



TOWN OF PALM BEACH

Minutes of the Development Review
Town Council Meeting
Held on October 12, 2022

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order October 12, 2022, at 11:32 a.m. On roll call, all elected officials were found to be present, with Mayor Moore participating on Zoom.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Acting Town Clerk Gayle-Gordon gave the invocation. Council President Council President Zeidman led the Pledge of Allegiance.

III. COMMENTS OF MAYOR DANIELLE H. MOORE

None.

IV. COMMENTS OF TOWN COUNCIL MEMBERS

Council Member Araskog stated that she extends her thoughts and prayers to those impacted by Hurricane Ian.

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:

Deferral of ZON-22-017, 1237 N. Lake Way to the November 9, 2022 meeting

Deferral of ZON-22-021, 160 Seaview Avenue to the November 9, 2022 meeting

Deferral of ZON-22-088, 240 Oleander Avenue to the November 9, 2022 meeting

Deferral of ZON-22-100, 800 S. County Road to the November 9, 2022 meeting

Deferral of ZON-22-123, 218 Phipps Plaza to the November 9, 2022 meeting

Deferral of ZON-22-132, 165 Bradley Place to the November 9, 2022 meeting

Deferral of ZON-22-138, 1540 S. Ocean Boulevard to the November 9, 2022 meeting

Director Bergman announced that ZON-22-109, 470 South County Road will be heard as a time certain at 2:00 p.m.

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

VII. DISCUSSIONS

None

VIII. DEVELOPMENT REVIEWS

Acting Town Clerk Gayle-Gordon administered the oath at this time and throughout the meeting as needed.

A. Declaration of Use Agreements

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

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

Jennifer Hofmeister-Drew, Planner III, provided a brief background on this item and spoke regarding an issue of not having the most recent revised amended and restated declaration of use agreement. Town Attorney Randolph expressed concern over the most recent version not being included in the backup, but Maura Ziska, representing the Day Academy, spoke regarding the amended and restated declaration of use agreement.

Discussion ensued regarding what had been included in the backup and how the Town Council should handle this item at the time.

James Green, Attorney representing several neighbors to the north of the Day School, spoke regarding him not seeing the amended and restated agreement and stated that he would not be able to attend the Town Council meeting occurring the next day.

Motion by Council Araskog and seconded by Council Member Crampton to defer the item to the November 9, 2022 Town Council Development Review Meeting. Motion carried unanimously, 5-0.

B. Time Extensions and Waivers

None

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- 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.] [The Architectural Review Commission deferred the project to their September 28, 2022, meeting. Carried 7-0.] [Item deferred to the October 26, 2022, Architectural Commission meeting at the request of the applicant.] [This item shall be deferred at the request of the applicant.]

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

- b. **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 deferred to the October 26, 2022, Architectural Commission meeting at the request of the applicant.] [This item shall be deferred at the request of the

applicant.]

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

- c. **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 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 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.] [The Architectural Review Commission approved this project at the September 28, 2022, meeting, with the main façade and front door returning for review at a subsequent meeting. Carried 5-1] [The zoning portion of the application was re-noticed to include an additional variance, requested by the applicant.]

No one declared ex parte communications.

M. Timothy Hanlon, representing the owner, provided background information on the project and explained the variances.

Pablo Garcia, Architect, presented the architectural overview and answered Council Members' questions.

Council Member Cooney spoke regarding the adjacent neighbors approving of the project. He spoke in support of designing alarm hardware that would not be disruptive to the neighbors and Mr. Garcia spoke regarding the entrance.

Council Member Araskog expressed concern over the number of chairs in the plans and Mr. Hanlon explained the use of the office.

Council President Pro Tem Lindsay expressed concern over the species of Ficus that are going to be planted and explained the species that are not permitted in Town. Council President Zeidman spoke regarding the importance of ARCOM having a list of allowed plant species.

Assistant Director of Planning, Zoning and Building James Murphy provided staff comments.

Bill and Anne Metzger, Palm Beach, spoke in support of this project and spoke regarding specific aspects of the project.

Motion made by Council President Pro Tem Lindsay and seconded by Council Member Araskog that Special Exception and Site Plan Review ZON-22-078 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.

In response to a question by Ms. Araskog, Mr. Murphy spoke regarding what would happen if the building was sold.

AMENDED MOTION: Motion made by Council President Pro Tem Lindsay and seconded by Council Member Araskog that Special Exception and Site Plan Review ZON-22-078 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; with the condition that this Special Exception and Site Plan Review is approved for this specific use and owner and if the property is sold, the item needs to return to Town Council. Motion carried unanimously, 5-0.

Motion made by Council President Pro Tem Lindsay and seconded by Council Member Araskog that Variance ZON-22-078 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 condition that this Variance is approved for this specific use and owner and if the property is sold, the item needs to return to Town Council. Motion carried unanimously, 5-0.

- 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. [The Architectural Review Commission deferred this item to the September 28, 2022, meeting. Carried 7-0] [Due to Hurricane Ian, the Architectural Review Commission deferred this project to the October 25,

2022, meeting. [This item shall be deferred to the November 9, 2022, Town Council meeting pending Architectural Review.]

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

- e. **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. [Architectural Review Commission Recommendation: Implementation of proposed variance will not cause negative architectural impact to the subject property. Carried 6-0.] [The Architectural Review Commission approved this project at the September 28, 2022, meeting. Carried 5-1.]

Council Member Cooney declared ex parte communications.

Maura Ziska, attorney for the property owners, explained the proposed project and explained that they have removed two of the variances.

Assistant Director Murphy presented staff comments.

In response to a question from Council Member Araskog, Peter Papadopoulos, Smith and Moore Architects, addressed the height of the hedge. Council Member Araskog spoke in support of keeping the height at 30 inches.

In response to a question by Council President Zeidman, Mr. Murphy spoke regarding the bulkheads being addressed in the zoning code change.

Motion made by Council Member Araskog and seconded by Council President Pro Tem Lindsay that Site Plan Review and Special Exception ZON-22-093 be approved as said applications meet the criteria set forth in Section 134-229 and 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; with the condition that the hedge running north and south on the west side is no higher than 30” and that nothing will be planted on the east side; 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 Araskog and seconded by Council President Pro Tem Lindsay that Variance ZON-22-093 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.

- f. **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.] [Town Council deferred this project to the October 12, 2022, Town Council meeting.]

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

- 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.] [The Landmarks Preservation Commission deferred this item to the October 18, 2022, meeting. Carried 7-0.] [This item shall be deferred to the November 9, 2022, Town Council meeting pending Landmarks Preservation approval.]

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

The Town Council recessed at 1:02 p.m. and reconvened at 1:56 p.m.

2. New Business

- a. **ZON-22-109 264-270 S COUNTY RD—SPECIAL EXCEPTION REQUEST WITH SITE PLAN REVIEW** The applicant, Carriage House Properties Partners, LLC (Joshua Levy, Director) has filed an application requesting Town Council review and approval for Special Exception Request With Site Plan Review to allow for outdoor café seating (62 seats) within a private courtyard in conjunction to an existing private club/restaurant. Additionally, the applicant is seeking special consideration to amend the Declaration of Use prematurely before the allocated restrictive 2-year time frame in order to activate outdoor seating.
TIME CERTAIN: 2:00 PM

Council President Zeidman spoke regarding the reasoning why this item was designated a 2:00 PM time certain. She stated that the Mayor and Council had received an email last evening expressing concern that the time certain would reduce public participation by placing the discussion in the afternoon. She stated that the time certain was meant to provide notification and subsequent participation by all interested parties and that the morning had been previously scheduled some time ago for a P&Z/ Council joint meeting with the Zone Co Consultants.

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

Maura Ziska, attorney for the applicant, provided a brief overview of the special exception request, which is to allow outdoor café seating in a private courtyard.

Keith Spina, Spina O'Rourke, Architect for the project, presented the architectural plans.

Town Attorney Randolph inquired of Council if they are willing to waive the provision in the declaration of use agreement that requires the club to wait at least two years before returning to Council with further changes.

Mayor Moore spoke regarding the long-term discussions on the declaration of use agreement for the Carriage House and she spoke in support of upholding this provision of the declaration of use agreement.

Council Member Crampton spoke in support of the operation of the club presently and spoke in support of upholding this provision of the declaration of use agreement.

Council Member Araskog expressed concern over issues that have arisen with the neighbors of the Club and spoke in support of upholding the declaration of use agreement. She spoke in opposition to outdoor seating at this restaurant.

Council President Pro Tem Lindsay spoke regarding the benefit of outdoor seating at restaurants, especially since the pandemic, and spoke regarding the fact that the declaration of use agreement was signed prior to the pandemic. She spoke in support of working with the club to find a way to have some outdoor seating at the club in order to accommodate those that still don't feel comfortable dining inside. She spoke regarding not receiving any complaints since the club has been open.

Council Member Cooney spoke in support of the changes that have occurred in the Club and that he has not witnessed any issues at this point. He expressed concern over the timing of the request.

Council President Zeidman spoke in opposition to the number of seating that has been requested on the patio. She spoke regarding the declaration of use agreement being signed prior to the pandemic and spoke regarding the danger of COVID-19. She spoke in support of looking at granting some kind of outdoor seating in light of the pandemic.

Discussion ensued on the Council's consideration of waiving the 2-year provision to the declaration of use agreement or waiting until January.

Tom Zacharias, Palm Beach, expressed appreciation for the Town Council Members who are open to reconsidering the outdoor seating and spoke support of the Town Council considering the item at this time rather than waiting until January.

Maisie Grace, Palm Beach, spoke in opposition to the Town Council waiving this provision of the declaration of use agreement.

Jeff Marcus, Palm Beach, spoke in support of the Town Council waiving the provision and consider the outdoor seating.

Tim Gannon, Wellington, spoke in support of the Club and spoke in support of the Town Council waiving the provision in order to consider the seating.

John Eubanks, representing Bradley Geist, spoke in opposition to the Town Council waiving the provision to the declaration of use and spoke regarding the terms in the declaration of use agreement.

Grier Pressly, Palm Beach, expressed concern over the club being able to make changes at this point because it has not proven itself as an operator due to the short time that it has been open and due to complaints from neighbor.

Anne Pepper, Palm Beach, spoke in opposition to the Town Council waiving the provision to the declaration of use agreement and that the Club has not yet proven itself.

Gail Coniglio, Palm Beach, expressed concern over the Town Council

waiving the provision of the declaration of use agreement.

John Schaffer, Palm Beach, spoke in opposition to the Town Council waiving the provision of declaration of use agreement.

Susan Gary, Palm Beach, expressed concern that this item was even placed on the agenda, to which Town Attorney Randolph responded that this is “due process.”

Pieter Taselaar, Palm Beach, spoke in support of the Town Council waiving the provision in order to consider the request for outdoor seating.

Paula Bickford, applicant, spoke regarding their request and requested the Town Council to consider the application in light of changes to dining due to the pandemic.

Bradley Geist, Palm Beach, spoke in opposition to the Town Council waiving the provision of the declaration of use agreement and spoke regarding issues with the applicant submitting this application at this time.

The Town Council recessed at 3:48 p.m. and reconvened at 3:53 p.m.

Council President Zeidman addressed the question of how the item was placed on the agenda.

Robert Shelton, Palm Beach, spoke in opposition to the Town Council waiving the provision of the declaration of use agreement.

Council President Zeidman provided clarification of the outdoor café seating in comparison to the temporary COVID seating.

Maura Ziska addressed comments that were made by public comment speakers and spoke regarding the reasoning why the applicant is coming before Town Council at this time.

Council Member Araskog inquired if the applicant was going to request outdoor dining prior to the pandemic to which Ms. Ziska responded.

Council President Zeidman, in summary, expressed concern over the number of outdoor seating that is being requested. She suggested as a starting point tailoring the request to fewer seats, located at the eastern part of the courtyard by the fountain and limiting the hours with no service station.

Town Attorney Randolph provided options for Council’s approval at this time.

Council Member Crampton expressed opposition to waiving the provision

of the declaration of use agreement.

Council Member Araskog expressed concern over potential litigation if the declaration of use agreement is waived.

Motion made by Council Member Crampton and seconded by Council Member Araskog to not review the application and to wait until the 2-year provision of the declaration of use agreement has been met. Motion carried, 3-2. Council President Pro Tem Lindsay and Council President Zeidman voted NO.

The Town Council recessed at 4:15 p.m. and reconvened at 4:20 p.m.

- b. **ZON-22-113 (ARC-22-182) 380 S COUNTY RD (COMBO)—SPECIAL EXCEPTION W/ SITE PLAN REVIEW AND VARIANCES** The applicant, Le bar a vin (Ann DesRuisseaux), has filed an application requesting Town Council review and approval for a Special Exception Request with Site Plan Review and including variances (1) to reduce required parking (by 2 spaces), (2) to reduce the street side (south) setback for the proposed ground floor terrace addition, (3) to reduce the required sidewalk clearance width, (4) to reduce the required drive aisle width, (5) to reduce required landscape open space, and (6) to exceed the maximum allowable height for mechanical equipment on a rooftop of an existing two-story building. The applicant is also seeking a Special Exception Request for a restaurant use from an existing bar/lounge. Additionally, the applicant is seeking approval for Special Exception Request with Site Plan Review for outdoor café seating (22 seats + 8 outdoor seats previously approved) on private property and a Special Exception for a restaurant use in conjunction to an existing bar/lounge. The Architectural Commission will perform design review of the application. [Architectural Review Commission Recommendation: Implementation of proposed variance will not cause a negative architectural impact to the subject property. Carried 6-0.] [The Architectural Review Commission approved this project with conditions at the September 28, 2022, meeting. Carried 6-0.]

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

Maura Ziska, attorney for the applicant, explained the proposed project and variances.

Ann DesRuisseaux, Applicant, provided clarification on the café seating permit and the proposed greenspace as well as further information on the variances.

Nelo Freijomel, Architect, provided further clarification on the project.

Director Bergman provided staff comments and background on the

application.

Ms. DesRuisseaux addressed the issue of the nightclub not being considered a restaurant and explained that it should be considered a restaurant and stated that she would apply for another license to do that.

Council President Zeidman addressed this issue and why it could be a concern to the Town Council, to which Ms. DesRuisseaux responded.

Assistant Director Murphy provided further background on the project.

Council Member Cooney spoke in support of the revised project application. In response to a question from Mr. Cooney, Mr. Freijomel spoke regarding the proposed side entrance. He spoke in support of having a reduction of the hours of the outside seating.

Council President Pro Tem Lindsay requested confirmation of the maximum number of seating. Discussion ensued regarding the outdoor terraces.

In response to a question from Council Member Crampton, Mr. Murphy provided confirmation that staff is comfortable with the application.

Council Member Araskog spoke in support of having a declaration of use agreement for this project. Mr. Bergman explained that the approval of the designation as a restaurant must be considered prior to the outdoor seating being approved. Discussion ensued regarding this consideration.

Council President Zeidman spoke in support of changing the nightclub to a restaurant only with limited hours. She expressed concern over the image of the nightclub and the patronage it attracts. Ms. DesRuisseaux responded and spoke regarding this possibly not being considered café seating since they are building a terrace. Mr. Bergman responded and explained that since the seating was covered and not enclosed, it would count towards café seating. Discussion ensued regarding if it should be considered café seating.

Council Member Araskog spoke in support of this establishment becoming a restaurant rather than a nightclub. Ms. DesRuisseaux expressed concern over changing from a nightclub to a restaurant.

Council President Pro Tem Lindsay spoke in support of the restaurant designation but expressed concern over having patrons hanging out in the outside area.

Council President Zeidman expressed concern over the outdoor seating because it would provide more space inside for the bar/nightclub area. She also expressed concern over moving the parking spaces to the neighboring business. She spoke in support of reducing the proposed 22 seats outside.

Council Member Araskog expressed concern over having a nightclub and

restaurant.

Mayor Moore spoke regarding the original application for a restaurant not being granted due to the parking variance and expressed concern that the neighboring business's outdoor seating would affect the proposed parking for this business.

Council President Zeidman expressed concern that this application is an intensification. Ms. DesRuisseaux responded.

Council Member Cooney inquired about the hedge, to which Ms. DesRuisseaux responded.

Assistant Murphy spoke regarding the use of nightclubs/bars versus restaurant and explained that if they change it to a restaurant only, then the establishment would no longer be allowed to have live music. Council Member Cooney inquired about if there is an allowable hybrid use, as has been approved for other establishments. Discussion ensued.

Ms. Ziska explained the hardship for the variances.

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

Council President Zeidman outlined the variance requests.

Motion made by Council President Pro Tem Lindsay and seconded by Council Member Cooney that Site Plan Review ZON-22-113 be approved as said applications meet the criteria set forth in Section 134-229 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; 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. This site plan approves the bump out for the two bathrooms and shift of the aisle and excludes the outdoor seating and terrace. Motion carried unanimously, 5-0.

Motion made by Council President Pro Tem Lindsay and seconded by Council Member Crampton that Variance ZON-22-113, Items 1, 4 and 6, shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201, 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 President Pro Tem Lindsay and seconded by Council Member Araskog that Variance ZON-22-113, Items 2 and 3, shall be deferred to the November 9, 2022 Town Council Development Review Meeting. Motion carried unanimously, 5-0.

- c. **ZON-22-124 (ACR-22-163) 357 N LAKE WAY (COMBO) - VARIANCES** The applicant, Scott Hesse and Whitney Hesse, has filed an application requesting Town Council review and approval for variances (1-2) to reduce the front and rear setbacks, and (3) to eliminate the two-car garage enclosure requirement by only providing a one-car garage, and (4) to reduce the street side yard 2-story setback, in conjunction with the renovation of an existing two-story single-family residence and new one- and two- story additions. 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 6-0.] [The Architectural Review Commission approved this project at the September 28, 2022, meeting. Carried 6-0.]

Council Member Cooney declared ex parte communications.

Maura Ziska, attorney for the property owners, explained the proposed project and explained the variances.

Daniel Kahan, Smith and Moore Architects, presented the architectural plans and provided further information on the variances.

Assistant Director Murphy provided staff comments.

Mayor Moore spoke regarding the history of this home and spoke in support of the proposed project.

Council Member Crampton spoke in support of the proposed project.

Council Member Cooney spoke in support of the proposed project and commended the architects on the design of the home. He spoke regarding the importance at looking at the off-street parking.

Council Member Araskog spoke in support of the project and spoke regarding providing consideration before moving from a two car to one car garage.

Council President Pro Tem Lindsay and Council President Zeidman spoke in support of the design.

Council President Zeidman called for public comment, and no one indicated a desire to speak.

Motion made by Council Member Crampton and seconded by Council

President Pro Tem Lindsay that Variance ZON-22-124 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.

- d. **ZON-22-131 163-165 SEMINOLE AVE—VARIANCES.** The applicant, 2012 Steven H. Rose Irrevocable Trust (Dale Coudert), has filed an application requesting Town Council review and approval for variances (1) to create a new nonconforming east side-yard setback and (2) to create non-conforming landscaped openspace at 165 Seminole Ave. Variance (3) is to create a non-conforming west side-yard setback, (4) a variance for non-conforming lot coverage, (5) a variance to create non-conforming landscaped openspace, and (6) a variance to create nonconforming angle of vision at 163 Seminole Ave. The variances are required as part of the subdivision of the existing unified property at 163-165 Seminole Avenue into 2 separate lots while maintaining all existing structures and hardscape.

Council Members Cooney and Council President Zeidman declared ex parte communications.

Maura Ziska, attorney for the property owner, explained the proposed project and explained the variances.

Kevin Asbacher, Asbacher Architecture, provided further information on the variances.

Director Bergman provided staff comments.

Council Member Cooney provided background information on the home and spoke regarding the importance of the home being designated historic.

Council President Pro Tem Lindsay spoke in support of the home being landmarked.

Council Member Araskog expressed concern if the property owner did not approve the designation of the home as an historic landmark.

Motion made by Council President Pro Tem Lindsay and seconded by Council Member Araskog that Variance ZON-22-131 shall be deferred to the November 9, 2022 Town Council Development Review Meeting. Motion carried unanimously, 5-0.

- e. **ZON-22-132 (ARC-22-200) 165 BRADLEY PL (COMBO)—SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE.** The applicant, Biltmore Galleria, LLC., has filed an

application requesting Town Council review and approval for a Special Exception with Site Plan Review to allow a 3,038 SF private/public school in the Commercial-Town Serving District (C- TS) zoning district and a Variance from the off-street parking requirements to eliminate required surface parking spaces and convert it into a playground area. The application will require amendments to the existing Unity of Title and Declaration of Use. The Architectural Commission will perform the design review of the application. [Due to Hurricane Ian, the Architectural Review Commission deferred this project to the October 25, 2022, meeting. [This item shall be deferred to the November 9, 2022, Town Council meeting pending Architectural Review.]

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

- f. **ZON-22-137 (HSB-22-014) 441 SEAVIEW AVE (COMBO)—
SITE PLAN REVIEW AND VARIANCES** The applicant, 441 Seaview LLC (Maura Ziska), has filed an application requesting Town Council review and approval for Site Plan Review for additions and renovations to an existing Historically Significant building involving the demolition of more than 50% of the structure on non-conforming platted lots in the R- B district; and Variances (1-2) to reduce both required side (east and west) yard setbacks, (3) to reduce the required rear (north) yard setback, (4) to reduce the required front (south) yard setback, (5) to exceed the maximum Cubic Content Ratio (CCR) permitted, (6) to exceed the maximum lot coverage permitted, and (7) to reduce the required overall landscape open space, (8) the required perimeter open space, (9) the required front yard open space, (10) native landscaping requirements and (11) from Chapter 50, Floods, for the required floor elevation of the existing structure, for the renovation of existing Historically Significant one- story buildings. The Landmarks Preservation Commission will perform design review of the application. [The Landmarks Preservation Commission approved this project at the September 21, 2022, meeting. Carried 7-0.]

No ex parte communications were declared.

Maura Ziska, attorney for the applicants, provided background information on the item.

Jaime Torres-Cruz, Fairfax & Sammons, provided a presentation on the proposed new site plan and renovations of the property.

Assistant Director Murphy provided staff comments.

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

Council Member Crampton addressed the number of required variances and inquired about the hardship, to which Ms. Ziska responded.

Motion made by Council Member Araskog and seconded by Council Member

Crampton that Site Plan Review ZON-22-137 be approved as said applications meet the criteria set forth in Section 134-229 and 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; with the condition that the hedge running north and south on the west side is no higher than 30” and that nothing will be planted on the east side; 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 Araskog and seconded by Council Member Crampton that Variance ZON-22-137 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 Araskog and seconded by Council President Pro Tem Lindsay that Variance ZON-22-137 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.

- g. **ZON-22-138 (ARC-22-184) 1540 S OCEAN BLVD. (COMBO) - SPECIAL EXCEPTION W/ SITE PLAN REVIEW** The applicant, 1540 S OCEAN LLC (Steven Kirsch), has filed an application requesting Town Council review and approval for Special Exception and Site Plan Review for the construction of a new two-story guest house connected to a previously approved two-story structure with related landscape and hardscape improvements on a parcel deficient in lot depth. The Architectural Commission will perform the design review of the application. [Due to Hurricane Ian, the Architectural Review Commission deferred this project to the October 25, 2022, meeting. [This item shall be deferred to the November 9, 2022, Town Council meeting pending Architectural Review.]

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

- h. **ZON-22-142 340 ROYAL PALM WAY SUITE 300 -SPECIAL EXCEPTION WITH SITE PLAN REVIEW.** The applicant, BDT CAPITAL PARTNERS (Bong Shinn, Partner), has filed an application requesting Town Council review and approval for Special Exception Request with Site Plan Review for a financial institution tenant greater than 2,000 SF of GLA (7,100 SF) of an existing shell of a third floor within an existing multi-story office building zoned C-OPI with an attached parking structure.

No ex parte communications were declared.

Maura Ziska, attorney for the applicants, provided background information on the item.

Assistant Director Murphy provided staff comments.

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

Motion made by Council Member Araskog and seconded by Council President Pro Tem Lindsay that Site Plan Review and Special Exception ZON-22-142 be approved as said applications meet the criteria set forth in Section 134-229 and 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.

- i. **ZON-22-155 155 HAMMON AVE—SPECIAL EXCEPTION W/ SITE PLAN REVIEW.** The applicant, CH Hotel LLC (Sarah & Andrew Wetenhall), has filed an application requesting a Town Council review and approval for Special Exception Request with Site Plan Review to allow ‘accessory commercial uses to hotel uses’ in the R-D (2) district in conjunction to an existing hotel.

Harvey Oyer, representing the applicant, provided background information on the application.

Jennifer Hofmeister-Drew, Planner III, provided staff comments. Assistant Director Murphy provided additional 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 Site Plan Review and Special Exception ZON-22-155 be approved as said applications meet the criteria set forth in Section 134-229 and 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, 4-0. Council Member Araskog abstained because she was out of the room.

- j. **ZON-22-156 (ARC-22-156) 12 SLOANS CURVE DRIVE (COMBO)—SITE PLAN REVIEW AND VARIANCE.** The applicant, Gary L & Joanne Wachman, have filed an application requesting Town Council review and approval for Site Plan Review and a variance to exceed the by 0.5% the maximum allowable lot coverage for an existing

townhouse unit in a PUD development in order to expand the second-floor projecting balcony. The Architectural Commission shall perform design review of the application. [Architectural Review Commission Recommendation: Implementation of proposed variances will not cause negative architectural impact to the subject property. Carried 6-0.] [The Architectural Review Commission approved this project at the September 28, 2022, meeting. Carried 5-1.]

No one declared ex parte communications.

Zack Palmisciano, representing the applicants, provided background information on the project and explained the variances.

Assistant Director Murphy provided staff comments.

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 Araskog that Variance ZON-22-156 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 President Pro Tem Lindsay that Site Plan Review ZON-22-156 be approved based upon the finding that the 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.

IX. ORDINANCES

D. Second Reading

1. Amending Chapter 50 of the Town Code of Ordinances, Changes Relating to Floodplain Management

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.

Town Attorney Randolph read the title of the ordinance.

Motion made by Council Member Araskog and seconded by Council Member Crampton to adopt Ordinance No. 016-2022 on second reading. Motion carried

unanimously, 5-0.

X. ANY OTHER MATTERS

Council Member Araskog requested a discussion at an upcoming meeting regarding looking at the process of declaration of use agreements.

XI. ADJOURNMENT

The meeting adjourned at 6:24 p.m. on October 12, 2022 without the benefit of a roll call.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Kelly Churney, Deputy Town Clerk
Date: _____