

**From:** [Pat Gayle-Gordon](#)  
**To:** [Antonette Fabrizi](#)  
**Cc:** [Kelly Churney](#)  
**Subject:** FW: ZON-23-016 86 Middle Road - Driveway Gate Special Exception  
**Date:** Wednesday, March 08, 2023 3:19:40 PM  
**Attachments:** [Aerial.pdf](#)  
[View While Heading South on Middle Road.pdf](#)  
[Letter of Support \(from 89 Middle Road\).pdf](#)  
[Letter of Support \(from 95 Middle Road\).pdf](#)  
[Looking Towards the Gate from the Middle of the Road.pdf](#)  
[Distance from the Middle of the Road to the Gate.pdf](#)  
[Rendering Showing the View from the Middle of the Road.pdf](#)  
[Rendering of 10-Foot Location Versus 18-Foot Location.pdf](#)  
[Requirements for Granting a Special Exception.pdf](#)

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Antonette:

Please handle in Kelly's absence.

Thank you.

Pat Gayle-Gordon  
Deputy Town Clerk  
Town of Palm Beach  
360 S. County Road  
Palm Beach, FL 33480  
(561) 838-5416

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**From:** David Klein <dklein@rabideauklein.com>  
**Sent:** Wednesday, March 8, 2023 3:13 PM  
**To:** Town Clerks Staff <TownClerk@townofpalmbeach.com>  
**Subject:** FW: ZON-23-016 86 Middle Road - Driveway Gate Special Exception

\*\*\*\*\*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.\*\*\*\*\*

I received an out of office from Kelly Churney. Can you please add this email to the record and forward it to the Town Council Members? Thank you!

Dear Town Council Members,

If you recall, last month I appeared before you representing the owner of 86 Middle Road (the "Subject Property"), requesting a special exception to install a gate 10 feet from the property line in lieu of the 18 feet required by Code. To reiterate, this is a special exception, not a variance, as the Subject Property is located on a cul-de-sac.

At the Town Council Meeting, the neighbor to the north of the Subject Property, located at 82 Middle Road, objected to the location of the gate. It became clear that he had an incorrect understanding of our request, as he believed that the proposed gate would be located on the Town's right-of-way and possibly be reconfiguring the right-of-way. As you know, that is not the case. Immediately after our matter was heard by Town Council, Cory Meyer and I spoke with the 82 Middle Road neighbor in Town Hall, showed him the plans, and showed him that the right-of-way would be unaffected and that the gate would be 10 feet from our client's property line. The neighbor requested that we make a larger set of plans and meet with him in person to further discuss. We scheduled a meeting to meet at the neighbor's house on Friday, February 24. On that Friday morning, I emailed the neighbor to confirm our appointment. He responded that he would not be able to make the meeting. He noted that "We have conferred with the neighbors and better understand the situation . . . ". He further noted that "We likely will not be at the March meeting to press our objection."

Please note that the location of my client's gate being 10 feet from the property line versus 18 feet has no effect on any neighbors or passersby, particularly the neighbor located at 82 Middle Road. The first attachment to this email is an Aerial that clearly identifies the Subject Property and the configuration of the "T" shaped roadway. The 82 Middle Road neighbor will be unaffected by the gate as he would not see it when driving south on Middle Road towards his house due to the way the road is configured. The second attachment is a picture of the view while heading south on Middle Road. The gate cannot even be seen from this vantage point.

Since the March Town Council Meeting, we have received letters of support from the neighbors located at 89 Middle Road and 95 Middle Road, the only neighbors who can even claim to be affected by the gate, as they could possibly see the gate when traveling to their houses. I have attached those letters of support for your review.

Due to the "T" shape of the roadway, the gate being located 10 feet from my client's property line will have no effect on any neighbor or the public. The fifth attachment is a view from the middle of the roadway in front of the Subject Property. The orange cone on the right side of the picture is on my client's property line (i.e. that is where his property starts). Due to the "T" shape of the road, someone who is in the middle of the road in front of the Subject Property would be approximately 70 feet from the proposed gate, as depicted in the sixth attachment. It would be very difficult to notice the difference of the gate being 10 feet from the property line versus 18 feet from this vantage point. The seventh attachment is a rendering depicting this view. As you can see, there will be hedges and other landscaping that will further block the view of the gate. The last attachment is a rendering showing the proposed 10-foot location versus the 18-foot location. Again, this difference will have no effect on the public.

Based on the above, I hereby request that you grant the special exception for the proposed gate location. Please keep in mind that this is not a variance, only a special exception. I have attached the requirements for granting a special exception and the proposed gate meets all of them.

I encourage you to view to the Subject Property in person to get an even better perspective of this matter. I am happy to meet any of you at the Subject Property and I am happy to answer any

questions you may have.

Look forward to seeing you on March 15.

Sincerely,

**David E. Klein, Esq.**

*Florida Bar Board Certified in Real Estate Law*

**Rabideau Klein**

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**BEWARE OF CYBER FRAUD – BEFORE WIRING ANY FUNDS, CALL THE INTENDED RECIPIENT AT A NUMBER YOU KNOW IS VALID TO CONFIRM THE INSTRUCTIONS – AND BE VERY WARY OF ANY REQUEST TO CHANGE WIRE INSTRUCTIONS YOU ALREADY RECEIVED.**

*This message may contain confidential information or attorney work product. If you receive this in error, any review, dissemination or copying is strictly prohibited. Please contact me immediately by return email or phone and delete this message and any attachments from your system. Thank you.*

86 Middle Road  
(subject property)

82 Middle Road



95 Middle Road

89 Middle Road



Distance from the Middle of the Road to the Gate



Approximately 70 Feet

March 6, 2023

Dear Town Council:

I am the owner of 89 Middle Road, with an entrance to my property directly across the cul-de-sac from 86 Middle Road. I understand that the owners of 86 Middle Road have applied to the Town Council for a Special Exception with Site Plan Review to permit them to relocate their gate posts 8 feet to the east, closer to their property line. The owners have provided me with a copy of their filing to the Town Council, including the plans showing their gates as relocated to be 10 feet from the street instead of the 18 feet normally required. Based upon what I have been shown, I do not oppose the relocation of their gates and am writing this letter in full support of their request.

Best regards,



Larry Morassutti

Dear Mayor and Town Council Members,

I reside at 95 Middle Road, directly to the east of the subject property at 86 Middle Road and are the neighbor most impacted by this proposal. We have reviewed the plans for application ZON-23-016, and are sending this letter of support for the proposed special exception to place the gate 10 feet from the curb instead of the 18 feet required.

February 24, 2023  
Daniel Klass

A handwritten signature in black ink, appearing to read "D Klass", with a stylized flourish at the end.

Looking Towards the Gate from the Middle of the Road







GATE LOCATION COMPARISON VS. ARCOM APPROVED LOCATION

MARIO F. NIEVERA

State of Florida  
Landscape Architect  
Registration No.  
6666856

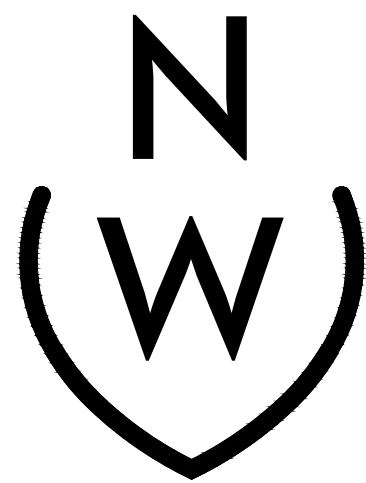
GATE COMPARISON DIAGRAM

**MIDDLE ROAD HOLDINGS TRUST**

86 MIDDLE ROAD, PALM BEACH, FL.

27 FEBRUARY 2023  
14 APRIL 2022  
16 APRIL 2021

SCALE: N.T.S.



NIEVERA WILLIAMS  
DESIGN

223 Sunset Avenue  
Suite 150  
Palm Beach, Florida 33480  
P: 561-659-2820  
F: 561-659-2113

NIEVERAWILLIAMS.COM

**SK1**

ZON-23-016







## Requirements for Granting a Special Exception

### **Sec. 134-229. - Requirements for granting.**

The requirements for granting a special exception use under this chapter are as follows:

- (1) The use is a permitted special exception use as set forth in article VI of this chapter.
- (2) The use is so designed, located and proposed to be operated that the public health, safety, welfare and morals will be protected.
- (3) The use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.
- (4) The use will be compatible with adjoining development and the intended purpose of the district in which it is to be located.
- (5) The use will comply with yard, other open space, and any special requirements set out in article VI for the particular use involved.
- (6) The use will comply with all elements of the comprehensive plan.
- (7) The use not result in substantial economic, noise, glare, or odor impacts on adjoining properties and properties generally in the district.
- (8) Adequate ingress and egress to property and proposed structures thereon and off-street parking and loading areas will be provided where required, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
- (9) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, and economic impact shall be compatible and in harmony with properties in the district.
- (10) Location, availability and compatibility of utility service for the use shall be satisfactory to ensure health and safety.
- (11) Refuse and service areas for the use shall not adversely affect automotive and pedestrian safety and convenience, traffic flow and control, or access in case of fire or catastrophe.
- (12) In all districts except the C-OPI district, and also with the exception of hotel, motel and timeshare uses, the proposed special exception use will not attract the principal portion of its customers/clients from off-island locations. The applicant shall submit evidence satisfactory to the town council that not less than 50 percent of the customers of the proposed use will be town persons. Evidence submitted in support of this contention shall include credible data or information suitable for review by the town to determine the credibility and the appropriateness of the applicant's conclusion. The submittal shall include a description of the types of information used and the methodology employed to arrive at the conclusion. Information used shall include, but shall not be limited to, lists of customer/client addresses or certification thereof by an independent certified public accountant approved by the town, market studies prepared by independent professional firms, or data from similar operations under the control of

the applicant. The town may in the future require the applicant to demonstrate to the satisfaction of the town council that the special exception use is continuing to be town-serving.

(13) If historic/specimen trees are located on the subject property, the location of said historic/specimen trees shall be identified on a signed and sealed survey. In addition, adequate landscaping, screening and barricade protection of historic/specimen trees shall be demonstrated to be provided as required in this chapter.

(14) The proposed use will not place a greater burden than would be caused by a permitted use on municipal police services due to increased traffic or on fire protection services due to the existence of or increased potential for fire/safety code violations.

View Heading South on Middle Road

