



TOWN OF PALM BEACH

Minutes of the Development Review
Town Council Meeting
Held on September 14, 2022

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order September 14, 2022 at 9:46 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 acknowledged that 21 years had passed since the 9/11 tragedy. She recognized all the people who sacrificed so that other citizens could enjoy the freedoms that we have today. She also recognized how blessed we are to live in the United States of America.

Mayor Moore also recognized the passing of Queen Elizabeth and passed on condolences to the Royal family.

IV. COMMENTS OF TOWN COUNCIL MEMBERS

Council President Zeidman announced on September 29, 2022, 4:00 p.m., at The Beach Club, the Community Safety Program would be restarted. She announced that all residents would be welcomed.

Ms. Zeidman announced the 10:00 am presentation by Sean Suder and indicated that a joint meeting with the Planning and Zoning Commission meeting and ZoneCo. would occur at the October 12, 2022 Town Council Development Review meeting. She also announced the upcoming discussion on House Bill 423 after the 10:00 a.m. presentation by Sean Suder. Finally, she announced the first reading of the budget at 5:01 p.m., following the Development Review meeting.

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 Wayne Bergman read the following requested modifications:

Addition of Discussion on Resolution No. 122-2022, which opposed House Bill 423

Deferral of ZON-22-021, 160 Seaview Avenue to the October 12, 2022 meeting

Deferral of ZON-22-100, 800 S. County Road to the October 12, 2022 meeting

Deferral of ZON-22-017, 1237 N. Lake Way to the October 12, 2022 meeting

Deferral of ZON-22-078 231 Bradley Place to the October 12, 2022 meeting

Deferral of ZON-22-088 240 Oleander Avenue to the October 12, 2022 meeting

Deferral of ZON-22-105 150 Seminole Avenue to the October 12, 2022 meeting

Deferral of ZON-22-123, 218 Phipps Plaza to the October 12, 2022 meeting

Addition of the First Reading of Ordinance No. 016-2022, which amends Chapter 50, Floods

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.

VII. PRESENTATIONS

A. Code Review Update with Sean S. Suder, ZoneCo
TIME CERTAIN - 10:00 A.M.

Sean Suder, ZoneCo, provided background information on the work that has been done so far, reported on what has been done since the last update and explained the plans to move forward with the code review update.

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

Mayor Moore inquired about how Mr. Suder felt the process was going, to which he

responded.

Council President Zeidman asked when Joe Nickel would become involved in the process, to which Mr. Suder responded. He provided additional information on the rest of the process in response to Ms. Zeidman.

VIII. DISCUSSION ITEMS

A. Update on House Bill 423

John C. Randolph, Town Attorney

Town Attorney Randolph provided brief information on the backup materials included in the packet. Wayne Bergman, Director of Planning, Zoning and Building, provided additional information on House Bill 423 and explained the implications for the Town, such as removing ARCOM from approving demolition applications. He spoke regarding House staff comments, specifically addressing the Town of Palm Beach. He spoke regarding Resolution No. 122-2022, which opposed House Bill 423.

Town Attorney Randolph spoke regarding a letter drafted to the Legislative Delegation which opposed this House Bill. He spoke regarding the bill not necessarily needing to be repealed, but rather “grandfathered” in the Town of Palm Beach and other Certified Local Governments (CLG).

Mayor Moore spoke regarding working with the Palm Beach League of Cities. She encouraged Director Bergman to reach out to other cities with preservation codes, such as St. Augustine.

Council Member Cooney expressed frustration for the bill and the Town’s inability to participate in the process. He also encouraged contact with Coral Gables and Miami Beach. He asked about the resolution and the approach being taken to amend the bill, to which Mr. Bergman responded.

Council President Pro Tem Lindsay spoke in support of the approach of working with other CLG’s around the State.

Council Member Cooney spoke regarding also contacting the Florida Trust for Historic Preservation and stated that this issue was not a priority for them right now.

Council Member Crampton spoke in support of Mayor Moore sending the drafted letter; working with various associations to try to develop a coalition; if a coalition was formed, hiring a lobbyist; publishing a letter in the Shiny Sheet and the communications sent by the Citizen’s Association and Civic Association; and encouraging residents to write a letter to the Legislative Delegation.

Council President Zeidman spoke regarding the Civic Association’s intent on filming an interview with Sue Patterson on this issue. She stated that many had asked how the Town did not know the elements of the bill before it went to the House and Senate for a vote. She provided background on the passage of this bill. She stated that this bill addressed changes to the building code and that it had gone through two committees before it went to the House and Senate for passage. It passed in the house by a 138-0 vote, and in the Senate by a 38-0 vote. President Zeidman then read the bullets

provided by the Florida League of Cities, all of which dealt with the building code elements.

Council Member Araskog spoke regarding the letter to be sent. She spoke regarding focusing on cities that had a 40-year landmarking program. Town Attorney Randolph clarified the certified local governments. He also spoke about initially requesting the repeal of the bill. In response to a question from Ms. Araskog, Mr. Bergman spoke about taking demolition permits to ARCOM.

Sue Patterson, Chair of the Landmarks Preservation Commission, spoke in support of the proposed resolution. She spoke regarding assisting with getting information out to the community about landmark preservation and about opposing this bill.

Council President Pro Tem Lindsay spoke regarding needing to amend the letter included in the packet if the Town was requesting for the bill to be rescinded, and to also consult with the Town's lobbyist to ensure his support of that approach.

Aimee Sunny, Preservation Foundation of Palm Beach, expressed appreciation for the Town's landmarks program and spoke in support of the Mayor and Town Council moving forward on this issue.

Council Member Araskog spoke in support of Town Attorney Randolph also reaching out to his counterparts at other CLG's in addition to Mr. Bergman.

Town Attorney Randolph spoke regarding amending the resolution to include a section regarding sending the resolution to the Governor and/or Legislative Delegation.

James Green, Attorney for several property owners impacted by HB 423, spoke in support of the Mayor and Town Council consider adding a risk of flooding in determining if a property should be landmarked, as Coral Gables or Miami Beach has done. Council President Zeidman expressed support for looking into what Coral Gables and Miami Beach has done in this regard.

B. Consider Resolution No. 122-2022, Opposing House Bill 423

Motion made by Council Member Crampton and seconded by Council Member Araskog to approve Resolution No. 122-2022 as amended. Motion carried unanimously, 5-0.

The Town Council recessed at 11:06 a.m. and reconvened at 11:22 a.m.

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

IX. DEVELOPMENT REVIEWS

The following items are out of order of the agenda.

B. Time Extensions and Waivers

1. Time Extension for 175 Worth Avenue

M. Timothy Hanlon provided the information on the proposed time extension.

Director Bergman requested two conditions be placed on the approval, which included to exclude work around the holidays as well as providing the opportunity to stop work should he receive valid complaints. Mr. Hanlon had no objections to these conditions.

Juan Pretel, Director of Findlay Galleries, spoke in support of the proposed time extension with the following limits: working hours between 9:00 am – 6:00 pm; work to be ended by December 20; and the work would only be low-level noise.

Mr. Hanlon stated that the working hours and noise level would be acceptable. He stated that the owner anticipated being done by that date. However, if there were issues with supply chain, etc., then it might not be possible.

Motion made by Council President Pro Tem Lindsay and seconded by Council Member Crampton to approve the time extension until December 20 with the following conditions: if the work is not completed by December 20, an additional 7 working days of work would be granted in January; work to be suspended during the Thanksgiving holiday weekend; hours for work would be 9:00 am – 6:00 pm, Mondays – Friday; and any complaints from the neighbors would be referred to the Director of Planning, Zoning and Building. Motion carried unanimously, 5-0.

2. Time Extension for 150 Worth Avenue

Director Bergman provided the information on the proposed time extension.

Yvonne Jones, General Manager of The Esplanade, provided additional details on the proposed time extension.

Council Member Araskog requested that Director Bergman confirm that the proposed project was a life-safety issue and requested confirmation that the areas where stucco was falling had been closed off. Director Bergman provided confirmation.

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

Council Member Cooney indicated that Mr. Bergman thought they needed additional time for the repairs. He wondered if they should include this in an approval. Ms. Jones indicated that she would return to Council if additional time was needed.

Motion made by Council Member Crampton and seconded by Council Member Crampton to approve the time extension for 150 Worth Avenue until December 31, except for Thanksgiving and Christmas holidays. Motion carried unanimously, 5-0.

A. Declaration of Use Agreements

1. **ZON-22-070 (COA-22-026) 241 SEAVIEW AVE. (COMBO)**
- MODIFICATION TO DECLARATION OF USE AGREEMENT

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

Maura Ziska, attorney for Day School, provided an overview of the modifications to the Declaration of Use Agreement.

Mayor Moore expressed concern over items not being added to the agreement. Ms. Ziska responded.

Council Member Cooney spoke in support of working with the Council and staff on including items that would alleviate neighbors' concerns.

Council Member Araskog spoke regarding several items that she felt should be added to the proposed agreement.

Council Member Crampton requested confirmation from Town staff on what the Council would be asked to approve.

Council President Zeidman spoke regarding the consideration of this declaration of use agreement as an opportunity to place protections for the neighbors.

Council President Pro Tem Lindsay spoke in support of dealing with some of these issues in this declaration of use agreement.

Ms. Ziska addressed the various items that were requested to be included. She expressed concern that they would like to begin the construction and use the parking lot. Town Attorney Randolph responded to this concern.

Council Member Araskog requested further clarification of who would be using the parking lot and the allowable times. Fanning Hearon, Head of School Palm Beach Day Academy, responded and explained the use and hours of the parking lot.

Mayor Moore spoke regarding there not being that many spectators at the sporting events at the school. She spoke in support of the proposed hours and uses and of the proposed revisions to the declaration of use.

Anne Pepper, 333 Seaspray Avenue, spoke regarding her concerns for light pollution, control of the gate, shared parking, where the vans/busses were parked, and keeping the student capacity in the agreement.

James Green, Attorney representing several neighbors to the north of the Day School, asked to make three photographs part of the record. He spoke regarding Court documents that he had filed and planned on filing in opposition to this project. He requested a stay further consideration pending his seeking of injunctive relief.

Caroline Forrest, parent of students and architect for the project, expressed appreciation to the Mayor and Town Council for their consideration of this proposed parking and spoke regarding the need for additional parking.

Council Member Crampton asked for clarification on Attorney Green's request of stay for any proceedings. Town Attorney Randolph provided further explanation. Ms. Ziska provided additional information.

Council President Pro Tem Lindsay expressed concern over the picture from Mr. Green, which showed two busses parked on the grass lot and was not comfortable with the expanding parking without the protections put into place.

Discussion ensued regarding the situation surrounding the busses parked in the field.

Council Member Crampton stated that the school needed to wait to park in the lot until items are ironed out with the neighbors.

Jennifer Hofmeister-Drew, Planner III, indicated that staff was the entity that alerted Code Enforcement and explained that these changes for the declaration of use agreement could put into place protections for the neighbors. She spoke regarding temporary parking being permitted during the building permit phase.

Mayor Moore clarified that the school would not be able to use the field until construction was complete. Ms. Hofmeister-Drew stated that this type of parking could be considered construction staging but would not be permissible until a building permit was filed.

Council Member Cooney suggested allowing additional parking for the extra events in the year.

Mr. Hearon requested a compromise, such as all-day parking on Seaview or parking allowed on Seaspray for the teachers.

Council Member Crampton recommended discussing the issue at the next Business and Administrative Committee meeting.

Council President Pro Tem Lindsay recommended using Wells Fargo for temporary parking. Ms. Forrest stated that the school had repeatedly reached out to several businesses but had not received a favorable response.

Jay Marcus, resident, stated that the Wells Fargo parking lot backed up to a residential neighborhood. He stated that he was not in favor of all-day parking for teachers on Seaview Avenue.

Ms. Pepper spoke regarding the possibility of the school paying for parking placards so that they could park on Seaview Avenue. Discussion ensued regarding having temporary parking placards for teacher parking while construction was occurring.

The Town Council provided consensus to defer further consideration of the

declaration of use agreement to incorporate the comments that were agreed upon.

Motion by Council President Pro Tem Lindsay and seconded by Council Member Crampton to defer the item to the October 12, 2022 Town Council Meeting. Motion carried unanimously, 5-0.

B. Time Extensions and Waivers

1. Time Extension for 175 Worth Avenue

This item was heard out of order of the agenda.

2. Time Extension for 150 Worth Avenue

This item was heard out of order of the agenda.

C. Variances, Special Exceptions, and Site Plan Reviews

3. **Old Business**

- a. **ZON-22-021 (ARC-22-022) 160 SEAVIEW AVE (COMBO) – VARIANCES** The applicant, Coral Beach Corporation (Angela Feldman, President) and Seaview Holdings, Inc. (David Feldman, Director), has filed an application requesting Town Council review for variances to exceed the point of measurement elevation higher than allowed to be measured from and to reduce the required street side yard setback for a new guest house on combined parcels at 160 and 170 Seaview Avenue. ARCOM will perform design review of the application. (The Architectural Review Commission deferred the project to their September 28, 2022 meeting. Carried 7-0.) Item shall be 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.

- b. **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.] [The Town Council requested a

landscape plan with less hardscape and the neighbors to work out differences regarding a wall between property at their August 10, 2022, meeting.]

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

- c. **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.] [The Architectural Review Commission deferred the project to their September 28, 2022, meeting. Carried 7-0.] Item shall be 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.

- d. **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. [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 President Zeidman, Council President Pro Tem Lindsay, Council Members Araskog and Cooney declared ex parte communications.

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

Ben Sachs, Workshop/APD, presented the architectural plans for the new residence.

Bradley Falco, Planner II, provided staff comments.

Council Member Crampton inquired if there was artificial turf on the roof of the pergola, to which Mr. Sachs responded.

Council Member Araskog expressed concern for the artificial turf and inquired about the Ficus material, to which Mr. Sachs responded.

Mayor Moore requested clarification of what exactly was under the purview of Town Council for this item, to which Mr. Murphy responded. Council President Zeidman requested confirmation of the Town Code requiring certain types of Ficus needing to be removed.

Council President Pro Tem Lindsay stated that artificial turf could be approved as hardscape. She provided background on why certain types of Ficus were not allowed.

Council President Zeidman spoke in support of ensuring that the Architectural Review Commission (ARCOM) was made aware of the Ficus ordinance requirements.

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

Motion made by Council Member Cooney and seconded by Council Member Crampton that Variance ZON-22-071 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 carried, 4-1, with Council Member Araskog dissenting.

- e. **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. [Architectural Review Commission Recommendation: Implementation of proposed variance will not cause negative architectural impact to the subject property. Carried 7-0.] [The Architectural Review Commission deferred the project to the September 28, 2022 meeting. Carried 7-0.] Item will be deferred pending Architectural Review Commission action and the Town Council portion of the application will be re-noticed to include an additional variance, requested by the applicant.

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

- f. **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. [The Architectural Review Commission deferred this item to the September 28, 2022, meeting. Carried 7-0] Item shall be 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-22-105 (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. [The Architectural Commission deferred the project to the September 28, 2022. Carried 7-0] Item shall be 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.

The Town Council recessed at 12:58 p.m. and reconvened at 1:55 p.m.

4. New Business

- c. **ZON-22-101 (ARC-22-136) 980 S OCEAN BLVD (COM BO)– SPECIAL EXCEPTION W/ SITE PLAN REVIEW** The applicant, 980 South Ocean (Emma), LLC; 980 South Ocean (Ian), LLC; 980 South Ocean (Jane), LLC (JANE HOLZER), has filed an application requesting Town Council review and approval for a Special Exception Request with Site Plan Review for the construction of a new two-story residence on non-conforming portions of platted lots that is 120 feet in width where 125 foot minimum is required, and 19,409 square feet in lot area where 20,000 square foot minimum is required, in the R-A Zoning District. The Architectural Commission will perform design review of the application. [The Architectural Review Commission deferred this

item to the September 28, 2022, meeting with the request to restudy the elements discussed by the Commissioners.]

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

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

Mindy Schwab, Dailey Janssen Architects, presented the architectural plans for the new residence.

Council Member Araskog inquired about the hedges in the front. Ms. Schwab responded.

Council President Zeidman asked staff for confirmation that the Code indicated that any Ficus Nitida or Ficus Benjamina needed to be eliminated when building a new home.

Bradley Falco, Planner II, provided staff comments. Mr. Murphy noted that ARCOM was comfortable allowing the project to proceed to the Town Council for approval, prior to their approval.

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

Motion made by Council Member Cooney and seconded by Council Member Crampton that Special Exception ZON-22-101 and Site Plan Review ZON-22-101 be approved as said applications meet the criteria set forth in Sections 134-229 and 134-329, respectively, of the Town Code, and based upon the finding that such approval 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.

- d. **ZON-22-103 (ARC-22-144) 164 SEMINOLE AVE (COM BO)—VARIANCES.** The applicant, JPBK PROPERTIES #2 LLC (James Held), has filed an application requesting Town Council review and approval for Variances (1) to exceed the maximum angle of vision and (2) to allow a generator on the roof a building for a new one-story single-family residence with related landscape and hardscape improvements. The Architectural Commission will perform design review of the application. [The 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 a condition related to the architecture. Carried 7-0]

Mayor Moore and Council Member Cooney declared ex parte communications.

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

Daniel Kahan, Smith and Moore Architects, presented the architectural plans for the new residence.

Mayor Moore believed the proposed home was very similar to the owner's previous home on Jungle Road, which received awards for the design.

James Murphy, Assistant Director of PZB, provided staff comments.

Council Member Araskog stated she thought the home was a great use of space and commended the architect on his design.

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

Motion made by Council President Pro Tem Lindsay and seconded by Council Member Cooney that Variance ZON-22-103 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.

- e. **ZON-22-108(ARC-22-161) 335 COCOANUT ROW (COMBO) VARIANCES.** The applicant, N&R335, LLC (Robert F. Kassatly), has filed an application requesting Town Council review and approval for Variances (1-2) to reduce the lot area and lot width from the minimum size requirements in the R-C zoning district, (3-4) to reduce both side (east) and (west) setback and (5) to reduce the minimum landscape open space requirement, in order to allow for the construction of new two-story residence on a substandard sized lot. 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 this project as presented. Carried 7-0]

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

Mayor Moore declared ex parte communications.

Kyle Fant, Bartholomew + Partners, presented the architectural plans for the new residence.

Mr. Falco provided staff comments.

Council Member Cooney spoke in support of this project. He inquired about the curb cut on the property, to which Mr. Fant responded.

Council Member Araskog asked about the hardship for the variance, to which Ms. Ziska responded. Council Member Araskog asked about staff's recommendation to add more greenspace. Ms. Ziska responded.

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

Motion made by Council Member Crampton and seconded by Council Member Cooney that Variance ZON-22-108 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; with the condition to work with staff to decrease the variance request to provide more landscaping space. Motion carried unanimously, 5-0.

- f. **ZON-22-111 239 S COUNTY RD STE 2A AND 1D-SPECIAL EXCEPTION REQUEST WITH SITE PLAN REVIEW** The applicant, Palm Beach Club Services LLC (Franck Savoy, COO), has filed an application requesting Town Council review and approval for Special Exception Request with Site Plan Review to allow a professional office (4,875 SF) in excess of 3,000 SF in the C-TS district in an existing two-story office building.

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

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

Director Bergman provided staff comments.

David Tyson, Palm Beach Club Services, discussed the staff that would be parking in the lot on site in response to a question from Council Member Cooney.

Council Member Cooney expressed concern for the impression that this project was an extension of the Carriage House Club.

Mr. Tyson spoke of the changes that had been made once the management team understood that the building could not be used for the Carriage House. He spoke about the intended use of the proposed space, which exclusively would be for office professionals.

Council Member Araskog asked about the business description, which noted training. Mr. Tyson responded. Council Member Araskog expressed concern over the possibility of the expansion of the club and spoke regarding the possibility of putting a declaration of use in place to outline conditions for the space. Town Attorney Randolph responded to her concerns.

Director Bergman responded to questions from Council Member Crampton regarding the use. He spoke regarding this project being a separate consideration from the Carriage House but stated that perhaps a new declaration of use should be put into place to ensure that the use remained what was entailed in the application. Mr. Tyson explained the satellite kitchen concept.

Mayor Moore expressed concern that this project was not a separate use and that it was a continuation of the club.

Council President Pro Tem Lindsay inquired about how many employees would be working in the office, to which Mr. Tyson responded. She spoke in support of having provisions, such as a declaration of use, in place to ensure that the use would be for what had been outlined for the office only and not for the club members. Mr. Ziska and Mr. Tyson provided confirmation. Mr. Tyson further explained his company's services.

Council President Zeidman inquired about the use of the existing space as well as the number of parking spaces the applicant had for the space being used. Mr. Tyson was unsure on the number of allowable spots he had. Discussion ensued regarding the allowable parking spaces.

Mr. Murphy provided further information on the parking requirements.

Council Member Cooney expressed concern over the club not being able to operate without the satellite kitchen in place when it is opened. Director Bergman provided information on space at Phipps Plaza that was mentioned in the backup. Mr. Tyson provided further information on how that space would be used.

Council Member Crampton spoke regarding drafting a declaration of use agreement. Council President Pro Tem Lindsay spoke in support of Ms. Ziska working with Town staff on the declaration of use agreement.

Council Member Araskog inquired about the leases, to which Mr. Tyson responded. She also inquired about the officers of this entity being the same as those who set up the Carriage House LLC. She spoke in support of the applicant bringing back the declaration of use prior to approval of the special exception or approving a special exception of a smaller space.

Council President Zeidman called for public comment.

Anne Pepper, 333 Seaspray Avenue, expressed objections for the proposed application.

Ms. Ziska responded to Ms. Pepper's objections and provided further clarification of the proposed project.

John Schaefer, 200 Phipps Plaza, expressed objections for the proposed application.

Mayor Moore inquired about the donation to redo Phipps Park. Mr. Tyson responded.

Jay Marcus expressed concern over the proposed project.

Ms. Ziska addressed concerns raised by Mr. Marcus.

Discussion ensued regarding the proposed declaration of use. Ms. Ziska confirmed that the language that has been presented will be included.

Council Member Araskog expressed concern over the employees being employed under the same entity as the Carriage House. She stated that she did not feel that it was a separate project. She spoke in support of holding off on the project until January when more of the residents would be in Town. She requested that the Town Attorney research that it was a separate entity. Mr. Randolph addressed her concern. Ms. Araskog expressed further concerns over the proposed application.

Motion made by Council Member Crampton and seconded by Council Member Araskog to direct staff to develop a declaration of use agreement for this facility, using a process that involved both the ownership of the facility and residents of the neighborhood and return to the Town Council for consideration of approval at the January 11, 2023 Meeting. Motion carried unanimously, 5-0.

- g. **ZON-22-123 (COA-22-042) 218 PHIPPS PLZ (COMBO) - VARIANCE** The applicant, Bruce Leeds, Trustee of the Bruce Leeds Declaration of Trust, dated May 30, 2007, has filed an application requesting Town Council review and approval for a variance to reduce the required west rear yard setback, in conjunction with the construction of a new two-story accessory structure. The Landmarks Preservation Commission will perform design review of the application. [The Landmarks Preservation Commission deferred this item to the September 21, 2022 meeting. Carried 7-0.] Item shall be deferred to the October 12, 2022 meeting pending LPC decision.

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

- h. **ZON-22-112 350 WORTH AVE—SPECIAL EXCEPTION REQUEST WITH SITE PLAN REVIEW AND VARIANCES** The applicant, the

Everglades Club Inc (Scott Lese GM), has filed an application requesting Town Council review and approval for Special Exception With Site Plan Review to allow the private Club which is a special exception use to renovate the existing tennis courts and to install seven (7) new tennis court lights, including variances (1) to exceed the maximum height allowed for tennis court lighting and (2) to reduce the required height of landscaping screening required for tennis court and lighting.

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

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

Jason Drobot, Brasseur and Drobot Architects, presented the architectural modifications for the proposed changes.

Council Member Crampton asked about the next-door resident and her concern. Mr. Drobot responded.

Council Member Cooney asked if the club would be accepting of a 9:00 p.m. shut off for the light.

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-22-112 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-22-112 and Site Plan Review ZON-22-112 be approved as said applications meet the criteria set forth in Sections 134-229 and 134-329, respectively, of the Town Code, and find that approval of the Site Plan will not adversely affect the public interest and 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 condition that the lights will be shut off at 9:00 p.m. Motion carried unanimously, 5-0.

- i. **ZON-22-114 977 S OCEAN BLVD-SPECIAL EXCEPTION REQUEST WITH SITE PLAN REVIEW** The applicant, 195 Pheston Associates Palm Beach LLC (Charles Holzer Mgr), has filed an application requesting Town Council review and approval for a modification to a previously approved Special Exception with Site Plan Review to allow the construction of a below grade storage and mechanical space on a non-conforming lot.

Raphael Saladrigas, StudioSR, provided an overview of the project.

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

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

Mr. Saladrigas presented the architectural modifications for the proposed changes.

James Murphy, Assistant Director of PZB, provided staff comments.

Council President Zeidman called for public comment.

John Eubanks, attorney representing Bill Koch, thanked the professionals for working with him on the changes.

Motion made by Council President Pro Tem Lindsay and seconded by Council Member Cooney that Special Exception ZON-22-114 and Site Plan Review ZON-22-114 be approved as said applications meet the criteria set forth in Sections 134-229 and 134-329, respectively, of the Town Code, and finding that approval of the Site Plan will not adversely affect the public interest and that 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 outlined by Mr. Eubanks. Motion carried unanimously, 5-0.

- j. **ZON-22-117 288 S COUNTY RD - SPECIAL EXCEPTION REQUEST WITH SITE PLAN REVIEW AND VARIANCE** The applicant, La Goulue Palm Beach (Ed Carter), has filed an application requesting Town Council review and approval for Special Exception Request with Site Plan Review for outdoor café seating (28 seats) on the public right-of-way in conjunction to an existing restaurant; including a variance request in order to provide 4 ft of unobstructed sidewalk where 5 ft is required within the sidewalk along Royal Palm Way.

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

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

Council Member Araskog spoke regarding complaints she had received from customers during COVID seating, about the small space between the tables and the planters due to it being adjacent to Royal Palm Way. She inquired if smaller tables and chairs or smaller planters could be used to allow for more space. Ms. Ziska responded.

Council President Zeidman shared the same concerns as Council Member Araskog. She spoke in support of there being five (5) feet of sidewalk and expressed concern over the four top table on the corner of the restaurant.

James Murphy, Assistant Director of PZB, provided staff comments.

Mayor Moore asked if there were any incidents for outdoor seating in this location, to which Mr. Bergman responded. Mayor Moore stated that although she initially had concern, she no longer had the same concern after two years of operation.

Council Member Cooney expressed concern over the outdoor space.

Council Member Araskog further expressed concern over the spacing and the size of the tables and chairs.

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

Motion made by Council Member Cooney and seconded by Council Member Crampton that Special Exception ZON-22-117 and Site Plan Review ZON-22-117 be approved as said applications meet the criteria set forth in Sections 134-229 and 134-329, respectively of the Town Code, and finding that approval of the Site Plan will not adversely affect the public interest and that all 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 condition that there is a clear 5 foot sidewalk area and deleting the eastern end table. Motion carried unanimously, 5-0.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance ZON-22-117 shall be denied for the reason that the application does not meet 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.

- k. **ZON-22-119 (COA-22-041) 209 PHIPPS PLZ (COMBO) - VARIANCES** The applicant, 209 Phipps Plaza LLC (Greg and Francine Purcell), has filed an application requesting Town Council review and approval for a variance to reduce the required front yard setback variance for the installation of a 2nd floor awning. Landmarks Preservation Commission will perform design review of the application. [Landmarks Preservation Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject, landmarked property. Carried 7-0.] [The Landmarks Preservation Commission approved the project as presented. Carried 7-0.]

Council Member Araskog declared ex parte communications.

Maura Ziska, attorney for the applicant, provided an overview of the project

and explained the zoning relief requested.

Patrick Segraves, SKA Architect + Planner, presented the architectural modifications proposed for the existing landmarked building.

James Murphy, Assistant Director of PZB, provided staff comments.

Council Member Cooney complimented the professionals in the construction and 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 Cooney and seconded by Council President Pro Tem Lindsay that Variance ZON-22-119 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.

- j. **ZON-22-125 (ARC-22-115) 233 BAHAMA LN (COMBO) - SITE PLAN REVIEW AND VARIANCES** The applicants, Richard and Lori Jabara, have filed an application requesting Town Council review and approval for Site Plan Review for a structure on a nonconforming lot deficient in required depth in the R-B zoning district and variances (1) to maintain landscape open space below current requirements and (2) to reduce the required rear (north) setback to construct a new landing; related to the renovation of an existing nonconforming residence with more than 50% demolition. The Architectural Commission will perform the design review of the application. [Architectural Review Commission: 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.]

There were no ex parte communications declared at this time.

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

Rafael Rodriguez, StudioSR, presented the architectural modifications for the proposed changes.

James Murphy, Assistant Director of PZB, provided staff comments.

Council Member Cooney spoke in support of the project.

Council Member Araskog spoke regarding the possibility of the addition of more greenspace on the site, to which Mr. Murphy responded. In response to a question from Ms. Araskog, Mr. Murphy explained the request for the landing. Council Member Araskog spoke in support landing being reduced.

Mr. Rodriguez responded.

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

Motion made by Council Member Crampton and seconded by Council Member Cooney that Variance ZON-22-125 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.

Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay that Site Plan Review ZON-22-125 be approved as said applications meet the criteria set forth in Section 134-329 of the Town Code, and finding that approval of the Site Plan will not adversely affect the public interest and that all 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.

- k. **ZON-22-130 400 ROYAL PALM WAY 3rd FLOOR-SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE** The applicant, Kinsale Partners LLC (Tom Quick, Managing Partner), has filed an application requesting Town Council review and approval for Special Exception with Site Plan Review for a bank and financial institution on the third floor of an existing four-story office building with a drive thru facility in the in the C-OPI office district, including a variance to not provide 6 parking spaces required with the change of use from office to bank.

Mayor Moore and Council Member Araskog declared ex parte communications.

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

Mayor Moore inquired if teller services would be provided. Ms. Ziska responded. Mayor Moore wondered if the other location on Royal Palm Way would be closed, to which Ms. Ziska responded no.

Council Member Cooney inquired about the ingress and egress of the parking lot. Ms. Ziska responded.

Council Member Araskog asked Ms. Ziska to review the allowable parking spaces. Ms. Ziska responded. Council Member Araskog asked about the hardship for the variance. Ms. Ziska responded.

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

Motion made by Council Member Cooney and seconded by Council Member Crampton that Special Exception ZON-22-130 and Site Plan Review ZON-22-117 be approved as said applications meet the criteria set forth in Sections 134-229 and 134-329, respectively of the Town Code, and finding that approval of the Site Plan will not adversely affect the public interest and that all 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.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance ZON-22-130 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.

1. **ZON-22-133 425 SEABREEZE AVE-VARIANCE** The applicant, Marion M. Murphy as Trustee of the Timothy Henry Murphy 2021 Irrevocable Trust dated 10,'28,'21, has filed an application requesting Town Council review and approval for a Variance from Chapter 50, Floods for the required floor elevation of 5.92 feet North American Vertical Datum ("NAVD") in lieu of the 7-foot NAVD minimum required, for a two-story Landmarked structure. Landmarks Preservation Commission approved the COA application (COA-21-007).

There were no ex parte communications declared at this time.

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

James Murphy, Assistant Director of PZB, provided staff comments.

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

Motion made by Council President Pro Tem Lindsay and seconded by Council Member Crampton that Variance ZON-22-133 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Chapter 50, Sections 116 and 117 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.

- m. **ZON-22-134 225 EL PUEBLO WAY-VARIANCE** The applicant, 255 El Pueblo LLC (Averell Mortimer, Manager), has filed an application

requesting Town Council review and approval for a Variance from Chapter 50, Floods for the required floor elevation of 5.8 feet North American Vertical Datum (“NAVD”) in lieu of the 7-foot NAVD minimum required, for a two-story Historically significant structure. Landmarks Preservation Commission approved the HSB application (HSB-22-009).

Motion made by Council President Pro Tem Lindsay and seconded by Council Member Cooney that Variance ZON-22-134 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Chapter 50, Sections 116 and 117 have been met. Motion carried unanimously, 5-0.

X. ORDINANCES

A. **First Reading**

1. Proposed Ordinance to Transmit a New Property Rights Comprehensive Plan Element to the State Department of Economic Opportunity (DEO)

ORDINANCE NO. 015-2022 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, amending the Town of Palm Beach Comprehensive Plan by creating a Property Rights Element in order to meet updated statutory requirements; maintaining internal consistency within the comprehensive plan; providing for incorporation of recitals; providing for severability; providing for the repeal of ordinances or parts thereof in conflict; providing for codification; and providing an effective date.
Town Attorney Randolph read the title of the ordinance.

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

Motion made by Council Member Crampton and seconded by Council Member Cooney to adopt Ordinance No. 015-2022 on first reading. Motion carried unanimously, 5-0.

2. Proposed Ordinance to amend Chapter 50, Floodplain Variances

ORDINANCE NO. 016-2022 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 50, Floods, By Amending Article II, Flood Damage Prevention, Division 7, Variances and Appeals, at Sections 50-110, 50-111, 50-112, 50-116 and 50-117; Providing for Severability; Providing for the Repeal of Ordinances in Conflict; Providing for Codification; and Providing an Effective Date.

Director Bergman provided background information on the ordinance and read the title of the ordinance.

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

Motion made by Council Member Araskog and seconded by Council Member Cooney to adopt Ordinance No. 016-2022 on first reading. Motion carried unanimously, 5-0.

XI. ANY OTHER MATTERS

Council Member Araskog requested that an item be placed on the following month's agenda regarding limiting the number of restaurants approved in a block area.

XII. ADJOURNMENT

The meeting adjourned at 4:48 p.m. on September 14, 2022 without the benefit of a roll call.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Kelly Churney, Deputy Town Clerk
Date: _____