



TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING HELD ON WEDNESDAY, JULY 13, 2011

1 **I. CALL TO ORDER AND ROLL CALL**

2
3 The Regular Town Council meeting was called to order on Wednesday, July 13, 2011, at
4 9:30 a.m., in the Town Council Chambers. On roll call, all of the elected officials were
5 found to be present.
6

7
8 **II. INVOCATION AND PLEDGE OF ALLEGIANCE**

9
10 Town Clerk Owens gave the invocation. Council President Rosow led the Pledge of
11 Allegiance.
12

13 **III. COMMENTS OF MAYOR GAIL L. CONIGLIO**

14
15 None
16

17 **IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER**

18
19 None
20

21 **V. COMMUNICATIONS FROM CITIZENS**

22
23 None
24

25 **VI. APPROVAL OF AGENDA**

26
27 The following changes were made to the Agenda:

28
29 **DEFERRED:** Item VIII.C.1.a., Special Exception #14-2011 with Variances

30
31 **DEFERRED:** Item VIII.C.2.b., Variance #11-2011
32
33

1 Motion was made by Council Member Diamond and seconded by Council Member Kleid
2 to approve the Agenda, as amended. On roll call, the motion carried unanimously.
3

4 **VII. ORDINANCES**

5
6 A. Second Reading

- 7
8 1. **ORDINANCE NO. 1-11** An Ordinance Of The Town Council Of the
9 Town Of Palm Beach, Palm Beach County, Florida, Amending The Text
10 Of The Future Land Use Element Of The Town Of Palm Beach
11 Comprehensive Plan As Last Amended On August 11, 2010, With The
12 Adoption Of Ordinance No. 3-10, By Amending The Data & Analysis In
13 The Future Land Use Element And Amending Policy 2.3.1 As It
14 Addresses Square Footage Thresholds For Town-Serving Businesses;
15 Providing For Severability; Repealing All Ordinances Or Part Of
16 Ordinances In Conflict Hereof; Providing For Codification; And Providing
17 an Effective Date. [John Page, Director of Planning, Zoning, and
18 Building]
19

20 Town Attorney Randolph read Ordinance No. 1-11 by title, as printed above.
21

22 Motion was made by Council Member Diamond and seconded by Council Member Kleid
23 to adopt Ordinance No. 1-11. On roll call, the motion carried unanimously.
24

- 25 2. **ORDINANCE NO. 2-11** An Ordinance Of The Town Council Of The
26 Town Of Palm Beach, Palm Beach County Florida, Amending Chapter
27 134, Zoning, At Section 134-2 By Amending The Definition Of Town-
28 Serving By Increasing The Square Foot Threshold In Certain Commercial
29 Zoning Districts; Section 134-229 By Exempting Hotel, Motel and
30 Timeshare Uses And The C-OPI Zoning District From The Town-Serving
31 Requirements; Sections 134-1107, 134-1109, 134-1157, 134-1259, 134-
32 1302 And 134-1304 By Increasing The Town-Serving Square Foot
33 Threshold And Changing The Term Occupational License To Business
34 Tax Receipt In The C-TS, C-WA And C-B Zoning Districts; Section 134-
35 1259 By Changing The Term Occupational License To Business Tax
36 Receipt In The C-PC Zoning District; Providing For Severability;
37 Providing For Repeal Of Ordinances In Conflict; Providing For
38 Codification; Providing For An Effective Date. [John Page, Director of
39 Planning, Zoning, and Building]
40

41 Town Attorney Randolph read Ordinance No. 2-11 by title, as printed above.
42

43 Motion was made by Council Member Diamond and seconded by Council Member Kleid
44 to adopt Ordinance No. 2-11. On roll call, the motion carried unanimously.
45
46

3. **ORDINANCE NO. 3-11** An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Text Of The Future Land Use Element Of The Town Of Palm Beach Comprehensive Plan As Last Amended On August 11, 2010 With The Adoption Of Ordinance No. 3-10, By Amending The Data & Analysis In The Future Land Use Element And Amending Policy 7.3 As It Addresses Rebuilding Structures Located Seaward Of The Coastal Construction Control Line (CCCL), And Permitting Nonconforming Building And Structures To Be Rebuilt Provided Certain Conditions Are Met; Providing For Severability; Repealing All Ordinances Or Parts Of Ordinances In Conflict Hereof; Providing For Codification; And Providing For An Effective Date. [John Page, Director of Planning, Zoning, and Building]

Town Attorney Randolph read Ordinance No. 3-11 by title, as printed above.

Motion was made by Council Member Diamond and seconded by Council Member Kleid to adopt Ordinance No. 3-11. On roll call, the motion carried unanimously.

4. **ORDINANCE NO. 4-11** An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, At Sections 134-419 and 134-420 By Amending the Provisions To Clarify the Regulations for Raising A Nonconforming Building To Meet the Minimum Flood Elevation Requirements and Allow A Nonconforming Building or Structure To Be Rebuilt Within A Defined Time Limit If Unintentionally Damaged Or Destroyed By Act of Terrorism Or War, Or By Fire Or Act Of God Or Nature; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing For An Effective Date. [John Page, Director of Planning, Zoning, and Building]

Town Attorney Randolph read Ordinance No. 4-11 by title, as printed above.

Motion was made by Council Member Diamond and seconded by Council Member Kleid to adopt Ordinance No. 4-11. On roll call, the motion carried unanimously.

- B. First Reading - None

VIII. DEVELOPMENT REVIEWS

Town Clerk Owens administered the oath to all those who would be providing testimony.

- A. Appeals - None

- B. Time Extensions & Waivers - None

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. **SPECIAL EXCEPTION #14-2011 WITH VARIANCES** The application of Palm Beach Country Club, Inc.; relative to property commonly known as 760 North Ocean Boulevard; described as lengthy legal description on file; located in the R-A Zoning District. The applicant is requesting a Special Exception with Site Plan Review modification to demolish the existing caretaker's house on the west side of the Club golf course and build a new caretaker's house in the same proximity. The proposed house will be 5,581 square feet. The following variances are being requested: to allow a front yard setback/building height plane setback for the new caretaker's house to be 19.5 feet in lieu of the 49.5 foot minimum required and to allow an angle of vision to be 136.86 degrees in lieu of the 120 degrees maximum allowed. [Attorney: Maura Ziska] [ARCOM Recommendation: Deferred. Carried 7-0.] Deferred from the June 15, 2011 Town Council Meeting. Request for Deferral to the August 10, 2011, Town Council Meeting Per Letter Dated June 29, 2011, from Maura A. Ziska (Second Deferral - Special Circumstances). *Deferred to the August 10, 2011 Town Council meeting.*

2. New Business

- a. **SITE PLAN REVIEW #7-2011 WITH VARIANCES** The application of 1200 South Ocean Boulevard, LLC; relative to property commonly known as 947 No. Ocean Blvd.; described as lengthy legal description on file; located in the R-A Zoning District. The applicant is proposing to construct a new two-story residence containing 17,370 square feet on two lots on the Atlantic Ocean. The project will also include a basement (non-habitable) of 7,171 square feet and a below grade tennis loggia of 888 square feet. There will be a generator with a capacity of over 100kw in the basement. The applicant is requesting a point of measurement variance, a building height variance, and a front yard setback variance. The applicant is requesting a point of measurement of 22 feet NGVD in lieu of the maximum 17.4 feet NGVD allowed; a building height of 24.10' in lieu of the 22.75 feet allowed; a front setback of 119.83 feet at the closest point to the front lot line in lieu of the 152.67 feet minimum allowed. [Attorney: Jacqueline S. Miller, Esq.] [ARCOM Recommendation: Implementation of the variances, as modified, will not cause negative architectural impacts to the subject property. Carried 6-1, Mr. Karakul opposed.]

The following ex-parte communications were declared: Council Member Pucillo spoke with Attorney Miller, who advocated the position of her client. Council Members Kleid and Diamond, Council President Rosow, Mayor Coniglio, and Council President Pro Tem Wildrick each spoke with Attorney Miller and her partner, Patricia Lebow, who advocated the position of their client.

Attorney Miller, representing the owners of 1200 South Ocean Boulevard, LLC, for the property at 947 South Ocean Boulevard, provided an overview of the applicant's request.

Director of Planning, Zoning, and Building Page provided staff's comments, noting that staff recommended the Architectural Commission's (ARCOM's) eight conditions, which were agreed upon by the owner and the neighbors.

Motion was made by Council Member Diamond and seconded by Council Member Kleid that Site Plan Review #7-2011 with Variances be approved based upon the finding that the approval of the site plan will not adversely affect the public interest and that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement has been made concerning Section 134-329, items 1 through 11; that the variances be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been met; subject to the eight conditions listed in correspondence dated July 6, 2011 from Jacqueline Miller, and that all construction vehicles park on the property itself, not the street. On roll call, the motion carried unanimously.

b. ~~VARIANCE #11-2011 The application of David and Sara Hruda; relative to property commonly known as 143 Reef Road; described as Lot 45 of NORTH SHORE ADDITION TO PALM BEACH, according to the Plat thereof as recorded in Plat Book 20, Page 62, of the Public Records of Palm Beach County, Florida; located in the R-B Zoning District. The applicant requests variances to construct a two car garage with a 6.25 foot west side yard setback in lieu of the 12.5 feet required; and, an angle of vision of 112 degrees in lieu of the 100 degrees allowed. [Attorney: Maura A. Ziska]—Deferred to the August 10, 2011 Town Council meeting.~~

c. SPECIAL EXCEPTION #16-2011 The application of Escada US Subco, LLC; relative to property commonly known as 222 Worth Avenue; described as Lots 17 and 18 Revised Map of Royal Park Addition Plat Book 4, Page 1; located in the C-WA Zoning District. The applicant requests a Special Exception by a new tenant of 222 Worth Avenue to continue to operate a clothing store, the same business as the previous tenant. The store has 3,763 square feet on the first floor for retail use and 3,345 square feet on the second floor for retail, office and shipping uses. The total square footage is 7,108 square feet which is 5,108 square feet in excess of the 2,000 square feet allowed as a matter of right

1 without Special Exception, in the C-WA district. [Attorney:
2 Raymond W. Royce]
3

4 The following ex-parte communications were declared: Council Member Diamond
5 spoke with Attorney Royce, who advocated the position of his client.
6

7 Attorney Royce, on behalf of the applicant, Escada US Subco, LLC, provided an
8 overview of the applicant's request.
9

10 Director of Planning, Zoning, and Building Page provided staff's comments.
11

12 **Motion was made by Council Member Diamond and seconded by Council Member Pucillo**
13 **that Special Exception #16-2011 shall be granted based upon the finding that such grant**
14 **will not adversely affect the public interest and that the applicable criteria set forth in**
15 **Section 134-229 of the Town Code have been met. On roll call, the motion carried**
16 **unanimously.**
17

18 d. SPECIAL EXCEPTION #18-2011 WITH VARIANCE The
19 application of Worth Avenue Yachts, LLC; relative to property
20 commonly known as 150 Worth Avenue; described as lengthy
21 legal description on file; located in the C-WA Zoning District. The
22 applicant requests Special Exception approval for a commercial
23 office operation (boat sales and charter office business) containing
24 3,425 sq.ft. of gross leasable area which is over the 2,000 sq.ft.
25 limitation, which requires Town-serving approval. A Variance is
26 also requested for approval to allow this office use to be located on
27 the first floor which is not permitted by code in this zoning
28 district. [Attorney: James R. Brindell]
29

30 The following ex-parte communications were declared: Council Members Pucillo, Kleid,
31 and Diamond, Council President Pro Tem Wildrick, and Council President Rosow each
32 spoke with Attorney Brindell, who advocated the position of his client.
33

34 Attorney Brindell, on behalf of Worth Avenue Yachts, LLC, provided an overview of the
35 applicant's request.
36

37 Director of Planning, Zoning, and Building Page provided staff's comments.
38

39 Council Member Kleid requested that the applicant be required to dress up the windows
40 so that the business does not look like an office from the outside.
41

42 **Motion was made by Council Member Diamond and seconded by President Pro Tem**
43 **Wildrick that Special Exception #18-2011 with Variance shall be granted based upon the**
44 **finding that such grant will not adversely affect the public interest and that the applicable**
45 **criteria set forth in Section 134-229 of the Town Code have been met; that the variance be**
46 **granted and find, in support thereof, that all of the criteria applicable to this application as**

1 set forth in Section 134-201(a), items 1 through 7 have been met; subject to the condition
2 that the windows be dressed so that the business does not look like an office from the
3 outside. On roll call, the motion carried unanimously.
4

- 5 e. **SPECIAL EXCEPTION #19-2011 WITH SITE PLAN**
6 **REVIEW AND VARIANCE** The application of The Society of
7 the Four Arts, Inc.; relative to property commonly known as 239
8 Cocconut Road and adjacent Parking Lot, 439 Royal Palm Way,
9 Four Arts Plaza, 1 Four Arts Plaza, 2 Four Arts Plaza; described as
10 lengthy legal description on file; located in the R-B Zoning
11 District. A request for approval of a Special Exception for non-
12 profit cultural use (Section 134-890 (8) and Section 134-229). The
13 applicant, The Society of the Four Arts, Inc. ("Four Arts"), has
14 purchased the landmarked old Palm Beach Public School property
15 located at the southwest corner of Cocconut Row and Seaview
16 Avenue. The applicant's request is that the Town Council grant a
17 Special Exception to allow the old school site to be used for a non-
18 profit cultural use and to modify the Four Arts' existing Special
19 Exception to include the newly acquired property into the Four
20 Arts campus, specifically a proposed connection to the existing
21 Four Arts sculpture garden and the integration of the parking lot
22 located west of the old school site into the site plan. The proposed
23 changes to the old school property include: (i) the demolition of a
24 noncontributing building on the south side of the property; (ii)
25 conversion of the old gymnasium into a new 256 seat theater;
26 (iii) the construction of a new courtyard and reception area on the
27 north side of the building; (iv) the addition of a demonstration
28 kitchen and adult art, lecture, and other cultural activities within
29 the existing classrooms of the old school; and (v) the addition of a
30 visiting artists residence in the building to accommodate visiting
31 artists. Proposed improvements to the site include a new driveway
32 and drop-off along the south side of the old school building so that
33 vehicles can enter the site directly from Cocconut Row. This
34 driveway will have a new courtyard connected to the existing Four
35 Arts sculpture garden to the south. The existing parking area on the
36 west side of the site will be improved with new landscaped areas,
37 new paving and new drainage. The existing emergency generator
38 enclosure will be enlarged for a new AC chiller and a new 80 KW
39 emergency generator. A request for approval of a Site Plan for the
40 proposed Fitz Eugene Dixon Education Building (Section 134-
41 329). The existing land marked Palm Beach Public School at the
42 southwest corner of Cocconut Row and Seaview Avenue is
43 proposed to be converted into non-profit cultural center as part of
44 The Society of the Four Arts. The existing two story building will
45 remain except for the demolition of the stand alone 1950's addition
46 on the south side, which is not historic and not in keeping with the

1 original 1920's architectural style. Improvements to the site
2 include the construction of a new courtyard and reception area on
3 the north side of the building and a new driveway and drop off
4 along the south side of the building so that vehicles can enter the
5 site directly from Cocoanut Row; Seaview Avenue is one-way
6 eastbound. This driveway will have a new courtyard connected to
7 the existing Four Arts sculpture garden to the south. The existing
8 parking area on the west side of the site will be improved with new
9 landscaped areas, new paving and new drainage. The existing
10 emergency generator enclosure will be enlarged for a new AC
11 chiller and a new 80 KW emergency generator. The building will
12 be entirely restored based upon the original 1920's style of
13 architecture. New windows, doors, painting and other
14 improvements will be part of the exterior work. The interior will
15 include new elevators, new air conditioning system, new
16 restrooms, and new finishes throughout. The existing gymnasium
17 will be completely remodeled into a theater with 256 seats and
18 multipurpose room. The existing classroom and administrative area
19 will be remodeled into adult art, lecture, demonstration kitchen and
20 other cultural activity type of uses. There will be new
21 administrative offices and a visiting artist residence. A request
22 for variance for applicant's proposed reduction in parking spaces
23 on the existing Four Arts parking lot located to the west of the old
24 Palm Beach Public School building (Section 134-2175 (b) and
25 Section 134-201). Applicant proposes to reduce the number of
26 parking spaces from 45 to 35 in order to: (i) improve internal
27 circulation within the parking lot with the addition of a new lane
28 on the west side of the parking lot; (ii) accommodate a new
29 driveway and drop off along the south side of the building so that
30 vehicles can enter the site directly from Cocoanut Row; (iii)
31 accommodate a new AC chiller unit and a new 80 KW emergency
32 generator to service the old Palm Beach Public School building;
33 and (iv) accommodate additional landscaping in the redesigned
34 parking lot. [Attorney: Harvey E. Oyer III]

35
36 The following ex-parte communications were declared: Council Members Pucillo,
37 Diamond, and Kleid spoke with Attorney Oyer and Robert Moore, who advocated the
38 position of their client. Council Member Diamond further disclosed that he is a member
39 of the Society of the Four Arts. Council President Rosow and Mayor Coniglio spoke
40 with Attorney Oyer, Bob Moore, and Ervin Duggan, as well as received correspondence,
41 advocating the position of their client.

42
43 Town Clerk Owens administered the oath to additional individuals who would be
44 providing testimony.
45

1 Attorney Oyer, on behalf of the Society of the Four Arts, provided an overview of the
2 applicant's request.

3
4 Architect Keith Spina, of Glidden, Spina & Partners, provided an overview of the site
5 plan.

6
7 Director of Planning, Zoning, and Building Page provided staff's comments.

8
9 Mr. Page indicated that a traffic circulation control plan could be incorporated into the
10 Declaration of Use Agreement, and that physical bodies would be required to direct
11 traffic for the larger events.

12
13 Council President Rosow noted that valet parking was used twice a year and that should
14 be included in the Declaration of Use Agreement.

15
16 **Motion was made by Council Member Diamond and seconded by Council Member Kleid**
17 **that Special Exception #19-2011 with Site Plan Review and Variance shall be granted based**
18 **upon the finding that such grant will not adversely affect the public interest and that the**
19 **applicable criteria set forth in Section 134-229 of the Town Code have been met, subject to**
20 **the following conditions: execution of declaration of use agreement, including a restriction**
21 **prohibiting simultaneous events in the auditorium and the gymnasium nor events that**
22 **conflict with the public school drop-off and pick-up times; execution of unity of title**
23 **agreement; qualified traffic control authority personnel will be required if more than 250**
24 **people are expected for events on the entire campus; reversal of the traffic flow at the new**
25 **access drive, unless the town's traffic consultant is opposed; applicant will provide best**
26 **efforts to bury the utility lines; landscape to be installed along the north property line,**
27 **adjacent to new patio area; no valet, except for the current use twice a year; and, all**
28 **construction vehicles park on the property itself, not the street. On roll call, the motion**
29 **carried unanimously.**

30
31 **Motion was made by Council Member Diamond and seconded by Council Member Kleid**
32 **that the Site Plan be approved based on the finding that the approval of the site plan will**
33 **not adversely affect the public interest and that the Council certifies that the specific zoning**
34 **requirements governing the individual use have been met and that satisfactory provision**
35 **and arrangement has been made concerning Section 134-329, items 1 through 11. On roll**
36 **call, the motion carried unanimously.**

37
38 **Motion was made by Council Member Diamond and seconded by Council Member Kleid**
39 **that that the Variance be granted and find, in support thereof, that all of the criteria**
40 **applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been**
41 **met. On roll call, the motion carried unanimously.**

42
43 *Clerk's Note: Mayor Coniglio left the meeting at 11:37 a.m.*
44
45

f. **SPECIAL EXCEPTION #17-2011** The application of Ritcon Investments South, LLC; relative to property commonly known as 150 Worth Avenue; described as lengthy legal description on file; located in the C-WA Zoning District. The applicant requests a Special Exception to replace the existing Trevini restaurant in Suite 234 on the second level of 150 Worth Avenue with a new restaurant called Cha-Cha's which will occupy the same square footage (5,243) and will have the same number of seats as was previously approved for Trevini (151, with 14 on the exterior of the common area). The restaurant will provide background dinner music, or entertainment, and may have dancing to live or recorded music, but will not have floorshows. Special Exception request to allow 14 of the 151 maximum seats to be allowed outside the restaurant. [Attorney: James R. Brindell]

The following ex-parte communications were declared: Council Members Pucillo, Diamond, and Kleid, and Council President Rosow, each spoke with Attorney Brindell, who advocated the position of his client.

Attorney Brindell, on behalf of the owner of Cha-Chas's, provided an overview of the applicant's request.

Director of Planning, Zoning, and Building Page provided staff's comments.

Attorney Neil Schiller, of Becker & Poliakoff, P.A., commented on behalf of the residents of Winthrop House, who are in support of the application.

Motion was made by Council Member Diamond and seconded by President Pro Tem Wildrick that Special Exception #17-2011 shall be granted based upon the finding that such grant will not adversely affect the public interest and that the applicable criteria set forth in Section 134-229 of the Town Code have been met, subject to the following conditions: there shall be a limit of 151 seats, of which 14 may be outside seating; indoor and outdoor service shall cease at 11:00 p.m.; all garbage and glass shall be stored inside the restaurant from 7:00 p.m. to 8:00 a.m.; the bar shall cease operations at 1:00 a.m.; the restaurant shall only be allowed to operate as a night club and stay open until 3:00 a.m. on New Year's Eve- if any complaints are filed by neighboring property owners regarding this event, then the applicant will be required to come back before the council to address any problematic issues; and, the applicant shall come back before the council in one year to verify their compliance with these conditions and that there are no objections from neighboring property owners. On roll call, the motion carried unanimously.

D. Other - None

IX. ANY OTHER MATTERS - None

1 X. ADJOURNMENT

3 There being no further business, the July 13, 2011, Town Council meeting was adjourned
4 at 11:45 a.m.

APPROVED:


David A. Rosow
Town Council President

ATTEST:

Susan A. Owens, MMC
Town Clerk

