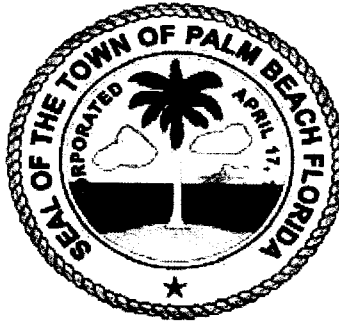




TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on October 15, 2024

I. CALL TO ORDER AND ROLL CALL (02:36)

The Development Review Town Council Meeting was called to order on October 10, 2024, at 9:30 a.m. On roll call, all elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE (02:57)

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

III. COMMENTS OF MAYOR DANIELLE H. MOORE (07:38)

Mayor Moore expressed gratitude for the town's being spared by Hurricane Milton and encouraged donations to relief efforts, if possible. She also thanked the Public Works team for cleaning up the debris from the hurricane.

The mayor stated she would be absent for a short time during the meeting and would be back as quickly as possible.

IV. COMMENTS OF TOWN COUNCIL MEMBERS (13:55)

Ms. Araskog stated that the Palm Beach United Way had a great relief effort and suggested considering donating to them. She also asked for prayers for all the people affected by the damage and suggested that items not be placed out when a storm is approaching the town.

Council President Pro Tem Crampton expressed frustration in the length of time it took him to travel from the island's south end to Town Hall today. He suggested speaking to the Trump family to see if any resolution could be achieved.

Council President Lindsay spoke of Styrofoam being picked up on the beach near the far north end due to the storm. She said the Styrofoam was everywhere, even clogged in the jetty. She announced the names of several citizens who worked all day to clean up the beach and the difference their efforts made. She also stated that

she called Paul Brazil, and he sent trucks to assist with the trash removal. She expressed her appreciation to everyone who assisted in cleaning up the beach.

V. COMMUNICATIONS FROM CITIZENS – 3 MINUTE LIMIT, PLEASE (18:59)

Resident John McGreevy thanked everyone for stepping up to clean up the beach.

VI. APPROVAL OF AGENDA (04:19)

Mr. Bergman announced the following items would be added to the agenda: Planning & Zoning Commission Recommendations Regarding Traffic and Parking Strategies and Mitigations, a Request at 247 Worth Avenue – Waiver of Town Code Section 42-199, for the Working Hours. He stated that Ordinance 030-2024 would be deferred to the November 13, 2024 meeting. Finally, he suggested that the building permit extension for 70 Middle Road be heard after the Appeal of 70 Middle Road.

Council Member Araskog requested a quick discussion regarding the ocean vistas. Further, she mentioned that she needed to address some items that required Attorney O'Connor's attention to request further research. This item was added under "Any Other Matters."

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

VII. REGULAR BUSINESS (20:10)

A. Update/Clarification of HB 423 and its Impact on the Landmark Program (20:14)

Friederike H. Mittner, Design & Preservation Manager

Ms. Mittner provided a quick review of HB 423 to the Town Council before the landmarking season began.

Ms. Moran thought it was important to understand the entire picture and all the rules before the landmarking season.

This discussion lasted approximately 3 minutes. To listen, please click the link on the agenda topic above.

B. Update of Draft 2024 Comprehensive Plan Including Changes from the September Town Council Meeting (23:14)

Jennifer Hofmeister-Drew, Planner III, reviewed the changes made since the last presentation.

Mayor Moore expressed frustration with the changes between the Planning and Zoning Commission meeting and the Town Council Meeting since it was unclear if changes needed to be sent back to the commission.

Council President Pro Tem Crampton supported town-serving; however, he did not believe square footage or detailed calculations should be in this document. He felt that information should be documented in the regulatory code.

Council Member Cooney wondered why “in establishments located” was stricken; he argued why it should remain.

Council Member Araskog did not believe that “employees” should be a general term and advocated changing the term to “Town employees.” She also strongly believed that the square footage-related details should remain in the comprehensive plan.

Council Member Moran disagreed with Council Member Araskog. She thought the detailed measurements should be removed from the comprehensive plan and placed into the Code.

Council President Pro Tem Crampton wondered why the difference between the employee and Town employee needed to be distinguished. Ms. Hofmeister-Drew responded.

Council President Lindsay had trouble changing details that had been instituted for a long time and served as guardrails, specifically the square footage calculations regarding town-serving.

Council Member Cooney respected keeping the numbers in the comprehensive plan but thought the broad term “employees” should encompass all town employees, which he believed contributed to the town-serving element.

Council Member Araskog thought the residents’ quality of life should be protected. She liked Council President Lindsay’s suggestion that restaurants hold a certain number of seats for residents up until 48 hours before.

Council President Pro Tem Crampton restated his support for town-serving. He reminded the council that over 100 properties exceeded the thresholds stated in the comprehensive plan and thought the document should be oriented more toward goals.

Mayor Moore asked about the future land use coverages. Ms. Hofmeister-Drew provided clarification about the future land use coverage.

Town Attorney O’Connor sought clarification from Ms. Hofmeister-Drew.

Council Member Araskog believed that the square footage details should

remain in the comprehensive plan. She was uncertain about the maximum lot coverage calculations but thought 50% should also be in the plan. Ms. Hofmeister-Drew responded that 50% had never been included.

Council Member Moran did not believe the square footage details should be in the comprehensive plan.

Mayor Moore thought the square footage calculations should remain in the plan.

Ms. Hofmeister-Drew presented the definition of quality of life.

Council Member Araskog thought the following should be added: enjoyment of personal property, free flow traffic, accessibility to businesses and restaurants for residents, and limitation of off-island attractions.

Council President Lindsay objected to Council Member Araskog's suggestion of limiting off-island attractions because it was vague.

Council President Pro Tem Crampton thought the definition should reference a healthy economy.

Council Member Moran expressed caution in changing the definition that the Strategic Planning Committee spent two years developing.

Council Member Araskog thought that safety, health, and welfare should be added. Ms. Hofmeister-Drew stated that there was a policy that included this information.

Council Member Cooney stated that it would be helpful to better understand the ramifications of changes made to the level of service for transportation information. He expressed concern about unintended consequences. Mr. Bergman responded. Ms. Hofmeister-Drew noted that the level of service was not being met for Royal Poinciana Way. She further indicated that only 14 roadways had been monitored for years. She thought that data needed to be collected and analyzed.

Council President Pro Tem Crampton felt that if the current service levels were used, they could be used to prohibit development. He thought this information should be kept aspirational while working through the details to set standards for intersections throughout the Town. Ms. Hofmeister-Drew responded. She said that when it came to concurrency, the level of service standards was necessary for all public services.

Director Bergman suggested submitting it to the state for transmittal, with

a plan to submit an amendment next year.

Council Member Araskog thought that when someone had plans to develop in the town, they should be required to pay into a fund to help mitigate traffic issues. She thought that information was critical to have in the Comprehensive Plan. She preferred to keep roadways at level C, and any development projects would have to pay to help keep the service levels the same. Council Member Araskog asked what was required in the current plan. Ms. Hoffmeister-Drew responded that what was currently in the Comprehensive Plan were the letters that had been stricken or not touched. She said the Town currently has two segments of road that do not meet the required service levels.

Council Member Moran wondered about any difference if the level of service for specific roads was changed. Ms. Hofmeister-Drew responded.

Council President Lindsay called for public comment.

Anne Pepper, 333 Seaspray Avenue, spoke about the quality of life. She also noted that the comprehensive plan was a foundational document that was important to the protection of the town and its residents. She thought the square footage and the percentages should remain in the plan.

Anita Seltzer, 44 Cocoanut Row, discussed the purpose of a comprehensive plan and its use as a foundational document, as reaffirmed in several previous documents. She spoke about traffic and state-required standards. She noted that lot coverages had been in the comprehensive plan since 2003 and were intentionally included in the document.

Jamie Crowley, Attorney on behalf of Gunster Law Firm, reiterated that changing the level of service did not change existing roadway deficiencies. He also expressed concern about smaller businesses being priced out. He supported the square footage in the comprehensive plan. He felt there were larger issues that should be addressed. Mr. Crowley stated that he would draft a letter to staff to outline issues he had noticed during the process and would be willing to work with them.

Council President Lindsay asked Director Bergman to share his recommendations regarding roadway service levels. Director Bergman suggested listing the accurate levels of service in the document. He thought the Evaluation and Appraisal Report (EAR) with the comprehensive plan should be reported with the real 2024 numbers and the real levels of service for those categories while staff continued to work with PZB and the Public Works Department to develop a list of improvement programs for the roadways. This way, if any changes were necessary through an amendment in 2025, the service levels could be changed with the project listings and dollar values in place.

Council Member Moran clarified Director Bergman's suggestion. He

suggested that the actual level of service be included in the comprehensive plan with a plan to amend the comprehensive plan in 2025.

Council Member Cooney asked Town Attorney O'Connor if the thresholds were included in the comprehensive plan and whether special exceptions should be issued for these items. Mr. Bergman responded.

Council Member Araskog asked what would happen if the PUD were eliminated. She also asked if a Palm Beach acre should be defined differently from a regular acre. Mr. Bergman explained that it would not make sense to continue using the definition of a Palm Beach acre.

Council President Lindsay thought that any new PUDs were eliminated at the recommendation of the Planning and Zoning Commission.

Council President Pro Tem Crampton asked why new PUDs were eliminated. He thought PUDs could be highly beneficial to the Town in certain situations. Council Member Cooney agreed with Council President Pro Tem Crampton. Ms. Hofmeister-Drew responded.

Council Member Araskog preferred to leave the lot coverage percentages in the comprehensive plan.

A motion was made by Council Member Araskog to accept the final draft of the 2024 comprehensive plan with the following changes: the statement “quiet enjoyment of residential property” shall be added to the quality-of-life statement, the levels of service for transportation shall be a D or higher, the town shall work to improve any roadways with an E or F level of service, and the Palm Beach acre shall be removed and changed to the established acre. The motion failed for a lack of a second.

A motion was made by Council President Pro Tem Crampton and seconded by Council Member Cooney to accept the final draft of the 2024 comprehensive plan with the following changes: the statement “quiet enjoyment of residential property” shall be added to the quality-of-life statement, the lot coverage maximum percentages in policies 1.11.3c and 1.12.C shall be removed, the levels of service for transportation shall be a D or higher, the town shall work to improve any roadways with an E or F level of service, and the Palm Beach acre shall be removed and changed to the established acre. The motion was carried 4-1, with Council Member Araskog dissenting.

This discussion lasted approximately 124 minutes. To listen, please click the link on the agenda topic above.

C. Planning & Zoning Commission Recommendations Regarding Traffic and Parking Strategies (5:56:57)

Jennifer Hofmeister-Drew, Planner III, explained the circulation management and mitigation strategies the Planning and Zoning Commission reviewed.

Council Member Araskog asked if any language was recommended when referring to small businesses. Attorney O'Connor advised.

Council President Lindsay asked about encouraging town-serving uses in the Town. Attorney O'Connor responded and advised the Town Council to exercise caution in treating local businesses more favorably than regional or out-of-state businesses. She stated that she would work with the Planning and Zoning staff on the concepts, framing town-serving positively.

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

D. Discussion Regarding Food and Beverage Establishments Seat Count (6:07:43)

Julie Araskog, Council Member

Council Member Araskog explained why the Town Council should discuss seat counts again regarding food and beverage establishments. She cited some examples of establishments that should be examined regarding the traffic and parking impacts. She noted that many clubs had events during the day that were not captured in the seat counts. She also thought the shopping was occurring more around the lunch hour. Council Member Araskog did not think art and culture should be added. However, she noted weddings at Flagler and lunch events at clubs such as The Four Arts. She did not think that the turnover in restaurants had been reviewed.

Council Member Cooney asked what feedback was needed. He thought different types of uses create different types of impacts.

Council Member Crampton said he would suggest two criteria regarding clubs: 1) whether they could handle their parking and 2) how much of the traffic was local. He said these items needed to be considered as part of the cost-benefit analysis. He thought private clubs could be removed from the equation because they primarily generated local traffic. He felt that the evening problems could be largely attributed to the valet operations.

Council Member Cooney said that one of the deficiencies in the parking

study was that the valet parking needed to be substantially updated. He said the staff was working on those updates. Mayor Moore commented that many of the issues had to do with the employees rather than the owner of the valet company.

Mayor Moore stated that The Breakers had installed gates and charged \$15 per hour.

Council Member Cooney reiterated that he had no problem navigating the town when restaurants were busiest during events. He said food and beverage establishments were high-impact businesses that should be studied. However, traffic problems were most prominent during morning and afternoon rush hours.

Council Member Moran agreed with Council President Pro Tem Crampton that clubs predominantly served Palm Beach residents.

This discussion lasted approximately 30 minutes. To listen, please click the link on the agenda topic above.

At this time, Council President Lindsay asked if the discussion items under C and D could be moved to the end of the agenda before Any Other Matters, Item X.

A motion was made by Council Member Araskog and seconded by Council Member Moran to amend the agenda by moving the two discussion items to the end of the agenda, prior to Item X. Any Other Matters. The motion was carried unanimously, 5-0.

VIII. DEVELOPMENT REVIEWS (2:27:02)

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. (2:27:07)

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

Town Attorney O'Connor outlined the scope of the appeal.

Ginny Contreras, an attorney representing the homeowner on 70 Middle Road, discussed the issues of the walls in the home, their structural deficiencies, and why they were removed.

Council Member Araskog asked why Ms. Contreras believed there was no competent substantial evidence for the Landmarks

Preservation Commission to make this decision. Ms. Contreras responded.

Council Member Cooney asked Director Bergman what the homeowner could do without the approval. Mr. Bergman responded and stated that the walls and windows were integral.

Council Member Moran agreed with Council Member Cooney.

Council Member Araskog asked Jacqueline Albarran if she recused herself at the presentation and if she was the architect for the project. Ms. Albarran confirmed both statements and indicated that she would be there should there be any questions about the project.

A motion was made by Council Member Cooney and seconded by Council Member Araskog to overturn the Landmarks Preservation Commission's decision and grant the certificate of appropriateness for 70 Middle Road. The motion was carried unanimously, 5-0.

This discussion lasted approximately 30 minutes. To listen, please click the link on the agenda topic above.

B. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. **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 design review of the application. [Architectural Review Commission denied this project. Carried 4-3.] [This project shall be deferred to the November 13, 2024, Town Council meeting.]
Clerk's note: This item was deferred to the November 13, 2024, Town Council meeting at the Approval of the Agenda, Item VI.

- b. **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 design review of the application. [The Architectural Commission denied this project. Carried 7-0.] [This project shall be deferred to the November 13, 2024, Town Council meeting.]
Clerk's note: This item was deferred to the November 13, 2024, Town Council meeting at the Approval of the Agenda, Item VI.

Clerk's note: A lunch break was taken at 1:06 p.m. and resumed at 1:49 p.m.

- c. **ZON-24-0023 (ARC-24-0029) 242 PARK AVE (COMBO) - VARIANCES (3:28:32)** 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. [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. Carried 7-0.]

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

Architect Daniel Clavijo presented the architectural plans for the proposed project.

Mayor Moore thought there were mitigating circumstances for the request. She thought it was reasonable.

Council Member Moran indicated that a pool could be dug by hand. She also did not believe that the Town Council should approve the request because of precedence on the street. She added that she did not support the request.

Council President Lindsay asked about the size of the pool, to which Mr. Clavijo responded.

Council Member Araskog asked why the pool could not be moved to the rear of the home.

Mr. Clavijo further advocated for the proposed location for the pool.

Council Member Araskog asked for further clarification on the requested variances and the request's hardship.

Council Member Cooney asked if the neighbor to the west supported the project. Mr. Clavijo provided confirmation.

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 Cooney that Variance No. ZON-24-0023 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

Moran dissenting.

This discussion lasted approximately 21 minutes. To listen, please click the link on the agenda topic above.

- d. **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 November 13, 2024, Town Council meeting pending Landmark Preservation Review.]

Clerk's note: This item was deferred to the November 13, 2024, Town Council meeting at the Approval of the Agenda, Item VI.

- e. **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 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.

- f. **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 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.

2. New Business (3:49:31)

- a. **ZON-24-0037 (ARC-24-0073) 353 EL BRILLO WAY (COMBO) - VARIANCES (3:49:33)** The applicants, Eduard De Guardiola & Melissa G. Bridgers has filed an application requesting town council review and approval for (2) variances as they pertain to a closet addition, including (1) a variance to encroach into the

required front yard setback area and (2) a variance to exceed the maximum lot coverage permitted. The Architectural Commission shall perform design review of the application. [Architectural Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impacts on the subject property. Carried 4-3.] [The Architectural Commission approved the project with conditions. Carried 5-2.]

Council Member Moran disclosed ex-parte communications.

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. Roger Janssen of Dailey Janssen Architects further explained the request for the new closet.

Council Member Araskog asked about the size of the property and house. Mr. Bergman responded. Council Member Araskog thought the home was more aesthetically pleasing before the addition.

Council President Lindsay confirmed that the block wall would be covered by vegetation. Mr. Janssen affirmed and further described the area that would be added.

Council Member Moran thought the hardship was related to the way the house was designed and laid out on the street.

Mayor Moore asked what year the home was built. Mr. Janssen responded in the mid-1980s. Mayor Moore agreed with Council Member Moran.

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-24-0037 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-24-0038 (ARC-24-0061) 222 SEASPRAY AVE (COMBO) - VARIANCE (4:02:28)** The applicant, PBI Amalgamated Trust, has filed an application requesting Town Council review and approval for one (1) variance to permit a second-story addition within the required two-story west side-yard setback. 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 this project. 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. Yianni Varnava of Varnava Design Studio presented the architectural plans for the proposed project.

Mayor Moore thought the addition was appropriate and attractive.

Council Member Cooney was happy that the home was being preserved.

Council Member Araskog asked about the plans for the garage. Ms. Ziska showed the plan for the garage.

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

A motion was made by Council Moran and seconded by Council Member Cooney that Variance No. ZON-24-0038 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.

- c. **ZON-24-0041 (COA-24-0014) 860 S OCEAN BLVD (COMBO) - VARIANCES (4:15:03)** The applicant, John J. Cafaro Family Trust (John J. Cafaro, Trustee), has filed an application requesting Town Council review and approval of two (2) variances to 1) exceed the maximum allowable building height and 2) exceed the maximum allowable overall building height associated with new one-story additions to the existing residence. The Landmarks Preservation Commission shall perform design review of the application. [The Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impacts on the subject property. Carried 7-0.] [The Landmark Preservation Commission approved this project. Carried 6-1.]

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

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

Council Member Araskog asked to see the height of neighboring homes.

Council President Pro Tem Crampton thought Ms. Albarran did a wonderful job.

Council Member Cooney noted that the additions were not small but acknowledged that the home was not small either.

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

A motion was made by Council Member Araskog and seconded by Council Member Moran that variance No. ZON-24-0041 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 17 minutes. To listen, please click the link on the agenda topic above.

d. **ZON-24-0047 2875 S OCEAN BLVD SUITES 101 & 103 ACQUA CAFÉ - SPECIAL EXCEPTION WITH SITE PLAN REVIEW (4:32:40)**

The applicant, Acqua Express Café, has filed an application requesting Town Council review and approval for modifications to an existing Special Exception approval for a restaurant to add takeaway restaurant service with no additional seating to an existing restaurant storage area in the C-TS zoning district.

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

Attorney Maura Ziska, representing the applicant, provided an overview of the project and the variance request. Jose-Luis Duran, owner, was present to answer any questions.

Council President Lindsay asked if there would be a separate entrance for the takeout. Mr. Duran responded that there would be a separate entrance along the same breezeway.

Council Member Araskog asked if neighbors were concerned about beach takeout. Mr. Duran responded that it had become a non-issue due to the way the parking lot was now configured.

Council Member Cooney wondered if lunch takeout would be available. Mr. Duran stated the restaurant opened at 5:00 p.m.

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 Cooney that Special Exception No. ZON-24-0047 and Site Plan Review No. ZON-24-0047, 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.

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

C. Time Extensions, Waivers & Three Strike Matters (4:39:52)

1. Request at 218 Worth Ave – Waiver of Town Code Section 42-199, for the Working Hours (4:40:25)

David Brown, representing Brunello Cucinelli, described the building permit extension request for three weeks, and the reasons for an extension.

Council Member Cooney wondered if this would be enough time and advised the applicant to request additional time if needed.

Council Member Moran asked if they had been parking on the street. Mr. Brown responded. Council Member Moran asked if deliveries could occur prior to 11 a.m.

Council Member Araskog asked about the stores next to the site. Mr. Brown responded.

The architect for the project added that the new plan had been approved with the sprinkler system.

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 Moran to grant the requested extension for working hours at 218 Worth Avenue, with the condition that the Director of Planning, Zoning, and Building address any issues that arise. The motion was carried unanimously, 5-0.

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

2. Request at 339 Worth Ave – Waiver of Town Code Section 42-199, for the Working Hours (4:47:20)

George Doup, Pace Roofing, described the building permit extension request and the reasons it was needed.

Council Member Araskog asked about an issue outlined in the memorandum. Mr. Doup stated that the issue had been resolved.

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

A motion was made by Council Member Araskog and seconded by Council Member Cooney to grant the requested extension for working hours at 339 Worth Avenue to November 25, 2024. The motion was carried unanimously, 5-0.

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

3. Request at 212 Australian Ave – Waiver of Town Code Section 18-237, for Building Permit Extension (5:00:10)

Scott Butler, BCC Residential LLC, described the building permit extension request.

Mayor Moore wondered if the landscaping revision had to be presented to the Architectural Review Commission (ARCOM). She noted that if it were significant and had to be reviewed by ARCOM, an extension through the end of the year would not be long enough.

Council Member Moran pointed out some conflicting information about the request.

Council Member Cooney confirmed the location and said this had been a well-run job site.

Mayor Moore claimed a conflict of interest due to her ownership of an adjacent building.

A motion was made by Council Member Moran and seconded by Council Member Cooney to grant the permit extension as requested at 212 Australian Avenue, with the condition that the landscaping be installed according to the approved plans. The motion was carried unanimously, 5-0.

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

4. Request at 224 S. Ocean Blvd – Waiver of Town Code Section 18-237 for Building Permit Extension (5:09:25)

Shwan Aziz of EcoBuilding Solutions described the building permit

extension request.

Council Member Moran asked about the plan for the driveway. Mr. Aziz responded and stated that the architect had already installed it.

Director Bergman stated there was an open code enforcement case for a driveway that was installed, which was different from what had been approved by ARCOM. He also stated that artificial turf was installed. He respectfully requested a minimal extension to allow for the issues to be resolved. He suggested a one-month extension.

Council Member Cooney understood that the former Town's software artificially extended the permit. He said the owner had initially proposed the demolition of the carriage house, a historic structure on Sea Streets. They had retained the structure, much to the neighborhood's delight.

Council Member Araskog thought all artificial turf should be removed from the site.

Mr. Aziz answered questions and noted that the pool had already been approved.

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 Moran to grant the permit extension for 224 S. Ocean Blvd for one month, with an update to be given to the Town Council on November 13, 2024. The motion was carried unanimously, 5-0.

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

5. Request at 70 Middle Rd. - Waiver of Town Code Section 18-237, For Building Permit Extension (2:57:01)

Clerk's note: This item was heard immediately following the appeal of 70 Middle Road.

Ginny Contreras, an attorney for the owner at 70 Middle Road, asked for an extension to April 27, 2027, with the ability to work with a Town Council member to agree upon a construction management plan by next Friday.

Council President Lindsay recommended Council Member Cooney to work with the staff and Ms. Contreras. Council Member Cooney agreed to do this but questioned the Friday deadline.

Wayne Bergman, Director of the Planning, Zoning, and Building Department, indicated that a third portion of the project would involve the variances that the homeowner would be asking for soon.

Council Member Moran thought that all changes should be grouped together for approval by the Landmarks Preservation Commission.

Council Member Cooney asked to discuss allowing neighboring attorneys to participate in the construction management agreement. There was a short discussion with Ms. Contreras on this issue, and she advocated for at least two neighbors not to be allowed to participate.

Council Member Araskog recommended allowing Council Member Cooney to work with neighbors with whom the owner objected.

Council Member Moran thought that input from the neighbor was important. She suggested a shorter time extension to allow the Town Council time to follow up and review progress. Ms. Contreras recommended an extension every 6 months on a check-in basis.

Council President Pro Tem Crampton thought that Ms. Contreras's main role was to work with the ownership on this agreement.

Council Member Cooney wondered what would happen if there was an impasse; he wanted to make sure the Town Council would review the final construction agreement.

Council President Lindsay called for public comment.

Greg Young, on behalf of Sir Peter Wood at 540 S. Ocean Blvd., argued that there had been construction permits on the home for over 10 years. He thought the impediment on the property was the owner. He stated that his client was in favor of a construction management agreement and thought this agreement was important for accountability.

A motion was made by Council Member Araskog and seconded by Council President Pro Tem Crampton to grant the extension until November 13, 2024, with the condition that Council Member Cooney work with the owner's attorney on a construction management agreement, which the Town Council will review at their meeting on November 13, 2024. The motion was carried unanimously, 5-0.

This discussion lasted approximately 30 minutes. To listen, please click the link on the agenda topic above.

6. Request at 1820 S. Ocean Blvd. - Waiver of Town Code Section 18-237, for Building Permit Extension (6:36:23)

Mr. Bergman provided a brief overview of the request for an extension.

Russell Novak of Rogers General Contracting described the building permit extension request.

Council Member Moran asked about the value of the remaining work. Mr. Novak responded.

Council Member Araskog asked why the request was for a five-month extension. Mr. Novak responded and explained.

A motion was made by Council Member Cooney and seconded by Council Member Araskog to grant the requested extension for working hours at 1820 S. Ocean Blvd., with the condition that the Director of Planning, Zoning, and Building address any issues that arise. The motion was carried unanimously, 5-0

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

7. Request at 249 Seabreeze Ave. - Waiver of Town Code Section 18-237, For Building Permit Extension (5:24:38)

Jamie Crowley, an attorney representing the owners of 249 Seabreeze Avenue, described the building permit extension request. He stated that the ARCOM approval was granted in July, and he applied for the permit extension shortly before the Governor declared a state of emergency, which automatically extends permits for two years. He indicated that he notified Mr. Bergman that the owner would like to utilize the automatic extension.

Council Member Araskog relayed concerns by neighbor Emily Clifford. Mr. Crowley understood Ms. Clifford's concerns and stated he did not want to delay any construction.

Council Member Moran wondered if the extension was being withdrawn. Mr. Crowley wanted to make sure that construction could continue until he could notify the Town on December 4, 2024, after the state of emergency terminated, and he could notify the Town of his intent to extend the permit.

This extension was withdrawn by the attorney for the owner after he indicated that he would be utilizing the State's Emergency Order to extend the permit.

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

8. 1540 S. Ocean Blvd - Three Strike & Stop Work Order (5:33:12)

Joshua McAlees of Seagate Capital Construction discussed the issues of the three strikes and a stop work order. He also discussed what he implemented to avoid any future strikes.

Mayor Moore asked if this was the first three-strike violation. Mr. McAlees stated it was his second and explained the earlier violations and the implementation of three provisions taken to avoid any additional violations.

Council Member Araskog thought the strike for illegal discharge to

town sewers was unacceptable. She read all the violations the property had received. She was glad that Mr. McAlees had made changes but cautioned him about being shut down because these issues were a problem.

Council President Pro Tem Crampton thought the road had been resurfaced well.

Council Member Moran thought Council Member Araskog outlined the concerns well.

A motion was made by Council President Pro Tem Crampton and seconded by Council Member Moran to waive the third strike for 1540 S. Ocean Blvd, with the condition that all fines be paid, right-of-way permits may be issued again, and work resumed. The motion was carried unanimously, 5-0.

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

9. 241 Seaview Ave – Three Strike & Stop Work Order (5:44:55)

Nathan Burnham and Robert Hogg of Gilbane Building Company discussed the issues of the three strikes and a stop work order. Mr. Burnham explained the request for a lift on the stop work order. He discussed the provisions that had been made to resolve the issues and avoid reoccurrences.

Council Member Araskog stated that she had received many complaints from neighbors. She said Mr. Burnham had not addressed the illegal discharge into the town sewer system. Mr. Burnham acknowledged and stated that efforts had been increased to stop the illegal discharge. Council Member Araskog discussed approximately six other violations and stated how important it was for Mr. Burnham to know what was happening on the project site.

Council Member Cooney did not feel the strikes were egregious. He was pleased that there were no repeat offenses and noted the recent voluminous rainfall.

Council Member Moran wondered how long the job had been stopped. Mr. Burnham said approximately three weeks. She asked how long that would set him back with the work schedule. Mr. Burnham said there were no permit impacts.

Mayor Moore indicated that the three weeks delay would mean three additional work weeks in the season.

A motion was made by Council Member Cooney and seconded by Council Member Moran to waive the third strike for 241 Seaview Avenue, with the condition that all fines be paid, right-of-way permits may be issued again, and work resumed. The motion was carried unanimously, 5-0.

This discussion lasted approximately 12 minutes. To listen,

please click the link on the agenda topic above.

10. Request at 247 Worth Ave – Waiver of Town Code Section 42-199, for the Working Hours (4:53:52)

Greg Batten of Batten Construction described the building permit extension request until November 25, 2024. He explained why the extension was needed and stated the ability to work on Saturdays would be helpful and appreciated.

Council Member Cooney asked about the work to be done this season and when the remainder of the project will be finished. Mr. Batten responded.

Council Member Araskog worried about the working hours on Saturday.

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 to grant the extension until November 23, 2024, including Saturday hours starting at 6 a.m., with the condition that the Director of Planning, Zoning, and Building address any issues that arise. The motion was carried unanimously, 5-0.

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

IX. ORDINANCES

A. Second Reading

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

ORDINANCE NO.030-2024: 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.

Clerk's note: This item was deferred to the November 13, 2024, Town Council meeting at the Approval of the Agenda, Item VI.

X. ANY OTHER MATTERS (6:43:17)

Council Member Araskog raised the issue of the vistas of the ocean. She had received many calls from people about the mid-section between Royal Palm Way and Barton Avenue and between Bath & Tennis and Sloane's Curve. To her surprise, the Chief informed her that ten years ago, there was a handshake agreement stating that the vistas would no longer be enforced. Council Member Araskog thought this should be researched because if the information was in the Town Code, it should be enforced.

Council President Lindsay commented that she had recently been made aware of this situation. She had been told that the landscaping would be 30 inches tall if there was an existing cabana that no one could see through. She said that in some cases where a resident's privacy or security may be at risk, they could have a little higher hedge to screen their area. She questioned the height requirements and said most of the cabanas were smaller, fifty feet or less. She also said the Lake Trail should also be considered in addition to the vistas. She said there was as much violation on the Lake Trail as with the vistas.

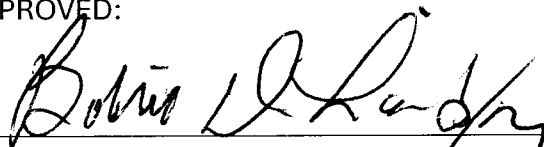
The Town Council members reached a consensus to allow Town Attorney O'Connor to study the issue and update the Council in November.

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

XI. ADJOURNMENT (6:53:01)

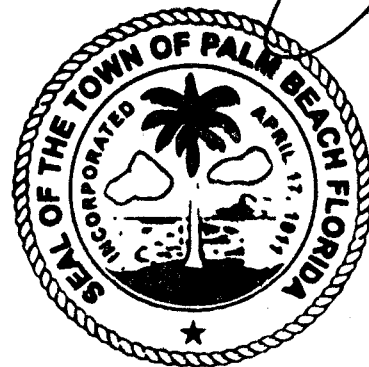
A motion was made by Council President Pro Tem Crampton and seconded by Council Member Cooney to adjourn the meeting at 5:19 p.m. The motion was carried unanimously, 5-0.

APPROVED:


Bobbie D. Lindsay, Town Council President

ATTEST:


Kelly Churney, Acting Town Clerk
Date: 11/12/24



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

LAST NAME—FIRST NAME—MIDDLE NAME <u>Moore Danielle</u>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <u>Town Council</u>	
MAILING ADDRESS <u>277 Pendleton Lane</u>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY <u>Palm Beach</u>	COUNTY <u>Palm Beach</u>	☐ CITY ☐ COUNTY ☒ OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED <u>October 15, 2024</u>		NAME OF POLITICAL SUBDIVISION <u>Town of Palm Beach</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, Danielle H. Moore, hereby disclose that on October 15, 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, _____;
- ☐ 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:

Waiver of 18-237 for Building Permit Extension
For 212 Australian Ave

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.

10/15/24
Date Filed

Danielle Moore
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.