



LETTER OF INTENT RE - SUBMITTAL

DATE: March 8, 2023

TO: Town of Palm Beach, Planning, Zoning & Building Dept.

RE: COA-22-037 (ZON-22-107) – R1 2185 S OCEAN BLVD

REQUEST

The Town of Palm Beach ("**Applicant**"), submits a request for Variances ("**VAR**") for the Phipps Ocean Park ("**Park**") located at the intersection of S. Ocean Boulevard and Ibis Way ("**Site**").

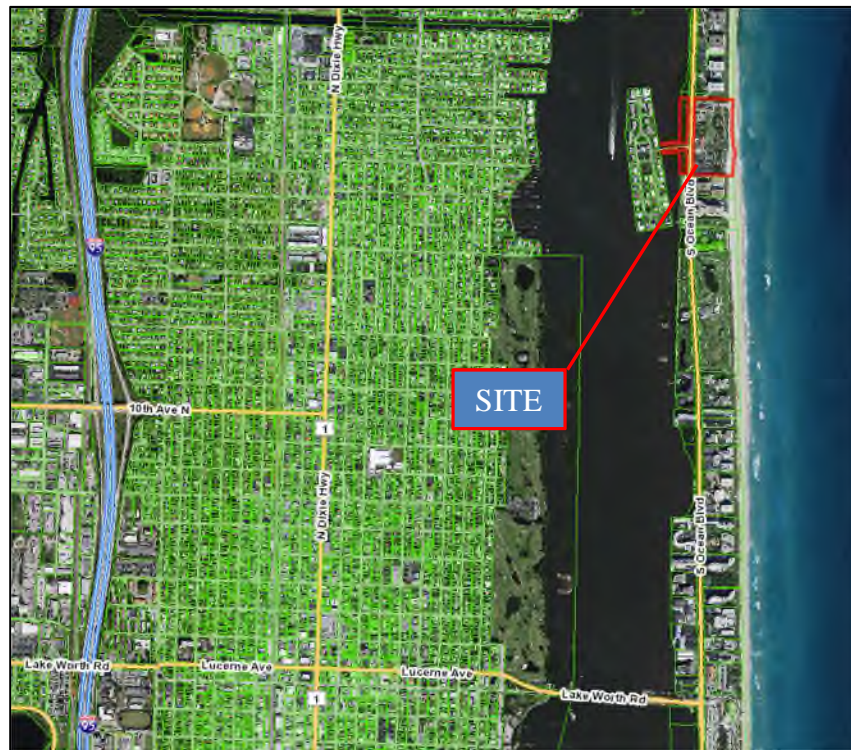


FIGURE 1 – Location map

Property Address:	2185 S. Ocean Blvd. (<i>Figure 1</i>)
Parcel Control Number (PCN):	50434411030001201
Zoning:	R-B Low Density Residential District (" R-B District ")
Municipality:	Town of Palm Beach (" Town ")

REQUEST

- Variances as follows:

Code Section	Required	Proposed
Section 134-1702	No structure of any nature that is to be constructed on land situated southward of Southern Boulevard (State Road No. 80) shall be constructed closer than 150 ft. from the designated ocean bulkhead line.	Variance 1: To allow a reduction in the ocean bulkhead line from 150 ft. to 22.9 ft. for a Lifeguard Station (- 127.1 ft.)
Section 134-893(b)(10)	Height and overall height for one-story buildings, the maximum building height is 14 ft.	Variance 2: To allow an increase in the building height from 14 ft. to 22.04 ft. (+ 8.04 ft.) and overall height from 22 ft. to 30.65 ft. (+ 8.65 ft.) for a Lifeguard Station.
Section 134-1759(b)	Tennis courts or shuffleboard courts and similar accessory uses, not enclosed by a structure, may be constructed within yard areas, except the required front yard.	Variance 3: A variance to permit a pickleball court within the required front yard with a 10.67 ft. setback, in lieu of the 25 ft. setback required; where tennis courts, shuffleboard courts and similar uses are prohibited. (- 14.33 ft.).
Section 134-1667(a)	All fences located in a front setback area shall not exceed six feet in height.	Variance 4: A variance to permit a fence in the required front yard to be 10 ft. in height, in lieu of the 6 ft. maximum height allowed, as required to enclose proposed pickle ball courts. (+ 4 ft.).

BACKGROUND

At the December 13, 2022 Town Council meeting, the Town Council (“**TC**”) approved the Park’s Master Plan with the exception of the design and placement of the proposed pickleball courts. At the February 14, 2023 TC meeting, the TC approved the design and placement of the pickleball courts along with design changes to the lifeguard station. The design and placement of the pickleball courts and the lifeguard station requires variances for building setbacks and building height. As such, the Town is required to process the variances needed to permit the design and placement of the pickleball courts and the lifeguard station as approved by TC on the Park’s Master Plan.

SUPPLEMENTAL APPLICATION REQUIREMENTS

- As required, attached are the responses to the review standards/guidelines for VAR request:
 - **Exhibit A:** Sec. 134-201. Findings prior to authorization of a Variance.
- A Property Info sheet with the Location Map is attached as **Exhibit B.**
- The Legal Description is attached as **Exhibit C.**
- A detailed history in chronological order of all zoning-related requests processed on or after January 1, 1970 specific to the Site attached as **Exhibit D.**

PARKING STATEMENT

Two parking lots are proposed on the Site located on the north and south ends of the Park. The parking lots will provide a total of 201 parking spaces.

EXHIBIT A

Sec. 134-201. Findings prior to authorization.

(a) The town council may authorize upon appeal such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this chapter will result in unnecessary and undue hardship. In order to authorize any variance from the terms of this chapter, the town council must and shall find the following:

- (1) 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.

RESPONSE:

Bulkhead line variances 1: Chapter 62 of the Code requires a 50-foot setback to a designated bulkhead line. This bulkhead line was established in a historic 1932 map and are not easily scaled to match existing conditions since it has not been updated. As such, the request is to allow a reduction in the ocean bulkhead line for a lifeguard station as follows:

Variance 1: Lifeguard Station: reduce from 150 ft. to 22.9 ft. (- 127.1 ft.)

Note that several similar variances have been requested and approved by the Town and this variance request is not uncommon.

Height variance 2: To allow an increase in the building height and overall height for a lifeguard station as follows:

Variance 2: To allow an increase in the building height from 14 ft. to 22.04 ft. (+ 8.04 ft.) and overall height from 22 ft. to 30.65 ft. (+ 8.65 ft.) for a Lifeguard Station.

The proposed height and overall height of the lifeguard station is subservient in style and massing to the other structures on the Site. The lifeguard station is located so as to provide the lifeguard with the best view of the beach in order to provide the life safety duties as required. With varying elevations throughout the Site, the placement of this structure created the need for the variance.

Front yard setback variances 3-4: To permit a pickleball court and the required 10 ft. fence within the front yard setback.

Variances 3-4: A pickleball court that is not enclosed by a structure is not permitted within the front yard setbacks of the R-B zoning district. In addition, a pickleball court must include a fence or wall enclosure that is at least 10 ft. in height. At the February 14, 2023 TC meeting, the TC approved the location and design of the pickleball court as shown on the Park Master Plan. The TC's approved location is 10.67 ft. from the front yard setback in lieu of the 25-foot setback requirement. The TC approved the location after discussions at the TC meeting which included the public input. As such, the TC rendered a decision that the location was appropriate and considered a special condition and circumstance peculiar to the land.

- (2) The special conditions and circumstances do not result from the actions of the applicant.

RESPONSE: *The special conditions and circumstances do not result from the actions of the Applicant.*

Bulkhead line variances 1: As indicted above, the bulkhead line setback was established in a 1932 map and which has not been updated creating the need for the variances. Moreover, this variance is not uncommon with several being granted by the Town in the past.

Height variance 2: As indicted above, the variance is a result of the varying Site elevations for the most suitable location of the lifeguard station for life/safety purposes.

Setback variances 3-4: As indicated above, the TC approved the location after discussions at the TC meeting which included the public input. As such, the TC rendered a decision that the location was appropriate after public input and as such, not a result of the actions of the applicant, but in the nest interest of the public.

- (3) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings or structures in this same zoning district.

RESPONSE:

Variances 1-4: The granting of the variance requested will not confer on the Applicant any special privilege that is denied by the Code to other lands, buildings or structures in this same zoning district. In fact, these variances can be requested by any property owner affected by the applicable regulations.

- (4) Literal interpretation of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.

RESPONSE:

Variances 1-4: The literal interpretation of this chapter would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the Applicant. As indicated above, the requested variances are not uncommon and routinely granted by the Town.

- (5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

RESPONSE:

Variances 1-4: The requested variances are the minimum variances that will make possible the reasonable use of the land. The Site is developed as a public park and the requested variances are reasonable to better serve the public.

- (6) For granting of a variance to sections 134-387 or 134-390 through 134-392, pertaining to the regulation of nonconforming uses, the following additional findings shall be made pertaining to the nonconforming use for which the variance is requested:

- a. It is the continuance of a unique hotel or residential use that has, for at least 15 years proven compatible with the surrounding uses; and
- b. Neither rezoning to a district which would allow the use, nor inclusion of the subject use as a permitted or special exception use in the district would act to achieve the preservation of the subject use without opening the possibility of the incursion of uses incompatible with the immediately surrounding area and, further, such variance shall:
 1. Be granted only for the continuation of the same hotel or residential use; and

2. Require the applicant to submit a declaration of use limiting the utilization of the property for which the variance was granted to the same use as that existing at the time the variance was granted.

RESPONSE:

Variances 1-4: N/A

- (7) The grant of the variance will be in harmony with the general intent and purpose of this chapter, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare. In granting any variance, the town council may prescribe appropriate conditions and safeguards in conformity with this chapter. Upon granting a variance the town council may require the landowner to provide a declaration of use agreement which shall be recorded in the public records to ensure continuing compliance with town council imposed conditions of such grants. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

RESPONSE:

Variances 1-4: Granting of the variances will be in harmony with the general intent and purpose of the Code. Additionally, granting of the variances will not be injurious to the area involved or otherwise detrimental to the public welfare; in fact, it will be a benefit to the public and provide a more enhanced experience to the patrons of the Park.

EXHIBIT B

P R O P E R T Y I N F O R M A T I O N

The approximately 20.6-acre site (“**Site**”) is located at the intersection of S. Ocean Boulevard and Ibis Way.

Property Address:	2185 S. Ocean Blvd. (<i>Figure 1</i>)
Parcel Control Number (PCN):	50434411030001201
Zoning:	R-B Low Density Residential District (“ R-B District ”)
Municipality:	Town of Palm Beach (“ Town ”)

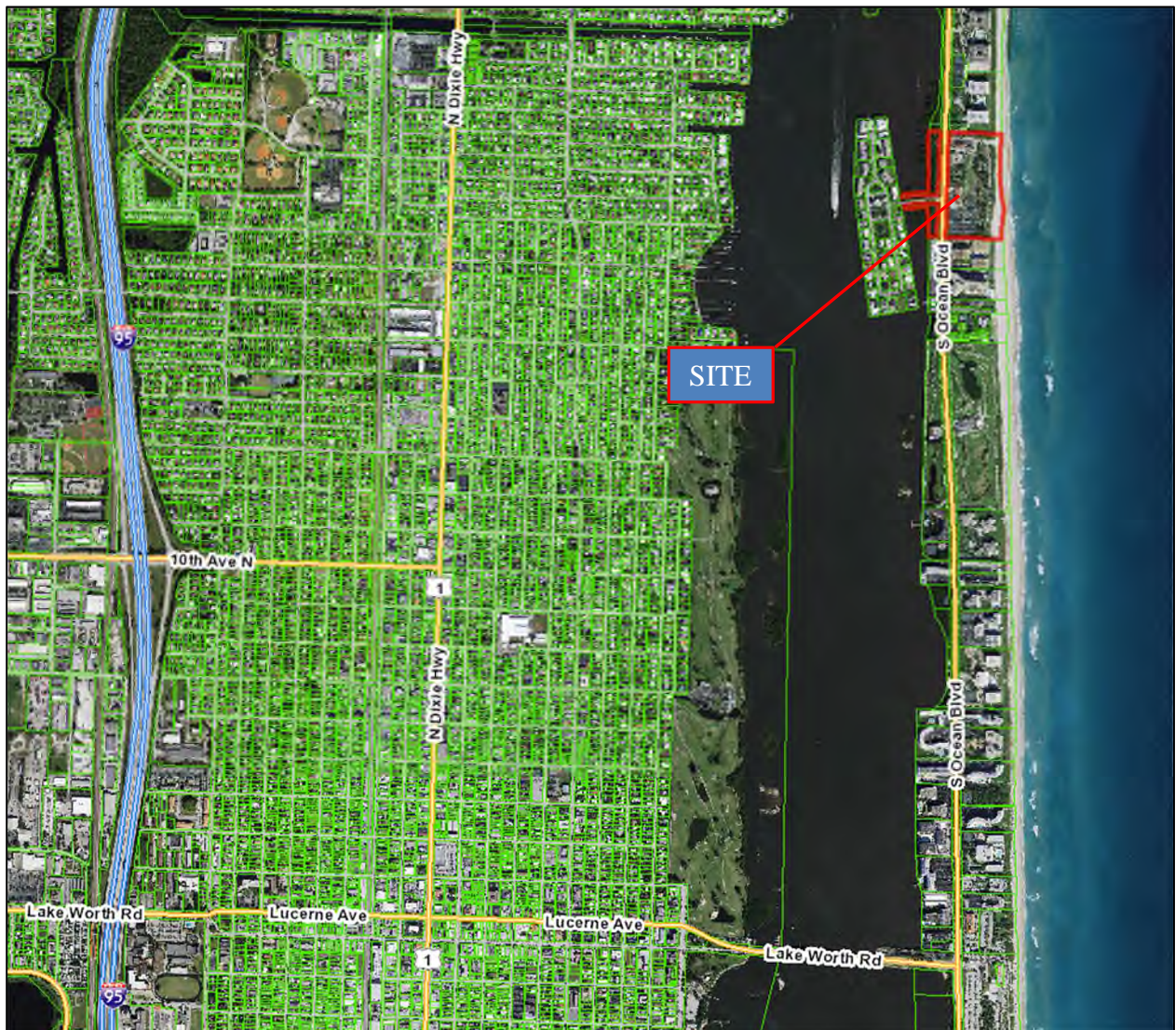


FIGURE 1 – Location map

EXHIBIT C

LEGAL DESCRIPTION

SOUTH 100' OF LOT 120 & LOTS 121 TO 125 INCLUSIVE & NORTH 100' OF LOT 126 PALM BEACH ESTATES (PLAT BOOK 8, PAGE 3)
LESS 100' WIDE RIGHT-OF-WAY FOR STATE ROAD A1A (ROAD PLAT BOOK 1, PAGE 92) LESS 100' WIDE RIGHT-OF-WAY FOR IBIS WAY (PLAT BOOK 24,
PAGE 181)

TOGETHER WITH

TRACT 1: BEING THE WEST 200 FEET OF THAT PORTION OF THE NORTH HALF OF SAID LOT 120 LYING EAST OF STATE ROAD A1A AS SHOWN IN ROAD
PLAT BOOK 1, PAGE 92, PALM BEACH COUNTY PUBLIC RECORDS;

AND

TRACT 2: BEING THAT PORTION OF THE NORTH HALF OF SAID LOT 120 LYING WEST OF STATE ROAD A1A AS SHOWN IN ROAD PLAT BOOK 1, PAGE 92,
PALM BEACH COUNTY PUBLIC RECORDS;

AREA=20.189 ACRES

EXHIBIT D

SITE HISTORY

Please provide a detailed history of all zoning-related requests applicable to this property processed on or after January 1, 1970, in chronological order, including but not limited to variances, special exceptions, site plan reviews, and existing agreements.

APPLICATION NO.	REQUEST
Unknown No. 1976-77	Rezoning from PUD-B to the R-B zoning district, variance to allow a Fire Station in the R-B zoning district, and add Municipally-owned Police and Fire Stations, Municipal Administrative Offices, and Municipally-owned and operated docks, parking lots, and nurseries, to the list of Permitted Uses in the R-B zoning district.
Variance No. 24-74	Construct a replacement Fire Station.
Variance No. 3-83	Variance authorizing the construction of the underground Booster Pump Station.
Special Exception with Site Plan Review No. 21-93	Construct a new public structure known as the South Fire-Rescue Station
Special Exception with Site Plan Review No. 18-2001	Construct four tennis courts and a tennis control building
Special Exception No. Z-17-00053	Replace an existing restroom with a pre-fabricated building to match the restroom buildings.
Certificate of Appropriateness No. COA-22-037 and Special Exception No. ZON-22-107	Modifications to the existing park for the redevelopment of the parking lot, pedestrian ways, sports courts, restroom facilities, beach pavilions, and educational facility, and the relocation of the existing Little Red Schoolhouse, including variances to exceed the maximum building height and the ocean bulkhead line setback.