

Dear Members of then 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 which are law and code for C-WA zone and the Comprehensive plan do not permit 4th stories. In fact, a third story is not by right but acquired by special exception.

On Page 37 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 Paris and mechanical penthouse. Permit 51072" Where does the building permit say 4 levels..? On p.87 of the This building in the Property Appraiser Public Access site and copied into the by the applicant's appraisers, Aucamp, Dellenback & Whitney is 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." Again on p. 111 under Site and Building Improvements "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 the proximity to the ocean. The architect from Fairfax and Sammons at ARCOM(2-22-23) referred constantly 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 small space even considered a floor did anyone review the engineering for 125 Worth 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 is almost 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 on top of the Tiffany building which 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 and towers applied for this building will look even more massive and will be seen.

Please answer this important question? Who on Town Staff decided that ,after 49 years, a permitted three-story office building(1972), 95% occupied since 1974 and taxed for 49 years as three stories was suddenly able to grow 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.

It appears wording of “fourth story” has been edited into the WADG which did not exist in the original document. Is this legal? Is this how you govern and uphold our legal codes? Knowing a comp plan change was required for fourth floors and knowing residents would revolt, the variance gambit is now being played. Whatever justification was cooked up, it abrogates the spirit and intent of the code and none of the expansion of non-conformities should be permitted.

Far from being an appropriate redevelopment, it 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 Guidelines. Where are the qualifying attributes to justify special allowances? 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 4 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 consequence 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 contrary to the Comprehensive Plan, to the Worth Avenue Design Guidelines and to the majority of residents will be disastrous for Palm Beach. In your zoning review you are asking for residents to limit their residential structures to neighborhood scale, yet in the Commercial zoning you are entertaining the opposite. How is this right or consistent?

Please explain the proof of hardship variances require. How will granting these variances not result in unintended 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 4-story building and gain thousands of gross leasable square footage? How would you be able to deny them? 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  
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