



**TOWN OF PALM BEACH**  
Planning, Zoning & Building Department  
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PLANNING, ZONING, & BUILDING DEPARTMENT  
PZ&B Staff Memorandum: Landmarks Preservation Commission

FROM: Wayne Bergman, MCP, LEED-AP  
Director PZ&B 

SUBJECT: COA-23-003 (ZON-23-020) 139 N COUNTY RD—PARAMOUNT THEATER  
(COMBO)

MEETING: JULY 19, 2023

**COA-23-003 (ZON-23-020) 139 N COUNTY RD—THE PARAMOUNT THEATER (COMBO)**. The applicant, WEG Paramount LLC, has filed an application requesting a Certificate of Appropriateness for the review and approval of the renovation and adaptive re-use of an existing Landmarked theater structure, and the construction of a new three-story mixed use (retail and four residential units) development with two subterranean parking levels to replace an existing surface parking lot, including multiple variances including setbacks, height, open space, among others. Additionally, a variance to permit residential uses on the first level in the C-TS zoning district in lieu of the above the first-floor requirement has been added since originally advertised. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval.

Applicant: WEG Paramount LLC (Lester Woerner)  
Professional: Stantec Architecture | RAMSA  
Representative: James Crowley, Esq.

**HISTORY:**

See attached 'Site History'.

An application, ZON-23-006, was presented for approval for 'outdoor promotional events' within the courtyard of the landmarked property at the January 11, 2023, Town Council meeting, but was ultimately withdrawn by the applicant. Most recently, a zoning text amendment submitted by the applicant is currently under review for consideration to propose zoning changes allowing covered arcades over the public right-of-way in the C-TS zoning district, similar to the provisions provided for the C-WA zoning district.

The current item was originally scheduled and presented at the April 19, 2023, LPC meeting, where design review and specific direction regarding the scale, massing, height and architectural proportion and detailing of the new construction was provided, with much discussion regarding the impact that the new construction could have on the prominent landmark as it pertained to its bulk, height, and massing. The matter was deferred to the May 17, 2023, meeting, and has been subsequently deferred at the request of the applicant. The application was re-noticed and readvertised for the July meeting.

Since the April LPC meeting, there was discussion at the May 2023 Town Council meeting, pertaining to the ‘order’ of review for combination projects requiring some form of zoning relief. Currently, those ‘combo’ projects involving zoning action require going before the design review commission first, followed by Town Council for final action on Variances, Special Exception requests, and/or Site Plan Reviews. Direction was given that commercial projects requiring some form of zoning action from Town Council be heard first, prior to the design review commission. The Paramount application predates that policy change and is therefore before the Landmarks Preservation Commission before Town Council has acted upon it. That said, there are numerous Special Exception requests and Variance requests that, if not approved by Town Council, would render the project, as presented, undevelopable and a substantial restudy would be necessary.

### **THE PROJECT:**

The applicant has submitted plans, entitled "PARAMOUNT THEATER", as prepared by **Stantec Architecture** and **RAMSA** dated June 30, 2023.

The applicant is requesting review and approval of the following scope of work for a Certificate of Appropriateness and has submitted a Historic Preservation Tax Abatement application for the proposed improvements:

- Rehabilitation and renovation of the existing three-story landmarked theater, office and retail spaces and external sitework improvements.
- Façade renovations and alterations to the primary and secondary street facing façades and all other elevations.
- Substantial interior demolitions and improvements.
- Construction of a new two-level subterranean parking garage with four three-story mixed use residential structures to replace the surface parking lot. Not included in Tax Abatement.

The following Special Exceptions, Site Plan review and/or Variances required to complete the project, and shall be reviewed by Town Council:

### **SPECIAL EXCEPTION REQUESTS + SITE PLAN REVIEW**

1. **SITE PLAN REVIEW:** [Sec. 134-1112](#): Site Plan Review for new building(s) or for changes in permitted use in Sec. 134-1107 which involves more than 2,000 SF of building floor area in the C-TS zoning district.
2. **SPECIAL EXCEPTION #1:** [Sec. 134-1109\(a\)\(3\)](#): Special Exception for a private club use in the C-TS zoning district.
3. **SPECIAL EXCEPTION #2:** [Sec. 134-1109\(a\)\(11\)](#): Special Exception with Site Plan Review for permitted uses over 3,000 SF of gross leasable area (GLA) in the C-TS zoning district.
4. **SPECIAL EXCEPTION #3:** [Sec. 134-1109\(a\)\(22\)](#): Special Exception for restaurant use in the C-TS zoning district.
5. **SPECIAL EXCEPTION #4:** [Sec. 134-1109\(a\)\(14\)](#): Special Exception for outdoor café seating in the C-TS zoning district. 34 outdoor seats on level 1 of private club + 66 outdoor seats on level 2 of private club (100 outdoor seats).
6. **SPECIAL EXCEPTION #5:** [Sec. 134-1113\(8\)\(c\)](#): Special Exception for maximum building height of 2 stories.
7. **SPECIAL EXCEPTION #6:** [Sec. 134-2182\(b\)](#): Special Exception for shared parking.

### **VARIANCE REQUESTS**

1. **VARIANCE #1:** [Sec. 134-1113\(5\) \(b\)-\(c\)](#): A variance for a front yard setback of 0 ft in lieu of the 11 ft to 16.9 ft required.

2. **VARIANCE #2:** [Sec. 134-1113\(7\)\(c\)](#): A variance for a rear yard setback of 0 in lieu of the 22 ft minimum required.
3. **VARIANCE #3:** [Sec. 134-1576\(a\)](#): A variance for a front (street) side yard setback of 0 ft in lieu of the 11 ft to 16.9 ft required.
4. **VARIANCE #4:** [Sec. 134-1113\(8\)\(b\)](#): A variance for 3 stories in lieu of the 2 stories maximum permitted.
5. **VARIANCE #5:** [Sec. 134-1113\(8\)\(b\)](#): A variance for a building height of 38.5 ft in lieu of the 25 ft maximum building height permitted.
6. **VARIANCE #6:** [Sec. 134-1113\(8\)\(d\)](#): A variance for an overall building height of 48.58 ft in lieu of the 30 ft maximum overall building height permitted.
7. **VARIANCE #7:** [Sec. 134-1113\(9\)\(b\)](#): A variance for lot coverage of 84% (48,652 SF) in lieu of the 70% maximum permitted.
8. **VARIANCE #8:** [Sec. 134-1113\(10\)\(b\)](#): A variance for a building length of 340.5 ft in lieu of the 150 ft maximum building length permitted.
9. **VARIANCE #9:** [Sec. 134-1113\(12\)\(b\)](#): A variance for a floor area of 45,445.86 SF in lieu of the 15,000 SF maximum floor area permitted.
10. **VARIANCE #10:** [Sec. 134-1113\(11\)\(b\)](#): A variance for an overall landscape open space of 2% in lieu of the 25% minimum required.
11. **VARIANCE #11:** [Sec. 134-1113\(11\)\(c\)](#): A variance for a front yard landscaped open space of 1% in lieu of the 25% minimum required.
12. **VARIANCE #12:** [Sec. 134-1611\(2\)\(d\)](#): A variance for a subbasement front yard setback of 0' in lieu of the 5 ft minimum setback required.
13. **VARIANCE #13:** [Sec. 134-1611\(2\)\(d\)](#): A variance for a subbasement street-side yard setback of 0 ft in lieu of the 5 ft minimum setback required.
14. **VARIANCE #14:** [Sec. 134-1611\(2\)\(d\)](#): A variance for a subbasement rear yard setback of 0 ft in lieu of the 5 ft minimum required
15. **VARIANCE #15:** [Sec. 134-2172](#): A variance to allow (26 rows) tandem, (4 rows) triple stacking and (11) mechanical car lifts in a 128-space parked garage. Parking is required to be so arranged that each automobile may be placed and removed from the parking space without the necessity of moving any other automobile to complete the maneuver.
16. **VARIANCE #16:** [Sec-134-2211](#): A variance to not provide one required loading space for new retail buildings 4,000—25,000SF.
17. **VARIANCE #17:** [Sec. 134-2171](#): A variance to reduce the required drive aisle width to 22', in lieu of the 25' required.
18. **VARIANCE #18:** [Sec. 134-2171\(a\)](#): A variance to exceed the maximum slope required permitted in a design of elevated or depressed parking structures to permit 14.6% slope, the maximum slope of floors or ramps shall not exceed 12-percent grade. The turning radius dimension for approach drive aisleways shall not be less than 30 feet.
19. **VARIANCE #19:** [Sec. 134-1669](#): A variance to exceed by 1' the maximum allowable wall height on a side or rear property line. All walls and/or fences located within ten feet of the side or rear property line shall not exceed seven feet in height.
20. **VARIANCE #20:** [Sec. 134-1729\(2\)\(a\)](#): A variance to permit a 100kW generator with 10 ft and 17.8 ft side yard setback, in lieu of the 22' side yard setback required.
21. **VARIANCE #21:** [Sec. 134-1107\(a\)\(9\)](#): A variance to four (4) new residences to be located on the first floor in lieu of residences only being permitted above the first floor in the C-TS district.

<b>Site Data</b>			
<b>Zoning District</b>	C-TS	<b>Lot Size (SF)</b>	<u>58,098 SF</u> 34,001 SF (theater site) 24,097 SF (parking lot)
<b>Future Land Use</b>	COMMERCIAL	<b>Courtyard Area</b>	4,460 SF (ground floor)
<b>Total Building Size</b>	+/- 48,652 SF	<b>Finished Floor Elev.</b>	12' NAVD (theater) 8.5' NAVD (retail liner)
<b>Crown of Road</b>	7.37' NAVD	<b>FEMA FLOOD ZONE</b>	X
<b>Year Constructed</b>	1926	<b>Architect</b>	Josef Urban
<b>Designation as Landmark</b>	09/14/82	<b>National Register District</b>	12/12/73
<b>Lot Coverage</b>	Existing: 41% (24,233 SF) Proposed: 84% (48,652 SF) Permitted: 70% (40,668) <i>Variance requested</i>	<b>Square Footage/ Floor Area (SF)</b>	Existing: +/- 36,153 SF New: 27,687 SF Total: 63,840 SF Permitted: 15,000 SF <i>Variance requested</i>
<b>Front Yard Open Space</b>	Existing: 15% Proposed: 1% Permitted: 25% <i>Variance requested</i>	<b>Landscape Open Space (LOS)</b>	Existing: 15% Proposed: 2% Permitted: 25% <i>Variance requested</i>
<b>Parking</b>	Parking Equivalency Credits: 133 New Parking required: 215 Required: 82 spaces Proposed: 128 spaces Surplus: 46 spaces <i>Variance requested type of parking</i>	<b>Building Length</b>	Existing: 163'-2" Proposed: 340.5' Permitted: 150' <i>Variance requested</i>
<b>Height</b>	Permitted: 25' Proposed: 38.5' <i>Variance requested</i>	<b>Overall Height</b>	Permitted: 30' Proposed: 48.58' <i>Variance requested</i>
<b>Stories</b>	Permitted: 2-stories Proposed: 3-stories <i>Variance requested</i>	<b>Public Restaurant Seats</b>	Public Restaurant 40 interior seats 0 exterior seats
<b>Private Club Space</b>	<u>225 members.</u> Including 1 <sup>st</sup> floor 72 seats and 34 outdoor café seats. Additionally, 2 <sup>nd</sup> floor private bar/lounge as part of the private club for an additional 51 seats and 64 outdoor seats.	<b>Public Event Space</b>	250 people
<b>Surrounding Properties / Zoning</b>			
<b>North</b>	One-story commercial (C-TS and R-C)		
<b>South</b>	Three-story residential w/ ground floor retail (C-TS and R-C)		

<b>East</b>	1950 Six-story condominium-SUN & SURF (R-C)
<b>West</b>	One-story commercial (C-TS)

**COMPLIANCE WITH ZONING CODE:**

Aside from the requested variances enumerated above, preliminary review of the project indicates that the application, as proposed, contains architectural features and elements that are inconsistent with the Town Zoning Code, and where no relief has been properly requested by the applicant, or advertised. The offending elements are primarily restricted to areas of allowable rooftop projections: chimneys, generators, and other various mechanical equipment such as commercial kitchen exhaust equipment (scrubbers) exceeding height allowances for the four new residences, as well as the theater building.

**CONSISTENCY WITH THE COMPREHENSIVE PLAN:**

A preliminary review of the project indicates that the proposed **application is consistent** with the **COMMERCIAL** designation of the Future Land Use Map of the Comprehensive Plan, but the proposal is an intensification of the site’s current use and may be contrary to many aspects of the Comprehensive Plan:

- **Land Use Element** The Town recognizes that future development and attendant population growth would aggravate traffic problems, perhaps bringing the Town to a critical level of overuse. The Town has therefore adopted the following policy regarding growth: To prevent critical and dangerous overuse of its streets, parking resources, public services and facilities, and damage to its historic character and to overall property values of the community, the Town will take all technical and administrative measures legally available, including the use of this Comprehensive Plan, to minimize the change or transition of existing low-density areas or structures to more intensive use patterns, and thereby lower the pattern of density, where possible, and to minimize tourism inflow.
  
- **Land Use Element** It continues to be a major objective of the Town to inhibit further commercialization, contain commercial uses to limited geographic locations, and to promote commercial uses which are primarily oriented to serving the needs of residents, employees and visitors staying in accommodations in the Town, while discouraging those businesses that attract customers and clients from off the Island.
  
- **Land Use Element:** [POLICY 2.3](#) (pg. I-24): Development orders shall be issued by the Town only for new non-residential development or redevelopment that is consistent with the Future Land Use Map and descriptions and intensities of land use as set forth in the following policies. 2.3.1 The following definitions shall pertain to the application of the non-residential land use designations and associated policies: a. “Town-serving” shall mean establishments principally oriented to serving the needs of Town persons and not substantially relying on the patronage of persons not defined as Town persons. Commercial establishments (other than those in the “Commercial – Office, Professional & Institutional” (C-OPI) zoning district, which are not required to meet town-serving requirements) of 3,000 square-feet or less of gross leasable area in the C-PC, C-TS and C-B zoning districts, and 4,000 square-feet or less of gross leasable area in the C-WA zoning district are assumed to meet the intent of the first part of this definition. b. “Town persons” shall mean all full-time and seasonal residents of the Town as well as visitors staying at accommodations in, or employees working in establishments located within, the Town.

- **Land Use Element:** [POLICY 2.3.3](#) (pg. I-25): Commercial – Intended to create, preserve, and enhance areas of attractive, small scale, retail, personal and professional/business services, and mixed commercial/ residential use, developed either as a unit or in individual parcels, providing primarily for the frequently recurring needs of Town persons with limited provision for more intensive commercial uses that are proven to be compatible with the Future Land Use Plan and the character of the Town.
  - d. In limited circumstances, the maximum building height shall be three stories.
- **Land Use Element:** [POLICY 2.4](#) (pg. I-26): To prevent critical and dangerous overuse of its streets, parking resources, public services and facilities, and damage to its historic character, and to overall property values of the community, the Town will take all technical and administrative measures legally available, to minimize the change or transition of existing low-density areas or structures to more intensive use patterns, and thereby lower the pattern of density, where possible, and to minimize tourism inflow.
- **Land Use Element:** [POLICY 2.5](#) (pg. I-26): To continue to enforce the provisions of the Town's Zoning Ordinance which are directed toward the encouragement of Town-serving commercial uses and the discouragement of those uses which are likely to attract patronage on a regional level.

#### **PROJECT ANALYSIS:**

The existing lot is 1.45-acre corner parcel on the southeast intersection of Sunrise Avenue and N. County Road, a prominent location in the Commercial Town Serving District. The site is improved with an existing three-story Landmarked structure—the Paramount Theater—which was designated a Palm Beach Landmark in 1982. The theater occupies the northern portion of the site, and a 46-car surface parking lot occupies the southern portion. The application proposes the renovation and restoration of the historic Landmarked Paramount Theatre, and the addition of new buildings and structures on the existing parking lot to the south of the site; specifically, the new structures include two levels of underground parking, street level retail components, a partially below grade motor court, and four new three-story residences built above the motor court, and a raised garden level that includes a shared residential garden.

The proposal includes the renovation and restoration of the existing Landmarked Paramount Theater, a multi-story theater (now office, retail, and church services) and a two-story commercial liner building designed in 1926 by Josef Urban. Between the two structures is a courtyard area which contains approximately 4,460 SF of outdoor area surrounded mostly by the existing building. The entry breezeway at the street corner provides an unobstructed vista into and out of the courtyard area and provides a glimpse of the theater's main entrance. Historically, the building contained apartments, offices, retail and restaurants as companion uses to the theater.

The building was designed as a welcoming structure that served as a community venue that engaged the site and the prominent corner location. The original plan consisted of the fan shape auditorium diagonally positioned on the site that addressed the intersection of Sunrise Avenue and North County Road with a celebrated triple-height entry breezeway to the courtyard and main entrance of the theater, topped with the still surviving original Paramount signage in script inset with light bulbs. A copper sheathed dome is located above the main entrance lobby and is decorated with intersecting arches. The main auditorium once boasted interior heights of two and a half stories and could accommodate crowds of over 1,200 people. When it opened in November of 1926, there were 1080 orchestra seats and 156 box seats. It is documented that the live theater remained in

operation until 1968. The last movie shown at the Paramount was sometime shortly after 1978, as there is photo documentation of the 1977 film *The Goodbye Girl* being shown.

After this time, the space largely remained dormant. After the adoption of the Town's Landmarks ordinance in 1979, the Paramount Theater and its potential redevelopment opportunities became a passionate topic of conversation. During this time, the then-owner agreed to voluntarily accept the landmarking of the Paramount on the condition that the Town accept an adaptive reuse plan that would be presented to ARCOM and LPC. There were two alternative proposals for the Theater building under the adaptive reuse package: one consisting of a 200-seat restaurant and a 250-seat theater, and one consisting of the conversion of the Theater into office and retail space.

The adaptive reuse plan also called for development of the eastern portion of the property, replacing the then-existing tennis courts with a new multi-story structure consisting of underground parking with office and retail uses above. This scheme required zoning relief to convert the uses (Special Exception#: 12-83 with Variances and Site Plan Review). Interestingly at that time, there was resistance on the change of use conversion from Town residents, the Preservation Foundation and the Town Council, who wished the space to remain a theater. During this failed revitalization project, the interior of the theater was gutted and retrofitted with infrastructure that created two floors where the large theater space existed. The adaptive reuse plan never came to fruition.

Since then, the space has been largely underutilized and in some form of disrepair. Recent and current uses include retail, office, restaurant/bar/cafes, and event space. Retail tenants included a surf shop, ice cream shop, chocolatier, jeweler, and clothing boutiques. Office tenants included property management services, broadcasting, design services, and civic associations. A portion of the ground floor dormant theater space was converted for use by the Paramount Church in 1994 and was in operation for nearly 27 years. Currently, there is a small coffee shop and a gallery, office spaces, and vacant spaces along N. County Road. A pop-up retail store, wine merchant, and home furnishings store are located along Sunrise Avenue.

The two most significant aspects of the project are (1) the re-programming of the Landmarked Paramount Theater, and (2) the construction of the four three-story buildings and underground parking garage. The proposal includes the following program:

- Private social club utilizing a portion of the former first and second floor auditorium space with a maximum membership of 225 people. This includes a private restaurant on the ground level with 72 seats and an additional 34 outdoor café seats. Additionally, there is a second-floor private bar/lounge as part of the private club with an additional 51 seats and 64 outdoor seats.
- Public event space of 4,530 SF utilizing a portion of the second-floor auditorium space with a maximum occupancy of 250 people.
- Public restaurant space with a maximum of 40 interior seats on the ground level.
- Two levels of subterranean parking garage.
- Four, three-story residential units with three utilizing ground floor commercial space.

The total program within the Paramount Theater is an intensification when compared to its current usage, but in line with the occupancy envisioned when built in 1926.

### **HISTORIC PRESERVATION ANALYSIS**

The historic research provided in the Paramount Theater's Florida Master Site File, included as part of the structure's local Landmark designation, describe the resource as being "designed as a

complete cultural center... and a superb blend of cinema, residences, restaurants, commercial shops, and offices. It was designed in 1926, by Joseph Urban, world-renowned Austrian architect...and the success of the overall design concept of the theater is demonstrated by the fact that commercial and residential properties have continued in use and increased in value to the present time, while the theater itself remained in operation until 1968”.

Ample historic documentation of the Paramount Theater exists, and the applicant has provided historic drawings and photos documenting the building throughout its existence. Urban’s Mediterranean Revival architectural design blends dramatic 1920’s theater architecture with a partially enclosed outdoor courtyard, reminiscent of a Mediterranean piazza surrounded by companion uses in small shops. The architectural design also blends subtle elements of Art Deco architecture, which was growing in popularity in South Florida at the time of the building’s construction. Character-defining architectural details include sloped barrel tile roofs, stucco facades, Gothic and Oriental arched openings, regularized fenestration, turned wood spindles and balustrades, exterior circulation paths and stairways, and a dramatic domed entryway.

The application seeks to restore the exterior facades of the theater based on historic documentation and by utilizing appropriate material and design considerations. Sheet D-4.1 of the architectural plans provide the original 1926 Joseph Urban design of the front façade, as well as existing and proposed elevations. Most notably, the central courtyard façade is being restored with the original tripartite glazing stack that was a prominent element in Urban’s design (detail provided on Sheet D-10). Additionally, the proposed window, door, and storefront replacement program generally reflect Urban’s original design elements. New awnings, canopies, and planters based on original designs are also being appropriately reintroduced. Details of recreated historic and new architectural elements proposed at the site are provided on Sheets D-11 through D-15.

The east (Sheet D-4.2) and south (Sheet D-4.3) elevations do see some fenestration rearrangement and removal, particularly on the ground floor as a result of new internal programming and additions. These alterations are largely requested on more utilitarian side elevations and do not significantly impact the character-defining attributes of the historic building.

#### **ARCHITECTURAL DESIGN ANALYSIS**

Development on the surface parking lot consists of residential and mixed-use housing units over a subterranean parking garage. Three of the units contain a retail liner component along County Road, and all of the buildings utilize varying architectural designs and massing articulations. The architectural drawings identify these buildings as House 1, House 2, House 3, and House 4. The four residential units are each three stories in height (requiring a special exception and a variances) and contain square footage ranging from 7,354 SF (House 1), 7,110 SF (House 2), 6,046 SF (House 3) and 7,177 SF (House 4). The revised scheme proposed for the July Landmarks meeting reduces the overall SF mass of the four structures from 30,351 SF to 27,687 SF. It must be noted that for zoning purposes, the below grade level does not count towards a story. The C-TS zoning district allows for *Residence(s) above the first floor* as a permitted use. Technically speaking, none of the residences are located **above** the first floor as the design contains a hybrid blend of street level retail (at grade, sidewalk elevation) and an elevated ‘first floor’ of the residences, which are positioned behind and at a higher elevation than the liner component. Further, the program of House 1 - the easterly most structure along Sunset Avenue, has been designed without a retail component in an attempt to blend the mix of uses proposed in the overall Paramount site program more sensitively to the abutting single-family residence to the east. To this end, the applicant has requested Variance

21 to locate four (4) new residences on the first floor in lieu of residences only being permitted above the first floor in the C-TS district.

**House 1**, which fronts Sunset Avenue, is sited towards the southeast corner of the parcel with frontage on Sunset Avenue. The house is situated between a vehicular entry and a vehicular exit path accessing the subterranean garage from Sunset Avenue. House 1 does not contain a retail component on the ground floor. The building features a stone clad foundation with a two-story column supported porch with a second story balcony suspended behind the columns. The residence features a flat roof with a decorative crenelated pediment and a dark green glazed barrel tile roof over the porch. Fenestration consists of regularized divided-lite arched-top casement windows and French doors. The front façade is largely symmetrical but features a two-story recessed side entry projection to the east that connects with the second story of House 2 over the subterranean garage entry. This house will sit directly west of 173 and 175 Sunset Avenue, which are two-story two-unit town homes developed in 1990. The elevation of House 1 is proposed at 13' NAVD.

**House 2**, sited on the corner of N County Road and Sunset Avenue, features a corner retail shop on the ground floor. Architecturally, the storefront features a green metal storefront system with large, glazed storefront windows separated by engaged columns. Projecting fabric awnings are placed over the storefronts. House 2 abuts House 1 to the east with a second story feature above the subterranean garage entry, and with House 3 to the north at the first and second floors. House 2 features a two-story mass that addresses the corner and that transitions to three stories in height after a façade setback. The building features coral stone channeling, quoins, cornices and stucco walls. House 2 utilizes a hip roof over the primary massing with dark red barrel tiles. Fenestration consists of vertically oriented divided-lite casement windows and doors. The primary entry point is recessed to the north, and located in a two-story raised wing that connects the residence to House 3. The retail bay is approximately 670 SF. The elevation of the commercial component is proposed at 6' NAVD, and the elevation of House 2 is proposed at 13' NAVD.

**House 3**, sited between House 2 and House 4 along N County Road, is broad with a staggered setback façade and features a retail component on the ground floor. The retail fenestration consists of storefront bays and entry doors topped with pointed Gothic arch transoms. The building is largely symmetrical and features stucco facades, divided-lite casement windows, and a variegated red tile roof with exposed rafter tails and decorative tiled chimney caps. The primary entry point is recessed to the north in a two-story secondary mass. Lastly, House 3 is envisioned to eventually accommodate a covered colonnade over the sidewalk, should Town Council find merit in the proposed zoning changes allowing covered arcades over the public right-of-way in the C-TS zoning district. The elevation is proposed at 6.5' NAVD, and the elevation of House 3 is proposed at 13' NAVD.

**House 4**, sited directly south of the Paramount building and north of House 3, has frontage on N County Road and includes a ground floor retail component. The retail bay extends the width of the west façade, projects forward of the upper floors, and features glazed storefronts covered by awnings. The projecting retail bay is approximately 406 SF and is topped with a 25' deep terrace on the second floor, providing setback relief for the upper floors. The terrace is capped by a decorative wood pergola with ornamental arched screens and lattice. The building has a flat roof with a crenellated parapet, similar to House 1, and features Moroccan inspired details, such as decorative window hoods and glazed blue/green barrel tiles. The primary entry into House 4 is tucked behind the retail storefront. The proposed depth of the retail storefront has not been provided, but the size may not provide sufficient depth to be attractive to even a small retail pop-

up consumer. The elevation is proposed at 6.6' NAVD, and the elevation of House 4 is proposed at 13' NAVD.

Since the previous submittal and discussion at the April 19, 2023, LPC meeting, the applicant has refined many aspects of the of the proposed buildings, including lowered overall heights, reductions in square footages, modified fenestration proportions, and detailing modifications in an attempt to address Commission concerns regarding scale, mass, and visual compatibility with the surrounding streetscape. Many of the exterior changes are successful, some less so - specifically the architectural embellishments placed over the subterranean garage access between House 1 and House 2, which add unnecessary hierarchical importance to recessed secondary element. Additionally, the parapet crenelations on House 1 have become more intricate in design and increased in scale. The vehicular portico to the east of House 1 has become more accentuated through the use of a descending roofed structure supported by double trellis members, which adds greater emphasis to the drive aisle immediately abutting a neighboring residential property.

**Previously Proposed Sunset Avenue Elevation**



**Currently Proposed Sunset Avenue Elevation**



In addition to their street level pedestrian entrances, the new residences may also be accessed by the central subterranean motor court level. This level provides a two-bay garage for each residence with vehicle entry and exit lanes accessing Sunset Avenue. Construction of the above-ground mixed-use units requires 12 variances, specifically three for setbacks (**Variations 1, 2, 3**), three for height (**Variations 4, 5, 6**), one for lot coverage (**Variance 7**), one for building length (**Variance 8**), one for building floor area (**Variance 9**), one for the location of the residential units on the first floors (**Variance 21**) and two for decreased landscape open space (**Variations 10, 11**) that are linked to several of the nonconforming aspects of the existing Landmarked Theater. Further analysis of the proposed new construction and urban form consequences of the request is provided in the Variance Request Analysis section of this report.

The applicant is proposing a two-level valet-operated commercial subterranean parking garage accommodating 127 parked vehicles with primary access off Sunrise Ave. The proposed garage structure itself requires 7 variances, specifically three setback variances (**Variations 12, 13, 14**), one for the use of three non-traditional parking methods in the form of tandem, triple stacked, and mechanical lifts (**Variance 15**), one for a reduction in the two-way drive aisle width (**Variance 17**) and one for an increase in the maximum slope of the parking decks and ramps (**Variance 18**). Staff has expressed serious concerns regarding the maneuverability of the parking structure as currently proposed as it pertains to vehicle and pedestrian safety, and staff recommends a redesign of the parking structure to reduce or eliminate the variance requests. Additionally, the applicant is seeking relief from providing any dedicated on-site loading spaces (**Variance 16**), pursuing to utilize on site loading areas for the resource. See the Parking Analysis and Program section below for detailed information on the number of required and proposed parking spaces.

Finally, the application involves two (2) variances associated with the general improvements and alterations to the site, specifically regarding the eastern portion of the parcel including the construction of an 8' high site wall (**Variance 19**) that would visually mitigate the mechanical equipment yard that includes a 100kW generator (**Variance 20**).

### **PARKING ANALYSIS AND PROGRAM**

Through the principle of equivalency outlined in the zoning code as it pertains to parking credits, the existing uses attribute towards a 133-space parking credit, outlined below:

- Existing Uses and Parking credits 132.34 = 133 parking credits  
General Office = 14,745 SF (58.98 spaces at 1/250)  
General Retail= 9,683 SF (48.4 spaces at 1/200)  
Church/Synagogue = 2,205 SF (25 spaces)

When reviewing the proposed uses housed solely in the paramount building, a deficit of 15 parking spaces is attributed, outlined below:

- Proposed Uses in PARAMOUNT building and Parking credits = 148 required spaces.  
Social Club = 225 members (56.25 spaces at 1 per 4 members)  
Auditorium / event space = 250 seats (62.5 at 1 per 4 seats)  
Public Restaurant = 40 seats + 4,410 SF BOH (13.3 + 14.7 = 29 spaces)

Next, factoring in the parking requirements for the new construction over the existing surface parking lot, outlined below:

- New Construction on 46 space parking lot = 85 required spaces  
Surface lot = 46 spaces  
Residential (4) units = 11 spaces  
New retail = 5,500 SF (27.5 spaces at 1/200)

The applicant is proposing a two-level subterranean parking garage accommodating 128 parked vehicles (in a myriad of non-traditional parking methods) accessed off Sunrise Avenue. The actual parked amount proposed with 128 spaces minus 68 spaces minus 14 spaces = resulting in a surplus of 46 parking spaces. The proposal lists 128 spaces housed in the underground parking levels that will be utilized to meet the parking demand for the existing Paramount Building uses and retail uses. The new construction for the proposed four (4) new homes eight will have (8) of the parking spaces will be solely used by the owners in private garages on the sunken motor court area, and two additional spaces will be used only by the homeowners' guests.

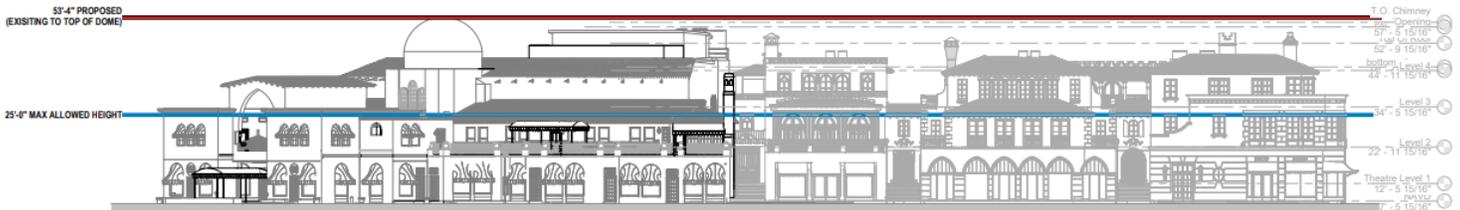
While the applicant is not deficient in provided parking space, and in fact, has surplus parking, it is imperative to note that the proposed garage structure requires three (3) setback variances (**Variations 12, 13, 14**), the use of three non-traditional parking methods in the form of tandem, triple stacked, and mechanical lifts (**Variance 15**), a reduction in the two-way drive aisle width (**Variance 17**) and an increase in the maximum slope of the parking decks and ramps (**Variance 18**). Staff has expressed serious concerns of the possible ramifications of the underground parking garage edifice as it pertains to vehicle and pedestrian safety. Staff recommends a redesign of the parking structure to reduce the variance requests.

#### **VARIANCE REQUEST ANALYSIS**

**Variations 1, 2 and 3**, are variance requests to reduce the required front, rear and street-side setback requirements. The proposed design responds to the immediate context of North County Road in the architecture by building closer to the street edge on a commercial roadway while still providing sufficient sidewalk width and pedestrian clearance. The applicant has broken up the façades of the new construction appropriately and at multiple iterations in the plans.

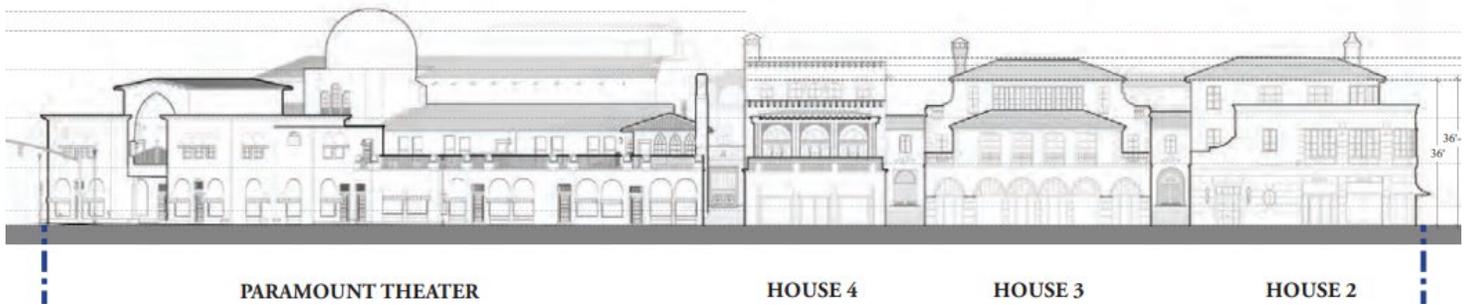
**Variance 4** requests to permit three stories where 2 are permitted. Historically the Town has allowed applicants to request an additional story when the result would not contravene the Comprehensive Plan. Policy 2.3.3d of the Comp Plan allows for those properties with a commercial FLUM designation in limited circumstances, the maximum building height shall be three stories. The site contains a non-conforming three-story landmarked theater structure with a two-story liner building along the street frontages. South of the subject site, similarly zoned and with the same Comp Plan Designation, there exists a landmarked 3-story apartment building with a covered arcade over the sidewalk. The applicant is proposing mixed use and residential units above the underground parking garage on the southern portion of the site. The applicant has responded to comments to adapt the massing of the proposed units to be more submissive to the landmarked structure. Note that this request also involves a Special Exception for maximum building height of 2 stories in the C-TS district and then also requires a variance. The proposed new structures are flanked by three story landmarked properties, and perhaps its massing can be further massaged in deference to the landmarked neighboring structures.

**Variations 5 and 6**, request relief to exceed the maximum building of 25' and the maximum overall building height of 30', these two requests are fundamentally linked to the above-described Variance 4. Should the Town Council find merit in the request for an additional story, then these variance requests would follow confirming that the proposed building heights of the new homes are appropriately scaled for the adjacent Paramount building and the surrounding neighborhood.



VARIANCE DIAGRAM - BUILDING HEIGHT DIAGRAM  
1/16" = 1'-0"

That said, when viewing the context of the proposal in relation to the landmarked three-story building and more importantly the two-story liner component of the theater, there are considerable opportunities to lower the heights of the new residences to be more in scale with its immediate context - i.e., the two-story commercial liner of the Paramount.



As proposed, the second floor of the new residences still contain a capacious 12'-6" floor to ceiling height which is inappropriate for the surrounding context. Currently, the proposed new construction will be taller than the vaulted expanse of the auditorium of the theater yet below only the signature dome of the landmarked building. The applicant has lowered the heights of the new residences in the following capacities:

- The height of House 1 has been reduced from 39 feet to 36.5 feet, and the overall height has been reduced from 43.5 feet to 40 feet; reductions of 2.5 feet, and 3.5 feet, respectively.
- The height of House 2 has been reduced from 38.5 feet to 36.5 feet, and the overall height has been reduced from 45.5 feet to 42 feet; reductions of 2 feet, and 3.5 feet, respectively.
- The height of House 3 has been reduced from 39 feet to 36 feet, and the overall height has been reduced from 44.5 feet to 41.5 feet; a reduction of 3 feet for both measurements.
- The height of House 4 has been reduced from 39 feet to 36.5 feet, and the overall height has been reduced from 43.5 feet to 41 feet, a reduction of 2.5 feet for both measurements.

**Variance 7** requests for lot coverage of 84% in lieu of the 70% maximum permitted. The underground garage counts towards the lot coverage, including when it is outside of the building envelope. So, while the four units have been designed in a separate manner, the entirety of the structure counts towards the lot coverage—including the below grade outline regardless of motor court, plantings, or other open to the sky elements within.

**Variance 8** requests to exceed the maximum building length of 340.5 ft in lieu of the 150 ft maximum building length permitted. The existing landmarked building has a nonconforming building length of 163'-2". The new construction at the south portion of the site has been designed to vary in setback, style, and changes in plane, yet the Code requires the entirety of the development

to be viewed as a single building at 340'-6". The applicant has broken up the façades of the new construction appropriately and at multiple iterations in the plans. Specifically, the applicant has provided three deeper recesses in the façade articulation of varying widths (10'-2", 9'-9", and 8'-7") and depths to break up the architectural expanse. The revised plan generally continues the same size of 'breaks' for the building connection points, with the exception of the southernmost recess which has been increased from 6'-0" to 8'-7".

That said, when viewing the context of the proposal in relation to the landmarked three-story building, and more importantly the two-story liner component of the theater, there are considerable opportunities to further distinguish or separate the new construction with the landmarked property.

**Variance 9** requests to the increase in floor area for the site, as the existing non-conforming structure is already above floor area. Therefore, any new construction would trigger a variance request. The new construction has been designed in a way that is not overwhelmingly monolithic and is generally well-articulated. Individually, none of the new residential units are above the 15,000 SF limit, but cumulatively result in new 27,687 SF to be added to the existing 36,153 SF landmarked building, which is a total Floor Area of 63,840 SF. As the request is a nearly 200% increase over the allowance, perhaps the applicant can further study areas to reduce the mass and overall SF of the buildings when viewed from the corner rights-of-way.

**Variances 10 and 11** request to reduce the required overall landscape open space and front yard open space, as the landscape opportunities are limited within the landmarked theater portion of the site, and the incorporation of a subterranean parking garage prohibits any landscape open space opportunities above ground. Perhaps the applicant can further study areas that additional green space can be incorporated on site, both counted and uncounted.

**Variances 12, 13, and 14**, are requests to reduce the required front, rear and street-side setback requirements. The request to grant these variances are made to maximize the opportunity to provide the required parking necessary for the intended uses. The below grade structure is hidden from view, in a commercial district with limited setback requirements anyway for above ground structures.

**Variance 15** is a variance request to allow (26 rows) tandem, (4 rows) triple stacking and (11) mechanical car lifts in a 127-space parked garage. Staff recommends a redesign of the subterranean parking levels to minimize the type of non-traditional parking stalls.

**Variance 16** is a request to not provide one required loading space for the new retail components as the property has been in operation without one for nearly 100 years without a loading space. If the valet queue plan is approved, perhaps a loading space can be provided for off-hours loading services that does not conflict with event operations.

**Variances 17 and 18** are requests to permit deviations from the drive aisle width and ramp slope within the garage. Staff strongly recommends a redesign of the subterranean parking levels to comply with these minimum requirements.

**Variance 19** requests to exceed by 1' the maximum allowable wall height in a side or rear property line. The request is made for a higher screening wall between discordant uses to properly mitigate impact of traffic noise, and mechanical equipment.

**Variance 20** requests to permit a 100kW generator with 10 ft and 17.8 ft side yard setback, in lieu of the 22' side yard setback required. Staff recommends redesigning the site plan to comply with the setback requirement.

**Variance 21** requests to construct four (4) new residential components on the first floor in lieu of residences only being permitted above the first floor in the C-TS district. According to the applicant, "...due to the significant amount of adjacent residential use, it was important to the design of the four (4) homes to locate portions of these homes on the first floor, which will more effectively transition into the adjacent residential, and thereby make the proposed project more compatible to the adjacent residential use."

Staff recommends a redesign of many components of the project to minimize the variance requests and to reduce those threshold amounts where requested as enumerated above. Additionally, as noted earlier in the report, there are still multiple outstanding zoning issues that have not been resolved by the applicant. Moreover, staff has requested additional information and documentation pertaining to the Historic Preservation Tax Abatement application for renovations to the historic theater, which has yet to be provided. To that end, staff recommends further design direction be provided by the Landmarks Preservation Commission and that the application be **deferred** until Town Council has had preliminary review and discussions on the application's program as a whole.

#### **SPECIAL EXCEPTION REQUESTS**

1. **SITE PLAN REVIEW:** [Sec. 134-1112](#): Site Plan Review for new building(s) or for changes in a permitted use in Sec. 134-1107 which involves more than 2,000 SF of building floor area in the C-TS zoning district.
2. **SPECIAL EXCEPTION #1:** [Sec. 134-1109\(a\)\(3\)](#): Special Exception for a private club use in the C-TS zoning district.
3. **SPECIAL EXCEPTION #2:** [Sec. 134-1109\(a\)\(11\)](#): Special Exception with Site Plan Review for permitted uses over 3,000 SF of gross leasable area (GLA) in the C-TS zoning district.
4. **SPECIAL EXCEPTION #3:** [Sec. 134-1109\(a\)\(22\)](#): Special Exception for restaurant use in the C-TS zoning district.
5. **SPECIAL EXCEPTION #4:** [Sec. 134-1109\(a\)\(14\)](#): Special Exception for outdoor café seating in the C-TS zoning district. 34 outdoor seats on level 1 of private club + 66 outdoor seats on level 2 of private club (100 outdoor seats).
6. **SPECIAL EXCEPTION #5:** [Sec. 134-1113\(8\)\(c\)](#): Special Exception for maximum building height of 2 stories.
7. **SPECIAL EXCEPTION #6:** [Sec. 134-2182\(b\)](#): Special Exception for shared parking.

The Special Exception requests identified above shall be further analyzed in the forthcoming Town Council memo on the application.

#### **LPC CONCLUSION:**

Approval of the project will require two separate motions to be made by the Landmarks Preservation Commission:

(1) for the overall design of the project in accordance with the aforementioned criteria, subject to any imposed conditions, and

(2) that the implementation of the proposed variances **will or will not** cause negative architectural impact to the subject property.