



# TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on May 15, 2024

I. **CALL TO ORDER AND ROLL CALL (01:50)**

The Development Review Town Council Meeting was called to order on May 15, 2024, at 10:22 a.m. On roll call, all elected officials were found to be present.

II. **INVOCATION AND PLEDGE OF ALLEGIANCE (02:11)**

Acting Town Clerk Churney gave the invocation. Council President Lindsay led the Pledge of Allegiance.

III. **COMMENTS OF MAYOR DANIELLE H. MOORE (03:00)**

Mayor Moore stated she did not have any comments at this time.

IV. **COMMENTS OF TOWN COUNCIL MEMBERS (03:04)**

Council Member Araskog asked Mr. Bergman about an e-mail which discussed a house that had an infestation, causing a nuisance to the neighborhood. Mr. Bergman said he would report it to Code Enforcement.

V. **COMMUNICATIONS FROM CITIZENS - 3-MINUTE LIMIT, PLEASE (03:56)**

There were no comments heard.

VI. **APPROVAL OF AGENDA (04:19)**

Council President Lindsay asked to move Ordinance Nos. 005-2024 and 006-2024 to be heard before any other matters.

Council Member Araskog asked to hear two additional items on the agenda. The first request was to discuss the dates for the August meeting, which was to be added under Item XII. Any Other Matters. The second item requested was to speak to Mr. Oyer about returning after one year to update the Town Council on the traffic at Mar-a-Lago. She asked for this discussion to fall immediately after Ordinance Nos. 005-2024 and 006-2024.

Director Wayne Bergman stated that the applicant for the project ZON-24-058, 400 Royal Palm Way, requested a deferral to the June 12, 2024, meeting so that the Architectural Commission (ARCOM) could review the project for design aesthetics. The Town Council had a consensus to allow the project to move to ARCOM prior to their review.

**A motion was made by Council Member Cooney and seconded by Council President**

**Pro Tem Crampton to defer ZON-24-058, 400 Royal Palm Way, to the meeting on June 12, 2024, and with the direction to proceed to the Architectural Commission (ARCOM) for approval prior to the Town Council review. The motion was carried unanimously, 5-0.**

**A motion was made by Council Member Cooney and seconded by Council President Pro Tem Crampton to approve the amended agenda. The motion was carried unanimously, 5-0.**

**VII. [CONSENT AGENDA \(18:19\)](#)**

- A. [ZON-24-064 325 VIA LINDA—SITE PLAN REVIEW](#)** The applicant, Three Palm Trees LLC (Warren Kanders, Manager-Member), has filed an application requesting Town Council review and approval of a Site Plan Review for the installation of a 200 kW generator to the previously approved underground enclosed basement level of a guest house, as it relates to the construction of a new residence.

**A motion was made by Council Cooney and seconded by Council President Pro Tem Crampton to approve the consent agenda as presented and that the project contained within the consent agenda meet the requirements and criteria of Chapter 134, specifically Sections 134-326 through 134-330 for Site Plan Review, Section 134-229 for Special Exceptions, and Section 134-201 for Variances.**

**VIII. [REGULAR BUSINESS \(19:08\)](#)**

- A. [Discussion Regarding Code Review \[Julie Araskog, Council Member\] \(19:11\)](#)**

Council Member Araskog reviewed her concerns with the Code Review and how much money had been spent on the review. She also mentioned and supported Bob Grace's idea of taking the process street by street to define setbacks rather than using the width of the streets to establish setbacks. Mr. Bergman responded with what had been spent on code reform thus far. Council Member Araskog did not feel that a lot of what ZoneCo recommended fit into the Town of Palm Beach. She expressed displeasure with how the code reform process was being implemented.

Council President Pro Tem Crampton shared some of Ms. Araskog's concerns. His concerns related to the confusion he had sensed with the Planning and Zoning Commission. He also expressed concern with ZoneCo's approach, rather than trying to divide the town out, was to write out the code and read it line by line. However, he did not believe it was prudent to change consultants in the middle of the project.

Council Member Cooney did not want to stop the process; however, he wanted to ensure the proper outcome.

Mayor Moore reminded the Town Council that they reached out to a professional because staff presented changes to the Council and were declined. The Town Council reached out to a professional for an unbiased review of the Code. She shared her frustration but was uncertain about which path the Town should take to move forward.

Council President Lindsay did not think the task of code reform would be easy. She acknowledged that the R-B zoning district was the toughest district in terms of zoning and that code review was necessary and expensive.

Director Wayne Bergman discussed the concerns expressed, which were the basis for focusing on the R-B district. He and Mr. Murphy spent a lot of time reviewing very large homes being allowed on small lots. He said there had never been a steering

committee established. It was a difficult process for the staff and for the consultants. Staff tried to keep Mr. Suder moving in the right direction but without clear direction from a steering committee. He stated that the comprehensive plan had been updated and reviewed by Planning and Zoning and would be again before it was reviewed by the Town Council and forwarded to the State.

Jennifer Hofmeister-Drew spoke about the process. She did not believe Mr. Suder was going to start over. She said the Code was interrelated, and the issues of traffic and parking had superseded the single-family R-B District. She acknowledged that the process went off-track. She said the project management had been challenging, and there was an opportunity to improve.

Council President Pro Tem Crampton wondered if going through the code line by line would be effective. Ms. Hofmeister-Drew stated that the consultants had gone through the code in that way. When they present the code, it would be in a holistic document. Council President Pro Tem Crampton thought it would be helpful to see it in a document or a summary.

Assistant Director James Murphy shared his thoughts about the concerns that residents voiced when he joined the Town. A presentation was developed to explore how to address the concerns. He said the R-B district had been modified nearly thirty times rather than being looked at holistically. He also believed the R-B district numbers were too high.

Council Member Moran thought the consultant had done a good job listening to the staff and the residents. She acknowledged that the process was moving slower than expected.

Council Member Cooney stated that the reform was a large task and would require much effort. He was not ready to change courses at this point. However, he thought it was important to review the process and continue to improve community regulations.

Council Member Araskog thought the consultant continued to work during the change in legislation. Mr. Bergman reviewed Mr. Suder's efforts and the changes he had presented since HB 250 was passed. Council Member Araskog felt that staff could move forward with the project using all the information that had been collected.

Council President Pro Tem Crampton agreed with Council Members Moran and Cooney's comments and was not ready to vacate the project. However, he thought the Town Council should be better informed.

Mayor Moore agreed that the staff could perform the code reform; however, she acknowledged that the staff was already overwhelmed and that many were not happy with the process.

Council President Lindsay called for public comment.

Dragana Connaughton, 267 Merrain Road, discussed that Palm Beach was a beautiful community, and when the consultants started, their goal was to build upon what made Palm Beach beautiful. However, she felt that the material provided by the consultants was the opposite of what made Palm Beach beautiful. She thought that a steering committee should be assembled to assist in guiding the reform.

Maura Ziska, resident/attorney, 1500 N. Ocean Blvd., stated that she had reviewed the old minutes of the Art Jury, which were professionals who helped steer the direction of what was appropriate in the Town. She also thought the town's architects could assist and guide the process.

Council President Lindsay asked Mr. Bergman if he thought a steering committee should consist of architects. Mr. Bergman provided recommendations on who should be on the committee.

Council Member Cooney asked if a steering committee could be discussed at the next meeting so that the Town Council could think about the suggestion.

Mayor Moore thought that if a steering committee was formed, the Town Council should follow the application and appointment process.

Council Member Moran wondered if another level of management was needed. She did not discount the fact that information and opinions had been solicited. She would like some time to consider adding a steering committee.

Council Member Cooney thought that if a steering committee was going to be successful, there would need to be a mechanism for agility and the provision of feedback. Council Member Cooney wanted to ensure that the Planning and Zoning Commission did not feel that their review and input were not valuable.

Council Member Araskog thought that the R-A and R-AA districts had been affected. She thought having a steering committee that could then send the items to the Planning and Zoning Commission would be helpful.

**There was a consensus reached among the Town Council to discuss the possibility of a Code Review Steering Committee at the meeting on June 12, 2024.**

**IX. ITEMS PULLED FROM THE CONSENT AGENDA IF NEEDED**

*No items were pulled from the consent agenda.*

**X. DEVELOPMENT REVIEWS (1:21:51)**

**A. Declaration of Use Agreements**

1. **ZON-24-002 219-221 WORTH AVE AND 220 PERUVIAN AVE - TABOO (1:22:00)** Declaration of Use Agreement

Maura Ziska, the applicant's attorney, provided a change to Taboo's Declaration of Use Agreement.

Messrs. Murphy and Bergman provided staff comments.

Council Member Cooney did not believe the request to close at 1 a.m. was excessive and supported it. He sought clarification about parking in the Apollo lot and why there was a time limitation. Mr. Murphy responded. He was also concerned about item 10 in the agreement and the uncertainty of the language about a requirement for employees to park off the island. He indicated his biggest issue was item 10, asking the employees to park off the island. He thought some certainty should be brought to where the employees park. Ms. Ziska stated that the intention was for employees to park either off the island or in a parking lot. Council Member Cooney thought it should be spelled out in the agreement. He also thought item 20 would need clarity about what would be considered a verified

complaint. Attorney O'Connor advised that the complaint could be verified by the Director of Planning, Zoning, and Building.

Council Member Araskog thought the closing time of the restaurant should be midnight. She agreed with the employees parking off the island and thought there should be designated parking behind the restaurant in the Apollo lot. She thought one verified complaint should close the business. Council Member Cooney thought three verified complaints would be more reasonable and indicate a pattern. Council Member Araskog thought there might be an incident or two in an extended period. She suggested a better way to deal with complaints because the consequence of the business was to shut it down.

Council Member Moran thought they should have to appear before the Town Council before the business was shut down.

Council Member Araskog thought the violators should be allowed to return to the Town Council anytime and that the three-year limitation should be removed from the agreement. Ms. Ziska responded.

Council Member Moran thought that the 1 a.m. closing was acceptable. She asked if they would return after one year. She also wondered if the restaurant would be town-serving and, if so, if it should be included in the agreement.

Council President Lindsay pondered the closing time and discussed the pros and cons of each time.

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

**A motion was made by Council Member Cooney and was seconded by Council Member Moran to approve the Declaration of Use Agreement, as amended with the following changes under Article IV, Conditions: in condition #9 – strike through “for a period of three (3) years,” in condition #10 – strike through “use their best efforts” and add “behind the restaurant or apollo lot” as well as “location of employee parking will be communicated to the Director of Planning, Zoning, and Building,” in condition #17 – remove landscaping language, in condition #19 – add “review hours of operation,” in condition #20 – remove “shall cease operations” and add “three violations within two months.” The motion was carried 3-2, with Council President Lindsay and Council Member Araskog dissenting.**

2. **[ZON-22-132 \(ARC-22-200\) 165 BRADLEY PL - ALEF SCHOOL \(1:52:17\)](#)**  
Declaration of Use Agreement Progress Update

Council President Lindsay indicated that, with the number of students at the school, she did not believe there was enough to consider this item at this time. She preferred the school to operate for a full year prior to being reviewed by the Town Council.

Harvey Oyer, the attorney for the applicant, provided an overview of the Declaration of Use Agreement for the Alef School. He agreed to defer the progress date.

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

**A motion was made by Council Member Cooney and seconded by Council Member Araskog to defer the progress update to the meeting in April 2025.**

**The motion was carried unanimously, 5-0.**

3. **ZON-23-046 329 WORTH AVE - CHURCHILL CIGAR COMPANY (1:56:25)** Declaration of Use Progress Update

Maura Ziska, the applicant's attorney, provided an overview of the Declaration of Use Agreement for Churchill Cigar Company.

Matthew Raptis, owner of Churchill Cigar Company, discussed a recommendation from the attorney for The RealReal, who suggested the business keep its doors closed and not smoke in the courtyard. Mr. Raptis had complied with the recommendation. In following up with the attorney, he indicated there had been no further incidents.

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

Ashley Wendell, Director of Real Estate for The RealReal, discussed the company's issues with the cigar smoke proliferating in the store. She asked the Town to review the Cigar Bar's use agreement at least twice a year to ensure that the door remains closed.

**A motion was made by Council Member Araskog and seconded by Council Member Moran to defer the progress update to the meeting on June 12, 2024, to allow the owner to make some improvements. The motion was carried unanimously, 5-0.**

B. **Variances, Special Exceptions, and Site Plan Reviews (2:12:00)**

1. **Old Business**

- a. **ZON-24-047 (ARC-24-008) 264 DUNBAR RD (COMBO) – VARIANCE** The applicant, 264 Dunbar LLC (Lee Fensterstock, Manager), has filed an application requesting Town Council review and approval of (1) variance to exceed maximum equipment screening wall height in the south rear yard setback, as part of the construction of a new single-family residence. The Architectural Commission shall perform design review of the application. *[This project variance has been withdrawn by the applicant.]*  
***Please note: This item was withdrawn at the Approval of the Agenda, Item VI.***

- b. **ZON-24-025 (ARC-24-015) 153 AUSTRALIAN AVE (COMBO) - SPECIAL EXCEPTION AND VARIANCE (2:12:13)** The applicant, Rabbi Zalman Levitin, has filed an application requesting Town Council review and approval for a special exception to develop an existing nonconforming parcel with a new, single-family residence and (1) variance to forgo required garage parking. The Architectural Commission shall perform design review of the application. *[Architectural Review Commission Recommendation: implementation of the proposed variance will not cause a negative architectural impact to the subject property. Motion Carried 6-1.] [The Architectural Review Commission approved the project with conditions. Carried 5-2.]*

Ex-parte communications were disclosed by Council Members Cooney, Moran, and Council President Lindsay.

Jamie Gavigan, the applicant's attorney, provided an overview of the project and explained the zoning requests. Jason Skinner with Dailey Janssen Architects, P.A. presented the architectural plans.

Mr. Murphy provided staff comments.

Council Member Cooney agreed with the ARCOM recommendation that the lack of a garage did not negatively impact the street. However, he was bothered by the variance and wondered what the legal hardship was for the request. He was worried about the precedent this situation may set.

Council President Pro Tem Crampton did not agree with Council Member Cooney. He was less worried about precedent and more about the family having enough living space.

Council Member Moran thought that removing both garage bays was an issue. She understood parking was a big issue, especially after hearing complaints over the last five months during her campaign. She thought going from a two-car garage to no garage was a significant issue.

Mr. Gavigan stated that no on-site parking would be lost with the removal of the garage.

Council Member Araskog agreed with Council Members Cooney and Moran. She thought the loss of both garage bays was drastic. She agreed the family would need some storage space. She was open to a single-car garage.

Mayor Moore and Council President Lindsay agreed with their fellow Council Members, preferring at least a single garage.

Mr. Gavigan noted that there was some storage in the rear of the home.

Council President Lindsay called for public comment.

Hindel Levitan, the owner, discussed her current lack of storage.

**A motion was made by Council Member Araskog and seconded by Council Member Cooney to defer the project to the meeting on July 10, 2024, with the direction that the project shall be remanded back to the Architectural Commission (ARCOM) with the guidance to the architectural professional to add a single-car garage to the plans. The motion was carried unanimously, 5-0.**

- c. **ZON-24-044 (ARC-24-031) 1181 N LAKE WAY (COMBO) - SPECIAL EXCEPTION WITH SITE PLAN REVIEW** The applicant, Sage Andrew G C III Trust (Gregg Sage, Trustee), has filed an application requesting Town Council review and approval for construction of a new single-family residence on an existing nonconforming parcel comprised of portions of platted lots, which is deficient in lot width. The Architectural Commission shall perform design review of the application. *[This project shall be deferred to the June 12, 2024, Town Council Meeting pending review by the Architectural Commission.]*

***Please note: This item was deferred to June 12, 2024, meeting at the Approval of the Agenda, Item VI.***

- d. [ZON-24-045 \(ARC-24-038\) 207 PENDLETON AVE \(COMBO\) - VARIANCES \(2:33:34\)](#) The applicant, Maura Ziska (Attorney) in conjunction with Thomas M. Kirchhoff (Architect), has filed an application requesting Town Council review and approval for two variances: one (1) to exceed the maximum allowable lot coverage and two (2) to exceed the maximum allowable Cubic Content Ratio (CCR) with the construction of the new front entry porch. The Architectural Commission shall perform a design review of the application. [The Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause a negative architectural impact on the subject property. Carried 6-0.] [The Architectural Review Commission approved the project as presented. Carried 6-0.]

Ex-parte communications were disclosed by Council Members Cooney, Moran, and Mayor Moore.

Maura Ziska, an attorney for the applicant, provided an overview of the project, explained the zoning requests, and presented the architectural plans. Tom Kirchhoff, the project architect, was also present.

Mr. Murphy provided staff comments.

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

**The motion was made by Council Member Cooney and seconded by Council Member Moran that Variance No. ZON-24-045 shall be granted and find, in support thereof, that all the criteria applicable to this application as set forth in Section 134-201 (a), items 1 through 7, have been met. The motion was carried unanimously, 5-0.**

*Clerk's note: The Town Council took a lunch break at 1:00 p.m. The meeting resumed at 1:51 p.m. Mayor Moore did not return to the meeting.*

2. [New Business \(2:39:57\)](#)

- a. [ZON-23-117 \(COA-23-043\) 235 BANYAN RD \(COMBO\) - VARIANCES](#) The applicant, Richard Kurtz, has filed an application requesting Town Council approval for three (3) variances in accordance with Section 134-201 for: (1) front yard setback found in Section 134-843(5), (2) building height plane requirement found in Section 134-843(7), and (3) side yard setback found in Section 134-843(8) associated with the construction of a new two-story approximately 1,072 SF accessory structure with hardscape and landscape. The Landmarks Preservation Commission shall perform design review of the application. *[This project shall be deferred to the June 12, 2024, Town Council Meeting pending review by the Landmarks Preservation Commission.]*

***Please note: This item was deferred to June 12, 2024, meeting at the Approval of the Agenda, Item VI.***

- b. [ZON-24-039 \(ARC-24-033\) 1464 N OCEAN BLVD \(COMBO\) -VARIANCE](#) The applicant, Manuel & Evan Castelo, has filed an application requesting Town Council review and approval for one (1) variance to reduce landscape open space below minimum requirements

with the installation of artificial turf material. The Architectural Commission shall perform design review of the application. *[This project shall be deferred to the June 12, 2024, Town Council Meeting pending review by the Architectural Commission.]*

***Please note: This item was deferred to June 12, 2024, meeting at the Approval of the Agenda, Item VI.***

- c. **ZON-24-046 (ARC-24-040) 227 ANGLER DR (COMBO)-VARIANCES (2:40:00)** The applicant, Bryan, and Mary Thomas, has filed an application requesting Town Council review and approval for one (1) variance to reduce lot coverage below minimum requirements and (2) variance to exceed maximum allowable Cubic Content ratio (CCR) with the installation of a pergola. The Architectural Commission shall perform a design review of the application. [Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause a negative architectural impact on the subject property. Carried 6-0.] [The Architectural Review Commission approved the project as presented. Carried 6-0.]

Ex-parte communications were disclosed by Council Members Araskog, Cooney, Moran, Council President Pro Tem Crampton, and Council President Lindsay.

Maura Ziska, the applicant's attorney, provided an overview of the project and explained the zoning requests.

Tom Kirchhoff with Kirchhoff and Associates presented the architectural plans.

Council President Pro Tem Crampton confirmed no additional space would be added, which Mr. Kirchhoff confirmed.

Council Member Cooney expressed concern about granting a variance for something permitted as a pergola. Mr. Kirchhoff stated to his knowledge, it was permitted as designed.

Council President Pro Tem Crampton asked if a structure was being replaced, replicating what had been there before. Mr. Kirchhoff stated that his client was a long-term resident, and the structure was not functioning. Therefore, they were replacing what was there. Council President Pro Tem Crampton understood Council Member Cooney's concerns but also acknowledged that the individual was a long-term resident trying to correct a mistake with no major increase in size.

Council Member Moran clarified the structure was previously covered with an awning. Mr. Kirchhoff said the structure was not air-conditioned. The existing roof is canvas, and the proposal includes a solid roof.

Council Member Araskog agreed with Council Member Cooney and thought the item should be deferred so that the item could be researched to see how it was initially approved.

Mr. Murphy provided staff comments.

Bradley Falco, Design & Preservation Planner, explained the nuances in the

zoning code that allow credits for a pergola or an awning roof.

Mr. Kirchoff noted that the residents had invested in a structure that did not work. There were issues with water getting into the structure, and the fix was to tear it down and replace it.

Council Member Cooney asked Mr. Falco to confirm that if the application was approved with a CCR variance, no additional variance would be required if, subsequently, the residents wanted to enclose the area and add an HVAC system. Council President Lindsay thought a deed restriction may be necessary. Council Member Cooney said that granting additional condition space was different from granting additional covered space.

Council President Lindsay said the structure was a covered loggia that was partially screened. She thought that if this was to be approved, a deed restriction should prohibit the space from ever being enclosed as an additional room.

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

Council Member Araskog noted that the point was how much could be covered under HVAC and how much could be covered under a CCR and/or lot coverage variance.

**A motion was made by Council President Pro Tem Crampton and seconded by Council Member Moran that Variance No. ZON-24-46 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 through 7, have been met, and with the condition that the owner signs a deed restriction indicating that no glassed or air-conditioned space shall be added. The motion was carried 3-2, with Council Members Araskog and Cooney dissenting.**

- d. **[ZON-24-048 \(ARC-24-077\) 450 S COUNTY RD \(204 WORTH AVE\) \(COMBO\)-SPECIAL EXCEPTION WITH SITE PLAN REVIEW \(3:11:15\)](#)** The applicant, Rosetta Bakery and FERRAGAMO USA INC, has filed an application requesting Town Council review and approval for a Special Exception with a site plan review request to allow retail specialty foods with indoor seating in the C-WA district. The Architectural Commission shall perform a design review of the application.

Ex-parte communications were disclosed by Council Members Araskog, Cooney, Moran, Council President Pro Tem Crampton, and Council President Lindsay.

Maura Ziska, an attorney for the applicant, provided an overview of the project, explained the zoning requests, and showed the architectural plans. The owner of Rosetta Bakery discussed the proposed hours of operation and parking for employees.

Messrs. Murphy and Bergman provided staff comments. Mr. Murphy stated that the only outstanding item, in addition to the request for a draft Declaration of Use, which has not yet been received, was that an outdoor trash area may not be sufficient. Some type of internal trash area needed to be incorporated into the site plan. Mr. Bergman added that because this was

a Special Exception, a legal Declaration of Use may be entered into with the applicant.

Council Member Moran asked about the target market and volume of sales. The bakery owner responded. Ms. Moran expressed a concern about the bakery's location so close to the beach. Ms. Ziska advocated for the bakery and stated that surrounding locals would likely be the patrons.

Council Member Araskog shared Council Member Moran's concerns. She was troubled by the conversion of this space from retail to this type of eatery because of the precedent it would set. She was also concerned about traffic because Worth Avenue was already very busy.

Council President Lindsay spoke about the hours being open until 9:00 p.m. She asked if any type of alcohol would be served, and the owner said absolutely not. She asked about the menu offerings.

Council President Lindsay called for public comment.

Nader Kazeminy, 100 Worth Avenue, spoke in support of the bakery.

Daniel Ponton, 1 Golfview Road, expressed his concerns about the noise, traffic, and trash caused by the intensification of use in the area. His home was on the property directly to the south.

Council Member Cooney asked Mr. Ponton about his issue with the trucks unloading. Mr. Ponton said the loading zone at the hotel across from his home was not large enough to accommodate the large trucks. Consequently, they park on the street and/or the sidewalk. He further elaborated on the nuisances in the area and his concerns about this additional business.

Council Member Araskog agreed with the intense and dangerous traffic situation at the corner in question. She discussed that the proposal was an intensification of use and was against the comprehensive plan. She was not supportive of the request.

Council Member Moran agreed with Council Member Araskog.

Council Member Cooney was less troubled by the location and thought the business was appropriate for the area.

Council President Pro Tem Crampton agreed with Council Member Cooney. He thought this product was intended as more of a convenience. He was concerned with the issues that Mr. Ponton was experiencing and thought Code Enforcement should be on alert.

Ms. Ziska stated that they could modify the hours of operation and delivery.

Council President Lindsay agreed with Council Member Cooney. She stated she supported the business in the right location; however, she was unsure if this was the correct location.

Council Member Cooney thought these types of businesses add vitality to the area. He wondered what prompted the need for a Special Exception and if it was due to the zoning district. Mr. Bergman discussed the requirements.

**A motion was made by Council Member Araskog and seconded by Council Member Moran that Special Exception and Site Plan Review No. ZON-24-048 be denied because they have not met the criteria set forth in item numbers 2, 3, 6, 7, 8, and 11, as set forth in sections 134-229 and 134-329, respectively, of the Town Code and will adversely affect the public interest. The motion was carried 4-1, with Council Member Cooney dissenting.**

Council President Lindsay and Council Member Cooney encouraged the owner to look for another location for the bakery because they thought there was merit to the offering of a Rosetta Bakery in town.

- e. **ZON-24-050 (COA-24-014) 218 PHIPPS PLAZA (COMBO)-VARIANCES** The applicant, Bruce Leeds, Trustee of the Bruce Leeds Declaration of Trust, has filed an application requesting Town Council review and approval of variances for three (3) variances for; (1) greater lot coverage, (2) a reduced rear-yard setback, and (3) a reduced side-yard setback in conjunction with the construction of a new covered parking structure, to modify the location of the pedestrian entryway with new piers and a gate, revisions to the landscape and hardscape to accommodate the new pedestrian entryway, and to install a decorative well. The Landmarks Preservation Commission shall perform design review of the application. *[This project shall be deferred to the June 12, 2024, Town Council Meeting pending review by the Landmarks Preservation Commission.]*

***Please note: This item was deferred to June 12, 2024, meeting at the Approval of the Agenda, Item VI.***

- f. **ZON-24-057 (ARC-24-047) 960 N OCEAN BLVD (COMBO)-VARIANCE (4:12:19)** The applicant, PB NORTH OCEAN TRUST (represented by Todd Cury), has filed an application requesting Town Council review and approval of one (1) variance for a lot coverage to exceed the maximum permitted in the R-B zoning district on a lot 20,000 square feet or more in area for the construction of a 2-story accessory structure and construction of an approximately 30 square foot addition. The Architectural Commission shall perform a design review of the application. [Architectural Commission Recommendation: Implementation of the proposed variances will not cause a negative architectural impact on the subject property. Carried 5-2.] [The Architectural Commission approved the project with conditions. Carried 5-2.]

Ex-parte communications were disclosed by Council Members Cooney, Moran, Council President Pro Tem Crampton, and Council President Lindsay.

Rafael Portuondo of Portuondo Perotti Architects presented the architectural plans.

Mr. Murphy provided staff comments.

Council Member Cooney wondered if the variance could be reduced by eliminating some hardscape. Mr. Murphy stated that hardscape was its own separate calculation, and pathways, such as pool decks, did not count. Council Member Cooney had no other concerns and thought this was the best outcome.

Council Member Moran felt like two stories was a lot for a second structure.

Council Member Araskog asked about the hardship of the variance and why the project could not be completed without one. Mr. Portuondo responded.

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

**A motion was made by Council Member Cooney and seconded by Council President Pro Tem Crampton that Variance No. ZON-24-045 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 through 7, have been met. The motion was carried 4-1, with Council Member Araskog dissenting.**

- g. **ZON-24-058 (ARC-24-073) 400 ROYAL PALM WAY (COMBO) -VARIANCE(S)** The applicant, Citizens Bank (James Meany), has filed an application requesting Town Council review and approval for eight (8) variances as they relate to the installation of commercial signage, including (1) a variance to install signage on an exterior electronic banking machine, (2-4) variances to exceed maximum sign area permitted, exceed maximum logo size permitted, and exceed maximum sign and logo height above grade permitted on the north elevation, (5) a variance to exceed height of logo above grade on east elevation, and (6 - 8) variances to exceed maximum height and logo size and to permit signage facing a parking area in lieu of a right of way. The Architectural Commission shall perform design review of the application.

***Please note: This item was deferred to the June 12, 2024, meeting at the Approval of the Agenda, Item VI***

- h. **ZON-24-060 360 EL BRILLO WAY - VARIANCE** The applicant, 360 El Brillo Way Trust (David E. Klein, Trustee), has filed an application requesting Town Council review and approval of a variance for a marginal marine dock to exceed the maximum width permitted. [This project has been withdrawn by Staff.]

***Please note: This item was withdrawn at the Approval of the Agenda, Item VI.***

- i. **ZON-24-061 757 ISLAND DR-VARIANCE(S) (4:38:58)** The applicant, 757 Island Drive LLC (Maura Ziska, Manager), has filed an application requesting Town Council review and approval for installation of a marine structure(s) requiring five (5) variances to (1) exceed maximum marginal marine dock width permitted, (2) to exceed maximum projection west of the U.S. Pierhead Line for a marginal dock, (3) to exceed maximum projection west of the US Pierhead Line for a boatlift, (4) to exceed maximum projection west of the US Pierhead Line

for installation of fender piles, and  
(5) to exceed maximum projection west of the US Pierhead Line for installation of mooring piles.

Ex-parte communications were disclosed by Council Member Cooney and Council President Lindsay.

Maura Ziska, an attorney for the applicant, provided an overview of the project, explained the zoning requests, and showed the architectural plans. Ms. Ziska noted that two variances were eliminated since changes had been made to the code regarding docks. Curry Isiminger, the project's coastal engineer, was also present.

Mr. Murphy provided staff comments.

Council Member Cooney asked about the size of the boat that could be accommodated in the area. Mr. Isiminger responded that it was approximately 110 feet or a little bit larger. Council Member Cooney thought this request had a true hardship. He supported the request.

Council Member Araskog asked about the size of the second boat in the drawing and Mr. Isiminger stated 30 feet. Council Member Araskog expressed concern about the proximity of the boat to the northern property.

Council President Lindsay called for public comment.

William Gubelmann, 710 Island Drive, representing himself and several neighbors, objected to such a large dock.

Nader Kazeminy, speaking on behalf of his parents, who live at 760 Island Drive, expressed objections to the proposed project. He was concerned about whether dredging would be required for the proposed boat dock.

Ms. Ziska stated she could reduce the request for a 69-foot dock, eliminating the variance; however, she would still need variances for other items. She said the dock's width was 6 feet.

Mr. Murphy added some clarification about the dock size and the requirements.

**A motion was made by Council Member Cooney and seconded by Council Member Moran that Variances No. ZON-24-045, #2 to exceed maximum projection west of the U.S. Pierhead Line for a marginal dock and #3 to exceed maximum projection west of the US Pierhead Line for a boatlift, 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 through 7, have been met. The motion was carried 4-1, with Council Member Araskog dissenting.**

- j. [\*\*ZON-24-066 340 ROYAL POINCIANA WAY - SPECIAL EXCEPTION \(5:25:19\)\*\*](#) The applicant, Richemont North America, dba Cartier, has filed an application requesting Town Council review and approval of a Special Exception for a permitted use greater than 3,000 SF for an individual retail use in the C-PC zoning district within the Playhouse

building within The Royal Poinciana Plaza.

Ex-parte communications were disclosed by Council Members Cooney, Moran, Council President Pro Tem Crampton, and Council President Lindsay.

Jamie Crowley, an attorney for the applicant, provided an overview of the project and explained the zoning requests. Nelo Freijomel, with Spina O'Rourke, presented the architectural plans.

Council Member Cooney asked about the height of the retail space. Mr. Freijomel responded. Council Member Cooney thought the proposal was appropriate and supported the application.

Council Member Araskog was not initially in favor of the retail space, but she supported the application because she would prefer one larger space to three separate spaces.

Council President Pro Tem Crampton agreed with the other comments.

Council Member Moran also supported the application. She thought this was an improvement in reducing the intensity of the space. Council President Lindsay agreed.

Mr. Bergman provided staff comments.

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

**A motion was made by Council Member Cooney and seconded by Council President Pro Tem Crampton that Special Exception No. ZON-24-066 shall be granted based upon the finding that such grant will not adversely affect the public interest and that the applicable criteria set forth in Section 134-229 of the Town Code have been met. The motion was carried unanimously, 5-0.**

C. **Time Extensions and Waivers (5:36:26)**

1. **Waiver of Town Code Section 42-199 For the Working Hours at 247 Worth Avenue (5:36:28)**

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request.

Attorney Maura Ziska explained the reason for the request.

Council Member Araskog expressed concern that the starting time was too early. She thought the traffic associated with the construction would be too much on residents. Mr. Batten said the contractors try to avoid using Worth Avenue. Other routes were discussed for the construction traffic.

Council Member Crampton did not want to see any vehicles in front of the building.

Greg Batten with Batten Construction explained they were trying to facilitate the restaurant's needs. He said they were following the truck path submitted to ARCOM and the Town to acquire a permit.

Council Member Cooney stated that he did not have the same concerns as

Council Member Araskog and thought the S. County route would be preferable. He asked Mr. Batten about the timeline and what would be accomplished by the end of the summer. Mr. Batten said the scope was to finish the shell this season and build out the interior next season.

Council Member Moran thought the new route was a good solution and was happy it had been moved out of rush hour traffic. She supported the request.

Council President Pro Tem Crampton asked Mr. Batten how he would keep his construction equipment off Worth Avenue. Mr. Batten stated it would be at the back of the property, not on Worth Avenue. He stated that the staging area would be in the Apollo parking lot. All efforts are being made to impact Worth Avenue as little as possible. He also said there would always be a site manager there.

Council President Lindsay thought that S. County Road was the best route suggested. She liked that the hours were outside of rush hour. She also said she was willing to try the suggestion, and if it did not work, the Town Council would call them back to adjust the hours. Ms. Ziska thought that was fair.

Council Member Araskog said what had been done on previous projects was that the Planning, Building, and Zoning Director could address complaints while waiting for the Town Council.

Council President Lindsay called for public comments. No one indicated a desire to speak.

**A motion was made by Council President Pro Tem Crampton and seconded by Council Member Moran to approve the requested extension as requested, with the hours of 6 a.m. to 6 p.m. and with the following conditions: the truck route shall follow Royal Palm Way-County Road-Worth Avenue-Apollo Lot, all items shall be stored on the lot behind the building, any complaints shall be taken to the Director of Planning, Zoning and Building have the right to change the work hours as needed. The motion was carried 4-1, with Council Member Araskog dissenting.**

2. [Waiver of Town Code Section 18-237 For Building Permit Extension for 936 N Lake Way \(5:52:05\)](#)

Wayne Bergman, Director of the Planning, Zoning, and Building Department described the building permit extension request. He also mentioned that he received a call from the neighbor with two requests: to make sure the requested time was sufficient, that the house was closed, and that all interior work was completed.

Greg Giuliano, with Greg Giuliano Construction Inc., explained the purpose of the request. He said he had asked for a 12-month extension and explained his reason for requesting additional time.

Council President Lindsay called for public comments. No one indicated a desire to speak.

**A motion was made by Council Member Araskog and seconded by Council Member Cooney to approve the requested extension until May 2025. The motion was carried unanimously, 5-0.**

3. [Waiver of Town Code Section 18-237 For Building Permit Extension for 1340 S Ocean Blvd. \(5:57:53\)](#)

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request.

Jeremy Sloane, with Sloane Construction Company, explained the purpose of the request.

Council President Lindsay called for public comments. No one indicated a desire to speak.

**A motion was made by Council Member Araskog and seconded by Council Member Moran to approve the requested extension until July 31, 2024. The motion was carried unanimously, 5-0.**

4. [Waiver of Town Code Section 18-237 For Building Permit Extension for 1095 N Ocean Blvd. \(6:00:05\)](#)

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request.

Jake Furlott, with Davis General Contracting Corporation, explained the purpose of the request.

Council Member Araskog complimented the contractor and was comfortable granting the extension.

Council Member Cooney agreed with Ms. Araskog but sympathized with the neighbors as the home had just been renovated.

Council President Lindsay called for public comments. No one indicated a desire to speak.

**A motion was made by Council President Pro Tem Crampton and seconded by Council Member Moran to approve the requested extension until March 31, 2025. The motion was carried unanimously, 5-0.**

5. [Waiver of Town Code Section 18-237 For Building Permit Extension for 100 Casa Bendita \(6:19:00\)](#)

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request.

Council President Lindsay called for public comments.

Danielle and Vahan Gureghian, 101 Casa Bendita, stated the home had been vacant for five years. She said that since the work started, Willoughby Construction had cleaned up the property, and she was extremely happy to see improvement. She wholeheartedly supported the request.

Maura Ziska, the attorney representing some of the neighbors on Casa Bendita, brought the condition and history of the property to the attention of the Town Council. She said in the past, some of the owners of Casa Bendita were doubtful that the work would be done. She thought this project needed to be controlled since it had lacked progress in the past six years.

Brian Willoughby, with Willoughby Construction, stated that his company was new to the project. He said previously, another permit holder did not move forward with the project. The client had the full intention of moving this project forward. Mr. Willoughby said that since being hired, they had taken steps to be neighborly by communicating with the adjacent property owners and addressing concerns.

Council Member Araskog thought this property should have gone to Code Enforcement a long time ago, and she told the contractor that the roof needed to be addressed right away. He said that was their intention. Council Member

Araskog only wanted to authorize a certain amount of work and thought it should be tied to a required timeline.

Genny Contreras, the owner's attorney, did not think the project should be further delayed. She reiterated that they were working with the neighbors. Mr. Willoughby said there were a multitude of things that had to be done to transition the home to a clean, mobilized construction site. She said 14 contracts with subcontractors had already been written. Mr. Bergman said a construction schedule was provided.

Council Member Crampton thought a deal was available, and Mr. Willoughby seemed to agree with Ms. Ziska. Council Member Crampton thought a Memorandum of Understanding based upon the conditions of the structure may be appropriate. Ms. Contreras responded and said the concerns of the neighbors were important, but it was important for the project to be approved so they could begin moving forward with making improvements to the property. Ms. Ziska thought a neighborhood construction agreement should be developed so those concerns could be addressed. Council Member Crampton was concerned about the lack of accountability associated with the project. Mr. Willoughby said that he was willing to comply with the requests being made.

Ms. Ziska further discussed the need for a memorandum of understanding. She said it could be done between now and next month.

Council Member Moran trusted that Town staff could provide details about where construction personnel could park. However, she thought accountability was missing, so she suggested adding conditions to the approval.

Council President Lindsay said there have been other projects where neglect has been an issue. In those situations, it was important for neighboring property owners to have legal representation and a say in how the project would move forward. She said a construction management agreement would be necessary.

**A motion was made by Council Member Araskog and seconded by Council Moran to approve the requested extension as requested, subject to mediation with town staff, attorneys, neighbors, and possibly Council President Pro Tem Crampton, to come up with a construction management plan, to be agreed upon by all parties, and if no plan is reached, this item would return to the Town Council meeting on June 12, 2024. The motion was carried unanimously, 5-0.**

6. [Waiver of Town Code Section 18-237 For Building Permit Extension for 346 Seabreeze Ave. \(6:04:48\)](#)

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request.

Owner Richard Stephenson explained the purpose of the request.

Council Member Cooney asked if the owner had requested a previous extension, to which Mr. Stephenson said no. Council Member Cooney stated that the site was untidy and requested that the owner keep it tidy.

Council President Lindsay called for public comments. No one indicated a desire to speak.

**A motion was made by Council Member Araskog and seconded by Council President Pro Tem Crampton to approve the requested extension until October 25, 2024. The motion was carried unanimously, 5-0.**

7. [Waiver of Town Code Section 18-237 For Building Permit Extension for 756 Hi Mount Road \(6:08:46\)](#)

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request.

Rene Alonso with Alonso and Associates explained the purpose of the request.

Council Member Cooney expressed concerns that a project was being changed after taking 3 years to build. He empathized with the neighbors and expressed his frustrations with the wealthy making unnecessary changes.

Council Member Moran asked about the challenges on Hi Mount Road. Mr. Alonso responded. Council Member Moran agreed with Council Member Cooney's concerns. She asked if anyone was checking the timeline when inspections were done.

Council President Lindsay called for public comments. No one indicated a desire to speak.

Council Member Araskog noted that everyone is tired of hearing about COVID, but residual effects remain.

**A motion was made by Council Member Araskog and seconded by Council President Pro Tem Crampton to approve the requested extension to November 30, 2025. The motion was carried unanimously, 5-0.**

XI. [ORDINANCES \(7:11:21\)](#)

A. **Second Reading**

1. Amending the Town of Palm Beach Comprehensive Plan Future Land Use Element Policy 2.3.6 related to the Private Group Use Future Land Use Designation.

[ORDINANCE NO. 005-2024: \(09:42\)](#) An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Adopted 2017 Town Of Palm Beach's Comprehensive Plan, Pursuant To Chapter 163, Florida Statutes; Amending The Goals, Objectives, And Policies Of The Comprehensive Plan Future Land Use Element Within The Comprehensive Plan; Amending The Town Of Palm Beach Comprehensive Plan Future Land Use Element Policy 2.3.6 Related To The Private Group Use Future Land Use Designation; Amending Policy 2.3.6 To Remove The Maximum Lot Coverage And To Allow, In Limited Circumstances, The Maximum Building Height To Be Three Stories With Town Council Approval; Providing For Severability; Providing For Repeal Of Ordinances In Conflict Herewithin; Providing For Codification; Providing An Effective Date.

Attorney Joanne O'Connor read Ordinance No. 005-2024 by title only.

President Lindsay called for public comments. No one indicated a desire to speak.

**A motion was made by Council President Pro Tem Crampton and seconded by Council Member Araskog to adopt Ordinance No. 005-2024 on second reading. The motion was carried unanimously, 5-0.**

2. Text Amendment amending Chapter 134, Zoning, to create a new Division 16.

CI Cultural Institutional District.

**ORDINANCE NO. 006-2024: (11:21)** An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, Article VI, District Regulations; Amending Sections 134-1482-134-1500. - Reserved, To Create A New Division 16. CI Cultural Institution District; Providing For Severability; Providing For Repeal Of Ordinances In Conflict Herewithin; Providing For Codification; Providing An Effective Date.

Attorney Joanne O'Connor read Ordinance No. 006-2024 by title only.

President Lindsay called for public comments. No one indicated a desire to speak.

**A motion was made by Council Member Cooney and seconded by Council Member Araskog to adopt Ordinance No. 006-2024 on second reading with the addition to Exhibit A, under Special Exception uses of “except existing buildings, buildings greater than 150 feet require special exception approval by the Town Council”, and the addition of the phrase “shall be patrons” in the section regarding the accessory café. The motion was carried unanimously, 5-0.**

3. Proposed Ordinance to Limit Time Extensions made to LPC

**ORDINANCE NO. 011-2024: (7:11:41)** An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 54, Historical Preservation, at Article III, Certificate of Appropriateness, Division 2, Procedures and Effect, Section 54-94, Duration of Approval, Time Extension, Denial of Application, Determination, Clarification, and Deferral, Subsections (1) and (2), by Providing for a Thirty-Day Administrative Extension of the Duration of Approval and Limiting the Number of Time Extensions to One; Providing for Severability; Providing for the Repeal of Ordinances in Conflict; Providing for Codification; and Providing an Effective Date.

Mr. Bergman read Ordinance No. 011-2024 by title only.

President Lindsay called for public comments. No one indicated a desire to speak.

**A motion was made by Council Member Cooney and seconded by Council President Pro Tem Crampton to adopt Ordinance No. 011-2024 on second reading. The motion was carried unanimously, 5-0.**

4. Proposed Ordinance to Limit Time Extensions made to ARCOM

**ORDINANCE NO. 012-2024: (7:13:04)** An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 18, Buildings and Building Regulations, at Article III, Architectural Review, Division 3, Procedure and Requirements, Section 18-203, Duration of Approval, Time Extensions, Denial of Application, Determination, Deferral, Subsections (1) and (2), by Providing for a Thirty-Day

Administrative Extension of the Duration of Approval and Limiting the Number of Time Extensions to One; Providing for Severability; Providing for the Repeal of Ordinances in Conflict; Providing for Codification; and Providing an Effective Date.

Mr. Bergman read Ordinance No. 012-2024 by title only.

President Lindsay called for public comments. No one indicated a desire to speak.

**A motion was made by Council Member Moran and seconded by Council President Pro Tem Crampton to adopt Ordinance No. 012-2024 on second reading. The motion was carried unanimously, 5-0.**

**XII. [ANY OTHER MATTERS \(7:14:07\)](#)**

Council Member Araskog asked the Town Council to consider moving the Town Council Development Review meeting from August 14, 2024, to August 12, 2024.

Director Bergman confirmed that modifications could be made to make the date acceptable for the Planning, Zoning, and Building Department.

**A motion was made by Council Member Cooney and seconded by Council Member Araskog to change the August Town Council Development Review Meeting Date from Wednesday, August 14, 2024, to Monday, August 12, 2024. The motion was carried unanimously, 5-0.**

**XIII. [ADJOURNMENT \(7:15:57\)](#)**

**A motion was made by Council Member Cooney and seconded by Council Member Moran to adjourn the meeting at 6:34 p.m. The motion was carried unanimously, 5-0.**

APPROVED:

\_\_\_\_\_  
Bobbie D. Lindsay, Town Council President

ATTEST:

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