



TOWN OF PALM BEACH

Town Clerk's Office

SUMMARY OF ACTIONS TAKEN AT THE TOWN COUNCIL MEETING HELD ON WEDNESDAY, AUGUST 15, 2012

- I. CALL TO ORDER AND ROLL CALL
- 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

ACTION: ITEM VIII.A.1., REQUEST FOR RECONSIDERATION OF TOWN COUNCIL DECISION, 95 N. COUNTY ROAD, WAS DEFERRED TO THE OCTOBER 10, 2012, TOWN COUNCIL MEETING.

ACTION: A PROPOSED SETTLEMENT AGREEMENT WITH POLICE OFFICER JARED MANCIL WAS ADDED TO THE AGENDA.

ACTION: RESOLUTION NO. 95-2012, SUPPORTING THE CENTRAL EVERGLADES PLANNING PROJECT, WAS ADDED TO THE AGENDA.

ACTION: APPROVED, AS AMENDED

ADDITIONS:

1. Proposed Settlement with Police Officer Jared Mancil.

ACTION: APPROVED

2. RESOLUTION NO. 95-2012 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Supporting the Central Everglades Planning Project (CEPP) for the Restoration of the Central Everglades.

ACTION: APPROVED

- VII. ORDINANCES

A. Second Reading – None

B. First Reading

1. ORDINANCE NO. 10-2012 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, As Follows: Sec. 134-2, Definitions And Rules Of Construction, By Modifying The Definition Of Declaration Of Use To Include Remedies For Violation Of Limitations, Conditions Of Approval Or The Code Of Ordinances And Submission Of Annual Certificates Of Compliance; Sec. 134-261, Town Council Actions; Submission To Planning And Zoning Commission For Recommendations And Report; Hearings, By Replacing The Term Building Official With Director Of Planning, Zoning and Building Department Or Designee; Sec. 134-887, Permitted Uses, In The R-B Zoning District To Provide For Outdoor Seating For The Par 3 Golf Course Club House; Sec. 134-1159, Special Exception Uses, By Changing The Special Exception Requirement In The C-WA Zoning District For Retail And Service Activities Not Specifically Cited As Permitted Uses From A Gross Leasable Area Of 2,000 Square Feet To 4,000 Square Feet; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

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

ACTION: TOWN COUNCIL AMENDED THIS ORDINANCE TO INCLUDE A PROVISION AS FOLLOWS:

“DECLARATION OF USE MEANS A TOWN AGREEMENT SIGNED UNDER OATH AND RECORDED AGAINST THE TITLE OF LAND IN ORDER TO PROVIDE NOTICE THAT THE USE OF LAND OR STRUCTURE IS SUBJECT TO CERTAIN LIMITATIONS AND OR CONDITIONS OF APPROVAL WHICH, UNLESS OTHERWISE DETERMINED BY TOWN COUNCIL, SHALL INCLUDE REMEDIES FOR CERTAIN VIOLATIONS.”

- a. Request To Consider Ordinance No. 10-2012 Prior To 5:00 p.m. at the 9/11/12 Meeting.

ACTION: APPROVED

VIII. DEVELOPMENT REVIEWS

A. Appeals

1. Request for Reconsideration of Town Council Decision, 95 N. County Road (per letter dated July 25, 2012, from Hunter Johnson, Woolems, Inc.).

ACTION: DEFERRED TO THE OCTOBER 10, 2012, TOWN COUNCIL MEETING

- B. Time Extensions & Waivers – None
- C. Variances, Special Exceptions, and Site Plan Reviews
 - 1. Old Business

- a. **MODIFIED SITE PLAN REVIEW #6-2012 WITH SPECIAL EXCEPTION AND VARIANCES** The application of 160 Royal Palm LLC (Glenn F. Straub, Manager); relative to property commonly known as **160 Royal Palm Way**; described as Being all of Lots 31, 32 and 33, Block F, ROYAL PARK ADDITION to the Town of Palm Beach, Florida, according to the plat thereof as recorded in Plat Book 4, Page 1 Public Records of Palm Beach County, Florida; located in the C-B Zoning District. The subject condominium hotel is currently under renovation pursuant to the approval of the Town Council in May 2007. The site plan has been modified from the original plan which requires approval from the Town Council. The following is a list of the proposed changes to the approved plan; elimination of two pool structures and relocation of a pool structure which includes service bar; relocation of pool restrooms to inside of Function Room; elimination of the mansard roof on the east elevation and keep the existing mansard roof on the east guest wing elevation in lieu of the parapet that was previously shown on the plans and approved; relocation of pool equipment and storage to under pool service building; approval of landscaping, cabanas and pool terrace for the entire site; addition of plunge pools to the pool terrace area; addition of interior floor above lobby to total 1,486 square feet of which 500 square feet is dining area; addition of parapet to connect east stair tower to existing approved parapet; addition of elevator to be shown on roof plan of function room roof where previously not shown; replace solid parapet on function room with balustrade railing; increase height of doors in main lobby overlooking pool deck by 3 feet; add a breezeway from the main lobby to function room; add a 7 foot tall hedge with a 42 inch rail on south side of proposed swimming pool to run length of pool deck area; add pergola on south elevation and extend balconies on north, south and east elevations; addition of service corridors and expansion of kitchen and laundry room which totals approximately 3,625 square feet; shift location of approved function room 25 feet to the east and add back the 4 of the 6 parking spaces that are lost. The size of the spa facility is decreased from 7,325 square feet to 5,948 square feet which eliminates the need for 2 parking spaces that were lost. Net effect

is zero loss of parking spaces; replace solid concrete railing on stairway on south side of west wing fire escape with precast balustrade railing. A request for Special Exception approval is required for the new owner of the condominium hotel and changes and modification of the hotel which is a special exception. The following variances are requested in conjunction with the modification to the site plan: a variance for the height and overall height of the new parapet roofing design and material to be 35.27 feet from zero datum (no change from existing) in lieu of the 30 foot maximum overall building height allowed by Code in the C-B Zoning District; a variance for 4 parking spaces due to the additional floor 986 square feet created above the lobby for additional dining and kitchen facilities (no increase in number of seats) and a variance for 3 parking spaces due to the addition of a kitchen prep area which totals 831 square feet in the basement for a total of 7 parking spaces that would be required; a variance to increase the height of the parapet wall above the parking deck to be 14 feet in lieu of the 5 foot maximum allowed and the 3.5 feet existing. [Attorney: Maura A. Ziska]

[ARCOM Recommendation: Implementation of the proposed Variances (excluding parking variance) will not cause negative architectural impact to the subject property. Carried 7-0]

Deferred from the July 15, 2012, Town Council Meeting.

TIME CERTAIN: 11:00 AM

ACTION: APPROVED MODIFIED SITE PLAN REVIEW REQUEST #s. 2, 3, 4, 6, 7, 8, 10, 11, 13, 14, 15, AND 16. REQUEST #s CORRESPOND TO "THE PALM HOUSE" PRESENTATION PLANS DATED AND PRESENTED AUGUST 15, 2012. REQUEST #12, TO ADD A BREEZEWAY BETWEEN THE HOTEL AND THE PROPOSED FUNCTION ROOM, WAS WITHDRAWN BY THE APPLICANT. THE REMAINING REQUESTS WERE APPROVED, SUBJECT TO THE FOLLOWING CONDITIONS:

REQUEST #1- THE NEW STRUCTURE FOR THE SERVICE BAR SHALL BE SUBJECT TO FURTHER LIMITATIONS THAT THE SERVICE BAR ADJACENT TO THE POOL REMAINS AS A SERVICE BAR WITH NO SEATING OR CUSTOMER BAR SERVICE, INTO PERPETUITY, TO ENSURE IT NEVER BECOMES A GATHERING OR MEETING PLACE FOR HOTEL GUESTS OR RESIDENTS.

REQUEST #5- THE LANDSCAPING ON THE ENTIRE SOUTH PROPERTY LINE SHALL BE INCREASED TO PROVIDE A SOLID BUFFER TO THE ABUTTING PROPERTIES; THE LANDSCAPING PLANS MUST

ALSO BE APPROVED BY ARCOM.

REQUEST #9- BOTH THE ELEVATOR AND THE STAIRWELL ACCESS TO THE FUNCTION ROOM ROOF MUST BE CLOSED BETWEEN 7:00 P.M. AND 9:00 A.M.

REQUEST #17- A NEW 14' HIGH WALL SHALL BE CONSTRUCTED FROM THE SOUTHWEST CORNER OF THE FUNCTION ROOM WEST TO CONNECT TO THE SERVICE BAR. SAID WALL SHALL BE IN FRONT OF THE PLANTINGS, AND SHALL INCLUDE A WATER FEATURE TO PROVIDE SOUND PROTECTION FOR THE NEIGHBORS.

ACTION: THE MODIFIED SITE PLAN REVIEW SHALL ALSO BE SUBJECT TO EXECUTION OF AN AMENDED DECLARATION OF USE AGREEMENT PROVIDING THAT NO EVENTS SHALL BE HELD AROUND THE POOL OR FUNCTION ROOM, THE GREEN SPACE MUST REMAIN PASSIVE, ONLY BACKGROUND OR OCCASSIONAL LIGHT, LIVE MUSIC IS ALLOWED AROUND THE POOL AREA AND GREEN SPACE IN FRONT OF THE PROPOSED FUNCTION ROOM, AND THE OUTSIDE SPEAKERS MUST BE DIRECTIONALLY ENGINEERED TO FACE THE HOTEL.

ACTION: APPROVED ALL 3 VARIANCE REQUESTS.

ACTION: APPLICANT IS REQUIRED TO COMPLETE THE FUNCTION ROOM, MEZZANINE DINING ROOM, AND FITNESS CENTER/SPA CONSTRUCTION TO MINIMUM "SHELL" COMPLETION PRIOR TO FEBRUARY 14, 2013; THEREAFTER, ONLY INSIDE QUIET WORK WILL BE ALLOWED. THE AIR CONDITIONING AND OTHER MECHANICAL EQUIPMENT ON THE FUNCTION ROOM ROOF SHALL BE SCREENED AND BUFFERED FROM THE NEIGHBORS BY A SOLID PARAPET.

2. New Business

- a. **VARIANCE # 26-2012** The application of 2310 Investors LLC; relative to property commonly known as **2310 South Ocean Blvd.**; described as lengthy legal description on file; located in the R-C Zoning District. The applicant is proposing a dock which a portion runs adjacent to the seawall the length of the property and is 8 feet deep. The other portion of the proposed dock would be 48 feet long with a platform and boat lift. The variances being requested are as follows: to allow a zero (0) north riparian side yard setback

in lieu of the 25 foot minimum required; to allow a zero (0) south riparian side yard setback in lieu of the 25 foot minimum required; to allow the length of the dock to be 48 feet deep and west of the US Pierhead line and the Town's Bulkhead line in lieu of the 6 foot maximum allowed for a marginal dock.

[Attorney: Maura A. Ziska]

ACTION: DEFERRED TO THE OCTOBER 10, 2012, TOWN COUNCIL MEETING

- b. **VARIANCE # 27-2012** The application of Jerry and Barbara Pearlman; relative to property commonly known as **202 Indian Road**; described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting to allow the construction of an unattached one story 1,090 square foot accessory structure (pool cabana) with a side yard setback of 16.0 feet in lieu of the 30 foot minimum required on a lot with a width of 282 feet. [Attorney: Francis X. J. Lynch]

ACTION: APPROVED

- c. **SITE PLAN REVIEW #7-2012 WITH VARIANCES** The application of Philip J. Crowe Jr. and Maureen M. Crowe; relative to property commonly known as **170 North Ocean Blvd., PH 702**; described as Condominium Parcel No. 702 and Covered Parking Unit 2, OCEAN TOWERS NORTH, a Condominium, according to the Declaration as recorded in Official Records Book 3208, Page 1913 of the Public Records of Palm beach County, Florida; located in the R-C Zoning District. The applicant requests a Site Plan Modification with variances to allow one (1) retractable awning totaling 193.8 square feet over the terrace on the seventh floor of a seven story condominium building. Variances are requested as follows: to allow the awning at a height of 60.4 feet in lieu of the 23.5 feet maximum allowed; to allow the awning at an overall height of 62.9 feet in lieu of the 31.5 maximum allowed; to allow the awning on the existing seventh floor penthouse of a seven story building in lieu of the two story building maximum allowed; to allow the awning with a street side yard setback of 109.4 feet in lieu of the 189 feet minimum required for multi-family use; to allow the awning with a front yard setback of 98.5 feet in lieu of the 189 feet minimum required for multi-family use. [Attorney: Maura A. Ziska]
[ARCOM Recommendation: Implementation of the proposed variances will not cause negative architectural impacts to the subject property. Carried 7-0]

ACTION: APPROVED

- d. **SPECIAL EXCEPTION #14-2012 WITH VARIANCES** The application of Thomas Maier; relative to property commonly known as **300 South Ocean Blvd., PH-C**; described as THREE HUNDRED SOUTH OCEAN BLVD APTS INC PENTHOUSE C; located in the R-D (2) Zoning District. The applicant is requesting a Site Plan Review for a 700 sq. ft. awning on one of the penthouse units (PH-C) facing east. A Special Exception is requested to erect a 50 foot x14 foot awning on the 6th floor of a building where the maximum height allowed is 5 floors. Variances are requested to install said awning with a front yard set back of 29 feet in lieu of a 65 foot minimum required; a side yard set back of 38 feet in lieu of 65 foot minimum required and to install said awning on the 6th floor of a building in a district that allows 5-story buildings by special exception. [Attorney: Peter S. Broberg]
[ARCOM Recommendation: Implementation of the proposed variances will not cause negative architectural impact on the subject property. Carried 7-0]

ACTION: APPROVED

- e. **SPECIAL EXCEPTION #15-2012 WITH VARIANCE (MODIFYING SE #10-1992 WITH VARIANCE)** The application of Linda Gary; relative to property commonly known as **420 South County Road**; described as Lots 28 thru 33 inclusive, Block 15, Royal Park Addition; located in the C-WA Zoning Districts. The applicant is requesting a modification to Special Exception #10-92 with Variance by removing a condition of approval to allow a real estate office (Linda Gary) on the first floor in the C-WA zoning district. The condition of approval was to have an entrance and address only on South County Road. In addition, the applicant believes that signage should also be allowed on Worth Avenue which does not exist today. The request is to allow another door fronting on Worth Avenue and Worth Avenue address and business identification sign. [Attorney: Ronald K. Kolins]

ACTION: APPROVED

- f. **SPECIAL EXCEPTION #16-2012** The application of Shino Bay Cosmetic; relative to property commonly known as **340 Royal Poinciana Way, Suite 301**; described as Lengthy legal description on file; located in the C-PC Zoning District. The applicant is requesting a special exception approval to allow a medical office "Shino Bay Cosmetic Surgery Center" into a space that is 3,757 gross leasable square feet. The previous tenant in this suite was Babor Spa (a personal service establishment). [Attorney: Maura A. Ziska]

ACTION: APPROVED, SUBJECT TO THE CONDITION

THAT THE OWNER OF THE PROPERTY AND THE LONG-TERM LESSEE SUBMIT AN AFFIDAVIT, BY SEPTEMBER 4, 2012, VERIFYING THAT THE GRANTING OF THIS SPECIAL EXCEPTION WILL NOT BE FURTHER DEVELOPMENT RIGHTS PER THE 1979 AGREEMENT.

- g. **SPECIAL EXCEPTION #17-2012** The application of Carl and Marsha Hewitt; relative to property commonly known as **200 Jungle Road**; described as Lengthy legal description on file; located in the R-A Zoning District. The applicant is requesting a Special Exception to allow a set of driveway gates on Jungle Road (which is a dead end street) with a 13 foot setback from the street pavement in lieu of the 18 foot minimum required. [Attorney: Maura A. Ziska]

ACTION: APPROVED

- h. **SPECIAL EXCEPTION #18-2012 WITH SITE PLAN REVIEW** The application of Palm Beach Country Club; relative to property commonly known as **760 North Ocean Blvd.**; described as Lengthy legal description on file; located in the R-A Zoning District. The Applicant is requesting a modification to a previously approved special exception with site plan review and variances to build a new caretaker's house on the west side of the Country Club's property. The modification to the previously approved house is to reduce the size of the house from a two-story to a one-story which will reduce the overall height and massing of the previously approved house and to revise the swimming pool to a spa.
[Attorney: Maura A. Ziska]

ACTION: APPROVED

- i. **SPECIAL EXCEPTION #19-2012** The application of Sabadell United Bank NA; relative to property commonly known as **180 Royal Palm Way**; described as ROYAL PARK ADD LT 34 BLK F; located in the C-TS Zoning District. The applicant requests an amendment to Special Exception #31-2011 allowing Sabadell United Bank, NA to occupy 619 square feet on the second floor in addition to the 12,940 square feet approved for floors one and three for a total of 13,559 square feet. [Attorney: Peter S. Broberg]

ACTION: APPROVED

- j. **SPECIAL EXCEPTION #20-2012 WITH VARIANCE** The application of Harvey E. Oyer, III, Attorney for Del Friscos Restaurant Group; relative to property commonly known as **340 Royal Poinciana Way, Suites 300, 300A, 302, 302A, 306 & 308**; described as Lengthy legal description on file; located in the C-PC

Zoning District. The applicant requests a Special Exception for a 260 seat, 8,399 square foot restaurant use in the C-PC district to be located in combined tenant spaces on the northeast side of the Royal Poinciana Plaza, as permitted by Section 134-1259 (a)(5). The proposal also includes the elimination of 2,589 square feet of existing second floor office space, the addition of a bar, a wine room, and two private dining rooms. The proposed hours of operation are: lunch and dinner (from 11am to 11pm) Monday through Wednesday, lunch and dinner (from 11am to midnight) Thursday through Saturday, and dinner only (5pm to 11pm) on Sunday. A special exception is requested for changes in use for more than 2,000 square feet in C-PC district, permitted by Section 134-1261, for a Town-Serving restaurant. A variance is also requested to eliminate the requirement to provide 72 off-street parking spaces to accommodate the 260 seat restaurant.

[Attorney: Harvey E. Oyer, III]

TIME CERTAIN: 1:00 PM

ACTION: DEFERRED TO THE OCTOBER 10, 2012, TOWN COUNCIL MEETING

- k. **SPECIAL EXCEPTION #21-2012** The application of BT Palm Beach; relative to property commonly known as **375 South County Road**; described as Lengthy legal description on file; located in the C-TS Zoning District. The applicant requests a special exception to allow a new restaurant “BT Palm Beach” to open in the 5,458 square foot space formerly occupied by a restaurant, Café Milano. Town Council approval and a finding that the proposed use is town serving is required. The applicant is proposing to operate a restaurant which will serve classic, casual, upscale American cuisine. The same conditions of approval will be followed as the previous tenants. The proposed restaurant will have the same number of seats (150) as the previously approved restaurant with modifications to the floor plan to change the seating configuration and to redesign the bar area. A Special exception is requested to allow 52 of the 150 seats to be located outdoors in the patio. The applicant will meet all relevant conditions of approval for previous restaurants approved at this location. [Attorney: Maura A. Ziska]

ACTION: APPROVED, SUBJECT TO THE CONDITIONS THAT THE APPLICANT REBUILD THE TRELLIS WHICH SCREENED THE PARKING FROM THE NEIGHBORS TO THE EAST, THAT THEY COMPLY WITH THE CONDITIONS IN THE LETTERS OF APPROVAL FOR THE PREVIOUS ESTABLISHMENTS, THE BAR SHALL CLOSE AT 11:00 P.M., THE EMPLOYEES WILL NOT BE ALLOWED TO LOITER IN THE GARAGE, AND THE

APPLICANT SHALL COME BACK TO THE TOWN COUNCIL 6 MONTHS AFTER THE RESTAURANT OPENS FOR BUSINESS TO CONSIDER WHETHER THE APPLICANT HAS MET ALL CONDITIONS OF APPROVAL AND IS NOT NEGATIVELY AFFECTING THE SURROUNDING AREA.

D. Other

1. Special Exception #21-2011: Buccan Restaurant, Town-Serving Confirmation, 350 South County Road.

ACTION: APPROVED

2. Special Exception #11-2012: Ferretti Group, Declaration of Use Agreement Clarification, 125 Worth Avenue, Suites 107 and 110.

ACTION: TOWN COUNCIL PROVIDED CLARIFICATION, FOR INCORPORATION INTO THE DECLARATION OF USE AGREEMENT, THAT THE APPLICANT IS ALLOWED TO TAKE TRADE-INS, INCLUDING NON-FERRETTI VESSELS AND VESSELS FROM OTHER LOCATIONS, AS PART OF THEIR NORMAL COURSE OF BUSINESS, SO LONG AS THEY TAKE TITLE TO THOSE VESSELS.

IX. ANY OTHER MATTERS

X. ADJOURNMENT