



# TOWN OF PALM BEACH

## Minutes of the Development Review

### Town Council Meeting

Held on October 10, 2019

**I. CALL TO ORDER AND ROLL CALL**

The Development Review Town Council Meeting was called to order October 10, 2019 at 1:57 p.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**

Administrative Specialist Churney gave the invocation. Council President Moore led the Pledge of Allegiance.

**III. COMMENTS OF MAYOR GAIL L. CONIGLIO**

Mayor Coniglio had no comments.

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

There were no comments heard at this time.

*At this time the following item was moved up in the agenda.*

**V. APPROVAL OF AGENDA**

**The following modifications were made to the agenda:**

Addition of Item 2, under item number VIII.B.

Addition of Item 3, under item number VIII.B.

Deferral of Item VIII.C.1(a) to the December 11, 2019 meeting.

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

**VI. COMMUNICATIONS FROM CITIZENS**

There were no comments heard at this time.

## **VII. RESOLUTIONS**

**RESOLUTION NO. 117-2019** 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, Murphy Stillings, presented the tax abatement and Resolution 117-2019, explaining that the required improvements had been completed.

**Motion was made by Council Member Lindsay, and seconded by Council Member Araskog, to adopt Resolution No. 117-2019. On roll call, the motion carried unanimously.**

## **VIII. DEVELOPMENT REVIEWS**

### **A. APPEALS**

#### **1. Landmarks Preservation Commission’s Decision to Place the “Sea” Streets Under Consideration as a Historic District**

Josh Martin, Director of Planning, Zoning and Building, explained three formal appeals had been received and had been consolidated into one agenda item.

Ex parte communications were disclosed by Council Members Crampton, Lindsay and Araskog, Council President Moore, Council President Pro Tem Zeidman.

Town Attorney Randolph advised there had been three appeals filed in a timely manner. He stated that concerns were expressed from residents that did not have an opportunity to provide their comments. He also added that other correspondence was received had been against the process in which the “Sea” Streets were placed under consideration without notice, which were not part of the appeal. Town Attorney Randolph presented two options for motions: The first, Town Council could send the item back to the Landmarks Preservation Commission to hear from the public before making a decision; the second, Town Council could make a motion to remove the historic district from consideration.

Council President Pro Tem Zeidman commented the Town Council had asked Landmarks Preservation Commission to remove consideration prior to a symposium in December, but they had voted to keep the “Sea” Streets under consideration. Based on the letters received from residents, and on advice of legal counsel, the following motion was made.

**Motion was made by Council President Pro Tem Zeidman, and seconded by Council Member Lindsay, to remove from consideration, without prejudice, the “Sea” Streets as a Historic**

**District, based on Section 54-41 of the Town Code of Ordinances, and to allow the educational symposium to move forward without reference to any specific geographic area in the Town.**

During discussion of the motion, Council Member Araskog asked whether enough notice was given. Town Attorney Randolph responded that notice was not required to place a property under consideration, and the Landmarks Preservation Commission had done everything legally. Council Member Araskog expressed her respect for the Landmarks Preservation Commission but thought the symposium needed to occur first.

Mayor Coniglio agreed with the motion made by Council President Pro Tem Zeidman. She believed that the Landmarks Preservation Commission's intention was altruistic. However, she felt it was the Town Council's job to determine the path forward. Mayor Coniglio recommended the Town Council to consider adding more money to the Landmarks' budget to allow them to look for qualifying homes on the "Sea" Streets.

Town Attorney Randolph advised that the motion would allow the Landmarks Preservation Commission to raise the issue again after the educational symposium occurs.

President Moore encouraged homeowners on the "Sea" Streets, who were in agreement with the Landmarks Preservation Commission's recommendation, to place their homes under consideration as the most logical way to move forward.

The Town Attorney advised public comment should be allowed before the motion is finalized.

Council Member Crampton thought the Landmarks Preservation Commission's action was an affront to the Town Council, and added he did not believe many homeowners on the "Sea" Streets wanted to place their home under consideration. He felt the symposium should move forward, and commented town-wide preservation was moving forward with Director Martin's initiative, which would take over a year.

#### **PUBLIC COMMENT**

All those intending to give testimony at today's meeting were sworn in by Administrative Specialist Churney at this time and throughout the meeting as necessary.

*Mayor Coniglio left the meeting at approximately 2:20 p.m.*

Daniel Hanley, 417 Seabreeze Avenue, wanted the freedom to make his own choices for his home and expressed concerns about the process.

Rene Silvin, Australian Avenue, Vice Chair of Landmarks Preservation Commission, thought homeowners saw a flawed process with loss of their rights and thought preservations saw the "Sea" Streets as being in peril. He urged all residents to attend the symposium.

Jay Serzan, 353 Seabreeze Avenue, applauded the Town Council's motion but didn't think it was enough and believed the motion should be removed with prejudice.

Jim McMullen, 301 Seabreeze Avenue, asked why large houses could be torn down but the smaller homes had to remain. He believed there were only about 5 houses that were original on his street. He thought the Landmarks' decision was not fair to residents on the "Sea" Streets.

Steven Greenwald, 128 Seaspray Avenue, discussed the landmarked homes on the "Sea" Streets. He felt the Landmarks Preservation Commission decisions were not based on fact. He expressed concern for homes that were in a FEMA zone or under sea level that had the pressure of being landmarked. He advocated for the Town Council to remove the consideration with prejudice.

Polly Wulsin, 425 Seabreeze Avenue, expressed concern for loss of value for homes located in a flood zone, if landmarked. She advocated for the Town Council to make the decision final.

President Moore inquired if President Pro Tem Zeidman wanted to alter her decision.

President Pro Tem Zeidman commented she thought education was important, she wanted to halt the action of the Landmarks Preservation Commission, and she had added without prejudice in case people changed their minds.

Town Attorney Randolph stated the Town Council was being clear by removing it from consideration at this time, and added the Landmarks Preservation Commission could revisit the item after the educational symposium since it was being removed without prejudice.

Director Martin commented that the symposium was part of code reform, although that had not yet been approved. He discussed different levels of the historic districts and thought preservation was not one size fits all.

Town Attorney Randolph mentioned contributing versus non-contributing in the Town's Ordinance.

Director Martin responded the ordinance could be changed. He explained that Zoning Manager Castro and Planning Manager Lindgren had been researching different ways to change the code to help with preservation, aside from landmarking.

Council Member Araskog agreed with the motion, stating she thought education was important, the symposium was not exclusively related to the "Sea" Streets Historic District, and this should be looked at more closely before removing with prejudice.

Council Member Crampton agreed with the motion and Council Member Araskog's comments. He thought the process should be allowed to work. He commented the symposium worked for overall education, not just the "Sea" Streets.

Council Member Lindsay agreed one size did not fit all, and she supported the symposium to provide education that allowed homeowners the flexibility to preserve. She felt the education was important to find a way to keep some of the old Palm Beach homes.

Council Member Araskog added that historic site surveys would be completed around February.

**On roll call, the motion carried unanimously.**

*A short break was taken at 3:06 p.m. The meeting resumed at 3:14 p.m.*

**B. TIME EXTENSION AND WAIVERS**

**1. Time Extension Request for Renovation Work at Chanel – 301 Worth Avenue**

Wayne Bergman, Assistant Director of Planning, Zoning and Building, presented the request. He spoke about the ongoing renovations by Chanel, and explained they were requesting three additional weeks for completion, due to delays created by the recent hurricane.

Council Member Araskog asked how the other businesses felt about a time extension. Harvey Oyer, attorney for the applicant, explained this would be only interior work, and the other business owners were anxious for completion.

**Motion was made by Council Member Crampton and seconded by Council Member Araskog to grant a 3-week time extension to do renovation work at Chanel, 301 Worth Avenue. On roll call, the motion carried unanimously.**

**2. Request from O'Connor Property Management to Release the 1998 Use Agreement Requirement for 152 Peruvian Avenue**

Director Martin presented the request to release the 1998 Use Agreement for Neiman Marcus overflow parking. All parties to the agreement had agreed to release the encumbrance. He clarified the location of the lot and explained it would revert to a single family residence lot.

**Motion was made by Council Member Lindsay and seconded by Council President Pro Tem Zeidman to release the 1998 Use Agreement requirement for 152 Peruvian Avenue. On roll call, the motion carried unanimously.**

**3. Time Extension Request of Construction Work Hours for 288/290 South County Road, La Goulue Restaurant**

Assistant Director Bergman presented the request to work until 8 p.m.

Monday through Friday, and 8 a.m. to 8 p.m. Saturdays, through the end of January 2020. The work would all be internal during the extended hours.

Jamie Crowley, attorney for the applicant, advised all of the people living above the space had been notified and there had been no objections.

Council Member Araskog recommended a condition stipulating indoor and quiet work unless neighbors said it was okay.

Attorney Crowley commented no outdoor work was requested, and the intention was not to work after hours if it was noisy. Attorney Crowley stated he would be happy to come back after speaking with the neighbors.

Council Member Lindsay asked that no work be performed November 27-30 and December 23-26.

The contractor indicated the time extension would be sufficient.

**Motion was made by Council Member Araskog and seconded by Council Member Crampton to grant a time extension request of construction work hours for 288/290 South County Road, La Goulue, to work until 8 p.m. Monday through Friday, and 8 a.m. to 8 p.m. Saturdays through the end of January 2020, with no work to be done November 27-30 and December 23-26, and that any complaints from residents above the space would be mediated by Director Martin. On roll call, the motion carried unanimously.**

## **C. VARIANCES, SPECIAL EXCEPTIONS, AND SITE PLAN REVIEWS**

### **1. Old Business**

**Z-18-00108 SPECIAL EXCEPTION WITH VARIANCE(S)** Zoning District: C-TS Town Serving Commercial The application of Palm Beach Hotel Condominium Association, Inc., Applicant, relative to property located at 235 SUNRISE AVE SUITE: CM 23, legal description on file, is described below. A request for a variance and a special exception to expand a non-conforming use (“hotel”) to incorporate a 3,200 square foot space on the ground floor to be used as a gym which is an accessory use to the condominium hotel. If approved, consideration of proposed Declaration of Use Agreement, Request for Deferral to the December 11, 2019 Town Council Meeting per Letter from Maura Ziska.

*This item was deferred under Approval of the Agenda, Item V.*

### **2. New Business**

- a. **Z-19-00222 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of Jay and Katherine Horgen, Applicant, relative to property located at 322 CLARKE AVE SUITE: CABANA, legal description on file, is described below. Request for a variance in order to demolish and rebuild a 373 square foot accessory structure on the south side of a landmarked property with a finished floor elevation of 5 feet North

American Vertical Datum (“NAVD”) in lieu of the finished floor elevation that would be required under the FEMA regulations. (Landmark Preservation Commission Recommendation: The proposed improvement will not preclude the building’s continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. Carried 7-0. The Landmark Preservation Commission approved the project as presented. Carried 7-0)

No ex parte was declared by any member of the Town Council.

Attorney Maura Ziska, representing the owner, advised this was a landmarked home under renovations and explained the requested variances. The Landmark Preservation Commission had recommended approval of the flood variance.

Zoning Manager Castro provided staff comments.

**Motion was made by Council President Pro Tem Zeidman, and seconded by Council Member Lindsay, that Variance Z-19-00222 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 insures a recorded easement will be granted if necessary to underground utilities in the area. On roll call, the motion carried unanimously.**

- b. **Z-19-00223 VARIANCE(S)** Zoning District: R-A Estate Residential The application of Paul and Elizabeth Shiverick, Applicant, relative to property located at 16 GOLFOVIEW RD, legal description on file, is described below. The Applicant is proposing to construct a swimming pool along the west side of the property and relocate pool and air conditioning equipment along the east property line that will require the following variances: 1) Front yard setback of 30 feet in lieu of the 35 foot minimum required in the R-AQ Zoning District for the proposed swimming pool; 2) Street side yard setback of 10.5 feet in lieu of the 15-foot minimum required in the R-A Zoning District for the proposed swimming pool; 3) East side yard setback of .46 feet in lieu of the 5 foot minimum required for the proposed mechanical and pool equipment, 4) To allow four (4) pieces of equipment (air conditioning unit, pool heater, pool pump/filter combination, and fountain pump/filter combination) In the east side yard setback in lieu of the two (2) pieces of equipment maximum allowed.

Ex Parte communication was declared by Council Member Araskog, and Council President Moore.

Attorney Maura Ziska, representing the owner, advised this was a landmarked home under renovations and explained the requested variances.

Council Member Crampton questioned the lack of utility easement on the plan, to which Attorney Ziska stated that it was located across the street.

Council Member Araskog asked about the .46 feet setback in lieu of the 5 foot minimum, which was explained. Attorney Ziska explained the hardship.

Jaime Torres, Fairfax, Sammons + Partners, showed the space where the utility equipment would be placed.

Council Member Araskog confirmed the neighbor was okay with the location of utilities.

**Motion was made by Council Member Crampton, and seconded by Council President Pro Tem Zeidman, that Variance Z-19-00223 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 insures a recorded easement will be granted if necessary to underground utilities in the area. On roll call, the motion carried unanimously.**

Council President Moore stated she would be disappointed if the utility easement issues for the property were not easily solvable.

**IX. ADJOURNMENT**

**Council Member Crampton made a motion to adjourn, seconded by Council Member Araskog. The meeting was adjourned at 3:40 p.m. without the benefit of a roll call.**

**APPROVED:**

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**Danielle H. Moore, Town Council President**

**ATTEST:**

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**Kelly Churney, Administrative Specialist**