

TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on June 12, 2019

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order June 12, 2019, at 9:30 a.m. in the Town Council Chambers. On roll call, all of the elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Deputy Clerk Ruderman gave the invocation.

Council President Moore led the Pledge of Allegiance.

III. COMMENTS OF MAYOR GAIL L. CONIGLIO

Mayor Coniglio welcomed Carolyn Stone to the Palm Beach team, and congratulated her on receiving an award of Outstanding Athletic Director of the entire country.

Mayor Coniglio commented on 70 Middle Road, whose owners were to come before the Town Council with their experts to describe the timeline and renovation progress. She asked that this be put into abeyance based on Code Enforcement action being delayed until August and the fact that progress was being made. She proposed to let staff monitor and bring back to Council if needed. Consensus of the Town Council was to grant the Mayor's request.

IV. COMMENTS OF TOWN COUNCIL MEMBERS AND DIRECTOR OF PLANNING, ZONING AND BUILDING

Council Member Lindsay wanted the public to be aware that a fertilizer ordinance had gone into effect the previous day and the Town was asking all residents and businesses to refrain from applying fertilizers containing phosphorus and nitrogen through

September 30, to prevent them washing into waterways during the summer. A plastic bag ordinance had been passed which would go into effect December 12, 2019.

Council Member Araskog indicated she had received several emails regarding the pilot beach program and asked it be paused until next month and be discussed under “Any Other Matters” today. Town Manager Blouin indicated he was not prepared to discuss parking complaints today and would like that to be on next month’s agenda. Council Araskog noted restaurants had started using paper straws and most had banned plastic flatware, and asked that be discussed next month. Council Member Crampton thanked Council and staff for their work on employee pensions and salaries, and for making good decisions that would benefit the Town for years to come. Council Member Zeidman commented the employees and Town Manager deserved thanks, and stated the Council appreciated the employees. She pointed out this would be reviewed annually going forward. Council Member Araskog also commented the directors, residents, and employees all needed thanks.

V. COMMUNICATIONS FROM CITIZENS – None

VI. APPROVAL OF AGENDA

The following changes were made to the agenda.

Item VII Resolutions - rollover from the previous day of Resolution 46-2019 relating to Underground Utilities Task Force.

Item VIII.B.1.a. Z-19-00174 Variance for 254 N. County Road was deferred to the August 14, 2019 Development Review Committee Meeting.

Motion was made by Council Member Araskog, and seconded by Council Member Crampton, to approve the agenda as just amended by Mr. Bergman. On roll call, the motion carried unanimously.

Deputy Clerk Ruderman swore in all those who would be providing testimony, and again throughout the meeting as necessary.

VII. RESOLUTIONS

A. RESOLUTION NO. 47-2019 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions For 8 South Lake Trail And Stating That The Subject Property Meets The Criteria Set Forth In Chapter 54, Article V Of The Code Of Ordinances Of The Town Of Palm Beach, Relating To Landmarks Preservation And Titled “Tax Exemptions.”

Emily Stillings provided details pertaining to the property.

Public comments – none

Motion was made by Council Member Lindsay, and seconded by Council Member Araskog, to adopt Resolution No. 47-2019. On roll call, the motion carried unanimously.

VIII. DEVELOPMENT REVIEWS

A. Time Extensions and Waivers

1. Waiver of Town Code Section – For Extended Working Hours at Bradley Place Chase Bank, 285 Sunrise Avenue

Assistant Director of Planning, Zoning and Building Wayne Bergman spoke on behalf of the applicant, who was unable to attend, requesting a waiver of Section 42-199 to do interior work on the bank. Staff recommended approval.

Council Member Araskog confirmed there was no parking issue.

Motion was made by Council Member Araskog, and seconded by Council Member Crampton, to approve waiver of Town Code Section 42-199 for extended working hours at Bradley Place Chase Bank, 285 Sunrise Avenue, as requested. On roll call, the motion carried unanimously.

B. Variances, Special Exceptions, and Site Plan Reviews

1. New Business

- a. Z-19-00174 VARIANCE(S) Zoning District: R-C Medium Density Residential The application of Zachary Potter, Applicant, relative to property located at 254 N COUNTY RD, legal description on file, is described below. Request for a variance to allow a swimming pool on the north side of the property with a 10- foot street side setback in lieu of the 15 feet required and a 2.5- foot north side yard setback in lieu of the 10 feet required. Also a request for the required 6 foot wall along North County Road to be set back 18 inches in lieu of the 3 foot minimum setback required. [Applicant's Representative: Maura Ziska Esq]

This item was deferred to the August 14, 2019 Town Council Development Review Meeting

- b. Z-19-00194 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S) Zoning District: C-TS Town- Serving Commercial The application of Bradley Park Owner LLC (Ned Grace, Manager), Applicant, relative to property located at **280 SUNSET AVE SUITE: SITE**, legal description on file, is described below. The applicant is requesting special exception approval for a

proposed restaurant of 2,998 square feet (indoor area) and 184 seats at The Bradley Park Hotel. The project will include 118 interior restaurant seats (of which 20 are bar seats) and 66 courtyard seats (of which 8 are bar seats) for a total of 184 lunch and dinner seats. Eighteen of the restaurant seats will come from the principle of equivalency from the former C'est Si Bon Gourmet Grocery retail space. The applicant is also requesting approval for valet parking at lunch and dinner. Requested hours of operation are 7:00am to 11:00pm, seven days a week. In addition to a special exception for a restaurant change of ownership, the following associated approvals are requested: A variance from Code Section 134-2176(9), schedule of off-street parking for restaurants. The new restaurant proposes 184 seats, which would require 53 parking spaces (after subtracting 18 seats available from the principle of equivalency); 30 parking spaces will continue to be provided pursuant to an existing off-site parking agreement, which formerly served Trevini Ristorante. A variance is requested for 23 parking spaces. A variance from Code Section 134-2373(10) to provide a sign on the pergola awning at the new hotel entrance. A special exception for 66 outdoor seats in the courtyard, per Code Section 134- 1111(a). A special exception for 30 shared off-site required off- street parking spaces, per code Section 134-2177(3). Site plan review, including for a generator with an output capability of 250 kW, per Code Section 134-1729(2)(c). The proposed generator will be internal to the hotel building. [Applicant's Representative: James M. Crowley, Esq.]

No ex- parte was declared.

Attorney Crowley provided details of the project.

Zoning Manager Castro provided Staff comments.

Kimley-Horn and Associates representative Chris Hagan explained the parking plan.

Police Chief Caristo discussed the parking pattern.

Attorney Crowley provided details on valet, awnings, logos, and seats.

Town Attorney Randolph advised monitoring should be included in the motion.

Motion was made by Council Member Crampton, and seconded by Council Member Zeidman, to grant Special Exception Z-19-00194 based upon the finding that such grant will not adversely affect the public interest, and the applicable criteria set forth in

Section 134-229 of the Town Code have been met, subject to the condition that the effects of the valet operation are monitored by the police and by an engineering firm and that the owner returns to the Council in 60 days to make a report and subsequent action taken as appropriate. On roll call, the motion carried unanimously.

Motion was made by Council Member Crampton, and seconded by Council Member Zeidman, to grant Variance Z-19-00194 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, with the same conditions as were stated with respect to the Special Exception. On roll call, the motion carried unanimously.

Motion was made by Council Member Crampton, and seconded by Council Member Zeidman, to approve Site Plan Z-19-00194 based on the finding that the approval of the Site Plan will not adversely affect the public interest, and that the Council certifies the specific zoning requirements governing the individual use have been met, and that satisfactory provision and arrangement have been made concerning Section 134-329 items 1 through 11, and subject to the condition that we will review the need for and the configuration of any awning that is expected and that the location of the generator is also hereby approved, and that the awning will be brought back to the July 10, 2019 Town Council meeting. On roll call, the motion carried unanimously.

At this point in the meeting Town Manager Blouin and Deputy Town Manager Jay Boodheshwar addressed the Council regarding street parking.

- c. Z-19-00195 SITE PLAN REVIEW WITH VARIANCE(S) Zoning District: R-C Medium Density Residential The application of Mark and Heather Flaherty, Applicant, relative to property located at **145 PERUVIAN AVE SUITE:102**, legal description on file, is described below. The applicants, owners of Unit 102 in the Regency Six Condominium, are proposing to modify the outdoor space immediately adjacent to their ground floor unit to make the space more usable and aesthetically pleasing by replacing some sod and shrubs with sand-set travertine pavers and new shrubs. The existing tree in front of the unit will also be replaced. The following variances are requested: A variance from Code Section 134-948(11)d., for overall landscaped open space of 22.6% in lieu of the 26.1% existing and the minimum of 35% landscaped open space required by the Code. A variance from Code Section 134-948(11)e, for front yard landscaped open space of 33.2% in lieu of the 46% existing and the minimum of 35% front yard landscaped open space required. [Applicant's Representative: James M. Crowley, Esq]

Attorney Crowley provided details of the project.

Zoning Manager Castro provided Staff comments.

Ex-parte communication was declared by Council Member Lindsay and Council President Moore.

Attorney Ziska spoke on behalf of Earl Hollis, 145 Peruvian Avenue, that he was happy to hear the tree would not be removed.

Earl Hollis, 145 Peruvian Avenue, voiced concerns about the trees and hardscape.

Discussion took place for clarification on the trees and hardscape.

Motion was made by Council Member Araskog, and seconded by Council Member Lindsay, to defer Z-19-00195 to the July 10, 2019 Council meeting. On roll call, the motion carried unanimously.

Council recessed at 11:24 a.m. and reconvened at 11:30 a.m.

- c. Z-19-00196 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S) Zoning District: R-B Low Density Residential. The application of Gerald Magrini, Applicant, relative to property located at **135 CHILEAN AVE**, legal description on file, is described below. Special Exception and Site Plan Review to allow the renovation of a one-story, single family house, demolition of a pool house, and construction of a 679 square foot guest house on a non-conforming lot, comprised of a portion of a platted lot, which is 58 feet in width in lieu of the 100-foot depth required in the R-B Zoning District. The proposed renovation and demolition exceed 50% of the cubic volume. In connection with the renovation, the following variances are being requested: 1. Section 134-893(7)a: Request to expand the existing house with a west side yard setback of 5.2 feet in lieu of the 12.5-foot minimum required in the R-B Zoning District. 2. Section 134- 893(7)a: Request to expand the existing house with an east side yard setback of 6.8 feet in lieu of the 12.5-foot minimum required in the R-B Zoning District. 3. Section 134-893(5)a: Request to expand the existing house with a front yard setback of 24.6 feet in lieu of the 25-foot minimum required in the R-B Zoning District. 4. Section 134-893(9)a: Request to construct a guest house on the north side of the property with a rear yard setback of 6 feet in lieu of the 10-foot minimum required in the R-B Zoning District. In addition to the zoning requests, the Applicant is seeking relief from the Standards Applicable to Public Rights-of-Way and Easements with the Town of Palm Beach, thereby allowing the existing driveway to be 2.5 from the edge of the east property line in lieu of the 6-foot requirement. [Applicant's Representative: David E. Klein Esq] [Architectural Review Commission Recommendation: Implementation of the proposed special exception with site plan review and variance(s) will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Review Commission approved the project with a condition relating to the architecture. Carried 7-0]

No ex-parte was declared.

Attorney Klein provided details of the project.

Zoning Manager Castro provided Staff comments.

Public Comment – none

Motion was made by Council Member Lindsay, and seconded by Council Member Araskog, to grant Variance Z-19-00196 and find in support thereof that all the criteria applicable to this application set forth in Section 134-201(a) items 1 through 7 have been met, and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the Town that ensures a recorded easement will be granted if necessary to underground utilities in the area. On roll call, the motion carried unanimously.

Motion was made by Council Member Lindsay, and seconded by Council Member Araskog, to approve Site Plan Z-19-00196 based on the finding that the approval of the site plan will not adversely affect the public interest and that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement has been made concerning Section 134-329 items 1 through 11. On roll call, the motion carried unanimously.

Attorney Klein requested relief to the right-of-way manual curb cut provision.

Zoning Manager Castro explained the provision.

Motion was made by Council Member Araskog, and seconded by Council Member Lindsay, to approve appeal of the right-of-way decision for Z-19-00196 to grant the relief requested. On roll call, the motion carried unanimously.

- d. Z-19-00197 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S) Zoning District: R-B Low Density Residential The application of Dan and Karen Swanson, Applicant, relative to property located at **205 VIATORTUGA**, legal description on file, is described below. Special Exception with Site Plan Review to allow the construction of a new 13,523 square foot, two-story single-family residence on a lot that is 77 feet in width in lieu of the 100 foot minimum required R-B Zoning District. The following variance is being requested in conjunction with this application: 1) Allow the pool cabana to be separated from the main house by 19.25 feet in lieu of the 25 foot minimum separation required when calculating the angle of vision. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed special exception with site plan review and variance(s) will not cause negative architectural impact to the subject property. Carried 7-0. The Architectural Review Commission approved the architectural portion of the project with conditions

relating to the architecture and deferred the landscape and hardscape plans for one month. Carried 7-0]

Ex-parte communications were declared by Council Member Moore and Council Member Araskog.

Attorney Ziska provided details of the project.

Zoning Manager Castro provided Staff comments.

Motion was made by Council Member Araskog, and seconded by Council Member Zeidman, to grant Variance Z-19-00197 and find in support thereof that all the criteria applicable to this application set forth in Section 134-201(a) items 1 through 7 have been met, and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the Town that ensures a recorded easement will be granted if necessary to underground utilities in the area. On roll call, the motion carried unanimously.

Motion was made by Council Member Araskog, and seconded by Council Member Lindsay, to grant Special Exception Z-19-00197 based upon the finding that such grant will not adversely affect the public interest, and the applicable criteria set forth in Section 134-229 of the Town Code have been met, and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the Town that ensures a recorded easement will be granted if necessary to underground utilities in the area. On roll call, the motion carried unanimously.

Motion was made by Council Member Araskog, and seconded by Council Member Lindsay, to approve Site Plan Z-19-00197 based on the finding that the approval of the site plan will not adversely affect the public interest and that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement has been made concerning Section 134-329 items 1 through 11. On roll call, the motion carried unanimously.

IX. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 16-2019 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, Article V, Coastal Construction Code, As Follows; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Motion was made by Council Member Lindsay, and seconded by Council Member

Zeidman, to adopt Ordinance 16-2019 on second reading. On roll call, the motion carried unanimously.

2. ORDINANCE NO. 17-2019 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning, As Follows: At Article VI, District Regulations, Sections 134-791, 134-841, 134-891, 134-946, Accessory Structures, By Clarifying The Ten Foot Minimum Side And Rear Setback Requirement For Unenclosed Accessory Structures; Sections 134-1107 And 134-1207, Permitted Uses, And 134-1109 And 134-1209, Special Exception Uses, By Making Residential Use Above The First Floor A Permitted Use Rather Than Special Exception Use In The C-TS And C-OPI Commercial Zoning Districts; Section 134-1157, Permitted Uses, By Clarifying That Residential Use Above The First Floor In The C-WA Commercial Zoning District Is A Permitted Use; Sections 134-1109, 134-1159, 134-1209 And 134-1304, Special Exception Uses, In The C-TS, C-WA, C-OPI And C-B Commercial Zoning Districts, By Eliminating Broad Language Which Allows By Special Exception Either Any Retail And Service Activity Or Commercial Use Over The Maximum Town-Serving Threshold Provided Said Use Demonstrates That It Is Town-Serving And Replacing With Language Allowing Permitted Uses Or Uses Not Specifically Enumerated As A Permitted Use Provided Said Uses Demonstrate They Will Have Traffic, Patronage And Intensity Of Use Characteristics Similar To Permitted Uses In Those Commercial Zoning Districts; Creating New Sections 134-1472 And 134-1473, Permitted And Special Exception Uses And Structures In The B-A, Beach Area Zoning District, And Renumbering Existing Sections Of The Code To Follow; At Article VIII, Supplementary District Regulations, Creating Section 134-1519 Which Prohibits The Docking, Parking And Storage Stations For Shared Bicycles And Shared Dockless Bicycles In The Town; At Article XI, Signs, Section 134-2437, Building Identification, Business Identification And Property Identification Signs, And 134-2438, Size Of Sign, By Modifying Existing Language To Provide Clearer Business Identification Sign Regulation Language And By Allowing Business Identification Signage Based On Business Frontage And Not On First Floor Tenant Frontage; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Motion was made by Council Member Araskog, and seconded by Council Member Lindsay, to adopt Ordinance 17-2019 on second reading. On roll call, the motion carried unanimously.

3. ORDINANCE NO. 18-2019 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending

The Town Code Of Ordinances At Chapter 106, Streets, Sidewalks And Other Public Places, As Follows: At Article II, Streets*, In Creating Section 106-50, Titled Unlawful To Dock, Store Or Park Motorized Or Non-Motorized Shared Bicycles And Dockless Bicycles, Making It Unlawful To Dock, Store Or Park Motorized Or Non-Motorized Shared Bicycles And Dockless Bicycles On Public Or Private Streets; And Article V, Sidewalks, Creating Section 106-162, Titled Unlawful To Dock, Store Or Park Motorized Or Non-Motorized Shared Bicycles And Dockless Bicycles, Making It Unlawful To Dock, Store Or Park Shared Motorized Or Non-Motorized Bicycles And Dockless Bicycles On Any Public Or Private Sidewalk, Via Or Esplanade; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Motion was made by Council Member Zeidman, and seconded by Council Member Araskog, to adopt Ordinance 18-2019 on second reading. On roll call, the motion carried unanimously.

4. ORDINANCE NO. 19-2019 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 42, Environment, Article II, Conditions On Private Property, Divisions 1 And 2, As Follows; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Motion was made by Council Member Lindsay, and seconded by Council Member Zeidman, to adopt Ordinance 19-2019 on second reading. On roll call, the motion carried unanimously.

5. ORDINANCE NO. 20-2019 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 88, Property Maintenance Code, As Follows; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Motion was made by Council Member Araskog, and seconded by Council Member Zeidman, to adopt Ordinance 20-2019 on second reading. On roll call, the motion carried unanimously.

X. ANY OTHER MATTERS

A. **Second Reading**

1. RESOLUTION 46-2019 REVISED

Town Attorney Randolph advised revisions had been made to Resolution 46-2019: The title was changed to provide for sunsetten ten years from the effective date. He clarified that these

people should not serve on another commission, and the one person now serving on the Retirement Board shall drop off when his term is up. The highlighted language on the second page stated: An individual shall not be a member of another Town Board or Commission, however, any member who is re-appointed who also serves on the Retirement Board may remain until their term of expiration. Section 8 talked about sunseting. Town Attorney Randolph indicated he believed that took care of the amendments. Council Member Araskog requested addition at the top of the second page, first sentence, of the words "regular voting" in front of the word "member".

Motion was made by Council Member Lindsay, and seconded by Council Member Zeidman, to adopt Resolution 46-2019 on second reading, as amended. On roll call, the motion carried unanimously.

B. ADJOURNMENT

There being no further business, the Development Review Town Council meeting of June 12, 2019 was adjourned at 11:55 a.m.

APPROVED:

Danielle H. Moore, Town Council President

ATTEST:

Kathleen Ruderman, Deputy Town Clerk