



TOWN OF PALM BEACH

Town Manager's Office

TOWN COUNCIL MEETING DEVELOPMENT REVIEW

TOWN HALL
COUNCIL CHAMBERS-SECOND FLOOR
360 SOUTH COUNTY ROAD

AGENDA

SEPTEMBER 10, 2014

9:30 AM

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
Robert N. Wildrick, President
William J. Diamond, President Pro Tem
Richard M. Kleid
Michael J. Pucillo
Penelope D. Townsend

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. COMMENTS OF MAYOR GAIL L. CONIGLIO

IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

VI. APPROVAL OF AGENDA

VII. RESOLUTIONS

- A. **RESOLUTION NO. 151-2014** A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions For 159 Australian Avenue And Stating That The Subject Property Meets The Criteria Set Forth In Chapter 54, Article V Of The Code Of Ordinances Of The Town Of Palm Beach, Relating To Landmarks Preservation And Titled "Tax Exemptions." Page 11

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

VIII. DEVELOPMENT REVIEWS

A. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. **SITE PLAN REVIEW #8-2014 WITH VARIANCES** The application of Coral Beach Corporation; relative to property commonly known as **160 Seaview Avenue**; described as Lot 4 and the West 65' of Lot 5, THE EAST PLAZA, Plat Book 16, Page 78, of the Public Records of Palm Beach County, Florida; located in the R-B Zoning District. The applicant is proposing to build a 7,092 square foot (5,788 square feet enclosed) two-story home. Site Plan Review is requested to allow a single family home to be built on two (2) existing non-conforming platted lots with depths of 99.07 feet in lieu of 100 feet required. Variances requested are for a point of measurement variance for building height at 13.5 feet National Geodetic Vertical Datum (NGVD) in lieu of the 11.68 feet NVGD allowed; a point of measurement variance to allow for overall building height at 13.5 feet NGVD in lieu of the 11.68 feet NGVD maximum allowed; and, a point of measurement for cubic content ratio to be at 14.5 feet NGVD (proposed finished first floor) in lieu of the 11.68 feet NVGD maximum allowed. [Attorney: Francis X. J. Lynch]
Deferred from the August 13, 2014, Town Council Meeting
[Architectural Commission Recommendation: Deferred to the September 19, 2014 Meeting]
Request for Deferral to the October 15, 2014, Town Council Meeting Per Letter Dated August 28, 2014, from Francis X.J. Lynch.
John S. Page, Director of Planning, Zoning, and Building Page 16

- b. **SPECIAL EXCEPTION #13-2014 WITH SITE PLAN REVIEW AND VARIANCES** The application of Town of Palm Beach, Peter B. Elwell, Town Manager; relative to property commonly known as **2345 South Ocean Blvd.**; described as Lengthy legal description on file; located in the R-B Zoning District. A Special Exception with Site Plan Review is being requested to modify the Par 3 Golf Course parking lot, seating and hours of operation of the Club House restaurant and proposed addition of a new patio deck. The proposed modification is to widen the north side of the parking lot by approximately eighteen (18) feet, create tandem parking in that area of the lot and add additional parking on the south side of the lot. The request also modifies the parking vehicular circulation by creating one way drive aisle. The proposal would create twenty-six (26) additional parking spaces to the parking lot and allow valet parking in designated areas. In addition, the club house restaurant hours are proposed to change from 7:00 am – 10:00 pm to 7:00 am – Midnight with the proposed additional seventeen (17) more seats on the second floor outside verandas (total of 167 seats). In addition, request is to also add a 1,837 square foot patio on the south side of the clubhouse to allow the restaurant and golf course to host golf outings and other special events; install spot lights facing east to light the dune line and ocean surf, outside of turtle nesting season. Variances are requested to allow tandem parking for the valet parking area, which is not permitted by Code. The Code requires that off-street parking be Page 18

arranged so that a vehicle does not have to be moved in order to move another vehicle; and, to allow three (3) parking spaces in the required front yard setback, which is not permitted by Code.

1. Acceptance of Donation and Approval of Expenditure to Construct Patio and Complete Other Improvements. [Representative: Jay Boodheshwar]

Deferred from the July 16, 2014, Town Council Meeting

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

2. New Business

- a. **SITE PLAN REVIEW #9-2014 (Modified)** The application of Casa Apava Lot 3, LLC; Mark Timothy, Inc., Manager; Mark Pulte, President; relative to property commonly known as Lot 3, Casa Apava (a portion of 1300 S. Ocean Blvd.); described as Lot 3, of CASA APAVA, according to the map or plat thereof as recorded in Plat Book 62, Page 191, Public Records of Palm Beach County, Florida; located in the R-AA Zoning District. The applicant is requesting site plan approval to allow the construction of a 16,447 square foot two-story, single family residence on a non-conforming platted lot which is 45,762 square feet in area in lieu of the 60,000 square foot lot area required in the R-AA Zoning District. Further request is being made pursuant to the Subdivision Agreement Re: Condition upon Approval of Casa Apava Subdivision for authorization from the Town to use the platted mangrove area and the construction setback area to build a cabana, covered loggia, pool, spa and associated deck, and a portion of the proposed two story residence. [Attorney: Maura Ziska]

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

- b. **SITE PLAN REVIEW #10-2014 WITH VARIANCE** The application of Three Fifty of Palm Beach Association, Inc., Michael Kranich, President; relative to property commonly known as **350 South Ocean Boulevard**; described as Lots 38, 39, 40, 41 and 42, Block B, of Royal Park Addition to Palm Beach, according plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, recorded in Plat Book 4, Page 1; located in the R-D(2) Zoning District. The applicant is requesting site plan approval on a multi-family property to construct a 200 square foot addition connecting two existing accessory structures for a recreation room, presently totaling 253 square feet on the south side of the swimming pool deck. A variance is being requested to permit the 200 square foot proposed addition with a rear yard setback of 10.6 feet in lieu of 30 foot minimum required. [Attorney: Francis X. J. Lynch]

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

- c. **SITE PLAN REVIEW #11-2014 WITH VARIANCES** The application of Juan Maria Naveja Diebold, as Trustee of the Juan Maria Naveja Diebold Trust u/a/d July 12, 2012; relative to property commonly known as **1053 N. Lake Way**; described as Lot 14, Coral Estates, according to the plat thereof as recorded in Plat Book 22, Page 27, Public Records of Palm Beach County, Florida; located in the R-B

Zoning District. The applicant is requesting site plan approval to permit construction of a new 4,355 square foot two story house, pool and 1,122 square foot two story guest house on a platted lot with a width of 89.92 feet in lieu of 100 feet required. Variances requested are: for the guest house rear setback to be 15 feet in lieu of 30 foot minimum required; to permit construction 4,355 square foot single family home with an angle of vision of 121° in lieu of 108° maximum allowed; and, to permit construction of a 1,122 two story guest house in lieu of one story permitted. [Attorney: M. Timothy Hanlon]
[Architectural Commission Recommendation: Implementation of the proposed variances related to the architecture will not cause negative architectural impacts to the subject property. Carried 7-0]

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

- d. **SITE PLAN REVIEW #12-2014 WITH SPECIAL EXCEPTIONS AND VARIANCES** The application of Gregory S. Kino, Esq., 160 Royal Palm, LLC; relative to property commonly known as **160 Royal Palm Way**; described as Being all of Lots 31, 32 and 33, Block F, ROYAL PARK ADDITION to the Town of Palm Beach, Florida, according to the plat thereof as recorded in Plat Book 4, Page 1, Public Records of Palm Beach County, Florida; located in the C-B Zoning District. The following approvals are requested:

Page 22

1. The Applicant is requesting a modification of the site plan which requires approval from the Town Council. The following is a list of the proposed changes to the approved hotel plan:

a. Reintroduction of a rectangular shaped pool (26 x 48) previously approved by the Town Council from curvilinear design decision by prior owner.

b. Addition of a 75 square foot men's restroom on the pool deck and reduction of previously approved employee pool service building by 75 square feet to provide for women's pool restroom.

c. Relocation of 573 square feet of interior Function Room restrooms to Function Room exterior west elevation to serve the Function Room and elimination of water wall.

d. Reduction of pool cabanas from four to three and their relocation from the west to the south wall in pool area.

e. Redesign of pool deck and abutting Function Room court area with landscape, hardscape, and planters.

f. Reintroduction of private spa deck on Function Room roof (with addition of balustrade parapet) previously approved sundeck by the Town Council but relocated by prior owner.

g. Addition of enclosed elevator and two stairways to proposed Function Room private spa roof deck as required by Building Code.

h. Addition of 1,483 square foot for finishing kitchen, "green room"

and speaker area on the east side of the previously approved Function Room (no change in approved seats for Function Room).

i. Reintroduction of an awning to connect main hotel and Function Room previously approved by the Town Council but eliminated by prior owner.

j. Addition of awnings over existing room balconies on north elevation, second floor, and interior east pool courtyard elevation, 3rd floor.

k. Redesign of main lobby/dining area on first floor (no additional seats).

l. Redesign of second floor dining area and restrooms with 39 additional dining seats proposed to be relocated to third floor deck pursuant to special exception request.

m. Conversion of one third floor hotel unit located next to the second floor dining area to a private dining room (no additional seats – relocation of 12 previously approved seats from second floor dining area).

n. Enclosure of a stairway and relocation and enclosure of a stairway, both previously approved, to third floor deck.

o. Addition of enclosed passenger elevator and enclosure of previously approved service elevator to third floor deck.

p. Addition of 80 square foot enclosed storage room to be attached to proposed stairway enclosure and bar/beverage station with 410 square feet of decorative, open trellis on third floor deck.

q. Addition of 1,132 square feet to and 39 dining seats on third floor deck (to total of 66 outdoor seats previously approved for second floor north and south dining terraces and pool dining area).

r. Design change to front door (north), west restaurant and east egress doors.

s. Enclosure of first through third level exterior access corridors on most eastern elevation, above garage entrance.

t. Addition of second floor wall opening on north elevation for second floor dining service bar to serve north dining terrace.

u. Addition of awning over doors and dining area on north dining terrace.

v. Change of building color to custom pink hue.

w. Redesign and reduction of basement main kitchen by 100 square

feet.

x. Modify the previously approved 7,964 square foot spa/salon/fitness area in basement level to add 1,006 square feet for a total of 8,960 square feet which requires a 10 parking space reduction in the basement.

y. Add a 6,719 square foot Premier Guest Service Area in the basement level to be utilized by hotel guests, which requires a 2 parking space reduction in the basement.

z. Addition of 3,804 square feet of back of house space to basement level and change of such uses for hotel administrative offices on the west side of the basement level, kitchen coolers/freezers, employee break room, restrooms and housekeeping and relocation of laundry/linen to east side of basement level, which requires a 4 parking space reduction in the basement.

2. Request special exception approval for modifications to approved condominium hotel and expansion/modification of hotel accessory uses, including addition of 1,006 square feet of basement level spa/salon/fitness area and 6,719 square feet of hotel lounge, business center, guest recreation and services area ("Premier Guest Service Area") to primarily serve hotel guests; addition of 3,804 square feet for back of house support services in the basement level and change of such uses to administrative offices, employee break room, restrooms, housekeeping, and kitchen coolers/freezers; addition of 75 square feet for pool deck restrooms; addition of 573 square feet for exterior Function Room bathrooms; change of use to pool deck and adjacent Function Room courtyard area to allow for pre-function events; redesign and reduction of main kitchen by 100 square feet; addition of 1,483 square feet for Function Room finishing kitchen, "green room" and speaker area; reintroduction of previously approved function room sundeck to private spa deck on roof; addition of 39 dining seats to interior second floor restaurant and relocation of those seats to the previously approved third floor deck; and conversion of one hotel room to a private dining room and relocation of 12 previously approved second floor interior restaurant dining room seats to such room.

3. Request special exception approval to permit outdoor dining with a maximum of 39 seats on the previously approved third floor deck and addition of three bar/beverage stations customarily associated with a hotel use: one on the third floor deck, one to serve the second floor north dining terrace and one portable station for the Function Room courtyard area for pre-function events (total approved outside seating in other areas is 66 seats). Total outdoor seating proposed to be 105 seats.

The following variances are being requested in order to construct the proposed project:

1. A variance request to permit construction of an addition to the

basement level (for area not below existing building footprint) to allow for back of house space, expanded spa and Premier Guest Service Area which increases lot coverage to 71%, in lieu of the 66.4% existing and the 50% maximum lot coverage allowed by Code.

2. A variance request to allow a basement addition to extend further outside the confines of the existing building foot print which is not permitted by code.
3. A variance request to allow a landscaped open space of 12.2% in lieu of the 12.7% existing and the 30% minimum required by the Code.
4. A variance request for a front yard setback of 7.66 feet in lieu of the 29.54 foot minimum front yard setback required to install a retractable awning which covers the second floor doors and the previously approved outdoor seating area on the north dining terrace.
5. A variance request for a 10 foot rear yard setback in lieu of the 15 feet required to relocate previously approved pool cabanas.
6. A variance request for a 10 foot rear yard setback in lieu of the 15 foot minimum required for the location of a men's restroom to service the pool area.
7. A variance request for a 10 foot rear yard setback in lieu of the 15 foot minimum required to construct an addition to the east side of the previously approved Function Room.
8. A variance request for the non-conforming hotel to not provide an additional required loading space for commercial deliveries based on the additional accessory commercial square footage of 7,864 proposed for the hotel.
9. A variance request to allow changes to the use of the 1,881 square foot third floor deck as Town Code provides for a two story limitation. The prior variance limited the use of the third floor deck to a private spa deck and there is a proposed change of use associated with that variance to allow for the addition of 39 outdoor dining seats, a bar/beverage station customarily associated with hotel uses (with 410 square feet of decorative, open trellis), 80 square foot enclosed storage room and 1,132 square foot expansion of deck area.
10. A variance request for height and overall height to allow a 410 square foot open trellis on the third floor deck associated with the proposed outdoor dining area. The variance request is for the height of the trellis on the third floor to be 41 feet high in lieu of the 25 foot maximum allowed which is 16 feet over the maximum building height of 25 feet and the maximum overall height of 41 feet in lieu of the 30 foot maximum allowed.
11. A variance request of 68 off-street parking spaces for the proposed addition of the finishing kitchen, "green room" and speaker area for the Function Room, the increase in spa square footage, the loss of parking spaces resulting from the addition of the Function Room addition, the additional back of house space to serve the hotel, the additional 39 dining seats and the Premium Guest Services Area located in the basement level. [Attorney: Gregory S. Kino]

[Architectural Commission Recommendation: Implementation of the proposed variances related to the architecture will not cause negative architectural impacts to the subject property. Carried 6-1]

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

- e. **SPECIAL EXCEPTION #16-2014** The application of Palm Beach Performing Arts Center; relative to property commonly known as **150 Royal Poinciana Plaza**; described as Lengthy legal description on file; located in the C-PC Zoning District. The applicant is requesting special exception approval to allow an office use over 2,000 square feet of gross leasable area in the C-PC Zoning District in a space that was previously retail. The space is 2,720 gross leasable square feet. [Attorney: Maura Ziska]

Page 29

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

- f. **VARIANCE #40-2014** The application of Paul and Lynda Murry; relative to property commonly known as **100 Regents Park Road**; described as Lot 1, REGENTS PARK, according to the plat thereof, recorded in Plat Book 25, Page 215 of the Public Records of Palm Beach County, Florida; located in the R-AA Zoning District. Request a variance to increase the height of an existing wooden fence that would require the following variances: a height of 7.66 feet in lieu of the 6 foot maximum allowed in the street side yard; and, a height ranging from 7.92 feet to 10 feet in lieu of the 7 foot maximum allowed in the rear yard. [Attorney: Maura Ziska]

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

- g. **VARIANCE #41-2014** The application of Barrett Welles Property Group, LLC (John Pickett, Manager); relative to property commonly known as **223 Sunset Avenue, Suite 100**; described as Lot 184 through 189, inclusive, Floral Park according to the plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida in Plat Book 2, Page 6; located in the C-TS Zoning District. Request for a variance to have a 1,925 square foot of gross leasable area for a real estate office on the first floor of a building located in the C-TS zoning district where office use is only allowed on the second floor if it doesn't meet the special exception criteria that would allow an office on the first floor. [Attorney: Maura Ziska]

Page 33

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

- h. **VARIANCE #43-2014** The application of Jungle Road, LLC (H. William Perry, Manager); relative to property commonly known as **120 Jungle Road**; described as Lengthy legal description on file; located in the R-A Zoning District. The Applicant is proposing to enclose a third floor balcony off the existing tower on the residence. The following variances are being requested: a building height plane setback of 51.3 feet in lieu of the 66.5 required building height plane setback for the tower element; and, a tower element to be 4.4% of the gross floor area of the residence in lieu of the 3.1% existing and the 1% maximum allowed in the R-A Zoning District. [Attorney: Maura Ziska]

Page 36

[Architectural Commission Recommendation: Deferred to the

September 19, 2014, meeting]

Request for Deferral to the October 15, 2014, Town Council Meeting, Per Letter Dated August 29, 2014, from Maura A. Ziska.

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

- i. (a) **VARIANCE #44-2014** The application of Bricktop's Palm Beach (Joe Ledbetter, Owner); relative to property commonly known as **375 South County Road**; described as Lengthy legal description on file; located in the C-TS Zoning District. Request for a variance of twenty-two (22) off street parking spaces required for sixty-six (66) of the approved one hundred fifty seats in the restaurant. The applicant is required, as part of a special exception approval of all previous restaurants, to provide twenty-two (22) off street parking spaces with the Apollo parking lot. The applicant is requesting to eliminate that requirement. [Attorney: Maura Ziska]

Page 38

(b) BrickTop's Restaurant Operations: Six Month Review, Special Exception #21-2012, 375 South County Road

Deferred from the June 11, 2014, Town Council Meeting

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

- j. **VARIANCE #45-2014** The application of Joel and Darcie Kasewitz; relative to property commonly known as **854 South County Road**; described as Lengthy legal description on file; located in the R-A Zoning District. Request for a variance to construct a 16 square foot one story addition to connect the kitchen to the garage with a proposed side yard setback of 26 feet in lieu of the 30 foot minimum setback required for a lot over 60,000 square feet in the R-A Zoning District. [Attorney: Maura Ziska]

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

- k. **VARIANCE #46-2014** The application of Temple Emanu-El of Palm Beach (Anthony Lampert, President); relative to property commonly known as **190 North County Road**; described as Lengthy legal description on file; located in the C-TS Zoning District. Variances are requested to: place an institutional sign on the north elevation of the Temple above the first floor elevation which is not permitted by code. The sign is 12 feet 8 inches above grade; to place an institutional sign on the east elevation of the Temple above the first floor elevation which is not permitted by code. The sign is 15 feet above grade; and, to place an institutional sign on the south elevation of the Temple above the first floor elevation which is not permitted by code. The sign is 15 feet above grade. [Attorney: Ronald Schram]

Page 43

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

IX. ORDINANCES

X. ANY OTHER MATTERS

XI. 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:** A summary of the actions taken at Town Council meetings can be viewed on the Town's website after 5 p.m. on the Friday following the Town Council meeting.

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: September 10, 2014

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 151-2014 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions For 159 Australian Avenue And Stating That The Subject Property Meets The Criteria Set Forth In Chapter 54, Article V Of The Code Of Ordinances Of The Town Of Palm Beach, Relating To Landmarks Preservation And Titled “Tax Exemptions.”

Presenter

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

Supporting Documents

- [Memorandum Dated August 27, 2014 from John Page](#)
- [Resolution No. 151-2014](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 10, 2014

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John Page, Director, Planning, Zoning & Building

Re: Tax Abatement: 159 Australian Avenue
Resolution No: 151-2014

Date: August 27, 2014

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Resolution No. 151-2014, granting Tax Abatement to the property at 159 Australian Avenue.

BOARD OR COMMISSION RECOMMENDATION

The Landmarks Preservation Commission has approved all changes to this property using the Secretary of Interior (Federal) Standards for Rehabilitation as required in the Tax Abatement program.

GENERAL INFORMATION

1. Project Summary: The above-mentioned applicant has applied for participation in the Town's Tax Abatement Program.
2. 159 Australian Avenue was designated as a Landmark of the Town of Palm Beach on January 9, 2012.
3. Town Council approval is required to grant this abatement and forward same to Palm Beach County.
4. A written application for ad valorem tax exemption has been presented to Town staff as prescribed by Section 54-199 of Town Code. As additionally required by Section 54-200, the property owner must enter into a covenant or agreement with the Town, the form of which is established by the Department of State, requiring that the character of the property and the qualifying improvements be maintained during the exemption period.

FUNDING/FISCAL IMPACT

Action will abate ad valorem Town of Palm Beach property tax increase (new incremental value only) for a period of ten years. Full value assessment will be applicable after the ten year period.

TOWN ATTORNEY REVIEW

Resolution No. 151-2014 has been approved by the Town Attorney for legal form and sufficiency.

Attachments

JP:jl

cc: John Lindgren, AICP, Planning Administrator
Emily Stillings, AICP, Murphy Stillings, LLC

RESOLUTION NO. 151-2014

159 Australian Avenue

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING AD VALOREM TAX EXEMPTIONS FOR 159 AUSTRALIAN AVENUE AND STATING THAT THE SUBJECT PROPERTY MEETS THE CRITERIA SET FORTH IN CHAPTER 54, ARTICLE V OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, RELATING TO LANDMARKS PRESERVATION AND TITLED "TAX EXEMPTIONS."

WHEREAS, pursuant to the provisions of Chapter 54, Article V, Code of Ordinances of the Town of Palm Beach, the Landmarks Preservation Commission of the Town of Palm Beach held public hearings and approved Certificates of Appropriateness for renovations and improvements of the certain property described herein; and

WHEREAS, those improvements are consistent with the United States Secretary of Interior's Standards for Rehabilitation and were made in accordance with the guidelines developed by the Department of State, they will qualify for said tax exemption; and

WHEREAS, the property owner agrees to enter into a covenant of agreement with the Town for the ten year term for which the exemption is granted.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The property hereinafter described in Section 2 of this Resolution, being listed as a Landmark of the Town of Palm Beach, is hereby approved for the Ad Valorem Tax Exemptions for Historic Properties, pursuant to the provisions of Chapter 54, Article V.

Section 2. The landmark is owned by Allan W. and Susan M. Kauffman and is located at 159 Australian Avenue, Palm Beach, Florida. The property is legally described as follows:

Tax Folio Number: 50-43-43-23-05-028-0410

Legal Description: ROYAL PARK ADD LT 41 & W ½ OF LOT 42 BLK
H

Section 3. The Town Clerk is hereby ordered to furnish the owner of the property a copy of this Resolution.

Section 4. A copy of this Resolution with completed application for Ad Valorem Tax Exemptions will be filed with the Property Appraiser's Office as defined in and subject to the provision of Chapter 54 of the Code of Ordinances of the Town of Palm Beach, Florida.

PASSED AND ADOPTED in a regular, adjournment session of the Town Council of the Town of Palm Beach assembled this 10th day of September, 2014.

Gail L. Coniglio, Mayor

Robert N. Wildrick, Town Council President

William J. Diamond, Council President Pro-Tem

Michael J. Pucillo, Town Council Member

Richard M. Kleid, Town Council Member

Susan A. Owens, MMC, Town Clerk

Penelope D. Townsend, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting Development Review on: September 10, 2014

Section of Agenda

Development Review - Old Business

Agenda Title

SITE PLAN REVIEW #8-2014 WITH VARIANCES The application of Coral Beach Corporation; relative to property commonly known as **160 Seaview Avenue**; described as Lot 4 and the West 65' of Lot 5, THE EAST PLAZA, Plat Book 16, Page 78, of the Public Records of Palm Beach County, Florida; located in the R-B Zoning District. The applicant is proposing to build a 7,092 square foot (5,788 square feet enclosed) two-story home. Site Plan Review is requested to allow a single family home to be built on two (2) existing non-conforming platted lots with depths of 99.07 feet in lieu of 100 feet required. Variances requested are for a point of measurement variance for building height at 13.5 feet National Geodetic Vertical Datum (NGVD) in lieu of the 11.68 feet NVGD allowed; a point of measurement variance to allow for overall building height at 13.5 feet NGVD in lieu of the 11.68 feet NGVD maximum allowed; and, a point of measurement for cubic content ratio to be at 14.5 feet NGVD (proposed finished first floor) in lieu of the 11.68 feet NVGD maximum allowed. [Attorney: Francis X. J. Lynch]

Deferred from the August 13, 2014, Town Council Meeting

[Architectural Commission Recommendation: Deferred to the September 19, 2014 Meeting]

**Request for Deferral to the October 15, 2014, Town Council Meeting
Per Letter Dated August 28, 2014, from Francis X.J. Lynch.**

Presenter

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

Supporting Documents

- [Letter Dated August 28, 2014, from Francis X.J. Lynch](#)

The Law Offices of
BRETON, LYNCH, EUBANKS & SUAREZ-MURIAS, P.A.

Peter L. Breton
Francis X. J. Lynch
John R. Eubanks, Jr.
Marta M. Suarez-Murias
Robert J. Sniffen – Of Counsel

www.blesmlaw.com
Sender's Direct Line: (561) 721-4004
E-Mail: flynch@blesmlaw.com

1209 North Olive Avenue
West Palm Beach, FL 33401
Phone: (561) 721-4000
Facsimile: (561) 721-4001

August 28, 2014

VIA E-MAIL

Mr. Paul Castro
Town of Palm Beach
360 South County Road
Palm Beach, Florida 33480

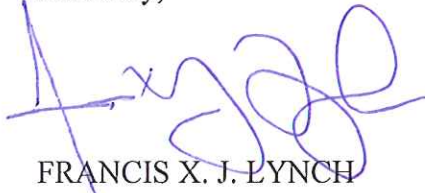
Re: Coral Beach Corporation
160 Seaview Avenue

Dear Paul:

With regard to the above, Coral Beach Corporation would like to defer this application to the October 15, 2014, Town Council meeting. The basis for this request is that ARCOM has deferred this matter to its next meeting and has not made its recommendation to Town Council.

Thank you for your assistance in this matter. Should you have any questions or comments in this regard, please feel free to contact me.

Sincerely,



FRANCIS X. J. LYNCH

FXJL/kh

TOWN OF PALM BEACH

Town Council Meeting Development Review on: September 10, 2014

Section of Agenda

Development Review - Old Business

Agenda Title

SPECIAL EXCEPTION #13-2014 WITH SITE PLAN REVIEW

AND VARIANCES The application of Town of Palm Beach, Peter B. Elwell, Town Manager; relative to property commonly known as **2345 South Ocean Blvd.**; described as Lengthy legal description on file; located in the R-B Zoning District. A Special Exception with Site Plan Review is being requested to modify the Par 3 Golf Course parking lot, seating and hours of operation of the Club House restaurant and proposed addition of a new patio deck. The proposed modification is to widen the north side of the parking lot by approximately eighteen (18) feet, create tandem parking in that area of the lot and add additional parking on the south side of the lot. The request also modifies the parking vehicular circulation by creating one way drive aisle. The proposal would create twenty-six (26) additional parking spaces to the parking lot and allow valet parking in designated areas. In addition, the club house restaurant hours are proposed to change from 7:00 am – 10:00 pm to 7:00 am – Midnight with the proposed additional seventeen (17) more seats on the second floor outside verandas (total of 167 seats). In addition, request is to also add a 1,837 square foot patio on the south side of the clubhouse to allow the restaurant and golf course to host golf outings and other special events; install spot lights facing east to light the dune line and ocean surf, outside of turtle nesting season. Variances are requested to allow tandem parking for the valet parking area, which is not permitted by Code. The Code requires that off-street parking be arranged so that a vehicle does not have to be moved in order to move another vehicle; and, to allow three (3) parking spaces in the required front yard setback, which is not permitted by Code.

1. Acceptance of Donation and Approval of Expenditure to Construct Patio and Complete Other Improvements. [Representative: Jay Boodheshwar]

Deferred from the July 16, 2014, Town Council Meeting

Presenter

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

Supporting Documents

- [Memorandum Dated August 29, 2014, from Jay Boodheshwar, Director of Recreation and Special Projects](#)

TOWN OF PALM BEACH

Information for Town Council Development Review Meeting on: September 10, 2014

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: Jay Boodheshwar, Director of Recreation and Special Projects

Re: Special Exception #13-2014 with Site Plan Review and Variances: Acceptance of Donation and Approval of Expenditure to Construct Patio and Complete Other Improvements.

Date: August 29, 2014

STAFF RECOMMENDATION

Staff recommends Town Council authorize the Town Manager to approve the necessary purchase orders to construct a new patio and complete other improvements at the Par 3 Golf Course.

GENERAL INFORMATION

At the July 16, 2014, Town Council Development Review meeting, Council gave consideration to Special Exception #13 - 2014 with Site Plan Review and Variances for the Par 3 Golf Course and accepted the request to withdraw the following items from the original application:

1. Extending the restaurant hours of operation from 7:00am - 10:00pm to 7:00am – Midnight.
2. Addition of seventeen seats on the second floor outside verandas.

Council conditionally approved the items below. The condition of approval was that staff would come back to Town Council in one year to review the operational aspects of the approvals.

1. Twelve events per years inside the clubhouse, which can last until Midnight.
2. Twelve events per year on the proposed outside patio, which can last until 10:00pm.
3. Three additional parking spaces on the south side of the parking lot.
4. The modification to the parking lot vehicular circulation by creating one way drive isles.
5. Valet parking with designated areas.

Approval of the installation of spot lights to illuminate the dune line and water, as well as the construction of the proposed patio was deferred to the September 10, 2014, meeting to give staff time to secure quotes to complete the work.

Staff has completed the process of securing quotes, and the results below include pricing for the patio and spotlights, as well as landscaping upgrades and re-stripping/curb work to the parking lot.

Project Descriptions	Cost
Patio Construction	\$24,058.25
Patio Landscaping	\$4,249.48
Parking Lot	\$4,980.00
Misc. Landscaping	\$3,100.00
Dune Spotlights Estimate	\$8,000.00
Sub-Total	\$44,387.73
10% Contingency	\$4,438.77
Total	\$48,826.50

FUNDING/FISCAL IMPACT

At the May 14, 2014, Town Council meeting, a donation of up to \$55,000 from the Par 3 Foundation was accepted for these projects. The total cost for all of the projects listed above is significantly less than originally estimated, due mostly to the decision to not expand the parking lot for tandem parking. Including the estimate to install the spotlights and contingency, the total estimate to complete all of the identified projects is \$48,826.50. The clubhouse project fund currently has a surplus of \$113,139.47, which includes a previous donation of \$30,801 from Al Fresco. This amount, along with a final donation of \$25,000 from the Par 3 Foundation specifically for the patio construction, will more than cover the cost for the projects. No additional Town share is required.

PURCHASING REVIEW

This item has been reviewed by the Purchasing Division and approved as recommended.

- c: H. Paul Brazil, Director of Public Works
Jane Struder, Director of Finance
Eric Brown, Assistant Director of Public Works
Cheryl Somers, Assistant Director of Finance
Adis Pedraza, Purchasing Manager
Tony Chateauvert, Golf Manager

TOWN OF PALM BEACH

Town Council Meeting Development Review on: September 10, 2014

Section of Agenda

Development Review - New Business

Agenda Title

SITE PLAN REVIEW #12-2014 WITH SPECIAL EXCEPTIONS AND VARIANCES

The application of Gregory S. Kino, Esq., 160 Royal Palm, LLC; relative to property commonly known as **160 Royal Palm Way**; described as Being all of Lots 31, 32 and 33, Block F, ROYAL PARK ADDITION to the Town of Palm Beach, Florida, according to the plat thereof as recorded in Plat Book 4, Page 1, Public Records of Palm Beach County, Florida; located in the C-B Zoning District. The following approvals are requested:

1. The Applicant is requesting a modification of the site plan which requires approval from the Town Council. The following is a list of the proposed changes to the approved hotel plan:
 - a. Reintroduction of a rectangular shaped pool (26 x 48) previously approved by the Town Council from curvilinear design decision by prior owner.
 - b. Addition of a 75 square foot men's restroom on the pool deck and reduction of previously approved employee pool service building by 75 square feet to provide for women's pool restroom.
 - c. Relocation of 573 square feet of interior Function Room restrooms to Function Room exterior west elevation to serve the Function Room and elimination of water wall.
 - d. Reduction of pool cabanas from four to three and their relocation from the west to the south wall in pool area.
 - e. Redesign of pool deck and abutting Function Room court area with landscape, hardscape, and planters.
 - f. Reintroduction of private spa deck on Function Room roof (with

addition of balustrade parapet) previously approved sundeck by the Town Council but relocated by prior owner.

g. Addition of enclosed elevator and two stairways to proposed Function Room private spa roof deck as required by Building Code.

h. Addition of 1,483 square foot for finishing kitchen, “green room” and speaker area on the east side of the previously approved Function Room (no change in approved seats for Function Room).

i. Reintroduction of an awning to connect main hotel and Function Room previously approved by the Town Council but eliminated by prior owner.

j. Addition of awnings over existing room balconies on north elevation, second floor, and interior east pool courtyard elevation, 3rd floor.

k. Redesign of main lobby/dining area on first floor (no additional seats).

l. Redesign of second floor dining area and restrooms with 39 additional dining seats proposed to be relocated to third floor deck pursuant to special exception request.

m. Conversion of one third floor hotel unit located next to the second floor dining area to a private dining room (no additional seats – relocation of 12 previously approved seats from second floor dining area).

n. Enclosure of a stairway and relocation and enclosure of a stairway, both previously approved, to third floor deck.

o. Addition of enclosed passenger elevator and enclosure of previously approved service elevator to third floor deck.

p. Addition of 80 square foot enclosed storage room to be attached to proposed stairway enclosure and bar/beverage station with 410 square feet of decorative, open trellis on third floor deck.

q. Addition of 1,132 square feet to and 39 dining seats on third floor deck (to total of 66 outdoor seats previously approved for second floor north and south dining terraces and pool dining area).

r. Design change to front door (north), west restaurant and east egress doors.

s. Enclosure of first through third level exterior access corridors on most

eastern elevation, above garage entrance.

- t. Addition of second floor wall opening on north elevation for second floor dining service bar to serve north dining terrace.
- u. Addition of awning over doors and dining area on north dining terrace.
- v. Change of building color to custom pink hue.
- w. Redesign and reduction of basement main kitchen by 100 square feet.
- x. Modify the previously approved 7,964 square foot spa/salon/fitness area in basement level to add 1,006 square feet for a total of 8,960 square feet which requires a 10 parking space reduction in the basement.
- y. Add a 6,719 square foot Premier Guest Service Area in the basement level to be utilized by hotel guests, which requires a 2 parking space reduction in the basement.
- z. Addition of 3,804 square feet of back of house space to basement level and change of such uses for hotel administrative offices on the west side of the basement level, kitchen coolers/freezers, employee break room, restrooms and housekeeping and relocation of laundry/linen to east side of basement level, which requires a 4 parking space reduction in the basement.

2. Request special exception approval for modifications to approved condominium hotel and expansion/modification of hotel accessory uses, including addition of 1,006 square feet of basement level spa/salon/fitness area and 6,719 square feet of hotel lounge, business center, guest recreation and services area (“Premier Guest Service Area”) to primarily serve hotel guests; addition of 3,804 square feet for back of house support services in the basement level and change of such uses to administrative offices, employee break room, restrooms, housekeeping, and kitchen coolers/freezers; addition of 75 square feet for pool deck restrooms; addition of 573 square feet for exterior Function Room bathrooms; change of use to pool deck and adjacent Function Room courtyard area to allow for pre-function events; redesign and reduction of main kitchen by 100 square feet; addition of 1,483 square feet for Function Room finishing kitchen, “green room” and speaker area; reintroduction of previously approved function room sundeck to private spa deck on roof; addition of 39 dining seats to interior second floor restaurant and relocation of those seats to the previously approved third floor deck; and

conversion of one hotel room to a private dining room and relocation of 12 previously approved second floor interior restaurant dining room seats to such room.

3. Request special exception approval to permit outdoor dining with a maximum of 39 seats on the previously approved third floor deck and addition of three bar/beverage stations customarily associated with a hotel use: one on the third floor deck, one to serve the second floor north dining terrace and one portable station for the Function Room courtyard area for pre-function events (total approved outside seating in other areas is 66 seats). Total outdoor seating proposed to be 105 seats.

The following variances are being requested in order to construct the proposed project:

1. A variance request to permit construction of an addition to the basement level (for area not below existing building footprint) to allow for back of house space, expanded spa and Premier Guest Service Area which increases lot coverage to 71%, in lieu of the 66.4% existing and the 50% maximum lot coverage allowed by Code.
2. A variance request to allow a basement addition to extend further outside the confines of the existing building foot print which is not permitted by code.
3. A variance request to allow a landscaped open space of 12.2% in lieu of the 12.7% existing and the 30% minimum required by the Code.
4. A variance request for a front yard setback of 7.66 feet in lieu of the 29.54 foot minimum front yard setback required to install a retractable awning which covers the second floor doors and the previously approved outdoor seating area on the north dining terrace.
5. A variance request for a 10 foot rear yard setback in lieu of the 15 feet required to relocate previously approved pool cabanas.
6. A variance request for a 10 foot rear yard setback in lieu of the 15 foot minimum required for the location of a men's restroom to service the pool area.
7. A variance request for a 10 foot rear yard setback in lieu of the 15 foot minimum required to construct an addition to the east side of the previously approved Function Room.
8. A variance request for the non-conforming hotel to not provide an additional required loading space for commercial deliveries based on the additional accessory commercial square footage of 7,864 proposed for the hotel.

9. A variance request to allow changes to the use of the 1,881 square foot third floor deck as Town Code provides for a two story limitation. The prior variance limited the use of the third floor deck to a private spa deck and there is a proposed change of use associated with that variance to allow for the addition of 39 outdoor dining seats, a bar/beverage station customarily associated with hotel uses (with 410 square feet of decorative, open trellis), 80 square foot enclosed storage room and 1,132 square foot expansion of deck area.
10. A variance request for height and overall height to allow a 410 square foot open trellis on the third floor deck associated with the proposed outdoor dining area. The variance request is for the height of the trellis on the third floor to be 41 feet high in lieu of the 25 foot maximum allowed which is 16 feet over the maximum building height of 25 feet and the maximum overall height of 41 feet in lieu of the 30 foot maximum allowed.
11. A variance request of 68 off-street parking spaces for the proposed addition of the finishing kitchen, “green room” and speaker area for the Function Room, the increase in spa square footage, the loss of parking spaces resulting from the addition of the Function Room addition, the additional back of house space to serve the hotel, the additional 39 dining seats and the Premium Guest Services Area located in the basement level. [Attorney: Gregory S. Kino]

[Architectural Commission Recommendation: Implementation of the proposed variances related to the architecture will not cause negative architectural impacts to the subject property. Carried 6-1]

Presenter

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

Supporting Documents

- [E-mail Dated August 12, 2014, from Jorge Sanchez, SMI Landscape Architecture, Inc.](#)
- [E-mail Dated August 29, 2014, from Jorge Sanchez, SMI Landscape Architecture, Inc.](#)

From: Jorge Sanchez <jorge@smila.net>
To: "JLindgren@TownofPalmBeach.com" <JLindgren@TownofPalmBeach.com>
Cc: Noreen McNally <noreen@smila.net>
Date: 08/12/2014 04:26 PM
Subject: [SPAM] FW: B-100-2014 160 ROYAL PALM WAY APPLICATION

Subject: B-100-2014 160 ROYAL PALM WAY APPLICATION

Dear Mr. Lindgren,

As owners of the office building immediately to the east of this site, we are concerned these drawings do not reflect any landscaping between us. Quite a while back a prior representative of the then owners met with us. The agreement was they were adding a *Clusia guttifera* hedge of the same height as the one along the sidewalk (north property line). We would appreciate if these were formally included by the Town.

The second concern is the proposed "Spa Deck" (part 7) on the new building that was permitted & added in their south east side. When a variance was given for this structure, it was specifically written into the record there would be NO activities of any kind in the roof. A "Spa Deck" would not only break the law, but it would also constitute an additional floor on that structure. We, as their immediate neighbor to the east, are totally opposed to this concept.

Thirdly, a long going concern of ours is the disruption of the allee of Coconuts along the public right-of-way on the north side of the building. The replacement of the Coconuts that were there for the Medjool Date Palms represents a jarring interruption of the planting concept for this entire block. Furthermore, it sets a bad precedent for any future property owner to do same in any of our streets that have a mono-planting of any kind.

Sincerely,
Jorge A. Sanchez
SMI Landscape Architecture, Inc.
561.655.9006
140 Royal Palm Way #206
Palm Beach, FL 33480
www.smila.net

Recipient of the Arthur Ross Award



Site Plan Review #12-2014 with Special Exceptions and Variances - Letter of Objection and Concerns

Paul Castro to: Anne Boyles, Patricia Gayle-Gordon

09/02/2014 01:33 PM

Cc: John Page

fyi, Email of objection regarding the Palm House, 160 Royal Palm Way. This item is on the September 10th Council agenda.

----- Forwarded by Paul Castro/PalmBeach on 09/02/2014 01:29 PM -----

From: Jorge Sanchez <jorge@smila.net>
To: "PCastro@TownofPalmBeach.com" <PCastro@TownofPalmBeach.com>
Date: 08/29/2014 03:22 PM
Subject: B-100-2014 160 ROYAL PALM WAY APPLICATION

Mr. Paul Castro
For the Mayor & Town Council
Subject: B-100-2014 160 ROYAL PALM WAY APPLICATION

Dear Mr. Castro,

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Jorge A. Sanchez
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140 Royal Palm Way #206
Palm Beach, FL 33480
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Recipient of the Arthur Ross Award

TOWN OF PALM BEACH

Town Council Meeting Development Review on: September 10, 2014

Section of Agenda

Development Review - New Business

Agenda Title

SPECIAL EXCEPTION #16-2014 The application of Palm Beach Performing Arts Center; relative to property commonly known as **150 Royal Poinciana Plaza**; described as Lengthy legal description on file; located in the C-PC Zoning District. The applicant is requesting special exception approval to allow an office use over 2,000 square feet of gross leasable area in the C-PC Zoning District in a space that was previously retail. The space is 2,720 gross leasable square feet. [Attorney: Maura Ziska]

Presenter

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

Supporting Documents

- [Letter Dated September 4, 2014, from Simon Taylor](#)

SIMON TAYLOR

ATTORNEY AT LAW

100 PARK AVENUE
SUITE 1600
NEW YORK, NY 10017

(212) 327-2640

777 SOUTH FLAGLER DRIVE
SUITE 800 WEST TOWER
WEST PALM BEACH, FL 33401

(561) 818-0170

September 4, 2014

Mayor and Town Council of Palm Beach
360 South County Road
Palm Beach, Florida 33480

Honorable Mayor and Council Members:

As you know, many Town residents and the Palm Beach Theater Guild have been following developments relating to the reopening of the Playhouse and its waterside dining club at the Poinciana Plaza in Palm Beach. As a resident and as legal counsel and Chairman of the Guild, I have become aware of an application that has been made by the National Arts Institute (NAI), as lessee of the Playhouse, for a Special Exception under the Town Code to permit NAI to use the Hibbel Building on the premises for office space. The application is required under the Town's Code of Ordinances, I understand, to allow a change from the prior use of the Building for a retail shop. NAI, which also does business under the fictitious name it has filed with the state of the "Palm Beach Performing Arts Center," apparently made the Special Exception application after being notified by the Town's Code Enforcement division that the change to office use of the Hibbel Building would require proper approval by the Town Council in compliance with the Code.

Since the Special Exception application by NAI raises a number of questions, the Theater Guild is submitting this letter for your consideration, not to oppose the application, but to address the questions that have occurred to many concerned residents and supporters of reopening of the Playhouse theater and dining club. These well-meant inquiries fall into two categories: (a) since the Special Exception for office use of the Hibbel Building requires government review and action by the Town Council, including assessment of effects on adjoining premises at the Playhouse, shouldn't NAI finally make disclosure of its Playhouse lease and relevant business plans to give the Council an adequate basis for considering the application; and (b) does NAI's application comply with the important requirements under the Code for submission of information and documentation to the Town Council prior to the granting of a Special Exception?

In regard to disclosure of information by NAI when it seeks government action on the Playhouse premises, we note that the Town Code of Ordinances requires such disclosure and documentation when a Special Exception application is made, including under Code Sections 134.226, 134.227 and 134.228 relating to Special Exceptions and Code Sections 134.326, 134.327 and 134.329 relating to required site plan review. The Code calls for the Town Council

to have available information that may include potential negative impact of the change in use, effects on adjoining premises like the Playhouse theater and dining club and impacts on infrastructure and the adjacent neighborhood and properties. In order to properly assess these and other required considerations, we suggest that NAI should be asked by the Council to disclose and provide copies of its lease of the Playhouse, its business and parking plans for the property, its design and construction plans and credible demonstration that it has prospective donors to provide any necessary contributions to finance efforts in regard to the Playhouse. NAI failed to appear at the June 10 Town Council meeting to report on its progress with the Playhouse, as the Council had requested, but NAI should not be allowed now to obtain government action without making appropriate and necessary information available to the Council as a basis for any grant of a Special Exception affecting the Playhouse.

In regard to the second category of questions mentioned above, we note the following principal concerns and issues that seem to be raised by NAI's application for a Special Exception to change the use of the Hibel Building. Some of these matters could be addressed by the Council by exercising its authority to impose conditions and safeguards when any Special Exception is granted, pursuant to Code Section 134.226(a).

1. Would the granting of approval for a change to office use permit subsequent tenants to take over and lease the Hibel Building for office space without further Town Council approval?

2. If such allowed office use will "run" with the premises, allowing the Hibel Building to be carved out of NAI's lease in the future and leased to another office tenant, should any Special Exception include a condition that the office use of the Hibel Building will be limited to serving the office needs and functions of the adjoining Playhouse theater and dining club?

3. Past applications by the Sterling group in regard to the Plaza and Playhouse included affidavits stating that the requested change would not affect or terminate the 1979 Agreement between the Town and the Plaza owner/developer. Should the Town Council now require such an affidavit about the 1979 Agreement as a condition for considering or granting NAI's Special Exception application?

4. Are the statements in NAI's application regarding parking needs arising from the change in use adequate and accurate in their disclosure, including in regard to future lessees of the Hibel Building that may have different or more intensive parking needs?

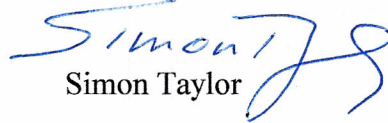
5. Has the information and documentation required for a Special Exception been provided to the Town Council, including demonstration of the compatibility of the changed use with existing structures and uses like the Playhouse?

6. Code Sections 134.171, 134.327 and 134.329 include requirements that the application for a Special Exception include participation by the fee simple owner of the property and disclosure of ownership. Past applications in regard to the Plaza have included, for example, copies of powers of attorney showing the authority of principals of the Sterling group to make the application. Should the Council require that NAI's application include such demonstrations of ownership and authority to deal with the premises and the Special Application? We

understand that a new group, WS Development/Up Markets, has recently assumed responsibility for management and leasing at the Plaza by acquiring leasehold interests under a general lease of the property formerly held by Sterling. We would anticipate that the new managers and the fee simple owner could provide the required documentation.

On behalf of the Palm Beach Theater Guild, I thank you for your attention to these questions.

Sincerely,


Simon Taylor

TOWN OF PALM BEACH

Town Council Meeting Development Review on: September 10, 2014

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #41-2014 The application of Barrett Welles Property Group, LLC (John Pickett, Manager); relative to property commonly known as **223 Sunset Avenue, Suite 100**; described as Lot 184 through 189, inclusive, Floral Park according to the plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida in Plat Book 2, Page 6; located in the C-TS Zoning District. Request for a variance to have a 1,925 square foot of gross leasable area for a real estate office on the first floor of a building located in the C-TS zoning district where office use is only allowed on the second floor if it doesn't meet the special exception criteria that would allow an office on the first floor. [Attorney: Maura Ziska]

Presenter

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

Supporting Documents

- [Letter Dated August 26, 2014, from John O. Pickett, III, Barrett Welles Property Group](#)

August 26, 2014

The Palm Beach Town Council

City Hall

Palm Beach Florida 33480

To the President and Members of the Town Council,

First and foremost, I would like to apologize for not being able to attend the Town Council meeting on September 10th. I will be traveling back to the United States late that day, returning from a family trip celebrating my father's 80th birthday. Our family planned this trip nine months ago, and there was no way I could cancel or alter it in order to appear before you on that day, as I very much wanted to do.

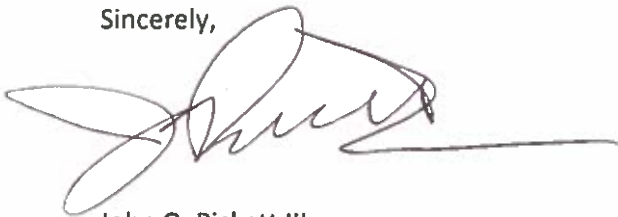
I have been a member of the Palm Beach community for over 30 years, and a full time member for the last 10. As such, I am keenly aware of the rich tradition of the Island and the standards to which we hold our residents, and the businesses that operate here. Those standards are always first and foremost in my mind, and have been ingrained in the DNA of the Barrett Welles Property Group, which I created four years ago. We have been, and will always remain, an excellent corporate citizen on the Island that provides valuable and excellent service to the community in which we serve. We are respectfully asking that the Council agree to a variance that will allow us to continue serving the community from 223 Sunset Ave instead of 420 Royal Palm Way, where we have been for the last four years.

The reason for our move is simple: our business model has changed since our inception and we seek to operate as the boutique firm that has brought us so much success, and has provided so much value to the community. Our current space is simply too large for our purpose. As to 223 Sunset, we feel the space is more conducive to our needs and to the way we will operate in the future, and provides us better visibility in which to serve the community. I respectfully submit that the change from the travel agency that occupied the space previously to our occupancy is a lateral one, replacing one service company with another, and I hope you see fit to view it that way as well.

Barrett Welles is a going concern that both supports and benefits the Palm Beach community. Over the last 12 months, we have represented either the buyer or the seller in over \$100 million of property transactions on the Island or in the surrounding communities. We enthusiastically support our local

charities, both with our time and with our money, and we will continue that policy in the future. I respectfully ask that you allow us to continue to do that from 223 Sunset Ave and, once again, I apologize profusely for not being able to be with you today.

Sincerely,

A handwritten signature in dark ink, appearing to read 'John O. Pickett III', with a long horizontal flourish extending to the right.

John O. Pickett III

President/Managing Broker

Barrett Welles Property Group

TOWN OF PALM BEACH

Town Council Meeting Development Review on: September 10, 2014

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #43-2014 The application of Jungle Road, LLC (H. William Perry, Manager); relative to property commonly known as **120 Jungle Road**; described as Lengthy legal description on file; located in the R-A Zoning District. The Applicant is proposing to enclose a third floor balcony off the existing tower on the residence. The following variances are being requested: a building height plane setback of 51.3 feet in lieu of the 66.5 required building height plane setback for the tower element; and, a tower element to be 4.4% of the gross floor area of the residence in lieu of the 3.1% existing and the 1% maximum allowed in the R-A Zoning District. [Attorney: Maura Ziska]
[Architectural Commission Recommendation: Deferred to the September 19, 2014, meeting]

Request for Deferral to the October 15, 2014, Town Council Meeting, Per Letter Dated August 29, 2014, from Maura A. Ziska.

Presenter

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

Supporting Documents

- [Letter Dated August 29, 2014, from Maura A. Ziska](#)

KOCHMAN & ZISKA PLC**Ronald S. Kochman*****Maura A. Ziska****Marvin S. Rosen, Counsel***

*Also admitted in New York

*Also admitted in Michigan

Esperanté**222 Lakeside Avenue, Suite 1500
West Palm Beach, Florida 33401****Telephone: (561) 802-8960****Facsimile: (561) 802-8995****VIA FACSIMILE: 561-838-5411****August 29, 2014****Mayor and Town Council
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480****RE: Variance 43-2014 – 120 Jungle Road, Palm Beach, Florida****Dear Mayor and Town Council:**

Please defer the above referenced matter from the **September 10, 2014** Town Council agenda to the **October 15, 2014** Town Council agenda. ARCOM derred the request at it August 27th, 2014 meeting to allow time to make changes to the plans. Please call me if you have any questions or comments with the foregoing. Thank you.

Sincerely,
Maura A. Ziska**MAZ/jch****cc: Paul Castro
client
00025007**

TOWN OF PALM BEACH

Town Council Meeting Development Review on: September 10, 2014

Section of Agenda

Development Review - New Business

Agenda Title

(a) **VARIANCE #44-2014** The application of Bricktop's Palm Beach (Joe Ledbetter, Owner); relative to property commonly known as **375 South County Road**; described as Lengthy legal description on file; located in the C-TS Zoning District. Request for a variance of twenty-two (22) off street parking spaces required for sixty-six (66) of the approved one hundred fifty seats in the restaurant. The applicant is required, as part of a special exception approval of all previous restaurants, to provide twenty-two (22) off street parking spaces with the Apollo parking lot. The applicant is requesting to eliminate that requirement. [Attorney: Maura Ziska]

(b) BrickTop's Restaurant Operations: Six Month Review, Special Exception #21-2012, 375 South County Road
Deferred from the June 11, 2014, Town Council Meeting

Presenter

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

Supporting Documents

- [Memorandum Dated September 3, 2014, from John S. Page, Director of Planning, Zoning and Building](#)
- [Memorandum Dated May 29, 2014, from John S. Page, Director of Planning, Zoning and Building](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 10, 2014

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: BrickTop's Restaurant Operations: Six Month Review
Special Exception #21-2012
375 South County Road

Date: September 3, 2014

STAFF RECOMMENDATION

Staff recommends that the Town Council allow the restaurant to continue operating per existing "conditions of approval," including delivery and valet modifications in accordance with the attached Memo from the Council's June 11, 2014 regular meeting.

GENERAL INFORMATION

BrickTop's received conditional Special Exception approval from the Town Council in August 2012, and was further required to return to the Council following six months of operation to review compliance with all conditions of approval. Said six-month review was considered by the Council on June 11 of this year. As noted in the attached Memo from that date, staff identified two concerns needing correction. Concerns about deliveries and valet parking were identified, together with recommendations for addressing both issues. Council members approved such recommendations.

Code Enforcement personnel has informed this Department that the restaurant is now operating in accordance with all conditions. Officers responded to a reported delivery problem on June 20, yet the vehicle was "gone on arrival." A delivery problem was confirmed on July 1, 2014. A citation was issued and fines totaling \$300 were paid following a decision of the Code Enforcement Board on August 21, 2014. Restaurant representatives indicated to the Code Board that all vendors have been thoroughly briefed about delivery stipulations, including loading zone time and place restrictions. No other problems have been noted.

Attachment

cc: Maura Ziska, Attorney
Kirk Blouin, Public Safety Director

TOWN OF PALM BEACH

Information for Town Council Meetings on: June 11, 2014

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

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

Re: BrickTop's Restaurant Operations: Six Month Review, Special Exception #21-2012,
375 South County Road

Date: May 29, 2014

STAFF RECOMMENDATION

Staff recommends that the Town Council allow the restaurant to continue operating per existing "conditions of approval" with the exception of deliveries and valet operations. Staff recommends that the delivery condition be modified to require restaurant deliveries between 8:00 a.m. and Noon with the larger delivery trucks restricted to the loading zone in the 200 block of Peruvian Avenue, and all other related deliveries from the loading zone in front of the restaurant. In addition, Staff recommends that the condition related to valet operations be modified to require the valets to direct overflow parking from the restaurant to the Apollo parking lot.

GENERAL INFORMATION

On August 15, 2012, the Town Council conditionally approved the subject zoning application for a new restaurant at the above location. One of the conditions of approval required the applicant return to the Town Council six months after the restaurant opens to determine if compliance with all conditions exists and whether or not any negative impacts to the surrounding area have emerged. As such, the applicant is required to return to the Town Council on June 11, 2014 to address its operations. The following are the conditions of approval for the restaurant:

1. The applicant shall rebuild the trellis which screened that parking from the neighbors to the east.
2. The outside part of the bar shall be designed so that it can be closed off from the outside seating area at night.
3. The outside portion of the bar shall be closed and shut by 11:00 p.m.
4. The employees shall not be allowed to loiter in the garage.
5. The applicant shall come back to the Town Council meeting six months after the restaurant opens for business to consider whether the applicant had met all conditions of approval and is not negatively impacting the surrounding area.
6. The applicant shall meet all conditions of approval for previous restaurants approved at this location. Those conditions are as follows:

- All vendors with large trucks currently using the loading zone adjacent to Scotti's on Chilean Avenue will be required to use a newly created loading zone (in front of the restaurant). All deliveries will be made prior to 12:00 p.m. Passenger parking will be allowed in the loading zone after 12:00 p.m.
- Applicant will notify the vendors that deliveries must occur at the new loading zone (in front of the restaurant) before noon.
- There shall be no dinner orders placed in the outside dining area after 10:00 p.m.
- There shall be no dinner ordered in this business after 12:00 midnight.
- The last call at the inside bar shall be 1:00 a.m.
- Only the windows along South County Road and the southwest corner of Peruvian Avenue may be opened (This specifically excludes the windows on the portion of the restaurant that was expanded by the approval of Special Exception No. 16-95 and the windows in the bar area along Peruvian Avenue).
- Valet parking shall be required. The applicant must obtain a valet parking permit from the Police Department.
- The applicant shall have state of the art smoke scrubbers on the wood burning stove to mitigate the odors from said stove.
- The applicant shall come back to the Town Council six (6) months after the restaurant opens for business to consider whether the applicant has met all previous and new conditions of approval placed on the operation of the restaurant (If it is determined that the outside dining area is negatively impacting the surrounding area, the Town Council can eliminate any or all of the outside dining on the south side of the building).
- Prior to the issuance of an occupational license (business tax receipt), the applicant shall enter into a parking agreement acceptable to the Town for the 22 required parking spaces at the Apollo parking lot.
- All garbage, including glass, shall be stored in the restaurant after 6:00 p.m. and not placed in the dumpster area until after 8:00 a.m. the next morning.
- The kitchen air filters (scrubbers) for the restaurant shall be cleaned on a weekly basis.
- The kitchen door at the back of the restaurant shall remain closed after 6:00 p.m. and not be opened until after 8:00 a.m.

Staff believes that with the exception of deliveries, equipment noise issues and valet parking, the applicant has been meeting its other conditions of approval. There have been no complaints relative to the actual operation of the restaurant and outside dining and bar area. There have been issues however, with deliveries, roof top equipment and valet parking.

In January and February 2014 there were three separate warnings to a driver and one to the restaurant manager that led to the issuance of two citations on separate dates relative to large Sysco delivery trucks blocking the Chilean Avenue right-of-way (not in a loading zone). There was also a warning for delivering to the restaurant too early in the morning. The trucks were immediately moved in those situations and the applicant has resolved the delivery issues at this time. In order to ensure this issue does not occur again, Staff recommends that the Council modify the previous condition of approval relative to deliveries, requiring that any deliveries by tractor trailers occur from the loading zone in the 200 block of Peruvian Avenue. In addition, all other deliveries should be required to use the loading zone on the east side of South County Road, adjacent to Brick Tops. Staff

recommends all deliveries be required before Noon as stated in the existing delivery condition.

There have also been several noise complaints between December 2013 and February 2014. Four noise violations were issued for a roof top refrigeration unit and exhaust fan for the restaurant. The equipment was repaired and further screened, and those violations were closed.

The complaints related to the valet parking operation pertain to valet parking in on-street parking spaces on Peruvian Avenue and South County Road. When the on-site garage parking is full, valets should be taking cars to the Apollo parking lot. There are twenty two parking spaces required at that location. The condition of approval for valet parking should be modified to require the valet operation to utilize the Apollo parking lot when overflow restaurant parking occurs.

Staff recommends that the restaurant be allowed to continue to operate with the modified conditions of approval outlined in this Memorandum. All other conditions of approval should remain in place. If you have any questions about this issue please contact Paul Castro, Zoning Administrator at 227-6406.

cc: Thomas Bradford, Deputy Town Manager
Veronica B. Close, Asst. Director, Planning, Zoning & Building
Susan A. Owens, Town Clerk
Bill Bucklew, Building Official
Kirk Blouin, Director of Public Safety
zf & pf

TOWN OF PALM BEACH

Town Council Meeting Development Review on: September 10, 2014

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #46-2014 The application of Temple Emanu-El of Palm Beach (Anthony Lampert, President); relative to property commonly known as **190 North County Road**; described as Lengthy legal description on file; located in the C-TS Zoning District. Variances are requested to: place an institutional sign on the north elevation of the Temple above the first floor elevation which is not permitted by code. The sign is 12 feet 8 inches above grade; to place an institutional sign on the east elevation of the Temple above the first floor elevation which is not permitted by code. The sign is 15 feet above grade; and, to place an institutional sign on the south elevation of the Temple above the first floor elevation which is not permitted by code. The sign is 15 feet above grade. [Attorney: Ronald Schram]

Presenter

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

Supporting Documents

- [E-mail Dated September 2, 2014, from Robert Sheff](#)



Fw: Temple Emanu-el Variance Request regarding signs , scheduled for Sept. 10 Town Council meeting

Cheryl Kleen to: Peter B Elwell, John Page, Paul Castro, Patricia Gayle-Gordon, Susan Owens, jrandolph

09/02/2014 10:54 AM

----- Forwarded by Cheryl Kleen/PalmBeach on 09/02/2014 10:54 AM -----

From: Bob Sheff <BSheff@umich.edu>
To: council@townofpalmbeach.com
Date: 09/02/2014 10:52 AM
Subject: Temple Emanu-el Variance Request regarding signs, scheduled for Sept. 10 Town Council meeting
Sent by: bsheff2@gmail.com

Dear Council and Editor,

We are opposed to, and the Town Council must deny, the requested variance #46-2014 -1(Seminole Avenue) mainly because tax-paying Palm Beach residents should be able to walk out for their morning paper without being required to view a non conforming, INSTITUTIONAL sign. I understood their CURRENT sign was not allowed due to its size, and would eventually be removed, now they are again attempting to turn our neighborhood into a commercial district without due process. And as usual, they try to hide these variances (as Council president David Rossow said) "in the dead of the summer".

During the last Go-Around, regarding their "Activity Garden", I had a chance to read the complaints in Town records and Daily News archives from neighborhood residents as the Temple repeatedly expanded westerly down our street. I noted in prior years they waited about a decade for each new expansion, as the residents who remembered the last time seemed to be moving or dying off. This research did give me some perspective on the situation.

Various explanations of the "hardship" described in their variance request resulted from compromises enforced by the Town to reduce the impact of a LARGE BUSINESS in our neighborhood of 1920's vintage homes. Most of their "hardship" statements lack merit or even sense.

"Temple has been in business 50 years" and "designs pre-dates codes" is laughable when you know the temple moved to the commercial lots known as 190 N. County in the late 1970's. They did not expand past its (residential zoned exception-ed) parking lot until the late 1980's. The major building expansion, including the current 500+ seat auditorium and it's Seminole Avenue entrance was done in the middle 1990's, with unheeded protests from residents each time. There have always been zoning laws, and every Temple construction permit has required some sort of variance or exception to circumvent those laws.

"Building second floor is only 10 feet above grade", "Unusually low second floor" because that was a compromise to reduce the apparent size of the "needed classroom addition" which was later magically changed, without Council permission, to the 500+ seat auditorium.

"no other building .. in Town .. exhibits the unique condition" Because no other building in

Town is so Out of Character in its NEIGHBORHOOD!

Further, note that institutional signs in residential districts are limited to "six square feet", NOT the requested 20 sqft, and I believe the CURRENT Sign across from my drive-way is larger than that, but at least it is tasteful.

I have no problem with the requested sign on the commercial lots facing east onto N. County Road, where the Temple's entrance should be. But it would have been nice if the registered Variance letter had been complete with missing pages(6,7,8,9,10,11) and drawings of the signs, so I could see what else was requested and might be undesirable. The requested sign on the south side seems silly, since they don't have an entrance over there, and there is no parking.

If the "Town of Palm Beach requires strict compliance with zoning code.. signage will look odd" is true, then this statement admits that the signs are not in the character of the Town either!

I am including relevant text from the code relating to this case, and you may well note that the current law does not allow 3 institutional signs on any property, but they didn't ask for that variance, or even a west facing sign.

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Signs in residential districts:

Sec. 134-2405. Institutional signs.

Signs of schools, colleges, churches, sanatoria, or other institutions of a similar public or semipublic nature may be erected and maintained, provided:

- (1) The size of any such sign is not in excess of six square feet; and
- (2) Not more than one such sign is placed on a property unless such property fronts upon more than one street, in which event two such signs may be erected, one on each frontage.

Sec. 134-2440. Height of signs.

- (a) No building identification sign shall be higher than the building on which it is attached, nor shall any sign be located over or upon the roof of any building.
- (b) No individual business sign on a one-story building shall be located higher than the building on which it is attached, nor shall any sign be located over or upon the roof of any building.
- (c) Except for signs proposed on a facade of an existing building where the original architecture predicated that they be located higher, no individual business sign on a multistory building shall be located higher than the first floor elevation of the building or 15 feet, whichever is lower.

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Robert Sheff
219 Seminole Ave.