

**CITY OF LIGHTHOUSE POINT, FLORIDA**  
**CITY COMMISSION AGENDA ITEM REPORT**  
**MEETING DATE – January 10, 2017**

**AGENDA ITEM NO. - \_\_\_\_\_**

**PREPARED BY – Michael D. Cirullo, Jr., City Attorney**

**DIRECTOR APPROVAL - \_\_\_\_\_**

**ADMINISTRATOR APPROVAL - \_\_\_\_\_**

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**SUBJECT:** First Reading of an ordinance providing for the definition of the term “story”, limiting the maximum height allowed at the setback lines and further clarifying the maximum height of a structure for buildings located in the RS-3, RS-5, and RD-10 Zoning Districts.

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**1. BACKGROUND/HISTORY**

The City Commission and City Administration have been concerned with the height and massing of structures being constructed in the City’s residential zoning districts. The height of structures being constructed can cause potential issues related to fire safety, have adverse impacts on the adjacent properties due to reduction of sunlight, increased noise due to proximity of structures, and loss of useable green space. The Planning and Zoning Board reviewed and discussed the matter over several meetings, and recommended approval of an ordinance that addressed these issues to the City Commission.

On April 26, 2016, the City Commission considered the proposed ordinance on first reading. At that meeting, the City Commission requested the ordinance be sent back to the Planning and Zoning Board because the City Commission requested the term “story” be defined in the ordinance.

A draft ordinance to limit the height and the number of stories of residential structures, including the definition of “story”, has been developed by the City’s Planning and Zoning Board, with the assistance of the City’s Planning and Zoning Administrator. At the December 6, 2016 Planning and Zoning Board meeting, the Planning and Zoning Board forwarded a recommendation of approval of the proposed ordinance.

**2. FINDINGS/CURRENT ACTIVITY**

The City’s current ordinances limit the height of all buildings in the RS-3, RS-5, and RD-10 to a maximum of 34.5 feet above the crown of the adjoining roadway. In order to insure that a structure is not at a height of 34.5 feet at the setback line, this ordinance amends the current height regulations to limit the height at any setback line to no more than 28.5 feet. In addition, the ordinance will limit the height increase of the structure at any setback to one (1) additional foot in height for every two (2) feet increase away from any setback line from which the structure is placed, up to a maximum of 34.5 feet.

The proposed ordinance also revises the current language in the applicable sections to clarify that the structure shall not be more than two (2) stories. The words “in height” have been deleted from the RS-3, RS-5, and RD-10 zoning district regulations in order to insure that property owners understand that buildings in the RS-3, RS-5, and RD-10 zoning districts cannot be more than two (2) stories.

In order to further clarify the City's intentions, the proposed ordinance also includes a definition of the term "story." As provided in the ordinance, the term "story" means that portion of a building included between the upper surface of a floor and the upper surface of the floor or underside of the roof next above. A story consists of no less than eight (8) feet and no more than fourteen (14) feet in height. The definition further clarifies the City's interpretation of the term "story" for purposes of controlling development of structures within the City.

**3. ATTACHMENTS**

Proposed Ordinance  
Draft minutes of the December 6, 2016 Planning and Zoning Board Meeting, Page 6  
Photos/Drawing

**4. FINANCIAL IMPACT**

None

**5. ACTION OPTIONS/RECOMMENDATION**

Recommend that the City Commission consider approving the proposed ordinance on first reading.

CITY OF LIGHTHOUSE POINT  
FLORIDA

ORDINANCE NO. 2017 – 0944

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, AMENDING CHAPTER 42, “LAND DEVELOPMENT CODE”, ARTICLE IV, “ZONING”, DIVISION 4, “DISTRICT REGULATIONS”, SECTION 42-341, “RS-3 SINGLE FAMILY RESIDENTIAL DISTRICT”, SECTION 42-342, “RS-5 SINGLE FAMILY RESIDENTIAL DISTRICT”, AND SECTION 42-343, “RD-10 TWO FAMILY RESIDENCE DISTRICT”, OF THE CITY OF LIGHTHOUSE POINT CODE OF ORDINANCES TO PROVIDE FOR A LIMITATION ON THE MAXIMUM NUMBER OF STORIES AND MAXIMUM HEIGHT OF A STRUCTURE FOR BUILDINGS LOCATED IN THE RS-3, RS-5, AND RD-10 ZONING DISTRICTS TO NO MORE THAN 28.5 FEET ABOVE THE CROWN OF THE ADJOINING ROADWAY AT THE SETBACK AND WITHIN THE SETBACK AREA; PROVIDING FOR ADDITIONAL SETBACKS; AMENDING CHAPTER 42, “LAND DEVELOPMENT CODE”, ARTICLE IV, “ZONING”, DIVISION 1, “GENERALLY”, SECTION 42-242, “DEFINITIONS”, TO PROVIDE FOR A DEFINITION OF THE TERM “STORY”; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission of the City of Lighthouse Point finds that the massing and height of residential structures in relation to the applicable property boundaries poses issues related to fire safety, as well as potential detrimental effects on adjacent property owners; and,

**WHEREAS**, the City Commission has evaluated the need for imposing limitations on new construction in order to regulate the ability of property owners to construct structures to the maximum height permitted up to the applicable property boundary in light of the potential adverse impact on adjacent properties; and,

**WHEREAS**, the City Commission finds that by requiring residential structures to be set back from the property boundary potential visual blight and limitations on the flow of light and air between properties will be alleviated to the benefit of the health, safety and welfare of the community; and,

**WHEREAS**, the City Commission finds that the limitations hereinafter set forth are reasonably related to health, safety, issues for the citizens, property owners, and invitees of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, THAT:**

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**Section 1.** The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and incorporated herein by this reference.

**Section 2.** Chapter 42 of the City of Lighthouse Point Code of Ordinances entitled “Land Development Code,” Article IV, “Zoning,” Division 4, “District Regulations,” Section 42-341, “RS-3, single-family residential districts is hereby amended to read as follows:

Sec. 42-341. - RS-3, single-family residential districts.

\* \* \*

(d) Limitations on Number of Stories and Building Height Limitation. No building in the RS-3 district shall exceed two stories, ~~in height,~~ The maximum height of a building in the RS-3 district shall not be more than 34.5 feet above the crown of the adjoining roadway, measured at the highest point of any roof or parapet. In addition, no building shall exceed a height of more than 28.5 feet above the crown of the adjoining roadway at any setback line or within any setback area. An additional setback, from any applicable setback line, of two (2) feet horizontal for every one (1) foot vertical is required for any portion of the building above 28.5 feet to the maximum height limitation. Chimneys and ornamental features, such as spires and weather vanes, shall not exceed a height of 36.5 feet above the crown of the adjoining roadway. A roof-top observation platform above the second story is permitted only if it is not roofed or covered in any manner, does not exceed 400 square feet in area, and does not exceed the roof height limitation at the top of the safety railing or parapet. No equipment, fixtures or furniture shall be placed on any such observation platform located above the second floor.

**Section 3.** Chapter 42 of the City of Lighthouse Point Code of Ordinances entitled “Land Development Code,” Article IV, “Zoning,” Division 4, “District Regulations,” Section 42-342, “RS-5, single-family residential districts is hereby amended to read as follows:

Sec. 42-342. - RS-5, single-family residential district.

\* \* \*

(d) Limitations on Number of Stories and Building Height Limitation. No building in the RS-5 district shall exceed two stories, ~~in height,~~ The maximum height of a building in the RS-5 district shall not be more than 34.5 feet above the crown of the adjoining roadway, measured at the

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highest point of any roof or parapet. In addition, no building shall exceed a height of more than 28.5 feet above the crown of the adjoining roadway at any setback line or within any setback area. An additional setback, from any applicable setback line, of two (2) feet horizontal for every one (1) foot vertical is required for any portion of the building above 28.5 feet to the maximum height limitation. Chimneys and ornamental features, such as spires and weather vanes, shall not exceed a height of 36.5 feet above the crown of the adjoining roadway. A roof-top observation platform above the second story is permitted only if it is not roofed or covered in any manner, does not exceed 400 square feet in area, and does not exceed the roof height limitation at the top of the safety railing or parapet. No equipment, fixtures or furniture shall be placed on any such observation platform located above the second floor.

**Section 4.** Chapter 42 of the City of Lighthouse Point Code of Ordinances entitled “Land Development Code,” Article IV, “Zoning,” Division 4, “District Regulations,” Section 42-343, “RD-10, two-family residence district” is hereby amended to read as follows:

\* \* \*

Sec. 42-343. - RD-10, two-family residence district.

(d) Limitation on Number of Stories and Building Height limitation. No building in the RD-10 district shall exceed two stories, ~~in height. The maximum height of a building in the RD-10 district shall not be nor~~ more than 34.5 feet above the crown of the adjoining roadway, measured at the highest point of any roof or parapet. In addition, no building shall exceed a height of more than 28.5 feet above the crown of the adjoining roadway at any setback line or within any setback area. An additional setback, from any applicable setback line, of two (2) feet horizontal for every one (1) foot vertical is required for any portion of the building above 28.5 feet to the maximum height limitation. Chimneys and ornamental features, such as spires and weather vanes, shall not exceed a height of 36.5 feet above the crown of the adjoining roadway. A roof-top observation platform above the second story is permitted only if it is not roofed or covered in any manner, does not exceed 400 square feet in area, and does not exceed the roof height limitation at the top of the safety railing or parapet. No equipment, fixtures or furniture shall be placed on any such observation platform located above the second floor.

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**Section 5.** Chapter 42 of the City of Lighthouse Point Code of Ordinances entitled “Land Development Code,” Article IV, “Zoning,” Division 1, “Generally,” Section 42-242, “Definitions” is hereby amended to read as follows:

Story means that portion of a building included between the upper surface of a floor and the upper surface of the floor or underside of the roof next above. A story consists of no less than eight (8) feet and no more than fourteen (14) feet in height.

**Section 6. Conflict.** All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be, and the same are hereby repealed to the extent of such conflict.

**Section 7. Severability.** If any clause, section, or other part or application of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and so not affecting the validity of the remaining portions or applications remaining in full force and effect.

**Section 8. Codification.** It is the intention of the City Commission of the City of Lighthouse Point that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Lighthouse Point, Florida, that the Sections of this ordinance may be renumbered, re-lettered, and the word "Ordinance" may be changed to "Section", "Article" or such other word or phrase in order to accomplish such intention.

**Section 9. Effective Date.** This Ordinance shall become effective immediately upon its passage and adoption.

**PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, ON THE FIRST READING, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2017.**

**PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, ON THE SECOND AND FINAL READING, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2017.**

BY: \_\_\_\_\_  
Kyle Van Buskirk, Commission President

ATTEST:

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Jennifer M. Oh, City Clerk

APPROVED AS TO FORM:

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Office of the City Attorney

	Yes	No	Absent
Commission President Kyle Van Buskirk	_____	_____	_____
Commissioner Vice President Sandy Johnson	_____	_____	_____
Commissioner Jason D. Joffe	_____	_____	_____
Commissioner Michael S. Long	_____	_____	_____
Commissioner Earl Maucker	_____	_____	_____

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permanently closed and the other two would remain open for the public to be able to move in and out. He also stated that there are five driveway entrances, but are closing two of the entrances. The Board informed the applicant about a possible new building for Publix and to look at their driveways in order to alleviate any traffic issues. The idea is to keep the major traffic off of Sample Road. Ms. Altier explained the food options that are served at the establishment. The idea is to have juice and coffee during the day and beer and acoustical music at nights. Drums are not allowed and the musicians would be located inside of the building. There was further discussion about the community garden and the drive-thru. Mr. Siebert stated that they could come later for the community garden aspect of the site, but would like to go forward with the drive-thru. The only concern was that community gardens can become messy and full of weeds because people don't take care of them. The Board was in favor of this concept.

#### **Case #15-09**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, AMENDING CHAPTER 42, "LAND DEVELOPMENT CODE", ARTICLE IV, "ZONING", DIVISION 4, "DISTRICT REGULATIONS", SECTION 42-341, "RS-3 SINGLE FAMILY RESIDENTIAL DISTRICT", SECTION 42-342, "RS-5 SINGLE FAMILY RESIDENTIAL DISTRICT", AND SECTION 42-343, "RD-10 TWO FAMILY RESIDENCE DISTRICT", OF THE CITY OF LIGHTHOUSE POINT CODE OF ORDINANCES TO PROVIDE FOR A LIMITATION ON THE MAXIMUM NUMBER OF STORIES AND MAXIMUM HEIGHT OF A STRUCTURE FOR BUILDINGS LOCATED IN THE RS-3, RS-5, AND RD-10 ZONING DISTRICTS TO NO MORE THAN 28.5 FEET ABOVE THE CROWN OF THE ADJOINING ROADWAY AT THE SETBACK AND WITHIN THE SETBACK AREA; PROVIDING FOR ADDITIONAL SETBACKS; AMENDING CHAPTER 42, "LAND DEVELOPMENT CODE", ARTICLE IV, "ZONING", DIVISION 1, "GENERALLY", SECTION 42-242, "DEFINITIONS", TO PROVIDE FOR A DEFINITION OF THE TERM "STORY"; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

There was some clarification that balconies and roofs can be built within the setback. Public Hearing was opened and closed.

A motion to recommend approval to the City Commission was made by Susan Motley, seconded by Michael Cohen. Passed unanimously.

#### **Public Requests from the Floor**

Bill Gallo had reviewed the plans for the Sweetbriar Coffee Shop and had a couple of comments that he believed would be helpful. He stated that the current driveway is very close to the intersection and that it is currently a difficult intersection because it's an off-set intersection. He suggested the applicant reconfigure the drive-thru as drive-thrus for this type of concept requires



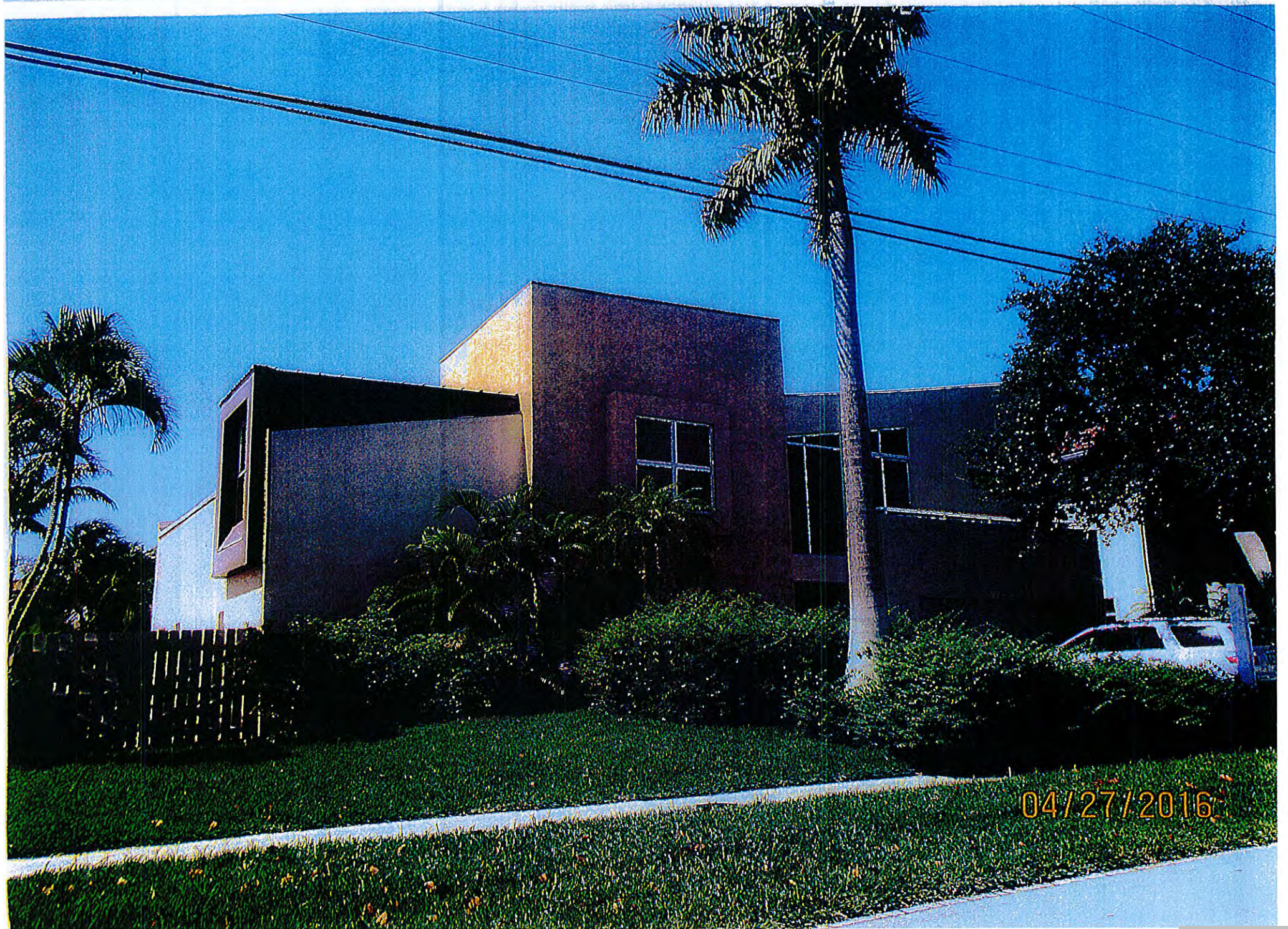


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