



# TOWN OF PALM BEACH

Minutes of the Development Review  
Town Council Meeting  
Held on July 12, 2023

## I. CALL TO ORDER AND ROLL CALL

The Town Council Development Review Meeting was called to order on July 12, 2023, at 10:58 a.m. On roll call, all elected officials were found to be present, with Council Member Crampton participating by Zoom. Council President Zeidman asked to begin with the 10:00 a.m. time certain review by Sean Suder.

## II. COMMENTS OF MAYOR DANIELLE H. MOORE

Mayor Moore stated she did not have any comments.

## III. COMMENTS OF TOWN COUNCIL MEMBERS

Council President Pro Tem Lindsay discussed the Million Orchid Project.

Council Member Araskog listened to past minutes regarding the Declaration of Use Agreement for the Vineta Hotel project. She stated she spoke to Director Bergman, who created a template for the Declaration of Use and other agreements to assist attorneys in creating such agreements.

## IV. COMMUNICATIONS FROM CITIZENS – 3-MINUTE LIMIT, PLEASE

No one indicated a desire to speak.

## V. APPROVAL OF AGENDA

Council President Pro Tem Lindsay recommended moving discussion items, time extensions, and non-development review items to the end of the agenda at future meetings.

President Zeidman noted that she moved all time extensions and three strikes to the end of the agenda some time ago, although, on the July agenda, those items were moved to the beginning. This had been approved on draft and was likely an oversight. Council President Zeidman reminded the Town Council that she had moved the discussion items to the front of the agenda about one year ago because the consensus of the council was that they were

too tired at the end of the day to make important decisions.

Council Member Araskog recommended leaving the discussion items where they are because many more residents are interested in those items, whereas the development review items most often involve only the homeowner. She recommended a further discussion at the end of the agenda under Other Matters.

Wayne Bergman, Director of Planning, Zoning and Building, stated that he had no modifications to the agenda.

**Motion made by Council Member Araskog and seconded by Council Member Cooney to approve the agenda as presented, with the addition of the discussion on the order of the agenda under Any Other Matters. Motion carried unanimously, 5-0.**

## VI. APPROVAL CONSENT AGENDA

The single item on the consent agenda was pulled and heard under Item VIII. Consent Agenda.

## VII. REGULAR BUSINESS

### A. Public Notices (Continued)- Notice Radius

*Wayne Bergman, Director of Planning, Zoning and Building*

Assistant Director of Planning, Zoning, and Building James Murphy presented the current notice radius. He pointed out that even increasing the mailing radius would not guarantee to capture all the properties on an entire street. He discussed the current notice affidavit and certificate of mailer being used. To increase the radius, homes 5 and 6 blocks away would receive a notice but not neighbors. There is also the additional problem of corner lots whereby an increased radius would land in the Lake or the Atlantic Ocean. Increasing the radius to 600 or 700 feet would result in neighbors several blocks away being notified and could miss neighbors on the street where the demo or renovation is taking place.

Council Member Araskog thought that the entire street should receive notice. Staff responded that there was no way to obtain the addresses of residents on a specific street without increasing the radius to such a point whereby notice was sent to neighbors who were several streets from the project.

Council President Pro Tem Lindsay thought the 300-foot radius was appropriate. She also thought the public posting of the notice would help to notify the neighbors.

**The consensus of the Town Council was to direct staff to maintain the current mailing radiuses, the certificate of mailers, initiate public postings and hire a GIS planner.**

### B. Code Review

#### a. Update

*Sean S. Suder, ZoneCo., Planning Consultant*

**10:00 AM TIME CERTAIN**

Mr. Suder reviewed the updated timeline for deliverables to the Town. He provided a synopsis of items he had worked on since the last presentation to the Town Council.

Council Member Cooney was pleased with the update because the subdivision and plat maps told the story of development in the north end. He also confirmed the timeline and deliverables for the critical path forward.

Council President Pro Tem Lindsay recommended that Mr. Suder include a few additional streets in the north end.

Mr. Suder was appreciative of Council President Pro Tem Lindsay's suggestion.

Council Member Crampton supported Mr. Suder's approach. He said the presentation, including the work on various zoning districts, would greatly support the decision-making process.

Council Member Araskog thought the current approach was critical in the north-end review. She also recommended looking at additional streets.

Council President Zeidman confirmed with Mr. Suder that all the streets were evaluated and measured. From his view, he explained that there were four distinct areas in the north end. He elaborated on the approach in the north end.

Council Araskog asked for clarification on the deliverables and timeline. Mr. Suder provided further explanation. She asked additional questions about who would be included in the Planning and Zoning Commission (PZC) engagement sessions.

Mayor Moore thought the engagement sessions were a good idea. She thought that the interested stakeholders would take the initiative to attend the sessions.

Council Member Cooney thought the perception associated with the P&Z Engagement Timeline was essential. He said there was no intent to prioritize stakeholders over residents. He viewed this as an opportunity to solicit and incorporate feedback into the plan as appropriate.

Council President Pro Tem Lindsay thought it was fair to differentiate residents from non-residents as some people work but do not live in Palm Beach.

Council Member Crampton thought the engagement sessions would help. The sessions also extended an opportunity for staff to work with each group.

Council Member Zeidman thought Mr. Suder was making a valiant effort to know the Town as intimately as the residents. She thought that would be important during the upcoming engagement sessions. She asked who would be engaging the different groups in the upcoming PZC meetings. Mr. Suder stated that he would engage the groups.

President Zeidman thought this was the appropriate path forward. President Zeidman clarified that the extension of the Code Review would not increase the current budget. Mr. Suder confirmed that it would not.

Council Member Araskog thought allowing resident comments between the proposed engagement sessions was important. She wondered if some PZC meetings should be combined with the Town Council. Council President Zeidman thought the Town Council should allow Mr. Suder to move forward with his proposed schedule.

Council President Zeidman called for public comment.

Gail Coniglio, 1139 N. Ocean Blvd., thought engaging the different groups was a good idea. She also thought it was valuable to have Bob Garrison as a consultant on the PZC. His input added perspective for the PZC members, especially as a former member of the Architectural Review Commission (ARCOM), an architect, and a resident. Council President Zeidman suggested broadening the group of consultants for the PZC.

- b. Discussion regarding Recommendations on Garages by the Planning and Zoning Commission

Council Member Araskog wanted to make a statement about public notice, and she thought this item needed to be tabled.

**There was no action on this item.**

- c. Matters Pulled from the Consent Agenda

## VIII. CONSENT AGENDA

- A. **ZON-23-060 (ARC-23-065) 304 MADDOCK WAY (COMBO)-SITE PLAN REVIEW** The applicant, 304 Maddock Way LLC, has filed an application requesting Town Council Site Plan Review for the installation of one (1) generator with a 200kW output capacity housed in an enclosed building, in conjunction with the development of the parcel with a new two-story primary residence, two-story detached garage, and two-story detached guest house providing over 20,000 SF of enclosed space with site-wide landscape and hardscape improvements. The Architectural Commission shall perform the design review component of the application. [The Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative impact to the subject property. Carried 5-2.] [The Architectural Review Commission approved this project at the June 28, 2023, meeting. Carried 5-2.]

Council Member Araskog asked about the location of the generator.

Director Wayne Bergman stated that staff had no issues and placed it on the consent agenda.

Attorney Maura Ziska explained the location of the generator and the reason the project required a site plan review.

**Motion made by Council Member Araskog and seconded by Council President Pro Tem Lindsay that Site Plan Review ZON-23-060 be approved, based upon the finding that the approval of the site plan will not adversely affect the public interest and that the Council certified 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. Motion carried unanimously, 5-0.**

Council Members Araskog, Cooney, Council President Pro Tem Lindsay, and Council President Zeidman declared ex-parte communications.

## IX. DEVELOPMENT REVIEWS

### A. **Declaration of Use Agreements**

#### 1. **ZON-23-019 (COA-23-002) 363 COCOANUT ROW—THE VINETA HOTEL (COMBO)—SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** - Declaration of Use Agreement & Seating Chart Review

##### **2:00 PM TIME CERTAIN**

Council Members Araskog, Cooney, Crampton, Council President Pro Tem Lindsay, and Council President Zeidman declared ex-parte communications.

M. Timothy Hanlon provided a history of the project. He noted that the Landmarks Preservation Commission approved the project unanimously.

Director Bergman reviewed a list of additions that he had received from the Town Council Members, which included making the agreement a tripartite agreement between the town, the property owner, and the hotel operator. Mr. Bergman said there was also a discussion about the music and the meaning of ambient. A hard stop was also discussed, as well as the addition of language that would allow the Town Council to revisit the terms of the Declaration of Use Agreement (DOU) after a set amount of time.

The Council Members thought the tripartite agreement and the stop at midnight were acceptable. Outstanding items for discussion included the nightclub, the music, how to deal with the hard stop, and how to revisit the terms of the Declaration of Use Agreement after some time had passed.

Mr. Hanlon proposed changes to allow ambient background music to be permitted in the pool area until 6:00 p.m. and in the courtyard until 10:00 p.m. Council Member Araskog suggested different language for this section. She thought events should not be allowed around the pool. She was supportive of ambient background music. She recommended that audio speakers should face away from the neighbors.

Michael McCarty stated that any establishment would produce noise that could be heard as someone walked by. The same acoustician on The Carriage House was working on the Vineta.

After a lengthy discussion about a hard stop and a provision to allow the Town Council to revisit the Declaration of Use Agreement, the Town Council asked Mr. Hanlon to return to the next meeting with a revised Declaration of Use Agreement based on their requested changes.

Council Member Crampton felt the language in section 16 of the agreement needed to be more sufficient for the Town Council to exercise the appropriate authority upon receipt of resident complaints. He said the Declaration of Use had a penalty for violation, but there was no process to allow residents to make a case

before the Council.

Council President Zeidman stated that anyone could speak under the public comments section at any meeting if they had a complaint about the Vineta. She was concerned about putting this language in the Declaration of Use Agreement since that right already exists within the code.

Mayor Moore understood the conditions placed on the project but referred to past conditions two years ago. She cautioned the Town Council about inflicting changes upon an operator. She said the goal was for the business operator to be successful, and she felt they had provided some reasonable concessions.

Council Member Araskog raised issues regarding the poolside seating and construction hours. Mr. Hanlon stated that he was drafting a construction management agreement. Council Member Araskog asked if a statement could be added that the building would not fall into disrepair.

Council President Zeidman called for public comment.

John David Corey, 426 Australian Avenue, asked that the finalized Declaration of Use Agreement be very simple and easy to understand, with limited exceptions. He also asked for maximum seating capacities to be posted in the hotel for Code Enforcement use.

Council Member Cooney noted that the seating capacities could be available on file to any enforcement officer. Mr. Hanlon agreed to the suggestion and said it was listed in the DOU under article three, section two.

Council Member Araskog reviewed a few Scrivener's errors in the agreement.

**The consensus of Town Council was for the item to be deferred until August 9, 2023, to allow time for the attorney to revise the Declaration of Use Agreement as discussed.**

*Clerk's note: A short break was taken at 4:21 p.m. The meeting resumed at 4:30 p.m.*

## **B. Appeals**

1. **APPEAL OF MAY 24, 2023, ARCOM APPROVAL RE: 232 COLONIAL LN** [The Appellant made a request to defer this matter one (1) month and the request was agreed to by the Applicant of the 232 Colonial Lane project.] [This appeal shall be deferred to the August 9, 2023, Town Council Meeting.]  
Scott M. Zaslav, Zaslav & Armbruster, P.A.

*Clerk's note: This item was deferred to the August 9, 2023, meeting at the Approval of the Agenda, Item V.*

## **C. Time Extensions and Waivers**

1. Waiver of Town Code Section 42-199, For Construction Work Hour Extension at 170 N. Ocean Blvd.  
  
Director Wayne Bergman provided an explanation of the request for extended work hours to complete a concrete restoration project. The

request was to work Saturdays during the summer season.

Janet Seach, Waterfront Services, outlined the project of waterproofing the concrete and discussed her delay issues.

Director Bergman stated that the staff had no issues with the request.

Council Member Araskog asked about the adjacent neighbors. Ms. Seach responded.

Council President Zeidman called for public comment. No one indicated a desire to speak.

**Motion was made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to approve a waiver of Town Code Section 42-199 for Construction Work Hour Extension at 170 N. Ocean Blvd, to allow for Saturday work through the summer with a condition that if there are any verifiable complaints, the Director of Planning, Zoning and Building could resolve the issue or take the matter to Town Council. Motion carried unanimously, 5-0.**

2. Waiver of Town Code Section 18-237, For Building Permit Extension at 525 N. County Rd.

At the time that this item was heard, it was noted that the representative of 525 N. County Road was not present. Director Wayne Bergman asked for a one-month extension and added that he would ask the representative to appear at the August 9, 2023, meeting.

**Motion made by Council President Pro Tem Lindsay and seconded by Council Member Araskog to approve a one-month building permit extension, and to ask the representative to return to the August 9, 2023, meeting to request the remainder of the permit extension, with the condition that if there are any verifiable complaints, the Director of Planning, Zoning and Building could resolve the issue or take the matter to Town Council. Motion carried unanimously, 4-0.**

3. Waiver of Town Code Section 18-237, For Building Permit Extension at 369 S. Lake Drive

Scott Butler, Butler Construction, outlined the construction timeline and reasons for the permit extension. He requested a 6-month extension to finish the work and complete the landscaping changes. He modified his request to extend the work until mid-November.

**Motion made by Council President Pro Tem Lindsay and seconded by Council Member Cooney to grant the requested permit extension for 369 S. Lake Drive until the Monday prior to Thanksgiving, with a condition that if there are any verifiable complaints, the Director of Planning, Zoning and Building could resolve the issue or take the matter to Town Council.**

Council President Zeidman called for public comment. No one indicated a desire to speak.

**Motion carried unanimously, 5-0.**

4. Waiver of Town Code Section 18-237, For Building Permit Extension at 236 & 238 Phipps Plaza

Scott Butler, BCC Residential, outlined the construction timeline and reasons for the permit extension. He stated that the buildings are historic, and the historic structural issues have taken a significant amount of time. He stated that the designers and finishes were being fabricated and shipped from overseas. The extension requested was for six months. He stated there is also a waterline request from the City of West Palm. The addition of fire sprinklers for this project has caused the City of West Palm to require an upsize of the water main from South County Rd. The civil engineer on the project has been disputing the requirement, and a determination is being awaited. The dispute is only to address the size of the main being required, not the fire sprinkler requirement.

Director Bergman stated that staff had no issues with the request.

Council President Zeidman called for public comment. No one indicated a desire to speak.

**Motion made by Council Member Araskog and seconded by Council Member Cooney to approve a Waiver of Town Code Section 18-237, for Building Permit Extension at 236 & 238 Phipps Plaza, with the condition that if there are verifiable complaints, the Director of Planning, Zoning and Building can resolve the issue to take the matter to the Town Council. Motion carried unanimously, 5-0.**

5. Waiver of Town Code Section 42-199, For Construction Work Hour Extension at 3300 S. Ocean Blvd.

Director Wayne Bergman explained the request for extended work hours to complete a concrete restoration project. They request to start work at 8:00 a.m. rather than 9:00 a.m.

Michael Spaziani, 3300 S. Ocean Blvd., said the marina had undertaken a substantial review and rehabilitation of the property due to its age and the tragedy at Surfside in Miami. It would be preferable to have the repairs completed as quickly and as safely as possible.

Council Member Araskog asked if staff had an option about the request, to which Mr. Bergman stated staff had no objections to the request. Council Member Araskog asked about the adjacent neighbors. Mr. Spaziani responded.

Council President Pro Tem Lindsay stated that during the summer months, work could begin at 8:00 a.m. However, there was a caveat that included heavy equipment and noise. Since the request was necessary to use heavy equipment, the approval had to come from Town Council.

Council President Zeidman called for public comment. No one indicated a desire to speak.

**Motion made by Council Member Araskog and seconded by Council President Pro Tem Lindsay to approve a waiver of Town Code, Section 42-199 for construction hour extension at 3300 S. Ocean Blvd for concrete restoration work between 8:00 and 9:00 AM until the Monday preceding Thanksgiving, with the condition that if there are any verifiable complaints, the Director of Planning, Zoning and Building can resolve the issue or take the matter to Town Council. Motion**



carried unanimously, 5-0.

**D. Variances, Special Exceptions, and Site Plan Reviews**

**1. Old Business**

- a. **ZON-22-115 (COA-22-040) 801 S COUNTY ROAD (COMBO) - VARIANCES** The applicant, Palmeiral Revocable Trust/Frances I. Kettenbach, has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for a beach house structure and three (3) variances (1) to vest an existing non-conforming west setback due to the demolition of more than 50% of the structure, (2) to place an air conditioning condensing unit within the front setback, and (3) to reduce the Ocean Bulkhead setback, in conjunction with proposed exterior alterations and additions to an existing beach cabana. The Landmarks Preservation Commission will perform the design review component of the application. [The Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative impact to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation Commission approved this project with conditions at the June 21, 2023, meeting. Carried 7-0.]

Council Member Cooney and Council President Zeidman declared ex-parte communications.

Maura Ziska, attorney for the applicant, presented an overview of the project and the zoning requirements for the project. Ms. Ziska reviewed plans for the proposed beach cabana.

Council Member Cooney asked about the increase in square footage. He also confirmed that the new cabana was not worsening the non-conformity, and Ms. Ziska confirmed they were not.

Director Wayne Bergman provided staff comments.

Council Member Araskog asked about the hardship. Ms. Ziska responded. Council Member Araskog asked about the height of the wall and landscaping on the street. Ms. Ziska confirmed that the proposal met the 50% vista requirement.

Council President Zeidman thought the beach cabana should have been lowered by more than one foot.

Daniel Menard, LaBerge & Menard, discussed how the beach cabana was reduced in height. He also stated that the cabana was four feet lower than the street.

Council President Zeidman called for public comment. No one indicated a desire to speak.

**Motion by Council President Pro Tem Lindsay and seconded by Council Member Cooney to approve Special Exception and Site Plan Review ZON 22-115 as said applications meet the criteria set**

forth in 134-229 and 134-329, respectively, of the Town Code and finding that approval of the site plan will not adversely affect the public interest, and that all zoning requirements governing the use have been met and the satisfactory provision and arrangement has been made concerning items 1-11 of Section 134-329. Motion failed 2-3, with Council Members Araskog, Cooney, and Council President Zeidman dissenting.

Ms. Ziska stated that the height allowed for a cabana in the zoning district was 16 feet, and this project was 14 feet in height and lower than the cabana to the north.

**Motion by Council Member Araskog and seconded by Council President Pro Tem Lindsay to approve Special Exception and Site Plan Review ZON 22-115 as said applications meet the criteria set forth in 134-229 and 134-329, respectively, of the Town Code and finding that approval of the site plan will not adversely affect the public interest and that all zoning requirements governing the use have been met and the satisfactory provision and arrangement has been made concerning items 1-11 of Section 134-329, and with the condition that the cabana shall be lowered 6 additional inches. Motion carried 4-1, with Council Member Cooney dissenting.**

**Motion made by Council Member Araskog and seconded by Council President Pro Tem Lindsay that Variance ZON-22-115 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in 134-201(A), items 1-7 have been met, and with the condition that the cabana shall be lowered 6 additional inches. Motion carried 4-1, with Council Member Cooney dissenting.**

- b. **ZON-22-021 (ARC-22-022) 160 SEAVIEW AVE (COMBO) – VARIANCES** The applicant, Coral Beach Corporation (Angela Feldman, President) and Seaview Holdings, Inc. (David Feldman, Director), has filed an application requesting Town Council review for variances to exceed the point of measurement elevation higher than allowed to be measured from and to reduce the required street side yard setback for a new guest house on combined parcels at 160 and 170 Seaview Avenue. ARCOM will perform design review of the application. [The Architectural Review Commission deferred the project to their March 29, 2023, meeting.] [This project shall be deferred to the August 9, 2023, Town Council meeting pending review by the Architectural Review Commission.]

***Clerk's note: This item was deferred to the August 9, 2023, meeting at the Approval of the Agenda, Item V.***

- c. **ZON-22-032 (HSB-23-003) 594 N COUNTY RD (COMBO)— VARIANCES** The applicant, George Marucci, has filed an application requesting Town Council review and approval for variances (1 and 2) to reduce both side yard setback requirements for two, one-story additions to a historically significant one-story building. The Landmarks Preservation Commission will perform the design review. [The Landmarks Preservation Commission deferred this project to the April 19, 2023, meeting.] [The applicant has

withdrawn this application.]

***Clerk's note: This item was withdrawn at the Approval of the Agenda, Item V.***

- d. **ZON-22-122 (HSB-22-011) 141 AUSTRALIAN AVE (COMBO) - VARIANCES** The applicant, Gregory James Pamel, has filed an application requesting Town Council review and approval for Variances to (1) reduce the required side (east) yard setback, (2) to reduce the required rear (north) yard setback, (3) to exceed the overall building height for an accessory structure, and (4) to exceed the maximum Cubic Content Ratio (CCR), and (5) to allow a two-story accessory structure where only one story is permitted, for the demolition and reconstruction of a two-story accessory structure in the rear yard in conjunction with the proposed renovations to an existing Historically Significant two-story building. The Landmarks Preservation Commission will perform design review of the application. [The Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative impact to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation Commission approved this project with conditions at the May 17, 2023, meeting. Carried 7-0.] [At the June 14, 2023, Town Council meeting, the Council decided to deferred this project to the July 12, 2023, Town Council meeting.]

Council Members Araskog, Cooney, Crampton, and Council President Pro Tem Lindsay declared ex-parte communications.

David Klein, attorney for the applicant, presented an overview of the project and the zoning requirements for the project.

Director Wayne Bergman provided staff comments.

Council Member Araskog asked about the grade on which the building would be built and wondered if they could rebuild the structure without variances.

Daniel Clavijo, SKA Architect + Planner, reviewed the architectural plans proposed accessory structure.

Council Member Cooney asked if they were rebuilding most of the structure to obtain the extra foot of height. Mr. Clavijo responded and described how the structure would be renovated.

Council Member Araskog asked about the Landmarks Preservation Commission's recommendation. Mr. Klein responded. Mr. Clavijo showed the Town Council the structure's elevation and outlined the changes.

Council President Pro Tem Lindsay asked about the previous use of the structure. Mr. Clavijo responded.

Council President Zeidman called for public comment.

John Eubanks, 605 Olive Avenue and attorney for the homeowner at

140 Brazilian Avenue, expressed his client's objections to the proposed accessory structure.

Council Member Cooney asked about the ceiling height on the first floor. Mr. Clavijo responded.

Council Member Araskog asked why the owner did not want to rebuild the structure. Mr. Klein responded. Council Member Araskog had issues with the proposal since she believed staff indicated the owner may be causing their own hardship. She was also concerned about the neighbor's loss of privacy.

Council Member Cooney noted he understood both sides. He felt this home added character to the neighborhood and that while accessory structures tucked into corners may not comply with the current zoning code, they were consistent with the historical development pattern in the neighborhood and the Sea streets. He understood the compelling argument for a practical ceiling height of approximately 8 feet. He supported the project.

Council President Zeidman asked about the Historically Significant Building designation and what portion of the lot was included in the designation.

Council President Zeidman called for public comment. No one indicated a desire to speak.

**Motion was made by Council Member Cooney and seconded by Council President Zeidman that Variance ZON 22-122 shall 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 1-7 have been met, and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the town that ensures a recorded easement will be granted if necessary for underground utilities in the area. Motion carried 3-2, with Council Member Araskog and Council President Pro Tem Lindsay dissenting.**

- e. **ZON-23-014 (ARC-22-243) 302 SEABREEZE AVE (COMBO) - SITE PLAN REVIEW AND VARIANCE** The applicant, Sean Rooney, has filed an application requesting town council review and approval for development of a new two-story single-family structure on a parcel, comprised of platted lots, which is deficient in lot width and lot area in the R-B zoning district requiring Site Plan Review, and a variance to provide one garage parking spot in lieu of the two required. The Architectural Commission will perform design review of the application. [The Architectural Review Commission deferred the project to their March 29, 2023, meeting.] [This project shall be deferred to the August 9, 2023, Town Council meeting pending review by the Architectural Review Commission.]

***Clerk's note: This item was deferred to the August 9, 2023, meeting at the Approval of the Agenda, Item V.***

- f. **ZON-23-041 (ARC-23-032) 176 SEMINOLE AVE (COMBO)—**

**VARIANCES** The applicant, William Paca Beatson, Jr. Trustee of the William Paca Beatson Revocable Trust dated January 8, 2021, has filed an application requesting Town Council review and approval for four (4) Variances required to convert an existing two-car garage into interior storage space and to construct a second-story addition over the rear garage with site and landscape alterations, including (1) to eliminate required garage parking spaces, (2) to construct a second floor addition with reduced rear setbacks, (3) to exceed the maximum allowable Cubic Content Ratio (CCR), and (4) to reduce the overall Landscape Open Space below the required minimum. The Architectural Commission will perform the design review component of the application. [The Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative impact to the subject property. Carried 4-3.] [The Architectural Review Commission approved this project at the June 28, 2023, meeting with conditions. Carried 4- 3.]

Council Member Araskog declared ex-parte communications.

Maura Ziska, attorney for the applicant, presented an overview of the project and the zoning requirements for the project.

Daniel Kahan, Smith and Moore Architects, reviewed the architectural plans for the renovation and the proposed addition to the existing structure.

Director Wayne Bergman provided staff comments, stating that some of the points had already been mentioned.

Council Member Cooney thought the plans looked nice; however, he had an issue with the variances requested, questioning the hardship. He said the home is already .05 over cubic content, and he could not justify any hardship or legal justification to grant variances for cubic content, the garage, setbacks, and green space when the home was built to the current code.

Council Member Crampton agreed with Mr. Cooney and thought the requested variances were a big request.

Council President Pro Tem Lindsay agreed with Messrs. Cooney and Crampton.

Mayor Moore was not supportive of the second floor but said she could consider the conversion of the garage into a living space.

Council Member Araskog was not supportive of the second-floor addition. She questioned the hardship of supporting the request for variances. She thought the owners had reasonable use of the property without an addition.

The Council Members asked to see the circular driveway and further explanation on the addition of a second story.

Council President Zeidman called for public comment.

Ken Scherer, attorney for Leigh Dunston at 282 Monterey Road, discussed his client's objections to the proposed project.

**Motion made by Council Member Araskog and seconded Council Member Cooney that Variance ZON 23-041 shall be denied for the reasons that the application does not meet the criteria set forth in Section 134-201(a), items 1-7, and the application does not meet items 1, 2, 3, 4, 5 or 7. Motion carried unanimously, 5-0.**

- g. **ZON-22-121 (HSB-22-012) 428 CHILEAN AVE (COMBO) — VARIANCE** The applicant, David Mooney, has filed an application requesting Town Council review and approval for a variance to exceed maximum equipment screening wall height, to screen equipment in the west side yard. The Landmarks Preservation Commission shall perform design and flood plain variance review of the application. [This project shall be deferred to the August 9, 2023, Town Council meeting pending review by the Landmarks Preservation Commission.]

*Clerk's note: This item was deferred to the August 9, 2023, meeting at the Approval of the Agenda, Item V.*

- h. **ZON-23-002 (ARC-22-241) 624 ISLAND DR (COMBO) - VARIANCES** The applicant, Holly Ann Bartlett, as Trustee of the 1220 South Ocean Boulevard Trust dated May 23, 2013, has filed an application requesting Town Council review and approval Variances (1) to exceed the maximum amount of lot coverage, (2) to exceed the maximum amount of Cubic Content Ratio (CCR), (3) to exceed the maximum allowable building height, and (4) to exceed the maximum allowable overall building height, in the R-B zoning district in conjunction with the enclosure of an existing open-air courtyard of a two-story residence with a new clerestory. The Architectural Commission will perform design review of the application. [The Architectural Review Commission deferred this project for restudy to the May 24, 2023, meeting. Carried 7- 0.] [This project shall be deferred to the August 9, 2023, Town Council meeting pending review by the Architectural Review Commission.]

*Clerk's note: This item was deferred to the August 9, 2023, meeting at the Approval of the Agenda, Item V.*

- i. **ZON-23-020 (COA-23-003) 139 N COUNTY RD - THE PARAMOUNT THEATER (COMBO) – SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** The applicant, WEG Paramount LLC, has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for the renovation of an existing Landmarked theater structure and the construction of a new three-story mixed use (retail and four residential units) development including Special Exception requests (1) to permit Private Club use in the C-TS district, (2) for square footage > 3,000 SF in the C-TS district, (3) for Restaurant use in the C-TS district, (4) for Outdoor seating use (100 seats) associated with

a restaurant or private club in the C-TS district, (5) for a maximum of two stories in the C-TS district and (6) for shared parking in the C- TS district. The applicant is also seeking Site Plan Review for new building(s) or for changes in a permitted use in Sec. 134- 1107 which involve more than 2000 square feet of building floor area in the C-TS zoning district. Additionally, the applicant is seeking review and approval for Variances (1) to reduce the required front yard for new construction, (2) front side street yard for new construction, (3) and rear yard setback requirements for new construction, (4) to allow three stories in lieu of two stories in CTS district, (5) to exceed the maximum height, (6) to exceed the maximum overall building height, (7) to exceed the maximum allowable lot coverage limitation, (8) to exceed the maximum building length permitted, (9) to exceed the maximum building size (floor area) permitted, (10) to reduce the require overall landscape open space, (11) to reduce the required front yard landscape open space, (12) to reduce the required front yard setback for the subterranean parking level, (13) front side street yard setback for the subterranean parking level, (14) and rear yard setback requirements for the subterranean parking level, (15) a variance to permit tandem and triple stacking for parking in the garage structure, (16) a variance to eliminate the required onsite loading space, (17) a variance to reduce the required drive aisle width, (18) a variance to exceed the maximum drive aisle slope in a garage, (19) a variance to exceed the maximum height of a perimeter wall on a side or rear property line, and (20) a variance to allow a generator (between 64kW-100kW) within a required side or rear setback, in conjunction with the renovation 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 (127 parked spaces). The Landmarks Preservation Commission will perform the design review. [This project shall be deferred to the August 9, 2023, Town Council meeting pending review by the Landmarks Preservation Commission.]

***Clerk's note: This item was deferred to the August 9, 2023, meeting at the Approval of the Agenda, Item V.***

- j. **ZON-23-050 (ARC-23-036) 243 SEASPRAY AVE (COMBO) – VARIANCES** The applicant, 243 Seaspray LLC (Larry Meyer, Manager), has filed an application requesting Town Council review and approval for (2) variances for (1) a reduced west side yard setback and (2) a reduced north rear yard setback, as it pertains to construction of a new two-story single-family residence. The Architectural Commission shall perform design review of the application. [This project shall be deferred to the August 9, 2023, Town Council meeting, pending review by the Architectural Review Commission.]

***Clerk's note: This item was deferred to the August 9, 2023, meeting at the Approval of the Agenda, Item V.***

- k. **ZON-23-049 (ARC-23-057) 2 S COUNTY RD (COMBO) - SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** The applicant, The Breakers Palm Beach, Inc. (Alex

Gilmurray), has filed an application requesting Town Council review and approval for Special Exception with Site Plan Review for modifications to the tennis center at the Breakers hotel including replacement of and addition of courts, shade structures, walkway and stretching area, and (2) variances to (1) provide court fencing that is deficient in height and (2) to provide tennis court lighting that exceeds maximum heights allowed. The Architectural Commission shall perform design review of the application. [This project shall be deferred to the October 11, 2023, Town Council meeting pending review by the Architectural Review Commission and at the request of the applicant.]

***Clerk's note: This item was deferred to the October 11, 2023, meeting at the Approval of the Agenda, Item V.***

1. **ZON-23-063 (ARC-23-039) 599 S COUNTY RD (COMBO) – VARIANCES** The applicant SAS Realty Enterprises LLC (Greg Simonian, President), has filed an application requesting Town Council review and approval for a variance to exceed the maximum overall building height, as part of the construction of a new two-story single-family dwelling. The Architectural Commission shall perform design review of the application. [This project shall be deferred to the August 9, 2023, Town Council meeting, pending review by the Architectural Review Commission.]

***Clerk's note: This item was deferred to the August 9, 2023, meeting at the Approval of the Agenda, Item V.***

## 2. New Business

- a. **ZON-23-059 (ARC-23-063) 1265 N LAKE WAY (COMBO) – SITE PLAN REVIEW** The applicant, 1265 N Lake Way LLC (Maura Ziska, Manager), has filed an application requesting Town Council Site Plan Review for development of single-family dwelling on a lot deficient in lot width in the R-B zoning district. The Architectural Commission shall perform design review of the application. [This project shall be deferred to the August 9, 2023, Town Council meeting pending review by the Architectural Review Commission.]

***Clerk's note: This item was deferred to the August 9, 2023, meeting at the Approval of the Agenda, Item V.***

- b. **ZON-23-021 (ARC-23-015) 320 CHILEAN AVE (COMBO) – VARIANCES** The applicants, Valentin and Yaz Hernandez, have filed an application requesting Town Council review and approval for Site Plan Review and (6) variances, including (1) to reduce side setbacks for the installation of a new pool, (2) to reduce rear setbacks for a new pool heater, (3) to place pool equipment within a yard setback more than 25 linear feet away from the pool water's edge, (4) to reduce overall Landscape Open Space below the required amount, (5) to reduce Front Yard Open Space below the required amount, and (6) to reduce the required parking spaces, in conjunction with overall site plan modifications for an existing two-story condominium building, including landscape and hardscape improvements and the installation of a pool. The Architectural Commission will perform the design review component of the application. [This project shall be



deferred to the August 9, 2023, Town Council meeting pending review by the Architectural Review Commission.]

***Clerk's note: This item was deferred to the August 9, 2023, meeting at the Approval of the Agenda, Item V.***

- c. **ZON-23-054 (ARC-23-064) 1473 N OCEAN BLVD (COMBO) – VARIANCES** The applicants, William C. Powers & Marianne Elaine Elmasri, have filed an application requesting Town Council review and approval for (2) variances from (1-2) north and south side setback requirements. The Architectural Commission shall perform design review of the application. [This project shall be deferred to the August 9, 2023, Town Council meeting, pending review by the Architectural Review Commission.]  
***Clerk's note: This item was deferred to the August 9, 2023, meeting at the Approval of the Agenda, Item V.***
- d. **ZON-23-061 (ARC-23-074) 100 WORTH AVE (COMBO) - SITE PLAN REVIEW AND VARIANCE** The applicant, The Winthrop House, has filed an application requesting Town Council review and approval for a Site Plan Review for modifications to existing site plan for a multifamily building and a Variance to remove required on-site parking spaces. The Architectural Commission will perform the design review component of the application. [The Architectural Review Commission Recommendation: Implementation of the proposed parking variance will not cause negative impact to the subject property. Carried 7-0.] [The Architectural Review Commission deferred this project at the August 23, 2023, meeting for a restudy of the proposed fenestration changes. Carried 7-0.]

Council Members Araskog, Cooney, Crampton, Council President Pro Tem Lindsay, Council President Zeidman and Mayor Moore declared ex-parte communications.

Maura Ziska, attorney for the applicant, presented an overview of the project and the zoning requirements for the project. She stated the applicant was before ARCOM last month and would be going back to ARCOM for design modifications. However, because this was a multi-family residence, ARCOM thought it would be appropriate to move this item to Town Council to take care of site plan review and variance.

Mark Lisnow, member of the Board of Directors for The Winthrop House, discussed the intent of the proposed renovations.

David Miller, David Miller and Associates reviewed the architectural plans proposed for renovating the existing condominium.

Director Wayne Bergman provided staff comments. He said there would be five parking spaces removed. At this time, there was a shortage, based on the current code, of 16 parking spaces. If the variance was approved, there would be a shortage of 21 parking spaces

from today's code requirement. In addition, there did not appear to be adequate temporary loading or delivery space for the building. He anticipated the applicant would maintain verbally that the site was currently overparked and that the remaining 246 spaces would be adequate for the needs of the building.

Council President Pro Tem Lindsay asked about parking for the delivery vehicles. Mr. Miller responded.

Eli Wilson, General Manager of The Winthrop House, discussed parking for delivery vehicles. He said there was a service level ramp in the lower parking area which would be for contact and delivery people. A parking space was maintained right next to the service entrance.

Council Member Cooney asked about the number of visitor spaces. Ms. Ziska responded. Council Member Cooney expressed some concern about removing visitor parking spaces.

Council Member Araskog asked about visitor parking spaces and owner parking spaces. Mr. Wilson responded. Council Member Araskog asked how many residents lived in the building. Mr. Wilson thought around 220 people occupied the building.

Mr. Lisnow discussed the reasons that they eliminated the availability to park in the 5 spaces that were proposed to be removed.

Council Member Cooney said his hesitation about the parking spaces is that more residents were becoming full-time residents. He felt reducing the parking could cause additional strains on the resources.

Council President Zeidman was in favor of the extra greenspace and the fountain.

Council President Pro Tem Lindsay supported the application due to increased green space. She also affirmed that a restaurant would not be put in the building. It was noted that a condominium had been constructed where a restaurant could have been placed.

Council Member Araskog expressed concern about the elimination of parking spaces due to the housekeepers and guests that would need parking.

Mr. Lisnow stated that many residents were only in Town for a few weeks a year.

Council President Zeidman called for public comment. No one indicated a desire to speak.

Council Member Araskog asked about the hardship for the variances. Ms. Ziska responded.

**Motion made by Council President Pro Tem Lindsay and seconded by Council Member Cooney that Variance ZON 23-061 shall be granted, and find in support thereof, that all of the criteria applicable to this application as set forth in 134-201(a) items 1-7 have been met and providing that the property owner did voluntarily commit that prior to issuance of a building permit to either provide a recorded utility agreement or an easement agreement satisfactory to the town that ensures a recorded easement will be granted if necessary for utilities in the area. Motion carried 4-1, with Council Member Araskog dissenting.**

**Motion made by Council President Pro Tem Lindsay and seconded by Council Member Araskog that Site Plan Review ZON 23-061 be approved and that said application meets the criteria set forth in Section 134-229 and Section 134-329, respectively of the town code and finding that the approval of the site plan will not adversely affect the public interest and all zoning requirements governing the use have been met and that satisfactory provisions and arrangements have been made concerning items 1-11 of Section 134-329. Motion carried unanimously, 5-0.**

- e. **ZON-23-065 (ARC-23-080) 210 FAIRVIEW RD (COMBO) – VARIANCES** The applicant, Aaron W. Ford, has filed an application requesting Town Council review and approval for (1) a variance to allow an addition to a one-story garage within the required front yard setback and (2) a variance for an addition in the required west side yard setback. The Architectural Commission shall perform design review of the application. [The Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative impact to the subject property. Carried 7-0.] [The Architectural Review Commission approved this project at the June 28, 2023, meeting with conditions. Carried 7-0.]

Council Member Araskog and Council President Pro Tem Lindsay declared ex-parte communications.

Maura Ziska, attorney for the applicant, presented an overview of the project and the zoning requirements for the project.

Council Member Cooney asked about the year that the house had been built. Ms. Ziska responded. Council Member Cooney asked if there was a unity of title with the property, to which Ms. Ziska provided confirmation.

Director Wayne Bergman provided staff comments.

Council President Zeidman called for public comment. No one indicated a desire to speak.

Council Member Araskog asked about the hardship, to which Ms. Ziska responded. Council Member Araskog asked about the addition. Ms. Ziska provided an explanation for the design issue.

**Motion made by Council Member Cooney and seconded by**

**Council President Pro Tem Lindsay that Variance ZON 23-065 shall be granted, and find in support thereof, that all of the criteria applicable to this application as set forth in Sections 134-201(a) Items 1-7 have been met and finding that the property owner voluntarily commits that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the town that ensures a recorded easement will be granted if necessary for underground utilities in the area. Motion carried unanimously, 5-0.**

*Clerk's note: The Town Council took a lunch break at 1:01 p.m. The meeting resumed at 2:03 p.m.*

- f. **ZON-23-073 (ARC-23-096) 150 WORTH AVE, STE 137 (COMBO) - SPECIAL EXCEPTION** The applicant, Lugano Diamonds, has filed an application requesting Town Council review and approval for a Special Exception for a permitted use (retail) over 4,000 SF of leasable area in the C-WA zoning district and a Special Exception request to allow lighted/illuminated signage within the courtyard of the Esplanade. The Architectural Commission will perform design review of the application. [This project will be heard at Town Council prior to being heard at the Architectural Review Commission due to the project being a Commercial project requesting zoning relief.]

Maura Ziska, attorney for the applicant, presented an overview of the project and the zoning requirements for the project. She withdrew the request for an illuminated sign.

Council Members Araskog, Cooney, Crampton, Council President Pro Tem Lindsay, Council President Zeidman, and Mayor Moore declared ex-parte communications.

Matt Spade, Lugano Diamonds, discussed the request for the new space.

Council Member Cooney asked if the customer base would be the residents of the Town, to which Mr. Spade responded in the affirmative.

Council Member Araskog asked about events in the location. Ms. Ziska responded.

Council President Zeidman called for public comment. No one indicated a desire to speak.

**Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to approve Special Exception ZON-23-073, shall be granted based upon finding that such grant will not adversely affect the public interest and the applicable criteria set forth in Section 134-229 of the town code have been met, with the acknowledgment that the applicant has withdrawn the application for illuminated signage. Motion carried**

**unanimously, 5-0.**

*Clerk's Note: Council Member Cooney left the meeting at approximately 6:35 p.m.*

**X. ORDINANCES**

**C. First Reading**

1. Amendment to the Special Exception Clause in the Commercial Districts Related to Business Tax Receipts (BTRs) and Non- Conforming Permitted Uses

Ordinance No. 009-2023: An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 114 Taxation, Article II, Local Business Tax, at Section 114-43 Schedule, so as to Amend the Fees Delineated for each Business, Profession or Occupation; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing for an Effective Date.

**The Local Planning Agency did not recommend this ordinance to the Town Council. Therefore, there was no action on this item.**

2. Amendment to the Requirements for Special Exception on Non-Conforming Lots within the Single-Family Districts

Ordinance No. 010-2023: An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, Article IV, Nonconformities, Division 4. - Land; Section 134-446. Development and Redevelopment of Nonconforming Residential Lots; Article VI, District Regulations, Division 2. - RAA Large Estate Residential District, Section 134-793. Lot, Yard, and Area Requirements; Division 3. -R-A Estate Residential District, Section 134-843. Lot, Yard, and Area Requirements; and Division 4. - R-B Low Density Residential District, Section 134-893. Lot, Yard, and Area Requirements Providing for Severability; Providing for the Repeal of Ordinances in Conflict; Providing for Codification; and Providing an Effective Date.

Director Wayne Bergman read Ordinance No. 010-2023 by title only.

Council Member Araskog expressed concern for inclusion of Zoning Districts R-A, and R-AA. Mr. Bergman stated that there were non-conforming lots in those districts.

**Motion was made by Council Member Araskog and seconded by Council President Pro Tem Lindsay to defer this item to August 9, 2023. Motion carried unanimously, 4-0.**

3. Amendment to the Definition of Building Height, Point of Measurement

Ordinance No. 011-2023: An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, Article I, in General; Section 134-2, Definitions and Rules of Construction, Related to Building Height Point of Measurement; Providing for Severability; Providing for the Repeal of Ordinances in

Conflict; Providing for Codification; and Providing an Effective Date.

Director Wayne Bergman read Ordinance No. 011-2023 by title only.

**Motion was made by Council Member Araskog and seconded by Council President Pro Tem Lindsay to approve Ordinance No 011-2023 on first reading. Motion carried unanimously, 4-0.**

XI. ANY OTHER MATTERS

Council President Zeidman stated that the agenda had been changed a year ago to move the discussion items to the front of the agenda so that everyone was fresh during the discussions.

Council President Pro Tem Lindsay discussed the burden to residents to defer the development review projects to the end of the agenda. She thought making the change would be worthwhile and would save the residents time and money.

Council Member Araskog agreed with Council President Zeidman and presented her reasons that hearty discussions should be held early in the morning.

XII. ADJOURNMENT

**The meeting adjourned at 6:59 p.m. without the benefit of a motion or a roll call.**

APPROVED:

\_\_\_\_\_  
Margaret A. Zeidman, Town Council President

ATTEST:

\_\_\_\_\_  
Kelly Churney, Acting Town Clerk

Date: \_\_\_\_\_