

Dear Members of the Town Council, Mayor, Town Manager and Planning and Zoning Director,

In reviewing the staff notes on the issues with the Frisbie's 125 Worth Avenue

Application, it is clear that both the "Worth Avenue Design Guidelines(WADG)" which are law and code for C-WA zone and the Town's Comprehensive Plan do not permit 4th stories. In fact, a third story is not permitted by right but acquired by Special Exception.

On Page 37 of the Letter of Intent(LOI) under "Site History 1-Jun-72 Building Permit issued to George Culverhouse for 3 level office building with 2 levels of Parking and Mechanical Penthouse. Permit 51072" .Where does the building permit say 4 levels? On p.87 of the LOI, the applicant's appraisers, Aucamp, Dellenback & Whitney have replicated the Property Appraiser Public Access site for 125 Worth Avenue and is thus described:

" Use Code: 1700-OFFICE BLDG-NON MEDICAL 1 TO 3 STORIES"(p.87)

On p. 94 of the LOI, Aucamp, Dellenback & Whitney state "In 1974, the subject (*125 Worth Avenue*)was improved with a *THREE-STORY(emphasis mine)* office/bank/retail building containing 53,612 SF gross over a two-story underground parking garage containing 63,720 SF." A further reference on p.111 of the LOI under Site and Building Improvements states "The subject is a three-story office/bank/retail building". *(underlining added)*.

The 3,037 SF mechanical room on the roof has never been leasable or habitable space. Its purpose is to prolong the life of the chiller equipment given its proximity to the ocean. During the hearing at ARCOM(2-22-23) by the presenting architect for Fairfax & Sammons repeatedly referred to the 'roof' when discussing the supposed 4th story. If it were a four-story building why doesn't the permit say so? A story is defined as the space between a floor and an upper floor or roof. Were this space even considered a floor, who reviewed the engineering roof plan to see if the whole roof was designed to carry a live load? To expand a dubious-at-best fourth floor from its present 3,037 SF to what the applicant is

asking for ,11,238 SF, there are variable figures in this application, is almost a 75% increase in the roof coverage! No fourth floors are permitted in either WADG or Town Zoning Code.

Further, The Town's experience with the apartment recently constructed on top of the Tiffany building where the architect stated would never be seen proves that attestations by architects of what can or cannot be seen are not to be relied upon. There is no doubt that with the pergola, towers and additional gross leasable area applied for, this building will look even more massive and will be seen from the street.

The applicants' building is a three-story office building permitted in 1972 and currently 95% occupied. This site has been taxed for 49 years as a three-story structure with 2 levels of parking. Please answer who on Town Staff decided that the property had suddenly grown a fourth floor? Who benefited from this specious decision? Was it legal? To allow a fourth story would have required a Comp Plan change of such a significant nature that it would have needed a referendum. In two sections of the WADG 125 Worth Avenue is described in two sections as a "three-story" office building. The applicant's "Worth Avenue Design Guidelines Justification Statement" has improperly changed this description to "four-story". Is what they have done legal? In fact, the word "four-story does not appear anywhere within the Design Guidelines.

Far from being an appropriate redevelopment, this application is an egregious increase of non-conformities in the overall massing, the increased gross leasable floor area, lot coverage, height and intensity-all in violation of the *Worth Avenue Design Guidelines*. Where are the qualifying attributes to justify Special Allowances and Special Exceptions? Where are the public arcades? Gone, gone, gone to enclose and add gross leasable space. Where are the public vias, patios, useful open space? There are none, zero, zip.

This Town broke away from West Palm Beach in 1912 because the founders had the foresight 112 years ago to see that commercial development, if not controlled by the residents, would overwhelm their island paradise. Commercial development was to be of a limited scale that was resident supported. Changes to the *Worth Avenue Design Guidelines* or to the Comp Plan to allow four stories

should be brought before the residents to decide if changing the human scale and small town residential character of Palm Beach is desirable.

The consequences of your actions allowing significant expansion of non-conformities to a non-conforming structure and to allow an 11,000+ gross leasable space on the roof to be created are contrary to the Comprehensive Plan, the *Worth Avenue Design Guidelines* and our Zoning Codes as well as to the historic and present day wishes of the residents. In the current zoning review you are asking for residents to limit their residential structures to neighborhood scale, yet in the Commercial Zoning Districts you are entertaining the opposite. How is this equitable or consistent?

Please explain how you can possibly justify granting variances where no hardship exists with a 95% occupied building. Residents fear that granting these variances will result in multiple unintended negative consequences? Why wouldn't every commercial property owner on Worth Avenue, in the Commercial-Town Serving (C-TS) Zones on Peruvian and Royal Poinciana Way area tear down their one, two or even three-story structures to put up a four-story building or add floors to an existing, thereby, gaining thousands of additional gross leasable square footage? How would you be able to deny those applicants if you allowed what is proposed for 125 Worth Avenue?

To quote one of our tax paying residents: “ We are a small residential community first and foremost. We are also a built-out small island. That means no more retail except in existing buildings, no adding additional floors on existing buildings (especially on Worth Avenue), no unfettered construction projects that last for years on end and no more restaurant seats.”

Blocking both South Ocean Boulevard and Worth Avenue with tens of thousands of construction vehicle trips for 30 months will be a nightmare for residents, retailers, restaurants and visitors. Beyond that pain, the loss of our human-scale commercial areas will be destructive to what Palm Beach is and what the founders intended. We residents do not wish to be an over-built, overly dense, parking deficient destination as envisioned by New Urbanists.

Anne and Charlie Pepper
333 Seaspray Ave

