



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

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

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

MEETING: MARCH 13, 2024 TC

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

**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 greater than 3,000 SF in the C-TS district~~, (3) for Outdoor café seating use associated with a private club in the C-TS district, ~~(4) for two stories in the C-TS district~~, (5) for shared parking in the C-TS district, and (6) for a modification to a previously approved Special Exception for Churches, synagogues or other houses of worship to allow for a flexible event space. 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 setback, (2) front side street yard setback, (3) and to reduce the required 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) to reduce the front side street yard setback for the subterranean parking level, (14) to permit mechanical lift parking in the parking garage, (15) a variance to exceed the maximum height of a perimeter wall on a side or rear property line, (16) to permit residential uses on the first level in the C-TS zoning district in lieu of the above the first floor requirement, (17) to allow generators on a roof(s), (18) to exceed the maximum height of a screening wall for mechanical equipment on a roof, (19) to exceed the maximum height of mechanical equipment on a roof, and (20) to exceed the maximum height of chimneys~~, in conjunction with the renovation and adaptive reuse of an existing Landmarked theater structure ~~and the construction of four connected residences with ground floor retail components with two levels of subterranean parking.~~

The Landmarks Preservation Commission will perform the design review.

The notice above is the original advertised notice, strike thru-format has been provided as an illustrative measure to note what has been ‘removed’ from the original application as evidenced in this submittal and requested by the applicant.

HISTORY:

- At the 1-10-2024 Town Council meeting, the item was presented to Town Council (the first time the zoning portion of the COMBO application). After a lengthy discussion, the matter was deferred to the 03-13-24 meeting with direction to dramatically reduce the scope, and revise and decrease the variance requests.

THE PROJECT:

The applicant has submitted plans, entitled "FINAL DROP-OFF -FEBRUARY 21ST, 2024 APPLICATION # COA-23-003 (ZON-23-020)", as prepared by **Stantec Architecture** and **RAMSA** date stamped by the Town, February 22, 2024.

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 adaptive re-use of the existing three-story landmarked theater.
- Façade renovations and alterations to the primary and secondary street facing façades and all other elevations. Substantial interior demolitions and improvements.
- Alterations to the south façade to incorporate a new entrance, terrace and awning.

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 floor area in the C-TS zoning district.
2. SPECIAL EXCEPTION #1: Sec. 134-1109(a)(3): for a private club use (475 members).
3. SPECIAL EXCEPTION #2: Sec. 134-1109(a)(14): for outdoor seating.
4. SPECIAL EXCEPTION #3: Sec. 134-2182(b): for shared parking.
5. SPECIAL EXCEPTION #4: for Churches, synagogues or other houses of worship.

VARIANCE REQUESTS

1. VARIANCE #1: to permit a generator on a roof.
2. VARIANCE #2: AC screening exceeding maximum allowed on the roof of theater building.

Site Data			
Zoning District	C-TS	Future Land Use	COMMERCIAL
Lot Size (SF)	58,098 SF 34,001 SF (theater site) 24,097 SF (parking lot)	Finished Floor Elevation	12' NAVD (theater) 8.5' NAVD (retail liner)
Total Building Size	+/- 41,270 SF	Courtyard Area	4,460 SF (ground floor)
Crown of Road	7.37' NAVD	FLOOD ZONE	X

Year Constructed	1926	Architect	Josef Urban
Landmark Designation	09/14/82	Nat'l Register District	12/12/73
Lot Coverage	Existing: 41% (24,233 SF) Proposed: No change	Floor Area (SF)	Existing: +/- 41,270 SF Proposed: No change
Front Yard Open Space	Existing: 39.65% (2,433) Proposed: No change Required: 35% (2,148)	Landscape Open Space	Existing: 15.24% (8,852) Proposed: 15.34% (8,915) Required: 25% (14,525)
Private Club	<u>475 members</u> 195 private dining interior seats 128 private dining outdoor seats	Church Space	Existing: 63 people Proposed: 200 people (Sunday service only)
Surrounding Properties / Zoning			
North	One-story commercial / C-TS and R-C		
South	Three-story residential w/ ground floor retail / C-TS and R-C		
East	1950 Six-story condominium <i>SUN & SURF Condominium</i> / R-C		
West	One-story commercial / C-TS		

CONSISTENCY WITH THE COMPREHENSIVE PLAN:

Although a preliminary review of the project indicates that the proposed **application** appears **consistent** with the **COMMERCIAL** designation of the Future Land Use Map of the Comprehensive Plan, please consider the following Comprehensive Plan policies that address intensification of uses and the encouragement of Town-Serving uses:

- **Future Land Use Element: POLICY 2.3:** 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.
- **Future Land Use Element: POLICY 2.3.3:** 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.
- **Future Land Use Element: POLICY 2.4:** 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.

- **Future Land Use Element: POLICY 2.5:** 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.

STAFF ANALYSIS:

The existing lot is 1.45-acre corner parcel on the southeast intersection of Sunrise Ave 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.

Since the previous submittal and discussion at the January 10, 2024 Town Council meeting, the applicant has revised many aspects of the of the proposal, including the complete elimination of all of the proposed construction on and below the surface parking lot. The three-story residential and retail development with two levels of underground parking has been removed from the latest submission, which results in the abandonment of 17 of the originally Variances and 2 of the Special Exceptions from the initial application—leaving 2 Variance requests and 4 Special Exceptions. In the latest submittal, the proposed application consists of the following changes:

- Private social club within the entirety of the Paramount building with a maximum membership of 475 people.
- Expanded Church space for Sunday services up to 200 seats is also proposed to occupy a portion of the second floor of the private club when it is not in use.

The following is a timeline of the requested uses:

- April 2023 LPC:
 - 250 member private club
 - 250 person event space
 - 40 seat public restaurant
 - Retail
- July 2023 LPC
 - 225 member private club
 - 250 person event space
 - 40 seat public restaurant
 - Retail
- January 2024 TC
 - 475 member private club
 - 200 member church
 - Retail

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 124-space parking credit, outlined below:

- Existing Uses and Parking Principle of Equivalency (PoE) credits = 124 parking credits
 - General Office = 14,745 SF (59 spaces)
 - General Retail = 9,683 SF (49 spaces)
 - Church = 63 seat church via SE (16 spaces)

When reviewing the uses proposed in the Paramount building, a deficit of 45 parking spaces is attributed, outlined below:

- Proposed Uses in PARAMOUNT building = 169 required spaces.

Private Social Club = 475 members (119 spaces at 1 per 4 members)

Church = 200 seats (50 at 1 per 4 seats)

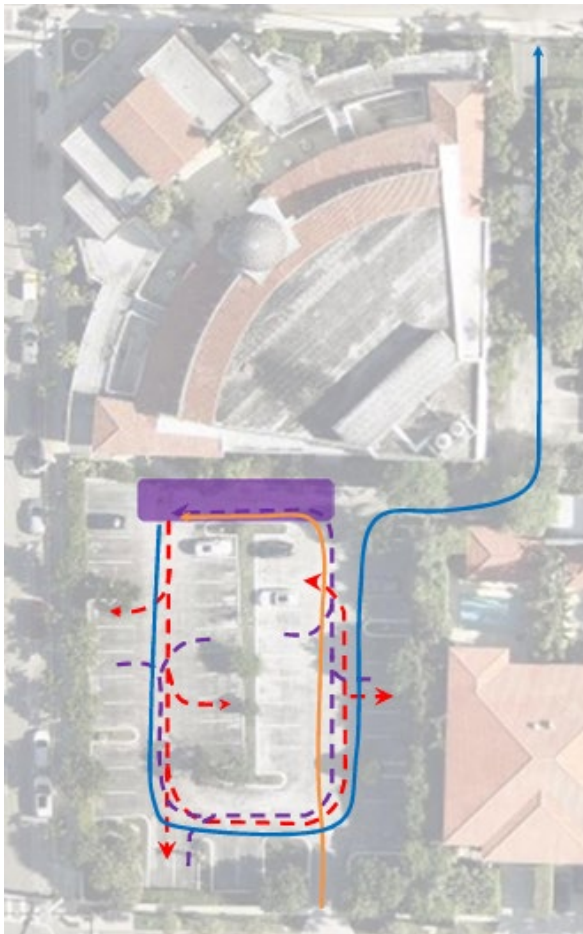
This deficiency is proposed to be handled with the shared parking request (SE #3). The Town Council will review and opine on the agreement between the Church (Sunday daytime) use and the private club (not on Sunday daytime) use.

SITE PLAN REVIEW AND SPECIAL EXCEPTION, AND VARIANCE REQUESTS

Site Plan Review for changes in permitted use in the C-TS zoning district.

As it pertains to the **Special Exception #1** to permit a private member club (475 members) in an adaptive reuse plan for the landmarked structure. The three-story theater is proposed to be broken into private club spaces of varying size and uses. The proposal is for a private club that will have a membership of 475 members that will be selected to ensure that more than 50 per cent of members are “Town Persons” for purposes of the applicable “Town Serving” requirement; however, the applicant has proffered that the maximum occupancy at any given time will not exceed 412 people.

This is an opportunity for the Town Council to consider whether private clubs (and restaurants, bars, lounges and nightclubs) should continue to be special exceptions uses in the various commercial zoning districts, or whether these uses should be capped / limited, or prohibited in certain areas – in the future.



The proposed vehicular operational aspect of the program will allocated drop off, pick up and queuing to occur within the existing surface parking lot—without the elimination of any of the existing 46 spaces. Access from the street will stir occur from the one-way entrance drive from Sunset Ave and exit onto Sunset Ave.

As it pertains to the **Special Exception #2** to permit outdoor café seating in connection with the private dining component of the private club. The plans indicate dining areas for 195 dining seats inside the building, accommodated throughout both levels of the structure and 128 outdoor café seatings located in the courtyard, and on the second level terrace areas.

As it pertains to the **Special Exception #3** to allow for shared parking, the applicant is proposing to have private club use, and the religious service uses for the project. The applicant is proffered that the religious services during the daytime of Sundays only will not coincide with the standard operating hours for the private club use.

The applicant has submitted a shared parking traffic study by their traffic engineer showing that:

- a. All uses utilizing the existing parking facilities will primarily utilize these parking spaces at different times of the day, week, month or year;
- b. The sharing of such parking spaces will not result in conflicting or overlapping usage of the parking facilities; and
- c. The available parking will be adequate to serve the needs of the proposed use.

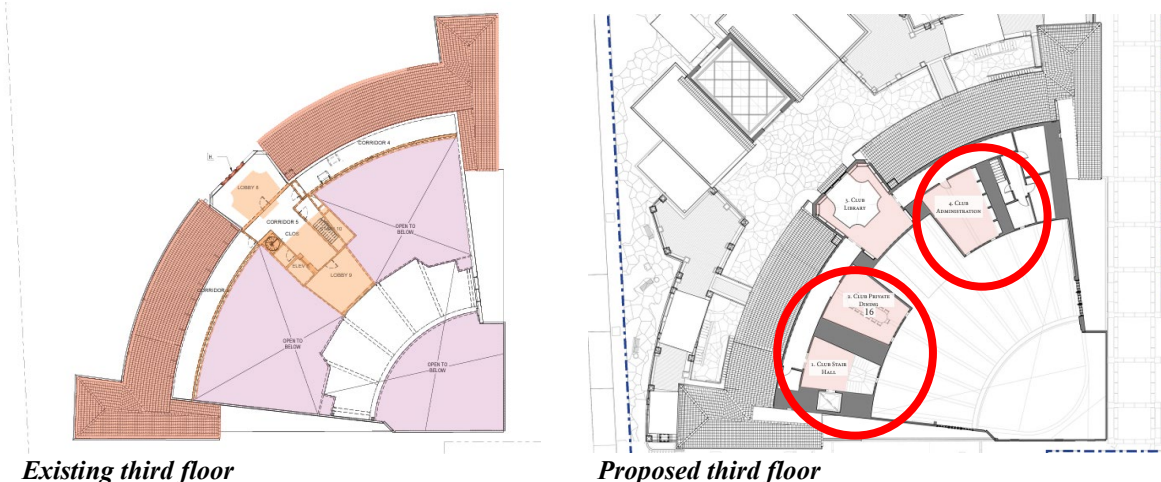
Additionally, the applicant has proffered that the entire landmark building will have a maximum occupancy limit of 412 people.

Finally, the applicant is seeking **Special Exception #4** to modify the 1993 Special Exception (SE #27-93) that granted approval for church use for 63 seats. The applicant is seeking to expand that use for a house of worship use with up to 200 seats patronage. The applicant has proffered Sunday services only for the religious use and as not to conflict with the private club patrons, which is submitted to be closed during service hours. Again, the times of operation between these two uses are not proposed to overlap, and make the proposal a candidate for said shared parking management agreement.

Variance #1 is to permit a generator on the roof of the building. The applicant is proposing a new generator on the roof on the Paramount building. Staff supports this request and maintains that, in general, rooftop locations for mechanical equipment (including AC equipment, generators, chillers, and other venting equipment) is the most appropriate location for commercial and larger mixed-use developments such as this, as it provides opportunities for green space and moves the potentially noisy and unsightly equipment typically delegated to side yards furthest away from abutting property owners.

Variance #2 is to permit the open air mechanical equipment (referred to as OPEN AIR MECHANICAL ENCLOSURE, Item J) located on the roof of the Paramount building to be 114” in lieu of 48”. The screening mechanism is to ensure that the new rooftop projections will be visually hidden from view.

There is some concern with the drawings submitted that appear to depict the expansion of the existing third floor. The materials removal and the new plans do not adequately identify if new floor slabs or joists are proposed to introduce new floor area on that third floor level which may have zoning consequences as third floors are not permitted in the C-TS district and would need to be requested through the variance process to “expand a nonconforming three-story landmarked building”. The existing floor area may be remodeled, but the increase of new floor area cannot be extended without the variance.



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.

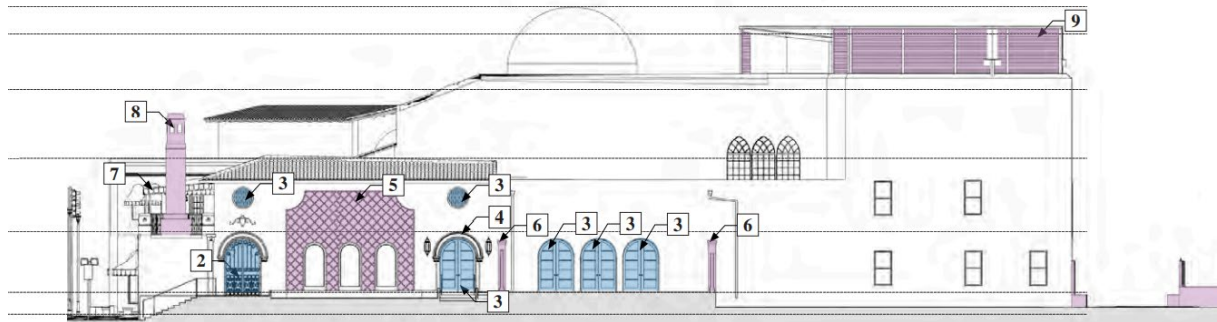
The application seeks to restore the exterior facades of the theater based on historic documentation and by utilizing appropriate material and design considerations. Sheet D-4.1 of the architectural plans provide the original 1926 Joseph Urban design of the front façade, as well as existing and proposed 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) elevations do see some fenestration rearrangement and removal, particularly on the ground floor as a result of new internal programming. These alterations are largely requested on more utilitarian side elevations.

The south (Sheet D-4.3) elevations now contain some more intensive alterations that will be visible, as the proposed construction on the south lot is no longer being proposed. The side, once tertiary, façade is now being improved with a new formal arched entry to the proposed private club, enhanced by a new lattice to support greenery, and new fabric awning over the entrance. Additional arched triple French doors are also proposed on the ground floor as a result of new internal programming. The following summary is taken from applicant's Letter of Intent.

- A patio façade restoration shown on sheets D-10 & D-11.
- A historic chimney reintroduction shown on sheet A-6.
- A historic canopies reintroduction shown on sheet D-16.
- A historic awnings reintroduction shown on sheet D-17.
- A historic planters reintroduction shown on sheet D-18.
- The restoration of the existing railings shown on sheet D-18.
- Addition of entry ways from the parking area and sidewalk along N County Road into a new south façade entrance, which will serve as the entry for the proposed new private club, as shown on sheets D-4.3, D-6.2, and D-21.

- Creation of a service courtyard area for equipment on the east side of the existing building, as shown on sheets A-15.3, C-7, and D-22.



South elevation (facing parking lot)

The theatrical introduction of architectural elements on the south elevation are conjectural. If creation of a sense of arrival is desired then a more detached and distinct area should be explored and contained to just the first floor. Square top windows shall be retained on the second floor. Removable awnings could be utilized over second floor individual openings. In this regard, restudy can occur once the project is being reviewed by the Landmarks Preservation Commission. The introduction of the new stairs, terrace and walkways resulting in increased hardscape along the south side of the building have been balanced with an introduction of increased plantings elsewhere on the site, resulting in a slight increase in overall landscape open space (LOS) of 63 SF, or approximately 0.1%.

CONCLUSION:

Approval of the project will require multiple motions to be made by the Town Council. There are:

- four (4) separate Special Exceptions,
- one (1) Site Plan Review, and
- two (2) Variances requests.

All of the requests can be approved or denied in whole, partially or individually.

Approval of the project will require two (2) 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.