



TOWN OF PALM BEACH

Town Manager's Office

TENTATIVE-
SUBJECT TO
REVISION

TOWN COUNCIL MEETING

**EMERGENCY OPERATIONS CENTER (EOC)
THIRD FLOOR, CENTRAL FIRE-RESCUE STATION
355 SOUTH COUNTY ROAD**

AGENDA

Wednesday, May 12, 2010

9:30 A.M.

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) and selecting "Live Meeting Audio" under the "Your Government" tab. 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

Post Office Box 2029 * 360 South County Road * Palm Beach, Florida 33480
Telephone (561) 838-5410 * Facsimile (561) 838-5411 * townmanager@townofpalmbeach.com

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. PUBLIC HEARINGS

- A. RESOLUTION NO. 48-10 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 **290 South County Road** 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 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, and Building]

- B. RESOLUTION NO. 51-10 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 **977 North Ocean Boulevard** 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 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, and Building]

VIII. DEVELOPMENT REVIEWS

A. Appeals

1. Appeal of Landmarks Preservation Commission Approval, Certificate of Appropriateness #7-10, 780 South Ocean Boulevard.
2. Ratification of Side Yard Setback "Dimensional Waiver" at 780 South Ocean Boulevard.

[John S. Page, Director of Planning, Zoning, and Building]

B. Time Extensions & Waivers

1. Request for Waiver of Section 42-199, Hours of Construction, at 1170 South Ocean Boulevard (Bath and Tennis Club) (Per Letter Dated April 27, 2010, From Kast Construction III, LLC).

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business- Less Than 15 Minutes

None

2. New Business- Less Than 15 Minutes

- a. **SPECIAL EXCEPTION #5-2010 WITH SITE PLAN REVIEW AND VARIANCE** The application of Society of the Four Arts, Inc., relative to property commonly known as **1-2 Four Arts Plaza**; described as lengthy legal description on file; located in the R-B Zoning District. Request for Special Exception and Site Plan Review to modify the Four Arts cultural center by demolishing a 1,262 square foot one story building and constructing a 1,561 square foot one story addition onto the existing Garden House. The addition will contain bathrooms (including handicap stalls), food preparation area, storage and a loading dock area. A Variance request to allow a rear yard setback of 6.75 feet in lieu of the 15-foot minimum required for the addition. [Attorney: Maura A. Ziska, Esq.] [Landmarks Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the landmark property. Carried 7-0.]

- b. **SPECIAL EXCEPTION #6-2010** The application of Diane Wren, relative to property commonly known as **3000 S. Ocean Blvd., Unit PH6**; described as Bellaria Condominium Unit PH6, Phase South; located in the R-D(2) Zoning District. Request for Special Exception to add a 532 square foot roofed portion on the existing 5th floor patio. The height exception is required above three stories. [Attorney: James R. Brindell, Esq.] [ARCOM Recommendation: Defer to the May 26, 2010 ARCOM meeting. Carried 7-0.]
Request for Deferral to the June 22, 2010, Town Council Meeting Per Letter Dated May 3, 2010, From James R. Brindell (Special Circumstances).

- c. SITE PLAN REVIEW #2-2010 WITH VARIANCES The application of Cathedral Estates LTD., relative to property commonly known as **417 Peruvian Avenue (a/k/a 2 Major Alley)**; described as lengthy legal description on file; located in the R-C Zoning District. Request for Site Plan Review with Variance requests to construct a free standing glass rooftop of 200 square feet over an existing terrace that will be open on all four sides and would result in a west side yard setback of 2.45 feet in lieu of the 20 foot minimum required, lot coverage of 44.4% in lieu of the 43.4% existing and the 30% maximum allowed and landscaped open space of 7.35% in lieu of the 7.5% existing and the 35% minimum required.
[Attorney: Maura A. Ziska, Esq.]
[Landmarks Commission Recommendation: Implementation of the proposed variance does not cause negative architectural impact on the landmark property with conditions the applicant reduce the size; add landscaping on the west side after removal of existing landscape material; and meet drainage and lighting requirements of the Town. Carried 7-0.]
- d. VARIANCE #4-2010 The application of Robert T. Tomsich, relative to property commonly known as **151 Via Bellaria**; described as lengthy legal description on file; located in the R-A Zoning District. Request a variance to permit the construction of a new larger two-story open loggia to replace the existing two-story loggia, which will result in a lot coverage of 25.8% in lieu of the 24.9% existing and 25% maximum allowed.
[Attorney: M. Timothy Hanlon]
[ARCOM Recommendation: Defer to the May 26, 2010, Architectural Commission meeting. Carried 7-0.]
Request for Deferral to the June 22, 2010, Town Council Meeting Per Letter Dated May 4, 2010, From M. Timothy Hanlon (Special Circumstances).
- e. VARIANCE #5-2010 The application of Fairfax, Sammons & Partners Limited Co. Architectural Firm, relative to property commonly known as **214 Brazilian Avenue, Suite 100**; described as Royal Park Addition, Lot 32, Block G; located in the C-TS Zoning District. Request for variance approval to allow an office use (architectural firm) of approximately 550 square feet on the first floor, which is in contradiction to the Code which does not allow an office on the first floor in this circumstance.
[Attorney: Jason Evans, Esq.]

3. Old Business- More Than 15 Minutes

- a. SPECIAL EXCEPTION #3-2010 WITH SITE PLAN REVIEW AND VARIANCE The application of Roy Reeves, Restaurant Operator, relative to property commonly known as **219 Worth Avenue**; described as Lots 20, 21, 34 and 35, ROYAL PARK ADDITION, according to the Plat thereof, on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida recorded in Plat Book, Page 1; located in the C-WA Zoning District. Request for Special Exception for a 4,075 square foot upscale American cuisine restaurant which includes site plan review to allow a new entry door and 36 outdoor seats on the proposed second floor patio within the proposed expansion area. The applicant is requesting umbrellas to cover the outdoor seating. The applicant also proposes to meet all conditions of approval which were granted to the previous restaurant applicant for this tenant space. The variance being requested is to eliminate the four additional off-street parking spaces required for the 74 proposed seats. [Attorney: Maura A. Ziska, Esq.]
Deferred from the April 14, 2010, Town Council Meeting.
Request for Deferral to the June 22, 2010, Town Council Meeting Per Letter Dated April 26, 2010, From Maura A. Ziska (SECOND REQUEST).
- b. SPECIAL EXCEPTION #4-2010 The application of M. Timothy Hanlon; relative to property commonly known as **710 South Ocean Blvd.**; described as lengthy legal description on file; located in the R-A Zoning District. Request for Special Exception approval to permit construction of a 72-foot long tunnel for pedestrian access under South Ocean Blvd. to and from the beach parcel for this landmarked property. The applicant proposes to close one lane of traffic at a time during construction.
[Attorney: M. Timothy Hanlon]
Deferred from the April 14, 2010, Town Council Meeting.

4. New Business- More Than 15 Minutes

- a. SPECIAL EXCEPTION #7-2010 The application of Island Hotel, Inc., relative to property commonly known as **235 Sunrise Avenue C-22**; described as Palm Beach Hotel Condominium Commercial Unit C-22 per Condominium Declaration of 2/12/81; located in the C-TS Zoning District. Request for Special Exception to modify

condition of approval within the Declaration of Use Agreement. In 2007 Unit C-22 of the Palm Beach Hotel was approved for use as a synagogue. A Declaration of Use Agreement was approved in 2008 which outlined certain restrictions and limitations on the use of the unit. One of those restrictions (Article IV#9) was that the Synagogue shall not be allowed to prepare food in the kitchen which requires the use of cooking equipment. The kitchen cooking equipment shall only be used for keeping warm pre-prepared or catered food. The Synagogue is requesting that this restriction be eliminated in order to cook and prepare food in the kitchen. The range hood was updated with a new fire suppression system in 2007.
[Attorney: James R. Brindell, Esq.]

- b. SITE PLAN REVIEW #3-2010 WITH VARIANCE The application of Mr. & Mrs. Adler, relative to property commonly known as **7 Sloan's Curve Drive**; described as lengthy legal description on file; located in the PUD-B Zoning District. Request for Site Plan Review to construct a 135 square foot infill addition on the front entry of an existing townhouse and a 49 square foot infill addition to the breakfast atrium and a 49 square foot infill addition to an upstairs bedroom. A Variance is requested to allow two small additions that will enclose the entry feature and an interior atrium thereby increasing the lot coverage to 35.9% in lieu of the 33.7% existing and the 35% maximum allowed in the PUD-B district. The proposed additions will modify a previously approved site plan in a PUD complying with Section 134-688 (b) of the Town's Zoning Code. [Attorney: Maura A. Ziska, Esq.]
[ARCOM Recommendation: Defer to the May 26, 2010, Architectural Commission meeting. Carried 7-0.]
Request for Deferral to the June 22, 2010, Town Council Meeting Per Letter Dated April 26, 2010, From Maura A. Ziska (Special Circumstances).

- c. SITE PLAN REVIEW #4-2010 WITH SPECIAL EXCEPTION AND VARIANCES The application of Publix Super Markets, Inc., 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. Request for a Site Plan Review and Special Exception to construct a 50,870 (43,360 gross leasable) square foot one story grocery store on 4.36 acres. The new store will provide 218 off street

parking spaces. There is proposed to be an outdoor ATM and the grocery cart storage within the building. All of the proposed mechanical equipment will be contained within portions of the building and will not be seen on the roof. Part of the proposed design is to have two generators located within 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. Since the proposed grocery store is in excess of 2,000 square feet, the applicant is required to obtain Town Council approval of a special exception and a finding that the proposed use is Town serving. A Special Exception is being requested to have two illuminated monument signs at the northwest and southwest entrances to the west parking lot and one illuminated business identification sign on the west entrance of the building. The following variances are being requested to construct the proposed one story grocery store: (a) to allow a building length of 245 feet in lieu of the 150-foot maximum allowed; (b) to allow a front yard setback at the northwest corner of the proposed building of 10 feet in lieu of the 14 foot minimum required based on building height; (c) to allow a side yard setback for the proposed towers to be 10 feet in lieu of the 19-foot minimum required; (d) to allow two loading spaces in lieu of the three spaces required by code; (e) to allow the proposed building to be a total square footage of 50,870 square feet in lieu of the 15,000 square foot maximum allowed; (f) to allow 8 towers in lieu of the two maximum allowed; (g) to allow the area of the 8 towers to be 12.2% of the gross floor area of the building in lieu of the 2% maximum allowed (h) to allow the parking lot light poles to be 23 feet in height in lieu of the 15-foot maximum allowed; (I) to allow the height of the proposed one story grocery store to be 22.66 feet in lieu of the 15-foot maximum allowed; (j) to allow the overall height of the proposed one story grocery store to be 37 feet in lieu of the 20-foot maximum allowed; (k) to allow a monument sign at the northwest entrance where no sign is allowed; (l) to allow a monument sign at the southwest entrance where no sign is allowed.

[Attorney: Maura A. Ziska, Esq.]

[ARCOM Recommendation: Defer to the May 26, 2010, Architectural Commission meeting. Carried 7-0.]

**Request for Deferral to the June 22, 2010, Town
Council Meeting Per Letter Dated April 26, 2010, From
Maura A. Ziska (Special Circumstances).**

D. Other

1. Vacant Storefronts: Possible Ordinance/Policy Change.
[Robert N. Wildrick, Town Council Member]
2. Town Serving Regulations: Study Update Recommendations from
Planning and Zoning Commission.
[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.