

June 7, 2024

Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480

Re: LOI for 139 N County Rd - Zoning Case Number: ZON-23-020
Certificate of Appropriateness Number: COA-23-003

We are pleased to submit this letter of intent (“LOI”) and the accompanying documents and drawings in connection with our combination application for Certificate of Appropriateness, Development Review and Site Plan, Special Exception and Variance Approval (the “Application”) for the redevelopment of the Paramount property at 139 North County Road, Palm Beach, FL (the “Property”). An historic site survey of the property done in 1980 noted the building was designed by prominent New York architect, Joseph Urban, and that the theatre was at one time a prominent meeting place in the Town, but that the future of the building “is in great doubt.” The Property was designated as a local landmark by the Town of Palm Beach on September 14, 1982. Section 54-71 of the Town Code of Ordinances requires Landmarks Preservation Commission approval for exterior changes on a landmarked property, and Section 134-329 of the Town Code of Ordinances requires Town Council review and approval for site plan changes on properties that are not zoned single-family residential (the “Code”). We have updated this LOI to reflect our current proposal for the redevelopment of the Property (the “Project”), but we specifically incorporate all of our previous submittals, narratives, and the record of all proceedings before the Landmarks Preservation Commission and the Town Council into our current submittal.

The following is a listing of some of the significant revisions that were previously presented to the Town Council on March 13, 2024:

- The elimination of the proposed four (4) townhomes, and the maintaining of the existing parking lot.
- The creation of an entry way on the south façade of the existing theatre building.
- The addition of more landscape area and landscape material.
- The elimination of 18 of the previously requested 20 variances; only two (2) variances remain, one for a roof-top generator, and one for mechanical screening to exceed the height permitted by Town code.

As part of the redevelopment and revitalization of the Property and its historic structures, the Application proposes renovation and restoration of the existing landmarked Paramount Theatre, a 4-story mixed use building of 41,270 sf, that was completed in 1927. The historic theatre (“Theatre”) was a cultural hub of Palm Beach that fell into disrepair and suffered from an unsympathetic renovation completed in 1987. The Application proposes to repair and restore the exterior of the building to a state more consistent with Urban’s original vision, and to renovate the interior of the building in order to restore the Property’s status as an iconic Palm Beach landmark. The proposed exterior changes to the theatre building include the following:

- 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 North 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 theatre building, as shown on sheets A-15.3, C-7, and D-22.

The focal point of the newly renovated Theatre will be 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 maximum occupancy at any given time will not exceed 412 people. The renovated theatre area will also continue to host church services for up to 200 attendees. During the renovation, we will uncover and restore the beautiful faceted stained wood ceiling which is such a significant feature of the original Theatre building. Much of the space surrounding the exterior courtyard and at the northwest corner of the building will be developed as a new private club with a variety of entertaining spaces for members.

The existing surface parking lot on the south side of the Property will remain as it currently exists in terms of number of spaces and sizes of spaces and drive aisles; however, there will be an increase in the amount of landscape material to soften and provide shade for the existing hardscape areas, and provide a more attractive look for the new private club entry into the theatre building. As part of the addition of the new private club entry, some of the existing landscape area will need to be replaced with hardscape to allow for the entrance, and to meet ADA requirements; however, this “lost” landscaping is being more than offset with the addition of other areas of landscaping on the Property, which has resulted in an increase in the overall landscape area on the Property. The existing

ingresses and egresses on both Sunrise Avenue and Sunset Avenue will be maintained. Overall, our intention is to knit together our proposed design into the wonderfully eclectic and contextual neighborhood ‘fabric’ that is synonymous with the island of Palm Beach.

In response to comments we received at the March 13, 2024 and April 10, 2024 Town Council meetings, we are now proposing the following:

No Project Intensification of Use

At the outset, it is important to note that the Comprehensive Plan does not prohibit intensifications of use. Policy 2.4 of the Future Land Use Element seeks to “minimize,” not prohibit, intensifications of use patterns depicted on the future land use map and adopted through the Plan, and Section 134-2175(e) of the Town Code specifically contemplates intensifications of use or occupancy for landmarked commercial buildings such as the Paramount Theater. In addition, Section 134-2175(e) goes so far as to mandate that increased uses or occupancies within landmarked buildings are exempt from additional parking requirements. It is also important to recognize that the Town Council has approved many projects that have resulted in an “intensification of use” since the adoption of the Comprehensive Plan in 1989. Therefore, to now adopt the position that any intensification of use within a landmarked building violates the Comprehensive Plan, the Town would necessarily be taking the position that its zoning code is inconsistent with the Comprehensive Plan in violation of Florida law, and that many of the development order approvals the Town Council has issued since 1989 were illegal. Accepting this interpretation of the Comprehensive Plan would obviously produce the illogical and absurd result of rendering the Town’s land development regulations illegal. *See Diaz v. Jones*, 215 So. 3d 121 (Fla 1st DCA 2017)(A basic tenet of statutory construction requires that a statute be construed to avoid an unreasonable or absurd result).

Nevertheless, in an effort to proactively “de-intensify” the Property, WEG Paramount, LLC has agreed to limit occupancy at the Property in a way that has never been done at any point in the history of the Property. Currently, the existing Landmarked structure at the Property is permitted to have 1,123 occupants. This number was established using the Florida Fire Prevention and Florida Building Codes as summarized on the signed and sealed report from SLS Consulting, LLC, attached hereto as Exhibit “A.” The floor areas used in the SLS report are based on an internal scan of the building by Stantec Architecture, Inc., and reflect the most accurate depiction of the current configuration of the interior of the Theatre building.

Aside from the building and fire codes, there are no limitations on the number of people that can utilize the Property pursuant to any prior zoning approvals at the Property, to the Town Code, or the Comprehensive Plan. The existing concurrency determinations under the Town Code and Comprehensive Plan assume full occupancy of the existing uses at the Property, even if there is vacant retail space. In other words, the activation of empty

retail or office space does not constitute an intensification of use because the impacts of using those spaces were previously evaluated and approved by the Town. Section 30-74 of the Town Code provides that commercial development is exempt from concurrency if there is no intensification of use at the Property.

Given the existing, vested right to occupy the existing structure at the Property with 1,123 occupants, and given Lester Woerner's repeated statements that it is his intention to "de-intensify" the Property (despite there being no legal obligation for him to do so), we are now proposing the following limitations on occupancy within the private club area as conditions of approval of the Application:

Monday through Friday

7:00 AM to 11:00 AM – 150 people

11:00 AM to 2:00 PM – 250 people

2:00 PM to 5:30 PM – 150 people

5:30 PM to close – 412 people

Saturday

7:00 AM to close – 412 people

Sunday

No club operations before 11:00 AM

Church service for 200 people until 11:00 AM

11:00 AM to close – 412 people

The result is an application that does not result in an intensification of use.

In addition, in order to address comments by the Town Council regarding supplemental overflow parking (despite the fact that the Project meets all parking requirements through the principle of equivalency as set forth in the Project staff reports), Mr. Woerner has entered into an agreement to utilize the surface parking lot at 40 Coconut Row for supplemental valet parking on weekdays after 5 PM and on weekends. These 55 additional parking spaces result in a total of 101 parking spaces that are available to accommodate parking needs for the Project. This supplemental parking will require a variance because the location of the parking lot is more than 500 feet away from the Property. Our updated traffic submittal contains a detailed explanation and analysis of the supplemental offsite parking.

While we are willing to entertain the idea of offsite parking in order to assuage concerns about the impacts of the Project, it is important to emphasize that parking is vested at a total of 133 spaces under the principle of equivalency contained within Section 134-2175

of the Town Code. Therefore, there is no parking variance triggered by the implementation of the Project other than for the supplemental parking we are willing to provide as a practical parking solution above and beyond what is required by the Code. We have fully addressed parking, valet and traffic issues raised at the previous Town Council meetings under separate cover from our traffic engineer, Chris Heggen P. E., Kimley-Horn and Associates.

As previously mentioned, the Town Code at Section 134-2175(a) explains that parking credits are provided at the time an existing use or occupancy is changed to a new use or occupancy, with the applicant receiving credit for the number of parking spaces that would be required for existing use under the current code. Based on the existing, approved uses and occupancies, that number of spaces would be 133, which is our current vested parking number. Section 134-2175(e) also states that “for purposes of this section, a landmarked commercially zoned building is exempt from providing additional required off-street parking if increased occupancy or use is created by interior building improvements which created more gross leasable area.” While WEG Paramount has every right to intensify the landmarked property without providing additional parking, it is taking the dramatic steps of 1) providing additional off-site parking that is not required; and 2) dramatically de-intensifying the Property by limiting occupancy to a number far below what is currently allowed.

Finally, as requested by the Town Council at the previous meetings, we have submitted conceptual plans to maintain the existing exterior retail spaces. We are submitting these plans with the understanding that they would be evaluated separately in the event that our pending application is approved. To be perfectly clear, this application does not request formal approval of retail space at this time; instead, we are committing to provide retail frontage in the configurations shown on our conceptual retail plans as a condition of approval if our requests for club and church uses are approved. Similarly, in order to address complaints that the Property is being closed off to the public, the Applicant is willing to open the renovated Theatre building to the public for lectures or cultural events that would be scheduled for off-peak hours in order to avoid any traffic impacts. These events would include, but not be limited to, lectures, art shows, civic association events, movie screenings, or other Town Serving uses that would be beneficial to the neighborhood. These types of public uses have been requested by the Preservation Foundation and we would like to accommodate their request, but we would need the Town Council to agree that such public uses are permitted. The types and number of these public events could be negotiated through the approval of a Declaration of Use Agreement.

1. Criteria for Development Order Approval
 - A. Landmarks Preservation in accordance with Section 54-122 (New Construction).

- (a) The following aspects of new construction shall be visually compatible with the buildings and environment with which the new construction is visually related:
 - (1) The height, the gross volume, and the proportion between width and height of the façade;
 - (2) The proportions and relationships between doors and windows;
 - (3) The rhythm of solids to voids created by openings in the façade;
 - (4) The material used in the façade;
 - (5) The texture inherent in the façade;
 - (6) The colors, pattern and trim used in the façade; and
 - (7) The design of the roof.
- (b) Existing rhythm created by existing building masses and space between them should be preserved.
- (c) The landscape plan should be sensitive to the individual building and its occupants and needs and should be visually compatible with the buildings and environment with which it is visually related.
- (d) A new street façade should blend directionally with other buildings with which it is visually related; which is to say, when adjacent buildings have a dominant horizontal or vertical expression, that expression should be carried over in the new façade.
- (e) Architectural details should be incorporated as necessary to relate the new with the old and to preserve and enhance the inherent architectural characteristics of the area.

The Application proposes the renovation of the existing Paramount Building. The height, gross volume, and the proportion between width and height of the façades of the Paramount Building have been in existence for almost 100 years, and therefore have proven its compatibility with the surrounding neighborhood in regards massing, material, color, etc. The minor changes proposed to the exterior of the building seek to reintroduce original design concepts, and to add an elegant yet simple and compatible entry to the south façade. The landscape design for the for the Paramount Building proposes additional landscape area, and an increase in landscape material in new and existing landscaped areas. Large palms are also proposed for the public sidewalk areas adjacent to the Property that run along North County Road and Sunset Avenue, which will create a comfortable shaded walkway setting that will encourage pedestrian use.

B. Landmarks Preservation in accordance with Section 54-123 (Exterior Alterations).

- (a) The criteria set forth in section 54-122, if applicable, shall be considered in passing upon an application for exterior alterations; provided that the commission may consider the original design of the building and the buildings visually related to it and disregard alterations subsequently made thereto.
- (b) Exterior alterations shall not affect the architectural quality or historical character of the building.

The Application proposes modifications to the existing Paramount Building that are visually compatible with the height, gross volume, and the proportion between width and height of the façade of the adjacent buildings and environment. While these proposed modifications are minor with respect to their overall impact on the existing look and massing of the Theatre building, these modifications will restore Urban's original vision for the Property and allow for access to the existing parking area on the south side of the Property. The proposed alteration to the Theatre building that will allow for the private club members will occur at the south of the existing Theatre building, and will have limited visibility from public rights-of-way, because of the additional landscaping proposed. There will be little if any impact on the street presence of the existing Theatre building. It is also important to note that this façade has been modified over time. The proposed design alterations will be visually compatible with the height, gross volume, and the proportion between width and height of the façade of the adjacent buildings and environment. The rhythm created by the existing Paramount Building masses and space between them will be preserved and highlighted by the new building elements that are being done to restore the look of the building back to the architect's original design. Because of the approach to return the building to the original design where possible, and limiting the adjustments to the building to areas that do not change the look of the building from the adjacent streets, the proposed alterations do not affect the architectural quality or historical character of the building.

- C. Site Plan Review Approval in accordance with Section 134-329. Site Plan Review is required for changes in permitted use in Section 134-1107, which involve more than 2,000 square feet of building floor area in the C-TS zoning district, per Section 134-1112 of the Town of Palm Beach Code of Ordinances.
 - (1) Sufficiency of statements on ownership and control of the subject property and sufficiency of conditions of ownership or control, use and permanent maintenance of common open space, common facilities, or common lands to ensure preservation of such lands and facilities for their intended purpose and to ensure that such common facilities will not become a future liability for the town.
 - (2) Intensity of use and/or purpose of the proposed development in relation to adjacent and nearby properties and the effect thereon; provided, however,

that nothing in this subsection shall be construed as granting the town council the authority to reduce residential densities below that permitted by the use regulations in article VI of this chapter.

- (3) Ingress and egress to the property and the proposed structure thereof, with particular reference to automotive and pedestrian safety; separation of automotive traffic; traffic flow and control; provision of services and servicing of utilities and refuse collection; and access in case of fire, catastrophe or emergency.
- (4) Location and relationship of off-street parking and off-street loading facilities to thoroughfares and internal traffic patterns within the property, with particular reference to automotive and pedestrian safety, traffic flow and control, access in case of fire or catastrophe, and screening and landscaping.
- (5) Proposed screens and buffers to preserve internal and external harmony and compatibility with uses inside and outside the property boundaries.
- (6) Manner of drainage on the property, with particular reference to the effect of provisions for drainage on adjacent and nearby properties and the consequences of such drainage on overall town capacities.
- (7) Utilities, with reference to hook-in locations and availability and capacity for the uses projected.
- (8) Recreation facilities and open spaces, with attention to the size, location, and development of the areas as to adequacy, effect on privacy of adjacent and nearby properties and uses within the property, and relationship to communitywide open spaces and recreation facilities.
- (9) Such other standards as may be imposed by this chapter for the particular use or activity involved.
- (10) Height of commercial structures with reference to adjoining buildings, the effect on uniformity in height, and the general principle of retaining the low profile scale of commercial architecture.
- (11) Visible size and bulk. The proposed development should be so arranged that it minimizes the visible bulk of the structures to drivers and pedestrians on abutting roadways, the point of reference being the centerline of the abutting roadways, with the intent being to maintain visual impact of multistory buildings at the same relative level of intensity as a single-story building at the minimum required setback.

The request for the renovation and restoration of the Paramount Building meets all of the criteria for Site Plan Approval set forth in Section 134-329 that apply to this Application. The warranty deed for the property establishes ownership of the Property belonging to WEG Paramount LLC, which has the authority to files this

Application. Furthermore, the proposed site plan will not adversely affect the public interest, and the existing theatre building and proposed club use for a portion of the Property will be in harmony and compatible with the existing commercial and office uses on the property, and not in conflict with adjacent residential uses in the surrounding neighborhood. Most of the adjacent properties in the neighborhood were developed with residential units in excess of 2 stories, and the massing of the existing Paramount building will essentially remain unchanged, and therefore compatible with the surrounding neighborhood. As stated previously, the existing ingress and egress on Sunrise Avenue and Sunset Avenue will be maintained. Pedestrian walkways will be upgraded to promote walkability along the perimeter of the Property, and within the Property itself. The design of the traffic circulation on the Property, the parking and the pedestrian walkways have been carefully studied by our civil and traffic engineers in order to create a safe environment for both vehicular and pedestrian uses on and adjacent to the Property. The stormwater drainage system and utilities will be upgraded to meet all Town requirements. Open spaces within the Paramount Building portion of the Property, including the enclosed courtyard, are being maintained. The height of the existing Paramount Building will be maintained, and not altered. The Paramount Building will remain significantly lower than the adjacent Sun and Surf Condominium buildings, and completely compatible with the heights of the other nearby residential structures. The design of the Project maintains appropriate massing and rhythm of buildings along the adjacent roadways in order to ensure compatibility with the surrounding area in terms of size and architectural style.

D. Special Exception in accordance with Section 134-229:

I. Criteria:

- (1) The use is a permitted special exception use as set forth in article VI of this chapter.
- (2) The use is so designed, located and proposed to be operated that the public health, safety, welfare and morals will be protected.
- (3) The use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.
- (4) The use will be compatible with adjoining development and the intended purpose of the district in which it is to be located.
- (5) The use will comply with yard, other open space, and any special requirements set out in article VI for the particular use involved.
- (6) The use will comply with all elements of the comprehensive plan.
- (7) The use will not result in substantial economic, noise, glare, or odor impacts on adjoining properties and properties generally in the district.

- (8) Adequate ingress and egress to property and proposed structures thereon and off-street parking and loading areas will be provided where required, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
- (9) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, and economic impact shall be compatible and in harmony with properties in the district.
- (10) Location, availability and compatibility of utility service for the use shall be satisfactory to ensure health and safety.
- (11) Refuse and service areas for the use shall not adversely affect automotive and pedestrian safety and convenience, traffic flow and control, or access in case of fire or catastrophe.
- (12) In all districts except the C-OPI district, and also with the exception of hotel, motel and timeshare uses, the proposed special exception use will not attract the principal portion of its customers/clients from off-island locations. The applicant shall submit evidence satisfactory to the town council that not less than 50 percent of the customers of the proposed use will be town persons. Evidence submitted in support of this contention shall include credible data or information suitable for review by the town to determine the credibility and the appropriateness of the applicant's conclusion. The submittal shall include a description of the types of information used and the methodology employed to arrive at the conclusion. Information used shall include, but shall not be limited to, lists of customer/client addresses or certification thereof by an independent certified public accountant approved by the town, market studies prepared by independent professional firms, or data from similar operations under the control of the applicant. The town may in the future require the applicant to demonstrate to the satisfaction of the town council that the special exception use is continuing to be town-serving.
- (13) If historic/specimen trees are located on the subject property, the location of said historic/specimen trees shall be identified on a signed and sealed survey. In addition, adequate landscaping, screening and barricade protection of historic/specimen trees shall be demonstrated to be provided as required in this chapter.
- (14) The proposed use will not place a greater burden than would be caused by a permitted use on municipal police services due to increased traffic or on fire protection services due to the existence of or increased potential for fire/safety code violations.

II. Special Exceptions Requested:

- a. Request for Special Exception for a private club use in the C-TS zoning district, per Section 134-1109(a)(3) of the Town of Palm Beach Code of Ordinances.
- b. Request for Special Exception for outdoor café seating in the C-TS zoning district with 50 outdoor seats on the ground level + 62 outdoor seats on the second level of the private club = total 112 outdoor seats, per Section 134-1109(a)(14) of the Town of Palm Beach Code of Ordinances.
- c. Request for Special Exception with Site Plan Review for permitted uses over 3,000 square-feet of gross leasable area (GLA) in the C-TS zoning district.
- d. Request for Special Exception for on-site shared parking, per Section 134-2182(b) of the Town of Palm Beach Code of Ordinances.
- e. Request for Special Exception for supplemental off-site shared parking, per Section 134-2182(d) of the Town of Palm Beach Code of Ordinances.
- f. Request for Special Exception for a modification to a previously approved Special Exception for churches, synagogues or other houses of worship (SE #27-93) that allowed for 1,800 first floor space and 63 seats to be used for church purposes, to now allow for the theatre building to have space for 200 seats to be used for religious purposes.

III. Justification for Special Exceptions Requested:

All of the Special Exceptions being requested are permitted within the C-TS zoning district, and the location of these uses within the existing building will ensure that they are appropriately located as to protect surrounding properties from any adverse impacts. The private club use will enable the Property owners to ensure that club membership exceeds the Town serving requirement set forth in Chapter 134 of the Town Code. The club use is also ideal for a portion of Town that experiences high traffic volumes during peak traffic hours, as the demand for club uses is very low during these times. In addition, we have agreed to limit occupancy during the daytime hours in order to ensure there is no negative impact to traffic.

This has been demonstrated by another club use in the C-TS zoning district, Carriage House, which the Town Council recently approved for additional members because there has been so little impact on daytime traffic.

The church use as been in existence at the Property since the 1990s, and while there are currently no restrictions on the time church services can occur, we are also willing to limit these uses to Sunday mornings in an effort to further ensure there is no increased traffic during peak weekday traffic volumes. The church use has proven to be compatible with the surrounding neighborhood at all times during its existence. The proposed outdoor café seating is limited to club members and will be located within the existing interior courtyard in order to minimize any noise or odors that could be experienced from outside the Property. Existing utility service will be maintained and enhanced, and the proposed refuse enclosure has been designed to ensure that it will not be seen or smelled from adjacent properties. Staff has opined that a special exception to allow permitted uses to exceed 3,000 square-feet in size is needed, but we disagree. A special exception is only required for permitted uses that are greater than 3,000 square feet, because those uses have been deemed non-conforming. We are requesting separate special exceptions for the club and church uses we are proposing, so there is no need for an additional special exception for any permitted uses. No retail is being formally requested by this application; we are simply providing a baseline for future consideration by the Town Council if our Application is approved. Nevertheless, we are requesting this special exception over our objection and in an abundance of caution so that our application is not further delayed. The special exception for the on-site shared parking is to allow the existing parking on the property to be used by both the Church and the Private Club has been approved for numerous commercial properties in Town where, as here, the uses will never be conducted at the same time and there will never be a conflict between the uses requesting shared parking. The special exception for the supplemental off-site shared parking is being requested to provide supplemental offsite parking even though, as explained herein, such parking is not required pursuant to Section 134-2175(a) and (e). As mentioned previously, the Project meets the Town's code requirements for on-site parking, but, in an abundance of caution, we are providing overflow parking beyond what is required by the Code in order to ensure that no negative impacts to Town parking facilities will result from the approval of the club. Finally, the modification of the previously approved special exception for church use is supported by the project meeting the parking requirements for this expanded use, which is a very periodic or occasional use within the existing theatre building.

E. Variances in accordance with Section 134-201(a):

I. Variance Criteria:

- (1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.
- (2) The special conditions and circumstances do not result from the actions of the applicant.
- (3) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.
- (4) Literal interpretation of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.
- (5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
- (6) For granting of a variance to sections 134-387 or 134-390 through 134-392, pertaining to the regulation of nonconforming uses, the following additional findings shall be made pertaining to the nonconforming use for which the variance is requested:
 - a. It is the continuance of a unique hotel or residential use that has, for at least 15 years proven compatible with the surrounding uses; and
 - b. Neither rezoning to a district which would allow the use, nor inclusion of the subject use as a permitted or special exception use in the district would act to achieve the preservation of the subject use without opening the possibility of the incursion of uses incompatible with the immediately surrounding area and, further, such variance shall:
 1. Be granted only for the continuation of the same hotel or residential use; and
 2. Require the applicant to submit a declaration of use limiting the utilization of the property for which the variance was granted to the same use as that existing at the time the variance was granted.
- (7) The grant of the variance will be in harmony with the general intent and purpose of this chapter, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare. In granting any variance, the town council may prescribe appropriate conditions and safeguards in conformity with this chapter. Upon granting a variance the town council may require the landowner to provide a declaration of use agreement which shall be recorded in the public records to ensure continuing compliance with the town council imposed conditions of such

grants. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

II. Variances Requested:

1. Request for Variance for one (1) generator located on the roof of the theatre building per Section 134-1729(2)(j) of the Town of Palm Beach Code of Ordinances.
2. Request for Variance for an open-air mechanical enclosure located on the roof of the theatre building at 114 inches and 98 inches above the roof in lieu of the 48 inches maximum permitted in Section 134-1607(1) of the Town of Palm Beach Code of Ordinances.
3. Request for supplemental off-site shared parking to allow for supplemental parking to be used at a location that is approximately 2,156 feet from the subject site in lieu of the maximum 500-foot distance permitted in Section 134-2182(d)(2) of the Town of Palm Beach Code of Ordinances (See Exhibit "B," attached)

III. Justification for Variances Requested:

The variances for the roof-mounted generator and height of the roof mechanical enclosure required to screen the roof-mounted equipment will allow for the relocation of the equipment away from the perimeters of the Property, which would have a greater impact on our neighbors, and the equipment will be screened from view, so the roof location for the equipment is the most logical place. This was also a request from Town staff in the design of the Project. The legal hardship for this request is that the equipment cannot be manufactured at a height that would meet the outdated requirements of the Code, and it is important to recognize that similar variance requests are routinely granted by the Town Council for this type of equipment.

The request for variance to exceed the maximum distance for supplemental off-site shared parking is justified given its anticipated use being extremely rare, and the use of a valet parking service to park vehicles in the supplemental parking area. Again, this supplemental parking is not required by code, and is being offered in a practical and proactive approach to address any potential situation where the on-site parking is not sufficient, which we anticipate as being an extremely rare event. The parking will only be used after 5:30 PM on weekdays to ensure that there is no conflict between the offsite valet parking and the office uses which take place earlier in the day. The hardships are that there is no off-site parking available that is within 500 feet of the property and that the Town Council has indicated it

will not allow us to use our legally vested parking rights in order to accommodate uses that are exempt from parking requirements under Section 134-2175(a) and (e) of the Code.

2. Site History

The Paramount Theatre building was designed by noted architect Josef Urban in 1926. Urban's other notable works in Town include the Bath and Tennis Club and Mar-a-Lago. According to the Department of State's Master Site File ("Master Site File"), the theatre officially opened on January 9, 1927, with the screening of the American classic film "Beau Geste." At this time, there were 1080 orchestra seats and 26 boxes containing three ranks of seating. The remainder of the building was designed for 20 retail shops facing the street, 13 office spaces, and second-story apartments. As summarized in the Landmarks Designation Report, the main structure at the Property was "designed as a complete cultural center...[with] a superb blend of cinema, residences, restaurants, commercial shops and offices.

From the time of its opening until 1968, the Paramount Theatre was the cultural epicenter of the Town, hosting live stage productions and movie screenings. According to a 1982 article in the Palm Beach Post, the theatre showcased personalities including Will Rogers, W.C. Fields, and Babe Ruth. During the 1930s and '40s, Big Bands featuring Duke Ellington and Glen Miller would grace the stage. In later years, the Theatre would host rock acts such as Electric Light Orchestra, Ted Nugent and The James Gang, as well as comedy acts like The National Lampoon Touring Show. During the 1970s, jazz and blues acts like Dave Brubeck and B.B. King would perform.

The Theatre remained profitable for its first 30 years. However, during the 1960s, ownership began to raise concerns that the Theatre use was beginning to lose its economic viability. In 1968, the Theatre closed its doors for good.

Few meaningful alterations were made to the Property prior to its closure in 1968. Our research indicates that limited maintenance was done during this period, with roofing work and renovation of the exterior second-story terraces being examples of the limited extent to which owners of the Property were investing capital on its upkeep. Then, in 1973, an application was filed to demolish the Theatre building and to replace it with shops and offices. Although we have found many references to this development application, we have been unable to locate the application and related plans despite our records requests to the Town.

After the adoption of the Town's Landmarks ordinance in 1979, the Property became a topic of conversation as a candidate for historic designation. During this time, the Property owner agreed to voluntarily accept the landmarking of the Property on the condition that the Town accept an adaptive reuse plan to be presented to ARCOM and LPC. Handwritten notes on the LPC Property File Form provide as follows: "voluntary

designation a[s] part of the Agreement made between the owners and the Town Council in the “adaptive reuse package.”

The “adaptive reuse package” was prepared by architect Eugene Lawrence and Peter Van Andel of the Gunster law firm. There were two alternative proposals for the Theatre building under the adaptive reuse package: one consisting of a 200-seat restaurant and a 250-seat theatre, and one consisting of the conversion of the Theatre into office and retail space. Famed architect John Volk participated in the preparation of the as built drawings for the Theatre building at this time. The adaptive reuse plan also called for development of the eastern portion of the Property, replacing then-existing tennis courts with a new multi-story structure consisting of underground parking with office and retail uses above.

The adaptive reuse plan was approved by both ARCOM and LPC in 1979. Members of the LPC who voted in favor of the adaptive reuse plan included Robert Ballinger and John Volk.

Although the adaptive reuse plan never came to fruition, it was clearly the basis for the agreement to voluntarily designate the Property as an historic Landmark. And while the plans were well received by both ARCOM and LPC, economic conditions during the early 1980s prevented the ambitious plans from being implemented. Our original submittal sought to attempt to finally implement restoration, redevelopment and adaptive reuse plans that were fifty years in the making; however, we have revised the scope of the Project to maintain the existing parking area, and simply focus on the restoration and adaptive reuse of the existing theatre building, and restore it to its former grandeur.

Sincerely,



James M. Crowley

JMC/jl

Exhibit “A”

The background of the page is a light gray architectural wireframe of a building's facade, showing a series of parallel lines that create a sense of depth and perspective. The lines are thin and evenly spaced, forming a grid-like structure that recedes into the distance.

OCCUPANT LOAD EVALUATION – PARAMOUNT THEATER

Paramount Theater Building
139 N County Rd
Palm Beach, FL 33480

Prepared For:
Stantec Inc
2 S Biscayne Blvd #1670
Miami, FL 33131

Date of Report
May 17, 2024

SLS 5448.1

Introduction

Stantec, Inc (Miami) has retained SLS Consulting, to conduct an occupant load evaluation of the existing Paramount Theater building, located at 139 N County Road in Palm Beach, Florida. The occupant load calculation and evaluation has been conducted in accordance with the requirements of the Florida Building Code and Florida Fire Prevention Code.

Background

The Paramount Theater Building was originally constructed in 1926 as a multi-story, mixed-use building containing an Auditorium space, Retail spaces and Office spaces. It is the understanding of SLS Consulting that the existing building's interiors have been modified over the years. This occupant load calculation and evaluation is based on as-built information provided by Stantec, Inc. which most accurately reflect the current layout of the building's interior spaces and egress facilities.

The existing building is protected throughout by an automatic sprinkler system (in accordance with NFPA-13), and a fire alarm system (in accordance with NFPA-72).

Applicable Codes

The applicable codes used for occupant load calculation and evaluation:

Building	2023 Florida Building Code, 8th Edition, Based on 2021 International Building Code as amended by Florida
Fire	2023 Florida Fire Prevention Code, 8th Edition, Based on 2021 NFPA 1 & 101 as amended by Florida

Building Occupancies

The following are the primary occupancies for the Paramount Theater Building:

- Assembly (A-3) – Church worship space
- Business (B) – Office spaces for multiple tenants
- Mercantile (M) – Retail spaces for multiple tenants

Occupant Load Factors

The following occupant load factors (per Table 1005.4 (FBC) and Table 7.3.1.2 (FFPC)) shall be used in determining the calculated occupant load of each space within the Paramount Theater building:

Assembly (A-3) – Courtyard and Outdoor Terraces 15 nsf / person

Assembly (A-3) – Church Sanctuary 30gsf / person (per the applicable codes, the occupant load factor is 15 nsf / person however, it is the understanding of SLS Consulting that occupant loading at the church space shall be based on 30 gsf/person as this building area was originally permitted for Mercantile use)

Business (B) – Offices 150 gsf / person

Mercantile (M) – 30 gsf /person (Level 1) and 60 gsf / person (Level 2)

Storage (S-2) – 300 gsf / person

Summary of Calculated Occupant Loads

The following occupant loads were calculated based on the above:

Level 1 = 740 occupants

Level 2 = 372 occupants

Mezzanine = 11 occupants

Total Building = 1,123 occupants

(Drawings at end of report provide graphic demonstration of occupant load calculations)

Evaluation

In accordance with the current applicable codes, the existing Paramount Theater building has a calculated occupant load of 1,123 occupants.

Per the drawings of the existing building, the Paramount Theater building is served by 17 exits at grade and 7 exit stairways at the upper level. Based on this, SLS Consulting concludes the existing egress facilities within the existing Paramount Theater building meet or exceed the minimum egress facilities required by the applicable codes for safe egress of 1,123 occupants.

SLS Consulting further concludes that, provided occupant loads proposed (within any of the spaces in the building) are less than or equal to the calculated occupant loads for each respective space in the existing design (regardless of any time periods of partial or limited occupancy proposed by the building owner), the impact would still be compliant with code as it would not represent an increase in the occupant loads currently assigned to the existing building in accordance with the applicable codes.

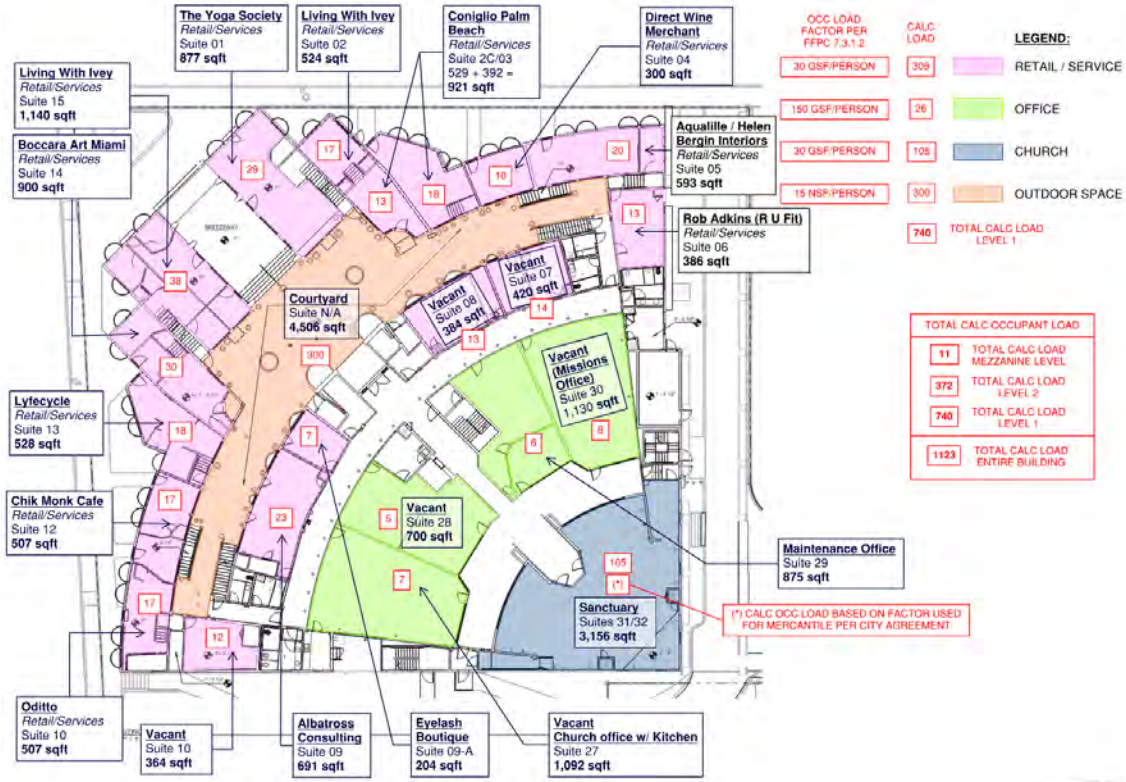
If you have any questions regarding the information included in this report, please do not hesitate to contact us.

Prepared by:

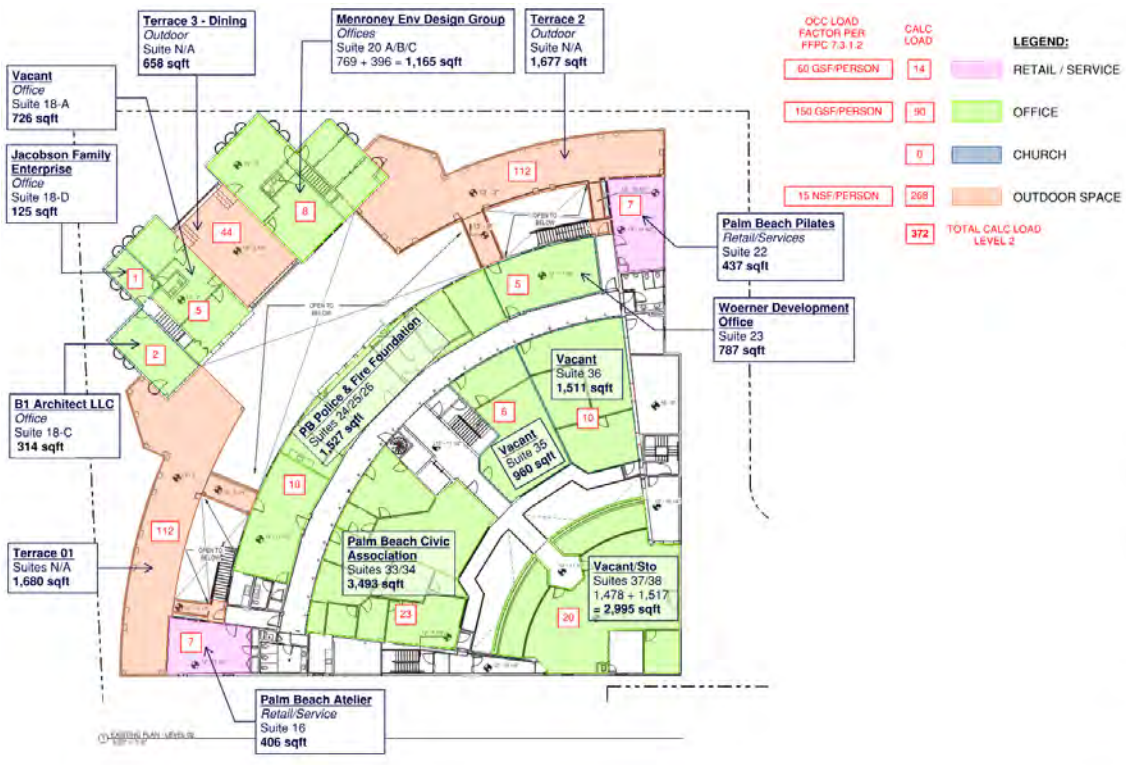
A handwritten signature in black ink that reads 'Michael Sheehan'. The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael Sheehan, PE
Fire Protection Engineer
SLS Consulting, Inc

PARAMOUNT THEATER BUILDING
 OCCUPANT LOAD EVALUATION & REPORT
 MAY 17, 2024 | SLS 5448.1



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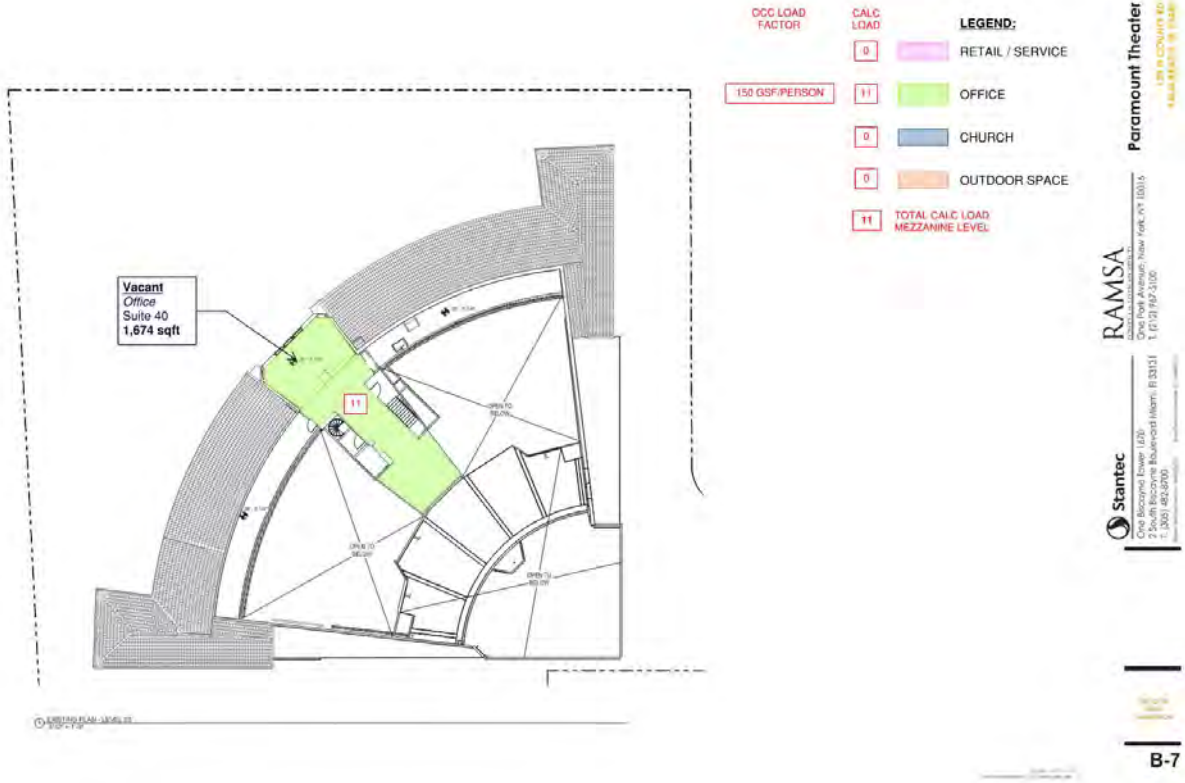




EXHIBIT B
 Paramount Palm Beach
 KH #241020000
 Distance to Offsite Valet