



TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on November 15, 2022

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order on November 15, 2022, at 3:00 p.m.

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

Mayor Moore had no comments at this time.

IV. COMMENTS OF TOWN COUNCIL MEMBERS

Council Member Araskog spoke in support of addressing the issue of derelict boats. She clarified her statements made at the last Town Council meeting about revisiting the declaration of use agreement for the Carriage House. She said she was not in support of revising the agreement; However, if the Council did decide to revisit the issue, she felt the discussion should be pushed to January 2023.

Council President Zeidman provided the schedule for the meeting. She stated that the presentation by Sean Suder on the Code Review would need to be rescheduled due to the evacuation due to the storm. Council President Zeidman recommended a postponement to December due to the upcoming holiday schedule and so that adequate and proper notice

could be provided to the public. The Council provided consensus to postpone the presentation to one of the Town Council meetings in December.

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

Michael Pucillo, 224 Dunbar Road, Co-Chair of Palm Beach Civic Association's Water Committee, expressed support for the Town Council to continue discussions on researching desalinization or filtration options for the south end around Phipps Ocean Park. He suggested Council consider another potential option, specifically a smaller facility being built at Phipps Ocean Park for potable water. Discussion ensued regarding bringing the item back to Town Council in December. The Town Council provided consensus for the discussion of a desalinization plant on the west side of A1A to be included with the water feasibility study item in December.

VI. APPROVAL OF AGENDA

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

Addition of 1485 Via Manana – Permit Extension Request

Withdrawal of ZON-22-017, 1237 N. Lake Way

Deferral of ZON-22-021, 160 Seaview Avenue to the December 14, 2022 meeting

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

Deferral of ZON-22-113, 380 S. County Rd. to the December 14, 2022 meeting

Deferral of ZON-22-123, 218 Phipps Plaza to the January 11, 2022 meeting

Deferral of ZON-22-139, 144 Chilean Avenue to the December 14, 2022 meeting

Deferral of ZON-22-140, 248 Colonial Lane to the January 11, 2022 meeting

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

VII. DISCUSSION ITEMS

Acting Town Clerk Gayle-Gordon administered the oath of office at this time and throughout the meeting when appropriate.

A. **Declaration of Use Agreements**

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

Maura Ziska, Attorney representing the Palm Beach Day Academy, provided

details on the amended and restated declaration of use agreement.

Council Member Araskog recommended a stipulation be added to the agreement to address any lighting spillover issues. She wanted the ability for Council to revisit and adjust the agreement if any issues arose. She requested that a definition distinguishing the new West parking lot, as well as a definition of the existing play field, to be included in the agreement for clarification. She expressed concern over allowing the Academy vans to be parked in the new west parking lot; she thought the lot should be used for cars only.

Council Member Crampton inquired if the proposed declaration of use agreement effectively reflected the changes that were approved at the last meeting. Jennifer Hofmeister-Drew, Planner III, provided confirmation that the agreements at the last Town Council meeting were reflected in the newly proposed agreement. Ms. Hofmeister-Drew also indicated that Town Attorney Randolph had reviewed the changes.

Council President Pro Tem Lindsay inquired if the new wall and hedges on the north property line were included in the declaration of use agreement. Ms. Ziska responded and pointed out the section in which they were included. Council President Pro Tem Lindsay asked about the footers and Seagrape hedge to be included with the wall, as this was not included in the declaration of use agreement. She thought the agreement should be more specific when it came to the protections of the Seaspray neighbors.

Ms. Ziska agreed to add the items requested by Council President Pro Tem Lindsay.

Mayor Moore asked if the declaration of use agreement was the appropriate place to include information on hedging material, in the event the material would need to be replaced.

Ms. Hofmeister-Drew provided recommendations on items to include and exclude in the agreement if staff would need to approve material changes in the future. Council President Pro Tem Lindsay thought the species material could be eliminated, if the specific number of hedges and height of the hedges were included.

Mr. Bergman stated that conditions of approval would be included in a development order, referencing a specific landscape plan. Council Pro Tem Lindsay agreed with Mr. Bergman, as long as the landscape plan was explicit about the items included to protect the neighbor's privacy.

Council Member Araskog spoke in support of adding the more specific

language into the declaration of use agreement. She expressed concern over the parking lot being open until 7:00 p.m. She requested that the gate be closed on Saturdays and Sundays, exclusive of the 12 special events.

Council Member Cooney expressed support for the proposed language.

Discussion ensued regarding adding language to restrict the weekends.

Anne Pepper, 333 Seaspray Avenue, expressed concern over the proposed lighting and the gates, specifically their functionality as well as being opened 7 days a week. She asked the Town Council to reconsider the agreement and consider the items that she outlined her letter.

Council Member Araskog requested that the lights be placed on a timer rather than the use of solar power. Council Member Araskog also expressed her objections to the school vans due to their noise.

Council President Pro Tem Zeidman agreed with Ms. Pepper and thought the lights should be placed on a timer, since solar lights would be illuminated at night. A consensus agreed that the lights would be placed on a timer from 7 a.m. to 7 p.m.

Discussion ensued regarding the revisions to be made to the proposed declaration. Town Attorney Randolph recommended that the item be deferred and voted on at the next meeting with the requested changes.

The Council provided direction for revisions to the proposed declaration of use agreement and deferred the item to the December 14, 2022 meeting.

B. Time Extensions and Waivers

1. Time Extension for 172 Worth Ave - Saks Fifth Avenue

Director Bergman provided a brief background on the item.

Barbara Winscoll, representing Saks Fifth Avenue, explained the request for time extension until February 2023. She provided further explanation of the nature of the ongoing work.

Motion made by Council Member Araskog and seconded by Council Member Crampton to grant the extension with the condition that if any verifiable issues from the neighbors are received, Director Wayne Bergman can issue a stop work order.

Council Member Cooney confirmed that the construction vehicles were parking in the garage. Ms. Winscoll provided confirmation and added that all deliveries would be made to the loading area.

Council Member Araskog amended her motion to add no construction or delivery vehicles would be allowed on Worth Avenue. Motion seconded by Council Member Crampton. Motion carried unanimously, 5-0.

2. 1485 Via Manana Permit Extension

Director Bergman provided a brief background on the item.

Chet Davis, Davis General Contracting, explained the need for the time extension request. He further explained the nature of the work and his delays due to COVID.

Council Member Araskog complimented Davis General Contracting for being so responsive to neighbors. She thought neighbors should be notified for time extension requests. She asked for confirmation that the holiday and weekend hours would continue to be followed.

Council President Pro Tem Lindsay spoke in support of Davis General Contracting for their diligence in ensuring their site was left in good condition at the end of the day.

Motion made by Council Member Araskog and seconded by Council Member Crampton to grant the extension until June 2023. Motion carried unanimously, 5-0.

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.] [This item has been withdrawn.]

This item was withdrawn 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 Commission deferred the project to their November 18, 2022, Architectural Commission meeting.] [This item shall be deferred to the December 14, 2022, Town Council meeting pending Architectural Review.]

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

- c. **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 project to the November 18, 2022 meeting.] [This item shall be deferred to the December 14, 2022, Town Council meeting pending Architectural Review.]

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

- d. **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.]

Council Member Cooney declared ex parte communications.

Maura Ziska, Attorney for the applicant, provided background information on the item.

Ann DesRuisseaux, Applicant, indicated that an agreement had been reached with the neighbor to the north on the removal and reconstruction of the common site wall between their properties.

Harvey Oyer, Attorney for the neighbor at 790 S. County Rd., stated that they would support the variance requests subject to conditions, which he read into the record.

Bradley Falco, Planner II, provided staff comments.

Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay that Site Plan Review and Special Exception ZON-22-100 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 conditions enumerated by the counsel for 790 South County as well as the elimination of the variance for green space/open space. Motion carried unanimously, 5-0.

Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay that Variance ZON-22-100 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.

- e. **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 cafe 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.] [The Town Council approved the site plan review with respect to the drive aisle shift, and the increase of pace on the first floor for the two bathrooms. The Town Council did not approve the outdoor seating and terrace. Variances 1,4 and 6 were approved. Both motions had a condition related to a utility easement. The special exception and variances 2,3 and 5 were deferred to the November 9, 2022, Town Council Meeting.] [This item shall be deferred to the December 14, 2022, Town Council meeting at the request of the applicant.]

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

- f. **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 approved the main structure change with conditions related to the architecture. Accessory structure changes to be reviewed by the Landmarks Preservation Commission in December 2022.] [This item shall be deferred to the January 11, 2022, Town Council meeting pending Landmarks Preservation approval.]

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

- g. **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 open space 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 open space, 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 President Pro Tem Lindsay, Council Member Cooney and Mayor Moore declared ex parte communications.

Maura Ziska, Attorney for the applicant, provided background information on the item.

Bradley Falco, Planner II, provided staff comments.

Council Member Cooney expressed appreciation to Ms. Coudert for her willingness to preserve her home.

Motion made by Council Member Cooney and seconded by Council Member Araskog that Variance ZON-22-131 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.

The Town Council recessed at 4:29 p.m. and reconvened at 4:39 p.m.

Council President Zeidman indicated that an issue was raised earlier in the meeting concerning the Town's water and possible alternatives, since the Town's contract with West Palm Beach would expire in 2029. She indicated that several of the Council members wanted to discuss the issue of a reverse osmosis plant on the west side of Ocean Boulevard. She further added that this discussion could be held in December.

Discussion ensued regarding whether the Council should hold another discussion on the issue.

There was a consensus of the Council members to place the item on the December Town Council meeting agenda.

- h. **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. [Architectural Review Commission Recommendation: Implementation of proposed variance will not cause negative architectural impact to the subject property. Carried 5-0.] [The Architectural Review Commission approved this project at the October 25, 2022, meeting. Carried 5-0.]

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

Harvey Oyer, Attorney for the Alef Pre-school, provided background information on the application.

Michael Perry, MP Design & Architecture, presented the site plan and provided further information on the project.

Jennifer Hofmeister-Drew, Planner III, provided staff comments.

Council Member Araskog inquired about the ground covering, to which Mr. Perry responded and indicated the covering would be sod. Council Member Araskog wondered if more parking spaces could be added to eliminate one of the variances. Mr. Perry explained that most of playground would be eliminated to provide room for maneuvering cars. Mr. Oyer provided further explanation of the legal hardship for the variance requested.

Council Member Crampton asked for confirmation that the property was ADA compliant. Mr. Oyer provided confirmation. Council Member Crampton asked to understand the relationship between the demand for parking spaces compared to the drop off and pick up times. Mr. Oyer further explained the traffic circulation, parking demands at drop off and pick up times, as well as the process for the traffic circulation plan.

Council President Zeidman confirmed that the asphalt would be removed to install the sod. She asked if this would be an issue since the applicant did not own the property. Ms. Hofmeister-Drew indicated that the Architectural Review Commission approved the project with the condition that the asphalt was removed. Discussion ensued regarding the asphalt removal and the proposed ground covering.

Council Member Araskog expressed concerns for the afternoon hours and peak hours due to heavy traffic in the area. She thought a traffic study that reflected traffic during peak hours would be helpful.

Ms. Hofmeister-Drew and Brian Kelly, Traffic Engineer, provided additional information on the traffic studies and answered the Council members' questions.

Council President Pro Tem Lindsay expressed concern over the existing traffic congestion near the intersection of Bradley Place and Royal Poinciana Way in the afternoon. She indicated the letters of opposition expressed these same concerns. She asked Mr. Kelly to explain the data he presented and if it reflected this congestion in traffic.

Council President Zeidman asked for the professionals to show how the children would be dropped off for the school day. Mr. Perry outlined the two entrances for the parking lot.

Mr. Oyer and Mr. Kelly addressed additional concerns from Council Members on the traffic impacts.

Andrew Speranzini, representing Park Region Condominium Association, outlined various issues relating to the application and project plan that he stated were not in compliance with the Town Code.

Linda Landis, Park Region Condominium, expressed objection with the proposed project due to traffic concerns.

Jamie Stern, Park Region Condominium, expressed objections for the proposed project due to concerns with safety and traffic.

Eric Travis, Biltmore Condominium, expressed objections to the project due to its impacts on traffic.

John Eubanks, representing the Biltmore Condominium Association, outlined various issues relating to the application that he stated were not in compliance with the Town Code.

Rob Allen, Biltmore Condominium, expressed objections to the proposed project due to traffic impacts.

Michael Himmel, Biltmore Condominium, expressed objections to the proposed project due to the extensive traffic on Bradley Place.

Jill Bernstein, Seminole, expressed objections to the proposed project due to the traffic and safety concerns.

Julie Berkowitz, Bradley Place, expressed objections to the proposed project due to traffic concerns.

Patty Dean, Park Avenue, expressed objections for the proposed project due to concerns with safety and traffic.

Julie Herzig-Desnick, Bradley Place, expressed objection to the project due to parking and safety.

Dr. Bob Desnick expressed objections to the project due to safety concerns.

Lisa McGowan, Park Avenue, expressed objections to the traffic impacts for this project.

Ken Moreland, Park Avenue, expressed concerns with the parking and safety. He inquired if the building would be vacant when school was not in session.

Mr. Oyer addressed the concerns raised for the request for the special exception use. He also addressed the traffic and safety concerns raised by public comment speakers.

Jennifer Hofmeister-Drew and Wayne Bergman responded to questions from Council Members regarding the issues raised by public comment speakers on the project's compliance with the Town Code and the traffic study.

Council Member Crampton acknowledged the issue with traffic; however, he restated that the drop off and pick up issues would be occurring in the parking lot and not on the street. He spoke regarding the important service that preschools provided and spoke in support of the proposed project. He also spoke regarding mitigation measures that could be put in place to reduce any negative traffic impacts.

Mayor Moore spoke regarding the building's change of use and the impact on the neighbors. She thought this would be an important detail to be considered by the Town Council.

Council Member Araskog inquired about the unity of title, parking, and the requirement for a playground, to which Ms. Hofmeister-Drew and Mr. Bergman responded. She expressed concern for the project's potential negative impact on the neighbors on Park Avenue and expressed concern over the hardship that was provided. She requested a more specific traffic study to be completed in the area during peak times.

John Eubanks responded to a question from Ms. Araskog regarding a statement made by the applicant, which indicated that they had reached out to meet with the neighboring condominiums. Andrew Speranzini responded that he had not been contacted to meet.

Council President Pro Tem Lindsay expressed concern over the proposed use in this location due to traffic congestion. She inquired if the applicant would allow the condition that would only allow Palm Beach residents to enroll in the school, to which Mr. Oyer responded. Town Attorney Randolph provided a legal opinion regarding whether this condition could be included. She expressed concern over the potential negative impacts to the residents on Park Avenue and stated that she believed that this project would be an intensification of use for this property, although she was in support of a preschool in Town. She spoke in support of receiving the traffic study to get additional information.

Council President Zeidman spoke in support of Council receiving the

traffic study prior to approving the project. She believed this would be an intensification of use of the property but stated that she was supportive of a preschool in Town. She thought it would be important for the Chief of Police to review the project for potential safety issues. She spoke in support of the school having someone watching over the drop off and pick off activities for safety. She also suggested that the parking lot could be made safer with some reconfigurations. She spoke in support of not allowing the use of Park Avenue as an egress from the school, and of a more in-depth traffic study.

Discussion ensued regarding the traffic study that had been completed compared to a more updated study that reflected existing traffic.

Council Member Crampton spoke in support of imposing the condition that the operators of the school submit a traffic management plan to the Town for approval. He expressed support for the proposed project.

Council President Zeidman inquired if there was an additional traffic study that could be completed that would provide additional information about the existing traffic conditions. Mr. Kelly responded and stated that the traffic study provided was an adequate representation of the existing conditions.

Council President Pro Tem Lindsay stated that she would trust staff who indicated that there had been an adequate traffic study for this project. She withdrew her request for additional traffic study. She requested that the applicant and landlord install landscape screening for the neighbors on Park Avenue. She also spoke in support of additional safety precautions being put into place to ensure that parents and children could walk safely into the building.

Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay that Site Plan Review and Special Exception ZON-22-132 be approved as said applications meet the criteria set forth in Section 134-229 and Section 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 conditions that school management submit a site traffic, parking and pedestrian flow plan to be approved by Town Staff and to not allow the parents to drive down Park Avenue and to require that the applicant return to Town Council in December with the declaration of use and to return to Council after the school year for review. Motion carried, 4-1 with Council Member Araskog dissenting.

Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay that Variance ZON-22-132 shall be granted and

find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met. Motion carried, 4-1 with Council Member Araskog dissenting.

The Town Council recessed at 5:35 p.m. and reconvened at 6:15 p.m.

- i. **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. [The Architectural Review Commission approved this project at the October 25, 2022, meeting. Carried 5 -0.]

No one declared ex parte communications.

Maura Ziska, Attorney for the applicant, presented the outlined the zoning requests and presented the project.

Jennifer Hofmeister-Drew, Planner III, provided staff comments.

Motion made by Council Member Araskog and seconded by Council Member Crampton that Site Plan Review and Special Exception ZON-22-138 be approved as said applications meet the criteria set forth in Section 134-229 and Section 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; 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.

2. New Business

- a. **ZON-22-104 (ARC-22-146) 9 SLOANS CURVE DR (COMBO) –SPECIAL EXCEPTION WITH SITE PLAN REVIEW** The applicant, Sean Hannity, has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for the construction of a 409 square foot second story addition and to install a 20-kw generator for an existing townhouse within an approved Sloan's Curve PUD. The Architectural Commission will perform design review of the application. [The Architectural Review Commission approved this project at the October 26, 2022, meeting.

Carried 6-0.]

No one declared ex parte communications.

Maura Ziska, Attorney for the applicant, outlined the zoning requests and presented the project.

Bradley Falco, Planner II, provided staff comments.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Site Plan Review and Special Exception ZON-22-104 be approved as said applications meet the criteria set forth in Section 134-229 and Section 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.

- b. **ZON-22-139 (ARC-22-213) 144 CHILEAN AVE (COMBO) - SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** The applicant, Allen Perl, as Trustee of the 144 Chilean Trust dated April 13, 2022, has filed an application requesting Town Council review and approval special exception with site plan review for development of a lot nonconforming in lot width in the R-B zoning district in order to construct a new two-story single family residence which requires variances to (1) exceed maximum lot coverage, (2) provide deficient landscaped open space and (3) exceed the maximum cubic content ratio (CCR) allowed. The Architectural Review Commission will perform design review of the application. [The Architectural Review Commission deferred this project to the November 18, 2022 meeting. Carried 7-0.] [This item shall be deferred to the December 14, 2022, Town Council meeting pending review by the Architectural Review Commission.]

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

- c. **ZON-22-140 (ARC-22-216) 248 COLONIAL LN (COMBO) -SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE** The applicant, 306 Livingston Street Holdings I, LLC (Matthew Mirones), has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for development of a lot which is deficient in lot depth and lot area in the R-B zoning district and for variances (1) to eliminate the two-car garage enclosure requirement, (2) to locate a generator in a setback which is higher than allowed from neighboring grade and (3) to not completely screen a generator with a masonry wall, in conjunction with the construction of a new two-story residence. The Architectural Review

Commission will perform design review of the application. [The Architectural Review Commission deferred this project to the December 16, 2022 meeting. Carried 7-0.] [This item shall be deferred to the January 11, 2023, Town Council meeting pending review by the Architectural Review Commission.]

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

- d. **ZON-22-143 (ARC-22-188) 266 ORANGE GROVE RD (COMBO)-VARIANCE** The applicant, Olofson Jeanne H Trust, has filed an application requesting Town Council review and approval for an after-the-fact variance to maintain landscape open space less than the minimum requirements in the R-B zoning district. The Architectural Commission will perform the design review of the application. [Architectural Review Commission Recommendation: Implementation of proposed variance will not cause negative architectural impact to the subject property.] [The Architectural Review Commission approved this project at the October 26, 2022, meeting. Carried 7-0.]

No one declared ex parte communications.

Adam Mills, Environment Design Group, presented the landscape and hardscape plans for project.

Bradley Falco, Planner II, provided staff comments.

Council Member Araskog asked the professional to explain the hardship for the variance. Mr. Mills outlined the hardship and addressed the need for the variance.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance ZON-22-143 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.

- e. **ZON-22-146 (ARC-22-209) 1020 N LAKE WAY (COMBO)-VARIANCE** The applicant, Robert Morse, has filed an application requesting Town Council review and approval for a variance (1) to exceed the maximum allowable lot coverage, in conjunction with the exterior alterations and loggia modifications and enlargement proposed at the property. 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.] [The Architectural Review Commission approved this project at the October 26, 2022, meeting. Carried 7-0.]

No one declared ex parte communications.

Maura Ziska, Attorney for the applicant, outlined the zoning requests and presented the project.

Michael Perry, MP Design & Architecture, presented the architectural plans for the proposed project.

Bradley Falco, Planner II, provided staff comments.

Council Member Cooney stated that he hoped that the pergola issue was addressed in the Code Reform.

Council President Pro Tem Lindsay wondered if a deed restriction restricting covered pergolas should be put in place.

Council Member Araskog wondered about the increase in lot coverage with the new loggia. Mr. Perry explained the reason for the new loggia and discussed the proposed lot coverage.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance ZON-22-146 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.

VIII. ORDINANCES

A. Second 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.

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

IX. ANY OTHER MATTERS

Discussion ensued regarding recommendations on the Code Review. Council Member Cooney expressed concern that some of the recommendations were being discussed prior to

public workshops being held. Council President Zeidman spoke regarding the process for the Code Reform project.

X. ADJOURNMENT

The meeting adjourned at 8:51 p.m. on November 15, 2022 without the benefit of a roll call.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Kelly Churney, Deputy Town Clerk
Date: _____