM BEACH, Florida:

1. Said property shall be considered as one plot and parcel of land and no portion of said plot or parcel of land shall be sold, transferred, assigned or mortgaged separately but rather only in its entirety as one plot and parcel of land.
2. The Developer shall maintain a one-way driveway gate permitting the traffic to flow only from Park Avenue onto the property, which gate shall be maintained at the place set forth in the Site Plan approved by the Town Council in accordance with the Request.
3. The Developer shall maintain the landscaping as is more particularly shown on the plans submitted with respect to the Request.
4. The Developer shall record this Agreement at its own expense in the Records of Palm Beach County and shall thereafter file this Agreement in the Office of the Town Clerk in and for the TOWN OF PALM BEACH.

IN WITNESS WHEREOF, the parties hereto have subscribed their names the day and year first aforesaid.

PALM BEACH OFF  
REC 2968 PAGE 112

Exhibit G

EXHIBIT

A

tabbles

78 192539  
DEC-1 PM 3:50

10.60%  
City, Man, Regem  
321 Royal Palm P.O.



Witnesses:

BILTMORE GALLERIA, LIMITED  
A Florida Limited Partnership

James L. Anderson  
Charles J. Wood

By Stanley J. Hart  
Its General Partner

STATE OF FLORIDA )  
COUNTY OF PALM BEACH ) SS.

The foregoing instrument was acknowledged before me this  
27<sup>th</sup> day of November, 1978, by Stanley J. Hart  
General Partner of BILTMORE GALLERIA, LIMITED, a Florida limited  
partnership on behalf of said partnership.



Alice E. Fernandez  
Notary Public

My Commission Expires:

Notary Public, State of Florida at Large  
My Commission Expires Sept. 12, 1980  
Bonded by American Fidelity & Guaranty Company

Witnesses:

Joan Sanchez

TOWN OF PALM BEACH

G. H. Frost, Town Manager

ATTEST: Joan Sanchez

APPROVED:

Stanley J. Hart  
General Partner

STATE OF FLORIDA )  
COUNTY OF PALM BEACH ) SS.

The foregoing instrument was acknowledged before me this  
27<sup>th</sup> day of November, 1978, by Stanley J. Hart  
The General Partner of THE TOWN OF PALM BEACH, Florida,  
a Florida municipality, on behalf of the town of Palm Beach.

(NOTARY SEAL)



Joan Sanchez  
Notary Public

My Commission Expires:

Notary Public  
MY COMMISSION EXPIRES JAN. 2, 1980  
BONDED THRU GENERAL FIDELITY & GUARANTY

That property located on Lots 46 through 53 inclusive, SUNRISE AVENUE ADDITION, Number 2, an addition to the Town of Palm Beach, Palm Beach County, Florida, according to the Plat thereof on file, in Plat Book 8, Page 69, in the Office of the Clerk of the Circuit Court of Palm Beach County, Florida, and that property located at the southeast corner of the intersection of Bradley Place and Park Avenue, and Lots 35, 36 and 37, BUNGALOW PARK ADDITION, an addition to the Town of Palm Beach, Palm Beach County, Florida, according to the Plat thereof on file in Plat Book 7, Page 26, in the Office of the Clerk of the Circuit Court of Palm Beach County, Florida.

EXHIBIT "A"

PALM BEACH COUNTY - STATE OF FLORIDA  
 DECEMBER 18, 1968 PAGE 124

PALM BEACH COUNTY - STATE OF FLORIDA

I hereby certify that the foregoing is a true copy of the record in my office

THIS DAY OF December 18, 1968

JOHN B. DUNKLE

Clerk Circuit Court

*Michael J. Chinn*

Record Mailed  
 Palm Beach County, Fla  
 John B. Dunkle  
 Clerk Circuit Court



CFN 20170284831

OR BK 29276 PG 1572

RECORDED 08/08/2017 14:23:06

Palm Beach County, Florida

Sharon R. Bock, CLERK & COMPTROLLER

Pgs 1572 - 1581 (10pgs)

This is not a certified copy

**DECLARATION OF USE AGREEMENT**

by

**THE TOWN OF PALM BEACH**

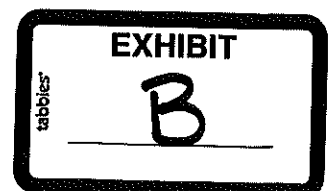
and

**OLD GUARD SOCIETY, INC.**

**August 2017**

**Prepared by and return to:  
Maura A. Ziska, Esquire  
Kochman & Ziska PLC  
222 Lakeview Avenue, Suite 1500  
West Palm Beach, FL 33401  
(561) 802-8960**

00035342



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### DECLARATION OF USE AGREEMENT

THIS DECLARATION OF USE AGREEMENT is made and entered into this 3<sup>rd</sup> day of August, 2017 by and between the TOWN OF PALM BEACH, a Florida municipal corporation, 360 South County Road, Palm Beach, Florida 33480 (hereinafter called "the Town") and OLD GUARD SOCIETY, INC., 165 Bradley Place, Palm Beach, Florida 33480 (hereinafter called "the Club"), which terms "the Town" and "the Club" will include and bind the successors and assigns of the parties, wherever the context so requires or admits.

#### WITNESSETH :

WHEREAS, the land described in Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "Land") is located within the municipal limits of the Town; and

WHEREAS, The Club is a Special Exception use in the C-TS Zoning District; and

WHEREAS, the Town Council conditionally approved Special Exception Number 9-2016 with Site Plan Review and Variance on April 12, 2017 which approved the Special Exception with Site Plan Review to open the Club at the above referenced location and a the Variance to eliminate the requirement for ten (10) additional off-street parking spaces based on the principle of equivalency calculation; and

WHEREAS, all of the representations made herein are true and accurate and the approval of the Special Exception with Site Plan Review and Variance are conditioned upon the representations made herein and all of the conditions herein imposed; and

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed as follows:

#### ARTICLE I

##### RECITALS

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

#### ARTICLE II

##### REPRESENTATION OF LEASE

The Club has full right to enter into this Agreement and to bind the Land and itself to the terms hereof. There are no covenants, restrictions or reservations of record that will prevent the use of the Land in accordance with the terms and conditions of this Agreement. No consent to execution, delivery and performance hereunder is required from any person, partner, limited partner, creditor, investor, judicial or administrative body, governmental authority or other party other than any such consent which already has been unconditionally given or referenced herein. Neither the execution of this Agreement nor the consummation of the transactions contemplated

herein will violate any restriction, court order or agreement to which the Club or the Land are subject.

### ARTICLE III

#### PRIVATE CLUB USE

The use (the Club) that is the subject of this Declaration of Use shall be as set forth in the application submitted to the Town for Special Exception Number 9-2017 with Site Plan Review and Variance and approved by Town Council on April 12, 2017 as the same may be amended from time to time (hereinafter referred to as the "Approval"). The set of plans which are part of Special Exception Number 9-2017 with Site Plan Review and Variance conditional approval, and as identified on sheet drawings A000 and A100 prepared by MP Design & Architecture, Inc., stamp dated February 24, 2017, may not be deviated from unless prior Special Exception approval is granted by the Town Council.

### ARTICLE IV

#### CONDITIONS

The approval to allow the Club to operate is based upon the following conditions:

- 1) Hours shall be limited from 10:00 a.m. to 7:00 p.m. Monday through Saturday.
- 2) The maximum membership shall be 100 people.
- 3) The maximum number of members and guests from 10:00 a.m. to 7:00 p.m. shall not exceed 20 people.
- 4) Evening events shall be allowed from 5:00 p.m. to 11:00 p.m. The number of evening events shall be limited to one time per calendar month from November 1<sup>st</sup> to May 1<sup>st</sup> with the exception of December during which the Club can have a maximum of two (2) events that month.
- 5) Valet parking is required for all night events. A valet parking permit from the Police Department shall be required and the valet stand shall be located on the subject property and not on any surrounding streets.
- 6) No music shall be allowed.
- 7) The Club shall be responsible to obtain a building permit to remove the kitchen if the Club vacates the subject property.

## ARTICLE V

### VOLUNTARY AGREEMENT AND HOLD HARMLESS

The Club agrees to be bound by the terms and conditions in this Agreement, and Tenant waives any legal objection it might otherwise have to said terms and conditions or parts thereof.

## ARTICLE VI

### REMEDIES FOR VIOLATION

1. Upon determination by the Director of Planning, Zoning and Building Department of a violation of any of the terms or conditions of this Agreement or any other provision in the Town Code of Ordinances, and upon notice in writing from the Town to the Club and the Club's representative of said violation(s) and the date upon which said violations(s) shall be corrected, owner or owner's successor or assigns shall pay to the TOWN a liquidated amount of \$2,000 per violation. Said liquidated amount shall accrue on a per day basis for each day a violation of this agreement exists. In addition, in the event a violation remains uncorrected beyond the date noticed for correction by the Director of the Planning, Zoning and Building Department, this Agreement may be reconsidered by the Town Council at a future meeting upon thirty days notification to the owner. The Town Council may, upon a finding of violation, alter this Agreement or rescind the approval of the use.

In the event owner disputes the determination of the Director of Planning, Zoning and Building Department of the violation of the conditions of this Agreement, or in the event the owner disputes any code violation, owner may appeal the determination of the Director of the Planning, Zoning and Building Department to the Town Council, said appeal to be filed no later than fifteen (15) days following the written notice of violation.

2. The Town shall have all remedies available at law and equity in order to enforce the terms of this Agreement including but not limited to (a) the Town's code enforcement procedures; (b) all remedies otherwise offered in the Town's Code of Ordinances; and (c) injunction, specific performance, and any and all other equitable relief through the civil courts in and for Palm Beach County for the State of Florida. In the event the Town is required to seek injunctive relief, it shall not be required to post bond and it shall not be required to demonstrate irreparable harm or injury to secure an injunction to enforce the terms of this Agreement. Additionally, in the event of any breach, default or non-performance of this Agreement, or any of its covenants, agreements, terms or conditions, the Town shall be entitled to recover its costs, expenses and reasonable attorney's fees insofar as the Town prevails, either before or as a result of litigation, including appeals.

## ARTICLE VII

### PROVISIONS TO RUN WITH THE CLUB

This Agreement shall NOT run with the Land and shall be binding upon the Club only and shall terminate upon the termination of the Club's lease and/or business tax receipt, or rescission of approval by the Town Council. This Agreement shall be recorded by the Club in

the Official Records of Palm Beach County, Florida upon full execution by the parties hereto. This Agreement shall be superior to any mortgages on the Land and shall be recorded prior to the recording of any such mortgages.

ARTICLE VIII

ENTIRE AGREEMENT

This Agreement represents the entire agreement between the parties as to its subject matter and it may not be amended except by written agreement executed by both parties.

ARTICLE IX

EFFECTIVE DATE

The Effective Date of this Agreement shall be the day upon which this Agreement is executed by the last party to sign the Agreement.

ARTICLE X

MISCELLANEOUS

Wherever the word "laws" appears in this Agreement, it shall be deemed to include all ordinances, rules and regulations as well as laws of the appropriate governmental authorities.

This Agreement may not be amended except by written instrument signed by all parties hereto.

Paragraph headings are inserted for convenience only and shall not be read to enlarge, construe, restrict or modify the provisions hereof. All references to numbered or lettered paragraphs, subparagraphs and exhibits refer (unless the context indicates otherwise) to paragraphs and subparagraphs of this Agreement and to exhibits attached hereto, which exhibits are by this reference made a part hereof.

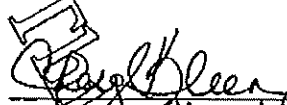
In the event of the invalidity of any provision of this Agreement, same shall be deemed stricken herefrom and this Agreement shall continue in full force and effect as if such invalid provision were never a part hereof.


This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

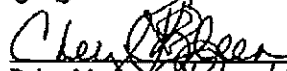


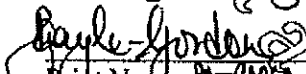
IN WITNESS WHEREOF the parties have hereunto set their hands and seals the day and year first above.


Signed, sealed and delivered  
In the presence of:

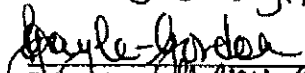
  
Print Name: Cheryl Klean

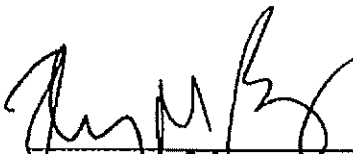
  
Print Name: PATRICIA GAYLE GORDON

  
Print Name: Cheryl Klean


  
Print Name: PATRICIA GAYLE GORDON

  
Print Name: Cheryl Klean

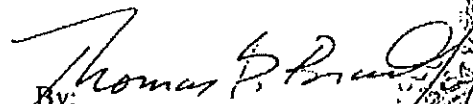
  
Print Name: PATRICIA GAYLE GORDON

  
Print Name: WILLIAM M. DANKNER  
Clean  
Print Name: CRISTEN DANKNER

THE TOWN OF PALM BEACH

By:   
Gail Coniglio, Mayor


By:   
Richard Kleid, President

By:   
Thomas Bradford, Town Manager



THE CLUB

OLD GUARD SOCIETY, INC.

By:   
Its: President

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of August 2017, by Gail Coniglio, the Mayor of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. She is personally known to me and she did not take an oath.



GWENDOLYNN B. PEIRCE  
MY COMMISSION # FF 092935  
EXPIRES: May 16, 2020  
Bonded Thru Budget Notary Services

Gwendolynn B. Peirce  
Signature of Notary Public

Gwendolynn B. Peirce  
Printed Name of Notary Public

Commission Expires: May 16, 2020

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of August 2017, by Richard Kleid, the President of the Town Council of the 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.



GWENDOLYNN B. PEIRCE  
MY COMMISSION # FF 092935  
EXPIRES: May 16, 2020  
Bonded Thru Budget Notary Services

Gwendolynn B. Peirce  
Signature of Notary Public

Gwendolynn B. Peirce  
Printed Name of Notary Public

Commission Expires: May 16, 2020

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of August 2017, by Thomas Bradford, the Town Manager of the 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.



GWENDOLYNN B. PEIRCE  
MY COMMISSION # FF 092935  
EXPIRES: May 16, 2020  
Bonded Thru Budget Notary Services

Gwendolynn B. Peirce  
Signature of Notary Public

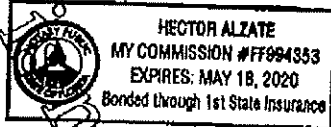
Gwendolynn B. Peirce  
Printed Name of Notary Public

Commission Expires: May 16, 2020

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 11<sup>TH</sup> day of July 2017, by Brian Smith, on behalf of Old Guard Society, Inc. He/She is personally known to me and he did not take an oath.

  
Signature of Notary Public**HECTOR H. ALZATE**

Printed Name of Notary Public

Commission Expires: 05/18/2020

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY FOR THE TOWN OF  
PALM BEACH

By: 

John C. Randolph, Esquire

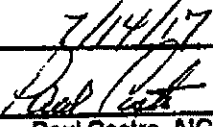
RECOMMEND APPROVAL:  
Paul Castro, AICP  
Zoning Administrator

EXHIBIT "A"

LEGAL DESCRIPTION

Lots 35, 36 and 37, BUNGALOW PARK ADDITION, 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 7, Page 26.

This is not a certified copy



Search by Owner, Address or Parcel

[View Property Record](#)

**Owners**

BILTMORE GALLERY LLC

**Property Detail**

Location 165 BRADLEY PL  
Municipality PALM BEACH  
Parcel No. 50434315080000350  
Subdivision BUNGALOW PARK ADD IN  
Book 15470 Page 1350  
Sale Date JUL-2003

Mailing Address PO BOX 3266  
PALM BEACH FL 33480 1466

Use Type 7700 - CLB/LDC/JUN HALL

Total Square Feet 3038

**Sales Information**

Sales Date	Price
JUL-2003	10
DEC-1996	325000
DEC-1996	325000
AUG-1988	100
AUG-1987	1859000

**Appraisals**

Tax Year	2022 <b>P</b>
Improvement Value	\$292,658
Land Value	\$2,005,377
Total Market Value	\$2,298,035

**P** Preliminary  
All values are as of January 1st each year

**Assessed/Taxable values**

Tax Year	2022 <b>P</b>
Assessed Value	\$1,929,877
Exemption Amount	50




EXHIBIT

C

esipqta





**DOROTHYJACKS**  
CFL, AIS  
Palm Beach County Property Appraiser  
[We Value What You Value](#)

[PAPA Home](#)

Search by Owner, Address or Parcel

View Property Record

Owners

BILTMORE GALLERIA LLC

Property Detail

Location 285 SUNRISE AVE  
Municipality PALM BEACH  
Parcel No. 50434315100000540  
Subdivision SUNRISE AVE ADD 2 IN  
Book 15470  
Sale Date JUL-2003  
Page 1350  
Mailing Address PO BOX 3266  
PALM BEACH FL 33480 1466  
Use Type 2300 - FINANCIAL  
Total Square Feet 2793

Sales Information

Sales Date	Price
JUL-2003	10
DEC-1996	325000
DEC-1996	325000
MAY-1988	1100000
MAY-1988	100

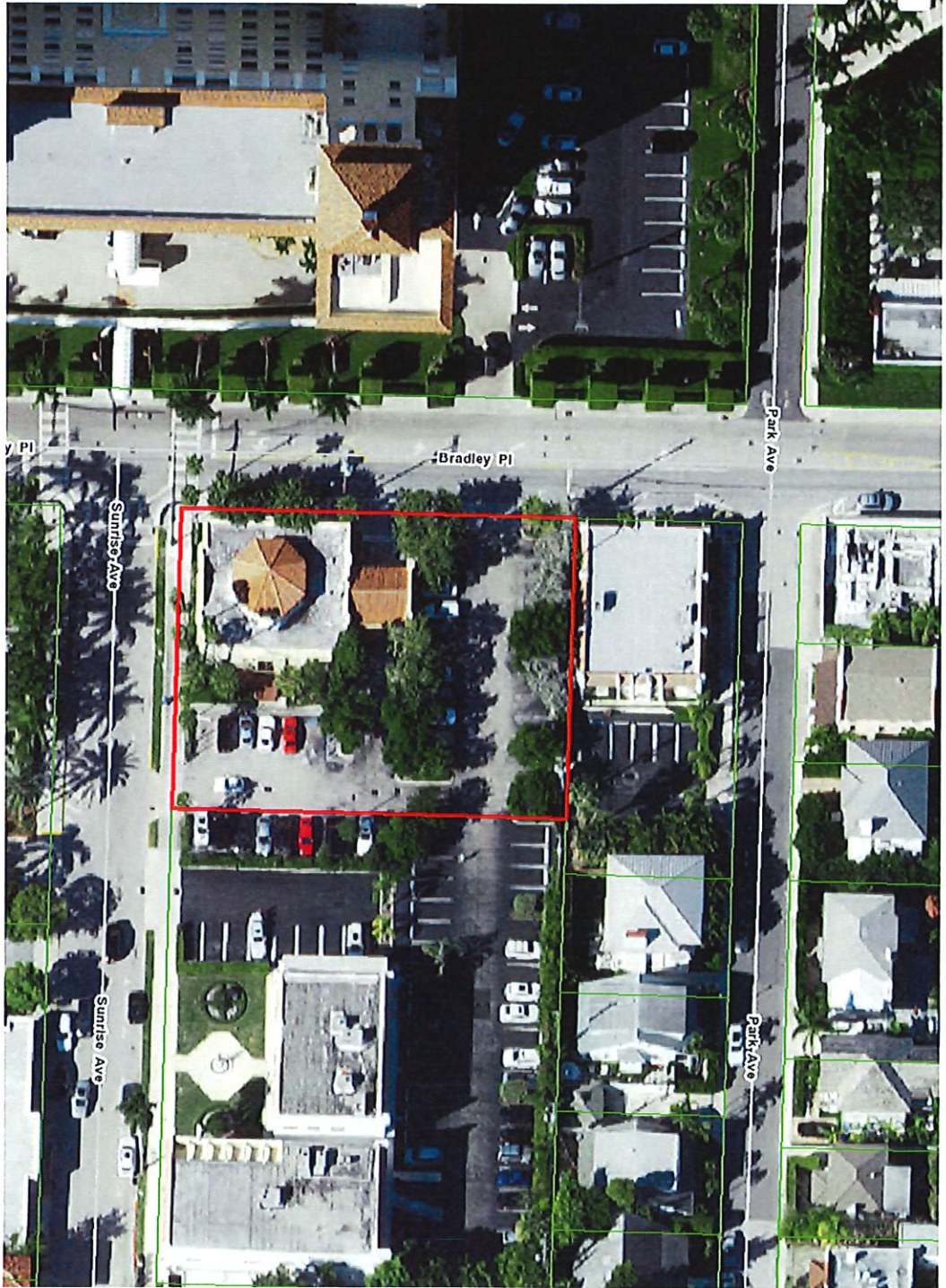
Appraisals

Tax Year	2022
Improvement Value	\$0
Land Value	\$3,071,814
Total Market Value	\$3,071,814

All values are as of January 1st each year

Assessed/Taxable values

Tax Year	2022
Assessed Value	\$3,071,813
Exemption Amount	\$0





## Owners

### Property Detail

Location 255 SUNRISE AVE  
Municipality PALM BEACH  
Parcel No. 5043431510000460  
Subdivision SUNRISE AVE ADD 2 IN  
Book 15470 Page 1350  
Sale Date JUL-2003

PO BOX 3266  
Mailing Address  
PALM BEACH FL 33480 1466  
Use Type 1100 - STORES  
Total Square Feet 13557

## Sales Information

JUL-2003	10
DEC-1996	325000
DEC-1996	325000
AUG-1988	100
AUG-1987	1859000

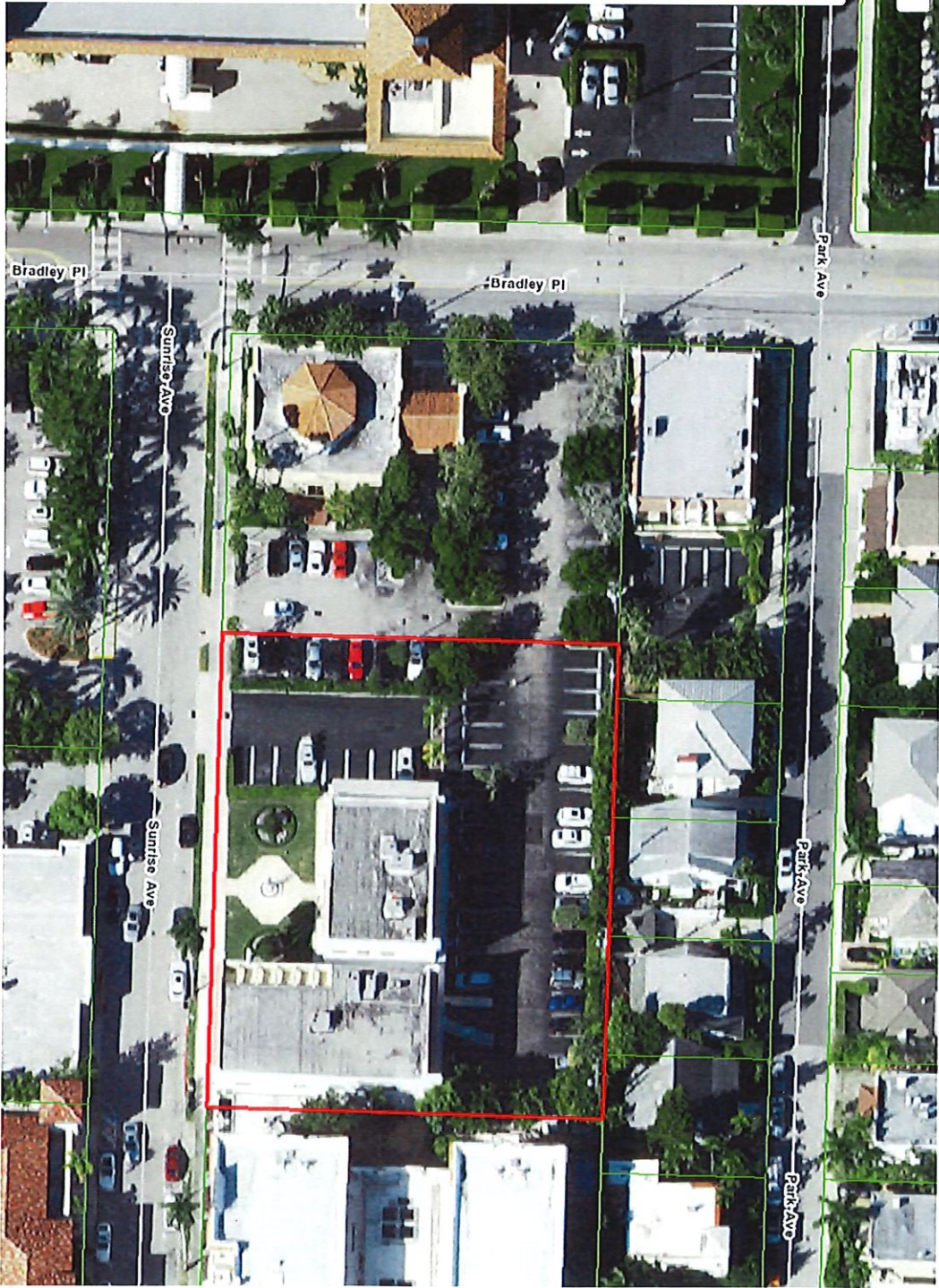
## Appraisals

Tax Year	2022 P
Improvement Value	\$1,747,363
Land Value	\$3,814,603
Total Market Value	\$5,561,966

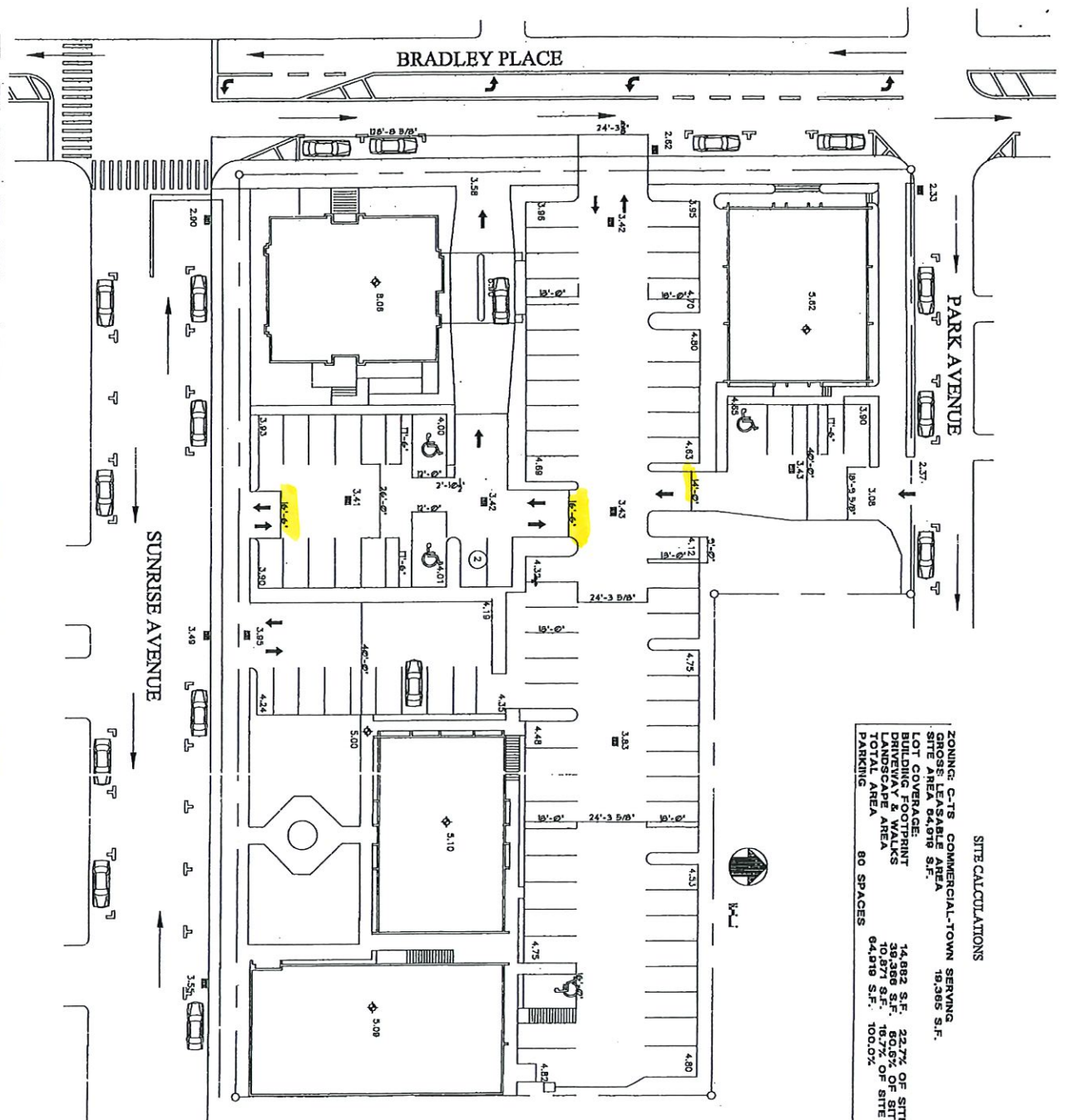
All values are as of January 1st each year

**Assessed/Taxable values**

Tax Year	2022 P
Assessed Value	\$5,002,185
Exemption Amount	\$0

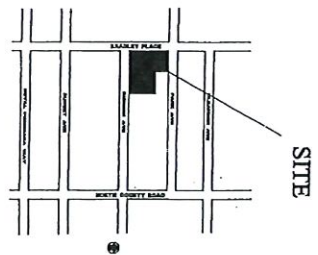






**SITE CALCULATIONS**

ZONING: C-1'S COMMERCIAL-TOWN SERVING	18,365 S.F.
GROSS LEASABLE AREA	18,365 S.F.
LOT AREA 64,918 S.F.	
LOT COVERAGE	28.27% OF SITE
BUILDING FOOTPRINT	38,366 S.F. 80.6% OF SITE
DRIVEWAY & WALKS	10,871 S.F. 16.7% OF SITE
LANDSCAPE AREA	64,918 S.F. 100.0%
TOTAL AREA	
PARKING	80 SPACES



LOCATION MAP

RECEIVED  
NOV - 4 2005  
TOWN OF PALM BEACH  
PZB DEPT.



I HEREBY CERTIFY THAT THIS DRAWING  
AND ALL INFORMATION CONTAINED  
HEREIN ARE TRUE AND CORRECT  
TO THE BEST OF MY KNOWLEDGE  
AND BELIEF. I AM A REGISTERED  
PROFESSIONAL ARCHITECT IN THE  
STATE OF FLORIDA. MY EXPIRATION  
DATE IS 12/31/2006. I HAVE  
NOT BEEN DISCIPLINED BY THE  
FLORIDA BOARD OF ARCHITECTURE  
OR THE FLORIDA BOARD OF  
PROFESSIONAL ENGINEERS.  
TO: JOHN C. WILSON  
ARCHITECT & ENGINEER  
1000 N. MILITARY AVE. SUITE 200  
P.O. BOX 1000  
WEST PALM BEACH, FL 33411  
TEL: 561-833-1234  
FAX: 561-833-1235  
JANUARY 2006 ARCHITECT & ENGINEER

**SCALE**  
1" = 10'-0"

**PROJECT**  
12121 GALLERY  
SUNRISE AVENUE  
PALM BEACH, FLORIDA

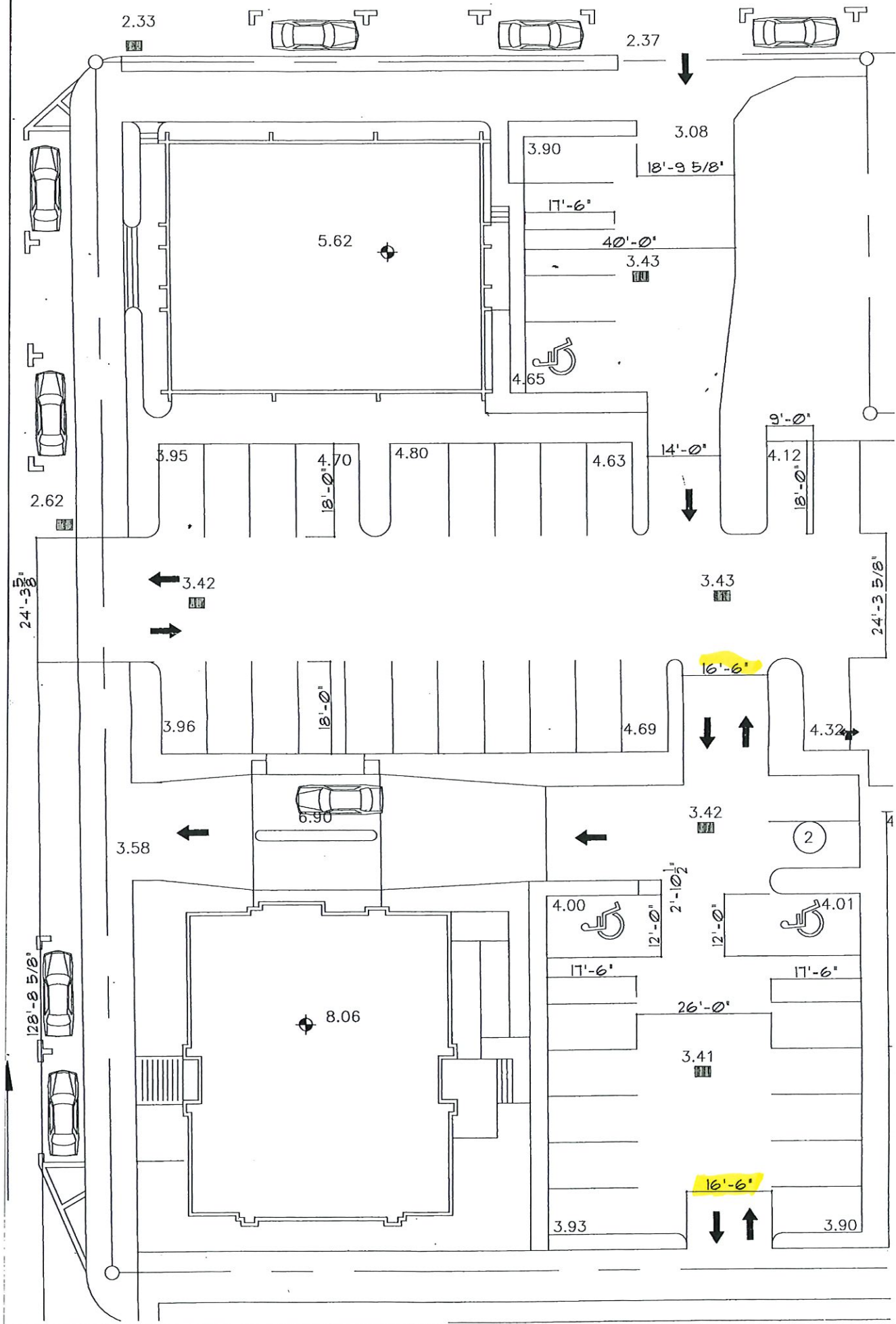
**DATE**  
A1-1

**REVISIONS**

Al-1000 2-13-04 11:35:26 PM EST



# PARK AVENUE





# **PALM BEACH COUNTY**

*Discover the Palm Beaches...  
the Best of Everything*

**Disclaimer:** By accessing information, data and materials or related graphics in Palm Beach County's web pages containing the Unified Land Development Code (ULDC), you hereby agree to accept the following terms and conditions in the Disclaimer: Please click to read the entire disclaimer (disclaimer.htm)» (disclaimer.htm).

**Q Search Entire Article Tip - Hold CTRL + F**

## **ARTICLE 6**

### **PARKING, LOADING, AND CIRCULATION**

#### **CHAPTER A GENERAL**

##### **Section 1 General**

###### **A. Purpose and Intent**

The purpose and intent of this Article is to ensure the design and function, provisions of parking, loading, queuing, vehicular and pedestrian circulation, driveways, and access are in proportion to the demand created by each use and are efficient and safe. [Ord. 2020-001]

###### **B. Applicability**

The standards of this Article shall apply to all development in unincorporated PBC, or existing development that is modified to the extent that it includes uses or site design features that were not specifically shown on previously approved plans. All parking areas established by this Section shall be continuously maintained in accordance with this Article. Parking and loading spaces shall be provided in accordance with Table 6.B.1.B, Minimum Parking and Loading Requirements (http://www.pbcgov.com/uldc/Article6.htm#TAB1BMIPALORE), unless stated otherwise below. [Ord. 2020-001]

###### **1. Prohibitions**

Parking and loading spaces are prohibited in the following: [Ord. 2020-001]

- a. Landscape buffers; and [Ord. 2020-001]
- b. Drainage District R-O-W or Easements, except additional parking in excess of the minimum required may be located in these areas with an agreement with the applicable district and subject to approval by the Zoning Director. [Ord. 2011-011] [Ord. 2020-001]

###### **2. Exemptions**

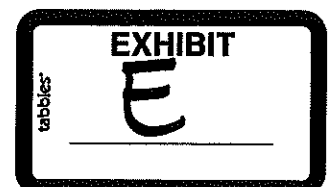
The following exemptions shall apply, unless the parcel is vacant. [Ord. 2007-013] [Ord. 2020-001]

###### **a. Commercial Vehicle**

One commercial vehicle of not over one ton rated capacity may be parked per dwelling unit, providing all of the following conditions are met:

- 1) vehicle is registered or licensed;
- 2) used by a resident of the premises;
- 3) gross vehicle weight rating (GVWR) does not exceed 12,500 pounds;
- 4) height does not exceed nine feet, including any load, bed, or box; and,
- 5) total vehicle length does not exceed 26 feet. [Ord. 2005-041]

###### **b. Construction Vehicles**



Temporary parking of construction vehicles or equipment engaged in work on private land where construction is underway, for which a current and valid Building Permit has been issued by the Building Director and the Building Permit is displayed on the premises. [Ord. 2007-013]

**c. Delivery and Service Vehicles**

The routine deliveries by tradesmen, or the use of trucks in making service calls. [Ord. 2007-013]

**d. Emergency Repairs**

A situation where a motor vehicle becomes disabled and, as a result of such emergency, is required to be parked in a residential district longer than two hours. Any prohibited motor vehicle shall be removed from the residential district within 24 hours, regardless of the nature of the emergency.

**3. Deviations for the PO Zoning District**

Deviation(s) from the provisions of this Article may be permitted for development supporting Government Facilities within the PO Zoning District, subject to Art. 2 Application Processes and Procedures (<http://www.pbcgov.com/uldc/Article2.htm#APPRPR>), and PPM #ZO-O-063 (<http://discover.pbcgov.org/pzb/zoning/ULDCPPMS/2017-ZO-O-063.pdf>), as applicable and as amended. [Ord. 2007-013] [Ord. 2019-005]

**C. Prior Approvals and Non-Conformities**

See Art. 1.E, Prior Approvals (<http://www.pbcgov.com/uldc/Article1.htm#EPRAP>) and Art. 1.F, Non-Conformities (<http://www.pbcgov.com/uldc/Article1.htm#FNO>). [Ord. 2020-001]

**D. Definitions**

See Art. 1.H, Definitions and Acronyms (<http://www.pbcgov.com/uldc/Article1.htm#HDEAC>) .

## CHAPTER B PARKING AND LOADING

### Section 1 Calculation

#### A. Computing Parking Standards

##### 1. Multiple Uses

On lots containing more than one use, the total number of required parking spaces shall be equal to the sum of the required parking for each use as if provided separately, unless shared parking is approved pursuant to Art. 6.C.1.B, Shared Parking (<http://www.pbcgov.com/uldc/Article6.htm#C1BSHPA>) or is allowed pursuant to Art. 3.B, Overlays (<http://www.pbcgov.com/uldc/Article3.htm#BOV>). [Ord. 2020-001]

##### 2. Fractions

When calculation of the number of required parking spaces results in a fractional number, a fraction of less than one-half shall be disregarded and a fraction of one-half or more shall be rounded to the next highest whole number. [Ord. 2020-001]

##### 3. Floor Area

Parking requirements that are based on square footage shall be computed using gross floor area (GFA), unless another measurement is specifically called for in this Section. [Ord. 2020-001]

##### 4. Occupants

When the calculation of required parking spaces is based on the number of occupants, the calculation shall be based on the maximum number of persons legally residing on the premises at any one time.

##### 5. Bench Seating

When the calculation of required parking spaces is based on the number of seats, each 22 linear inches of bench, pew, or similar bench seating facility shall be considered one seat.

##### 6. Gross Lot Area

When the calculation of required parking spaces is based on gross lot area (GLA), the amount of lot area dedicated to parking shall not be included in the calculation. [Ord. 2020-001]

##### 7. Unlisted Land Uses

In the event that parking requirements for a particular use are not listed in this Section, the requirements for the most similar use shall be applied. In making the determination, any evidence of actual parking demand for similar uses shall be considered as well as other reliable traffic engineering and planning information that is available. [Ord. 2020-001]

##### 8. Government Services and Government Facilities

May be allowed alternative calculations based on evidence of actual parking demand for similar uses or reliable traffic engineering and planning information. [Ord. 2019-005] [Ord. 2020-001]

##### 9. Landscaping

The landscape requirements for parking and interior vehicular use areas shall be calculated in accordance with Art. 7, Landscaping (<http://www.pbcgov.com/uldc/Article7.htm#LA>). [Ord. 2020-001]

##### 10. Reduction

Refer to Art. 6.C.1, Requirements to Reduce or Increase Parking (<http://www.pbcgov.com/uldc/Article6.htm#C1REREINPA>). [Ord. 2020-001]

#### B. Minimum Parking Requirements

Table 6.B.1.B – Minimum Parking and Loading Requirements

Use Classification: Residential		Loading Standard
Congregate Living Facility	0.6 spaces per unit or 0.25 per resident/bed whichever is greater; plus 1 space per 250 sq. ft. of office space	A (12)
Multifamily, Recovery Community, and Cottage Home (Multiple Units on a Single Lot)	1 space per efficiency unit; 1.75 spaces per unit (1 bedroom or more); plus 1 guest parking space per 4 units with common parking areas	N/A
Single Family, Cottage Home (Single Unit on a Single Lot), Zero Lot Line Home, Townhouse, Farm Residence, Community Residence, or Mobile Home Dwelling	2 spaces per unit	N/A
Accessory Quarters, Caretaker Quarters, Groom's Quarters, Guest Cottage	1 space per unit	N/A
Farm Worker Quarters	1 space per 4 units	N/A



Use Classification: Commercial		Loading Standard
Adult Entertainment	1 space per 200 sq. ft.	N/A
Auction, Indoor	1 space per 200 sq. ft.	A
Auction, Outdoor	1 space per 250 ft. of enclosed or indoor space	N/A
Bed and Breakfast	1 additional space for each guest room	N/A
Car Wash, Automatic Self-Service (13)	1 space per 200 sq. ft. of office, retail, or indoor seating area	N/A
Catering Service	1 space per 200 sq. ft.	A
Cocktail Lounge	1 space per 3 seats	A
Convenience Store	1 space per 200 sq. ft.	A
Dispatching Service	1 space per 250 sq. ft.	N/A
Dog Daycare	3-12' by 20' transient spaces for 50 dogs; 1 space per 500 sq. ft. of cage and retail area	A
Financial Institution	1 space per 250 sq. ft.	A
Financial Institution with Drive-Through Facilities (13)		
Financial Institution – Freestanding ATM (9)	2 spaces	N/A
Flea Market, Indoor	2 spaces per 200 sq. ft.	A
Flea Market, Outdoor	1 space per 250 sq. ft. of affected land area	N/A
Gas and Fuel Sales, Retail and Electric Vehicle Charging Station (EVCS)	Number of parking spaces to be based on associated principal use structure (i.e., Convenience Store, etc.)	N/A
Green Market, Permanent	1 space per 250 sq. ft.	A
Hotel or Motel	1.25 spaces per room; (convention areas, restaurants, etc. over 2,000 sq. ft. to be calculated separately)	A
Kennel, Type 2 (Commercial) or Kennel, Type 3 (Commercial, Enclosed)	1 space per 500 sq. ft. of cage and retail area	A (8)
Landscape Service	1 space per 250 sq. ft. of office; plus 1 space per 1,000 sq. ft. of outdoor storage area for employee parking	B
Laundry Service (13)	1 space per 200 sq. ft.	A
Marina	1 space per 250 sq. ft.; plus 1 space per wet slip; plus 1 space per 3 dry slips	A
Medical or Dental Office	1 space per 200 sq. ft.	A
Microbrewery	Taproom: 1 space per 3 seats Manufacturing and Processing: 2 spaces per 1,000 sq. ft.	A
Office, Business or Professional	1 space per 250 sq. ft.	A
Pawnshop	1 space per 200 sq. ft.	A
Personal Services	1 space per 200 sq. ft.	N/A
Repair and Maintenance, Heavy	1 space per 250 sq. ft.	B
Repair and Maintenance, Light	1 space per 250 sq. ft.	A
Repair Services, Limited	1 space per 250 sq. ft.	N/A
Restaurant, Type 1 (13)	1 space per 3 seats including outdoor seating area	A
Restaurant, Type 2 (13)		A
Retail Sales (13)	1 space per 200 sq. ft.	A
Rooming and Boarding House	1 space for each guest room	N/A
Self-Service Storage, Limited Access	1 space per 200 storage bays; minimum of 5 customer spaces; security quarters calculated separately	A (6)
Self-Service Storage, Multi-Access	1 space per 200 storage bays; minimum of 5 customer spaces; security quarters calculated separately	N/A
Single Room Occupancy (SRO)	1.25 spaces per room	A
Theater or Performance Venue	1 space per 3 seats; plus 1 space per employee	A
Unmanned Retail Structure (11)	2 spaces	N/A
Vehicle Equipment Sales and Rental, Heavy	1 space per 250 sq. ft. of enclosed area; plus 1 space per 5,000 sq. ft. of outdoor sales, rental, and display area	B
Vehicle Sales and Rental, Light	1 space per 250 sq. ft. of enclosed area; plus 1 space per 5,000 sq. ft. of outdoor sales, rental, and display area	B
Veterinary Clinic	1 space per 250 sq. ft., excluding animal exercise areas	N/A
Vocational School	1 space per classroom; plus 1 space per 4 students; plus 1 space per 250 sq. ft. of administration, and assembly areas	N/A
[Ord. 2006-004] [Ord. 2006-036] [Ord. 2008-037] [Ord. 2009-040] [Ord. 2011-016] [Ord. 2012-027] [Ord. 2013-021] [Ord. 2016-042] [Ord. 2017-007] [Ord. 2017-025] [Ord. 2019-005] [Ord. 2019-039] [Ord. 2020-001]		



Use Classification: Recreation		Loading Standard
Arena or Stadium or Amphitheater	1 space per 3 seats	A
Campground	1 space per campsite	N/A
Recreation Pod or Neighborhood Recreation Facility (7)	1 space per 300 sq. ft. of air-conditioned area (includes all interior uses) and Outdoor Recreation Amenities, such as: 1 space per 300 sq. ft. of pool area; 1.5 spaces per court (basketball, tennis, etc.); or, 1 space per 2 acres up to 10 acres plus 1 space for each 5 acres over 10 (fields, tracks, tot lots, etc.)	N/A
Entertainment, Indoor (except Bowling Alley) Bowling Alley	1 space per 200 sq. ft. or 1 space per 3 seats, whichever is greater 3 spaces per lane for Bowling Alley	N/A
Entertainment, Outdoor	1 space per 3 seats; or 10 spaces per acre occupied by amusements, whichever is greater	N/A
Fitness Center	1 space per 200 sq. ft.	N/A
Golf Course (7)	4 spaces per hole; plus 1 space per 250 sq. ft. of clubhouse	N/A
Park, Passive and Park, Public (14)	2 spaces for the first acre; plus 1 space for each additional 2 acres; additional parking shall be provided for each additional facility or land use constructed in the park as herein provided	N/A
Shooting Range, Indoor and Shooting Range, Outdoor	1 space per target area	N/A
Zoo	1 space per 2,000 sq. ft. of land area	N/A
[Ord. 2005-002] [Ord. 2007-001] [Ord. 2013-001] [Ord. 2013-021] [Ord. 2014-025] [Ord. 2016-042] [Ord. 2017-007] [Ord. 2017-025] [Ord. 2019-005] [Ord. 2020-001]		

Use Classification: Institutional, Public, and Civic		Loading Standard
Animal Shelter	1 space per 500 sq. ft. of cage and retail area	A
Assembly Institutional Nonprofit or Assembly Membership Nonprofit (5)	1 space per 3 seats or 200 sq. ft. for the principal place of assembly, whichever is greater	A
	1 space per 200 sq. ft. for permitted accessory uses not otherwise classified as collocated uses	
	Collocated uses classified with the definition of a use listed in <u>Art. 4.B, Use Classification</u> ( <a href="http://www.pbcgov.com/uldc/Article4_pg2.htm#BUSCL">http://www.pbcgov.com/uldc/Article4_pg2.htm#BUSCL</a> ), calculated separately	
Cemetery	1 space per 250 sq. ft. of office space; plus 1 space per 500 sq. ft. of maintenance area; plus a minimum of 5 public spaces	N/A
College or University	1 space per 2 students; plus 1 space per 4 seats in gymnasiums and auditoriums; plus 1 space per 250 sq. ft. of administrative and educational office space	A
Day Care, General	< 100 licensed capacity 1 space per 5 persons; plus 1 drop-off stall per 20 persons	A
	> 100 licensed capacity: 1 space per 10 persons; plus 1 drop-off stall per 20 persons	
Day Care, Limited	1 space per 250 sq. ft.; plus drop-off stall	A
Funeral Home	1 space per 4 seats	A
Government Services (2)	1 space per 500 sq. ft.; or 1 space per 3 seats, whichever is greater	N/A
Homeless Resource Center	1 space per 200 sq. ft. of accessory service delivery areas	A
Hospital	1 space per 2 beds; plus 1 space per 200 sq. ft. of outpatient treatment area	A
Place of Worship	1 space per 3 seats or 200 sq. ft. for the principal Place of Worship, whichever is greater	A
	1 space per 200 sq. ft. for permitted accessory uses not otherwise classified as collocated uses	
	Collocated uses classified with the definition of a use listed in <u>Art. 4.B, Use Classification</u> ( <a href="http://www.pbcgov.com/uldc/Article4_pg2.htm#BUSCL">http://www.pbcgov.com/uldc/Article4_pg2.htm#BUSCL</a> ), calculated separately	
Prison, Jail, or Correctional Facility	1 space per 500 sq. ft.	N/A
School, Private	1 space per employee, 1 visitor space for every 50 students, 1 space for every 5.5 students in 11th and 12th grade; Auditorium or stadium – 1 space per 3 seats	A
School, Public and Charter	1 space per faculty and staff, high school 1 space for every 10 students in 11th and 12th grade, and 1 visitor space for every 50 students	A
Skilled Nursing or Residential Treatment Facility	1 space per 3 beds; plus 1 space per 250 sq. ft. of office space	A (12)





# **Randall K. Roger & Associates, P.A.**

Attorneys at Law

Randall K. Roger  
Andrew P. Speranzini  
Katherine C. Nuckolls  
Andrew G. Elliott  
Thomas L. Abrams, of Counsel

Boca Raton: (561) 988-5598  
Broward: (954) 236-8818  
Toll-Free: (866) 988-5598  
Facsimile: (561) 988-1318

**Please Reply to Main Office**  
One Park Place  
621 NW 53<sup>rd</sup> Street  
Suite 300  
Boca Raton, Florida 33487

**Satellite Office**  
633 South Andrews Avenue  
Suite 500  
Fort Lauderdale, Florida 33301

September 23, 2022

## **CONFIDENTIAL/ATTORNEY-CLIENT PRIVILEGED**

**VIA E-MAIL: [kechurney@townofpalmbeach.com](mailto:kechurney@townofpalmbeach.com)**

**AND REGULAR U.S. MAIL**

Ms. Kelly Churney  
Deputy Town Clerk  
Town of Palm Beach  
360 South County Road  
Palm Beach, Florida 33480

**Re: Biltmore Galleria, LLC Application for Public/Private School – ARC-22-200 (ZON-22-132) –  
165 Bradley Place (Combo)**

Dear Ms. Churney:

I represent Parc Regent Condominium Association, Inc. ("Parc Regent"), located at 184 Bradley Place, which is across the street and just to the North of the property located at 165 Bradley Place, currently operating as a private club (the Old Guard Society). Parc Regent is comprised of 18 condominium units. Parc Regent asked me to write to the Town of Palm Beach to voice its owners' objections and concerns about Biltmore Galleria, LLC's ("Applicant") application to convert the use of the property to a public/private preschool, consisting of 68 students, and to respectfully request that the Town Council and the Architectural Commission deny Biltmore Galleria, LLC's application, for the reasons stated below.

1. The proposed site plan, if approved, would result in multiple violations of the Town of Palm Beach Code (the "Code"), as follows:
  - a. Section 134-1517 – Requires places of assembly, including schools, to have a minimum site area of 20,000 square feet and a minimum lot width of 100'. The property on which the school will be located will only be 10,513 square feet and will have a lot width of only 70', thereby resulting in a violation of Section 134-1517 of the Code.

- b. Section 134-1734 – Playground equipment is only allowed in residential zoning districts. Therefore, the placement and installation of the playground equipment at the school, in the C-TS zoning district, will result in a violation of Section 134-1734 of the Code.
  - c. Section 134-2172 – Parking spaces must have a minimum width of 9'. The proposed site plan shows the typical parking space as only being 8'-4" wide, resulting in a violation of Section 134-2172 of the Code.
  - d. Section 134-2176 – The combined uses of the properties making use of the combined site would require 82 off street parking spaces. The proposed site plan indicates that 6 parking spaces will be eliminated, resulting in only 76 parking spaces, which would violate Section 134-2176 of the Code. Interestingly, this is the only variance the applicant is seeking, notwithstanding all the other violations.
  - e. Section 134-2177 – Requires off street parking to be located on the same lot as the building. The proposed site plan will result in no off-street parking spaces being located on the lot, requiring the use of shared parking with the other businesses on the shared site. But the site plan does not meet the criteria in Section 134-2182 for shared parking, as all of the buildings/businesses will be using the parking at the same time, during the day, when the school and other business are open, resulting in overlapping use, and there are not enough parking spaces to satisfy the needs and Code requirements for all users/owners.
2. The presence of a school will result in a much more intense use of the land, and will create a myriad of traffic concerns. As there will be 68 students attending the school, there will be up to 68 parents in 68 vehicles all congregating at the school at or near the same time, twice per day, during drop off and pick up of the students. As the students will be of preschool age, the students will need to be escorted into the school. The plan is to have cars pull into the shared parking lot, off of Bradley Place, with only 9 parking spaces available for use. Even though the plans submitted by applicant indicate that no queuing of vehicles will be permitted, it is inevitable that vehicles will back up out of the parking lot and onto Bradley Place, as parents are not going to simply allow their preschool children to jump out of the vehicle and proceed unescorted into the school. Other parents will inevitably seek to pull up to the curb on Bradley Place and/or on Park Avenue, to allow for the drop off and pick up of their children. This will create a traffic nightmare twice per day, which will impede the residents of the surrounding residential properties, the customers of the other business utilizing the shared parking lot (which includes a bank, a salon, a drug store, and a retail establishment), and any and all other users of Bradley Place (and Park Avenue), including any emergency vehicles, which can only access the Parc Regent Condominium by turning off of Bradley Place, West onto Park Avenue. Additionally, the employees of the school will need to be able to park. The school will have four classrooms, an art area, administrative office and a kitchen. How many employees will the school have? It seems there will likely be five (5) teachers (for the 4 classrooms plus

the art teacher). What about teacher aids or assistants? There will also be administrative staff and perhaps kitchen staff or other staff to monitor the drop off and pick up and the playground area. All of these employees will need to be able to park and will generate additional traffic and congestion.

3. The preschool students will be in potential danger during the chaotic drop off and pick up periods, as there is no clear path into the school building, other than to walk behind the parked cars (on both sides of the driving aisle in the parking lot), through the parking lot (which allows for two way traffic), to Bradley Place, to enter the building through the West entrance, or, if permitted by Applicant, to walk behind the parked cars (again, on both sides of the driving aisle in the parking lot), through the parking lot (which, again, allows for two way traffic), to the gates on the Southwest portion of the lot, to enter the school through the doors on the East side of the building. The plan is untenable, as it places the preschool children in harms' way.
4. Applicant has not satisfied the criteria to establish Applicant's entitlement to a variance to eliminate the off-street parking, for the following reasons:
  - a. Section 134-201(a) – Town Council can only grant a variance when it will not be contrary to public interest and when, owing to special conditions, a literal enforcement of the Code will result in unnecessary and undue hardship to the Applicant. But Applicant has not shown or established any undue hardship. Additionally, allowing the operation of a school on the subject parcel would be contrary to the public interest due to increased congestion and traffic issues, and lack of safety for the preschool students being dropped off and picked up at the site, as explained in #2 and #3 above.
  - b. Section 134-201(a)(1) – Applicant has not established that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. There is nothing special or unusual about the subject parcel.
  - c. Section 134-201(a)(4) – Applicant has not demonstrated that a literal interpretation of the Code would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district or would work unnecessary and undue hardship on Applicant. Again, Applicant has failed to show any unnecessary or undue hardship. Additionally, application of the zoning requirements for the parcel would not deprive Applicant of any rights enjoyed by other properties, and Applicant has failed to make any such showing. Applicant could always use the parcel or have it developed as retail, office or commercial space, all permitted uses under the C-TS zoning district.
  - d. Section 134-201(a)(5) – Applicant has failed to show that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure. In fact, Applicant could use the parcel or have it developed to allow for retail, office or commercial use, all permitted uses in the

C-TS zoning district. Applicant is not entitled to its desired use of the parcel, only a use that is reasonable.

- e. Section 134-201(a)(7) – The grant of the variance will NOT be in harmony with the general intent and purpose of the C-TS zoning district. The purpose of the C-TS zoning district, as stated in Section 134-1106 of the Code, is to create, preserve and enhance areas of attractive, small-scale, retail, personal and profession/business services to be developed either as a unit or in individual parcels, providing for the frequently recurring needs of townpersons. A school is not consistent with such purpose or intent. Additionally, the use of the subject parcel, as a school, for the reasons stated above in #2 and #3, will be injurious to the surrounding area and owners and will be detrimental to the public welfare. Finally, Applicant has not provided the report required by the Code to evidence that the school will serve townpersons.
5. Applicant has not satisfied the criteria to establish Applicant's entitlement to a special exception use. Pursuant to Section 134-1109(8) of the Code, a school is a special exception use in the C-TS zoning district. The special exception use should be denied for the following reasons:
- a. Section 134-226(a) – the Town must deny a special exception when not in harmony with the purpose and intent of the C-TS zoning district. See #4.e. above.
  - b. Section 134-226(b) – In granting a special exception the Town Council must find that the granting of such special exception will not adversely affect the public interest. For all of the above stated reasons, including in #2 and #3 above, the Town Council cannot make this finding.
  - c. Section 134-229(2) – The use of the parcel as a school is not designed, located or proposed to be operated in a manner that the public health, safety, welfare and morals will be protected. See #2 and #3 above.
  - d. Section 134-229(4) – The use of the property as a school will NOT be compatible with adjoining development and the intended purpose of the district in which it is to be located (i.e., the C-TS zoning district). The surrounding properties include a bank, drug store, retail, office and residential. A school is not compatible with such other uses. Additionally, a school is not compatible with the intent and purpose of the C-TS zoning district (see #4.e. above).
  - e. Section 134-229(5) – The use will not comply with the yard, other open space and other special requirements set out in the Code for the particular use involved. As noted above, a place of assembly, including a school, pursuant to Section 134-1517 of the Code, must have a minimum site area of 20,000 square feet and a minimum lot width of 100'. The subject parcel is only 10,513 square feet and has a lot width of only 70'. Additionally, Section 134-1734 of the Code only allows playground equipment in residential zoning districts; Section 134-2176 of the Code requires 82 off street parking spaces (and the proposed site plan only has 76 parking spaces), and further requires all off street

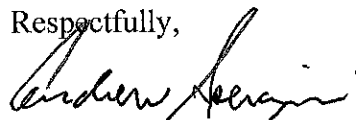
Ms. Kelly Churney  
Deputy Town Clerk  
Town of Palm Beach  
September 23, 2022  
Page 5

parking needed to satisfy the Code to be located on the same lot (there is no parking on the subject lot); Section 134-2172 of the Code requires a minimum width of 9' for parking spaces, and the typical parking space on the site plan is only 8'-4", and the shared parking does not satisfy the requirements of Section 134-2182 of the Code, as all of the users of the parking lot will need the parking spaces at the same time, resulting in overlapping use, and there is not enough parking spaces to satisfy the needs of all users/owners.

- f. Section 134-229(8) – There will NOT be adequate ingress and egress to the property and the proposed structures thereon, and there will be no off-street parking on the subject lot, and inadequate off-street parking even on the shared lot. Additionally, the configuration and design of the ingress/egress does not promote automotive and pedestrian safety and convenience, or proper traffic flow and control, or access by emergency vehicles.
  - g. Section 134-229(14) – The new use as a school places a much greater burden on municipal police and fire services than would be caused by a permitted use.
6. Applicant has not satisfied the criteria for site plan approval. Pursuant to Section 134-329 of the Code, before any site plan may be approved, the Town Council must make a finding that the approval of the site plan will not adversely affect the public interest and must certify that the specific zoning requirements governing the use have been met. For all of the reasons stated above, the Town Council cannot make such finding. Applicant, for the reasons stated above, cannot satisfy the specific requirements in Section 134-329(2), (3), (4) and (8).

For all of the above stated reasons, the Association respectfully requests that ARCOM and the Town Council deny Applicant's application for site plan approval, a special exception use and a variance. The Association and its owners thank the Town Council and ARCOM for its consideration of their objections to Biltmore Galleria, LLC's application for a school, and looks forward to the denial of such application.

Respectfully,



Andrew Speranzini, Esq., on behalf of  
Parc Regent Condominium Association, Inc.

**RECEIVED**

**By Emily Lyn at 12:10 pm, Sep 28, 2022**

JOHN A. GAROFALO, M.D., P.C.

100 Hickory Hill Road  
West Chester, PA 19382-6749  
Telephone: 561-531-2402 and 610-793-055

Oncology  
Immunology  
Nutrition

September 28, 2022

Town Council and Members of the Architectural Commission  
Town of Palm Beach  
360 S. County Road  
Palm Beach, FL 33480

Attn: Kchurney@townofpalmbeach.com

RE: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

Dear Town Council and ARCOM Members:

I fully support the Alef Preschool of Palm Beach located at 165 Bradley Place. I live near the proposed school and believe it to be an added value to the Town and it surely will be Town Serving.

A town needs to have proper education opportunities for all ages, even the young among us. It always puzzled me that we don't have a preschool option on the island. The Alef Preschool is a long-awaited answer to this need.

We as residents of the town are looking forward to this new development which will be a great benefit to the many families who have moved to Palm Beach and are presently driving their young children off island each day.

Thank you for serving the town and thank you for being the voice of our little ones who need proper education. Alef Preschool will teach morals and values.

Sincerely,

John A. Garofalo, M.D., P..

Cc: Mayor Danielle H. Moore – [Mayor@townofpalmbeach.com](mailto:Mayor@townofpalmbeach.com)  
Town Council – [council@townofpalmbeach.com](mailto:council@townofpalmbeach.com)  
[rabbi@palmbeachjewish.com](mailto:rabbi@palmbeachjewish.com)  
[www.PalmBeachJewish.com](http://www.PalmBeachJewish.com)



**From:** [Kelly Churney](#)  
**To:** [Antonette Fabrizi](#)  
**Subject:** FW:  
**Date:** Monday, September 26, 2022 8:26:57 AM

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*Kelly Churney*  
Deputy Town Clerk

**Town of Palm Beach**  
360 S. County Rd.  
Palm Beach, FL 33480  
561-838-5416  
[www.townofpalmbeach.com](http://www.townofpalmbeach.com)

---

**From:** Michael Belisle <mikebelisle88@gmail.com>  
**Sent:** Sunday, September 25, 2022 3:17 PM  
**To:** Kelly Churney <KChurney@TownofPalmBeach.com>  
**Subject:**

\*\*\*\*\*Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.\*\*\*\*\*

Town of Palm Beach  
360 S. County Road  
Palm Beach, FL 33480  
[kchurney@townofpalmbeach.com](mailto:kchurney@townofpalmbeach.com)

Alef Preschool of Palm Beach – 165 Bradley Place

Dear Town Council Members,

This letter is to express my support for the Alef Preschool of Palm Beach located at 165 Bradley Place.

I am a 40 year resident of Palm Beach and the transformation of the last couple years in regards to young families moving in is unprecedented. I constantly hear of the issue of lack of any preschool on the island. The proposed preschool is situated in a beautiful location, with ample parking, allowing for convenient drop-off and pick-up.

Thank you for your consideration of my opinion.

Sincerely  
Michael A. Belisle

cc:Mayor Danielle H. Moore – [Mayor@townofpalmbeach.com](mailto:Mayor@townofpalmbeach.com)  
Town Council - [council@townofpalmbeach.com](mailto:council@townofpalmbeach.com)

**From:** [James Murphy](#)  
**To:** [Antonette Fabrizi](#); [Kelly Churney](#)  
**Cc:** [Emily Lyn](#); [Bradley Falco](#)  
**Subject:** FW: 165 Bradley Place Pre-School  
**Date:** Wednesday, September 28, 2022 8:23:24 AM

---

**James G. Murphy**  
**Assistant Director of Planning, Zoning & Building**  
Town of Palm Beach  
Planning, Zoning & Building  
360 S. County Road  
Palm Beach, FL 33480  
[www.townofpalmbeach.com](http://www.townofpalmbeach.com)

---

**From:** Martin Klein <[martin@miklein.com](mailto:martin@miklein.com)>  
**Sent:** Wednesday, September 28, 2022 8:22 AM  
**To:** James Murphy <[jmurphy@TownOfPalmBeach.com](mailto:jmurphy@TownOfPalmBeach.com)>  
**Subject:** 165 Bradley Place Pre-School

\*\*\*\*\*Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.\*\*\*\*\*

Dear James,

I hope you and your loved ones are safe and well. Nothing else matters. I see that today's Arcom hearing is still scheduled. I'd appreciate it if you could bring this letter to the Commission's attention.

Dear Commission,

I write in support of the request of the Chabad House in their lease for a pre-school at 165 Bradley Place. As the former head of one of New York's largest religious institutions as well as the former chair of our Planning and Zoning Commission, I've always been concerned with achieving that proper balance. I've been a long time champion of education, including religious education, and having a pre-school is a noble effort. Of course we want to achieve a balance in our community and I think the applicant has done that. I note that this is a proposed lease which will be temporary and I urge the Commission to support it with such modifications as you, in your wisdom, will suggest.

Respectfully,  
Martin I. Klein

Martin I. Klein, PLLC.  
1060 North Ocean Blvd..

Palm Beach, Florida 33480  
Telephone: (561) 881-8000  
Facsimile: (561) 881-8080  
[martin@miklein.com](mailto:martin@miklein.com)

-

-

**From:** [Kelly Churney](#)  
**To:** [Antonette Fabrizi](#)  
**Subject:** FW: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)  
**Date:** Thursday, September 29, 2022 8:34:52 AM

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*Kelly Churney*  
Deputy Town Clerk

**Town of Palm Beach**  
360 S. County Rd.  
Palm Beach, FL 33480  
561-838-5416  
[www.townofpalmbeach.com](http://www.townofpalmbeach.com)

---

**From:** G <[glandgl@hotmail.com](mailto:glandgl@hotmail.com)>  
**Sent:** Thursday, September 29, 2022 7:37 AM  
**To:** Kelly Churney <[KChurney@TownofPalmBeach.com](mailto:KChurney@TownofPalmBeach.com)>  
**Subject:** Fwd: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

\*\*\*\*\*Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.\*\*\*\*\*

Sent from my iPhone

Begin forwarded message:

**From:** G <[glandgl@hotmail.com](mailto:glandgl@hotmail.com)>  
**Date:** September 28, 2022 at 11:08:22 AM EDT  
**To:** [kchurney@townofpalmbeach.com](mailto:kchurney@townofpalmbeach.com)

And  
[Mayor@townofpalmbeach.com](mailto:Mayor@townofpalmbeach.com)

**Subject: RE: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)**

Town Council Members and Members of ARCOM  
Town of Palm Beach  
360 S. County Road  
Palm Beach, FL 33480

[kchurney@townofpalmbeach.com](mailto:kchurney@townofpalmbeach.com)

RE: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

Dear Town Council Members and Members of ARCOM,

I am a longtime Palm Beach resident living in The Biltmore just across the street from the proposed preschool.

This letter is to express my support for the new Alef Preschool of Palm Beach located at 165 Bradley Place. I find it hard to believe that anyone would oppose the only preschool option in our beautiful community, especially while choosing to live in a home or condo across the street from busy bars and restaurants, operating through the night, and a preschool operates during daytime hours only.

How far have we fallen if we oppose the opening of the only preschool on the island? Making a fuss about a modest preschool opening in our town in a commercial building is very distressing. I am in support of the preschool and hope that our Town Council and members of ARCOM are too.

Thank you members of Town Council and members of ARCOM for doing what's right as you stand for education, the advantages being both local so residents with young children do not have to drive on and off the island every day, and a preschool also of the highest academic and interpersonal level, this is Alef Preschool.

Sincerely,

George Guido Lombardi

Owner/ resident

150 Bradley Place apt 904  
Palm Beach

Florida 33480

cc: Mayor Danielle H. Moore – [Mayor@townofpalmbeach.com](mailto:Mayor@townofpalmbeach.com)  
Town Council - [council@townofpalmbeach.com](mailto:council@townofpalmbeach.com)

Sent from my iPhone

**From:** [Kelly Churney](#)  
**To:** [Antonette Fabrizi](#)  
**Subject:** Fw: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)  
**Date:** Wednesday, September 28, 2022 11:21:27 AM

---

*Kelly Churney*  
Deputy Town Clerk

**Town of Palm Beach**  
Planning, Zoning & Building  
360 S. County Rd.  
Palm Beach, FL 33480  
561-227-6408  
561-835-4621 (fax)  
[www.townofpalmbeach.com](http://www.townofpalmbeach.com)

---

**From:** G <glandgl@hotmail.com>  
**Sent:** Wednesday, September 28, 2022 11:08 AM  
**To:** Kelly Churney <KChurney@TownofPalmBeach.com>  
**Subject:** RE: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

\*\*\*\*\*Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.\*\*\*\*\*

Town Council Members and Members of ARCOM  
Town of Palm Beach  
360 S. County Road  
Palm Beach, FL 33480

kchurney@townofpalmbeach.com  
RE: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

Dear Town Council Members and Members of ARCOM,

I am a longtime Palm Beach resident living in The Biltmore just across the street from the proposed preschool.

This letter is to express my support for the new Alef Preschool of Palm Beach located at 165 Bradley Place. I find it hard to believe that anyone would oppose the only preschool option in our beautiful community, especially while choosing to live in a home or condo across the street from busy bars and restaurants, operating through the night, and a preschool operates during daytime hours only.

How far have we fallen if we oppose the opening of the only preschool on the island? Making a fuss about a modest preschool opening in our town in a commercial building is very distressing. I am in support of the preschool and hope that our Town Council and members of ARCOM are too.



Thank you members of Town Council and members of ARCOM for doing what's right as you stand for education, the advantages being both local so residents with young children do not have to drive on and off the island every day, and a preschool also of the highest academic and interpersonal level, this is Alef Preschool.

Sincerely,

George Guido Lombardi

Owner/ resident

150 Bradley Place apt 904  
Palm Beach

Florida 33480

cc: Mayor Danielle H. Moore – [Mayor@townofpalmbeach.com](mailto:Mayor@townofpalmbeach.com)  
Town Council - [council@townofpalmbeach.com](mailto:council@townofpalmbeach.com)

Sent from my iPhone

**From:** [Kelly Churney](#)  
**To:** [Antonette Fabrizi](#)  
**Subject:** FW: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)  
**Date:** Wednesday, September 28, 2022 8:46:26 AM

---

*Kelly Churney*  
Deputy Town Clerk

**Town of Palm Beach**  
360 S. County Rd.  
Palm Beach, FL 33480  
561-838-5416  
[www.townofpalmbeach.com](http://www.townofpalmbeach.com)

---

**From:** Tara <tara.k.moore@gmail.com>  
**Sent:** Wednesday, September 28, 2022 6:11 AM  
**To:** Kelly Churney <KChurney@TownofPalmBeach.com>  
**Cc:** Danielle Hickox Moore <DMoore@TownofPalmBeach.com>; Town Council  
<TCouncil@TownofPalmBeach.com>  
**Subject:** Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

\*\*\*\*\*Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.\*\*\*\*\*

Dear Town Council Members and Members of ARCOM,

This letter is to express my support for the Alef Preschool of Palm Beach at 165 Bradley Place. I live near the proposed school and it is of great value to the Town and it will be Town Serving. It will also be a great benefit to our family and the many young families that live on Palm Beach. We are presently driving our son off the island each day because the Town does not have any preschool accommodations. We plan on sending our son to Alef Preschool as soon as they open.

We look forward to the opening of Alef Preschool at [165 Bradley Place](#), and thank you for allowing our child to have this wonderful opportunity.

Sincerely,  
Tara K. Moore

**From:** [Kelly Churney](#)  
**To:** [Antonette Fabrizi](#)  
**Subject:** FW: Alef Preschool of Palm Beach — 165 Bradley Place (ARC-22-022)  
**Date:** Wednesday, September 28, 2022 1:55:53 PM

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Kelly Churney  
Deputy Town Clerk

Town of Palm Beach  
360 S. County Rd.  
Palm Beach, FL 33480  
561-838-5416  
[www.townofpalmbeach.com](http://www.townofpalmbeach.com)

-----Original Message-----

From: Daniel R. Benson <[DBenson@kasowitz.com](mailto:DBenson@kasowitz.com)>  
Sent: Wednesday, September 28, 2022 1:45 PM  
To: Danielle Hickox Moore <[DMoore@TownofPalmBeach.com](mailto:DMoore@TownofPalmBeach.com)>; Kelly Churney  
<[KChurney@TownofPalmBeach.com](mailto:KChurney@TownofPalmBeach.com)>; Town Council <[TCouncil@TownofPalmBeach.com](mailto:TCouncil@TownofPalmBeach.com)>  
Subject: Alef Preschool of Palm Beach — 165 Bradley Place (ARC-22-022)

\*\*\*\*\*Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.\*\*\*\*\*

Dear Mayor Moore, Town Council Members and ARCOM Members:

I am writing in support of the Alef Preschool. My wife and I are delighted at the prospect of the preschool opening in Palm Beach close to where we live. We now drive our two-year-old son over a half hour each way to a Jewish school in Boynton Beach, so Alef Preschool will be a great benefit to us, as well as to other families in Palm Beach with young children. We have been very impressed by the people opening the school and the plans for its development. It is very difficult for us to understand how anyone could have any reasonable grounds for objecting to it. We thank you in advance for enabling the opening of this preschool which will represent a very significant benefit to Palm Beach.

Respectfully,

Daniel R. Benson  
Kasowitz Benson Torres LLP  
1633 Broadway  
New York, New York 10019  
(212) 506-1720 (office)  
(917) 880-8690 (mobile)  
(212) 506-1849 (fax)  
[DBenson@kasowitz.com](mailto:DBenson@kasowitz.com)

This e-mail and any files transmitted with it are confidential and may be subject to the attorney-client privilege. Use or disclosure of this e-mail or any such files by anyone other than a designated addressee is unauthorized. If you are not an intended recipient, please notify the sender by e-mail and delete this e-mail without making a copy.

## Jennifer Hofmeister-Drew

---

**From:** Patrick McGowan <pmcgowansr@aol.com>  
**Sent:** Monday, September 26, 2022 4:17 PM  
**To:** Antonette Fabrizi  
**Cc:** smorris@pbbiltmore.com  
**Subject:** ARC-22-200 (ZON-22-132) 165 BRADLEY PL (COMBO) Objection

\*\*\*\*\*Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.\*\*\*\*\*

Dear Antonette and ARCOM Commissioners,

I am writing on behalf of all the concerned residents of Park Ave, Palm Beach who are in opposition to the project/variances proposed for 165 Bradley Place.

The school is requesting a variance to replace the rear parking lot/thoroughfare with a playground. Ourselves along with several of our neighbors oppose this variance/project for a variety of reasons.

-Increased traffic causing added congestion on a one way residential block with limited parking for residents.

-Reduced parking for the building due to addition of a playground.

-Calls for removal of the rear thoroughfare which controls commercial traffic for the building and surrounding businesses.

Traffic and short term parking for drop off/pickup is bound to be redirected down our one way residential street.

-Immediate area already has high concentration of busy commercial enterprises, Publix, Palm Beach Hotel and stores, Galleria, Banks, condominiums etc.

Due to these reasons and a variety of others, we oppose this project and its required variances at 165 Bradley Place.

Please see below one of the many letters expressing concerns and disapproval of the project and its variances.

Please add us to the opposition of this project.

We have the house directly behind the Old Guard and it is tough enough that people park directly in front of the house which does not allow us to do so.

Also we are not in favor of a playground directly behind our house as this would add a noise level that we would prefer not to have.

Our street is congested enough and we don't need people using our street as a drop off or pick up area. This would prohibit us from getting to our home. Park Ave. is a residential street and not equipped to deal with a great deal of commercial traffic.

Thank you,

Patty Dean & Park Miller  
262 Park Ave.

Please forward our opposition to each of the ARCOM Commissioners and confirm receipt. Appreciate your time and efforts.

Thank you,

Patrick & Lisa McGowan, 251 Park Ave.

Catherine Stewart, 253 Park Ave.

Ken Moreland, 265 Park Ave.

Ann Heep, 234 Park Ave.

James & CeAnn Carney, 263 Park Ave.

**From:** [Kelly Churney](#)  
**To:** [smorris.pbbiltmore.com](#); [John Eubanks Jr](#)  
**Cc:** [Antonette Fabrizi](#)  
**Subject:** RE: 165 Bradley Pl  
**Date:** Monday, September 26, 2022 10:18:20 AM

---

Good morning,

Please have them send the letters to Antonette Fabrizi at [afabrizi@townofpalmbeach.com](mailto:afabrizi@townofpalmbeach.com).

Thank you,

*Kelly Churney*  
Deputy Town Clerk

**Town of Palm Beach**  
360 S. County Rd.  
Palm Beach, FL 33480  
561-838-5416  
[www.townofpalmbeach.com](http://www.townofpalmbeach.com)

---

**From:** smorris.pbbiltmore.com <[smorris@pbbiltmore.com](mailto:smorris@pbbiltmore.com)>  
**Sent:** Monday, September 26, 2022 9:18 AM  
**To:** John Eubanks Jr <[jeubanks@sniffenlaw.com](mailto:jeubanks@sniffenlaw.com)>  
**Cc:** Kelly Churney <[KChurney@TownofPalmBeach.com](mailto:KChurney@TownofPalmBeach.com)>  
**Subject:** RE: 165 Bradley Pl

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Thank you  
Sincerely,  
Sally Morris GM  
Palm Beach Biltmore  
150 Bradley Place  
Palm Beach, Florida  
33480  
561-832-0600

---

**From:** John Eubanks Jr <[jeubanks@sniffenlaw.com](mailto:jeubanks@sniffenlaw.com)>  
**Sent:** Monday, September 26, 2022 9:13 AM  
**To:** smorris.pbbiltmore.com <[smorris@pbbiltmore.com](mailto:smorris@pbbiltmore.com)>  
**Cc:** Kelly Churney <[KChurney@TownofPalmBeach.com](mailto:KChurney@TownofPalmBeach.com)>  
**Subject:** RE: 165 Bradley Pl

They can e-mail objections to Kelly Churney at [KChurney@TownofPalmBeach.com](mailto:KChurney@TownofPalmBeach.com) at the Town and ask that a copy be sent to each of the ARCOM Commissioners. I will send you a draft of the Biltmore letter shortly.

**John R Eubanks, Jr.**  
**SNIFFEN & SPELLMAN, P.A.**  
TALLAHASSEE | WEST PALM BEACH | PENSACOLA

605 North Olive Avenue, 2<sup>nd</sup> Floor  
West Palm Beach, Florida 33401  
T (561) 721-4000 / F (561) 721-4001 / D (561) 721-4002  
E-mail: [jeubanks@sniffenlaw.com](mailto:jeubanks@sniffenlaw.com)  
Website: [www.sniffenlaw.com](http://www.sniffenlaw.com) / Twitter: @Sniffenlaw

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**From:** smorris pbbiltmore.com <[smorris@pbbiltmore.com](mailto:smorris@pbbiltmore.com)>  
**Sent:** Monday, September 26, 2022 9:10 AM  
**To:** John Eubanks Jr <[jeubanks@sniffenlaw.com](mailto:jeubanks@sniffenlaw.com)>  
**Subject:** FW: 165 Bradley Pl

I asked them to send something in writing

Sincerely,  
Sally Morris GM

Palm Beach Biltmore  
150 Bradley Place  
Palm Beach, Florida  
33480  
561-832-0600

---

**From:** Patrick McGowan <[pmcgowansr@aol.com](mailto:pmcgowansr@aol.com)>  
**Sent:** Saturday, September 24, 2022 3:23 PM  
**To:** smorris pbbiltmore.com <[smorris@pbbiltmore.com](mailto:smorris@pbbiltmore.com)>  
**Subject:** Re: 165 Bradley Pl

Hi Sally,  
Please add these Park Ave residents to the opposition so far:  
-Patrick and Lisa McGowan  
-Catherine Stewart  
-Ken Moreland

I will let you know of any others and let me know if our input is needed. It appears you have a fair amount of strong oppositions already logged.  
All the best,  
Pat McGowan

-----Original Message-----  
From: smorris pbbiltmore.com <[smorris@pbbiltmore.com](mailto:smorris@pbbiltmore.com)>  
To: Patrick McGowan <[pmcgowansr@aol.com](mailto:pmcgowansr@aol.com)>  
Sent: Thu, Sep 22, 2022 10:35 am  
Subject: RE: 165 Bradley Pl

Thank you for reaching out to me regarding this matter.  
We have joined with the Park Regent and also have the support of El Lugano in opposing this variance.  
Perhaps you can provide a list of your neighbors who also oppose the matter.  
Let me know and thank you  
Sally

Sincerely,  
Sally Morris GM  
Palm Beach Biltmore  
150 Bradley Place  
Palm Beach, Florida  
33480  
561-832-0600

---

**From:** Patrick McGowan <[pmcgowansr@aol.com](mailto:pmcgowansr@aol.com)>  
**Sent:** Thursday, September 22, 2022 10:11 AM  
**To:** smorris pbbiltmore.com <[smorris@pbbiltmore.com](mailto:smorris@pbbiltmore.com)>  
**Subject:** 165 Bradley Pl

Hello Sally,  
Hope all is well and I am writing you as a concerned neighbor on Park Ave in regards to the proposed development and use at 165 Bradley Pl. I am told yourself and the Biltmore community are engaged with

this process and mostly oppose its current plans. Please feel free to include ourselves and neighbors in your opposition as we feel no need for a religious school to be located in an already high traffic and residential area. We are also clients of Maura Ziska in our residential dealings. Hope to hear from you and will be attending next weeks ARCOM meeting also.

All the best,

Patrick & Lisa McGowan

Park Ave

Palm Beach, FL 33480

914-482-4401

[pmcgowansr@aol.com](mailto:pmcgowansr@aol.com)

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This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.



## Jennifer Hofmeister-Drew

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**From:** Patrick McGowan <pmcgowansr@aol.com>  
**Sent:** Monday, September 26, 2022 4:17 PM  
**To:** Antonette Fabrizi  
**Cc:** smorris@pbbiltmore.com  
**Subject:** ARC-22-200 (ZON-22-132) 165 BRADLEY PL (COMBO) Objection

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Thank you,

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262 Park Ave.

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Catherine Stewart, 253 Park Ave.

Ken Moreland, 265 Park Ave.

Ann Heep, 234 Park Ave.

James & CeAnn Carney, 263 Park Ave.

# SNIFFEN & SPELLMAN, P.A.

Sender's Direct Line: (561) 721-4002  
Sender's Email: jeubanks@sniffenlaw.com

September 26, 2022

**Via E-mail**

Architectural Commission  
c/o Jeffrey W. Smith, Chair  
Town Council of the Town of Palm Beach  
360 South County Road  
Palm Beach, Florida 33480

**Re:   Objection to Application ARC 22-200 (Zon-22-132) ("Application")  
      165 Bradley Place – Special Exception, Site Plan Review and  
      Variance for Proposed New Daycare/Preschool**

Dear Mr. Smith and ARCOM Commissioners:

Our office represents Palm Beach Biltmore Condominium Association, Inc. and its 126 Units ("Biltmore"). In that capacity we have reviewed the above Application by Biltmore Galleria LLC ("Applicant"). In doing so we have found a litany of shortcomings. As a result, the Biltmore Objects to the Applicant's proposal to create a new private daycare/preschool ("Daycare"), which will accommodate 68 students and 6 employees, to be located at 165 Bradley Place ("Property").

**I.       Application is in Violation of Town Agreements and Code**

There are a number of requests by the Applicant which simply cannot be granted as they would be in direct violation of prior existing agreements with the Town and/or the Town Code. Neither ARCOM nor the Town Council should allow the Application to be considered unless and until such conflicts are resolved or variances requested. These issues include, without limitation:

- **Failure to Meet the Standards for Places of Assembly.** Section 134-1517 of the Town Code requires that Places of Assembly (including schools) **must have a minimum site of 20,000 square feet and a minimum lot width of 100 feet.** The Property does not meet either requirement as it is **only 10,513 square feet with a width of 70 feet.** (see, Sheet A001.1) As such, the Application must be amended to seek a variance for the failure to meet such minimum standards.
- **Playground Equipment not Permitted in Commercial Zoning.** The Applicant is seeking permission to place playground equipment in the present parking area. Such equipment is not permitted under the Town Code. Section 134-1734 which specifically states that **"playground equipment shall only be allowed in residential zoning districts."** Again, any deviation from the Code would require the Application be amended to include a request for an additional variance.

**REPLY TO:**

605 NORTH OLIVE AVENUE, 2ND FLOOR  
WEST PALM BEACH, FL • 33401  
PHONE: 561.721.4000  
FAX: 561.721.4001

WWW.SNIFFENLAW.COM

123 NORTH MONROE STREET  
TALLAHASSEE, FL • 32301  
PHONE: 850.205.1996  
FAX: 850.205.3004

- **Artificial Turf Restrictions.** The Application is also in violation of the Town Code's Artificial Turf restrictions. Section 66-313 of the Code provides that artificial turf "may be installed in **limited areas of rear and side yards**". The Applicant is seeking to install a massive **2,209 square feet of artificial turf** to create a playground on a 10,513 square foot lot. This is far **in excess of a "limited area" of the rear yard**. Once again, a variance would be required to do so.
- **Inclusion of Artificial Turf in Landscape Open Space.** The Applicant has also **included the proposed artificial turf area in its calculation of Landscape open space of 2,362 square feet**. Without the inclusion of the playground area the only other landscape open space on the Property consists of a small strip of grass and shrubs on the east end of the Property. The inclusion of the turf area is in violation of Section 66-314(b) of the Code which provides that "**Artificial turf is calculated as impervious surface and shall not count towards landscape open space.**"
- **Failure to Submit C-TS Town Serving Report.** Section 134-229(12) of the Code **requires that the Applicant submit evidence that not less than 50 percent of the customers of the proposed use will be town persons**. Evidence of the same must include credible data and information. While the **Applicant** has made a statement that over 50 percent of its students will be town persons, it **has not submitted any credible data or information to support its conclusion**.
- **Closing the Entrance from Park Avenue.** Closing the access from Park Avenue on the Property is crucial to the Application. However, such request is in direct violation of that Unity of Title between the Applicant and the Town (*see*, Exhibit "A") recorded on December 1, 1978, in ORB 296, PG 112 of the Public Records. Under the Unity of Title, the Developer (defined as the Applicant) agreed that it "**shall maintain a one-way driveway gate permitting the traffic to flow only from Park Avenue onto the property...**" Absent the removal of such restriction, the Application directly violates the Applicant's obligations. Any changes to the Unity of Title should be made prior to examination of the Application to ensure the Unity of Title can be altered without creating a new zoning nightmare with the remaining unified property and buildings.
- **Removal of existing Kitchen.** The Applicant has requested the kitchen to remain on the Property. Under Article IV, Section 7 of that Declaration of Use Agreement with the Town, recorded in ORB 29276, PG 1572 of the Public Records (*see*, Exhibit "B") the prior occupant, Old Guard Society, Inc., "**shall be responsible to obtain a building permit to remove the kitchen if the Club vacates the subject Property.**" Any failure to do so would violate the Declaration of Use negotiated by the Town and undermine the consideration for the same.

Each of the above conflicts with existing obligations to the Town and violations of the Town Code should be resolved prior to the Application being permitted to move forward. Failure to do so would leave the Application incomplete, and its consideration premature.

## II. Additional Deficiencies

Even if the Application could proceed in its present form (which it cannot) there remains a series of additional red flags within the Application ranging from issues of traffic, drop off/pick up circulation, shared parking, and safety concerns, including, but not limited to:

### A. Shared Parking and Access Agreements

- **Lack of Shared Parking Approval.** Section 134-2177 of the Town Code requires that “**parking spaces for all uses or structures ... shall be located on the same lot ...**” The 9 designated parking spaces relied upon by the Application **are not within the boundaries of either the 165 Bradley Place lot or the other commercial lots within the Unity of Title.** See, Survey Sheet A001.1; Sheet A002; and Property Appraiser aerials attached as Exhibit “C”. While **shared parking is permitted under Section 134-2182** of the Town Code in the C-TS zoning **it cannot be used to expand or intensify the use of a property.** Here, the **intensification of use is readily apparent from the need to get 68 children and 6 employees into and out of the Daycare at the busiest times of every work day.** The Applicant’s Traffic study further demonstrates clearly that **peak a.m. trips will increase from 6 trips to 26 trips, and peak p.m. trips will increase from 12 trips to 27 trips** the time when traffic along when Bradley Place is often already at a standstill, especially when the Flagler bridge is open. See, Traffic Analysis, p.3. As such, use of the proposed 9 spaces on a separate lot **requires the Applicant obtain a special exception approval for shared parking.**
- **Lack of Access Agreement.** Similarly, the parking access aisle into and out of the Daycare is not located on the Property but on the lot to the south. The Applicant should **obtain an access easement** to assure the continued use of the aisle.
- **Insufficient Size of Sunrise Avenue Access.** The Applicant may claim that Sunrise Avenue may also be used as an access point It cannot. Prior Applicant submittals demonstrate it is 16 feet 6 inches wide (see, Exhibit “D”) which does not meet the 25 foot wide aisle required for two way traffic under Section 134- 2172 of the Code.

### B. Parking Space Issues

- **Non-compliant Parking Spaces.** While the Applicant relies exclusively on the use of the 9 parking spaces (8 spaces and 1 handicap space)<sup>1</sup> abutting the south of the Property, **such spaces do not meet the Town Code.** Under Sections 134-2171 and 134-2172 of the Town Code, parking spaces **must be a minimum of 9 feet wide and 18 feet long.** The Applicant’s Site Plan (Sheet A002) demonstrates that, outside of the handicap parking space, the remaining **proposed parking spaces are**

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<sup>1</sup> The Applicants continued reference to 9 spaces is somewhat disingenuous given that 1 space is a handicapped van accessible space, which cannot be used except by a handicapped parent, or it will result in a \$250.00 fine. As a practical matter all 68 children must be dropped off and picked up using 8 spaces and an occasional use of the one van space.

**8 feet 4 inches wide.** As such, they are non-compliant and should be restriped to meet the Town Code at the same time the handicapped parking space is being created. The result will be at least one less parking space and the need to increase the parking variance requested.

- **Inadequate Number of Parking Spaces.** The Applicant claims that with the use of the 9 designated parking spaces it is only short 6 spaces, the exact number of spaces it removes under the Application, for which it seeks a variance. However, it **fudges the number of spaces needed by admittedly using the parking space requirements for students in 1st to 6th grade under the Town Code.** There is a vast difference between Daycare and elementary school parking needs. Elementary students can get in and out of a car and enter the building without assistance, requiring fewer spaces. Parents of daycare children must park and walk their children into the Daycare. Given the missing standard in the Town Code for the number of parking spaces required for a daycare, the **Town should look to and adopt the Minimum Parking and Loading Requirements for Palm Beach County, Article 6 (Exhibit "E").** The County standards for a daycare dictate the need for **1 space per 5 persons (not students), plus 1 drop off stall per 20 persons.** With 68 students and 6 employees the Daycare will need 15 spaces (i.e.  $74 \text{ persons} / 5 = 14.8$ -rounded to 15) plus 4 drop off spaces (i.e.  $74 / 20 = 3.7$ -rounded to 4) for a total of 19 spaces to ensure the safety of parents and children. **The result is the need for 14 more parking spaces than accounted for by the Applicant creating an 18 space variance.**<sup>2</sup> Again, in addition to a variance, such spaces will require a special exception for shared parking as they will not be on the same lot and will increase the intensification of the use of the Property.
- **Failure to Provide Parking Spaces for Employees.** Again, by not using standards for a preschool/daycare, the Application makes no provision for either parking spaces or traffic trips for its 6 employees. Clearly, employees will account for an additional 6 trips in and out of the Daycare each day at primarily peak hours as well as require parking outside of the 9 assigned spaces, yet again further triggering the need for shared parking.

### C. Parking Circulation Deficiencies

- **Insufficient queuing.** The Application provides no queuing for the Daycare drop off and pick up. This is an impossibility in the real world. According to the Application **"Parents or guardians will park in one of the nine designated parking spaces on the south side of the building and escort their child through the front entrance (west side of the building) to be signed in."** The distance from Bradley Place to the eastern edge of the 9 parking spaces is 100-110 feet. According to the NADA the average car is 14.7 feet long.<sup>3</sup> As a result, it will only

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<sup>2</sup> Adding the additional 14 spaces to the required 80 spaces yields the need for 94 spaces total with a proposal of only 76 spaces (after proposed modification), for a variance of 18 parking spaces using the County daycare numbers.

<sup>3</sup> <https://www.nadaguides.com/Cars/Shopping-Guides/how-long-is-the-average-car>

take **6.8 to 7.4 cars to fill the entire drop off/pick up area**. The Applicant also fails to take into consideration that cars entering from Bradly Place **will necessarily have to wait for parents to pull into and out of the 9 parking spaces** creating backups in the parking aisle and onto Bradley Place. Likewise, the Applicant has neglected the real potential for parents who have managed to navigate into one of the proposed 9 spaces being **blocked from getting out by cars waiting for parking spaces or trying to exit onto Bradley Place**.

- **Dueling Parking.** Unable to get into or out of the identified 9 spaces, the natural result will be that **parents will begin parking in the spaces across the parking aisle on the righthand side as they enter from Bradly Park** at the former bank building. This will further impede access, and create a situation of cars jockeying to pull into and out of the spaces on both sides of the parking aisle at the same time. Again, at 14.7 feet average per car **there will be little room for the maneuvering of 2 cars backing up at the same in the 25foot parking aisle**.
- **Lack of Safe Path to Entrance for Parents and Children.** Added to the chaos of the parking areas, is the fact that **there is no safe path to the entrance of the Daycare**. There is **no sidewalk or pathway** in front of the 9 parking spaces to the entrance. As a result, **parents and children will be forced to run the gauntlet behind the flow of cars entering, exiting, and parking during pick up and drop off**. This is a recipe for disaster.
- **Increased circulation through Park Avenue.** The ability to both enter and exit from Bradley Place during drop off and pickup, **will necessarily result in more traffic in the Park Avenue neighborhood**. During peak hours **parents exiting the Daycare will not be able to turn left to go south out of the access aisle onto Bradley Place** without drivers on both sides of the road giving way. **The result will be a steady stream of cars turning right onto Bradly Place and right again on Park Avenue** to proceed to N. County Road and head south.
- **Failure to Provide for Safety and Enforcement.** Added to the above is **the complete absence of any provisions for a teacher, employee or safety officer assigned to monitor, facilitate, and enforce the drop off and pick up process** using the 9 spaces, as well as preventing the improper discharge of children on the apron, parking access aisle, the sidewalk, or on the Bradly Place sidewalk.

### **III. Failure to Meet Standards for Site Plan, Special Exception, or Variance**

While ultimately the purview of the Town Council, ARCOM should be aware that, based upon the above shortcomings, the Applicant does not meet the legal standards for granting a site plan, special exception or variance.

- A. Failure to Meet Site Plan Standards.** Section 134-329 of the Town requires the Applicant to demonstrate, and the Town Council to make a finding, that a **proposed**



**Site Plan will not adversely impact the public interest.** As detailed above, the Applicant has **failed to meet the standards** of Sections 134-329(2) (3), (4) and 8 of the Town Code and its Site Plan cannot be approved.

**B. Failure to Meet Special Exception Standards.** The Applicant has further failed to meet the standards for the various special exceptions required for a school in the C-TS zoning district and the required shared parking given that:

- The special exceptions are not in harmony with the purpose and intent of the CT-S zoning district under Section 134-226(a) of the Town Code.
- The special Exceptions will adversely affect the public interests in violation of Section 134-226(b) or the Town Code.
- The use of the Property as a Daycare is not designed, located, or proposed to be operated in a manner that the public health, safety, welfare, and morals will be protected in violation of Section 134-229(2) of the Town Code.
- The use of the Property as a Daycare will not be compatible with the existing adjoining commercial development and intended purposes of the C-TS zoning district under Section 134-229(4) of the Town Code.
- The Daycare will not comply with the yard, and other open space and other special requirements for the use as a Daycare under Section 134-229(5) of the Town Code, as detailed above.
- There will not be adequate ingress and egress to the Property, adequate off street parking on the 165 Bradley Place lot, or a design and circulation which will promote automotive and pedestrian safety, convenience and proper traffic flow and control in violation of Section 134-229(8).

**C. Failure to Meet Standards for a Variance.** The Applicant has also failed to meet virtually all of the criteria required for a variance under Section 134-201(a) of the Code, including without limitation:

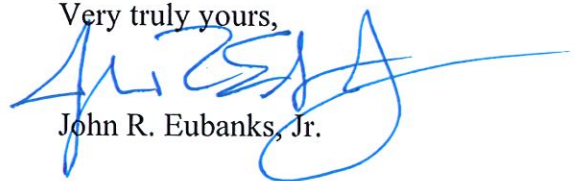
- The failure to demonstrate the requisite undue hardship under Section 134-201(a). There can be no hardship given that the Property can be used for a myriad of commercial purposes under the C-TS zoning. Furthermore, any hardship would be self-created.
- The failure to establish that special conditions and circumstances exist which are peculiar to the land, structure of building which are not applicable to other land, structures of in the C-TS zoning district under Section 134-201(a)(1). There are not special conditions or circumstances as the Property is a regular sized lot within the C-TS Zoning which was used for Town Serving purposes for many

years while **subject to the same circumstances as presently exist at other properties in the C-TS zoning district.**

- **The failure to demonstrate any special conditions and circumstances do not result from the actions of the applicant under Section 134-201(a)(2). Any special circumstances which may exist are the direct the result of the Applicant.**
- **Granting the variance requested will confer on the Applicant special privileges that are denied to other lands, buildings, or structures in the same zoning district in violation under Section 134-201(a)(3).**
- **The failure to demonstrate that a literal interpretation of the Code would deprive the Applicant of rights commonly enjoyed by other properties in the CT-S zoning district or work an unnecessary and under hardship on the Applicant under Section 134-201(a)(4). The Property enjoys the same rights enjoyed by other neighboring properties, there is no unnecessary hardship, and any hardship claimed would be self-created.**
- **The failure to show that the variance requested is the minimum variance that will make possible the reasonable use of the land, building or structure under Section 134-201(a)(5). Under the Application the minimum variance would be no variance as the Applicant has created a self-imposed hardship by removing parking spaces. The Property can and has been reasonably used for years.**
- **The failure to demonstrate that the grant of the variance will be in harmony with the general intent and purpose of the C-TS zoning district under Section 134-201(a)(7). Granting of the variance would not be in harmony but create a direct conflict with commercial purpose of the C-TS zoning district.**

Considering the Application as a whole in light of the above facts and circumstances, the Biltmore requests the Application be denied.

Very truly yours,



John R. Eubanks, Jr.

Attachments

cc: ARCOM Committee Members  
Wayne Bergman, Director of Planning, Zoning & Building  
James Murphy, Assistant Director of Planning, Zoning & Building  
Kelly Churney, Deputy Town Clerk  
Town Clerk, Town of Palm Beach



AGREEMENT FOR UNITY OF TITLE AND OTHER RESTRICTIONS

THIS AGREEMENT, dated this 30<sup>th</sup> day of Nov., 1978, by  
and between BILTMORE GALLERIA, LIMITED, and TOWN OF PALM BEACH,

W I T N E S S E T H:

In consideration of the granting of the Zoning Variance and Site Plan Request Number 23-78 as modified, (the "Request"), to Stanley J. Harte on October 10, 1978 approving the use of the westernly twenty-five feet of Lot 37 of the BUNGALOW PARK ADDITION property for a driveway and maneuvering aisleway, and for other good and valuable consideration received from the TOWN OF PALM BEACH, the Developer, which as used herein shall mean the BILTMORE GALLERIA LIMITED, a limited partnership, its successors and/or assigns, (the "Developer"), agrees to restrict the use of the real property described in Exhibit "A" attached by the conditions which follow which shall be covenants running with the land unless and until such time as the same shall be released or modified in writing by the TOWN OF PALM BEACH, Florida:

1. Said property shall be considered as one plot and parcel of land and no portion of said plot or parcel of land shall be sold, transferred, assigned or mortgaged separately but rather only in its entirety as one plot and parcel of land.
2. The Developer shall maintain a one-way driveway gate permitting the traffic to flow only from Park Avenue onto the property, which gate shall be maintained at the place set forth in the Site Plan approved by the Town Council in accordance with the Request.
3. The Developer shall maintain the landscaping as is more particularly shown on the plans submitted with respect to the Request.
4. The Developer shall record this Agreement at its own expense in the Records of Palm Beach County and shall thereafter file this Agreement in the Office of the Town Clerk in and for the TOWN OF PALM BEACH.

IN WITNESS WHEREOF, the parties hereto have subscribed their names the day and year first aforesaid.

PALM BEACH OFF  
REC 2968 PAGE 112

Exhibit G

EXHIBIT

A

tabbles

78 192539  
DEC-1 PM 3:50

10.60%  
City, Man, Regem  
321 Royal Palm P.O.

Witnesses:

BILTMORE GALLERIA, LIMITED  
A Florida Limited Partnership

James L. Anderson  
Charles J. Wood

By Stanley J. Hart  
Its General Partner

STATE OF FLORIDA )  
COUNTY OF PALM BEACH ) SS.

The foregoing instrument was acknowledged before me this  
27<sup>th</sup> day of November, 1978, by Stanley J. Hart  
General Partner of BILTMORE GALLERIA, LIMITED, a Florida limited  
partnership on behalf of said partnership.



Alice E. Fernandez  
Notary Public

My Commission Expires:

Notary Public, State of Florida at Large  
My Commission Expires Sept. 12, 1980  
Bonded by American Fidelity & Guaranty Company

Witnesses:

Joan Sanchez

TOWN OF PALM BEACH

G. H. Frost, Town Manager

ATTEST: Joan Sanchez

APPROVED:

Stanley J. Hart  
General Partner

STATE OF FLORIDA )  
COUNTY OF PALM BEACH ) SS.

The foregoing instrument was acknowledged before me this  
27<sup>th</sup> day of November, 1978, by Stanley J. Hart  
The General Partner of THE TOWN OF PALM BEACH, Florida,  
a Florida municipality, on behalf of the town of Palm Beach.

(NOTARY SEAL)



Joan Sanchez  
Notary Public

My Commission Expires:

Notary Public  
MY COMMISSION EXPIRES JAN. 2, 1980  
BONDED THRU GENERAL FIDELITY & GUARANTY

That property located on Lots 46 through 53 inclusive, SUNRISE AVENUE ADDITION, Number 2, an addition to the Town of Palm Beach, Palm Beach County, Florida, according to the Plat thereof on file, in Plat Book 8, Page 69, in the Office of the Clerk of the Circuit Court of Palm Beach County, Florida, and that property located at the southeast corner of the intersection of Bradley Place and Park Avenue, and Lots 35, 36 and 37, BUNGALOW PARK ADDITION, an addition to the Town of Palm Beach, Palm Beach County, Florida, according to the Plat thereof on file in Plat Book 7, Page 26, in the Office of the Clerk of the Circuit Court of Palm Beach County, Florida.

EXHIBIT "A"

PALM BEACH COUNTY - STATE OF FLORIDA  
RECEIVED 2968 PAGE 124

PALM BEACH COUNTY - STATE OF FLORIDA

I hereby certify that the foregoing is a true copy of the record in my office

THIS DAY OF December 18

JOHN B. DUNKLE

Clerk Circuit Court

*McFarland*

Record Mailed  
Palm Beach County, Fla  
John B. Dunkle  
Clerk Circuit Court



CFN 20170284831

OR BK 29276 PG 1572

RECORDED 08/08/2017 14:23:06

Palm Beach County, Florida

Sharon R. Bock, CLERK & COMPTROLLER

Pgs 1572 - 1581 (10pgs)

This is not a certified copy

**DECLARATION OF USE AGREEMENT**

by

**THE TOWN OF PALM BEACH**

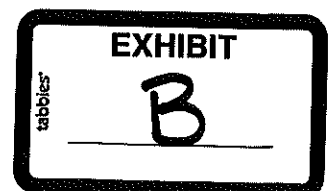
and

**OLD GUARD SOCIETY, INC.**

**August 2017**

**Prepared by and return to:  
Maura A. Ziska, Esquire  
Kochman & Ziska PLC  
222 Lakeview Avenue, Suite 1500  
West Palm Beach, FL 33401  
(561) 802-8960**

00035342



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<b>ARTICLE IX</b>	<b>EFFECTIVE DATE.....6</b>
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## DECLARATION OF USE AGREEMENT

THIS DECLARATION OF USE AGREEMENT is made and entered into this 3<sup>rd</sup> day of August, 2017 by and between the TOWN OF PALM BEACH, a Florida municipal corporation, 360 South County Road, Palm Beach, Florida 33480 (hereinafter called "the Town") and OLD GUARD SOCIETY, INC., 165 Bradley Place, Palm Beach, Florida 33480 (hereinafter called "the Club"), which terms "the Town" and "the Club" will include and bind the successors and assigns of the parties, wherever the context so requires or admits.

### WITNESSETH :

WHEREAS, the land described in Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "Land") is located within the municipal limits of the Town; and

WHEREAS, The Club is a Special Exception use in the C-TS Zoning District; and

WHEREAS, the Town Council conditionally approved Special Exception Number 9-2016 with Site Plan Review and Variance on April 12, 2017 which approved the Special Exception with Site Plan Review to open the Club at the above referenced location and a the Variance to eliminate the requirement for ten (10) additional off-street parking spaces based on the principle of equivalency calculation; and

WHEREAS, all of the representations made herein are true and accurate and the approval of the Special Exception with Site Plan Review and Variance are conditioned upon the representations made herein and all of the conditions herein imposed; and

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed as follows:

### ARTICLE I

#### RECITALS

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

### ARTICLE II

#### REPRESENTATION OF LEASE

The Club has full right to enter into this Agreement and to bind the Land and itself to the terms hereof. There are no covenants, restrictions or reservations of record that will prevent the use of the Land in accordance with the terms and conditions of this Agreement. No consent to execution, delivery and performance hereunder is required from any person, partner, limited partner, creditor, investor, judicial or administrative body, governmental authority or other party other than any such consent which already has been unconditionally given or referenced herein. Neither the execution of this Agreement nor the consummation of the transactions contemplated



herein will violate any restriction, court order or agreement to which the Club or the Land are subject.

### ARTICLE III

#### PRIVATE CLUB USE

The use (the Club) that is the subject of this Declaration of Use shall be as set forth in the application submitted to the Town for Special Exception Number 9-2017 with Site Plan Review and Variance and approved by Town Council on April 12, 2017 as the same may be amended from time to time (hereinafter referred to as the "Approval"). The set of plans which are part of Special Exception Number 9-2017 with Site Plan Review and Variance conditional approval, and as identified on sheet drawings A000 and A100 prepared by MP Design & Architecture, Inc., stamp dated February 24, 2017, may not be deviated from unless prior Special Exception approval is granted by the Town Council.

### ARTICLE IV

#### CONDITIONS

The approval to allow the Club to operate is based upon the following conditions:

- 1) Hours shall be limited from 10:00 a.m. to 7:00 p.m. Monday through Saturday.
- 2) The maximum membership shall be 100 people.
- 3) The maximum number of members and guests from 10:00 a.m. to 7:00 p.m. shall not exceed 20 people.
- 4) Evening events shall be allowed from 5:00 p.m. to 11:00 p.m. The number of evening events shall be limited to one time per calendar month from November 1<sup>st</sup> to May 1<sup>st</sup> with the exception of December during which the Club can have a maximum of two (2) events that month.
- 5) Valet parking is required for all night events. A valet parking permit from the Police Department shall be required and the valet stand shall be located on the subject property and not on any surrounding streets.
- 6) No music shall be allowed.
- 7) The Club shall be responsible to obtain a building permit to remove the kitchen if the Club vacates the subject property.

## ARTICLE V

### VOLUNTARY AGREEMENT AND HOLD HARMLESS

The Club agrees to be bound by the terms and conditions in this Agreement, and Tenant waives any legal objection it might otherwise have to said terms and conditions or parts thereof.

## ARTICLE VI

### REMEDIES FOR VIOLATION

1. Upon determination by the Director of Planning, Zoning and Building Department of a violation of any of the terms or conditions of this Agreement or any other provision in the Town Code of Ordinances, and upon notice in writing from the Town to the Club and the Club's representative of said violation(s) and the date upon which said violations(s) shall be corrected, owner or owner's successor or assigns shall pay to the TOWN a liquidated amount of \$2,000 per violation. Said liquidated amount shall accrue on a per day basis for each day a violation of this agreement exists. In addition, in the event a violation remains uncorrected beyond the date noticed for correction by the Director of the Planning, Zoning and Building Department, this Agreement may be reconsidered by the Town Council at a future meeting upon thirty days notification to the owner. The Town Council may, upon a finding of violation, alter this Agreement or rescind the approval of the use.

In the event owner disputes the determination of the Director of Planning, Zoning and Building Department of the violation of the conditions of this Agreement, or in the event the owner disputes any code violation, owner may appeal the determination of the Director of the Planning, Zoning and Building Department to the Town Council, said appeal to be filed no later than fifteen (15) days following the written notice of violation.

2. The Town shall have all remedies available at law and equity in order to enforce the terms of this Agreement including but not limited to (a) the Town's code enforcement procedures; (b) all remedies otherwise offered in the Town's Code of Ordinances; and (c) injunction, specific performance, and any and all other equitable relief through the civil courts in and for Palm Beach County for the State of Florida. In the event the Town is required to seek injunctive relief, it shall not be required to post bond and it shall not be required to demonstrate irreparable harm or injury to secure an injunction to enforce the terms of this Agreement. Additionally, in the event of any breach, default or non-performance of this Agreement, or any of its covenants, agreements, terms or conditions, the Town shall be entitled to recover its costs, expenses and reasonable attorney's fees insofar as the Town prevails, either before or as a result of litigation, including appeals.

## ARTICLE VII

### PROVISIONS TO RUN WITH THE CLUB

This Agreement shall NOT run with the Land and shall be binding upon the Club only and shall terminate upon the termination of the Club's lease and/or business tax receipt, or rescission of approval by the Town Council. This Agreement shall be recorded by the Club in

the Official Records of Palm Beach County, Florida upon full execution by the parties hereto. This Agreement shall be superior to any mortgages on the Land and shall be recorded prior to the recording of any such mortgages.

ARTICLE VIII

ENTIRE AGREEMENT

This Agreement represents the entire agreement between the parties as to its subject matter and it may not be amended except by written agreement executed by both parties.

ARTICLE IX

EFFECTIVE DATE

The Effective Date of this Agreement shall be the day upon which this Agreement is executed by the last party to sign the Agreement.

ARTICLE X

MISCELLANEOUS

Wherever the word "laws" appears in this Agreement, it shall be deemed to include all ordinances, rules and regulations as well as laws of the appropriate governmental authorities.

This Agreement may not be amended except by written instrument signed by all parties hereto.

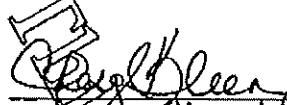
Paragraph headings are inserted for convenience only and shall not be read to enlarge, construe, restrict or modify the provisions hereof. All references to numbered or lettered paragraphs, subparagraphs and exhibits refer (unless the context indicates otherwise) to paragraphs and subparagraphs of this Agreement and to exhibits attached hereto, which exhibits are by this reference made a part hereof.


In the event of the invalidity of any provision of this Agreement, same shall be deemed stricken herefrom and this Agreement shall continue in full force and effect as if such invalid provision were never a part hereof.

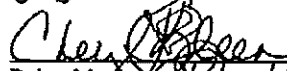
This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

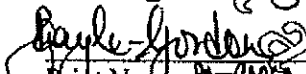
IN WITNESS WHEREOF the parties have hereunto set their hands and seals the day and year first above.


Signed, sealed and delivered  
In the presence of:

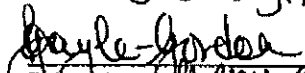
  
Print Name: Cheryl Klean

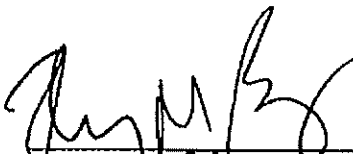
  
Print Name: PATRICIA GAYLE GORDON

  
Print Name: Cheryl Klean


  
Print Name: PATRICIA GAYLE GORDON

  
Print Name: Cheryl Klean

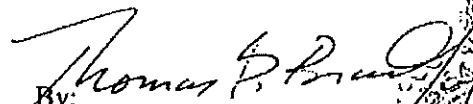
  
Print Name: PATRICIA GAYLE GORDON

  
Print Name: WILLIAM M. DANKNER  
Clean  
Print Name: CRISTEN DANKNER

THE TOWN OF PALM BEACH

By:   
Gail Coniglio, Mayor


By:   
Richard Kleid, President

By:   
Thomas Bradford, Town Manager



THE CLUB

OLD GUARD SOCIETY, INC.

By:   
Its: President

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of August 2017, by Gail Coniglio, the Mayor of the Town of Palm Beach, a Florida municipal corporation, on behalf of the corporation. She is personally known to me and she did not take an oath.



GWENDOLYNN B. PEIRCE  
MY COMMISSION # FF 092935  
EXPIRES: May 16, 2020  
Bonded Thru Budget Notary Services

Gwendolynn B. Peirce  
Signature of Notary Public

Gwendolynn B. Peirce  
Printed Name of Notary Public

Commission Expires: May 16, 2020

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of August 2017, by Richard Kleid, the President of the Town Council of the 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.



GWENDOLYNN B. PEIRCE  
MY COMMISSION # FF 092935  
EXPIRES: May 16, 2020  
Bonded Thru Budget Notary Services

Gwendolynn B. Peirce  
Signature of Notary Public

Gwendolynn B. Peirce  
Printed Name of Notary Public

Commission Expires: May 16, 2020

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of August 2017, by Thomas Bradford, the Town Manager of the 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.



GWENDOLYNN B. PEIRCE  
MY COMMISSION # FF 092935  
EXPIRES: May 16, 2020  
Bonded Thru Budget Notary Services

Gwendolynn B. Peirce  
Signature of Notary Public

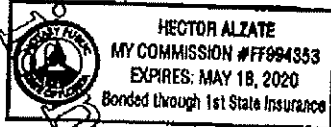
Gwendolynn B. Peirce  
Printed Name of Notary Public

Commission Expires: May 16, 2020

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 11<sup>TH</sup> day of July 2017, by Brian Smith, on behalf of Old Guard Society, Inc. He/She is personally known to me and he did not take an oath.



Signature of Notary Public

**HECTOR H. ALZATE**

Printed Name of Notary Public

Commission Expires: 05/18/2020

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY FOR THE TOWN OF  
PALM BEACH

By:

John C. Randolph, Esquire

RECOMMEND APPROVAL:

7/14/17  
Paul Castro  
Paul Castro, AICP  
Zoning Administrator



EXHIBIT "A"

LEGAL DESCRIPTION

Lots 35, 36 and 37, BUNGALOW PARK ADDITION, 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 7, Page 26.

This is not a certified copy

We Value What You Value

## BILTMORE CALLERIA LLC

Location 165 BRADLEY PL

Page 1350

**Mailing Address**  
PO BOX 3266  
PALM BEACH FL 33480 1466

Use Type 7700 - CLB/LDC/JN HALL

Total Square Feet 3038

Sales Date	Price
1/1/2010	100
2/1/2010	100
3/1/2010	100
4/1/2010	100
5/1/2010	100
6/1/2010	100
7/1/2010	100
8/1/2010	100
9/1/2010	100
10/1/2010	100
11/1/2010	100
12/1/2010	100
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11/1/2020	100
12/1/2020	100
1/1/2021	100
2/1/2021	100

12

## Tax Year 2022 P

Total Market Value


**P = Preliminary**  
All values are as of January 1st each year

## Tax Year 2022 P

Exemption Amount

**tabbies®**





**DOROTHYJACKS**  
CFL, AIS  
Palm Beach County Property Appraiser  
[We Value What You Value](#)

[PAPA Home](#)

Search by Owner, Address or Parcel

View Property Record

Owners

BILTMORE GALLERIA LLC

Property Detail

Location 285 SUNRISE AVE  
Municipality PALM BEACH  
Parcel No. 50434315100000540  
Subdivision SUNRISE AVE ADD 2 IN  
Book 15470  
Sale Date JUL-2003  
Page 1350  
Mailing Address PO BOX 3266  
PALM BEACH FL 33480 1466  
Use Type 2300 - FINANCIAL  
Total Square Feet 2793

Sales Information

Sales Date	Price
JUL-2003	10
DEC-1996	325000
DEC-1996	325000
MAY-1988	1100000
MAY-1988	100

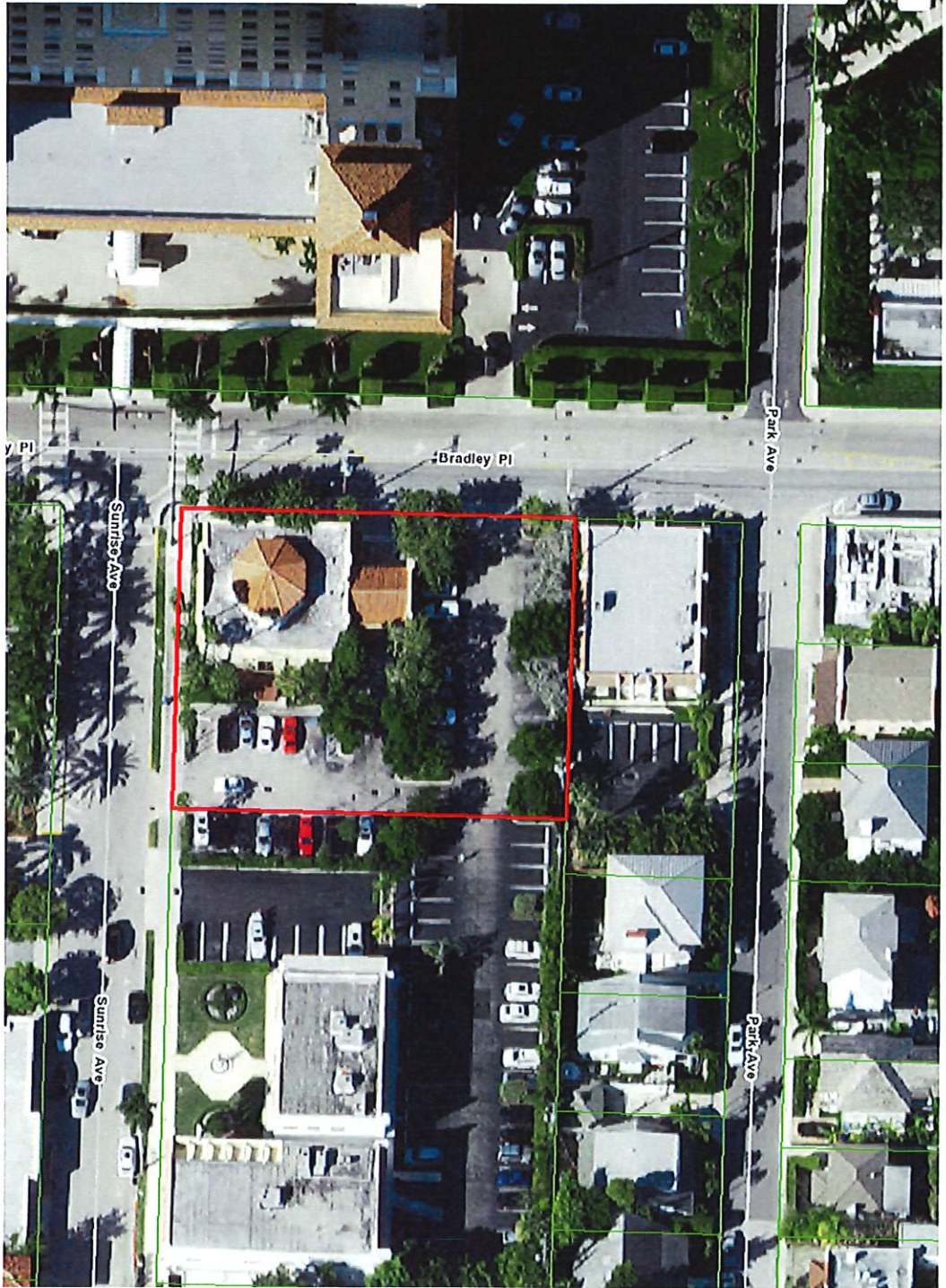
Appraisals

Tax Year	2022
Improvement Value	\$0
Land Value	\$3,071,814
Total Market Value	\$3,071,814

All values are as of January 1st each year

Assessed/Taxable values

Tax Year	2022
Assessed Value	\$3,071,813
Exemption Amount	\$0





## Owners

### Property Detail

Location 255 SUNRISE AVE  
Municipality PALM BEACH  
Parcel No. 5043431510000460  
Subdivision SUNRISE AVE ADD 2 IN  
Book 15470 Page 1350  
Sale Date JUL-2003

Mailing Address  
PO BOX 3266  
PALM BEACH FL 33480 1466

Use Type 1100 - STORES

Total Square Feet 13557

## Sales Information

JUL-2003	10
DEC-1996	325000
DEC-1996	325000
AUC-1988	100
AUC-1987	1859000

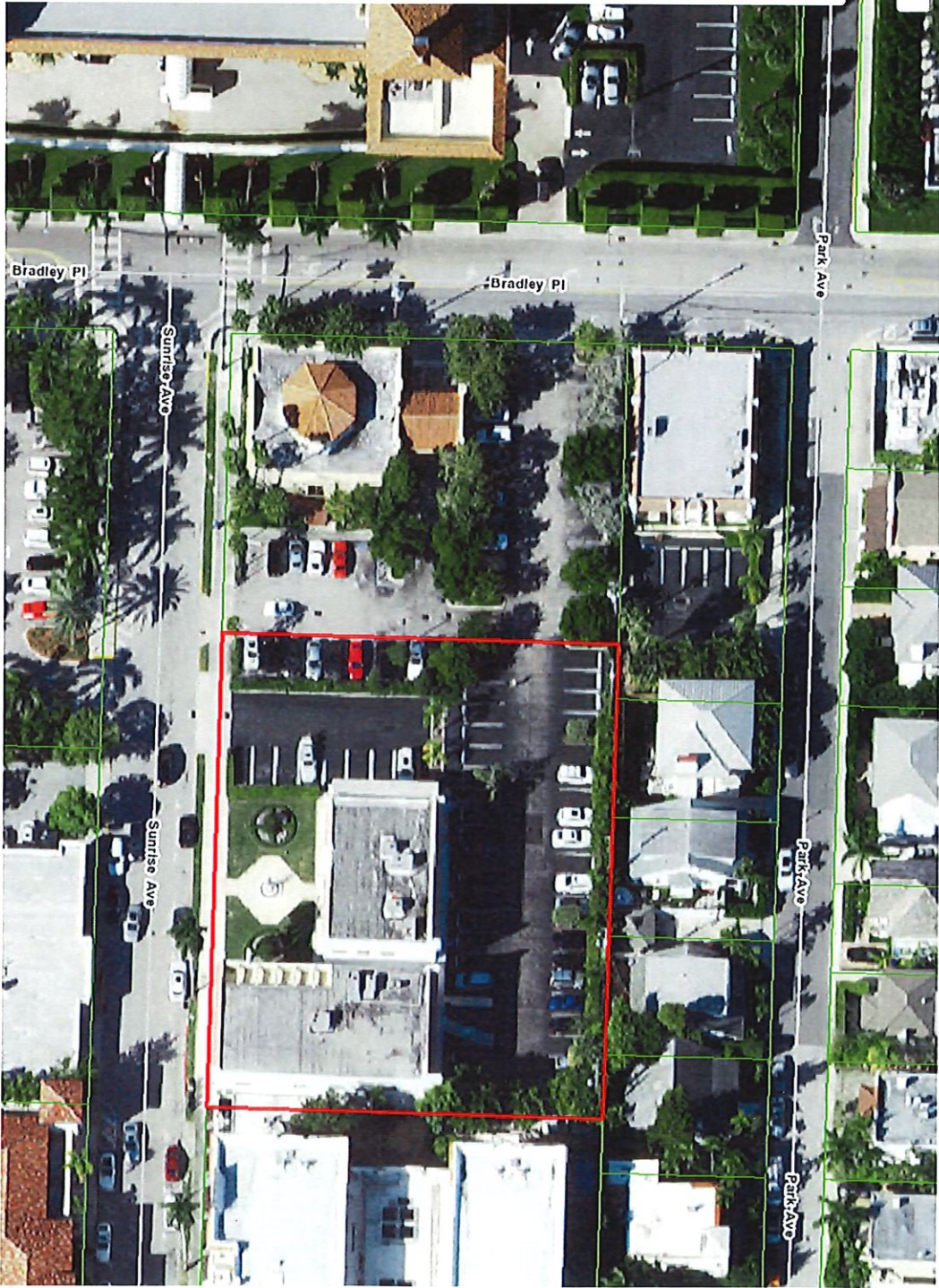
## Appraisals

Tax Year	2022 P
Improvement Value	\$1,747,363
Land Value	\$3,814,603
Total Market Value	\$5,561,966

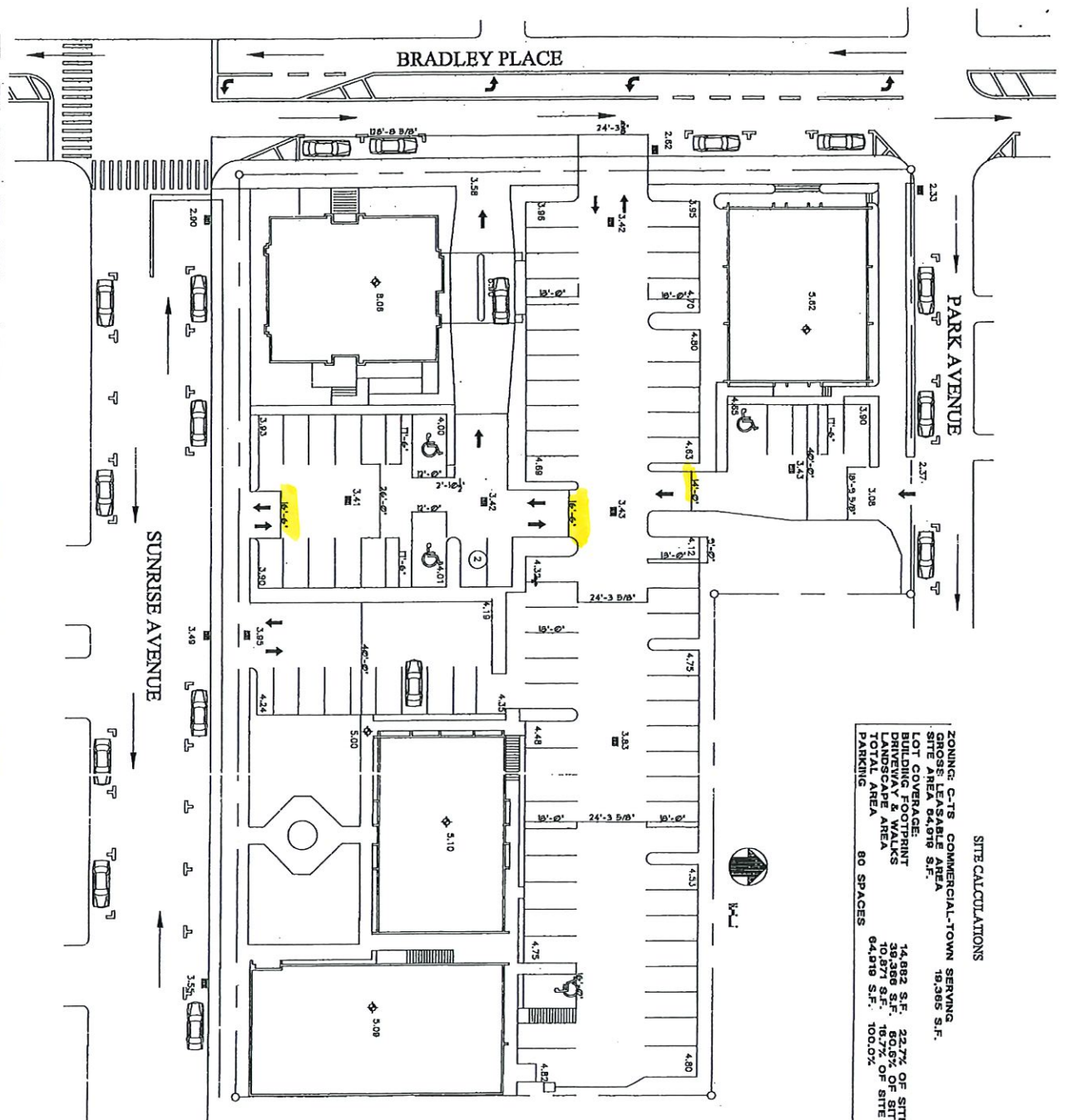
All values are as of January 1st each year

**Assessed/Taxable values**

<b>Tax Year</b>	<b>2022 P</b>
Assessed Value	\$5,002,185
Exemption Amount	\$0

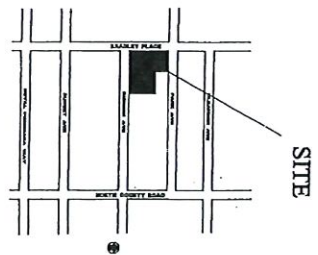






**SITE CALCULATIONS**

ZONING: C-1'S COMMERCIAL-TOWN SERVING	18,365 S.F.
GROSS LEASABLE AREA	18,365 S.F.
LOT AREA 64,918 S.F.	
LOT COVERAGE	28.27% OF SITE
BUILDING FOOTPRINT	38,366 S.F. 80.6% OF SITE
DRIVEWAY & WALKS	10,871 S.F. 16.7% OF SITE
LANDSCAPE AREA	64,918 S.F. 100.0%
TOTAL AREA	
PARKING	80 SPACES



RECEIVED  
NOV - 4 2005  
TOWN OF PALM BEACH  
PZB DEPT.



I HEREBY CERTIFY THAT THIS DRAWING  
WAS PREPARED BY ME OR UNDER MY  
SUPERVISION AND THAT I AM A LICENSED  
ARCHITECT IN THE STATE OF FLORIDA.  
ANY OTHERS, INCLUDING REGISTERED ENGINEERS,  
REGISTERED PROFESSIONAL LANDSCAPE ARCHITECTS,  
REGISTERED PROFESSIONAL SURVEYORS, OR  
OTHERS, WHOSE NAMES ARE ON THIS DRAWING  
HAVE PROVIDED SEPARATE CERTIFICATIONS  
OF THEIR WORK. THIS CERTIFICATION  
IS GIVEN BY ME TO: JOHN C. WILSON  
JANUARY 1, 2005  
JAMES A. WILSON ARCHITECT & ASSOCIATES, INC. 11-15105  
P.O. BOX 111111 PALM BEACH, FL 33406

**SCALE**  
1" = 10'-0"

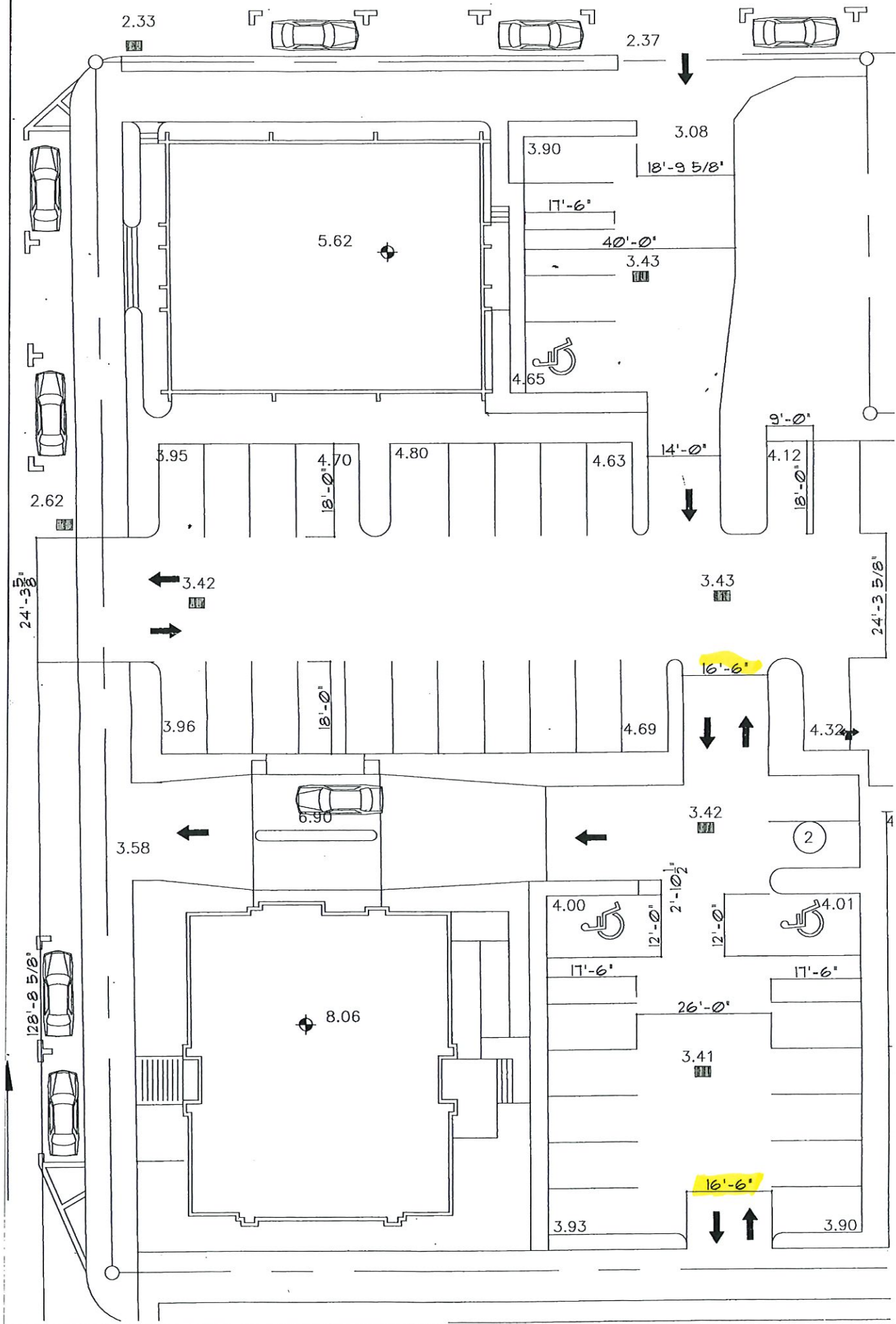
**PROJECT:**  
12121 GALLERY  
SUNRISE AVENUE  
PALM BEACH, FLORIDA

**DATE:**  
A1-1

**BY:**  
JAMES A. WILSON

**ARCHITECT & ASSOCIATES, INC.**

# PARK AVENUE







# **PALM BEACH COUNTY**

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## **ARTICLE 6**

### **PARKING, LOADING, AND CIRCULATION**

#### **CHAPTER A GENERAL**

##### **Section 1 General**

###### **A. Purpose and Intent**

The purpose and intent of this Article is to ensure the design and function, provisions of parking, loading, queuing, vehicular and pedestrian circulation, driveways, and access are in proportion to the demand created by each use and are efficient and safe. [Ord. 2020-001]

###### **B. Applicability**

The standards of this Article shall apply to all development in unincorporated PBC, or existing development that is modified to the extent that it includes uses or site design features that were not specifically shown on previously approved plans. All parking areas established by this Section shall be continuously maintained in accordance with this Article. Parking and loading spaces shall be provided in accordance with Table 6.B.1.B, Minimum Parking and Loading Requirements (http://www.pbcgov.com/uldc/Article6.htm#TAB1BMIPALORE), unless stated otherwise below. [Ord. 2020-001]

###### **1. Prohibitions**

Parking and loading spaces are prohibited in the following: [Ord. 2020-001]

- a. Landscape buffers; and [Ord. 2020-001]
- b. Drainage District R-O-W or Easements, except additional parking in excess of the minimum required may be located in these areas with an agreement with the applicable district and subject to approval by the Zoning Director. [Ord. 2011-011] [Ord. 2020-001]

###### **2. Exemptions**

The following exemptions shall apply, unless the parcel is vacant. [Ord. 2007-013] [Ord. 2020-001]

###### **a. Commercial Vehicle**

One commercial vehicle of not over one ton rated capacity may be parked per dwelling unit, providing all of the following conditions are met:

- 1) vehicle is registered or licensed;
- 2) used by a resident of the premises;
- 3) gross vehicle weight rating (GVWR) does not exceed 12,500 pounds;
- 4) height does not exceed nine feet, including any load, bed, or box; and,
- 5) total vehicle length does not exceed 26 feet. [Ord. 2005-041]

###### **b. Construction Vehicles**



Temporary parking of construction vehicles or equipment engaged in work on private land where construction is underway, for which a current and valid Building Permit has been issued by the Building Director and the Building Permit is displayed on the premises. [Ord. 2007-013]

**c. Delivery and Service Vehicles**

The routine deliveries by tradesmen, or the use of trucks in making service calls. [Ord. 2007-013]

**d. Emergency Repairs**

A situation where a motor vehicle becomes disabled and, as a result of such emergency, is required to be parked in a residential district longer than two hours. Any prohibited motor vehicle shall be removed from the residential district within 24 hours, regardless of the nature of the emergency.

**3. Deviations for the PO Zoning District**

Deviation(s) from the provisions of this Article may be permitted for development supporting Government Facilities within the PO Zoning District, subject to Art. 2 Application Processes and Procedures (<http://www.pbcgov.com/uldc/Article2.htm#APPRPR>), and PPM #ZO-O-063 (<http://discover.pbcgov.org/pzb/zoning/ULDCPPMS/2017-ZO-O-063.pdf>), as applicable and as amended. [Ord. 2007-013] [Ord. 2019-005]

**C. Prior Approvals and Non-Conformities**

See Art. 1.E, Prior Approvals (<http://www.pbcgov.com/uldc/Article1.htm#EPRAP>) and Art. 1.F, Non-Conformities (<http://www.pbcgov.com/uldc/Article1.htm#FNO>). [Ord. 2020-001]

**D. Definitions**

See Art. 1.H, Definitions and Acronyms (<http://www.pbcgov.com/uldc/Article1.htm#HDEAC>) .

## CHAPTER B PARKING AND LOADING

### Section 1 Calculation

#### A. Computing Parking Standards

##### 1. Multiple Uses

On lots containing more than one use, the total number of required parking spaces shall be equal to the sum of the required parking for each use as if provided separately, unless shared parking is approved pursuant to Art. 6.C.1.B, Shared Parking (<http://www.pbcgov.com/uldc/Article6.htm#C1BSHPA>) or is allowed pursuant to Art. 3.B, Overlays (<http://www.pbcgov.com/uldc/Article3.htm#BOV>). [Ord. 2020-001]

##### 2. Fractions

When calculation of the number of required parking spaces results in a fractional number, a fraction of less than one-half shall be disregarded and a fraction of one-half or more shall be rounded to the next highest whole number. [Ord. 2020-001]

##### 3. Floor Area

Parking requirements that are based on square footage shall be computed using gross floor area (GFA), unless another measurement is specifically called for in this Section. [Ord. 2020-001]

##### 4. Occupants

When the calculation of required parking spaces is based on the number of occupants, the calculation shall be based on the maximum number of persons legally residing on the premises at any one time.

##### 5. Bench Seating

When the calculation of required parking spaces is based on the number of seats, each 22 linear inches of bench, pew, or similar bench seating facility shall be considered one seat.

##### 6. Gross Lot Area

When the calculation of required parking spaces is based on gross lot area (GLA), the amount of lot area dedicated to parking shall not be included in the calculation. [Ord. 2020-001]

##### 7. Unlisted Land Uses

In the event that parking requirements for a particular use are not listed in this Section, the requirements for the most similar use shall be applied. In making the determination, any evidence of actual parking demand for similar uses shall be considered as well as other reliable traffic engineering and planning information that is available. [Ord. 2020-001]

##### 8. Government Services and Government Facilities

May be allowed alternative calculations based on evidence of actual parking demand for similar uses or reliable traffic engineering and planning information. [Ord. 2019-005] [Ord. 2020-001]

##### 9. Landscaping

The landscape requirements for parking and interior vehicular use areas shall be calculated in accordance with Art. 7, Landscaping (<http://www.pbcgov.com/uldc/Article7.htm#LA>). [Ord. 2020-001]

##### 10. Reduction

Refer to Art. 6.C.1, Requirements to Reduce or Increase Parking (<http://www.pbcgov.com/uldc/Article6.htm#C1REREINPA>). [Ord. 2020-001]

#### B. Minimum Parking Requirements

Table 6.B.1.B – Minimum Parking and Loading Requirements

Use Classification: Residential		Loading Standard
Congregate Living Facility	0.6 spaces per unit or 0.25 per resident/bed whichever is greater; plus 1 space per 250 sq. ft. of office space	A (12)
Multifamily, Recovery Community, and Cottage Home (Multiple Units on a Single Lot)	1 space per efficiency unit; 1.75 spaces per unit (1 bedroom or more); plus 1 guest parking space per 4 units with common parking areas	N/A
Single Family, Cottage Home (Single Unit on a Single Lot), Zero Lot Line Home, Townhouse, Farm Residence, Community Residence, or Mobile Home Dwelling	2 spaces per unit	N/A
Accessory Quarters, Caretaker Quarters, Groom's Quarters, Guest Cottage	1 space per unit	N/A
Farm Worker Quarters	1 space per 4 units	N/A



Use Classification: Commercial		Loading Standard
Adult Entertainment	1 space per 200 sq. ft.	N/A
Auction, Indoor	1 space per 200 sq. ft.	A
Auction, Outdoor	1 space per 250 ft. of enclosed or indoor space	N/A
Bed and Breakfast	1 additional space for each guest room	N/A
Car Wash, Automatic Self-Service (13)	1 space per 200 sq. ft. of office, retail, or indoor seating area	N/A
Catering Service	1 space per 200 sq. ft.	A
Cocktail Lounge	1 space per 3 seats	A
Convenience Store	1 space per 200 sq. ft.	A
Dispatching Service	1 space per 250 sq. ft.	N/A
Dog Daycare	3-12' by 20' transient spaces for 50 dogs; 1 space per 500 sq. ft. of cage and retail area	A
Financial Institution	1 space per 250 sq. ft.	A
Financial Institution with Drive-Through Facilities (13)		
Financial Institution – Freestanding ATM (9)	2 spaces	N/A
Flea Market, Indoor	2 spaces per 200 sq. ft.	A
Flea Market, Outdoor	1 space per 250 sq. ft. of affected land area	N/A
Gas and Fuel Sales, Retail and Electric Vehicle Charging Station (EVCS)	Number of parking spaces to be based on associated principal use structure (i.e., Convenience Store, etc.)	N/A
Green Market, Permanent	1 space per 250 sq. ft.	A
Hotel or Motel	1.25 spaces per room; (convention areas, restaurants, etc. over 2,000 sq. ft. to be calculated separately)	A
Kennel, Type 2 (Commercial) or Kennel, Type 3 (Commercial, Enclosed)	1 space per 500 sq. ft. of cage and retail area	A (8)
Landscape Service	1 space per 250 sq. ft. of office; plus 1 space per 1,000 sq. ft. of outdoor storage area for employee parking	B
Laundry Service (13)	1 space per 200 sq. ft.	A
Marina	1 space per 250 sq. ft.; plus 1 space per wet slip; plus 1 space per 3 dry slips	A
Medical or Dental Office	1 space per 200 sq. ft.	A
Microbrewery	Taproom: 1 space per 3 seats Manufacturing and Processing: 2 spaces per 1,000 sq. ft.	A
Office, Business or Professional	1 space per 250 sq. ft.	A
Pawnshop	1 space per 200 sq. ft.	A
Personal Services	1 space per 200 sq. ft.	N/A
Repair and Maintenance, Heavy	1 space per 250 sq. ft.	B
Repair and Maintenance, Light	1 space per 250 sq. ft.	A
Repair Services, Limited	1 space per 250 sq. ft.	N/A
Restaurant, Type 1 (13)	1 space per 3 seats including outdoor seating area	A
Restaurant, Type 2 (13)		A
Retail Sales (13)	1 space per 200 sq. ft.	A
Rooming and Boarding House	1 space for each guest room	N/A
Self-Service Storage, Limited Access	1 space per 200 storage bays; minimum of 5 customer spaces; security quarters calculated separately	A (6)
Self-Service Storage, Multi-Access	1 space per 200 storage bays; minimum of 5 customer spaces; security quarters calculated separately	N/A
Single Room Occupancy (SRO)	1.25 spaces per room	A
Theater or Performance Venue	1 space per 3 seats; plus 1 space per employee	A
Unmanned Retail Structure (11)	2 spaces	N/A
Vehicle Equipment Sales and Rental, Heavy	1 space per 250 sq. ft. of enclosed area; plus 1 space per 5,000 sq. ft. of outdoor sales, rental, and display area	B
Vehicle Sales and Rental, Light	1 space per 250 sq. ft. of enclosed area; plus 1 space per 5,000 sq. ft. of outdoor sales, rental, and display area	B
Veterinary Clinic	1 space per 250 sq. ft., excluding animal exercise areas	N/A
Vocational School	1 space per classroom; plus 1 space per 4 students; plus 1 space per 250 sq. ft. of administration, and assembly areas	N/A
[Ord. 2006-004] [Ord. 2006-036] [Ord. 2008-037] [Ord. 2009-040] [Ord. 2011-016] [Ord. 2012-027] [Ord. 2013-021] [Ord. 2016-042] [Ord. 2017-007] [Ord. 2017-025] [Ord. 2019-005] [Ord. 2019-039] [Ord. 2020-001]		

Use Classification: Recreation		Loading Standard
Arena or Stadium or Amphitheater	1 space per 3 seats	A
Campground	1 space per campsite	N/A
Recreation Pod or Neighborhood Recreation Facility (7)	1 space per 300 sq. ft. of air-conditioned area (includes all interior uses) and Outdoor Recreation Amenities, such as: 1 space per 300 sq. ft. of pool area; 1.5 spaces per court (basketball, tennis, etc.); or, 1 space per 2 acres up to 10 acres plus 1 space for each 5 acres over 10 (fields, tracks, tot lots, etc.)	N/A
Entertainment, Indoor (except Bowling Alley) Bowling Alley	1 space per 200 sq. ft. or 1 space per 3 seats, whichever is greater 3 spaces per lane for Bowling Alley	N/A
Entertainment, Outdoor	1 space per 3 seats; or 10 spaces per acre occupied by amusements, whichever is greater	N/A
Fitness Center	1 space per 200 sq. ft.	N/A
Golf Course (7)	4 spaces per hole; plus 1 space per 250 sq. ft. of clubhouse	N/A
Park, Passive and Park, Public (14)	2 spaces for the first acre; plus 1 space for each additional 2 acres; additional parking shall be provided for each additional facility or land use constructed in the park as herein provided	N/A
Shooting Range, Indoor and Shooting Range, Outdoor	1 space per target area	N/A
Zoo	1 space per 2,000 sq. ft. of land area	N/A
[Ord. 2005-002] [Ord. 2007-001] [Ord. 2013-001] [Ord. 2013-021] [Ord. 2014-025] [Ord. 2016-042] [Ord. 2017-007] [Ord. 2017-025] [Ord. 2019-005] [Ord. 2020-001]		

Use Classification: Institutional, Public, and Civic		Loading Standard
Animal Shelter	1 space per 500 sq. ft. of cage and retail area	A
Assembly Institutional Nonprofit or Assembly Membership Nonprofit (5)	1 space per 3 seats or 200 sq. ft. for the principal place of assembly, whichever is greater	A
	1 space per 200 sq. ft. for permitted accessory uses not otherwise classified as collocated uses	
	Collocated uses classified with the definition of a use listed in <u>Art. 4.B, Use Classification</u> ( <a href="http://www.pbcgov.com/uldc/Article4_pg2.htm#BUSCL">http://www.pbcgov.com/uldc/Article4_pg2.htm#BUSCL</a> ), calculated separately	
Cemetery	1 space per 250 sq. ft. of office space; plus 1 space per 500 sq. ft. of maintenance area; plus a minimum of 5 public spaces	N/A
College or University	1 space per 2 students; plus 1 space per 4 seats in gymnasiums and auditoriums; plus 1 space per 250 sq. ft. of administrative and educational office space	A
Day Care, General	< 100 licensed capacity 1 space per 5 persons; plus 1 drop-off stall per 20 persons	A
	> 100 licensed capacity: 1 space per 10 persons; plus 1 drop-off stall per 20 persons	
Day Care, Limited	1 space per 250 sq. ft.; plus drop-off stall	A
Funeral Home	1 space per 4 seats	A
Government Services (2)	1 space per 500 sq. ft.; or 1 space per 3 seats, whichever is greater	N/A
Homeless Resource Center	1 space per 200 sq. ft. of accessory service delivery areas	A
Hospital	1 space per 2 beds; plus 1 space per 200 sq. ft. of outpatient treatment area	A
Place of Worship	1 space per 3 seats or 200 sq. ft. for the principal Place of Worship, whichever is greater	A
	1 space per 200 sq. ft. for permitted accessory uses not otherwise classified as collocated uses	
	Collocated uses classified with the definition of a use listed in <u>Art. 4.B, Use Classification</u> ( <a href="http://www.pbcgov.com/uldc/Article4_pg2.htm#BUSCL">http://www.pbcgov.com/uldc/Article4_pg2.htm#BUSCL</a> ), calculated separately	
Prison, Jail, or Correctional Facility	1 space per 500 sq. ft.	N/A
School, Private	1 space per employee, 1 visitor space for every 50 students, 1 space for every 5.5 students in 11th and 12th grade; Auditorium or stadium – 1 space per 3 seats	A
School, Public and Charter	1 space per faculty and staff, high school 1 space for every 10 students in 11th and 12th grade, and 1 visitor space for every 50 students	A
Skilled Nursing or Residential Treatment Facility	1 space per 3 beds; plus 1 space per 250 sq. ft. of office space	A (12)





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September 23, 2022

## **CONFIDENTIAL/ATTORNEY-CLIENT PRIVILEGED**

**VIA E-MAIL: [kechurney@townofpalmbeach.com](mailto:kechurney@townofpalmbeach.com)**

**AND REGULAR U.S. MAIL**

Ms. Kelly Churney  
Deputy Town Clerk  
Town of Palm Beach  
360 South County Road  
Palm Beach, Florida 33480

**Re: Biltmore Galleria, LLC Application for Public/Private School – ARC-22-200 (ZON-22-132) –  
165 Bradley Place (Combo)**

Dear Ms. Churney:

I represent Parc Regent Condominium Association, Inc. ("Parc Regent"), located at 184 Bradley Place, which is across the street and just to the North of the property located at 165 Bradley Place, currently operating as a private club (the Old Guard Society). Parc Regent is comprised of 18 condominium units. Parc Regent asked me to write to the Town of Palm Beach to voice its owners' objections and concerns about Biltmore Galleria, LLC's ("Applicant") application to convert the use of the property to a public/private preschool, consisting of 68 students, and to respectfully request that the Town Council and the Architectural Commission deny Biltmore Galleria, LLC's application, for the reasons stated below.

1. The proposed site plan, if approved, would result in multiple violations of the Town of Palm Beach Code (the "Code"), as follows:
  - a. Section 134-1517 – Requires places of assembly, including schools, to have a minimum site area of 20,000 square feet and a minimum lot width of 100'. The property on which the school will be located will only be 10,513 square feet and will have a lot width of only 70', thereby resulting in a violation of Section 134-1517 of the Code.

- b. Section 134-1734 – Playground equipment is only allowed in residential zoning districts. Therefore, the placement and installation of the playground equipment at the school, in the C-TS zoning district, will result in a violation of Section 134-1734 of the Code.
  - c. Section 134-2172 – Parking spaces must have a minimum width of 9'. The proposed site plan shows the typical parking space as only being 8'-4" wide, resulting in a violation of Section 134-2172 of the Code.
  - d. Section 134-2176 – The combined uses of the properties making use of the combined site would require 82 off street parking spaces. The proposed site plan indicates that 6 parking spaces will be eliminated, resulting in only 76 parking spaces, which would violate Section 134-2176 of the Code. Interestingly, this is the only variance the applicant is seeking, notwithstanding all the other violations.
  - e. Section 134-2177 – Requires off street parking to be located on the same lot as the building. The proposed site plan will result in no off-street parking spaces being located on the lot, requiring the use of shared parking with the other businesses on the shared site. But the site plan does not meet the criteria in Section 134-2182 for shared parking, as all of the buildings/businesses will be using the parking at the same time, during the day, when the school and other business are open, resulting in overlapping use, and there are not enough parking spaces to satisfy the needs and Code requirements for all users/owners.
2. The presence of a school will result in a much more intense use of the land, and will create a myriad of traffic concerns. As there will be 68 students attending the school, there will be up to 68 parents in 68 vehicles all congregating at the school at or near the same time, twice per day, during drop off and pick up of the students. As the students will be of preschool age, the students will need to be escorted into the school. The plan is to have cars pull into the shared parking lot, off of Bradley Place, with only 9 parking spaces available for use. Even though the plans submitted by applicant indicate that no queuing of vehicles will be permitted, it is inevitable that vehicles will back up out of the parking lot and onto Bradley Place, as parents are not going to simply allow their preschool children to jump out of the vehicle and proceed unescorted into the school. Other parents will inevitably seek to pull up to the curb on Bradley Place and/or on Park Avenue, to allow for the drop off and pick up of their children. This will create a traffic nightmare twice per day, which will impede the residents of the surrounding residential properties, the customers of the other business utilizing the shared parking lot (which includes a bank, a salon, a drug store, and a retail establishment), and any and all other users of Bradley Place (and Park Avenue), including any emergency vehicles, which can only access the Parc Regent Condominium by turning off of Bradley Place, West onto Park Avenue. Additionally, the employees of the school will need to be able to park. The school will have four classrooms, an art area, administrative office and a kitchen. How many employees will the school have? It seems there will likely be five (5) teachers (for the 4 classrooms plus

the art teacher). What about teacher aids or assistants? There will also be administrative staff and perhaps kitchen staff or other staff to monitor the drop off and pick up and the playground area. All of these employees will need to be able to park and will generate additional traffic and congestion.

3. The preschool students will be in potential danger during the chaotic drop off and pick up periods, as there is no clear path into the school building, other than to walk behind the parked cars (on both sides of the driving aisle in the parking lot), through the parking lot (which allows for two way traffic), to Bradley Place, to enter the building through the West entrance, or, if permitted by Applicant, to walk behind the parked cars (again, on both sides of the driving aisle in the parking lot), through the parking lot (which, again, allows for two way traffic), to the gates on the Southwest portion of the lot, to enter the school through the doors on the East side of the building. The plan is untenable, as it places the preschool children in harms' way.
4. Applicant has not satisfied the criteria to establish Applicant's entitlement to a variance to eliminate the off-street parking, for the following reasons:
  - a. Section 134-201(a) – Town Council can only grant a variance when it will not be contrary to public interest and when, owing to special conditions, a literal enforcement of the Code will result in unnecessary and undue hardship to the Applicant. But Applicant has not shown or established any undue hardship. Additionally, allowing the operation of a school on the subject parcel would be contrary to the public interest due to increased congestion and traffic issues, and lack of safety for the preschool students being dropped off and picked up at the site, as explained in #2 and #3 above.
  - b. Section 134-201(a)(1) – Applicant has not established that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. There is nothing special or unusual about the subject parcel.
  - c. Section 134-201(a)(4) – Applicant has not demonstrated that a literal interpretation of the Code would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district or would work unnecessary and undue hardship on Applicant. Again, Applicant has failed to show any unnecessary or undue hardship. Additionally, application of the zoning requirements for the parcel would not deprive Applicant of any rights enjoyed by other properties, and Applicant has failed to make any such showing. Applicant could always use the parcel or have it developed as retail, office or commercial space, all permitted uses under the C-TS zoning district.
  - d. Section 134-201(a)(5) – Applicant has failed to show that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure. In fact, Applicant could use the parcel or have it developed to allow for retail, office or commercial use, all permitted uses in the

C-TS zoning district. Applicant is not entitled to its desired use of the parcel, only a use that is reasonable.

- e. Section 134-201(a)(7) – The grant of the variance will NOT be in harmony with the general intent and purpose of the C-TS zoning district. The purpose of the C-TS zoning district, as stated in Section 134-1106 of the Code, is to create, preserve and enhance areas of attractive, small-scale, retail, personal and profession/business services to be developed either as a unit or in individual parcels, providing for the frequently recurring needs of townpersons. A school is not consistent with such purpose or intent. Additionally, the use of the subject parcel, as a school, for the reasons stated above in #2 and #3, will be injurious to the surrounding area and owners and will be detrimental to the public welfare. Finally, Applicant has not provided the report required by the Code to evidence that the school will serve townpersons.
5. Applicant has not satisfied the criteria to establish Applicant's entitlement to a special exception use. Pursuant to Section 134-1109(8) of the Code, a school is a special exception use in the C-TS zoning district. The special exception use should be denied for the following reasons:
- a. Section 134-226(a) – the Town must deny a special exception when not in harmony with the purpose and intent of the C-TS zoning district. See #4.e. above.
  - b. Section 134-226(b) – In granting a special exception the Town Council must find that the granting of such special exception will not adversely affect the public interest. For all of the above stated reasons, including in #2 and #3 above, the Town Council cannot make this finding.
  - c. Section 134-229(2) – The use of the parcel as a school is not designed, located or proposed to be operated in a manner that the public health, safety, welfare and morals will be protected. See #2 and #3 above.
  - d. Section 134-229(4) – The use of the property as a school will NOT be compatible with adjoining development and the intended purpose of the district in which it is to be located (i.e., the C-TS zoning district). The surrounding properties include a bank, drug store, retail, office and residential. A school is not compatible with such other uses. Additionally, a school is not compatible with the intent and purpose of the C-TS zoning district (see #4.e. above).
  - e. Section 134-229(5) – The use will not comply with the yard, other open space and other special requirements set out in the Code for the particular use involved. As noted above, a place of assembly, including a school, pursuant to Section 134-1517 of the Code, must have a minimum site area of 20,000 square feet and a minimum lot width of 100'. The subject parcel is only 10,513 square feet and has a lot width of only 70'. Additionally, Section 134-1734 of the Code only allows playground equipment in residential zoning districts; Section 134-2176 of the Code requires 82 off street parking spaces (and the proposed site plan only has 76 parking spaces), and further requires all off street

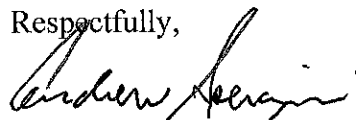
Ms. Kelly Churney  
Deputy Town Clerk  
Town of Palm Beach  
September 23, 2022  
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parking needed to satisfy the Code to be located on the same lot (there is no parking on the subject lot); Section 134-2172 of the Code requires a minimum width of 9' for parking spaces, and the typical parking space on the site plan is only 8'-4", and the shared parking does not satisfy the requirements of Section 134-2182 of the Code, as all of the users of the parking lot will need the parking spaces at the same time, resulting in overlapping use, and there is not enough parking spaces to satisfy the needs of all users/owners.

- f. Section 134-229(8) – There will NOT be adequate ingress and egress to the property and the proposed structures thereon, and there will be no off-street parking on the subject lot, and inadequate off-street parking even on the shared lot. Additionally, the configuration and design of the ingress/egress does not promote automotive and pedestrian safety and convenience, or proper traffic flow and control, or access by emergency vehicles.
  - g. Section 134-229(14) – The new use as a school places a much greater burden on municipal police and fire services than would be caused by a permitted use.
6. Applicant has not satisfied the criteria for site plan approval. Pursuant to Section 134-329 of the Code, before any site plan may be approved, the Town Council must make a finding that the approval of the site plan will not adversely affect the public interest and must certify that the specific zoning requirements governing the use have been met. For all of the reasons stated above, the Town Council cannot make such finding. Applicant, for the reasons stated above, cannot satisfy the specific requirements in Section 134-329(2), (3), (4) and (8).

For all of the above stated reasons, the Association respectfully requests that ARCOM and the Town Council deny Applicant's application for site plan approval, a special exception use and a variance. The Association and its owners thank the Town Council and ARCOM for its consideration of their objections to Biltmore Galleria, LLC's application for a school, and looks forward to the denial of such application.

Respectfully,



Andrew Speranzini, Esq., on behalf of  
Parc Regent Condominium Association, Inc.

**From:** [James Murphy](#)  
**To:** [Antonette Fabrizi](#); [Yazmin Figueroa](#)  
**Cc:** [Emily Lyn](#)  
**Subject:** FW: 165 Bradley Place - Applicant was the Property Owner not the Lessee.  
**Date:** Wednesday, October 26, 2022 7:06:20 AM

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FYI

**James G. Murphy**  
**Assistant Director of Planning, Zoning & Building**

Town of Palm Beach  
Planning, Zoning & Building  
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Palm Beach, FL 33480  
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**From:** Jennifer Hofmeister-Drew <jhofmeister@TownOfPalmBeach.com>  
**Sent:** Tuesday, October 25, 2022 6:01 PM  
**To:** Harvey E. Oyer, III <HOyer@shutts.com>  
**Cc:** Wayne Bergman <wbergman@TownOfPalmBeach.com>; James Murphy <jmurphy@TownOfPalmBeach.com>; Roger Ramdeen <RRamdeen@shutts.com>  
**Subject:** Fwd: 165 Bradley Place - Applicant was the Property Owner not the Lessee.

Please review the application docs. I will also in the morning.

Thank you.

Jenn

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**From:** Wayne Bergman <[wbergman@TownOfPalmBeach.com](mailto:wbergman@TownOfPalmBeach.com)>  
**Sent:** Tuesday, October 25, 2022 4:55:35 PM  
**To:** Jennifer Hofmeister-Drew <[jhofmeister@TownOfPalmBeach.com](mailto:jhofmeister@TownOfPalmBeach.com)>; James Murphy <[jmurphy@TownOfPalmBeach.com](mailto:jmurphy@TownOfPalmBeach.com)>  
**Subject:** Fw: 165 Bradley Place - Applicant was the Property Owner not the Lessee.

FYI

**Wayne Bergman, MCP, LEED® AP**

**Director**

Town of Palm Beach  
Planning, Zoning, Building  
360 S. County Road  
Palm Beach, FL 33480  
Office: 561-227-6426

---



**From:** John Eubanks Jr <[jeubanks@sniffenlaw.com](mailto:jeubanks@sniffenlaw.com)>

**Sent:** Tuesday, October 25, 2022 4:00 PM

**To:** Wayne Bergman <[wbergman@TownOfPalmBeach.com](mailto:wbergman@TownOfPalmBeach.com)>

**Subject:** 165 Bradley Place - Applicant was the Property Owner not the Lessee.

\*\*\*\*\*Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.\*\*\*\*\*

Just to clarify for the Record the Applicant was identified as Biltmore Galleria throughout the Letter of Intent and Application. As such, any representation that the Applicant was the Lessee was inaccurate.

**John R Eubanks, Jr.**  
**SNIFFEN & SPELLMAN, P.A.**  
TALLAHASSEE | WEST PALM BEACH | PENSACOLA

605 North Olive Avenue, 2<sup>nd</sup> Floor  
West Palm Beach, Florida 33401  
T (561) 721-4000 / F (561) 721-4001 / D (561) 721-4002  
E-mail: [jeubanks@sniffenlaw.com](mailto:jeubanks@sniffenlaw.com)  
Website: [www.sniffenlaw.com](http://www.sniffenlaw.com) / Twitter: @Sniffenlaw

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MATTHEW AND ADRIENNE RAPTIS

Town of Palm Beach  
360 S. County Road  
Palm Beach, FL 33480

[kchurney@townofpalmbeach.com](mailto:kchurney@townofpalmbeach.com)

Alef Preschool of Palm Beach – 165 Bradley Place

Dear Arcom and Town Council Members,

This letter is to express our support for the Alef Preschool of Palm Beach located at 165 Bradley Place.

My wife and I are residents of Palm Beach. We are proud parents of young children and believe that education is what keeps our society healthy, both spiritually and physically. The idea that the Alef Preschool would bring the only early-childhood option to the island is so welcomed and appreciated by many young families!

We are aware of many Palm Beach parents who are awaiting the opportunity to avail themselves of this top-tier early-childhood education option.

The proposed preschool is in a most suitable commercial location, with ample parking, allowing for convenient drop-off and pick-up.

Thank you for standing for education!

Sincerely

Matthew & Adrienne Raptis

Town of Palm Beach  
360 S. County Road  
Palm Beach, FL 33480  
kchurney@townofpalmbeach.com

Alef Preschool of Palm Beach – 165 Bradley Place

Dear Town Council Members,

This letter is to express my support for the Alef Preschool of Palm Beach located at 165 Bradley Place. I am a neighbor of the proposed preschool and believe it to be an added value to the Town and it will be Town Serving.

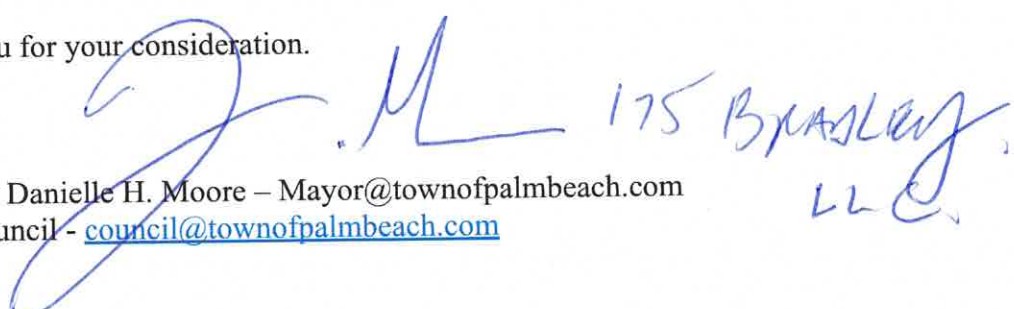
As a major home developer on the island of Palm Beach I get to interact with many fine Palm Beach families. They bring to my attention the need of adequate education for the youngest of our beautiful town.

The proposed use is actually a de-intensification of the site which should be welcomed by all.

Thank you for your consideration.

Sincerely

cc: Mayor Danielle H. Moore – Mayor@townofpalmbeach.com  
Town Council - [council@townofpalmbeach.com](mailto:council@townofpalmbeach.com)

Handwritten signature in blue ink, appearing to read "J. M. 175 BRASLEY, LLC".

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

Dear ARCOM Members,

I am writing in support of the Alef Preschool at 165 Bradley Place, which will be located very close to where I live at 303 Everglade Avenue. We lived in Palm Beach when my now grown daughters were much younger and I always thought it was unfortunate that with all the great education alternatives for older children in Palm Beach, there was nothing for pre-school children. A good pre-school will be a very important asset in attracting more families to the Island. In addition, the parking and multiple drop off points should mitigate any traffic concerns, given the school's modest size. SoI would urge Arcom and Town Council members to approve the project.

Sincerely,

Jeff Sagansky

**From:** [Kelly Churney](#)  
**To:** [Antonette Fabrizi](#)  
**Subject:** FW: Alef Preschool of Palm Beach — 165 Bradley Place (ARC-22-022)  
**Date:** Wednesday, September 28, 2022 1:55:53 PM

---

Kelly Churney  
Deputy Town Clerk

Town of Palm Beach  
360 S. County Rd.  
Palm Beach, FL 33480  
561-838-5416  
[www.townofpalmbeach.com](http://www.townofpalmbeach.com)

-----Original Message-----

From: Daniel R. Benson <[DBenson@kasowitz.com](mailto:DBenson@kasowitz.com)>  
Sent: Wednesday, September 28, 2022 1:45 PM  
To: Danielle Hickox Moore <[DMoore@TownofPalmBeach.com](mailto:DMoore@TownofPalmBeach.com)>; Kelly Churney  
<[KChurney@TownofPalmBeach.com](mailto:KChurney@TownofPalmBeach.com)>; Town Council <[TCouncil@TownofPalmBeach.com](mailto:TCouncil@TownofPalmBeach.com)>  
Subject: Alef Preschool of Palm Beach — 165 Bradley Place (ARC-22-022)

\*\*\*\*\*Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.\*\*\*\*\*

Dear Mayor Moore, Town Council Members and ARCOM Members:

I am writing in support of the Alef Preschool. My wife and I are delighted at the prospect of the preschool opening in Palm Beach close to where we live. We now drive our two-year-old son over a half hour each way to a Jewish school in Boynton Beach, so Alef Preschool will be a great benefit to us, as well as to other families in Palm Beach with young children. We have been very impressed by the people opening the school and the plans for its development. It is very difficult for us to understand how anyone could have any reasonable grounds for objecting to it. We thank you in advance for enabling the opening of this preschool which will represent a very significant benefit to Palm Beach.

Respectfully,

Daniel R. Benson  
Kasowitz Benson Torres LLP  
1633 Broadway  
New York, New York 10019  
(212) 506-1720 (office)  
(917) 880-8690 (mobile)  
(212) 506-1849 (fax)  
[DBenson@kasowitz.com](mailto:DBenson@kasowitz.com)

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**RECEIVED**

**By Emily Lyn at 12:10 pm, Sep 28, 2022**

JOHN A. GAROFALO, M.D., P.C.

100 Hickory Hill Road  
West Chester, PA 19382-6749  
Telephone: 561-531-2402 and 610-793-055

Oncology  
Immunology  
Nutrition

September 28, 2022

Town Council and Members of the Architectural Commission  
Town of Palm Beach  
360 S. County Road  
Palm Beach, FL 33480

Attn: Kchurney@townofpalmbeach.com

RE: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

Dear Town Council and ARCOM Members:

I fully support the Alef Preschool of Palm Beach located at 165 Bradley Place. I live near the proposed school and believe it to be an added value to the Town and it surely will be Town Serving.

A town needs to have proper education opportunities for all ages, even the young among us. It always puzzled me that we don't have a preschool option on the island. The Alef Preschool is a long-awaited answer to this need.

We as residents of the town are looking forward to this new development which will be a great benefit to the many families who have moved to Palm Beach and are presently driving their young children off island each day.

Thank you for serving the town and thank you for being the voice of our little ones who need proper education. Alef Preschool will teach morals and values.

Sincerely,

John A. Garofalo, M.D., P..

Cc: Mayor Danielle H. Moore – [Mayor@townofpalmbeach.com](mailto:Mayor@townofpalmbeach.com)  
Town Council – [council@townofpalmbeach.com](mailto:council@townofpalmbeach.com)  
[rabbi@palmbeachjewish.com](mailto:rabbi@palmbeachjewish.com)  
[www.PalmBeachJewish.com](http://www.PalmBeachJewish.com)



**From:** [Kelly Churney](#)  
**To:** [Antonette Fabrizi](#)  
**Subject:** FW:  
**Date:** Monday, September 26, 2022 8:26:57 AM

---

*Kelly Churney*  
Deputy Town Clerk

**Town of Palm Beach**  
360 S. County Rd.  
Palm Beach, FL 33480  
561-838-5416  
[www.townofpalmbeach.com](http://www.townofpalmbeach.com)

---

**From:** Michael Belisle <mikebelisle88@gmail.com>  
**Sent:** Sunday, September 25, 2022 3:17 PM  
**To:** Kelly Churney <KChurney@TownofPalmBeach.com>  
**Subject:**

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Town of Palm Beach  
360 S. County Road  
Palm Beach, FL 33480  
[kchurney@townofpalmbeach.com](mailto:kchurney@townofpalmbeach.com)

Alef Preschool of Palm Beach – 165 Bradley Place

Dear Town Council Members,

This letter is to express my support for the Alef Preschool of Palm Beach located at 165 Bradley Place.

I am a 40 year resident of Palm Beach and the transformation of the last couple years in regards to young families moving in is unprecedented. I constantly hear of the issue of lack of any preschool on the island. The proposed preschool is situated in a beautiful location, with ample parking, allowing for convenient drop-off and pick-up.

Thank you for your consideration of my opinion.

Sincerely  
Michael A. Belisle

cc:Mayor Danielle H. Moore – [Mayor@townofpalmbeach.com](mailto:Mayor@townofpalmbeach.com)  
Town Council - [council@townofpalmbeach.com](mailto:council@townofpalmbeach.com)

**From:** [James Murphy](#)  
**To:** [Antonette Fabrizi](#); [Kelly Churney](#)  
**Cc:** [Emily Lyn](#); [Bradley Falco](#)  
**Subject:** FW: 165 Bradley Place Pre-School  
**Date:** Wednesday, September 28, 2022 8:23:24 AM

---

**James G. Murphy**  
**Assistant Director of Planning, Zoning & Building**  
Town of Palm Beach  
Planning, Zoning & Building  
360 S. County Road  
Palm Beach, FL 33480  
[www.townofpalmbeach.com](http://www.townofpalmbeach.com)

---

**From:** Martin Klein <[martin@miklein.com](mailto:martin@miklein.com)>  
**Sent:** Wednesday, September 28, 2022 8:22 AM  
**To:** James Murphy <[jmurphy@TownOfPalmBeach.com](mailto:jmurphy@TownOfPalmBeach.com)>  
**Subject:** 165 Bradley Place Pre-School

\*\*\*\*\*Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.\*\*\*\*\*

Dear James,

I hope you and your loved ones are safe and well. Nothing else matters. I see that today's Arcom hearing is still scheduled. I'd appreciate it if you could bring this letter to the Commission's attention.

Dear Commission,

I write in support of the request of the Chabad House in their lease for a pre-school at 165 Bradley Place. As the former head of one of New York's largest religious institutions as well as the former chair of our Planning and Zoning Commission, I've always been concerned with achieving that proper balance. I've been a long time champion of education, including religious education, and having a pre-school is a noble effort. Of course we want to achieve a balance in our community and I think the applicant has done that. I note that this is a proposed lease which will be temporary and I urge the Commission to support it with such modifications as you, in your wisdom, will suggest.

Respectfully,  
Martin I. Klein

Martin I. Klein, PLLC.  
1060 North Ocean Blvd..

Palm Beach, Florida 33480  
Telephone: (561) 881-8000  
Facsimile: (561) 881-8080  
[martin@miklein.com](mailto:martin@miklein.com)

-

-

**From:** [Kelly Churney](#)  
**To:** [Antonette Fabrizi](#)  
**Subject:** FW: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)  
**Date:** Thursday, September 29, 2022 8:34:52 AM

---

*Kelly Churney*  
Deputy Town Clerk

**Town of Palm Beach**  
360 S. County Rd.  
Palm Beach, FL 33480  
561-838-5416  
[www.townofpalmbeach.com](http://www.townofpalmbeach.com)

---

**From:** G <[glandgl@hotmail.com](mailto:glandgl@hotmail.com)>  
**Sent:** Thursday, September 29, 2022 7:37 AM  
**To:** Kelly Churney <[KChurney@TownofPalmBeach.com](mailto:KChurney@TownofPalmBeach.com)>  
**Subject:** Fwd: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

\*\*\*\*\*Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.\*\*\*\*\*

Sent from my iPhone

Begin forwarded message:

**From:** G <[glandgl@hotmail.com](mailto:glandgl@hotmail.com)>  
**Date:** September 28, 2022 at 11:08:22 AM EDT  
**To:** [kchurney@townofpalmbeach.com](mailto:kchurney@townofpalmbeach.com)

And  
[Mayor@townofpalmbeach.com](mailto:Mayor@townofpalmbeach.com)

**Subject: RE: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)**

Town Council Members and Members of ARCOM  
Town of Palm Beach  
360 S. County Road  
Palm Beach, FL 33480

[kchurney@townofpalmbeach.com](mailto:kchurney@townofpalmbeach.com)

RE: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

Dear Town Council Members and Members of ARCOM,

I am a longtime Palm Beach resident living in The Biltmore just across the street from the proposed preschool.

This letter is to express my support for the new Alef Preschool of Palm Beach located at 165 Bradley Place. I find it hard to believe that anyone would oppose the only preschool option in our beautiful community, especially while choosing to live in a home or condo across the street from busy bars and restaurants, operating through the night, and a preschool operates during daytime hours only.

How far have we fallen if we oppose the opening of the only preschool on the island? Making a fuss about a modest preschool opening in our town in a commercial building is very distressing. I am in support of the preschool and hope that our Town Council and members of ARCOM are too.

Thank you members of Town Council and members of ARCOM for doing what's right as you stand for education, the advantages being both local so residents with young children do not have to drive on and off the island every day, and a preschool also of the highest academic and interpersonal level, this is Alef Preschool.

Sincerely,

George Guido Lombardi

Owner/ resident

150 Bradley Place apt 904  
Palm Beach

Florida 33480

cc: Mayor Danielle H. Moore – [Mayor@townofpalmbeach.com](mailto:Mayor@townofpalmbeach.com)  
Town Council - [council@townofpalmbeach.com](mailto:council@townofpalmbeach.com)

Sent from my iPhone

**From:** [Kelly Churney](#)  
**To:** [Antonette Fabrizi](#)  
**Subject:** Fw: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)  
**Date:** Wednesday, September 28, 2022 11:21:27 AM

---

*Kelly Churney*  
Deputy Town Clerk

**Town of Palm Beach**  
Planning, Zoning & Building  
360 S. County Rd.  
Palm Beach, FL 33480  
561-227-6408  
561-835-4621 (fax)  
[www.townofpalmbeach.com](http://www.townofpalmbeach.com)

---

**From:** G <glandgl@hotmail.com>  
**Sent:** Wednesday, September 28, 2022 11:08 AM  
**To:** Kelly Churney <KChurney@TownofPalmBeach.com>  
**Subject:** RE: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

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Town Council Members and Members of ARCOM  
Town of Palm Beach  
360 S. County Road  
Palm Beach, FL 33480

kchurney@townofpalmbeach.com  
RE: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

Dear Town Council Members and Members of ARCOM,

I am a longtime Palm Beach resident living in The Biltmore just across the street from the proposed preschool.

This letter is to express my support for the new Alef Preschool of Palm Beach located at 165 Bradley Place. I find it hard to believe that anyone would oppose the only preschool option in our beautiful community, especially while choosing to live in a home or condo across the street from busy bars and restaurants, operating through the night, and a preschool operates during daytime hours only.

How far have we fallen if we oppose the opening of the only preschool on the island? Making a fuss about a modest preschool opening in our town in a commercial building is very distressing. I am in support of the preschool and hope that our Town Council and members of ARCOM are too.



Thank you members of Town Council and members of ARCOM for doing what's right as you stand for education, the advantages being both local so residents with young children do not have to drive on and off the island every day, and a preschool also of the highest academic and interpersonal level, this is Alef Preschool.

Sincerely,

George Guido Lombardi

Owner/ resident

150 Bradley Place apt 904  
Palm Beach

Florida 33480

cc: Mayor Danielle H. Moore – [Mayor@townofpalmbeach.com](mailto:Mayor@townofpalmbeach.com)  
Town Council - [council@townofpalmbeach.com](mailto:council@townofpalmbeach.com)

Sent from my iPhone

**From:** [Kelly Churney](#)  
**To:** [Antonette Fabrizi](#)  
**Subject:** FW: Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)  
**Date:** Wednesday, September 28, 2022 8:46:26 AM

---

*Kelly Churney*  
Deputy Town Clerk

**Town of Palm Beach**  
360 S. County Rd.  
Palm Beach, FL 33480  
561-838-5416  
[www.townofpalmbeach.com](http://www.townofpalmbeach.com)

---

**From:** Tara <tara.k.moore@gmail.com>  
**Sent:** Wednesday, September 28, 2022 6:11 AM  
**To:** Kelly Churney <KChurney@TownofPalmBeach.com>  
**Cc:** Danielle Hickox Moore <DMoore@TownofPalmBeach.com>; Town Council  
<TCouncil@TownofPalmBeach.com>  
**Subject:** Alef Preschool of Palm Beach – 165 Bradley Place (ARC-22-022)

\*\*\*\*\*Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.\*\*\*\*\*

Dear Town Council Members and Members of ARCOM,

This letter is to express my support for the Alef Preschool of Palm Beach at 165 Bradley Place. I live near the proposed school and it is of great value to the Town and it will be Town Serving. It will also be a great benefit to our family and the many young families that live on Palm Beach. We are presently driving our son off the island each day because the Town does not have any preschool accommodations. We plan on sending our son to Alef Preschool as soon as they open.

We look forward to the opening of Alef Preschool at [165 Bradley Place](#), and thank you for allowing our child to have this wonderful opportunity.

Sincerely,  
Tara K. Moore

**From:** [Kelly Churney](#)  
**To:** [smorris.pbbiltmore.com](#); [John Eubanks Jr](#)  
**Cc:** [Antonette Fabrizi](#)  
**Subject:** RE: 165 Bradley Pl  
**Date:** Monday, September 26, 2022 10:18:20 AM

---

Good morning,

Please have them send the letters to Antonette Fabrizi at [afabrizi@townofpalmbeach.com](mailto:afabrizi@townofpalmbeach.com).

Thank you,

*Kelly Churney*  
Deputy Town Clerk

**Town of Palm Beach**  
360 S. County Rd.  
Palm Beach, FL 33480  
561-838-5416  
[www.townofpalmbeach.com](http://www.townofpalmbeach.com)

---

**From:** smorris.pbbiltmore.com <[smorris@pbbiltmore.com](mailto:smorris@pbbiltmore.com)>  
**Sent:** Monday, September 26, 2022 9:18 AM  
**To:** John Eubanks Jr <[jeubanks@sniffenlaw.com](mailto:jeubanks@sniffenlaw.com)>  
**Cc:** Kelly Churney <[KChurney@TownofPalmBeach.com](mailto:KChurney@TownofPalmBeach.com)>  
**Subject:** RE: 165 Bradley Pl

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Thank you  
Sincerely,  
Sally Morris GM  
Palm Beach Biltmore  
150 Bradley Place  
Palm Beach, Florida  
33480  
561-832-0600

---

**From:** John Eubanks Jr <[jeubanks@sniffenlaw.com](mailto:jeubanks@sniffenlaw.com)>  
**Sent:** Monday, September 26, 2022 9:13 AM  
**To:** smorris.pbbiltmore.com <[smorris@pbbiltmore.com](mailto:smorris@pbbiltmore.com)>  
**Cc:** Kelly Churney <[KChurney@TownofPalmBeach.com](mailto:KChurney@TownofPalmBeach.com)>  
**Subject:** RE: 165 Bradley Pl

They can e-mail objections to Kelly Churney at [KChurney@TownofPalmBeach.com](mailto:KChurney@TownofPalmBeach.com) at the Town and ask that a copy be sent to each of the ARCOM Commissioners. I will send you a draft of the Biltmore letter shortly.

**John R Eubanks, Jr.**  
**SNIFFEN & SPELLMAN, P.A.**  
TALLAHASSEE | WEST PALM BEACH | PENSACOLA

605 North Olive Avenue, 2<sup>nd</sup> Floor  
West Palm Beach, Florida 33401  
T (561) 721-4000 / F (561) 721-4001 / D (561) 721-4002  
E-mail: [jeubanks@sniffenlaw.com](mailto:jeubanks@sniffenlaw.com)  
Website: [www.sniffenlaw.com](http://www.sniffenlaw.com) / Twitter: @Sniffenlaw

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---

**From:** smorris pbbiltmore.com <[smorris@pbbiltmore.com](mailto:smorris@pbbiltmore.com)>  
**Sent:** Monday, September 26, 2022 9:10 AM  
**To:** John Eubanks Jr <[jeubanks@sniffenlaw.com](mailto:jeubanks@sniffenlaw.com)>  
**Subject:** FW: 165 Bradley Pl

I asked them to send something in writing

Sincerely,  
Sally Morris GM

Palm Beach Biltmore  
150 Bradley Place  
Palm Beach, Florida  
33480  
561-832-0600

---

**From:** Patrick McGowan <[pmcgowansr@aol.com](mailto:pmcgowansr@aol.com)>  
**Sent:** Saturday, September 24, 2022 3:23 PM  
**To:** smorris pbbiltmore.com <[smorris@pbbiltmore.com](mailto:smorris@pbbiltmore.com)>  
**Subject:** Re: 165 Bradley Pl

Hi Sally,  
Please add these Park Ave residents to the opposition so far:  
-Patrick and Lisa McGowan  
-Catherine Stewart  
-Ken Moreland

I will let you know of any others and let me know if our input is needed. It appears you have a fair amount of strong oppositions already logged.  
All the best,  
Pat McGowan

-----Original Message-----  
From: smorris pbbiltmore.com <[smorris@pbbiltmore.com](mailto:smorris@pbbiltmore.com)>  
To: Patrick McGowan <[pmcgowansr@aol.com](mailto:pmcgowansr@aol.com)>  
Sent: Thu, Sep 22, 2022 10:35 am  
Subject: RE: 165 Bradley Pl

Thank you for reaching out to me regarding this matter.  
We have joined with the Park Regent and also have the support of El Lugano in opposing this variance.  
Perhaps you can provide a list of your neighbors who also oppose the matter.  
Let me know and thank you  
Sally

Sincerely,  
Sally Morris GM  
Palm Beach Biltmore  
150 Bradley Place  
Palm Beach, Florida  
33480  
561-832-0600

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**From:** Patrick McGowan <[pmcgowansr@aol.com](mailto:pmcgowansr@aol.com)>  
**Sent:** Thursday, September 22, 2022 10:11 AM  
**To:** smorris pbbiltmore.com <[smorris@pbbiltmore.com](mailto:smorris@pbbiltmore.com)>  
**Subject:** 165 Bradley Pl

Hello Sally,  
Hope all is well and I am writing you as a concerned neighbor on Park Ave in regards to the proposed development and use at 165 Bradley Pl. I am told yourself and the Biltmore community are engaged with

this process and mostly oppose its current plans. Please feel free to include ourselves and neighbors in your opposition as we feel no need for a religious school to be located in an already high traffic and residential area. We are also clients of Maura Ziska in our residential dealings. Hope to hear from you and will be attending next weeks ARCOM meeting also.

All the best,

Patrick & Lisa McGowan

Park Ave

Palm Beach, FL 33480

914-482-4401

[pmcgowansr@aol.com](mailto:pmcgowansr@aol.com)

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