

TENTATIVE:
SUBJECT TO
REVISION



TOWN OF PALM BEACH

TOWN MANAGER'S OFFICE

TOWN COUNCIL MEETING DEVELOPMENT REVIEW

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

AGENDA

NOVEMBER 15, 2017

9:30 AM

Town Council Meeting

Welcome!

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

I. CALL TO ORDER AND ROLL CALL

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

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. DEVELOPMENT REVIEWS

A. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. **Z-17-00017 VARIANCE** Zoning District: R-A Estate Residential
The application of OLD KAPOK LLC, Owner, relative to property located at **8 S LAKE TRL**, legal description on file, is described below. The applicant is requesting modifications to a Landmarked residence which will require the following variances: 1. A request for a variance to allow construction of a tennis court that will not be completely enclosed with a fence and that the tennis court with appurtenances will have a 27 foot front yard setback in lieu of the 35 foot minimum required. 2. A variance request to allow a driveway back up space to be 17 feet in lieu of the 25 feet required. 3. A variance request to construct a one story addition to the south side of the existing cabana that will have a front yard setback of 33.8 feet in lieu of the 35 foot minimum required. [Applicant's Representative: Maura Ziska, Esq.] [Landmarks Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject landmark property. Carried 7-0.]
- b. **Z-17-00023 VARIANCE(S)** Zoning District: R-B Low Density Residential
The application of GULBRANDSEN ALLISON K &, Owner, relative to property located at **211-217 EMERALD LN**, legal description on file, is described below. PLEASE NOTE: THIS PROJECT ENCOMPASES BOTH 211 & 217 EMERALD LN. The applicant owns two adjacent properties in the R-B Zoning District and wishes to combine the properties to create a garden with accessory structures. Once combined, the resulting lot would have an area in excess of 20,000 square feet (29,000 square feet) and a width in excess of 200 feet. The following variances are being requested: 1) To allow a new one story tea house on the garden parcel to have a 12.5 foot east side yard setback in lieu of the 30 foot minimum setback required for lots with an area in excess of 20,000 square feet and a width in excess of 200 feet. 2) To allow the existing house to remain with the current west setbacks of 28.2 feet for the garage/guest house and 25.1 feet for the main house that become non-conforming once the lots are combined and the resulting lot area is in excess of 20,000 square feet and the resulting lot width is in excess of 200 feet. [Applicant's Representative: Maura Ziska Esq] [Architectural Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. The Architectural Commission partially approved the project and deferred the remaining item to the November 29, 2017 meeting. Carried 7-0.]

c. **Z-17-00033 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: R B Low Density Residential

The application of AINSLIE MICHAEL L &, Owner, relative to property located at **596 N COUNTY RD**, legal description on file, is described below. 1. Special Exception with Site Plan Review to allow the construction of a 4,959 square foot two story single family residence on a lot that is 72.3 feet in width in lieu of the 100 foot minimum required in the R-B Zoning District. The following variances are being requested in conjunction with this application: 2. A second story south side yard setback of 14 feet in lieu of the 15 foot minimum required. 3. A second story north side yard setback of 14 feet in lieu of the 15 foot minimum required. [Applicant's Representative Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed special exception and variances will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Commission approved the architectural plans as presented but deferred the landscape plans to the November 29, 2017 meeting. Carried 4-3.]

d. **Z-17-00034 SITE PLAN REVIEW** Zoning District: R B Low Density Residential

The application of SHULMAN ALAN L, Owner, relative to property located at **377 N LAKE WAY**, legal description on file, is described below. Site Plan Review to allow the construction of a 7,465 square foot two story, single family residence on a non conforming platted lot which is 89.11 feet in width in lieu of the 100 foot minimum width required in the R B Zoning District. [Applicant's Representative Maura Ziska Esq] [The Architectural Commission deferred the project to the November 29, 2017 meeting. Carried 7-0.] **Request for Deferral to December 14, 2017 Town Council Meeting per Letter Dated September 28, 2017 from Maura Ziska**

e. **Z-17-00036 SPECIAL EXCEPTION** Zoning District: R C Medium Density Residential

The application of 224 ATLANTIC LLC, Owner, relative to property located at **224 ATLANTIC AVE**, legal description on file, is described below. On May 8, 1979, The Town Council granted Special Exception application #10-79. It allowed the developer to create seven (7) supplemental parking spaces in conjunction with the construction of what was then a two unit development. The supplemental parking spaces were agreed to be used on a first come first serve basis by the subject property (224 Atlantic) and the condominium across the street (223 Atlantic) which was also owned by the developer at the time. The Special Exception approval was granted and the attached agreement (Exhibit A) was recorded on October 26, 1979. The Applicant purchased both units in the duplex (224 Atlantic

Avenue) in 2013 and converted the two units into one single family residence. As the structure is now a single family residence, the condominium documents for 224 Atlantic Avenue were terminated. The Applicant is requesting to modify the previous Special Exception #10 79 to remove the condition of the agreement attached as Exhibit 1 and replace that agreement with a substitute agreement that would allow the use of the seven (7) parking spaces to be shared with the property owners of 223 Atlantic Avenue unless and until the 223 building or the Court releases 224 Atlantic from that obligation and, upon release by the Town Council of the restrictions relating to the use of the seven parking spaces, upon application filed by 224 within thirty days of the conclusion of the pending litigation between 223 and 224. [Applicant's Representative Maura Ziska Esq] **Request for Withdrawal Per Letter Dated October 25, 2017 from Maura Ziska**

- f. **Z-17-00037 VARIANCE(S)** Zoning District: R AA Large Estate Residential
The application of LOUWANA TRUST, Owner, relative to property located at **473 N COUNTY RD**, legal description on file, is described below. The Applicant is proposing to renovate a Landmarked residence by adding a 67 square foot basement addition to the laundry room, a 2,438 square foot two story guest suite with balcony, entry steps, a 960 square foot first floor garage with Mechanical Area and Back Entry, a 260 square foot first floor garden shed, a 175 square foot first floor playroom addition, and a 350 square foot second floor bedroom and bathroom addition. The following variances are being requested in conjunction with the proposed renovation: a. North side yard basement setback for the laundry room addition of 24.46 feet in lieu of the 30 foot minimum required; b. North side yard first floor setback ranging from 13.5 feet to 29.58 feet for the playroom, Garage, Guest Suite, Guest Suite entry steps, and garden shed in lieu of the 30 foot minimum required; c. North side yard second floor setback ranging from 13.5 feet to 23.26 feet for the bedroom and bathroom addition, Guest Suite, and Guest Suite Balcony in lieu of the 30 foot minimum required. d. Landscaped open space of 40% In lieu of the 42% existing and 55% minimum required. [Applicant's Representative Maura Ziska Esq] [Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject landmark property. Carried 7-0.]

2. New Business

- a. **Z-17-00040 VARIANCE(S)**
Zoning District: R B Low Density Residential
The application of MILLER MYRON, Owner, relative to property located at **149 E INLET DR**, legal description on file,

is described below. The applicant is proposing to construct a new 9,718 square foot two story house and is requesting the following variances: 1) to allow the house to have a setback of 22.5 feet from the designated ocean bulkhead line established in Chapter 62 in lieu of the 50 foot minimum setback required. 2) To allow the swimming pool to extend 3 feet out of the deck in lieu of the 6 inch maximum allowed to allow for an infinity edge. [Applicant's Representative Maura Ziska Esq]

b. **Z-17-00041 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)**

Zoning District: R D(2) High Density Residential

The application of J V ASSOCIATES PB LLC, Owner, relative to property located at **2800 S OCEAN BLVD SUITE:**

SITE, legal description on file, is described below. The Four Seasons Resort Palm Beach is requesting a special exception modification and a site plan review for the modifications to the hotel site as follows: 1. Add two (2) 15 square foot mechanical chases to the north and south end of the main building. 2. Add two (2) sets of stairs to the Pool Deck Access (total of four staircases) to the north and south building pool side. 3. Modify the pool deck area to include hardscape and landscape changes. 4. Reconfiguration of the shape of the pool bar (number of seats remain the same) and add windows to kitchen and hallway. The following variances are being requested in association with the above improvements: 1. A variance is being requested for the mechanical chases to be at an overall height of 47.25 feet in lieu of the 40 foot maximum overall building height allowed. 2. A variance is being requested for the mechanical chases to be at a height of 44 feet in lieu of the 35 foot maximum building height allowed. 3. A variance to allow 2 air conditioning units on the roof that will be 7.17 feet above the roof in lieu of the 4 foot maximum allowed. [Applicant's Representative Maura Ziska Esq]

[Architectural Commission Recommendation: Implementation of the special exception, site plan and variances will not cause negative architectural impact to the subject property. Carried 6-1. The Architectural Commission approved the project as presented. Carried 6-1.]

3. **Other**

- a. Consideration of Extension of Off-Site Supplemental Shared Parking Provisions in the Code of Ordinances as Adopted in Ordinance No. 25-2015

VIII. ANY OTHER MATTERS

IX. ADJOURNMENT

PLEASE TAKE NOTE:

- Note 1:** No written materials received after 3:30 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 3:30 p.m. on Thursday will be separately distributed to the Mayor and Town Council; however, depending upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.
- Note 2:** The progress of this meeting may be monitored by visiting the Town's website (townofpalmbeach.com) and clicking on "Meeting Audio" in the left column. If you have questions regarding that feature, please contact the Office of Information Systems (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting.
- Note 3:** If a person decides to appeal any decision made by this Council with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings. For such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.
- Note 4:** Disabled persons who need an accommodation in order to participate in the Town Council Meeting are requested to contact the Town Manager's Office at 838-5410 or through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least two (2) working days before this meeting.
- Note 5:** Items listed on the Consent Agenda will be approved by one motion of the Town Council, unless the Mayor or an individual Council Member requests that any item(s) be moved to the Regular Agenda and individually considered.
- Note 6:** All back-up material for the items listed on the agenda are posted to the Town's website and emailed to all Stay Informed subscribers on the Friday before the Town Council meeting. To access the back-up materials and/or subscribe to the Stay Informed list, please visit the Town's website (townofpalmbeach.com).

PROCEDURES FOR PUBLIC PARTICIPATION

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

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

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

OTHER AGENDA Any citizen is entitled to be heard on any official agenda item

ITEMS: when the Town Council calls for public comments, subject to the three minute limitation.

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

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 15, 2017

Section of Agenda

Development Review - Old Business

Agenda Title

Z-17-00017 VARIANCE Zoning District: R-A Estate Residential The application of OLD KAPOK LLC, Owner, relative to property located at **8 S LAKE TRL**, legal description on file, is described below. The applicant is requesting modifications to a Landmarked residence which will require the following variances: 1. A request for a variance to allow construction of a tennis court that will not be completely enclosed with a fence and that the tennis court with appurtenances will have a 27 foot front yard setback in lieu of the 35 foot minimum required. 2. A variance request to allow a driveway back up space to be 17 feet in lieu of the 25 feet required. 3. A variance request to construct a one story addition to the south side of the existing cabana that will have a front yard setback of 33.8 feet in lieu of the 35 foot minimum required. [Applicant's Representative: Maura Ziska, Esq.] [Landmarks Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject landmark property. Carried 7-0.]

Presenter

ATTACHMENTS:

- ▣ **Memorandum dated October 31, 2017 from John S. Page, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 11, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Subject: **Z-17-00017 VARIANCE(S)**
8 S LAKE TRL

Date: October 31, 2017

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

The applicant is requesting modifications to a Landmarked residence which will require the following variances: 1. A request for a variance to allow construction of a tennis court that will not be completely enclosed with a fence and that the tennis court with appurtenances will have a 27 foot front yard setback in lieu of the 35 foot minimum required. 2. A variance request to allow a driveway back up space to be 17 feet in lieu of the 25 feet required. 3. A variance request to construct a one story addition to the south side of the existing cabana that will have a front yard setback of 33.8 feet in lieu of the 35 foot minimum required.

ADDRESS: 8 S LAKE TRL

OWNER: OLD KAPOK LLC

OWNER'S REPRESENTATIVE: KOCHMAN & ZISKA PLC

PROPERTY CONTROL NO.: 50-43-43-22-03-000-0031

ZONING DISTRICT: R-A Estate Residential

LEGAL DESCRIPTION: PRIMAVERA ESTS (LAKE FRONT) LT C (LESS E
327.60 FT)

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Page Two

Attachment

cc: John C. Randolph, Town Attorney
Paul W. Castro, Zoning Administrator
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT
Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 6/29/17

APPLICATION NO.: Z-17-00017 **APPLICATION TYPE:** VARIANCE(S)

ADDRESS: 8 S LAKE TRL

DESCRIPTION:

The applicant is requesting modifications to a Landmarked residence which will require the following variances: 1. A request for a variance to allow construction of a tennis court that will not be completely enclosed with a fence and that the tennis court with appurtenances will have a 27 foot front yard setback in lieu of the 35 foot minimum required. 2. A variance request to allow a driveway back up space to be 17 feet in lieu of the 25 feet required. 3. A variance request to construct a one story addition to the south side of the existing cabana that will have a front yard setback of 33.8 feet in lieu of the 35 foot minimum required.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	William Bucklew, Building Official	7/14/2017	No Comment.
PUBLIC WORKS DEPARTMENT		7/14/2017	Not reviewed.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	7/14/2017	No Comment.
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	7/14/2017	This project requires LPC review and approval as a combination project.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	7/14/2017	No Comment.
PZB DIRECTOR	John Page, Director, Planning, Zoning & Building	7/14/2017	Applicant must justify hardship for each variance.
TOWN MANAGER	Jay Boodheshwar, Deputy Town Manager	7/14/2017	No Comment.
PZB - ZONING	Paul Castro, Zoning Administrator	7/14/2017	No hardship on the variance for the tennis court enclosure or guesthouse. Demonstrate hardship on pool cabana setback variance.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 15, 2017

Section of Agenda

Development Review - Old Business

Agenda Title

Z-17-00023 VARIANCE(S) Zoning District: R-B Low Density Residential The application of GULBRANDSEN ALLISON K &, Owner, relative to property located at **211-217 EMERALD LN**, legal description on file, is described below. PLEASE NOTE: THIS PROJECT ENCOMPASES BOTH 211 & 217 EMERALD LN. The applicant owns two adjacent properties in the R-B Zoning District and wishes to combine the properties to create a garden with accessory structures. Once combined, the resulting lot would have an area in excess of 20,000 square feet (29,000 square feet) and a width in excess of 200 feet. The following variances are being requested: 1) To allow a new one story tea house on the garden parcel to have a 12.5 foot east side yard setback in lieu of the 30 foot minimum setback required for lots with an area in excess of 20,000 square feet and a width in excess of 200 feet. 2) To allow the existing house to remain with the current west setbacks of 28.2 feet for the garage/guest house and 25.1 feet for the main house that become non-conforming once the lots are combined and the resulting lot area is in excess of 20,000 square feet and the resulting lot width is in excess of 200 feet. [Applicant's Representative: Maura Ziska Esq] [Architectural Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. The Architectural Commission partially approved the project and deferred the remaining item to the November 29, 2017 meeting. Carried 7-0.]

Presenter

ATTACHMENTS:

- ❑ **Memorandum Dated October 31, 2017 from John S. Page, Director of Planning, Zoning and Building**
- ❑ **Comments from the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 11, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Subject: **Z-17-00023 VARIANCE(S)**
217 EMERALD LN

Date: October 31, 2017

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

PLEASE NOTE: THIS PROJECT ENCOMPASES BOTH 211 & 217 EMERALD LN. The applicant owns two adjacent properties in the R-B Zoning District and wishes to combine the properties to create a garden with accessory structures. Once combined, the resulting lot would have an area in excess of 20,000 square feet (29,000 square feet) and a width in excess of 200 feet. The following variances are being requested: 1) To allow a new one story tea house on the garden parcel to have a 12.5 foot east side yard setback in lieu of the 30 foot minimum setback required for lots with an area in excess of 20,000 square feet and a width in excess of 200 feet. 2) To allow the existing house to remain with the current west setbacks of 28.2 feet for the garage/guest house and 25.1 feet for the main house that become non-conforming once the lots are combined and the resulting lot area is in excess of 20,000 square feet and the resulting lot width is in excess of 200 feet.

ADDRESS: 217 EMERALD LN

OWNER: GULBRANDSEN ALLISON K &

OWNER'S REPRESENTATIVE: KOCHMAN & ZISKA PLC

PROPERTY CONTROL NO.: 50-43-43-14-06-000-0470

ZONING DISTRICT: R-B Low Density Residential

LEGAL DESCRIPTION: REVISED PL OF STOTESBURY PARK LT 47

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Page Two

Attachment

cc: John C. Randolph, Town Attorney
Paul W. Castro, Zoning Administrator
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT
Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 7/25/17

APPLICATION NO.: Z-17-00023 **APPLICATION TYPE:** VARIANCE(S)

ADDRESS: 217 EMERALD LN

DESCRIPTION:

PLEASE NOTE: THIS PROJECT ENCOMPASES BOTH 211 & 217 EMERALD LN. The applicant owns two adjacent properties in the R-B Zoning District and wishes to combine the properties to create a garden with accessory structures. Once combined, the resulting lot would have an area in excess of 20,000 square feet (29,000 square feet) and a width in excess of 200 feet. The following variances are being requested: 1) To allow a new one story tea house on the garden parcel to have a 12.5 foot east side yard setback in lieu of the 30 foot minimum setback required for lots with an area in excess of 20,000 square feet and a width in excess of 200 feet. 2) To allow the existing house to remain with the current west setbacks of 28.2 feet for the garage/guest house and 25.1 feet for the main house that become non-conforming once the lots are combined and the resulting lot area is in excess of 20,000 square feet and the resulting lot width is in excess of 200 feet.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	William Bucklew, Building Official	7/26/2017	No Comments.
PUBLIC WORKS DEPARTMENT	Chuck Langley, Civil Engineer	7/24/2017	Applicant will need to comply with Sec. 86-95 of Town Code related to stormwater and secure a PW ROW permit for the new driveway connection. Non-standard driveway materials will also require a Driveway Agreement to be executed by the property owner. Driveways that abut roads without curbs shall, prior to installation of driveway, install a header curb or drop vertical curb across the front of the entire driveway.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	8/22/2017	No Fire code concerns
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	8/1/2017	This project requires ARCOM review and approval as a major combination project.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	7/24/2017	No Comment
PZB DIRECTOR	John Page, Director, Planning, Zoning & Building	7/31/2017	Residential density decreases as a result of "second" home demolition, but setbacks increase due to expanded overall lot area. The footprint of the remaining home remains unchanged, but the new tea house requires a 12.5 east side yard setback in lieu of 30 feet required. Council should consider the unique site development variables when considering the variances. The proposed "driveway/parking" space at east side of lot appears "disjointed."
TOWN MANAGER	Jay Boodheshwar, Deputy Town Manager	8/2/2017	No Comment



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 7/25/17

PZB - ZONING

Paul Castro, Zoning
Administrator

7/28/2017

There appears to be no hardship for the proposed side yard setback variance for the proposed "tea house". In addition, the improvements on the additional lot will require the dedication of a 10 foot wide utility easement across the front of the proposed lot combination for the Town underground utility project. In addition, a unity of title agreement is required where the property owner acknowledges and agrees to be responsible for the assessment for each of the individual lots joined together by said agreement. Proposed front yard supplemental parking on the east side of the subject property is required to be screened from the street with either a wall or landscaping material as required by Code.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 15, 2017

Section of Agenda

Development Review - Old Business

Agenda Title

Z-17-00033 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S) Zoning District: R B Low Density Residential

The application of AINSLIE MICHAEL L &, Owner, relative to property located at **596 N COUNTY RD**, legal description on file, is described below. 1. Special Exception with Site Plan Review to allow the construction of a 4,959 square foot two story single family residence on a lot that is 72.3 feet In width in lieu of the 100 foot minimum required in the R·B Zoning District. The following variances are being requested in conjunction with this application: 2. A second story south side yard setback of 14 feet in lieu of the 15 foot minimum required. 3. A second story north side yard setback of 14 feet in lieu of the 15 foot minimum required. [Applicant's Representative Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed special exception and variances will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Commission approved the architectural plans as presented but deferred the landscape plans to the November 29, 2017 meeting. Carried 4-3.]

Presenter

ATTACHMENTS:

- ▣ **Memorandum dated October 31, 2017 from John S. Page, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 11, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Subject: **Z-17-00033 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)
596 N COUNTY RD**

Date: October 31, 2017

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

1. Special Exception with Site Plan Review to allow the construction of a 4,959 square foot two story single family residence on a lot that is 72.3 feet in width in lieu of the 100 foot minimum required in the R-B Zoning District. The following variances are being requested in conjunction with this application: 2. A second story south side yard setback of 14 feet in lieu of the 15 foot minimum required. 3. A second story north side yard setback of 14 feet in lieu of the 15 foot minimum required.

ADDRESS: 596 N COUNTY RD

OWNER: AINSLIE MICHAEL L &

OWNER'S REPRESENTATIVE: KOCHMAN & ZISKA PLC

PROPERTY CONTROL NO.: 50-43-43-11-00-002-0060

ZONING DISTRICT: R-B Low Density Residential

LEGAL DESCRIPTION: 11-43-43, N 72.27 FT OF S 556.32 FT OF GOV LT
2 W OF CO RD

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Page Two

Attachment

cc: John C. Randolph, Town Attorney
Paul W. Castro, Zoning Administrator
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 8/22/17

APPLICATION NO.: Z-17-00033 **APPLICATION TYPE:** SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)

ADDRESS: 596 N COUNTY RD

DESCRIPTION:

1. Special Exception with Site Plan Review to allow the construction of a 4,959 square foot two story single family residence on a lot that is 72.3 feet in width in lieu of the 100 foot minimum required in the R-B Zoning District. The following variances are being requested in conjunction with this application: 2. second story south side yard setback of 14 feet in lieu of the 15 foot minimum required. 3. A second story north side yard setback of 14 feet in lieu of the 15 foot minimum required.

A

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	William Bucklew, Building Official	8/28/2017	No Comments.
PUBLIC WORKS DEPARTMENT	Chuck Langley, Civil Engineer	9/15/2017	Construct 6" Min. drainage walls/ berms to contain on-site stormwater. Comply with driveway sight triangles. No structures allowed in utility easements without executed/recorded removal agreement.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	8/22/2017	This proposal does not conflict with any fire codes
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	8/29/2017	This project requires ARCOM review and approval as a major combination project.
POLICE DEPARTMENT			No Comment
PZB DIRECTOR	John Page, Director, Planning, Zoning & Building	8/22/2017	New structure will be built on a non-conforming lot. Applicant must justify the necessity for variances.
TOWN MANAGER	Jay Boodheshwar, Deputy Town Manager	8/22/2017	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	9/14/2017	The lot is only 72.3 feet wide in lieu of the 100 foot minimum required. As such, there appears to be a hardship to meet the 15 side yard setbacks for the second story on the proposed house. That would only leave 42.3 feet of house width. The applicant should be required to demonstrate to the satisfaction of the Town Council what the hardship is to approve the subject application variances. I have no comment on the special exception with site plan review portion of the application as all other aspects of the proposed house meets Code.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 15, 2017

Section of Agenda

Development Review - Old Business

Agenda Title

Z-17-00034 SITE PLAN REVIEW Zoning District: R B Low Density
Residential

The application of SHULMAN ALAN L, Owner, relative to property located at **377 N LAKE WAY**, legal description on file, is described below. Site Plan Review to allow the construction of a 7,465 square foot two story, single family residence on a non conforming platted lot which is 89.11 feet in width in lieu of the 100 foot minimum width required in the R B Zoning District. [Applicant's Representative Maura Ziska Esq] [The Architectural Commission deferred the project to the November 29, 2017 meeting. Carried 7-0.] **Request for Deferral to December 14, 2017 Town Council Meeting per Letter Dated September 28, 2017 from Maura Ziska**

Presenter

ATTACHMENTS:

- ▣ **Letter Dated September 28, 2017 From Maura 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 Lakeview Avenue, Suite 1500
West Palm Beach, Florida 33401

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

VIA E-MAIL

September 28, 2017

Paul Castro
Kelly Churney
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

RE: Z-17-00034 377 N Lake Way

Dear Paul and Kelly:

Please defer the above referenced matters from the November 15, 2017 Town Council agenda to the December 13, 2017 Town Council agenda. The reason for the deferral is due to ARCOM deferring the project at the October 25, 2017 meeting. Please call me if you have any questions or comments with the foregoing. Thank you.

Sincerely,



Maura A. Ziska

MAZ/jch
cc: Architect
00036797.DOC

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 15, 2017

Section of Agenda

Development Review - Old Business

Agenda Title

Z-17-00036 SPECIAL EXCEPTION Zoning District: R C Medium Density Residential

The application of 224 ATLANTIC LLC, Owner, relative to property located at **224 ATLANTIC AVE**, legal description on file, is described below. On May 8, 1979, The Town Council granted Special Exception application #10-79. It allowed the developer to create seven (7) supplemental parking spaces in conjunction with the construction of what was then a two unit development. The supplemental parking spaces were agreed to be used on a first come first serve basis by the subject property (224 Atlantic) and the condominium across the street (223 Atlantic) which was also owned by the developer at the time. The Special Exception approval was granted and the attached agreement (Exhibit A) was recorded on October 26, 1979. The Applicant purchased both units in the duplex (224 Atlantic Avenue) in 2013 and converted the two units into one single family residence. As the structure is now a single family residence, the condominium documents for 224 Atlantic Avenue were terminated. The Applicant is requesting to modify the previous Special Exception #10 79 to remove the condition of the agreement attached as Exhibit 1 and replace that agreement with a substitute agreement that would allow the use of the seven (7) parking spaces to be shared with the property owners of 223 Atlantic Avenue unless and until the 223 building or the Court releases 224 Atlantic from that obligation and, upon release by the Town Council of the restrictions relating to the use of the seven parking spaces, upon application filed by 224 within thirty days of the conclusion of the pending litigation between 223 and 224. [Applicant's Representative Maura Ziska Esq]

Request for Withdrawal Per Letter Dated October 25, 2017 from Maura Ziska

Presenter

ATTACHMENTS:

▣ **Letter Dated October 25, 2017 From Maura 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 Lakeview Avenue, Suite 1500
West Palm Beach, Florida 33401

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

VIA FACSIMILE: 561-838-5411

October 25, 2017

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

RE: Z-17-00036; 224 Atlantic Avenue

Dear Mayor and Town Council:

Please withdraw the above referenced matter from the TOWN COUNCIL agenda.
Please call me if you have any questions or comments with the foregoing. Thank you.

Sincerely,



Maura A. Ziska

/maz

cc: architect
00036796

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 15, 2017

Section of Agenda

Development Review - Old Business

Agenda Title

Z-17-00037 VARIANCE(S) Zoning District: R AA Large Estate Residential

The application of LOUWANA TRUST, Owner, relative to property located at **473 N COUNTY RD**, legal description on file, is described below. The Applicant is proposing to renovate a Landmarked residence by adding a 67 square foot basement addition to the laundry room, a 2,438 square foot two story guest suite with balcony, entry steps, a 960 square foot first floor garage with Mechanical Area and Back Entry, a 260 square foot first floor garden shed, a 175 square foot first floor playroom addition, and a 350 square foot second floor bedroom and bathroom addition. The following variances are being requested in conjunction with the proposed renovation: a. North side yard basement setback for the laundry room addition of 24.46 feet in lieu of the 30 foot minimum required; b. North side yard first floor setback ranging from 13.5 feet to 29.58 feet for the playroom, Garage, Guest Suite, Guest Suite entry steps, and garden shed in lieu of the 30 foot minimum required; c. North side yard second floor setback ranging from 13.5 feet to 23.26 feet for the bedroom and bathroom addition, Guest Suite, and Guest Suite Balcony in lieu of the 30 foot minimum required. d. Landscaped open space of 40% In lieu of the 42% existing and 55% minimum required. [Applicant's Representative Maura Ziska Esq] [Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject landmark property. Carried 7-0.]

Presenter

ATTACHMENTS:

- ▣ **Memorandum dated October 31, 2017 from John S. Page, Director of Planning, Zoning and Building**
- ▣ **Comments from the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 11, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Subject: **Z-17-00037 VARIANCE(S)**
473 N COUNTY RD

Date: October 31, 2017

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

The Applicant is proposing to renovate a Landmarked residence by adding a 67 square foot basement addition to the laundry room, a 2,438 square foot two story guest suite with balcony, entry steps, a 960 square foot first floor garage with Mechanical Area and Back Entry, a 260 square foot first floor garden shed, a 175 square foot first floor playroom addition, and a 350 square foot second floor bedroom and bathroom addition. The following variances are being requested in conjunction with the proposed renovation: a. North side yard basement setback for the laundry room addition of 24.46 feet in lieu of the 30 foot minimum required; b. North side yard first floor setback ranging from 13.5 feet to 29.58 feet for the playroom, Garage, Guest Suite, Guest Suite entry steps, and garden shed in lieu of the 30 foot minimum required; c. North side yard second floor setback ranging from 13.5 feet to 23.26 feet for the bedroom and bathroom addition, Guest Suite, and Guest Suite Balcony in lieu of the 30 foot minimum required. d. Landscaped open space of 40% In lieu of the 42% existing and 55% minimum required.

ADDRESS: 473 N COUNTY RD

OWNER: LOUWANA TRUST

OWNER'S REPRESENTATIVE: KOCHMAN & ZISKA PLC

PROPERTY CONTROL NO.: 50-43-43-14-00-001-0060

ZONING DISTRICT: R-AA Large Estate Residential

LEGAL DESCRIPTION: 14-43-43, TH PT OF S 185.27 FTOF N 1151.17 FT
OF GOV LT 1 LYG ELY OF CO RD /LESS W 272
FT/ IN OR638P744

Page Two

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Attachment

cc: John C. Randolph, Town Attorney
Paul W. Castro, Zoning Administrator
pf & zf



PLANNING, ZONING AND BUILDING DEPARTMENT

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 8/22/17

APPLICATION NO.: Z-17-00037 **APPLICATION TYPE:** VARIANCE(S)

ADDRESS: 473 N COUNTY RD

DESCRIPTION:

The Applicant is proposing to renovate a Landmarked residence by adding a 67 square foot basement addition to the laundry room, a 2,438 square foot two story guest suite with balcony, entry steps, a 960 square foot first floor garage with Mechanical Area and Back Entry, a 260 square foot first floor garden shed, a 175 square foot first floor playroom addition, and a 350 square foot second floor bedroom and bathroom addition. The following variances are being requested in conjunction with the proposed renovation: a. North side yard basement setback for the laundry room addition of 24.46 feet in lieu of the 30 foot minimum required; b. North side yard first floor setback ranging from 13.5 feet to 29.58 feet for the playroom, Garage, Guest Suite, Guest Suite entry steps, and garden shed in lieu of the 30 foot minimum required; c. North side yard second floor setback ranging from 13.5 feet to 23.26 feet for the bedroom and bathroom addition, Guest Suite, and Guest Suite Balcony in lieu of the 30 foot minimum required. d. Landscaped open space of 40% In lieu of the 42% existing and 55% minimum required.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	William Bucklew, Building Official	8/28/2017	Depending on construction value and market value for the existing structure, this work may constitute a substantial improvement under FEMA guidelines. If this is the case, a FEMA variance will be required from the Town Council unless the existing structure meets the required FEMA Base Flood Elevation (BFE).
PUBLIC WORKS DEPARTMENT	Chuck Langley, Civil Engineer	9/15/2017	At plan review stage, provide documentation of re-developed impervious and landscaped areas for staff to determine extent of stormwater collection/storage requirements.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	10/27/2017	The project has no conflicts with the adopted fire codes
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	8/29/2017	This project requires Landmarks Preservation Commission review and approval as a combination project. This site is also a known or potential archaeological site, therefore the applicant must comply with the Town's archaeological ordinance.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	8/23/2017	No Comment
PZB DIRECTOR	John Page, Director, Planning, Zoning & Building	8/22/2017	Applicant must justify the necessity for variances approval.
TOWN MANAGER	Jay Boodheshwar, Deputy Town Manager	8/22/2017	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	9/14/2017	It is unclear what the hardship is for the variances. The Applicant must demonstrate to the Town Council that the hardship criteria in Section 134-201 of the Code of Ordinances are met in order to approve the subject variances.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 15, 2017

Section of Agenda

Development Review - New Business

Agenda Title

Z-17-00040 VARIANCE(S)

Zoning District: R B Low Density Residential

The application of MILLER MYRON, Owner, relative to property located at **149 E INLET DR**, legal description on file, is described below. The applicant is proposing to construct a new 9,718 square foot two story house and is requesting the following variances: 1) to allow the house to have a setback of 22.5 feet from the designated ocean bulkhead line established in Chapter 62 in lieu of the 50 foot minimum setback required. 2) To allow the swimming pool to extend 3 feet out of the deck in lieu of the 6 inch maximum allowed to allow for an infinity edge. [Applicant's Representative Maura Ziska Esq]

Presenter

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 15, 2017

Section of Agenda

Development Review - New Business

Agenda Title

Z-17-00041 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)

Zoning District: R D(2) High Density Residential

The application of J V ASSOCIATES PB LLC, Owner, relative to property located at **2800 S OCEAN BLVD SUITE: SITE**, legal description on file, is described below. The Four Seasons Resort Palm Beach is requesting a special exception modification and a site plan review for the modifications to the hotel site as follows: 1. Add two (2) 15 square foot mechanical chases to the north and south end of the main building. 2. Add two (2) sets of stairs to the Pool Deck Access (total of four staircases) to the north and south building pool side. 3. Modify the pool deck area to include hardscape and landscape changes. 4. Reconfiguration of the shape of the pool bar (number of seats remain the same) and add windows to kitchen and hallway. The following variances are being requested in association with the above improvements: 1. A variance is being requested for the mechanical chases to be at an overall height of 47.25 feet in lieu of the 40 foot maximum overall building height allowed. 2. A variance is being requested for the mechanical chases to be at a height of 44 feet in lieu of the 35 foot maximum building height allowed. 3. A variance to allow 2 air conditioning units on the roof that will be 7.17 feet above the roof in lieu of the 4 foot maximum allowed. [Applicant's Representative Maura Ziska Esq] [Architectural Commission Recommendation: Implementation of the special exception, site plan and variances will not cause negative architectural impact to the subject property. Carried 6-1. The Architectural Commission approved the project as presented. Carried 6-1.]

Presenter

ATTACHMENTS:

- **Memorandum Dated October 31, 2017 from John S. Page, Director of**

Planning, Zoning and Building
▣ **Comments from the Development Review Committee**

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 15, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Subject: **Z-17-00041 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIATION
2800 S OCEAN BLVD SUITE: SITE**

Date: October 31, 2017

STAFF RECOMMENDATION

Staff recommends that the Town Council require the applicant to meet all conditions and comments as provided for in the Development Review Comments (DRC) Report attached.

BACKGROUND

An application has been received for the following project:

REQUEST:

The Four Seasons Resort Palm Beach is requesting a special exception modification and a site plan review for the modifications to the hotel site as follows: 1. Add two (2) 15 square foot mechanical chases to the north and south end of the main building. 2. Add two (2) sets of stairs to the Pool Deck Access (total of four staircases) to the north and south building pool side. 3. Modify the pool deck area to include hardscape and landscape changes. 4. Reconfiguration of the shape of the pool bar (number of seats remain the same) and add windows to kitchen and hallway. The following variances are being requested in association with the above improvements: 1. A variance is being requested for the mechanical chases to be at an overall height of 47.25 feet in lieu of the 40 foot maximum overall building height allowed. 2. A variance is being requested for the mechanical chases to be at a height of 44 feet in lieu of the 35 foot maximum building height allowed. 3. A variance to allow 2 air conditioning units on the roof that will be 7.17 feet above the roof in lieu of the 4 foot maximum allowed.

ADDRESS: 2800 S OCEAN BLVD SUITE: SITE

OWNER: J V ASSOCIATES PB LLC

OWNER'S REPRESENTATIVE: KOCHMAN & ZISKA PLC

PROPERTY CONTROL NO.: 50-43-44-23-00-002-0120

ZONING DISTRICT: R-D(2) High Density Residential

LEGAL DESCRIPTION: 23-44-43, N 500.06 FT OF S 1312 FT OF GOV LT 2
LYG E OF A-1-A, W OF WLY R/W OCEAN BLVD &
E OF ELY R/W OCEAN BLVD

Page Two

Staff recommends that the Town Council consider the presentations by the applicant and Staff, as well as the report of the Development Review Committee (attached) and comments from interested parties regarding the application.

Attachment

cc: John C. Randolph, Town Attorney
Paul W. Castro, Zoning Administrator
pf & zf

**PLANNING, ZONING AND BUILDING DEPARTMENT**

Town of Palm Beach
360 S County Rd
Palm Beach, FL 33480

DEVELOPMENT REVIEW COMMITTEE REPORT

DRC MEETING: 9/26/17

APPLICATION NO.: Z-17-00041 **APPLICATION TYPE:** SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)

ADDRESS: 2800 S OCEAN BLVD SUITE: SITE

DESCRIPTION:

The Four Seasons Resort Palm Beach is requesting a special exception modification and a site plan review for the modifications to the hotel site as follows: 1. Add two (2) 15 square foot mechanical chases to the north and south end of the main building. 2. Add two (2) sets of stairs to the Pool Deck Access (total of four staircases) to the north and south building pool side. 3. Modify the pool deck area to include hardscape and landscape changes. 4. Reconfiguration of the shape of the pool bar (number of seats remain the same) and add windows to kitchen and hallway. The following variances are being requested in association with the above improvements: 1. A variance is being requested for the mechanical chases to be at an overall height of 47.25 feet in lieu of the 40 foot maximum overall building height allowed. 2. A variance is being requested for the mechanical chases to be at a height of 44 feet in lieu of the 35 foot maximum building height allowed. 3. A variance to allow 2 air conditioning units on the roof that will be 7.17 feet above the roof in lieu of the 4 foot maximum allowed.

<u>DEPARTMENT</u>	<u>NAME/TITLE</u>	<u>DATE</u>	<u>COMMENT</u>
BUILDING OFFICIAL	William Bucklew, Building Official	11/1/2017	No Comments.
PUBLIC WORKS DEPARTMENT	Chuck Langley, Civil Engineer	9/25/2017	No comments.
FIRE RESCUE DEPARTMENT	Martin DeLoach, Fire Marshal	10/3/2017	No code concerns with the proposal
PZB - PLANNING AND ARCHITECTURAL REVIEW	John Lindgren, Planning Administrator-Project Manager	11/6/2017	This application will require Architectural Commission review and approval as a combination project.
POLICE DEPARTMENT	Benjamin Alma, Code Enforcement and Parking Manager	9/21/2017	No Comment
PZB DIRECTOR	John Page, Director, Planning, Zoning & Building	9/26/2017	Applicant must justify necessity for the variances.
TOWN MANAGER	Jay Boodheshwar, Deputy Town Manager	9/21/2017	No Comment
PZB - ZONING	Paul Castro, Zoning Administrator	11/2/2017	The proposed changes appear to be minor, however, the applicant needs to demonstrate to the satisfaction of the Town Council that there is a hardship to grant the proposed variance.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: November 15, 2017

Section of Agenda

Development Review - Other

Agenda Title

Consideration of Extension of Off-Site Supplemental Shared Parking Provisions in the Code of Ordinances as Adopted in Ordinance No. 25-2015

Presenter

ATTACHMENTS:

- ▣ **Memorandum Dated November 1, 2017 From John S. Page, Director of Planning, Zoning & Building**
- ▣ **Exhibit A**
- ▣ **Exhibit B**

TOWN OF PALM BEACH

Information for Town Council Meetings on: November 15, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

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

Re: Consideration of Extension of Off-Site Supplemental Shared Parking Provisions in the Code of Ordinances as Adopted in Ordinance No. 25-2015

Date: November 1, 2017

STAFF RECOMMENDATION

Staff recommends that the Town Council allow off-site supplemental parking provisions, temporarily adopted via Ordinance No. 25-2015, to sunset and expire on December 13, 2017.

GENERAL INFORMATION

The Town Council approved Ordinance No. 25-2015 (See Exhibit A) in November 2015 to encourage the use of supplemental, off-site shared parking regulations in Commercial Zoning Districts. All revisions were designed to sunset (expire) on December 13, 2017 unless extended by the Town Council. The intent was to ease zoning requirements by allowing businesses to find off-site locations for supplemental parking. As adopted, “shared” parking proposals would be administratively reviewed and approved by Staff. The new parking regulations were not intended to allow supplemental off-site shared parking which would be used to expand, enlarge or intensify an existing use or proposed use, or the development or redevelopment of a property or structure. At the time of adoption, the Council enacted a two-year trial period in order to see how such changes might encourage shared parking.

These regulations have not encouraged businesses to seek off-site parking solutions to solve parking shortages. Since the subject Ordinance’s adoption in November 2015, there have been no applications for administrative off-site supplemental shared parking. Staff did advise one prospective business (Proposed Carriage House Club) wanting off-site supplemental shared parking that Staff could not approve such an application. Said parking would have been used to justify approval of a Special Exception application for a new private club which intends to expand and intensify the use of property comprised of two separate buildings. The proposed valet route would have also increased noised, light and traffic impacts upon the neighboring residential districts. The property owner subsequently filed a pending Special Exception for off-site supplemental shared parking, which is incorporated into an existing Special Exception application

for a private club.

Staff has provided the changes that occurred in 2015 in underline/strike-through format in Exhibit B for your consideration. The underlined language is the new supplemental off-site parking provisions that will expire (sunset) on December 13th unless an extension is approved. Previous Code provisions that would be re-instituted if an extension is not approved) are in strike-through language.

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

cc: Planning and Zoning Commission
Jay Boodheshwar, Deputy Town Manager
John C. Randolph, Town Attorney
Paul W. Castro, AICP, Zoning Administrator
Bill Bucklew, Building Official
zf

EXHIBIT "A"

ORDINANCE NO. 25-2015

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 134, ZONING; ARTICLE I, IN GENERAL, SECTION 134-2 TO MODIFY THE DEFINITION OF SUPPLEMENTAL PARKING; SECTION 134-38 BY CREATING A FEE FOR ADMINISTRATIVE APPROVAL OF A PARKING EXCEPTION AND SUPPLEMENTAL OFF-SITE PARKING; SECTION 134-2175 BY PROVIDING CLARIFICATION AND CROSS REFERENCING OF RELEVANT SECTIONS OF THE CODE; SECTION 134-2176 PROVIDING AN EXCEPTION IN THE C-WA DISTRICT TO ALLOW A PERCENTAGE OF UNUSED OFF-STREET PARKING WITHIN A PARKING GARAGE TO BE SHARED WITH OTHER COMMERCIAL USES IN THAT DISTRICT; SECTION 134-2177 PROVIDING REGULATIONS TO ALLOW ADMINISTRATIVE APPROVAL OF OFF-SITE SUPPLEMENTAL SHARED PARKING; SECTION 134-2178 BY PROVIDING CLARIFICATION OF WHEN COLLECTIVE USE IS PERMITTED; SECTION 134-2182 BY MODIFYING THE EXISTING REGULATIONS FOR OFF-SITE SUPPLEMENTAL SHARED PARKING TO ELIMINATE A SCRIVENERS ERROR REFERENCING THE C-PC ZONING DISTRICT, CROSS REFERENCE APPROPRIATE SECTIONS OF THE CODE, ALLOW AN ADMINISTRATIVE APPROVAL FOR SUPPLEMENTAL OFF-SITE PARKING AND AN APPEAL PROCESS FOR THE REVOCATION OF SAID APPROVAL; SECTION 134-2183 CREATING A SUNSET PROVISION FOR THE MODIFICATION OF THE DEFINITION FOR SUPPLEMENTAL PARKING AND ADMINISTRATIVE APPROVAL OF OFF-SITE SUPPLEMENTAL PARKING; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

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

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

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

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

Section 1. Amend Article I, IN GENERAL, Section 134-2, Definitions and rules of construction, to read as follows:

Sec. 134-2. Definitions and rules of construction.

...
Parking, supplemental means those parking facilities provided as an administrative approval or special exception use and which are in addition to existing on-site required parking or property that has deficient parking as set forth in the schedule of off-street parking requirements. Supplemental parking cannot be used in the calculation of required off-street parking to develop or redevelop property, or to expand or intensify an existing or proposed use. This definition shall sunset on December 13, 2017, and revert back to the previous definition of supplemental parking if the Town Council does not extend this provision.

Section 2. Amend Article II, ADMINISTRATION, Section 134-38, Filing fees for rezoning, special exception use, variance, appeal or other zoning matters requiring public hearing, to read as follows:

Sec. 134-38. Filing fees for rezoning, special exception use, variance or other matters requiring public hearing or a zoning permit or fee.

...
(17) Administrative supplemental shared parking and
exception application and annual renewal fee.....500.00

Section 3. Amend Article IX, OFF-STREET PARKING AND LOADING, Section 134-2175, Number of parking spaces required--Generally, to read as follows:

Sec. 134-2175. - Number of parking spaces required—Generally.

(a) Under this division, the following shall be provided:

- (1) At the time of the erection of any building or structure, minimum off-street parking facilities shall be required with adequate provisions for ingress and egress, in accordance with sections 134-2172 through 134-2174 and the schedule of off-street parking requirements, as prescribed in section 134-2176.
- (2) At the time any building or structure is enlarged or increased in capacity by adding dwelling units, guestrooms, floor area or seats, minimum off-street parking facilities with adequate provisions for ingress and egress shall be required, in accordance with section 134-2 and Sections 134-2172 through 134-2174 and the schedule of off-street parking requirements, as prescribed in section 134-2176.

- (3) Except as provided in subsection (f), at the time any use or occupancy of an existing building is changed to a new use or occupancy having differing off-street parking requirements, the parking requirement for the new use or occupancy shall be computed on the basis of the schedule of off-street parking requirements in the section 134-2176. This requirement shall be compared to the requirements of the existing use or occupancy, and, if the total number of spaces required under the new use or occupancy exceeds that of the existing use or occupancy, the difference shall constitute that number of additional off-street parking spaces to be provided, with adequate provisions for ingress and egress, in accordance with sections 134-2172 and the schedule of off-street parking requirements as prescribed in section 134-2176.

(b) Except as provided in subsection (f), a use, building or structure, lawfully in existence at the effective date of this division, which shall be made nonconforming on the effective date of the ordinance from which this division derives or any applicable amendment thereto, may be continued even though off-street parking may not be provided in full compliance with this division, but the degree of nonconformity due to a deficiency in providing the required off-street parking spaces may not be increased, either by reducing the number of parking spaces which are provided on the effective date of the ordinance from which this chapter is derived or by changing the use or occupancy of an existing building to a use or occupancy which increases the requirement for off-street parking. For existing buildings or establishments therein which are nonconforming with respect to the current parking requirements, and which involve only those uses requiring one space per 200 or 250 square of gross leasable area, whichever is applicable, and which may be required under this chapter to provide additional parking spaces as a result of a change in use, such establishments shall be required only to provide that number of spaces over and above the number of spaces that would have been required at one space per 200 or 250 square feet of floor area gross leasable area, whichever is applicable.

(c) Continued availability of required number of off-street parking spaces. After providing for the proper number of required off-street parking spaces so as to permit a principal use of property to be established as set forth in the schedule of off-street parking contained in section 134-2176, such required off-street parking shall continue to be available in undiminished number for sole use as an integral part of the continuance of the principal use(s) unless meeting the shared parking as provided for in sections 134-2177, 134-2178 and 134-2182. If for any reason such required off-street parking is not available at all times in connection with the principal use, such principal use shall be discontinued until such time as the proper number of required off-street parking spaces shall again be made available for use in connection with the principal use.

(d) The principle of equivalency for evaluating off-street parking in existing uses is as follows:

- (1) Definition of principle of equivalency as applied to the schedule of off-street parking requirements. The principal of equivalency, as it relates to the schedule of

off-street parking requirements, shall be defined as an automobile parking space required by section 134-2176 for establishing an inventory of automobile parking spaces for a conforming or nonconforming use of an existing building, or structure or use, for the purpose of determining the net off-street parking requirement for the establishment of a proposed new use to be permitted in the building, or structure or use.

- (2) In evaluating off-street parking for existing uses, the principle of equivalency shall be applied when the use or occupancy of an existing building is being changed to a new use or occupancy having a differing off-street parking requirement for the purpose of establishing compliance with this chapter.
- (3) The following floor area equivalencies may be used as a minimum guide in the application of the schedule of off-street parking requirements:
 - a. One permanent seat equals six square feet of floor area in seating areas of occupancies requiring seating.
 - b. One moveable seat equals 15 square feet of floor area in seating areas of occupancies requiring seating.
 - c. The remainder of areas external to actual seating areas shall provide required parking according to the schedule of applicable parking requirements.
 - d. One school student equals 20 square feet of floor area.

(e) For the purpose of this section, a landmarked commercially zoned building is exempt from providing additional required off-street parking if increased occupancy or use is created by interior building improvements which create more gross leasable area. However, all other provisions of subsections (a) through (d) apply.

(f) In the 200 Block of Peruvian Avenue and Bradley Place in the C-TS zoning district, existing buildings or establishments therein which are nonconforming with respect to the current parking requirements, and which involve only those uses requiring one space per 200 or 250 square feet of gross leasable area, whichever is applicable, shall not be required to provide additional parking spaces as a result of a change from a use which alters the parking ratio from one space per 250 square feet to a use which requires one space for every 200 square feet of gross leasable area.

Section 4. Amend Article IX, OFF-STREET PARKING AND LOADING, Section 134-2176, Same-Schedule,, to read as follows:

The schedule of off-street parking required by this division shall be as follows”

<i>Use</i>	<i>Spaces Required Per Unit</i>
(1)....	
(15) Required off-street parking exception for commercial parking garages in the C-WA zoning district	Number of required parking spaces attributed to uses on a commercial property within a parking garage in the C-WA district may be reduced by a maximum of 15% in order to provide off-site supplemental parking for other off-site commercial uses in the same district. The application can only be approved if the property owner provides evidence satisfactory to the Town at the time of application and on an annual renewal basis that said parking exception will not negatively impact the parking of all on-site uses. Those off-site commercial uses in the C-WA district that are allowed to share the parking garage shall not be allowed to use said shared parking as a basis to develop or redevelop property, or expand or intensify the use of property. (See Footnote 1 for requirements in granting an exception),

Footnote 1: An off-street parking exception application may be approved or denied by the Director of Planning, Zoning and Building or designee after 15 days of a legal notice being published in a newspaper of general circulation in Palm Beach or West Palm Beach with a summary of the request for such off-street parking exception. Said notice shall be paid by

the applicant and shall not be part of the application fee. Any approval or denial of an application for an exception to the off-street parking requirements in subsection (15) of this section may be appealed to the Town Council based on Sec. 134-141 through 134-145 of the Code. There shall be no fee associated with this type of an administrative appeal.

Section 5. Amend Article IX, OFF-STREET PARKING AND LOADING, Section 134-2177, Location of parking spaces, to read as follows:

Sec. 134-2177. Location of parking spaces.

Parking spaces for all uses or structures which are provided as required parking in conformance with the schedule of off-street parking and other applicable sections shall be located on the same lot and shall have the same district classification as the principal use or structure they are intended to serve, except as specifically excepted as follows:

- (1) The town council may permit, as a special exception, the establishment of such required off-street parking facilities for commercial uses within 500 feet of the premises, as measured along the nearest public or permanent private pedestrian walkway they are intended to serve when:
 - a. Practical difficulties prevent the placing of the facilities on the same lot as the premises they are designed to serve;
 - b. The proposed location is located within the same zoning district as the principal use it is designated to serve;
 - c. The owner of the parking area shall enter into a written agreement with the town, with enforcement running with the town, providing that the land comprising the parking area shall never be disposed of except in conjunction with the sale of the building which the parking area serves so long as the facilities are required; and
 - d. The owner agrees to bear the expense of recording the agreement and agrees that the agreement shall bind his heirs, successors and assigns. The written agreement shall be voided by the town if other off-street facilities are provided in accordance with this chapter.
- (2) The director of planning, zoning and building or designee may administratively approve or deny the establishment of supplemental off-street facilities which are in addition to the existing off-street parking to those facilities required in accordance with the schedule of off-street parking for a permitted or approved special exception use. Such supplemental off-street parking facilities may be permitted for new development or redevelopment only after the required parking for the principal use involved has been provided in full at current standards as contained in the schedule, or for existing development, if the supplemental parking is in addition to the existing or non-existing required parking and is not

used as a basis to develop or redevelop property, or expand or intensify the use of property. Said supplemental parking may only be approved or denied 15 days after a legal notice has been published in a newspaper of general circulation in Palm Beach or West Palm Beach with a brief summary of the request for administrative off-site supplemental shared parking approval. Said legal notice shall be at the expense of the applicant and not be part of the application fee. Any approval or denial of an application for administrative off-site supplemental shared parking may be appealed to the Town Council based on Sec. 134-141 through 134-145 of the Code. There shall be no fee associated with this type of an administrative appeal.

This additional parking may be supplemental parking located no more than 1,500 feet from the off-site supplemental shared parking lot provided, however, that the town does not receive three or more valid complaints, as determined by the director of planning, zoning and building or designee, from three different property owners or tenants within 300 feet of the parking filed with the town within a 12 month period. If there are three valid written complaints about noise, light or congestion within that time frame, the supplemental, off-site parking shall be terminated. Said termination of the shared parking shall occur no later than 30 days after written notice by the Town. Any termination of administrative off-site supplemental shared parking may be appealed to the Town Council based on Sec. 134-141 through 134-145 of the Code. Subsequent to termination, the commercial tenant or property owner can apply for a special exception to seek approval of the shared parking which may be granted by the town council if it can be demonstrated that the shared parking meets all other provisions for special exceptions as set forth in sections 134-227 through 134-233. Further, that the granting of such supplemental on-site or supplemental off-site parking shall not be allowed to expand, enlarge, alter, renovate, or modify the intensification of use of a structure except in accordance with the requirements of this chapter.

- (3) The town council may permit, as a special exception, the establishment of required off-street parking facilities for commercial uses in zoning districts differing from the district of the principal uses of or structures they are intended to serve if the following conditions are met:
 - a. The owner of the parking area shall enter into a written agreement with the town with enforcement running to the town providing that the land comprising the parking area shall never be disposed of except in conjunction with the sale of the buildings with which the parking area serves so long as the facilities are required.
 - b. The owner of the parking area shall agree to bear the expense of recording the agreement, and agrees that the agreement shall bind the heirs, successors and assigns. The written agreement shall be voided by the town if other off-street facilities are provided in accordance with this chapter.

- c. The parking area shall have been used as a parking area for the entirety of each of the five calendar years immediately preceding the application for special exception.
- d. The parking area shall abut the property on which is situated the principal structure for which it is to furnish the required off-street parking.
- e. The provisions for special exceptions as set forth in sections 134-227 through 134-233 are complied with.
- f. The said parking area shall be located at ground level or below ground level and shall not be located within any structure above ground.

Section 6. Amend Article IX, OFF-STREET PARKING AND LOADING, Section 134-2178, Collective use, to read as follows:

Sec. 134-2178. - Collective use.

As provided for in this division, two or more owners or operators of buildings or uses of the same type of zoning classification requiring off-street parking facilities may make collective provision for such facilities, provided that the total of such parking spaces, when combined or used together, shall not be less than the sum of the requirements computed separately, and provided that the combined facility is compatible with the zoning uses being served.

Section 7. Amend Article IX, OFF-STREET PARKING AND LOADING, Section 134-2182, Shared Parking in the C-TS, C-WA and C-OPI commercial zoning districts, to read as follows:

Sec. 134-2182. Shared parking in C-TS, C-WA and C-OPI commercial zoning districts

(a) Although there is no entitlement to shared parking, arrangements for shared parking may be allowed in the C-TS, C-WA and C-OPI commercial zoning districts, subject to administrative review and approval or review and approval of a special exception as set forth under sections 134-227 through 134-233 of the Code and under the circumstances provided in this section.

(b) *On-site shared parking.* When a new use is proposed to occupy existing floor space and the new use would require a greater number of parking spaces than required by the former use, the new use may request sharing of on-site parking to meet the town's off-street parking requirements subject to the review and approval of a special exception as set forth under sections 134-227 through 134-233 and under the circumstances as follows:

- (1) A traffic planner or traffic engineer clearly establishes to the town council, at the applicant's expense, that:

- a. All uses utilizing the existing parking facilities will primarily utilize these parking spaces at different times of the day, week, month or year;
 - b. The sharing of such parking spaces will not result in conflicting or overlapping usage of the parking facilities; and
 - c. The available parking will be adequate to serve the needs of the proposed use.
- (2) If the director of planning, zoning and building department determines that professional advice and/or consultation is required to review the applicant's parking findings, the expense of such professional advice shall be borne by the applicant.
- (3) The applicant provides to the town, at the applicant's expense, a recorded three-party agreement, including the town as one of the parties, with enforcement running with the town, guaranteeing the continuing availability of the shared parking spaces during the period of operation of the applicant's use. The term of the agreement shall approximate the life of the building or use for which the shared parking spaces fulfill the town's off-street parking requirement. If the shared parking ever ceases to be available or becomes inadequate due to a change in the uses' respective schedules of operation that results in conflicting or overlapping usage, the proposed use shall be required to obtain a new occupancy permit and provide proof that sufficient parking will be provided or shall be required to immediately reduce the intensity of the use served to the extent that it will be conforming to the town's off-street parking requirements.
- (c) *Supplemental off-site shared parking.* A commercial use may make available to another existing commercial use the former's required or supplemental parking spaces for use by patrons or employees if the following conditions are met:
- (1) Administrative supplemental off-site shared parking shall only be allowed by permit and may only be approved 15 days after a legal notice has been published in a newspaper of general circulation in Palm Beach or West Palm Beach with a brief summary of the request for administrative off-site supplemental shared parking approval. Said legal notice shall be at the expense of the applicant and not be part of the application fee. Any approval or denial of an application for administrative off-site supplemental shared parking may be appealed to the Town Council based on Sec. 134-141 through 134-145 of the Code. There shall be no fee related to this type of an administrative appeal.
- Said supplemental off-site shared parking shall be terminated if three or more valid complaints, as determined by the director of planning, zoning and building or designee, from different property owners within 300 feet of the parking are filed in writing with the town within a 12 month period.

Said termination of the shared parking approval shall be required no later than 30 days after written notice by the Town. Any termination of administrative off-site supplemental shared parking may be appealed to the Town Council based on Sec. 134-141 through 134-145 of the Code. Subsequent to the notice to terminate the administrative approval for shared parking, the commercial tenant or property owner can apply for a special exception to seek approval of the shared parking which may be granted by the town council if it can be demonstrated that the shared parking meets all provisions for special exceptions as set forth in sections 134-227 through 134-233

- (2) Granting of such supplemental off-site shared parking shall not be granted to expand, enlarge or intensify an existing use or proposed use, or the development or redevelopment of a property or structure.
- (3) The applicant establishes to the satisfaction of the town staff, at the applicant's expense, that all other establishments using the existing parking spaces will primarily utilize these spaces at different times of the day, week, month or year from that of the applicant's use, and that the sharing of such parking spaces will not result in conflicting or overlapping usage of the parking facilities.
- (4) The owner of the parking lot shall enter into a written agreement with the town which identifies the number of shared parking spaces, the hours the shared parking will be used by other businesses, and the location of the shared parking within the parking lot. Said agreement shall have the applicant acknowledge that all parties sharing parking shall not have overlapping or conflicting hours of operation. In addition, as part of the written agreement, the supplemental shared parking lot owner shall be required to obtain a business tax receipt and annually provide the town with an inventory of those businesses and the number of spaces the businesses are individually using in the supplemental parking lot at the time of renewal of the business tax receipt.
- (5) Supplemental off-site shared parking shall be only for uses no more than 1,500 feet from the off-site supplemental shared parking lot.
- (6) The applicant shall provide evidence which shall prove to the satisfaction of the town that the supplemental off-site shared parking use shall not cause over uses or parking congestion of the shared parking lot, or increase noise, light or traffic impacts upon neighboring residential districts.

**Section 8. Amend Article IX, OFF-STREET PARKING AND LOADING,
Creating Section 134-2183, Sunset provision, to read as follows:**

Sec 134- 2183. Sunset provision.

The provisions for supplemental off-site shared parking in sections 134-2, 134-38, 134-2177 and 134-2182 of the Code shall sunset on December 13, 2017 and revert back to the previous provisions in these sections of the Code unless the Town Council extends such provisions.

Section 9. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 10. Repeal of Ordinances in Conflict.

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

Section 11. Codification.

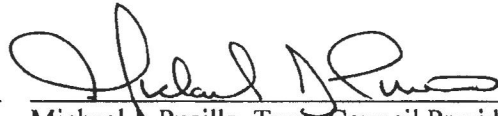
This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

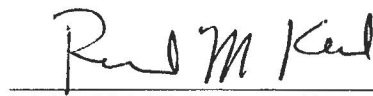
Section 12. Effective Date.

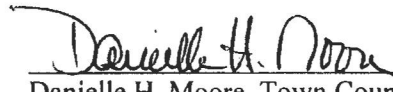
This Ordinance shall take effect 31 days subsequent to its passage on second and final reading.

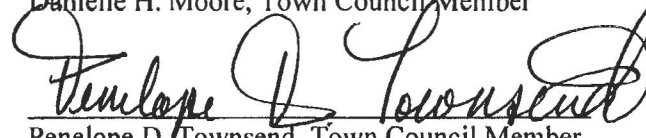
PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 14th day of October 2015, and for second and final reading on this 12th day of November 2015.


Gail L. Coniglio, Mayor

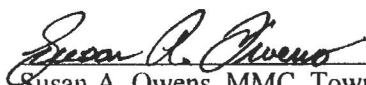

Michael J. Pucillo, Town Council President

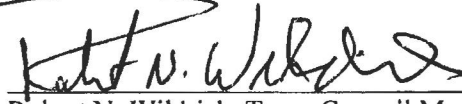

Richard M. Kleid, Council President Pro Tem


Danielle H. Moore, Town Council Member


Penelope D. Townsend, Town Council Member

ATTEST:


Susan A. Owens, MMC, Town Clerk


Robert N. Wildrick, Town Council Member

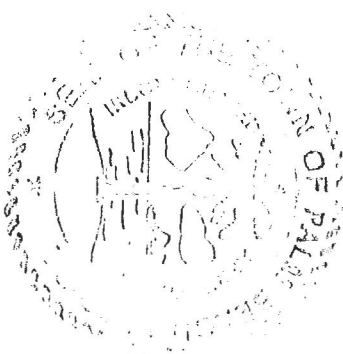


EXHIBIT "B"

ORDINANCE NO. 25-2015

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 134, ZONING; ARTICLE I, IN GENERAL, SECTION 134-2 TO MODIFY THE DEFINITION OF SUPPLEMENTAL PARKING; SECTION 134-38 BY CREATING A FEE FOR ADMINISTRATIVE APPROVAL OF SUPPLEMENTAL OFF-SITE PARKING; SECTION 134-2175 BY PROVIDING CLARIFICATION AND CROSS REFERENCING OF RELEVANT SECTIONS OF THE CODE; SECTION 134-2176 PROVIDING AN EXCEPTION TO ALLOW A PERCENTAGE OF UNUSED OFF-STREET PARKING WITHIN A PARKING GARAGE TO BE SHARED IN THE C-WA ZONING DISTRICT WITH OTHER COMMERCIAL USES IN THAT DISTRICT; SECTION 134-2177 PROVIDING REGULATIONS TO ALLOW ADMINISTRATIVE APPROVAL OF OFF-SITE SUPPLEMENTAL SHARED PARKING; SECTION 134-2178 BY PROVIDING CLARIFICATION OF WHEN COLLECTIVE USE IS PERMITTED; SECTION 134-2182 BY MODIFYING THE EXISTING REGULATIONS FOR OFF-SITE SUPPLEMENTAL SHARED PARKING TO ELIMINATE A SCRIVENERS ERROR REFERENCING THE C-PC ZONING DISTRICT, CROSS REFERENCE APPROPRIATE SECTIONS OF THE CODE, ALLOW AN ADMINISTRATIVE APPROVAL FOR SUPPLEMENTAL OFF-SITE PARKING AND AN APPEAL PROCESS FOR THE REVOCATION OF SAID APPROVAL; SECTION 134-2183 CREATING A SUNSET PROVISION FOR THE MODIFICATION OF THE DEFINITION FOR SUPPLEMENTAL PARKING AND ADMINISTRATIVE APPROVAL OF OFF-SITE SUPPLEMENTAL PARKING; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

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

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

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

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

Section 1. Amend Article I, IN GENERAL, Section 134-2, Definitions and rules of construction, to read as follows:

Sec. 134-2. Definitions and rules of construction.

...

Parking, supplemental means those parking facilities provided as an administrative approval or special exception use and which are in addition to existing on-site required parking or property that has deficient parking as set forth in the schedule of off-street parking requirements. Supplemental parking cannot be used in the calculation of required off-street parking to develop or redevelop property, or to expand or intensify an existing or proposed use. This definition shall sunset on November 15, 2017, and revert back to the previous definition of supplemental parking if the Town Council does not extend this provision.

Section 2. Amend Article II, ADMINISTRATION, Section 134-38, Filing fees for rezoning, special exception use, variance, appeal or other zoning matters requiring public hearing, to read as follows:

Sec. 134-38. Filing fees for rezoning, special exception use, variance or other matters requiring public hearing or a zoning permit or fee.

...

(17) Administrative supplemental shared parking and off-street parking exception permit fee and renewal fee.....500.00

Section 3. Amend Article IX, OFF-STREET PARKING AND LOADING, Section 134-2175, Number of parking spaces required--Generally, to read as follows:

Sec. 134-2175. - Number of parking spaces required—Generally.

(a) Under this division, the following shall be provided:

- (1) At the time of the erection of any building or structure, minimum off-street parking facilities shall be required with adequate provisions for ingress and egress, in accordance with sections 134-2172 through 134-2174 and the schedule of off-street parking requirements, as prescribed in section 134-2176.
- (2) At the time any building or structure is enlarged or increased in capacity by adding dwelling units, guestrooms, floor area or seats, minimum off-street parking facilities with adequate provisions for ingress and egress shall be

required, in accordance with section 134-2 and Sections 134-2172 through 134-2174 and the schedule of off-street parking requirements, as prescribed in section 134-2176.

- (3) Except as provided in subsection (f), at the time any use or occupancy of an existing building is changed to a new use or occupancy having differing off-street parking requirements, the parking requirement for the new use or occupancy shall be computed on the basis of the schedule of off-street parking requirements in the section 134-2176. This requirement shall be compared to the requirements of the existing use or occupancy, and, if the total number of spaces required under the new use or occupancy exceeds that of the existing use or occupancy, the difference shall constitute that number of additional off-street parking spaces to be provided, with adequate provisions for ingress and egress, in accordance with sections 134-2172 and the schedule of off-street parking requirements as prescribed in section 134-2176.

(b) Except as provided in subsection (f), a use, building or structure, lawfully in existence at the effective date of this division, which shall be made nonconforming on the effective date of the ordinance from which this division derives or any applicable amendment thereto, may be continued even though off-street parking may not be provided in full compliance with this division, but the degree of nonconformity due to a deficiency in providing the required off-street parking spaces may not be increased, either by reducing the number of parking spaces which are provided on the effective date of the ordinance from which this chapter is derived or by changing the use or occupancy of an existing building to a use or occupancy which increases the requirement for off-street parking. For existing buildings or establishments therein which are nonconforming with respect to the current parking requirements, and which involve only those uses requiring one space per 200 or 250 square of gross leasable area, whichever is applicable, and which may be required under this chapter to provide additional parking spaces as a result of a change in use, such establishments shall be required only to provide that number of spaces over and above the number of spaces that would have been required at one space per 200 or 250 square feet of floor area gross leasable area, whichever is applicable.

(c) Continued availability of required number of off-street parking spaces. After providing for the proper number of required off-street parking spaces so as to permit a principal use of property to be established as set forth in the schedule of off-street parking contained in section 134-2176, such required off-street parking shall continue to be available in undiminished number for sole use as an integral part of the continuance of the principal use(s) unless meeting the shared parking as provided for in sections 134-2177, 134-2178 and 134-2182. If for any reason such required off-street parking is not available at all times in connection with the principal use, such principal use shall be discontinued until such time as the proper number of required off-street parking spaces shall again be made available for use in connection with the principal use.

(d) The principle of equivalency for evaluating off-street parking in existing uses is as follows:

- (1) Definition of principle of equivalency as applied to the schedule of off-street parking requirements. The principle of equivalency, as it relates to the schedule of off-street parking requirements, shall be defined as an automobile parking space required by section 134-2176 for establishing an inventory of automobile parking spaces for a conforming or nonconforming use of an existing building, or structure or use, for the purpose of determining the net off-street parking requirement for the establishment of a proposed new use to be permitted in the building, or structure or use.
- (2) In evaluating off-street parking ~~in~~ for existing uses, the principle of equivalency shall be applied when the use or occupancy of an existing building is being changed to a new use or occupancy having a differing off-street parking requirement for the purpose of establishing compliance with this chapter.
- (3) The following floor area equivalencies may be used as a minimum guide in the application of the schedule of off-street parking requirements:
 - a. One permanent seat equals six square feet of floor area in seating areas of occupancies requiring seating.
 - b. One moveable seat equals 15 square feet of floor area in seating areas of occupancies requiring seating.
 - c. The remainder of areas external to actual seating areas shall provide required parking according to the schedule of applicable parking requirements.
 - d. One school student equals 20 square feet of floor area.

(e) For the purpose of this section, a landmarked commercially zoned building is exempt from providing additional required off-street parking if increased occupancy or use is created by interior building improvements which create more gross leasable area. However, all other provisions of subsections (a) through (d) apply.

(f) In the 200 Block of Peruvian Avenue and Bradley Place in the C-TS zoning district, existing buildings or establishments therein which are nonconforming with respect to the current parking requirements, and which involve only those uses requiring one space per 200 or 250 square feet of gross leasable area, whichever is applicable, shall not be required to provide additional parking spaces as a result of a change from a use which alters the parking ratio from one space per 250 square feet to a use which requires one space for every 200 square feet of gross leasable area.

Section 4. Amend Article IX, OFF-STREET PARKING AND LOADING, Section 134-2176, Same-Schedule,, to read as follows:

The schedule of off-street parking required by this division shall be as follows”

<i>Use</i>	<i>Spaces Required Per Unit</i>
(1)....	
(9) <u>Exception for enclosed commercial parking garages in the C-WA zoning district</u>	<u>Number of parking spaces required in a parking garage in the C-WA district may be reduced by a maximum of 10% in order to share with other commercial uses in the same zoning district provided the owner can demonstrate to the satisfaction of the Town on an annual basis that adequate parking will still exist with the reduction. Those that are allowed to share the parking garage shall not be allowed use said shared parking as a basis to develop or redevelop property, or expand or intensify the use of property</u>

Section 5. Amend Article IX, OFF-STREET PARKING AND LOADING, Section 134-2177, Location of parking spaces, to read as follows:

Sec. 134-2177. Location of parking spaces.

Parking spaces for all uses or structures which are provided as required parking in conformance with the schedule of off-street parking and other applicable sections shall be located on the same lot and shall have the same district classification as the principal use or structure they are intended to serve, except as specifically excepted as follows:

- (1) The town council may permit, as a special exception, the establishment of such required off-street parking facilities for commercial uses within 500 feet of the premises, as measured along the nearest public or permanent private pedestrian walkway they are intended to serve when:

- a. Practical difficulties prevent the placing of the facilities on the same lot as the premises they are designed to serve;
 - b. The proposed location is located within the same zoning district as the principal use it is designated to serve;
 - c. The owner of the parking area shall enter into a written agreement with the town, with enforcement running ~~to~~ with the town, providing that the land comprising the parking area shall never be disposed of except in conjunction with the sale of the building which the parking area serves so long as the facilities are required; and
 - d. The owner agrees to bear the expense of recording the agreement and agrees that the agreement shall bind his heirs, successors and assigns. The written agreement shall be voided by the town if other off-street facilities are provided in accordance with this chapter.
- (2) The director of planning, zoning and building or designee town council may administratively approve permit, as a special exception, the establishment of supplemental off-street facilities which are in addition to the existing off-street parking to those facilities required in accordance with the schedule of off-street parking for a permitted or approved special exception use. Such supplemental off-street parking facilities may be permitted for new development or redevelopment only after the required parking for the principal use involved has been provided in full at current standards as contained in the schedule or for existing development if the supplemental parking is in addition to the existing or non-existing required parking and is not used as a basis to develop or redevelop property, or expand or intensify the use of property. This additional parking may be supplemental parking located on the same lot, or supplemental off-site parking located on a directly adjoining lot or a lot which would be directly adjoining except for the location of a street or public way; provided, however, that the town does not receive three or more valid complaints, as determined by the director of planning, zoning and building or designee, from three different property owners or tenants within 300 feet of the parking filed with the town within a 12 month period. If there are three valid written complaints about noise, light or congestion within that time frame, the supplemental, off-site parking shall be terminated. Said termination of the shared parking shall occur no later than 30 days after written notice by the Town. Any termination of administrative off-site supplemental shared parking may be appealed to the Town Council based on Sec. 134-141 through 134-145 of the Code. Subsequent to termination, the commercial tenant or property owner can apply for a special exception to seek approval of the shared parking which may be granted by the town council if it can be demonstrated that the shared parking meets all other provisions for special exceptions as set forth in sections 134-227 through 134-233, are complied with and, fFurther, that the granting of such supplemental on-site or supplemental off-site parking is not construed as permission shall not be allowed to expand, enlarge, alter, renovate,

or modify the intensification of use of a structure except in accordance with the requirements of this chapter. In the event of the filing of an appeal or upon the filing of an application for special exception within thirty (30) days of the decision of the administrative official, the requirement to eliminate the off-site supplemental share parking shall be stayed until final determination by the Town Council in regard to the appeal or the application for special exception.

- (3) The town council may permit, as a special exception, the establishment of required off-street parking facilities for commercial uses in zoning districts differing from the district of the principal uses of ~~or~~ structures they are intended to serve if the following conditions are met:
- a. The owner of the parking area shall enter into a written agreement with the town with enforcement running to the town providing that the land comprising the parking area shall never be disposed of except in conjunction with the sale of the buildings with which the parking area serves so long as the facilities are required.
 - b. The owner of the parking area shall agree to bear the expense of recording the agreement, and agrees that the agreement shall bind ~~his~~ the heirs, successors and assigns. The written agreement shall be voided by the town if other off-street facilities are provided in accordance with this chapter.
 - c. The parking area shall have been used as a parking area for the entirety of each of the five calendar years immediately preceding the application for special exception.
 - d. The parking area shall abut the property on which is situated the principal structure for which it is to furnish the required off-street parking.
 - e. The provisions for special exceptions as set forth in sections 134-227 through 134-233 are complied with.
 - f. The said parking area shall be located at ground level or below ground level and shall not be located within any structure above ground.

Section 6. Amend Article IX, OFF-STREET PARKING AND LOADING, Section 134-2178, Collective use, to read as follows:

Sec. 134-2178. - Collective use.

As provided for in this division, ~~Two~~ two or more owners or operators of buildings or uses of the same type of zoning classification requiring off-street parking facilities may make collective provision for such facilities, provided that the total of such parking spaces, when combined or used together, shall not be less than the sum of the requirements computed

separately, and provided that the combined facility is compatible with the zoning uses being served.

Section 7. Amend Article IX, OFF-STREET PARKING AND LOADING, Section 134-2182, Shared Parking in the C-TS, C-WA and C-OPI commercial zoning districts, to read as follows:

Sec. 134-2182. Shared parking in C-TS, C-WA and C-OPI commercial zoning districts

(a) ~~Special exception.~~ Although there is no entitlement to shared parking, arrangements for shared parking may be allowed in the CT-S, C-WA and C-OPI commercial zoning districts, subject to administrative review and approval or review and approval of a special exception as set forth under sections 134-227 through 134-233 of the Code and under the circumstances provided in this section.

(b) *On-site shared parking.* When a new use is proposed to occupy existing floor space and the new use would require a greater number of parking spaces than required by the former use, the new use may request sharing of on-site parking to meet the town's off-street parking requirements subject to the review and approval of a special exception as set forth under sections 134-227 through 134-233 and under the circumstances as follows:

- (1) A traffic planner or traffic engineer clearly establishes to the town council, at the applicant's expense, that:
 - a. All uses utilizing the existing parking facilities will primarily utilize these parking spaces at different times of the day, week, month or year;
 - b. The sharing of such parking spaces will not result in conflicting or overlapping usage of the parking facilities; and
 - c. The available parking will be adequate to serve the needs of the proposed use.
- (2) If the ~~building official~~ director of planning, zoning and building department determines that professional advice and/or consultation is required to review the applicant's parking findings, the expense of such professional advice shall be borne by the applicant.
- (3) The applicant provides to the town, at the applicant's expense, a recorded three-party agreement, including the town as one of the parties, with enforcement running to the town, guaranteeing the continuing availability of the shared parking spaces during the period of operation of the applicant's use. The term of the agreement shall approximate the life of the building or use for which the shared parking spaces fulfill the town's off-street parking requirement. If the shared parking ever ceases to be available or becomes inadequate due to a change in the uses' respective schedules of operation that results in conflicting or overlapping

usage, the proposed use shall be required to obtain a new occupancy permit and provide proof that sufficient parking will be provided or shall be required to immediately reduce the intensity of the use served to the extent that it will be conforming to the town's off-street parking requirements.

(c) Supplemental off-site shared parking. A commercial use may make available to another existing commercial use the former's required or supplemental parking spaces for use by patrons or employees if the following conditions are met:

- (1) Administrative supplemental off-site shared parking shall only be allowed by permit and shall be terminated if three or more valid complaints, as determined by the director of planning, zoning and building or designee, from different property owners within 300 feet of the parking are filed in writing with the town within a 12 month period. Said termination of the shared parking approval shall be required no later than 30 days after written notice by the Town. Any termination of administrative off-site supplemental shared parking may be appealed to the Town Council based on Sec. 134-141 through 134-145 of the Code. Subsequent to the notice to terminate the administrative approval for shared parking, the commercial tenant or property owner can apply for a special exception to seek approval of the shared parking which may be granted by the town council if it can be demonstrated that the shared parking meets all provisions for special exceptions as set forth in sections 134-227 through 134-233. In the event of the filing of an appeal or upon the filing of an application for special exception within thirty (30) days of the decision of the administrative official, the requirement to eliminate the off-site supplemental shared parking shall be stayed until final determination by the Town Council in regard to the appeal or the application for special exception.
- (2) Granting of such supplemental off-site shared parking shall not be granted to expand, enlarge or intensify an existing use or proposed use, or the development or redevelopment of a property or structure.
- (3) The applicant establishes to the satisfaction of the town staff, at the applicant's expense, that all other establishments using the existing parking spaces will primarily utilize these spaces at different times of the day, week, month or year from that of the applicant's use, and that the sharing of such parking spaces will not result in conflicting or overlapping usage of the parking facilities.
- (4) The owner of the parking lot shall enter into a written agreement with the town which identifies the number of shared parking spaces, the hours the shared parking will be used by other businesses, and the location of the shared parking within the parking lot. Said agreement shall have the applicant acknowledge that all parties sharing parking shall not have

overlapping or conflicting hours of operation. In addition, as part of the written agreement, the supplemental shared parking lot owner shall be required to obtain a business tax receipt and annually provide the town with an inventory of those businesses and the number of spaces the businesses are individually using in the supplemental parking lot at the time of renewal of the business tax receipt.

(5) Supplemental off-site shared parking shall be only for uses no more than 1,500 feet from the off-site supplemental shared parking lot.

(6) The applicant shall provide evidence which shall prove to the satisfaction of the town that the supplemental off-site shared parking use shall not cause over uses or parking congestion of the shared parking lot, or increase noise, light or traffic impacts upon neighboring residential districts.

~~(c) — Supplemental off-site shared parking. A conforming use may lease to another existing conforming use the former's required or supplemental parking spaces for use by patrons or employees of the latter, provided:~~

~~(1) — The area to be used for off-site shared parking shall be in the C-TS, C-WA, C-PC or C-OPI zoning district, and, except for shared parking within a parking garage or underground/underbuilding parking area, any area used for off-site shared parking shall be accessible only to and used by parking attendants and shall have controlled access in the form of gates or other barriers acceptable to the town that can be accessed and used only by parking attendants.~~

~~(2) — Off-site shared parking shall be located no more than 500 feet from the use the off-site shared parking is intended to serve.~~

~~(3) — The applicant shall provide evidence which shall prove to the satisfaction of the town council that the off-site shared parking use shall not increase noise, light or traffic impacts upon neighboring residential districts.~~

~~(4) — A traffic planner or traffic engineer establishes to the satisfaction of the town council, at the applicant's expense, that all other establishments using the existing parking spaces will primarily utilize these spaces at different times of the day, week, month or year from that of the applicant's use, and that the sharing of such parking spaces will not result in conflicting or overlapping usage of the parking facilities.~~

~~(5) — If the director of planning, zoning and building department should determine that professional advice and/or consultant is required to review the applicant's parking findings, the expense of such professional advice shall be borne by the applicant pursuant to sections 134-171 and 134-172~~

- (6) ~~Off site shared parking shall only be supplemental, and such parking shall not be used to meet required parking for new construction or expansion or addition to existing floor area.~~
- (7) ~~The town may impose such additional conditions that it deems necessary to minimize noise, light and traffic impacts upon neighboring residential districts.~~
- (8) ~~The approval shall initially be limited to a period of six months, whereupon a subsequent review shall be made at a public hearing of the town council at which the interim approval may be renewed, modified or revoked.~~

Section 8. Amend Article IX, OFF-STREET PARKING AND LOADING, Creating Section 134-2183, Sunset provision, to read as follows:

Sec 134- 2183. Sunset provision.

The provisions for supplemental off-site shared parking in sections 134-2, 134-38, 134-2177 and 134-2182 of the Code shall sunset on December 13, 2017 and revert back to the previous provisions in these sections of the Code unless the Town Council extends such provisions.

Section 9. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 10. Repeal of Ordinances in Conflict.

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

Section 11. Codification.

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

Section 12. Effective Date.

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

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this ____ day of _____ 2015, and for second and final reading on this ____ day of _____ 2015.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, Council President Pro Tem

Danielle H. Moore, Town Council Member

ATTEST:

Penelope D. Townsend, Town Council Member

Susan A. Owens, MMC, Town Clerk

Robert N. Wildrick, Town Council Member