

TENTATIVE:
SUBJECT TO
REVISION



TOWN OF PALM BEACH

TOWN MANAGER'S OFFICE

TOWN COUNCIL MEETING DEVELOPMENT REVIEW

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

AGENDA

DECEMBER 14, 2016

9:45 AM

Welcome!

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

I. CALL TO ORDER AND ROLL CALL

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

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. RECOGNITIONS

IV. COMMENTS OF MAYOR GAIL L. CONIGLIO

V. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

VI. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

VII. APPROVAL OF AGENDA

VIII. PUBLIC HEARINGS

- A. **Resolution No. 228–2016** A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As **89 Middle Road** Continues To Meet The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Amends The Existing Designation Of Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

John S. Page, Director of Planning, Zoning & Building

- B. **Resolution No. 229–2016** A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As **434 Seaspray Avenue** Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

John S. Page, Director of Planning, Zoning & Building

IX. DEVELOPMENT REVIEWS

A. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. **SPECIAL EXCEPTION #25-2016 WITH SITE PLAN REVIEW AND VARIANCES** The application of Harvey E. Oyer, III, Esq. (Agent); relative to property commonly known as **141 S County Rd.** & Vacant lot on west side of S County Rd., described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting for approval of a Special Exception with Site Plan Review and Variances to construct required off-street & supplemental parking spaces to accommodate 34 additional required off-street & supplemental parking, specifically 11 parallel parking spaces are proposed to be located on private property along the north side of the 100 block of Barton Avenue, adjacent to the Church. 23 parking spaces are proposed to be located on the Church's parcel directly west of the Place of Worship across South County Road. If approved, the additional 34 required off-street & supplemental parking spaces will substantially alleviate the recent loss of parking that has existed as a result of changes to the Town's parking policies. At the Town Council's direction, the applicant seeks to allow residents of the 100 & 200 block of Barton Avenue along with residents of the 200 block of Pendleton Avenue to use

the 34 off-street and supplemental parking spaces by way of a Declaration of Use agreement. The following variances are requested for the 11 parallel required off-street parking spaces to be located on the north side of the 100 block of Barton Avenue: 1) to allow the landscape open space area to be reduced from the existing 51.98% to 50.48% in lieu of 55% minimum landscape open space as required by code; 2) to allow the off-street parking with a zero setback in lieu of the 25 foot minimum setback required; 3) to allow the off-street parking spaces not to include the required screening with hedges, walls or a combination thereof as required; 4) to allow the interior off-street parking landscape open space to be reduced to zero in lieu of the minimum 10% (205.3 sq. ft.) required. [Attorney: Harvey E. Oyer, Esq.] (Landmarks Preservation Commission meeting: Deferred the Project to December 21, 2016. Carried 7-0.)

John S. Page, Director of Planning, Zoning & Building

- b. **SPECIAL EXCEPTION #28-2016 WITH SITE PLAN REVIEW AND VARIANCES** The application of Gregory Fisher; relative to property commonly known as **316 Seabreeze Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a special exception with site plan review to allow the construction of a 2,700 square foot two-story, single family residence on two platted lots which combined creates a lot that is 50 feet in width in lieu of the 100 foot minimum required and 6,125 square feet in area in lieu of the 10,000 square foot minimum area required. The following variances are being requested. To allow a 6 foot west side yard setback for the two story portion in lieu of the 15 foot minimum required and to allow a 6 foot east side yard setback for the one story portion in lieu of the 12.5 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission deferred the Project to the January 25, 2017 meeting. Carried 7-0]

John S. Page, Director of Planning, Zoning & Building

- c. **SPECIAL EXCEPTION #29-2016 WITH SITE PLAN REVIEW AND VARIANCES** The application of Gregory Fisher; relative to property commonly known as **320 Seabreeze Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting for approval of a special exception with site plan review to allow the construction of a 2,713 square foot two-story, single family residence on two platted lots which combined creates a lot that is 50 feet in width in lieu of the 100 foot minimum required and 6,125 square feet in area in lieu of the 10,000 square foot minimum area required. The following variances are being requested. To allow a 6 foot east side yard setback for the two story portion in lieu of the 15 foot minimum required and to allow a 6 foot west side yard setback for the one story portion in lieu of the 12.5 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission deferred the

- d. **SPECIAL EXCEPTION #30-2016 WITH SITE PLAN REVIEW AND VARIANCES** The application of Town of Palm Beach (Tom Bradford, Town Manager); relative to property commonly known as **340 Seaview Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a special exception with site plan review to approval to allow a new two-story 33,810 square foot Recreation Center for the Town of Palm Beach that will include a new athletic field, parking lot, gymnasium, tennis pro shop, multi-purpose room, fitness center with locker rooms, concession area, classrooms, offices and new maintenance building, new tennis backboard, new scoreboard. A second special exception request is to allow for a rebound wall to be constructed on the north side of the new maintenance building. The following variances are being requested in order to construct the new community center: 1) A west side yard setback of 10 feet in lieu of the 30 foot minimum required for properties that are in excess of 20,000 square feet; 2) A north side yard setback of 8 feet in lieu of the 30 foot minimum required for properties that are in excess of 20,000 square feet; 3) A street rear yard setback for the new parking lot on Royal Palm Way of 4 feet in lieu of the 35 foot minimum required for properties that are in excess of 20,000 square feet; 4) an east side yard setback of 4 feet in lieu of the 30 foot minimum required for the new parking lot on Royal Palm Way for properties that are in excess of 20,000 square feet; 5) a height of 27 feet in lieu of the 22 foot maximum allowed; 6) an overall height of 35 feet in lieu of the 30 foot maximum allowed; 7) a vertical distance to the top of beam of 30.75 feet in lieu of the 26 foot maximum distance allowed from the crown of street to top of beam; 8) landscaped open space of 43% in lieu of the 55% minimum required for properties that are in excess of 20,000 square feet; 9) parking lot interior landscaped open space of 5% in lieu of the 10% minimum required; 10) to allow signage on the proposed scoreboard which would exceed the maximum signage allowed (of one for each street frontage); 11) to allow three (3) air-conditioning units to be on the roof that is in excess of the 4 foot maximum allowed. The proposed A/C units will be 5 feet tall plus the height of the stand. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property with existing parking or Option B. Carried 4-3]

John S. Page, Director of Planning, Zoning & Building

- e. **SPECIAL EXCEPTION #20-2016 WITH SITE PLAN REVIEW AND VARIANCE** The application of SKIK, LLC – Zvenka V. Kleinfeld, Manager; relative to property commonly known as **232 Colonial Ln.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting to

allow 1) the construction of a 2,845.5 square foot two-story, single family residence on a non-conforming lot which is 75 feet in width in lieu of the 100 foot minimum required; 82 feet in depth in lieu of the 100 foot minimum required and 6,150 square feet in area in lieu of the 10,000 square foot minimum required; 2) To have a front yard setback for one story portion of the residence to be 23 feet in lieu of the 25 foot minimum setback required. [Attorney: Maura Ziska, Esq.]

[Architectural Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. Carried 5-2]

John S. Page, Director of Planning, Zoning & Building

- f. **VARIANCE #25-2016** The application of Maura Ziska, Manager of Barnacle PB LLC; relative to property commonly known as **221 Oleander Ave.**, described as lengthy legal description on file; located in the R-C Zoning District. The applicant requests a variance to allow construction of a new 2,930 square foot, two story residence on a lot with a depth of 56 feet in lieu of the 100 foot minimum required and a lot area of 4,200 square feet in lieu of the 10,000 square foot minimum; a variance to allow lot coverage to be 41.6% in lieu of the 30% maximum allowed; a variance to allow a front yard setback to be 13.5 feet in lieu of the 25 foot minimum; and a variance to allow a rear yard setback to be 10 feet in lieu of the 15 foot minimum required. [Attorney: Maura Ziska, Esq.] [Architectural Commission deferred the Project to the December 28, 2016 meeting. Carried 7-0]

John S. Page, Director of Planning, Zoning & Building

2. New Business

- a. **SPECIAL EXCEPTION #31-2016** The application of Costa (Sasha Bennemann, Principal); relative to property commonly known as **150 Worth Ave., Ste. 234**, described as lengthy legal description on file; located in the C-WA Zoning District. The applicant is requesting a special exception approval to operate a new restaurant at 150 Worth Avenue, Suite 234, called Costa, which will replace Cooklyn (previously approved but never opened), GIGI's Tap and Table Restaurant (formerly Cha Cha's). The new restaurant will occupy the same square footage (5,243) and have the same number of total seats (151) and outdoor seats (14) as the prior restaurants. The applicant agrees to be bound by all existing conditions of approval. [Attorney: Maura Ziska, Esq.]

John S. Page, Director of Planning, Zoning & Building

- b. **SPECIAL EXCEPTION #32-2016** The application of Palm Beach Bicycle Trail Shop; relative to property commonly known as **50 Coconut Row, Suite S117**, described as lengthy legal description on file; located in the C-PC Zoning District. The Palm Beach Bicycle Trail shop requests a special exception permit to operate a 2,580 square foot retail store in Suite S117 at The

Royal Poinciana Plaza. Since the proposed space exceeds 2,000 square feet, the applicant is required to obtain Town Council approval and a finding that the proposed use is town serving. [Attorney: Maura Ziska, Esq.]

John S. Page, Director of Planning, Zoning & Building

- c. **SPECIAL EXCEPTION #33-2016** The application of Kirna Zabete Inc., a Delaware S corporation (Kirna Zabete); relative to property commonly known as **340 Royal Poinciana Way, Ste. 305**, described as lengthy legal description on file; located in the C-PC Zoning District. The applicant requests a special exception permit to operate a 2,902 square foot retail store in Suite 305 at The Royal Poinciana Plaza. Since the proposed space exceeds 2,000 square feet, the applicant is required to obtain Town Council approval and a finding that the proposed use is town serving. [Attorney: Maura Ziska, Esq.]

John S. Page, Director of Planning, Zoning & Building

- d. **VARIANCE #29-2016** The application of DBSC LLC (Maura Ziska, Manager); relative to property commonly known as **1610 N. Ocean Blvd.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant requests three (3) variances for a point of measurement to allow the construction of a new 9,670 square foot two story residence. The proposed variances are for the new house to have a point of measurement at 8 feet National Geodetic Vertical Datum ("NGVD") in lieu of the 7.5 foot NGVD required and the 9.5 NGVD finished floor elevation proposed for cubic content ratio, building height and overall height. 1)The cubic content ration as measured from 8 ft NGVD would be 3.85 (94,999 cubic feet) in lieu of the 3.97 ratio (97,839 cubic feet) calculated at 7.5 feet NGVD; 2) a building height of 22 feet in lieu of the 22.25 feet if measured at 7.5 feet NGVD; 3) and an overall height of 30 feet in lieu of 30.1 feet if measured at 7.5 feet NGVD. [Attorney: Maura Ziska, Esq.] [Architectural Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impacts to the subject property. Carried 6-1]

John S. Page, Director of Planning, Zoning & Building

- e. **VARIANCE #30-2016** The application of William F. X. Moody and Dana E. Landry; relative to property commonly known as **3 Pelican Ln.**, described as lengthy legal description on file; located in the R-A Zoning District. The applicant is requesting a variance to allow the construction of a 33 square foot addition with a street side yard setback of 26.16 feet in lieu of the 35 foot minimum required. [Attorney: Maura Ziska, Esq.] [Landmarks Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject landmark property. Carried 7-0]

John S. Page, Director of Planning, Zoning & Building

- f. **VARIANCE #31-2016** The application of Robb R. Maass and Elizabeth Maass; relative to property commonly known as **238 Phipps Plaza**, described as lengthy legal description on file; located in the R-C Zoning District. The applicant is proposing to enclose an existing outside stair and an open second story balcony. The variances being requested in order to allow these enclosures are: a) a north front yard setback of 6.5 feet in lieu of 25 foot minimum required; b) an east side yard setback of 0.5 feet in lieu of 10 foot minimum required; and c) a south rear yard setback of 5.3 feet in lieu of 15 foot minimum required. [Attorney: M. Timothy Hanlon, Esq.] [Landmarks Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject landmark property. Carried 7-0]
John S. Page, Director of Planning, Zoning & Building
- g. **VARIANCE #32-2016** The application of Austin and Gwendolyn Fragomen; relative to property commonly known as **233 Clarke Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant requests to demolish a non-conforming landmarked two story guest house/garage (1,422 sq. ft.) and rebuild a new guest house/garage (2,460 square feet) in the same general location. The following variances are required in order to build the new guest house/garage: 1) to allow an overall height of 20.5 feet in lieu of the 15 foot maximum allowed; and 2) to allow a two story accessory building on a lot that is under 20,000 square feet in the R-B Zoning District in lieu of the one story maximum allowed. [Attorney: Maura Ziska, Esq.] [Landmarks Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject landmark property. Carried 6-0]
John S. Page, Director of Planning, Zoning & Building
- h. **VARIANCE #33-2016** The application of William J. Georgas; relative to property commonly known as **357 Seabreeze Ave.**, described as lengthy legal description on file; located in the R-B Zoning District. The applicant is proposing to install a six foot (6') high wooden fence on the west property line. The following variances are being requested to construct said fence: a) to allow the wooden fence with a zero (0) setback in lieu of the three foot (3') minimum required; and b) to allow said fence without the required three foot (3') high hedge in front of the wooden fence. [Attorney: Francis X. J. Lynch, Esq.] [Architectural Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. Carried 4-3]
John S. Page, Director of Planning, Zoning & Building

X. ORDINANCES

A. Second Reading

ORDINANCE NO. 16-2016 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: Section 134-893, Lot, Yard And Area Requirements By Creating Alternative Zoning Regulations That Could Be Used For Seaview Avenue, Seaspray Avenue And Seabreeze Avenue In The R-B Zoning District; Sections 134-1113, 134-1163, 134-1213 And 134-1308 By Exempting Sub-Basements From The Maximum Building Length And Floor Area Requirements In The C-TS, C-WA, And C-OPI Commercial Zoning Districts And The Maximum Building Length Requirement C-B Commercial Zoning District; Section 134-1611 By Creating Separate Zoning Regulations For Lot Coverage, Setbacks And Landscape Open Space Requirements For Sub-Basements In The C-TS, C-WA, C-OPI And C-B Commercial Zoning Districts; Section 134-1516 By Providing Landscape Screening Regulation For Boxes Housing Essential Services; Section 134-1731 By Providing Additional Regulations For Exterior Lighting And Section 134-2327 By Eliminating A Specific Fee For Visitor/Service Permits; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

John S. Page, Director of Planning, Zoning & Building

A. First Reading

1. **ORDINANCE NO. 24-2016** 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: At Article I, In General, Section 134-2, Definitions And Rules Of Construction By Adding Definitions For Medical Marijuana Treatment Center, Medical Marijuana Dispensary And Cannabis Cultivation; Article VI, District Regulations, Section 134-1109, Special Exception Uses, By Prohibiting Medical Marijuana Or Providing Said Use As A Special Exception In The C-Ts Zoning District Should The State Preempt Said Prohibition; At Article VIII, Supplementary District Regulations, Section 134-1731, Outdoor Lighting, By Providing Regulations For Light Trespass; At Article VIII, Supplemental District Regulations, By Creating Division 16, "Reasonable Accommodation Procedures", Section 134-2112, Reasonable Accommodation Procedures, By Providing For Reasonable Accommodation Procedures Pursuant To The Fair Housing Amendments Act And Title II Of The American's With Disabilities Act; At Article VIII, Supplementary District Regulations By Creating A Division 17, "Medical Marijuana Treatment Centers And Medical Marijuana Dispensaries", Section 134-2113, Prohibition, And Section 2114, Development Standards, By Prohibiting Medical Marijuana Treatment Centers, Medical Marijuana Dispensaries Marijuana Cultivation And Creating Regulations For Medical Marijuana Treatment Centers And Medical Marijuana Dispensaries Should State Law Preempt Said Prohibition In The Town Of Palm Beach; Division 16 Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

John S. Page, Director of Planning, Zoning & Building

2. **ORDINANCE NO. 25-2016** An Ordinance Of The Town Council Of

The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 106, Streets, Sidewalks And Other Public Places*, At Article I, In General, By Adding Section 106-5 Use Of Medical Marijuana On Public And Semi-Public Property, Prohibiting The Smoking Of Marijuana On Rights-Of-Way, Parks, Playgrounds, Recreational Facilities, Public Buildings, Beaches Or Other Property Owned And Controlled By The Town Of Palm Beach; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

John S. Page, Director of Planning, Zoning & Building

XI. ANY OTHER MATTERS

- A. Planning and Zoning Commission Record and Report: Proposed Modifications and Changes to Chapter 134, Zoning, and the Town's Comprehensive Plan

John S. Page, Director of Planning, Zoning & Building

XII. ADJOURNMENT

XIII. FUTURE MEETINGS

PLEASE TAKE NOTE:

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

Note 6: All back-up material for the items listed on the agenda are posted to the Town's website and emailed to all Stay Informed subscribers on the Friday before the Town Council meeting. To access the back-up materials and/or subscribe to the Stay Informed list, please visit the Town's website (townofpalmbeach.com).

PROCEDURES FOR PUBLIC PARTICIPATION

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

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

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

OTHER AGENDA ITEMS: Any citizen is entitled to be heard on any official agenda item when the Town Council calls for public comments, subject to the three minute limitation.

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