



# TOWN OF PALM BEACH

## Minutes of the Development Review

### Town Council Meeting

Held on January 13, 2021

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order January 13, 2021 at 9:42 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 thanked the staff for a well-run caucus on the previous evening. She also added her congratulations to Julie Araskog and Danielle Moore.

IV. COMMENTS OF TOWN COUNCIL MEMBERS

Council President Zeidman also thanked staff and fellow citizens who participated in the caucus. She reminded everyone that tomorrow would be Arbor Day, and discussed the event planned at Phipps Ocean Park. She thanked staff for moving the time extension waiver agenda item to the end of the agenda.

Council President Pro Tem Lindsay discussed the well-received wait list for the COVID vaccine.

Council Member Araskog thanked staff and colleagues for a successful caucus. She also expressed thanks for the wait list for the COVID vaccine. She thanked staff for moving the time extension agenda item to the end of the agenda.

Council Member Moore thanked staff for a successful caucus. She added that she would be proud to serve as the Town's Mayor.

Council Member Crampton congratulated Julie Araskog and Danielle Moore. He thanked Jay Boodheshwar and staff for the successful caucus. He added that he looked forward to serving with a great team in the coming year.

Council Member Araskog thanked Queenester Nieves for her help in making the caucus successful.

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 VII. A. 1 to the February 10, 2021 meeting.

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

Deferral of Item VIII. B. 1 (c) to the February 10, 2021 meeting.

Deferral of Item VIII. B. 2 (a) to the February 10, 2021 meeting.

Deferral of Item VIII. B. 2 (d) to the February 10, 2021 meeting.

Deferral of Item VIII. B. 2 (e) to the February 10, 2021 meeting.

Deferral of Item VIII. B. 2 (g) to the February 10, 2021 meeting.

Deferral of Item VIII. B. 2 (h) to the February 10, 2021 meeting.

Deferral of Item VIII. B. 2 (i) to the February 10, 2021 meeting.

Deferral of Item VIII. B. 2 (j) to the February 10, 2021 meeting.

**Motion made by Council Member Araskog and seconded by Council Member Moore to approve the agenda as amended. Motion carried unanimously.**

Council Member Moore expressed concern for the number of deferrals. Director Bergman explained the process for placing projects on the agenda.

VII. DEVELOPMENT REVIEWS

**A. Appeals**

1. ARCOM Appeals of B-063-2020 160 Royal Palm Way

**This item was deferred to the February 10, 2021 meeting during the approval of the agenda, Item VI.**

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

1. Old Business

- a. **Z-19-00232 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: C-WA Worth Avenue The application of 125 Worth Partners, LLC, Applicant,

relative to property located at **125 WORTH AVE**, legal description on file, is described below. The applicant requests Site Plan Review modification approval for revitalization, renovation and expansion of the 45 year-old nonconforming commercial building located at 125 Worth Avenue in the C-WA zoning district. The building will be completely renovated architecturally using design themes found in the Worth Avenue Design Guidelines. In addition, a two story addition is being proposed on the east end of the property. To make this project financially feasible, the owners are requesting to demolish and rebuild the existing fourth story and expand its footprint to add four residential units. In addition to the Site Plan Review proposed modifications, the applicant is requesting the following Special Exceptions and Variances required to complete the project: 1. Per Section 134-1163(8)b., a special exception for a two-story and fourth story addition. The existing building is four stories but it is being expanded. 2. Per Section 134-2182(b), a special exception for on-site shared parking, subject to a professional shared parking analysis. 3. Per Section 134-419, a variance to allow an expansion of an existing nonconforming building by increasing the height from 53' in lieu of the 49'2" existing and the 25' maximum allowed by code. 4. Section 134-419, a variance to allow an expansion of an existing nonconforming building by increasing the overall building height to 63'4" in lieu of the 53'8" existing and the 35' maximum allowed by current code. 5. Per Section 134-419, variance to allow an expansion of an existing nonconforming building by increasing the existing air conditioned floor area of the fourth story to 13,212.9 square feet from 3,448.75 square feet existing. An open fourth story trellis of 5,433 square feet is also proposed in this application and included in the calculation of lot coverage, below. There is an existing exterior fourth floor covered area of approximately 3,290 Square feet in addition to the existing air conditioned floor area on the fourth story of the building. 6. Per Section 134-1163(5), variance to allow a minimum front yard setback of 1'1" for portions of the building in lieu of the 5' existing and the 5' minimum required on the private property. The sidewalk is required to be a minimum of 10' wide and this proposal is a minimum of 8'2" in the area where the sidewalk is only 1'1" wide on private property. 7. Per Section 134-1163(9)b., variance for lot coverage of 71% on the first floor in lieu of the 57% existing and the 35% maximum allowable. 8. Per Section 134-1163(9)b., variance for lot coverage of 71% on the second floor in lieu of the 57% existing and the 35% maximum allowed for second story. 9. Per Section 134-1163(9)b., variance for lot coverage of 54% on the fourth floor in lieu of the 20% existing and the 35% maximum allowable by code. 10. Per Section 134-419, a variance to allow an expansion of an existing nonconforming building by increasing the existing building length at the east end of the building from 201'8" to 246' in lieu of the 150' permitted as of right in the C-WA zoning district. [Applicant's

Representative: James M. Crowley Esq] [The Architectural Review Commission deferred this project to their February 24, 2021 Meeting. Carried 6-1.] Request For Deferral to the March 10, 2021 Meeting Per Letter from James M. Crowley.

**This item was deferred to the March 10, 2021 meeting during the approval of the agenda, Item VI.**

- b. **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 form 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, re- painting, 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 a condition relating to the service gate, the doors in the banquet kitchen and that the windows and railings will return to the January 27, 2021 meeting. Carried 6-1.]

Administrative Specialist Churney swore in Maura Ziska, Mark Banfield, architect with Cooper Carry, and Kathy Logan.

Ex parte communications disclosed by Council Member Araskog.

Maura Ziska, attorney for the applicant, provided an overview of the project and thoroughly reviewed and explained the various zoning items being requested.

Zoning Manager Castro provided staff comments, including discussion of proposed changes from the original approval.

Council President Pro Tem Lindsay thought the Town Council should be cautious when reviewing all of the new function activities, particularly with the hotel's proximity to a residential neighborhood, which raised new questions.

Council Member Crampton agreed with Council President Pro Tem Lindsay and thought the focus should be on the new uses as

well as proximity to the neighbors. He added that the renovations were fantastic and the hotel would be a nice addition to the Town.

Council Member Araskog inquired as to Mr. Castro's view on the number of seats allowed. Mr. Castro responded with his concerns. Council Member Araskog inquired about the parking for the employees. Ms. Ziska responded there would be off-island parking for employees and they would be bussed to work. Council Member Araskog inquired about the landscape buffers on the perimeter of the property, which the applicant provided. Council Member Araskog wanted to look carefully at the Declaration of Use.

Council President Zeidman shared the concerns of her fellow council members and questioned the effect of sound and light for the surrounding neighbors as well as safety with the addition of traffic in the area. Council President Zeidman inquired about the width of the landscape buffer, to which. Sean McLendon, with Cooper Carry, responded.

Mr. Castro added that the applicant would need to have approved storm drainage plans.

Council Member Moore inquired about the greenspace size for the pre-function space. Kathy Logan, with Cooper Carry, responded. Council Member Moore expressed some concern about the number of functions, numbers of people, and noise.

Mayor Coniglio inquired about the number of cars that could be accommodated by the valet service. Ms. Ziska responded. Mayor Coniglio inquired if there was a plan for overflow parking. Ms. Ziska stated that no plan had been established at this time.

Ms. Ziska stated that there were several declaration of use agreements that were being combined into a single document, which would address many of the Council's concerns. She added that they would return with the proposed declaration of use at a future meeting.

Council Member Araskog inquired about the variance for the third story. Ms. Ziska provided further explanation for the variance.

Council Member Pro Tem Lindsay further explained her concerns addressing some of the items in the Declaration of Use Agreements.

Council Member Crampton asked for clarification as to what was requested for today. He asked for a new Declaration of Use. Attorney Ziska responded that was in process and they were asking

for site plan approval today.

Council President Zeidman tried to clarify what was being requested. Ms. Ziska commented seating had been previously approved.

Mr. Castro thought that if approved, the approval should be conditional and based upon approval of a Declaration of Use Agreement and Construction Management Agreement.

Council President Zeidman called for public comment.

Administrative Specialist Churney swore in Donald Lunny and John Eubanks.

Donald Lunny, Attorney for Virginia C. Simmons at 133 Brazilian Avenue, explained the plans presented today were the result of settlement discussions and the applicant agreed there would be no permits pulled until approval was received. He reviewed items which would be in the Declaration of Use and described the developer as reasonably cooperative. He commented Attorney Ziska, Town staff, and Attorney Randolph had been excellent to work with.

John Eubanks, Attorney for the DeVries, owners of 141 and 149 Brazilian Avenue, asked to focus on limiting the effect of the function room. He reported they had worked on limiting sound, and now were concerned with lights, and described proposed higher walls and landscape changes. He added that they would submit the proposed changes for ARCOM approval moving forward. He stated that his clients did not object to what had been presented to this point.

Council Member Crampton commented he could conditionally approve the project because he believed it would be a good property for the Town's brand and the aesthetics were at a very high level. He thanked Attorney Ziska and the developer for holding discussions with the lawyers of those opposing the project. He was happy that the applicant's team worked with the neighbors to come up with solutions, and that a single Declaration of Use Agreement as well as a Construction Management Agreement would return to the Council so that they could deal with details.

Council Member Araskog inquired of Attorney Lunny if he had any concerns on what was being requested with the current application. Attorney Lunny responded. Ms. Araskog noted Council's approval would also have to be conditioned on ARCOM approval and she would like a statement that the neighbors' agreement cannot be changed by a staff approval unless the



neighbors were sent notices of the changes.

Council Member Moore expressed concern for the rear door of the banquet prep kitchen. Mr. Eubanks indicated that the door was an emergency exit door.

Mayor Coniglio inquired if an approval would affect a Declaration of Use Agreement. Mr. Castro responded the approval needed to be conditional. Discussion ensued regarding approval of the variances.

Council President Pro Tem Lindsay thought the risk of approval ran with the applicant. Town Attorney Randolph advised the requests today were structural changes rather than operational elements, and the approval would be granted conditionally on the understanding that there were operational aspects that still needed to be reviewed and approved.

Council President Zeidman inquired of Attorney Ziska if one month would delay the project. Ms. Ziska responded.

Council Member Araskog favored moving ahead.

Mark Banfield, LR Palm House, LLC, stated he was prepared to accept the risk if the project went forward.

**Motion was made by Council Member Crampton, and seconded by Council President Pro Tem Lindsay, that Site Plan Z-20-00289 be conditionally 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 a condition that a fully executed Declaration of Use Agreement and Construction Management Agreement be entered into that is approved by the Town and the neighboring property owners who have objected, and also conditioned upon ARCOM approval to move forward. Motion carried unanimously.**

Mayor Coniglio expressed her approval.

**Council Member Crampton moved and Council Member**

Araskog seconded, that Special Exception Z-20-00289 shall be conditionally approved 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 as previously stated relating to a Declaration of Use Agreement and Construction Management Agreement, and approval by ARCOM of the remaining issues. Motion carried unanimously.

Council Member Crampton made a motion, seconded by Council Member Araskog, that Variance Z-20-00289 shall be conditionally approved based upon a fully executed and approved Declaration of Use Agreement and Construction Management Agreement, and approval by ARCOM of remaining issues, 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.

Council Member Araskog made a motion, seconded by Council Member Moore, to defer the Declaration of Use Agreement and Construction Management Agreement and remaining variances for Z-20-00289 to Town Council meeting of February 10, 2021. Motion carried unanimously.

c. **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] Request For Deferral to the February 10, 2021 Meeting per Letter from Maura Ziska.

**This item was deferred to the February 10, 2021 meeting during the approval of the agenda, Item VI.**

*Please note: A short break was taken at 11:28 a.m. The meeting resumed at 11:39 a.m.*

- d. **Z-20-00300 SPECIAL EXCEPTION** Zoning District: C-TS Town-Serving Commercial The application of Flagler Holdings North Carolina Inc., Applicant, relative to property located at **223 ROYAL POINCIANA WAY & 227 ROYAL POINCIANA WAY SUITE A**, legal description on file, is described below. Pursuant to Section 134 2373 (13) of the Town Code, the applicant is requesting special exception approval to allow an internally illuminated, backlit business identification sign for Main Street by The Breakers, a new retail facility to be located at 223 Royal Poinciana Way. The applicant is also requesting an additional special exception to allow the same type of internally illuminated, backlit business identification sign for Shan, a retail clothing store to be located at 227 Royal Poinciana Way, Suite A. Both of these buildings are located at Via Flagler (221 Royal Poinciana Way) in the C TS zoning district, and the signs will be consistent with the backlit business identification sign that was approved by ARCOM and the Town Council for Henry's. Other than the special exception for an illuminated sign, no other special exceptions or variances are requested or required. [Applicant's Representative: James M. Crowley, Esq] [The Architectural Review Commission approved the project with the condition that the Shan signage is reduced to the same size and scale as the Main Street signage with no illumination. Carried 6-1.]

Administrative Specialist Churney swore in Jamie Crowley.

Ex parte communication disclosed by Council Member Araskog.

Town Attorney Randolph clarified that ex parte included listening to meetings and reading emails that were included in the backup.

James M. Crowley, Attorney for the applicant, provided an overview of the project and explained the Special Exception as requested.

Zoning Manager Castro provided staff comments.

Council President Zeidman inquired about the method in which

the sign was proposed to be lit. Mr. Crowley explained the sign would be backlit.

Council Member Araskog inquired about Architectural Review Commission's recommendation on the illumination proposed for the signage. Mr. Crowley responded. Ms. Araskog inquired about the size of the Shan sign. Mr. Crowley responded. Ms. Araskog expressed concern for using illuminated signage.

Council Member Crampton thought the backlighting worked in the area, which was a commercial district, and added he thought it was appropriate and tasteful.

Council Member Moore thought the illuminated signage would set a precedent. She also thought down lighting the sign would be a solution for illumination. This would make three backlit signs in a row, and she thought it would look tacky. She wanted to follow ARCOM's recommendation to not allow illuminated signage.

Council Member Lindsay agreed with Ms. Moore. She added that she would be reluctant to go against the Architectural Review Commission's recommendation.

Mayor Coniglio expressed concern for setting a precedent and questioned staff if the Town Code allowed lighted signage without Council approval. Mr. Castro further explained the Town Code said any lighted or illuminated sign must be approved by Council; however, in the past Council had given staff direction to approve front-lit signs but not internally or back-lit signs.

Council President Zeidman called for public comment. Mr. Falco indicated that there were no public comments at this time.

Discussion ensued regarding the process to move forward. Mr. Crowley withdrew the application with the understanding they would return to ARCOM.

## 2. New Business

- a. **Z-20-00299 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: R A Estate Residential The application of 1015 SOUTH OCEAN LLC (MAURA ZISKA, MANAGER), applicant, relative to property located at **1015 S OCEAN BLVD**, legal description on file, is described below. 1) Section 134 840: Special Exception with Site Plan Review to allow the construction of an 11,031 square foot two story residence on a nonconforming lot that is 97.97 feet in depth in lieu of the 150 foot minimum required In the R A Zoning District. 2) Section 134 843(a)(5): A request for a variance to allow a front setback of 16 feet 7.5 inches in lieu of the 35 foot

minimum required in the R A Zoning District. 3) Section 134 843(a)(9): A request for a variance to allow a rear setback of 2 feet 7 inches in lieu of the 15 foot minimum required in the R A Zoning District. 4) Section 134 843(a)(6)b: A request for a variance to allow an Angle of Vision of 133.74 degrees in lieu of the 120 degrees maximum allowed in the R A Zoning District. 5) Section 134 843(a)(7): A request for a variance to have a building height plane setback ranging as close to the front property line as 16.8 feet (one story element) to 29.25 feet (two story element) in lieu of the minimum 35-foot (one story element) to 47.6-foot (two- story element) minimum required by Code in the R-A Zoning District. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission deferred the project to the January 27, 2021 meeting. Carried 7-0.] Request For Deferral to the February 10, 2021 Meeting Per Letter Dated January 5, 2021 from Maura Ziska.

**This item was deferred to the February 10, 2021 meeting during the approval of the agenda, Item VI.**

- b. **Z-20-00305 SITE PLAN REVIEW** Zoning District R-B Low Density Residential The application of JAY HORGAN, applicant, relative to property located at **310 CLARKE AVE**, legal description on file, is described below. Section 134 893: Site Plan Review to allow the construction of a 7,256 square foot two story, single family residence on a nonconforming platted lot which is 85.08 feet in width in lieu of the 100 foot minimum width required in the R B Zoning District. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission approved the project as presented with a condition relating to the windows. Carried 7-0.]

Administrative Specialist Churney swore in Michael Perry.

Ex parte communication disclosure by Council Member Araskog, Mayor Coniglio, Council President Zeidman, Council President Pro Tem Lindsay, and Council Member Moore.

Maura Ziska, Attorney for the applicant, provided an overview of the project and explained the Site Plan Review as requested.

Michael Perry, MP Design and Architecture, presented the architectural plans for the new residence.

Zoning Manager Castro provided staff comments.

Council President Zeidman called for public comment. Mr. Falco indicated that there were no public comments at this time.

**Motion made by Council Member Araskog and seconded by Council President Zeidman that Site Plan Z-20-00305 be**

**approved based on finding that the Site Plan will not adversely affect the public interest and that the Council certified that the specific zoning requirements covering 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.**

- c. **Z-20-00306 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of EDITH F. SCHAEFFER TRUST (EDITH F. SCHAEFFER, TRUSTEE), applicant, relative to property located at **1118 N LAKE WAY**, legal description on file, is described below. Section 134 417: The applicant is proposing to construct a 3, 153 square foot, second floor addition onto an existing one story home which will result in a demolition in excess of 50% of its cubic volume. The following variances are being requested: 1) Section 134 843(7): a 9.9 foot south side yard setback in lieu of the 15 foot minimum required In the R B Zoning District; 2) Section 134 843(7): a 10.29 foot north side yard setback in lieu of the 15 foot minimum required in the R B Zoning District. 3) Section 134 895(1): A chimney on the south side of the house with a height of 27.27 feet in lieu of the 19.5 foot maximum allowed. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 6-1.] [The Architectural Review Commission approved the project as presented with a condition related to the truck logistics plan. Carried 7-0.]

Ex parte communication disclosure by Council Member Araskog, Council Members Moore, Mayor Coniglio, Council President Zeidman, and Council President Pro Tem Lindsay.

Administrative Specialist Churney swore in Jeff Smith and Leslie Pearce.

Maura Ziska, Attorney for the applicant, provided an overview of the project and explained the variances as requested.

Leslie Pearce, Smith Architectural Group, Inc., presented the architectural plans for the existing residence.

Zoning Manager Castro provided staff comments.

Council Araskog inquired how the request would change if they removed the chimney. Ms. Ziska stated that it would eliminate

one variance but the neighbor was not objecting to the chimney.

Council Member Lindsay inquired about the elevation of the existing home. Jeff Smith, Smith Architectural Group, Inc., stated it met the existing flood plain requirement.

Council President Zeidman called for public comment.

Tim Hullihan, architect representing the owners of 1110 North Lake Way LLC, pointed out the house was non-conforming because of the setback, which became larger when a second story was added. Four registered architects had agreed it would not be a hardship to tear it down and rebuild, and the requested variance was not appropriate.

Harvey Oyer, Attorney representing 1110 North Lake Way LLC, summarized his letter which was already part of the record. He stated that they were objecting to the variance requested for the south side yard setback, and read aloud four of the necessary criteria which he believed had not been met.

Council Member Araskog suggested trying once more to get the neighbor's approval, since the applicant was willing to reduce the size of the second story by 50%.

**Motion made by Council Member Araskog and seconded by Council President Pro Tem Lindsay to defer Variance Z-20-00306 for 1118 North Lake Way to the February 10, 2021 Town Council meeting. Motion carried by unanimous vote.**

- d. **Z-20-00307 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: R-B Low Density Residential The application of JOHN MENDELL & MARA RAPHAEL, applicant, relative to property located at **250 QUEENS LN**, legal description on file, is described below. 1) Section 134 229; Section 134 329 and Section 134 893(b): Special Exception with Site Plan Review to allow the renovation of an existing one story residence by demolishing more than 50% cubic on a lot with a width of 77 feet in lieu of the 100 foot minimum required; a depth of 94 feet in lieu of the 100 foot minimum required; and an area of 7,238 square feet in lieu of the 10,000 square foot minimum required in the R B Zoning District. Additionally, the applicant is proposing to construct a 409 square foot one story master bedroom addition and add a cabana and swimming pool. The following variances are being requested: 2) Section 134 893(7): to allow a west side yard setback for the addition and to allow the house to remain non-conforming with both having a setback of 5.3 feet in lieu of the 12.5 foot minimum required. 3) Section 134 893(12): to allow the nonconforming landscape open space to remain at 28.5% in lieu of the 45% minimum required. 4) Section 134 1757: to allow a swimming pool

with a 5.2 foot rear yard setback in lieu of the 10 foot minimum required. 5) Section 134 2179: To eliminate the requirement for the two car garage that is required for a demolition of more than 50% cubic footage of a house on a lot over 75 feet wide. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission deferred the project to their January 27, 2021 meeting. Carried 5-2.] Request for Deferral to the February 10, 2021 Meeting Per Letter from Maura Ziska.

**This item was deferred to the February 10, 2021 meeting during the approval of the agenda, Item VI.**

- e. **Z-20-00308 VARIANCE(S)** Zoning District: R-C Medium Density Residential The application of SAMUEL LEHRMAN REVOCABLE TRUST U/A/D/ JUNE 19, 2008 (SAMUEL LEHRMAN, TRUSTEE), applicant, relative to property located at **355 HIBISCUS AVE**, legal description on file, is described below. 1) Section 134 1729(1): A request for a variance to allow a 38 KW generator to be placed in the street side yard setback (Australian Avenue) at 5.6 feet in lieu of the 25 foot minimum required on a corner lot. 2) Section 134 1667: A request for a variance for the required wing wall for the generator located in the street side yard setback with a height of 8.58 feet above the crown of the road (on Australian Avenue) in lieu of the 6 foot maximum allowed. 3) Section 134 1667: A request for a variance for the required wing wall for the generator located in the rear yard setback at a height of 8.46 feet above the neighboring property owner's grade to the east in lieu of the 6 foot maximum allowed. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission deferred this project to their January 27, 2021 meeting. Carried 7-0.] Request for Deferral to the February 10, 2021 Meeting per Letter from Maura Ziska.

**This item was deferred to the February 10, 2021 meeting during the approval of the agenda, Item VI.**

- f. **Z-20-00309 SITE PLAN REVIEW WITH VARIANCE(S)** Zoning District: R-C Medium Density Residential The application of PHIPPS PLAZA PROPERTIES PARTNERS LLC (JOSHUA LEVY, MANAGER), applicant, relative to property located at **236 PHIPPS PLZ**, legal description on file, is described below. Section 134 942(4): Request for a modification to the existing multifamily site plan (4 units) to allow applicant to undertake a renovation of a 3 story nonconforming landmarked multi-family building located in the R C Zoning District in Phipps Plaza. Modifications include: removal of existing 70 SF non-conforming bike storage shed; removal of existing exterior stair leading from second floor to third floor; new balconies (3) with corbel and railing details to match existing exterior stair; new infill and enclosure of existing 38 SF second floor covered porch; new infill and enclosure of exiting 134 SF third floor covered porch (variance requested); new spa in existing ground level courtyard ;



new spa equipment (1) in housing at ground level (variance requested); new 6' tall ac units (3) at ground level (variance requested); new elevator within existing building footprint; revised interior floor plans. The variances being requested are as follows: 1) Section 134 948(8): To allow the enclosure of a porch on the existing nonconforming third floor of a three story building in lieu of the two story building maximum allowed in the R C Zoning District. 2) 134 1728(a): to allow the three (3) air conditioning units in a required rear setback to be 6 feet in height in lieu of the 4 foot maximum allowed. 3) 134 1728(a): to allow three (3) air conditioning units in a required setback where only maximum of two are allowed. 4) 134 1728(a): to allow the west two (2) air conditioning units to be 9 inches and 3 feet, respectively, from the rear property line in lieu of the 5 foot minimum required. 5) 134 1728(a): to allow the east air conditioning unit and pool equipment to be 1 inch from the east side property line in lieu of the 5 foot minimum required. 6) 134 1728(a): to allow the east air conditioning unit and pool equipment to be 9 inches and 3 feet from the rear property line, respectively, in lieu of the 5 foot minimum required. 7) 134 1729: to allow the proposed spa pump and filter equipment to be 9 inches from the rear property line in lieu of the five foot minimum setback required. 8) 134 1729: to allow the proposed spa pump and filter equipment to be 1 inch from the east property line in lieu of the five foot minimum setback required. [Applicant's Representative: Maura Ziska Esq] [Landmarks Preservation Commission 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 a condition related to the windows. Carried 7-0.]

Administrative Specialist Churney swore in Nelo Freijomel.

Ex parte communication disclosure by Council Member Araskog, Council Member Crampton, Council President Zeidman, President Pro Tem Lindsay, and Council Member Moore.

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

Nelo Freijomel, Spina O'Rourke, presented the architectural plans for the existing residence and explained the site plan review and variances as requested.

Zoning Manager Castro provided staff comments as to why relief was needed.

Council Member Araskog asked if there were other three-story buildings in the neighborhood. Mr. Freijomel showed images of other buildings.

Council Member Crampton thought upgrading the property was a good idea. He inquired if there were any neighbor objections to the project. Mr. Freijomel responded not to his knowledge.

Council Member Moore confirmed that there would be no increase in density. Mr. Freijomel stated that was correct. Ms. Moore stated she would support the project.

Council President Zeidman called for public comment. There was no public comment at this time.

**Council Member Moore made a motion, seconded by Council Member Crampton, that Variance Z-20-00309 shall be approved 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.**

**Motion made by Council Member Moore and seconded by Council President Zeidman that Site Plan Z-20-00309 be approved based on the finding that the Site Plan will not adversely affect the public interest and that the Council certified that the specific zoning requirements covering 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.**

- g. **Z-20-00310 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: R-A Estate Residential The application of 310 MEDITERRANEAN RD LLC (JOHN SHAW, MANAGER), applicant, relative to property located at **310 MEDITERRANEAN RD**, legal description on file, is described below. Sections 134-229, 134 329, and 134 843(b): Special Exception and Site Plan Review to allow the renovation of a two story, single family house, including raising the existing house to 7.0 ft NAVD and demolishing more than 50% of the house by cubic square footage, on a non-conforming lot, comprised of a portion of platted lots, which is 113.5 feet in depth in lieu of the 150 foot depth required in the R A Zoning District. In connection with the renovation, the following variances are being requested: 1) Section 134 843(a)(5): Request for redevelopment of a single family home with a front yard setback of 26.0 feet in lieu of the 35 foot minimum required. 2) Section 134 1757: Request for installation of a swimming pool with a rear

setback of

4.0 feet in lieu of the 10 foot minimum requirement. 3) Section 134 843(a)(7): Request for redevelopment of the house with a building height plane setback ranging from 26.0 to 32.35 feet in lieu of the range of 30.5 to 43.0 feet minimum required. [Applicant's Representative: David E. Klein Esq] [The Architectural Review Commission deferred the project to their January 27, 2021 meeting. Carried 7-0.] Request for Deferral to February 10, 2021 per Letter from David Klein.

**This item was deferred to the February 10, 2021 meeting during the approval of the agenda, Item VI.**

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h. **Z-20-00311 SPECIAL EXCEPTION WITH VARIANCE(S)**

Zoning District: C-TS Town Serving Commercial The application of Bricktop's Palm Beach, applicant, relative to property located at **375 S COUNTY RD**, legal description on file, is described below. Section 134 1109 (14): Modification to previously approved Special Exception with Site Plan Review is being requested for Bricktop's restaurant to add 40 outdoor seats for lunch and dinner in the north courtyard adjacent to the existing restaurant. The additional seating will increase the seating from 150 indoor and patio seats to 190 seats. The current approval allows 52 seats of the 150 seats to be outside on the south patio. Section 134 2176: a variance is being requested to provide zero (0) onsite parking spaces in lieu of the 13 parking spaces that are required for the additional 40 outdoor seats. [Applicant's Representative: Maura Ziska Esq]

**This item was deferred to the February 10, 2021 meeting during the approval of the agenda, Item VI.**

- i. **Z-20-00318 REPLAT** Zoning District: R-AA Large Estate Residential The application of BLOSSOM WAY HOLDINGS LLC (GERALD A. BEESON, MANAGER), applicant, relative to property located at **1265 S OCEAN BLVD**, legal description on file, is described below. An application to replat lots 1 through 6 and lot 10 of the Blossom Estate Subdivision, 60 Blossom Way, and 1290 S Ocean Blvd into 2 (two) buildable lots. The proposed replat will abandon in total the Blossom Way right-of-way; abandon the current beach access and dedicate a new 8-ft wide beach access along the north side of the proposed replat; terminate the Limited Access Easement along the east side of S Ocean Blvd which provides access to all of the Blossom Estate platted properties via Blossom Way; and incorporate 60 Blossom Way and 1290 S Ocean Blvd properties into the new Lots 1 and 2 of Blossom Estate subdivision. [Applicant's Representative: Maura Ziska Esq]

**This item was deferred to the February 10, 2021 meeting during the**

**approval of the agenda, Item VI.**

- j. **Z-20-00323 VARIANCE(S)** Zoning District: R-A Estate Residential The application of DESRUISSEAU LAND TRUST U/A/D12/6/19 (ANN DESRUISSEAU AND WILLIAM W. ATTERBURY, CO-TRUSTEES), applicant, relative to property located at **800 S COUNTY RD**, legal description on file, is described below. The applicant is requesting to demolish and rebuild (replicate) the existing landmarked residence in generally the same location. The project includes raising the finished floor elevation of all of the new and existing structures to 9.0 feet NAVD. The new two-story residence is proposed to be 19,812.69 square feet, with a 3,398 square foot guest wing (previously referred to as the boat house) located at the northwest corner of the property. The plan also requests approval to relocate an existing 225 square foot cabana and relocation of the 145 square foot 2-story generator building. The following variances are being requested: 1) Section 134-843(8): a north side yard setback ranging from 5.29 feet to 5.75 feet for the new reconstructed guest wing (previously referred to as the boat house) in lieu of the 30 foot minimum required; 2) Section 134-843(9): a rear yard setback of 0 feet in lieu of the 15 foot minimum required for the new reconstructed guest wing; 3) Section 134-843(9): a rear yard setback of 0 feet in lieu of the 15 foot minimum required for the new reconstructed main house; 4) Section 134-843(8): a north side yard setback ranging from 21.13 to 21.67 feet for the 2-story generator building in lieu of the 30 foot minimum required; 5) Section 134-843(10): a height in the main residence and guest house to be 26.56 in lieu of the 25 foot maximum allowed; 6) Section 134-843(8): a south side yard setback for the main house addition with a range from 10.79 feet to 15.1 feet In lieu of the 30 foot minimum required. The previously granted variances in Z-20-00261 for the accessory buildings and structures not associated with the main house, guest wing and generator building remain unchanged and in effect. [Applicant's Representative: Maura Ziska Esq] Staff requests a deferral to the February 10, 2021 meeting as the project is first required to be considered by the Landmarks Preservation Commission on January 20, 2021.

**This item was deferred to the February 10, 2021 meeting during the approval of the agenda, Item VI.**

*Please note: A short break was taken at 1:08 p.m. The meeting resumed at 1:14 p.m.*

**C. Time Extensions and Waivers**

**1. Time Extension Request for 264-270 S. County Road**

Director of Planning, Zoning and Building Wayne Bergman provided an

overview of the request for work hours and discussed a neighbor's objection.

Attorney Maura Ziska requested that summer hours begin at this time, in order to complete the project by November.

Pat Marshall, Hedrick Brothers Construction, discussed the reasons for the time extension request.

Council Member Araskog thought the request to begin at 8 a.m. on a Saturday was unreasonable and stated she could not support the request. She also thought the week of March 27 – April 4, 2021 should be eliminated due to Passover. She also wanted to include only interior work on Saturday. She added that as long Director Bergman could stop the work, she felt comfortable with the request with the conditions she had proposed.

Council President Pro Tem Lindsay confirmed the Saturday hours would be 9 a.m. to 5 p.m., interior work only.

**Motion made by Council Member Araskog and seconded by Council President Pro Tem Lindsay to approve the time extension request with the following conditions: the Saturday hours would be changed to 9 a.m. to 5 p.m. for interior work only, no work allowed the week of March 27 thru April 4, 2021, and Mr. Bergman had the right to shut down or change the hours if there were complaints. Motion carried unanimously.**

At this time, Council President Zeidman announced that the March meetings would occur on March 2 and March 3, 2021. Town Council meeting would be March 2, and Development Review meeting would be March 3. Mr. Boodheshwar provided further discussion on why the meeting dates would be changed.

**Motion was made by Council Member Araskog, seconded by Council Member Lindsay to rescind the motion made earlier in the meeting to defer item Z-19-00132, 125 Worth Avenue, to March 10, 2021, and defer it instead to March 3, 2021. Motion carried unanimously.**

## **VIII. ORDINANCES**

### **A. Second Reading**

1. ORDINANCE 11-2020 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Of Palm Beach's Comprehensive Plan By Amending The Infrastructure Element, As Well As The 10-Year Water Supply Facility Work Plan; Providing For Incorporation Of Recitals; Providing For Severability; Providing For Repeal Of Ordinances In Conflict Hereof; Providing For Codification; Providing An Effective Date.

Town Attorney Randolph read Ordinance 11-2020 by title only on

second reading.

**Motion made by Council President Pro Tem Lindsay and seconded by Council Member Moore to adopt Ordinance 11-2020 on second reading. Motion carried unanimously.**

**B. First Reading**

1. ORDINANCE 01-2021 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 I, In General, Section 134-2, Amending The Definition Of Supplemental Parking To Allow Supplemental Off-Site Shared Parking In Underground Garages Without The Requirement Of First Meeting All On-Site Required Parking; At Article VI, District Regulations, Sections 134-1107, 134-1157 And 134-1207, Permitted Uses, In The C-TS, C-WA And C-OPI Commercial Zoning District To Allow Supplemental Off-Site Shared Parking In An Underground Parking Garage As A Permitted Use Provided That Said Parking Does Not Exceed 50 Percent Of The Parking Inventory In An Underground Garage And Providing A Sunsetting Provision For Said Use In Those Districts On March 13, 2024, Unless Extended Or Modified By The Town Council; At Article VI, District Regulations, Sections 134-1109, 134-1159 And 134-1209, Special Exception Uses To Cross Reference The Supplemental Parking Regulations In Sections 134- 2177 And 134-2182, At Article IX, Off-Street Parking And Loading; Section 134-2177 Location Of Parking Spaces, And Section 134- 2182, Location Of Parking Spaces, By Allowing Off-Site Supplemental Parking In An Underground Parking Garage As A Permitted Use In The C-TS, C-WA And C-OPI Zoning Districts And Sunsetting The Provisions In This Ordinance On March 13, 2024, Unless Extended Or Modified By The Town Council; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Town Attorney Randolph read Ordinance 01-2021 by title only on first reading.

Council Member Araskog announced that if there were any issues going forward to please contact staff.

**Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to approve Ordinance 01-2021 on first reading. Motion carried unanimously.**

**IX. ANY OTHER MATTERS**

**A. Discussion on Construction Screening**

Director of Planning, Zoning and Building Wayne Bergman provided an

overview for the discussion.

Council Member Araskog commented she had received a lot of complaints about the ugly fencing, and asked how to proceed.

Town Attorney Randolph read from the applicable ordinance regarding construction screening, and explained that the intent was not to tear down landscaping but to create screening with landscaping and construction fencing gates. He suggested this could be addressed through an educational process, to which Mr. Bergman agreed.

Council President Pro Tem Lindsay commented in the past landscaping had been done following demolition, then screening had been added when construction began, which was not always the way it was now done.

Council Member Crampton suggested when the plans were submitted to Planning and Zoning, which would be the perfect time for education on this subject.

X. ADJOURNMENT

The meeting was adjourned at 1:44 p.m. without the benefit of a motion.

APPROVED:

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Margaret Zeidman, Town Council President

ATTEST:

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Kelly Churney, Administrative Specialist