



TOWN OF PALM BEACH

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

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order December 14, 2022 at 9:46 a.m. On roll call, all elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. COMMENTS OF MAYOR DANIELLE H. MOORE

Mayor Moore thanked the Council for the discussion at the regular meeting regarding the Preservation Foundation project at Phipps Ocean Park.

Mayor Moore expressed concern that the Landmarks Program has been expanded too quickly and that some of the proposed homes do not seem to be worthy of the designation.

Mayor Moore thanked the Palm Beach Civic Association for their holiday party.

Council President Zeidman recommended adding an item to discuss the Landmarks Program on a future agenda. There was consensus to place the item on an upcoming Tuesday Town Council meeting agenda.

IV. COMMENTS OF TOWN COUNCIL MEMBERS

Council Member Lindsay wished everyone a nice holiday season and a peaceful new year.

Council Member Araskog wished everyone a peaceful holiday season. She expressed concern that certain contractors were not following the construction rules and spoke in support of increasing enforcement in order to ensure contractors were in compliance.

Council Member Crampton expressed concern for traffic around Mar-a-Lago. He requested that staff work with the Coast Guard to restrict the bridge openings around rush hour. Council President Zeidman stated that Town Manager Blouin had been working with the Coast Guard and West Palm Beach to restrict the openings during rush hour.

Council President Zeidman thanked Mayor Moore for the holiday lunch she hosted on Tuesday. She also thanked Wayne Bergman for providing donuts during meeting days. Council President Zeidman reviewed the schedule for the day. She spoke regarding the Code Review process that was occurring and addressed concerns that she had received from residents.

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:

Set Time Certain for Code Review at 11:30 a.m.

Deferral of ZON-22-021, 160 Seaview Avenue to the January 11, 2023 meeting

Deferral of ZON-22-088, 240 Oleander Avenue to the January 11, 2023 meeting

Withdrawal of ZON-22-113, 380 S. County Rd.

Deferral of ZON-22-123, 218 Phipps Plaza to the January 11, 2023 meeting

Deferral of ZON-22-140, 248 Colonial Lane to the January 11, 2023 meeting

Withdrawal of ZON-22-105, 150 Seminole Avenue

Deferral of ZON-22-122, 141 Australian Avenue to the January 11, 2023 meeting

Deferral of ZON-22-151, 760 N. Ocean Blvd. to the January 11, 2023 meeting

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

VII. CODE REVIEW

A. Code Review Update

TIME CERTAIN - 11:30 A.M.

Sean Suder, Zone Co.

Sean Suder, ZoneCo., introduced the members of the consultant team, who were present at the meeting. He provided background information on the project and explained the goals for the project and the code review process. He provided the timeline for the public engagement process and announced the dates for the project kickoff meeting and the first charrettes.

Joe Nickol, Yard & Co., provided background information on Yard & Co. and their role in the code review process. He provided additional information on the public engagement process and presented the new website for the project. He provided information on what would be discussed and presented at the project kickoff meeting and the week of design workshops (charrettes) that would occur after the initial meeting.

Council Member Cooney expressed appreciation to the team for being present. He spoke in support of the outline for the future public engagement sessions and recommended that the dates of the charrettes be published as soon as possible to allow for ample public notice. He spoke in support of the interactive map as described on the new website. He inquired about where the charrettes would be held.

Jennifer Hofmeister-Drew, Planner III, discussed potential locations that staff had researched for the charrettes. Discussion ensued on potential locations. Ms. Hofmeister-Drew stated the goal was to find and publish the location prior to the Christmas holiday.

Council Member Crampton expressed concern over previous charrettes that did not yield results. Mr. Nickol spoke regarding the process including researching what had occurred in the past to ensure the effectiveness of these charrettes.

Mayor Moore expressed appreciation to the team for being present at the meeting. She hoped that the direction that had been presented would comfort the community.

Mayor Moore asked how the team engage community members that were normally not engaged. Mr. Nickol spoke regarding the online tools that would provide an easy way for the community to be involved. He stated that the harder part of the engagement would be getting the community to attend the charrettes.

Council President Pro Tem Lindsay expressed concern over members of the public who may disrupt the process as has been done in the past. Mr. Nickol explained the method by which the charrettes have been designed to address this concern. Mr. Suder stated that the Town Council's commitment would help to engage some of the skeptical citizens.

Council Member Araskog expressed concern that many of the residents may not be technically savvy. She spoke regarding the importance of reaching out to these residents in alternate ways. She spoke regarding the challenges that the team may encounter with some of the members of the community.

Council Member Cooney agreed with Mayor Moore's comments about engaging the community that may seem unengaged due to various reasons. He spoke regarding residents who could be challenging.

Council President Pro Tem Lindsay inquired if the charrettes could be accessible online so that residents could listen if they chose not to attend in person. Mr. Nickol discussed their plans to live cast the charrettes and explained how residents could participate virtually.

Mayor Moore indicated that the Town Council Members had individual email lists and spoke regarding the potential for them to be shared with the consultants to be used to distribute information about the upcoming engagement sessions.

Council President Zeidman discussed ways that the Council Members could assist in informing residents on the upcoming charrettes. She spoke regarding the confrontational nature of some of the comments from residents towards the consultants. She recommended setting expectations for the residents, such as speaking times. She spoke in favor of the use of a valet, as well as holding a session in the south end of the island. She suggested that the team contact Mary Robosson at the Palm Beach Civic Association, as well as Skip Aldridge at the Citizens Association. She cautioned the team against using the term "brand." She spoke in support of the new website.

Council Member Crampton stated that any criticism of the process or review should be targeted at the Town Council, not at the consultants.

Council Member Araskog expressed concern with the members of the public using the term "naysayer." She stated that everyone had an opinion and should be heard.

Mr. Suder spoke in support of the process up to this point and spoke regarding

understanding the community.

Nicki McDonald, Planning and Zoning Member, inquired about the makeup of the engagement sessions. She recommended holding some of the sessions in the evening to allow working residents to attend. She stated that she felt that it was also important for Council President Zeidman or Mayor Moore to introduce these sessions so that residents would see that the Town Council was fully engaged in the review of the Code.

Mr. Nickol spoke in support of the suggestion for having one of the Town Council Members open the sessions. Mr. Nickol further explained the proposed schedule of the engagement session and discussed how the times could be rearranged.

Mayor Moore spoke regarding the importance of taking the residents' varied schedules into consideration when planning the sessions. She spoke in support of a variety of time options being offered. Council President Zeidman spoke in support of Mayor Moore introducing the sessions.

Council Member Araskog recommended looking at the social calendar when planning the sessions, as well.

There was no action taken on this item.

Please note: A lunch break was taken at 1:09 p.m. The meeting reconvened at 2:02 p.m.

Kirk Blouin, Town Manager, relayed his discussions with the Coast Guard regarding limiting the openings of the bridges during rush hour traffic. He indicated that staff had been gathering data and stated that he would soon be asking the Coast Guard to limit the openings for 2 hours in the morning and afternoon. He discussed a collaboration with the City of West Palm Beach and Palm Beach County on the traffic issue, as well. He stated that he had been speaking to the Police Department about addressing the traffic around Mar-a-Lago, in particular.

Council President Zeidman spoke regarding the traffic around Bradley Place. She recommended a study of Sunset Avenue, and the possibly of reverting it back to a one-way street. Mr. Blouin spoke regarding the background of Sunset Avenue when it was changed to a one-way, and then when it changed back. He indicated that staff was continuing to study the issue and felt it would eventually be changed back to a one-way street.

Council Member Crampton suggested publicizing the studies that had been undertaken so that the residents can see that the Town was addressing the issue. Mr. Blouin stated that staff would be presenting this information at the February Town Council meeting.

Council President Pro Tem Lindsay discussed the traffic backup that occurs on

Bradley Place, especially when the bridge is raised. Mr. Blouin spoke regarding the Town contracting with a traffic engineer, who was working on a solution.

Council Member Cooney thanked Mr. Blouin for the update.

Mr. Blouin stated that once the Southern bridge construction work was completed, there should be some relief as well.

Council Member Araskog wondered if it was possible for the Coast Guard to install cameras so that they could review the number of times the bridge was unnecessarily raised. Mr. Blouin stated he could make the request.

Please note: At this time, the Town Council moved to hear ZON-22-070, 241 Seaview Avenue Declaration of Use Agreement.

VIII. DISCUSSION ITEMS

A. Discussion Regarding Approving Demolitions Prior to Redevelopment Plans Being Reviewed and/or Approved

Wayne Bergman, Director of Planning, Zoning and Building, provided background information on the item and explained that the Architectural Review Commission (ARCOM) members requested that this item be presented to Town Council.

In response to a question by Council Member Araskog, Town Attorney Randolph addressed any potential concerns over Bert Harris claims and spoke regarding House Bill 423 in relation to this item.

Council Member Crampton expressed concern about the process and stated that he felt that one of the ARCOM members should present this item to Town Council. He also expressed concern over the issue of property rights.

Council President Zeidman recommended placing the item on a future agenda for discussion after receiving additional information.

Council Member Cooney provided a brief history on this issue and stated that he could assist Director Bergman with providing additional examples and obtaining data for a future discussion.

Council President Pro Tem Lindsay spoke regarding the restricted demolition period that was in place.

There was a consensus of Town Council to place this item on a future agenda so that further research could be done and an ARCOM member could be present to discuss the issue.

Mr. Bergman addressed two additional items that had been approved by ARCOM, one pertaining to demolitions and the other pertaining to story poles and explained potential conflicts with the items. He stated that he and Town Attorney Randolph would be returning to ARCOM discuss the issues with the items.

B. Discussion Regarding Limiting the Number of Restaurants Based on Location and Area

Julie Araskog, Town Council Member

Council Member Araskog indicated that staff needed more time to research the issue and recommended placing it on the January agenda.

Council Member Crampton spoke regarding the importance of this issue being discussed and spoke regarding the traffic and parking study that needed to occur prior to the item being discussed.

Council President Zeidman inquired about the parking study being completed by the Corradino Group. Mr. Crampton explained the scope of the study. James Murphy, Assistant Director of Planning, Zoning and Building, provided further information and stated that the study would relate to retail in the commercial districts as part of the Code Review as well.

Director Bergman stated that the study would be presented by Joe Corradino at the January Town Council meeting.

Council President Pro Tem Lindsay requested that the Town Council be provided a copy of the study prior to the meeting.

Council Member Cooney spoke regarding ensuring that the study was utilized. He spoke regarding the importance of businesses ensuring that their employees were parking in the appropriate spaces.

Council President Zeidman spoke in support of this item being discussed and of the parking study being completed.

Council Member Araskog stated that she would like the Council to hold a discussion regardless of whether the staff was able to gather the information from other municipalities. Discussion ensued regarding the timing of the item returning for discussion.

Deputy Town Clerk Churney administered the oath of office at this time and throughout the meeting when appropriate.

IX. RESOLUTIONS

- A. Resolution No. 149-2022 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As **144 Everglade Ave** Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

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

Janet Murphy, MurphyStillings, presented background information on the project and historical information on the property. She outlined how the property met Criteria 1, 2 and 3 for Landmark Designation.

Council President Zeidman requested confirmation of proof of publication. Deputy Town Clerk Churney provided confirmation.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that the designation report be made part of the record. Motion carried unanimously, 5-0.

Council President Zeidman called for public comment. There were no comments heard at this time.

Council Member Cooney stated that he was delighted that the owner supported the designation. He requested that in future designations, the minutes reflect whether the owner supported or opposed the designation. He emphasized the importance of doing so due to new requirements from House Bill 423. Deputy Town Clerk Churney indicated that she would ensure that the minutes would reflect this in the future designations.

Council President Pro Tem Lindsay thanked the owner for volunteering her home for designation.

Motion made by Council Member Araskog and seconded by Council Member Araskog and seconded by Council Member Cooney to adopt Resolution 149-2022, designating the property at 144 Everglade Avenue as a landmark of the Town of Palm Beach, on the basis that it meets criteria Numbers 1, 2 and 3 of Section 54-161 of the Town of Palm Beach Code and in the Landmarks Preservation Ordinance No. 2-84, and that the owner supported the designation. Motion carried unanimously, 5-0.

- B. Resolution No. 150-2022 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination

Of The Landmarks Preservation Commission That The Property Known As **127 Kings Rd** Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

Council President Zeidman requested confirmation of proof of publication. Deputy Town Clerk Churney provided confirmation.

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

Emily Stillings, MurphyStillings, presented background information on the project and historical information on the property. She outlined how the property met Criteria 1, 3 and 4 for Landmark Designation.

Council Member Araskog asked if the owner was supportive of the designation. Ms. Stillings stated the owner objected to the designation.

Motion made by Council Member Cooney and seconded by Council Member Araskog that the designation report be made part of the record. Motion carried unanimously, 5-0.

Mayor Moore asked how many of the portions of the existing home had been landmarked, to which Ms. Stillings responded.

Council Member Cooney spoke regarding the importance of ensuring that there was information on the owner's objection included in the backup and minutes. He spoke in support of the designation even with the owner's objection.

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

Council President Zeidman called for public comment. There were no comments heard at this time.

Council Member Crampton spoke in support of the designation, despite the owner's objection, due to the unique nature and history of the property.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to adopt Resolution 150-2022, designating the property at 127 Kings Road as a landmark of the Town of Palm Beach, on the basis that it meets criteria Numbers 1, 3 and 4 of Section 54-161 of the Town of Palm Beach Code and in the Landmarks Preservation Ordinance No. 2-84, with the acknowledgement that the owner objected to the designation. Motion carried unanimously, 5-0.

- C. Resolution No. 151-2022 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As **1510 N Ocean Blvd** Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

Council President Zeidman requested confirmation of proof of publication. Deputy Town Clerk Churney provided confirmation.

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

Janet Murphy, MurphyStillings, presented background information on the project and historical information on the property. She outlined how the property met Criteria 1, 3 and 4 for Landmark Designation.

Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay that the designation report be made part of the record. Motion carried unanimously, 5-0.

Council President Zeidman called for public comment.

James Gavigan, owner, expressed his objections to the proposed designation. He asked the Town Council to deny the request.

John Gavigan, 220 Australian Avenue, expressed objections to the designation of 1510 N. Ocean Boulevard. He reviewed each of the criteria indicated for designation and provided rebuttal arguments to each.

Valerie Gavigan, owner, expressed her objections and stated that she believed that her fundamental rights had been taken.

Anne Pepper, 333 Seaspray Avenue, spoke in support of the designation of this home.

Council President Pro Tem Lindsay spoke regarding the history of the home and acknowledged the structural issues with the home. She recommended a historically significant building designation for the home rather than the landmarks designation.

Council Member Cooney expressed concern over designating landmarks over owner's objection. He spoke regarding the positive aspects of the landmarks program but stated he did not support the designation for this home.

Council Member Crampton spoke in opposition to the landmark designation for this home. He stated that he thought the home was pleasant, but not exceptional. He stated that due to the owners' objection, the home should be held at a higher standard.

Mayor Moore stated that she agreed that the home was not remarkable. She indicated if it was in another area in Town, she may feel differently. She spoke regarding the condition of the home.

Council Member Araskog inquired about Town Council Members considering the designation in relation to the criteria and not considering the support or opposition of the owner. Town Attorney Randolph responded. Council Member Araskog stated that she believed that the home was very charming and met several of the criteria.

Council President Zeidman stated that she did not believe that the home was worthy of landmark designation. She spoke regarding the landmarking process.

Motion made by Council Member and seconded by Council to deny the landmark ratification of 1510 N Ocean Boulevard. Motion carried 4-1, with Council Member Araskog dissenting.

Please note: A short break was taken at 11:35 a.m. The meeting resumed at 11:46 a.m. At this time, the Council moved to Item VII. Code Review with Sean Suder.

- D. Resolution No. 152-2022 A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As **345 Polmer Park Rd** Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

Council President Zeidman requested confirmation of proof of publication. Deputy Town Clerk Churney provided confirmation.

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

Janet Murphy, MurphyStillings, presented background information on the project and historical information on the property. She outlined how the property met Criteria 1, 3 and 4 for Landmark Designation.

Motion made by Council Member Araskog and seconded by Council President Pro Tem

Lindsay that the designation report be made part of the record. Motion carried unanimously, 5-0.

Council President Zeidman called for public comment. There were no comments heard at this time.

Motion made by Council Member Cooney and seconded by Council Member Araskog to adopt Resolution 152-2022, designating the property at 345 Polmer Park Road as a landmark of the Town of Palm Beach, on the basis that it meets criteria Number 1, 3 and 4 of Section 54-161 of the Town of Palm Beach Code and in the Landmarks Preservation Ordinance No. 2-84, with the acknowledgement that the owner objected to the designation. Motion carried unanimously, 5-0.

X. DEVELOPMENT REVIEWS

A. **Declaration of Use Agreements**

1. **ZON-22-070 (COA-22-026) 241 SEAVIEW AVE**

A. Modification to Declaration of Use Agreement

Maura Ziska, attorney for the applicant, stated that she sent the revised declaration of use agreement to staff and Town Attorney Randolph. She reviewed the changes to the declaration of use agreement.

Council Member Araskog spoke in support of not allowing the parking lot to be lit on holidays, weekends, and during the summer, except for the 12 special events. She spoke in support of including notification to the neighbors of all special events. Director Bergman answered a question from Council Member Araskog regarding the wall and drainage. Council Member Araskog spoke in support of allowing only regular white vans in the lot and not allowing any vans with advertising. Ms. Ziska stated that only the school's vans use the lots.

Mayor Moore spoke in support of the changes to the declaration of use agreement and confirmed with Ms. Ziska about the height and impact of the lights on the neighbors. She spoke in support of the school sending their calendar to the neighbors to provide notice about the special events throughout the year.

Anne Pepper, 333 Seaspray Avenue, spoke in support of not allowing the parking lot to be lit on weekends, holidays, and summer months. She also spoke in support of the parking lot only being open from 7:00 a.m. to 6:00 p.m.

Council President Pro Tem Lindsay stated that the school should take the "green" initiative to turn off the lights when the school is not open. She spoke in support of the lot not being lit on weekends, holidays and during the summer months.

Ms. Pepper spoke in support of the declaration of use specifically designating the lot to be used for staff and faculty only.

Mayor Moore expressed concern about enforcement of parking for faculty and staff only. Ms. Ziska provided clarification of the language that was included in the agreement.

James Green, attorney representing the neighbors on Seaspray adjacent to the school's greenspace, showed the Town Council photographs of vehicles parked in the greenspace on December 12, 2022. He spoke in support of the lighting being limited in terms of time and days.

Council Member Araskog spoke in support of a restriction on construction or landscaping trucks in the parking lot.

Ms. Ziska stated that she could add a condition that the lot would be lit only when the school was open.

Council Member Araskog stated that she believed that a notification to the neighbors on Seaspray Avenue and Seaview Avenue for all special events should be a condition of approval. Discussion ensued regarding if this item could be added to the declaration of use agreement at this time.

Motion made by Council Member Crampton and seconded by Council Member Araskog to approve the declaration of use agreement with the following conditions to be added: the parking lot lights will be off when the school is not open, the signage for the parking lot will say that the lot is reserved for PBDA staff and guests, and the Palm Beach Day Academy will send the school calendar and will notify all special events of the school to the school's abutting neighbors. Motion carried unanimously, 5-0.

2. ZON-22-132 (ARC-22-200) 165 BRADLEY PL

A. Modification to Declaration of Use Agreement & Unity of Title

B. Consideration of Site Traffic, Parking, and Pedestrian Flow Plan

Harvey Oyer, attorney for the applicant, reviewed the conditions outlined in the proposed declaration of use agreement.

Council Member Cooney spoke in support of including a more specific delineation for the staggered drop-off times. Mr. Oyer stated that his client agreed to break up the drop-off groups into three (3), 30-minute segments. Council Member Cooney spoke in support of adding a condition that there

shall not be a drop-off line.

Council President Zeidman asked how the school would enforce the condition that Park Avenue shall not be used by the students' parents. Mr. Oyer discussed how the school would notify their families and ensure that this was followed.

Council President Pro Tem Lindsay asked about how the hedges to protect the neighbors on Park Avenue would be maintained. Ms. Hofmeister-Drew stated the hedges were reflected in the landscape plan.

Michael Perry, MP Design & Architecture, indicated the hedge was proposed at 6 feet on the north side of the property. The Town Council provided consensus for a condition to be added to the declaration of use to install and maintain the hedge at 9 feet on the north side.

Council President Pro Tem Lindsay expressed concern over egress traffic on Park Avenue. She spoke regarding the percentages of students and the hours of when they would be picked up. She expressed concern over the traffic in the area later in the afternoon.

Mr. Oyer spoke regarding the school returning to Council in June to ensure that these conditions were working effectively. He agreed with the percentage of 40% of the students being picked up at 12:45 p.m.

Council Member Araskog spoke in support of adding language that all children must be dropped off in the parking lot. She also spoke in support of limiting special events to 12 per year. In response to a question by Council Member Araskog regarding teacher parking, Mr. Oyer outlined the parking details. Council Member Araskog requested that the parking condition be included in the agreement. Ms. Hoffmeister-Drew provided additional confirmation that there would be no queueing of cars dropping off or picking up students. Council Member Araskog inquired about injunctive or statutory relief in the event of consistent violations, to which Mr. Oyer responded.

Mayor Moore spoke regarding an email sent to Town Council with photographs that depicted that the parking lot was already full. Attorney Oyer discussed who was currently parking there and confirmed that this would not be an issue once the school is open.

Council Member Crampton reminded the Council that Attorney Oyer would be back in June to review the specifics of the school. Council Member Crampton asked if the school would be enforcing parking in the designated parking spots. Attorney Oyer discussed how the school planned to monitor the parking.

Town Attorney Randolph pointed out a typographical error in the agreement that indicated an infraction of \$200 and stated that it that should state \$2,000 per violation. Attorney Oyer agreed.

Council President Zeidman asked if there would be after school hours. Mr. Oyer stated that the school day would end at 3:30 p.m.

In response to a question by Council President Pro Tem Lindsay, Mr. Oyer outlined the parking for the employees of the school. Council President Pro Tem Lindsay asked for the inclusion of a non-assignability clause in the agreement. Discussion ensued regarding the requested language to be included for the non-assignability clause.

Council President Zeidman called for public comment.

Andrew Speranzini, attorney representing Parc Regent Condominium at 184 Bradley Place, reiterated his objections that were outlined at the November 15, 2022 Town Council meeting.

Pat McGowan, 251 Park Avenue, expressed his objections to the project.

Catherine Stewart, 253 Park Avenue, expressed her objections to the project.

Lisa McGowan, 251 Park Avenue, asked about the maximum occupancy of the school and asked legal questions about the agreement.

Michael Perry, MP Design & Architecture, spoke regarding the approved school occupancy.

Town Attorney Randolph provided clarification on the language for the non-assignability clause.

Patty Dean, Park Avenue, expressed her objections to the project and stated that she thought the preschool could be relocated to a better site in the Town.

Council President Zeidman clarified the criteria for the town-serving requirement. She spoke regarding the potential uses for the zoning of this property and addressed the process for consideration. She stated that Mr. Bergman provided documentation that showed that the building could allow 145 occupants per the Florida Building Code.

Council Member Araskog spoke in opposition to the application and expressed concern that a preschool was not appropriate for this location.

Mr. McGowan spoke in support of the roster of children being 75%, if not 100%, Town residents.

Mr. Oyer stated that he would be supportive of adding more landscaping to protect Mrs. Dean's property. Mr. Oyer also stated that he offered to meet with the residents on Park Avenue, but the residents declined the offer.

Discussion ensued on whether the town serving requirement could be revisited.

Council President Pro Tem spoke regarding the possibility of including a site wall to mitigate noise. Mr. Perry discussed the landscaping on the east side of the lot and stated that more landscaping could be added if desired by the Council. Mayor Moore spoke regarding the site plan already being approved.

Mr. Oyer outlined the changes to the declaration of use agreement that had been discussed.

Mrs. Dean spoke regarding the type of hedge that she would desire. Mr. Perry displayed the site plan to show a fence that would be closing off portions of the property to prevent pedestrians from cutting through the property.

Mark Miller, Park Avenue, expressed concern over pedestrians accessing his property. Mr. Perry discussed the proposed fence and possible hedges that could be planted between the properties.

Council President Pro Tem Lindsay asked Town Attorney Randolph to explain the requirement of a special exception. Mr. Randolph provided information on the requirements for special exceptions and variances.

Motion made by Council Member Crampton and seconded by Council Member Cooney to approve the declaration of use agreement with the following modifications to be approved by Staff: (2A) Drop-off occurs over a 90 minute period from 7:45 am to 9:15 am evenly divided into 3 segments of 30 minutes each, (3) Addition of a minimum of 40% of the students shall be picked up no later than 12:45 pm, (8/9) The proposed artificial turf on the playground is not approved and the asphalt shall be removed and replaced with grass, (11) No drop off line or queuing is permitted, (12) Faculty cannot park in the designated parent drop off/pick up spaces, a new hedge to be installed at and maintained at 9 feet on park avenue, a Clusia hedge will be planted along the east property line at 9 feet and maintained at 15 feet while leaving the existing areca palms, (13) A maximum of 8 school related events per year is permitted, (14) No assignment by the applicant, (15) A statement prohibiting the use of park avenue will be included in the parent handbook and a separate contract with this condition will be signed by parents, and the violation fee will be corrected to reflect

\$2000.00 per violation. Motion carried 4-1, with Council Member Araskog dissenting.

Please note: The Council took a short break at 4:28 p.m. and reconvened at 4:39 p.m.

B. Time Extensions and Waivers

1. Waiver of Town Code Section, 18-237, for Building Permit Extension at 247 Miraflores Drive

Director Bergman provided a brief background on the item.

Kelly Wright, Woolems Luxury Builders, spoke regarding delays with materials that the company had experienced, which led to the delays in construction.

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

1. **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 Commission deferred the project to their December 16, 2022, Architectural Commission meeting.] [This item shall be deferred to the January 11, 2023, Town Council meeting pending Architectural Review.]*

This item was deferred to the January 11, 2023 meeting at the approval of the agenda.

- (2) **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 January 25, 2023 meeting.] [This item shall be deferred to*

the January 11, 2023, Town Council meeting pending Architectural Review.]

This item was deferred to the January 11, 2023 meeting at the approval of the agenda.

- c. **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.] [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.] [This item has been withdrawn at the request of the applicant.]*

This item was withdrawn at the approval of the agenda.

- d. **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, 2023 meeting at the approval of the agenda.

- e. **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.] *[The Architectural Review Commission approved the project as presented. Carried 7- 0.] [Architectural Review Commission Recommendation: Implementation of proposed variance will not cause a negative architectural impact to the subject property. Carried 7-0.]*

Council Member Cooney declared ex parte communications.

Maura Ziska, Attorney for the owners, indicated that two of the variances had been eliminated. She outlined the zoning requests for the application.

Chris Libinski, Fairfax & Sammons Architects, presented the architectural plans for the new residence.

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

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

Council Member Cooney spoke in support of the project. He stated that he was pleased to see the professional work with the design to eliminate two of the variances. Council Member Cooney inquired about the loggia that was presented at the ARCOM meeting. Ms. Ziska stated that they would prefer to include the loggia but removed it to reduce the variance. Discussion ensued about whether the loggia could be added back onto the home. Mr. Bergman stated that staff could approve the change if the Council wanted to add the element back onto the home.

Ms. Ziska provided the hardship at the request of Council Member Araskog.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance ZON-22-139 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; that the lot coverage and CCR provide for the re-inclusion of the poolside loggia. Motion carried unanimously, 5-0.

Motion made by Council Member Cooney and seconded by Council Member Araskog that Site Plan Review and Special Exception ZON-22-139 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.

- f. **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, 2023 meeting at the approval of the agenda.

- g. **ZON-22-105 (ARC-22-148) 150 SEMINOLE AVE (COMBO)** 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 Architectural Commission review and approval for a demolition and redesign of the southern portion of the existing two-story residence, a redesign of all facades, the construction of an approximately

680 SF addition to the second story, and new pool, and new hardscape and landscape, requiring variances to maintain existing nonconforming setbacks with more than 50% demolition of a nonconforming structure as part of a renovation. Town Council will review the variance portion of the application. *[The applicant has withdrawn this application.]*

This item was withdrawn at the approval of the agenda.

2. **New Business**

- a. **ZON-22-122 (HSB-22-011) 141 AUSTRALIAN AVE (COMBO)—VARIANCES** The applicant, Gregory James Pamel, has filed an application requesting Town Council review and approval for Variances to (1) reduce the required side (east) yard setback, (2) to reduce the required rear (north) yard setback, (3) to exceed the overall building height for an accessory structure, and (4) to exceed the maximum Cubic Content Ratio (CCR), and (5) to allow a two story accessory structure where only one story is permitted, for the demolition and reconstruction of a two-story accessory structure in the rear yard in conjunction with the proposed renovations to an existing Historically Significant two-story building. The Landmarks Preservation Commission will perform design review of the application. *[This item shall be deferred to the January 11, 2023, Town Council meeting pending review by the Landmarks Preservation Commission.]*

This item was deferred to the January 11, 2023 meeting at the approval of the agenda.

- b. **ZON-22-136 (COA-22-050) 200 REGENTS PARK RD (COMBO)—VARIANCES** The applicant, 200 REGENTS PARK ROAD TIC-I, LLC And 200 REGENTS PARK ROAD TIC-II, LLC I, has filed an application requesting Town Council review and approval for variances (1) to exceed the maximum amount of fill allowed in required yards, (2) a variance to retain an existing nonconforming front yard setback at an elevated height, (3) a variance to retain an existing nonconforming side yard setback at an elevated height, and (4) a variance to retain an existing nonconforming angle of vision at an elevated height, in conjunction to the raising of an existing two-story Landmarked structure and site. Landmarks Preservation Commission will perform the design review. *[Landmarks Preservation Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impacts to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation Commission approved this project at their November 16, 2022, meeting. Carried 7-0.]*

Ex parte communications were declared by Council Member Cooney and Council Member Araskog.

Maura Ziska, Attorney for the owners, outlined the zoning requests for the application.

Michael Perry, MP Design & Architecture, presented the architectural modifications proposed for the existing, landmarked home.

Ms. Hofmeister-Drew provided staff comments on the project.

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

Council Member Cooney spoke in support of the application and thanked the homeowner for making the renovations.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance ZON-22-136 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.

Council Member Araskog asked about the hardship for the variance application. Ms. Ziska responded and provided the hardship.

c. **ZON-22-145 (ARC-22-211) 375 S OCEAN BLVD—MID TOWN SEAWALL (COMBO). SITE PLAN REVIEW AND VARIANCE**

The applicant, the Town of Palm Beach (Public Works Department), has filed an application requesting Town Council review and approval for Site Plan Review for construction of a new 2,715 linear feet Mid-Town seawall along South Ocean Boulevard from south of Gulfstream Road to north of Royal Palm Way and for a variance (1) to construct a new seawall 2,715 linear feet directly adjacent but varying 42” to 78” eastward of the existing beach wall and east of the Town of Palm Beach’s Bulkhead Line. The Architectural Commission will perform design review of the application. *[The Architectural Review Commission Recommended: 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 with the following conditions: the slope of the wall will be restudied to mitigate drainage and the terrace egress will be restudied, with both elements returning to the Commission. Carried 7-0.]

Ex parte communications were declared by Council President Lindsay, Council President Pro Tem Lindsay, Mayor Moore, Council Members Araskog, Cooney and Crampton.

Paul Brazil, Director of Public Works, provided an overview of the application. He indicated two items that would be returning to ARCOM for their consideration at a future date.

M. Mark Marsh, Bridges, Marsh & Associates, provided additional details on the application.

Guillermo Vasquez, Bridges, Marsh & Associates, presented the architectural modifications proposed for the existing seawall and the clock tower and explained new seawall sections to be built.

Ms. Hofmeister-Drew provided staff comments on the project. Mr. Bergman added that staff received Florida Department of Environmental Protection (FDEP) approval for the project.

Council Member Cooney inquired if there could be objects added to the downslope of the wall to deter loitering. Mr. Marsh stated that he could increase the pitch of the slope to prevent loitering. Council Member Cooney asked Mr. Brazil if a camera could be added to the new terrace on the backside of the clock tower. Mr. Brazil provided confirmation. Mr. Marsh spoke regarding the flow of the terrace.

Council Member Crampton inquired about the budget for the new seawall and if it could help project the new seawall for the lake side. Mr. Brazil stated that the proposed wall was meant to deal with wave action, whereas the west side would need to address sea level rise.

Mayor Moore spoke in support of the proposed project and the addition of a camera on the terrace, per Council Member Cooney's recommendation.

Council Member Araskog inquired if the vista would still be viewable from a car. Mr. Vasquez responded and discussed the change in height and provided reasons for the increase in height.

Mr. Brazil discussed how the new seawall would provide protection for resiliency.

Council President Pro Tem Lindsay spoke in support of the proposed project. She wondered if some of the plain gates could be changed to prevent people from jumping over the gates to access the beach at night.

Council President Zeidman spoke in support of the proposed project.

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

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance ZON-22-145 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.

Council Member Araskog asked about the hardship for the variance application. Mr. Brazil provided the hardship.

Motion carried unanimously, 5-0.

Motion made by Council Member Cooney and seconded by Council Member Araskog that Site Plan Review ZON-22-145 be approved based upon the 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.

- d. **ZON-22-147 (ARC-22-225) 201 EL VEDADO RD (COMBO) - VARIANCES** The applicants, Perri and Robert Bishop, have filed an application requesting Town Council review and approval for a variance to provide vehicle queuing space deficient in depth between the driveway gate and edge of roadway. The Architectural Commission will perform design review of the application. *[The Architectural Review Commission Recommended: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 6-1.] [The Architectural Review Commission deferred the project to the December 16, 2022, meeting for a restudy of the gate. Carried 7-0.]*

No one declared ex parte communications.

Dustin Mizell, Environment Design Group, presented the plans for the proposed gate.

Ms. Hofmeister-Drew provided staff comments on the project.

Mayor Moore recommended that the application be deferred until ARCOM approved the gate. She spoke in opposition to the aesthetics of the gate.

Mr. Mizell discussed ARCOM's desire for the gate. He indicated that the Commission supported the gate but not the design of the gate. He felt confident that he could work with ARCOM to get an approved design.

Council Member Araskog expressed concern over the proposed gate due to its location on the street.

Council President Pro Tem Lindsay spoke in support of the application as long as ARCOM worked with the professional to create a new design for the gate.

Mayor Moore inquired if the gate could be open during the day and only closed at night.

Council Member Araskog recommended that the application be deferred for further study. Discussion ensued regarding approving a gate in this location.

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

Motion made by Council Member Araskog and seconded by Council Member Cooney that Variance ZON-22-147 shall be denied due to the reason that the application does not meet criteria numbers 1, 2, 5 and 7 as set forth in Section 134-201 (A). Motion carried 3-2, with Council President Pro Tem Lindsay and Council President Zeidman dissenting.

- e. **ZON-22-151 (ARC-22-234) 760 N OCEAN BLVD—PALM BEACH COUNTRY CLUB (COMBO)—SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE** The applicant, Palm Beach Country Club, Inc. (Robert Schlager, President), has filed an application requesting Town Council review and approval for Special Exception with Site Plan Review for modifications to a previously approved Special Exception use (private golf club) in the R-A zoning district including Variance to exceed the maximum projection permitted for a new skylight. The Architectural Commission will perform design review of the application. *[The Architectural Review Commission Recommended: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 7-0.] [The Architectural Commission approved the replacement of the windows and doors with the applicant returning for a restudy of the south terrace, railings, elevator and skylight to the December 16, 2022, meeting. Motion carried 6-1.] [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, 2023 meeting at the approval of the agenda.

- f. **ZON-22-157 (ARC-22-202) 256 RIDGEVIEW DR (COMBO) – VARIANCES** The applicant, Rotman Property Partnership (Francis X. J. Lynch), has filed an application requesting Town Council review and approval for variances to (1) exceed the maximum allowable amount of fill in required yards, (2) to exceed the maximum allowable height of a generator in a required yard setback, and (3) to exceed the allowable wall height in a required yard setback, for the construction of a new one-story single-family residence with related landscape and hardscape improvements. The Architectural Commission will perform the design review of the application.

Council Member Cooney declared ex parte communications.

Frank Lynch, Attorney for the owners, outlined the zoning requests for the application.

Mr. Murphy provided staff comments on the project.

Council Member Araskog inquired if the generator could be relocated to a different area. Mr. Murphy responded.

Council Member Cooney expressed appreciation to staff for catching these issues prior to approval.

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

Motion made by Council President Pro Tem Lindsay and seconded by Council Member Cooney that Variance ZON-22-145 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.

XI. ANY OTHER MATTERS

None.

XII. ADJOURNMENT

The meeting adjourned at 6:00 p.m. on December 14, 2022 without the benefit of a roll call.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Kelly Churney, Deputy Town Clerk
Date: _____