



TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on January 10, 2024

I. CALL TO ORDER AND ROLL CALL (00:00)

The Development Review Town Council Meeting was called to order on January 10, 2024, at 9:44 a.m. On roll call, all elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE (00:38)

Acting Town Clerk Churney gave the invocation. Council President Zeidman led the Pledge of Allegiance.

III. COMMENTS OF MAYOR DANIELLE H. MOORE (1:21)

Mayor Moore did not have any comments.

IV. COMMENTS OF TOWN COUNCIL MEMBERS (1:31)

Council Member Araskog asked permission to recast her vote on Resolution 003-2024, initially heard by the Town Council on January 9, 2024.

A motion was made by Council Member Cooney and seconded by Council Member Crampton to reconsider Resolution No. 003-2024 under Any Other Matters. The motion was carried unanimously, 5-0.

Council President Zeidman and the Town Council expressed how proud they were of the way the Town Council meeting had been conducted yesterday.

V. COMMUNICATIONS FROM CITIZENS – 3-MINUTE LIMIT, PLEASE (6:43)

Anne Pepper, 333 Seaspray Avenue, asked about the process of a zoning text amendment. Mr. Bergman responded that in addition to State law, the Town Zoning Code sets forth fees that an applicant would pay to the town and the forms that must be completed as part of the application.

VI. APPROVAL OF AGENDA (10:43)

Mr. Bergman announced the addition of Resolution No. 004-2024 under Resolutions. He announced the addition of Resolution No. 038-2023, 163 Seminole Avenue,

under Resolutions but requested that the item be deferred until April 10, 2024, at the owner's request. Finally, he announced the deferral of ZON 23-109 under Old Business, 134 El Vedado Road, until February 14, 2024, at the owner's request.

A motion was made by Council Member Araskog and seconded by Council Member Cooney to defer ZON 23-109, 134 El Vedado Road, until February 14, 2024. The motion was carried unanimously, 5-0.

A motion was made by Council Member Araskog and seconded by Council President Pro Tem Lindsay to approve the agenda as amended. The motion was carried unanimously, 5-0.

VII. CONSENT AGENDA (14:23)

- A. **ZON-24-017 (ARC-24-007) 222 WORTH AVE (COMBO) - SPECIAL EXCEPTION (6:16:11)** The applicant, Louis Vuitton America, has filed an application requesting Town Council review and approval for a Special Exception for a permitted use greater than 4,000 SF in the C-WA zoning district in order to occupy an existing two-story commercial building. The Architectural Commission shall perform design review of the application.

The Town Council stated they had no ex parte communications to declare.

Council Member Araskog asked about the additional space. Mr. Bergman stated the building contained 7,625 square feet of area divided among two levels. The applicant will occupy the entire space.

There was no public comment.

A motion was made by Council Member Araskog and seconded by Council Member Crampton that Special Exception No. ZON-24-017 shall be granted based upon the finding that such grant will not adversely affect the public interest and that applicable criteria set forth in section 134-229 of the town code have been met. The motion was carried unanimously.

- B. **ZON-24-019 155 HAMMON AVE - SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE (6:19:12)** The applicant, CH Hotel LLC (Andrew and Sarah Wetenhall), has filed an application requesting Town Council review and approval for a Special Exception request with Site Plan Review to allow for installation of a generator in a non-conforming location at a commercial property. Variance (1) variance to install the generator with a reduced north side-yard setback, revesting the abandoned, nonconforming location of a previously permitted generator.

The Town Council stated they had no ex parte communications to declare.

Council Member Araskog asked about the north side setback.

Attorney Maura Ziska said it backed up to the Esplanade. A letter of support had been provided.

A motion was made by Council Member Araskog and seconded by Council President Zeidman that Special Exception No. ZON-24-019 shall be granted based upon the finding that such grant will not adversely affect the public interest and that applicable criteria set forth in section 134-229 of the town code have been met. The motion was carried

unanimously.

A motion was made by Council Member Araskog and seconded by Council President Zeidman that Site Plan No. ZON 24-019 be approved based upon finding that approval of the site plan will not adversely affect the public interest and the council certifies that the specific zoning requirements governing the individual use have been met and satisfactory provision and arrangement has been made concerning items (1) through (11) of section 134-329. The motion was carried unanimously.

Council Member Araskog asked about the hardship for the variance. Ms. Ziska said the hardship was that the grandfathered status was lost when a temporary generator was removed.

A motion was made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance No. ZON-24-019 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7, have been met. On roll call, the motion was carried by a vote of 4-1, with Council Member Araskog dissenting.

A motion was made by Council Member Cooney and seconded by Council Member Crampton to approve the consent agenda as presented. The motion was carried unanimously.

A motion was made by Council Member Araskog and seconded by Council Member Cooney to reconsider the approval of the Consent Agenda. The motion was carried unanimously.

Council Member Araskog requested items A and B of the Consent Agenda be pulled for discussion.

VIII. RESOLUTIONS

- A. RESOLUTION NO. 001-2024 (6:35:20): A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As 249 Peruvian Ave Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach. *(Multiple units/owners on this site. Some owners are in favor, others opposed).*

Council President Pro Tem Lindsay and Council Member Cooney declared their ex parte communications.

Proof of publication was provided by Friederike Mittner, Design and Preservation Manager.

Emily Stillings, MurphyStillings, presented the background information on the project and historical information on the property. She outlined how the property met Criteria 1, 3, and 4 for Landmark Designation. Ms. Stillings thanked the owner for offering the home for landmark designation.

A motion was made by Council Member Araskog and was seconded by Council Member Cooney to make the designation report part of the record. The motion was carried 4-0. Clerk's note: Mr. Crampton was not in the room during this vote.

Council President Zeidman asked Ms. Mittner if she had anything to say about the designation. Ms. Mittner expressed support for the designation.

Patrick Segraves, a partial owner at 249 Peruvian Avenue, stated he supported the designation.

Aimee Sunny, Preservation Foundation of Palm Beach, discussed the significance of the Mid-Century building and the influence of the architect.

Attorney Joanne O'Connor read a letter from James Gavigan, attorney for Dr. Rhonda Nassar, who objected to the landmark designation.

A motion was made by Council Member Cooney and was seconded by Council Member Araskog to adopt Resolution No. 001-2024, designating the property at 249 Peruvian Avenue as a landmark of the Town of Palm Beach on the basis that it meets criteria Numbers 1, 3 and 4 of Section 54-161 of the Town of Palm Beach Code and in the Landmarks Preservation Ordinance No. 2-84. The motion was carried unanimously, 5-0.

- B. RESOLUTION NO. 004-2024 (3:37:43): A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Approving A 75-Year Naming Rights Term For The Lead Donor To Phipps Ocean Park As Part Of The Preservation Foundation Of Palm Beach's Extraordinary Spaces Capital Campaign

Council President Zeidman read Resolution No. 004-2024, by title only.

A motion was made by Council Member Crampton and was seconded by Council Member Araskog to approve Resolution No. 004-2024. The motion was carried unanimously, 5-0.

- C. RESOLUTION NO. 038-2023: A Resolution of the Town Council Of The Town of TC Development Review Action Minutes 11-15-2023 1 of 6 Palm Beach, Palm Beach County, Florida, Ratifying and Confirming the Determination of the Landmarks Preservation Commission that the Property Known as 163 Seminole Ave Meets the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of The Code of Ordinances of the Town of Palm Beach; and Designating said Property as a Town of Palm Beach Landmark Pursuant to Ordinance No. 2-84, Also Known as Chapter 54, Article IV of The Code of Ordinances of the Town of Palm Beach. (PALM BEACH COUNTY LISTS THE PROPERTY AS 165 SEMINOLE AVENUE) Owner: Dale Coudert, 2012 Steven H. Rose Trust The consultants believe that the owner is supportive of the designation. *ACTION: DEFERRED TO JANUARY 10, 2024*

Please note: This item was deferred to April 10, 2024, meeting at the Approval of the Agenda, Item VI.

IX. DEVELOPMENT REVIEWS

A. Declaration of Use Agreements (6:22:44)

1. Tutto Mare Declaration of Use Agreement and Revised, Amended & Restated 1979 Agreement

Jamie Crowley, the attorney for the applicant, stated there were 64 outdoor seats, 64 bar seats, 72 dining room seats, and 25 staff members. He said these were the same numbers discussed, but they needed to be corrected in the Declaration of Use Agreement. He also noted that on the last page, the Agreement stated that it was to run with the land, but that language would be changed with the addition of “not” to indicate that the Agreement would not run with the land.

Council President Pro Tem Lindsay suggested adding language to identify that there would be food service in connection with any outdoor service.

Mr. Crowley said they would agree to employees parking off-island. A letter of support had been solicited from The Towers, and the letter had been submitted to town staff.

Council Member Cooney asked if language was in the agreement referencing employee off-island parking and that the developers have agreed to shuttle them into work. Mr. Crowley said it would be put into the agreement. Council Member Cooney asked about closing time. Mr. Crowley said he would include in the agreement that the kitchen would stop serving food at 10:00 p.m. Monday through Saturday.

A motion was made by Council Member Cooney and seconded by Council Member Crampton to approve the Declaration of Use Agreement as amended and that Ms. O'Connor and Messrs. Crowley and Bergman would ensure the details were correctly incorporated into the agreement. The motion was carried 4-1, with Council Member Araskog dissenting.

Council Member Cooney said the Town Council still needed to see the amended and restated 1979 Agreement. Mr. Crowley said there had been a discussion about the amended and restated 1979 Agreement, which basically sets the capacity on the total intensity of the plaza. He had mentioned to the Town Council that when Marissa Collections were done, two spaces were removed for a five-space net. He did not think the discussion was urgent.

A motion was made by Council Member Cooney and seconded by Council Member Araskog to defer the 1979 Agreement to February 14, 2024. The motion was carried unanimously, 5-0.

B. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. **ZON-23-068 (ARC-23-090) 206 CARIBBEAN RD.** The applicant, Walter Wick, has filed an application requesting Architectural Commission review and approval for construction of a new two-story single-family residence with landscape, hardscape and pool on a nonconforming parcel. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval.

[This project shall be deferred to the February 14, 2024, Town Council meeting pending review by the Architectural Review Commission.]

Please note: This item was deferred to February 14, 2024, meeting at the Approval of the Agenda, Item VI.

- b. **ZON-23-070 (ARC-23-092) 217 BAHAMA LN (COMBO)** The applicant, James and Sarah McCann, have filed an application requesting Architectural Commission review and approval for construction of a new two-story single-family residence and associated landscape and hardscape on a lot substandard in lot depth in the R-B zoning district. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval. *[This project shall be deferred to the February 14, 2024, Town Council meeting pending review by the Architectural Review Commission.]*

Please note: This item was deferred to February 14, 2024, meeting at the Approval of the Agenda, Item VI.

- c. **ZON-23-072 (ARC-23-094) 247-251 WORTH AVE (COMBO)** The applicant, Holbrook Real Estate LLC, has filed an application requesting Architectural Commission review and approval for a two-story addition to an existing one-story commercial building under the Special Allowances in accordance with the Worth Avenue Design Guidelines, including several variances from lot coverage, floor area square footage, commercial and residential use locations, parking requirements, landscape open space, and loading space requirements. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval. *[This project shall be deferred to the February 14, 2024, Town Council meeting pending review by the Architectural Review Commission.]*

Please note: This item was deferred to February 14, 2024, meeting at the Approval of the Agenda, Item VI.

- d. **ZON-23-084 (ARC-23-109) 600 TARPON WAY (COMBO)** The applicants, Frank and Annie Falk, have filed an application requesting Architectural Commission review and approval for the construction of a new two-story single-family residence over 10,000 SF with sitewide landscape and hardscape improvements, requiring variances for mechanical equipment placement, building height plane, and site wall height, and a Special Exception for vehicular gate placement. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval. *[This project shall be deferred to the February 14, 2024, Town Council meeting pending review by the Architectural Review Commission.]*

Please note: This item was deferred to February 14, 2024, meeting at the Approval of the Agenda, Item VI.

- e. **ZON-23-104 (ARC-23-137) 310 CLARKE AVE (COMBO) (6:51:41)** The applicant, Mark & Patricia Davies, has filed an

application requesting Architectural Commission review and approval for changes to an approved new two-story residence including changes to architectural details, hardscape/landscape, and arrangement of equipment yards, requiring variances for equipment location and screening wall heights. This is a combination project that shall be reviewed by Town Council as it pertains to zoning relief/approval. [Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 6-1.] [The Architectural Review Commission approved the project, 6-1.]

Council Members Cooney and Araskog declared ex parte communication.

Michael Perry, MP Design & Architecture, presented the architectural plans proposed for the project.

Council Member Cooney stated that he did not want the cure to mechanical plans to come forward after the project in the future.

A motion was made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance No. ZON-23-104 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met. The motion was carried unanimously, 5-0.

There were no public comments on this project.

- f. **ZON-23-105 (ARC-23-123) 1186 N OCEAN WAY (COMBO)** The applicant, Martha Lee Johnson 2012 Exempt Trust (Stan Johnson), has filed an application requesting Architectural Commission review and approval for the design of a new two-story residence with sitewide landscape and hardscape improvements, requiring setback and separation distance variances for the location of the pool equipment and a variance to exceed allowable chimney height. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval. *[This project shall be deferred to the February 14, 2024, Town Council meeting pending review by the Architectural Review Commission.]*

Please note: This item was deferred to February 14, 2024, meeting at the Approval of the Agenda, Item VI.

- g. **ZON-23-109 (COA-23-040) 134 EL VEDADO RD (COMBO)** The applicant, Elizabeth and Jeffrey Leeds, have filed an application requesting Landmarks Preservation Commission review and approval of a Certificate of Appropriateness for additions and alterations to an existing two-story Landmarked residence and accessory structures, including window, door and roof replacement, modifications to opening sizes, demolition of rear porch, construction of an enclosed rear addition, addition of covered rear terrace, covered walkway and second-floor addition to tennis house, and landscape and hardscape modifications. Additionally, requesting construction of front wall with new

vehicular driveway gates, including a variance from the backup/cueing distance requirement. Town Council shall review the application as it pertains to the zoning relief and approval. [Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause a negative architectural impact on the subject landmark property. Motion carried, 7-0.] [The Landmarks Commission approved the project, 7-0.]

Please note: This item was deferred to February 14, 2024, meeting at the Approval of the Agenda, Item VI.

- h. **ZON-23-111 (HSB-23-009) 269 PARK AVE (COMBO) AND FLOODPLAIN VARIANCES (6:58:51)** The applicant, Schnapps 269 Park Avenue LLC (Andrew and Lorraine Dodge), has filed an application requesting Landmarks Preservation Commission review and approval for exterior alterations to an existing three-story historically significant building, specifically to add a front terrace deck onto an existing ground floor entry porch, to construct a new gable-end entry, to add four new dormer windows (two on the east and two on the west side) to the roof of an existing three-story building, requiring a variance from the Floodplain requirement from Chapter 50, Floods, to maintain the existing building at a finished floor elevation below current FEMA requirements, and a variance to expand a nonconforming third floor, to increase the maximum height and to reduce the required front and side setback. Town Council shall review the application as it pertains to zoning relief/approval. [Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause a negative architectural impact on the subject landmark property. Motion carried, 7-0.] [The Landmarks Commission approved the project as presented, with the condition that the professional shall restudy the front parapet and return with alternate designs at the January 17, 2024, meeting. Motion carried, 7-0.]

Council Member Cooney declared ex parte communication.

Maura Ziska, the attorney for the applicant, outlined the zoning requests and provided an overview of the project. Jeff Brasseur, with Brasseur & Drobot Architects, presented the architectural plans for the project.

Council Member Cooney asked about the use of the third floor. He also asked if the entire home would be painted in the renovation. Mr. Brasseur responded that the third floor of the home would be used for storage, and he said the entire home would be painted.

Aimee Sunny, Preservation Foundation of Palm Beach, provided support for the project.

Council Member Araskog asked about the expansion of the third floor and asked what the hardship was for the variance. Ms. Ziska said the third floor was an existing nonconforming use. It is not being expanded; only dormer windows were being added.

A motion was made by Council Member Cooney and seconded by

Council President Pro Tem Lindsay that Variance No. ZON-23-111 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the Town that ensures a recorded easement will be granted, if necessary, to underground utilities in the area and also with the condition that the third floor remain non-habitable space. The motion was carried unanimously, 5-0.

- i. **ZON-23-113 (ARC-23-145) 123 CHILEAN AVE (COMBO)** The applicant, Robert & Perri Bishop, has filed an application requesting Architectural Commission review and approval for construction of a new two-story single-family residence and one-story accessory cabana structure with final hardscape, landscape and swimming pool, requiring Special Exception approval to develop a nonconforming parcel and variances to reduce the required side setbacks and to exceed the maximum cubic content ratio (CCR) permitted. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval. *[This project shall be deferred to the February 14, 2024, Town Council meeting pending review by the Architectural Review Commission.]*

Please note: This item was deferred to February 14, 2024, meeting at the Approval of the Agenda, Item VI.

- j. **ZON-23-118 (ARC-23-140) 2278 IBIS ISLE RD (COMBO)** The applicant, Angel Arroyo, has filed an application requesting Architectural Commission review and approval for exterior modifications to an existing one-story residence, including the demolition of an existing screen porch, a new roof, façade and window alterations, and a variance to not provide the required garage enclosure for two vehicles. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval. *[This project shall be deferred to the February 14, 2024, Town Council meeting pending review by the Architectural Review Commission.]*

Please note: This item was deferred to February 14, 2024, meeting at the Approval of the Agenda, Item VI.

- k. **ZON-23-119 (ARC-23-146) 995 S OCEAN BLVD. (7:08:00)** The applicant, Mary S. Conrad, has filed an application requesting Architectural Commission review and approval of a second story addition requiring variances to build within the required setbacks. This is a combination project that shall also be reviewed by the Town Council as it pertains to zoning relief/approval. [Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 4-3.] [The Architectural Review Commission approved the project, 4-3.]

Mayor Moore and Council Members Araskog and Cooney declared ex parte communication.

Maura Ziska, the attorney for the applicant, outlined the zoning requests and provided an overview of the project.

Jackie Albarran, SKA Architect + Planner, presented the architectural plans for the project. Mary Stephania Conrad, owner of the home, spoke about the reason she is choosing to expand her existing home.

There were no public comments on this project.

Council Member Araskog asked about the hardship for the variance. Ms. Ziska responded the property was narrow and close to the road. When the home was constructed, it met the required setbacks. Mr. Bergman added that of the four variances being requested, three are due to the lot not being very deep.

A motion was made by Council Member Cooney and seconded by Council Member Crampton that Variance No. ZON-23-119 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7, have been met. The motion was carried 4-1, with Council Member Araskog dissenting.

2. New Business

- a. **ZON-23-092 (ARC-23-052) 300 COLONIAL LN (COMBO)** The applicants, Dragana & Richard Connaughton, have filed an application requesting Architectural Commission review and approval for construction of a new two-story single-family residence requiring (2) variances from east side yard setback and (1) variance from mechanical equipment regulations and construction of a detached accessory structure requiring (2) setback variances, (1) lot coverage variance and (1) angle of vision variance, together with final hardscape, landscape, and swimming pool. This is a combination project that shall also be reviewed by the Town Council as it pertains to zoning relief/approval. [*This project shall be deferred to the February 14, 2024, Town Council meeting pending review by the Architectural Review Commission.*]

Please note: This item was deferred to February 14, 2024, meeting at the Approval of the Agenda, Item VI.

- b. **ZON-23-120 (ARC-23-154) 1356 N OCEAN BLVD (COMBO) (7:23:21)** The applicant, Gary & Kelly Pohrer, has filed an application requesting Architectural Commission review and approval for expansion of a previously approved swimming pool on the beachside parcel, requiring a setback variance. This is a combination project that shall be reviewed by the Town Council as it pertains to the zoning relief/approval. [Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 5-2.] [The Architectural Review Commission approved the project, 5-2.]

Mayor Moore declared ex parte communication. *Clerk's note: Council Member Cooney declared a conflict of interest and left the dais during the project discussion, and did not vote on the item.*

Gary Pohrer, owner of the home, spoke about the reason for his request.

There were no public comments.

A motion was made by Council President Pro Tem Lindsay and seconded by Council Member Crampton that Variance No. ZON-23-120 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7, have been met. The motion was carried 3-1, with Council Member Araskog dissenting.

- c. **ZON-24-005 (ARC-23-159) 288 SANDPIPER DR (COMBO) (7:28:56)** The applicant, Kelly M Williams TR TITL HLDR (Rep. Maura Ziska), has filed an application requesting Architectural Commission review and approval for exterior alterations to an existing detached guest house, including window and door replacement and the construction of enclosed additions, requiring a rear setback variance. This is a combination project that shall be reviewed by Town Council as it pertains to the zoning relief/approval. [Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 6- 1.] [The Architectural Review Commission partially approved the project, with conditions. 4-3. The lanai addition was not approved.]

Council Member Araskog declared ex parte communication.

Maura Ziska, the attorney for the applicant, outlined the zoning requests and provided an overview of the project. Michael Perry, MP Design & Architecture, presented the architectural plans for the project.

Council Member Araskog asked about the hardship for the variance. Ms. Ziska responded.

There were no public comments.

A motion was made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance No. ZON-24-005 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7, have been met and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the Town that ensures a recorded easement will be granted, if necessary, to underground utilities in the area. The motion was carried by

a vote of 4-1, with Council Member Araskog dissenting.

- d. **ZON-24-008 (ARC-23-165) 161 VIA PALMA (COMBO) (7:35:02)**
The applicants, Sam and Vicki Hunt, has filed an application requesting Architectural Commission review and approval for construction of a new two-story addition, requiring a west side-yard setback variance. This is a combination project that shall be reviewed by the Town Council as it pertains to the zoning relief/approval. [Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 7- 0.] [The Architectural Review Commission approved the project, 7-0.

Mayor Moore and Council Member Araskog declared ex parte communication.

Maura Ziska, the attorney for the applicant, outlined the zoning requests and provided an overview of the project. Harold Smith, with Smith and Moore Architects, presented the architectural plans for the project.

Council Member Araskog asked about the hardship for the variance and asked for clarification on the reason for the expansion.

There were no public comments.

A motion was made by Council Member Crampton and seconded by Council Member Cooney that Variance No. ZON-24-008 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7, have been met and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the Town that ensures a recorded easement will be granted, if necessary, to underground utilities in the area. The motion was carried 4-1, with Council Member Araskog dissenting.

- e. **ZON-24-009 (ARC-23-167) 350 SEABREEZE AVE (COMBO)** The applicant, Judith Goodman (Contract Purchaser, Justin Besikof / Rep. Maura Ziska), has filed an application requesting Architectural Commission review and approval for the design of a new two-story single-family residence and sitewide landscape and hardscape improvements, requiring a variance to not provide garage parking. This is a combination project that shall also be reviewed by the Town Council as it pertains to the zoning relief/approval. *[This project shall be deferred to the February 14, 2024, Town Council meeting pending review by the Architectural Review Commission.]*

Please note: This item was deferred to February 14, 2024, meeting at the Approval of the Agenda, Item VI.

- f. ZON-24-010 (ARC-23-164) 1616 N OCEAN BLVD. (7:41:14)
The applicants, Joan Eigen, Wendy Haigney and Devid Eigen, have filed an application requesting Architectural Commission review and approval for the installation of vehicular gates to an existing single-family residence and a variance for the required driveway area. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval. [Architectural Review Commission Recommendation: The Commission made no recommendation related to the variance.] [The Architectural Review Commission approved the project, 5-0.]

Council Member Araskog declared ex parte communication.

Maura Ziska, the attorney for the applicant, outlined the zoning requests and provided an overview of the project. Harold Smith, with Smith and Moore Architects, presented the architectural plans for the project.

There were no public comments.

A motion was made by Council Member Cooney and seconded by Council Member Crampton that Variance No. ZON-24-010 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7, have been met and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the Town that ensures a recorded easement will be granted, if necessary, to underground utilities in the area. The motion was carried 4-1, with Council Member Araskog dissenting.

- g. ZON-23-020 (COA-23-003) 139 N COUNTY RD - THE PARAMOUNT THEATER (COMBO) - SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES (16:53)

TIME CERTAIN: 10:00 AM

The applicant, WEG Paramount LLC, has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for the renovation of an existing Landmarked theater structure and the construction of a new three-story mixed-use (retail and four residential units) development including Special Exception requests (1) to permit Private Club use in the C-TS district, (2) for square footage greater than 3,000 SF in the C-TS district, (3) for Outdoor café seating use associated with a private club in the C-TS district, (4) for two stories in the C-TS district, (5) for shared parking in the C-TS district, and (6) for a modification to a previously approved Special Exception for Churches, synagogues or other houses of worship to allow for a flexible event space. The applicant is also seeking Site Plan Review for new building(s) or for changes in a permitted use in Sec. 134-

1107 which involve more than 2000 square feet of building floor area in the C-TS zoning district. Additionally, the applicant is seeking review and approval for Variances (1) to reduce the required front yard setback, (2) front side street yard setback, (3) and to reduce the required rear yard setback requirements for new construction, (4) to allow three stories in lieu of two stories in C-TS district, (5) to exceed the maximum height, (6) to exceed the maximum overall building height, (7) to exceed the maximum allowable lot coverage limitation, (8) to exceed the maximum building length permitted, (9) to exceed the maximum building size (floor area) permitted, (10) to reduce the required overall landscape open space, (11) to reduce the required front yard landscape open space, (12) to reduce the required front yard setback for the subterranean parking level, (13) to reduce the front side street yard setback for the subterranean parking level, (14) to permit mechanical lift parking in the parking garage, (15) a variance to exceed the maximum height of a perimeter wall on a side or rear property line, (16) to permit residential uses on the first level in the C-TS zoning district in lieu of the above the first-floor requirement, (17) to allow generators on a roof(s), (18) to exceed the maximum height of a screening wall for mechanical equipment on a roof, (19) to exceed the maximum height of mechanical equipment on a roof, and (20) to exceed the maximum height of chimneys, in conjunction with the renovation and adaptive reuse of an existing Landmarked theater structure and the construction of four connected residences with ground floor retail components with two levels of subterranean parking. The Landmarks Preservation Commission will perform the design review.

Council President Zeidman explained the procedure on how the presentation would proceed.

Bill Diamond, 220 Wells Road, provided comments in support of the project.

Ex-parte communications were disclosed by all members.

Jamie Crowley, the attorney for the applicant, introduced the professional team members present. He remarked about how the plan had evolved over time. He stated the request was for a private supper club with 475 members. He said the request for a public restaurant had been eliminated. He said this project would be completely town-serving and would be allowable by special exception use.

Richard Rene Silvin, on behalf of the applicant, discussed the history of the Paramount.

Gene Pandula, an architect on behalf of the architect, discussed Paramount's history and architecture.

Mr. Crowley talked about discussions his team had with the neighbors.

Jennifer Hofmeister-Drew was asked to provide information on the historical population of the town.

Mr. Crowley stated that all criteria had been included in the Letter of Intent to the town. He reviewed the special exception and variance requests for the project.

Mr. Crowley said there was a request for a variance for three stories in lieu of the two-story maximum that was currently permitted. He said this request had been discussed previously, and he explained that the building height variance was necessary to achieve harmony and balance between the existing Paramount building and the much taller buildings surrounding the property.

Mr. Crowley discussed the comprehensive plan, focusing on the common topic of intensification of use and its implications. He interpreted a specific provision of the plan differently, emphasizing that the intensification of use referred to density patterns. Future land use categorizes the town into different use categories. According to Mr. Crowley, the comprehensive plan aimed to minimize the transition of land use categories rather than restrict the expansion of any building. He clarified that land use patterns address broad categories of uses, not individual ones. Mr. Crowley urged the Town Council to consider this when determining the appropriate use for a building that was previously occupied by 1200 people and was both grandfathered and landmarked. He also conveyed that his clients were willing to collaborate with neighbors, acknowledging the imperfect nature of the project and their commitment to working within the provided framework.

Clerk's note: A short break was taken at 11:18 a.m. The meeting resumed at 11:34 a.m.

Theodore Babbitt, 175 Sunset Avenue, thought that some of the issues he had could be resolved. He spoke about his concerns for the traffic and egress onto Sunset Avenue.

Dan Lobitz, with Robert A.M Stern Architects, provided architectural renderings of the proposed project. Cory Meyer, with Nievera Williams Design, presented the landscape and hardscape plans proposed for the site.

Council Member Araskog disclosed an additional ex parte communication.

Council President Zeidman stated that with the subterranean garage, the Town Council would like to see the percentage of proposed open space and all planting areas that could not counted under the code. She asked how they would ensure that the material would grow. Mr. Meyer said there will be some depth with the structure of the building, providing 2-3 feet of soil depth for the plants.

Chris Hagan, with Kimley Horn, discussed the traffic study that he performed on-site.

Tony Cummings, member of the WEG Paramount LLC, spoke about

the intent of the project.

Public Comment (2:30:11)

The following individuals spoke in opposition to and/or expressed concerns for the proposed project:

Jerry Zaro, 100 Sunrise Avenue
Beryl Simonson, 130 Sunrise Avenue
Jonathan Auerbach, 100 Sunrise Avenue
Arthur Bernstein, 235 Sanford Avenue
Dr. Jane Day, Previous Landmark Consultant for the Town
Rick Smith, 130 Sunrise Avenue
Rick Gonzalez, REG Architects on behalf of Mr. Babbitt
Elaine Hirsch, 100 Sunrise Avenue
Robert Spatt, 150 N. Ocean Blvd.
Rita Krauss, 100 Sunrise Avenue
Alan Green, 120 Sunset Avenue
Gene Bernstein, 100 Sunrise
Vera Alfieri, 218 Miraflores Drive
Dan Hurley, 130 Sunrise Avenue
Tony Stepanski, 130 Sunrise Avenue
James Spinks, Traffic Operation Engineer hired by Mr. Stepanski
Anita Seltzer, 44 Cocoanut Row
Anne Pepper, 333 Seaspray Avenue
Mindi Wexler, 100 Sunrise Avenue
KT Catlin, 265 Fairview Avenue

The following individuals offered supportive comments for the proposed project:

Angie McNamara, 127 Kings Road
Aimee Sunny, Preservation Foundation of Palm Beach
Amanda Vanderbilt, 358 Hibiscus Avenue
Skip Aldridge, 2295 S. Ocean Blvd.
Kristin Lopolo, 3560 S. Ocean Blvd.
Dragana Connaughton, 267 Merrain Road

Clerk's note: A lunch break was taken at 1:32 p.m. The meeting resumed at 2:11p.m. (3:38:47)

Harvey Oyer, the attorney on behalf of the residents of Sun and Surf, provided arguments against the requested variances.

John Eubanks, the attorney on behalf of the residents of the Leverett and Biltmore Condominiums, provided arguments against the requested variances.

Mr. Crowley provided rebuttal arguments to the public comments that were issued.

Council Questions and Deliberations began at 4:34:26

Council Member Araskog asked staff about the intensification of use and the proposal in terms of the comprehensive plan. Mr. Bergman said the proposal was clearly an intensification of the site's current uses.

Council Member Crampton asked where the workers would park during the construction. Mr. Crowley responded. Council Member Crampton thought there were many positives, encouraged the neighborhood conversations, expressed concern about the massing of the homes, and proposed a Declaration of Use (DOU).

Council President Pro Tem Lindsay expressed concerns about the number of requested variances, suggested homes be designed within the zoning code, and encouraged conversation between Sun and Surf owners and developers; she thought commercial and retail use was good in this location and understood and empathized about the traffic issues in the area.

Mayor Moore thought some more work needed to be done on the project. She was unsure if commercial use would be best in this area. She thought the homes were too tall, chimneys were inappropriate, and lack of green space was a concern.

Council Member Araskog understood why the residents of the Sun and Surf would not meet since they were represented by attorneys. Her concerns were the intensification of use for the site. She asked to see the traffic study. She thought the length of the new buildings was too long and massive. She expressed concerns about the auto lifts proposed. She thought the variances lacked hardships.

Council Member Cooney thought something needed to be done with the building but understood the changes and traffic concerns in the area. He acknowledged that any change in the building would change the intensification of use. He thought the building should be saved. He agreed that the homes proposed were too massive. He expressed concern about parking. He asked if dialogue between the applicant and neighbors could occur. He did not believe that all buildings needed to remain at 2 stories; but thought the third story should be smaller elements, like a tower.

Council President Zeidman agreed with Council Member Cooney. She thought the architecture was beautiful but too massive and a solution was needed for the ingress/egress issues. She did not believe the number of club members was too high. She discussed the use of public versus private. She thought the applicant had made great attempts at making changes. She thought residential was a better use for the space. She asked about restoring the theater. Mr. Crowley said most of the interiors were gone from a previous restoration.

Council President Pro Tem Lindsay asked about vehicle queuing for the valet service. She asked the applicant to research a small, town-serving daytime restaurant.

Council Member Cooney admired the attempt to restore the building.

He acknowledged that much of the interior was lost in the 1980s during renovation.

A motion was made by Council Member Crampton and seconded by Council Member Cooney to defer ZON 23-020, 139 N County Road (The Paramount Theater) to the meeting on March 13, 2024. The motion was carried unanimously, 5-0.

This discussion lasted about 5 hours and 7 minutes, including a 30-minute break.

3. AMENDMENTS: TIME CERTAIN: 2:00 PM (7:47:09)

a. Text Amendment Discussion

Joanne O'Connor, Town Attorney, and Wayne Bergman, Director of Planning, Zoning and Building
This item was not discussed.

b. Four Arts Comprehensive Plan Amendments/Zoning Code Amendments - Review & Feedback (5:26:31)

Harvey Oyer, the attorney on behalf of the Society of Four Arts, recommended creating a zoning district for the two buildings for the Four Arts. He also spoke about a one-sentence change to the comprehensive plan.

Council Member Araskog thought the proposal should be deferred. She was concerned about the proposed change since the Town was in the middle of a zoning code review.

Jennifer Hofmeister-Drew discussed the proposed changes in relation to the Evaluation and Appraisal Report (EAR) and Comprehensive Plan.

Mr. Bergman thought the proposed changes were a step in the right direction, even though the request may be premature.

Council President Pro Tem Lindsay expressed concern with spot zoning. She had issues with the requested permit uses.

Council Member Cooney asked about the motivation for the text amendments. He wondered if the elimination of the possibility for three-story buildings were to occur, would the applicant still be seeking the change?

Mr. Bergman added that while the staff supported the creation of a new district, the applicant asked to allow three stories by right and four stories by special exception in the proposed text language.

A motion was made by Council Member Araskog and seconded by Council Member Cooney to defer the Four Arts Comprehensive Plan Amendments until the meeting on February 14, 2024.

Public Comment (6:04:00)

Martin Klein, 1060 N. Ocean Blvd., thought the applicant should be heard by the Planning and Zoning Commission.

Anne Pepper, 333 Seaspray Avenue, agreed with Council Member Araskog and thought the request should be deferred until the proper documentation is provided.

Sean Suder, Zoning Consultant (6:06:46), agreed with the applicant's request. He was concerned with the change in the context of the old, existing code. He recommended creating a new paradigm for special purpose/cultural uses.

The motion was carried 3-2, with Council Member Crampton and Council President Zeidman dissenting.

- c. Zoning Text Amendment for Covered Arcades and Colonnades - Ordinance No. 008-2023

Clerk's Note: This item was withdrawn by the applicant at the LPA meeting and was not discussed.

C. Time Extensions and Waivers (7:48:02)

- 1. Waiver of Town Code Section 18-237, For Building Permit Extension for 720 S Ocean Blvd.

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request.

The project manager for Wildes Builders explained the time extension request.

A motion was made by Council Member Cooney and seconded by Council Member Araskog to approve the extension as requested. The motion was carried unanimously, 5-0.

X. ANY OTHER MATTERS (7:54:49)

At this time, the Town Council acted on the re-opened motion of Resolution 003-2024.

A motion was made by Council Member Cooney and seconded by Council Member Crampton to approve Resolution 003-2024, with the conditions stated at the January 9, 2024, meeting, which were as follows: the applicant and staff shall work out the changes to the south pedestrian access into the site and the north landscape buffer with regards to sound attenuation, final material selection for slides in the playground, and other substantial changes, will return to the Town Council for approval. The motion was carried 4-1, with Council Member Araskog dissenting.

XI. ADJOURNMENT (7:58:23)

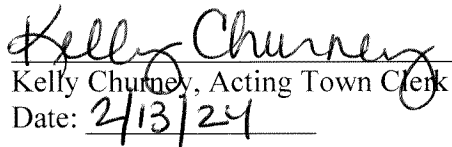
A motion was made by Council Member Cooney and seconded by Council Member Crampton to adjourn the meeting at 6:32 p.m. The motion was carried unanimously, 5-0.

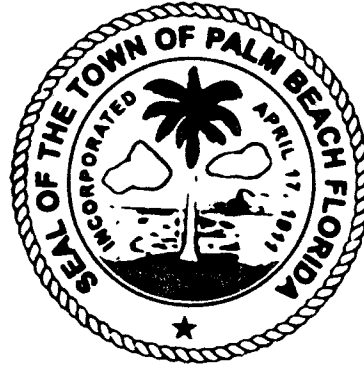
APPROVED:



Margaret A. Zeidman, Town Council President

ATTEST:


Kelly Churney, Acting Town Clerk
Date: 2/13/24



FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>Cooney, Edward</i>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Town Council</i>	
MAILING ADDRESS <i>251 Royal Poinciana Way Apt A</i>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY <i>Palm Beach</i>	COUNTY <i>Palm Beach</i>	☐ CITY ☐ COUNTY ☒ OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED <i>January 10, 2024</i>		NAME OF POLITICAL SUBDIVISION: <i>Town of Palm Beach</i>	
		MY POSITION IS: ☒ ELECTIVE ☐ APPOINTIVE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; and

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Edward Cooney, hereby disclose that on 1/10, 2024:

(a) A measure came or will come before my agency which (check one or more)

- ☐ inured to my special private gain or loss;
- ☒ inured to the special gain or loss of my business associate, GARY POTTER;
- ☐ inured to the special gain or loss of my relative, _____;
- ☐ inured to the special gain or loss of _____, by whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

ZON-23-120, 1356 N. Ocean Blvd.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

01/10/24

Date Filed

Edward A Cooney
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.