



**TOWN OF PALM BEACH**  
Planning, Zoning & Building Department  
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PLANNING, ZONING, & BUILDING DEPARTMENT  
PZ&B Staff Memorandum: Town Council Development Review

TO: Mayor and Town Council

FROM: Wayne Bergman, MCP, LEED-AP  
Director PZ&B

SUBJECT: ZON-22-094 224 ATLANTIC AVE and 223 ATLANTIC AVE

MEETING: August 10, 2022

**ZON-22-094 224 ATLANTIC AVE and 223 ATLANTIC AVE — SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES.** The applicant, 224 Atlantic LLC (Heather Baines, Managing Member) and 223 ATLANTIC AVE, has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review to modify a previously approved Special Exception (#10-79) by eliminating the condition of approval requiring a Unity of Title Agreement between the single-family home located at 224 Atlantic Ave and the Condominium located at 223 Atlantic Ave. Termination of the Unity of Title triggers a parking variance to eliminate 7 required off-street parking spaces located on the 224 Atlantic Ave parcel, which is calculated as required parking for the parcel at 223 Atlantic Ave. The elimination of the parking results in a variance requested for the property at 223 Atlantic Ave to eliminate 7 of the required existing parking spaces to allow an apartment building with 19 remaining parking spaces (on site) where 42 spaces are required.

Applicant: 224 Atlantic LLC (Heather Baines, Managing Member)  
Representative: Maura Ziska, Esq.

#### **HISTORY**

In 1979, a special exception was filed to develop a parcel (224 Atlantic Avenue) with a 2 story 2 family dwelling which would also include 7 parking spaces, specifically “to help alleviate the cramped and congested parking situation that now exists at the Palm Beach Atlantic Apts (223 Atlantic Avenue) and help relieve street parking”. The special exception was approved conditionally subject to the condition that a unity of title be executed to unite the subject property to the north (The Palm Beach Atlantic Apartment Building). A unity of title was executed and recorded on October 26, 1979, satisfying the condition of the council.

In 2015, an application was filed by 224 Atlantic Ave to modify the previous special exception (#10-79). The original two-family structure was renovated and converted into a single-family structure. The request was to remove the condition of the Unity of Title between 223 and 224 Atlantic Ave and remove the 7 supplemental off-street parking spaces that were shared by the multifamily building across the street, and to leave 2 off-street parking spaces for the single-family residence. Because the condo building was non-conforming to the current code requirements related to parking, a parking variance was requested to eliminate the 7 parking spaces located on

the parcel which now contained a single-family dwelling. On July 15, 2015, the Town Council denied Special Exception #17-2015 for the reason that the granting of the special exception will adversely affect the public interest. The variance related to special exception #17-2015 was also denied by the council.

In August 2017, an application (Z-17-00036) was made to modify Special Exception #10-79. At the October 11, 2017 meeting, the applicant applied to remove the condition of the agreement and replace that agreement with a substitute agreement that would allow the use of the 7 parking spaces to be shared with the property owners of 223 Atlantic Ave unless and until the 223 building or the Court releases 224 Atlantic from that obligation, and upon release by the Town Council of the restrictions relating to the use of the seven parking spaces, upon application filed by 224 within 30 days of the conclusion of the litigation pending between 223 and 224 at that time. At that meeting the council deferred the matter to the code enforcement board. The application was then withdrawn by the applicant on October 25, 2017.

#### **THE PROJECT:**

The applicant has submitted untitled plans, stamp dated June 16, 2022.

The following is the scope of project:

- Terminate the condition of approval of Special Exception #10-79 which required a unity of title to join together the properties located at 223 Atlantic Avenue and 224 Atlantic Ave.

The following Special Exception with Site Plan Review and Variances are required:

- a. **SPECIAL EXCEPTION WITH SITE PLAN REVIEW:** Sec 134-229: A Special Exception with Site Plan Review to eliminate a condition of approval of Special Exception 10-79 which required a Unity of Title agreement between 223 Atlantic Ave and 224 Atlantic Ave for supplemental off-street parking spaces.
- b. **VARIANCE 1:** A variance to eliminate (7) required off-street parking spaces for the condominium building at 223 Atlantic Ave by terminating a unity of title with the single-family dwelling at 224 Atlantic Ave.

Site Data			
Zoning District	R-C	Future Land Use	Single-Family & Multi-Family
Existing Use	Single & Multi-Family	Proposed Use	No Change
Parking Info			
	Existing	Proposed	Required
Number of Parking Spaces	26 (233 & 224 Atlantic Combined)	19 (at condo site)	42 (at condo site)

#### **STAFF ANALYSIS**

This application is presented to the Council for review and approval for special exception with site plan review and variance for the elimination of a condition of approval from 1979 which required a unity of title to link the properties at 223 & 224 Atlantic Avenue. At that time, a new duplex structure was being developed at 224 Atlantic Ave which would provide additional parking (7



spaces) for the condo building. Since that time, the duplex has been renovated and converted into a single-family structure and according to the applicant, the condominium documents which linked the units at 224 Atlantic Ave to the condominium building at 223 Atlantic Avenue have been terminated.

The condominium site contains 19 parking spaces, original to the development but nonconforming to today's parking code. Today's code would require 42 parking spaces (2 spaces x 19 units + 1 per 5 for the guests, or 4 guest spaces = 42) for the condo building, and 2 spaces for the single-family dwelling. Because the unity of title technically links the 7 parking spaces at the single-family home to the condominium building, the termination of the unity of title makes the parking for the condo building more nonconforming, hence the parking variance. The parking for the single-family home is compliant to today's code. Staff opines that the variance request is reasonable given that number of spaces and configuration of the parking at the condo building are original to the site and that the single-family home and condominium building are no longer joined by condominium documentation. There are no improvements being proposed which increase parking demand.