

From: [Kelly Churney](#)
To: [Wayne Bergman](#); [James Murphy](#); [Antonette Fabrizi](#); [Sarah Pardue](#); [Jordan Hodges](#)
Cc: [Joshua Martin](#); [Pat Gayle-Gordon](#); [Deborah Jones](#)
Subject: FW: 125 Worth Ave. - 4th Story Eligibility and Worth Ave. Design Guidelines
Date: Friday, March 03, 2023 3:22:45 PM
Attachments: [Sec. 134.2. Definitions and rules of construction.docx](#)
[DIVISION 9. C WA WORTH AVENUE DISTRICT.docx](#)
[EastEndDev.Area.pdf](#)
[Excerpt.pdf](#)
[Worth Avenue Design Guidelines 1991-01-03 MINUTES Special Town Council.pdf](#)

Good afternoon Mayor and Town Council Members,

Please see the email below and the attachments from Carol LeCates regarding the upcoming project at 125 Worth Avenue.

Thank you,

Kelly Churney
Acting Town Clerk

Town of Palm Beach
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From: Carol LeCates <clecates@comcast.net>
Sent: Friday, March 3, 2023 1:37 PM
To: Kelly Churney <KChurney@TownofPalmBeach.com>
Subject: 125 Worth Ave. - 4th Story Eligibility and Worth Ave. Design Guidelines

*****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 Kelly,

Would you kindly share with the Mayor and Council?

Thank you.

Carol

Dear Mayor and Council Members,

Mr. Sammons has designed a most attractive new facade for 125 Worth Avenue that would be far easier to endorse if only the applicant didn't over-reach for floor area and under-provide on pedestrian landscaped space.

This application must be seen for its implications for the area as well as for its own compliance with town laws. With no legal basis for eligibility for expansion, the applicant is in essence asking for wholesale changes to the C-WA district regulations, and the Comprehensive Plan and Worth Avenue Design Guidelines (which it did attempt several years ago). Since the granting of the requested variances will be used as legal precedent for future development, it is critical that the existing laws be upheld, and not distorted for the gain of a single developer. The clear and specific elements of the town ordinance that prohibit over-development of the Avenue, and more specifically a 4th story, include:

1) *The Worth Ave. Design Guidelines, East End Development Area* (pages 63-69, attached) - Specifically listed special allowances refer only to one-story, two-story, and three story buildings. A 4th story is *not listed* as an available special allowance.

In addition, the subject property is not eligible for special allowances in the East End because it already exceeds the maximum parameters of the special allowances that can be granted. Applicant now claims that, as if by magic, a 4th story is permitted by both the zoning code and the Guidelines. It then uses this new conjured interpretation to request a variance for 32% lot coverage "on the fourth floor in lieu of the 30% maximum allowable by the Zoning Code". This is a gross misinterpretation of the spirit and the letter of the law.

2) *Ordinance Sec. 134-2. Definitions and Rules of Construction Part (a)*, attached, makes clear that the absence of mention of a particular structure cannot be construed as permission for it:

"(a) *Rules of construction.* For the purpose of this chapter, the regulations are structured so as to be strictly permissive. As such, only those uses and structures which are specifically permitted in the Code of Ordinances are allowed. If there is no specific language in the Code which addresses a use or a structure, then said use or structure is not permitted."

In this case, staff refers to the Worth Ave. Guidelines as being "silent" on structures of more than 3 stories. According to the code, this silence is a prohibition, which in this case is already made clear by the references to a 3rd story and "other special allowances" in the Code. It is clear that "other special allowances" does *not* refer to additional stories, since only 1, 2, and 3 stories are addressed, and with specific size maximums. (See Sec. 134-1165 and the rest of the C-WA district regulations, attached.)

3) *The Comprehensive Plan, Policies Regarding Change...*

"The Town recognizes that future development and attendant population growth would aggravate traffic problems, perhaps bringing the Town to a critical level of overuse. The Town has therefore adopted the following policy regarding growth: To prevent critical and dangerous overuse of its streets, parking resources, public services and facilities, and damage to its historic character and to overall property values of the community, the Town will take all technical and administrative measures legally available, including the use of this Comprehensive Plan, to minimize the

change or transition of existing low-density areas or structures to more intensive use patterns, and thereby lower the pattern of density, where possible, and to minimize tourism inflow."

In seeking to expand a large non-conforming building and eliminate open space, the applicant ignores the zoning code's clear intention for redeveloped structures to be of reduced scale and intensity in this treasured historic district. Furthermore, allowing the building to use adjacent non-conforming structures as a basis for enlarging its own space will only have a domino effect on the Avenue and elsewhere, most immediately and critically on 151 Worth Avenue to its west. (Indeed, the absurdly incongruous and highly visible 3rd story granted to the Tiffany building, which also was not eligible for a special exception, stands as a reminder of the need for town officials to vigorously enforce the town code.) The description of the 4th story of 125 Worth as being "set back" is wrong - the 100' span including the habitable towers and pergola is flush with the front of the building and will certainly block light and sky views, not to mention adding to the already over-scale appearance. And staff erroneously describes 151 Worth Ave. as a 4 story building. This building is primarily two stories, with a small area of 3rd floor habitable space and only purely decorative towers above. Its design is much more faithful to the Guidelines for the district, but its new owners will be watching for the outcome of the 125 Worth application and may seek similar expansion.

In addition to not meeting basic zoning code requirements, most especially the one for hardship, for expansion on Worth Ave., the proposed redesign also fails to comply with many of the most important and oft-cited elements of the Design Guidelines. (See attached excerpt from my e-mail to ARCOM, and town council meeting minutes from 1991.)

Finally, the LOI and Justification Statement fail to adequately address the questions and design objectives that are essential to evaluating this project. In some cases the answers are mere restatements of the question, in some the answer makes no sense, and in others the answer is demonstrably false, as in the claim that the 4th story is "stepped back", that the project complies with all elements of the Comprehensive Plan (when it violates the primary goal of reducing intensity), or the claim that there is a hardship when there is none. In addition, staff's creative interpretations of the code (the definitions of "habitable space" and "story", the condoning of 50% non-conforming demolition "at various stages", long-standing and clear zone maximums) seem intended to serve the developer and not the town. The code is not intended to be picked over for phrases that match an applicants needs while ignoring the parts that require compliance.

A renovation of this property could be a significant enhancement to Worth Avenue, and could easily be done with proper respect for the town ordinances, the Worth Avenue Design Guidelines, and the town's over-arching philosophy of restraint of scale. A 3 story building with the existing mechanical penthouse, purely decorative towers, an arcade and inviting courtyards would be something everyone could support.

Respectfully,

Carol LeCates

PART II - CODE OF ORDINANCES
Chapter 134 - ZONING
ARTICLE VI. - DISTRICT REGULATIONS
DIVISION 9. C-WA WORTH AVENUE DISTRICT

DIVISION 9. C-WA WORTH AVENUE DISTRICT¹

Sec. 134-1156. Purpose.

The purpose of the C-WA Worth Avenue district is to preserve and enhance an area of unique quality and character oriented to pedestrian comparison shopping and providing a wide range of retail and service establishments, to be developed whether as a unit or as individual parcels, serving the shortterm and longterm needs of townpersons. Drive-in retail facilities are not permitted. Further it shall be the intent of this district to enhance the town-serving character of the area through use of limitations on maximum gross leasable area (GLA), thereby reducing the problems of parking and traffic congestion determined to result from establishments of a region-serving scale.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-05, § 1, 3-8-05)

Sec. 134-1157. Permitted uses.

(a) *Enumeration; maximum gross leasable area.* The permitted uses in the C-WA Worth Avenue commercial district, with a maximum of 4,000 square feet of gross leasable area (GLA), are as follows:

- (1) Antiques.
- (2) Apparel and accessories.
- (3) Art galleries.
- (4) Art services.
- (5) Bed and bath boutiques.
- (6) Cards/gifts.
- (7) Crafts.
- (8) Drugstore/pharmacy.
- (9) Fabrics.
- (10) Flowers/florist.
- (11) Furniture.
- (12) Hair styling/beauty salon.

¹Cross reference(s)—Businesses, ch. 22.

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- (13) Interior decorating sales/services.
 - (14) Jewelry.
 - (15) Kitchenwares.
 - (16) Luggage/leather goods.
 - (17) News/books.
 - (18) Optical goods.
 - (19) Perfumery.
 - (20) Photographic services/studios.
 - (21) Shoes.
 - (22) Stationery.
 - (23) Essential services.
 - (24) Tobacconist.
 - (25) Toys.
 - (26) TV and electronic items.
 - (27) Offices and professional and business services, including banks and financial institutions, and executive offices above the first floor, excluding veterinarian offices.
 - (28) Storage facility related to a permitted or special exception use in the district provided said use meets all additional conditions in section 134-1760 of this chapter.
 - (29) Residence(s) above the first floor.
 - (30) Combinations of the uses in subsections (a)(1) through (28) of this section.
 - (31) Supplemental off-site shared parking as provided for in sections 134-2177 and 134-2182 This use will sunset on March 13, 2024, unless extended or modified by town council.
- (b) *Regulation of existing nonconforming commercial uses.* Any existing uses contained on the list of permitted uses shown in subsection (a) of this section which contain more than 4,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses under article VI of this chapter pertaining to nonconforming uses. However, all future changes of use shall be limited to those uses listed as permitted uses on the list contained in this section with a maximum gross leasable area of 4,000 square feet, and if a change of use is contemplated from one general commercial category (retail and services; office, professional and business services; or banks and financial institutions) to another, wherein the new use will involve a gross leasable area exceeding 4,000 square feet, the contemplated new use shall be subject to prior approval of a special exception application by the town council before the change is made (refer to sections 134-227 through 134-233 pertaining to special exception uses). In effect, this will allow any existing use over 4,000 square feet, in a district with a 4,000 square footage limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council approval. For example, if a ladies apparel store of 10,000 square feet exists in the C-WA district and the owner wishes to change to an antique store of the same size or subdivide into two 5,000 square-foot offices, the owner would need to apply for and obtain approval of a special exception from the town council. No existing commercial use which is subject to the 4,000 square feet maximum gross leasable area (GLA) regulation may occupy additional space within 1,500 feet of the existing businesses, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than 4,000 square feet.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-02, § 11, 3-12-02; Ord. No. 1-04, §§ 18, 23, 3-9-04; Ord. No. 1-05, § 3, 3-8-05; Ord. No. 2-2011, § 5, 7-13-11; Ord. No. 7-2014, § 6, 5-14-14; Ord. No. 8-2017, § 2, 4-12-17; Ord. No. 17-2019, § 7, 6-12-19; Ord. No. 01-2021, § 4, 2-10-21; Ord. No. 12-2021, § 3, 6-9-21; Ord. No. 20-2021, § 3, 9-13-21)

Sec. 134-1158. Accessory uses.

The accessory uses in the C-WA Worth Avenue district are as follows:

- (1) Off-street parking and loading.
- (2) Signs.
- (3) Accessory uses customarily incident to the permitted or approved special exception uses.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 5-09, § 8, 4-15-09; Ord. No. 16-2021, § 11, 8-11-21)

Sec. 134-1159. Special exception uses.

- (a) The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the C-WA Worth Avenue district are as follows:

- (1) Pay parking.
- (2) Public or private parking or storage garages.
- (3) Private social, swimming, tennis or yacht clubs.
- (4) Public structures/uses.
- (5) Essential services related to town-owned municipal buildings and structures.
- (6) Supplemental parking per sections 134-2177 and 134-2182.
- (7) Restaurants, nightclubs, lounges/bars, excluding formula restaurants as defined in section 134-2.
- (8) Museums and nonprofit cultural centers.
- (9) Permitted uses cited under permitted uses in section 134-1157 which contain greater than 4,000 square feet GLA gross leasable area.
- (10) Uses not specifically enumerated under permitted uses in section 134-1157 but having traffic, patronage and intensity of use characteristics similar to those uses cited therein.
- (11) Outdoor promotional events. See section 134-2115 for additional conditions and criteria.
- (12) Roof deck automobile parking.

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- (13) Outdoor cafe seating is permitted only for restaurants, retail specialty food including the sale of prepared food for takeout only, and private, social, swimming, golf, tennis and yacht clubs, provided that all requirements and conditions in sections 134-2104 through 134-2108 are met.
- (14) Retail specialty foods, including incidental sale of prepared foods for takeout.
- (b) An owner or tenant of a property, located within the C-WA district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 prior to being granted a new business tax receipt. This subsection shall not apply to renewal of an existing business tax receipt.
- (Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-94, § 2(b)(5), 2-7-94; Ord. No. 1-96, § 17, 2-5-96; Ord. No. 2-98, § 3, 2-27-98; Ord. No. 1-02, § 10, 3-12-02; Ord. No. 1-03, § 3, 3-11-03; Ord. No. 1-04, § 29, 3-9-04; Ord. No. 4-08, § 9, 4-7-08; Ord. No. 5-09, § 9, 4-15-09; Ord. No. 2-2011, § 6, 7-13-11; Ord. No. 3-2012, § 5, 4-11-12; Ord. No. 10-2012, § 4, 9-11-12; Ord. No. 30-2017, § 3, 1-10-18; Ord. No. 02-2019, § 10, 3-19-19; Ord. No. 17-2019, § 8, 6-12-19; Ord. No. 01-2021, § 5, 2-10-21; Ord. No. 12-2021, § 4, 6-9-21; Ord. No. 16-2021, § 12, 8-11-21)

Sec. 134-1160. Accessory structures.

- (a) *Generally.* Enclosed accessory structures in the C-WA Worth Avenue district shall comply with front and side yard requirements for the principal structure to which they are accessory and shall be not closer to any rear property line than ten feet.
- (b) *Dish antennas.* A dish antenna shall be an accessory structure and shall be constructed, erected or placed in compliance with all of the provisions of this chapter applicable to accessory structures. Dish antennas shall not exceed three meters in diameter. Only one dish antenna that exceeds one meter in diameter shall be permitted on each building. Such dish antenna which exceeds one meter in diameter shall not be attached to a building; shall not be closer than ten feet to any side or rear property line; shall not exceed 12 feet in height above the average grade; and, shall not be located in a required front yard, street side yard or rear street yard setback. Each residential unit or commercial tenant space shall not be limited as to the number of dish antennas of one meter or less in diameter and said antenna(s) may be attached or unattached to a building. If said dish antenna(s) is unattached, said antenna(s) shall not exceed 12 feet in height above the average grade; shall be located no closer than ten feet to any side or rear lot line; and, shall not be located in a required front yard, street side yard or rear street yard setback. All attached and unattached dish antennas in this commercial zoning district shall be screened from public view, and private and public streets and ways; be neutral in color; and, to the maximum extent possible, compatible with the surrounding neighborhood appearance and character. In addition, no form of lettering, advertising or identification shall be allowed on any such antenna or its framework (other than the manufacturer's small identification plate).
Note: One meter in the metric system of measurement equals 39.37 inches or 3.28 feet.

(Ord. No. 2-74, § 5.51, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-79, § 11, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 7-82, § 4(i), (k), 3-31-82; Ord. No. 1-84, § 3(h), 3-1-84; Ord. No. 1-85, § 3(e), 2-11-85; Ord. No. 1-86, § 3(d), 2-10-86; Ord. No. 1-87, § 3(e), 2-9-87; Ord. No. 1-90, § 3(g), 2-5-90; Ord. No. 1-92, § 3(e), 2-3-92; Ord. No. 1-93, § 3(g), 2-8-93; Ord. No. 1-94, § 3(c), 2-7-94; Ord. No. 1-95, § 1(b), 1-23-95; Ord. No. 1-97, § 5, 2-17-97; Ord. No. 1-99, § 10, 4-5-99)

Sec. 134-1161. Reserved.

Ord. No. 16-2021 , § 12, adopted August 11, 2021, repealed § 134-1161, which pertained to stands, seated dining areas and open counters for eating and drinking and derived from Ord. No. 2-74, § 6.61, 3-26-74; Ord. No. 3-77, § 14, 3-29-77; Ord. No. 1-89, § 4(f), 2-6-89; Ord. No. 1-04, § 16, 3-9-04; Ord. No. 5-09, § 10, 4-15-09.

Sec. 134-1162. Commercial uses; site plan approval for new buildings, new building additions or changes in permitted uses over certain floor area.

All applications for new buildings or for new building additions or for changes in a permitted use in section 134-1157 which involve more than 2,000 square feet of building floor area of buildings in the C-WA Worth Avenue district shall require a site plan approval in accordance with article III of this chapter. No certificate of occupancy shall be issued for any building, unless all facilities included in the site plan have been provided in accordance therewith. The maximum dimension of any structure or group of attached structures shall not exceed 150 feet.

(Ord. No. 2-74, § 6.55, 3-26-74; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-79, § 14, 3-30-79; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 7-82, § 5(d), 3-31-82; Ord. No. 1-85, § 4(h), 2-11-85)

Sec. 134-1163. Lot, yard and area requirements—Generally.

In the C-WA Worth Avenue district, the schedule of lot, yard and area requirements is as given in this section:

- (1) *Lot area.* The minimum lot area is 4,000 square feet.
- (2) *Lot width.* The minimum lot width is 30 feet.
- (3) *Lot depth.* The minimum lot depth is 90 feet.
- (4) *Density.* A single dwelling unit, or multiple dwelling units not to exceed ten dwelling units per gross acre as provided for in the Worth Avenue design guidelines which are on file in the town clerk's office, and which are incorporated and adopted as part of this chapter as if fully set forth in this chapter. See article III of this chapter for site plan review requirements.
- (5) *Front yard.* All buildings shall be set back so as to provide at least a ten-foot-wide pedestrian walkway between the street curblin and the building, exclusive of beautification strips, not more than five feet of which may be on the town street right-of-way, where appropriate, and additionally, to provide for the minimum building front yard setback, which shall be measured from the inside (lot side) of the required pedestrian walkway. Where no front yard building setback is approved or required, two feet of the required ten-foot-wide pedestrian walkway, adjacent to the inside (lot side) of the walkway, may be landscaped by placement of potted plants or removable planters. Such potted plants or planters shall include xeriscape landscaping whenever possible. Within the C-WA district, arcades or colonnades may be constructed subject to approval as a special exception over the sidewalks in the required front yard setback, provided they meet the requirements of section 134-1213(e).
- (6) *Side yard.* There is no minimum side yard required for one-story structures, but a side yard shall be five feet if provided.
- (7) *Rear yard.* The minimum rear yard setback is ten feet.
- (8) *Height and overall height.*
 - a. For one-story buildings, the maximum building height is 15 feet.
 - b. For two-story buildings, the maximum building height is 25 feet, allowable as a special exception.

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- c. Maximum overall height of a building shall be the maximum allowable building height, as defined in section 134-2, plus five feet for a flat roof and ten feet for all other roof styles. When a parapet is used above the maximum building height, as defined in section 134-2, the building overall height will be calculated based on the flat roof style identified above. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.
 - d. Refer to Worth Avenue Design Guidelines for special exception requirements providing for special allowances to coverage, height, building length and gross floor area limitations.
- (9) *Lot coverage.*
- a. For one-story buildings, the maximum lot coverage is 75 percent.
 - b. For two-story buildings, the maximum lot coverage is 35 percent for the first floor and 35 percent for the second floor. See special exception provisions in sections 134-227 through 134-233 (special exception use), section 134-1165 relating to allowable height and lot coverage, and article III of this chapter (site plan review).
 - c. Refer to Worth Avenue Design Guidelines for special exception requirements providing for special allowances to coverage, height, building length and gross floor area limitations.
- (10) *Length.*
- a. For one-story buildings, the maximum building length is 150 feet.
 - b. For two-story buildings, the maximum building length is 150 feet.
 - c. For each multifamily building maximum dimensions, see section 134-1871 et seq.
 - d. Refer to Work Avenue Design Guidelines for special exception requirements providing for special allowances to coverage, height, building length and gross floor area limitations.
 - e. Sub-basements are exempt from the maximum building length, requirement. Individual building elements extending above ground from a single sub-basement shall each be considered as a separate building for the purpose of calculating building length.
- (11) *Landscaped open space.*
- a. For one-story buildings, the minimum landscaped open space is 15 percent.
 - b. For two-story buildings, the minimum landscaped open space is 25 percent.
 - c. For three-story buildings, the minimum landscaped open space is 25 percent.
- (12) *Floor area.*
- a. For one-story buildings, the maximum gross floor area of buildings is 15,000 square feet.
 - b. For two-story buildings, the maximum gross floor area of buildings is 15,000 square feet.
 - c. Refer to Work Avenue Design Guidelines for special exception requirements providing for special allowances to coverage, height, building length and gross floor area limitations.
 - d. Sub-basements are exempt from the maximum, building length, requirement. Individual building elements extending above ground from a single sub-basement shall each be considered as a separate building for the purpose of calculating building floor area.

(Ord. No. 2-74, schedule A, 3-26-74; Ord. No. 7-79, §§ 2, 6, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(e), (f), 3-31-81; Ord. No. 7-82, § 3(e), 3-31-82; Ord. No. 2-83, §§ 3(a), (b), 2-23-83; Ord. No. 1-84, §§ 2(a)—(e), 3-1-84; Ord. No. 1-85, § 2(b)—(f), 2-11-85; Ord. No. 1-86, § 2(a), 2-10-86; Ord. No. 1-88, § 1, 2-8-88; Ord. No. 1-89, § 2(b)—(d), 2-6-89; Ord. No. 1-90, § 2(a)—(e), 2-5-90; Ord. No. 1-92, § 2(a)1, 2, 2-3-92; Ord. No. 9-93, § 2(b), 6-8-93;

Ord. No. 1-94, § 2(a), 2-7-94; Ord. No. 1-96, § 8, 2-5-96; Ord. No. 1-97, § 1, 2-17-97; Ord. No. 1-98, §§ 2—4, 2-9-98; Ord. No. 2-98, §§ 1, 2, 2-27-98; Ord. No. 1-04, § 32, 3-9-04; Ord. No. 16-2016, § 3, 12-14-16)

Sec. 134-1164. Same—Exceptions.

- (a) In the C-WA Worth Avenue district, cornices, solid canopies, or architectural features may extend 48 inches over the sidewalk or required yard area, provided they shall have nine feet of vertical clearance between any solid construction and the sidewalk or yard.
- (b) Marquees or canvas-covered fireproof canopies, no wider than entranceways, may be constructed over main entrances to hotels, theaters and places of public assembly and may extend to the face of the curb, provided that no support shall be nearer than 18 inches to the face of the curb, and the installation shall have a minimum of nine feet of vertical clearance between any solid construction and the sidewalk.
- (c) No projections shall be allowed in the required rear yard except open-type fire escapes, and these must be provided with a counter-balanced bottom section to provide for nine feet of clearance when up.
- (d) Awnings may be suspended over sidewalks or ways, provided that they shall not project nearer than 18 inches to the face of the street curblin or more than eight feet from the exterior wall of the building, and the installation shall have at least seven feet six inches of vertical clearance between any solid construction and the sidewalk or way. Cloth front and side drops shall measure not less than six feet six inches from their lowest point to the sidewalk or way.
- (e) Within the C-WA district, arcades or colonnades may be constructed, subject to approval as a special exception, over sidewalks or ways, provided that they shall not project nearer than three feet to the face of the street curblin or more than ten feet, but not less than seven feet, from the exterior wall as measured from the exterior face of the building to the exterior face of the arcade or colonnade, and provided that no support shall be nearer than three feet to the face of the curb, and the installation shall have a minimum of nine feet of vertical clearance. The design of such arcades or colonnades shall be based upon the Worth Avenue Design Guidelines and shall be subject to review and approval by the architectural commission. The Worth Avenue Design Guidelines are incorporated and adopted as part of this chapter as if fully set forth in this chapter.

(Ord. No. 2-74, § 5.33, 3-26-74; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 1-91, § 3(c), 4-23-91)

Sec. 134-1165. Special exception to height regulations; special exception structures.

- (a) *Criteria for granting.* In order to encourage increased open space, landscaped open space, reduced density and lot coverage and architectural detail, the town council may at its discretion, upon review of an application and public hearing thereon, allow for the increase of the maximum building height in the C-WA Worth Avenue district, upon a finding being made by the town council that the proposed increase in height for a contemplated special exception structure is in the public interest, that careful attention is given to architectural detail, and that it meets the standards of sections 134-227 through 134-233 and the goals and guidelines in this section.
- (b) *Two-story and three-story construction.* The following shall be applicable to two-story and three-story construction in the C-WA district:
 - (1) First story coverage not more than 35 percent and second story coverage not more than 35 percent. Additional coverage and other special allowances may be granted if the structure is built in accordance with the Worth Avenue Design Guidelines in conformance with section 134-233.

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- (2) A third story and other special allowances may be granted if the structure is built in accordance with the Worth Avenue Design Guidelines in conformance with section 134-233.

(Ord. No. 2-74, § 5.48, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-82, § 4(g), 3-31-82; Ord. No. 2-83, § 4(d), 2-23-83; Ord. No. 1-84, § 3(e), 3-1-84; Ord. No. 1-85, § 3(d), 2-11-85; Ord. No. 1-91, § 3(e), 4-23-91; Ord. No. 1-92, § 3(d), 2-3-92; Ord. No. 2-98, § 4, 2-27-98; Ord. No. 1-01, § 6, 2-19-01)

Cross reference(s)—Applicability of Worth Avenue design guidelines in C-WA district, § 134-233.

Sec. 134-1166. Supplementary district regulations.

The supplementary district regulations which may be applicable to the C-WA Worth Avenue district are contained in article VIII of this chapter.

Sec. 134-1167. Off-street parking and loading.

The off-street parking or loading requirements which may be applicable in the C-WA Worth Avenue district are contained in article IX of this chapter.

Sec. 134-1168. Signs.

The sign regulations which may be applicable in the C-WA Worth Avenue district are contained in article XI of this chapter.

Sec. 134-1169. Air conditioning and generator equipment.

Air conditioners and air handlers, cooling towers, generators, swimming pool filters, pumps and heaters are regulated in section 134-1728 and 134-1729.

(Ord. No. 1-99, § 11, 4-5-99)

Sec. 134-1170. Architectural tower features.

In the commercial zoning districts, a maximum of two towers as architectural features may be constructed as integral parts of the building provided that no tower(s) exceeds the allowable overall height by more than five feet; such tower(s) is set back an additional five feet on the front, rear, side, and street side and street rear yards; and, such tower(s) has no habitable floor area. The area of such tower(s) shall in combination not exceed two percent of the gross floor area of the building. This section does not apply to entry facades or parapets.

(Ord. No. 1-00, § 2, 2-22-00)

Sec. 134-1171. Lot grade topography and drainage.

In the C-WA, commercial worth avenue district, the natural grade and topography of a lot shall not be altered to raise and the grade the lot to meet base flood elevation requirements except as provided for in section 134-1600. The grade shall not be raised on a vacant or occupied piece of property unless a building permit is issued which addresses the paving and drainage requirements of the town.

(Ord. No. 19-2021 , § 5, 9-13-21)

Secs. 134-1172—134-1205. Reserved.

EAST-END DEVELOPMENT AREA

URBAN DESIGN OBJECTIVES

- * To preserve, maintain and enhance existing Mediterranean-Revival/Neo-Classical character of the area.
- * To encourage the protection and enhancement of non-designated but potential Mediterranean-Revival/Neo-Classical historical structures.
- * To encourage new development and remodeling to use Mediterranean-Revival, Neo-Classical architectural styles or other updated compatible variants.
- * To insure compatibility of new development with existing uses and these Guidelines through review and approval of the Architectural Commission.
- * To encourage the remodeling/rehabilitation of incompatible buildings and storefronts in the area, including the provision of multiple storefront entrances, and unification of display windows, awnings, colors, materials, and signage.
- * To encourage the use of arcades or colonnades along Worth Avenue frontages.
- * To encourage the interconnection of additional vias, courtyards, patios and other passageways both on and off-site; and,
- * To encourage upper-floor residential use or the appearance associated with upper-floor residential design.

DESIGN GUIDELINES

<u>ELEMENT</u>	<u>DESIRABLE</u>	<u>UNDESIRABLE</u>
Building Form:		
Apparent Width:		
Building:	Maximum 50 feet	Over 100 feet
Storefront:	Maximum 30 feet	Over 50 feet
Massing:		
Mediterranean-Revival multi-story buildings	Min. 15% of frontage open or recessed, set-back or projecting at least 2 ft. from the building face.	
Entrances:	One storefront entrance per each 30 ft.	Over ca. 50 ft.
Roofs (based on style):	Multiple levels; shed, gable, ridge, hip or flat roof & false front.	
Building Walls:		
Storefronts:		
Clear glass openings	Min. 50% and max. 75% of 1st story frontage up to 15' high. Max. 50% above first story.	Mirrored glass
Storefront windows:		
Sill:	Min. 1 ft. above first floor level.	
Material/Color:	Wood frame, stained or painted; metal, if dark color and flat finish.	Metal, stainless steel, unfinished.
Storefront doors:		
Material/Color:	Heavy paneled wood, stained or painted; metal, if dark color and flat finish; and multiple lights if used.	Metal, stainless steel, unfinished.
Wall Materials:	Stone, masonry and stucco.	Glass curtain metals, wood siding, metal, and brick.

DESIGN GUIDELINES (cont.)

<u>ELEMENT</u>	<u>DESIRABLE</u>	<u>UNDESIRABLE</u>
Arcades:		
Supports (columns and arches):	Stone, masonry and stucco. Min. 3 ft. setback from curb face.	Wood or metal.
Roof form:	Shed or flat with parapet.	
Roof material:	Reddish barrel tiles or built-up.	
Paving:	Stone or masonry blocks; brick or tile (non-slip); textured concrete.	
Signs:		
Above Arcade or Awning:	Flat to wall. Bold stroke painted or low profile cut-out letters.	
Under Arcade or Awning:	Wood or wrought-iron hanging, or flat to wall. Bold stroke painted or carved. Min. 7'-6" clearance.	
Lighting:	Shielded from view. Wrought-iron lamps.	Unshielded lighting.
Details:	Wrought-iron window guards, grilles, gates, brackets, balustrades, and benches. Terra cotta pots, sculpture, courtyard fountains.	Plastic, fiber glass, and shiny metal details.

VIII. SPECIAL ALLOWANCES FOR THE EAST-END DEVELOPMENT AREA

Provisions for Special Allowances have been included in these Guidelines in order to:

- (1) Encourage the maintenance and restoration of the architectural heritage of Worth Avenue;
- (2) Encourage the creative use of modern variants of the Mediterranean-Revival, Neo-Classical and other compatible architectural styles;
- (3) Promote use of Mediterranean-type pedestrian characteristics such as arcades, shopping vias, courtyards and patios, fountains and sculpture, extensive landscaping, multi-level development, hidden staircases, and - the provision for upper-story residences or the appearance associated with upper-floor residential design.
- (4) Allow for structures which emulate the character of the West-End Development Area but not to alter; nor act as a precedent for altering the existing character of the Mid-Avenue or West-end Development Areas.

Use of these Special Allowances for substantial improvements meeting the intent of this section will enhance the quality, character and image of the Avenue; and will also provide a visual linkage between contemporary development and the Avenue's unique historical past.

A. ELIGIBILITY FOR SPECIAL ALLOWANCES

In order to encourage the maintenance of the Avenue's original architectural heritage and encourage the creative and compatible use of Mediterranean-Revival style and characteristics, as well as Neo-Classical and other compatible architectural styles, on the Avenue; the following buildings are eligible to earn special allowances as specified in Section "C", following:

1. New buildings constructed on the Avenue in accordance with the Town of Palm Beach Zoning Code and the design guidelines described in Sections VI and VII. Approval of Special Allowances shall be subject to review and approval by the Architectural Commission after review and approval by the Town Council.
2. Existing buildings which were not designed in the Mediterranean-Revival, NeoClassical, Art Deco, Art Moderne, or other similar compatible style; and which, through substantial and appropriate exterior renovation, are voluntarily converted to the Mediterranean-Revival or Neo-Classical style or modern variant thereof in accordance with the Town of Palm Beach Zoning Code and the design Guidelines described in Sections VI and VII. Approval of Special Allowances shall be subject to review and recommendation for approval by the Architectural Commission.

3. Existing Mediterranean-Revival, Neo-Classical, Art Deco, Art Moderne, or other similar or compatible style buildings which have not been designated as Landmarks; and, which are voluntarily restored through substantial and appropriate exterior renovation to the appropriate style in accordance with the Town of Palm Beach Zoning Code and the design Guidelines described in Sections V. and VI. Approval of Special Allowances shall be subject to review and approval by the Architectural Commission after review and approval by the Town Council.

B. DEFINITIONS

For the purpose of determining eligibility for a special allowance, the following definitions shall apply:

1. SUBSTANTIAL EXTERIOR RENOVATION OR RESTORATION

Improvements costing 15% or more of the appraised value of the structure. The applicant shall be responsible for submitting an up-to-date appraisal so that the Building Official can certify the appraisal value and construction costs.

2. APPROPRIATE EXTERIOR RENOVATION OR RESTORATION

Improvements which are consistent with the design Guidelines described in Sections VI and VII, and recommended for approval by the Architectural Commission.

C. SPECIAL ALLOWANCES

1. Commercial development, redevelopment, restoration or renovation providing an enhanced level of amenities and features in accordance with paragraph "D", following, shall be eligible for elimination of the building length limitation and the 15,000 square foot limit on gross floor area and an increase in maximum building coverage and height as follows:
 - a. Existing buildings:
 - (1) one-story building, maximum coverage, 75%
 - (2) two-story building, 2nd story maximum coverage, 65%
 - b. New 1 story building, maximum coverage, 75%
 - c. New 2-story buildings: maximum first story building coverage, 75%; 2nd story maximum coverage, 65% .
 - d. New 3-story buildings: maximum first story building coverage, 75%; 2nd story maximum coverage, 65%; 3rd story maximum coverage, 30%; and allowable building height up to forty (40) feet.

2. Mixed-use commercial and residential development, redevelopment, restoration or renovation providing commercial uses on the ground floor and residential uses above, and providing an enhanced level of amenities and features in accordance with paragraph "D", following, shall be eligible for elimination of the building length limitation and the 15,000 square foot limit on gross floor area, increase in maximum building coverage and height, and allowable residential units as follows:
 - a. Existing buildings:
 - (1) One-story building maximum coverage, 75%;
 - (2) Second story coverage, 65% and a maximum of one (1) residence per each fifty (50) feet of frontage on Worth Avenue.
 - (3) Third story maximum coverage, 30%; allowable building height up to forty (40) feet and a maximum one (1) additional residence per each sixty (60) feet of frontage on Worth Avenue; provided, however, that all uses above the first floor shall be residential uses only and that the combined density of residential uses on the second and third floors does not exceed two (2) dwelling units per sixty (60) feet of frontage on Worth Avenue.
 - b. New one story building, maximum coverage, 75%
 - c. New 2-story buildings: maximum first story building coverage, 75% maximum second story coverage, 65% ; and a maximum one (1) residence per each fifty (50) feet of frontage on Worth Avenue.
 - d. New 3-story buildings:
 - (1) Maximum first floor building coverage, 75%;
 - (2) Maximum second story coverage, 65% and a maximum one (1) residence per each fifty (50) feet of Worth Avenue frontage;
 - (3) Maximum third story coverage, 30%; allowable building height up to forty (40) feet; and a maximum one (1) additional residence per each sixty (60) feet of Worth Avenue frontage; provided, however, that all uses above the first floor shall be residential uses only and that the combined density of residential uses on the second and third floors does not exceed two (2) dwelling units per sixty (60) feet of frontage on Worth Avenue.
3. Arcades over the sidewalk shall not count towards building coverage. Where no arcades are provided landscaping shall be planted.

4. Equipment rooms, stair towers, and towers used only as architectural features, may be erected no more than forty (40) per cent above the allowable building height and may occupy no more than fifteen percent of the ground floor area of such building or structure.

D. CRITERIA FOR APPROVAL OF SPECIAL ALLOWANCES.

New development, or substantial and appropriate redevelopment, restoration or renovation proposals shall be reviewed by the Landmarks Commission or the Architectural Commission in relation to the appropriate provision of a greatly enhanced level of amenities and features which will significantly benefit the development, the general public, the Avenue and the Town of Palm Beach.

Based on the following list of desirable amenities and features, and a positive determination of the Architectural Commission; a proposed development, redevelopment, restoration or renovation may be approved for a Special Allowance.

- * Public arcades, vias, courtyards, useful open space and interconnection.
- * Private open spaces, patios, terraces, balconies, loggias, etc.
- * Mixed-use development with upper-story residential.
- * Restoration of original facade.
- * Appropriate style change.
- * Varied roof heights, towers, chimneys, etc.
- * Two story and/or three-story commercial structures shall provide a heightened level of architectural amenity and enhancement such as real or simulated balconies, loggias, or step-backs, etc. to ensure that the second and third stories shall have the appearance associated with residential design as personified in the West-End Development Area.
- * Any other significant amenities or features determined to be appropriate for review by the Architectural Commission.

E. LIMITATIONS ON THE USE OF SPECIAL ALLOWANCES

Special Allowance granted for residential uses may not be accumulated or transferred to any other building or site.

Excerpt from e-mail to ARCOM regarding W.A.D.G., based on earlier version of LOI for 125 Worth Ave.

“Having been built prior to creation of the Guidelines, the 125 Worth Ave. non-conformities are not surprising. What is astounding is the intent to greatly increase all of the non-conformities, especially over-all mass, as though the code and Guidelines were non-existent. This application requests two special exceptions that require adherence to the Guidelines, and while the design of the street elevation is much improved and has some stylistic details that comply with the guidelines, the structure still fails to meet most of the code and Guidelines' major goals and the specific requirements for special allowances in the district. In many cases it does the exact opposite:

- it increases floor area, lot coverage, height and intensity
- it reduces parking, open space, and sidewalk width
- it creates no arcades, vias, courtyards, or linkages to invite pedestrians and eliminates recesses
- its towers violate the size, setback, and use limitations
- it adds no residences
- it adds no pedestrian retail entrances that face the street
- the Mediterranean style is not consistent across elevations

Sec. 134-2. Definitions and rules of construction.

- (a) *Rules of construction.* For the purpose of this chapter, the regulations are structured so as to be strictly permissive. As such, only those uses and structures which are specifically permitted in the Code of Ordinances are allowed. If there is no specific language in the Code which addresses a use or a structure, then said use or structure is not permitted.

The term "used for" shall include the term "designed for", the term "structure" shall include the term "building", the term "lot" shall include the terms "plot" or "tract", and the term "shall" is mandatory and not permissive.

In the interpretation or application of any provision of this chapter, it shall be held to be the minimum requirement adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulations shall be controlling.

- (b) *Definitions.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory use or building or structure means a subordinate use or structure customarily incident to the principal use or structure located on the lot or located on a contiguous lot when a unity of title has been provided.

Acre means, for the purpose of calculating dwelling units, an area or parcel of land containing 40,000 square feet.

Alley means a facility which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

Attic means non-habitable, unfinished space within the roof system of a building or structure with less than seven feet of head room, access by only pull down, non-mechanical stairs and used only for storage, mechanical or machinery use.

Auto rental lot means a lot or parcel of land on which passenger automobiles for active rental purposes only are stored or parked.

Awning means an accessory structure either temporary or permanent which is supported by an open framework and is covered by cloth material.

Awning, sidewalk means an awning that projects over a public sidewalk or walkway.

Banks and financial institutions means establishments providing saving, lending, trust, and other financial services to the public. Banks and financial institutions shall include, but not necessarily be limited to, banks, brokers and brokerage firms, savings and loan associations, mortgage companies, loan offices, credit unions, and trust companies.

Bar/lounge means an establishment dispensing alcoholic beverages for on-site consumption.

Basement means floor area situated under a building, such floor area having exterior perimeter walls and having a floor level two or more feet below the level of the contiguous exterior ground outside of the building and having one-half or more of its floor-to ceiling height below the average level of all of the exterior ground of the lot comprising the subject building development site. For additional regulations and the exceptions to the regulations of basements see sections 134-1608, 134-1609 and 134-1611. See also *sub-basement*.

Beach house means a permanent structure which may contain a bathroom and other rooms, but not a kitchen or any sleeping rooms, and not used as a dwelling unit.

Building. See *Structure*.

Building angle of vision means a line drawn from the front yard property line as determined in section 134-1636(2) 50 degrees either side of a line drawn perpendicular or radial to the front yard property line.

Building, height of (applicable only in the R-B districts) means the vertical distance from zero datum (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs, the measurement is to the point where the ceiling meets the exterior wall. The building height zero datum shall be a maximum of 18 inches above the crown of the public or private street or road at its highest street elevation or the minimum flood elevation as established in chapters 18 and 50 of this Code, whichever is higher. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of first floor slab of the existing building.

Building height of (applicable to all districts except the R-B districts) means the vertical distance from zero datum (excluding garage), which is the crown of the public or private street or road at its highest elevation abutting the lot or the minimum flood elevation as established in chapters 18 and 50 of the Code, whichever is higher, to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs, the measurement is to the point where the ceiling meets the exterior wall. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of first floor slab of the existing structure.

Building, height of, (applicable only to structures on lots located on the west side of South Ocean Boulevard between Via Agape and Sloan's Curve in the R-AA district and having a natural ground level lower than that of the roadway on which the lot fronts) means the vertical distance from the point of measurement zero datum for height to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs. For flat roofs, the point of measurement for height shall be measured from zero datum to the point where the ceiling meets the exterior wall. The point of measurement zero datum for height is the highest crown of road elevation in front of the lot for that portion of the lot which is within 50 feet west of the Coastal Construction Control Line (CCCL). The point of measurement for the portion of the lot west of that area shall be from the point where the exterior wall meets the minimum flood elevation as defined in chapter 50 or the natural grade, whichever is higher. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the lowest top of first floor slab of the existing structure building.

Building, height of, (applicable to lots or portions of lots east of the State of Florida Coastal Construction Control Line (CCCL)) means the vertical distance from the point of measurement for height zero datum to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is from the point of measurement for height shall be measured from zero datum to the point where the ceiling meets the exterior wall. The point of measurement zero datum for height in all zoning districts for buildings either east or partially east of the CCCL shall be the minimum bottom of grade beam elevation as established by the Florida Building Code plus two feet, the highest crown of road in front of the lot, or the highest first floor elevation of an abutting principal building, whichever is highest, provided all of the following conditions are met:

- (1) The proposed principal building can be no closer to the bulkhead line than the average setback of the closest principal buildings on the north and south side of the subject lot, provided the required rear setback is met;
- (2) The proposed principal building can be no closer to the front property line than the average front setback of the closest principal buildings on the north and south side of the subject lot, provided the required front setback is met; and
- (3) The proposed building can be no taller than five feet above the average height of the principal buildings on the north and south side of the subject property provided the overall height does not exceed the maximum overall height allowed. For the purpose of constructing additions that do not

exceed 800 square feet onto an existing structure on a lot, the point of measurement for height shall be the top of the lowest floor slab on the existing structure provided that said addition(s) meet the minimum requirements as established in the Florida Building Code for construction east or partially east of the CCCL.

Building height of corner lot. In those cases involving a corner lot as defined in this section, the zero datum of the lot set forth in the definition of the term "building, height of (applicable to all districts except the R-B district)" and the definition of the term "building, height of (applicable only in the R-B district)" shall be measured from the average elevation (taken at the crown of the street) of each of the two intersecting streets abutting the lot. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of the first floor slab of the existing building.

Building, height of, lot abutting low streets, means for the purpose of establishing zero datum lot grade in the definition of the term "building, height of (applicable to all districts except the R-B districts)"; the definition of the term "building, height of (applicable only in the R-B district)"; the definition for the term "building, height of, corner lot"; and the definition of "building, height of, through lot," those cases involving a street having a low existing street elevation abutting the lot, and if such street elevation is below the minimum flood elevation as established in chapter 50 of this Code. Zero datum for measuring building height shall be measured from the minimum flood elevation.

Building, height of, through lot. In those cases involving a through lot as defined in this section, zero datum as set forth in the definition of the term "building height of (applicable to all districts except in the R-B district)" and the definition of the term "building, height of (applicable only in the R-B district)" and the definition of the term "building, height of, corner lot" of the portion of the building fronting on the front street to one-half of the mean lot depth shall be from the crown of the public street at its highest elevation abutting the front of the lot zero datum for the portion of the building fronting on the rear street shall be from the crown of the public street at its highest elevation abutting the rear street yard of the lot. For the purpose of the definition, North Lake Trail shall not be considered a rear street. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest floor slab on the existing building.

Building, height of, (applicable to R-B lots abutting Lake Trail), means the vertical distance from zero datum (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs, the measurement is to the point where the ceiling meets the exterior wall. The top of the floor slab for buildings may be raised to either 18 inches above the crown of the public street at its highest elevation abutting the lot, the minimum flood elevation, or to the existing grade elevation of the lot at its midpoint, whichever is higher, provided that the top of the floor slab is at a minimum elevation of the crown of the public street at its highest elevation abutting the lot and the minimum flood elevation. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest first floor on the existing building.

Building, height of, (applicable to all other lots abutting Lake Trail), means the vertical distance from zero datum (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is to the point where the ceiling meets the exterior wall. Zero datum for buildings shall be either the crown of the public street at its highest elevation abutting the lot, the minimum flood elevation or to the existing grade elevation of the lot at its midpoint, whichever is higher, provided that the top of the floor slab is at a minimum elevation of the crown of the public street at its highest elevation abutting the lot. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest floor slab on the existing building.

Building height plane means a height limiting plane extending at an inclined angle from the intersection of the front yard property line as determined in section 134-1636(2) and the zero datum as defined in "height of

building" and "overall height of building", or the minimum floodplain elevation as established in chapter 50 of this Code, whichever is higher.

Building line means the line, established by law, beyond which a building shall not extend, except as specifically provided by law.

Building, overall height of includes the height of a building, as defined in the definition of the term "building, height of (applicable to all districts except the R-B districts)"; the definition of the term "building, height of (applicable only in the R-B district)"; the definition for the term "building, height of, corner lot"; the definition of "building, height of, through lot"; and the definition of "building, height of, lot abutting low streets," plus the vertical distance from the building height to the highest point of the building's roof system.

Business services means establishments providing support services to other business concerns. Business services would include, but not necessarily be limited to, print shops, secretarial services, travel agents, drafting services, and advertising agencies, etc.

Cabana (pool house) means an accessory structure usually used in connection with outdoor bathing, providing enclosed space for showering or changing clothes, with recreational cooking and/or bar facilities, but no sleeping rooms.

Cannabis cultivation means a use of any property, in whole or in part, including inside buildings, for the growing or cultivation of Cannabis plant(s), whether or not such growing or cultivation is lawful under federal or state law.

Carport means an unenclosed accessory structure for the sheltering of an automobile(s).

Change in generic use means the change in the use of a parcel or structure thereon or portion thereof from one generic category of use to another, but not including a change of activity within a generic use category.

Club, private means buildings and/or facilities, not open to the general public, owned and operated by a corporation or association of persons for social or recreational purposes for members and their bona fide guests and which may render, as an accessory use, services that are customarily carried on as a business. Within residential zoning districts, a private club may provide living quarters for its bona fide employees only.

Commercial use means use of land or structures thereon or portions thereof, for the purpose of conducting business, including the provision of goods and/or services, not otherwise identified under the definition of other generic uses, to the general public or segments thereof. For the purposes of this definition, timesharing, motel and/or hotel uses and occupancy of residential properties for periods of less than three months more frequently than three times per calendar year shall be considered commercial uses.

Common open space means that area of a development site which is unencumbered by buildings, other structures, driveways for vehicular access, or automobile parking areas and storage. This area shall include all yard areas as well as those other open land areas located within the planned unit development site.

Cubic content ratio (CCR) means a measure of land use intensity, expressing the mathematical relationship between the cubic content of a building and the unit of land. It is arrived at by dividing the gross cubic content, as calculated by multiplying building height as stated in the definition of the term "building, height of (applicable only in the R-B district)" in this section times exterior building width times exterior building depth of all structures by the gross area of the lot.

Declaration of use means a town agreement signed under oath and recorded against the title of land in order to provide notice that the use of the land or structure is subject to certain limitations and/or conditions of approval, which unless otherwise determined by the town council, shall include provisions for remedies for violation of said limitations, conditions of approval and/or the Code of Ordinances and that the use will remain in compliance with the limitations in the Code of Ordinances and conditions of approval by the submittal of a certificate of compliance each year.

Dining room means any building or part thereof or any room or part thereof in which food is dispensed or served for profit or gratis to a restricted and limited clientele consisting of tenants and residents of the same premises and their bona fide guests, and private club members and their bona fide guests.

Dish antenna, television and communication means an accessory structure consisting of a satellite earth station designed to receive television or other broadcasts relayed by microwave signals from earth-orbiting communications satellites.

Distribution electric substation means an electric substation which takes electricity from the transmission grid and converts it to a lower voltage so it can be distributed to customers in the local area on the local distribution grid through one or more distribution lines less than 69 kilovolts in size.

Dock means an unenclosed accessory structure built on piling over the water, which is designed or used to provide dockage for and access to one or more boats and which may have davits, vertical lifts, gates, water and electrical service, other similar public utility services and additional accessory uses customarily incident to a dock, such as but not limited to storage chests and low-intensity lighting approved by the town and installed in a manner as to not have an adverse effect upon adjacent properties.

Drive-in use means an establishment that, by design, physical facilities, service, or by packaging procedures, encourages or permits customers to receive goods or services in their motor vehicles.

Dwelling means a building or portion thereof designed or used exclusively for residential occupancy, but not including trailers, campers, mobile homes, hotels, motels, motor lodges, boardinghouses and lodginghouses, tents, tourist courts or tourist homes.

Dwelling, multiple or multifamily, commonly known as an apartment house, means a building or portion thereof used or designed as a residence for three or more families living independently of each other, having individual living units with each unit having cooking facilities and containing a living room and/or one or more bedrooms.

Dwelling, single-family means a detached building designed and used exclusively for residential purposes by one family.

Dwelling, townhouse means an attached building, not over two stories in height, which is designed for or occupied exclusively by one individual or family and attached to two or more other buildings of similar design and in which each dwelling unit is separated from adjacent dwelling units by party walls extending vertically from the ground upward through the roof in a manner so that there shall be no interconnection of or overlapping between any part of individual dwelling unit walls, floors, roofs, basements or other portions of the building structure, and in which each dwelling unit shall have separate and individual sewer, water and public utilities connections. Townhouses may or may not be located on land belonging exclusively to the individual dwelling unit owner.

Dwelling, two-family means a detached building designed and used exclusively for residential purposes by two families living independently of each other.

Dwelling unit (D.U.) means a room or group of rooms designed, used exclusively or occupied as separate living quarters by a single family.

Employee means any person generally working on site for the establishment and includes sole proprietors, partners, limited partners, corporate officers and the like.

Essential services means public utility facilities related to water supply, telephone, cable television, gas and electrical distribution systems, town-owned town-operated services such as sanitary sewer, stormwater drainage and solid waste collection and disposal systems, and town-owned municipal buildings and structures, including any necessary appurtenant structures serving the town, but not including buildings housing employees.

Executive/employee/group vacation retreat means simultaneous use or occupancy of a dwelling unit by a group of individuals other than a family.

Executive office suites means a tenant space shared by separate office and professional services, each of which has a fixed desk. The executive office suite and each office and professional service business within said suite is licensed and has a fixed desk for each employee.

Family means an individual; or two or more persons related by legal adoption, blood, or a licit marriage; or a group of not more than three persons who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling.

Floor area total means the sum of the gross horizontal area of all the floors of a building, except a basement or subbasement as defined, measured from the exterior faces of exterior walls and/or supporting columns.

Formula restaurant means a restaurant that is one of a chain or group of three or more restaurants in the nation, and which satisfies at least two of the following three descriptions:

- (1) It has the same or similar name, trade name, or trademark as others in the chain or group;
- (2) It has standardized and limited menus, ingredients, food and beverage preparation;
- (3) It offers any of the following characteristics in a style that is distinctive to and standardized among the chain or group:
 - a. Exterior design or architecture;
 - b. Interior design; or
 - c. Uniforms, except that a personal identification or simple logo will not render the clothing a uniform.

Foster care facility means a facility, licensed or funded by the state department of children and family services, housing foster residents and providing a family living environment for the residents, including such supervision and care as may be necessary to meet the physical, emotional and social needs of the residents and serving either children or adult foster residents.

Frontage means all the property on one side of a street or place between two intersecting streets or places measured along the line of the street or place, or, if the street or place is dead-ended, all of the property abutting on one side between an intersecting street or place and the dead end of the street or place.

Garage, private means a building or space used as an accessory to or part of a main building permitted in any residence district and providing for the storage of motor vehicles and in which no business, occupation or service for profit is in any way conducted.

Garage, storage means any building or premises, other than a private garage, used exclusively for the parking or storage of motor vehicles.

Generic use is the broad description for the use of a parcel or structure or portion thereof. There are but three generic uses in the town: residential, commercial and public/private group use.

Gross leasable area (GLA) means the sum of the gross horizontal area of all floors on one building, which are leased, rented or owned areas within a building, measured from the interior faces of exterior walls and from the interior faces of common interior walls, exclusive of common areas. For the purposes of this definition, the gross leasable area of a given use shall include all floor areas being used, advertised or operated under a single commercial use name which are adjacent to one another; or all floor areas being used, advertised or operated under a single commercial use name which are within 1,500 feet of one another; or all floor areas being used or operated under different commercial use names, but for which interior access between/among them is provided.

Group home means a facility, licensed or funded by the state department of children and family services, providing a living environment for unrelated residents who operate as the functional equivalent of a family, including such supervision and care as may be necessary to meet the physical, emotional and social needs of the residents.

Habitable space means space in or on a structure used or intended to be used for occupancy, for living, sleeping, lounging, eating, cooking or recreation. Finished or unfinished floors above the maximum number of stories allowed containing an elevator, permanent or mechanically operated stairs and seven feet or more of head room shall be considered habitable space. Closets, hallways, storage rooms, attics, machinery rooms, mechanical equipment rooms, utility space and similar areas shall not be considered habitable space.

Historically or architecturally significant multifamily structure means a structure designated by the town council as an historic or architecturally significant structure and which is proposed for conversion to a multifamily structure under a PUD-4 application.

Hotel/motel means an establishment which provides, for pay, lodging and other services to transient and semipermanent residents. A hotel provides meals, convenience shops, entertainment, lounges and recreational facilities as well as maid, laundry, valet, telephone, desk, limousine and other personal services. A hotel may consist of one or more buildings and/or accessory buildings.

House of worship means a structure owned and/or utilized by a religious organization for worship, religious training or education. A house of worship, for the purposes of this chapter, may include, in addition to the principal structure, accessory structures and/or dwelling units for religious organization personnel located within an accessory structure which is utilized primarily for religious training or educational purposes.

Institutions means public and public/private group use of a nonprofit nature typically engaged in public service, e.g., houses of worship, nonprofit cultural centers, charitable organizations.

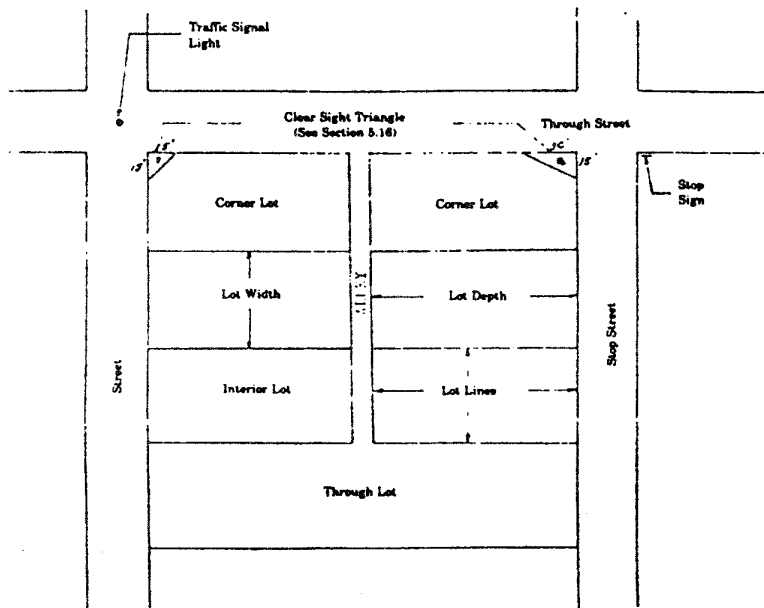
Landscaped open space means open space which is covered and maintained with natural growth in a permeable soil.

Landscaping, required means landscaping that shall consist of those plantings required by this chapter, including beautification strips, hedges, trees, planted ground cover, sodded and grassed areas and planted floral installations, all of which must be composed of natural plantings only as distinguished from artificial manufactured planting reproductions.

Logo means a graphic representation, letter, character, symbol, trademark, design or crest or combinations thereof used to identify a business or organization.

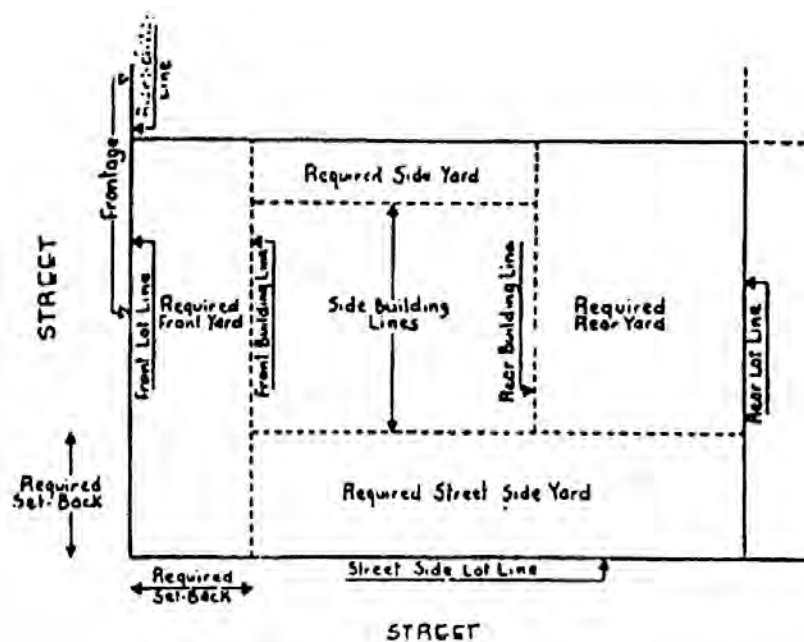
Lot means a parcel of land, vacant or occupied. For the purpose of this chapter, the word "lot" shall be taken to mean any number of contiguous lots of record or unplatted parcels of land or portions thereof not separated by a street or public way, upon which one or more principal structures for a single use are erected or are to be erected. When the lot is situated immediately adjacent to the ocean front, for the purpose of this chapter, the east lot line shall be the town's bulkhead line as provided in chapter 62 of this Code or the mean high water line, whichever is most westerly. When the lot is situated immediately adjacent to the waters of Lake Worth, the west lot line shall be the existing bulkhead wall or mean high water line, whichever is most easterly. The exception to this definition is that town-owned or town-leased property is exempt from this definition. The following is an illustration of this definition:

Lot Definitions—General



Lot, corner means a lot abutting upon two or more streets at their intersection which is illustrated as follows:

Yard Definitions—Corner Lot



Lot coverage means that percentage of the lot area covered or occupied by the buildings or any part of the buildings, excluding therefrom any projections permitted to extend into yard areas elsewhere by this chapter.

Lot depth means the distance from the midpoint of the front lot line to the midpoint of the mean rear lot line.

Yard Definitions—Interior Lot

Lot lines means the lines bounding a lot as established by ownership.

Lot, street lot line means the front street lot line, side street lot line or rear street lot line of any lot, which shall be the right-of-way line of the abutting street. For public streets this shall consist of the dedicated right-of-way line of public streets plus any additional street widths as required by section 134-1636; for private streets, such right-of-way line shall consist of the platted or unplatted right-of-way line of such private streets plus any additional street width as required by section 134-1636. Note: Refer to section 134-1636 for street lot lines.

(3) A deejay playing recorded music;

provided, however, that a restaurant that provides only background dinner music, or entertainment, or where dancing is conducted to live or recorded music does not constitute a nightclub.

Nonconforming building or structure means a building or structure lawfully in existence on the effective date of the ordinance from which this chapter is derived that does not conform to the regulations contained in this chapter for the zoning district in which the building or structure is situated.

Nonconforming land means a parcel of land lawfully in existence on the effective date of the ordinance from which this chapter is derived that does not conform to the regulations contained in this chapter for the zoning district in which the land is situated.

Nonconforming use means a use lawfully in existence on the effective date of the ordinance from which this chapter is derived that does not conform to the regulations contained in this chapter for the zoning district in which the use is situated.

Nonprofit cultural center means an institution for promoting education and the refinement of taste, intellectual and/or aesthetic matters, not including museum uses, operated without profit.

Office and professional services means administrative offices and establishments providing professional services such as lawyers, doctors, insurance agents, real estate brokers, consultants, interior designers, architects, and engineers.

Office, veterinarian means an establishment which provides medical and surgical care for animals, and may provide overnight facilities.

Open space means that area of a lot which is unencumbered by buildings, other structures, driveways, or automobile parking areas, except for garden walls and fences as provided in this chapter.

Outdoor cafe seating is the placing or locating of furniture outdoors, including tables, chairs, and umbrellas, adjacent to a business licensed as a restaurant dining room, retail specialty food including the sale of prepared foods for takeout only, or private, social, swimming, golf, tennis or yacht club, with the purpose of providing outdoor seating.

Outdoor promotional events means events sponsored and managed by a property owner where the event is to be held in the C-TS, C-WA or C-PC Zoning District for the purpose of providing a public event or promoting business on said private property. Such event shall be limited in scope and size by special exception approval by the town council and the criteria as set forth in section 134-2115 of this Code.

Parapet wall means a low wall to protect the edge of a roof.

Parking lot, public or private means an open area or plot of land used for the storage or parking of motor vehicles to provide off-street parking, either for profit or gratis, for commercial or residential uses, other than single-family.

Parking, principle of equivalency, as it relates to a method of establishing an inventory of required off-street parking spaces for a conforming or nonconforming use of an existing building, or structure for the purpose of determining the net off-street parking requirement for the establishment of a proposed new use to be permitted in the existing building or structure, is based on the "schedule" in section 134-2176.

Parking, required means those parking facilities determined as the minimum facilities necessary to comply with this chapter as set forth in the schedule of off-street parking requirements.

Parking, supplemental means those parking facilities provided as a permitted or special exception and which are in addition to existing required parking as set forth in the schedule of off-street parking requirements. Supplemental off-site parking in an underground garage or surface, enclosed, partially enclosed, or a rooftop parking facility that is a permitted use in the C-TS, C-WA and C-OPI zoning districts is not required to be parking

that is in addition to what is required in the schedule of off-street parking requirements in the code. This definition will sunset on March 13, 2024 and revert back to the definition prior to the adoption of Ordinance Nos. 1-2021 and 20-2021 unless extended or modified by the town council.

Pergola means an open, accessory structure comprised of a structural framework over an outdoor area usually covered with climbing shrubs or vines.

Personal service establishments means establishments primarily engaged in the provision of services to individuals dealing with their personal or immediate effects. Personal services would include, but not necessarily be limited to, hairstyling or beauty services, tailor/dressmaker, travel agent, cleaning services, interior decorator services, dance studio or similar personal instruction services.

Public/private group use means use of land or structures thereon or portions thereof for public structures, governmental operations, education, essential services, recreation and cultural amenities generally beneficial to the public health, safety and general welfare of the town's residents.

Public structures means municipally owned and/or operated structures used for public purposes such as, but not limited to, administrative offices, recreational buildings, police and/or fire stations and other public safety facilities.

Quasi-commercial means any activity that would seemingly or to some degree be normally considered commercial in nature.

Rear height plane means a height limit of a building in the R-B district as measured by the maximum overall height permitted on the abutting lot to the rear. When a lot abuts more than one lot to the rear, an average maximum overall height will be used to establish the rear height plane.

Residential use means use of land or structures thereon or portions thereof for residential occupancy of a permanent or semipermanent nature with an intended occupancy period, by any one individual or family, with or without bona fide nonpaying guests, of not less than three months; except that residential uses may be occupied by any one individual or family for periods of less than three months not more frequently than three times per calendar year; and except that this definition does not include occupancy of a transient nature such as in hotel, motel or timesharing uses.

Restaurant means every building or part thereof and all accessory buildings used in connection therewith or any place or location kept, used or maintained as, advertised as or held out to the public to be a place where meals and foodstuffs are prepared and served.

Retail establishments means establishments selling commodities or goods to ultimate consumers.

School, academic means a structure or portions thereof designed or used for instructing one or more persons, either children or adults, in either general or specialized education, and including accessory uses such as administrative offices, physical education facilities and group housing facilities for students or staff; provided, however, that instruction received by children or adults in their place of residence shall not constitute a school.

School, professional or studio-type means a structure or portion thereof designed and used for the business of instructing one or more persons, either children or adults, in a specialized subject such as voice, language, dancing or modeling.

Service station means a building or lot where gasoline, oil, greases, batteries and tires are supplied and dispensed to the motor vehicle trade and where repair services other than body work and painting are rendered and where motor vehicles are washed and/or polished manually but not by machinery.

Shade tree means a tree having a height of not less than 12 feet and a spread of not less than ten feet at the time of planting.

Sign means signs and/or lettering, pictures, illustrations or trademarks, logograms, posters or characters, visible from a public or private roadway and/or sidewalk, which shall be classified as signs regardless of whether

they are freestanding or attached or painted to or on a building, structure, display board, screen surface or wall or are projected thereon by artificial lighting.

Sign, artisan means a temporary sign of mechanics, painters or other artisans or artisan concerns erected and maintained only during the period such persons or concerns are actively performing work on the premises on which such signs are erected or placed.

Sign, awning. See *Sign, banner*.

Sign, banner means a sign possessing characters, letters, illustrations, ornamentations, or that is designed so as to attract attention by a scenic effect, including pennants, balloons, and flags with or without lettering or characters, including streamers and wind-driven whirligigs, propellers or other devices, and applied to cloth, paper, fabric or like kind of material, either with or without frame, and which sign is not of permanent construction.

Sign, building identification means a sign designed and intended readily to indicate the location of a certain and specific multifamily or commercial building.

Sign, business directory means a wall mounted sign which identifies only the names of the businesses located in a via or building in a via. Said directory sign at the entrance to a via or building in a via may include the name of the via and the via address.

Sign, development means a temporary sign advertising the sale, rental or development of the premises as a whole upon which it is placed or erected.

Sign, illuminated means a sign which is lighted by electrical lighting installed thereon or therein or lighted by remotely located lights or that is produced and/or displayed by means of artificial projected light or lighted by reflected light.

Sign, individual business means a flat wall-mounted identification sign permitted for each individually town-licensed business with street or parking lot frontage and having direct ground level walk-in access from a public or private roadway, sidewalk, or parking lot in a commercially zoned district. *Sign, institutional* means a sign for building identification of schools, colleges, museums, libraries, houses of worship, or other institutions of a similar public or semipublic nature.

Sign, menu means a restaurant or take-out food establishment wall or pedestal mounted sign which identifies the menu and prices within said establishment.

Sign, official traffic means a sign placed or erected by a municipal, county, state, or federal governmental agency as a regulatory, aid-to-traffic or informational sign, in connection with control of vehicular or pedestrian traffic over a bridge, roadway, pathway or sidewalk.

Sign, property identification yard means a detached and freestanding identification sign for a Commercial zoned property supported on a monument, pillar or similar supporting structure.

Sign, sale or rental means a temporary sign advertising the sale or rental of the premises upon which it is placed or erected by the owner or broker or any other person interested in the sale or rental of the premises.

Sign, tow-way means a sign which provides notice as required by Florida Statute for any property owner, lessee, or person authorized by a property owner or lessee to tow or remove any vehicle or vessel from private property without the consent of the owner or other legally authorized person in control of that vehicle or vessel.

Sign, yard means a detached and freestanding identification sign supported on a pole or similar supporting structure.

Special exception. Special exception uses are allowable as conditional uses authorized in a zone only under the specific conditions specified in sections 134-227 through 134-233 and article III of this chapter and pursuant to the procedures in divisions 3 and 4 of article II of this chapter, but which use cannot be located in a zone as a matter of right and which may be revoked if any of the required conditions to approval and operation are violated.

Special exception structure means a structure approved as a special exception subject to sections 134-227 through 134-233, 134-897, 134-952, 134-1008, 134-1063, 134-1115, 134-1165 and 134-1214.

Statue or sculpture means an object which is fashioned, shaped and formed by hand or machine into a work of art, including but not limited to contemporary, modern, classical and/or abstract design, and that may or may not be a likeness of a person or thing.

Story means that portion of a building, other than an attic, included between the surface of any floor and the surface of the next floor above it or, if there is no floor above it, the space between such floor and the ceiling next above it. Habitable space, open patios, accessible roof decks not used exclusively for mechanical equipment, observation decks and/or similar areas located above the first or second story shall be considered a story for the purpose of this definition.

Street means a facility, either public or private, that affords the primary access to abutting property and that is intended for general traffic circulation. A street includes the entire area between street lines (right-of-way lines), including provisions for culs-de-sac.

Street line means the line between the street and abutting property. Also referred to as right-of-way line.

Structural alteration means any change, except the repair or replacement, in the supporting members of a building, such as bearing walls, columns, beams or girders, or the rearrangement of any interior partitions affecting more than 50 percent of the floor area of the building.

Structure means anything constructed, placed or erected on land, submerged land or over water, the use of which requires permanent or temporary location on the land, submerged land or over water, or attachment to something having permanent or temporary location on or over the land, submerged land, or water.

Structure, principal means a main and foremost building or structure located on a lot and in which is conducted the main and foremost use of the lot on which the building or structure is situated.

Structure, public means anything constructed, placed or erected on land, submerged land or over water by a Federal, State, County, City of West Palm Beach and City of Lake Worth governmental entities, the use of which requires permanent or temporary location on the land, submerged land or over water, or attachment to something having a permanent or temporary location on or over the land, submerged land, or water.

Sub-basement means a facility that is located underground and does not exceed in height the lowest point of the public sidewalk abutting the property or, alternately, the lowest point of the public street if there is no public sidewalk and no portion which is located beyond the confines of the outer walls of the main building located above ground level. For additional regulations and the exceptions to the regulations of sub-basements see sections 134-1610, 134-1611 and 134-2179.

Timesharing use means the use of any unit under which the exclusive right of use or occupancy of the unit for a period of less than three months circulates among various occupants in accordance with a fixed time schedule on a periodically recurring basis for a period of time established by such schedule. Such a use is permitted in the town only by special exception in the C-OPI, C-PC, C-B and R-D(2) zoning districts.

Townpersons means all full-time and seasonal residents as well as visitors staying at accommodations and employees working in establishments located within the town.

Town-serving means establishments principally oriented to serving the needs of townpersons which would not substantially rely upon the patronage of persons not defined as townpersons. Town-serving establishments, by definition, would typically contain 4,000 or less square feet of interior gross leasable area (GLA) in the C-WA district, 3,000 or less square feet of interior GLA in the C-TS and C-B districts and 2,000 or less square feet interior GLA in the C-PC district. Establishment would also not engage in advertising designed to attract other than townpersons.

Trellis means an ornamental accessory structure of lattice work over which vines are trained, usually made of narrow strips of wood which cross each other at regular intervals.

Use, principal means a main and foremost use of improved or unimproved property, such use established on the property and which may be within or without any building on the property.

Vacant land means any lot or parcel of land which is completely open, has no use associated with it or upon it and is not utilized as the required yard area for any adjoining uses.

Variance means a modification from the literal interpretation of this chapter, other than those sections relating to use requirements, subject to the procedures of divisions 3 and 4 of article II of this chapter.

Yard means an open space on the same lot with a building, such space unoccupied by structures and unobstructed from the ground upward except by trees or shrubbery or as otherwise provided in this chapter. The term "yard" may also apply to that area of the lot required to remain in open space by percentage of lot coverage regulations contained in this chapter in addition to the required front, required side or required rear yard open spaces.

Yard, front means a yard across the full width of the lot, extended from the front building line, including open porches, to the front street line of the lot.

Yard, rear means a yard extending across the full width of the lot and measured between the rear line of the lot and the rear building line of the main building. For corner lots, the rear yard shall be the yard opposite the front street line of the lot. For through lots, the rear yard fronting on the street opposite the front street line of the lot shall be the rear street yard. (Note: Refer to section 134-1636 for street lot lines.)

Yard, side means an open unoccupied space on the same lot with a building between the building line and the sideline of the lot extending through from the front building line to the rear yard or to the rear line of the lot, where no rear yard is required.

Zero datum means the point of measuring all zoning code calculations related to building height, building overall height, building height plane and cubic content ratio.

Zoning in progress means a period of time during the zoning procedures which begins with active and documented efforts by those authorized to do the zoning work which, in the normal course of municipal action, may culminate in the requisite zoning change.

(Ord. No. 2-74, § 2.10, 3-26-74; Ord. No. 3-77, § 1, 3-29-77; Ord. No. 5-78, § 1, 3-31-78; Ord. No. 7-79, §§ 1, 4, 3-30-79; Ord. No. 4-80, § 1, 3-31-80; Ord. No. 6-81, § 1(a), 3-31-81; Ord. No. 7-82, § 1(a), (b), 3-31-82; Ord. No. 2-83, § 1(a), (b), 2-23-83; Ord. No. 1-84, § 1(a), (b), (d)—(i), 3-1-84; Ord. No. 2-84, § 1(c), 3-1-84; Ord. No. 1-85, § 1(a)—(i), 2-11-85; Ord. No. 1-86, § 1(a), (c)—(e), 2-10-86; Ord. No. 1-87, § 1(a)—(d), 2-9-87; Ord. No. 1-89, § 1(a)—(i), 2-6-89; Ord. No. 1-90, § 1(a), (b), 2-5-90; Ord. No. 1-91, § 1(a), (b), 4-23-91; Ord. No. 1-92, § 1(a), 2-3-92; Ord. No. 1-93, § 1(a)—(c), 2-8-93; Ord. No. 9-93, § 1(a)—(h), 6-8-93; Ord. No. 1-94, § 1(a), 2-7-94; Ord. No. 1-96, §§ 2, 18, 19, 2-5-96; Ord. No. 1-98, § 1, 2-9-98; Ord. No. 1-99, §§ 1, 2, 4-5-99; Ord. No. 1-01, §§ 3, 5, 2-19-01; Ord. No. 1-02, §§ 3, 4, 3-12-02; Ord. No. 3-02, § 1, 7-9-02; Ord. No. 1-03, § 1, 3-11-03; Ord. No. 1-04, §§ 7, 21, 3-9-04; Ord. No. 1-06, § 1, 3-14-06; Ord. No. 1-07, § 1, 4-10-07; Ord. No. 4-08, §§ 1, 4, 7, 4-7-08; Ord. No. 11-08, §§ 1, 2, 5-12-08; Ord. No. 5-09, § 29, 4-15-09; Ord. No. 26-10, § 1, 12-15-10; Ord. No. 14-2011, § 1, 6-15-11; Ord. No. 2-2011, § 1, 7-13-11; Ord. No. 3-2012, § 1, 4-11-12; Ord. No. 10-2012, § 1, 9-11-12; Ord. No. 7-2014, § 1, 5-14-14; Ord. No. 25-2015, § 1, 11-12-15; Ord. No. 31-2015, § 1, 2-10-16; Ord. No. 24-2016, § 1, 1-11-17; Ord. No. 15-2017, § 1, 7-12-2017; Ord. No. 04-2018, § 1, 4-11-18; Ord. No. 30-2017, § 1, 1-10-18; Ord. No. 11-2018, § 1, 7-11-18; Ord. No. 02-2019, § 1, 3-19-19; Ord. No. 01-2021, § 1, 2-10-21; Ord. No. 16-2021, § 1, 8-11-21; Ord. No. 19-2021, § 1, 9-13-21; Ord. No. 20-2021, § 1, 9-13-21)

Editor's note(s)—Ord. No. 25-2015 § 8, adopted November 12, 2015 provided that the amendment to section 134-2 contained in § 1 of said ordinance shall sunset on December 13, 2017, whereupon section 134-2 as it existed prior to adoption of said ordinance shall remain in full force and effect.

Cross reference(s)—Definitions generally, § 1-2.

TOWN COUNCIL MINUTES OF MEETING HELD ON JANUARY 3, 1991 TO HEAR ZONING COMMISSION REPORT AND RECOMMENDATIONS	
I. CALL TO ORDER AND ROLL CALL: The Special Town Council Meeting to hear the 1990-91 ZONING COMMISSION REPORT and RECOMMENDATIONS was called to order by President Heeke on January 3, 1991, at 9:30 AM in the Town Hall Council Chambers. On roll call, the following were found to be in attendance: Mayor Marix, President Heeke, President Pro Tem Ilyinsky, Councilman Weinberg, Councilwoman Wiener, (Councilwoman Douthit was absent). Also attending were: Town Manager Doney, Town Attorney Randolph, Town Clerk Peters, Mr. Moore, Mr. Frank, Mr. Zimmerman from the Building & Zoning Department and Mr. Brisson of Adley, Brisson and Engman, Zoning Consultants for the Town.	Roll Call
II. INVOCATION AND PLEDGE OF ALLEGIANCE: Invocation was given by Mrs. Peters. Pledge of Allegiance was let by President Pro Tem Ilyinsky.	Invocation
III. PROOF OF PUBLICATION: Mrs. Peters reported the Proof of Publication has been filed with the record.	Proof of Publication
IV. APPROVAL OF AGENDA: Mr. Ilyinsky moved for approval of the agenda. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.	Approval of Agenda
V. PROCEDURE FOR COMMENTS BY GENERAL PUBLIC: Mr. Moore suggested the zoning items will be considered and the President will give the public an opportunity to speak on any of the issues. President Heeke indicated the Mayor and Town Council will discuss the proposed changes by the staff and the Zoning Commission and when that is concluded, any member of the public may speak for three minutes and if the subject has been covered by someone else, they should just concur or disagree and after receiving public comments, the Council will go into deliberation on the various items.	Procedure for Comments by General Public
IV. ADMINISTRATIVE PROPOSALS AND/OR RECOMMENDATIONS (ITEMS 1 THROUGH 19) AND RECEIPT OF THE RECOMMENDATIONS AND REPORT OF THE ZONING COMMISSION DATED DECEMBER 3, 1990.	Admin. Proposals and Recommendations - Zoning
Mr. Ilyinsky moved that the Recommendations and Report of the Zoning Commission dated December 3, 1990 be received. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.	
ITEM NO. 1 - Amend footnote (3) of Section 4.20 A. Schedule of Lot, Yard and Bulk Regulations to read as follows: (change is underlined) "(3) <u>With the exception of arcades and colonnades in the C-WA District all buildings shall be set back so as to provide at least a ten-foot wide pedestrian walkway between the street curbline and the building, exclusive of beautification strips, not more than five (5) feet of which may be on the Town street right-of-way, where appropriate, and additionally, to provide for the minimum building front yard setback, which shall be measured from the inside (lot side) of said required pedestrian walkway</u>	
Mr. Moore called on Mr. Brisson who gave his comments: He recalled last year there were certain suggestions relative to Worth Avenue as to allowable height and Special Exceptions for extra height and the Zoning Commission and then later the Town Council requested that his office develop guidelines for design, which will be the basis for the extra zoning criteria which was to be considered this zoning season. He indicated there are eight sub items in the Design Guidelines which have been distributed to the Mayor and Council. He stated the only things he would be covering is the Design Guidelines as it relates to the zoning, which pertain to Worth Avenue. He has rearranged the order of some of the items as he felt they inter-related to each other as opposed to the way they are in the Zoning Commission Report. He has Item 1 and Item 6 together as Item 1 relates to the provision for arcades and colonnades in the Worth Avenue District which refers to Section 5.33. He stated his recommendation is arcades and colonnades be allowed providing they meet with the requirements of Section 5.33 and be subject to the Worth Avenue Design Guidelines and be subject to approval by the Architectural Commission.	
Mr. Heeke felt it made sense to handle Items 1 and 6 together.	
Mr. Moore explained the Zoning Commission's recommendation also includes the following wording:	
<u>"Within the C-WA District, arcades or colonnades may be constructed over the sidewalks in the required front yard setback, provided they meet the requirements of Section 5.33 (e)."</u>	
Mr. Adrian Winterfield addressed the Council questioning whether or not this should be handled as a Special Exception, and although the Architectural Commission will fill the same function, he viewed this as an extraordinary departure and it would be appropriate for the Council to consider and approve this before it is submitted to the Architectural Commission. He stated his confusion on the status of the guidelines as it looked to him that it was not the present intention to identify the guidelines more precisely. He stated it was not clear to him to what extent the guidelines are mandatory and to which extent the Architectural Commission maintained its dependence.	
Attorney Randolph understood this would first come to the Council to be determined as to whether or not a Special Exception would be granted. He stated from a staff standpoint, it was decided the review should first come to the Council as there are certain aspects which affect on the neighborhood which should be considered by the Council before a decision is made as to whether or not to grant the benefit. He felt if it was approved by the Town Council, it would then be subject to review by the Architectural Commission, who would report back to the Council as to whether or not it meets the design guidelines and ultimately, the Council would have the final approval as to whether it would move forward.	
Mr. Randolph stated the effect of this is if a person decides to elect to go ahead with the benefits, such as the third story or the Colannades, then these would be more than the guidelines and at that point, they would be required to meet the guidelines in order to take advantage of the benefit.	
Mr. Brisson explained this is not a Special Exception and would not have to come before the Town Council as it is now proposed. Mr. Randolph stated he was grouping all these benefits together. Mr. Brisson stated everything else is listed as a Special Exception but the colonnades and arcades they did not put into that category, however, the Council could put that restriction onto it, if they wished to view, however, it was his belief that it was something that they wished to encourage, with the architectural and safety controls.	
Mayor Marix noted it would go directly to the Architectural Commission to which Mr. Brisson agreed.	
Mr. Weinberg asked if they would be losing walking space on Worth Avenue if the colonnades were installed. Mr. Brisson stated the pillars will occupy a portion of the ten foot sidewalk but it would not interfere	

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with the walking space.

Mayor Marix asked if there would be flower pots allowed in a beautification strip? Mr. Brisson stated it was not incorporated into their recommendation and it would be a separate item. Mr. Zimmerman stated the term "beautification strip" applies to those locations where there is a grass strip between the curb and the sidewalk. Mayor Marix asked what they would be doing about flowers? Mr. Zimmerman responded this does not address flowers. Mayor Marix wondered if it should as they are a very important element of this Town. Mr. Randolph did not believe this matter should be addressing the flower pots. Mr. Moore agreed stating this is an architectural feature of a building. Mayor Marix indicated she doesn't want to close the door on flower pots. Mr. Heeke stated that language is already in the Ordinance. Mr. Brisson stated this does not apply to flower pots. Mayor Marix recalled someone wanted to eliminate flower pots and she wants to protect flower pots and since we are discussing the ten foot walkway, this may be the time we should be considering the flowers, so the flower pots are not ruled out. Mr. Moore explained within the ten foot strip, they are currently prohibited. Mayor Marix stated they have to be legalized as most of the flowers are within that ten feet, and since they are redoing this section, it would be the logical thing to state flower pots are allowed or they are not. Mr. Heeke asked if the Zoning Commission discussed this matter? Mr. Moore responded they did not. Mr. Heeke indicated he would be reluctant to get into this area unless it was addressed by the Zoning Commission.

Mr. Weinberg recalled there are palm trees along Worth Avenue and if they are allowing colonnades, would they have to remove the palm trees? Mr. Moore stated this would be at the discretion of the builder as to whether a tree would remain or would have to be removed. Mr. Brisson introduced Mr. Smith, the senior designer who was responsible for the design guidelines and to answer Mr. Weinberg's question, three feet from the street would accommodate the present locations of the palm trees.

Mr. Ilyinsky moved the recommendation of the Zoning Commission dated Dec. 3, 1990 with regards to Item 1 A be approved. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mr. Winterfield asked if the guidelines allow anything to be done to the top of the arcade and wondered if the guidelines should be attached to the Ordinance as an annex. Mr. Randolph stated they will be referenced and will become a part of the Zoning Ordinance.

ITEM SIX. Mr. Brisson explained this is a referenced item and sets forth the specific details as to the location and dimensions required.

Section 5.33 as recommended by the Zoning Commission reads as follows: (e) Within the C-WA District, arcades or colonnades may be constructed over sidewalks or ways, providing that they shall not protect nearer than three (3) feet to the face of the street curb line, nor more than ten (10) feet from the exterior wall of the building; and provided that no support shall be nearer than three (3) feet to the face of the curb and said installation shall have a minimum of nine (9) feet of vertical clearance.

The design of such arcade or colonnades shall be based upon the "Worth Avenue Design Guidelines" and shall be subject to the review and approval by the Architectural Commission.

Mr. Brisson explained he has submitted a report dated Dec. 24, 1990 and in most instances reflects that which the Zoning Commission recommended, however, there are a few instances where they have recommended differently and the recommendations are not always identical. Mr. Heeke asked Mr. Brisson to point out these differences as they moved through the report.

Mr. Weinberg asked if the space could be used as a terrace or a deck for the second floor? Mr. Moore explained this would have to be by way of a Special Exception as one story is all that is permitted without a Special Exception.

Mr. Randolph suggested if there is any question on this the language could be added that the roof of the colonnade should not be used. Mr. Moore stated it is already in the Ordinance as they cannot have a second floor without a Special Exception.

Mrs. Wiener asked how wide were the sidewalks on Worth Avenue? Mr. Moore stated most of the areas are ten feet. Mrs. Wiener asked if there was a minimum space required? Mr. Smith of Adley indicated that is not addressed in the guidelines, although when ARCOM looks at it and if something is inordinately narrow, they would recommend it be different. Mr. Heeke asked if there could be a phrase added that it should be in the same plane as any existing abutting arcade? Mr. Smith stated they could put a minimum in the guidelines if the Council wished that provision. Mrs. Wiener felt it would also protect ARCOM from getting into an arbitrary situation and she would recommend that.

Mr. Heeke stated he did not want a jagged tooth effect.

Mayor Marix suggested it be put into the Ordinance as to what the size should be. Mrs. Wiener felt it should be put into the Ordinance. Mr. Smith stated the existing colonnades on the west side of Worth Avenue are not evenly spaced. Mr. Moore suggested if they put in a minimum, they should take into account the size of the column and make it six feet. Mr. Heeke believed it should be seven feet.

Mrs. Wiener moved the adoption of Item No. 6, with a modification which sets a minimum of seven feet. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

ITEM 2. Amend Section 4.10 A. Schedule of Lot, Yard and Bulk Regulations by adding a provision allowing a Special Exception for a maximum height of three stories/35' in the C-WA District with a requirement for a minimum of 25% landscaped open space, and with a reference to footnote (20) which was modified to read:

(20) One (1) story with provision for a special exception for two (2) and three stories. See Special Exception provisions in Sections 5.48 relating to allowable height and lot coverage and Sections 6.40 (Special Exception Use) and 9.60 (Site Plan Review).

In addition, the Zoning Commission recommended Section 4.20 A. "Schedule of Lot, Yard and Bulk Regulations" be amended to include a rear yard setback of ten feet for the second and third stories; and that the allowance for a Special Exception for a third story in the C-WA District be subject to a "sunset" condition, providing for its automatic repeal on April 30, 1994 unless the Town Council specifically authorizes its continuation.

Mr. Brisson stated these are items two and four in his recommendation. Mrs. Wiener asked if the sunset provision would automatically come back to the Council in three years? Mr. Moore stated it would first go to the Zoning Commission and then to the Town Council. Mrs. Wiener asked if this was automatic, to which Mr. Moore responded affirmatively.

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Mayor Marix asked if there is a large building with a smaller one next to it and this provision sunsets, would we be in the same position as we were when you have a smaller house with a larger one next to it? Mr. Randolph responded he did not believe so as everyone would be on notice there is a sunset provision.

Mrs. Wiener moved that the Town Council accept the recommendation of the Zoning Commission concerning the changes in Section 4.20 Schedule of Lot, Yard and Bulk Regulations, which is Item 2 of the Zoning Commission's Report of Dec. 3, 1990. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

ITEM IV. Mr. Moore explained the Zoning Commission recommends the approval of the proposal to amend Section 4.20 L under Special Exception Uses in the C-WA District to read:

L (1) One dwelling unit located on the second floor per fifty (50) feet of frontage.

L (2) Dwelling units located on the third floor provided; the second floor is also devoted to residential use as set forth in L (1); and, provided that the combined density of residential uses on the second and third floors does not exceed two (2) dwelling units per sixty (60) feet of frontage on Worth Avenue; and, provided such special allowance is based upon the "Worth Avenue Design Guidelines," and review and approval by the Architectural Commission.

In addition, the Zoning Commission recommended that 4.20 A, Schedule of Lot, Yard and Bulk Regulations be amended to include a rear yard setback of 10' for the second and third stories; and that the allowance for residential uses on the third floor as set forth in L (1) and L (2) be subject to a "sunset" condition, providing for their automatic repeal on April 30, 1994 unless the Town Council specifically authorizes its continuation.

Mr. Winterfield felt when they refer to the frontage, only one dimension, it is assumed that all of the buildings are the same depth and that is not so. He stated if there is going to be such a limitation, he suggested it be made in terms of square feet. Mr. Brisson responded the coverage limitations will take care of that.

Mr. Randolph stated it should be made clear that on each of these items that are passed, the language will be modified so as to incorporate the Design Guidelines as part of the Zoning Ordinance.

Mrs. Wiener felt if they abide by the Guidelines, they all relate to each other and they are allowed to do these things and asked if she was interpreting that correctly to which Mr. Brisson responded affirmatively.

Mrs. Wiener moved for approval of the Zoning Commission's Recommendation of Dec. 3, 1990 with regards to Item IV, amending Section 4.20 (B) Item L (1) L (2) and the sunset provision. Seconded by Mr. Ilyinsky. On roll call the motion carried unanimously.

Motion was made by Mr. Ilyinsky that the Worth Avenue Design Guidelines be incorporated as part of this Zoning Ordinance and as adopted as fully set forth therein. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

ITEM #3. The Zoning Commission recommends approval of the proposal to amend Section 4.20 A. Schedule of Lot, Yard and Bulk Regulations, Footnote (7) which would read:

7. The maximum density for hotels within the C-OPI commercial districts shall be thirty (30).

Mr. Brisson explained this is a housekeeping item. Mr. Weinberg moved for approval of the Zoning Commission's recommendation dated Dec. 3, 1990 with regards to Item 3 to modify Footnote (7) in Section 4.20 A. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

ITEM 5. Mr. Heeke explained this is to add to Section 4.20 B, Schedule of Use Regulations, a new item "N" Outdoor Cafe to the list of Special Exception Uses in the C-WA District. Mr. Brisson indicated this does add to the character of Worth Avenue to allow outdoor cafes. Mr. Winterfield wondered if there should be a definition for outdoor cafes and whether they should be allowed in other commercial districts of the Town. Mr. Heeke felt these were good points and perhaps they could look at this in the next Zoning Season. Mr. Moore reported they have another section in the ordinance which deals with this and this recommendation by the Zoning Commission is to simply list this as a Special Exception Use. Mrs. Wiener moved that the Town Council adopt the Recommendation of the Zoning Commission as contained in their report dated Dec. 3, 1990 regarding Item 5, which concerns putting Outdoor Cafes into the list of Special Exception usages on Worth Avenue. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

ITEM 7. Mr. Heeke explained the Zoning Commission modified the Administration's proposal to amend Section 5.48, Special Exception to Height Regulations; Special Exception Structures: to provide new height and coverage guidelines for two story and three story structures in the C-WA District, by modifying "G" to read:

C-WA District: The following provisions shall be applicable to two-story and three-story construction in the C-WA District:

1. Two story guidelines:

- a. First story coverage not more than thirty-five per cent and second story coverage not more than thirty-five (35) per cent.
- b. First Story coverage not more than fifty (50) per cent and second story coverage not more than thirty-five (35) per cent if designed under the Worth Avenue Guidelines in conformance with Section 6.40 (Q).

2. Three-story guidelines:

First story coverage not more than fifty (50) per cent; second story coverage not more than thirty-five (35) per cent; and third story coverage not more than twenty-five (25) per cent per special allowance under the Worth Avenue Design Guidelines in conformance with Section 6.40 (Q).

In addition, the Zoning Commission recommends Section 4.20 A, Schedule of Lot, Yard and Bulk Regulations, be amended to include a rear yard setback of 10' for the 2nd and 3rd stories; and that the allowance for increased coverage in 1 b and 2 above, be subject to a sunset condition, providing for their automatic repeal on April 30, 1994 unless the Town Council specifically authorizes its continuation.

Mrs. Wiener noted it was not an unanimous vote by the Zoning Commission and wondered what the negative point of view was? Mr. Robert M. Grace, the Chairman of the Zoning Commission, responded the general thinking of the minority members was that it was too dangerous to give anyone the opportunity to increase the number of stories on Worth Avenue beyond what we now have, and while they were sympathetic to the general desire to go back to better architecture, they were skeptical of making a channel effect on Worth Avenue and the top of the Coconut trees or the sun or the moon would not be able to be seen as it can be now.

Mr. Moore advised the sunset provision was not a recommendation by staff and was recommended to address some of the concerns that it may not be a workable regulation. Mayor Marix stated her concern about the canyon effect and wondered if in the meantime, until the sunset time has expired, there could be only a certain percentage of buildings allowed to be three stories, so there could be no canyon effect. Mr. Grace addressed the Council stating if one analyzed the lot coverage requirements and set back requirements, he felt that was enough of a control. Mr. Smith reported if a third story was ever put on in the middle of Worth Avenue, it would have to be set back fifty feet, so it doesn't interfere with the one and two story facades located in that portion of the Avenue, as they are not trying to change the character of Worth Avenue, but encourage what is there now. He indicated it would have to be a significant benefit and have provision of amenities in order to be approved by the Architectural Commission.

Motion was made by Mrs. Wiener to approve the adoption of Item 7, amending Section 5.48, Special Exception to the height regulations in the C-WA District, with the design guidelines as recommended by the Zoning Commission included therein. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

ITEM 8 - Modification to Section 6.40 adding a new paragraph (g) was recommended by the Zoning Commission, as follows, stated Mr. Brisson:

(Q) Special Exceptions in the C-WA District which involve special allowances, pertaining to residential uses, height of coverage, as referenced in Section 5.48 of this Code, shall be based upon the Worth Avenue Design guidelines and subject to review and approval by the Architectural Commission.

The Architectural Commission, in order to grant such approval, must make an affirmative finding that the proposed Special Exception is meritorious to the Town of Palm Beach because of its general appearance and adherence to the "Worth Avenue Design Guidelines" published by Adley, Brisson, Engman, Inc.

Mr. Brisson stated since this deals with Special Exceptions, this sets forth the requirements set forth in Section 5.48 and that they be based on the Worth Avenue guidelines and review and approval of the Architectural Commission.

Mr. Heeke asked if the guidelines were sufficiently identified without the date of publication? Mr. Brisson stated the Zoning Commission did reference the text and they could add the date.

Mr. Winterfield addressed the Council indicating he thought the Council was responsible for granting Special Exceptions and he believed the language raises the question as to whether or not Council on any Special Exception refers the matter to the Architectural Commission for this type of matter, pointing out it is Council and not the Architectural Commission which grants the Special Exception.

Mr. Heeke pointed out the second paragraph stated ARCOM is to make an affirmative decision and then recommends and he didn't believe there was any abrogation of the Town Council's authority here. Mr. Randolph stated perhaps this should be clarified that the approval is not a final approval and the final approval as to the granting of the Special Exception will be done by the Town Council. Mr. Brisson stated perhaps the last line should state review and recommendation by the Architectural Commission and in the final paragraph they could state: The Architectural Commission, in order to make a positive recommendation, must make and then continue on with the wording as printed, as this will take out the approval aspect but still have a positive recommendation.

Mr. Heeke summarized the comments indicating that in the first paragraph of the new wording they would change the word "approval" to "recommendation" and in the second paragraph eliminate "grant such approval" and substitute "make a positive recommendation". Mrs. Wiener noted it goes to Council for the Special Exception grant, then goes to ARCOM, and then comes back to the Council and thought it should be put somewhere that this is the procedure. Mr. Heeke suggested that the wording in the first paragraph also be changed to have "subject to" modified to read: "contingent upon".

Mr. Ilyinsky moved the recommendations for amending Section 6.40 Special Exception Uses be approved as modified. Seconded by Mrs. Wiener. Mr. Heeke noted the modifications would be the addition of the date to the Design Guidelines and in the first paragraph "subject to review and approval" will read "contingent upon review and recommendation" and in the second paragraph, the words "grant such approval" would be changed to "make a positive recommendation".

Item 1 B - Mr. Moore stated the Zoning Commission recommended approval of the Section 6.40 by adding a new paragraph (g) as follows: That 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.

Mayor Marix wondered if Code Enforcement should be added to this. Mr. Moore stated this would be prejudging as Code Enforcement is after the fact. Mayor Marix thought if an additional burden is put on the police and fire, it might also be put on the Code Enforcement people.

Mrs. Wiener asked what they were specifically thinking about to come up with this particular wording and Mr. Weinberg asked for a definition of "greater burden". Mr. Moore advised this was originally proposed by a citizen last year and the matter was studied as originally it would have prohibited any Special Exceptions at all being granted if it was going to increase any burden on Police or Fire and the Zoning Commission felt it was too strict a proposal and asked for it to be restudied and the recommendation as modified by the Zoning Commission. Mrs. Wiener asked for an example. Mr. Moore responded a restaurant would be an example. Mayor Marix thought the restaurant which was requested next to the Post Office would be a good example. Mr. Randolph stated it would be based on whether or not either the Police or Fire Departments would have to have more manpower as a result of a Special Exception being granted. Mr. Moore stated every month before the Special Exceptions or Variances are heard by the Council, they are reviewed with the Police and Fire Departments and this would not be anything new, however, the difference here is that the Council would have to take this into direct consideration in the granting of a Special Exception. Mrs. Wiener felt there was a difference between more usage or making it difficult to provide a service and recalled the staff comments on a Special Exception that was requested by the Villa Plati and it was not because there would be more services required but it would be difficult to provide the services if they were required, so she had a problem with this recommendation.

Mrs. Wiener did not believe the person who proposed this originally would recognize it in this form. Mr. Randolph agreed it was modified beyond the initial intent because staff felt very uncomfortable with the initial recommendation because any application for Special Exception will increase the burden, as would the permitted use, and that is why it was decided to state it would cause no more services than would a Permitted Use.

Mr. Winterfield suggested the language is surplus as it is covered by 6.40 (B). Attorney Randolph did not agree as this language is stronger than what is in the section to which Mr. Winterfield refers.

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Mr. Heeke handed the gavel to Mr. Ilyinsky to chair the meeting and moved that Item 1 B as recommended by the Zoning Commission to amend Section 6.40, Special Exception Uses to add new paragraph (g) be approved. Seconded by Mr. Ilyinsky. On roll call, the motion tied with Mrs. Wiener and Mr. Weinberg voting against the motion and Mr. Ilyinsky and Mr. Heeke voting for the motion. Mayor Marix broke the tie and voted for the motion. Motion carried by vote of 3-2.

ITEM 1 C and 1 D. Mr. Moore explained this was an item submitted the year before and was studied further this year and the Zoning Commission recommended disapproval of the proposal to add a definition for the Use Variance and Dimensional Variance. Motion was made by Mr. Ilyinsky to accept the Zoning Commission's recommendation to not approve this proposal. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

ITEM 2. Mr. Heeke indicated this is a recommendation by the Zoning Commission to amend Section 6.33 "Signs in Commercial Districts" to read as follows and to amend paragraph 6.33 (c) Location to read:

One building identification sign which is installed flat against the main wall of a building may be provided for each building street frontage provided such sign does not exceed twenty (20) square feet in area. Additionally, business signs which are installed flat against the main wall of a building are permitted for each licensed business in a building in accordance with the following regulations:

Amend Section 6.33 (c) to read as follows:

(c) Location. Tenants shall be allowed signs on first floor merchandise display areas, providing that the sign area for each individual display area shall not exceed its proportionage share of the total allowable maximum gross surface area for the building as calculated under (a) above and that the total gross surface area of all signs displayed on the building shall not exceed the maximum for that building as calculated under (a) above.

Mr. Moore explained this language permits upper storage tenants to have signage not to exceed what would be permitted on the first floor, as divided by the total of what would be permitted on the first floor. However, he stated, the signs would have to be installed on the first floor and the landlord would make the allocation. Mr. Ilyinsky moved for approval of the Zoning Commission's Recommendation on Item 2 amending Section 6.33. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

ITEM 3. Mr. Moore explained the Zoning Commission recommended approval of the recommendation as submitted by the Town Administration and modified by the Zoning Commission to amend Section 6.40, Special Exception Uses to read as follows:

(1) For Special Exceptions granted in the C-TS, C-WA, C-PC and C-B Districts, the following requirements in addition to all other applicable requirements as set forth in this Chapter (Ordinance), shall be met:

(1) The proposed use will not attract the principal portions of its customers/clients from off-island locations. The applicant shall submit evidence satisfactory to the Town Council that not less than fifty (50) per cent of the customers of the proposed use will be "town persons";

(2) In the event an owner or tenant of a property previously granted a Special Exception subsequent to the enactment of Ordinance No. 4-80 should be required to obtain a new occupational license from the Town, such new business shall also be subject to approval by the Town Council per the requirements of (L) (1) above.

Mr. Brisson recalled the purpose of this is to allow the Council to review applications for businesses which have been granted Special Exceptions so it can be proven to the Council's satisfaction that they do indeed meet the requirements of Sub Section (L) which relates to Town serving. He indicated he believed this probably should be a new footnote No. 3 under the Special Exception Uses for those Districts and referred to Section 14 of his memorandum which is somewhat different than what the Zoning Commission recommended. He indicated another change has been made subsequent to the Zoning Commission Hearings as when the Town Council considers Special Exceptions in any of these commercial districts, regardless of whether it is for the 2000 feet or for some other use that requires a Special Exception, they have been considering Sub Section L, as this is required in their normal review of the Special Exceptions and that being the case, they have suggested they not limit the reconsideration to just those Special Exceptions for 2000 square feet but to any use and this would assure the Council it is meeting the intent of when the Special Exception was originally approved. Mr. Heeke wondered if this would eliminate the problem of them forgetting, in the event there is a change in occupancy. Mr. Brisson believed it would.

Mr. Moore indicated this would lay out specifically that it must happen, for example, it would state it has to be for this particular property and use only and for this user and this would actually quantify and be specific.

Mr. Winterfield addressed the Council indicating there is one Special Exception Use which would not fall into the Intent of L-1. He noted Public or Private Parking lots almost by definition may be there for other than Town-persons.

Mrs. Wiener felt this was a housekeeping item. Mr. Heeke asked about the renewal and new occupational license, and wondered if language should be added "Other than renewal" in order to get around that. Mr. Moore agreed the intent was for a new license and Mr. Winterfield is technically correct.

Mr. Ilyinsky moved that Item 3 as modified by Mr. Brisson be approved and with the further modification made by Mr. Heeke to add the words "Other than renewal" be adopted. Seconded by Mrs. Wiener.

The new language would read:

(2) in the event an owner or tenant of a property located within the C-TS, C-WA, C-PC or C-B Districts and granted a Special Exception prior to the passage of Ordinance No. 4-80 is required to obtain a new occupational license from the Town, such new use, other than renewal, shall also be subject to the approval by the Town Council per the requirements of (L) (1) above.

On roll call, the motion carried unanimously to approve.

ITEM 4 - Mr. Heeke noted this item was to require private mail boxes to be a Special Exception was

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March 13, 2023

Danielle H. Moore, Mayor
Margaret Zeidman, Council President
Bobby Lindsay Council President Pro-tem
Julie Araskog, Council Member
Lew Crampton, Council Member
Ted Cooney, Council member

360 S. County Road
P.O. Box 2029
Palm Beach, Fl. 33480

Via E-Mail

Dear Ladies and Gentlemen;

I am writing to voice my objection to the Development Review Application for 125 Worth Avenue, ARC-23-022, and ZON-23-032. I reside right next door at the Kirkland House and for myself and other residents who live in the surrounding neighborhoods, the project represents a significant threat to the character of both our neighborhood and Worth Avenue itself.

The Developer's own parking analysis reflects that the project lacks adequate parking. Specifically, the weekday peak demand exceeds the available parking *through all months of the year*, not just during the season. Kimley Horn's traffic analysis projects that the project will generate seven hundred and eighty-seven new external trips, however, that study does reflect the reality of recent growth in our County. We already have serious traffic congestion at the corner of Worth Avenue and South County Road, which is not likely to change. Adding the predicted 787 new external trips to the area will seriously and negatively impact the area, which is our home.

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Sincerely,

C. Duff E. Buckley
5D

Kirkland House

March 13, 2023

Danielle H. Moore, Mayor
Margaret Zeidman, Council President
Bobby Lindsay Council President Pro-tem
Julie Araskog, Council Member
Lew Crampton, Council Member
Ted Cooney, Council member

360 S. County Road
P.O. Box 2029
Palm Beach, Fl. 33480

Via E-Mail

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Sincerely,

Rodric M O'neghia PHA

Kirkland House

March 13, 2023

Danielle H. Moore, Mayor
Margaret Zeidman, Council President
Bobby Lindsay Council President Pro-tem
Julie Araskog, Council Member
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Sincerely,

A handwritten signature in cursive script that reads "Deborah A. Bricker". The signature is written in dark ink and is positioned below the word "Sincerely,".

Kirkland House

March 13, 2023

Danielle H. Moore, Mayor
Margaret Zeidman, Council President
Bobby Lindsay Council President Pro-tem
Julie Araskog, Council Member
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Ted Cooney, Council member

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Kirkland House

March 13, 2023

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Margaret Zeidman, Council President
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Julie Araskog, Council Member
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Sincerely,

Number 3D
Kirkland House

Delphine Daft
Delphine Daft

March 13, 2023

Danielle H. Moore, Mayor
Margaret Zeidman, Council President
Bobby Lindsay Council President Pro-tem
Julie Araskog, Council Member
Lew Crampton, Council Member
Ted Cooney, Council member

360 S. County Road
P.O. Box 2029
Palm Beach, Fl. 33480

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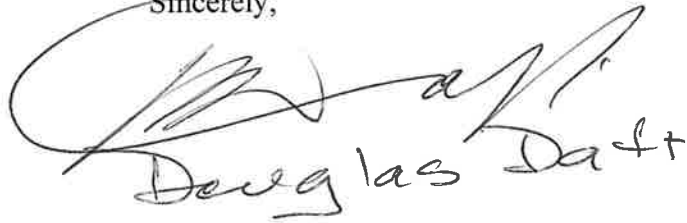
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Sincerely,

A handwritten signature in black ink, appearing to read "Douglas Daff". The signature is fluid and cursive, with a large initial "D" and a stylized "A".

Douglas Daff

Kirkland House 3D

March 13, 2023

Danielle H. Moore, Mayor
Margaret Zeidman, Council President
Bobby Lindsay Council President Pro-tem
Julie Araskog, Council Member
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Sincerely,

Nancy J. Beard - PHC
Erin Beard PHC

Kirkland House

March 13, 2023

Danielle H. Moore, Mayor
Margaret Zeidman, Council President
Bobby Lindsay Council President Pro-tem
Julie Araskog, Council Member
Lew Crampton, Council Member
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360 S. County Road
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Sincerely,

Nancy R. Oelbaum
Apt 5C

Kirkland House

March 13, 2023

Danielle H. Moore, Mayor
Margaret Zeidman, Council President
Bobby Lindsay Council President Pro-tem
Julie Araskog, Council Member
Lew Crampton, Council Member
Ted Cooney, Council member

360 S. County Road
P.O. Box 2029
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Sincerely,

Julien Strauss 25

Kirkland House

March 13, 2023

Danielle H. Moore, Mayor
Margaret Zeidman, Council President
Bobby Lindsay Council President Pro-tem
Julie Araskog, Council Member
Lew Crampton, Council Member
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360 S. County Road
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Sincerely,

John G. Gholson
JB

Kirkland House

Unit 4B

March 13, 2023

Danielle H. Moore, Mayor
Margaret Zeidman, Council President
Bobby Lindsay Council President Pro-tem
Julie Araskog, Council Member
Lew Crampton, Council Member
Ted Cooney, Council member

360 S. County Road
P.O. Box 2029
Palm Beach, Fl. 33480

Via E-Mail

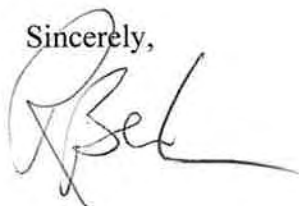
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Kirkland House

March 13, 2023

Danielle H. Moore, Mayor
Margaret Zeidman, Council President
Bobby Lindsay Council President Pro-tem
Julie Araskog, Council Member
Lew Crampton, Council Member
Ted Cooney, Council member

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Sincerely,

A handwritten signature in dark ink, appearing to read "Ted Cooney", followed by a small, stylized mark that looks like the number "21".

Kirkland House

March 13, 2023

Danielle H. Moore, Mayor
Margaret Zeidman, Council President
Bobby Lindsay Council President Pro-tem
Julie Araskog, Council Member
Lew Crampton, Council Member
Ted Cooney, Council member

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Sincerely, 
4C

Kirkland House

March 13, 2023

Danielle H. Moore, Mayor
Margaret Zeidman, Council President
Bobby Lindsay Council President Pro-tem
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Via E-Mail

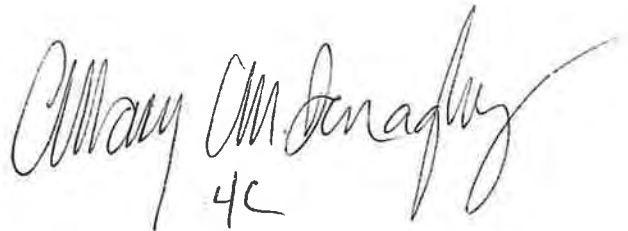
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A handwritten signature in dark ink, appearing to read "Mary M. Senagaly". Below the signature, the letters "4C" are handwritten.

Kirkland House

March 13, 2023

Danielle H. Moore, Mayor
Margaret Zeidman, Council President
Bobby Lindsay Council President Pro-tem
Julie Araskog, Council Member
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Ted Cooney, Council member

360 S. County Road
P.O. Box 2029
Palm Beach, Fl. 33480

Via E-Mail

Dear Ladies and Gentlemen;

I am writing to voice my objection to the Development Review Application for 125 Worth Avenue, ARC-23-022, and ZON-23-032. I reside right next door at the Kirkland House and for myself and other residents who live in the surrounding neighborhoods, the project represents a significant threat to the character of both our neighborhood and Worth Avenue itself.

The Developer's own parking analysis reflects that the project lacks adequate parking. Specifically, the weekday peak demand exceeds the available parking *through all months of the year*, not just during the season. Kimley Horn's traffic analysis projects that the project will generate seven hundred and eighty-seven new external trips, however, that study does reflect the reality of recent growth in our County. We already have serious traffic congestion at the corner of Worth Avenue and South County Road, which is not likely to change. Adding the predicted 787 new external trips to the area will seriously and negatively impact the area, which is our home.

Finally, we note that the application seeks a reduction in off-street loading from three spaces to one. We believe that a single off-street loading berth in a building of this size, with the mixed uses proposed, is both unrealistic and incorrect. The application seeks variances of 21,320 square feet on the ground floor, 22,502 square feet on the second floor, and 21,324 square feet on the third floor. That is a total of 65,146 square feet on the first three floors. Based upon the table located in Town Ordinance section 134-2211, as well as the fact that an additional 11,238 square feet on the new fourth floor, a total of four off-street loading berths are required. Absent such additional parking, deliveries and vendors will attempt to park in the street or circulate around the building – which will mean more commercial traffic and more traffic jams.

Sincerely,


P H D

Kirkland House

March 13, 2023

Danielle H. Moore, Mayor
Margaret Zeidman, Council President
Bobby Lindsay Council President Pro-tem
Julie Araskog, Council Member
Lew Crampton, Council Member
Ted Cooney, Council member

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More specifically, I write to address the three-story vs. four-story issue which I'm sure you have heard so much about. The property in question is denominated a three-story building on the Palm Beach County Property Appraiser's website. Moreover, the Worth Avenue Design Guidelines, which were drafted in 1998, East-End Development Area, specifically states that "The remainder of the block is denominated by the more recently constructed two-story Esplanade shopping mall and a three-story office building across the Avenue." The last phrase is clearly a reference to the project site under consideration. Thus, the Worth Avenue Guidelines make it clear that the building was considered a three-story building when the Guidelines were written.

Finally, I note that the "Special Allowances" contained at page 61 of the Guidelines, in the section devoted to the East End Development area, allow for special exceptions for one-, two- and three-story buildings. The fact that no reference is made to four-story buildings suggests that none existed at the time that the guidelines were drafted. More importantly, the current project exceeds the maximum coverages for special allowances within the guidelines.

Sincerely,



Kirkland House

March 13, 2023

Danielle H. Moore, Mayor
Margaret Zeidman, Council President
Bobby Lindsay Council President Pro-tem
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Sincerely,

A handwritten signature in blue ink, appearing to read "Hank J. Asher". Below the signature, the number "30" is written in blue ink.

Kirkland House

March 13, 2023

Danielle H. Moore, Mayor
Margaret Zeidman, Council President
Bobby Lindsay Council President Pro-tem
Julie Araskog, Council Member
Lew Crampton, Council Member
Ted Cooney, Council member

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P.O. Box 2029
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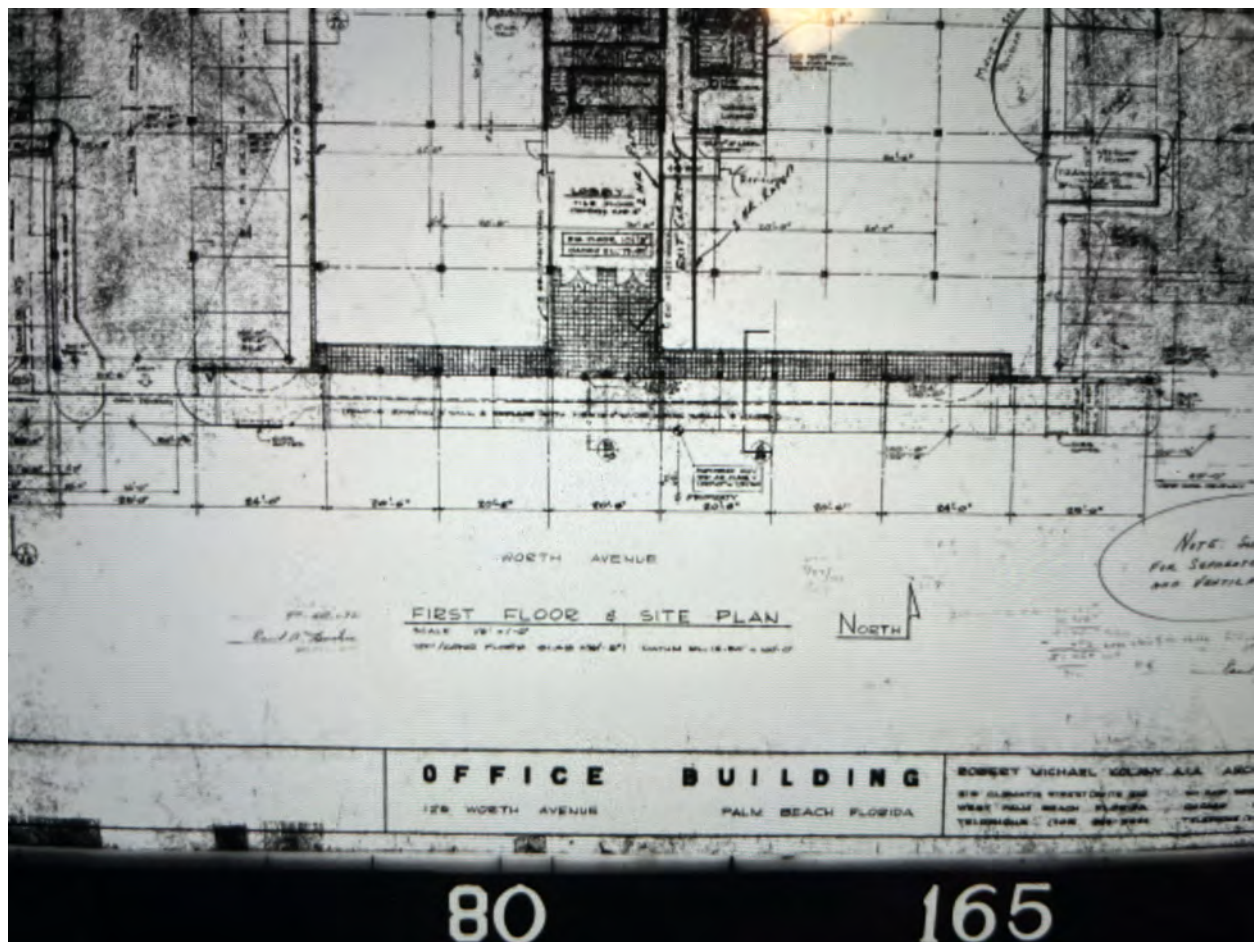
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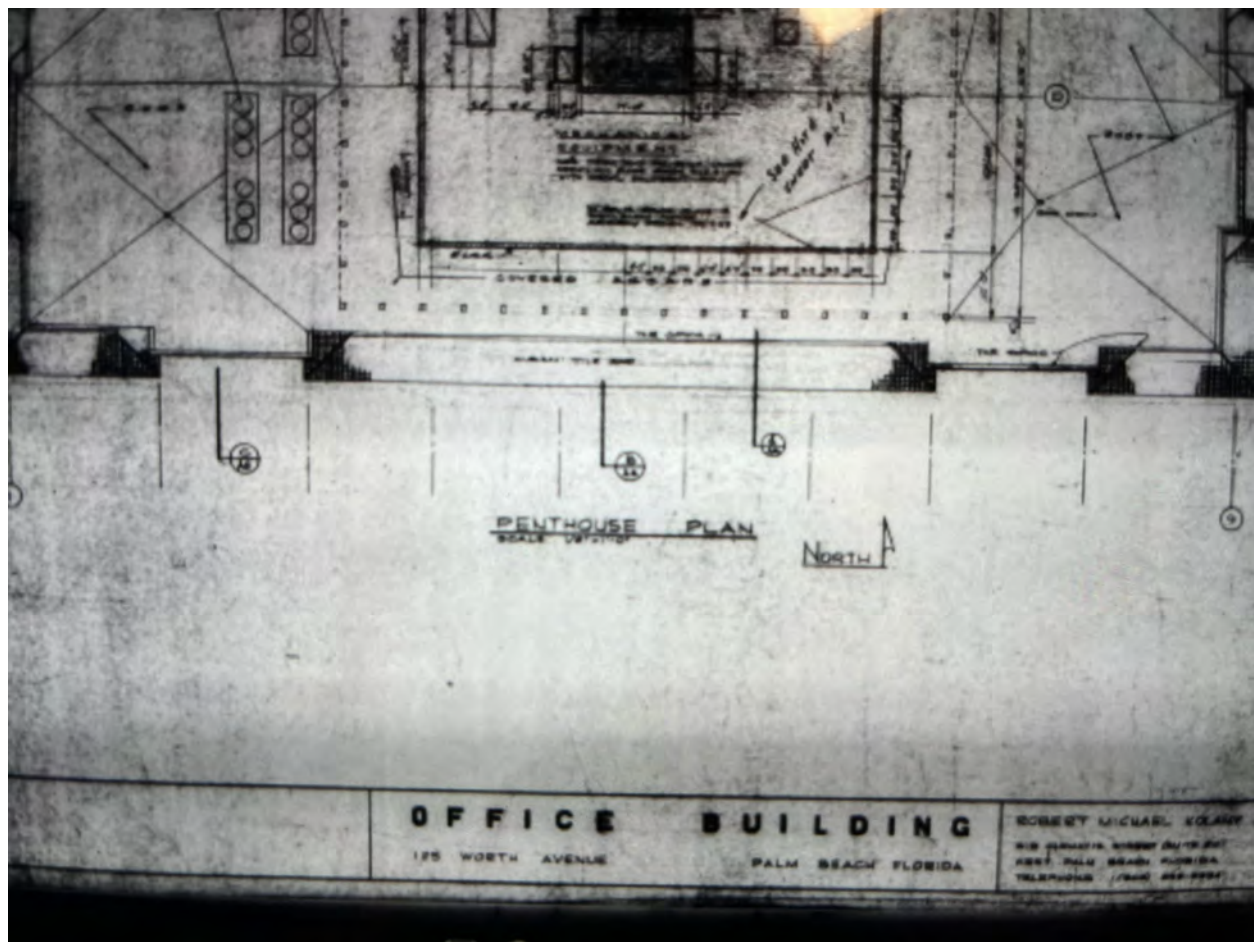
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Sincerely,

The Rev Dr. Barbara W. Jelson
4A

Kirkland House





Roderic M. Oneglia • PHA Kirkland House • 101 Worth Avenue • Palm Beach, FL 33480

TOWN OF PALM BEACH

MAR 06 2023

Town Manager's Office

March 1, 2023

Mayor Danielle Moore
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

REF: Proposed Renovations to **125 Worth Avenue** by Worth Avenue Partners LLC
(The Frisbie Group)

Zoning Application ZON-23-032
ARCOM Application ARC-23-022

Dear Mayor Moore,

We are writing to ask that the Town Council **reject** Zoning Application Zon-23-032 and ARCOM Application ARC-23-022 submitted by 125 Worth Avenue Partners, LLC (The Frisbie Group) for “revitalization, renovation and expansion of a 48 year old nonconforming commercial building at 125 Worth Avenue in Palm Beach” at its meeting on March 15, 2023.

As indicated in their Letter of Intent, in order to achieve this “revitalization, renovation and expansion”, the Frisbie Group is requesting, and requires, two (2) Special Exceptions and ten (10) Variances to various Palm Beach codes. The work itself intends a gross expansion of the building’s square footage and height.

Prior to discussing Special Exceptions and Variances, however, it is our opinion that these Applications should be **rejected out of hand, prior to consideration**, because the Letter of Intent and the Applications themselves are based on information and statements which are incorrect, if not false.

Examples: The Frisbie Group repeatedly states throughout their Applications that the existing building at 125 Worth Avenue is “an **existing four-story** retail/office building”, “this building **already contains four stories**”, “**the grandfathered fourth story**”, “**when this building was constructed in 1973, a fourth story was included**”.

Let's cut to the chase:

The 125 WORTH AVENUE BUILDING IS NOT AN EXISTING OR GRAND-FATHERED FOUR STOREY BUILDING NO MATTER HOW ONE TRIES TO STRETCH IT.

The Palm Beach County Property Record Card provided by the Appraisers Office at 301 North Olive Avenue in West Palm Beach (**Item 1, copy attached**) shows the building as having two (underground) parking level floors, one smaller parking level (several spaces at ground level) and **three** levels of office building. There is no mention of a fourth floor, not even the small structure which covers the mechanical equipment that sits on the **ROOF**.

Further proof that the existing building on 125 Worth Avenue is a three story building is as follows:

1. The Frisbies have been taxed since their purchase of 125 Worth Avenue on a **three story building (Item 2, copy attached)**
2. **SITE HISTORY** for 125 Worth Avenue presented on **page 37 of the Frisbies' own current Application (Item 3 copy attached)** additionally states:

"DATE: 1-JUN-72:

Building Permit issued to George Culverhouse for **3 level office building** with 2 levels of parking and mechanical penthouse."

3. The 125 Worth Avenue Appraisal Report dated December 21, 2022 (merely three months ago), prepared by Aucamp, Dellenback and Whitney and found on page 94 of the Frisbies' own current application (**Item 4, copy attached**) states:

"In 1974 the subject (office property 125 Worth Avenue) was improved with a **three-story** office/bank/retail building containing 53,612 SF gross over a two story underground parking garage containing 63,720 SF. ...The first floor consists of retail/bank uses and the upper floors consist of office uses. The property also has a **small** amount of enclosed space on the 4th floor (**rooftop***) **where the chiller is currently located** consisting of **3037 SF** and is not rentable in "as is" condition."

*It is critical that the words "4th floor" (rooftop) above are specifically qualified as (**rooftop**) because this corroborates the Assessor's report noted above which does

not even mention the mechanical covering because it is **not** a fourth floor.

And, **in addition**, when Jaime of Fairfax, Sammons & Partners (Architects) presented the plans for 125 Worth Avenue to ARCOM on 2-22-23, he specifically referred to the “**rooftop**” and **not** the fourth floor several times. (**PLEASE LISTEN TO THE AUDIO OF THE ARCOM MEETING IN THE TOWN OF PALM BEACH RECORDS!**)

4. The **National Construction Code** defines a floor or storey of a building as “a space between one floor level and the floor level next above”.

The floor level next above the actual third floor of 125 Worth Avenue is the concrete roof deck. Above that there is only sky. Therefore that rooftop is **not** a forth floor. Now, it may be convenient for the Frisbies to attempt to claim the mechanical covering structure as a fourth floor in an attempt to hoodwink the Town Council, but the National Construction Code goes on to specifically state “**technical areas on the topmost stories of buildings which accommodate only service units or equipment (such as heating, ventilating, lift equipment, water tanks etc. are considered to have a low level of occupancy and fire load. Therefore, they are not included when calculating the rise in stories.**”

We would hope that the Town Council **NOT** fall prey to the Frisbies claim, because many buildings in Palm Beach have mechanical equipment and elevator shafts “enclosed” on their roofs and if these are deemed to be “floors”, every single building owner in Town with enclosed mechanical structures or elevator covers would be allowed to claim the right to add an additional floor or multiple floors to their buildings. If so, goodbye Palm Beach as we know it.

5. **Leasing Data at the time the building was built listed the building as a three-floor building.**

Example:

Showcase.com: “This unique **three-story** office and retail building property is located on the most prestigious street in the country. 125 Worth Avenue offers private, independent suites for lease as well as a premier Palm Beach address on the world famous Worth Avenue. ... Building Details: **Stories 3**; Total Building Size 50,017 SF; Type: Office. 1974.

6. A Palm Beach Daily News article (**Item 5, Copy Attached**) at the time of the Frisbie purchase is headlined:

EXCLUSIVE: Frisbie Group pays \$30.7 million for Worth Avenue building and goes on to state:

“The Frisbie family company bought the **three-story**, 50,017 square foot building from Boca Raton-based Crocker Partners...The purchase price means the Frisbie Group paid about \$614 per square foot...”

Let's do a quick calculation: Indeed, \$614 per square foot for a 50,000+/- square foot building is \$30.7 million for a **three-story** building.

But, so as not to make the Town Council go blind reading all this **three-story** data compiled from Town agencies and corroborated by independent sources, let's cut to the chase once again.

When asked at a meeting held at Kirkland House on January 30, 2023 when Rob Frisbie, Cody Crowell and Josh Martin of the Frisbie Group presented one of the Group's ever-changing plans to a room packed with Kirkland House and 400 Building owners, all three of the Frisbie members stated that though 125 Worth Avenue was built as a three story building, “it is now considered by the Town of Palm Beach to be a four story building.” (Ms. Zeidman of the Town Council attended that meeting.) When we asked for proof as to how this decision came about, there was no response.

A group of us from the Kirkland House subsequently met at the Frisbie headquarters on February 16, 2023 and again asked for proof as to how this supposed “change” came about. There was no clear response, though we were told that a Mr. Paul Castro made the decision when he served as Zoning Manager of the Town of Palm Beach. We decided to contact the Town records office to obtain official records of this supposed change in stories.

When Elaine Gunnoe, Kirkland House Manager, mentioned this to Mr. Wayne Bergman, Director of Planning and Zoning for the Town of Palm Beach at the ARCOM meeting on 2-22-23, his response was “Don't waste your time.” He later stated that Mr.

Castro's decision was "verbal".

Nonetheless, following TOWN protocol, the next day, 2-23-23, Ms. Gunnoe did request written documentation of this so-called decision to consider the building a four story building instead of three from Mr. David Donta, Records Clerk, Town of Palm Beach. **(Item 6, copy attached)** which states:

"The Kirkland House heard that Paul Castro, when employed in the Planning, Zoning & Building Department, rendered an opinion about the 125 Worth Avenue building being a four story building. Does a letter exist stating this and could we obtain a copy of the letter?"

Now, first and foremost, isn't it interesting that one man's "verbal" decision might possibly determine what the number of floors are in a Palm Beach building? On Worth Avenue? "The most prestigious street in the country"? But when no actual documentation was provided after a week, a representative from the 400 Building, Mr. Barry Kean, called personally on David Donta, at 360 South County Road to request the same records.

Mr. Kean said that Mr. Donta was "very gracious" but said it would take him some days to find the records requested. In fact, Mr. Donta told Mr. Kean that he would have to wait until Mr. Castro came into the building and that, though Mr. Castro was no longer in Town service, he expected him in the following week.

On March 2, 2023, Ms. Gunnoe finally received a response from Mr. Donta **(Item 7, Copy Attached)** stating:

"I spoke with Paul Castro about the letter. He doesn't recall anything."

Wow! **Our** opinion as taxpaying citizens of Palm Beach? If there are no actual Town documents showing proper legal protocol to change a building's height from three floors to four, there is **NO FOURTH FLOOR**. Period.

7. And one last thought. It is interesting, too, that a

Palm Beach Daily News article dated March 4, 2022 entitled "It's bittersweet: Zoning Manager Paul Castro set to retire from Palm Beach after 27 years (Item 8, Copy Attached)

states: "Castro said his main priority throughout his long tenure with the town was to ensure that redevelopment would remain in character with its goals, which include keeping Palm Beach **small and town-serving**."

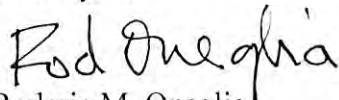
By allowing The Frisbie Group to present Zoning and ARCOM applications requesting two (2) Special Exceptions and ten (10) variances to existing Palm Beach codes by calling the building requiring those exceptions and variances a four-story building when it is in fact a three-story building the Town Council might make Mr. Castro's words "town serving" mean "Frisbie serving". That would be a terrible precedent to set.

The redevelopment the Frisbies propose at 125 Worth requires a gross expansion of footprint and height and is based on the claim that the building is an existing four story building, which it is not.

If the Town Council allows this to proceed it would be an insult to all honest, taxpaying citizens of Palm Beach.

The Town Council must reject these applications without further dithering or face potential, serious legal challenge.

Thank you.


Roderic M. Oneglia

PALM BEACH COUNTY PROPERTY RECORD CARD

TAX YEAR 2022

LOCATION & OWNER INFORMATION

PARCEL ID

50-43-43-23-05-016-0380

NBHD

333501CM

PARCEL ADDR

125 WORTH AVE

LEGAL

ROYAL PARK ADD

LTS 38 TO 48 INC BLK 16



PALM BEACH COUNTY

ENTER INFORMATION		TAX YEAR 2022	
TYPE	DATE	E	AP
IMP	20-NOV-18	31	F 64
INCOME		11-APR-06 11	
AG			

TAX DISTRICT

50411

OWNER

425 WORTH PARTNERS LLC

ADDRESS

439 WORTH AVE

PALM BEACH FL 33480-4519

See next page
for roots

SALES INFORMATION

BOOK	PAGE	DC	QC	S	PRICE	DATE
29440	149	WD	Q	I	30,700,000	26-OCT-17
QC #45 - 75% LEASED ATOS						
17699	1403	WD	QC	I	13,650,000	26-OCT-04
VER.P.B.REVIEW-BLDGS UP FOR BID#22 11/04 VAL. BY DRIVE THRU BID TAK						
07897	0487	WD	QM	I	7,800,000	01-SEP-93

PERMIT INFORMATION

PERMIT #	PERMIT DT	TYPE	WHY	STAT	TAXYR	AMOUNT
B-21-91719	13-JAN-22	P	05	C	2023	3,753
B-21-92013	19-NOV-21	P	05	C	2023	2,886
B-19-81913	21-OCT-19	IP	02	C	2021	32,000
B-19-81675	08-OCT-19	P	05	C	2021	2,400

OBJ INFORMATION

CRD L#	CODE	YRBLT	EFFYB	YRRMD	WDTH	LGTH
1	3	PAV	1974	2002	0	0

1700 PROPERTY USE / OFFICE 1 STORY
LIVING UNITS: 0
TOTAL CARDS: 1

GIS ACRES: .7891
AUTOCAD: Y

GIS INFORMATION

LINE	CAL#	CROP	LUC	ACRES	RATE	CODE	VALUE
------	------	------	-----	-------	------	------	-------

NOTES

AUTOCAD (IN SEC 26) (BB + T BUILDING) (GRD 6: EYB 1995 + 2/14 #64) (REPORTEDLY SOLD WITH 023-0491 FOR \$40,000,000 (INRECORDED) PETN2015-1393 (FOR LEASE 572-9887) PETN2017-3810 PETN2017-3809 (N/C-19 PERMITS ON FILE)

TOTAL PARCEL		VALUE	
TYPE	MASS	OVERIDE	INCOME
MASS	31,291,355		
OVERIDE			
INCOME			
PRIOR YR VAL	25,647,924		
BUILDING	18,094,610		
OBYS	12,564		
LAND	13,184,181		
MARKET	31,291,355		
AG/NON AG LAND			
AG LAND & IMP			
LAND MKT VAL			
TOTAL EBA	49,401		
LB Ratio (value)	0.42		
SOH%			

AREA	UNITS	GD	MODCDE
1,276	1	C	4

RATE	PC	FC	DEP	FUNC	RSN	ECN	RSN	SOH
15.39	A	A	64					

OBV VALUE	VALUE
	12,564.00
	12,564.00

LAND INFORMATION

L#	LUSE	ZONE	AG	AGLND	TP	CDE	AF	EFF	DEPTH
1	1000	C-WA			S	SF			0

TOTAL ACRES

SQ.FT	ACRES	UNITS	RATE	SIZE	NBHD	INF	PCT	SOH	VALUE
34,375	0.79	0	361.83	34,375	1.06	0	0		13,184,181.00
FUTURE LAND USE:									
.7891									13,184,181.00
TOTAL LAND VALUE									
									13,184,181.00

REV: 34 A

Date Run: 21-FEB-23 09:38 AM

papr0d1

Page 1 of 3

PALM BEACH COUNTY PROPERTY RECORD CARD

125 WORTH AVE

TAX YEAR 2022

COMMERCIAL

SUBAREA INFORMATION

LINE	CODE	PCT	SIZE
A 1	692	0	29964
A1 4	692	0	30038
A2 7	692	0	8044
A3 8	500	100	10221
A4 9	500	100	19590
A5 10	500	100	19590
A6 1	FOP		2092
A7 3	UOP		588
A8	UNFINISHED OPEN PORCH		
A9			
A10			
A11			
A12			
A13			
A14			
A15			
A16			
A17			

50.43-43-23-05-016-0381

SKETCH

VECTOR:

TOTAL SQ FT

120127

NOTES:

BLDG 001 OFF BLDG-5STY CORP INVEST
3STY OFF

L#	COD	LENGTH	WIDTH	EL ST	ID	UT	VALUE
1	FOP	2092	X 1		1		56,900
1	UOP	588	X 1		1		14,670
1	EL2	2500	X 250		5		235,060
1	SS1	120073	X 1		1		318,190
1	BET		X 1		2		40,200
1	BE4		X 0		1		25,700

22,066,590 RCN	18,094,610 RCNLD	18,094,610 ADJRCLND	1 TOTAL ID UNIT VALUE
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49,401 EFF BLDG AREA
SQ FT LIVING AREA
49,401 TOTAL EBA

LN	SE	LEVEL	YR	EFF	AREA	EXTER	USE	WA	CN	INT	INT	INT	INT	INT	INT	PHY	FNC	FNC	FNC	ENC	ENC
NO	NO	TO	BLT	YB	SIZE	PERM	NAME	HT	TYPE	FIN	PAR	HT	AC	PLB	LGT	CND	UT	RSN	%GD	RSN	%GD
1	A	B1	1974	1995	29964	770	692- PARKING LEVEL FLOORS	14	27	100	2	0	0	2	2	3	3				
4	B	B2	1974	1995	30038	760	692 PARKING LEVEL FLOORS	14	27	100	2	0	0	2	2	3	3				
7	C	01	1974	1995	8044	463	692 PARKING LEVEL FLOORS	14	00	100	2	0	0	2	2	3	3				
8	D	01	1974	1995	10221	498	500 OFFICES	14	15	100	2	2	2	2	2	3	3				
9	E	02	1974	1995	19590	614	500 OFFICES	14	15	100	2	2	2	2	2	3	3				
10	F	03	1974	1995	19590	614	500 OFFICES	14	15	100	2	2	2	2	2	3	3				

TAX YEAR 2022

THE
2011 CIVICS INFORMATION

LN#	COD	LENGTH	WIDTH	EL ST	ID UT	VALUE
1	BE8	10	X 10		1	13,610
1	STC	534	X 1		1	11,300
1	OHD	6	X 6		1	0

ADJUST FONT SIZE: + - RESET

Select Language ▼

Website Search

**DOROTHY JACKS**

CFA, AAS

Palm Beach County Property Appraiser

We Value What You Value**Real Property**

Search by Owner Name (Last Name first) or Address or PCN

Search

Classic PAPA



MyPAPA



Print This Page



Save as PDF



Print Property Summary



2022 Proposed Notice

Property Detail

Owner Information

Sales Information

Exemption Information

Property Information

Appraisals

Assessed and Taxable Values

Taxes

Full Property Detail

Property Detail*See next pages for floors***Show Full Map**

Location Address

125 WORTH AVE

Municipality

PALM BEACH

Parcel Control Number

50-43-43-23-05-016-0380

Subdivision

ROYAL PARK ADD TO P B
IN

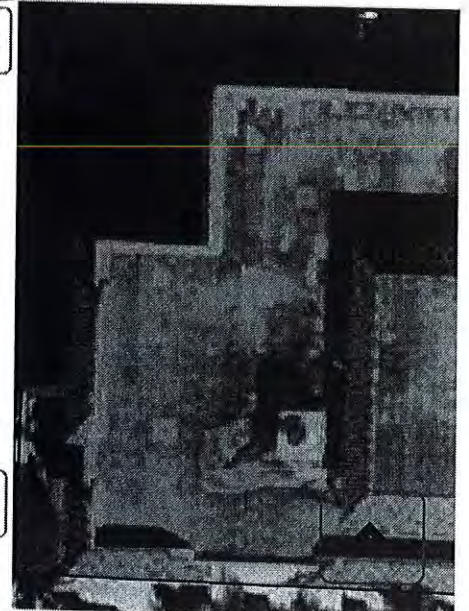
Official Records Book/Page

29440 / 149

Sale Date

OCT-2017

Legal Description

ROYAL PARK ADD LTS 38
TO 48 INC BLK 16**Nearby Sales Search**

Owner Information

[Change of Address](#)

Owner(s)

125 WORTH PARTNERS LLC

Mailing Address

439 WORTH AVE

PALM BEACH FL 33480 4519

Sales Information

Sales Date	Price	OR Book/Page	Sale Type 	Owner
OCT-2017	\$30,700,000	29440 / 00149 	WARRANTY DEED	125 WORTH PARTNERS LLC
OCT-2004	\$13,650,000	17699 / 01403 	WARRANTY DEED	WHALOU PROPERTIES III LLC
SEP-1993	\$7,800,000	07897 / 00487 	WARRANTY DEED	
JUL-1984	\$14,100,000	04299 / 00808 	WARRANTY DEED	
SEP-1982	\$9,000,000	03801 / 01072 	WARRANTY DEED	
JAN-1976	\$2,100,000	02529 / 00211 		

NOTE: Sales do not generally appear in the PAPA database until approximately 1 to 3 weeks after the closing date. If a recent sale does not show up in this list, please allow more time for the sale record to be processed.

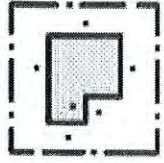
Exemption Information

[Portability Calculator](#)

No Exemption Information Available.

Property Information

[Tangible Account\(s\)](#)

Subarea and Sq. Footage for Building 1		Structural Element for Building 1		Sketch for Building 1
Code Description	Sq. Footage	1. Year Built	1974	 <p>Sorry, no sketch available for this record</p>
PARKING LEVEL FLOORS	0	2. OFFICE H-R	49401	
PARKING LEVEL FLOORS	0	5ST		
PARKING LEVEL FLOORS	0			
OFFICES	10221			
OFFICES	19590			
OFFICES	19590			
Total Square Footage : 49401				
Number of Units	0	View Building Details		
Total Square Feet*	49401			
Acres	0.7891			
Property Use Code	1700 - OFFICE BLDG-NON MEDICAL 1 TO 3 STORIES			
Zoning	C-WA - COMMERCIAL WORTH AVE (50-PALM BEACH)			
* May indicate living area in residential properties.				
Request Structural Details Change				

Appraisals

Tax Year				Show 5 year Show 10 year	
	2022	2021	2020	2019	2018
Improvement Value	\$18,107,174	\$15,588,259	\$15,776,273	\$15,367,268	\$15,123,930
Land Value	\$13,184,181	\$10,059,665	\$9,490,250	\$9,038,219	\$8,774,906
Total Market Value	\$31,291,355	\$25,647,924	\$25,266,523	\$24,405,487	\$23,898,836

All values are as of January 1st each year

Assessed and Taxable Values

Tax Year				Show 5 year Show 10 year	
	2022	2021	2020	2019	2018
Assessed Value	\$28,212,716	\$25,647,924	\$25,266,523	\$24,405,487	\$23,898,836
Exemption Amount	\$0	\$0	\$0	\$0	\$0
Taxable Value	\$28,212,716	\$25,647,924	\$25,266,523	\$24,405,487	\$23,898,836



Taxes

Show 5 year | Show 10 year

Tax Year	2022	2021	2020	2019	2018
Ad Valorem	\$457,229	\$416,140	\$416,744	\$409,461	\$389,479
Non Ad Valorem	\$94,634	\$88,898	\$86,493	\$86,237	\$83,535
Total tax	\$551,863	\$505,038	\$503,237	\$495,698	\$473,014

***Buyers take note:** Taxes will change and often increase substantially when a property sells. The seller's exemption benefits will GO AWAY the year after they sell and this may result in higher taxes for a buyer. Please use the Property Tax Calculator to get a better annual tax estimate if you are purchasing this property.

[Property Tax Calculator](#)

[Property Tax Detail](#)

[Tax Collector](#)



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Disclaimer: The information contained herein is for ad valorem tax assessment purposes only. The Property Appraiser exercises strict auditing procedures to ensure validity of any transaction received and posted by this office, but cannot be responsible for errors or omissions in the information received from external sources. Due to the elapsed time between transactions in the marketplace, and the time that those transactions are received from the public and/or other jurisdictions, some transactions will not be reflected. Information collected at this site, including email addresses, becomes public record and may be subject to inspection and copy by the public unless prohibited by exception or exemption in the law.

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SITE HISTORY

The following provides 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.

DATE	NATURE OF REQUEST / ACTIVITY	PROJECT IDENTIFIER OR NUMBER	COMMENT / NOTES
31-Jan-69	Application filed for building permit		Permit not issued by Town due to pending 'zoning in progress'. At issue was parking requirement of proposed new district (C-WA), which was more stringent than prior district (C-A).
6-Oct-69	Building permit issued to Mathews Corporation to construct a six story & basement parking and office structure; to meet old code parking requirement	Permit No. 74569	Permit indicates 107,800 SF, 65'8" height building
10-Apr-70	Building permit extension issued by Town		To June 1, 1970
19-Apr-72	ARCOM approved New building plans for office building	Application No. 35-72	49,500 SF of floor area and 166 parking spaces
1-Jun-72	Building permit issued to George Culverhouse for 3 level office building with 2 levels of parking and mechanical penthouse	Permit No. 51072	165 required parking spaces. C-A zoning district. Parking rate 1 / 300 square feet of space.
6-Jul-72	Building permit re-issued to Stan E. Hall & Associates	Permit No. 51072	
14-Mar-73	Building permit re-issued to Lawrence J. Kucera	Permit No. 51072	
29-Mar-74	Certificate of Occupancy issued for building, main building only		
14-Jan-75	Request for variance	Variance #37-74	Denied by Town Council
9-Dec-75	Request for variance for permission to add another dentist to existing dentist's practice, on second floor.	Variance # 43-75	Approved by Town Council based on provision of additional parking

4

AUCAMP, DELLENBACK & WHITNEY

APPRAISERS & CONSULTANTS

December 23, 2022

Mr. Jake Leone
Frisbie Group, LLC
221 Royal Poinciana Way, Suite 1
Palm Beach, FL 33480

RE: **Appraisal of Real Property**
Office Property
125 Worth Ave
Palm Beach, Florida 33480
(Appraiser File: 22-2242)

Dear Mr. Leone:

As you requested, we made the necessary investigation and analysis to form an opinion of value for the above referenced real property. This report is an appraisal of the property.

To assist Frisbie Group, LLC in assistance related to business decisions regarding this property, this report provides an estimate of depreciated replacement cost for the subject real property building improvements. No other party may use or rely on this report for any purpose.

This assignment and report have been prepared in accordance with requirements of the relevant aspects of Uniform Standards of Professional Appraisal Practice (USPAP) developed by the Appraisal Standards Board of the Appraisal Foundation, with the Appraisal Institute's Code of Professional Ethics and Standards of Professional Appraisal Practice.

The subject is located along the north side of Worth Ave within the municipality in the Town of Palm Beach, Palm Beach County, Florida. The Worth Ave corridor is a well-established "high-street" luxury retail destination. The site consists of 34,375 square feet (SF), or 0.79 acres.

In 1974, the subject was improved with a **three-story office/bank/retail building containing 53,612 SF gross over a two-story underground parking garage containing 63,720 SF. The total size is 117,332 SF. The first floor of the building consists of retail/bank uses and the upper floors consist of office uses. The property also has a small amount of enclosed space on the 4th floor (rooftop) where the chiller is currently located. This space consists of 3,037 SF and is not rentable in "as is" condition, but is included in our size herein.**

The subject has been renovated in recent years and the **quality** of materials is rated as good, the improvements have been maintained in good condition. The subject is currently 95% occupied by multiple tenants. Notable tenants include BB&T Bank, Truist, and Ferretti Group.

We estimate the property has a remaining economic **life of 35 years**, and the system indicates the property is 31% depreciated.

Palm Beach Daily News

5

Business

EXCLUSIVE: Frisbie Group pays \$30.7 million for Worth Avenue building

By Darrell Hofheinz

Posted Feb 2, 2018 at 12:01 AM

Updated Feb 2, 2018 at 4:37 PM

Fresh from breaking ground on a major mixed-use project on Royal Poinciana Way, the Frisbie Group has expanded its Palm Beach real estate portfolio with a \$30.7 million purchase of an office-and-retail building at the east end of Worth Avenue, the company has announced.

The Frisbie family company bought the three-story, 50,017-square-foot building from Boca Raton-based Crocker Partners, which also managed the building. Crocker Partners sold the property through a Delaware limited liability company named CP 125 Worth Avenue LLC, courthouse records show.

The purchase price means Frisbie Group paid about \$614 per square foot, lower than in several recent real estate sales on the Avenue.

The deed recorded today shows the Frisbie Group bought the property using a Florida limited liability company named 125 Worth Partners LLC. The last sale recorded in property records for the building was for \$13.65 million in 2004.

RELATED: Read more Palm Beach real estate news

The building is 83 percent leased, according to the Frisbie Group. It is anchored on its northeast corner by a showroom for Ferretti Group America, which sells several different brands of yachts, including Italian speedboats manufactured by Ferretti.



Elaine Gunnoe <kirklandhousemanager@gmail.com>

6

records request

3 messages

Elaine Gunnoe <kirklandhousemanager@gmail.com>
To: David Donta <jdonta@townofpalmbeach.com>

Thu, Feb 23, 2023 at 4:03 PM

The Kirkland House heard that Paul Castro, when employed in the Planning, Zoning & Building department, rendered an opinion about the 125 Worth Ave building being a 4 story building. Does a letter exist stating this and could we obtain a copy of the letter?

--
Elaine Gunnoe, Manager
Kirkland House Condominium
101 Worth Ave.
Palm Beach, FL 33480
561-655-9538
Fax 561-833-0307

David Donta <jdonta@townofpalmbeach.com>
To: Elaine Gunnoe <kirklandhousemanager@gmail.com>

Thu, Feb 23, 2023 at 4:31 PM

Elaine,

I created your JustFOIA request.

You should have received an email notification that we have received your request.

When your request is complete, you will receive the final notification email, with a link to the responsive docs.

You can track the progress of your request from the email you received today, [View Request](#).

I do not provide an estimated time of completion for requests, but it will be several days before I complete your request.

Thank you for submitting a request for records.

Your security key is **416644**.

Your request reference number is **PZB-225-2023**.

Please have this security key and reference number available when communicating with our staff regarding your request. If you have supplied an email address, you will receive a confirmation of your submission that contains the above information.

Please note that if you chose not to provide contact information, this reference number should be used when communicating with staff and/or when picking up the records related to this request. Additionally, if no contact information was provided, you must contact the appropriate office to verify receipt of your request, to learn of any applicable fees, and authorize your request to move forward, prior to your request moving forward.

[VIEW REQUEST](#)

Best Regards,

- David Donta
Records/Development Geoprocessor Technician

Town of Palm Beach, PZ&B

360 S County Rd

Palm Beach, FL 33480

Phone: 561.227.6403

Fax: 561.835.4621

E-Mail: jdonta@townofpalmbeach.com

www.townofpalmbeach.com

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Town of Palm Beach officials and employees regarding public business are public records available to the public and media upon request. Under Florida law e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone: 561-838-5431 or in writing: 360 S. County Rd, Palm Beach, FL, 33480. If you have received this message in error, please notify us immediately by replying to this message, and please delete it from your computer. Thank you.

From: Elaine Gunnoe <kirklandhousemanager@gmail.com>

Sent: Thursday, February 23, 2023 4:03 PM

To: David Donta <jdonta@townofpalmbeach.com>

Subject: records request

*****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.*****

[Quoted text hidden]

Please be advised that under Florida law, e-mails and e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact the Town of Palm Beach by phone at (561) 838-5400, or in writing: 360 S. County RD, Palm Beach, FL 33480.

David Donta <jdonta@townofpalmbeach.com>

To: Elaine Gunnoe <kirklandhousemanager@gmail.com>

Thu, Mar 2, 2023 at 10:14 AM

Good morning,

I spoke with Paul Castro about the letter.

He doesn't recall anything.

If you want to submit a Records request, you can follow the info below.

Also, it is possible that something was said in a Development Review meeting, Council meeting, which you would have to look at minutes online.

For all requests, please submit a request through JustFOIA.

Please be specific in your description of requested documents.

When you fill out the request, I do not need your name, but a phone number is nice in case something goes wrong with the email address.

I do not provide an estimated time of completion for requests.

<https://palmbeachfl.justfoia.com/Forms/Launch/ffc09780-cc05-46b1-80a8-4b90a727b510>

After you submit the request, you will receive an email with a security number & request number. Please keep track of this email and information.

When your request is complete, you will receive an email notifying you with a link for you to download your responsive docs.

LOCAL

'It's bittersweet': Zoning Manager Paul Castro set to retire from Palm Beach after 27 years



Jodie Wagner

Palm Beach Daily News

Published 7:00 a.m. ET March 4, 2022

Two days after undergoing knee surgery last month, Paul Castro was back in his office at Town Hall in Palm Beach.

Though the town's longtime zoning manager could have worked remotely while recuperating, he opted to return to the office, not wanting to miss the last few weeks of sharing a work space with his colleagues before his scheduled retirement on March 11.

"I love working here," said Castro, a Lake Park resident who has spent 27 years with the town. "The people have all been great. I've had great bosses over the years. It's been a really great place to work. The council has been very supportive, and we work well as a team."

More: 'Lasting impact': Town clerk retires after 40 years in public service

Castro, who turns 65 on March 12, has 33 years of experience in municipal government, having served on city staffs in Coral Springs and Greenacres before arriving in Palm Beach in 1995.

An Oklahoma native who holds bachelor's and master's degrees from the University of Oklahoma in Norman, he moved to Florida in the late 1980s to pursue a career in city planning.

"I wanted to go somewhere where planning was at the forefront, and at that time growth management in Florida was really good," said Castro, whose master's is in regional city planning. "Coral Springs was an up-and-coming city at that time, and it was also undeveloped. I really kind of sunk my teeth in there for four years before I came to Palm Beach County."

More: 'A strong leader': Kirk Blouin reappointed as Palm Beach town manager

Castro served a few years with the City of Greenacres before he was hired in Palm Beach.

The differences between the town and the two other municipalities he served were stark, he said, particularly with Coral Springs.

The Broward County city, he noted, was composed mostly of new development when he worked there.

Palm Beach, on the other hand, is all redevelopment, Castro said. During his time with the town, redeveloped properties have become much bigger and more extensive than the ones they were replacing.

"It's different than anywhere else," Castro said of Palm Beach. "You're not putting up fences and sheds. It's quite an experience. I love the challenge, and I love the work."

Castro said his main priority throughout his long tenure with the town was to ensure that redevelopment would remain in character with its goals, which include keeping Palm Beach small and town-serving.

Reviewing and reforming the town's zoning code will be key to achieving those goals in the future, he said.

Incoming manager

That process began under Castro and will continue under the town's incoming zoning manager, Jesse Anderson.

A former senior planner for the City of St. Cloud, Anderson will start with the town on Monday.

"The town's zoning code has been around since 1974, and it's been modified and tweaked every year since," Castro said. "It's kind of a hodgepodge code of ordinances. I think the goal of the department and the management is to streamline the code, make it more relevant, and make sure that whatever code we do come up with kind of emulates the character of the town and what we all love most about it. Residents don't want to lose the character and feel of the town."

During his career with the town, Castro has been involved with the development and redevelopment of numerous properties, among the Publix, the Town Marina, the Phipps



400 ASSOCIATION, INC

400 S. Ocean Blvd., Palm Beach, Florida 33480
Tel: 561-655-5470

RECEIVED

MAR 06 2023

**TOWN OF PALM BEACH
PZB DEPARTMENT**

March 3, 2023

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

To Whom It May Concern,

We, the undersigned, request the Palm Beach Town Council REJECT Zoning Application ZON-23-032 and ARCOM Application ARC-23-022 submitted by 125 Worth Avenue Partners for "revitalization, renovation, and expansion of a 48-year-old nonconforming commercial building at 125 Worth Avenue" at the Town Council's March 15, 2023 meeting.

As indicated in the developer's Letter of Intent, they are requesting two (2) Special Exceptions and ten (10) Variances to the Town of Palm Beach Code. In addition, the developer intends to increase the building's current office square footage of 49,401 to over 76,000 square feet....an increase of approximately 53%!

Rather than specifically addressing the Special Exceptions and Variances, we feel these applications should be totally rejected because some of the information and details stated in the applications are incorrect, if not completely false!!

First and foremost, the applications continually refer to 125 Worth Avenue as "an existing four-story building," a building that "already contains four stories," "when this building was constructed in 1973, a fourth story was included" and it is a "grandfathered fourth story"!!

All aforementioned statements made by the developer are TOTALLY FALSE...as evidenced by the attached PALM BEACH COUNTY PROPERTY APPRAISAL REPORT showing that 125 Worth Avenue is a 3 STORY NON MEDICAL BUILDING with a total office square footage of 49,401.

Also, the developer has been paying real estate taxes since 2017 based on a 3-STORY BUILDING!!!!

What the developers are really requesting is ADDING A 4TH STORY TO AN EXISTING 3-STORY BUILDING!

The Palm Beach Zoning Department claims that a "determination was made by a former department head that a 4th story does exist" at 125 Worth Avenue. However, no legal document has been presented or is on file proving that, indeed 125 Worth Avenue is a 4 story building.

For the reasons stated above, we ask the Palm Beach Town Council to reject both applications for 125 Worth Avenue.

Thank you.

<u>Signatures</u>	<u>Unit Number</u>
By Worth	109
Penny Van	109
Katny Argonbright	217
Frank Argonbright	217
Keith M.H.	406
Mike GIBBONS	211
Natalie Bray	404
Elizabeth G. Bail	407
Ann True	411
Jan Salord	PHA
Barbara Price	401
Patsy Williamson	105
Pamela Aycock	110



400 ASSOCIATION, INC

400 S. Ocean Blvd., Palm Beach, Florida 33480
Tel: 561-655-5470

Signatures

David Müssner

Dany Miller

H. Allen

Merwin Thilist

A. R. Rantholee

Mark Dlesner

Lannis Clift

ATG

Unit number

108

414 / 413

107

110

104

419

205 / 206

101

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Thank you.

Signatures

Unit Number

2.2.2023 |



419



400 ASSOCIATION, INC

400 S. Ocean Blvd., Palm Beach, Florida 33480
Tel: 561-655-5470

March 3, 2023

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

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Owner(s)

125 WORTH PARTNERS LLC

Mailing Address

439 WORTH AVE

PALM BEACH FL 33480 4519

Sales Information


Sales Date	Price	OR Book/Page	Sale Type	Owner
OCT-2017	\$30,700,000	29440 / 00149	WARRANTY DEED	125 WORTH PARTNERS LLC
OCT-2004	\$13,650,000	17699 / 01403	WARRANTY DEED	WHALOU PROPERTIES III LLC
SEP-1993	\$7,800,000	07897 / 00487	WARRANTY DEED	
JUL-1984	\$14,100,000	04299 / 00808	WARRANTY DEED	
SEP-1982	\$9,000,000	03801 / 01072	WARRANTY DEED	
JAN-1976	\$2,100,000	02529 / 00211		

NOTE: Sales do not generally appear in the PAPA database until approximately 1 to 3 weeks after the closing date. If a recent sale does not show up in this list, please allow more time for the sale record to be processed.

Exemption Information
[Portability Calculator](#)

No Exemption Information Available.

Property Information
[Tangible Account\(s\)](#)

Subarea and Sq. Footage for Building 1		Structural Element for Building 1	Sketch for Building 1
Code Description	Sq. Footage		
PARKING LEVEL FLOORS	0	1. Year Built 1974	 <p>Sorry, no sketch available for this record</p>
PARKING LEVEL FLOORS	0	2. OFFICE H-R 49401	
PARKING LEVEL FLOORS	0	5ST	
OFFICES	10221		
OFFICES	19590		
OFFICES	19590		
Total Square Footage : 49401			
Number of Units 0	View Building Details		
Total Square Feet*	49401		
Acres	0.7891		
Property Use Code	1700 - OFFICE BLDG-NON MEDICAL 1 TO 3 STORIES		
Zoning	C-WA - COMMERCIAL WORTH AVE (50-PALM BEACH)		

**DOROTHY JACKS**

CFA, AAS

Palm Beach County Property Appraiser

We Value What You Value**Real Property**

Search by Owner Name (Last Name first) or Address

Search

Classic PAPA MyPAPA Print This Page Save as PDF Print Property Summary 2022 Proposed Notice

Property Detail • Owner Information • Sales Information • Exemption Information • Property Information • Appraisals

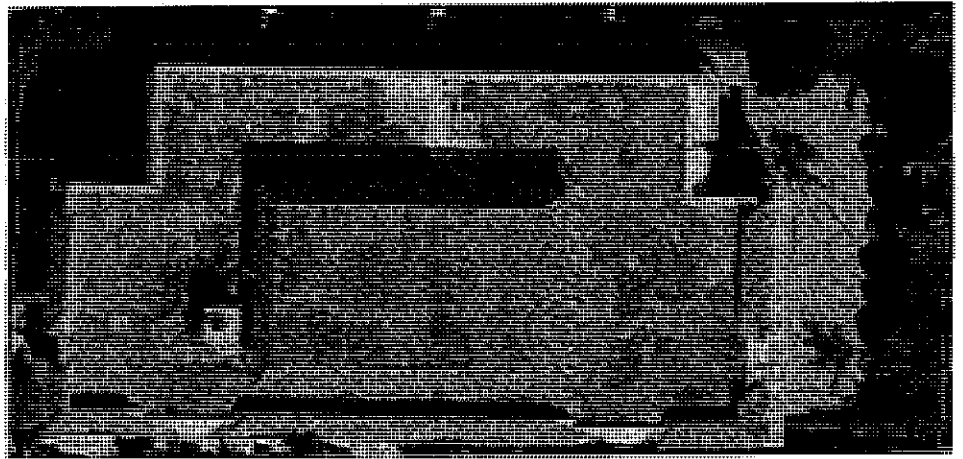
• Assessed and Taxable Values • Taxes

Full Property Detail

Property Detail

[Show Full Map](#)

Location 125
Address WORTH
AVE
Municipality PALM
BEACH
Parcel 50-43-
Control 43-23-
Number 05-016-
0380
Subdivision ROYAL
PARK
ADD
TO P B
IN
Official
Records 29440
Book/Page / 149
Sale Date OCT-
2017
ROYAL
PARK
ADD
Legal
Description LTS 38
TO 48
INC
BLK 16

[Nearby Sales Search](#)

Owner Information

[Change of Address](#)



400 ASSOCIATION, INC

400 S. Ocean Blvd., Palm Beach, Florida 33480
Tel: 561-655-5470

Signatures

David Missner

Jerry Walker

H. Olsen

Mark Thilist

J. Rantthofer

Mark Dlesner

Laurie Schiff

H. Kertess

Unit number

108 D. Missner

414 / 413 G. Milner

107 H. Olsen

110 M. Thilist

104 J. Rantthofer

419 M. Lerner

205/206 L. SLIFKA

101 H. KERTESS

Also, the developer has been paying real estate taxes since 2017 based on a 3-STORY BUILDING!!!!

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For the reasons stated above, we ask the Palm Beach Town Council to reject both applications for 125 Worth Avenue.

Thank you.

Signatures

Harry T. Gardner

Unit Number

403N N. GARDNER

BUILDING!!!!

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The Palm Beach Zoning Department claims that a "determination was made by a former department head that a 4th story does exist" at 125 Worth Avenue. However, no legal document has been presented or is on file proving that, indeed 125 Worth Avenue is a 4 story building.

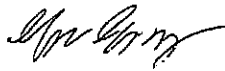
For the reasons stated above, we ask the Palm Beach Town Council to reject both applications for 125 Worth Avenue.

Thank you.

Signatures

Unit Number

2.2.2023 |



419

J. VERWER

BUILDING!!!!

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Thank you.

Signatures

Ray Lucchetti
Penny Van
Kathy Argentbright
Frank Argentbright
Keith M.M.
Mike GIBBONS
Natalie Bray
Elizabeth G. Baird
Jan Spode
Barbara Price
Patsy Williamson
Ranella Aycock

Unit Number

109 Ray Lucchetti
109 BARRY KEAN
217 K. ARGENTBRIGHT
217 F "
406 J. SWAN
211 M. GIBBONS
404 N. PRAY
407 E. BAIRD
411 A. FREE
PHA
401 B. PRICE
105 P. WILLIAMSON
110 P. AYCOCK

TOWN OF PALM BEACH

MAR 01 2023

Town Manager's Office

Dear council Members

My husband and I have lived in the Kirkland House for 12 years.

We have attended all the meetings here in our building with the Frisbee group pertaining to the many changes that they want to make to the 1125 bldg. which is adjacent to our front driveway.

One of the things they want is to add another floor to the 3 story bldg. They claim they cannot make any money unless they remodel and expand the roof of the bldg. by making it a 4 story bldg.

We think that if that happens every one in town will want to put another floor on their roof. !!!

This is a commercial bldg. surrounded by residences -the Kirkland House , the Winthrop House, and the 400 Bldg. as well as all the residences on Peruvian.

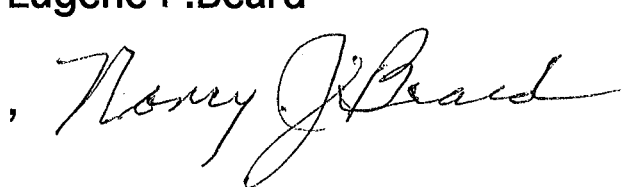

We don't want any restaurants nor do we want an expansion of the roof.!!

Dealing with all the traffic we have now, how will it be if we have a restaurant on this block???Think about that!!

Please give this your complete consideration.

Nancy J.Beard

Eugene P.Beard

,  

From: [Kelly Churney](#)
To: [Antonette Fabrizi](#)
Subject: FW: Please forward to ARCOM Members - Opposition to 125 Worth Avenue Expansion Plans
Date: Wednesday, March 08, 2023 10:59:59 AM

Kelly Churney
Acting Town Clerk

Town of Palm Beach
360 S. County Rd.
Palm Beach, FL 33480
561-838-5416
www.townofpalmbeach.com

From: Debbie Bricker <dbricker@brickerpartners.com>
Sent: Wednesday, March 8, 2023 8:48 AM
To: Kelly Churney <KChurney@TownofPalmBeach.com>
Subject: Please forward to ARCOM Members - Opposition to 125 Worth Avenue Expansion Plans

*****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,

I am strongly encouraging you to deny the currently proposed expansion of the 125 Worth Avenue commercial building. Specifically, The Frisbie Group is proposing to expand what is documented on town tax documents as a three-story structure to four stories. Additionally, they will not provide any legal protection that they or any future owners can never pursue any entertainment venue in the building (I.e., restaurant, bar, coffee house).

Our island has always maintained a graceful evolution to retain its quality of life and small-town character. That's why commercial and multi-use buildings are one or two stories with an occasional 3rd story But not 4! Granting a four-story commercial building on iconic Worth Avenue would be setting a dangerous precedent.

I own a unit in Kirkland House, a luxurious boutique building where I never thought my peaceful enjoyment would be challenged. I am very concerned that the owners of 125 Worth will eventually pursue an entertainment venue on their property that will negatively impact the peacefulness of my home and negatively impact my real estate value. I believe it's important to note that Kirkland House floor plans provide that ALL 20 residences have their master bedrooms on the west side of the building next to the 125 Worth Avenue building making us very susceptible to unwanted traffic, noise, lights, and odors.

Yes, the Frisbie's are our neighbors. However, 125 Worth is not their home, but rather a business venture. I believe the Frisbie Group has a right to have a good return on their investment, but not untamed greed at the cost of the character of the town and the quiet enjoyment of residents with protection on their personal real estate investments.

Sincerely,

Deborah Bricker
Kirkland House
Apartment 2B

Gonzalo Diaz
Maria Diaz
400 South Ocean Blvd #221
Palm Beach, FL 33480

March 3, 2023

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

To Whom It May Concern,

We, the undersigned, request the Palm Beach Town Council REJECT Zoning Application ZON-23-032 and ARCOM Application ARC-23-022 submitted by 125 Worth Avenue Partners for "revitalization, renovation, and expansion of a 48-year-old nonconforming commercial building at 125 Worth Avenue" at the Town Council's March 15, 2023 meeting.

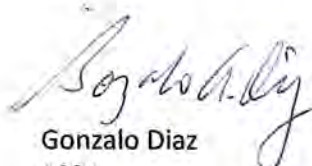
As indicated in the developer's Letter of Intent, they are requesting two (2) Special Exceptions and ten (10) Variances to the Town of Palm Beach Code. In addition, the developer intends to increase the building's current office square footage of 49,401 to over 76,000 square feet....an increase of approximately 53%!

Rather than specifically addressing the Special Exceptions and Variances, we feel these applications should be totally rejected because some of the information and details stated in the applications are incorrect, if not completely false!!

First and foremost, the applications continually refer to 125 Worth Avenue as "an existing four-story building," a building that "already contains four stories," "when this building was constructed in 1973, a fourth story was included" and it is a "grandfathered fourth story"!!

There are other problems with the application. Please reject this application. If you need to contact me, please contact me at the email address.

Sincerely


Gonzalo Diaz
#221


Maria Diaz

February 5, 2023

Mayor & Members of Town Council
Members of ARCOM
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

**RE: 125 WORTH AVENUE REVITALIZATION PLANS: ZONING/ARCOM APPLICATION ARC 23-022
& ZON 23-032**

Mayor & Members of Town Council and Members of ARCOM:

Our team hopes this letter finds each of you safe and well. We are extremely grateful for your time, dedication, and service in making the Town of Palm Beach a fabulous place to live and work. Our team has reviewed Frisbie Group's most recent plans for 125 Worth Avenue in great detail. Following our review, we find the proposed revitalization plans are consistent with the Town of Palm Beach's Comprehensive Plan, Land Use Regulations, and the Worth Avenue Design Guidelines as follows:

1. Maintain the character of the Town as a predominantly residential community having only the type and amount of businesses and other support services necessary to meet the needs of Town residents (*Town of Palm Beach Comprehensive Plan Objective 2*);
2. The plan for the proposed building or structure is in conformity with good taste and design and in general contributes to the image of the town as a place of beauty, spaciousness, balance, taste, fitness, charm and high quality (*Town of Palm Beach Municipal Code Section 18-205*);
3. The proposed building or structure is not, in its exterior design and appearance, of inferior quality such as to cause the nature of the local environment to materially depreciate in appearance and value (*Town of Palm Beach Municipal Code Section 18-205*);
4. To encourage the remodeling/rehabilitation of incompatible buildings and storefronts in the area, including the provision of multiple storefront entrances, and unification of display windows, awnings, colors, materials, and signage (*Worth Avenue Design Guidelines: Urban Design Objectives for the East-End Development Area*); and
5. To encourage new development and remodeling to use Mediterranean-Revival, Neo-Classical architectural styles or other updated variants (*Worth Avenue Design Guidelines: Urban Design Objectives for the East-End Development Area*).

As a property owner located on the east end of Worth Avenue, we happily welcome the revitalization of the 125 Worth Avenue building located across the street from us. We believe the proposed changes are designed and located in a well thought out manner and will positively impact our town without negatively impacting adjacent property owners. We strongly urge you to fully support the proposed revitalization of 125 Worth Avenue as it will enhance, beautify, and protect the 100 Block of Worth Avenue. Thank you for your time in this matter and for continuing to protect Palm Beach.

Respectfully,



Shawn Fagan
Authorized Signatory of 151 Worth, LLC

Douglas and Delphine Daft
101 Worth Ave 3D
Palm Beach, FL 33480
March 1, 2023

Mayor Danielle H. Moore
Town Council Members
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

REF: Proposed Renovation to 125 Worth Avenue

Dear Mayor Moore and Town Council Members,

We are the owners and residents of Apartment 3D, Kirkland House, 101 Worth Avenue, Palm Beach. We have lived in Palm Beach as permanent Florida residents for 12 years. We are writing to express our deep concern and objections to the application submitted by 125 Worth Avenue Partners LLC (The Frisbie Group) requesting approval for multiple “variances” to the building at 125 Worth Avenue.

Variances are granted for the reasons of hardship. The major gross expansion of the building’s leasable square footage and addition of a fourth story to an existing, non-conforming 3 story building to the major financial benefit for the developer is an affront to the Worth Avenue guidelines and the concept of “variances for hardship”.

The 125 building is a 3 story office and retail structure with only utilities on the roof of the third story plus some decorative surrounds on the third floor roof line. The 125 building is described in several formal “historical” documents as a “3 story building”. In fact, on page 34 of an earlier submission by the developer (June 2021) states – “and a 3 story professional office building (125 Worth Avenue) on the northern side of the block”.

As homeowners and residents of the abutting Kirkland House we are obviously opposed to the addition of a fourth floor. Furthermore, approving a “hardship variance” to allow an additional floor to replace a utility roof area (that has never been leasable space) could conceivably set a precedent for any building (residential, office or retail) in Palm Beach in general and Worth Avenue in particular.

We believe that the 125 developers have in the past considered including a restaurant. Although approval of a restaurant would require a “special exception” under the code, we are not interested in battling our neighbors for the foreseeable future. Obviously a restaurant (or any entertainment facility) would present issues with noise, smells, car stacking for valet etc. etc. in a building bound on 3 sides by residences.

We would therefor respectfully request that the Town Council permanently ban any restaurant, bar or entertainment venue anywhere in the 125 building.

The developer is proposing a major increase in leasable space yet a substantial reduction in the number of available parking spaces. This does seem contradictory to the current parking issues in Palm Beach in general and Worth Avenue in particular.

The major expansion proposed for the 125 building will, we understand, take at least 30 months requiring literally thousands of truck trips and massive noise (jack hammering etc.). The negative impact to the busy traffic entrance to Worth Avenue, the dangers to the pedestrian area around the Clock Tower and to the surrounding residences is obvious. One can only hope that at least all construction activity is forbidden during the so called "season".

The proposed expansion of the existing 3 story 125 building is troubling on many levels. Several iterations of the original plans have been circulated by the Frisbie Group but none of these address the egregious elements of the original design.

The Town of Palm Beach is unique and we consider ourselves fortunate to live here. The development of the 125 building as proposed will have a negative impact on the quality of our life in Palm Beach and the value of our home.

Thank you for taking the time to consider the concerns and issues we have raised.

Sincerely,

A handwritten signature in black ink, appearing to read 'Douglas Daft', written in a cursive style.

Douglas and Delphine Daft

A handwritten signature in black ink, appearing to read 'Delphine Daft', written in a cursive style.

From: [Marc Himmelstein](#)
To: [Antonette Fabrizi](#)
Subject: 125 worth
Date: Monday, March 06, 2023 4:51:43 PM

*****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.*****

Please accept the email opposing the petition to gain certain variances

One is to eliminate 120 parking places

To grant this variance is to make a mockery of the reported \$330,000 plus contract to study parking and traffic in our fabulous town

Just say no

Sent from my iPhone

From: [Kelly Churney](#)
To: [Antonette Fabrizi](#)
Subject: FW: 4 stories on Worth Avenue
Date: Monday, March 06, 2023 9:27:52 AM

In case this was not sent to you.

Thanks,

Kelly Churney
Acting Town Clerk

Town of Palm Beach
360 S. County Rd.
Palm Beach, FL 33480
561-838-5416
www.townofpalmbeach.com

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

From: Deborah Jones <djones@TownOfPalmBeach.com> On Behalf Of Town Council
Sent: Monday, March 6, 2023 9:06 AM
To: Danielle Hickox Moore <DMoore@TownofPalmBeach.com>; Danielle Moore
<daniellemoorepb@gmail.com>; Margaret Zeidman <MZeidman@TownofPalmBeach.com>; heron1107@aol.com;
Bobbie Lindsay <bobbie.lindsay@icloud.com>; Bobbie Lindsay <BLindsay@TownofPalmBeach.com>;
Councilwoman Julie Araskog <juliearaskogtowncouncil@gmail.com>; Julie Araskog <juliearaskog@aol.com>;
Julie Araskog <jaraskog@TownOfPalmBeach.com>; Lew Crampton <lewcrampton@gmail.com>; Lew Crampton
<lcrampton@TownOfPalmBeach.com>; Ted Cooney <tcooney@TownOfPalmBeach.com>; Kirk Blouin
<KBlouin@TownofPalmBeach.com>; Bob Miracle <rmiracle@TownOfPalmBeach.com>; Carolyn Stone
<cstone@TownOfPalmBeach.com>
Subject: FW: 4 stories on Worth Avenue

Hello Mayor and Town Council Members,

Please see the letter below.

Thank you,
Deb

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

From: Mikell Howington <mahowington@gmail.com>
Sent: Saturday, March 04, 2023 11:51 AM
To: Town Council <TCouncil@TownofPalmBeach.com>
Subject: 4 stories on Worth Avenue

*****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,

Please do not allow the construction of any four story buildings on Worth Avenue. I feel it would be unattractive and lessen the overall appeal of one of the main features of our island. I love to take my guests to Worth Avenue and they are always amazed by the beauty and mystique. Also please do not allow any parking meters there for the same reasons.

Thank you,
Mikell Howington

From: [Barry Kean](#)
To: [Antonette Fabrizi](#)
Subject: 125 Worth Avenue
Date: Thursday, March 02, 2023 7:19:15 PM

*****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
Palm Beach Town Council
360 South County Road
Palm Beach, FL 33480

March 2, 2023

To Whom It May Concern,

We request the Palm Beach Town Council REJECT Zoning Application ZON-23-032 and ARCOM Application ARC-23-022 because some of the information and details stated in the applications are incorrect, if not completely false!

As an example, the applications continually refer to 125 Worth Avenue as “an existing four-story building” a building that “already contains four stories”, and “when this building was constructed in 1973, a fourth story was included”!

All of the above statements are TOTALLY FALSE! Just go to the Palm Beach County Property Appraisal Report and you will find that 125 Worth Avenue is listed as a 3 STORY NON MEDICAL BUILDING with a total office square footage of 49,401. and is taxed accordingly! The developer obviously knows this as they have been paying real estate taxes on a 3 STORY BUILDING since 2017!!!!

Please return said applications to the developer and have them renovate the existing 3 Story Building in accordance with the Worth Avenue Design Guidelines.

Thank you.

Barry A. Kean
Raymond F. Lucchetti
400 S. Ocean Blvd
Palm Beach, FL 33480

Sent from my iPad

From: [Deborah Jones](#) on behalf of [Town Council](#)
Subject: FW: 125 Worth Avenue - 4th Story Definition, and Parking Analysis
Date: Monday, March 13, 2023 12:17:21 PM
Attachments: [125 Worth Roof.pdf](#)

Hello all,

Please see the email below, and the attachments.

Bcc: M&TC, All Town Managers, Wayne, Antonette, Kelly, Pat James.

Sincerely,
Deb

From: Carol LeCates <clecates@comcast.net>
Sent: Sunday, March 12, 2023 5:52 PM
To: Town Council <TCouncil@TownofPalmBeach.com>; Danielle Hickox Moore <DMoore@TownofPalmBeach.com>
Subject: 125 Worth Avenue - 4th Story Definition, and Parking Analysis

*****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 and Council,

The staff opinion on a 4th story for 125 Worth does not conform to the code definitions or intent. Please see attached photos and the definitions below, from the code Definitions of Construction (Sec. 134-2), highlights mine.

Habitable space:

"Habitable space means space in or on a structure used or intended to be used for occupancy, for living, sleeping, lounging, eating, cooking or recreation. Finished or unfinished floors above the maximum number of stories allowed containing an elevator, permanent or mechanically operated stairs and seven feet or more of head room shall be considered habitable space. Closets, hallways, storage rooms, attics, machinery rooms, mechanical equipment rooms, utility space and similar areas shall not be considered habitable space."

Please note that the last sentence would not be necessary if a mechanical equipment room that was at least 7' high were to be considered habitable. This sentence makes it crystal clear that the identified spaces are not considered habitable space, *regardless of their dimensions*. It does not say that mechanical equipment rooms that are at least 7' high are considered habitable - it says the opposite. One cannot simply decide to use the first sentence of this definition and not the second, which is what staff has done in this case. The specific exclusions in this definition were intended to

prevent the the claim of an extra story when in fact the space was clearly permitted for storage or mechanical use only.

Story:

"means that portion of a building, other than an attic, included between the surface of any floor and the surface of the next floor above it or, if there is no floor above it, the space between such floor and the ceiling next above it. Habitable space, open patios, accessible roof decks not used exclusively for mechanical equipment, observation decks and/or similar areas located above the first or second story shall be considered a story for the purpose of this definition."

Since the roof structures have always been used exclusively for mechanical equipment and not for any of the other mentioned purposes, there is no "story" on the roof.

Regardless of what one feels when walking inside the mechanical structures on the roof, it is the code that determines their status for development purposes. Given the strictness of the regulations for building heights on Worth Avenue and throughout the town, there can be no mistaking the intent and meaning of these definitions.

I hope you will find this helpful.

Sincerely,

Carol LeCates



1 EXISTING TERRACE PHOTOS

D.R.C. SECOND SUBMITTAL SET 12/27/2022
D.R.C. FIRST SUBMITTAL SET 12/08/2022
D.R.C. PRE-APP MEETING SET 11/21/2022

ARCOM
CASE #:
ARC-23-022

ZONING
CASE #:
ZON-23-032

125 WORTH AVE.
PALM BEACH, FLORIDA

EXIST. BUILDING PHOTOGRAPHS	
DATE: 27, 2022	EX-504
AS NOTED	
SPB	

DAVID M. ANDERSON
MECHANICAL ENGINEER
FLORIDA STATE OF PROFESSIONAL ENGINEER
LICENSE NO. 12543

Copyright, specifications and other documents prepared by the architect and the institution of the architect's service and shall remain the property of the architect and shall not be used for any other project without the written consent of the architect. The architect's drawings, specifications and other documents shall not be used on any other project without the written consent of the architect. The architect's drawings, specifications and other documents shall not be used on any other project without the written consent of the architect. The architect's drawings, specifications and other documents shall not be used on any other project without the written consent of the architect.

© 2022 DAVID M. ANDERSON ARCHITECTS, P.C.

Habitable space means space in or on a structure used or intended to be used for occupancy, for living, sleeping, lounging, eating, cooking or recreation. Finished or unfinished floors above the maximum number of stories allowed containing an elevator, permanent or mechanically operated stairs and seven feet or more of head room shall be considered habitable space. Closets, hallways, storage rooms, attics, machinery rooms, mechanical equipment rooms, utility space and similar areas shall not be considered habitable space.

Story means that portion of a building, other than an attic, included between the surface of any floor and the surface of the next floor above it or, if there is no floor above it, the space between such floor and the ceiling next above it. Habitable space, open patios, accessible roof decks not used exclusively for mechanical equipment, observation decks and/or similar areas located above the first or second story shall be considered a story for the purpose of this definition.

From: [Deborah Jones](#) on behalf of [Town Council](#)
Subject: FW: 125 Worth Ave. Parking Analysis
Date: Monday, March 13, 2023 12:03:51 PM

Good morning all,

Please see the email below.

Bcc: M&TC, All Town Managers, Wayne, Antonette, Kelly, Pat James.

Sincerely,
Deb

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

From: Xfinity <clecates@comcast.net>
Sent: Sunday, March 12, 2023 9:05 PM
To: Danielle Hickox Moore <DMoore@TownofPalmBeach.com>; Town Council
<TCouncil@TownofPalmBeach.com>
Subject: 125 Worth Ave. Parking Analysis

*****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 and Council,

The parking requirement calculations appear to have erroneously applied a 15% reduction to the total. This deduction can only be used where the parking spaces are not being used at the same time of day by two different uses, which is not the case for office and retail as contemplated here. Therefore, no spaces are eligible for removal.

Sincerely,

Carol LeCates

Sent from my iPhone

**MR. & MRS. BRUCE V. MAVEC
309 VIA LINDA
PALM BEACH, FL 33480**

Town of Palm Beach Leaders

March 6, 2023

360 S. County Rd.

Palm Beach, FL 33480

Dear Council Members, Mayor, Town Manager, and Zoning Director,

We have been informed by other residents that a proposal to increase the size of 125 Worth Avenue by adding a fourth floor is to come before the Council.

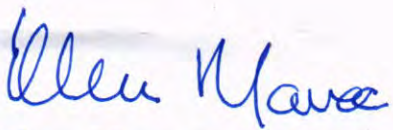
We strongly urge all of the Town leadership not to allow the precedent of adding a fourth floor where none are currently allowed. The restraint and modest scale of commercial development in Palm Beach creates the beauty and unique charm we all treasure.

If one user is granted the right to increase its building height to a fourth floor in an area that has been restricted to three, the precedent will have been established for others to request a similar change. A use established for one will inure to others, and the Town will not be able to deny that same right to other similarly situated owners.

This change would materially alter one of the iconic shopping streets in America, and it would forever change the neighborhood around Worth Avenue.

We urge caution before creating a precedent for change that will be impossible to reverse.

Respectfully,

A handwritten signature in blue ink that reads "Ellen Mavec". The signature is fluid and cursive, with the first name "Ellen" and the last name "Mavec" clearly distinguishable.

Ellen Mavec

A handwritten signature in blue ink that reads "Bruce Mavec". The signature is more stylized and cursive than the one on the left, with a prominent loop at the beginning of the last name.

Bruce Mavec

February 20, 2023

Mayor & Members of Town Council
Members of ARCOM
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

**RE: 125 WORTH AVENUE REVITALIZATION PLANS: ZONING/ARCOM APPLICATION ARC
23-022 & ZON 23-032**

Mayor & Members of Town Council and Members of ARCOM:

Good afternoon. I am writing to all of you today on behalf of the entire Board for the Mid Ocean Club located at located at 134 Peruvian Avenue and 142 Peruvian Avenue.

The Mid Ocean Club shares a property line with 125 Worth Avenue. When we heard about the revitalization plans for 125 Worth Avenue, of course we were interested in learning more. During the past two months we have met with Frisbie Group to discuss the proposed plans and worked with their team to make some design changes to the building which will preserve our quality life as the neighbor. Late last week, we reviewed the final plan revisions that Frisbie Group presented to our Board and our Board voted unanimously to support the 125 Worth Avenue Revitalization Plans as amended. Inspired by the iconic Ralph Lauren Building on the Avenue, the 125 Worth Avenue Revitalization Plans represent an inimitable investment on the Avenue that will be compatible with its neighbors and the Avenue's historic fabric, enhance the Avenue's quality and character, and encourage the continued attraction of a mixture of shops, residences, and other uses meeting the Town's desires.

The view from our property is a direct view (within 10 feet of the shared property line) of 125 Worth Avenue so we are arguably the most directly affected party by the proposed 125 Worth Avenue revitalization plans. I am writing to all of you to urge you to support this zoning and ARCOM application as presented. We greatly appreciate Frisbie Group working with our Board to address all of our concerns—it is very much appreciated. This 48-year-old building is overdue for the fabulous revitalization proposed by Frisbie Group.

Thank you for your time in this matter.

Respectfully,

Stephen Mittman, President

Mid Ocean Club Board
134 Peruvian Avenue
142 Peruvian Avenue

Joanie M. Goodman
911 North Ocean Blvd., Palm Beach, FL 33480

March 14, 2023

Dear President, Members of Town Council and Mayor Moore,

This is a letter of objection to the plans to renovate and expand the office building located at 125 Worth Avenue. The expansion to the rooftop to add an additional story and basement removing 23 parking spaces is over egregious considering the current parking issues the town has, especially on Worth Avenue.

When my husband, Murray H. Goodman, developed 150 and 151 Worth Avenue he abided by the Worth Avenue Design Guidelines and even ended up donating a lot on the corner of Peruvian and County Road to the town for a park and additional parking for employees of the town. His buildings have ample parking and valet. The design guidelines were made to protect our perfectly charming Worth Avenue and to keep it that way. All projects should have to adhere to the guidelines and maximum building height.

There are no hardships or related circumstances to a renovation of that building that should require the request of 2 special exceptions and 10 code variances. The expansion to add the fourth floor will make the building too massive in relation to its surroundings. What they have done down at the Tiffany building is a disgrace, it looks absolutely terrible.

Our quaint charming town on this island paradise does not need to be built up like a bustling city. This is not a city this is Palm Beach and we need to protect it. I strongly suggest you deny this project as is.

Sincerely,


Joanie Goodman

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

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
333 Seaspray Ave

From: [Antonette Fabrizi](#)
To: [Kelly Churney](#)
Subject: RE: Letter in opposition to the application of the Chesterfield
Date: Monday, March 6, 2023 11:44:53 AM
Attachments: [image001.png](#)

RECEIVED. FILED. THANKS!

Thank you,

Antonette Fabrizi
Administrative Specialist
Planning, Zoning & Building Department



Town of Palm Beach
360 South County Road
Palm Beach, FL 33480
Direct: 561-227-6408

From: Kelly Churney <KChurney@TownofPalmBeach.com>
Sent: Monday, March 06, 2023 9:35 AM
To: Antonette Fabrizi <afabrizi@TownOfPalmBeach.com>
Subject: FW: Letter in opposition to the application of the Chesterfield

[In case you didn't receive it](#)

Kelly Churney
Acting Town Clerk

Town of Palm Beach
360 S. County Rd.
Palm Beach, FL 33480
561-838-5416
www.townofpalmbeach.com

From: Deborah Jones <djones@TownOfPalmBeach.com> **On Behalf Of** Town Council
Sent: Monday, March 6, 2023 9:03 AM
To: Danielle Hickox Moore <DMoore@TownofPalmBeach.com>; Danielle Moore <daniellemoorepb@gmail.com>; Margaret Zeidman <MZeidman@TownofPalmBeach.com>; heron1107@aol.com; Bobbie Lindsay <bobbie.lindsay@icloud.com>; Bobbie Lindsay <BLindsay@TownofPalmBeach.com>; Julie Araskog <jaraskog@TownOfPalmBeach.com>; Julie Araskog <juliearaskog@aol.com>; Councilwoman Julie Araskog <juliearaskogtowncouncil@gmail.com>; Lew Crampton <lewcrampton@gmail.com>; Lew Crampton <lcrampton@TownOfPalmBeach.com>; Ted Cooney <tcooney@TownOfPalmBeach.com>; Kirk Blouin <KBlouin@TownofPalmBeach.com>; Carolyn Stone <cstone@TownOfPalmBeach.com>; Bob Miracle <rmiracle@TownOfPalmBeach.com>

Subject: Letter in opposition to the application of the Chesterfield

Good morning Mayor and Town Council Members,

Please see the letter below from Carter Pottash.

Sincerely,
Deb

From: Carter P <drcarterp@gmail.com>

Sent: Monday, March 06, 2023 6:18 AM

To: Town Council <TCouncil@TownofPalmBeach.com>

Subject: Letter in opposition to the application of the Chesterfield

*****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 Members of Town Council:

I am writing in opposition to the application of the Chesterfield to increase restaurant seating, regardless of where on the property, and regardless of whether some of the restaurant seats are designated as seating for hotel guests. Unfortunately, I am out of town the day of the public hearing and cannot attend in person.

The simple reality is that there is simply no capacity on our roads and our parking lots for additional valet parking.

Valet parkers at Meat Market, Trevini, Lola at the White Elephant, and elsewhere do not follow their arrangements and promises to the Town, and instead park all over neighboring streets, taking away from parking from residents. Even Trevini, which has its own garage, still blocks off extra street spaces with cones, illegally, to use for their valets (this is in addition to designated valet parking street spaces). The only restaurant which appears to honor its commitments about where they will park their patrons' cars is the new Carriage House. Worth Avenue is often backed up by cars waiting for the valet to remove them.

In the case of the Chesterfield, increasing valet parking on a very busy two-way street will lead to even more congestion and backups; it will be dangerous, as cars will attempt to pass on the opposite lane going the wrong way when there is the normal valet backup. The idea that some seats will be reserved for hotel guests is as impractical to enforce as the rule related to "Town-serving" seats and capacity for residents. In the 38 years I have lived here, I have never been asked where I live when making a reservation or being seated.

It should be obvious that this application for additional restaurant seating of all types needs to be

rejected.

Thank you for your service to our Town,

Respectfully,
Carter Pottash

--

Carter A. Pottash, MD, DLFAPA
Distinguished Life Fellow, the American Psychiatric Association
Clinical Professor of Psychiatry, New York University School of Medicine
Office: 561 837 2215
Fax: 561-461-6260
Mailing Address: PO Box 381, Palm Beach, Florida 33480-0381
Email Address: drcarterp@gmail.com

Dear Mayor and Town Council:

Town Clerk's Office

The applicant team for 125 Worth Avenue is seeking approval for its redevelopment project including Variance # 1 to allow for a reduction in parking spaces. The submitted material is facially flawed and the Variance must be denied:

- + Applicant improperly cherry-picks a percentile formula extracted from the Urban Land Institute's publication, *Shared Parking Principles*.
- + The formula is then improperly used to justify a parking requirement reduction for a non-conforming building even as a proposed intensification of use will require more parking.
- + Shared parking analysis is intended to be applied to mixed-use development in accordance with other steps of evaluation review. Steps were ignored.
- + Warnings were also disregarded including cautioning against rote application of the default value. The report is meant to be a starting point of analysis, not a plug-and-go short cut.
- + The principle of shared parking is intended to be applied for a particular combination of land uses, sites with multiple uses whose peak demand may not coincide.
- + 125 Worth Avenue is not a mixed-use property as defined by the ULI.
- + Even if the application qualified for shared parking and it does not, multiple sets of increased intensity numbers are buried within an avalanche of submission documents. A set of accurate numbers is what could be used to apply an 85 percentile by a qualified applicant. This applicant does not qualify for a reduction.
- + Despite this disqualification, Town Staff appears to have accepted the Applicant's fuzzy math as described on the next page and elsewhere.
- + Applicant Consultant, Kimley-Horn Associates, provides a traffic study for the redevelopment project but does not provide a parking study.
- + The Frisbie Group submits a "ULI Shared Parking Analysis for the 125 Worth Avenue Mixed-Use Development. It is merely a plug and go exercise using one of the sets of intensity numbers.
- + One on-site visit to the property's garage is cited within the application.
- + The Corradino Group provides a peer review for Kimley-Horn's traffic study but does not appear to have been asked to provide a review of The Frisbie Group's flawed ULI narrative.
- + No on-street parking conditions for the 100 Block of Worth Avenue were conducted.
- + Has the Town of Palm Beach ever adopted any model regulations by ULI, a "library" of existing ordinances of other municipalities or guidelines based on non-specific data?

Adopted Town of Palm Beach ordinances are the only valid specification thresholds which can be used to judge the acceptance of requests.

What follows are extracted portions of the application, page 7 of the 12 page PZ&B Staff Memorandum for this application and commentary that affirms why Variance # 1 cannot be granted:

- **VARIANCE #1:** Per Section 134-2176: A variance to allow for a reduction in parking spaces from the Code required 264 required parking spaces to 141 provided parking spaces.

As it pertains to Variance #1, the variance is to reduce the required number of parking spaces by 123 to provide 141 spaces in lieu of the existing 164 spaces and the 264 parking spaces required.

PARKING DATA			
	Existing	Proposed	Required
Sub-Basement Level	69	71	-
Basement Level	61	61	-
First Level (ground)	34	10	-
TOTAL:	164	141 <i>Variance Requested</i>	264

Whereas, if the building were constructed today as proposed, the uses would require 264 parking spaces. Multiple claims by ownership states that the building as it is, is overparked. The applicant has independently performed an Urban Land Institute (ULI) Shared Parking Analysis in order to evaluate actual parking needs for the proposed revitalization plan as submitted evidence as to why the granting of the variance should be considered. The results of the ULI Shared Parking Analysis shows the average peak parking event occurs during many months of the year. The average peak parking event, or maximum demand for parking, requires a total of 164 parking spaces. The ULI Shared Parking Model recommends that the peak parking event be adjusted for the 85th percentile in accordance with the ULI shared parking guidelines. Once the 85th percentile adjustment is applied ($164 \text{ spaces} \times 0.85 = 139 \text{ spaces}$ in the worst-case scenario), the 125 Worth Avenue Parking Plan includes 141 parking spaces which will satisfy the average peak conditions at all times during the year per the ULI Shared Parking Study.

“multiple claims by ownership states, the building as is, is overparked”. What’s the basis for the allegation? What verification has been provided, if any, to validate this claim?

Staff captures some of the text provided by the applicant, see Page 10, but omits their conclusion “that the Parking Plan for the 125 Worth Avenue mixed-use development . . . does not meet the applicable off-street parking requirements of the Town of Palm Beach”.

The physical location of the existing parking spaces is listed along with the number and location of proposed spaces. This chart is misleading: a critical omission is the failure to provide the current GLA square footage or the proposed square footage GLA being used to calculate a reduction. The “proposed” list simply reduces the existing number of spaces by 15% and is unchallenged by staff.

Hundreds of pages have been generated by the Frisbie Group including consultant studies. Within the fog and attestations are multiple sets of square footage GLA numbers. Are these number discrepancies intended to cause you to throw up your hands in exhaustion, confusion? Hopefully not. The future of Worth Avenue depends on your focused deliberation.

Town consultant, The Corradino Group, was asked to evaluate the traffic report generated by Frisbie Group consultant Kimley-Horn Associates (K-H). Why was Corradino asked only to evaluate traffic and not the parking issues? He asks K-H about the land use intensities within the LOI dated December 8, 2022 which have changed from 33, 854 office to 46,408. Retail numbers increase from 17,035 to 18,199. But other numbers are floating around. And Corradino doesn’t challenge the shared parking analysis. (addendum A)

For example: Two other sets of figures are provided to Frisbie agent, Josh Martin, former Director of Planning, Zoning & Building by Kimley-Horn on December 1, 2022, including a doubling of retail space (numbers that are different than those contained in the Frisbie report, pg. 10) :

<u>Existing</u>	<u>Proposed</u>	<u>Net Change</u>
Office 41,926	Office 51,927	+ 10,001
Retail 10,501	Retail 21,294	+ 10,793

A broad tabulation yields these numbers that are further inclusive absent other factors like the percentage of General office and High Density office space as recommended by ULI.

$$51,927 \div 1:250 = 207.71 \text{ spaces}$$

$$21,294 \div 1:200 = 106.47 \text{ spaces}$$

$$\text{-----}$$
$$314.18$$

Confusing? Yes, it is. If this proposed set of numbers is to be used instead, the new required number of parking spaces exceeds the original building non-conformity of 264 spaces. Therefore, the claim that 24 surface spaces can be removed because only 141 spaces are needed is misleading, distorted and flawed.

The absence of transparency obscures the ability to properly evaluate the numbers.

The Applicant has failed to provide a spread sheet with the exact breakdown of proposed tenant occupancy. How exactly will the proposed office GLA spaces be used? Or the retail GLA spaces. You don't know. Does staff know?

The fog worsens:

The applicant claims to have independently performed an Urban Land Institute (ULI) shared Parking Analysis “as evidence as to why the granting of the variance should be considered.”

This “evidence” is also facially flawed and requires the Council to deny the Variance request. (the intent of the surface parking removal is to enable the vertical redevelopment of the property by increasing the GLA for each floor.)

Not only has the analysis been cherry-picked from the ULI ‘s *Shared Parking* guidelines (no ULI pages seem to have been provided by the applicant or Town staff, denying you the ability to assess the guidelines on your own), but the analysis also omits a critical requirement for the use of an 85 percentile in adjusted parking calculations: **possible reductions can only be applied to mixed-uses.** (I provided a set of “exhibit” pages contained within a South Carolina lawsuit involving “cherry-picked” ULI data that I submitted to the Council)

The applicant's property contains commercial office and retail usage, occupied at similar hours. **There are no mixed uses in the building.**

In retrospect, this attempt to cherry-pick the ULI parking guidelines is totally contradicted by previous data submitted by the applicant in 2019 and 2021: an effort to build four condominium apartments on the roof of the property owner's three-story office building was being proposed as a mixed-use project because the three existing floors were commercially occupied. (The two separately filed applications also sought to eliminate surface parking)

Kimley-Horn Associates' November 8, 2019 Parking Supply Evaluation letter to 125 Worth Avenue Partners, LLC for B-074-2019 includes the attestation, below. The letter was also entered into the record by the applicant for the Town Council's June 9, 2021 Development Review meeting for ZON- 23-032 (ARC-23-022).

Determination of Parking Supply Need

To evaluate the supply requirements for off-street parking for the overall site following redevelopment, a shared parking analysis was undertaken using the methodology and data published by the Urban Land Institute (ULI) in *Shared Parking, Second Edition*. **The principle of shared parking can be applied to sites with multiple uses to reflect that the peak parking demand for each individual use may not coincide** and therefore some efficiency can be achieved in the supply of parking provided to account for the variation on parking demand over different times of day as well as different times of the year.

Here, the consultant accurately quotes the basis for shared parking: “multiple uses that do not coincide.”

I repeat: there is no mixed-use at 125 Worth Avenue as defined by the ULI guidelines that would allow for a reduction in the number of parking spaces for the property or by Town Code.

The applicant attempts to mislead the Council in order to gain approval for a variance that is facially flawed.

Adding insult, the applicant provided traffic analysis surrounding Worth Avenue but failed to provide studies regarding parking conditions on the 100 block of Worth Avenue.

On-site shared parking eligibility requires “mixed-use” as admitted to in previous redevelopment applications for the property. The applicant’s claim for eligibility as a mixed use property in this application is not defensible. It is not supported by Town Code and the ULI Parking Model data cited by the applicant.

The parking data provided by The Frisbie Group (without attribution) also fails to follow another ULI guideline as recommended in the 3rd Edition’s 2020 printing:

Therefore, a key conclusion of the 3rd Edition analysis of office parking trends is that shared parking analysis should include defining the percent of High Density office in the development, and using two separate sets of ratios: those for General Office and those for High Density Office. Although there is some indication that the parking ratios in general office have actually declined slightly, we have maintained the same ratios as in the 2nd Edition, to allow for some additional densification in the typical building.

Since no spread sheet identifying the more exact nature of the two proposed existing classifications has been provided, the amount of General Office and High Density Office is unknown.

To recap,

The property is not eligible for a percentile parking reduction as defined by ULI guidelines,

Almost two years have passed since the Town Council heard ZON-23-032 on June 9, 2021. The applicant was told to return in six months with parking data. That application was withdrawn in November, 2021. Crucial data has still been omitted from the analysis for this application.

Multiple sets of commercial square foot usage figures have been attested to by the applicant within three separate redevelopment applications for the site since 2019, this being the most recent. Why do the numbers keep changing?

The basis for Variance # 1 is facially flawed and must be denied:

Addendum:

A- One portion of The Corradino Group peer review captures other numbers:

2. Please update the shared parking analysis to ensure the land use intensities match those used in the traffic analysis dated 12/07/22. The shared parking analysis included in the letter of intent dated 12/08/22 includes the following:

- Office- 33,824 square feet
- Commercial Retail- 17,035 square feet

The traffic analysis includes 46,408 square feet of Office space and 18,199 square feet of Commercial Retail space.

Kimley Horn and Associates, Inc.'s 02/03/23 Response: The square footages have been updated in the traffic study based upon further updates to the site plan. The latest parking calculations are also updated and included in the site plan. Note that there may be differences related to the square footages used (i.e., for trip generation purposes trip generation rates may be based on either GLA or GFA depending upon the land use, while Town parking codes may be based upon a different measure than the trip generation rates).

TCG 02/07/23 Response: Addressed.

GFA is Gross Floor Area- “ while Town parking codes may be based upon a different measure than the trip generation rates”

What is the intent of introducing another element into the equation?

B. Page 14/85 of the Applicant's January 12, 2023 “Letter of Intent -125 Worth Avenue Revitalization”, is a complete mashup of conflated planning and parking standards:

- + The applicant's appraiser confirms the building is 95% occupied.
- + There is no documentation supporting the basis for the claim that the town's parking standards are antiquated.
- + The applicant's response to the Variance justification is gibberish:

the applicant conflates “shared” parking requirements with off-street parking standards (the building is ineligible for a percentile reduction as defined by ULI) There are off-street parking standards for Worth Avenue but they have no bearing on this request.

Citing the number of cars observed “during a recent site visit on a Wednesday in December, 2022 “ as justification for applying a “so-called” “ULI Shared Parking Study” in place of Town Code Parking requirements is inexact, unprofessional and facially flawed.

- (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.

***Applicant Response:* The Town of Palm Beach Zoning Code’s Off-Street Parking Standards are antiquated and do not reflect actual conditions of the site. The 125 Worth Avenue building is more than 90% leased and during a recent site visit at 2:00pm on a Wednesday in December 2022, a total of 31 cars were parked on site. The attached ULI Shared Parking Study more accurately reflects present-day industry off-street parking standards rather than those of 40 years ago.**

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

***Applicant Response:* The Applicant purchased the building in its present configuration with a limited amount of floor area on the fourth story. There is precedent for expanding legally nonconforming buildings as long as the existing roof and structural columns remain.**

The response to this variance criteria justification for Variance # 1 is a non sequitur.

Page 15/85 presents unsubstantiated language: Denial of the variance will not deprive the applicant of rights . . . Additionally, surrounding residential buildings are not regulated by the same zoning district requirements as the applicant.

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

This is untrue. The applicant already receives reasonable use of the property.

- (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.

Applicant Response: A literal interpretation of the ordinance would prevent the applicant from utilizing the existing and proposed uses within the building, and it within is the Applicant's vested legal rights to do so. Several surrounding residential buildings do not meet today's Zoning Code Off-Street Parking and Loading Standards. The project is thus compatible and consistent with existing development.

Another non sequitur response to criteria justification for Variance # 1:

But since the applicant brought it up: the architecture does not improve the “pedestrian experience” and the proposed additional massing on the roof will dramatically change the view from the ground. Allowing this massing is detrimental to the intent of the Worth Avenue Design Guidelines

- (6) 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.

Applicant Response: The approval of the reduced parking on site will allow the applicant to utilize the legally non-conforming square footage of the existing building, which is within is the Applicant's vested legal rights. This in turn will be a great benefit to the Town, especially the east end of Worth Avenue, because the existing building is architecturally undistinguished and incompatible with the **pedestrian character** of the street which is called for in the C-WA Zoning District, the Worth Avenue Design Guidelines, and the Comprehensive Plan. The Worth Avenue Design Guidelines strongly encourage the redevelopment of the buildings in the East End Development Area to encourage more aesthetically pleasing architectural elements. **The view from the ground will not change dramatically**, and the view from taller residential buildings will be greatly enhanced due to the addition of architectural elements and an activated public realm.

The applicant does not have mix-uses as defined within ULI shared Parking Guidelines.
It is not a mixed -use development. A parking reduction is not warranted.

Applicant's Exhibit C-

ULI Shared-Parking Analysis For

125 Worth Avenue
Mixed-Use Development
Palm Beach, FL 33480

December 8, 2022
Updated December 26, 2022

Prepared by:

Frisbie Group, LLC

To repeat: the applicant's Analysis is facially flawed and cannot be used as the basis to grant
Variance # 1

It includes another set of proposed GLA numbers and improperly applies the ULI parking
Model to them. As I've previously written, there are at least three other sets of proposed GLA
numbers that are greater than these which would make the non-conformity even more non-
conforming. The applicant cherry-picks the suggested formula for a mix-ed use project but fails
to follow the warnings within the guidelines.

Project Overview and Parking Demand

The proposed 125 Worth Avenue mixed-use development ("development") includes the following
uses:

- Office (33,824 square feet); and
- Community Retail (17,035 square feet).

Spatially, the aforementioned use intensities are distributed within the proposed development area as
shown on Exhibit A to this document.

There is no revelation, as alleged, that a parking reduction can be achieved, while, also intensifying the use as proposed.

The Applicant's Conclusion admits the analysis does not meet the applicable off-street requirements of the Town of Palm Beach. The patching-in of even greater numbers than these, that are buried within other sections of the application, renders the attempt to use this flawed approach even more fatal for the applicant. Variance # 1 must be denied.

January 12, 2023

The development team completed an Urban Land Institute Shared Parking Model (included in this analysis) which revealed that shared parking reduction could be achieved, so the development shall apply the aforementioned parking reduction (per the aforementioned zoning code section). The application of the reduction of parking requirements yields the following parking requirements for the development:

Use Category	125 Worth Avenue Use	Spaces Required	Units of Measure	Units Proposed in Development	Total Number of minimum parking spaces required	Total Number of maximum parking spaces required
Office	Office	1	250 Square Feet	33,824 Square Feet	135	N/A
Retail	Retail	1	200 Square Feet	17,035 Square Feet	85	N/A
<i>Total Number of Spaces for Development (without shared parking reduction)</i>					220	N/A
<i>Total Number of Spaces for Development (with ULI Shared Parking reduction)</i>					76	187
<i>For Weekday and Weekend Peak</i>						

***ULI Shared Parking Study does not include the 85th percentile adjustment.


Conclusion

The parking analysis here shows that the Parking Plan (Exhibit A) for the 125 Worth Avenue mixed-use development ("development") attached to this analysis does not meet the applicable off-street parking requirements of the Town of Palm Beach. The Applicant has performed the ULI Shared Parking Analysis to evaluate actual parking needs.

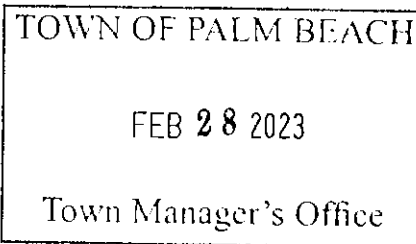
The results of the ULI Shared Parking Analysis shows the average peak parking event occurs during many months of the year. The average peak parking event, or maximum demand for parking, requires a total of 164 parking spaces. The ULI Shared Parking Model recommends that the peak parking event be adjusted for the 85th percentile in accordance with the ULI shared parking guidelines. Once the 85th percentile adjustment is applied ($164 \text{ spaces} \times .85 = 139$ spaces in the worst-case scenario), the 125 Worth Avenue Parking Plan (Exhibit A) includes 142 parking spaces which will satisfy the average peak conditions at all times during the year per the ULI Shared Parking Study.

I hope this analysis is of help to you.

Respectfully,


A. Seltzer

February 16, 2023



Mayor & Members of Town Council
Members of ARCOM
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

**RE: 125 WORTH AVENUE REVITALIZATION PLANS: ZONING/ARCOM APPLICATION ARC 23-022
& ZON 23-032**

Mayor & Members of Town Council and Members of ARCOM:

First off, thank you to the Mayor, and the Members of Town Council and ARCOM for their dedication to our beautiful Town of Palm Beach.. I have reviewed Frisbie Group's 125 Worth Avenue plans, and I conclude that they are consistent with the Town of Palm Beach's Comprehensive Plan, Land Use Regulations, and the Worth Avenue Design Guidelines. Some specific examples are outlined below:

1. The proposed building mainrains the character of the Town as a predominantly residential community having only the type and amount of businesses and other support services necessary to meet the needs of Town residents (*Town of Palm Beach Comprehensive Plan Objective 2*);
2. The proposed building or structure is appropriate in relation to the established character of other structures in the immediate area or neighboring areas in respect to significant design features such as material or quality or architectural design as viewed from any public or private way (except alleys). (*Town of Palm Beach Municipal Code Section 18-205*);
3. The proposed building or structure is in harmony with the proposed developments on land in the general area, with the comprehensive plan for the town, and with any precise plans adopted pursuant to the comprehensive plan. (*Town of Palm Beach Municipal Code Section 18-205*);
4. The proposed building protects and enhances the Avenue's market appeal for the benefit of the residents of the Town. (*Worth Avenue Design Guidelines A*);
5. And the proposed building meets the criteria that "new development and remodeling [should] use Mediterranean-Revival, Neo-Classical architectural styles or other updated variants (*Worth Avenue Design Guidelines: Urban Design Objectives for the East-End Development Area*).

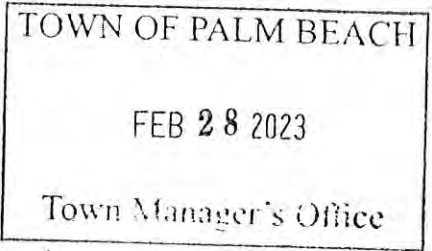
As a tenant owning and operating a business on the 300 block of the Avenue (Maus & Hoffman - 312 Worth Avenue), I support the revitalization efforts the Frisbie Group has put towards 125 Worth Avenue which is located just a few doors east of us. I strongly believe that the enhanced building design will strengthen the pedestrian character of the Avenue, and enhance the pedestrian linkage from the ocean block to the 300 block of the Avenue, which will drive more town residents and visitors to experience the entire block of retail experiences. The proposed project will bring the highest level of architecture to the Avenue, which will help protect the Avenues market appeal for generations to come. In my opinion, the project will positively impact our town without negatively impacting adjacent property owners. Please support the proposed revitalization of 125 Worth Avenue as it will enhance, beautify, and protect the 100 block of Worth Avenue, and in turn benefit residents and business owners and operators across the entire Avenue.. Thank you for your time.

Respectfully,

A handwritten signature in black ink that reads "Michael Maus".

Michael Maus
Maus & Hoffman
312 Worth Avenue
Palm Beach, FL 33380

February 16, 2023



Mayor & Members of Town Council
Members of ARCOM
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

RE: 125 WORTH AVENUE REVITALIZATION PLANS: ZONING/ARCOM APPLICATION ARC 23-022 & ZON 23-032

Mayor & Members of Town Council and Members of ARCOM:

First off, thank you to the Mayor, and the Members of Town Council and ARCOM for their dedication to our beautiful Town of Palm Beach.. I have reviewed Frisbie Group's 125 Worth Avenue plans, and I conclude that they are consistent with the Town of Palm Beach's Comprehensive Plan, Land Use Regulations, and the Worth Avenue Design Guidelines. Some specific examples are outlined below:

1. The proposed building maintains the character of the Town as a predominantly residential community having only the type and amount of businesses and other support services necessary to meet the needs of Town residents (*Town of Palm Beach Comprehensive Plan Objective 2*);
2. The proposed building or structure is appropriate in relation to the established character of other structures in the immediate area or neighboring areas in respect to significant design features such as material or quality or architectural design as viewed from any public or private way (except alleys). (*Town of Palm Beach Municipal Code Section 18-205*);
3. The proposed building or structure is in harmony with the proposed developments on land in the general area, with the comprehensive plan for the town, and with any precise plans adopted pursuant to the comprehensive plan. (*Town of Palm Beach Municipal Code Section 18-205*);
4. The proposed building protects and enhances the Avenue's market appeal for the benefit of the residents of the Town. (*Worth Avenue Design Guidelines A*);
5. And the proposed building meets the criteria that "new development and remodeling [should] use Mediterranean-Revival, Neo-Classical architectural styles or other updated variants (*Worth Avenue Design Guidelines: Urban Design Objectives for the East-End Development Area*).

As a tenant owning and operating a business on the 300 block of the Avenue (Maus & Hoffman - 312 Worth Avenue), I support the revitalization efforts the Frisbie Group has put towards 125 Worth Avenue which is located just a few doors east of us. I strongly believe that the enhanced building design will strengthen the pedestrian character of the Avenue, and enhance the pedestrian linkage from the ocean block to the 300 block of the Avenue, which will drive more town residents and visitors to experience the entire block of retail experiences. The proposed project will bring the highest level of architecture to the Avenue, which will help protect the Avenue's market appeal for generations to come. In my opinion, the project will positively impact our town without negatively impacting adjacent property owners. Please support the proposed revitalization of 125 Worth Avenue as it will enhance, beautify, and protect the 100 block of Worth Avenue, and in turn benefit residents and business owners and operators across the entire Avenue.. Thank you for your time.

Respectfully,

A handwritten signature in blue ink that reads "John Maus".

John Maus
Maus & Hoffman
312 Worth Avenue
Palm Beach, FL 33480

From: [Deborah Jones](#) on behalf of [Town Council](#)
Subject: FW: Worth Avenue and Vineta Hotel applications
Date: Monday, March 13, 2023 12:42:56 PM

Hello all,

Please see the email below.

Bcc: M&TC, All Town Managers, Wayne, Antonette, Kelly, Pat James.

Sincerely,
Deb

From: Garrison, Robert N. <RNG@GarrisonArch.com>
Sent: Sunday, March 12, 2023 8:26 PM
To: Town Council <TCouncil@TownofPalmBeach.com>
Subject: Worth Avenue and Vineta Hotel applications

*****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.*****

We are asking you to not approve either application. Both of these projects have requested variances that have no basis ' except they want them.

Thank you for your service to make our Town special.

Bob Garrison
156 Seabreeze Ave
Sent from my iPhone

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The information contained in this communication from the sender is confidential. It is intended solely for use by the recipient and others authorized to receive it. If you are not the recipient, you are hereby notified that any disclosure, copying, distribution or taking action in relation of the contents of this information is strictly prohibited and may be unlawful.

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Repeated language in the Applicant's "Worth Avenue Design Guidelines Justification Statement" and the "Letter of Intent – 125 Worth Avenue Revitalization- February 14, 2023" is not supported by the project's Architectural drawings, on the ground or in the air.

Applicant's Justification Statement- Page 2:

Maintain and continue to create a diverse mix of activities.

125 Worth Avenue Revitalization Proposal Response: The 125 Worth Avenue Revitalization Proposal represents a diverse mix of residential, office, and retail uses that complement the Avenue's present specialty shopping reputation. As a result, by introducing a pedestrian scaled environment to the subject property, Worth Avenue can absorb growth and prosper in an appropriate manner.

Maintain high expectations for the quality of architecture along Worth Avenue.

125 Worth Avenue Revitalization Proposal Response: Unlike the existing condition, the 125 Worth Avenue Revitalization Proposal includes a new building that is influenced by the area climate, character of the landscape, and a concern for human size and scale. Moreover, the proposal stresses architectural traditions such as protection from the sun and glare, strong shade and shadow patterns, simplicity of materials and colors, and interesting visual elements.

There is no residential component in this proposal. PZ&B staff, in the first response to the applicants LOI was told to remove references to "residential". This did not happen.

If "a picture is worth a thousand words" how has the architect achieved "concern for human size and scale?" Where is the "protection from sun and glare"? The existing building has arcade entrances that offer shade to pedestrians looking at retail windows (if there were retail opportunities besides a Yacht company and an art gallery.) Where is the shade repeatedly promised for the proposed building ?

Justification Statement- Page 3:

Strengthen the Avenue's distinctive landscape character.

125 Worth Avenue Revitalization Proposal Response: The 125 Worth Avenue Revitalization Proposal continues to reinforce the Avenue's pedestrian-oriented character by the use of windows, open and enclosed stairways, planting areas, potted plants, decorative paving and tiles, ornamental lighting, and providing an abundance of shade, color, varied textures, and form.

Continue and expand the tradition of the Avenue's arcaded walkways.

125 Worth Avenue Revitalization Proposal Response: The 125 Worth Avenue Revitalization Proposal provides a modern adaptation of covered walkways which unify diverse building fronts, provide shade protection from the sun, and further serve as a consistent architectural element of pedestrian scale.

Applicant's Justification Statement- Page 4:

How many people proofed this? "Black" walls?

Did visitors to 125 Worth Avenue have a problem finding the front door?

Street Frontage

Guideline: Active building frontages, creating inviting indoor/outdoor spaces, are an essential ingredient to maintain and strengthen the Avenue's pedestrian character. Buildings should provide an opening at the ground level to allow pedestrian views of display windows. Frequent building entrances are encouraged. Side and rear building entrances should always be accompanied by a front entrance facing the Avenue.

Existing Conditions: The existing building frontage at 125 Worth Avenue maintains a confused street-edge along Worth Avenue. The spaces at the ground floor along Worth Avenue include long spatial gaps while the second and third story fenestration do not reflect successful non-residential Palm Beach building types.

Proposed Conditions: The proposed building at 125 Worth Avenue greatly increases the activation along the Worth Avenue frontage by minimizing black walls, increasing the height and area of storefronts, and organizing and increasing entrances to the building in an orderly fashion, so that one knows where the front door is to the building.

Applicant's Justification Statement- Page 5:

Where is the shaded protection? What building setback ?

Building Setback Area

Guideline: The space between the building and the curb should be like an open or covered patio. It should provide pedestrians with a buffer from traffic on the Avenue, shaded protection from the sun, and a rich variety of experiences and choices.

Existing Conditions: The existing space between the building and curb is bifurcated by grade changes and separated sidewalk areas.

Proposed Conditions: The proposed building at 125 Worth Avenue reads much more like an open and covered patio. The continuous linear and rhythmic paving includes occasional street contrasts and accents including plantings and landscape. The proposed patterns of the building setback area are geometric rather than organic which is more appropriate for the Avenue.

Applicant's Justification Statement- Page 5:

Despite the continuing “improved, engaged, “protected” pedestrian “experience”” trope, desired features as promised features are unfulfilled.

Respect for the pedestrian? The existing building at 125 has an arcade that is being removed by the applicant to generate additional Gross Leasable Area. Where is the “useful” outdoor space or elements that will provide sun protection? In sharp contrast, the architecture of the three story Neiman Marcus building, built just west of the applicant's property in 2000, or the Esplanade complex across Worth Avenue to the south may not have been designed by architects with the same credentials as the Frisbie design team but the buildings are far more gracious as pedestrian walkway experiences with overhead protection as called for in the WADG. They present with far less pretentiousness.

Arcades, Colonnades or Recessed Walkways

Guideline: Arcades or covered walkways are an important part of Worth Avenue's architectural heritage. They provide relief from the sun, buffers from the street, and are a consistent architectural element scaled to human size. New buildings on the Avenue are encouraged to provide arcades or other forms of shaded base.

Existing Conditions: The existing walkway condition at 125 Worth Avenue does not integrate the entirety of the sidewalk in front of the building.

Proposed Conditions: The proposed building at 125 Worth Avenue includes recessed walkways as an integral part of the building's architectural character that is not separated from the sidewalk but rather a seamless portion of the overall sidewalk. The successful integration of these two elements creates useful outdoor space and provides protection from the sun in a functional manner. The framing of the sidewalk space does not include a superficial or decorative device but rather one of form and function of the structure itself.

Applicant's Justification Statement- Page 7:

What minor additions?

Renovations and Additions

Guideline: Building facades play a basic role in the visual makeup of the Avenue. Storefronts, awnings, signs, window displays, texture and color are all integral elements of the design. Collective improvement of these elements creates visual order.

Facadectomy

Existing Conditions: The existing facade of the building is tired and in need of visual order.

Proposed Conditions: The proposed building facades will be substantially renovated coupled with minor additions thus creating visual order while maintain an appropriate scale, proportion, and rhythm.

Applicant's Justification Statement- Page 8:

The applicant could have met some of the Urban Design Objectives but not as presented with the appearance of a fourth story. Despite all the flowery rhetoric of the Justification Statement, the fourth story with its increased Gross Leasable Area is contrary to the genesis and intent of the Designs Guidelines. The creation of the proscribed pedestrian enhancements are teased but are undeliverables. Creating those spaces required giving up Gross Leasable space, which was the overriding objective of the application.

Urban Design Objectives for the East-End Development Area

For the reasons stated herein, the 125 Worth Avenue Revitalization Proposal meets the following Urban Design Objectives for the East-End Development Area:

- To preserve, maintain, and enhance existing Mediterranean-Revival/Neo-Classical character of the area;
- To encourage the protection and enhancement of non-designated but potential Mediterranean-Revival/Neo-Classical historical structures;
- To encourage new development and remodeling to use Mediterranean-Revival, Neo-Classical architectural styles or other updated variants;
- To insure compatibility of new development with existing uses and these Guidelines through review and recommendation of the Landmarks Preservation Commission and review and approval of the Architectural Commission;
- To encourage the remodeling/rehabilitation of incompatible buildings and storefronts in the area, including the provision of multiple storefront entrances, and unification of display windows, awnings, colors, materials, and signage;
- To encourage the use of arcades or colonnades along Worth Avenue frontages; and
- To encourage the interconnection of additional vias, courtyards, patios, and other passageways both on and off-site.

Re: Letter of Intent – 125 Worth Avenue Revitalization- February 14, 2023

Page 5:

- (10) Height of commercial structures with reference to adjoining buildings, the effect on uniformity in height, and the general principle of retaining the low-profile scale of commercial architecture.

Applicant Response: This building already contains four stories. The creation of additional office space on the fourth floor will not increase existing height and the fourth-floor appearance will be greatly improved. **The fourth floor will not be conspicuous from the ground due to the height of the building and the step-back of the fourth story in relation to the lower floors.**

The Gross Leasable area added to the roof will be very much visible from the Street.



Page 15

The residential buildings governed by a different Zoning District. Isn't this a false equivalency?

- (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.

Applicant Response: A literal interpretation of the ordinance would prevent the applicant from utilizing the existing and proposed uses within the building, and it within is the Applicant's vested legal rights to do so. **Several surrounding residential buildings do not meet today's Zoning Code Off-Street Parking and Loading Standards.** The project is thus compatible and consistent with existing development.

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

Applicant Response: The proposed parking is essentially the existing, legal, nonconforming supply of required off-street parking spaces.

Pg 17 – LOI

**REQUEST FOR VARIANCE TO ALLOW FOR PROPOSED BUILDING HEIGHT AND
OVERALL BUILDING HEIGHT.**

Zoning Code Section 134-201. Findings Prior to Authorization.

VARIANCE #2: **Penthouse/Fourth Floor Addition.** The proposed building height (52'-1") and overall building height (55'-10") exceeds the 48' maximum height permitted by the Worth Avenue Design Guidelines.

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.

Applicant Response: When this building was constructed in 1973, a fourth story was included. This request is to **expand the floor area of that existing structure** by replacing it with office space. **The fourth floor will be set back** to minimize visibility and impact on surrounding properties.

Untrue. There will be visible massing on the south façade above the roof.

- (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.

Applicant Response: When this building was constructed in 1973, a fourth story was included. This request is to **expand the floor area of that existing structure** by replacing it with office space. **The fourth floor will be set back** to minimize visibility and impact on surrounding properties.

The Applicant's effort to add GLA onto the roof above the third story of his property is prohibited by the Worth Avenue Design Guidelines .

125 Worth Avenue- existing Arcades will be removed to create increased Gross Leasable Area in the new building.



Former Neiman – Marcus building – just west of 125 Worth Avenue- Its arcades provided shade were an extension of the building. The sidewalks are generous in width.



Town of Palm Beach Development Review Meeting- March 15, 2023

The street façade at the Esplanade- The arcades provide protection from the sun for pedestrians as well as generous sidewalks.



Contrast this architecture with that of the proposed building at 125 Worth Avenue as repeatedly described in the Worth Avenue Design Guidelines Justification Statement.

Where is the professed respect for the pedestrian experience:

The Replacement of the previous existing arcades with increased Gross Leasable Area dominates the sidewalk making it almost impassable in sections. Where is the promised protection from the sun and glare “in a functional manner”? There doesn’t appear to be any.



EXHIBIT B: 125 WORTH AVENUE WORTH AVENUE DESIGN GUIDELINES JUSTIFICATION STATEMENT

In the late 1990s, the Town of Palm Beach adopted Design Guidelines for Worth Avenue to retain and enhance the Avenue's unique character. They are intended for use by the general public and reviewing bodies (LPC, ARCOM, and Town Council) in evaluating new construction as well as alterations, renovations, or other changes to existing structures along Worth Avenue. The guidelines are intended to encourage the maintenance and restoration of the architectural heritage of Worth Avenue and to encourage the creative use of modern variants of the Mediterranean-Revival, Neo-Classical, and other compatible architectural styles. They are further intended to promote the use of "Mizner-style" Mediterranean-type pedestrian characteristics such as arcades, shopping vias, courtyards and patios, fountains and sculptures, extensive landscaping, multi-level development, and especially the provision of upper-story residences.

All in all, investment undertaken on the Avenue should:

- Be compatible with its neighbors and the Avenue's historic fabric;
- Enhance the Avenue's quality and character; and
- Encourage the continued attraction of a mixture of shops, residences, and other uses meeting the Town's desires.

The ocean block of Worth Avenue contains more recently constructed buildings dominated by the two-story Esplanade shopping mall on the Southern side of the block and a four-story professional office building (125 Worth Avenue) on the Northern side of the block. Beyond a poorly designed façade and awning treatment on the Esplanade intended to give the appearance of individual structures, and an arcaded terrace on the office building, there has been little attempt to integrate this block into the more historically significant Western Worth Avenue block. Both buildings are large and massive, have only single entrances on Worth Avenue, and present little pedestrian appeal. (quote from the guidelines themselves). The proposed, substantial renovation and addition will be the first of its kind since the building's original construction.

From a regulatory standpoint, the guidelines serve two separate purposes including Town Council/LPC/ARCOM's use in evaluating new construction as well as alterations, renovations, or other changes to existing structures along Worth Avenue and the ability for the Town to approve special allowances for substantial or appropriate exterior renovations or restorations. This document serves as a response to how the 125 Worth Avenue Revitalization Proposal meets the Worth Avenue Design Guidelines by examining both the existing and proposed conditions of the subject property.

The 125 Worth Avenue Revitalization Proposal in general involves an exterior and interior renovation alongside the addition of retail and office spaces on the ground, second, third, and fourth floors. The proposal involves a mix of uses including commercial and office coupled with integrated landscaping that are reminiscent of historic Palm Beach. The guiding principles of the proposal embrace the following:

- Integrate the East-End Development Area into the older developed blocks to the west;
- Achieve the Urban Design Objectives of the East-End Development Area; and
- Establish the Avenue's distinctive landscape character in the East-End Development Area.

Worth Avenue Urban Design Goals

Protect and enhance the Avenue's market appeal for the benefit of the residents of the Town.

125 Worth Avenue Revitalization Proposal Response: The 125 Worth Avenue Revitalization Proposal contributes to the Avenue's role as an architectural statement expressing the Town's image. The existing building does not contribute to Worth Avenue's historic character and atmosphere and does not provide inducement for the quality uses preferred in the Town and for which the Avenue has been so attractive in the past. The existing condition is one that is suburban in nature and disconnected from the Avenue's charm and visual appeal. The Revitalization proposal corrects this condition by bringing order to architecture and urbanism that is reminiscent of historic Palm Beach.

Protect the unique character of the older areas of Worth Avenue and promote continuity and enhancement in newer areas.

125 Worth Avenue Revitalization Proposal Response: The 125 Worth Avenue Revitalization Proposal (rehabilitation) located on the east-end development area represents an opportunity to promote continuity and enhancement in the subject block with a connection to the western portion of the Avenue. The Revitalization proposal proves successful in the aforementioned opportunity by respecting existing development scale and architecture while carefully reinforcing, strengthening and enhancing its existing condition.

Strengthen pedestrian character and create new vias and other pedestrian linkages.

125 Worth Avenue Revitalization Proposal Response: The existing site condition of 125 Worth Avenue maintains an auto-centric environment and does not recognize the pedestrian as a priority within the site and its interface with the public realm of the Avenue. The 125 Worth Avenue Revitalization Proposal removes most of the surface level parking (auto-centric environment) and replaces it with active storefronts that prioritize the pedestrian experience, thus extending the pedestrian, village like character of the western portion of the Avenue.

Maintain and continue to create a diverse mix of activities.

125 Worth Avenue Revitalization Proposal Response: The 125 Worth Avenue Revitalization Proposal represents a diverse mix of residential, office, and retail uses that complement the Avenue's present specialty shopping reputation. As a result, by introducing a pedestrian scaled environment to the subject property, Worth Avenue can absorb growth and prosper in an appropriate manner.

Maintain high expectations for the quality of architecture along Worth Avenue.

125 Worth Avenue Revitalization Proposal Response: Unlike the existing condition, the 125 Worth Avenue Revitalization Proposal includes a new building that is influenced by the area climate, character of the landscape, and a concern for human size and scale. Moreover, the proposal stresses architectural traditions such as protection from the sun and glare, strong shade and shadow patterns, simplicity of materials and colors, and interesting visual elements.

Strengthen the Avenue's distinctive landscape character.

125 Worth Avenue Revitalization Proposal Response: The 125 Worth Avenue Revitalization Proposal continues to reinforce the Avenue's pedestrian-oriented character by the use of windows, open and enclosed stairways, planting areas, potted plants, decorative paving and tiles, ornamental lighting, and providing an abundance of shade, color, varied textures, and form.

Continue and expand the tradition of the Avenue's arcaded walkways.

125 Worth Avenue Revitalization Proposal Response: The 125 Worth Avenue Revitalization Proposal provides a modern adaptation of covered walkways which unify diverse building fronts, provide shade protection from the sun, and further serve as a consistent architectural element of pedestrian scale.

Strengthen the provision of consistent and compatible street spaces.

125 Worth Avenue Revitalization Proposal Response: The 125 Worth Avenue Revitalization Proposal's site plan gives priority to establishing complementary and supportive relationships with neighboring properties by respecting the edge conditions of the adjacent properties and introducing landscaped and pedestrian elements to the site.

Adherence to the Worth Avenue Design Guidelines

Relationship to Existing Development

Guideline: All development proposals should show evidence of coordination with the site plan, arrangement of building forms, landscape design, and façade patterns of neighboring properties.

Existing Conditions: The existing site plan 125 Worth Avenue represents a disconnected, suburban arrangement of building forms, landscape design, and façade patterns that are auto centric in nature.

Proposed Conditions: In contrast, the 125 Worth Avenue Revitalization Proposal respects the arrangement of building, open space, and landscape elements on the adjacent sites. The resultant site plan is more respectful of the site's urban condition along Worth Avenue.

Architectural Character

Guideline: All development proposals should demonstrate evidence they have considered the predominant scale and proportion of buildings in the area. Elevation sketches, photographic montages, and other graphic studies are encouraged.

Existing Conditions: The existing building and site plan combine to form an inappropriate architectural expression due to its foreign proportion, rhythm, and form. The existing condition neither protects nor enhances the Avenue's market appeal for the benefit of the residents of the Town.

Proposed Conditions: The 125 Worth Avenue Revitalization Proposal involves a major rehabilitation to the Worth Avenue façade of the building which will result in intimate proportions of building elements at the ground level that will be appreciated by pedestrians. The relationship between the height and width of the building and its architectural elements contributes to the appropriate proportion of buildings. In reforming the horizontal emphasis of the existing building to a more vertical expression, the proportion of the proposed building will be much more germane to the

vernacular of historic Palm Beach. Additionally, the proposed rhythm of the rehabilitated building with its ordered recurrent alternation of strong and weak architectural elements yields visual interest to the building true to the Mediterranean-Revival architectural style. At last, the proposed building and site plan coordinates the form and height of adjacent structures to demonstrate visual linkages moving from west to east across the site.

Street Character, Size and Bulk

Guideline: New development should preserve the existing character by reducing the apparent building width and bulk. Pedestrian interest should be strengthened by providing frequent shop, building, and via entrances along street frontages.

Existing Conditions: The existing building at 125 Worth Avenue maintains an awkward proportion, scale, and mass. Infrequent opening and entrances along the street frontages detract from pedestrian interest. Additionally, the existing building reads as one large building across the lot.

Proposed Conditions: The proposed building at 125 Worth Avenue repositions the existing building with respect to apparent building and storefront width, a varied roofscape, multi-story structures, and recesses and projections along all facades. By dividing the Worth Avenue elevation into smaller parts, the proposed building's apparent building and storefront widths are reduced in an effort to create pedestrian interest as well as break up the scale and mass of the building. The existing roof line which is one of a suburban vernacular has been transformed (in the proposed structure) to create an interesting silhouette against the sky reflective of the west-end of the Avenue. The verticality of the buildings is reduced via balconies and changes in the wall plane thus providing strong shadow and visual interest. The recessed features of the proposed structure create a sense of depth in the building wall and emphasize important architectural elements of the building such as entrances and bays.

Street Frontage

Guideline: Active building frontages, creating inviting indoor/outdoor spaces, are an essential ingredient to maintain and strengthen the Avenue's pedestrian character. Buildings should provide an opening at the ground level to allow pedestrian views of display windows. Frequent building entrances are encouraged. Side and rear building entrances should always be accompanied by a front entrance facing the Avenue.

Existing Conditions: The existing building frontage at 125 Worth Avenue maintains a confused street-edge along Worth Avenue. The spaces at the ground floor along Worth Avenue include long spatial gaps while the second and third story fenestration do not reflect successful non-residential Palm Beach building types.

Proposed Conditions: The proposed building at 125 Worth Avenue greatly increases the activation along the Worth Avenue frontage by minimizing blank walls, increasing the height and area of storefronts, and organizing and increasing entrances to the building in an orderly fashion, so that one knows where the front door is to the building.

Building Setback Area

Guideline: The space between the building and the curb should be like an open or covered patio. It should provide pedestrians with a buffer from traffic on the Avenue, shaded protection from the sun, and a rich variety of experiences and choices.

Existing Conditions: The existing space between the building and curb is bifurcated by grade changes and separated sidewalk areas.

Proposed Conditions: The proposed building at 125 Worth Avenue reads much more like an open and covered patio. The continuous linear and rhythmic paving includes occasional street contrasts and accents including plantings and landscape. The proposed patterns of the building setback area are geometric rather than organic which is more appropriate for the Avenue.

Arcades, Colonnades or Recessed Walkways

Guideline: Arcades or covered walkways are an important part of Worth Avenue's architectural heritage. They provide relief from the sun, buffers from the street, and are a consistent architectural element scaled to human size. New buildings on the Avenue are encouraged to provide arcades or other forms of shaded base.

Existing Conditions: The existing walkway condition at 125 Worth Avenue does not integrate the entirety of the sidewalk in front of the building.

Proposed Conditions: The proposed building at 125 Worth Avenue includes recessed walkways as an integral part of the building's architectural character that is not separated from the sidewalk but rather a seamless portion of the overall sidewalk. The successful integration of these two elements creates useful outdoor space and provides protection from the sun in a functional manner. The framing of the sidewalk space does not include a superficial or decorative device but rather one of form and function of the structure itself.

Building Materials

Guideline: Restraint should be used in the number of different building materials selected. Simplicity is desired. Building materials similar to those in predominant use on the Avenue are encouraged. Avoid the use of new materials that are incompatible with other development. Highly reflective, shiny, or mirror-like materials should not be used.

Existing Conditions: Aside from the windows and doors of the existing building at 125 Worth Avenue, the building materials are generally acceptable. However, the architectural disorder of the facades and building in general reduce the success of the building materials.

Proposed Conditions: The proposed structure for 125 Worth Avenue includes walls that are painted stucco trimmed by natural Florida Keystone. The large, glazed areas of the building are divided into smaller parts by using mullions to express individual windows. The doors are finished in a dark metal reflective of successful shopfront frontages found along the Avenue. Finally, the building includes decorative metal railings. All of the proposed building materials are consistent with the recommendations of the Worth Avenue Design Guidelines.

Architectural Details

Guideline: Worth Avenue has a long history of quality in architectural design and building construction. This quality is reflected in buildings of varying architectural styles with varying architectural details which add interest to the area.

Existing Conditions: The existing building at 125 Worth Avenue lacks a clear architectural identity and appears to have been designed in an anticipated Mediterranean-Revival style that was not appropriately executed, thus resulting in a more Post-Modern like style.

Proposed Conditions: The proposed building at 125 Worth Avenue becomes an exercise of how to make the systems and order of the existing building better. The introduction of Mediterranean-Revival materials, shade and shadow, and entrance canopies combine to transform the style to Neoclassical design. This style maintains consistency with the Urban Design Objective of the East-End Development Area.

Color and Texture

Guideline: Building colors should emphasize light and muted colors. General color selection should show evidence of coordination with the predominant use of color on the Avenue, especially in the area of the project. As a general rule, keep color schemes simple.

Existing Conditions: Aside from the windows and doors, the remaining elements of the existing building meet the recommended color selection of the Worth Avenue Design Guidelines.

Proposed Conditions: The proposed white/off-white color scheme for the walls of the building reflects the recommended “soft Mediterranean color” of the Worth Avenue Design Guidelines. The proposed dark roof color will contrast nicely with the sky and define the structure against the sky. The metal-framed windows and doors will be a very dark color. At last, the landscaped accents of the office facades and trellises provides visual harmony of the building façade and the building block.

Building Equipment and Services

Guideline: Locate service and loading areas to minimize visibility from the Avenue, vias, courtyards, or other public spaces. Mechanical and electrical equipment, communications and service equipment, and other appurtenances should be concealed from view of the Avenue, other streets, vias, courtyards, and neighboring properties by walls, fences, parapets, dense evergreen foliage or by other suitable means.

Existing Conditions: The existing mechanical equipment is located on the rooftop of the building and does not afford a pleasant view from neighboring residential buildings that look down upon the existing rooftop.

Proposed Conditions: The proposed building’s mechanical equipment will be completely concealed from view of the Avenue and neighboring properties. In addition, the proposed rooftop will be a beautified element with lush landscaping when viewed from neighboring residential buildings.

Parking Facilities

Guideline: Minimize the visual impact of parking structures and parking lots by locating them at the rear or interior portions of the building site. When parking structures must be located at the street edge, use of the ground level street frontage for shops, offices, or other commercial space. Parking access from alleys and side streets is desired.

Existing Conditions: The existing site plan includes surface parking areas on three sides of the structure which maintains a significant percentage of the Worth Avenue street frontage. An underground parking facility exists on the site as well.

Proposed Conditions: The proposed site plan removes most surface parking on the site and replaces these areas with active storefronts.

Renovations and Additions

Guideline: Building facades play a basic role in the visual makeup of the Avenue. Storefronts, awnings, signs, window displays, texture and color are all integral elements of the design. Collective improvement of these elements creates visual order.

Facadectomy

Existing Conditions: The existing façade of the building is tired and in need of visual order.

Proposed Conditions: The proposed building facades will be substantially renovated coupled with minor additions thus creating visual order while maintain an appropriate scale, proportion, and rhythm.

Style Change

Guideline: Some Worth Avenue buildings lack a clear identity, are void of distinguishing architectural features, or have been constructed in an architectural style that is not particularly compatible with the predominant architectural styles in the general development area.

Existing Conditions: The existing building at 125 Worth Avenue lacks a clear architectural identity and appears to have been designed in an anticipated Mediterranean-Revival style that was not appropriately executed, thus resulting in a more Post-Modern like style.

Proposed Conditions: The proposed building at 125 Worth Avenue becomes an exercise of how to make the systems and order of the existing building better. The introduction of Mediterranean-Revival materials, shade and shadow, and entrance canopies combine to transform the style to Neoclassical design. This style maintains consistency with the Urban Design Objective of the East-End Development Area.

Urban Design Objectives for the East-End Development Area

For the reasons stated herein, the 125 Worth Avenue Revitalization Proposal meets the following Urban Design Objectives for the East-End Development Area:

- To preserve, maintain, and enhance existing Mediterranean-Revival/Neo-Classical character of the area;
- To encourage the protection and enhancement of non-designated but potential Mediterranean-Revival/Neo-Classical historical structures;
- To encourage new development and remodeling to use Mediterranean-Revival, Neo-Classical architectural styles or other updated variants;
- To insure compatibility of new development with existing uses and these Guidelines through review and recommendation of the Landmarks Preservation Commission and review and approval of the Architectural Commission;
- To encourage the remodeling/rehabilitation of incompatible buildings and storefronts in the area, including the provision of multiple storefront entrances, and unification of display windows, awnings, colors, materials, and signage;
- To encourage the use of arcades or colonnades along Worth Avenue frontages; and
- To encourage the interconnection of additional vias, courtyards, patios, and other passageways both on and off-site.

A similar shaped application for the property was heard by the Council first in June, 2021 because they didn't want to take up ARCOM's time. Ultimately it was withdrawn. You never heard it. It's the way these projects used to be scheduled. Nowadays, Council is putting the proverbial charrette cart before the horse. Yes, you serve at the pleasure of the Council but it's maddening to watch as you're being forced to review an application for 125 Worth Avenue that cannot be legally built as presented.

The architectural changes requiring almost one and half single spaced pages of variance notice should have already been decided by them as the judicial body. It's unfair to you, to our staff, to abutting neighbors, to the rest of our community.

There was a lot to unpack in this application- so I'll try to quickly reference some issues.

The *Worth Avenue Design Guidelines*, pages 9 and 38 describe the block east of South County Road and reference the Esplanade shopping mall and a three-story professional building across the Avenue. It's the applicant's property.

Design Guidelines-Page 9

The block of Worth Avenue east of South County Road contains more recently constructed buildings dominated by the two-story Esplanade shopping mall and a three-story professional office building across the Avenue. Beyond a poorly designed facade and awning treatment on the Esplanade intended to give the appearance of individual structures, and an arcaded terrace and blind arcade window treatment on the office building, there has been little attempt to integrate this block into the character of the older developed blocks to the west. Both buildings are large and massive, have only single entrances on Worth Avenue, and present little pedestrian appeal.

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Town Clerk's Office

Design Guidelines- Page 38

EAST-END DEVELOPMENT AREA

This area extends from South County Road to within several hundred feet of Ocean Boulevard. At the northeast corner of the Avenue and South County Road the two-story Findlay Galleries building reflects some of the Neo-Classical look of the Mid-Avenue Development Area.

The remainder of the block is dominated by the more recently constructed two-story Esplanade shopping mall and a three-story office building across the Avenue. Beyond a poorly designed facade and awning treatment on the Esplanade, intended to give the appearance of individual structures, and an arcaded terrace and blind arcade window treatment on the office building, there has been little attempt to integrate this block into the character of the older developed blocks to the west. Because of the more recent period of construction, below ground and rooftop parking are provided in this area.

East of the Findlay Galleries building, there are approximately 300 feet of frontage ripe for redevelopment. Between this frontage and the office building is a small decoratively landscaped garden site.

In contrast, the applicant's "Worth Avenue Design Guidelines Justification Statement" Page 43 (1/33) has taken the liberty of improperly re-writing the beginning of these paragraphs to fit a much needed application narrative by substituting the word "three story " with the word " four-story" and then going on to quote the authentic Guidelines text as written. A fourth story as proposed is new construction and is not allowed in the Guidelines or our Code. Sec. 134-1165

Page 43 (1/33)

The ocean block of Worth Avenue contains more recently constructed buildings dominated by the two-story Esplanade shopping mall on the Southern side of the block and a four-story professional office building (125 Worth Avenue) on the Northern side of the block. Beyond a poorly designed facade and awning treatment on the Esplanade intended to give the appearance of individual structures, and an arcaded terrace on the office building, there has been little attempt to integrate this block into the more historically significant Western Worth Avenue block. Both buildings are large and massive, have only single entrances on Worth Avenue, and present little pedestrian appeal. (quote from the guidelines themselves). The proposed, substantial renovation and addition will be the first of its kind since the building's original construction.

The revised paragraph is preceded by a sentence that says, “All in all, investment undertaken on the Avenue should:” and three bullets are listed. The word “investment” doesn’t appear in the Guidelines. How do you or the public separate and evaluate original text that’s blended with the stream of enhanced buzz that permeates the Justification Statement? Have other liberties been taken within the submission language?

All in all, investment undertaken on the Avenue should:

- Be compatible with its neighbors and the Avenue’s historic fabric;
- Enhance the Avenue’s quality and character; and
- Encourage the continued attraction of a mixture of shops, residences, and other uses meeting the Town’s desires.

Page 44 (2/33) has Unsubstantiated language – [the building]” does not provide inducement for the quality uses preferred in the Town” (The required Worth Avenue Design Guidelines Appraisal initially omitted by the applicant states that 95% of this commercial building is occupied. I presume they’re Town-serving tenants.) Are new, as yet unidentified uses like a restaurant or a reprise of the 2021 condo plan going to be grafted onto the site at a future date?

The project is described as “An opportunity to promote continuity and enhancement . . . with a connection to the western portion of the Avenue”. There are two convening blocks of separation. This seems like hyperbole.

Worth Avenue Urban Design Goals

Protect and enhance the Avenue's market appeal for the benefit of the residents of the Town.

125 Worth Avenue Revitalization Proposal Response: The 125 Worth Avenue Revitalization Proposal contributes to the Avenue's role as an architectural statement expressing the Town's image. The existing building does not contribute to Worth Avenue's historic character and atmosphere and does not provide inducement for the quality uses preferred in the Town and for which the Avenue has been so attractive in the past. The existing condition is one that is suburban in nature and disconnected from the Avenue's charm and visual appeal. The Revitalization proposal corrects this condition by bringing order to architecture and urbanism that is reminiscent of historic Palm Beach.

Protect the unique character of the older areas of Worth Avenue and promote continuity and enhancement in newer areas.

125 Worth Avenue Revitalization Proposal Response: The 125 Worth Avenue Revitalization Proposal (rehabilitation) located on the east-end development area represents an opportunity to promote continuity and enhancement in the subject block with a connection to the western portion of the Avenue. The Revitalization proposal proves successful in the aforementioned opportunity by respecting existing development scale and architecture while carefully reinforcing, strengthening and enhancing its existing condition.

Page 44 (2/33) says "The proposal represents a diverse mix of residential, office and retail uses . . ."

The applicant was told by staff to remove this language. **There are no residential uses proposed.**

"by introducing a pedestrian scaled environment to the subject property, Worth Avenue can absorb growth and prosper. " Rhetoric. Residents don't want growth on Worth Avenue and neither does our Comprehensive Plan. The Town is built-out.

Maintain and continue to create a diverse mix of activities.

125 Worth Avenue Revitalization Proposal Response: The 125 Worth Avenue Revitalization Proposal represents a diverse mix of residential, office, and retail uses that complement the Avenue's present specialty shopping reputation. As a result, by introducing a pedestrian scaled environment to the subject property, Worth Avenue can absorb growth and prosper in an appropriate manner.

The applicants presume to know what our residents want and their solution is an even wider, deeper, taller, more intensive non-conforming building, not imagined within the Guidelines.

A. Seltzer – re ARC-23-022 (ZON-23-032) 125 WORTH AVE (COMBO) -125 Worth Avenue- ARCOM 02-22-2023

(Ord. No. 2-74, § 5.48, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-82, § 4(g), 3-31-82; Ord. No. 2-83, § 4(d), 2-23-83; Ord. No. 1-84, § 3(e), 3-1-84; Ord. No. 1-85, § 3(d), 2-11-85; Ord. No. 1-91, § 3(e), 4-23-91; Ord. No. 1-92, § 3(d), 2-3-92; Ord. No. 2-98, § 4, 2-27-98; Ord. No. 1-01, § 6, 2-19-01)

Cross reference(s)—Applicability of Worth Avenue design guidelines in C-WA district, § 134-233.

Sec. 134-1170. Architectural tower features.

In the commercial zoning districts, a maximum of two towers as architectural features may be constructed as integral parts of the building provided that no tower(s) exceeds the allowable overall height by more than five feet; such tower(s) is set back an additional five feet on the front, rear, side, and street side and street rear yards; and, such tower(s) has no habitable floor area. The area of such tower(s) shall in combination not exceed two percent of the gross floor area of the building. This section does not apply to entry facades or parapets.

(Ord. No. 1-00, § 2, 2-22-00)

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Sec. 134-233. - Applicability of Worth Avenue Design Guidelines in C-WA district.

(a)

Special exceptions in the C-WA district which involve special allowances pertaining to residential uses, height or coverage, as referenced in [section 134-1165](#), shall be based upon the Worth Avenue Design Guidelines and contingent upon review and recommendation by the architectural commission.

(b)

The architectural commission, in order to make a positive recommendation, must make an affirmative finding that the proposed special exception is meritorious to the town because of its general appearance and adherence to the Worth Avenue Design Guidelines, published by Adley, Brisson, Engman, Inc.

(c)

The Worth Avenue Design Guidelines are incorporated and adopted as part of this chapter as if fully set forth in this section.

(Ord. No. 2-74, § 6.40(q), 3-26-74; Ord. No. 3-77, § 11, 3-29-77; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-79, § 12, 3-30-79; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 1-85, §§ 3(b), 4(d), (e), 2-11-85; Ord. No. 1-90, § 4(d), 2-5-90; Ord. No. 1-91, § 4(c), (d), 4-23-91)

Cross reference— Special exception to height regulations, special exception structures, [§ 134-1165](#).

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Sec. 134-1165. - Special exception to height regulations; special exception structures.

(a)

Criteria for granting. In order to encourage increased open space, landscaped open space, reduced density and lot coverage and architectural detail, the town council may at its discretion, upon review of an application and public hearing thereon, allow for the increase of the maximum building height in the C-WA Worth Avenue district, upon a finding being made by the town council that the proposed increase in height for a contemplated special exception structure is in the public interest, that careful attention is given to architectural detail, and that it meets the standards of sections [134-227](#) through [134-233](#) and the goals and guidelines in this section.

(b)

Two-story and three-story construction. The following shall be applicable to two-story and three-story construction in the C-WA district:

(1)

First story coverage not more than 35 percent and second story coverage not more than 35 percent. Additional coverage and other special allowances may be granted if the structure is built in accordance with the Worth Avenue Design Guidelines in conformance with [section 134-233](#).

(2)

A third story and other special allowances may be granted if the structure is built in accordance with the Worth Avenue Design Guidelines in conformance with [section 134-233](#).

(Ord. No. 2-74, § 5.48, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-82, § 4(g), 3-31-82; Ord. No. 2-83, § 4(d), 2-23-83; Ord. No. 1-84, § 3(e), 3-1-84; Ord. No. 1-85, § 3(d), 2-11-85; Ord. No. 1-91, § 3(e), 4-23-91; Ord. No. 1-92, § 3(d), 2-3-92; Ord. No. 2-98, § 4, 2-27-98; Ord. No. 1-01, § 6, 2-19-01)

Cross reference— Applicability of Worth Avenue design guidelines in C-WA district, [§ 134-233](#).

There's nothing new under the sun in Palm Beach.

Chairman Smith sat as steward in the same seat he now occupies along with Lesly Smith and Town Attorney, John Randolph in December, 1990 when the Guidelines were discussed. A Shiny Sheet editorial written by Bob Grace, of blessedly memory, during that period said, in part “ The splendor that was created in the old part of Worth Avenue was created by persons who had desire within them to create beauty. Nowadays, we seem to be dealing with persons whose controlling desire is to create maximum wealth for themselves by achieving maximum gross leasable area.” He ends by writing, “it is the town residents whom town government should serve. “

Yes, the architecture is an improvement with some lovely features, but as proposed, redevelopment could trigger similar intensification on the roofs of other commercial buildings. That's not within your task today. You have an ordinance to guide you. The crucial exceptions that would allow more GLA have not been met. Whatever you decide, I hope there will be no boiler plate language that says the variances have been met because they haven't been discussed. More importantly, they do not satisfy all of the criteria in Sec-134-201.

Sec. 134-1165. Special exception to height regulations; special exception structures.

- (a) *Criteria for granting.* In order to encourage increased open space, landscaped open space, reduced density and lot coverage and architectural detail, the town council may at its discretion, upon review of an application and public hearing thereon, allow for the increase of the maximum building height in the C-WA Worth Avenue district, upon a finding being made by the town council that the proposed increase in height for a contemplated special exception structure is in the public interest, that careful attention is given to architectural detail, and that it meets the standards of sections 134-227 through 134-233 and the goals and guidelines in this section.
- (b) *Two-story and three-story construction.* The following shall be applicable to two-story and three-story construction in the C-WA district:
 - (1) First story coverage not more than 35 percent and second story coverage not more than 35 percent. Additional coverage and other special allowances may be granted if the structure is built in accordance with the Worth Avenue Design Guidelines in conformance with section 134-233.
 - (2) A third story and other special allowances may be granted if the structure is built in accordance with the Worth Avenue Design Guidelines in conformance with section 134-233.

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.

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

(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.

(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.

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

(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.

(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. PG 8

(b) The town council may prescribe a reasonable time limit within which the action for which the variance is required shall begin or be completed or both. Under no circumstances, except as permitted in subsection (a) of this section, shall the town council grant a variance to permit a use not generally or by special exception permitted in the zoning district involved or any use expressly or by implication prohibited by the terms of this chapter in the zoning district. No nonconforming use of neighboring lands, structures or buildings in the same zoning district and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the authorization of a variance.

(Ord. No. 2-74, § 10.13, 3-26-74; Ord. No. 1-84, § 8(a), 3-1-84; Ord. No. 1-91, § 6(a), 4-23-91; Ord. No. 1-98, § 15, 2-9-98)