



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 14, 2011

9:30 AM

For information regarding procedures for monitoring or participating in Town Council Meetings, please refer to the end of this agenda.

I. CALL TO ORDER AND ROLL CALL

Mayor Gail L. Coniglio
David A. Rosow, President
Robert N. Wildrick, President Pro Tem
William J. Diamond
Richard M. Kleid
Michael J. Pucillo

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. COMMENTS OF MAYOR GAIL L. CONIGLIO

IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

V. COMMUNICATIONS FROM CITIZENS – 3 MINUTE LIMIT PLEASE

(Another opportunity for communications from citizens will be offered immediately after the lunch break.)

VI. APPROVAL OF AGENDA

VII. DEVELOPMENT REVIEWS

A. Appeals

None

B. Time Extensions & Waivers

None

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. **VARIANCE #18-2011** The application of Edmiston & Company; relative to property commonly known as **333 Peruvian Avenue**; described as Lots 41 through 45, inclusive, Block 11, Revised Map of Royal Park Addition to Palm Beach, according to the map thereof as recorded in Plat Book 4, Page 1 of the Public Records of Palm Beach County, Florida; located in the C-TS Zoning District. The applicant requests a variance to permit the operation of a yacht charter and sales office containing approximately 1,237 sq. ft. on the first floor which does not meet the requirements to allow an office use on the first floor in this situation. The proposed use does not meet the special exception uses requirement in Section 134-1109(18) that there are at least 50% existing office uses on all floors in the building or the requirement that there be more than 50% existing office uses on the first floor within 300 feet of the proposed use within the same zoning district.

[Attorney: M. Timothy Hanlon]

Deferred from the August 10, 2011, Town Council Meeting.

2. New Business

- a. **SITE PLAN REVIEW #10-2011 WITH VARIANCES**
The application of Joan & Eugene Kalkin; relative to property commonly known as **170 North Ocean Blvd., PH-701**; described as Condominium Parcel No. 701 and Covered Parking Unit 1, OCEAN TOWERS NORTH, a Condominium, according to the Declaration as recorded in Official Records Book 3208, Page 1913 of the Public

Records of Palm Beach County, Florida; located in the R-C Zoning District. The applicant requests a site plan modification with variances to allow one (1) retractable awning totaling 214.2 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 60.4 feet in lieu of the 23 ½ maximum height allowed in the R-C Zoning District; to allow at an overall height of 62.9 feet in lieu of the 31 ½ maximum height allowed; to allow on the existing seventh floor penthouse of a seven story building in lieu of the two story building maximum allowed; and to allow with a street yard setback of 114.8 feet in lieu of the 126.7 feet minimum required for multi-family use. [Attorney: Maura A. Ziska]
[ARCOM Recommendation: Implementation of the proposed variances will not cause negative architectural impacts to the subject property. Carried 7-0.]

- b. **SITE PLAN REVIEW #11-2011 WITH VARIANCES**
The application of Sandra E. Garfunkel as Trustee of the Sandra E. Garfunkel Trust u/a/d 5/10/2010; relative to property commonly known as **170 North Ocean Blvd., PH 705**; described as: Unit 705 and Covered Parking Unit 6, of OCEAN TOWERS NORTH, a condominium according to the Declaration as recorded in Official Records Book 3208, Page 1913 of the Public Records of Palm Beach County, Florida together with an undivided interest in the common elements thereof; located in the R-C Zoning District. The applicant requests a site plan modification with variances to allow one (1) retractable awning totaling 214.2 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 60.4 feet in lieu of the 23 ½ maximum height allowed in the R-C Zoning District; to allow at an overall height of 62.9 feet in lieu of the 31 ½ maximum height allowed; to allow on the existing seventh floor penthouse of a seven story building in lieu of the two story building maximum allowed; and to allow with a side yard setback of 89.7 feet in lieu of the 126.7 feet minimum required for multi-family use. [Attorney: Maura A. Ziska]
[ARCOM Recommendation: Implementation of the proposed variances will not cause negative architectural impacts to the subject property. Carried 7-0.]
- c. **SITE PLAN REVIEW #12-2011** The application of Susan Mercurio; relative to property commonly known as

168 Seaspray Avenue; described 471 and 473 of POINCIANA PARK SECOND ADDITION, according to the Plat thereof as recorded in Plat Book 6, Page 86, of the Public Records of Palm Beach County, Florida; located in the R-B Zoning District. The applicant requests a Site Plan Review to allow the construction of a 2,816 square foot two-story single family residence on a non-conforming platted lot which 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 required in the R-B Zoning District. [Attorney: Maura A. Ziska]

- d. **SPECIAL EXCEPTION #23-2011** The application of 313 Worth Ave LLC (Pier Mario Del Rosso, Manager; relative to properties commonly known as **313 ½ Worth Avenue, 405 Hibiscus Avenue, and 311 Peruvian Avenue;** described as lengthy legal descriptions on file; located in the C-TS Zoning District. The applicant requests special exceptions by new owner to continue to operate a 4800 square foot restaurant at 313 ½ Worth Avenue which contains in excess of 2,000 square feet of GLA which is the same operation as the previous owner; to allow off-site supplemental parking spaces at 405 Hibiscus Avenue and 311 Peruvian Avenue as was previously approved for the previous restaurant owner; and to allow 46 outdoor dining seats of which 20 seats exceed the maximum capacity as allowed by a previous variance granted to the restaurant in Via Bice. [Attorney: Joel P. Koeppel]
- e. **SPECIAL EXCEPTION #24-2011 WITH VARIANCES** The application of Charles S. Duncker relative to property commonly known as **120 Reef Rd.;** described as Lots 5, 5A and 35, North Shore Addition to Palm Beach, according to the map or plat thereof as recorded in Plat Book 20, Page 62, Public Records of Palm Beach County, Florida; located in the R-B Zoning District. The applicant requests a special exception to construct a 200 square foot beach cabana on property across the street from the main residence, which is in the R-B Zoning District. A variance is requested to construct a beach cabana with a 3.59 foot west side yard setback in lieu of the 10 foot minimum setback required. Request a variance to also have a setback from the bulkhead line of 101.5 feet in lieu of the 118.5 foot minimum required for a house being built east of the Coastal Construction Control Line at this location. [Attorney: Maura A. Ziska]

- f. **SPECIAL EXCEPTION #25-2011** The application of Johnny Meier, President, FEDCO, Inc.; relative to property commonly known as **2875 So. Ocean Blvd.**; described as lengthy legal description on file; located in the C-TS Zoning District. The applicant requests a special exception approval pursuant to Condition #2 in the original approval in 1980 to construct the existing building in the subject property (Special Exception #25-1980). The condition requires any retail applicant to contain Town Council approval for any use other than office and professional services. This request is to allow Fedco to operate a retail pharmacy in suite 103 of the first floor of the subject property containing 1,879 square feet. Site Plan Review approval is requested to convert approximately 1,879 sq. ft. of existing rentable floor area in suite 103 of the first floor to allow Fedco to operate a retail pharmacy. [Representative: Johnny Meier]
- g. **SPECIAL EXCEPTION #26-2011** The application of Pucci & Catana relative to property commonly known as **21 Via Mizner**; described as Unit C-111S, Via Mizner South Declaration, ORB 7069, P203; located in the C-WA Zoning District. The applicant requests a special exception to permit the operation of a luxury pet boutique for the sale of goods related to pets in a 411 square foot square store at 21 Via Mizner. The special exception is required for a use which is not specifically enumerated in the code but having the traffic, patronage and intensity of use characteristics similar to other permitted uses in the C-WA zoning district. [Attorney: M. Timothy Hanlon]
- h. **REVISED SPECIAL EXCEPTION #27-2011 WITH SITE PLAN REVIEW AND VARIANCE** The application of The Society of the Four Arts, Inc., relative to property commonly known as **1, 2, 3, and 4 Four Arts Plaza and 240 Cocoanut Row**; described as lengthy legal description on file; located in the R-B Zoning District. The applicant requests a special exception with site plan review for non-profit cultural use (Section 134-329, Section 134-980 (8) and Section 134-229). The applicant request is that the Town Council grant a modification to the existing special exception by allowing the applicant to construct a 1,208 square foot addition to the existing patio in the landscape island. As part of the proposed project, the existing crosswalks in the driveway connecting the parking lot to the existing patio and the existing patio to the

buildings are being modified to allow for handicap access and safer pedestrian movement from the parking lot to the buildings. These modifications to the crosswalks have already been administratively approved by Town staff as part of the proposed project; a variance is requested for the west side of Four Arts Plaza to allow the patio addition with an overall landscaped open space of 36.75% in lieu of the 37.69% existing and the 55% minimum required for a lot in the R-B zoning district over 60,000 total square feet. The subject property is 116,543.86 square feet. A variance is also requested to allow the changes to the east side of Four Arts Plaza modifying the parking lot, south driveway and patio on the north side of the Dixon Education Building (old public school building) which would decrease the landscape open space from 45.55% minimum required to 43.94%. [Attorney: Harvey E. Oyer III]

[Landmarks Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impacts to the subject landmark property. Carried 7-0.]

- i. **MODIFIED VARIANCE #19-2011** The application of Oleander Development, LLC, Alexander Hufty Griswold (Managing Partner); relative to property commonly known as **231-233 Oleander Avenue**; described as DAISY E ERBS ADD LTS 16 & 17; located in the R-C Zoning District. The applicant requests a variance to construct an entry hall and balcony within the existing footprint of the building. The current front yard setback is 15.2 feet; a variance is requested to build the new entry hall and balcony at a 15.2 foot front yard setback in lieu of the 25 foot minimum required.

[Representative: Alex Hufty Griswold]

Deferred from the August 10, 2011, Town Council Meeting.

- j. **MODIFIED VARIANCE #20-2011** The application of Oleander Development, LLC, Alexander Hufty Griswold (Managing Partner); relative to property commonly known as **237-239 Oleander Avenue**; described as DAISY E ERBS ADD LTS 14 & 15; located in the R-C Zoning District. The applicant requests a variance to construct an entry hall and balcony within the existing footprint of the building. The current front yard setback is 15.2 feet; a variance is requested to build the new entry hall and balcony at a 15.2 foot front yard setback in lieu of the 25

foot minimum required.

[Representative: Alex Hufty Griswold]

Deferred from the August 10, 2011, Town Council Meeting.

- k. **VARIANCE #21-2011** The application of Robert Holuba relative to property commonly known as **1500 Lake Court**; described Lot B, LAKE FRONT ADDITION TO BOCA RATONE COMPANY'S INLET SUBDIVISION, according to the map or plat thereof as recorded in Plat Book 18, Page 5, of the Public Records of Palm Beach County, Florida; located in the R-B Zoning District. The applicant requests a variance to allow the addition of a "T" shaped dock with an outside length of 34 feet with two wood mooring pile clusters that will be 62 feet from the bulkhead in lieu of the 6 foot maximum allowed and the installation of two inside boat lifts associated with an existing 6 foot marginal dock. [Attorney: Gregory S. Kino]

- l. **VARIANCE #22-2011** The application of 1111 Parters LLC (Rick and Marie Wackenhut); relative to property commonly known as **930 South Ocean Blvd.**; described as lengthy legal description on file.; located in the R-A Zoning District. The applicant requests variances to raise the floor and ceiling of the existing pool cabana and replace the flat roof with a pitched roof which will expand the height and overall height in the existing non-conforming side setback of 2.9 feet in lieu of the 15 foot minimum required and for the same modifications to the existing pool cabana with a rear setback of six (6) inches in lieu of the 15 foot minimum required. [Attorney: Maura A. Ziska]
[Landmarks Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impacts to the subject landmark property. Carried 7-0.]

- m. **VARIANCE #23-2011** The application of Stephen & Anne Marie Haymes; relative to property commonly known as **146 Seminole Avenue**; described as The West 40 feet of Lot 9, all of Lot 10, and the East 10 feet of Lot 3, OCEAN PARK H.W. ROBBINS ADDITION TO PALM BEACH, according to the plat thereof, recorded in Plat Book 6, Page 78, of the Public Records of Palm Beach County, Florida; located in the R-B Zoning District. The applicant requests a variance to construct a second story addition that would enclose a 169 square foot balcony and

would result in a cubic content ratio of 4.32 in lieu of the 4.3 existing and the 3.98 maximum allowed in the R-B Zoning District. [Attorney: Maura A. Ziska]

Request for Deferral to the October 12, 2011, Town Council Meeting Per Letter Dated August 24, 2011, from Maura A. Ziska (Special Circumstances).

- n. **VARIANCE #24-2011** The application of Earle Mack; relative to property commonly known as **1950 South Ocean Blvd.**; described as Lot 107, PALM BEACH ESTATES, a subdivision in the Town of Palm Beach, Florida, according to the plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida as recorded in Plat Book 8, Page 3.; located in the R-AA Zoning District. The applicant requests a variance to replace a three story guest house, which is non-conforming, with a two story guest house with an 11.4 foot side yard setback in lieu of the 30 foot minimum required in the R-AA Zoning District. The proposed guest house is 1,140 square feet.
[Attorney: Maura A. Ziska]

3. Other

- a. Regulating the Renovation or Replacement of Nonconforming Accessory Structures.
[John Page, Director of Planning, Zoning, and Building]

VIII. ANY OTHER MATTERS

IX. ADJOURNMENT

PLEASE TAKE NOTE:

- 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.
- The progress of this meeting may be monitored by visiting the Town's website (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."
- 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.
- 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.
- 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.
- 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.