

TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on July 10, 2019

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order July 10, 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

Town Clerk Dominguez gave the invocation.

Council President Moore led the Pledge of Allegiance.

III. PRESENTATIONS

A. Annual Report – Planning and Zoning Commission

Martin I. Klein, Chair

Chair Klein provided the annual report of the Planning and Zoning Commission. He thanked the staff and the Council for allowing him to serve.

It was the consensus of the Town Council to accept the Annual Report of the Planning and Zoning Commission.

IV. COMMENTS OF MAYOR GAIL L. CONIGLIO

Mayor Coniglio had no comments.

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

There were no comments from Town Council members or the Director of Planning, Zoning and Building.

VI. COMMUNICATIONS FROM CITIZENS

Mr. Hernandez, resident of Belle Glade, spoke regarding the high amount of parking tickets issued to the workers on the island and the challenges with parking on the island.

VII. APPROVAL OF AGENDA

Motion was made by Council Member Araskog, and seconded by Council Member Lindsay, to approve the agenda as submitted. On roll call, the motion carried unanimously.

VIII. RESOLUTIONS

- A. RESOLUTION NO. 57-2019 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions For The Property Hereinafter Described 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 an overview of the resolution.

Public comments – none

Motion was made by Council Member Araskog, and seconded by Council Member Lindsay, to approve Resolution No. 57-2019. On roll call, the motion carried unanimously.

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

IX. DEVELOPMENT REVIEWS

A. Appeals

1. ARCOM Appeal – 1236 S. Ocean Boulevard

Director of Planning, Zoning and Building Josh Martin provided an overview and background information on the appeal. Town Attorney Randolph went over administrative matters and procedure with respect to the appeal.

Ex-parte communications were declared. There were no ex-parte communications except by Council Member Araskog who had spoken with staff members Zoning Manager Paul Castro, Assistant Planning, Zoning & Building Director Wayne Bergman, and Planning, Zoning, & Building Director Martin regarding 1236 South Ocean Boulevard and the signs.

Town Attorney Randolph spoke regarding advice he had provided

to Council Member Lindsay regarding her visit to Mr. And Mrs. Thornton's property. Council Member Lindsay recused herself.

Attorney Tim Hanlon spoke on behalf of Mr. and Mrs. Thornton regarding the late communications that went out and the reason for the timing of his response raised by Council Member Araskog. He objected to the recusal of Council Member Lindsay and requested a deferral.

Attorney Amanda Quirke Hand, 1111 Brickell Avenue, objected to the deferral.

Motion was made by Council Member Araskog, and seconded by Council President Pro Tem Zeidman, to defer the ARCOM appeal to the August 14 meeting to allow time to review the appeal and Mr. Hanlon's memo that addressed another issue. On roll call, the motion carried 3-1, with Council Member Lindsay recused and Council Member Crampton dissenting.

B. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. **Z-18-00138 SPECIAL EXCEPTION WITH SITE PLAN REVIEW** Zoning District: R-B Low Density Residential The application of Palm Beach Day Academy, Inc., Applicant, relative to property located at **241 SEAVIEW AVE SUITE: SITE**, legal description on file, is described below. 1. Request for Special Exception with Site Plan Review approval to create 30 paved parking spaces on the west lawn to be used by Palm Beach Day Academy faculty, families and guests to the school. 2. Request to modify the existing Declaration of Use Agreement (a copy of the Agreement is on file at the Town of Palm Beach Building Department). [Applicant's Representative: Maura Ziska Esq] [The Landmarks Preservation Commission Recommendation: Implementation of the proposed special exception with site plan review and variance will not cause negative architectural impact to the subject landmark property. Carried 4-1. The Landmarks Preservation Commission deferred the project to the April 17, 2019 meeting at the request of the attorney. Carried 7-0.] **Request for Withdrawal per Letter Dated June 18, 2019 from Maura Ziska.**

This item was withdrawn.

- 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 Manager LLC, 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.]

Mr. Crowley provided an update on the project and stated he had mentioned last month that a 350 KW generator would be needed and that had been incorporated into the motion for approval.

Council Member Lindsay brought up the verbiage with respect to seating for clarification.

Town Attorney Randolph confirmed for Council Member Araskog that it was okay to proceed although the notice had shown a 250 kW generator.

Motion was made by Council Member Araskog, and seconded by Council President Pro Tem 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. On roll call, the motion carried unanimously.

Motion was made by Council Member Lindsay, and seconded by Council Member Araskog, that Site Plan Z-19-00194 of the awning be approved based upon the

finding that the approval of the site plan will not adversely affect the public interest, and that the Council certifies that the special 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.

2. New Business

- a. 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.

No ex-parte communication was declared.

Earl Hollis, 145 Peruvian Avenue, stated he was satisfied.

Council Member Araskog requested a condition with ARCOM approval; however, it was not needed.

Motion was made by Council Member Araskog, and seconded by Council President Pro Tem Zeidman, that Variance Z-19-00195 shall be granted and find in support thereof that all the criteria applicable to this application is 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 this area. On roll call, the motion carried unanimously.

Motion was made by Council Member Araskog, and seconded by Council Member Lindsay, that Site Plan Z-19-00195 be approved based upon the finding that the approval of the site plan will not adversely affect the public interest, and that the Council certifies that the special 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, 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 this area. On roll call, the motion carried unanimously.

- b. Z-19-00199 SPECIAL EXCEPTION_ Zoning District: C-TS Town-Serving Commercial The application of The Breakers Palm Beach, Inc., Applicant, relative to property located at **212 SUNSET AVE, SUITE: SITE**, legal description on file, is described below. Per Code Section 134-1109(a)(11), the applicant is requesting approval for a restaurant to occupy the restaurant space that was approved as part of Site Plan Review #13-2014 with Special Exceptions and Variances. The applicant is a new owner. The original approval was for a restaurant of 4,110 square feet with 152 seats, of which 60 were outdoors. The proposed restaurant will have 4,193 square feet and 152 seats, all indoors. ARCOM has already approved the exterior change (windows). The requested hours of operation for this restaurant are 11:00am to 1:00am, seven days a week, with dinner until 10:00pm. The restaurant will offer valet service. [Applicant's Representative: James M. Crowley Esq]

Ex-parte communications were declared. Mayor Coniglio reported she had received a voice mail from Attorney Crowley related to this application in which he brought up valet operation. Council Member Araskog stated she spoke with Attorney Crowley that morning about the nature of the restaurant, which he did not know.

Attorney Crowley provided an overview of the project.

Discussion ensued regarding hours of operation, activities and atmosphere.

Motion was made by Council Member Araskog, and seconded by Council Member Lindsay, that Special Exception Z-19-00199 be granted with the modification that the restaurant hours will be Sunday through Thursday 11:00 a.m. to midnight, serving until 11:00 p.m., and on Friday and Saturday to close at 1:00 a.m. and serving food until midnight, and be allowed to stay open until 2:00 a.m. on New Year's Eve; 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 this area. On roll call, the motion carried unanimously.

- c. **Z-19-00200 VARIANCE(S)** Zoning District: R-A Estate Residential The application of PB Pavilion Trust, Applicant, relative to property located at **1600 S OCEAN BLVD**, legal description on file, is described below. A variance request to add a 6,175 square foot second story addition onto the existing residence to add 6 bedrooms to a 2 bedroom house that would have a point of measurement of 30.80 feet North American Vertical Datum ("NAVD") for building height and overall height in lieu of the 17.31 feet NAVD required for lots within the coastal construction control line. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. The Architectural Review Commission approved the project as presented with a condition relating to the landscaping. Carried 6-1]

No ex parte communications were declared.

Attorney Ziska provided an overview of the variance.

Motion was made by Council Member Lindsay, and seconded by Council Member Crampton, that Variance Z-19-00200 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, 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 this area. On roll call, the motion carried unanimously.

- d. **Z-19-00201 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: B-A Beach Area The application of Michael and Frances Kettenbach, applicant, relative to property located at **801 S COUNTY RD, SUITE: BEACH CABANA**, legal description on file, is described below. Request a special exception with site plan review to add 973 square feet to the existing 488 square foot beach cabana that would have an 18.56 foot setback from the west property line in lieu of the 35 foot minimum setback required. [Applicant's Representative: Maura Ziska Esq]

No ex-parte communications were declared.

Attorney Ziska provided an overview of the variance.

Zoning Manager Castro discussed the ocean vista and unity of title requirements.

Harold Smith commented this would go to the Landmarks Preservation Commission.

Motion was made by Council President Pro Tem Zeidman, and seconded by Council Member Lindsay, that Special Exception Z-19-00201 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, 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 this area, and also provided that the ocean vista is maintained. On roll call, the motion carried unanimously.

Motion was made by Council President Pro Tem Zeidman, and seconded by Council Member Lindsay, that Site Plan Z-19-00201 be approved based upon the finding that the approval of the site plan will not adversely affect the public interest, and that the Council certifies that the special 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, 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 this area, and providing that the ocean vista is maintained. On roll call, the motion carried unanimously

Town Attorney Randolph advised the language regarding utility easement only had to be included in one motion.

Motion was made by Council President Pro Tem Zeidman, and seconded by Council Member Lindsay, that Variance Z-19-00201 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. On roll call, the motion carried unanimously.

- e. **Z-19-00202 VARIANCE(S)** Zoning District: R-C Medium Density Residential The application of Justin and Meira Besikof, Applicant, relative to property located at **307 CHILEAN AVE, SUITE: SITE**, legal description on file, is described below. A request to construct a new 3,937.50 square foot, two-story residence on a lot with a width of 50 feet in lieu of the 75 foot minimum required and a lot area of 6,250 sq. ft. in lieu of the 10,000 sq. ft. minimum required in the R-C Zoning District. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property.] Request for Deferral per Letter Dated June 27, 2019 from Maura Ziska.

This item was deferred.

- f. **Z-19-00203 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of Jeffrey Alderton, Applicant, relative to property located at **2283 W IBIS ISLE RD**, legal description on file, is described below. Section 134-1668 - Variance to allow the installation of a driveway gate with a 12.2 foot setback from the edge of the pavement in lieu of the 18-foot minimum required by the Zoning Code. [Applicant's Representative: David E. Klein Esq] [Architectural Review Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. The Architectural Review Commission approved the project as presented. Carried 7-0]

No ex-parte communications were declared.

Attorney Klein provided an over view of the project.

Zoning Manager Castro advised that the comments from the Public Works Department stated the applicant was required to certify storm drainage every five years. Mr. Castro also stated that the applicant would need to coordinate with the Fire Marshall regarding his Knox box. Staff had no issue with the gates being moved closer to the street.

Motion was made by Council President Pro Tem Zeidman, and seconded by Council Member Araskog, that Variance Z-19-00203 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. On roll call, the motion carried unanimously.

- g. **Z-19-00204 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: C-TS Town-Serving Commercial The application of Serena & Lily, Applicant, relative to property located at **101 N COUNTY RD, SUITE: SITE**, legal description on file, is described below. The applicant requests approval to convert existing office space to retail use (furniture and home furnishings) in this existing one-story single use building. The building contains 3,943 square feet of gross leasable area, and the site includes 6 parking spaces. The following specific approvals are requested: Per Section 134-1109(a)(11), a special exception approval is requested as the use is over 3,000 square feet gross leasable area and has to demonstrate this said use is Town-serving. Per Code Section 134-2175(a)(3), a variance is requested for four (4) parking spaces. This number is calculated by comparing the parking demand as found in Code Section 134-2176 for 3,943 square feet of office use ($3,943/250 = 15.77 = 16$) to the parking demand for the same amount of retail use ($3,943/200 = 19.71 = 20$).

There are 6 parking spaces on this site, with no ability to provide any more. [Applicant's Representative: James M. Crowley Esq]

No ex-parte communications were declared.

Attorney Crowley provided an overview of the project.

Zoning Manager Castro agreed that this project would re-activate the property and staff had no issues.

Motion was made by Council Member Araskog, and seconded by Council President Pro Tem Zeidman, that Special Exception Z-19-00204 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. On roll call, the motion carried unanimously.

Motion was made by Council Member Araskog, and seconded by Council President Pro Tem Zeidman, that Site Plan Z-19-00204 be approved based upon the finding that the approval of the site plan will not adversely affect the public interest, and that the Council certifies that the special 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.

Motion was made by Council Member Araskog, and seconded by Council Member Lindsay, that Variance Z-19-00204 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. On roll call, the motion carried unanimously.

- h. **Z-19-00205 VARIANCE(S)** Zoning District: C-TS Town-Serving Commercial The application of PBCOF Brazilian, LLC (Alex Griswold, Authorized Agent), Applicant, relative to property located at **214 BRAZILIAN AVE, SUITE: SITE**, legal description on file, is described below. 1. Section 134-1107. Permitted uses. (a)(2): Offices and professional services are only allowed above the first floor in the C-TS zoning district. A variance is being requested to allow expansion of an existing 727 square foot architectural office by 208 square feet on the first floor in the C-TS District. The original office was approved by variance in 2010 (Variance No. 5-2010). The proposed addition converts an existing storage area and portion of an entry lobby into the architectural office. [Applicant's Representative: Jamie Torres-Cruz]

No ex-parte communications were declared.

Jaime Torres, representing Fairfax and Sammons Architects, provided an overview of the project.

Zoning Manager Paul Castro supported the application.

Motion was made by Council President Pro Tem Zeidman, and seconded by Council Member Araskog, that Variance Z-19-00205 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. On roll call, the motion carried unanimously.

3. Other

a. ARCOM/LPC Combination Project Discussion - Six month update

Planning, Zoning & Building Director Josh Martin provided an update on the combo project.

Council President Moore commented if not broken, don't fix it.

Council Member Araskog asked about previous issues which had been resolved and asked for a condition of ARCOM approval going forward.

Council Member Crampton commented that Council Member Araskog's suggestion was valid but he would like to continue in the direction they had been going and work towards streamlining more projects like these.

Mayor Coniglio agreed with Council Member Crampton, and commented she trusted the Planning, Zoning & Building Director and did not want to regulate minutiae.

Council Member Lindsay spoke in support of the project and Planning, Zoning & Building Director Martin's work.

Council Member Araskog expressed concerns with variances, ARCOM approval, and negative impact. She would like ARCOM to have the legal ability to bring concerns to the Town Council.

Planning, Zoning & Building Director Martin expressed his opinion that Landmarks and ARCOM needed to shape and adopt guiding principles, and shared his experience with managing design review boards.

X. ORDINANCES

A. First Reading

1. ORDINANCE NO. 26-2019 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending Chapter 2, Administration, Town Code Of Ordinances, At Article V, Code Enforcement, Division 3, Procedure, Section 2-439, Citation Fine Schedule And Table, To Include New Sections 106-49, 106-50, 106-161, And 106-162; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Town Attorney Randolph read the ordinance by title only.

Zoning Manager Castro commented this was a follow up to the shared bicycle and shared scooter ordinance to provide a fine schedule relative to Town Code Chapter 120.

Motion was made by Council President Pro Tem Zeidman, and seconded by Council Member Lindsay, to adopt Ordinance No. 26-2019. On roll call, the motion carried unanimously.

XI. ANY OTHER MATTERS

Council President Pro Tem Zeidman congratulated Planning, Zoning and Building Director Martin on the workshop hosted by the Planning, Zoning & Building Dept.

Director Martin announced the next workshop date for July 18 at the Sailfish Club, another in September at the Tide Line, and one in full season.

Mayor Coniglio stated well done, and suggested her Council mates save the appeal information from today's meeting. Staff indicated there were four sets of information related to that matter and updates would be provided as received.

Council Member Lindsay congratulated Planning, Zoning & Building Director Martin on the workshop attendance.

Council Member Araskog thanked Planning, Zoning & Building Director Martin for his good work. She asked Town Attorney Randolph for an update on the ordinance to amend the word town sponsored, and was referred to staff.

XII. ADJOURNMENT

There being no further business, the Development Review Town Council meeting of July 10, 2019 was adjourned at 10:57 a.m.

APPROVED:

Danielle H. Moore, Town Council President

ATTEST:

Kathleen Dominguez, Town Clerk