TOWN OF PALM BEACH

Office of the Town Clerk

MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON MONDAY, OCTOBER 13, 2014

I. CALL TO ORDER AND ROLL CALL

The Special Town Council meeting was called to order on Monday, October 13, 2014, at 1:00 p.m. in the Town Council Chambers. On roll call, all of the elected officials were found to be present.

II. PLEDGE OF ALLEGIANCE

Council President Wildrick led the Pledge of Allegiance.

III. APPROVAL OF AGENDA

Motion was made by Council President Pro Tem Diamond, and seconded by Council Member Kleid, to approve the Agenda. On roll call, the motion carried unanimously.

Council President Wildrick directed Staff to make the change requested by Council Member Kleid that the Planning and Zoning Commission's Zoning Study Items be moved up on the October 15, 2014, Town Council meeting agenda.

IV. HISTORY OF THE PALM HOUSE PROJECT

[John Page, Director of Planning, Zoning, and Building]

Director of Planning, Zoning, and Building Page provided a brief history of the project.

Discussion ensued regarding the number of variances, special exceptions, and site plan review changes and the number of unauthorized changes that were done.

V. PROCEDURES FOR CONTINUED REVIEW OF APPLICANT'S REQUESTS FOR SITE PLAN REVIEW WITH SPECIAL EXCEPTIONS AND VARIANCES.

[John C. Randolph, Town Attorney]

Council President Wildrick provided the order of the meeting.

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Town Attorney Randolph presented an outline of the procedures and his remarks.

Administrative Assistant Boyles administered the oath to all those who would be providing testimony.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

v. Change of building color to custom pink hue.

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

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

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

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

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

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

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

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

b. A variance request to allow a basement addition to extend further outside the confines of the existing building footprint which is not permitted by code.

c. A variance request to allow a landscaped open space of 12.2% in lieu of the 12.7% existing and the 30% minimum required by the Code.

d. A variance request for a front yard setback of 7.66 feet in lieu of the 29.54-foot minimum front yard setback required to install a retractable awning which covers the second floor doors and the previously approved outdoor seating area on the north-dining terrace.

e. A variance request for a 10-foot rear yard setback in lieu of the 15 feet required to relocate previously approved pool cabanas.

f. A variance request for a 10-foot rear yard setback in lieu of the 15 foot minimum required for the location of a men's restroom to service the pool area.

g. A variance request for a 10-foot rear yard setback in lieu of the 15 foot minimum required to construct an addition to the east side of the previously approved Function Room.

h. A variance request for the non-conforming hotel to not provide an additional required loading space for commercial deliveries based on the additional accessory commercial square footage of 7,864 proposed for the hotel.

i. A variance request to allow changes to the use of the 1,881 square foot third floor deck as Town Code provides for a two story limitation. The prior variance limited the use of the third floor deck to a private spa deck and there is a proposed change of use associated with that variance to allow for the addition of 39 outdoor dining seats, a bar/beverage station customarily associated with hotel uses (with 410 square feet of decorative, open trellis), 80 square foot enclosed storage room and 1,132 square foot expansion of deck area.

j. A variance request for height and overall height to allow a 410 square foot open trellis on the third floor deck associated with the proposed outdoor dining area. The variance request is for the height of the trellis on the third floor to be 41 feet high in lieu of the 25-foot maximum allowed which is 16 feet over the maximum building height of 25 feet and the maximum overall height of 41 feet in lieu of the 30-foot maximum allowed.

k. A variance request of 68 off-street parking spaces for the proposed addition of the finishing kitchen, "green room" and speaker area for the Function Room, the increase in spa square footage, the loss of parking spaces resulting from the addition of the Function Room addition, the additional back of house space to serve the hotel, the additional 39 dining seats and the Premium Guest Services Area located in the basement level.
[Attorney: Gregory S. Kino]
[Architectural Commission Recommendation: Implementation of the proposed variances related to the architecture will not cause negative architectural impacts to the subject property. Carried 6-1]
Deferred from the September 10, 2014, Town Council Meeting.

The following ex-parte communications were declared: Mayor Coniglio, Council President Wildrick, Council President Pro Tem Diamond, and Council Member Kleid spoke with Bob Matthews, who advocated the position of the project. Mayor Coniglio, Council President Wildrick, Council President Pro Tem Diamond, and Council Members Pucillo, Kleid, and Townsend received numerous e-mails from those objecting to the project, or various parts of it. Mayor Coniglio spoke with Attorney Kino, who advocated the position of his client, Les Evans, who advocated the position of the project, and the parking management company regarding valet parking possibilities. Council President Wildrick spoke with Mr. Gray, who advocated the position of the project, and a citizen that is a friend of Mr. Gray's, who vouched for his integrity.

Discussion ensued regarding the mortgage holder and a letter read by Town Attorney Randolph from Attorney Evans regarding hotel ownership.

Attorney Greg Kino provided a presentation of the application.

Discussion ensued regarding the elimination of the spa, parking spaces, the function room, and the elevator.

Preferred Valet Parking Representative spoke regarding the valet company's background, and addressed valet parking concerns.

Administrative Assistant Boyles administered the oath to those who had not already been sworn in and would be providing testimony.

Zoning Administrator Castro provided Staff's comments.

Ann Vanneck, 217 W. Indies Drive, ARCOM Vice Chair, spoke regarding the stairs and elevator leading to the spa deck.

Brian Vertesch, Vice President of SMI Landscape Architecture, representing Jorge Sanchez, spoke regarding their previous objection to the spa terrace and the fact that they no longer have any objections.

The following people spoke in opposition to the project:

Attorney John Eubanks, 605 N. Olive, representing Mr. McCarthy, 140 Brazilian Avenue;

Michael Scharf, 225 Dunbar Road;

William Cooley, 171 El Pueblo Way;

Peter Rock, 44 Cocoanut Row;
Jere Zenko, 232 Tangier Avenue;

Susan Markin, 1450 North Lake Way; and

Attorney Tim Hanlon, on behalf of Mr. and Mrs. DeVries, 141 Brazilian Avenue.

Attorney Kino and Gordon Campbell Gray provided their rebuttal.

Discussion ensued regarding infrastructure questions, unapproved construction, parking spaces, increasing nonconformities, intensification of use, unclear ownership, the unresolved lawsuit, hardship, and dropping the variances.

Attorney Kino provided responses to questions by the Council.

Zoning Administrator Castro provided a list of items unrelated to newer variances that were aesthetic in nature or service oriented issues.

Town Attorney Randolph advised the Council to consider the criteria for each category.

Motion was made by Council President Pro Tem Diamond to deny the complete application. Motion died for lack of a second.

Discussion ensued regarding the method of approving the application.

Motion was made by Council President Pro Tem Diamond, and seconded by Council Member Pucillo, that variances related to Site Plan Review #12-2014 under Item No. VI.4.a., through k., be denied for the reason that the application does not meet the criteria set forth in Section 134-201(a), items 1 through 7. On roll call, the motion carried 4-1, with Council Member Kleid dissenting.

Motion was made by Council Member Pucillo, and seconded by Council Member Townsend, that Site Plan Review #12-2014 under Item No. VI.1.b., through z., be denied, based on the finding that the site plan, as proposed, will adversely affect the public interest and the specific zoning requirements governing the use based on the criteria that satisfactory provisions concerning Section 134-329, items 1-through 11 have not been met, with the exception of Item Nos. VI.1.a., i., r., and v., which will be deferred. On roll call, the motion carried 3-2, with Council President Pro Tem Diamond and Council Member Kleid dissenting.

Attorney Kino presented additional information regarding the project.

Discussion ensued regarding item No. VI.1.s., not needing a variance and that ARCOM was in favor of the enclosure of the first through third level exterior access corridors on the most eastern elevation, above the garage entrance.

Ann Vanneck, ARCOM Vice Chair, confirmed that ARCOM was in favor of item no. VI.1.s.

Motion was made by Council Member Pucillo, and seconded by Council Member Townsend, to defer item no. VI.1.s., for deferral. On roll call, the motion carried 4-1, with Council President Pro Tem Diamond dissenting.

Motion was made by Council President Pro Tem Diamond, and seconded by Council Member Townsend, that special exception item nos. VI.2., and VI.3., related to Site Plan Review #12-2014 be denied for the reason that the granting of the special exception will adversely affect the public interest and that the specific requirements of Section 134-229 have not been met, with the exception of the items already deferred (item nos., VI.1.a., i., r., s., and v.). On roll call, the motion carried unanimously.

Discussion ensued regarding the special exception requests for office space, service corridor, laundry room, and its relationship to the parking.

Director of Planning, Zoning, and Building Page spoke regarding replacing the medjool date palms that are planted in the front street swale of the hotel with coconut palms.

Motion was made by Council Member Kleid, and seconded by Council Member Townsend, to approve replacement of the medjool date palms that are planted in the front street swale of the hotel with coconut palms, as requested by ARCOM. On roll call, the motion carried unanimously.

Town Attorney Randolph stated that several items have been denied except for those that were enumerated and are deferred to a later date.

The Council, Town Attorney Randolph, and Staff provided their closing remarks to the applicant.

VII. PROPOSED AMENDMENT OF DECLARATION OF USE AGREEMENT OUTLINING PROPOSED MODIFICATIONS TO THE TERMS AND CONDITIONS OF PREVIOUS AGREEMENTS BETWEEN THE TOWN OF PALM BEACH AND PALM HOUSE OWNERS.

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

Town Attorney Randolph stated that after the approvals are made, the Declaration of Use Agreement is amended.

VIII. ANY OTHER MATTERS – None

IX. ADJOURNMENT

There being no further business, the October 13, 2014, Special Town Council meeting was adjourned at 4:17 p.m.

APPROVED:

Robert N. Wildrick
Town Council President

ATTEST:

Susan A. Owens, MPA, MMC
Town Clerk

12/9/14
Date