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## **Memorandum Regarding Redevelopment Issue in Town of Highland Beach**

### **Statement of the Issue**

The Town of Highland Beach Zoning Code inadvertently has downzoned properties in the Multiple-Family Zoning Districts such that they cannot be redeveloped without losing currently existing density, thereby disincentivizing modernization and flood proofing of aging structures in these areas.

### **Executive Summary**

The Town is a highly desirable place to live with its strong residential focus and location on the barrier island in south Palm Beach County. The Town's Zoning Code, as it should, seeks to preserve the Town's character with regulations aimed at discouraging large commercial and high-density residential development. However, the Code's density regulations unintentionally have created a situation where properties in Multiple-Family Zoning Districts cannot be redeveloped without reducing the number of units currently existing on the properties.

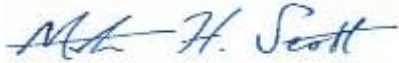
For example, condominium buildings along Ocean Boulevard and townhomes on Russell Drive, Bel Air Drive, and Highland Beach Drive could not be rebuilt without reducing the number of units permitted on the properties. 1023 Russell Drive demonstrates the problem. It is currently improved with 3 townhomes, which were built around 50 years ago. The townhomes, which could benefit from rehabilitation, are below current FEMA elevation requirements and at risk of flooding during a storm event. However, raising the elevation of the structure would require tearing it down. If the structure was demolished, the Town's Code would dictate only 1 residence could be built on site where 3 currently exist. In effect, the Town's Code discourages redevelopment of properties at a time when most southeast Florida municipalities are actively promoting climate change resiliency efforts.

This issue does not appear to be intentional. Russell Drive, Bel Air Drive, and Highland Beach Drive are all zoned "RML," Residential Multiple-Family Low Density. The Code states, "It is the purpose of this residential zoning district to encourage alternative housing styles, such as townhouses and patio house(s) . . . ." Most, if not all, of the properties on these streets could not be developed today with townhomes due to the Code's density regulations, and the problem is more extreme in the RMM and RMH districts.

### **Potential Solutions**

The Town does not want to encourage an increase in density in these areas. Rather, the Town should amend the Code to create a path for property owners to modernize their properties without losing existing density. One simple solution would be to amend Article VI of the Code, relative to Nonconformities, to allow for maintenance of existing density on sites which are being reconstructed to raise the elevation of the structures for flood proofing purposes, provided the new construction meets all other Code requirements. Another option is amending the Comprehensive Plan and Code to marginally increase the allowed density in these areas so the properties can keep their existing density. However, this latter option is more complicated, expensive, and time

consuming. There are a variety of ways to solve this problem. The undersigned attorney has been retained by Ellemar Luxury Construction, which is actively looking to redevelop 1023 Russell Drive and potentially other properties in the Town. In the event the Commission is amenable to pursuing solutions to the issue, Ellemar through undersigned counsel would be happy to spearhead this effort in collaboration with Town Staff.

A handwritten signature in blue ink that reads "Matthew H. Scott". The signature is fluid and cursive, with the first name "Matthew" and last name "Scott" clearly legible, and "H." in the middle.

Dated: March 1, 2022

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Matthew H. Scott, Esq.  
Dunay, Miskel & Backman, LLP