



**Parks and Recreation
Department**

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**Palm Beach County
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County Administrator

Verdenia C. Baker

September 12, 2016

Mr. Thomas G. Bradford, Town Manager
Town of Palm Beach
P.O. Box 2029
Palm Beach, FL 33480

Re: R.G. Kreuzler Park

Dear Mr. Bradford

On November 12, 2014, the Palm Beach Town Council approved the Special Exception application to allow the replacement of the existing public restroom within R.G. Kreuzler Park. As a requirement of the application's approval, the County was asked to make "best efforts" to work with the residents of Palm Worth and La Palma to relocate the northern most beach access point. This access point is located at the property line between Palm Worth and the Park and is subject to an access easement in favor of La Palma. The La Palma easement runs along the north 5 feet of the Park, however, the existing pathway providing physical access to the beach meanders outside of the 5 foot easement. The pathway and access point are ADA accessible and are used by residents of both La Palma and Palm Worth, as well as park visitors.

County staff met with residents of Palm Worth beginning in January, 2015 regarding their concerns and with residents of La Palma beginning in April 2015. Unfortunately, despite repeated conversations and meetings over the past 18 months, a consensus could not be reached between all three parties. La Palma insists that it is entitled to exclusive use of its easement and has asked that the County construct a fenced ADA accessible pathway within the easement at the County's expense. La Palma is willing to not require immediate construction of a pathway within its easement and to allow the existing pathway to remain for an undefined period of time, in exchange for the County paying La Palma a sum equal to what the County would spend constructing a new pathway, or roughly \$150,000. Palm Worth would prefer to leave the pathway and access point in its existing location, as relocating the pathway to the north 5 feet would bring the pathway very close to residential units.

In response to the conflicting positions of La Palma and Palm Worth, County Staff developed two options and presented those options to the parties. Option 1 is to maintain the pathway and access point in their existing locations. The La Palma easement would remain in place but would not be improved with a pathway. Access to the park would remain available to the residents of Palm Worth through the two existing gates located on the fence separating Palm Worth from the park.

Option 2 is to construct a new ADA accessible concrete pathway within the existing La Palma easement along the north 5 feet of the park. Under this option,

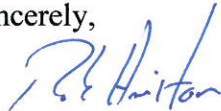
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most of the existing pathway that is currently in place would be removed, as would some Sabal Palms and hedging that appear to encroach onto the easement. The pathway would not be fenced off from the park.

Representatives of the Palm Worth Condominium Association selected Option 1 as their preferred choice given concerns with the proximity of the Option 2 pathway to their building as well as potential impacts to residents who utilize the existing pathway. Representatives of the La Palma Condominium Apartment Association prefer Option 2 as they believe the easement to be exclusive, but would consider Option 1 for a cash payment of \$150,000.

The County proposes to move forward with Option 1 which keeps the pathway and access point in the same location it has been for over 10 years, minimizes the impacts upon the Park's neighbors, recognizes the easement in favor of La Palma and avoids unnecessary expenditure of public funds. We trust that the Town Staff and Council will recognize that the County has taken into account the interests of all parties in proposing this option.

Sincerely,



Bob Hamilton, Director of Park Development
Planning, Research and Development Division

Attachments: Letter from Lindsay Demmery, Esq. dated August 5, 2016
representing La Palma Condominium Apartment Association, Inc.

Letter from Ross Hering (PBC) dated August 25, 2016 to Lindsay
Demmery, Esq.

Email from Juanita Leary Pres., Palm Worth Board of Directors dated
July 22, 2016

Special Exception #26-2014 approval letter from Paul Castro, AICP,
Zoning Administrator dated November 20, 2014

C: John Page, Town of Palm Beach
Paul Castro, Town of Palm Beach
Ross Hering, Palm Beach County, PREM
Eric Call, Palm Beach County, Parks and Recreation
Anil Patel, Palm Beach County, CID
Miradieu Aubourg, Palm Beach County, CID
Collene Walter, Urban Design Kilday Studios
Lindsay Demmery, LaPalma Condominium Counsel
Juanita Leary, President, Palm Worth Condominium Board of Directors



Attorneys at Law

120 Butler Street, Suite B

West Palm Beach, FL 33407

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www.Prestigelandlaw.com

August 5, 2016

Lindsay Demmery, Esq.

LDemmery@PrestigeLandLaw.com

Board Certified Real Estate Attorney

BY ELECTRONIC MAIL TO:

hfalcon@pbcgov.org

Howard Falcon, Esq.

Re: La Palma Condominium Apartment Association, Inc.

To whom it may concern:

The La Palma Condominium Association, Inc. (hereinafter "La Palma"), has received the recent proposed plans for the Beach Access Concept for the R.G. Kreusler Memorial Park (hereinafter "the Project"), and upon review of said plans and the two options the County has presented, responds as follows:

1. La Palma has an express exclusive easement over the north five (5) feet of the property as reflected in the various Easement Agreements recorded in the Official Records of Palm Beach County, ORB1777, PG 357, ORB1927, PG 129, ORB 1972, PG1714, ORB2135, PG1991, and as reflected in the site plan of the original development for the Park. In furtherance of said exclusive easement, La Palma is amenable to the County's proposed plan (Option 2 as referenced by the County) to adhere to original site plan and La Palma's easement. By consenting to option 2, La Palma in no way waives any of La Palma's rights, interests, or ownership of its exclusive easement. Furthermore, La Palma's consent to Option 2 at this time does not prevent or in any impede La Palma's right to enforce its exclusive easement in the future.
2. However, if the County and Town prefer to keep the path to the beach as it is now, La Palma is willing to discuss resolving and settling the matter with an agreement to be negotiated by the parties along the following lines:
 - a. La Palma's original exclusive Easement would the easement of record and remain fully enforceable;
 - b. La Palma would agree, however, to use the current path to the beach rather than the original easement for the duration of the agreement;
 - c. A cash payment of \$150,000.00 to La Palma in consideration of this concession and in recognition of the saved expenses associated with (i) avoiding Option 2's renovations and (ii) avoiding the cost of litigation; and
 - d. La Palma commitment to make best efforts to enter into a cross-easement agreement with Palm Worth Condominium Association, Inc.

We look forward to your response to this proposal. Should you have any questions or need to discuss this further please feel free to contact me.

Very truly,

A handwritten signature in black ink, appearing to read 'Lindsay Demmery', is written over a horizontal line.

Lindsay Demmery



August 25, 2016

Lindsay Demmery, Esq.
Prestige Land & Law, PLLC
120 Butler St., Suite B
West Palm Beach, FL 33407

RE: Kruessler Park/La Palma Condominium Apartment Association

**Facilities Development &
Operations Department**

**Property & Real Estate
Management Division**

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Robert Weisman

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Dear Lindsay:

I received your August 5 letter regarding the above referenced matter. Palm Beach County recognizes the rights of residents of La Palma to utilize the north five feet of Kreussler Park for access to the beach pursuant to the easements referenced in your letter. However, we do not agree with your interpretation that the easement provides La Palma the right to exclusive use of the easement. Furthermore, we do not recognize nor accept responsibility for construction of any improvements within said easement. The easement has never been fenced or otherwise configured to prohibit use by third parties and the pathway was relocated from the North five feet to its current location over ten years ago without objection by residents of La Palma. It was only when Town Staff brought this matter to the attention of La Palma that La Palma raised an objection to the location of the pathway and requested that a new pathway be constructed within the easement, fenced and gated.

As indicated in our discussions, our preference would be to leave the pathway in its existing location and grant La Palma a replacement easement over the existing pathway. As La Palma has declined this offer, we are requesting that the Town Council approve our site plan reflecting the pathway in its existing location, showing La Palma's easement as an encumbrance over the North five feet, and not providing for County construction of any additional pathways. (option 1) This option minimizes the impacts upon our neighbor, the Palm Worth Condominium, while both recognizing La Palma's easement and continuing to provide access to the beach over the same pathway used by La Palma for the last 10 years.

We have made every effort to find a balanced solution which recognizes the rights of La Palma and the potential impacts upon Palm Worth. Unfortunately, the latest position of La Palma as set forth in your letter not only goes well beyond the terms of the easement, but seeks cash payment as its primary goal. We hope La Palma reconsiders its position.

Sincerely,


Ross Hering, Director

RCH/dc

G:PREM/Ross/Lindsay Demmery 8.25.16

Miradieu Aubourg

Subject: FW: Kreusler Park Access 12 Options 1 and 2

From: juanita leary <juanitaleary@msn.com>

Date: July 22, 2016 at 11:58:54 PM EDT

To: Bob Hamilton A. <RHamilton@pbcgov.org>

Cc: Jim Apostolico <scajma@aol.com>, gwkellerfl <gwkellerfl@yahoo.com>, Marhow513 <Marhow513@MSN.COM>, Jim Curtis <jimsr@sheehancompanies.com>, Mary Anne O'Bryan <emmaob@comcast.net>, Rusty/Sandy Moran <RMORAN01@cox.net>, Marcy Cresswell <marcymgr@comcast.net>

Subject: Re: Kreusler Park Access 12 Options 1 and 2

Bob,

Thank you for the updated proposals.

As Palm Worth has stressed, our concern is for the situation that exists at Access 12's entrance to the beach. Per our meeting of June 3rd, my understanding was that the County would make every effort to address this situation by cutting down the sea grapes by the allowed one-third thus providing more visibility of activities at the access, keep the beach clean and free of trash and plus your suggestion that with expected increased funding the County could provide or expect that a Beach Security Guard/Officer would be available to provide more security to the area. In addition, there was a discussion of a gate at Access 12 that would be open during the day but locked at night when the park is closed. This certainly seems like a solution that combined with the above County actions should provide the degree of security necessary at Access 12. A gate at Middle Beach in Palm Beach was discussed in a June article in the PB Daily News - which was locked at night so do believe such an arrangement is possible.

As far as the Options proposed, Palm Worth would prefer and support Option 1 since the other Option 2 would require more construction and also have persons and animals within a few feet of a shareholders first floor apartment. Option 2 doesn't provide any additional benefit to LaPalma as far as we can determine. My understanding per your lawyer was that the easement could be deeded to LaPalma under the existing meandering walkway.

Please keep me informed of your plans to address the Access 12 situation and the result of negotiations with LaPalma concerning the 2 Options.

I will return to Palm Worth in October but hopefully everything will be worked out prior to the Oct. 12th Council Meeting to the satisfaction of all concerned.

Thanks,

Juanita Leary
Pres., Palm Worth Board of Directors



TOWN OF PALM BEACH

Planning, Zoning & Building Department

RECEIVED

DEC 7 2 2014

DENISE M. NEWMAN
P.B. COUNTY ATTORNEY

November 20, 2014

Ms. Denise Newman, Esq.
Palm Beach County Attorney's Office
301 North Olive Avenue
Suite 601
West Palm Beach, FL 33401

Subject: Special Exception #26-2014 with Site Plan Review, 2882 South Ocean Boulevard, R.G. Kreusler Park

Dear Ms. Newman:

The Town Council, at its November 12, 2014 meeting, approved your client's Special Exception with Site Plan Review application to allow the following:

- a. replacement of existing 755 square foot public restroom structure (built in 1979) with an expanded 1,360 square foot restroom and life guard break room/storage structure;
- b. expansion of the western ingress/egress point from 20 feet to 25 feet to allow for two-circulation (currently one-way circulation);
- c. additional recreational amenities including:
 1. a future proposed children's playground with up to 1,500 square feet of shade canopies to be phased in the undetermined future;
 2. additional benches, trash receptacles and showers; and,
 3. outdoor shower at center beach cross over.
- d. temporary structures during the construction of the replacement structure which is estimated to take 12 to 15 months:
 1. one (1) temporary contractor portable restroom;
 2. three (3) temporary public portable restrooms;
 3. one (1) temporary construction and lifeguard operation trailer;
 4. one (1) temporary contractor storage trailer for the storage of construction materials;
 5. one (1) temporary lifeguard storage trailer for the storage of lifeguard equipment; and
 6. temporary construction barrier fencing.

The approval includes a requirement that the applicant provide a knox-box rapid entry system for Palm Beach Police and Fire-Rescue use at the vehicular entrances to the park and make best efforts to work with the neighbors and easement holders to move the north beach access easement in the park further south on the property. The conditional approval is identified sheets SP-1 through SP-3 prepared by Urban Design Kilday Studios and sheets 1 and 2 prepared by Michael B. Schorah & Associates, Inc., and sheet A-1 and A-2 prepared by Colome' & Associates, Inc., all of which are part of the approval of this application.

The Town Council approval of this application for special exception with site plan reconstitutes only zoning approval and does not relieve the owner and/or applicant from obtaining additional Town approvals as may be required, such as Architectural Commission approval and necessary construction permits. The work authorized under the approval of this special exception with site plan review must be commenced within one year from the date of approval or said approval will expire.

Sincerely,



Paul Castro, AICP
Zoning Administrator

cc: John S. Page, Director, Planning, Zoning & Building
Bill Bucklew, Building Official
John Lindgren, Planning Administrator
zf & pf