



# TOWN OF PALM BEACH

## Minutes of the Development Review

### Town Council Meeting

Held on November 13, 2020

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order November 13, 2020 at 9:40 a.m. 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 Zeidman led the Pledge of Allegiance.

III. COMMENTS OF MAYOR GAIL L. CONIGLIO

Mayor Coniglio recognized Rob Weber, Charlie Isiminger and staff's efforts on recent grants.

The Mayor thanked everyone for participating in the Town's governmental process.

IV. COMMENTS OF TOWN COUNCIL MEMBERS

Council President Zeidman asked everyone to be succinct and to try to keep their mask on when not speaking into the microphone.

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

There were no communications from citizens at this time.

## VI. APPROVAL OF AGENDA

Director of Planning, Zoning and Building Bergman read the following requested modifications:

Deferral of Item IX.B.1 (a) to the March 10, 2021 meeting.

Withdrawal of Item IX.B.1 (b)

Removal of Item IX.B.1 (c)

Deferral of Item IX.B.1 (e) to the December 9, 2020 meeting.

Withdrawal of Item IX.B.1 (g)

Deferral of Item IX.B.1 (h) to the December 9, 2020 meeting.

Deferral of Item IX.B.1 (i) to the December 9, 2020 meeting.

Deferral of Item IX.B.2 (b) to the December 9, 2020 meeting.

Council Member Moore questioned the 70 Middle Road requested deferral to May 2021, and recommended a one month deferral. Council Member Crampton and Council President Zeidman agreed.

Council Member Araskog questioned Town Attorney Randolph about the deferral request and the extraordinary circumstances. Town Attorney Randolph responded that staff recommended withdrawing this item and re-advertising for the May meeting. He cited applicable Town code, noting this applicant had already had more extensions than allowed.

Mayor Coniglio suggested deferral to a time certain for the December meeting. Council Member Araskog recommended deferring to the April meeting.

Zoning Manager Castro explained the procedure for removal from the agenda.

Council President Pro Tem Lindsay questioned the condition of the property. Zoning Manager Castro responded.

Council Member Crampton commented most of the work was inside.

Mayor Coniglio suggested adding conditions, however, Attorney Randolph responded the item was not being extended, but removed. The Mayor suggested an extension to April.

Council Member Araskog felt a condition was not appropriate.

Director of Planning, Zoning and Building Bergman stated he could review the property with Ben Alma, and take care of any property maintenance

violations at that time.

**Motion made by Council Member Moore and seconded by Council Member Crampton to approve the agenda as amended, with removal of project Z-19-00236, 70 Middle Road, until the applicant is ready to proceed. Motion carried unanimously.**

## VII. RESOLUTIONS

- A. RESOLUTION NO 114-2020 280 Sunset Avenue 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 was sworn in by Administrative Specialist Churney.

No ex-parte communications were declared.

Emily Stillings made a presentation requesting tax abatement for the property now known as White Elephant.

### Public Comment

There were no public comments.

**Motion made by Council President Pro Tem Lindsay and seconded by Council Member Moore to approve Resolution No. 114-2020. Motion carried unanimously.**

- B. RESOLUTION NO. 131-2020 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida Approving The Attached Amended Certificate Of Notification Of Designation Of Certain Properties As Landmarks; Authorizing Its Execution By The Town Manager And Providing For Its Recording In The Public Records Of Palm Beach County, Florida; Providing For An Effective Date.

No ex-parte communications were declared.

Director of Planning, Zoning and Building Bergman presented the Resolution.

**Motion made by Council Member Crampton and seconded by Council Member Moore to approve Resolution No. 131-2020. Motion carried unanimously.**

## VIII. DEVELOPMENT REVIEWS

### A. **Time Extensions and Waivers**

#### 1. Time Extension for 264-270 S. County Road

No ex-parts communications were disclosed.

Director of Planning, Zoning and Building Bergman presented the time extension request for extended winter hours and to leave perimeter scaffolding in place. Estimated finish date for the construction was mid-October, 2021.

Maura Ziska, representing owners of The Carriage House, explained the request for the time extension. Also present on behalf of the applicant were Gene Parker and Pat Marshall from Hedrick Brothers.

Council Member Crampton stated he was in favor of this application with the staff recommendations to stop work around the holidays. He confirmed with Director Bergman there were no issues with neighbors, and asked if the neighbors had been noticed.

Pat Marshall, Hedrick Brothers, stated a weekly email blast updated neighbors of activities for the next week.

Ms. Ziska confirmed a letter had been sent to each neighbor.

Council Member Moore asked for a recommendation for Saturday hours, to which Director Bergman responded. Council Member Moore recommended 9 to 5 for interior work, in consideration of the neighbors.

Council President Pro Tem Lindsay agreed with Council Member Moore on interior work hours.

Council Member Moore requested to include Passover and Easter days in the time off.

Council President Zeidman questioned whether the delivery schedule would change, to which Ms. Ziska responded.

Zoning Manager Paul Castro discussed the logistics plan for deliveries and location.

Ms. Ziska clarified the request was for hours, scaffolding and to be able to go to Public Works for right-of-way permit for deliveries.

Council Member Araskog expressed concern about traffic and parking, and wanted no parking on Phipps. Ms. Ziska responded that was already scheduled and regulated, and it had been working with no complaints.

Gene Parker commented parking had been in West Palm Beach with vans delivering the workers.

Public Comments:

Gene Parker commented the additional hours were needed because they must be finished by October. He requested not to have additional time off around holidays.

Zoning Manager Castro responded Director Bergman could move the dates in the construction management agreement but not the final date, and the applicant could always ask for an extension.

Council Member Crampton commented there were no complaints so far, and he would be willing to grant an extension if needed.

Mayor Coniglio expressed concern about protecting neighbors and privacy.

Pat Marshall commented he did not believe the entire week of Thanksgiving was no work hours.

Director Bergman spoke about what had been provided in the past.

Pat Marshall requested to be able to work within the holiday weeks.

Council Member Araskog recommended consistency within the holiday weeks.

Zoning Manager read from Town code.

Council President Zeidman and Council President Pro Tem Lindsay agreed to be consistent.

Council Member Crampton favored granting the request from the applicant to reward them for such a good record to date.

Council Member Moore favored consistency.

Gene Parker commented over the last two months there had been more rain than in many years, which had caused delay, and added that the club had to be done in October 2021.

Council Member Araskog recalled Council had allowed time extensions for many Worth Avenue properties and held them to the same conditions.

Council President Zeidman asked what work would be done, to which Mr. Marshall responded demolition would continue for a couple of weeks, and then it would be all interior work.

Discussion ensued regarding adding hours to the end of the project.

**Motion made by Council President Pro Tem Lindsay to allow the scaffolding to stay up and extensions as requested by the applicant, with the caveat that if any of the residents in Phipps Plaza asked Council to reconsider, then the option to add the number of days to the end of the schedule would be reinstated.**

During discussion of the motion, Zoning Manager Castro read aloud the Town Code section on working hours and holidays, and the applicant offered to send an email to all neighbors with the proposed working hours to see if there were any objections.

**Motion failed for lack of second.**

**Motion as made by Council Member Crampton to grant the request as requested with the caveat that if residents reported any negative reaction or that the rules of the Declaration of Use were not followed, it would go back to what had normally been applied during holidays. Motion failed for lack of a second.**

**Motion made by Council President Pro Tem Lindsay and seconded by Council Member Crampton, to add the dates as previously stated that had been applied to all other requests for extension in a residential area, with the caveat that the number of days lost as a result would automatically be added at the end of the project with no penalties for those days. No Saturday deliveries and 9 to 5 work hours.**

Ms. Ziska stated the applicant was withdrawing the request for work hours.

**Motion amended by Council President Pro Tem Lindsay and seconded by Council Member Moore that the scaffolding can be kept up, and the applicant could apply to Public Works for a permit for deliveries. Motion carried unanimously.**

## **2. Time Extension for 150 Worth Avenue**

Director of Planning, Zoning and Building Wayne explained the time extension was a life safety matter needed for emergency repair to the damaged roof at The Esplanade, and the owner would make a formal request to Council. Work was expected to be complete by December 30, 2020.

No ex-parte communications were disclosed.

Yvonne Jones, Property Manager for The Esplanade at 150 Worth Avenue, explained the request, adding they would begin work after Thanksgiving and be done by Christmas.

Mayor Coniglio asked if they could finish by December 20.

Council President Zeidman called for Public Comment. There were no comments heard at this time.

**Motion made by Council Member Moore and seconded by Council Member Crampton, to approve the time extension for 150 Worth Avenue with the start date changed to November 30, 2020. Motion carried unanimously.**

*Clerk's Note: A short break was taken at 11:03 a.m. The meeting resumed at 11:11 a.m.*

## **B. Variances, Special Exceptions, and Site Plan Reviews**

### **1. Old Business**

- a. **Z-19-00211 SPECIAL EXCEPTION WITH SITE PLAN REVIEW** Zoning District: C-PC Planned Center The application of 305 Concepts Palm Beach, LLC d/b/a Coyo Taco, Applicant, relative to property located at 340 ROYAL POINCIANA WAY SUITE: M337, legal description on file, is described below. On March 15, 2017, the Town Council approved Special Exception #5-2017, which authorized Coyo Taco to operate a restaurant containing more than 3000 S.F. in the C-PC zoning district at Suites #337A and M 333 of the Royal Poinciana Plaza. The approval was conditioned upon execution of a Declaration of Use Agreement, which did not permit Coyo Taco to have a disc jockey. This application seeks to amend the existing Declaration of Use Agreement to allow the restaurant to have a DJ on Tuesday, Friday and Saturday nights, in addition to special events. The hours requested for the DJ are 8:00pm to 12:00pm on Tuesday nights and 8:00pm to 1:00am on Friday and Saturday nights and for special events. The DJ will be confined to the interior of CoyoTaco. No physical changes to the previous approval are requested. The Declaration of Use Agreement also required Coyo Taco to return to the Town Council to demonstrate compliance with the Town Serving requirement. Coyo Taco has collected data confirming that the Town Serving requirement is met. This information will be presented to the Town Council during the public hearing on this application. [Applicant's Representative: James M. Crowley Esq]

**Deferred to the March 10, 2021 Town Council Meeting at the approval of the agenda.**

- b. **Z-20-000262 SPECIAL EXCEPTION WITH SITE PLAN**

**REVIEW AND VARIANCE(S)** Zoning District: R-D(2) High Density Residential The application of The Ambassador Hotel Cooperative Apartments Corp., A Florida Corporation (Richard Schlesinger, President), Applicant, relative to property located at **2730 S OCEAN BLVD**, legal description on file, is described below. The following zoning relief is being requested: 1. Section 134-1055 (16.): Special Exception approval to modify the existing condo-hotel use in the R-D(2) Zoning District. 2. Section 134- 327: Site plan approval for the modifications to the existing condo-hotel site as identified above. 3. Section 134-1064: Special exception approval for the new balconies on the third, fourth and fifth floors. 4. Section 134-1060 (6)(f): Variance request for the proposed redevelopment to include the addition of balconies on the south side of the building that will encroach into the south side yard setback by a 30 inches thus a variance request for a setback of 27.5 feet in lieu of the 30 foot minimum required. 5. Section 134-2172: Variance to allow the proposed off-street, valet-operated parking, to be tandem and stacked in lieu of the code required off-street parking standards related to size of spaces and access. The code requires parking spaces to be designed so that a vehicle can be removed without the necessity to move another vehicle. The proposed parking is modifying and adding parking areas designed with stacked (tandem) and lift parking. 6. Section 134-1064: Variance to allow the lot coverage to be 44.9% in lieu of the 23.7% existing and the 22% maximum allowed in the R-D(2) Zoning District for 5 story buildings (the building is 7 stories with a lower level floor area). 7. Section 134-1060(6): Variance to allow a north side yard setback of 15 feet in lieu of the 30 foot minimum required for the under dune garage. 8. Section 134-1064(b)(3): Variance to allow a height of 68.96 feet in lieu of the 62.5 maximum allowed for the Penthouse additions (7th floor). [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission deferred this project to the October 28, 2020 meeting at the request of the attorney. Carried 7-0.]

**Withdrawn at the approval of the agenda.**

- c. **Z-19-00236 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of Jennifer J. Naegele, Applicant, relative to property located at **70 MIDDLE RD**, legal description on file, is described below. The applicant is undertaking a renovation of a 3 story landmarked residence located in the R-



B Zoning District. The renovation includes a 91 square foot laundry room addition to the northwest corner of the house; a 191 square foot covered terrace addition on the north side of the house; and a 60 KW generator proposed in the street side yard along Via Marina. The following variances are being requested: 1) Sec. 134-1729: a variance to allow a 60 KW generator to be placed in the street side yard along Via Marina with a setback of 8.5 feet in lieu of the 25 foot minimum required. 2) Sec. 134-893(11): a variance for lot coverage for the laundry room addition of 34.47% in lieu of the 33.07% existing and the 30% maximum allowed. 3) Sec. 134-893(13): a variance for a cubic content ratio ("CCR") for the laundry room and covered terrace of 8.85 in lieu of the 8.32 existing and the 3.95 maximum allowed. 4) Sec. 134-893(7): a variance for a north side yard setback of 7.6 feet in lieu of the 12.5 feet minimum required for the laundry room addition. 5) Sec. 134- 893(7): a variance to convert the existing flat roof to a covered balcony with railing that will have a north side yard setback of 7.6 feet in lieu of the 15 foot minimum required. [Applicant's Representative: Maura Ziska Esq] [Landmarks Preservation Foundation Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation Commission approved the project as presented with the condition that the homeowner voluntarily grants the utility easement. Carried 7-0]

**Removed from the agenda at the approval of the agenda.**

- d. **Z-20-00265 SPECIAL EXCEPTION WITH SITE PLAN REVIEW** Zoning District: R-B Low Density Residential The application of Carlos Musso, Sr., Applicant, relative to property located at **110 SEAGATE RD**, legal description on file, is described below. Special Exception with Site Plan Review to allow the construction of a 4,201 square foot two-story new residence on non-conforming portions of platted lots with a depth of 96.12 feet in lieu of the 100 foot minimum depth required in the R-B Zoning District. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed special exception and site plan review will not cause negative architectural impact to the subject property. Motion carried 7-0.] [The Architectural Review Commission approved the project as presented. Carried 7-0.] [The Architectural Review

Commission reviewed this project after it was remanded back to them from Town Council. The Architectural Review Commission approved the project as presented based on the competent, substantial evidence and on Section 18-205, criteria 4, 6 and 8.]

Ex-parte communication was disclosed by Council President Pro Tem Lindsay and Council Member Araskog.

Maura Ziska, Attorney for the owner, presented the zoning requests.

Paul Castro, Zoning Manager, provided staff comments.

Council Member Crampton commented he liked the project and could not understand the opposition of the neighbors. He added that there were many different types of architecture on the street. Looking at the plan with landscaping in place, he believed the home would be a nice addition to the street.

Council Member Moore confirmed with Zoning Manager Castro that the only reason the house was before the Council was because it was a non-conforming lot.

Council Member Araskog thought this was an unfortunate situation, and did not think it was fair to cut off the attorney and not allow him to present his case fully. She felt it should be heard one more time at ARCOM, following proper procedure. She added that she could not to approve the request at this time.

Ms. Ziska commented the Commissioners had seen all the letters.

Public Comment:

Council President Pro Tem Lindsay read a letter of objection into the record from Joanne Paladino.

Council President Pro Tem Lindsay inquired of staff if ARCOM dealt adequately with the three criteria in the discussions. Director Bergman stated his belief that they did.

**Motion made by Council Member Crampton and seconded by Council President Zeidman, that Special Exception Z-20-00265 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 the area. Motion carried 3-2 with Council Member Araskog and Council President Pro Tem Lindsay opposed.

Motion made by Council Member Crampton, and seconded by Council President Zeidman, that Site Plan Z-20-00265 be approved based upon the finding that the approval of the Site Plan will not adversely affect the public interest; that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement have been met concerning Section 134-329 items 1 through 11. During discussion of the motion, Council Member Araskog questioned whether Town Attorney Randolph believed proper procedure had been followed at the ARCOM meeting. Town Attorney Randolph commented he had agreed with Mr. Hanlon that he should have been able to speak longer than three minutes when representing parties, but could not say if proper procedure had been followed. Council Member Araskog asked Town Attorney Randolph questions, if he had changed his mind, which he stated he had not; if the commissioners should have used the letters at this hearing, and he stated the commissioners should have considered all evidence, and Council Member Araskog stated Council President Pro Tem Lindsay's motion was not stated properly in the minutes which indicated they were to discuss the issues raised in the meeting, which they did not do. Town Attorney Randolph responded it was his understanding that this was referred back to ARCOM so that they could make findings relating to the specific three criteria in the code, which they did. Motion carried 3-2 with Council Member Araskog and Council President Pro Tem Lindsay opposed.

- e. **Z-20-00269 VARIANCES** Zoning District: R-B Low Density Residential The application of John Criddle and Franny Frisbie, Applicant, relative to property located at **143 REEF RD**, legal description on file, is described below. The applicant is proposing to construct a new 597 square foot one story garage to the west of the existing residence. The following variances are being requested: 1. Section 134-893(7): The applicant is requesting a variance for a west side yard setback of 5 feet in lieu of the 12.5 foot minimum required for a one story building. Section 134-893(6): The applicant is requesting a variance for an angle of vision of 105 degrees in lieu of the 100 degrees maximum allowed. [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. Motion carried 4-3.] [The Architectural

Review Commission approved the project as presented. Carried 4-3.]

**Deferred to the December 9, 2020 Town Council Meeting at the approval of the agenda.**

f. **Z-20-00281 SPECIAL EXCEPTION WITH SITE PLAN**

**REVIEW** Zoning District: R-D(2) High Density Residential and Medium Density Residential The application of CH HOTEL, LLC (Andrew and Sarah Wetenhall and Family), relative to property located at **135 HAMMON AVE, 152 HAMMON AVE, AND 155 HAMMON AVE**, legal description on file, is described below. Request for a modification to the previously approved Special Exception for the Colony hotel use to allow the relocation of the previously held events on the west side of the ballroom building to the new east garden. The use of the garden area east of the ballroom building shall be primarily used as a pre-function space such as wedding ceremonies and cocktail receptions -all to be used in conjunction with the ballroom building that was approved by the Town Council in 1986. The Colony Hotel is requesting the following terms to be approved: 1) All pre-function events or ceremonies in the garden will be concluded by 10:00 p.m. 2) There shall be only background music allowed or live music of no more four instruments. 3) There shall be no DJ music 4) Microphone use shall be allowed for officiant for wedding services or an individual making remarks. 5) The hotel will agree to install a custom designed in-ground sound system to abate noise. 6) The hotel will install a mutually agreeable privacy/landscape buffer along the eastern property line. [Applicant's Representative: Maura Ziska Esq] Consideration of Proposed Declaration of Use Agreement.

Ex-parte communication was disclosed by Council President Pro Tem Lindsay.

Maura Ziska, Attorney for the applicant, commented they were back to fine tune language in the Declaration of Use document. She reported she and Zoning Manager Castro had worked on this together, and a copy had been provided to the members of the Council.

Paul Castro, Zoning Manager, suggested review of the proposed document item by item.

Items 1, 2 and 3 were acceptable.

Item 4: Ms. Ziska commented on Item 4 her client would like to remove vocal performances and substitute acoustic singers. Council Member Moore recalled that their concern seemed to have been the amplification of a singer and that the singer should not exceed the decibel level already stated in the code. Council President Pro Tem Lindsay noted her recollection of Item 4 was the same as Council Member Moore had stated. Sarah Wetenhall, The Colony Hotel, commented she would like to be able to have acoustic singers, and to add no hired DJ's with external sound equipment. Zoning Manager Castro read the proposed language for Item 4: No DJ's with external sound equipment shall be allowed to perform in the east garden. Vocals shall only be acoustic.

Item 5: It was agreed to add live drums.

Item 6: No changes were made.

Item 7: Council President Pro Tem Lindsay recommended removing the language that doors should be shut during operations and add the doors should be closed after 10 p.m. Discussion ensued. Zoning Manager Castro suggested the following language for Item 7: During an outside event that was going to be moving inside, the doors can be opened and shut all the time, but as the party moves inside for dinner and dancing the doors would remain closed. Zoning Manager Castro stated he would work with Ms. Ziska on the exact wording.

Item 8: No changes were made.

Item 9: No changes were made.

Item 10: No changes were made.

Council President Zeidman called for public comment. There were no comments heard at this time.

**Motion made by Council Member Araskog and seconded by Council Member Crampton, to approve the language in the Declaration of Use Agreement for The Colony as amended. Motion passed unanimously.**

- g. **Z-20-00282 VARIANCE(S)** Zoning District R-B Low Density Residential The application of Mr. and Mrs. Terwilliger, Applicants, relative to property located at **202 PLANTATION RD**, legal description on file, is described below. The applicant is proposing to renovate the two-story single family residence by constructing a 425 square foot master bedroom addition and replacement of a 183 square foot open air trellis with a 183 square foot covered porch. The following variances are being requested: 1. Section 134-893(6): an angle of vision of 114 degrees in lieu of 108 degrees existing and 108 degrees maximum allowed. 2. Section 134-893(13): a cubic content ratio of 3.99 in lieu of 3.83 existing and 3.94 maximum allowed. [Applicant's Representative: Maura Ziska Esq]

**Withdrawn at the approval of the agenda.**

- h. **Z-20-00289 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: C-B Commercial The application of LR Palm House LLC (Ian Livingstone, Executive Chairman), Applicant, relative to property located at **160 ROYAL PALM WAY**, legal description on file, is described below. Section 134-1304 (5): Request to modify Site Plan Review # 1-2016 with Special Exception to change the approved use from condo-hotel to hotel; modify the previously approved site plan; and amend the conditions of approval in the Declaration of Use Agreement, as identified in the proposed Third Amendment to the Declaration of Use which is Exhibit "F") of this application. The proposed site modifications being requested as follows: Section 134-1304(5): The existing Palm House hotel is located at 160 Royal Palm Way, Palm Beach, Florida. It is currently vacant and construction is partially completed. The structure is three stories with a partially enclosed basement containing parking and back-of-house functions. The hotel is 84,495 gross square feet in total. There is an East and West guest wing, and these wings are connected by a central core containing the Main Entrance and other partially completed public functions. A separate conference and events "Function Room" and partial pool deck was also constructed at the southeast portion of the property. Section 134-227. 326 & 329 1729(2) (c): (Site Plan Review) The new owner/applicant is proposing new work for the hotel which includes the following site plan modifications: 1) Completion and conversion of guest rooms for a total of 79

keys. Two new presidential suites will be constructed within the building core, each with private outdoor balconies. 2) Completion of the lower level for back-of-house, administrative and housekeeping functions for the hotel. The interior modifications for the lower level includes renovation of partially completed areas including kitchen, food storage, housekeeping, staff areas and hotel administrative offices. The owner is requesting an additional 148 SF to provide a new service stair from the lower level to support the Pool Area. Additional areas for renovation include spaces for MEP Infrastructure such as electrical, hot water, and elevator systems. The proposed modifications remove all Hotel Guest program areas from the lower level. The lower level renovation includes restoration of parking area for 60 parking spaces including three accessible parking spaces. Two parking spaces which includes on Van Accessible parking space is located behind the existing function room. All parking will be Valet only per the Declaration of Use Amendment Three. Total on-site parking provided is 62 spaces. 3) A new pool deck will be constructed adjacent to the existing Function Room, with various amenities that include chaise lounges and outdoor seating, shade umbrellas, toilets, a towel/concierge stand, open-air bar with enclosed pantry behind, water features, lush native plantings, and Event Lawn to be used as a pre-function space, or for small wedding and/or overflow sun bathing; 4) The first level lobby and public spaces will be completed to include fine dining and lobby bar, with 88 indoor seats as well as 36 outdoor seating facing the new pool deck. The second floor dining that was previously approved has been eliminated to make room for the reconfigured hotel suites which include the new presidential suites; 5) The Function Room construction will be completed and the seating plan in the Function Room is being revised to add 50 more seats for a total of 200 seats (the total overall number of seats throughout the hotel that was previously approved is being reduced from 336 to 324); 6) A small 556 square foot banquet prep kitchen is proposed to be constructed adjacent to and on the east side of the existing Function Room. 7) Replace a 250 RW generator in the basement with the same size that exists today. - Other exterior Improvements will include new third floor railings, repainting, new exterior floor finishes, trellises and a covered walkway leading to the existing Function Room. Fenestration requiring replacement will be replaced with similar windows and doors. Addition of a small 61 square foot pool service building; enclosing the 679 square foot function room pre-

function space on the west side of the Function Room; addition of 588 square foot restroom for Function Room, addition of 556 square foot prep kitchen for Function Room and addition of 148 square foot stairwell to access Function Room prep kitchen. The following is a list of the proposed special exceptions and variances being requested for the hotel project:

- 1) Section 134-226 & 229: A special exception request to modify the approved special exception by converting from a condominium hotel to hotel use and make the site modifications and change to the conditions of approval as identified in this application.
- 2) Section 134-1305: A special exception request to allow 36 seats for outdoor dining on the first floor on the north side of the pool deck; and
- 3) Section 134-1308(9): A variance for lot coverage to be 63.8% in lieu of the 62.8% existing and the 50% maximum allowed in the C-B Zoning District;
- 4) Section 134-1308(8): A variance for the addition of railings and solid wall on the east facade of the hotel above the second floor where only a two story building is allowed in the C-B Zoning District;
- 5) Section 134-1308(8): A variance for the addition of railings and solid wall on the east facade of the hotel with a height of 31.83 feet in lieu of the 25 foot maximum allowed;
- 6) Section 134-1669: A variance for the height of the wall enclosing the dumpster located at the southeast corner of the property to be 13.25 feet tall in lieu of the 7 foot maximum height allowed from the neighbor's grade;
- 7) Section 134-1308(8): A variance for the two story open air addition on the south side of the hotel for a hotel suite balcony on the second floor and covered dining on the first floor with a height of 33.58 feet in lieu of the 25 foot maximum allowed in the C-B Zoning District;
- 8) Section 134- 1308(8): A variance for the two story open air addition on the south side of the hotel for a hotel suite balcony on the second floor and covered dining on the first floor with an overall height of 42 feet in lieu of the 35 foot maximum allowed in the C-B Zoning District;
- 9) Section 134-1669: A variance for the height of the wall along the rear property line to be 8.5 feet in lieu of the 7 foot maximum allowed from the neighbor's grade;
- 10) Section 134-1669: A variance for the height of the wall enclosing the existing chiller at the south west corner of the property to be 12 feet tall in lieu of the 7 foot maximum allowed from the neighbor's grade;
- 11) Section 134-1308(7): A variance for a rear yard setback for the chiller to be 2.25 feet in lieu of the 10 foot minimum required in the C-B Zoning District;
- 12) Section 134-1308(6): A variance for a west side yard setback for the



chiller to be 5.8 feet in lieu of the 10 foot minimum required in the C-B Zoning District. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 7-0.] [The Architectural Review Commission approved the project as presented with the landscape, service gate and paint colors to return to the November 20, 2020 meeting. Carried 6-1.]

**Deferred to the December 9, 2020 Town Council Meeting at the approval of the agenda.**

- i. **Z-20-00291 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of Hi Mount LLC (Amy Zabetakis, Manager), relative to property located at **756 HI-MOUNT RD**, legal description on file, is described below. The applicant is proposing a new 8,327 square foot, two story residence on the subject property that will require the following variances: 1) Section 134-895(1): A chimney with a height of 13.56 feet in lieu of the 8.8 foot maximum allowed; 2) Section 134-8893(11): A lot coverage of 33% in lieu of the 30% maximum allowed for a two story residence in the R-B Zoning District; 3) Section 134-1: The proposed sub-basement is under the confines of the building above it and also below the lowest grade of the public street (Hi Mount Road) in front of the lot, however, it is not completely underground. A variance is being requested to allow a proposed sub-basement where a portion is not completely underground as there is a substantial change of grade from Hi Mount Road to Lake Trail. 4) Section 134-1670(c): A height of the retaining wall along the north property line to be 11.03 at its maximum height in lieu of the 7 foot maximum allowed. 5) Section 134-1670(c): A retaining wall at the northwest corner of the house, in the side yard within 10 feet of the property line that is at 14 feet in height in lieu of the 10 foot maximum from adjacent grade.  
[Applicant's Representative: Maura Ziska Esq]

**Deferred to the December 9, 2020 Town Council Meeting at the approval of the agenda.**

## **2. New Business**

- a. **Z-20-00292 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of Michael and Lisa Rome,

Applicant, relative to property located at **240 VIA LAS BRISAS**, legal description on file, is described below. A request to enclose the existing 607 square foot canvas covered pergola with permanent roof structure that would require the following variances: 1) Section 134-893(13): A cubic content ratio of 4.28 in lieu of the 4.09 existing and the 3.90 maximum allowed in the R-B Zoning District. 2) Section 134-893(11): A lot coverage of 31.9% in lieu of the 29.9% existing and the 25% maximum allowed in the R-B Zoning District for lots over 20,000 square feet. [Applicant's Representative: Maura Ziska Esq]

No ex-parte communications were disclosed.

Attorney Maura Ziska presented the variance request to change the fabric roof of the pergola to a permanent roof.

Zoning Manager Paul Castro provided staff comments.

Council Member Araskog asked about the hardship. Attorney Ziska responded.

Zoning Manager Castro further explained the hardship was triggered by going to a permanent roof.

Council President Zeidman called for public comment. There were no comments.

**Motion made by Council Member Crampton and seconded by Council Member Moore, that Variance Z-20-00292 shall be granted and find in support thereof that all 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 the area. Motion carried 4-1 with Council Member Araskog opposed.**

- b. **Z-20-00293 SITE PLAN REVIEW WITH VARIANCE(S)**  
Zoning District: R-C Medium Density Residential The application of Elaine Hirsch, Applicant, relative to property located at **130 SUNRISE AVE, SUITE: PH 1**, legal description on file, is described below. A site plan modification with variances to allow a 365 square foot fixed awning over the terrace on the seventh floor of a seven story condominium

building. The following variances are being requested: 1. Section 134-948(8): To allow the awning at a height of 61.5 feet in lieu of the 23 1/2 foot maximum height allowed in the R-C Zoning District. Section 134- 948(8): To allow the awning at an overall height of 63.66 feet in lieu of the 26 1/2 foot maximum height allowed in the R-C Zoning District. Section 134-948(8): To allow the awning on the existing seventh floor penthouse of a seven story building in lieu of the two story building maximum allowed in the R-C Zoning District. Section 134-948(6): To allow a west side yard setback of 50.1 feet in lieu of the 61.5 foot minimum required. Section 134- 948(7): To allow a rear street yard setback of 106.5 feet in lieu of the 123.16 foot minimum required. [Applicant's Representative: Maura Ziska Esq]

**Deferred to the December 9, 2020 Town Council Meeting at the approval of the agenda.**

- c. **Z-20-00294 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of Georgia Benevides, Applicant, relative to property located at **266 COLONIAL LN**, legal description on file, is described below. A request for a flood plain variance for this historically designated house in order to construct the proposed addition with a finished floor elevation of 5.43 feet North American Vertical Datum ("NAVD") in lieu of the 7 foot NAVD required when construction exceeds 50% of the market value of the residence. The following other variances are being requested: 1. Section 134-893 (7): To allow a new 187 square foot one story addition to the west side of the residence and change the existing flat roof of that portion of the house to a higher pitched roof that will require a variance to have a 5.1 foot west side yard setback in lieu of the 12.5 foot minimum required in the R-B Zoning District. 2. Section 134-893 (9): To raise the height of the existing house in the rear from a flat roof to a pitched roof that will raise the height in a setback that is currently 2.5 feet in lieu of the 10 foot minimum required in the R-B Zoning District. 3. Section 134-2179: To convert a one car garage into living space which requires a variance to remove a required garage enclosure. [Applicant's Representative: Maura Ziska Esq] [Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the historically significant building. Carried 7- 0.] [The Landmarks Preservation Commission approved the project. Carried 6-1.]

No ex-parte communications were disclosed.

Attorney Maura Ziska presented the request, and explained this was a flood plain variance, and the first house to be presented as historically designated.

Paul Castro provided staff comments.

Council President Zeidman called for public comment. There were no comments.

**Motion made by Council Member Moore and seconded by Council President Pro Tem Lindsay, that Variance Z-20-00294 shall be granted and find in support thereof that all 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 the area. Motion carried unanimously.**

- d. **Z-20-00295 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: C-TS Town-Serving Commercial The application of Café L'Europe, Applicant, relative to property located at **331 S COUNTY RD**, legal description on file, is described below. 1) Section 134-1109 (14): Special Exception with Site Plan Review is being requested to relocate 20 seats from the inside 175 seats of Cafe L'Europe and relocate them outside along the sidewalk for dinner. 2) Section 134-1113(5)c: Cafe L'Europe is proposing to add 11 new arched top awnings and add new fabric at existing awning. The new awnings project 3'-0" off the face of the building and the bottom of the awning is 9' -0" above the existing sidewalk. The existing entrance awning projects approximately 10' -0" over the existing sidewalk, the existing frame will remain unchanged, only the fabric is being changed out. A variance is being requested to have 4.75 feet of clear sidewalk (along South County Road) in lieu of the 10 foot minimum required; and to have 7.75 feet of clear sidewalk (along Brazilian Avenue) in lieu of the 10 foot minimum required. [Applicant's Representative: Maura Ziska Esq] [Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause

negative architectural impact to the landmarked building. Carried 7-0.] [The Landmarks Preservation Commission approved the project with conditions relating to the architecture. Carried 7-0.]

Administrative Specialist Churney swore in Keith Spina.

No ex parte communication was disclosed.

Maura Ziska, attorney for the applicant, provided an overview of the project.

Zoning Manager Castro provided staff comments. Director of Planning, Zoning and Building Bergman commented the Town had approved some outdoor seating under COVID.

Council President Pro Tem Lindsay confirmed with Attorney Ziska that this was a permanent change. Director Bergman stated this was ADA compliant. Mr. Spina agreed to remove outdoor seating on the side after 10 p.m.

Zoning Manager Castro suggested moving some of the seats on Brazilian to the south on County Road. Mr. Spina stated it was the same landlord and he would investigate the option.

Council Member Moore inquired if this would jeopardize the Town Hall Historic District. Mr. Castro expressed his opinion that it would be appealing to have more outdoor seating near the Town Hall area.

Council Member Moore inquired whether Mr. Alma had any safety issues. Ben Alma, Code Enforcement, stated he was okay with the request.

Mayor Coniglio inquired if the outdoor seating for COVID had been used. Keith Spina responded they had started to use that seating but then rain caused a building disaster and the restaurant had to shut down. The Mayor indicated she would support moving the tables farther south on County Road more than on Brazilian. She suggested having criteria in place in anticipation of more requests of this type.

Council Member Crampton agreed with pushing the seats south on County Road and reducing the hours to 10 p.m.

Council President Pro Tem Lindsay agreed with pushing seats on south on County Road and reducing hours. She also would like the applicant to come back.

Council Member Araskog agreed with allowing seating on Brazilian, but if neighbors complained, the seats needed to be moved to the other side.

Mayor Coniglio asked Director Bergman if there was enough sidewalk width. His response was yes. She felt seating should be moved off Brazilian Avenue. She wanted to work with the neighbors and with the restaurant. Discussion ensued. Town Attorney Randolph gave his opinion this could be approved conditionally.

Council Member Moore commented she would be happier being seated on Brazilian because the sidewalk was wider and there was less traffic. She suggested approval with the applicant to return in 6 months and with 10 p.m. closing.

Council Member Araskog questioned whether seats could be moved inside if it was raining. Zoning Manager Castro responded that option was already available.

#### Public Comment

John Eubanks, representing the owners at 140, 141 and 149 Brazilian Avenue, expressed objections to the proposed request.

**Motion made by Council Member Moore and seconded by Council President Pro Tem Lindsay, that Variance Z-20-00295 shall be granted and find in support thereof that all criteria applicable to this application as set forth in Section 134.201(a) items 1 through 7 have been met, with the caveat that in six months or if complaints that the applicant shall return for review of the situation, and hours of operation for seating on Brazilian Avenue side will cease at 10:00 p.m., 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. Motion carried unanimously.**

**Motion made by Council Member Moore and seconded by Council Member Araskog, that Special Exception Z-20-00295 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 the area, and subject to the same conditions outlined in the motion for variance. Motion carried unanimously.**

**Motion made by Council Member Moore and seconded by Council Member Araskog, that Site Plan Z-20-00295 be approved based upon the finding that the approval of the Site Plan will not adversely affect the public interest; that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement have been met 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 the area, and with the same caveats as on the prior two motions. Motion carried unanimously.**

- e. **Z-20-00296 SITE PLAN REVIEW WITH VARIANCE(S)**  
Zoning District: R-C Medium Density Residential The application of Palm Beach Biltmore Condominium Beach Club, Applicant, relative to property located at **100 SUNSET AVE, BLDG 2**, legal description on file, is described below.  
1) Section 134-326: A site plan modification with variances to allow a 728 square foot fixed awning addition to the covered patio that currently exists at the Beach Club. The following variances are being requested to construct the following: 2) Section 134- 948(9): To allow the awning which will increase the lot coverage to 38.2% in lieu of the 33.3% existing and the 30% maximum allowed. 3) Section 134-948(7): To allow an east street-side yard setback of 14.83 feet in lieu of the 25 foot minimum required. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 7-0.] [The Architectural Review Commission approved the project as presented. Carried 7-0.]

Administrative Specialist Churney swore in Jeff Brasseur.

No ex-parte communications were disclosed.

Maura Ziska, attorney for the applicant, explained the zoning requests for the project.

Zoning Manager Castro provided staff comments.

Council President Zeidman called for public comment. There were no comments heard at this time.

**Motion was made by Council Member Crampton, and seconded by Council Member Araskog, that Site Plan Z-20-00296 be approved based upon the finding that the approval of the Site Plan will not adversely affect the public interest; that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement have been met 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 the area. Motion carried unanimously.**

**Motion made by Council Member Crampton and seconded by Council President Zeidman, that Variance Z-20-00296 shall be granted and find in support thereof that all criteria applicable to this application as set forth in Section 134.201(a) items 1 through 7 have been met. Motion carried unanimously.**

## **IX. ORDINANCES**

### **A. First Reading**

#### **1. ORDINANCE 16-2020**

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 VIII, Supplementary District Regulations, Section 134-1728 Air Conditioning And Swimming Pool Heating Equipment, By Changing The Title; Reorganizing The Regulations; Allowing The Use Of A Neighbor's Concrete Wall For Screening Said Equipment; Providing For A Recorded Agreement With The Town To Build A Screening Wall As Provided For In The Code Should The Neighbor Remove Their Wall; Providing A Maximum Distance That Swimming Pool Equipment Can Be Located From A



Swimming Pool Or Fountain; At Article VIII, Supplementary District Regulations, Section 134-1729, Generators And Swimming Pool Equipment, By Modifying The Title And Generator Regulations; Moving Swimming Pool Equipment Into Section 134-1728 Of The Code; Allowing More Than One Generator On A Property And Allowing The Use Of A Neighbor's Concrete Wall For Screening Said Equipment; Providing For A Recorded Agreement With The Town To Build A Screening Wall As Provided For In The Code Should The Neighbor Remove Their Wall; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Town Attorney Randolph read Ordinance 16-2020 into the record by title on first reading.

Council President Zeidman called for public comments. There were no comments heard at this time.

**Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay, to approve Ordinance 16-2020 on first reading by title only. Motion carried unanimously.**

#### **X. ANY OTHER MATTERS**

##### **A. Consider Time Extension to Palm House Hotel Settlement Agreement Regarding 90 Days for Compliance**

Maura Ziska, attorney for the owners of The Palm House Hotel, explained the time extension request.

Town Attorney Randolph further clarified Ms. Ziska's request.

Ms. Ziska stated the request would be 18 months from the time of building permit.

**Motion made by Council Member Moore and seconded by Council Member Crampton, to approve the 18-month extension from the day of the building permit. Motion carried unanimously.**

#### **XI. ADJOURNMENT**

The meeting was adjourned at 1:03 p.m. upon motion by Council Member Moore, seconded by Council President Pro Tem Lindsay, without benefit of a roll call.

APPROVED:

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Margaret Zeidman, Town Council President

ATTEST:

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Kelly Churney, Administrative Specialist