



# TOWN OF PALM BEACH

Town Manager's Office

TENTATIVE –  
SUBJECT TO  
REVISION

## TOWN COUNCIL MEETING

TOWN HALL  
COUNCIL CHAMBERS-SECOND FLOOR  
360 SOUTH COUNTY ROAD

### AGENDA

WEDNESDAY, SEPTEMBER 15, 2010

9:30 AM

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

The progress of this meeting may be monitored by visiting the Town's website ([www.townofpalmbeach.com](http://www.townofpalmbeach.com)) and selecting "Your Government" and then selecting "Live Meeting Audio." 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 under "Agendas, Minutes, and Audio."

No written materials received after 5:00 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 5:00 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.

- I. CALL TO ORDER AND ROLL CALL
- II. INVOCATION AND PLEDGE OF ALLEGIANCE
- III. COMMENTS OF MAYOR JACK McDONALD
- IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

- V. COMMUNICATIONS FROM CITIZENS – 3 MINUTE LIMIT PLEASE  
**(Another opportunity for communications from citizens will be offered immediately after the lunch break.)**
- VI. APPROVAL OF AGENDA
- VII. ORDINANCES
- A. Second Reading
1. ORDINANCE NO. 23-10 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, at Section 134-1 to Change the Use of the Term Building Official to Planning, Zoning and Building Director and to Add a Provision Which Allows the Town Council to Waive Certain Zoning Provisions Regulating the Use of Public Rights-of-way to Allow Town Sponsored Events Provided Certain Conditions Are Met; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.  
[John S. Page, Director of Planning, Zoning and Building]
- B. First Reading
- None
- VIII. DEVELOPMENT REVIEWS
- A. Appeals
- None
- B. Time Extensions & Waivers
1. Request for Waiver of Section 42-199, Hours of Construction Work, at 265, 255, 235 and 231 Sunset Avenue and 240 Sunrise Avenue (Publix Supermarket) (Per Letter Dated August 28, 2010, From Maura Ziska).  
**(See VIII.D.1.b.)**
- C. Variances, Special Exceptions, and Site Plan Reviews
1. Old Business – Less than 15 Minutes
- None

2. New Business – Less than 15 Minutes

- a. SITE PLAN REVIEW #5-2010 WITH SPECIAL EXCEPTION AND VARIANCE The application of HOJO Partners, LLC; relative to property commonly known as **2880 South Ocean Blvd.**; described as 23/24-44-43, SLY 150 Ft of ELY 256.9 Ft of filled land Lyg W of SR A1A & N of Lake Ave being Pt of Gov Lot 1 SEC, of the Public Records of Palm Beach County, Florida; located in the C-TS Zoning District. The applicant is requesting a Site Plan Review for Phase I of a two phase project. Phase I consists of the demolition of an existing 3,833 square foot restaurant building and the construction of a new 4,000 square foot office building. The request includes providing the required parking spaces, and trash receptacle area and associated sidewalks. The exact nature and details of Phase II of the project will be determined at a future date. The applicant requests Special Exception approval to allow a business to occupy 4,000 sq. ft. which is more than the 2,000 sq. ft allowed by the Town Code and a Variance is required to allow for an office use on the ground floor in the C-TS Zoning District. [Attorney: Robert Deziel]
- b. SITE PLAN REVIEW #6-2010 WITH VARIANCES The application of Rita Schneider; relative to property commonly known as **130 Sunrise Avenue, PH 9**; described as Sun & Surf One Hundred Thirty Condominium Unit PH-9, according to the Declaration as recorded in Official Records Book 2818, Page 1 of the Public Records of Palm Beach County, Florida; located in the R-C Zoning District. The applicant is requesting a Site Plan modification with variances to allow one (1) retractable awning totaling 142.38 square feet over the terrace on the seventh floor of a seven story condominium building. Variances are requested to allow the awning at a height of 61.5 feet in lieu of the 23.5 feet maximum height 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 rear yard setback of 38.58 feet in lieu of the 123 feet minimum required for multi-family use. [Attorney: Maura A. Ziska]  
[ARCOM Recommendation: Approval of the variances will not cause negative impacts. Carried 7-0.]
- c. SITE PLAN REVIEW #8-2010 WITH VARIANCES The application of Jeraldine Meltzer; relative to property commonly known as **130 Sunrise Avenue, PH3**; described as Sun & Surf One Hundred Thirty Condominium Unit PH-3, according to the Declaration as recorded in Official Records Book 2818, Page 1 of the Public Records of Palm Beach County, Florida; located in the

R-C Zoning District. The applicant is requesting Site Plan Modification with Variances to allow one (1) permanent awning totaling 460 square feet over the terrace on the seventh floor of a seven story condominium building. Variances are requested to allow the awning at a height of 61.5 feet in lieu of the 23.5 feet maximum height 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 front yard setback of 71.25 feet in lieu of the 123 feet minimum required for multi-family use; to allow the awning with a side yard setback of 49.5 feet in lieu of the 61.5 feet minimum required for multi-family use in the R-C Zoning District. [Attorney: Maura A. Ziska] [ARCOM Recommendation: Approval of the variance will not cause negative architectural impacts. Carried 7-0.]

- d. VARIANCE #16-2010 The application of Cathleen McFarlane Estate; relative to property commonly known as **456 Worth Avenue**; described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a variance to allow the redesign of the existing entrance with a new forty two square foot second story addition. The overall cubic content ratio will remain the same at 4.11 in lieu of the 3.91 maximum allowed. A variance is also being requested for a side yard setback of 12.7 feet in lieu of the 15 foot minimum required. [Attorney: L. Frank Chopin] [Landmarks Preservation Commission Recommendation: The implementation of the variances will not cause a negative architectural impact on the subject property. Carried 7-0.]

- e. VARIANCE #17-2010 The application of Richard C. Bauer, DMD; relative to property commonly known as **241 Bradley Place**; described as Lots 5, 6 and 7 of ORANGE GROVE PARK, an addition to the Town of Palm Beach, Florida, according to the Plat thereof, recorded in Plat Book 5, Page 97, Public Records of Palm Beach County, Florida, LESS that part of Lot 5 condemned for public street purposes; located in the C-TS Zoning District. The applicant is requesting a variance to allow an office use on the first floor which does not meet all of the conditions of subsection (18). The variance is to allow a first floor office use which does not meet the requirement that more than 50% of the existing first floor tenant spaces within 300 feet in the same zoning district are required to be office uses, although it does meet the requirement that at least 50% of the existing uses on all floors of the same building are offices. [Attorney: Maura A. Ziska]  
***Request for Withdrawal Per Letter Dated September 8, 2010, from Maura A. Ziska.***

3. Old Business – More than 15 Minutes

a. MODIFIED SITE PLAN REVIEW #4-2010 WITH SPECIAL EXCEPTION AND VARIANCE (See VIII.D.1.a.)

4. New Business – More than 15 Minutes

None

D. Other

1. Publix Matters:  
**TIME CERTAIN: 10:00 AM**

a. MODIFIED SITE PLAN REVIEW #4-2010 WITH SPECIAL EXCEPTION AND VARIANCE The application of Publix Super Markets, Inc. and Sunset Avenue Corp.; relative to property commonly known as **265, 255, 235, 231 Sunset Avenue and 240 Sunrise Avenue**; described as lengthy legal description on file; located in the C-TS Zoning District. The applicant is requesting Site Plan Review and Special Exception to construct a 53,272 (44,018 gross leasable) square foot one story grocery store on 4.36 acres. The new store will provide 219 off-street parking spaces that will be at 90 degrees. There is proposed to be an outdoor ATM and the grocery cart storage will be within the building. All of the proposed mechanical equipment will be contained within portions of the building and will not be seen as equipment on the roof. Part of the proposed design is to have two generators located on the southeast corner of the proposed store that will contain a 100 KW standby generator and a 500 KW main generator. There is proposed to be two loading areas within the loading dock on the east side of the building that will be screened. The proposed store will have a pharmacy, deli, bakery and a larger selection of food items and other products. A variance is being requested to allow the individual ingress and egress drives on the south side of the property extending across the public sidewalks and curbs and connecting to the off-street parking spaces to the public street areas to be 43'7" and 51'3" in lieu of the 30 foot maximum allowed. [Attorney: Maura A. Ziska]

b. Request for Waiver of Section 42-199, Hours of Construction Work, at 265, 255, 235 and 231 Sunset Avenue and 240 Sunrise Avenue (Publix Supermarket) (Per Letter Dated August 28, 2010, From Maura Ziska).

- c. Consideration of Proposed Declaration of Use Agreement for Publix Supermarket; 265, 255, 235 and 231 Sunset Avenue and 240 Sunrise Avenue.  
[John S. Page, Director of Planning, Zoning and Building]
- d. Consideration of Construction Management Agreement for Publix Supermarket; 265, 255, 235 and 231 Sunset Avenue and 240 Sunrise Avenue.  
[John S. Page, Director of Planning, Zoning and Building]

IX. ANY OTHER MATTERS

X. ADJOURNMENT

### **PLEASE TAKE NOTE:**

- Note 1:** 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 2:** 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 3:** 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 4:** A summary of the actions taken at Town Council meetings can be viewed on the Town's website after 5 p.m. on the Friday following the Town Council meeting.

### **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.

**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.