



TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on November 10, 2021

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order November 10, 2021 at 9:32 a.m. On roll call, all elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Deputy Town Clerk Churney gave the invocation. Council President Zeidman led the Pledge of Allegiance.

III. COMMENTS OF MAYOR DANIELLE H. MOORE

Mayor Moore did not have any comments at this time.

IV. COMMENTS OF TOWN COUNCIL MEMBERS

Council Member Araskog requested a discussion regarding the Zoning Code versus the ARCOM Ordinance. She requested that Town Attorney Randolph review both ordinances at the next ARCOM meeting so that the professionals who do business in the Town understand what takes precedence. Council President Zeidman requested Town Attorney Randolph to present this information at a future ARCOM meeting. She also requested that she be authorized to express the Town Council's gratitude for the time, effort, and dedication by the Commission.

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

There were no communications heard at this time.

VI. APPROVAL OF AGENDA

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

Addition of IX.B Resolution 141-2021

Deferral of Item X. A.1 to the December 15, 2021 meeting

Deferral of Item X. C.1.b to the December 15, 2021 meeting

Withdrawal of Item X. C.1.c

Deferral of Item X. C.1.e to the December 15, 2021 meeting

Withdrawal of Item X. C.1.f

Deferral of Item X. C.1.g to the December 15, 2021 meeting

Deferral of Item X. C.2.b to the December 15, 2021 meeting

Deferral of Item X. C.2.c to the December 15, 2021 meeting

Deferral of Item X. C.2.f to the December 15, 2021 meeting

Deferral of Item X. C.2.g to the December 15, 2021 meeting

Addition of Ordinance No. 24-2021, TIME CERTAIN 11:30 AM.

Addition of Ordinance No. 26-2021

Addition of Resolution 141-2021, Strategic Plan

Addition of Item XI. D. 3, discussion regarding continuing offering Zoom for all Town meetings

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

VII. PRESENTATIONS

A. A Critical Discussion: An Approach to Zoning Code Improvement

TIME CERTAIN: 9:45 AM

Wayne Bergman, Director of Planning, Zoning and Building provided a PowerPoint presentation with background information on the item. He outlined the issues that will be covered regarding possible improvements to the Zoning Code, including massing, non-conforming lots and buildings, making the code more understandable, cubic content ratio and floor area ratio, scale, setbacks, height of buildings, aggregating lots, and prevent the loss of charm. He provided a timeline and history of the R-B district and outlined various studies and proposals for Zoning Code improvements that had taken place in the Town since 1989. He stated that large homes have been an issue for many years and now rising sea levels is an additional concern. He spoke regarding determining cubic content ratio (CCR) and explained that the CCR only takes into consideration the habitable space and often does not include the true size of the building. He explained floor area ration (FAR), specifically the usefulness of the calculation, as opposed to CCR.

In response to a question by Council President Pro Tem Lindsay, Zoning Manager, Paul Castro, explained why Town Council had reversed from a FAR calculation in the past.

Council Member Araskog spoke regarding completing the conversion from CCR to FAR. Mr. Bergman stated that staff would need to complete the survey of the streets in the R-B District in order to complete the conversion. In response to a question from Council Member Araskog, Mr. Castro provided background on how the CCR was implemented.

James Murphy, Assistant Director of Planning, Zoning and Building, provided historical information on side yard setbacks. He provided potential options for changing requirements that would encourage homeowners to build one-story or smaller homes that would be less impactful to their neighborhood. He spoke regarding the powers of ARCOM and the possibility of providing the Commission with additional powers to consider matters such as massing and setbacks.

Town Attorney Randolph provided background information on the Bert-Harris Act and explained the concept of “inordinate burden,” which is what individuals who file Bert-Harris claims must prove and spoke regarding not being prevented from moving forward with certain changes due to Bert-Harris. Council Member Araskog queried Town Attorney Randolph regarding making substantive changes to the ARCOM ordinance. Council President Zeidman requested confirmation that the issues of massing and height requirements are currently in the Code under the ARCOM section and would not invite a Bert-Harris claim.

Director of Planning, Zoning and Building Bergman explained the recommendation for the path forward, including hiring a planning consultant and legal consultant, obtaining public input, holding community meetings and charrettes, creating a steering committee, utilizing surveys, and updating the website.

Public Comment:

Anne Pepper, 333 Seaspray Avenue, stated that she believed the goals had been defined for 35 years. She spoke regarding the aesthetic scale giving the Town its value and expressed concern regarding ARCOM having the burden of resolving the issues with massing.

Susan Gary, 229 Onondaga Avenue, spoke in support of public input and participation in this process. She expressed support of ARCOM having the burden of resolving these issues.

In response to Council President Pro Tem Lindsay, Town Attorney Randolph stated that he would provide ARCOM with further training on the ARCOM ordinance and provide them with the presentation that he provided to the Council. Council President Pro Tem Lindsay spoke regarding turnover in homeowners and new individuals who are building overly large homes and spoke regarding the importance of prioritizing these issues.

Council Member Crampton spoke ARCOM being the focus and their discretion. He spoke in support of instituting a Zoning Board of Appeals for individuals who would like to appeal ARCOM’s decisions.

Council Member Araskog recommended that a cheat sheet on the Town's rules and regulations should be compiled and provided to realtors, architects and other professionals in the Town. She spoke regarding what is considered "excessively dissimilar" and stated that as was previously stated, the Code might not be entirely problematic, but certain items can be changed to improve it.

Mr. Castro addressed the issue of the current Code not providing certainty with what homeowners can build and that the hard decisions are currently solely on ARCOM.

Mayor Moore spoke regarding the fact that, despite any amount of public input and participation, there will be members of the public that will push back on any changes. She emphasized the importance of the Town Council standing firm on any decisions they make and to assist with trying to encourage public input and participation.

Council Member Zeidman spoke in support of Council looking at what Council and ARCOM have approved that would show that the Town has been overbuilt. She spoke regarding keeping in mind the character of the Town but stated that certain limitations, such as FEMA requirements, must be abided by the Town Council.

Public Comment (cont'd):

Aimee Sunny, Preservation Foundation of Palm Beach, referenced a study that the Foundation commissioned, specifically that survey results indicated that architectural character is important. She spoke in support of the community engagement that has been discussed.

The Town Council recessed at 11:23 a.m. and reconvened at 11:30 a.m.

The following item was heard out of order of the agenda:

X. DEVELOPMENT REVIEWS

D. ORDINANCES

1. Proposed Ordinance to Amend Chapter 66 of the Town Code, Regarding Native and Invasive Vegetation

TIME CERTAIN: 11:30 AM

Continuation of public comment from 11/9/21:

Jorge Sanchez, SMI Landscape Architecture, mentioned his experience with native landscaping. He expressed concern over the proposed ordinance and spoke regarding the misperception that native plants are not subject to diseases or insect infestation and the misperception that native plants encourage songbirds, bees and butterflies.

Lisa Hammer, Landscape Horticulturist, provided slides on native and non-native plants and the importance of having diversity in plants. She spoke regarding the misperception that native plants are not subject to diseases or pests.

Mr. Sanchez spoke in support of firms spot spraying rather than blanket spraying to reduce the use of pesticides.

Dust Montiel, One Two Tree, spoke regarding certain native plants coming down with diseases and spoke regarding targeting chemicals to ensure that the particular issue is being addressed.

Mr. Sanchez presented images of unsightly hedges in Town and spoke regarding the Town using code enforcement to enforce this issue in order to get unsightly ficus hedges removed. He provided recommendations for the proposed ordinance.

David Bache, Garden Industries, spoke regarding native plants not being conducive to the character of the Town and spoke regarding the issue with finding native plants that would look appropriate in Palm Beach.

Paige Lee Hufty, 340 Island Road, provided her background in native landscaping. She spoke in support of having a balance and spoke regarding the definitions of native and non-native plants. She spoke in support of planting species that would encourage shade and birds.

Keith Williams, Nievera Williams Design, expressed concern over restraints being placed on designers' creativity and spoke in support of being able to utilize Florida-friendly landscaping. He spoke regarding native landscaping not needing less water or pesticides. He spoke regarding forming an ad hoc committee to discuss the list of allowable plants.

Mario Nievera, Nievera Williams Design, spoke regarding the importance of landscaping to the Town, and stated that limiting the plant materials that professionals could use, would be limiting the beauty in the design. He spoke regarding the difficulty in finding native plant materials that would produce the privacy and look that the residents desire.

Dustin Mizell, Environment Design Group, recommended removing materials from the list that require extensive water and fertilizer and taking into account that some material requires less water and is more robust, but are not native. He spoke in support of forming an ad hoc committee of professionals to discuss the list of plants.

Amanda Skier, Preservation Foundation of Palm Beach, spoke in support of the proposed ordinance and believes that it provides an opportunity to introduce native plants to the island while still allowing for creativity. She spoke in support of the 35% requirement.

John David Corey, 426 Australian Avenue, spoke regarding many landscape architects bringing forward designs to ARCOM with over 35% native. He spoke in support of the proposed ordinance and stated that he believes that it is reasonable.

Susan Lerner, Director of Horticulture at the Preservation Foundation of Palm Beach, spoke in support of the proposed ordinance and in support of planting native plants and utilizing all organic pesticides, which encourages native bees and other wildlife.

Council Member Araskog stated that she believes that the 35% requirement in the Ordinance is not burdensome and stated that the ordinance has been revised to join vines and ground cover to assist with the percentage. She stated she wished she would have had more participation during earlier discussions on the issue.

Council President Pro Tem Lindsay spoke regarding the reduction of pesticides and the increase in native landscaping that has occurred town-wide over the past several years due to an increase in education and understanding. She spoke regarding removing coconut palms from the list due to the control that is being done to keep the coconut palms from proliferating. She spoke regarding the Town's inability to eliminate pesticides and stated that the Town can encourage the planting of plants that don't require pesticides as much. She spoke regarding the Town using native plantings to remove ficus throughout the Town. She spoke in support of forming an ad hoc committee to discuss the list of allowable plants.

Council Member Cooney spoke regarding moving forward more slowly and keeping the requirement at 25% and spoke in support of including the Preservation Foundation and landscaping professionals in reviewing the list of plants.

Council Member Crampton stated that he believes the 35% requirement of native plantings is reasonable. He spoke in support of moving forward with the 35% to work towards the goal of using less pesticides and encouraging more wildlife.

Council Member Araskog stated that the lists were reviewed and that staff needed the list in place as soon as possible.

Town Attorney Randolph read the title of the ordinance.

Motion made by Council Member Araskog, and seconded by Council President Pro Tem Lindsay, to approve Ordinance No. 24-2021, with clarifications that were made at the meeting of November 9, 2021; and forming a committee of professionals from both sides to review the ordinance and list (clarification that the committee would not be a committee of the Town). Motion carried 4-1 with Council Member Cooney voting NO.

The Town Council recessed at 12:56 p.m. and reconvened at 1:45 p.m.

X. RESOLUTIONS

The following item was heard out of order of the agenda:

B. RESOLUTION NO 141-2021 Strategic Planning Board

A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Formation of an Ad Hoc Advisory Strategic Planning Board, to Develop an Updated Strategic Plan for the Town of Palm Beach.

Motion made by Council Member Crampton, and seconded by Council President Pro Tem Lindsay, to approve Resolution No. 141-2021. Motion carried unanimously.

A. RESOLUTION NO 132-2021 473 N. County Road

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."

Wayne Bergman, Director of Building, Planning & Zoning provided background information on the item.

Motion made by Council Member Cooney, and seconded by Council Member Crampton, to approve Resolution No. 132-2021. Motion carried unanimously. Council Member Araskog was absent.

X. DEVELOPMENT REVIEWS

A. Appeals

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

This item was deferred at approval of the agenda to the December 15, 2021 meeting.

B. Time Extensions and Waivers

1. Time Extension – Raptis

This item was not heard.

2. Time Extension for 226 Oleander Avenue

Wayne Bergman, Director of Building, Planning & Zoning provided background information on the item.

Adam Mills, Environment Design Group, provided details on why the firm is requesting a time extension.

Mayor Moore requested clarification on the timeline and expressed concern that work was being done for such a long time after the permit expired.

Council Member Crampton inquired if there had been any complaints from noise and or dust.

Motion made by Council Member Crampton, and seconded by Council President Zeidman, to approve the time extension for 226 Oleander Avenue. Motion carried unanimously. Council Member Araskog was absent.

3. Time Extension for 403 Brazilian Avenue

Wayne Bergman, Director of Building, Planning & Zoning provided background information on the item.

Charles Frankel, representing the Board of 330 Cocanut Row, spoke in opposition to the request for extension.

Mr. Bergman spoke regarding the remaining items that need to be completed.

John Mantis, Town Management, general contractor, provided further information on the work that needs to be completed.

Motion made by Council Member Cooney, and seconded by Council Member Crampton, to approve the time extension for 403 Brazilian Avenue for interior work only and only painting for exterior work. Motion carried unanimously. Council Member Araskog was absent.

C. Variances, Special Exceptions, and Site Plan Reviews

1. **Old Business**

- a. **Z-20-00289 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** 160 ROYAL PALM WAY, Relating to a Consideration of the Construction Management Agreement.

Deputy Town Clerk Churney administered the oath at this time and throughout the meeting as necessary.

Maura Ziska, attorney for the applicant, stated that they have no problems with the agreement.

Zoning Manager Castro provided background information on the agreement and project.

Mayor Moore inquired if the neighbors' attorneys were privy to the agreement.

Council President Zeidman called for public comment. No one indicated a desire to speak.

Motion made by Council Member Cooney, and seconded by Council President Pro Tem Lindsay, to approve the construction management agreement for project Z-20-00289 at 160 Royal Palm Way, as modified in the exhibit. Motion carried unanimously. Council Member Araskog was absent.

- b. **Z-21-00333 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of 04TST101NIGHTINGALE LLC, applicant, relative to property located at 101 NIGHTINGALE TRL, legal description on file, is described below. Section 134 893(13): The applicant is proposing to construct a 70 square foot one story bathroom addition and two Dutch gables that will be added to the courtyard elevations of the pool cabana and kitchen which will increase the cubic content ratio ("CCR") to 5.24 In lieu of the 5.01 existing CCR and the 3.9 maximum CCR allowed in the R B Zoning District. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission deferred the project to the November 19, 2021 meeting. Carried 7-0.]

This item was deferred at approval of the agenda to the December 15, 2021 meeting.

- c. **Z-21-00356 SPECIAL EXCEPTION WITH SITE PLAN REVIEW**
Zoning District: C-TS Town Serving Commercial The application of BUCCAN (SAM SLATTERY), relative to property located at 350 S COUNTY RD SUITE: 100, legal description on file, is described below. Section 134-1109 and Section 134-1112: Modification to a previously approved special exception use with site plan approval for the sandwich take out counter business for Buccan Restaurant to request the following: (a) to install two (2) new awnings to match existing awnings; (b) to modify the storefront to include a new door in the existing opening; (c) to modify an interior floor plan of the sandwich shop (no seats are being proposed); (d) to modify the hours of operation to be 7:00 AM to 3:00 PM (previously approved were 11:00 AM 3:00 PM) [Applicant's Representative: Maura Ziska Esq] Request for Withdrawal Per Maura Ziska, Esq.

This item was withdrawn at approval of the agenda.

- d. **Z-21-00359 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: R-A Estate Residential / B-A Beach Area. The application of 870 S OCEAN LLC (TODD GLASER, MANAGER), Owner, relative to property located at 870 S OCEAN BLVD, legal description on file, is described below. Section 134-840: Request for a Special Exception with Site Plan Review to allow construction of a 435 square foot beach cabana (20' x 25') with a 250 square foot pool and a new seawall in the R-A/B-A Zoning District. Section 134- 1474(a): Request for a variance to construct a 435 square foot beach cabana that is on a lot with frontage of 101.53 feet in lieu of the 125 feet required for lot width in the B A Zoning District for beach area property adjacent to R-A Zoning District. Section 134- 1701 and 62 37: Request for a variance to construct a new 100.5' seawall three feet east of the existing seawall which is east of the Town of Palm Beach bulkhead line 6'2" at the south end and 6'0" at the north end, in lieu of the seawall being placed directly on the bulkhead line. The proposed new seawall will align with the recently constructed seawall at 880 South Ocean Boulevard. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impacts to the subject property. Carried 7-0.] [The Architectural Review Commission approved the project as presented. Carried 7-0.]

Ex parte communications were declared by Council Members Cooney, Crampton, Council President Pro Tem Lindsay and Mayor Moore.

Maura Ziska, attorney for the applicant, explained the special exception requests required for the beach cabana. She explained that the seawall and the new cabana design have received ARCOM approval.

Zoning Manager Castro provided staff comments on the requests.

Council President Zeidman called for public comment. No one indicated a desire to speak.

Motion made by Council Member Crampton, and seconded by Council President Pro Tem Lindsay, that Variance Z-21-00359, 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 of the Town Code have been met. Motion carried unanimously. Council Member Araskog was absent.

Motion made by Council Member Crampton, and seconded by Council President Zeidman, that Special Exception Z-21-00359 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. Motion carried unanimously. Council Member Araskog was absent.

Motion made by Council Member Crampton, and seconded by Council President Zeidman, that Site Plan Review Z-21-00359 shall be granted based upon the finding that such grant will not adversely and that the Council 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 has been made concerning Section 134-329 items 1 through 11. Motion carried unanimously. Council Member Araskog was absent.

- e. **Z-21-00374 VARIANCE(S)** Zoning District: R-B Low Density Residential
The application of JORDAN AND KRISTIN BENNETT GRAY, APPLICANTS, relative to property located at 224 LA PUERTA WAY, legal description on file, is described below. The applicant is requesting four variances In order to build a two story addition which includes a 315 square foot one story addition to the garage, a 184 square foot addition for a covered terrace on the first floor, and a 930 square foot second floor addition for two bedrooms, including a 130 square foot covered balcony and two bathrooms. The requested variances are a for an east side yard setback of 11 feet in lieu of the 12.5 foot minimum side yard setback required for the garage addition in the R B Zoning District; an east side yard setback of 11 feet in lieu of the 15 foot minimum side yard setback for a second story addition and covered balcony; an east side yard setback of 9.8 feet in lieu of the 10.5 foot minimum side yard setback required for a bay window on the first floor; and an east side yard setback of 9.8 feet in lieu of the 13 foot minimum side yard setback required for a bay window on the second floor in the R-B Zoning District. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission deferred the project to the November 19, 2021 meeting. Carried 7-0.] Staff Recommends a Deferral to the December 15, 2021 Meeting.

This item was deferred at approval of the agenda to the December 15, 2021 meeting.

- f. **Z-21-00383 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of MICHAEL T FRIES & MICHELLE R MALONE, Applicants, relative to property located at 146 SEASPRAY AVE , legal description on file, is described below. Request a variance to expand nonconforming 2-story accessory building in the rear of the property by adding a 128 square foot one story cabana/office addition that would result in a 5.6 foot rear yard setback in lieu of the 10 foot minimum required in the R-B Zoning District. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. Carried 4-3.] [The Architectural Review Commission approved the project as presented. Carried 4-3.] Request for Withdrawal Per Maura Ziska, Esq.

This item was withdrawn at approval of the agenda.

- g. **Z-21-00385 SPECIAL EXCEPTION WITH SITE PLAN REVIEW** Zoning District: R-B Low Density Residential The application of 239 MONTEREY ROAD LLC (Louis Capano, Jr., Manager), Applicant, relative to property located at 223 MONTEREY RD, legal description on file, is described below. The lot is non conforming in area: 9,000 square feet in lieu of the 10,000 square feet required in the R-B Zoning District; and in width: 90 feet in width in lieu of the 100 foot minimum required in the R-B Zoning District. Request to demolish the existing one story residence, accessory structure, pool, driveway and miscellaneous site walls, piers and fences and construct a new 3,902 square foot single family two-story home on a non conforming lot (overall size and width) meeting all applicable Town codes. The request includes a driveway, pool/spa, hardscape and landscape, including an emergency generator and civil storm water and grading. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission deferred this project to the November 19, 2021 meeting. Carried 6-1.] Staff Recommends a Deferral to the December 15, 2021 Meeting.

This item was deferred at approval of the agenda to the December 15, 2021 meeting.

2. New Business

- a. **ZON-21-005 (HSB-21-001)** 251 Park Avenue (COMBO) The applicant, Patrick McGowan, has filed an application requesting Town Council review and approval for variances (1) to reduce the side (east) setback for a new trellis, (2) to reduce the front (south) setback for a new trellis, (3) to reduce the required side (east) setback for the installation of new pool, (4) to reduce the required rear (north) setback for the installation of new pool, (5) to further reduce the nonconforming open space requirement in the front yard, and (6) to exceed the maximum allowable lot coverage, in order to renovate and construct improvements to a historically significant building. [Landmarks Preservation Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation

Commission approved the project with some conditions related to the architecture. Carried 7-0.]

Ex parte communications were declared by Council Member Cooney and Mayor Moore.

Maura Ziska, attorney for the applicant, explained the variance requests required for the project.

Daniel Clavijo, SKA Architects, presented background information on the project and explained the requests for variances.

Zoning Manager Castro provided staff comments.

Council President Zeidman called for public comment. No one indicated a desire to speak.

Motion made by Council Member Cooney, and seconded by Council President Pro Tem Lindsay, that Variance ZON-21-005, 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 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 unanimously. Council Member Araskog was absent.

Council Member Araskog re-joined the meeting.

- b. **ZON-21-006 (ARC-21-040) 164 SEASPRAY AVENUE** (COMBO) The applicant, Hayati Banastey, has filed an application requesting Town Council review and approval for a Special Exception Request with Site Plan Review for the construction of new two story residence on 2 platted lots deficient in lot width and lot area, including the following variances (1) a variance to reduce the required side (east) yard setback to 10 ft in lieu of 15 feet required for 2 story structure; (2) a variance to reduce the required side (west) yard setback to 10 ft in lieu of 12.5 feet required for the 1 story portion; (3) a variance to reduce the required side (west) yard setback to 10 feet in lieu of 15 feet required for the 2 story portion. [Architectural Review Commission deferred the project to the November 19, 2021 meeting. Carried 6-1] Staff Recommends a Deferral to the December 15, 2021 Meeting.

This item was deferred at approval of the agenda to the December 15, 2021 meeting.

- c. **ZON-21-008 (ARC-21-041)** 1520 SOUTH OCEAN BOULEVARD (COMBO) The applicant, Chris Shumway, has filed an application requesting Town Council review and approval for a Special Exception Request with Site Plan Review to allow the construction of a new 400SF beach cabana and water feature within the vacant ocean side parcel in the R-A/B-A zoning

district and a variance to reduce the required setback from the bulkhead line for the construction of the cabana. [Architectural Review Commission deferred the project to the November 19, 2021 meeting. Carried 7-0] Staff Recommends a Deferral to the December 15, 2021 Meeting.

This item was deferred at approval of the agenda to the December 15, 2021 meeting.

- d. **ZON-21-009 (ARC-21-043)** 1230 SOUTH OCEAN BOULEVARD (COMBO) The applicant, 1230 LLC (Staci Rutman, manager) has filed an application requesting Town Council review and approval for a variance (1) to reduce by approximately 15' the required side setback requirement of 30' in order to construct a new loggia addition to the rear of the existing two-story residence. [The Architectural Review Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. Carried 7-0.] [Architectural Review Commission approved the project as presented. Carried 7-0]

Ex parte communications were declared by Council Members Araskog, Crampton, Cooney, Council President Pro Tem Zeidman and Mayor Moore.

Maura Ziska, attorney for the applicant, explained the zoning requests required for the loggia.

Cesar Pierola, MP Design and Architecture, presented the architectural plans proposed for the new loggia.

Assistant Director of Planning, Zoning and Building Murphy provided staff comments.

Council President Zeidman called for public comment.

M. Timothy Hanlon, attorney representing the Thorntons, property owners of 1236 S. Ocean, spoke regarding the agreement and development order that the Thorntons have made with the 1230 LLC.

Discussion ensued regarding the necessity of having a deed restriction placed on the property.

Motion made by Council Member Cooney, and seconded by Council President Pro Tem Lindsay, that Variance ZON-21-009, 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 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 that the attached exhibit shall be incorporated into the record and development order. Motion carried unanimously.

- e. **ZON-21-010 420 ROYAL PALM WAY** The applicant, Timothy Hanlon, has filed an application requesting Town Council review and approval for a Special Exception Request to continue to operate an existing commercial banking office under new ownership.

There were no ex parte communications declared.

M. Timothy Hanlon, attorney for the applicant, provided brief background information on the request.

Assistant Director of Planning, Zoning and Building Murphy stated that staff did not have any comments.

Council President Zeidman called for public comment. No one indicated a desire to speak.

Motion made by Council Member Crampton, and seconded by Council Member Araskog, that Special Exception ZON-21-010, 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. Motion carried unanimously.

- f. **ZON-21-011 (ARC-21-050)** 1090 SOUTH OCEAN BOULEVARD (COMBO) The applicant, 1090SOCEAN LLC (Brad McPherson), has filed an application requesting Town Council review and approval of a Special Exception Request with Site Plan Review to allow the construction of a new two-story residence on non-conforming portions of platted lots that is 135' in depth where 150' is required and 18,558 SF of lot areas where 20,000 SF is required in the R-A zoning district. [Architectural Review Commission deferred the project to the November 19, 2021 meeting. Carried 7-0.] Staff Recommends a Deferral to the December 15, 2021 Meeting.

This item was deferred at approval of the agenda to the December 15, 2021 meeting.

- g. **ZON-21-012 (AKA Z-20-00299) (ARC-21-051)** 1015 SOUTH

OCEAN BOULEVARD (COMBO) The applicant, 1015 South Ocean LLC (Maura Ziska, manager), has filed an application requesting Town Council review and approval for a Special Exception Request with Site Plan Review and variances (1) to reduce the required front setback and (2) to reduce the building height plane setback for both the one- and two-story portions, in order to build a new two-story residence on a lot nonconforming in depth. [Architectural Review Commission deferred the project to the November 19, 2021 meeting. Carried 6-1.] Staff Recommends a Deferral to the December 15, 2021 Meeting.

This item was deferred at approval of the agenda to the December 15, 2021 meeting.

- h. **ZON-21-015 (COA-21-004)** 264-270 SOUTH COUNTY ROAD AND 205 ROYAL PALM WAY (COMBO) The applicant, Carriage House Properties Partners LLC, has filed an application requesting Town Council review and approval for Special Exception Request with Site Plan Review to modify a previously approved private club, including a variance to reduce the required 10'-0" clear sidewalk in order to provide a landscape strip. [Landmarks Preservation Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation Commission approved the project with conditions related to the architecture. Carried 7-0.]

There were no ex parte communications declared.

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

Nelo Freijomel, Spina O'Rourke + Partners, presented the architectural modifications proposed for the commercial buildings.

Assistant Director of Planning, Zoning and Building Murphy provided staff comments.

Council President Zeidman called for public comment. No one indicated a desire to speak.

Council Member Araskog expressed concern over a lack of uniformity with landscaping with the adjacent building.

Motion made by Council Member Cooney, and seconded by Council President Pro Tem Lindsay, that Variance ZON-21-015, 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 of the Town Code have been met. Motion carried unanimously.

Motion made by Council Member Cooney, and seconded by Council President Zeidman, that Special Exception ZON-21-015, 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. Motion carried unanimously.

Motion made by Council Member Cooney, and seconded by Council Member Araskog, that Site Plan Review ZON-21-015 shall be granted based upon the finding that such grant 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 has been made concerning Section 134-329 items 1 through 11. Motion carried unanimously.

The following two items were heard out of order of the agenda:

D. ORDINANCES

1. Ordinance to Amend Section 42-199 of the Town Code, Regarding Construction Hours

ORDINANCE NO. 26-2021 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 42 of the Town Code of Ordinances at Article V. Noise, Section 42-199, Hours For Construction Work at Subsection (b) Limited, to Provide Additional Limitations on Dates and Hours of Construction; Providing for Quiet Work and Limitations to Indoor Activity; and at Subsection (c) Exceptions to Modify Subsection (4); Providing For Severability; Providing For Repeal of Ordinances in Conflict; Providing For Codification; Providing an Effective Date.

Town Attorney Randolph read the title of the ordinance.

Jay Boodheshwar, Deputy Town Manager, provided an overview on the proposed changes to the ordinance and spoke regarding how the issue of lost days will be handled administratively.

Motion made by Council Member Araskog, and seconded by Council President Pro Tem Lindsay, to approve Ordinance No. 26-2021 on first reading. Motion carried unanimously.

XI. ANY OTHER MATTERS

- C. Discussing Regarding Continuing Zoom Meetings for all Board and Committee Meetings

Deputy Town Manager Boodheshwar provided background information on the item and explained the impact on staff that is involved with conducting the meetings on Zoom, as well as in person. He spoke regarding the numbers of viewers on Zoom and Granicus, which is livestreamed on the Town's website. He made the recommendation that the boards and committees that have lesser virtual participation can be viewed on Granicus and the quasi-judicial bodies (ARCOM, LPC and P&Z Board), as well as all Town Council meetings, should remain hybrid meetings.

Council Member Araskog spoke in support of ORS meetings also remaining hybrid meetings. Deputy Town Manager Boodheshwar stated that if the Council would like one Council committee to be hybrid meetings, then they all should be hybrid meetings.

Council President Pro Tem Lindsay spoke in support of following the list that was presented by Deputy Town Manager Boodheshwar.

Council Member Cooney spoke regarding members of the public being able to speak during public comment if they don't feel comfortable with staying for an entire meeting.

Discussion ensued regarding possible ways for public participation, including individuals writing letters, emailing, etc.

The Town Council provided consensus to approve hybrid meetings for Town Council, ARCOM, LPC and Planning & Zoning Commission, and returning to regular in-person meetings and viewing on Granicus for all other Town meetings.

The Town Council recessed at 3:21 p.m. and reconvened at 3:30 p.m.

- A. Discuss Options for Certifying Town-Serving Status for Businesses, Per Comprehensive Plan Requirements

Council Member Araskog stated that she requested this item be placed on the agenda in order to request what options the Town has when it comes to ensuring that businesses are Town-Serving.

Town Attorney Randolph stated that businesses are required to state that they are Town-Serving when they submit an application and must show that they are Town-Serving as a condition of approval. The businesses must also submit an annual statement. He expressed concern over requesting businesses that are not submitting an application if they are Town-Serving.

Discussion ensued regarding whether it is necessary for the Town to regularly audit or go back and request businesses that were “grandfathered in” to prove that they are Town-Serving. The consensus of the Council was to continue the program as it currently is.

There was no action taken.

- B. Discussion Regarding Quality of Life and Traffic Impacts Associated with the Increasing Number of New Restaurants in the Town

Council Member Araskog stated that she requested this item be placed on the agenda in order to discuss limiting the amount of new restaurants in the Town due to increased traffic.

Town Attorney Randolph provided information from a memo he submitted to the Town Council on this item. He spoke regarding concerns with restricting restaurants and stated that more research would need to be done prior to this being considered but that it probably could be accomplished if it's the desire of the Council.

Council Member Cooney spoke regarding development pressures from the County and stated that he feels comfortable with the Town's Zoning Code, which has stringent parking requirements for restaurants and the requirement that any new restaurant or bar application must come before Town Council for approval.

Mayor Moore concurred that the closing of the loophole in the Code was important and that this issue does not need further discussion because every application for a new restaurant or bar comes before the Town Council.

Council Member Araskog stated that she brought the item up for discussion due to a comment from the Town Attorney regarding having a good reason to deny a special exception application and that there should be something in the Code that has a grounds for denial. She expressed concern over the traffic issues that are

being caused by restaurants. She spoke in support of having some options to use in case the traffic problem becomes even greater in the near future.

Council President Pro Tem Lindsay stated that she has had residents and restaurant owners approach her about the traffic issue. She spoke regarding the large number of restaurants that there are in the Town for its size. She spoke in support of keeping an eye on the issue and perhaps moving towards studying it in the near future.

Council Member Crampton spoke regarding residents wanting to have options for fine dining in the Town but also does not want the issue of traffic become too great. He spoke regarding the closing of the loophole in the Code and concurred that it would be appropriate to look into the issue in a year or two.

Council President Zeidman commended Director of Planning, Zoning and Building Bergman on bringing forward the closing of the loophole regarding restaurants to the Town Council. She requested clarification of what are the criteria where the Council can deny an application by a restaurant or bar. Discussion ensued on the criteria that could be the basis for denying a new restaurant application, as well as changing the Town Code to no longer allow late hours for restaurants that have been “grandfathered in.”

In response to questions by Council President Zeidman and Council President Pro Tem Lindsay, Assistant Director of Planning, Zoning and Building Murphy and Town Attorney Randolph provided information on the different types of liquor licenses and how it impacts the hours of operation as well as the ability of the Town to limit liquor licenses.

The consensus of the Council was to bring back the item in 6 months for discussion.

There was no action taken.

XII. ADJOURNMENT

The meeting was adjourned at 4:07 p.m. without benefit of a motion.

APPROVED:

Margaret Zeidman, Town Council President

ATTEST:

Kelly Churney, Deputy Town Clerk