



TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on August 10, 2022

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order August 10, 2022 at 9:32 a.m. On roll call, all elected officials were found to be present, with Council Member Council Member Araskog participating on Zoom.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. COMMENTS OF MAYOR DANIELLE H. MOORE

Mayor Moore thanked Intern Jordan Belfour who worked with the Town of Palm Beach over the summer months. She acknowledged his efforts in the work that he completed in the Town.

IV. COMMENTS OF TOWN COUNCIL MEMBERS

Council President Pro Tem Lindsay reminded everyone that Public Works Committee would be meeting the next day at 9:30 a.m.

Council Member Araskog congratulated Antonette Fabrizi on her promotion with the Town. She also welcomed Deborah Jones as the new addition in the Town Manager's Office.

Council President Zeidman thanked the Police Department who handled all the recent

issues in the Town. She stated that the recent event at Mar-a-Lago by the FBI was not made known to our police beforehand, yet our police were able to respond efficiently and effectively to keep the community safe. While this presented a draw on our public safety manpower resources, the police were able to maintain the safety of the town and at the same time be responsive to the ongoing situation.

Council President Zeidman spoke regarding a lack of backup from ZoneCo. She stated that two residents had asked why there was no back up for them to read. She provided clarification on the process and reminded residents that the meeting was time certain so that they could listen; additionally, the meeting was recorded. She provided clarification on when the public would get to meet ZoneCo, and she explained that it would be in October.

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

Reina Topp, Regency Party Rentals, expressed concern over her company's business being included in construction working hours. She further identified the issues that she had been experiencing with the requirements.

Council Member Cooney requested if staff could work with Ms. Topp to resolve the issue. Mr. Bergman confirmed staff would coordinate with Ms. Topp. Ms. Topp stated that Code Enforcement had informed her company that they would be subject to the construction hours when working under a building permit. Council Member Crampton confirmed that this issue needed a compromise. Discussion ensued regarding this issue. Council Member Council Member Araskog wondered if this issue should be reviewed by ORS.

APPROVAL OF AGENDA

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

Deferral of ZON-22-017, 1237 N. Lake Way to the September 14, 2022 meeting

Deferral of ZON-22-071, 124 Cocconut Row to the September 14, 2022 meeting

Withdrawal of ZON-22-083, 965 N. Ocean Blvd.

Withdrawal of ZON-22-064 742 Slope Trail

Deferral of ZON-22-078 231 Bradley Place to the September 14, 2022 meeting

Deferral of ZON-22-088 240 Oleander Avenue to the September 14, 2022 meeting

Deferral of ZON-22-093 1356 N. Ocean Blvd. to the October 12, 2022 meeting

Deferral of ZON-22-105 150 Seminole Avenue to the September 14, 2022 meeting

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

The following item was added to the agenda as a continuation from the August 9, 2022 Town

Council Meeting:

Report of the Business and Administrative Committee Meeting Held on July 15, 2022
Lew Crampton, Chair

Motion made by Council Member Cooney and seconded by Council Member Crampton to accept the report of the Business and Administrative Committee Meeting held on July 15, 2022. Motion carried unanimously, 5-0.

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

VI. DISCUSSIONS

A. Discussion of Landscape Contractor Hours During the Thanksgiving Holiday

Council Member Araskog stated she placed this on the agenda in light of Mr. Boodheshwar's departure. Discussion ensued regarding the new landscape contractor hours and the impact on service for residents during that weekend.

Colin Goldsmith, Botanica Landscaping, spoke regarding work they completed on the busy Thanksgiving weekend; he expressed concern over the inability of the landscaping companies to work during that weekend.

Scott Lewis, Scott Lewis Gardening, stated it would cause a serious impact on service to residents during that weekend. He spoke regarding landscape companies being the only service company that was impacted by this ordinance.

Council Member Crampton stated that he understood the concerns and indicated that he would be inclined to allow them to operate on Wednesday and Friday of Thanksgiving weekend.

Mayor Moore stated that she believed that quiet work should be allowed on the Wednesday and Friday adjacent to the Thanksgiving holiday. She also stated that because the Thanksgiving holiday was so busy, there may also need to be consideration given to Saturday morning.

Council President Pro Tem Lindsay thought that quiet work would be fine.

Council President Zeidman asked the landscaping professionals if adding 4 hours on Wednesday and 8 hours of quiet work on Friday would be acceptable.

Council Member Araskog stated that she believes that 8 hours of normal working on Wednesday was a reasonable request.

After the discussion, a consensus of the Town Council was to direct staff to amend the ordinance to allow a full day of regular work on the Wednesday prior to the Thanksgiving holiday, and to allow 4 hours of regular work and 4 hours of quiet work on the Friday following the Thanksgiving holiday.

VII. PRESENTATIONS

A. Code Review Update

TIME CERTAIN - 10:00 A.M.

Sean Suder, ZoneCo, provided his plans to move forward with the code review update.

Council President Pro Tem Lindsay requested if the September discussion on the R-B district would include recommendations of actions that could be taken, to which Mr. Suder responded.

Council Member Araskog inquired if the joint session should be held in October due to more residents being in Town, to which Mr. Suder responded.

Council President Zeidman spoke in support of Mr. Suder returning in September with the list of items that they will be addressing. She stated that she would not want to act on any items until there was public input.

Council Member Crampton spoke in support of trusting the process and getting all the relevant information and obtaining public comment.

VIII. DISCUSSIONS

B. Discussion of Landscape Contractor Hours During the Thanksgiving Holiday

This item was heard previously on the agenda.

C. Discussion of Possible Text Amendment for Parking Garages in the R-C District

Maura Ziska, attorney for the Brazilian Court Hotel, discussed the proposal of a parking garage, the number of variances the garage would require, and staff's recommendation to initiate a zoning text amendment.

James Murphy, Assistant Director of PZB, discussed staff review of the project. He asked the Town Council if this project and similar future projects should be brought to the Town Council for approval as a single application or if the Council thought a text amendment was more appropriate.

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

Megan Ford Taylor, Tralongo & Taylor, presented the architectural plans proposed for the new parking structure.

Mayor Moore inquired about the entrance location of the parking garage, to which Ms. Taylor responded.

Council Member Crampton asked staff for their opinion of the idea of a text amendment and requested an elaboration of any downfalls. Mr. Murphy responded and explained that this amendment would not be creating spot zoning. Council Member Crampton spoke in support of the concept of the text amendment.

Council Member Cooney spoke in support of the concept of the text amendment.

Council President Pro Tem Lindsay expressed concern for a text amendment in this neighborhood since it was residential. She was cautious about allowing this but added she would keep an open mind in her consideration.

Council President Zeidman expressed concern over a zoning text amendment in this area but spoke in support of the concept. She asked staff if there was a way to reduce the number of variances that would be required for the proposed project. Mr. Murphy stated he could work with the professionals to possibly revise the design to reduce the variances. Ms. Zeidman spoke in support of the Town Council having the authority to look at these items on an individual basis rather than creating a text amendment; she added that she was open to reviewing the proposal.

Council Member Araskog spoke in support of the project going through the variance process to allow for public comment. She spoke in opposition to a text amendment and stated that she thought the Town Council should review many aspects of the project.

Council President Pro Tem Lindsay spoke regarding the two sides of this issue. She spoke regarding the large number of variances that would be required.

Council Member Crampton stated that the text amendment was not for one specific project. He stated that he looked at it as another tool in the toolbox and stated that the normal reviews of any project would still take place.

Town Attorney Randolph stated that with this zoning text amendment, the Council was only indicating if this was something that they would consider.

Director Bergman stated that the zoning text amendment would allow the project to come to the Town Council as a special exception rather than be presented with numerous variances.

Mayor Moore spoke in support of considering the zoning text amendment.

Council Member Cooney stated that the zoning text amendment could be made more restrictive and spoke in support of considering it.

Council Member Araskog thought that a variance needed to have a hardship and a special exception is much easier to approve. She expressed concerned about increasing the traffic in the area. She stated she was not in favor of the proposal.

Town Attorney Randolph and Assistant Director Murphy clarified Council's direction.

Please note: A short break was taken at 10:59 a.m. The meeting resumed at 11:14 a.m.

D. Discussion of Possible Code Corrections

Mr. Bergman discussed a list of ten code corrections for the Town Council to consider. He asked them to review the top three at today's meeting, which were a change to business tax receipts, flood plain variances, and subdivision and lot splits.

Council Member Cooney offered his support for the items, in particular, for moving

the approval of the flood plain variances to the Landmarks Preservation Commission. He thought the requests were outside of the items being considered by ZoneCo.

Council President Pro Tem Lindsay agreed with Council Member Council Member Cooney and offered her support. She thought all three requests were reasonable and understood the changes would return in ordinance form.

Mayor Moore agreed with both Council President Pro Tem Lindsay and Council Member Cooney and thought that most of these were common sense changes.

Council Member Araskog agreed the proposed changes made sense. She asked staff to confirm that the proposed changes would return to them for an approval. Mr. Bergman provided confirmation.

After a short discussion, a consensus of the Town Council was to direct staff to return to with an ordinance change related to special exceptions required for certain business tax receipts, floodplain variances to be considered by the Landmarks Preservation Commission, and subdivisions and lot splits.

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

B. Time Extensions and Waivers

1. Time Extension for 254 N. County Road

Director Bergman provided the information on the proposed time extension.

Cory Meyer, Nievera Williams Design, explained the reason for the time extension request.

Council Member Cooney confirmed that the applicant did not apply for the extension from the state due to the Emergency order. Mr. Bergman stated that was correct.

Council Member Araskog inquired about the wall and the potential maintenance of the wall. Mr. Meyer responded. Council Member Araskog spoke in support of the request.

Motion made by Council Member Cooney and seconded by Council Member Crampton to approve the one-year time extension for 254 N. County Road. Motion carried unanimously, 5-0.

IX. DEVELOPMENT REVIEWS

A. Appeals

1. ARCOM Appeal of 301 Polmer Park Road

M. Timothy Hanlon, attorney for several neighbors on Polmer Park Road, provided his arguments on why the ARCOM approval should be overturned.

Maura Ziska, attorney for Richard True, argued that the easement was dedicated to FPL and was 2 to 3 weeks away from completing the office demolition. She stated that ARCOM reviewed the architecture, and Mr. Hanlon's arguments were not under ARCOM's purview. She added that she would submit a landscape-screening plan.

Mr. Hanlon provided further information on the concerns of the neighbors.

Town Attorney Randolph sought clarification of the argument by Mr. Hanlon. Mr. Bergman stated that the demolition permit had been issued.

Mr. Murphy spoke regarding the lack of a construction staging plan. Discussion ensued regarding what the process would be if it were deemed that the approval was premature.

Council Member Cooney expressed concern that certain conditions were not met prior to the lot split. Ms. Ziska provided an explanation to the lot split.

Council President Pro Tem Lindsay spoke in support of sending this item back to ARCOM.

Discussion ensued regarding the requirement for construction staging and screening plan being in place prior to ARCOM approval and the fact that it was not included in this project. Mr. Murphy provided clarification that the construction staging, and screening plans were included in the file of the project. Mr. Hanlon stated that he did not believe that the construction staging plan was inadequate.

Council Member Araskog spoke in support of sending the item back to ARCOM.

Council Member Cooney inquired if the screening and staging plan were two separate items. Mr. Murphy stated that both plans were individual sheets in the record. Council Member Cooney asked if staff believed the lot split had been completed, to which Mr. Murphy responded.

Council Member Crampton spoke regarding the process for approval. He spoke in opposition to sending the item back to ARCOM and instead stated that it should be moved forward to regulatory agencies to ensure that the project is done correctly.

Council President Pro Tem Lindsay requested clarification that the building permits could not be issued until the conditions of approval have been met. Mr. Bergman provided clarification of the demolition permit that was issued.

Council Member Araskog asked if Town Attorney Randolph could answer the question asked by Mr. Hanlon. Mr. Hanlon repeated his question.

Motion made by Council Member Cooney and seconded by Council Member Crampton to deny the ARCOM appeal of 301 Polmer Park Road. Motion carried, 3-2 with Council Member Araskog and Council President Pro Tem

Lindsay dissenting.

B. Time Extensions and Waivers

1. Time Extension for 254 N. County Road

This item was heard previously, out of order of the agenda.

2. Time Extension for 2320 Old S. Ocean Blvd.

Director Bergman provided the information on the proposed time extension.

Joshua Berkoff, Berkoff Construction, explained the reason for the time extension request.

Council Member Crampton spoke regarding this project abutting his residence.

Motion made by Council President Pro Tem Lindsay and seconded by Council Member Crampton to approve the time extension through September 20, 2023. Motion carried unanimously, 5-0.

3. Time Extension for 236-238 Phipps Plaza

Director Bergman provided the information on the proposed time extension.

Scott Butler, Butler Construction, explained the reason for the time extension request.

Council Member Araskog requested that any issues from the neighbors to go to Director Bergman be added to the motion.

Motion made by Council Member Crampton and seconded by Council Member Cooney to approve the time extension through June 30, 2023. Motion carried, 4-1 with Council Member Araskog dissenting.

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

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

- g. **ZON-22-089 (ARC-22-129) 515 N LAKE WAY (COMBO) - VARIANCES** The applicant, Roberto and Joanne DeGuardiola (Contract Purchaser), has filed an application requesting Town Council review and approval for variances for (1) to exceed the first story east rear yard setback encroachment, (2) to exceed second story east rear yard setback encroachment, (3) to permit a swimming pool in west front yard setback where swimming pools are prohibited, (4) second story west front yard setback encroachment, (5) second story south street side yard setback encroachment, (6) to exceed the maximum Cubic Content Ratio (CCR), (7) to exceed maximum angle of vision on N Lake Way, and (8) to exceed

site wall height in front and street side yards; in conjunction with the conversion of a 1-story residence to a 2-story residence. The Architectural Commission will perform design review of the application. [Architectural Review Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. Carried 5-2.] [The Architectural Review Commission approved the project with conditions. Carried 6-1]

Mayor Moore, Council President Zeidman, Council Members Cooney and Araskog declared ex parte communications.

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

Jaime Torres Cruz, Fairfax & Sammons, presented the architectural plans proposed for the new residence.

Council President Zeidman called for public comment.

James K. Green, attorney for the Margolis family at 528 N. Lake Way, discussed the conditions at ARCOM that satisfied his clients' request.

Mr. Murphy provided staff comments.

Council Member Cooney thought the applicants should be commended for their compromise in their design.

Council Member Crampton agreed with Council Member Cooney.

Council Member Araskog asked that the condition for the hardscape removal around the pool and the 14-foot hedges be included in the motion.

Motion made by Council Member Crampton and seconded by Council Member Cooney that Variance ZON-22-089 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met, and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the Town that ensures a recorded easement will be granted, if necessary, to underground utilities in the area; and with the condition to include the installation and maintenance of a 14-foot hedge and the area surrounding the pool contain more greenery. Motion carried unanimously, 5-0.

- a. **ZON-22-017 (ARC-22-032) 1237 N LAKE WAY (COMBO) VARIANCES & SITE PLAN REVIEW** The applicant, Frank H. Pearl and Geryl T. Pearl, has filed an application requesting Town Council review of and approval of Site Plan Review for the construction of a new two-story residence on a lot with less width than required in the RB district, and including variances (1) to allow a two-story accessory structure on a

lot less than 20,000SF in lot area, and (2) to exceed the point of measurement. ARCOM will perform design review of the application. [Architectural Review Commission Recommendation: Implementation for the proposed variance for the second story will cause negative architectural impact to the subject property. Carried 4-3. Implementation for the proposed variance, which addressed the point of measurement, will not cause negative architectural impact to the subject property. Carried 7-0.] [The Architectural Review Commission deferred the project to the July 27, 2022 meeting. Carried 7-0.] Item deferred to the September 14, 2022 Meeting pending ARCOM decision.

This item was deferred to the September 14, 2022 meeting at the approval of the agenda.

- b. **ZON-22-070 (COA-22-026) 241 SEAVIEW AVE (COMBO) - SPECIAL EXCEPTION WITH SITE PLAN REVIEW** The applicant, Palm Beach Day Academy Inc., has filed an application requesting Town Council review and approval for a modification to a previously approved Special Exception with Site Plan Review for the installation of a surface parking lot for 34 cars, new parking gates and lighting plan, and to replace a portion of the west lawn. The applicant is also seeking to modify the existing Declaration of Use related to the number of times parking can be used. The Landmarks Preservation Commission will perform design review of the application. [The Landmarks Preservation Commission approved the project at their June 22, 2022 meeting. Carried 5-0.]

Mayor Moore, Council President Zeidman, Council Members Crampton, Cooney and Araskog declared ex parte communications.

A lengthy discussion ensued whether the item should be heard due to late items being submitted. Town Attorney Randolph stated that he felt that the Council could move forward with this item. At the request of Ms. Araskog, Mr. Green provided new information that has been submitted.

Maura Ziska, attorney for the applicant, provided an overview of the project and explained the zoning requests for the proposed project. She also discussed the changes that had been made, specifically to the landscaping along Seaview Avenue, the site wall and hedging along the rear of the property, and the change in hardscape material.

Town Attorney Randolph asked staff to comment on Ms. Ziska's opinion on lot coverage. Mr. Bergman opined on how lot coverage has historically been calculated.

James K. Green, attorney for several neighbors on Seaspray, spoke regarding lot coverage, building and structure as addressed in the Comprehensive Plan and Town Code. He spoke regarding an addendum to a white paper submitted by Mr. Blackman that identify issues with the Comprehensive Plan and spoke regarding this application being deficient because it violated the Comprehensive Plan. Ms. Ziska spoke regarding

previous projects' lot coverage in Palm Beach and added the calculation did not include parking lots. Discussion ensued regarding staff interpretation to the Comprehensive Plan. Mr. Green provided the argument that the proposed project did not meet the criteria of a special exception. Ms. Ziska spoke regarding the proposed use for the parking lot.

Ms. Hofmeister-Drew provided comments on the open space definition as shown in the Code.

Wes Blackman, Certified Urban Planner, spoke regarding the proposed lot coverage on the application and that it exceeded the comprehensive plan.

Jedidiah Hall, Nievera Hall Design, discussed how open space was calculated for the lot. Ms. Hofmeister-Drew confirmed that the lot coverage has not changed.

Council Member Crampton asked Town Attorney Randolph about staff's assessment of the calculations, to which Mr. Randolph responded. Mr. Crampton inquired if recent communication about diminution of property values could be considered, to which Mr. Randolph responded.

Council President Zeidman pointed out that one of the criteria related to a special exception stated that there must be a substantial loss in value to the neighboring properties, not only a diminution in value.

Council Member Araskog asked Town Attorney Randolph regarding whether there were contradictions in the Zoning Code and/or Comprehensive Plan, to which Mr. Randolph and Ms. Hofmeister-Drew responded. Ms. Araskog inquired about an increase in traffic to the area. Mayor Moore mentioned that having teachers in a parking lot would most likely result in fewer traffic. Ms. Hofmeister-Drew confirmed Ms. Moore's assertion.

Council Member Cooney asked Chad Gruber about the change in material and any affect to the drainage. Chad Gruber, Engineer, responded and stated the change would be negligible.

Council Member Araskog asked about the vehicular light study and how it was completed. Mr. Hall responded.

Council Member Araskog asked Mr. Gruber about the 2-inch water retention and whether it would be sufficient. Mr. Gruber responded.

Council President Zeidman called for public comment.

Anne Pepper, 333 Seaspray Avenue, argued that the school had more parking spaces than what was being reported. She expressed her objections to the proposed project.

Council President Pro Tem Lindsay asked Mr. Gruber if the wall was designed to slope to the parking lot, to which Mr. Gruber responded.

Caroline Forrest, design professional for the project, discussed the footings for the wall and offered to add pilings if necessary.

Council Member Crampton stated that he was comfortable with staff's interpretation of the assessment of the project. He inquired if Ms. Ziska would agree to install permeable pavers, to which Ms. Ziska responded. He spoke in support of the project due to an issue with parking for the schoolteachers.

Council Member Cooney stated that he believed that the application met all the required criteria and supported the project.

Council President Pro Tem Lindsay inquired about asphalt parking lot and perhaps changing to pavers. Ms. Forrest responded and discussed the use for the asphalt parking lot.

Council Member Araskog inquired when the new paver plan was provided to Town Council, to which Ms. Lindsay responded. Council Member Araskog expressed concern over the proposed application.

Council President Zeidman spoke in support of the proposed project.

Motion made by Council Member Cooney and seconded by Council Member Crampton that Special Exception ZON-22-070 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 Araskog dissenting.

Motion made by Council Member Cooney and seconded by Council Member Crampton that Site Plan ZON-22-070 be approved, based upon the finding that the approval of the site plan will not adversely affect the public interest and that the Council certified 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, with the conditions that the applicant returns to Town Council to the September 14, 2022 meeting to negotiate a declaration of use modification and to include the addition of sand-set permeable pavers and shade trees. Motion carried, 4-1 with Council Member Araskog dissenting.

- c. **ZON-22-071 (ARC-22-105) 124 COCOANUT ROW (COMBO) - VARIANCES** The applicant, Nedim Soylemez and Rebecca Ann Soylemez, has filed an application requesting Town Council review for a variance (1) to exceed maximum cubic content ratio (CCR), (2) to exceed maximum building height, and (3) to exceed maximum overall building height, in conjunction with the construction of a new two-story residence. The Architectural Commission will perform design review of the application. [The Architectural Review Commission deferred the project to the July 27, 2022 meeting. Carried 7-0.] Item deferred to the September 14, 2022 Meeting pending ARCOM decision.

This item was deferred to the September 14, 2022 meeting at the approval of the agenda.

- d. **ZON-22-083 (ARC-22-072) 965 N OCEAN BLVD (COMBO) - SITE PLAN REVIEW** The applicant, 965 North Ocean Boulevard, LLC (Matthew Sellick), has filed an application requesting Town Council review and approval for Site Plan Review for the installation of a 150 kW generator in conjunction with the construction of a new residence. ARCOM will perform design review of the application. [The Architectural Review Commission deferred the project to the July 27, 2022 meeting. Carried 7-0.] This item shall be withdrawn. ***This item was withdrawn at the approval of the agenda.***

Please note: A lunch break was taken at 2:10 p.m. The meeting resumed at 2:53 p.m.

- e. **ZON-22-079 (COA-22-028) 284 MONTEREY RD (COMBO) – SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** The applicant, DHC MONTEREY LLC, has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review to allow additions to an existing Landmarked structure which results in demolition of more than 50% of the cubic volume on portions of platted non-conforming lots in the R-B Zoning District, including variances from the (1) side (east) and (2) street side (west) setback requirements, and (3) a variance from the angle of vision requirements. Landmarks Preservation Commission will perform the design review. [Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation Commission approved the project at their July 20, 2022 meeting. Carried 7-0.]

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

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

Pat Segraves, SKA Architect + Planner, presented the architectural plans proposed for the renovation to the landmarked residence.

Mr. Murphy provided staff comments.

Mr. Segraves responded to inquiries from Council Member Cooney.

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

Council Member Araskog inquired about the amount of hardscape around the pool. Mr. Segraves responded.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance ZON-22-079 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met. Motion carried unanimously, 5-0.

Motion made by Council Member Cooney and seconded by Council Member Crampton that Special Exception ZON-22-079 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 ZON-22-079 be approved, based upon the finding that the approval of the site plan will not adversely affect the public interest and that the Council certified 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.

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

- c. **ZON-22-081 (COA-22-030) 155 HAMMON AVE (COMBO) – SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** The applicant, CH Hotel LLC (Sarah & Andrew Wetenhall), has filed an application requesting Town Council review and approval for Special Exception With Site Plan Review for modifications to an existing special exception use in the R- D(2) district and variance (1) to retain the existing nonconforming side (north) setback of 1.8’ for new chiller and cooling tower equipment in an existing mechanical enclosure. The Landmarks Preservation Commission will perform design review of the application. [Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation Commission approved the project at their July 20, 2022 meeting. Carried 7-0.]

Council President Pro Tem Lindsay, Council Members Cooney and Araskog declared ex parte communications.

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

David Miller, David Miller and Associates, P.A., presented the architectural modifications proposed for the existing commercial building.

Mr. Murphy provided staff comments.

Council Member Araskog asked if there would be enough room to maintain the site wall. Mr. Miller provided confirmation.

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

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance ZON-22-081 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met. Motion carried unanimously, 5-0.

Motion made by Council Member Cooney and seconded by Council Member Crampton that Special Exception ZON-22-081 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 ZON-22-081 be approved, based upon the finding that the approval of the site plan will not adversely affect the public interest and that the Council certified 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.

- f. **ZON-22-082 (ARC-22-116) 1338 N LAKE WAY (COMBO) SPECIAL EXCEPTION W/ SITE PLAN REVIEW** The applicant, Sailfish Club of Florida, Inc. (Ryan Barry, General Manager), has filed an application requesting Town Council for special exception and site plan review for modifications to an existing special exception use private club including new awning system, new windows, and parking lot lighting. The Architectural Commission will perform design review of the application. [The Architectural Review Commission approved the project with conditions relating to the architecture. Carried 6-1.]

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

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

Nelo Freijomel, Spina O'Rourke, presented the plans relating to lighting and the modifications to the parking lot proposed for the commercial site.

M. Timothy Hanlon, representing the Durst family across the street, confirmed that the lighting was only on the south side of the building. He also asked that all the lighting would be redirected so that they do not shine on the Durst's property.

Council Member Cooney thanked the applicant working with the neighboring property owners on the lighting.

Council President Pro Tem Lindsay commented on a letter she received from a neighbor about the process. She read the letter from the neighbor.

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

Mr. Murphy provided staff comments.

Motion made by Council Member Cooney and seconded by Council Member Crampton that Special Exception ZON-22-082 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-22-082 as amended be approved, based upon the finding that the approval of the site plan will not adversely affect the public interest and that the Council certified 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; with the conditions of adjustment of existing landscape lighting to direct light to stay on property, shielding of lighting at the kitchen exit, and removal of spotlight on the northeast corner of the structure. Motion carried unanimously, 5-0.

- g. **ZON-22-089 (ARC-22-129) 515 N LAKE WAY (COMBO) - VARIANCES** The applicant, Roberto and Joanne DeGuardiola (Contract Purchaser), has filed an application requesting Town Council review and approval for variances for (1) to exceed the first story east rear yard setback encroachment, (2) to exceed second story east rear yard setback encroachment, (3) to permit a swimming pool in west front yard setback where swimming pools are prohibited, (4) second story west front yard setback encroachment, (5) second story south street side yard setback encroachment, (6) to exceed the maximum Cubic Content Ratio (CCR), (7) to exceed maximum angle of vision on N Lake Way, and (8) to exceed site wall height in front and street side yards; in conjunction with the conversion of a 1-story residence to a 2-story residence. The Architectural Commission will perform design review of the application. [Architectural Review Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. Carried 5-2.] [The Architectural Review Commission approved the project with conditions. Carried 6-1]

This item was heard previously out of order of the agenda.

2. New Business

- a. **ZON-22-064 (ARC-22-098) 742 SLOPE TRL (COMBO) – VARIANCE** The applicant, John R. Tozzi, Trustee of the Tozzi Family Trust u/a/d December 29, 1980, has filed an application requesting Town Council review and approval for a variance from Code Section 134-893(13) to exceed the maximum allowable Cubic Content Ratio (CCR) to permit a CCR of 5.99 in lieu of the 5.7 existing and the 3.91 maximum allowed in the R-B Zoning District for a residential addition. The Architectural Commission will perform design review of the application. This item has been withdrawn by the applicant.

This item was withdrawn at the approval of the agenda.

- b. **ZON-22-078 (ARC-22-123) 231 BRADLEY PL (COMBO) – SPECIAL EXCEPTION AND SITE PLAN REVIEW AND VARIANCES** The applicant, Bradley Palm LLC, has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review allow a single-tenant occupied office containing approximately 5800SF GLA on the second floor of an existing two-story office building, and Variances (1) to eliminate 1 of the required 22, 18 of which are existing parking spaces, (2 and 3) to reduce the required rear (east) and side (north) setback to accommodate exterior design modifications and (4) to exceed the maximum allowable lot coverage in order to accommodate additions to the two-story office structure. The Architectural Commission will perform design review of the application. Item deferred to the September 14, 2022 Meeting pending ARCOM decision.

This item was deferred to the September 14, 2022 meeting at the approval of the agenda.

- c. **ZON-22-081 (COA-22-030) 155 HAMMON AVE (COMBO) – SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** The applicant, CH Hotel LLC (Sarah & Andrew Wetenhall), has filed an application requesting Town Council review and approval for Special Exception With Site Plan Review for modifications to an existing special exception use in the R- D(2) district and variance (1) to retain the existing nonconforming side (north) setback of 1.8' for new chiller and cooling tower equipment in an existing mechanical enclosure. The Landmarks Preservation Commission will perform design review of the application. [Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation Commission approved the project at their July 20, 2022 meeting. Carried 7-0.]

This item was heard previously out of order of the agenda.

- d. **ZON-22-088 (ARC-22-126) 240 OLEANDER AVE (COMBO) – VARIANCES** The applicant, PTMJM Florida Investment Properties, LLC (Patricia Lambrecht), has filed an application requesting Town Council review and approval for variances (1) for development on a lot which is deficient in minimum lot area and (2) deficient in lot depth in the RC zoning district and (3) to exceed the maximum allowed lot coverage, in conjunction with the construction of a new two-story single-family residence. The Architectural Commission will perform design review of the application. Item deferred to the September 14, 2022 Meeting pending ARCOM decision.

This item was deferred to the September 14, 2022 meeting at the approval of the agenda.

- e. **ZON-22-092 (ARC-22-137) 321 BARTON AVE (COMBO) – VARIANCES** The applicant, Timothy Hanlon, has filed an application requesting Town Council review and approval for variances to (1) reduce the required landscape open space (LOS) from an existing 35% to 30% where 45% is required, and (2) to reduce the enclosed parking garage requirement for residential vehicular parking. The Architectural Commission will perform design review of the application. [Architectural Review Commission Recommendation: Implementation of the proposed variance 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]

Mayor Moore, Council Members Cooney and Araskog declared ex parte communications.

M. Timothy Hanlon, attorney for the applicant, provided an overview of the project and explained the zoning requests for the proposed project.

Diane Ramirez, owner, discussed the hardship and the reason for the application.

Council Member Araskog asked if the motor court could be reduced to provide more greenspace, to which Mr. Hanlon responded.

Mr. Murphy provided staff comments.

Council President Pro Tem Lindsay spoke regarding the challenging nature of this project and spoke in support of the request.

Council Member Cooney thanked the owners for attending the meeting. He acknowledged the challenge in parking and spoke in support of the project.

Council President Zeidman spoke in support of the project.

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

Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay that Variance ZON-22-092 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met, and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the Town that ensures a recorded easement will be granted, if necessary, to underground utilities in the area. Motion carried unanimously, 5-0.

- f. **ZON-22-093 (ARC-22-143) 1356 N OCEAN BLVD (COMBO) – SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** The applicant, Pippasbeachclub LLC (Gary and Kelly Pohrer), has filed an application requesting Town Council review and approval for a special exception with site plan review for the construction of a beach cabana in the R-B/B-A zoning district including variances (1) to exceed the maximum building height, (2) to reduce required west yard setback, (3) to reduce required ocean bulkhead setback, and (4) to exceed the maximum distance separation permitted between pool equipment and pool. The Architectural Commission will perform design review of the application. Item deferred to the October 12, 2022 Meeting pending ARCOM decision.

This item was deferred to the October 12, 2022 meeting at the approval of the agenda.

- g. **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.

Council President Zeidman, Council President Pro Tem Lindsay, Council Members Cooney, Crampton, and Araskog declared ex parte communications. *Please note: Mayor Moore declared a conflict of interest and left the dais during the discussion.*

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

M. Timothy Hanlon, attorney for the condominium, provided further explanation on the request.

Messrs. Falco and Murphy provided staff comments.

Council President Zeidman called for public comment.

Kevin Moran, 223 Atlantic Avenue, expressed his objections to the proposed project.

Herb Mallard, 223 Atlantic Avenue, expressed his objections to the proposed project.

Mr. Hanlon provided confirmation of statements that he previously made and addressed the issues raised.

Town Attorney Randolph inquired about the variance request, to which Ms. Ziska responded.

Council Member Cooney inquired if Ms. Ziska would be returning for a fine reduction. Ms. Ziska responded.

Mr. Falco provided an explanation on staff's assessment on the parking calculations.

Council Member Araskog asked for Town Attorney Randolph's opinion on the parking spaces on another property. Mr. Randolph responded.

Council President Pro Tem Lindsay spoke regarding the termination of the unity of title and the settlement of the litigation.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance ZON-22-094 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met. Motion carried unanimously, 5-0.

Motion made by Council Member Cooney and seconded by Council Member Crampton that Special Exception ZON-22-094 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 ZON-22-094 as amended be approved, based upon the finding that the approval of the site plan will not adversely affect the public interest and that the Council certified 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.

- h. **ZON-22-097 2800 S OCEAN BLVD – SPECIAL EXCEPTION** The applicant, PB Hotel Property LLC, DBA Four Seasons Resort Palm Beach (Mohamed Elbanna, Regional VP and GM), has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review to allow the use of removable beach huts, bins, and towel huts eastward of an existing hotel in the Beach Area District.

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

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

Brad Garvin, Leo A. Daly, presented the architectural plans proposed for the project.

Mr. Murphy provided staff comments.

Council Member Cooney inquired about the single towel hut and if it was approved by the Town. Mr. Murphy responded. Mr. Bergman spoke regarding items that would be approved to be placed on the beach.

Council President Pro Tem Lindsay inquired how long the items had been on the beach. Mr. Garvin stated for the items had been there over 30 years. In response to a question by Council President Pro Tem Lindsay, Director Bergman provided clarification on the items being approved.

Council President Zeidman spoke regarding the hotel's non-compliance with noise regulations over the past couple years and spoke regarding neighbors being concerned with the application due to these issues. She spoke regarding the importance of the hotel needing to ensure that they would be good neighbors.

Council Member Crampton requested clarification from staff that the application met code, to which Mr. Bergman responded. He expressed concern over issues that had occurred in recent years.

Council Member Cooney spoke regarding the requested items being incidental but spoke regarding the importance of the applicant being a better neighbor.

Mayor Moore requested clarification from Mr. Bergman on the application and spoke regarding these items being done by the hotel for many years and now asking to come into compliance.

Council Member Araskog stated the hotel was requesting more items than other hotels and expressed concern over the impact to the neighbors.

Council President Pro Tem Lindsay spoke regarding the requested items being consistent with Palm Beach hotels, but stated that due to the issues mentioned, there was hesitancy to approve.

Council President Zeidman called for public comment.

Jack Quanstrum, Beach Pointe Condominium, expressed concerns for the proposed application on behalf of his owners.

Rebecca Zissel, attorney on the Ambassador II, expressed concerns for the proposed application on behalf of her owners.

Lex Hollender, General Manager of the Tideline Ocean Resort Hotel, expressed his support for the application.

Ms. Hofmeister-Drew provided further explanation on what would be allowed by right.

Mr. Garvin stated that all the items were removable in the event of a storm in response to an inquiry from Town Attorney Randolph.

Council Member Araskog expressed her concerns about day passes to the beach. She believed that the items should be available to hotel guests only.

Motion made by Council Member Crampton and seconded by Council Member Crampton that Special Exception ZON-22-097 shall be granted with the condition that the application will return to Council for review in the event that law enforcement is required to respond to a verifiable complaint involving a public nuisance or loud noise, and 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. The applicant is required to return to Town Council in one year. Motion carried, 4-1 with Council Member Araskog dissenting.

- i. **ZON-22-100 (COA-22-035) 800 S COUNTY RD (COMBO) – SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** The applicant, ANN DESRUISSEUAX, has filed an application requesting Town Council review and approval for site plan review for the installation of a generator over 100 kW with associated building, and variances (1) to reduce the required east front yard setback, (2) to reduce the required north side yard setback, (3) to exceed the maximum lot coverage allowed, (4) to decrease the minimum required landscape open space, (5) to place a cooling tower within a required side yard, and (6) to place an 150 kW generator in the required front and side yard. The Landmarks Preservation Commission will perform design review of the application. [Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject landmarked property. Carried 6-0.] [The Landmarks Preservation Commission approved the project at their July 20, 2022 meeting. Carried 6-0.]

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

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

Jason Drobot, Brasseur and Drobot Architects, presented the architectural plans proposed for the project.

Mr. Falco provided staff comments.

Jonathan Hart, Shutts & Bowen LLP, representing the owner at 790 S. County Road, expressed objections to the proposed application on behalf of his client.

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

Ms. Ziska discussed the hardship for the proposed variance request.

Council Member Crampton stated that he thought the site was difficult and thought that the owner had made a substantial improvement. He spoke regarding the neighbor's issue with replacing damaged portions of the wall. Ms. Ziska clarified that the neighbor was requesting that entire side of the wall be replaced.

Council President Zeidman stated that she believed the relocation of the equipment to the east was beneficial to both the neighbors. She spoke regarding the large size of the property and expressed concern that there could have been a better location selected that would not require a variance.

Council Member Araskog stated she remembered being concerned about the landscaped open space. She thought more landscape open space could be found. She expressed concern for the request of more relief for the site and expressed concern over there not being a proper hardship.

Council Member Cooney expressed concern over sizable additions that had been approved on the property that had limited the greenspace. He spoke in support of approving relief for the setbacks and front yard and stated that he believed the location was the best available for the site. He requested that there be a stronger effort to not diminish the open space further.

Mr. Drobot stated that the applicant was willing to remove the hardscape by the pool area to make up for the greenspace that was proposed to be lost.

Council President Pro Tem Lindsay asked Mr. Hart about the proposed location of the mechanical units. Mr. Hart expressed concern for the

replacement of only a portion of the wall. Discussion ensued regarding the wall replacement. Mr. Drobot provided clarification of the proposed wall. Further discussion ensued regarding the issue of the wall being replaced in its entirety.

Council Member Araskog stated that she felt that the owner needed to meet the hardship for the variance, and it could not be self-imposed. She spoke in support of placing the condition to remove the hardscape to increase the greenspace.

Mayor Moore inquired about the existing generator building. Mr. Drobot stated that the owner would like to keep the existing accessory structure and would increase the greenspace around the pool. Ms. Moore spoke regarding the possibility that the accessory structure could be removed once the new generator was built. Mr. Bergman stated that if the building was removed it would reduce the lot coverage. Mayor Moore inquired about the height of the existing building, to which Mr. Drobot responded.

Council Member Araskog spoke in support of Mayor Moore's idea to remove the additional accessory structure to recover some additional lot coverage and stated that the item could be remanded back to Landmark Preservation Commission to consider.

Council President Zeidman spoke in support of moving the mechanical equipment away from the neighbor to the north is the best way and spoke in support of having Landmark Preservation Commission reviewing the removal of the building.

Discussion ensued regarding the potential for deferring the item to consider the removal of the building in order to replace greenspace. Ms. Ziska spoke regarding potential revisions to the request. Further discussion ensued on potential revisions to increase greenspace.

The Town Council provided direction to the applicant to return with increased greenspace and to work with the neighbor on the wall replacement.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to defer the item to the September 14, 2022 Town Council Development Review Meeting. Motion carried unanimously, 5-1.

- j. **ZON-22-105 (ARC-22-148) 150 SEMINOLE AVE (COMBO) – VARIANCES** The applicant, James Lansing and Haviva D. Langenauer, as Trustee of the Haviva D. Langenauer Trust u/a/d/8/10/92, has filed an application requesting Town Council review and approval for variances (1) to maintain an existing nonconforming rear yard setback of 4.9 ft and (2) to maintain an existing nonconforming side-yard setback of 5.1 ft, related to the renovation of an existing nonconforming single family residence with more than 50% demolition of a nonconforming structure as part of a renovation. The Architectural Commission will perform

design review of the application. Item deferred to the September 14, 2022 Meeting pending ARCOM decision.

This item was deferred to the September 14, 2022 meeting at the approval of the agenda.

- k. **ZON-22-106 251 SUNRISE AVE – SPECIAL EXCEPTION REQUEST WITH SITE PLAN REVIEW AND VARIANCE(S)** The applicant, PB Catch (Daniel Smith), has filed an application requesting Town Council review and approval for Special Exception Request with Site Plan Review and Variance for outdoor café seating on public right of way in conjunction with an existing restaurant. A variance is being requested to provide 4 ft of unobstructed sidewalk where 5 ft is required.

No one declared ex parte communications at this time.

Daniel Smith, General Manager at PB Catch, presented the request for outdoor café seating.

Brad Falco, Planner II, provided staff comments.

Mr. Smith responded to questions from Mayor Moore and Council Member Cooney.

Council President Pro Tem Lindsay spoke in support of the request.

Council Member Araskog expressed concerned about the four feet of space for the tables. Mr. Smith responded. She suggested using a two-seated table. Mr. Smith responded and stated he could use all rectangular tables.

In response to a question by Council President Zeidman, Director Bergman addressed the 5-foot distance requirement.

Council Member Cooney inquired about the proposed plan, to which Mr. Smith responded. Mr. Cooney spoke in support of the proposed plan.

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

Council Member Araskog requested that the tables be shifted to a different orientation.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance ZON-22-106 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met. Motion carried, 4-1 with Council Member Araskog dissenting.

Motion made by Council Member Cooney and seconded by Council Member Crampton that Special Exception ZON-22-106 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 Araskog dissenting.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Site Plan ZON-22-106 be approved, based upon the finding that the approval of the site plan will not adversely affect the public interest and that the Council certified 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 Araskog dissenting.

1. **ZON-22-116 380 S COUNTY RD – SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** The applicant, General American Asset Management (Christian Rollins, CFO), has filed an application requesting Town Council review and approval for a Special Exception Request with Site Plan Review to expand professional offices on the second floor of an existing two-story building with on-site shared Parking Agreement with an existing on-site restaurant on the first floor, including the interior tenant improvement to the 2,506 SF tenant space (including the enclosure of an existing 452 SF atrium) on the second floor of an existing 6,017 SF two-story building; and including a variance (1) to provide 0 required 2 parking spaces for the new 452 SF second floor addition by utilizing a Shared Parking Agreement for daytime use of the existing 19 existing required spaces.

No one declared ex parte communications.

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

Mr. Murphy provided staff comments.

Council Member Cooney expressed concern for the proposed project. He asked about the staff parking during the day, to which Ms. Ziska responded.

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

Motion made by Council President Pro Tem Lindsay and seconded by Council Member Crampton that Special Exception ZON-22-116 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 office use will not be operating at the same time as the restaurant staff or patrons will be present; 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 with Council Member Cooney dissenting.

m. ZON-22-126 225 WORTH AVENUE – SPECIAL EXCEPTION

The applicant, 225 Worth Avenue Holdings LLC, has filed an application requesting Town Council review and approval for a Special Exception for a permitted use (retail) over 4,000 SF of leasable area (5,600 SF) in the C-WA zoning district.

Council Member Araskog declared ex parte communications.

Oscar Soto, attorney for Gucci, provided an overview of the project and explained the zoning requests for the proposed project.

Council Member Araskog inquired about the adjacent stores due to the extended hours. One of the Gucci professionals responded and discussed the interior work to be completed. Ms. Araskog addressed the issue of work not being done during the Thanksgiving and Christmas holidays.

Mr. Bergman provided staff comments.

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

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance ZON-22-126 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met; with the conditions that work is suspended the Wednesday before Thanksgiving through the weekend and the week between Christmas and New Year's Day and that if there are any complaints from the neighboring businesses, that they be referred to Director Bergman to issue a stop work order or issue changes. Motion carried unanimously, 5-0.

X. ORDINANCES

A. Second Reading

ORDINANCE NO. 013-2022 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida Amending Chapter 18 Of The Town Code Ordinances Titled Buildings And Building Regulations At Article III, Architectural Review, Amending Section 18-175, Issuance Of Permits, By Amending Subsection (A) Relating To Requests For Demolition So As To Remove ARCOM's Authority To Consider Demolition Requests; Amending Section 18- 206 And Moving This Section To Chapter 18, Article II, Administration Of Planning, Zoning And Building, Division 5, Prohibition On Demolition, As Section 18-113; Changing The Title Of Article II, Administration Of Planning, Zoning And Building, Division 5, From

"Prohibition On Demolition" To "Demolition"; And Amending Section 18-240 And Moving This Section To Chapter 18, Article II, Administration Of Planning, Zoning And Building, Division 5, Demolition As Section 18-114; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing For Effective Date

Town Attorney Randolph read the title of Ordinance No. 013-2022. He added this was a result of HB 423.

Council Member Araskog asked if the construction and screening plan would still be taken to ARCOM.

Mr. Bergman discussed the process for the demolition approval, which included the construction screening and staging plan.

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

Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to adopt Ordinance No. 013-2022 on second reading. Motion carried, 4-1 with Council Member Cooney dissenting.

XI. ANY OTHER MATTERS

Council President Zeidman inquired about the September Planning and Zoning Commission (PZC) Meeting and wondered if that meeting should be cancelled. She suggested holding a joint meeting with PZC in October. Discussion ensued regarding holding a joint meeting rather than having the PZC review the item prior to Town Council.

Council President Zeidman spoke about a potential requirement of appointing an architect to the Planning and Zoning Commission. Town Attorney Randolph stated that the ordinance would need to be amended to require an architect or there can be an architect present as a consultant. Council Member Araskog spoke in support of asking Jeff Smith to see if he could assist. Discussion ensued regarding the ability for Mr. Smith or another architect who served as a board member to assist with this process.

Council President Zeidman requested for the Woods Hole flood inundation map.

Council Araskog requested an item to be added to the agenda to restrict individuals from providing information to the Council the night prior to the Development Review meetings.

Council Member Cooney asked about adding an agenda item to obtain information on the Drainage Recertification Program.

ADJOURNMENT

The meeting adjourned at 6:27 p.m. on August 10, 2022 without the benefit of a roll call.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Kelly Churney, Deputy Town Clerk
Date: _____

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME MOORE DANIELLE	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Town Council
MAILING ADDRESS 277 Pendleton Ave	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY Palm Beach COUNTY Palm Beach	NAME OF POLITICAL SUBDIVISION: Town of Palm Beach
DATE ON WHICH VOTE OCCURRED 8-10-2022	MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTEE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office MUST ABSTAIN from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also MUST ABSTAIN from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; and

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Danielle Moor, hereby disclose that on August 20, 20 22:

(a) A measure came or will come before my agency which (check one or more)

- ☒ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☐ inured to the special gain or loss of my relative, _____;
- ☐ inured to the special gain or loss of _____, by
whom I am retained; or
- ☐ inured to the special gain or loss of _____, which
is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

I previously owned a unit at
223 Atlantic Avenue condominium

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

8-10-2022

Date Filed

Danielle H. Moor

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.