



TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on September 11, 2024

I. CALL TO ORDER AND ROLL CALL (01:05)

The Development Review Town Council Meeting was called to order on September 11, 2024, at 9:32 a.m. On roll call, all elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE (01:22)

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

III. COMMENTS OF MAYOR DANIELLE H. MOORE (02:11)

Mayor Moore remembered the tragedy that occurred on September 11, 2001, and asked for a moment of silence.

IV. COMMENTS OF TOWN COUNCIL MEMBERS (02:46)

No comments were heard at this time.

V. COMMUNICATIONS FROM CITIZENS - 3-MINUTE LIMIT, PLEASE (04:06)

No comments were heard at this time.

VI. APPROVAL OF AGENDA (04:26)

Mr. Bergman announced the two time-certain agenda items, which included the Royal Poinciana Way Medians and the resolution regarding the Palm Beach Police and Fire Foundation Life Insurance Benefit items.

He indicated that an appeal of the Landmarks Preservation Commission's decision to deny COA-24-0013, 70 Middle Road, had been added to the agenda. He stated that the Town had received two letters from attorneys representing neighbors near 70 Middle Road who had requested a deferral so that they could review and process the appeal.

Finally, he stated that the attorney for project ZON-24-0015, 410 Seabreeze

Avenue, had requested a deferral to the October 9, 2024, meeting.

A discussion ensued about whether the appeal should be deferred. Council Member Araskog asked if the neighbors could comment on the deferral request. Town Attorney O'Connor stated that the neighbors could not participate in the appeal.

Council Member Cooney stated that he had not reviewed the item and would benefit from a one-month deferral.

A motion was made by Council Member Araskog not to defer the appeal of COA-24-0013, 70 Middle Road. The motion died due to lack of a second.

A motion was made by Council President Pro Tem Crampton and seconded by Council Member Cooney to defer the appeal of COA-24-0013, 70 Middle Road, to the October 9, 2024, meeting.

Council Member Araskog explained why she opposed approving the deferral, which included that the neighbors' letters and comments could not be considered under the appeal. She believed the construction needed to keep moving. Council Member Moran asked about the benefit of the deferral of the appeal. Mr. Bergman noted that the appeal was filed on time and mentioned that the Master Building Permit would expire on November 5, 2024. He added that all construction would stop on November 6th, 2024, but the owner could request a permit extension. He also stated that in 2019, this was initially a combination project and would be coming before the Town Council soon as well.

The motion was carried 4-1, with Council Member Araskog dissenting.

Council Member Araskog asked for a reconsideration of the Padel Courts at The Breakers. Following a brief discussion, she withdrew her request.

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

VII. [REGULAR BUSINESS \(18:32\)](#)

A. [Director's Verbal Update from the Planning & Zoning Commission Mtg. on 09/03/24](#) Discussion began at [18:33](#) and resumed at [1:34:59](#)

Wayne Bergman, Director of Planning, Zoning and Building, updated the Town Council on the discussions regarding:

The Planning and Zoning Commission (PZC) has completed its review of the Comprehensive Plan draft. They are moving forward with the discussion of the Zoning in Progress about food and beverage establishments and the Code Review and Reform.

Mr. Bergman advised that Sean Suder, ZoneCo, had recently verbally updated the code review process to the PZC. The update set forth a schedule for two more months of drafting the code and allowed time for

staff review before the code was provided to the PZC and Town Council.

Mr. Suder provided a path forward with the required threshold questions that should be answered and possible solutions identified if it is found that food and beverage uses are to be limited in the future.

Eric Czerniejewski from the Corradino Group discussed the traffic data that would have to be gathered to help understand any possible issues. This would continue to be presented to PZC in October and November.

There was additional discussion about traffic and parking management and mitigation strategies.

Council Member Araskog thought town-serving was the only subject within the Planning and Zoning Commission's purview. She thought some items should be sent to the Ordinances, Rules, and Standards Committee.

Ms. Hoffmeister-Drew provided the history and direction of the process. She said that staff would like to summarize the recommendations and present them to the Town Council at the Council's pleasure in the future.

Clerk's Note: A break was taken at 10:00 a.m. to address the scheduled time certain agenda item.

Council Member Araskog discussed private club events and whether they should be included in the Zoning in Progress. She also discussed other issues and opinions of the Planning and Zoning Commission.

Council Member Cooney asked that the data on seating listed in the Business Tax Receipt, which was provided in the memorandum by Director Bergman, be verified as he believed it inaccurate.

Mayor Moore thought that clubs may feel there is a privacy issue and may not be willing to share their information, which would essentially include their financials.

Council Member Moran did not believe private clubs needed to share their private data with the Town. However, she thought people needed a way to provide information for mitigation.

Council President Lindsay thought town-serving was useful for the town and should remain in the Code. She noted it had been tested and upheld at least twice in court.

Council Member Cooney asked about enforceability and how consistency across the board would be achieved. He would not support the removal of town-serving from the Code.

Council President Pro Tem Crampton stated his issue with Town-serving was how it was applied in the Code. He wanted to ensure it was not a burden to businesses.

Council Member Moran agreed that town-serving should remain in the Code.

Council Member Araskog thought the limits of town serving should be lowered and audited each year.

Council President Lindsay called for public comment.

KT Catlin, 265 Fairview Road, pointed to Section 163.3177 F.S., which states, "The plan shall establish meaningful and predictable standards for the use and development of land and provide meaningful guidelines for the content of more detailed land development and use regulations." She shared her balanced opinion of the town-serving tool. She thought keeping the gross, leasable square footage defined in the comprehensive plan was extremely important. She also supported the town-serving remaining as a useful tool for the Town.

There was a consensus of the Town Council to allow staff to present a memorandum with recommendations on all zoning items at the meeting on October 9, 2024.

This discussion lasted approximately 40 minutes. To listen, please click the link on the agenda topic above.

B. [Update and Review of Draft 2024 Comprehensive Plan, Including the Planning and Zoning Commission Recommendations \(02:01:26\)](#)

Jennifer Hofmeister-Drew, Planner III, updated the Town Council on the changes in the Comprehensive Plan following the August Town Council Meeting. She noted that adjustments had been made to three main elements of the comprehensive plan.

Council Member Araskog thought residents' quality of life should be included in the introduction. She also thought the square footage of businesses should remain in the comprehensive plan and did not believe restaurants, bars, and nightclubs should be exempted from town serving.

Council President Pro Tem Crampton stated that a formal review had been completed by Bill Brisson in 2021. The final recommendation was to eliminate town serving from the C-WA (Worth Avenue), C-OPI (Office, Professional, and Business) District, and C-P District, retaining it in the Royal Poinciana area while increasing the threshold to 4,000 square feet. He did not think that the smaller businesses were creating a significant impact on the Town. He thought this should be discussed when focusing on planning and zoning issues. He also thought the Special Exception Language in Element 12 needed more discussion.

Council Member Moran thought the comprehensive plan should be written in a broader sense.

Council Member Araskog said it was important to note the timing of the reports from Bill Brisson's review.

Ms. Hoffmeister-Drew defined Intensification. She also discussed the

changes to the Future Land Use Element - Goals, Objectives, and Policies and the definitions of Town Persons and Town Residents.

There was discussion about the definitions of Town Persons and Town Residents related to people renting or owning property in town.

Attorney O'Connor advised that a resident in residential districts is defined as "a person who owns or leases real property within a residential area and who maintains either a voting residence, bonified occupancy, or both."

The consensus of the Town Council was to include the word "lease" as related to town residents.

Ms. Hoffmeister-Drew discussed the amended language regarding maximum building heights. She added "commercial and mixed-use buildings" because the Worth Avenue district allows for mixed-use.

Ms. Hoffmeister-Drew discussed the Transportation Element Data and Analysis, stating the changes made. She then discussed amendments to the associated policies.

The next steps of the process were discussed, along with a schedule of dates that Ms. Hoffmeister-Drew provided to the Town Council.

Council Member Araskog requested that the Town Council receive a copy of the draft at the same time as the Planning and Zoning Commission, as they had also requested it. She was also interested in feedback from the Commission on not exempting nightclubs and whether hotel guests should be included in the definitions of town residents/town serving.

The Town Council Members expressed their appreciation to the staff for the hard work of preparing the documents for this stage of the process.

Council President Lindsay called for public comment.

Carol LeCates, 212 Seabreeze Avenue, urged the Town Council to preserve the town serving in the Code and the space limits in the comprehensive plan.

Anne Pepper, 333 Seaspray Avenue, thought the residential quality of life statement should be included in the introduction.

Susan Gary, 229 Onondaga Avenue, thought the town-serving element in the future land use section should remain.

Attorney Jamie Crowley stated that business owners he worked with were unaware of the town-serving language. He expressed concern about the term "redevelopment," which was undefined in the comprehensive plan. He pointed out that Policy 1.5, addressing redevelopment projects to meet town residents' needs, was too broad and needed more context. He

also discussed language regarding nonconforming properties. He cautioned that inconsistencies between the comprehensive plan and the zoning code could be created through the changes being made. Mr. Crowley further discussed items in the comprehensive plan and the zoning code that may be inconsistent and warrant additional review. He also made some suggestions about the program and how applicants would move through the process. Ms. Hoffmeister-Drew responded and said she would review the documents relative to Mr. Crowley's concerns. She also noted that all the strikethrough/underline changes were recommendations.

Susan Watts, 44 Coconut Row, stated that the residents support the businesses who support the residents.

Mayor Moore noted that The Breakers was the town's largest property owner and taxpayer. She thought that businesses provided services that the residents needed and wanted.

Council Member Araskog agreed with Mr. Crowley's statements.

Council President Lindsay stated that she preferred living in Palm Beach to a gated residential community because of the small-town feel, which included businesses.

This discussion lasted approximately 56 minutes. To listen, please click the link on the agenda topic above.

Clerk's note: A lunch break was taken at 12:35. The meeting resumed at 1:20 p.m.

C. [**Palm Beach Police and Fire Foundation – Life Insurance Benefit for Police and Fire Department \(1:21:03\)**](#)
TIME CERTAIN: 11:00 A.M.

RESOLUTION NO. 125-2024 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Authorizing The Town Council To Enter Into A Participation Agreement With The Palm Beach First Responders Foundation, Inc. To Memorialize The Town's Commitment To Provide Necessary Information To The Foundation For Purposes Of The Foundation's Establishment Of A Term Life Insurance Benefit For Town Of Palm Beach Police And Fire Sworn And Civil Employees Funded And Maintained By The Foundation; Approving Terms Of The Agreement, Authorizing The Mayor To Execute On Behalf Of The Town Council; Providing Severability; Providing For An Effective Date; Providing For Full Force And Effectiveness; Providing For Repeal And Conflicting Resolutions.

Joanne O'Connor, Town Attorney

Attorney O'Connor discussed the final edits made in the participation agreement. She advised that if the program should terminate, the Town would not be responsible for the benefit.

Rebecca Godwin from the Police and Fire Foundation thanked the Town Council for their support and offered to answer any questions.

Attorney O'Connor noted that the agreement would be modified to consistently reflect "Capital I" instead of "eligibility information."

Council Member Cooney thanked everyone for working out the issues and thanked the Police and Fire Foundation.

Council Member Araskog agreed with Council Member Cooney. She asked about the Limitation of Liability and how the Town was protected. Attorney O'Connor stated it was to ensure that neither party would be liable for punitive damages should there be any issue regarding the Town and the Foundation agreement. Council Member Araskog thought correspondence should be by certified mail since first-class mail is unreliable.

Council President Lindsay called for public comment.

Nick Caristo, Chief of Police, thanked the Police and Fire Foundation for their generosity.

A motion was made by Council Member Moran and seconded by Council Member Cooney to approve Resolution No. 125-2024, as amended. The motion carried unanimously, 5-0.

This discussion lasted approximately 13 minutes. To listen, please click the link on the agenda topic above.

VIII. DEVELOPMENT REVIEWS

A. Appeals

1. Appeal of the Landmarks Preservation Commission's Decision to Deny COA-24-0013, 70 Middle Road, at their August 21, 2024, Meeting.

Clerk's note: This item was deferred to October 9, 2024, during the approval of the agenda.

B. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. [ZON-24-0006 \(ARC-24-0011\) 1741 S OCEAN BLVD \(COMBO\) - VARIANCES \(03:16:07\)](#) The applicant, Maura Ziska (attorney) in conjunction with SKA Architect + Planner, has filed an application requesting Town Council review and approval for four (4) variances to (1) increase the maximum allowable lot coverage, (2) to allow existing non-conforming front yard setback to remain, (3) to allow existing side yard setback to remain, and (4) to allow landscape open space to increase from existing but still not meet minimum requirement as it relates to the existing structure and site improvements being modified. The Architectural Commission (ARCOM) shall perform a design review of the application.

[Architectural Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impacts on the subject property. Carried 7-0.] [The Architectural Commission approved the project with conditions. Carried 7-0.]

Council Member Moran disclosed ex-parte communications.

Attorney Maura Ziska, representing the applicant, provided an overview of the project and the variance request. Jackie Albarran, SKA Architect + Planner, presented the architectural plans for the proposed project.

Council Member Cooney thought the addition was nicely done and that the project was successful.

Council Member Araskog thought the addition changed the Regency design. Ms. Albarran showed the design and pointed out how much more pleasing it would appear. Council Member Araskog asked about the hardship, to which Ms. Ziska responded.

Council President Lindsay called for public comment. No one indicated a desire to speak.

A motion was made by Council Member Moran and seconded by Council Member Cooney that Variance No. ZON-24-0006 shall be granted and find, in support thereof, that all the criteria applicable to this application as set forth in Section 134-201 (a), items 1 through 7, have been met. The motion was carried 4-1, with Council Member Araskog dissenting.

This discussion lasted approximately 13 minutes. To listen, please click the link on the agenda topic above.

- b. **ZON-24-0010 (ARC-24-0023) 515 NORTH LAKE WAY (COMBO) - SPECIAL EXCEPTION AND VARIANCE** The applicant, JORDAN GRETCHEN S TRUST (Maura Ziska, Authorized Representative) has filed an application requesting Town Council review and approval for a special exception review to develop the existing nonconforming lot and one variance 1) to exceed the permitted angle of vision for the construction of a new one-story single-family residence with final hardscape and landscape. The Architectural Commission (ARCOM) shall perform a design review of the application. *[This project shall be deferred to the November 13, 2024, Town Council meeting pending Architectural Review.]*
Clerk's note: This item was deferred to the November 13, 2024, Town Council meeting at the Approval of the Agenda, Item VI.
- c. **ZON-24-0014 (ARC-24-0022) 1246 N LAKE WAY (COMBO) - VARIANCES (03:29:33)** The applicant, Myron and Michelle Miller, has filed an application requesting Town Council review and

approval of a variance for exceeding allowable cubic content ratio (CCR). The Architectural Commission (ARCOM) shall perform the design review of the application. [Architectural Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impacts on the subject property. Carried 5-2.] [The Architectural Commission approved the project with conditions. Carried 6-1.]

Council Members Cooney and Moran disclosed ex-parte communications.

Attorney Maura Ziska, representing the applicant, provided an overview of the project and the variance request. Andrea Viscovich, with JSR Architecture & Planning, presented the architectural plans for the proposed project.

Director Bergman provided staff comments.

Council Member Moran supported the project and thought the project was a good example of why the town should switch to FAR.

Mayor Moore understood the homeowner's concerns and the request to enclose the space.

Council President Lindsay was glad this house was being remodeled and not demolished.

Council President Lindsay called for public comment. No one indicated a desire to speak.

A motion was made by Council Member Moran and seconded by Council President Pro Tem Crampton that Variance No. ZON-24-0014 shall be granted and find, in support thereof, that all the criteria applicable to this application as set forth in Section 134-201 (a), items 1 through 7, have been met. The motion was carried 3-2, with Council Members Araskog and Cooney dissenting.

This discussion lasted approximately 8 minutes. To listen, please click the link on the agenda topic above.

- d. **ZON-24-0028 (ARC-24-0032) 272 VIA MARILA (COMBO) - VARIANCE**
The applicant, Melissa Wight, has filed an application requesting Town Council review and approval of (1) variance to reduce the minimum driveway area in front of the proposed vehicular gate for insufficient vehicular stacking. The Architectural Commission (ARCOM) shall perform a design review of the application. *[This project shall be deferred to the October 9, 2024, Town Council meeting pending Architectural Review.]*
Clerk's note: This item was deferred to the October 9, 2024, Town

Council meeting at the Approval of the Agenda, Item VI.

- e. **[ZON-24-0031 \(COA-24-0002\) 195 VIA DEL MAR \(COMBO\) - VARIANCES \(2:57:04\)](#)** The applicant, Guy Rabideau (Trustee of the 195 Via Del Mar Trust), has filed an application requesting Town Council review and approval of (1) variance to increase the maximum building height associated with a second-story addition. The Landmarks Preservation Commission shall perform a design review of the application. *[Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impacts on the subject property. Carried 7-0.] [The Landmarks Preservation Commission approved the project with conditions. Carried 7-0.]*

Council Members Cooney and Moran disclosed ex-parte communications.

Attorney David Klein, representing the applicant, provided an overview of the project and variance request and showed the architectural plan that demonstrated the variance.

Director Bergman provided staff comments.

Council Member Araskog asked about the hardship, to which Mr. Klein responded that, based on the current characteristics of the landmarked house, it was virtually impossible to build a second addition. Council Member Araskog also asked about the ceiling heights of the addition.

William Rutledge of Ferguson & Shamamian Architects discussed the ceiling heights of the areas in question.

Council President Lindsay called for public comment. No one indicated a desire to speak.

A motion was made by Council Member Cooney and seconded by Council President Pro Tem Crampton that Variance No. ZON-24-0031 shall be granted and find, in support thereof, that all the criteria applicable to this application as set forth in Section 134-201 (a), items 1 through 7, have been met. The motion was carried 4-1, with Council Member Araskog dissenting.

This discussion lasted approximately 10 minutes. To listen, please click the link on the agenda topic above.

2. New Business

- a. **[ZON-24-0039 195 VIA DEL MAR - VARIANCE \(03:07:19\)](#)** The applicant, Guy Rabideau (Trustee of the 195 Via Del Mar Trust), has filed an application requesting Town Council review and approval of (1)

variance to exceed the maximum permitted height of gate posts and gates within the Via Del Mar front yard setback.

Council Members Cooney and Moran disclosed ex-parte communications.

Attorney David Klein, representing the applicant, provided an overview of the project and variance request and showed the architectural plan that demonstrated the variance.

Director Bergman provided staff comments.

Council President Lindsay called for public comment. No one indicated a desire to speak.

Council Member Cooney supported the request and thought the home was Maurice Fatio's best work.

Council Member Moran asked about the height and gate; she did not like the gate design but stated she would support the variance.

Council Member Araskog agreed with Council Member Moran. She was inclined to ask the applicant to design a gate closer to Fatio's design.

William Rutledge of Ferguson & Shamamian Architects discussed the gates on the property and explained that the front gate was designed to be similar to those existing. He also discussed the lighting for the gate.

Council Member Cooney asked about one of the gates in the drawings, but Mr. Rutledge said that the gate was never constructed.

A motion was made by Council Member Cooney and seconded by Council Member Araskog that Variance No. ZON-24-0039 shall be granted and find, in support thereof, that all the criteria applicable to this application as set forth in Section 134-201 (a), items 1 through 7, have been met. The motion was carried unanimously, 5-0.

This discussion lasted approximately 9 minutes. To listen, please click the link on the agenda topic above.

- b. [**ZON-24-0008 \(ARC-24-0015\) 253 SEMINOLE AVE \(COMBO\) - VARIANCES \(03:37:54\)**](#) The applicant, Thomas Dagostino, has filed an application requesting Town Council review and approval for two (2) variances: (1) to expand existing nonconforming lot coverage beyond the maximum permitted, and (2) to decrease existing

nonconforming landscape open space below the minimum permitted; as part of hardscape and awning shade structure improvements. The Architectural Commission shall perform a design review of the application. *[Architectural Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impacts on the subject property. Carried 7-0.] [The Architectural Commission approved the project with conditions. Carried 7-0.]*

Mayor Moore disclosed ex-parte communications.

Dustin Mizell of Environment Design Group provided an overview of the project, explained the variance request, and showed the architectural plans.

Council President Pro Tem Crampton asked if it could be seen from the street, but Mr. Mizell stated it would not.

Council Member Moran asked about a stone element, which Mr. Mizell stated was removed from the project.

Council Member Araskog inquired about landscaping. Mr. Mizell said the landscaping would not be changed.

Director Bergman had no staff comments.

Council President Lindsay called for public comment. No one indicated a desire to speak.

A motion was made by Council Member Moran and seconded by Council Member Cooney that Variance No. ZON-24-0008 shall be granted and find, in support thereof, that all the criteria applicable to this application as set forth in Section 134-201 (a), items 1 through 7, have been met. The motion was carried 4-1, with Council Member Araskog dissenting.

This discussion lasted approximately 7 minutes. To listen, please click the link on the agenda topic above.

- c. **ZON-24-0034 (ARC-24-0027) 203 S LAKE TRL (COMBO) - SPECIAL EXCEPTION(S)** The applicants, Darlene & Gerald Jordan, have filed an application requesting Town Council review and approval for (2) Special exceptions as they pertain to the construction of a new residence, including (1) special exception for the construction of a padel court and (1) special exception to provide reduced vehicle queueing space at the vehicular driveway gate on a cul-de-sac. The Architectural Commission (ARCOM) shall perform a design review of the application. *[This project shall be deferred to the November 13, 2024, Town Council meeting pending Architectural Review.]*
Clerk's note: This item was deferred to the November 13, 2024, Town Council meeting at the Approval of the Agenda, Item VI.

- d. **ZON-24-0015 (ARC-24-0030) 410 SEABREEZE AVE (COMBO) - VARIANCES** The applicant, Deborah Glass, has filed an application requesting Town Council review and approval of two (2) variances for (1) a second-story side-yard setback encroachment and (2) a variance to further expand the existing nonconforming Cubic Content Ratio (CCR). The Architectural Commission (ARCOM) shall perform a design review of the application. *[The Architectural Commission denied this project. Carried 7-0.] [Due to the denial at the Architectural Commission meeting, this project will not move forward to the Town Council meeting.]*
Clerk's note: This item was deferred to the October 9, 2024, Town Council meeting at the Approval of the Agenda, Item VI.
- e. **ZON-24-0016 (COA-24-0012) 238 PHIPPS PLAZA (COMBO) - VARIANCES (03:55:13)** Joshua Levy with Phipps Plaza Properties, LLC, has filed an application requesting Town Council review and approval of two (2) variances to 1) reduce the minimum side yard setback and 2) reduce the minimum rear yard setback associated with a new awning. The Landmarks Preservation Commission shall perform a design review of the application. *[Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impacts on the subject property. Carried 7-0.] [The Landmarks Preservation Commission approved the project with conditions. Carried 7-0.]*

There were no ex-parte communications disclosed.

Attorney Maura Ziska, representing the applicant, provided an overview of the project and the variance request and presented the architectural plans for the proposed project.

Director Bergman provided staff comments.

Council Member Cooney thought the project was acceptable.

Council Member Araskog asked about the project's hardship. Ms. Ziska responded that the house already encroaches on all the setbacks and exceeds every zoning requirement. She said the project would not exasperate any non-conformities.

Council President Lindsay called for public comment. No one indicated a desire to speak.

A motion was made by Council Member Cooney and seconded by Council Member Araskog that Variance No. ZON-24-0016 shall be granted and find, in support thereof, that all the criteria applicable to this application as set forth in Section 134-201 (a), items 1 through 7, have been met. The motion was carried unanimously, 5-0.

This discussion lasted approximately 5 minutes. To listen, please click the link on the agenda topic above.

- f. **ZON-24-0021 (ARC-24-0033) 1356 N OCEAN BLVD (COMBO) – VARIANCES (03:44:35)** The applicants, Gary & Kelly Pohrer, have filed an application requesting Town Council review and approval for two (2) variances: (1) to exceed the maximum height permitted for a pergola structure and (2) to decrease landscape open space below the minimum permitted. The Architectural Commission shall perform a design review of the application. *[Architectural Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impacts on the subject property. Carried 7-0.] [The Architectural Commission approved the project with conditions. Carried 7-0.]*

Mayor Moore disclosed ex-parte communications. Council Member Cooney declared a conflict of interest regarding the project and left the dais during the discussion.

Dustin Mizell of Environment Design Group provided an overview of the project, explained the variance request, and showed the architectural plans. Gary Pohrer, the owner, discussed why he requested the changes.

Director Bergman had no staff comments.

Council Member Araskog asked if the neighbor had a conflict with the project. Mr. Mizell responded.

Council President Lindsay called for public comment. No one indicated a desire to speak.

A motion was made by Council President Pro Tem Crampton and seconded by Council Member Moran that Variance No. ZON-24-0021 shall be granted and find, in support thereof, that all the criteria applicable to this application as set forth in Section 134-201 (a), items 1 through 7, have been met. The motion was carried 3-1, with Council Member Araskog dissenting.

This discussion lasted approximately 5 minutes. To listen, please click the link on the agenda topic above.

- g. **ZON-24-0023 (ARC-24-0029) 242 PARK AVE (COMBO) - VARIANCES** The applicant, Rhonda Nasser, has filed an application requesting Town Council review and approval of four (4) variances for (1) a reduced swimming pool side-yard setback, (2) a reduced pool pump and filter side yard setback, (3) a reduced pool heater side yard setback, and (4) to forgo the requirement of a pool heater to be screened with a masonry wall. The Architectural Commission

(ARCOM) shall perform a design review of the application. *[This project shall be deferred to the October 9, 2024, Town Council meeting pending Architectural Review.]*

Clerk's note: This item was deferred to the October 9, 2024, Town Council meeting at the Approval of the Agenda, Item VI.

- h. [ZON-24-0032 \(COA-24-0010\) 228 SEASPRAY AVE \(COMBO\) – VARIANCES \(03:49:34\)](#) The applicant, Jeffery Smith, on behalf of Smith Architectural Group, has filed an application requesting Town Council review and approval of two (2) variances to 1) reduce the side yard setback and 2) increase the allowable cubic content ratio (CCR). The Landmarks Preservation Commission shall perform a design review of the application. *[Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impacts on the subject property. Carried 7-0.] [The Landmarks Preservation Commission approved the project with conditions. Carried 7-0.]*

There were no ex-parte communications disclosed.

Attorney Maura Ziska, representing the applicant, provided an overview of the project and the variance request and presented the architectural plans for the proposed project.

Director Bergman provided staff comments.

Council Member Cooney thought the project was nicely designed.

Council Member Araskog asked about the hardship, to which Ms. Ziska responded that the house is a nonconforming landmarked home built in 1924.

Mayor Moore asked if any neighbors commented on the project, to which Ms. Ziska stated that they had not received any comments.

Council

President Lindsay called for public comment. No one indicated a desire to speak.

A motion was made by Council President Pro Tem Crampton and seconded by Council Member Araskog that Variance No. ZON-24-0032 shall be granted and find, in support thereof, that all the criteria applicable to this application as set forth in Section 134-201 (a), items 1 through 7, have been met. The motion was carried unanimously, 5-0.

This discussion lasted approximately 6 minutes. To listen, please click the link on the agenda topic above.

- i. **ZON-24-0033 (ARC-24-0052) 130 SEASPRAY AVE (COMBO) – SPECIAL EXCEPTION AND VARIANCE (04:00:05)** The applicant, Kirchhoff and Associates, on behalf of Victor and Julia Tolkari, has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review to develop an existing nonconforming parcel with a new, single-family residence and (1) variance to reduce the number of required enclosed garage parking spaces. The Architectural Commission shall perform a design review of the application. [Architectural Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impacts on the subject property. Carried 6-1.] [The Architectural Commission approved the project with conditions. Carried 6-1.]

Ex-parte communications were disclosed by Council Members Araskog, Cooney, and Moran.

Attorney Maura Ziska, representing the applicant, provided an overview of the project and the variance request. Jill Bruderer of Kirchhoff & Associates Architects presented the architectural plans for the proposed project.

Director Bergman provided staff comments.

Council Member Araskog asked if any changes could be made to the Coral stone on the front of the home. Ms. Bruderer showed other examples of homes using Coral stone in the area and stated that this was the owner's preference. Council Member Araskog asked about the hardship, to which Ms. Ziska responded.

Council Member Moran supported the design and favored the stone on the front of the home.

Council President Lindsay called for public comment. No one indicated a desire to speak.

Council Member Cooney asked about the height of the landscape when installed. Ms. Bruderer showed some renderings of the final landscape plan. Council Member Cooney noted that he was supportive of the garage variance.

A motion was made by Council Member Moran and seconded by Council Member Cooney that Special Exception No. ZON-24-0033 and Site Plan Review No. ZON-24-0033, as said applications meet the criteria set forth in sections 134-229 and 134-329, respectively, of the Town Code and finding that approval of the Site Plan will not adversely affect the public interest, that all zoning requirements governing the use have been met and that satisfactory provision and arrangement has been made concerning items (1) through (11)

of section 134-329. The motion was carried unanimously, 5-0.

A motion was made by Council Member Moran and seconded by Council Member Cooney that Variance No. ZON-24-0033 shall be granted and find, in support thereof, that all the criteria applicable to this application as set forth in Section 134-201 (a), items 1 through 7, have been met. The motion was carried unanimously, 5-0.

This discussion lasted approximately 13 minutes. To listen, please click the link on the agenda topic above.

- j. **ZON-24-0035 (HSB-24-0005) 854 SOUTH COUNTY RD (COMBO)—VARIANCE** The applicant, Dustin Mizell with Environmental Design Group on behalf of owner Andrew Unanue, has filed an application requesting review and approval for one (1) variance to permit a second guest house with bedrooms and bathrooms on site. The Landmarks Preservation Commission will perform the design review for the proposed structure on-site modifications. *[This project shall be deferred to the October 9, 2024, Town Council meeting pending Landmark Preservation Review.]*
Clerk's note: This item was deferred to the October 9, 2024, Town Council meeting at the Approval of the Agenda, Item VI.

- k. **ZON-24-0036 0 ROYAL POINCIANA WAY MEDIANS—SITE PLAN REVIEW (32:28)** The applicant, the Town of Palm Beach, in conjunction with the Garden Club of Palm Beach, has filed a site plan review application requesting Town Council review and approval for landscape and gravel path improvements to the medians for this historic vista.
TIME CERTAIN – 10:00 A.M.

Council Members Araskog, Cooney, Moran, Council President Pro Tem Crampton, Council President Lindsay, and Mayor Moore disclosed ex-parte communications.

Friederike Mittner, Design and Preservation Manager, stated that the plan had been administratively approved by the staff in coordination with the chair of the Landmarks Preservation Commission. She introduced Jorge Sanchez, who would be presenting the project.

Jorge Sanchez of SMI Landscape Architecture presented the landscape and hardscape plans for the medians.

Council Member Cooney inquired about the species of the materials and asked if the changes had been communicated to Colonel Hanke, who generously donated the statue in the median. Mr. Sanchez responded. Discussion ensued about the landscape materials.

Council Member Moran thought the plan was beautiful and thanked everyone who contributed to the project.

Council President Pro Tem Crampton expressed concern about the proposed grass material. He thought the plan was nice and supported the project. Mr. Sancez said the Zoysia grass was a species that would stay green year-round.

Council President Lindsay asked about the size of the trees proposed. Mr. Sanchez responded.

Council Member Araskog asked about the material for the ground cover in the median. Mr. Sanchez responded. Council Member Araskog asked about the timing of the project and expressed concern about traffic issues in the area.

Mr. Brazil recommended beginning this project in the summer to assist with traffic. He discussed how he believed the project would be implemented with minimal traffic delays.

Council Member Moran wondered how long the installation would take, to which Mr. Sanchez stated about three weeks.

Mr. Sanchez stated that the Palm Beach Garden Club deserved the credit for the project.

Council Member Cooney noted that the area was a designated scenic vista. He felt the change would be substantial.

Mayor Moore thought the project was beautiful and acknowledged that it would not be installed until next year, so there was time for a review with the Landmarks Preservation Commission.

Mr. Brazil requested permission to put the item out for bid so that the town would be ready for installation in the summer.

Council Member Cooney asked about the cost impact on the Town. Mr. Brazil said the Garden Club would be funding 100% of the project.

Council Member Araskog asked if the costs could be waived when the project moved to the Landmarks Preservation Commission. Mr. Brazil stated from the applicant's perspective, most of the cost will be for representation and professional consultants. Council Member Araskog asked if any administrative fees could be waived for the project. Ms. Mittner responded.

Mayor Moore wanted to ensure that the Town, as the applicant, would be treated like any other applicant. Mr. Brazil confirmed that the Town was not benefitting from any special considerations.

Council President Lindsay called for public comment.

Ginny Parker, a member of the Garden Club, thanked many people for assisting with the design.

Anita Seltzer, 44 Coconut Row, thanked the Garden Club for its efforts. However, she expressed concerns about the project. She stated that the subject property was not a park, even though some notices labeled it as such. She also wondered if pedestrians would be able to get across the road, given the new design. Ms. Seltzer also discussed traffic issues.

Mr. Brazil discussed the accessibility of the proposed paths.

Council Member Cooney thought the space could be more pedestrian-friendly down the road.

Council Member Moran said the project, as a median, will be beautiful. She also expressed her appreciation to the Palm Beach Garden Club.

Council Member Araskog asked about maintenance in the area following the improvements. Mr. Brazil did not have costs but said it would slightly increase. Council Member Araskog also asked about the area's liability after the improvements. Mr. Brazil responded.

Council President Pro Tem Crampton asked about the project's funding. Mr. Brazil stated that the Garden Club had raised the total cost (\$550,000) for the project. Council President Pro Tem Crampton asked if more shade could be added to the area. Mr. Sanchez stated that since it was not a park and should remain open, shade trees would be inappropriate.

Council Member Cooney discussed the area's history and stated that openness was a historic feature.

James Murphy, Assistant Director of the Planning, Zoning, and Building Department, stated that the notice sent to the neighbors was for approval of landscape and gravel path improvements to the medians for this historic vista, as stated in the project description.

A motion was made by Council Member Cooney and seconded by Council President Pro Tem Crampton that Site Plan No. ZON-24-

0036 be approved, based upon the finding that the approval of the site plan will not adversely affect the public interest and that the Council certified that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement have been made concerning Section 134-329, items 1 through 11, and with the condition that the project is reviewed by the Landmarks Preservation Commission at a level determined by the staff. The motion was carried unanimously, 5-0.

This discussion lasted approximately 50 minutes. To listen, please click the link on the agenda topic above.

Clerk's note: A short break was taken at 10:51 a.m. The meeting resumed at 10:59 a.m.

C. [Time Extensions and Waivers \(04:13:06\)](#)

1. [Waiver of Town Code Section 42-199 For Working Hours at 415 Hibiscus Ave. \(04:13:21\)](#)

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

Maura Ziska, the applicant's attorney, explained the issues and why a permit extension was necessary. Josh Pertnoy of Shapiro Pertnoy Company discussed the project, the work to be completed, and the plan to finish.

Council Member Araskog expressed concern about work on the weekends. Ms. Pertnoy stated that any work on the weekends would be interior. Council Member Araskog asked if December 13, 2024, could be the hard stop for work.

Council Member Moran asked about the work on the flooring. Mr. Pertnoy responded that the floor was terrazzo and that it would be done before November 1, 2024. Council Member Moran thought that if the working hours were approved for 8:00 a.m. to 6:00 p.m., that would help with traffic.

Mayor Moore supported the bus concept, with workers being dropped off on Peruvian and asked to walk through the Apollo lot. She also said that 8:00 a.m. to 6:00 p.m. would help with traffic. Council President Lindsay noted that this would be on a trial basis, and if there were any complaints, they would have to be addressed.

Council President Lindsay called for public comment.

Daren Rubinfeld, 247A Worth Avenue, an attorney representing the Holzer family, expressed the family's support for the requested extension.

A motion was made by Council Member Araskog and seconded by Council Member Cooney to approve the working hours requested at 415 Hibiscus Avenue, with the following conditions: the extension granted is from November 1 to December 13, 2024, with work hours limited to 8

am to 6 pm, Monday through Friday, all of the holiday work hours are followed in November, the busses for any workers will use the drop off on Peruvian Avenue, there will be no materials dropped off on Worth Avenue or Hibiscus Avenue, and the Director of Planning, Zoning and Building will handle any complaints. The motion was carried unanimously, 5-0.

This discussion lasted approximately 11 minutes. To listen, please click the link on the agenda topic above.

2. [Waiver of Town Code Section 42-199 for Working Hours \(Commercial Worth Avenue C-WA Zone\) at 222 Worth Ave. \(04:24:23\)](#)

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

On behalf of Louis Vuitton, Rico Gatmaitan and Ludovica Douglas of Atmosphere explained the issues that caused delays and discussed why a permit extension was necessary.

Council Member Moran expressed concern about the work that will be done during the season. She thought the excessive noise would be distracting, and she noted that the walls are shared with other tenants.

Mayor Moore asked about the hours that the applicant requested to work. Mr. Bergman responded. Mayor Moore thought 8 p.m. was too late to work and March was too long for the work hours.

Council Member Cooney asked about access to the shop rather than using Worth Avenue. Ms. Douglas responded. Ms. Douglas said the applicant did have a temporary right-of-way permit until the end of October to use the alleyway and to create temporary staging for interior work.

A motion was made by Council Member Cooney and seconded by Council Member Araskog to deny the working hours requested at 222 Worth Avenue. The motion was carried unanimously, 5-0.

This discussion lasted approximately 15 minutes. To listen, please click the link on the agenda topic above.

Clerk's note: A short break was taken at 3:03 p.m. The meeting resumed at 3:10 p.m.

IX. [ORDINANCES \(04:39:25\)](#)

A. **Second Reading**

1. [ORDINANCE NO. 020-2024 \(04:39:29\)](#): An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida; Amending The Adopted 2017 Town Of Palm Beach's Comprehensive Plan Pursuant To Chapter 163, Florida Statutes; Amending The Future Land Use Map Of The Comprehensive Plan By Changing The Future

Land Use Designation For Parcels Of Land More Particularly Described In Exhibit C, From “Public”, “Recreation” And “Single Family”, Respectively To “Private Group Use”; Providing For Inclusion Into The Comprehensive Plan; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Director Bergman read Ordinance No. 020-2024 by title only.

Council President Lindsay called for public comment.

A motion was made by Council Member Moran and seconded by Council President Pro Tem Crampton to adopt Ordinance No. 020-2024 on the second reading. The motion was carried unanimously, 5-0.

This discussion lasted approximately 2 minutes. To listen, please click the link on the agenda topic above.

2. [ORDINANCE NO. 021-2024 \(04:40:58\)](#): An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Amended Official Zoning Map Of The Town Of Palm Beach Updated July 26, 2022; Rezoning Parcels Of Land More Particularly Described In Exhibit B, From “R-B Low-Density Residential” District, To “CI Cultural Institution” District; Providing For Inclusion On The Zoning Map; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Director Bergman read Ordinance No. 021-2024 by title only.

Council President Lindsay called for public comment.

A motion was made by Council Member Moran and seconded by Council President Pro Tem Crampton to adopt Ordinance No. 021-2024 on the second reading. The motion was carried unanimously, 5-0.

This discussion lasted approximately 2 minutes. To listen, please click the link on the agenda topic above.

A. [First Reading \(04:42:01\)](#)

1. Ordinance 030-2024, Amending Chapter 50 of the Town Code of Ordinances, Changes Relating to Floodplain Management

[ORDINANCE NO.030-2024 \(04:42:05\)](#): An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Of Palm Beach Code Of Ordinances To Update The Date Of The Flood Insurance Study And Flood Insurance Rate

Maps; To Add A Definition Of Historic Structure; To Reformat A Previously Adopted Amendment To The Florida Building Code; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Director Bergman read Ordinance No. 030-2024 by title only.

Council President Lindsay called for public comment.

A motion was made by Council President Pro Tem Crampton and seconded by Council Member Cooney to approve Ordinance No. 030-2024 on the first reading. The motion was carried unanimously, 5-0.

This discussion lasted approximately 2 minutes. To listen, please click the link on the agenda topic above.

X. ANY OTHER MATTERS (04:43:38)

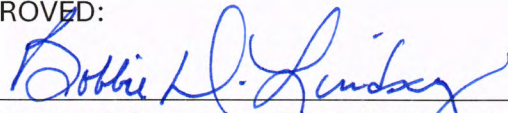
Council President Lindsay asked Town Attorney O'Connor to research whether an Ordinance that was adopted in 2017 could be amended to add recreational marijuana dispensaries.

There was consensus of the Town Council to request that Town Attorney Joanne O'Connor return in October with an ordinance restricting recreational marijuana dispensaries in the Town of Palm Beach.

XI. ADJOURNMENT (04:49:15)

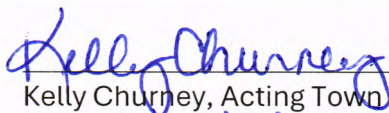
A motion was made by Council Member Araskog and seconded by Council Member Cooney to adjourn the meeting at 3:20 p.m. The motion was carried unanimously, 5-0.

APPROVED:



Bobbie D. Lindsay, Town Council President

ATTEST:



Kelly Churney, Acting Town Clerk

Date: 10/8/24



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

LAST NAME—FIRST NAME—MIDDLE NAME <u>Cooney, Edward</u>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <u>Town Council</u>	
MAILING ADDRESS <u>251 Route Porciana Way, #A</u>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☐ CITY ☐ COUNTY ☒ OTHER LOCAL AGENCY	
CITY <u>Palm Beach</u>	COUNTY <u>Palm Beach</u>	NAME OF POLITICAL SUBDIVISION: <u>Palm Beach</u>	
DATE ON WHICH VOTE OCCURRED <u>September 11, 2024</u>		MY POSITION IS: ☒ ELECTIVE ☐ APPOINTIVE	

WHO MUST FILE FORM 8B

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

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

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

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

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

* * * * *

ELECTED OFFICERS:

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

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

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

* * * * *

APPOINTED OFFICERS:

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

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

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

APPOINTED OFFICERS (continued)

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

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

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

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Edward Cooney, hereby disclose that on September 11, 20 24:

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

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

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

ZON - 24 - 0021
1356 N. Ocean Blvd.
Variance

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

09/11/24
Date Filed

Edward A Cooney
Signature

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