

TENTATIVE:
SUBJECT TO
REVISION



TOWN OF PALM BEACH

TOWN MANAGER'S OFFICE

TOWN COUNCIL MEETING DEVELOPMENT REVIEW

**TOWN HALL
COUNCIL CHAMBERS-SECOND FLOOR
360 SOUTH COUNTY ROAD**

AGENDA

NOVEMBER 9, 2016

9:45 AM

Welcome!

For information regarding procedures for public participation at Town Council Meetings, please refer to the end of this agenda.

I. CALL TO ORDER AND ROLL CALL

Mayor Gail L. Coniglio
Michael J. Pucillo, President
Richard M. Kleid, President Pro Tem
Bobbie Lindsay
Danielle H. Moore
Margaret A. Zeidman

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. RECOGNITIONS

IV. PRESENTATIONS

- A. Palm House**
 - 1) Update
 - 2) Receiver's Request for Conditional fine Abatement

Cary Glickstein, Esq.

V. COMMENTS OF MAYOR GAIL L. CONIGLIO

VI. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

VII. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

VIII. APPROVAL OF AGENDA

IX. DEVELOPMENT REVIEWS

A. Time Extensions and Waivers

1. Request for One year Time Extension, VAR #26-2015, 12 Lagomar Road

John S. Page, Director of Planning, Zoning and Building

B. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. **VARIANCE #24-2016** The application of Desmond and Cristina Keogh; relative to property commonly known as **241 El Dorado Ln.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a variance to allow a 898 square foot addition one story addition to the main house and a 842 square foot one story garage addition (total of 1,740 sq. ft.) which will require the following variances: 1) an east side yard setback of 12.5 feet in lieu of the 30 foot minimum required for a lot over 20,000 square feet with a width of 246.60; 2) a west side yard setback of 12.5 feet in lieu of the 30 foot minimum required for a lot over 20,000 square feet with a width of 246.60; 3) a rear yard setback of 9.5 feet in lieu of the 10 foot minimum required; 4) lot coverage of 32.4% in lieu of the 30% maximum allowed for single story construction on lots in excess of 20,000 square feet. [Attorney: Maura Ziska, Esq.]
[Architectural Commission Recommendation: Implementation of the Proposed Variances Will Not Cause Negative Architectural Impact to the Subject Property. Carried 7-0.]

John S. Page, Director of Planning, Zoning & Building

- b. **SPECIAL EXCEPTION #25-2016 WITH SITE PLAN REVIEW AND VARIANCES** The application of Harvey E. Oyer, III, Esq. (Agent); relative to property commonly known as **141 S County Rd.** & Vacant lot on west side of S County Rd., described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting for approval of a Special Exception with Site Plan Review and Variances to construct required off-street & supplemental parking spaces to accommodate 34 additional required off-street & supplemental parking, specifically 11 parallel parking spaces are proposed to

be located on private property along the north side of the 100 block of Barton Avenue, adjacent to the Church. 23 parking spaces are proposed to be located on the Church's parcel directly west of the Place of Worship across South County Road. If approved, the additional 34 required off-street & supplemental parking spaces will substantially alleviate the recent loss of parking that has existed as a result of changes to the Town's parking policies. At the Town Council's direction, the applicant seeks to allow residents of the 100 & 200 block of Barton Avenue along with residents of the 200 block of Pendleton Avenue to use the 34 off-street and supplemental parking spaces by way of a Declaration of Use agreement. The following variances are requested for the 11 parallel required off-street parking spaces to be located on the north side of the 100 block of Barton Avenue: 1) to allow the landscape open space area to be reduced from the existing 51.98% to 50.48% in lieu of 55% minimum landscape open space as required by code; 2) to allow the off-street parking with a zero setback in lieu of the 25 foot minimum setback required; 3) to allow the off-street parking spaces not to include the required screening with hedges, walls or a combination thereof as required; 4) to allow the interior off-street parking landscape open space to be reduced to zero in lieu of the minimum 10% (205.3 sq. ft.) required. [Attorney: Harvey E. Oyer, Esq.] (Landmarks Preservation Commission meeting: Deferred the Project to December 21, 2016. Carried 7-0.)

John S. Page, Director of Planning, Zoning & Building

c. **MODIFIED SPECIAL EXCEPTION #13-2016 WITH SITE PLAN REVIEW**

The application of Miradieu Aubourg, PBC Capital Improvements Division; relative to property commonly known as **2882 S. Ocean Blvd.**, described as lengthy legal description on file; located in the C-TS Zoning District. The applicant is requesting a Modified Special Exception with Site Plan Review to leave the 5 foot wide beach access easement in its existing location along the northern perimeter of the park site. The beneficiaries of this easement may still use said easement for access to the beach. In addition, this modified request proposes to leave the existing sidewalk that meanders outside of the easement from the beach and to the existing parking lot in place as it currently exists. No changes to the existing landscape in the vicinity of the easement or sidewalk are proposed. [Attorney: Denise M. Nieman, Esq.]

Deferred from the May 11, 2016, and October 13, 2016 Town Council Meetings.

John S. Page, Director of Planning, Zoning & Building

2. New Business

a. **SITE PLAN REVIEW #11-2016 WITH VARIANCE** The application of Harold Peerenboom; relative to property commonly known as **8**

Sloan's Curve Dr., described as lengthy legal description on file; located in the PUD-B Zoning District. The applicant is requesting a site plan review to infill a portion of the balcony on the east side of the second story of the townhouse which comprises on 132 square feet. The proposed addition will modify a previously approved site plan in a PUD complying with the Town's Code. The applicant is also requesting a variance to allow the enclosure of an existing open balcony in the PUD-B zoning district which follows the R-C Zoning regulations that prevents such enclosure.
[Attorney: Maura Ziska, Esq.]

John S. Page, Director of Planning, Zoning & Building

- b. **SPECIAL EXCEPTION #28-2016 WITH SITE PLAN REVIEW AND VARIANCES** The application of Gregory Fisher; relative to property commonly known as **316 Seabreeze Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a special exception with site plan review to allow the construction of a 2,700 square foot two-story, single family residence on two platted lots which combined creates a lot that is 50 feet in width in lieu of the 100 foot minimum required and 6,125 square feet in area in lieu of the 10,000 square foot minimum area required. The following variances are being requested. To allow a 6 foot west side yard setback for the two story portion in lieu of the 15 foot minimum required and to allow a 6 foot east side yard setback for the one story portion in lieu of the 12.5 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Deferred Project to November 30, 2016 meeting. Carried 7-0.]

John S. Page, Director of Planning, Zoning & Building

- c. **SPECIAL EXCEPTION #29-2016 WITH SITE PLAN REVIEW AND VARIANCES** The application of Gregory Fisher; relative to property commonly known as **320 Seabreeze Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting for approval of a special exception with site plan review to allow the construction of a 2,713 square foot two-story, single family residence on two platted lots which combined creates a lot that is 50 feet in width in lieu of the 100 foot minimum required and 6,125 square feet in area in lieu of the 10,000 square foot minimum area required. The following variances are being requested. To allow a 6 foot east side yard setback for the two story portion in lieu of the 15 foot minimum required and to allow a 6 foot west side yard setback for the one story portion in lieu of the 12.5 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Deferred Project to the November 30, 2016 Meeting. Carried 7-0.]

John S. Page, Director of Planning, Zoning & Building

- d. **SPECIAL EXCEPTION #30-2016 WITH SITE PLAN REVIEW AND VARIANCES** The application of Town of Palm Beach (Tom

Bradford, Town Manager); relative to property commonly known as **340 Seaview Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a special exception with site plan review to approval to allow a new two-story 33,810 square foot Recreation Center for the Town of Palm Beach that will include a new athletic field, parking lot, gymnasium, tennis pro shop, multi-purpose room, fitness center with locker rooms, concession area, classrooms, offices and new maintenance building, new tennis backboard, new scoreboard. A second special exception request is to allow for a rebound wall to be constructed on the north side of the new maintenance building. The following variances are being requested in order to construct the new community center: 1) A west side yard setback of 10 feet in lieu of the 30 foot minimum required for properties that are in excess of 20,000 square feet; 2) A north side yard setback of 8 feet in lieu of the 30 foot minimum required for properties that are in excess of 20,000 square feet; 3) A street rear yard setback for the new parking lot on Royal Palm Way of 4 feet in lieu of the 35 foot minimum required for properties that are in excess of 20,000 square feet; 4) an east side yard setback of 4 feet in lieu of the 30 foot minimum required for the new parking lot on Royal Palm Way for properties that are in excess of 20,000 square feet; 5) a height of 27 feet in lieu of the 22 foot maximum allowed; 6) an overall height of 35 feet in lieu of the 30 foot maximum allowed; 7) a vertical distance to the top of beam of 30.75 feet in lieu of the 26 foot maximum distance allowed from the crown of street to top of beam; 8) landscaped open space of 43% in lieu of the 55% minimum required for properties that are in excess of 20,000 square feet; 9) parking lot interior landscaped open space of 5% in lieu of the 10% minimum required; 10) to allow signage on the proposed scoreboard which would exceed the maximum signage allowed (of one for each street frontage); 11) to allow three (3) air-conditioning units to be on the roof that is in excess of the 4 foot maximum allowed. The proposed A/C units will be 5 feet tall plus the height of the stand. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Implementation of the Proposed Variances Will Not Cause Negative Architectural Impact to the Subject Property. Carried 5-2. Mr. Gruss and Mr. Small Opposed.]

John S. Page, Director of Planning, Zoning & Building

- e. **VARIANCE #25-2016** The application of Maura Ziska, Manager of Barnacle PB LLC; relative to property commonly known as **221 Oleander Ave.**, described as lengthy legal description on file; located in the R-C Zoning District. The applicant requests a variance to allow construction of a new 2,930 square foot, two story residence on a lot with a depth of 56 feet in lieu of the 100 foot minimum required and a lot area of 4,200 square feet in lieu of the 10,000 square foot minimum; a variance to allow lot coverage to be 41.6% in lieu of the 30% maximum allowed; a

variance to allow a front yard setback to be 13.5 feet in lieu of the 25 foot minimum; and a variance to allow a rear yard setback to be 10 feet in lieu of the 15 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Deferred Project to the November 30, 2016 meeting. Carried 7-0.]

John S. Page, Director of Planning, Zoning & Building

- f. **VARIANCE #27-2016** The application of Oliver R. Grace, Jr.; relative to property commonly known as **270 Algoma Rd.**, described as lengthy legal description on file; located in the R-A Zoning District. The applicant is requesting modifications to an existing landmarked residence by adding a second story addition and balcony rail which require the following variances: 1) a 447.96 square foot second story addition to the east side of the residence that will have a 32.2 front yard setback in lieu of the 35 foot minimum required and a building height plane setback of 31.66 feet in lieu of the 46.17 feet minimum required and an angle of vision of 131 degrees in lieu of the 120 degrees maximum allowed; 2) the addition of balcony railings above the existing one story on the east side of the house that would have a front yard setback of 32.2 feet in lieu of the 35 foot minimum required and an angle of vision of 136 degrees in lieu of the 120 degrees maximum allowed. [Attorney: Maura Ziska, Esq.] [Landmark Recommendation: Implementation of the Proposed Variance Will Not Cause Negative Architectural Impacts to the Subject Landmarked Property. Carried 7-0.]

John S. Page, Director of Planning, Zoning & Building

- g. **VARIANCE #28-2016** The application of Dean Vegosen, as Trustee of the Land Trust dated June 22, 1995; relative to property commonly known as **1015 S. Ocean Blvd.**, described as lengthy legal description on file; located in the R-A Zoning District. The residence at 1015 S. Ocean Blvd. was constructed in 1937. The owner is replacing the roof tiles on the house. As part of this project, she requests to add two roof elements on the north end of the house where an existing flat roof and valley have created aesthetic and drainage problems. The new elements will be a pitched roof and a cricket. The new roof elements will increase height in nonconforming setbacks and angle of vision but will not further reduce the setbacks or increase the existing angle of vision. The following variances are being requested: 1) increase building (roof) height with a 13.66 foot setback from the west (front) property line in lieu of the 35" minimum setback required; 2) add building (roof) height outside the allowed angle of vision, which is 120 degrees on this site. This existing structure has an angle of vision of 146.93 degrees; 3) increase building (roof) height with a 5.08 foot setback from the north (side) property line in lieu of the 15 foot minimum setback required; and 4) increase building (roof) height with a 9.50 foot setback from the east (rear) property line in lieu of the minimum 15 foot setback

required. [Attorney: Jamie M. Crowley, Esq.] [Architectural Commission Recommendation: Implementation of the Proposed Variances Will Not Cause Negative Architectural Impact to the Subject Property. Carried 7-0.]

John S. Page, Director of Planning, Zoning & Building

- h. **VARIANCE #26-2016** The application of David and Jeanne Daniel; relative to property commonly known as **322 Seaspray Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a variance to allow a three sided wing wall on the east side of the property to screen a 48 KW generator at a height of 8.25 feet from the adjacent neighbor's grade in lieu of the 7 foot maximum allowed. [Attorney: Maura Ziska, Esq.] [Landmark Commission Recommendation: Implementation of the Proposed Variance Will Not Cause Negative Architectural Impacts to the Subject Landmarked Property. Carried 7-0.]

John S. Page, Director of Planning, Zoning & Building

X. ORDINANCES

A. First Reading

ORDINANCE NO. 16-2016 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning As Follows: Section 134-893, Lot, Yard And Area Requirements By Creating Alternative Zoning Regulations That Could Be Used For Seaview Avenue, Seaspray Avenue And Seabreeze Avenue In The R-B Zoning District; Sections 134-1113, 134-1163, 134-1213 And 134-1308 By Exempting Sub-Basements From The Maximum Building Length And Floor Area Requirements In The C-TS, C-WA, And C-OPI Commercial Zoning Districts And The Maximum Building Length Requirement C-B Commercial Zoning District; Section 134-1611 By Creating Separate Zoning Regulations For Lot Coverage, Setbacks And Landscape Open Space Requirements For Sub-Basements In The C-TS, C-WA, C-OPI And C-B Commercial Zoning Districts; Section 134-1516 By Providing Landscape Screening Regulation For Boxes Housing Essential Services; Section 134-1731 By Providing Additional Regulations For Exterior Lighting And Section 134-2327 By Eliminating A Specific Fee For Visitor/Service Permits; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.
Deferred from the September 14, 2016 Town Council Meeting.

John S. Page, Director of Planning, Zoning & Building

XI. ANY OTHER MATTERS

- A. Planning and Zoning Commission Record and Report: Proposed Modifications and Changes to Chapter 134, Zoning

John S. Page, Director of Planning, Zoning & Building

XII. ADJOURNMENT

PLEASE TAKE NOTE:

- Note 1:** No written materials received after 5:00 p.m. on the Thursday immediately prior to a monthly Town Council meeting will be included in the back-up binders distributed to the Mayor and Town Council in preparation for that meeting. Written materials received after 5:00 p.m. on Thursday will be separately distributed to the Mayor and Town Council; however, depending upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.
- Note 2:** The progress of this meeting may be monitored by visiting the Town's website (townofpalmbeach.com) and clicking on "Meeting Audio" in the left column. If you have questions regarding that feature, please contact the Office of Information Systems (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting.
- Note 3:** If a person decides to appeal any decision made by this Council with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings. For such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.
- Note 4:** Disabled persons who need an accommodation in order to participate in the Town Council Meeting are requested to contact the Town Manager's Office at 838-5410 or through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least two (2) working days before this meeting.
- Note 5:** Items listed on the Consent Agenda will be approved by one motion of the Town Council, unless the Mayor or an individual Council Member requests that any item(s) be moved to the Regular Agenda and individually considered.
- Note 6:** All back-up material for the items listed on the agenda are posted to the Town's website and emailed to all Stay Informed subscribers on the Friday before the Town Council meeting. To access the back-up materials and/or subscribe to the Stay Informed list, please visit the Town's website (townofpalmbeach.com).

PROCEDURES FOR PUBLIC PARTICIPATION

Citizens desiring to address the Town Council should proceed toward the public microphones when the applicable agenda item is being considered to enable the Town Council President to acknowledge you.

PUBLIC HEARINGS: Any citizen is entitled to be heard on an official agenda item under the section entitled "Public Hearings," subject to the three minute limitation.

COMMUNICATIONS FROM CITIZENS: Any citizen is entitled to be heard concerning any matter under the section entitled "Communications from Citizens," subject to the three minute limitation. The public also has the opportunity to speak to any item listed on the agenda, including the consent agenda, at the time the agenda item comes up for discussion.

OTHER AGENDA ITEMS: Any citizen is entitled to be heard on any official agenda item when the Town Council calls for public comments, subject to

the three minute limitation.

Town Council Meetings are public business meetings and, as such, the Town Council retains the right to limit discussion on any issue.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2016

Section of Agenda

Presentations

Agenda Title

Palm House

- 1) Update
- 2) Receiver's Request for Conditional fine Abatement

Presenter

Cary Glickstein, Esq.

ATTACHMENTS:

- ▣ **Memorandum Dated October 31, 2016 From John C. Randolph, Town Attorney**
- ▣ **Receiver's Request for Conditional Fine Abatement for Palm House**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 9, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: John C. Randolph, Town Attorney

Re: Palm House – Receiver’s Request for Conditional Fine Abatement
Palm House Hotel, LLLP v. Robert Matthews, et al., Case No.
502015CA014480XXXXMB AB, Fifteenth Judicial Circuit

Date: October 31, 2016

STAFF RECOMMENDATION

It is requested that the Council entertain the Receiver’s request for a fine abatement for the Palm House in order that the Receiver may pursue an application to the Court for utilization of proceeds deposited in the Registry of the Court in order to utilize the funds to correct the “public safety issues” existing at the Palm House as identified by the Mayor and Town Council.

GENERAL INFORMATION

Cary Glickstein, the Receiver appointed by the Court in regard to the above referenced action, will be in attendance at the November 9, 2016 Town Council meeting to give a status report and further to request a 60 to 90 day abatement, with possible extensions, in order to apply to the Court to utilize funds in the Registry of the Court to correct the public safety issues that the Council has requested to be addressed at the Palm House. The purpose of the abatement would be to encourage the Court, based upon the cooperation it sees from the Town in this regard, to use these funds to correct public safety issues, as opposed to the Town continuing to accrue fines on a daily basis of \$2,000.00 a day. Obviously, the correction of the public safety issues is of paramount interest to the Town.

Attached to this memo is the Receiver’ Request for Conditional Fine Abatement for Palm House which sets forth the issues relating to this matter and explains the Receiver’s reasons for pursuing a fine abatement. The fine abatement by the Town would be followed up by a request for a fine abatement for the Town’s Code Enforcement Board.

FUNDING/FISCAL IMPACT

There is no direct fiscal impact to the Town which would be caused by this abatement of fines. There may be a financial advantage, however, if the Receiver is successful in having funds presently in the Registry of the Court to be used to correct public safety concerns at the Palm House.

ATTACHMENTS

Receiver' Request for Conditional Fine Abatement for Palm House

p:\docs\13156\00008\doc\1qt4078.doc

RECEIVER'S REQUEST FOR CONDITIONAL FINE ABATEMENT FOR PALM HOUSE

Further to my email to you of September 26, 2016 and our more recent discussions, Cary Glickstein, as Receiver for the Palm House Property/Project wishes to pursue and hopefully secure from the Town and later from Code Enforcement a conditional abatement of fines currently being imposed separately by the Town and by Code Enforcement against the Palm House Property/Project.

The impetus for Receiver's efforts to pursue a fine abatement is the Receiver's anticipated receipt of funds described in that certain Agreed Order Granting Plaintiff's Motion for Appointment of Receiver to Take Custody of Funds in the Federal Court's Registry, dated September 22, 2016, in *Palm House Hotel, LLLP v. Robert Matthews, et al.*, Case No.: 502015CA014480XXXXMB AB, pending in the Circuit Court of Palm Beach County, Florida ("Agreed Order"). This action is a separate but related action from *Ryan Black v. Gerry Matthews and Palm House, LLC*, Case No.: 502014CA014846XXXXMB AG (the "Receivership Action") in which Cary Glickstein was appointed as receiver for the Palm House Project/Property in July 2015. A copy the Agreed Order is attached.

As reflected in the Agreed Order, proceeds from the private sale of the yacht known as the M/Y ALIBI (the 'Yacht') in the approximate amount of \$2,323,179.95 (the 'Funds') that were previously deposited into the Registry of the Federal Court in Case No. 9:15 CV-81606-KAM, United States District Court for the Southern District of Florida (the 'Federal Case') are to be delivered to the Receiver, as the Receiver. Also attached is a copy of the Ex Parte Emergency Order, dated September 14, 2016 that explains the basis for circuit court's entry of the Agreed Order.

The Agreed Order appoints Cary Glickstein as Receiver for the Funds. Pursuant to paragraph 5 of the Agreed Order, the Receiver may apply to the Court for utilization of the funds for "reasonable purposes." As stated in my September 26, 2016 email to you, based on the Town Council meeting in September 2016, the Receiver would like to apply to the Court, pursuant to the Agreed Order, to utilize the funds to correct the "public safety issues" that are the subject of the Town Council Actions for that Town Council meeting.

As you are aware, based on the September Town Council meeting, the Receiver authorized the Town's to inspect the Palm House site and identify public safety issues in need of correction. You provided me with a report for that inspection, which is attached to the Receiver's Fourth Quarterly Receiver's Report filed in the Receivership action on October 17, 2016. A copy of that Receiver's report is also attached.

This week and further to our discussions, the Receiver and I spoke with Tom Bradford and Eric Brown in an effort to better identify the scope of the work necessary to correct the public safety issues outlined in the Town's inspection report and the estimated cost to complete that corrective work. The Receiver's intent is to incorporate that information in a motion to the court seeking court permission for utilization of the Funds to reimburse the Town for emergency work completed on its behalf earlier this month and to pay for completion of the remaining necessary work.

As discussed, the Funds represent a potential source of funding for payment and/or reimbursement of the cost of the work necessary to correct the subject public safety issues. The Funds also represent a source of funding for the Receivership for the Property that the Receiver has, by and large, been without for the duration of the Receivership since July 2015.

Under the Receivership Order, the only source of funding for the Receivership apart from the initial funding provided by Palm House Hotel, LLLP ("PHH"), is shortfall funding that PHH is obliged to provide. The funding mechanism in the Receivership Order has been inconsistent and unreliable and it has severely restricted the Receiver's ability to operate, preserve and protect the Property. Ultimately, lack of funding may result in the Receiver's resignation.

In an effort to secure the Funds for purposes of the Receivership, the Receiver seeks an abatement of the fines currently being assessed against the Palm House Property for an initial term, with possible extensions, conditioned on utilization of the Funds for purposes consistent with the Receivership Order, as it may be amended, and to reimburse PHH for its funding of the Receivership to date under the Receivership Order. As you may be aware, there is a pending motion in the Receivership Action filed by PHH to supplement the Receiver's powers which is scheduled to be heard on December 30, 2016. Among other things, that motion seeks confer on the Receiver authority to sell the Property.

With fines accruing at the collective rate of \$2,250.00 per day, based on our last discussion, fine abatement is obviously desirable to the Receiver but an unconditional abatement provides no consideration to the Town in return for the requested abatement. It is the Receiver's hope that the conditions imposed on the fine abatement as set forth above or as determined by the Town, would represent sufficient consideration to the Town for the requested fine abatement. Furthermore, the Receiver hopes that the conditional abatement sought by the Receiver will provide an effective deterrent to a competing application for the Funds for attorneys' fees by parties to the action in which the Agreed Order was entered. The Receiver is concerned that the Funds, secured by PHH's efforts in that action, may be squandered by attorneys' fees sought by the parties' in that action. Finally, a conditional fine abatement as sought by the Receiver may also serve the interests of the Town in continuing the current abatement of litigation in *160 Royal Palm LLC v. Town of Palm Beach*, Case No. 502012CA023613XXXXMB AA, which is set for a court-ordered status conference on November 30, 2016. In that action the Town, temporarily abated the fines against the Property for a period of 90 days commencing in last quarter of 2015 and ending January 2016.

Please let me know if more specific information or documentation would be helpful to this overview.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2016

Section of Agenda

Time Extensions

Agenda Title

Request for One year Time Extension, VAR #26-2015, 12 Lagomar Road

Presenter

John S. Page, Director of Planning, Zoning and Building

ATTACHMENTS:

- ❑ **Memorandum Dated October 28, 2016 from John S. Page**
- ❑ **Letter from Maura Ziska dated September 15, 2016**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 9, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: John S. Page, Director of Planning, Zoning & Building

Re: Request for One Year Time Extension, Variance No. 26-2015, 12 Lagomar Road

Date: October 28, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council approve a seven-month time extension of Variance No. 26-2015 in order to provide the applicant time to enter into the required Declaration of Use Agreement with the Town and obtain a building permit for the approved tennis court and associated fencing and landscape hedge.

GENERAL INFORMATION

On November 12, 2015, the property owner was granted a Variance (Variance #26-2015) to construct a tennis court and associated required perimeter fence. The variances allow a 9.8 foot street side yard setback in lieu of the 6.25 feet requested and the 35 foot minimum required and a 5.66 foot front yard setback in lieu of the 5.5 feet requested and the 35 foot minimum required. A variance was also conditionally granted to construct a 10 foot high fence around the tennis court in the front yard and street side yard setback in lieu of the 6 foot maximum allowed. The conditions of approval, which are required to be incorporated into a Declaration of Use Agreement, are that an acoustical lining be placed on the inside of the tennis court fence; the hedge around the court be maintained at 22 feet in height; and the property owner never be allowed to file an application to light the court. The property owner has not yet entered into the required Declaration of Use Agreement with the Town and has not applied for a building permit. The owner has until November 12th before the variances expire.

Maura Ziska, attorney for the property owner, has submitted the attached letter requesting a one-year time extension because, "the owner wants to do the work over the summer and was not able to secure the bids and permits in time to start the work on the project this previous summer." If the owner's intention is to have the work on the tennis court, and associated fencing and hedge done next summer, there is no need to extend for a full year

Staff recommends that the Council allow the property owner only a seven month time extension to enter into the required Agreement and obtain a building permit for the tennis court and associated fencing and hedge. Once approved, the applicant will have until June 14, 2017 to hire

a contractor, enter into the Declaration of Use Agreement and obtain a building permit to complete the work during next summer within the specified time allowed by Building Code.

If you have any questions, please contact Paul Castro, Zoning Administrator, at 227-6406.

Attachment

cc: Jay Boodheshwar, Deputy Town Manager
Susan Owens, Town Clerk
Paul W. Castro, AICP, Zoning Administrator
pf & zf

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, Counsel*

*Also admitted in New York

*Also admitted in Michigan

Esperanté

222 Lakeview Avenue, Suite 1500
West Palm Beach, Florida 33401

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

VIA EMAIL

September 15, 2016

John Page, Director of Planning, Zoning & Building
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

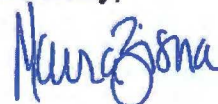
**Re: 12 Lagomar Road, Palm Beach, Florida
Variance 26-2015**

Dear Mr. Page:

On November 12, 2015, Town Council conditionally approved the above referenced zoning application to allow the property owner to construct a tennis court and associated required perimeter fence. In addition, a variance was also conditionally granted to construct a 10 foot high fence around the tennis court in the front yard and street side yard setback. The project approval will expire on November 12, 2016. The owner wants to do the work over the summer and was not able to secure the bids and permits in time to start work on the project this previous summer. On behalf of the property owner, I am requesting a one year extension of the project approval until November 12, 2017. Please place this matter on the November 9, 2016 Town Council Agenda so I may request the extension. Please let me know if you require any additional information.

Thank you for your attention to this matter.

Sincerely,



Maura Ziska

cc: Paul Castro
client
00033001

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2016

Section of Agenda

Development Review - Old Business

Agenda Title

VARIANCE #24-2016 The application of Desmond and Cristina Keogh; relative to property commonly known as **241 El Dorado Ln.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a variance to allow a 898 square foot addition one story addition to the main house and a 842 square foot one story garage addition (total of 1,740 sq. ft.) which will require the following variances: 1) an east side yard setback of 12.5 feet in lieu of the 30 foot minimum required for a lot over 20,000 square feet with a width of 246.60; 2) a west side yard setback of 12.5 feet in lieu of the 30 foot minimum required for a lot over 20,000 square feet with a width of 246.60; 3) a rear yard setback of 9.5 feet in lieu of the 10 foot minimum required; 4) lot coverage of 32.4% in lieu of the 30% maximum allowed for single story construction on lots in excess of 20,000 square feet. [Attorney: Maura Ziska, Esq.]

[Architectural Commission Recommendation: Implementation of the Proposed Variances Will Not Cause Negative Architectural Impact to the Subject Property. Carried 7-0.]

Presenter

John S. Page, Director of Planning, Zoning & Building

ATTACHMENTS:

- ▣ **Letter Dated September 26, 2016 From Earl Rothman & Ariella Rohringer**
- ▣ **Letter Dated October 20, 2016 From Sheila H. Fruehauf**
- ▣ **Letter From John C Cassidy**

RECEIVED

OCT 05 2016

Town of Palm Beach
PZB Dept

Sept 26, 2016
[date]

Ariella Rohringer & Earl Rotman
87 Old Forest Hill Rd
Toronto ON M5P 2R6
~~[Neighbor name and address]~~
and

256 Ridgeway Drive
Palm Beach, Florida 33480

Mayor Coniglio, Members of the Town Council and
Members of the Architectural Review Commission
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

RE: Variance # 24-2016 and Arcom Number B-055-2016
241 El Dorado Lane, Palm Beach, Florida

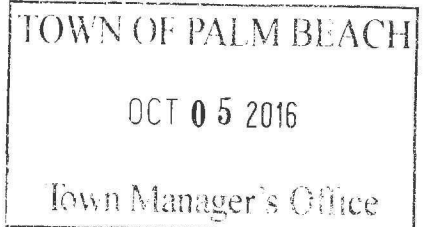
Dear Mayor Coniglio and Members of the Town Council and Architectural Review Commission:

I live at the property located at [256 Ridgeway Drive] in Palm Beach. My neighbors, Mr. and Mrs. Keogh, are planning to renovate their existing home by adding an addition to their main house and a garage addition. We/I have reviewed their plans for the proposed renovation and fully support the project and have no objection whatsoever. We/I believe that the proposed additions will be a fine improvement to both my neighbor's property and our neighborhood. Hopefully, you and your staff will agree with me and will approve the proposed project.

Thank you for your consideration.

Sincerely,

Earl Rotman & Ariella Rohringer
[Signature] [Signature]



Sheila H. Fruehauf
250 El Dorado Lane
Palm Beach, Florida 33480

October 20, 2016

Mayor Coniglio, Members of the Town Council and
Members of the Architectural Review Commission
Town of Palm Beach
360 South County Road
Palm Beach, Florida 33480

RE: Variance #24-2016 and Arcorm Number B-055-2016
241 El Dorado Lane, Palm Beach, Florida

Dear Mayor Coniglio and Members of the Town Council and Architectural Review Commission:

My husband and I own the property located at 250 El Dorado Lane, across the street from Mr. and Mrs. Desmond Keogh.

Earlier this summer, we reviewed the renderings for their main house and for their garage, and we were very pleased and in favor of the entire renovation plan.

Recently, we learned that the Keogh's were asked to modify their driveway footprint, and I am writing to appeal to your committee to accept their former plan.

Several years ago, we gave up parking hardscape at our property in favor of lawn and Desmond and Christina have been so gracious to allow us to park in front of their hedges. If the Keogh's lose this valuable parking real estate, our combined pool of drivers will certainly congest our pretty street and be a nuisance to our neighbors in both directions.

We have always loved the view of their driveway, and hope that you will reconsider the modification to their plan.

Thank you very much.

Sincerely,



Sheila H. Fruehauf

Mr. & Mrs. John C Cassidy Jr.

220 Ocean Terrace

Palm Beach, Fl. 33480

Members of the Architectural Review Commission

Town of Palm Beach

360 S. County Rd

Palm Beach, Fl. 33480

RE: Variance #24-2016 and Arcom # B-055-2016

241 El Dorado Ln, Palm Beach, Fl. 33480

Dear Members of the Architectural Review Commission:

My mother has lived at 240 El Dorado Ln. for years directly across the street from the Keoughs house. It is has come to our attention that that you are asking them to narrow there driveway opening so that they cannot park all of their cars on their property. This is extremely disruptive for such a narrow street. This will create many more issues with safety and it will make it much more difficult for other neighbors pulling out of their driveways.

We are in full support of the Keoughs proposed additions to their home and believe that leaving the driveway the same as it is now is much better for safety and it makes it much easier for neighbors to navigate this narrow road.

I ask you to review this change and let them keep this existing driveway for the good of all the neighbors.

Sincerely,



John C Cassidy Jr.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2016

Section of Agenda

Development Review - Old Business

Agenda Title

SPECIAL EXCEPTION #25-2016 WITH SITE PLAN REVIEW AND VARIANCES

The application of Harvey E. Oyer, III, Esq. (Agent); relative to property commonly known as **141 S County Rd.** & Vacant lot on west side of S County Rd., described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting for approval of a Special Exception with Site Plan Review and Variances to construct required off-street & supplemental parking spaces to accommodate 34 additional required off-street & supplemental parking, specifically 11 parallel parking spaces are proposed to be located on private property along the north side of the 100 block of Barton Avenue, adjacent to the Church. 23 parking spaces are proposed to be located on the Church's parcel directly west of the Place of Worship across South County Road. If approved, the additional 34 required off-street & supplemental parking spaces will substantially alleviate the recent loss of parking that has existed as a result of changes to the Town's parking policies. At the Town Council's direction, the applicant seeks to allow residents of the 100 & 200 block of Barton Avenue along with residents of the 200 block of Pendleton Avenue to use the 34 off-street and supplemental parking spaces by way of a Declaration of Use agreement. The following variances are requested for the 11 parallel required off-street parking spaces to be located on the north side of the 100 block of Barton Avenue: 1) to allow the landscape open space area to be reduced from the existing 51.98% to 50.48% in lieu of 55% minimum landscape open space as required by code; 2) to allow the off-street parking with a zero setback in lieu of the 25 foot minimum setback required; 3) to allow the off-street parking spaces not to include the required screening with hedges, walls or a combination thereof as required; 4) to allow the interior off-street parking landscape open space to be reduced to zero in lieu of the minimum 10% (205.3 sq. ft.) required. [Attorney: Harvey E. Oyer, Esq.] (Landmarks Preservation Commission meeting: Deferred the Project to December 21, 2016. Carried 7-0.)

Presenter

John S. Page, Director of Planning, Zoning & Building

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2016

Section of Agenda

Development Review - Old Business

Agenda Title

MODIFIED SPECIAL EXCEPTION #13-2016 WITH SITE PLAN REVIEW

The application of Miradieu Aubourg, PBC Capital Improvements Division; relative to property commonly known as **2882 S. Ocean Blvd.**, described as lengthy legal description on file; located in the C-TS Zoning District. The applicant is requesting a Modified Special Exception with Site Plan Review to leave the 5 foot wide beach access easement in its existing location along the northern perimeter of the park site. The beneficiaries of this easement may still use said easement for access to the beach. In addition, this modified request proposes to leave the existing sidewalk that meanders outside of the easement from the beach and to the existing parking lot in place as it currently exists. No changes to the existing landscape in the vicinity of the easement or sidewalk are proposed. [Attorney: Denise M. Nieman, Esq.]

Deferred from the May 11, 2016, and October 13, 2016 Town Council Meetings.

Presenter

John S. Page, Director of Planning, Zoning & Building

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2016

Section of Agenda

Development Review - New Business

Agenda Title

SITE PLAN REVIEW #11-2016 WITH VARIANCE The application of Harold Peerenboom; relative to property commonly known as **8 Sloan's Curve Dr.**, described as lengthy legal description on file; located in the PUD-B Zoning District. The applicant is requesting a site plan review to infill a portion of the balcony on the east side of the second story of the townhouse which comprises on 132 square feet. The proposed addition will modify a previously approved site plan in a PUD complying with the Town's Code. The applicant is also requesting a variance to allow the enclosure of an existing open balcony in the PUD-B zoning district which follows the R-C Zoning regulations that prevents such enclosure. [Attorney: Maura Ziska, Esq.]

Presenter

John S. Page, Director of Planning, Zoning & Building

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2016

Section of Agenda

Development Review - New Business

Agenda Title

SPECIAL EXCEPTION #28-2016 WITH SITE PLAN REVIEW AND VARIANCES

The application of Gregory Fisher; relative to property commonly known as **316 Seabreeze Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a special exception with site plan review to allow the construction of a 2,700 square foot two-story, single family residence on two platted lots which combined creates a lot that is 50 feet in width in lieu of the 100 foot minimum required and 6,125 square feet in area in lieu of the 10,000 square foot minimum area required. The following variances are being requested. To allow a 6 foot west side yard setback for the two story portion in lieu of the 15 foot minimum required and to allow a 6 foot east side yard setback for the one story portion in lieu of the 12.5 foot minimum required. [Attorney: Maura Ziska, Esq.[Architectural Commission Recommendation: Deferred Project to November 30, 2016 meeting. Carried 7-0.]

Presenter

John S. Page, Director of Planning, Zoning & Building

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2016

Section of Agenda

Development Review - New Business

Agenda Title

SPECIAL EXCEPTION #29-2016 WITH SITE PLAN REVIEW AND VARIANCES

The application of Gregory Fisher; relative to property commonly known as **320 Seabreeze Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting for approval of a special exception with site plan review to allow the construction of a 2,713 square foot two-story, single family residence on two platted lots which combined creates a lot that is 50 feet in width in lieu of the 100 foot minimum required and 6,125 square feet in area in lieu of the 10,000 square foot minimum area required. The following variances are being requested. To allow a 6 foot east side yard setback for the two story portion in lieu of the 15 foot minimum required and to allow a 6 foot west side yard setback for the one story portion in lieu of the 12.5 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Deferred Project to the November 30, 2016 Meeting. Carried 7-0.]

Presenter

John S. Page, Director of Planning, Zoning & Building

ATTACHMENTS:

- ▣ **E-mail Dated October 17, 2016 From, Weegie Antle**

Weegie Antle
342 Seabreeze Avenue
Palm Beach, FL 33480

October 17, 2016

H: 561-833-7780 C: 561-779-0707
wantle@me.com

Ms. Susan A Owens
Town Clerk
Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480

RE: ARCOM Case #B-064-216
Property Addresses 316 and 320 Seabreeze Ave., Palm Beach
For ARCOM Meeting Scheduled October 28 and
Town Council Meeting Scheduled for November 9th

Dear ARCOM and Town Council Members:

As an eleven year resident of Palm Beach residing at 342 Seabreeze Avenue, I am writing to you about the two proposed neighboring properties at 316 and 320 Seabreeze Avenue.

I also purchased a property on Seabreeze that I demolished and rebuilt in 2004-5. My primary design concerns when I began this project were that my house not look like a new home or a carbon copy of any neighbor's home, but rather, a unique structure that would fit comfortably within, and add to, the pleasing aesthetics of Seabreeze Avenue. The street's charming character was what drew me to it in the first place.

I spent a great deal of time creating a design and searching out historically authentic materials (hand-made barrel tiles for the roof, real limestone imported from France for the windows, doors and floors, antique tiles, 150 year old wood floor planks, cedar plank garage doors and out lookers, etc.). that would achieve my goal.

While I am sympathetic, from a property owner's viewpoint, to the building restrictions of a small lot vis a vis the high land cost, I am very concerned that the character of Seabreeze be protected.

The primary objection I have for these two proposed properties as presented to me is that the two houses are basically identical giving the appearance of a suburban tract development. I trust that ARCOM and the Town Council will deal effectively with the design and materials proposed to achieve two individually appealing homes that will continue the Seabreeze historical tradition.

We welcome new residents to Seabreeze Avenue and hope that our neighborly concerns will only enhance all of our living experience here.

Please will you read this letter into the minutes of both the ARCOM meeting on October 28th and the Town Council meeting on November 9th?

Sincerely,

Weegie Antle

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2016

Section of Agenda

Development Review - New Business

Agenda Title

SPECIAL EXCEPTION #30-2016 WITH SITE PLAN REVIEW AND VARIANCES

The application of Town of Palm Beach (Tom Bradford, Town Manager); relative to property commonly known as **340 Seaview Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a special exception with site plan review to approval to allow a new two-story 33,810 square foot Recreation Center for the Town of Palm Beach that will include a new athletic field, parking lot, gymnasium, tennis pro shop, multi-purpose room, fitness center with locker rooms, concession area, classrooms, offices and new maintenance building, new tennis backboard, new scoreboard. A second special exception request is to allow for a rebound wall to be constructed on the north side of the new maintenance building. The following variances are being requested in order to construct the new community center: 1) A west side yard setback of 10 feet in lieu of the 30 foot minimum required for properties that are in excess of 20,000 square feet; 2) A north side yard setback of 8 feet in lieu of the 30 foot minimum required for properties that are in excess of 20,000 square feet; 3) A street rear yard setback for the new parking lot on Royal Palm Way of 4 feet in lieu of the 35 foot minimum required for properties that are in excess of 20,000 square feet; 4) an east side yard setback of 4 feet in lieu of the 30 foot minimum required for the new parking lot on Royal Palm Way for properties that are in excess of 20,000 square feet; 5) a height of 27 feet in lieu of the 22 foot maximum allowed; 6) an overall height of 35 feet in lieu of the 30 foot maximum allowed; 7) a vertical distance to the top of beam of 30.75 feet in lieu of the 26 foot maximum distance allowed from the crown of street to top of beam; 8) landscaped open space of 43% in lieu of the 55% minimum required for properties that are in excess of 20,000 square feet; 9) parking lot interior landscaped open space of 5% in lieu of the 10% minimum required; 10) to allow signage on the proposed scoreboard which would exceed the maximum signage allowed (of one for each street frontage); 11) to allow three (3) air-conditioning units to be on the roof that is in excess of the 4 foot maximum allowed. The proposed A/C units will be 5 feet tall plus the height of the stand. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Implementation of the Proposed Variances Will Not Cause Negative Architectural

Impact to the Subject Property. Carried 5-2. Mr. Gruss and Mr. Small Opposed.]

Presenter

John S. Page, Director of Planning, Zoning & Building

ATTACHMENTS:

- ▣ **Letter Dated October 28, 2016 From Beth Zickar**
- ▣ **E-mail Dated November 2, 2016 From Emmy Wolbach**



TOWN OF PALM BEACH

Recreation Department

PO Box 2029, Palm Beach FL 33480 * 561.838.5485

www.townofpalmbeach.com

October 28, 2016

Mr. Paul Castro, Zoning Administrator
Town of Palm Beach
Planning, Zoning and Building Department
360 South County Road
Palm Beach, FL 33480

Dear Paul:

This letter will serve as the formal request to defer Special Exception #30-2016 with Site Plan Review and Variances from the November 9, 2016 Town Council Development Review Meeting to the December 14 meeting.

Thank you for your consideration.

Sincerely,

Beth Zickar

Beth Zickar
Director of Recreation



From: [Kelly Churney](#)
To: [Alexander Ives \(alexives@hotmail.com\)](#); [Ann Vanneck \(avanneck@mac.com\)](#); [Betsy Shiverick \(betsyshiverick@gmail.com\)](#); [John Corey \(johncorey84@gmail.com\)](#); [Maisie Grace \(amginny@aol.com\)](#); [mg@gruss.com](#); [Michael Small \(msmall@smallawpalmbeach.com\)](#); [Peter Knowles \(pickIII@aol.com\)](#); [Richard Sammons \(rsammons@fairfaxandsammons.com\)](#); [Robert Garrison \(rng@garrisonarch.com\)](#)
Cc: [John Lindgren](#); [jrandolph@jones-foster.com](#); [Beth Zickar](#); [Rod Gardiner](#); [Paul Castro](#); [Kathleen Ruderman](#)
Subject: FW: Rec center
Date: Wednesday, November 02, 2016 11:40:43 AM

FYI

Kelly Churney
Office Assistant III

Town of Palm Beach
Planning, Zoning & Building
360 S. County Rd.
Palm Beach, FL 33480
561-227-6408
561-835-4621 (fax)

From: seawind22@comcast.net [<mailto:seawind22@comcast.net>]
Sent: Wednesday, November 02, 2016 10:26 AM
To: John Page <JPage@TownofPalmBeach.com>
Subject: Rec center

Leave rec center with same footprint
No need for more. Keep green space
From Emmy Crispin Wolbach
(My home for 60 years). Thank you

Sent from my iPhone

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2016

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #25-2016 The application of Maura Ziska, Manager of Barnacle PB LLC; relative to property commonly known as **221 Oleander Ave.**, described as lengthy legal description on file; located in the R-C Zoning District. The applicant requests a variance to allow construction of a new 2,930 square foot, two story residence on a lot with a depth of 56 feet in lieu of the 100 foot minimum required and a lot area of 4,200 square feet in lieu of the 10,000 square foot minimum; a variance to allow lot coverage to be 41.6% in lieu of the 30% maximum allowed; a variance to allow a front yard setback to be 13.5 feet in lieu of the 25 foot minimum; and a variance to allow a rear yard setback to be 10 feet in lieu of the 15 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Deferred Project to the November 30, 2016 meeting. Carried 7-0.]

Presenter

John S. Page, Director of Planning, Zoning & Building

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2016

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #27-2016 The application of Oliver R. Grace, Jr.; relative to property commonly known as **270 Algoma Rd.**, described as lengthy legal description on file; located in the R-A Zoning District. The applicant is requesting modifications to an existing landmarked residence by adding a second story addition and balcony rail which require the following variances: 1) a 447.96 square foot second story addition to the east side of the residence that will have a 32.2 front yard setback in lieu of the 35 foot minimum required and a building height plane setback of 31.66 feet in lieu of the 46.17 feet minimum required and an angle of vision of 131 degrees in lieu of the 120 degrees maximum allowed; 2) the addition of balcony railings above the existing one story on the east side of the house that would have a front yard setback of 32.2 feet in lieu of the 35 foot minimum required and an angle of vision of 136 degrees in lieu of the 120 degrees maximum allowed. [Attorney: Maura Ziska, Esq.] [Landmark Recommendation: Implementation of the Proposed Variance Will Not Cause Negative Architectural Impacts to the Subject Landmarked Property. Carried 7-0.]

Presenter

John S. Page, Director of Planning, Zoning & Building

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2016

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #28-2016 The application of Dean Vegosen, as Trustee of the Land Trust dated June 22, 1995; relative to property commonly known as **1015 S. Ocean Blvd.**, described as lengthy legal description on file; located in the R-A Zoning District. The residence at 1015 S. Ocean Blvd. was constructed in 1937. The owner is replacing the roof tiles on the house. As part of this project, she requests to add two roof elements on the north end of the house where an existing flat roof and valley have created aesthetic and drainage problems. The new elements will be a pitched roof and a cricket. The new roof elements will increase height in nonconforming setbacks and angle of vision but will not further reduce the setbacks or increase the existing angle of vision. The following variances are being requested: 1) increase building (roof) height with a 13.66 foot setback from the west (front) property line in lieu of the 35" minimum setback required; 2) add building (roof) height outside the allowed angle of vision, which is 120 degrees on this site. This existing structure has an angle of vision of 146.93 degrees; 3) increase building (roof) height with a 5.08 foot setback from the north (side) property line in lieu of the 15 foot minimum setback required; and 4) increase building (roof) height with a 9.50 foot setback from the east (rear) property line in lieu of the minimum 15 foot setback required. [Attorney: Jamie M. Crowley, Esq.] [Architectural Commission Recommendation: Implementation of the Proposed Variances Will Not Cause Negative Architectural Impact to the Subject Property. Carried 7-0.]

Presenter

John S. Page, Director of Planning, Zoning & Building

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2016

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #26-2016 The application of David and Jeanne Daniel; relative to property commonly known as **322 Seaspray Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a variance to allow a three sided wing wall on the east side of the property to screen a 48 KW generator at a height of 8.25 feet from the adjacent neighbor's grade in lieu of the 7 foot maximum allowed. [Attorney: Maura Ziska, Esq.] [Landmark Commission Recommendation: Implementation of the Proposed Variance Will Not Cause Negative Architectural Impacts to the Subject Landmarked Property. Carried 7-0.]

Presenter

John S. Page, Director of Planning, Zoning & Building

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2016

Section of Agenda

Ordinances - First Reading

Agenda Title

DINANCE NO. 16-2016 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134-893, Lot, Yard And Area Requirements By Creating Alternative Zoning Regulations That Could Be Used For Seaview Avenue, Seaspray Avenue, Seabreeze Avenue In The R-B Zoning District; Sections 134-1113, 134-1163, 134-1213, 134-1308 By Exempting Sub-Basements From The Maximum Building Length And Floor Area Requirements In The C-TS, C-WA, And C-OPI Commercial Zoning Districts And The Maximum Building Length Requirement C-B Commercial Zoning District; Section 134-1616 Creating Separate Zoning Regulations For Lot Coverage, Setbacks And Landscape Open Space Requirements For Sub-Basements In The C-TS, C-WA, C-OPI And C-B Commercial Zoning Districts; Section 134-1516 By Providing Landscape Screening Regulation For Boxed Signs Providing Essential Services; Section 134-1731 By Providing Additional Regulations For Exterior Lighting And Section 134-2327 By Eliminating A Specific Fee For Visitor/Service Signs; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Approved from the September 14, 2016 Town Council Meeting.

Presenter

John S. Page, Director of Planning, Zoning & Building

ATTACHMENTS:

- ❑ **Memorandum Dated October 27, 2016 From John S. Page**
- ❑ **Ordinance 16-2016**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 9, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: John S. Page, Director of Planning, Zoning & Building

Re: Fact Sheet: Effect On Underground Garages
Ordinance No. 16-2016

Date: October 27, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council proceed forward with the deliberation of newly proposed Ordinance No. 16-2016. The attached "Fact Sheet" may assist with understanding the consequences of Ordinance adoption.

GENERAL INFORMATION

Ordinance No. 16-2016 contains several changes to the Town's Zoning Ordinance, most notably 1) redevelopment options for owners of property on the "Sea-streets," and 2) amendments regulating the size of underground parking structures.

Underground parking changes have been reviewed and recommended for approval by the Planning & Zoning Commission. The Town Council initially reviewed the changes while acting as the Local Planning Agency (LPA), on September 14 of this year. Clarifications were determined necessary, and the Ordinance was deferred until the month of October. Acting as the LPA again on October 14, resident Anne Pepper with her consultant Nilsa Zacarias, posed a series of questions about underground parking changes, casting doubt on commercial intensification and drainage. Council members ultimately decided not to remand the issue back to the Planning & Zoning Commission, but instead to defer consideration until its November 9th meeting date.

Staff has prepared the attached "Fact Sheet" in order to assist Council members to understand the various implications of the underground parking changes,

cc: John C. Randolph, Town Attorney
Planning & Zoning Commissioners

ORDINANCE NO. 16-2016

UNDERGROUND PARKING CHANGES

FACT SHEET

1. Underground parking garages are presently permitted throughout Town, including residential and commercial districts.
2. Zoning regulations differ from district to district, but present requirements limit underground parking garages, and any connected structural portion situated aboveground, to a maximum building length of 150' and a maximum floor area of 15,000 sq. ft.
3. As proposed, both the 150' maximum length limitation, as well as the 15,000 sq. ft. maximum floor area limitation, would be eliminated for sub-basements (but not for aboveground structures). By definition, sub-basements are underground elements that cannot be seen.
4. Lot coverage regulations for aboveground structures will not change. A uniform 70% lot coverage will apply to all sub-basements in the C-TS, C-WA, C-B, and C-OPI commercial districts.
5. Individual building elements connected to the underground garage, yet extending aboveground, remain subject to existing lot coverage requirements.
6. At present, underground garages must be situated with at least 51% directly beneath the building above. As proposed, no offset limitation would exist, however the 70% lot coverage would apply, and 5' property line setbacks would apply.
7. All present drainage requirements remain unchanged.
8. Individual underground parking garages, when proposed, are presently required to obtain Site Plan approval from the Town Council. That requirement is to remain unchanged.
9. All infrastructure concurrency requirements pertaining to underground parking garages are to remain unchanged.
10. Landscaping, when it exists directly over an underground parking garage, does not presently count as landscaped open space for satisfying minimum thresholds. It is proposed to eliminate that provision, thereby allowing "green space" directly above an underground parking garage to count as part of required landscaped open space.
11. No relaxation of commercial building heights, setbacks, or area is proposed for any aboveground development.

What Does Change?

1. Underground parking garages would not be limited to 150 linear feet, nor 15,000 sq. ft. in size.
2. There would be no limitation on the amount of “offset” between underground and aboveground building elements.
3. Green (“softscape”) space situated directly over an underground garage would be allowed to count as part of Code required landscaped open space.
4. Underground parking garages would be limited to 70% lot coverage in the C-TS, C-WA, C-B, and C-OPI commercial districts (regardless of what is allowed aboveground).

What Does Not Change?

1. Existing lot coverage maximums for all aboveground structures remain as is.
2. Existing height, overall height, and setbacks for all aboveground structures remain as is.
3. Drainage requirements remain as is.
4. The amount of off-street parking required for various land uses remains as is.
5. Minimum landscaped open space requirements remain as is.
6. The required Town Council review/approval process remains as is.
7. Infrastructure concurrency requirements remain as is.

ORDINANCE NO. 16-2016

An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning As Follows: Section 134-893, Lot, Yard And Area Requirements By Creating Alternative Zoning Regulations That Could Be Used For Seaview Avenue, Seaspray Avenue And Seabreeze Avenue In The R-B Zoning District; Sections 134-1113, 134-1163, 134-1213 And 134-1308 By Exempting Sub-Basements From The Maximum Building Length And Floor Area Requirements In The C-TS, C-WA, And C-OPI Commercial Zoning Districts And The Maximum Building Length Requirement C-B Commercial Zoning District; Section 134-1611 By Creating Separate Zoning Regulations For Lot Coverage, Setbacks And Landscape Open Space Requirements For Sub-Basements In The C-TS, C-WA, C-OPI And C-B Commercial Zoning Districts; Section 134-1516 By Providing Landscape Screening Regulation For Boxes Housing Essential Services; Section 134-1731 By Providing Additional Regulations For Exterior Lighting And Section 134-2327 By Eliminating A Specific Fee For Visitor/Service Permits; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

WHEREAS, after a public hearing pursuant to notice required by law, the Planning and Zoning Commission considered all testimony and recommended modification to the Code of Ordinances;

WHEREAS, after public hearing pursuant to notice required by law, the Local Planning Agency considered the Planning and Zoning Commission's Record and Report and all testimony and recommended that the Town Council adopt the subject Ordinance; and,

WHEREAS, after public hearing pursuant to notice as required by law, the Town Council does hereby find, determine, and declare that the public health, safety, morals and general welfare of the citizens of the Town of Palm Beach require that the aforesaid Chapter 134, Zoning, of the Code of Ordinances, be amended as hereinafter set forth,

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Article VI, DISTRICT REGULATIONS, Section 134-893, Lot, yard and area requirements – Generally, is hereby amended to include a new sub-section(a) to read as follows:

Section 134-893. – Lot, yard and area requirements – Generally.

(a) In order to protect the unique, residential character of Seaview Avenue, Seaspray Avenue and Seabreeze Avenue (Sea Streets), partial or complete demolition and reconstruction of a single-family dwelling and/or accessory building(s) on a lot 75 feet or less in width are

exempt from the lot, yard, and area requirements as set forth in this Section if redeveloped substantially on the same footprint as existed prior to demolition provided the following conditions are met:

1. The proposed single-family dwelling and/or accessory building(s) are of an architectural style consistent with the architecture of the single-family dwellings within the R-B zoning district on both sides of the subject street, between the intersecting streets in both directions, where the dwelling is situated, as determined by the Architectural Commission.
2. The proposed single-family dwelling and/or accessory building(s) shall meet the requirements in Section 134-893(c).
3. If the existing footprint of the single-family dwelling and/or accessory building(s) lay within 5 feet of a side or rear lot line, the replacement footprint must be shifted such that an absolute minimum 5 foot side and rear lot line setback is created, and further the redeveloped home must be situated at least 10 feet apart from any structure on a neighboring lot.
4. The height and overall height from the point of measurement of the proposed single-family dwelling and/or accessory building(s) are no higher than the dwelling and/or accessory building(s) being demolished.
5. Any square footage added to the proposed single-family dwelling and/or accessory building(s) shall meet all lot, yard and bulk zoning requirements in the Code.
6. If using the provisions of this subsection (a) above, no variances can be requested for any new additions which add additional square footage or cubic content than existed prior to demolition of a single-family dwelling and/or accessory building(s).

The remaining subsections in 134-893 shall remain unchanged, however, they shall be re-lettered to follow consecutively subsection (a) above.

Section 2. Article VI, DISTRICT REGULATIONS, Section 134-1113, Lot, yard and area requirements – Generally, is hereby amended at subsections (10) Length, and (12) Floor area, to read as follows:

Sec. 134-1113. - Lot, yard and area requirements—Generally.

In the C-TS town-serving commercial district, the schedule of lot, yard and area requirements is as given in this section:

(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. 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.

(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. Sub-basements shall be exempt from the maximum floor area requirements. 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

Section 3. Article VI, DISTRICT REGULATIONS, Section 134-1163, Lot, yard and area requirements – Generally, is hereby amended at subsection (10) Length, and (12) Floor area to read as follows:

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)...

(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 multi-family building maximum dimensions, see section 134-1871 et seq.

d. Refer to the Worth 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.

(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.

Section 4. Amend Article VI, DISTRICT REGULATIONS, Section 134-1213, Lot, yard and area requirements – Generally, is hereby amended at subsection (10) Length, and subsection (12) Floor area, to read as follows:

Sec. 134-1213. - Lot, yard and area requirements—Generally.

In the C-OPI office, professional and institutional district, the schedule of lot, yard and area requirements is as given in this section:

(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 three-story buildings, the maximum building length is 150 feet.

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 length.

(12) Floor area.

a. For one-story buildings, the maximum gross floor area of buildings is 30,000 square feet.

b. For two-story buildings, the maximum gross floor area of buildings is 30,000 square feet.

c. For three-story buildings, the maximum gross floor area of buildings is 30,000 square feet.

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.

Section 5. Article VI, DISTRICT REGULATIONS, Section 134-1308, Lot, yard and area requirements – Generally, is hereby amended at subsection (10) Length, to read as follows:

Sec. 134-1308. - Lot, yard and area requirements—Generally.

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

(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. 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.

Section 6. Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, Section 134-1611, Sub-basement exception, is hereby amended to read as follows:

Sec. 134-1611. - Sub-basement exception.

(1) For residential and time-share development or redevelopment, and for commercial development within the C-PC, Planned Commercial District, No portion of a sub-basement may be located beyond the confines of the outer walls of the first floor above it except under the following conditions:

~~(1a)~~ The sub-basement shall have at least 51% of its floor area within the confines of the outer walls of the main portion of the building located above the sub-basement.

~~(2b)~~ ~~The portion of the sub-basement outside of the outside walls of the main portion of the building located above the sub-basement shall have no physical appearance and be entirely hidden from view from any elevation of the building.~~

~~(3c)~~ The developed grade outside the walls of that portion of the sub-basement that is outside the walls of the main portion of the building located above the sub-basement shall not be raised or altered in order to be hidden from view, more than two feet above the natural grade.

~~(4d)~~ The portion of the sub-basement outside of the outside walls of the main building above the sub-basement shall not be allowed to count in the calculations for landscape open space requirements and shall count toward lot coverage, and,

(e) The sub-basement shall be setback a minimum of five feet from a property line.

(2) For development or redevelopment in commercial zoning districts with the exception of the C-PC, Planned Commercial District, a sub-basement shall be allowed under the following conditions:

(a) The maximum lot coverage of a proposed sub-basement shall not exceed a maximum of 70%. Said lot coverage shall only be for the sub-basement and shall not count toward the maximum lot coverage of the portion of the buildings(s) above said sub-basement.

(b) The sub-basement shall be entirely hidden from view from any elevation of the building.

(c) The portion of the sub-basement outside of the outside walls of the main building above the sub-basement shall be allowed to count in the calculations for landscape open space requirements.

(d) The sub-basement shall be setback a minimum of five feet from a property line.

Section 7. Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, Section 134-1516, Underground location of utility service lines, is hereby amended to read as follows:

Sec. 134-1516. - Underground location of utility service lines.

1. Boxes housing essential services in the front, street side and street rear yard setbacks shall be screened from view from the street in so much as possible by either a wall or hedge planted and maintained at a height the same as or greater than said essential service box. An essential service is defined in Sec. 134-2 of the Code.
2. At the time that any new buildings or structures are being constructed or located on any privately owned property or at the time that any existing buildings or structures on privately owned property are being reconstructed, substantially extended and enlarged or structurally altered, such buildings or structures shall have an entirely underground location for all utility service lines, electrical distribution systems, wires and cables, which connect to and service such buildings or structures.

Section 8. Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, Sec. 134-1731, is hereby amended to read as follows:

Sec/ 134-1731. Outdoor lighting equipment.

a. The maximum height of poles or structures for the purpose of supporting lighting fixtures and lighting equipment shall be 15 feet above finished grade.

b. Light Trespass shall be defined as the poor control of exterior lighting that crosses property lines and detracts from property values and our quality of life. Any exterior or landscape lighting that creates the following conditions is prohibited.

- 1) Lighting or fixtures that allow more than one half foot-candle to spill off the property.

2) Lighting that is directed or aimed in such a manner as to create a nuisance or glare to any abutting property.

3) Lighting that is installed and/or aimed in such a manner as to create a nuisance or glare to passers-by, either by foot or in a moving vehicle.

Section 9. Article XI, ON-STREET PARKING PERMITS*, Sec. 134-2327, Issuance, is hereby amended to read as follows:

Sec. 134-2327. - Issuance.

Under this division, parking permits may be granted to persons as follows:

(1) *Resident permits.* To persons who are residents of any particular area in which parking is so restricted, to be limited to that particular area in which parking is so restricted for every vehicle owned by those persons.

(2) *Visitor/service permits.* Upon application by such owner, up to two visitor/service permits may be issued, which permits may be used by such owner for the sole purpose of providing parking on a temporary basis to service vehicles which are conducting work at such owner's premises or for visitors of such owner's residence. These permits shall be used only for the period of time during which business is to be conducted by the service vehicles or for the duration of stay of a visitor to the residence for which the permit is issued.

The application for a visitor/service permit or permits shall be filed by such owner. A fee is hereby authorized for issuance of said permit of \$20.00, payable to the finance department ~~shall be charged~~ for each visitor/service permit. The amount of the fee shall be established by resolution of the town council and may be amended from time to time by resolution of the town council. These permits shall not be affixed to the vehicle, but shall be placed in a clearly visible place on the inside of the visitor's or service vehicle observable through the front windshield of the vehicle. The permits shall be valid only for the period of time during which the service vehicle is conducting work at the premises or for the period of time a visitor is at the premises.

(3) *Temporary group permits.* To residents as provided in section 134-2328.

(4) *Adjacent resident permits.* To persons who are residential users in a commercially zoned area immediately adjacent and contiguous to the residential area in which parking is restricted, to be limited to that particular area in which parking is so restricted, for not more than two vehicles owned by that person and upon proof shown that on-site parking is not available to that person on the property in which he resides within the commercially zoned area.

Section 10. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect

without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 11. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 12. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 13. Effective Date.

This Ordinance shall take effect 31 days subsequent to its passage on second and final reading.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 9th day of November 2016, and for second and final reading on this ____ day of _____ 2016.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Council President Pro Tem

Danielle H. Moore, Town Council Member

ATTEST:

Bobbie Lindsay, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 9, 2016

Section of Agenda

Any Other Matters

Agenda Title

Planning and Zoning Commission Record and Report: Proposed Modifications and Changes to Chapter 134, Zoning

Presenter

John S. Page, Director of Planning, Zoning & Building

ATTACHMENTS:

- ▣ **Memorandum Dated October 28, 2016 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Exhibit A Planning and Zoning Commission Record and Report**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 9, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: John S. Page, Director of Planning, Zoning & Building

Re: Planning and Zoning Commission Record and Report: Proposed Modifications and Changes to Chapter 134, Zoning

Date: October 28, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council consider the Planning and Zoning Commission Recommendation and Report (EXHIBIT A) and provide further direction on possible amendments to the Zoning Ordinance. Study items appear in “BOLD” print. Newly proposed text is in add/delete format for ease of identification. Staff recommendations follow recommendations from the Commission.

PLANNING AND ZONING COMMISSION RECOMMENDATION

The Planning and Zoning Commission, at its September 20, 2016 meeting, recommended approval of proposed Zoning Code modifications as identified Exhibit A.

GENERAL INFORMATION

The Town Council, at its October 13, 2016 meeting, deferred consideration of the Record and Report to the November 9th Council meeting at the request of an interested party. The Report regards two study items considered by the Planning and Zoning Commission at its September 20, 2016 meeting. In summary, the recommendations included within this report consist of:

- Proposed zoning regulations regarding storage facilities related to a commercial permitted or special exception use.
- Proposed zoning regulations related to medical marijuana treatment centers and/or dispensary uses, and the cultivation of marijuana.

The Commission instructed Staff to draft the attached recommendations for consideration by the Town Council. Staff is requesting that the Council consider the proposed changes in the Record and Report (see EXHIBIT A) and provide direction regarding drafting an ordinance for

subsequent Town Council action.

In addition, the Commission also discussed the possibility of the Town Council reappointing the Planning and Zoning Commission as the Local Planning Agency (LPA). The Commission believes that the LPA designation should revert to the Commission. Although doing so would add to Town expense (additional legal ads) and processing, Commissioners believe the change would be more beneficial to the Town for the following reasons:

- It will free up more time for the Council to do other business of the Town at their meetings.
- The LPA is a good fit for the skill set of the diverse membership of the Commission.
- The Commission works well together to solve varied and challenging planning issues.
- It will be more efficient and effective for the Commission, as the LPA, to vet the Comprehensive Plan issues with the residents prior to them being considered by the Town Council.
- The statutes mandate that the LPA make recommendations to the governing body regarding comprehensive plan ordinances. The Commission should be the LPA because it already provides those recommendations.
- The issue of reappointing the Commission as the LPA is timely with the ten year review of the Comprehensive Plan.

For those reasons, the Planning and Zoning Commission unanimously passed a motion recommending that the Council consider reappointing that body as the LPA.

Please contact Paul Castro at 227-6406 if you have any questions about these recommendations.

cc: Planning and Zoning Commission
Jay Boodheshwar, Deputy Town Manager
John C. Randolph, Town Attorney
Paul W. Castro, AICP, Zoning Administrator
Veronica B. Close, Asst. Director, Planning, Zoning & Building
John Eubanks
zf

EXHIBIT A: PLANNING AND ZONING COMMISSION RECORD AND REPORT

PROPOSED ZONING REGULATIONS REGARDING STORAGE FACILITIES RELATED TO A COMMERCIAL PERMITTED OR SPECIAL EXCEPTION USE.

Recommendation:

The Commission recommended the following new proposed regulations to allow storage facilities related to commercial uses. The Commission voted 7-0 to allow storage facilities as a permitted use. Staff recommends the Council consider Staff's recommendation to the Commission which proposed to make said use obtain special exception approval from the Town Council.

Sec. 134-1107. Permitted uses.

a. *Enumeration; maximum gross leasable area.* The permitted uses in the C-TS town-serving commercial district, with a maximum of 3,000 square feet gross leasable area (GLA), are as follows:

(1)....

....

(6) 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.

(7) Essential services.

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 gross leasable area (GLA), are as follows:

(1)....

....

(29) 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.

(30) Combinations of the uses in subsections(a)(1) through (28) of this section.

Sec. 134-1207. Permitted uses.

a. *Enumeration; maximum gross leasable area.* The permitted uses in the C-OPI, office, professional and institutional district are as follows:

(1)....

....

(5) 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.

(6) Essential services.

Sec. 134-1302. Permitted uses.

a. *Enumeration; maximum gross leasable area.* The permitted uses in the C-B commercial district require a site plan and review as required in article III of this chapter.

b. The permitted uses in the C-B commercial district are as follows:

(1)....

....

(5) 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.

(6) Essential services.

Sec. 134-1760. Storage facility.

A storage facility use is allowed as an accessory use in the C-TS, C-WA, C-OPI and C-B commercial zoning districts provided the following conditions are met.

- 1) Is located above the first floor and is an accessory use to a principal use;
- 2) Does not independently exceed the maximum town-serving threshold for the zoning district in which it is located in;
- 3) Movement of merchandise from the accessory storage facility use to the principal use shall not unduly block or otherwise interfere with orderly pedestrian movement or commercial enterprise;
- 4) Is located within the same building as the principal use it is intended to serve; and
- 5) Is located no further than 125 feet from the service door of the principal use it is

intended to serve.

PROPOSED ZONING REGULATIONS RELATED TO A MEDICAL MARIJUANA TREATMENT CENTER AND/OR DISPENSERY USE AND THE CULTIVATION OF MARIJUANA.

Recommendation:

The Commission recommended the following changes by a vote of 7-0. Staff concurs with the proposed changes.

Sec 134-2, Definitions and Rules of Construction by adding new definitions as follows:

Medical Marijuana Treatment Center means an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualified registered patients or their personal caregivers and is registered by the State Department of Health and regulated under Chapter 134 of the Town Code of Ordinances.

Medical Marijuana Dispensary means a facility that is operated by an organization or business holding all necessary licenses and permits from which marijuana, cannabis, cannabis-based products, or cannabis plants are delivered, purchased, possessed, or dispensed for medical purposes and operated in accordance with all local, federal, and state laws. Physicians authorized by State law to order low-THC cannabis, as defined in Florida Statutes, for qualified registered patients' medical use are not included in the definition of Medical Marijuana Dispensary.

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.

C-TS ZONING DISTRICT:

- (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-TS town-serving commercial district are as follows:

...

- (19) Medical marijuana treatment centers and medical marijuana dispensaries are

prohibited, however, should State Law pre-empt said prohibition, said uses shall be permitted subject to the requirements in Section 134-2119 and 134-2120 of this chapter.

DIVISION 18. MEDICAL MARIJUANA TREATMENT CENTERS AND MEDICAL MARIJUANA DISPENSARIES.

Sec. 134-2119. Purpose.

The purpose of this division is to prohibit medical marijuana treatment centers and medical marijuana dispensaries in all Commercial Zoning Districts, or should State Law preempt the prohibition of said uses, to develop reasonable guidelines, standards and regulations to allow said uses in the Commercial Town-Serving (C-TS) District.

Section 134-2120. Development Standards.

In addition to applicable regulations and requirements otherwise set forth in this article, the following minimum standards and regulations shall apply to the development or use of property for a medical marijuana treatment center or medical marijuana dispensary. Such standards shall be met regardless of the existence of lesser standards that may be imposed by other agencies of government. The Town Council may impose additional conditions or safeguards as deemed necessary.

- (1) *Distance Separation.* No medical marijuana treatment center or dispensary shall be located within one thousand (1,000) feet of any school, church, child care facility, municipal park or substance abuse treatment facility licensed by the Florida Department of Children and Families pursuant to Rule 65D-30, or within two thousand five hundred (2,500) feet of another medical marijuana treatment center or dispensary, or within one hundred (100) feet of residentially zoned property within the Town limits, as further defined by these regulations. Distances shall be measured by drawing a straight line between the closest point of the medical marijuana treatment center/dispensary structure to the closest property line or tenant space (whichever is closer) of a school, church, childcare facility, public park, resource recovery/addiction treatment facility, or other medical marijuana treatment center or dispensary residentially zoned property.
- (2) *Parking.* Any off-street parking demand created by a medical marijuana treatment center/dispensary shall not exceed the parking spaces located or allocated on site, as required by Section 134-2176. An applicant shall be required to demonstrate that on-site traffic and parking attributable to the medical marijuana treatment center/dispensary will be sufficient to accommodate traffic and parking demands generated by the medical marijuana treatment center/dispensary, based upon a current traffic and parking analysis prepared by a certified professional.
- (3) *Display of Registration/Town Approval of Operational Plan.* Any medical

- marijuana treatment center/dispensary shall be validly registered with the State of Florida, as required, and with the Town, and shall prominently display in a public area near its main entrance copies of all state licenses, Town registration and local business tax receipt, and the name of the owner and designated physician responsible for compliance with State and Town regulations. A medical marijuana treatment center/dispensary shall register with the Town by completing and submitting to the Planning Zoning and Building Department a registration form and operational plan, including security measures, for review and approval by the Town prior to issuance of the Town registration and business tax receipts. The operational plan shall be reviewed annually prior to renewal of the registration and business tax receipt to ensure that it adequately addresses concerns of the Town, including security, parking, loitering, etc.
- (4) *Controlled Substances.* The on-site sale, provision or dispensing of controlled substances (other than those types of marijuana approved for sale by the Department of Health or its successor agency) at a medical marijuana treatment center / dispensary shall be prohibited except as is specifically set forth in applicable federal or state law.
- (5) *On-Site Consumption of Marijuana and/or Alcoholic Beverages.* No consumption of marijuana or alcoholic beverages shall be allowed on the premises, including in the parking areas, sidewalks or rights-of-way. In addition, no consumption of marijuana or alcoholic beverage shall be allowed on neighboring parking areas, sidewalks or right-of-way. The persons responsible for the operation of the medical marijuana treatment center / dispensary shall take all necessary and immediate steps possible to ensure compliance with this paragraph.
- (6) *Loitering.* A medical marijuana treatment center/dispensary shall provide adequate seating for its qualified patients and care givers and shall not allow qualified patients or care givers, to stand, sit (including in a parked car), or gather or loiter outside of the building where the treatment center/dispensary operates, including in any parking areas, sidewalks, right-of-way, or neighboring properties for any period of time longer than that reasonably required to arrive and depart. In addition, no other visitors or business invitees shall be permitted on the premises per (15)c of this Division and said person(s) shall not be allowed to loiter in any parking areas, sidewalks, right-of-way or neighboring properties for any period of time. The medical marijuana treatment center/dispensary shall post conspicuous signs on at least three sides of the building that no loitering is allowed on the property.
- (7) *Queuing of Vehicles.* The persons responsible for the operation of the medical marijuana treatment center / dispensary shall ensure that there is no queuing of vehicles in the rights-of-way. The persons responsible for the operation of the medical marijuana treatment center / dispensary shall take all necessary and immediate steps to ensure compliance with this paragraph.

- (8) No Drive-Thru Service / No Delivery. No medical marijuana treatment center / dispensary shall have a drive-thru or drive-in service aisle. All dispensing, payment or and receipt of said marijuana shall occur from inside the medical marijuana treatment center / dispensary. No medical marijuana treatment center or dispensary shall conduct any form of off-site delivery service of medical marijuana prescriptions.
- (9) Operating Hours. A medical marijuana treatment center / dispensary may operate only Monday through Friday and only during the hours of 8:00 a.m. to 6:00 p.m.
- (10) Compliance with Other Laws. A medical marijuana treatment center / dispensary shall at all times be in compliance with all federal and state laws and regulations and the Town of Palm Beach Code.
- (11) Certification Affidavit by Applicants for Related Uses. Any application for a business tax receipt as a medical marijuana treatment center / dispensary as defined in Section 1-2, shall be accompanied by an executed affidavit certifying registration with the State of Florida and the Town of Palm Beach as a medical marijuana treatment center / dispensary. The failure of an applicant to identify the business in the application for a business tax receipt as a medical marijuana treatment center / dispensary will result in immediate expiration of the business tax receipt and immediate ceasing of all activity conducted in the medical marijuana treatment center/dispensary.
- (12) Non-medical Marijuana Sales. Non-medical marijuana sales, including the purchase, sale, transfer or delivery of marijuana, cannabis, cannabis-based products or cannabis plants when such sale, transfer or delivery is not associated with any medical purpose or use, whether or not such purchase, sale, transfer or delivery is lawful under federal or state law, shall be prohibited uses in all zoning districts of the Town.
- (13) Cannabis Cultivation. Cannabis Cultivation shall be a prohibited use in all zoning districts of the Town.
- (14) Property Standards. Medical marijuana treatment centers and dispensaries shall be situated on real property meeting the following requirements:
- a. Minimum Parcel Size. The minimum parcel size shall be 20,000 square feet.
 - b. Location. Medical marijuana treatment centers and dispensaries shall have frontage on a collector or arterial roadway.
 - c. Structure. A medical marijuana treatment center and dispensary shall only be operated from a freestanding building that is not part of a larger commercial plaza, retail center, or multi-tenant building.
 - d. Appearance. Building architecture, including building color, shall be harmonious with surrounding properties.

e. Signage. Consistent with Article XI, SIGNS*, of this chapter.

(15) Security. Security measures shall be taken by the owner/operator, including but not limited to:

- a. A monitored alarm system and/or panic buttons shall be installed in the interior of the building.
- b. A uniformed armed security guard shall be on the premises at all times the dispensary is open for business. The security guard/officer must be insured and licensed with the State of Florida possessing the minimum of an active and valid Class "D" and a Class "G" license as per Florida State Statute 493.6301.
- c. Only qualified registered patients per Department of Health definitions and personal caregivers, employees of the business, or Town and State and any other applicable governmental staff members, shall be permitted inside the proposed business.

(16) Town staff shall be granted right of entry at all times to ensure compliance with the requirements of this Division 18.

(17) Other Activities. No medical marijuana treatment center or dispensary shall sell, market, dispense, provide, exchange, or otherwise vend any other services, product, or drug paraphernalia as defined by federal or state law. In addition, no medical marijuana dispensary or doctors, physicians, agents, employees, representatives, contractors, or the like shall provide any other medical, social, or psychological counseling, diagnosis or advice to any patient or business invitee.

Section 106-5. Use of Medical Marijuana on Public and Semi-Public Property

No person shall smoke medical marijuana while on public property, including but not limited to, rights-of-way, parks, playgrounds, recreational facilities, public buildings or other property owned or controlled by the Town.