



TOWN OF PALM BEACH

Minutes of the Development Review Town Council Meeting Held on February 09, 2022

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order February 9, 2022 at 9:32 a.m. On roll call, all elected officials were found to be present; Ms. Araskog participated via Zoom.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. APPROVAL OF AGENDA

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

Addition of Item VII. B.

Deferral of Item X.A.1b to the March 9, 2022 meeting

Deferral of Item X.A.1c to the March 9, 2022 meeting

Deferral of Item X.A.1d to the March 9, 2022 meeting

Deferral of Item X.A.1e to the March 9, 2022 meeting

Deferral of Item X.A.1f to the March 9, 2022 meeting

Deferral of Item X.A.2 a to the March 9, 2022 meeting

Deferral of Item X.A.2 b to the March 9, 2022 meeting

Deferral of Item X.A.2 d to the March 9, 2022 meeting

Deferral of Item X.A.2 g to the March 9, 2022 meeting

Deferral of Item X.A.2 j to the April 13, 2022 meeting

Deferral of Item X.A.2 k to the March 9, 2022 meeting

Motion made by Council Member Crampton and seconded by Council Member Araskog to approve the agenda as amended. Motion carried unanimously, 5-0.

IV. COMMENTS OF MAYOR DANIELLE H. MOORE

Mayor Moore had no comments at this time.

V. COMMENTS OF TOWN COUNCIL MEMBERS

Council Member Araskog requested to add an item under “Other” to discuss the powers of ARCOM.

President Zeidman inquired about the number of staff deferrals on the agenda and the reasons for the deferral. Mr. Murphy stated the deferrals were due to the projects not being approved at ARCOM.

Council Member Crampton inquired about the new submittal process and how it was working. Mr. Murphy responded that he thought the new process was going well and provided a few examples.

VI. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

No one indicated a desire to speak.

VII. NEW BUSINESS

A. Review of a Stop Work Order Due to the Three Strike Rule at 346 Seaspray Avenue

Mr. Bergman provided background information on the item and explained the three tickets for construction violations that the property had received.

Edward Cury, The Cury Group, stated he would work with his employees and subcontractors to ensure that these types of issues would not happen again. He spoke regarding having difficulty with some of the subcontractors. He stated that he would be providing on-site parking attendants.

Council Member Cooney spoke regarding the difficulty with overseeing many different subcontractors.

Council Member Crampton acknowledged that The Cury Group was respected in Town. He also stated the reason the Town had the three-strike rule was to bring attention to the issues on construction sites.

Council President Pro Tem Lindsay stated that ultimately, it was Mr. Cury's issue, but she thanked him for addressing the issue.

Council Member Araskog inquired if a parking attendant was on site when the last ticket was issued, to which Mr. Cury responded no. Council Member Araskog stated that she had received many calls of complaints for this site. She inquired about whether it would be appropriate to directly fine a subcontractor and Town Manager Blouin stated that the correct procedures were in place to stop the issues.

Motion made by Council Member Cooney to lift the stop work order at 346 Seaspray Avenue.

Discussion ensued regarding the motion and what would happen if there was a fourth violation.

Motion seconded by Council Member Crampton.

Council Member Araskog inquired if an appearance would be required if a fourth strike occurred and Director Bergman stated that they would receive another stop work order. Town Manager Blouin spoke regarding the process being discussed by the Department Heads and explained the progressive approach to the process.

Council President Pro Tem Lindsay inquired if the motion included requiring them to pay any fines.

Motion amended by Council Member Cooney and seconded by Council Member Crampton to lift the stop work order at 346 Seaspray Avenue contingent upon all the payment of any outstanding fines. Motion carried unanimously, 5-0.

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

B. Review of a Stop Work Order Due to the Three Strike Rule at 726 Hi-Mount Road

Mr. Bergman provided background information on the item and explained the three tickets for construction violations that the property had received.

Gene Parker, Hedrick Brothers, stated that the fines had been paid. He agreed with all the statements by Mr. Cury. He explained the third strike that they had received.

Council Member Cooney inquired about the third strike violation. Ben Alma, Code Enforcement, explained how the third strike violation was issued.

Council Member Araskog inquired about the violation. Mr. Parker explained the situation.

Motion amended by Council Member Cooney and seconded by Council Member Crampton to lift the stop work order at 726 Hi-Mount Road contingent upon all the payment of any outstanding fines. Motion carried unanimously, 5-0.

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

VIII. PRESENTATIONS

a. Presentation on CCR and FAR

Director Bergman provided a presentation of the difference between CCR and FAR.

Council President Pro Tem Lindsay inquired about the number of permits issued for one-story homes in the last five years, to which Mr. Bergman stated he did not know. She spoke regarding there not being many individuals building one-story homes. In response to questions by Council President Pro Tem Lindsay, Mr. Bergman explained how second floors would be addressed with using FAR and addressed proposed criteria. Ms. Lindsay spoke regarding massing that has been occurring.

Mayor Moore stated that this was a good starting point and requested if the survey would be finished and Mr. Bergman responded that the survey will be completed and that they are still researching what FAR would be translatable to the current CCR requirements. He spoke regarding hiring a professional planning consultant on this process, as well as assistance by the Town Attorney's firm or another land use law firm.

Council Member Araskog spoke in support of moving forward with using FAR. She spoke regarding the need to consult with a land use attorney on these requirements. She spoke in support of completing the survey as soon as possible due to the projects being completed in Town.

Council President Zeidman requested clarification on Mr. Bergman's suggestion that ARCOM could grant a FAR outside of the code as long as criteria were met. She suggested that Mr. Bergman work with the Town Attorney's office to determine what criteria should be considered and stated that the process for hiring a consultant is moving forward.

There was no action taken on this item.

The Town Council recessed at 10:47 a.m. and reconvened at 11:00 a.m. At this time, the Town Council moved to time certain item Z-20-00318.

IX. DEVELOPMENT REVIEWS

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

1. **Old Business**

- a. **Z-20-00318** Consideration of an Application of Blossom Way Holdings, LLC, to Replat Lots 1-6; Relocate the 8 foot wide Pedestrian Beach Access Easement to the North Side of Proposed Lot 6; Eliminate; the Limited Access Easement (LAE) along the East Side of South Ocean Boulevard; Abandon the Private Road Known as Blossom Way, in the Replat of the Blossom Estate; and Create a Pedestrian Beach Access Easement Across the North Property Line of Property Currently Known as 60 Blossom Way

TIME CERTAIN: 11:00 AM

Ms. Churney sworn in all who intended to speak at this time and continued to

do so throughout the meeting as necessary.

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

Maura Ziska, Attorney on behalf of the applicant, indicated the amount of time that she would need to present her project.

James McGuire, attorney representing the owners at 1236 S. Ocean Blvd., stated his objection to proceeding in hearing the application.

Council Member Araskog inquired about the noticing and submittal requirements for this project to which Paul Castro, Zoning Manager, responded. Council Member Araskog inquired why the information was not given to the other attorneys. Ms. Ziska responded.

Kristofer Machado, attorney on behalf of 1275 S. Ocean Blvd., stated his objection to proceeding in hearing the application.

At this time, discussion ensued on whether the item should be deferred or if it should be heard based on the objections of Attorneys Machado and McGuire. By a consensus of the Town Council, the item was moved forward to be heard.

Maura Ziska, attorney for the applicant, presented the Replat number 2 for the Blossom estates.

Council Member Cooney inquired about the beach easement access and how it would be protected in perpetuity. Ms. Ziska responded.

Council Member Crampton inquired about the location of the new beach easement. Ms. Ziska responded. Mr. Crampton inquired if all the homeowners in the HOA needed to agree with the decision.

Mayor Moore inquired if the other owner, aside from Mr. Lurie, in the HOA (Mr. Peterffy) objected to the Replat. Ms. Ziska stated he had no objections.

Council President Zeidman provided clarification on the new proposal for the beach easement. She inquired if the proposed is reasonably maintained for the benefit of the homeowner.

Mayor Moore inquired about parking being available at the beach access and Ms. Ziska provided confirmation that there is a parking spot.

Mr. Castro provided staff comments and answered Council Members' questions. Town Attorney Randolph and Ms. Ziska answered Council Members' questions.

James McGuire, attorney representing the owners at 1236 S. Ocean Blvd., presented objections in approving the replat application.

Kristofer Machado, attorney on behalf of 1275 S. Ocean Blvd., presented his objection to the proposed relocated beach access easement and the replat application. In response to Council Members' questions, Mr. Machado addressed the negotiations that had been taking place between Mr. Lurie and Mr. Griffin regarding the access easement.

Douglas Husid, Attorney for the owner of 1275 S. Ocean Blvd., provided background on the negotiations.

Shawn Fagan, attorney for the applicant, spoke regarding the negotiations and stated that the attorneys are not able to disclose information regarding a settlement.

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

Ms. Ziska provided rebuttal arguments.

Council Member Cooney inquired whether the Town Council can approve the replat with the contingency that there is language approving the beach access easement that is status quo. Discussion ensued regarding the legality of including the original access agreement with the replat.

Zoning Manager Castro emphasized that staff is not recommending that the easement allows for anything other than pedestrian access.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to approve Application Z-20-00318. Motion carried unanimously, 5-0.

The Town Council recessed at 1:00 p.m. and reconvened at 1:45 p.m.

- b. Consider New and Updated PZB Brochures for Prospective Home Buyers, Architects, Realtors and Contractors
Julie Araskog, Town Council Member

Motion made by Council Member Araskog and seconded by Council President Pro Tem Lindsay to defer the item to the March 9, 2022 meeting. Motion carried unanimously, 5-0.

X. RESOLUTIONS

- a. RESOLUTION NO. 016-2022 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As 250 Algoma Road Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known

As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

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

Emily Stillings, Murphy Stillings, presented background information on the project and historical information on the property. She outlined how the property meets Criteria 1, 3 and 4 for Landmark Designation.

Council President Zeidman requested confirmation of proof of publication. Deputy Town Clerk Churney provided confirmation.

Motion made by Council Member Cooney and seconded by Council Member Crampton that the designation report be made part of the record. Motion carried unanimously, 5-0.

Council President Zeidman called for staff comment. Mr. Murphy provided staff comments.

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

Motion made by Council Member Araskog and seconded by Council President Pro Tem Lindsay to adopt Resolution 016-2022, designating the property at 250 Algoma Road as a landmark of the Town of Palm Beach, on the basis that it meets criteria Number 1, 3 and 4 of Section 54-161 of the Town of Palm Beach Code and in the Landmarks Preservation Ordinance No. 2-84. Motion carried unanimously, 5-0.

- b. RESOLUTION NO. 017-2022 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As 266 Atlantic Ave Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

Council President Zeidman requested confirmation of proof of notification. Deputy Town Clerk Churney provided confirmation.

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

Janet Murphy, Murphy Stillings, presented background information on the project and historical information on the property. She outlined how the property meets Criteria 1 and 3 for Landmark Designation.

Council President Zeidman called for staff comment. Mr. Murphy provided staff comments.

Motion made by Council Member Cooney and seconded by Council Member Araskog that the designation report be made part of the record. Motion carried unanimously, 5-0.

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

Motion made by Council Member Cooney and seconded by Council Member Crampton to adopt Resolution 017-2022, designating the property at 266 Atlantic Avenue as a landmark of the Town of Palm Beach, on the basis that it meets criteria Number 1 and 3 of Section 54-161 of the Town of Palm Beach Code and in the Landmarks Preservation Ordinance No. 2-84. Motion carried unanimously, 5-0.

Council Member Araskog and Ms. Murphy thanked the owners for designating their home as a landmark of Palm Beach.

XI. DEVELOPMENT REVIEWS

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

1. **Old Business**

- a. **Z-20-00318** Consideration of an Application of Blossom Way Holdings, LLC, to Replat Lots 1-6; Relocate the 8 foot wide Pedestrian Beach Access Easement to the North Side of Proposed Lot 6; Eliminate; the Limited Access Easement (LAE) along the East Side of South Ocean Boulevard; Abandon the Private Road Known as Blossom Way, in the Replat of the Blossom Estate; and Create a Pedestrian Beach Access Easement Across the North Property Line of Property Currently Known as 60 Blossom Way
TIME CERTAIN: 11:00 AM

This item was heard out of order of the agenda and approved above.

- c. **ZON-21-006 (ARC-21-040) 164 SEASPRAY AVENUE (COMBO) SPECIAL EXCEPTION REQUEST WITH SITE PLAN REVIEW AND VARIANCES** 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 February 23, 2022 meeting. Carried 7-0.] Staff Recommends a Deferral to the March 9, 2022 Meeting.

This item was deferred to the March 9, 2022 meeting at the approval of the

agenda.

- c. **ZON-21-011 (ARC-21-050) 1090 SOUTH OCEAN BOULEVARD (COMBO) SPECIAL EXCEPTION REQUEST WITH SITE PLAN REVIEW** 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 February 23, 2022 meeting. Carried 7-0.] Staff Recommends a Deferral to the March 9, 2022 Meeting
This item was deferred to the March 9, 2022 meeting at the approval of the agenda.
- d. **ZON-21-013 (ARC-21-044) 1800 SOUTH OCEAN BLVD (COMBO)—SPECIAL EXCEPTION WITH SITE PLAN REVIEW** The applicant, 1800 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 to install a padel court and generator over 100kW in power, in association with a new two-story residence. [Architectural Review Commission deferred the project to the February 23, 2022 meeting. Carried 6-1.] Staff Recommends a Deferral to the March 9, 2022 Meeting
This item was deferred to the March 9, 2022 meeting at the approval of the agenda.
- e. **ZON-21-018 (HSB-21-004) 245 BARTON AVE (COMBO)—VARIANCES** The applicant, Elizabeth Sorrel, has filed an application requesting Town Council review and approval for variances (1) to reduce the front (south) setback for a new entry addition, (2) to exceed the maximum allowable cubic content ratio 'CCR', and (3) to exceed the maximum allowable lot coverage, in order to construct a new 35 SF entry addition to a historically significant building. [The Landmarks Preservation Commission deferred the project to the February 16, 2022 meeting. Carried 7- 0.] Staff Recommends a Deferral to the March 9, 2022 Meeting.
This item was deferred to the March 9, 2022 meeting at the approval of the agenda.
- f. **ZON-22-002 (ARC-21-093) 150 WORTH AVE, STE 234 (COMBO) - SPECIAL EXCEPTION WITH SITE PLAN REVIEW** The applicant, Cojimar Palm Beach (Joseph Hernandez and Charles Masson), has filed an application requesting Town Council review and approval for a Special Exception Request with Site Plan Review requesting outdoor seating (28 total seats) at the first (20 seats) level and second (8 seats) level of the two-story Esplanade retail building in conjunction with a new restaurant (Cojimar) to occupy the second floor space of a prior restaurant. [Architectural Review Commission deferred the project to the February 23, 2022 meeting. Carried 6-1.]
This item was deferred to the March 9, 2022 meeting at the approval of the

agenda.

- g. **ZON-22-006 (ARC-21-095) 432 SEABREEZE AVE (COMBO)**
- VARIANCES The applicant Bijon Memar, has filed an application requesting Town Council review and approval for modifications and an addition to the existing residence, requiring variances for lot coverage and retention of existing nonconforming side yard and rear yard setbacks. [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 architectural portion of the project 7-0. The Commission deferred the February 23, 2022 meeting. Carried 5-2.]

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

Kristen Kellogg, Smith Kellogg Architecture, Inc., presented the architectural modifications and addition proposed for the existing residence. She pointed out the requested variances.

Zoning Manager Castro provided staff comments.

Mayor Moore spoke regarding the goal of attempting to save older homes in that neighborhood. She spoke in support of the proposed changes and addition.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance ZON-22-006, 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, 5-0.

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

2. New Business

- a. **ZON-21-002 (ARC-21-038) 218 ROYAL PALM WAY (COMBO)—
SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND
VARIANCES** The applicant, 218 Holdings LLC (Susan Hudson, Manager), has filed an application requesting Town Council review and approval for Special Exception Request with Site Plan Review and including variances (1) to reduce the front setback for the third floor addition (2) to reduce the side (east) setback for the third floor addition, (3) to reduce side (east) setback for the new exterior egress stairs, (4) to reduce side (east) setback for a new generator, (5) to reduce the required

parking (4 additional spaces required) and (6) to exceed the maximum height of a generator and screening wall in a required yard, in order to expand a third story of an existing three-story building to accommodate two new residential uses. The Architectural Commission will perform design review of the application. [Architectural Review Commission deferred the project to the February 23, 2022 meeting. Carried 7-0.] Staff Recommends a Deferral to the March 9, 2022 Meeting

This item was deferred to the March 9, 2022 meeting at the approval of the agenda.

- b. **ZON-22-004 977 S OCEAN BLVD—VARIANCES** The applicant, 195 Pheston Associates Palm Beach LLC (Charles Holzer, Manager), has filed an application requesting Town Council review and approval for a variance to construct a new seawall 169'-7" in length directly adjacent but 2'-6" feet eastward of the existing seawall and partially east of the Town of Palm Beach's Bulkhead Line. Deferral Request to the March 9, 2022 Meeting per Letter from Maura Ziska, Esq.

This item was deferred to the March 9, 2022 meeting at the approval of the agenda.

- c. **ZON-22-012 (ARC-22-008) 420 BRAZILIAN AVE (COMBO)—VARIANCES** The applicant, Ronald Gross, has filed an application requesting Town Council review and approval of variances to place a generator in the front yard setback of an existing residence, to allow a generator screening height to exceed the maximum height allowed in the front yard setback, to reduce the required front setback and to further decrease nonconforming landscape open space area. The Architectural Commission will perform design review of the application. [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. Carried 7-0.]

There were no ex parte communications declared at this time.

Maura Ziska, attorney for the applicant, described the variance request as proposed.

Dustin Mizell, Environment Design Group, presented the landscape plans to show the generator as proposed.

Zoning Manager Castro provided staff comments.

Mayor Moore expressed concern over the proposed location of the generator but acknowledged there was no other location for the generator to be located.

Council President Pro Tem Lindsay expressed concern over the generator's proximity to the sidewalk. She inquired if the owner would be willing to add some sound abatement if there were any complaints. Mr. Mizell responded.

Mayor Moore indicated that the generator could only be tested during the

parameters set by the Town.

Council Member Araskog expressed concern over the proposed location due to its proximity to the sidewalk. She inquired about the hardship for the application to which Ms. Ziska responded.

Mr. Cooney stated that he understands the concerns of other Council Members, he realizes that this lot is very tight and that current generators are much quieter than older ones.

Motion made by Council Member Cooney and seconded by Council Member Crampton that Variance ZON-22-012 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 4-1. Council Member Araskog voted no.

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

- d. **ZON-22-013 (ARC-22-009) 215 SEABREEZE AVE (COMBO) — VARIANCES** The applicant, Edward & Margot Mehm, has filed an application requesting Town Council review and approval for a variance to reduce the required side yard setback in order to construct a pergola in the required yard. The Architectural Commission will perform design review of the application. [Architectural Review Commission deferred the project to the February 23, 2022 meeting. Carried 7-0.] Staff Recommends a Deferral to the March 9, 2022 Meeting
This item was deferred to the March 9, 2022 meeting at the approval of the agenda.
- e. **ZON-22-014 227 ROYAL POINCIANA WAY—VARIANCES AND SPECIAL EXCEPTION** The applicant, PNC Bank (Barry Criss, Officer), has filed an application requesting Town Council review and approval for a Special Exception and Variance to locate an additional PNC Bank financial services office within 1500 feet of another PNC Bank.

Ex parte communications declared by Council Member Cooney and Council President Zeidman.

Harvey Oyer, attorney for the applicant, presented the application on behalf of PNC Bank and discussed the request for a special exception and variance.

Jamie Crowley, attorney on behalf The Breakers, stated that he has been working with Mr. Oyer on the application and supported the request.

Zoning Manager Castro provided staff comments.

Mayor Moore expressed concern over the location becoming a bank. Mr. Oyer responded.

Council Member Cooney stated that he had that the proposed space would have been used as a retail space rather than office use, however, he understood the request.

Council Member Crampton spoke regarding this type of business being town-serving and spoke in support of the proposed project.

Council President Pro Tem Lindsay spoke regarding this project being an office use in a retail location. Mr. Crowley responded to her questions.

Council President Zeidman stated that she understands the concern for using this space for office use but stated that she assumes that this business would be town-serving.

Council Member Araskog inquired if there was another space that is not located in the main retail space for this business, to which Mr. Crowley responded. Council Member Araskog requested if the application could be deferred so that the applicant could consider another space. Mr. Oyer responded.

Motion made by Council Member Crampton and seconded by Council Member Cooney that Variance ZON-22-014, 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, 5-0.

Motion made by Council Member Crampton and seconded by Council Member Cooney that Special Exception ZON-22-014 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, 5-0.

f. **ZON-22-016 (ARC-22-036) 60 COCOANUT ROW (COMBO) - SPECIAL EXCEPTION, SITE PLAN REVIEW AND VARIANCES**

The applicant, Royal Poinciana Chapel, Inc. (Cater Randolph, Board President)), has filed an application requesting Town Council review and approval for a Special Exception, Site Plan Review and Variances for a generator over 100 kW and the required building enclosure including a variance request to reduce the reduced side-yard setback. The Architectural Commission will perform design review of the application. [Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 5-0.] [The Architectural Review Commission approved the project as presented. Carried 5-0]

Ex parte communications were declared by Mayor Moore.

Mindi Schwab, Dailey Janssen Architects, presented the architectural plans

for the proposed generator.

Zoning Manager Castro provided staff comments.

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

Mayor Moore expressed appreciation that the generator is enclosed and spoke regarding it being a necessity for the chapel.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance ZON-22-016 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, 5-0.

Motion made by Council Member Cooney and seconded by Council Member Araskog that Special Exception ZON-22-016 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, 5-0.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Site Plan Review ZON-22-016 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, 5-0.

- g. **ZON-22-019 (ARC-22-033) 200 OCEAN TERRACE (COMBO) — VARIANCES** The applicant, Mr. & Mrs. Timothy Davidson, has filed an application requesting Town Council review and approval for a variance to reduce the required street rear-yard setback for the construction of a new one-story guest house. The Architectural Commission will perform design review of the application. [Architectural Review Commission deferred the project to the February 23, 2022 meeting. Carried 6-0.] Staff Recommends a Deferral to the March 9, 2022 Meeting
This item was deferred to the March 9, 2022 meeting at the approval of the agenda.
- h. **ZON-22-020 (COA 22-004) 8 SOUTH LAKE TRAIL (COMBO)—SPECIAL EXCEPTION** The applicant, The Lakeside Trust dated November 19, 2020 (Patrick Emans, Trustee), has filed an application requesting Town Council review and approval for a Special Exception Request approval for driveway gates on a dead end street which do not provide the required vehicle stacking area between pavement and gate. The

Landmarks Preservation Commission will perform the design review portion of the application. [The Landmarks Preservation Commission approved the project as presented. Carried 7-0.]

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

Maura Ziska, attorney for the applicant, presented the special exception for the vehicular gates.

Zoning Manager Castro provided staff comments and answered a question by Council Member Araskog.

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

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Special Exception ZON-22-020 shall be granted based upon the finding that such grant will not adversely affect the public interest and that the applicable criteria set forth in Section 134-229 of the Town Code have been met; and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the town that ensures a recorded easement will be granted if necessary to underground utilities in the area. Motion carried unanimously, 5-0.

- i. **ZON-22-030 (ARC-22-014) 143 SEMINOLE AVE (COMBO) – SPECIAL EXCEPTION W/ SITE PLAN REVIEW & VARIANCES** The applicant, Lisa Pevaroff Cohn, has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review and Variances related to the renovation and addition to an existing non-conforming residence on a lot deficient in area for the zoning district. The Architectural Commission will perform design review of the application. [Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 7-0.] [The Architectural Review Commission approved the project as presented. Carried 7-0]

There were no ex parte communications declared at this time.

Kristin Kellogg, Smith Kellogg Architecture, Inc., presented the architectural plans for the modifications and addition proposed to the existing residence.

Zoning Manager Castro provided staff comments. Mr. Murphy also provided staff comments.

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

Council Member Araskog inquired about the hardship for the request, to which Ms. Kellogg responded.

Council Cooney thanked Ms. Kellogg for her recent work on single-family homes that are being preserved.

Motion made by Council Member Cooney and seconded by Council Member Araskog that Variance ZON-22-030 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, 5-0.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Special Exception ZON-22-030 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, 5-0.

Motion made by Council Member Cooney and seconded by Council Member Araskog that Site Plan Review ZON-22-030 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, 5-0.

- j. **ZON-22-033 (ARC-22-001) 108 EL MIRASOL (COMBO) - VARIANCES** The applicant, ANK Palm Beach LLC (Anand “Andy” Khubani, Managing Member), has filed an application requesting Town Council review and approval for a variance to allow a basement in a North side-yard setback for basement vehicular access in relation to the construction of a new single-family residence. The Architectural Commission will perform design review of the application. [Architectural Review Commission deferred the project to the March 23, 2022 meeting. Carried 7-0.] Staff Recommends a Deferral to the April 13, 2022 Meeting
This item was deferred to the April 13, 2022 meeting at the approval of the agenda.

- k. **ZON-22-034 (ARC-22-027) 127 EL BRAVO WAY (COMBO)— VARIANCES** The applicant, 127 El Bravo Trust (Guy Rabideau, Trustee), has filed an application requesting Town Council review and approval for a variance to exceed the maximum building height allowed in relation to new construction of single family residence. The Architectural Commission will perform design review of the application. [Architectural Review Commission deferred the project to the February 23, 2022 meeting. Carried 7- 0.] Deferral Request to the March 9, 2022 Meeting per Letter from David E. Klein, Esq.

This item was deferred to the March 9, 2022 meeting at the approval of the agenda.

XII. UPDATES

1. Update on the Building Recertification Program

Director Bergman provided a brief update and spoke regarding State bills that are currently moving through committees that provides legislation for a building recertification program. He recommended that the Town wait to move forward with its own program until the State acts.

Council President Zeidman inquired if there were certain buildings in Town that would need to be addressed immediately, to which Mr. Bergman responded.

Council Member Araskog spoke in support of waiting to see if the State would pass legislation on this issue.

XIII. ANY OTHER MATTERS

1. Discussion regarding ARCOM's Powers

Council Member Araskog spoke in support of having Town Attorney Randolph attending an ARCOM meeting to provide background on the powers of the board and ex parte meetings. Mr. Randolph spoke regarding presenting this information, as well as public records, Sunshine, etc.

Council President Zeidman spoke regarding having Director Bergman, Assistant Director Murphy, and Town Attorney Randolph to address these items as well as the process of keeping a record on what had been discussed on each application to ensure continuity.

Council President Pro Tem Lindsay spoke regarding the importance of the ARCOM members understanding the ordinance regarding the "excessively dissimilar" clauses and ensuring that the ARCOM members understand that they know all the powers that they have available to them.

Assistant Director Murphy informed the Town Council on a presentation that was made to ARCOM.

Discussion ensued regarding holding another in-person meeting to present these items.

Council President Zeidman spoke regarding ARCOM having a lengthy discussion regarding furniture for outdoor seating at restaurants and spoke regarding her discussion with the ARCOM Chair on this issue. She requested that this item be placed on the March Town Council agenda.

2. Review of a Stop Work Order Due to the Three-Strike Rule at 1500 N. Ocean Blvd.

Director Bergman provided background information on the tickets for construction violations that had been issued at this address.

Maura Ziska, homeowner, spoke regarding how quickly this became an issue.

Todd Michael Glaser, contractor for the project, discussed the issues that occurred with

these violations.

Council Member Araskog stated that Ms. Ziska has been responsive to her calls of complaints.

Council President Pro Tem Lindsay stated that the residents were demanding this type of enforcement and spoke regarding the importance of general contractors ensuring their subcontractors comply.

Mayor Moore stated that she lived next to a project of Mr. Glaser's where she personally witnessed many violations. She believed that there would be many stop work notices in the near future but stated that she feels that these issues will be resolved once all of the general contractors understand the gravity of the situation.

Council Member Araskog restated the words of Council President Pro Tem Lindsay that the contractor is ultimately responsible for all violations.

Mr. Glaser stated that his company will no longer use subcontractors who have caused these issues.

Motion made by Council Member Araskog and seconded by Council Member Crampton to lift the stop work order at 1500 North Ocean Blvd. contingent upon all the payment of any outstanding fines. Motion carried unanimously, 5-0.

XIV. ADJOURNMENT

Motion made by Council Member Cooney and seconded by Council Member Araskog to adjourn the meeting at 3:47 p.m. without the benefit of a roll call.

APPROVED:

Margaret Zeidman, Town Council President

ATTEST:

Kelly Churney, Deputy Town Clerk
Date: _____