



TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on April 13, 2022

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order April 13, 2022 at 9:34 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 spoke regarding Florida Senate Bill 620, Local Business Protection Act. She provided brief information on the bill, its potential consequences and requested that the Town Council authorize her to send a letter to the Governor to request him to veto the bill.

Mayor requested that staff place the information on the Town website for residents to comment.

IV. COMMENTS OF TOWN COUNCIL MEMBERS

Council President Zeidman explained that when items are sent the night prior to a Town Council meeting, the Town Council does not have time to properly review the documents. She requested that backup documents be submitted in a timely fashion to allow for a proper review.

Council President Pro Tem Lindsay complimented the Mayor on her response to the senate bill. She also noted that she had a commitment the prior evening and did not have the time to review any of the documents that arrived late last evening.

Council Member Crampton requested an update on complaints from residents at the Four Seasons. Council President Zeidman stated she would like to speak about the item under Any Other Matters.

Council Member Araskog stated that ORS could review the item as well. She congratulated Fire Chief Donatto on his Home Rule Hero Award from the Florida League of Cities. She expressed her appreciation for her fellow Town Council members. She wished everyone a Happy Easter and Happy Passover and stated that she will be praying for the people of Ukraine.

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

No one indicated a desire to speak.

VI. APPROVAL OF AGENDA

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

Addition of Stop Work Order at 1284 N. Lake Way

Withdrawal of ARCOM Appeal of ARC-22-035

Addition of Time Extension for 991 N. Lake Way

Addition of Building Permit Extension for 223 Queens Lane

Withdrawal of Z-21-0374, 224 La Puerta Way

Deferral of ZON-21-006 to the May 11, 2022 meeting

Withdrawal of ZON-21-018, 245 Barton Avenue

Withdrawal of ZON-22-027, 225 Indian Road

Deferral of ZON-22-032 to the May 11, 2022 meeting

Deferral of ZON-22-033 to the May 11, 2022 meeting

Deferral of ZON-22-037 to the May 11, 2022 meeting

Deferral of ZON-22-029 to the May 11, 2022 meeting

Deferral of ZON-22-038 to the May 11, 2022 Meeting

Council President requested that the following items be added to the agenda, if possible:

an update on noise issues at the Four Seasons; discussion regarding development and West Palm Beach and potential ramifications to the Town; discussion regarding extending the deadline for temporary COVID outdoor seating; and a discussion on the legal ramifications and guidelines for: moratorium on building and zoning in progress (ZIP). She spoke regarding the West Palm development, indicating this item could be moved to the May agenda.

Discussion ensued regarding the item pertaining to development in West Palm Beach and the consensus was to bring the item to the May agenda.

Council Member Araskog expressed concern over approving the extension of the outdoor seating due to the lack of notice to the public who may be concerned. Assistant Director of Planning, Zoning & Building James Murphy provided an update on the applications for outdoor seating that have been received. Discussion ensued regarding the timing of discussing this item. Town Attorney Randolph spoke regarding adding items to the agenda at the meeting.

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

VII. RESOLUTIONS

- A. RESOLUTION NO 030-2022 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.”

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

Emily Stillings, Murphy Stillings, described the proposed historic tax abatement for the property at 89 Middle Road. She indicated that the improvements had been completed and had met the Landmark Preservation Commission’s approvals as well as the Secretary of Interior Standards for rehabilitation. Ms. Stillings stated if approved by the Council, the abatement would be sent to Palm Beach County for processing.

Motion made by Council Member Cooney and seconded by Council Member Araskog to approve Resolution No. 030-2022. Motion carried unanimously.

- B. RESOLUTION NO 041-2022 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 287 Pendleton Avenue 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.

Please note: Mayor Moore declared a conflict of interest and left the room during the discussion.

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

Ex parte communication was declared by President Zeidman.

Janet Murphy, 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. Ms. Murphy added that the designation was only the front façade due to the owner's request.

Council President Pro Tem Lindsay inquired about the designation of the front façade. Ms. Murphy explained that the Landmarks Preservation Commission recommended the front façade only as the owners were more comfortable landmarking the front façade only. Council President Pro Tem Lindsay asked about the current owner since the previous owner had passed.

Discussion ensued about the front façade designation.

Council Member Cooney inquired if the chimney was included in the designation. Ms. Murphy stated she did not believe the chimney was included.

After some discussions on whether the chimney could be included in the designation, Town Attorney Randolph stated he was not comfortable with the Council placing more of the property in the designation. Town Attorney Randolph stated that the resolution would need to be amended to indicate that the designation included only the front façade.

Council President Zeidman asked staff for any other comments. Assistant Director Murphy stated that staff had no further comments.

Council Member Araskog inquired if the item would need to be heard by Landmarks again if the chimney was to be included, to which Town Attorney Randolph stated that he believes that it would need to return to the Landmarks Commission for discussion.

Motion made by Council Member Araskog and seconded by Council President Pro Tem Lindsay that the designation report be made part of the record. Motion carried unanimously.

Council President Zeidman called for public comment.

Jacqueline Miller, attorney for the personal representative of the estate at 287 Pendleton Avenue, spoke regarding the ownership of the home and confirmed

what the Landmarks Commission had approved. She provided photographs and requested that they made be part of the record.

Alan Ciklin, 260 Pendleton Avenue, discussed the liens on the property due to many code enforcement violations. He spoke in opposition to this house being designated a landmark in its current state. He requested that the Town Council defer the designation until the violations are remedied. He also discussed the code enforcement violations at 220 Pendleton Avenue, which is owned by the personal representative for the estate at 287 Pendleton Avenue. He requested that the Town Council address the code enforcement liens by foreclosing on both properties or take some other civil action to address the code enforcement violations.

Council President Zeidman asked for Town Attorney Randolph's opinion on Mr. Ciklin's claims. Town Attorney Randolph responded and stated he believed the Town Council should treat the designation separately than the code enforcement issue. He addressed the issue of the homesteading of the properties.

Council Member Araskog asked Ms. Miller about the owner of the property, to which Ms. Miller responded.

Council President Pro Tem Lindsay clarified the Council's role with Town Attorney Randolph.

Council Member Cooney empathized with the owners on Pendleton due to the state of this property, however he stated that he felt that the home fits into the street and meets the criteria. He spoke regarding other older homes that were in poor condition but were transformed by new owners.

Council President Zeidman agreed with Council Member Cooney. She stated that new homes on her street have changed the character of the street and that landmarking protects the unique character. Discussion ensued regarding the question of whether a landmarks designation could be done when the ownership of the home is not confirmed.

Town Attorney Randolph read the revised title of the resolution and explained the changes that have been made to the resolution to emphasize that the designation is for the front façade.

Motion made by Council Member Cooney and seconded by Council Member Araskog to approve the amended Resolution 041-2022, designating the front façade, specifically the front loggia extending to the front wall of the home, at 287 Pendleton Avenue 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.

VIII. DEVELOPMENT REVIEWS

A. Appeals

1. **ARCOM APPEAL OF ARC-22-035 726 HI MOUNT ROAD
Request for Withdrawal Per Email From Craig Distel, Esq.**

B. Time Extensions and Waivers

1. Time Extension for 726 Hi Mount Road

Director of Planning, Zoning & Building Bergman provided an overview of the time extension request received for 726 Hi Mount Road.

Gene Parker, Hedrick Brothers, requested an extension to January 2023 and explained the delays to the project.

Motion made by Council Member Cooney and seconded by Council Member Crampton to grant the 12-month time extension request for 726 Hi Mount road. Motion carried unanimously.

2. Time Extension for 991 N Lake Way

Director Bergman provided an overview of the time extension request received for 991 N. Lake Way.

M. Timothy Hanlon, attorney on behalf of the owners at 991 N. Lake Way, stated that the owners recently purchased the property and revised the project.

Motion made by Council Member Cooney and seconded Council Member Araskog to grant a 14-month time extension for 991 N. Lake Way. Motion carried unanimously.

3. Building Permit Extension for 223 Queens Lane

Director Bergman provided an overview of the building permit extension request received for 223 Queens Lane.

Motion made by Council Member Crampton and seconded Council Member Cooney to grant a 3-month time extension for 223 Queens Lane. Motion carried unanimously.

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. **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 April 27, 2022 meeting. Carried 7-0.] Request for Withdrawal per Email Dated March 31, 2022 from David Gengler

This item was withdrawn at the approval of the agenda.

Please note: A short break was taken at 11:05 a.m. The meeting resumed at 11:11 a.m.

- b. **ZON-21-003 (ARC-21-039) 380 SOUTH COUNTY ROAD (COMBO) – SPECIAL EXCEPTION W/ SITE PLAN REVIEW & VARIANCES** The applicant, 380 S County LLC (Phillip Norcross, Manager) has filed an application requesting Town Council review and approval for a Special Exception Request with Site Plan Review and including variances (1) to reduce the street side (south) setback for the proposed ground floor terrace addition, (2) to reduce required parking (by 36 number of spaces), and (3) to exceed the maximum height of rooftop mechanical equipment, (4) to forgo required off-street loading; in order to expand a lounge into a restaurant and increase second floor office use in an existing two-story building. 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. Motion carried 6-1.] [The Architectural Review Commission approved the project with conditions relating to the architecture. Carried 4-3.]

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

Maura Ziska, attorney on behalf of the applicant, provided an overview of the project and showed some of the architectural plans for the proposed addition and covered outdoor dining area. She explained the zoning requests related to the application.

Nelo Freijomel, Spina O'Rourke + Partners, reviewed the architectural plans proposed for the project.

Ms. Ziska explained the parking spaces that will be available for employee and customer parking. In response to questions from Council Members regarding parking arrangements, Ann Des Ruisseaux, spoke on behalf of the owner, regarding the available parking to the employees and customers.

Ms. Des Ruisseaux stated that any concern with an increase in density should be alleviated with the reduction in the items that they are now requesting. She discussed her conversation with Peter Broberg, specifically addressing the calculations of the number of seats allowed in the restaurant.

Mr. Freijomel stated that the project would not encroach into the sidewalk.

Assistant Director Murphy provided staff comments on the project.

Frank Lynch, attorney on behalf of the owners of Casa 214 Condominium, expressed concern over the number of customers allowed for standing room, the possibility of the use of the second floor, and the proximity of the parking/noise to his client's residence.

Ms. Des Ruisseaux responded to the comments by Mr. Lynch. Mr. Lynch requested that the second-floor restrooms be closed to use by the public, to which Ms. Des Ruisseaux responded.

Council Member Araskog requested to see before and after renderings of the project. Mr. Freijomel showed the renderings. Ms. Araskog asked about the hardship for the variances, to which Ms. Ziska responded. Ms. Araskog expressed concern over the outdoor seating on Peruvian.

Council Member Crampton stated that he believes that the addition was a huge upgrade to the street. He also stated that the refrigerated garbage plan was superb and expressed appreciation for the proposed application has been reduced. Mr. Crampton asked staff to review the valet plan for parking, to which Mr. Murphy responded. Ms. Des Ruisseaux responded to concerns raised by Mr. Murphy on the parking.

Mayor Moore expressed concern over the proposed application, specifically the intensification of use, the uncertainty of the second-floor plan and the loss of spaces.

Council Member Cooney spoke in support of the aesthetics of the project but expressed concern over the Nano wall on the south side, the loss of parking, and the increase of square footage.

Please note: Fire alarm occurred at 12:13 p.m. The meeting resumed at 12:21 p.m.

Council Member Cooney concluded his comments.

Mr. Lynch expressed concern that one day the restaurant would expand into a two-story restaurant.

Council Member Lindsay spoke in support of the aesthetics of the project, but expressed concern over noise from the Nano wall, the proximity to nearby residents and the loss of parking. She requested clarification of the parking requirements, to which Mr. Murphy and Ms. Des Ruisseaux responded. Ms. Des Ruisseaux spoke regarding the request for second floor office space has been removed.

Council President Zeidman expressed concern over the increase of seating and the constant expansion of uses in properties in Town. She spoke regarding this project already having approval for 108 seats which she viewed as excessive. She requested clarification regarding the valet parking and the Nano wall. She expressed concern over the potential noise from increasing the intensification and the nano wall which could be opened. She expressed that there were already complaints of noise. In addition, she stated that she had driven by at 10:30pm and could hear the music.

Discussion ensued regarding the parking issues.

Council Member Araskog spoke regarding including a scrubber.

Matt Lefkowitz, 148 Peruvian Avenue, expressed concern over the noise and inebriated people walking the streets into the late evening.

Council Member Araskog spoke in support of the aesthetics of the project, but expressed concern over the expansion of use, the noise from the Nano wall and the issue of parking. She spoke regarding the location not being favorable with the proposed project.

Council Member Crampton spoke in support of the proposed project as presented and spoke regarding the parking issue being handled by staff in order to ensure that the parking agreements are made.

Council President Zeidman spoke regarding code enforcement violations that have occurred on the property and expressed concern over noise of the current establishment.

Motion made by Council Member Crampton that Variance ZON-21-003, 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 staff approves a parking plan for 108 seats and staff approves a parking partnership agreement between the facility and off-site parking operators; 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 declaration of use agreement regulating operating hours and other items that are appropriate and satisfactory for negotiation between the parties. Motion died due to a lack of a second.

Motion made by Council Member Araskog, and seconded by Council Member Cooney, that Variance ZON-21-003, shall be denied for the reason that the application does not meet the criteria set forth in Section 134.201(a) items 1 through 7, in particular, that there is a lack of hardship. Motion carried 3-2, with Council Member Crampton and Council President Pro Tem Lindsay dissenting.

Motion made by Council Member Araskog, and seconded by Council Member Cooney, that Special Exception ZON-21-003, shall be denied for the reason that the granting of the special exception will adversely affect the public interest and that the specific requirements of Section 134-229 of the Town Code have not been met. Motion carried 4-1, with Council Member Crampton dissenting.

- 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. [The Architectural Review Commission deferred the project to the April 27, 2022 meeting. Carried 5-2.] Staff Recommends to Defer the Project to the May 11, 2022 Meeting.

This item was deferred to the May 11, 2022 meeting at the approval of the agenda.

- d. **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 April 20, 2022 meeting. Carried 7-0.] Request for Withdrawal per Email from Michael Perry

This item was withdrawn at the approval of the agenda.

The Town Council recessed at 12:57 p.m. and reconvened at 2:19 p.m.

- e. **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 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 with the condition that the pergola shall be lowered to 8 feet. Carried 6-1.]

There were no ex parte communications declared at this time.

Dustin Mizell, Environment Design Group, presented the architectural plans for the proposed pergola addition.

Mr. Murphy provided comments on the application.

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 Araskog, that Variance ZON-22-013, 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 with the condition that it remains a pergola and not an enclosed roof. Motion carried unanimously, 5-0.

- f. **ZON-22-018 (COA-22-003) 340 ROYAL POINCIANA WAY (COMBO) - VARIANCES AND SPECIAL EXCEPTION WITH SITE PLAN REVIEW** The applicant, RPP Palm Beach Property LP (Samantha Perry David, President), has filed an application requesting Town Council review and approval for a Special Exception Request with Site Plan Review and including variances (1) to reduce the required landscape open space, (2) and (3) to exceed the maximum building height for rooftop mechanical equipment and exhausts, (4) to exceed the maximum overall building height for additions to a building, (5) to exceed the maximum length of a building, (6) a variance from Chapter 50 for the required floor elevation for the new ground floor additions on a landmarked building in order to renovate and expand with additions a landmarked playhouse structure, (7) to reduce the required drive aisle width, (8) to eliminate the required loading berth for new construction over 4,000 SF, (9) to eliminate 39 of the existing required parking spaces, and (10) and (11) to allow new parking spaces in the required side street setback and front setback, (12) to allow new and existing tandem parking, and (13) to exceed the maximum overall building height to retain the existing building when demolition of an elevation or roof for more than 50% occurs. Additionally, the applicant is requesting to amend the 1979 Development Agreement for the site. [Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject landmark property. Carried 7- 0.] [The Landmarks Preservation Commission approved the project as presented. Carried 7-0.]

Town Attorney Randolph mentioned that the Council will only be considering approval of the declaration of use agreement.

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

Jamie Crowley, attorney for the applicant, reviewed the Declaration of Use Agreement and the Amended and Restated 1979 Agreement.

Council Member Araskog expressed concern over the Amended and Restated Agreement. She asked questions and made recommendations on the agreement, to which Mr. Crowley responded.

Mr. Murphy provided staff comments on the agreements.

Council Member Cooney expressed caution on some of the changes of the 1979 agreement and expressed concern over daytime traffic use.

Council Member Crampton spoke in support of the project, as long as the issues with the valet and traffic plan have been resolved and that Town staff is comfortable with the project.

Bryan Kelly, Senior Traffic Engineer with Simmons and White, responded to the updated valet plan and answered Council Members' questions.

Brian Mirson, American Consulting, explained his company's position on the valet, which is having a minimum of 21 spaces for valet rather than 15. Mr. Kelly responded to the comments by Mr. Mirson and answered Council Members' questions.

Council President Zeidman spoke in support of the project and of the current management of the property but expressed caution over the traffic being backed up onto Cocoanut Row during times of peak use. She stated that she was glad to see that RPP had addressed this concern by adding police detail to ensure movement of traffic.

Mayor Moore spoke regarding the proposed valet plan states, "minimum valet." She expressed concern over the daytime events and spoke regarding items in the declaration of use agreement.

Council President Pro Tem Lindsay spoke in support of memorializing the agreement that if there are more than 15 cars queuing, then they will increase the number of valet attendants.

Alexandra Patterson spoke regarding ensuring that there are no more than 15 cars in the valet queue consistently.

Brian Mirson provided further recommendations on the valet plan in response to Council Members' questions.

Anita Seltzer, 44 Cocoanut Row, expressed concern that the Council was reviewing a document that was not provided to the public. She presented pictures of the parking lot at the playhouse and questioned the triple stacked parking. She also expressed concern over the continued good health of the landmarked Mysore tree particularly during construction.

Mr. Kelly provided further information for clarification of the valet operations.

Simon Taylor, 234 Oleander Avenue, representing the Palm Beach Theatre Guild, expressed concern over the proposed declaration of use agreement and provided information on why it is problematic in several areas.

Please note: A short break was taken at 4:30 p.m. The meeting resumed at 4:39 p.m.

Mr. Crowley addressed issues brought up by Mr. Taylor.

Council Member Araskog expressed concern over traffic during the

daytime hours of operation.

Samantha David, Royal Poinciana Plaza, addressed the hours of operation in regard to traffic operation.

Mr. Mirson addressed the issue of traffic during the daytime hours.

Council President spoke regarding the daytime traffic issue and requested that the operator keep in consideration the issue of weekday afternoon traffic.

Council Member Cooney spoke in support of trying a reduced capacity at first during the week during the day during season and revisiting the issue in a year to ensure that it is successful. Discussion ensued regarding restricting the capacity during daytime weekday hours of operation.

Mayor Moore spoke in support of the project and of the Royal Poinciana Plaza traffic. She expressed support for the Town Council moving forward with this item and not deferring it.

Mr. Crowley clarified the changes for the declaration of use agreement.

Simon Taylor, 234 Oleander Avenue, representing the Palm Beach Theatre Guild, expressed further concern over the declaration of use agreement.

Bill Metzger, 277 Esplanade Way, requested clarification of some of the language of the agreement, to which Mr. Crowley answered.

Motion made by Council Member Crampton, and seconded by Council President Pro Tem Lindsay, to approve the Declaration of Use Agreement, as amended by the Town Council at the meeting. Motion carried 3-2, with Council Members Araskog and Cooney voting NO.

Discussion ensued regarding proposed amendments to the 1979 agreement, including further development of the property, the removal of historic Mysore fig tree, parking requirements. Assistant Director Murphy and Director Bergman explained the parking requirements that pertain to this project. Extensive discussion ensued regarding the parking spaces to be agreed upon under the agreement.

Simon Taylor, 234 Oleander Avenue, representing the Palm Beach Theatre Guild, expressed concern over amending the 1979 agreement and expressed concern over the proposed redevelopment of the plaza.

Anita Seltzer, 44 Cocanut Row, spoke regarding the historic Mysore fig tree and spoke in support of the Town Council retaining that space, but expressed concern over the impact of construction on the tree.

Bill Metzger, 277 Esplanade Way, spoke regarding a conversation with the City's Arborist about the Mysore fig tree and that he is confident that he will ensure that it is tended to during the construction.

Motion made by Council Member Araskog, and seconded by Council Member Crampton, to approve the amended and restated 1979 agreement as amended and agreed to during the meeting with the direction to return to the May 10, 2022, Town Council Meeting on Consent Agenda. Motion carried 4-1, with Council Member Cooney dissenting.

Please note: A short break was taken at 6:38 p.m. The meeting resumed at 6:45 p.m.

- g. **ZON-22-024 (ARC-22-028) 1540 S OCEAN BLVD (COMBO) - SPECIAL EXCEPTION W/ SITE PLAN REVIEW & VARIANCES** The applicant, 1540 S. Ocean LLC (Steven Kirsch, Managing Director), has filed an application requesting Town Council review and approval for Special Exception to modify an existing beach cabana structure and Special Exception with Site Plan Review and including variances for (1) and (2) to reduce required side setbacks for a new beach access tunnel, (3) to reduce the required ocean bulkhead line setback for a new beach access tunnel and (4) to exceed the maximum allowed lot coverage in relation to the construction of a new beach access tunnel. ARCOM 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 5-2.]

Ex parte communications declared by Council Members Araskog and Cooney.

Maura Ziska, attorney for the applicant, presented an overview of the project and discussed the zoning requests for the project.

Jason Skinner, Dailey Janssen Architects, presented the architectural plans proposed for the project.

Mike Forman, Kimley Horn, provided information on the traffic maintenance plan and installation methods.

Mr. Murphy provided staff comments on the application.

Mr. Skinner, Mr. Forman, Ed O'Leary and Ms. Ziska answered Council Members' questions regarding construction traffic plan, the timeline for

the project, and the hardship.

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

Council Member Araskog requested that the timeline be moved to July. Ms. Ziska agreed to a July timeline.

Motion made by Council President Pro Tem Lindsay, and seconded by Council Member Crampton, that Variance ZON-22-024, 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, 4-1, with Council Member Cooney dissenting.

Motion made by Council President Pro Tem Lindsay, and seconded by Council Member Crampton, that Special Exception ZON-22-024 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; with the condition that the construction will begin in July. Motion carried, 4-1, with Council Member Cooney dissenting.

Motion made by Council President Pro Tem Lindsay, and seconded by Council Member Crampton that Site Plan ZON-22-024 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, 4-1, with Council Member Cooney dissenting.

Council Member Araskog inquired about Council Member Cooney's dissenting vote. Council Member Cooney responded by expressing his concern that an approval for the structure could lead to a proliferation of similar structures moving forward.

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

2. New Business

- a. **ZON-22-061 (ARC-22-056) 250 SANDPIPER DR (COMBO) – VARIANCE** The applicant, Judith Guest, has filed an application requesting Town Council review and approval for a variance to allow a second-floor encroachment into the required 2-story East side-yard setback, conjunction with a major renovation of the existing structure

within its existing footprint. 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 with conditions relating to the architecture. Carried 7-0.]

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

M. Timothy Hanlon, attorney for the applicant, presented an overview of the project and explained the zoning relief requested.

Mr. Murphy provided staff comments on the application.

Maureen Shenkman, 248 Sandpiper Drive, expressed concerns and objections for the proposed project.

Kurt Hassenhuttl, 280 Sandpiper Drive, expressed his concerns and objections for the proposed project.

Eva Hassenhuttl, 280 Sandpiper Drive, expressed her concerns and objections for the proposed project.

Mr. Hanlon responded to the concerns of the neighbors.

Kyle Fant, Bartholemew + Partners, presented the architectural plans proposed for the renovations and answered Council Members' questions.

Council President Pro Tem Lindsay inquired if it was possible to change the upper window on the east façade so that it did not allow a view to the neighbor's home. Ms. Lindsay inquired if staff could study the possibility of keeping a one- and one-half story home on Sandpiper.

Council Member Cooney asked Town Attorney Randolph about restricting only one-story homes on the street, to which Town Attorney Randolph responded.

Mr. Hanlon explained that ARCOM was in favor of the new design.

Dustin Mizell, Environment Design Group, stated he spoke to Mr. Shenkman and thought there was a compromise. He discussed his

client's commitment to being a good neighbor.

Council Member Araskog expressed concern over the variance and questioned the window on the east façade and asked if it could be changed, to which Mr. Fant responded.

Council President Zeidman spoke in support of the new design and stated that she believed that the applicant was trying to compromise with a nice buffer.

Motion made by Council Member Crampton, and seconded by Council Member Lindsay, that Variance ZON-22-061, 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 applicant will refer on their permits a split level, one-story house; 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 providing that the buffer as set forth, will remain. Motion carried, 4-1, with Council Member Araskog dissenting.

The agenda order resumed:

- b. **ZON-22-027 (ARC-22-038) 225 INDIAN ROAD (COMBO) - VARIANCES** The applicant, White Oak, LLC, a Wyoming LLC, as Trustee for 225 Trust u/a/d 12/13/2019 (Dennis Walsh, Trust Officer), has filed an application requesting Town Council review of a variance for a loggia addition with staircase, to encroach into a required setback. ARCOM will perform design review of the application. [Architectural Review Commission Recommendation: Implementation of the proposed variances will cause negative architectural impact on the subject property. Carried 5-2.] [The Architectural Review Commission approved the project with the exception of the additional terrace and staircase. Carried 7-0.] Request for Withdrawal Per Email from Maura Ziska, Esq.

This item was withdrawn at the approval of the agenda.

- c. **ZON-22-032 (HSB-22-003) 594 NORTH COUNTY RD (COMBO) - VARIANCES** The applicant, George and Sandra Marucci, has filed an application requesting Town Council review and approval for variances to reduce both side yard setback requirements for one-story additions to a historically significant building and for a variance from Chapter 50 for the required floor elevation for the new ground floor addition on a historically significant building to construct a ground

floor addition with a finished floor of 6.49' NAVD in lieu of the required 7' NAVD. [The Landmarks Preservation Commission deferred the project to the April 20, 2022 meeting. Carried 7-0.] Staff Recommends a Deferral to the May 11, 2022 Meeting.

This item was deferred to the May 11, 2022 meeting at the approval of the agenda.

- d. **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. [The Architectural Review Commission deferred the project to the April 27, 2022 meeting. Carried 7-0.] Staff Recommends to Defer the Project to the May 11, 2022 Meeting.

This item was deferred to the May 11, 2022 meeting at the approval of the agenda.

- e. **ZON-22-037 (ARC-22-040) 60-70 BLOSSOM WAY (COMBO) – SITE PLAN REVIEW** The applicant, Blossom Way Holdings LLC and Providencia Partners LLC (Maura Ziska, Authorized Representative), has filed an application requesting Town Council Site Plan Review as required for the installation of a generator with an output capacity over 100kW, in conjunction with the construction of a new single-family residence. ARCOM will perform design review of the application. [The Architectural Review Commission deferred the project to the April 27, 2022 meeting. Carried 7-0.] Staff Recommends to Defer the Project to the May 11, 2022 Meeting.

This item was deferred to the May 11, 2022 meeting at the approval of the agenda.

1. **New Business**

- a. **ZON-22-029 (HSB-22-002) 854 S COUNTY RD (COMBO) - VARIANCES**. The applicant, Todd Glaser, has filed an application requesting Town Council review and approval for variance (1) to retain the existing nonconforming side (north) setback to accommodate substantial additions to a historically significant building. The Landmarks Preservation Commission will perform design review of the application. [The Landmarks Preservation Commission deferred the project to the April 20, 2022 meeting. Carried 7-0.] Staff Recommends a Deferral to the May 11, 2022 Meeting.

This item was deferred to the May 11, 2022 meeting at the approval of the agenda.

b. **ZON-22-035 (COA-22-011) 350 S COUNTY RD STE 100 (COMBO) - SPECIAL EXCEPTION W/ SITE PLAN REVIEW**

The applicant, BUCCAN (Sam Slattery, Manager), has filed an application requesting Town Council review and approval for modifications to a previously approved Special Exception w/ Site Plan Review for modifications to the western portion of the site plan within the west side access service yard including exterior storage of ancillary restaurant equipment and elements and installation of new access gates and minor landscape changes and the installation of a new screening wall along the south property line. The Landmarks Preservation Commission will perform design review of the application. [The Landmarks Preservation Commission approved this project as presented. Carried 7-0.]

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

Maura Ziska, attorney for the applicant, provided an overview of the project and explained the zoning relief requested.

Mr. Murphy provided staff comments on the application.

Council President Zeidman called for public comments.

Frank Lynch, attorney on behalf of the residents at 214 Chilean Avenue, expressed concern that the gates would only hide and not solve the problem.

Council Member Crampton spoke regarding not personally witnessing these issues but expressed appreciation to Mr. Lynch for providing photographs.

Council Member Araskog spoke regarding a gate being a better option than seeing the alley, however she expressed concern that the situation could get worse behind the gate.

Motion made by Council Member Cooney, and seconded by Council President Lindsay, that Special Exception ZON-22-035 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 Crampton, that Site Plan ZON-22-035 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.

- c. **ZON-22-038 (ARC-22-058) 220 BRAZILIAN AVE (COMBO) - VARIANCES** The applicant, I220 PB LLC (Guy Rabideau), has filed an application requesting Town Council review and approval for variances (1-2) to install AC equipment within both (east and west) side yards of a duplex building not fully screened by a 7' high wall and (3-4) to install an emergency generator in the side (west) yard setback exceeding maximum height allowed and not completely screened by a 7' high wall. The Architectural Commission will perform design review of the application. [The Architectural Review Commission deferred the project to the April 27, 2022 meeting. Carried 7-0.] Staff Recommends to Defer the Project to the May 11, 2022 Meeting.

This item was deferred to the May 11, 2022 meeting at the approval of the agenda.

- d. **ZON-22-039 (ARC-22-067) 107 DOLPHIN RD (COMBO) - SPECIAL EXCEPTION W/ SITE PLAN REVIEW AND VARIANCES** The applicant, Irwin Ackerman, has filed an application requesting Town Council review and approval for Special Exception w/ Site Plan Review for the construction of a beach cabana in the BA zoning district including variances (1) from the minimum lot and area requirements for the BA zoning district and (2) and (3) West setback and ocean bulkhead setback requirements. 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.]

Ex parte communications declared by Council Member Araskog.

Maura Ziska, attorney for the applicant, provided an overview of the project and explained the zoning relief requested.

Mr. Murphy provided staff comments on the application.

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

Council Member Cooney stated that he struggled with the idea that the lot was not the minimum allowed in the Code and expressed concern over the number of cabanas being requested.

Council Member Araskog requested that the vegetation not be allowed to grow above the wall and that it be kept at 3 feet.

Motion made by Council President Pro Tem Lindsay, and seconded by Council Member Crampton, that Special Exception ZON-22-039 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 4-1, with Council Member Cooney dissenting.

Motion made by Council President Pro Tem Lindsay, and seconded by Council Member Crampton, that Site Plan ZON-22-039 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 4-1, Council Member Cooney dissenting.

Motion made by Council President Pro Tem Lindsay, and seconded by Council Member Crampton, that Variance ZON-22-029, 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 4-1, Council Member Cooney dissenting.

- e. **ZON-22-040 (ARC-22-061) 1950 S OCEAN BLVD (COMBO) - VARIANCES** The applicant, Earl Mack, has filed an application requesting Town Council review and approval for variance (1) to encroach into the (south) side-yard setback in conjunction with the renovation and approximately 150 sq. ft. addition to a pool cabana. 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.]

Ex parte communications declared by Council Members Araskog and Cooney.

Maura Ziska, attorney for the applicant, provided an overview of the project and explained the zoning relief requested.

Mr. Murphy provided staff comments on the application.

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

Council Araskog inquired about the hardship, to which Ms. Ziska responded.

Motion made by Council Member Cooney, and seconded by Council Member Crampton, that Variance ZON-22-040, 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 4-1, Council Member Araskog dissenting.

- f. **ZON-22-048 (ARC-22-060) 224 SOUTHLAND RD (COMBO) – VARIANCES** The applicant, MR. & MRS. FROST, has filed an application requesting town council approval for (1) variance to expand an existing nonconforming East side-yard setback in conjunction with a 750 sq. ft. addition to the existing structure. 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 subject property. Carried 7-0.] [The Architectural Review Commission approved the project with conditions relating to the architecture. Carried 7-0.]

Ex parte communications declared by Council Members Araskog and Cooney.

Maura Ziska, attorney for the applicant, provided an overview of the project and explained the zoning relief requested.

Pat Segraves, SKA Architect + Planner, presented the architectural plans for the proposed addition.

Mr. Murphy provided staff comments on the application.

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 President Pro Tem Lindsay, that Variance ZON-22-048, 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; 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.

- g. **ZON-22-061 (ARC-22-056) 250 SANDPIPER DR (COMBO) – VARIANCE** The applicant, Judith Guest, has filed an application requesting Town Council review and approval for a variance to allow a second-floor encroachment into the required 2-story East side-yard setback, conjunction with a major renovation of the existing structure within its existing footprint. 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 with conditions relating to the architecture. Carried 7-0.]

This item was heard out of order of the agenda.

IX. NEW BUSINESS

- A. Review of a Stop Work Order Due to the Three Strike Rule at 1284 N. Lake Way
- Directory Bergman provided an overview of the stop work order issued to 1284 N. Lake Way. Mr. Bergman informed the Town Council of the violations.
- Chip Valley, Island Construction, discussed the violations and the reason they occurred.
- Mr. Bergman stated all fines had been paid.
- Motion made by Council Member Araskog and seconded by Council Member Cooney to waive the third strike at 1284 N. Lake Way and to grant the ability for the contractor to apply for future right-of-way permits. Motion carried unanimously.**

X. ANY OTHER MATTERS

1. Noise at the Four Seasons

Town Attorney Randolph provided an update on the items that are being pursued by Code Enforcement.

XI. ADJOURNMENT

Motion made by Council Member Araskog and seconded by Council President Pro Tem Lindsay to adjourn the meeting at 8:21 p.m. on April 13, 2022 without the benefit of a roll call.

APPROVED:

Margaret Zeidman, Town Council President

ATTEST:

Kelly Churney, Deputy Town Clerk
Date: _____