



TOWN OF PALM BEACH

Minutes of the Development Review
Town Council Meeting
Held on January 11, 2023

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order January 11, 2023, at 9:31 a.m. On roll call, all elected officials were found to be present, except for Mayor Moore, who because of a previously town related function arrived at 9:52 a.m.

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 was not present when this item was called.

IV. COMMENTS OF TOWN COUNCIL MEMBERS

Council Member Araskog reminded contractors to review the Town's construction rules because she has witnessed many violations on construction sites in Town.

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

No one indicated a desire to speak.

VI. APPROVAL OF AGENDA

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

Addition of VIII.B. Demolitions and Related Screening of Construction Projects

Deferral of Appeal of ARCOM Decision of ARC-22-241, 624 Island Drive to the February 15, 2023 meeting

Addition of X.B.3. Time Extension for 266 Colonial Lane

Deferral of ZON-22-021, 160 Seaview Avenue to the February 15, 2023 meeting

Deferral of ZON-22-088, 240 Oleander Avenue to the February 15, 2023 meeting

Deferral of ZON-22-122, 141 Australian Avenue to the February 15, 2023 meeting

Deferral of ZON-22-140, 248 Colonial Lane to the February 15, 2023 meeting

Deferral of ZON-22-147, 201 El Vedado Road to the February 15, 2023 meeting

Withdrawal of ZON-22-111, 239 S. County Road, Ste. 2A and 1D

Deferral of ZON-22-129, 441 Australian Avenue to the February 15, 2023 meeting

Deferral of ZON-23-002, 624 Island Drive to the February 15, 2023 meeting

Item ZON-23-003, 1030 S. Ocean Blvd. removed from the agenda

Deferral of ZON-23-012, 246 Everglade Avenue to the February 15, 2023 meeting

Deferral of ZON-23-013, 7 La Costa Way to the February 15, 2023 meeting

Deferral of ZON-23-014, 302 Seabreeze Avenue to the February 15, 2023 meeting

Deferral of ZON-23-025, 210 Via del Mar to the February 15, 2023 meeting

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

Council Member Cooney noted the number of residents in the audience to discuss the project at 139 N. County Road. After a short discussion, there was a consensus of the Town Council to place a time certain on ZON-23-006 139 N. County Road for 12:00 p.m.

Council President Zeidman spoke regarding an article in the Palm Beach Daily News about the Code Review kickoff on Tuesday, January 17, 2023.

Please note: At this time, the Town Council moved to hear Item XI.A., Resolution No. 005-2023.

VII. CODE REVIEW

A. TIME CERTAIN 10:00 A.M.

Code Review Update Including a Discussion Regarding Limiting the Number of Restaurants Based on Location and Area

Sean Suder, Zone Co.

Mr. Suder provided an update on the upcoming kickoff meetings. He spoke regarding the ability to address restaurant capacity in zoning. He provided an explanation of carrying capacities and externalities and addressed how it applies to restaurants in Town. He spoke regarding the issues that this review is attempting to solve and explained how zoning can address the issues.

Council President Zeidman expressed appreciation to Council Member Araskog for placing the discussion of restaurants on the agenda. She stated that it was a balance to provide services for residents while not becoming a regional destination.

Council Member Araskog stated that she believes that it is important to know the total number of restaurant seats in the Town. She acknowledged that the parking study would also be important prior to making any decision relating to restaurants.

Council President Pro Tem Lindsay spoke regarding the importance of the issue. She discussed how the service industry parking infringes on the residential areas. She spoke regarding the town serving requirement for local businesses and stressed the importance of keeping this requirement. She spoke in support of ensuring that the study includes a review of traffic impacts on residential neighborhoods.

Council Member Cooney spoke regarding the existence of “grandfathered” spaces for restaurants and stated that it was more difficult to change a non-restaurant space into a restaurant space. He requested that staff explain the Code provisions that were already in effect. James Murphy, Assistant Director of Planning, Zoning and Building, discussed the recent change in the code that required all eating and drinking establishments to get an approval from the Town Council for a special exception. He also discussed the code provisions that were required of a business changing use to a restaurant.

Council President Zeidman provided background on the change to the code that requires a special exception for new restaurants. She spoke in support of having a discussion of the “grandfathering” issue and the use of special exceptions.

Mayor Moore provided corrections to the list of restaurants, dining rooms, clubs, and bars that staff provided to the Town Council. Mayor Moore stated that it would be helpful if staff delineated the restaurants that were within hotels.

Council Member Cooney stated that it would also be helpful to understand how many seats each restaurant had, as well as the number of parking spaces.

Council Member Crampton stressed the importance of the strategic planning process that is currently being undertaken and spoke regarding how that process relates to creating solutions for these issues.

Council Member Araskog spoke regarding the importance of the traffic and parking study. She expressed concern that there have been several new restaurants using the same parking spaces as their required spaces in their applications. She discussed other potential changes to address these issues.

Council President Pro Tem Lindsay recommended that the Town Council deny any parking variances for restaurants on a change of use. Town Attorney Randolph expressed concern over indicating that an applicant is not entitled to apply for a parking variance and spoke regarding considering distance requirements.

Council President Zeidman spoke in support of researching the legality of not allowing parking variances for restaurants on a change of use. She stated that the Town is at a tipping point and expressed concern over additional traffic and parking issues if new businesses are opened in Town. Ms. Zeidman requested a review of the issue of special exceptions and how to move forward.

VIII. DISCUSSION ITEMS

A. TIME CERTAIN: 10:45 AM

Native Landscape Discussion

Council Member Araskog provided background information on the ORS Report and specifically provided background on the discussions regarding native landscape.

Council Member Cooney reviewed the discussions on native landscape at the recent ORS meeting. He discussed the reason he voted no on a resolution that changed the native requirement to a higher percentage.

Council Member Araskog discussed the issues that staff initially had prior to the 35% native requirement.

Council President Pro Tem Lindsay discussed the history of the changes to the requirement of native landscaping and how the requirement evolved to the 35% threshold. She explained that the goal was to contribute to a healthy ecosystem. She provided background history on the Town's green initiative and spoke regarding several local organizations that continue to provide education on the issue.

Council President Zeidman spoke regarding the importance of education on native landscaping, as well as the importance of setting standards to protect the health and welfare of the residents and wildlife.

Council Member Crampton stated that he is neutral on the issue and was interested in hearing the comments from the public. He spoke in support of the program consisting of incentives, recognition, and education rather than being regulatory. He spoke

regarding looking at neighboring communities, while still understanding the unique nature of the Town. He requested clarification on the 35% requirement, to which Ms. Araskog responded.

Council President Pro Tem Lindsay provided clarification on the Garden Club's position on this issue.

Mayor Moore expressed concern over attempting to micromanage beautifully designed gardens and spoke regarding the issue of enforcement and over-regulation.

Council President Zeidman clarified the items being considered.

Council President Zeidman called for public comment.

John David Corey, 426 Australian Avenue, spoke in support of the current native landscape ordinance and the 35% minimum requirement. He stated that the landscaping plans have become more interesting at the Architectural Review Commission meetings since the new requirement has been in place. He spoke in support of staff's recommendation to streamline the list and suggested requiring a shade tree minimum for each project.

Allison Gulbrandsen, 217 Emerald Lane, inquired about how residents are notified about new ordinances. She spoke regarding the recent removal and replacement of a Ficus hedge at her home and discussed violations she received from the Town.

Kit Pannell, 4 S. Lake Trail, spoke in support of using native landscaping. She spoke regarding the importance of education and encouragement in achieving the goal. Rather than requiring 35%, she recommended changing it to 25%. She spoke in support of using the University of Florida's Native Plant Database or Florida Native Plant Society database with IRC's native list.

Amanda Skier, The Preservation Foundation, provided the organization's recommendations in moving forward with achieving the goals for native landscaping. These recommendations included expanding the Institute of Regional Conservation's 33480 list to the organization's state-wide list, eliminating the palm category and absorbing palms into the tree or shrub category, separating the vine category from groundcovers, and moving it to shrub category, changing the calculation for groundcovers from plant count to area, clarifying when the ordinance is triggered by defining "redevelopment" as 50% or more of greenspace area. She spoke in support of the Preservation Foundation working with Town staff on holding a workshop to educate the community on native landscaping.

George Gann, The Institute for Regional Conservation (IRC), spoke in support of expanding the 33480 list, although he stated that the current list is still effective. He stated that he believes that the categories should not be collapsed. He spoke regarding the large number of species of native landscaping that is available and stated that local ordinances will expand the supply that is available to residents. He spoke regarding the work that his organization does to educate the public on using local native species and

to obtain support from residents on the regulations.

Jorge Sanchez, 239 Southland Road and owner of SMI Landscape Architecture, expressed concern over the Town over-regulating landscaping.

Mario Nievera, 2257 S. Ocean Blvd. and Nievera Williams Design, expressed concern that the list of Institute of Regional Conservation did not include some of the regularly used plants. He supported the 25% requirement rather than 35%.

Miguel Rosales, 426 Australian Avenue, supported the 35% requirement as a minimum. He discussed the changes to his own garden and the positive outcomes from using native materials.

Seline Bastille, Fernando Wong Outdoor Living Design, discussed the hardship of working with the 35% native requirement. She stated that owners were frustrated at the requirement as it hindered their visions for their gardens.

Ginny Parker, 215 Jamaica Lane, supported keeping the native requirement at 25% at this time.

Dustin Mizell, Environment Design Group, stated that landscape architects were charged with being stewards of the land. He spoke regarding landscape architects using other methods to assist with sustainability efforts rather than just using native landscaping. He requested that the Town return to zero requirements. He stated that he felt that many architects and owners would do the right thing for the environment.

Ms. Skier clarified the IRC list, specific to 33480. She asked that the IRC list could be expanded to the entire State of Florida. She also stated she was not opposed to using the Florida Native Plant Society's list. She suggested allowing the expansion of the list to be put into place before the Council changes the percentage of native requirements.

Susan Lerner, Preservation Foundation of Palm Beach, addressed statements made by Jorge Sanchez in the newspaper regarding Pan's Garden, which she stated were erroneous.

Claudia Visconti, SMI Landscape Architecture, discussed some of the plant materials that they provided to Mr. Gann and The Preservation Foundation's list that her firm believed should be included on the list of allowed plants.

Council Member Araskog asked Mr. Gann to define cultivars, to which Mr. Gann responded. He spoke regarding the combined list that he recommends and explained cultivars.

Council President Pro Tem Lindsay requested clarification of the list that Mr. Gann recommends, to which he responded. Ms. Lindsay spoke regarding the possibility of having two separate lists from which residents could select. She spoke regarding the usefulness of the IRC list due to the ability to search by zip code.

Mayor Moore stated that she did not have the expertise needed to make the decision. She addressed a speaker's comment regarding the Town Council delegating the list to be used to an outside entity.

Council Member Cooney expressed appreciation of the community's advancement to a greener community and the reduction of pesticides. He stated there should be a balance of education and respecting residents' property rights. He spoke regarding there not being a "one-size-fits-all" approach in this issue. He spoke in support of returning to 25% and spoke in support of including the expanded IRC list and the Florida Native Plant Society list. He spoke in support of eliminating the palm category and absorbing them into the shrubs and trees category and separating the vine category from groundcover and moving it under the shrub category to allow for greater flexibility. He spoke in support of clarifying the trigger for compliance and using 50% as is done for other zoning regulations in Town. He was in favor of including credits for native landscaping on redevelopment projects.

Council Member Crampton admitted he was not an expert on the subject. He spoke in support of native plants but expressed concern over the regulatory side of the requirement. He spoke in support of the Preservation Foundation's recommendations. He spoke in support of the 25% standard if the consideration is category by category or 35% if the consideration is the overall garden.

Council President Pro Tem Lindsay spoke in support of the using the more expansive list and spoke in support of the Preservation Foundation's recommendations. She pointed out that if the Town remained at 35%, it would be the second lowest in the State. She spoke in opposition to reverting the requirement back to 25%. She discussed the requirement for replacing a hedge.

Mayor Moore questioned if the requirement could be enforced. Jennifer Hofmeister-Drew, Planner III, discussed how staff enforces the requirement.

Council Member Araskog inquired if staff would find it acceptable to use two lists, to which Mr. Bergman responded. Council Member Araskog spoke in support of the recommendations for the lists and changing the categories and for the requirement to remain 35%.

Motion made by Council Member Araskog and seconded by Council President Pro Tem Lindsay to approve the project with the following conditions: (1) to accept the five recommendations from the Preservation Foundation, which includes expanding the Institute of Regional Conservation's 33480 list to the organization's state-wide list, eliminating the palm category and absorbing palms into the tree or shrub category, separating the vine category from groundcovers and moving it to shrub category, changing the calculation for groundcovers from plant count to area, clarifying when the ordinance is triggered by defining "redevelopment" as 50% or more of greenspace area, (2) to utilize both the Institute for Regional Conservation's list as well as the Florida Native Plant Society list for a permissible catalog of native plant species; (3) there will be three categories of native planting materials; (4) a 35% native landscaping material will be required; (5) this item will return to the town council in four (4) months for reevaluation. Motion failed 2-3, with Council

President Zeidman, and Council Members Cooney and Crampton dissenting.

Council President Zeidman spoke regarding the change in the requirement being de minimis. She spoke in support of reducing the requirement to 30% to move the motion forward.

Motion revised by Council Member Araskog and seconded by Council President Pro Tem Lindsay to approve the project with the following conditions: (1) to accept the five recommendations from the Preservation Foundation, which includes expanding the Institute of Regional Conservation's 33480 list to the organization's state-wide list, eliminating the palm category and absorbing palms into the tree or shrub category, separating the vine category from groundcovers and moving it to shrub category, changing the calculation for groundcovers from plant count to area, clarifying when the ordinance is triggered by defining "redevelopment" as 50% or more of greenspace area, (2) to utilize both the Institute for Regional Conservation's list as well as the Florida Native Plant Society list for a permissible catalog of native plant species; (3) there will be three categories of native planting materials; (4) a 30% native landscaping material will be required; (5) this item will return to the town council in four (4) months for reevaluation. Motion carried 4-1, with Council Member Cooney dissenting.

Please note: A short break was taken at 1:08 p.m. The meeting resumed at 1:15 p.m.

Council President Zeidman reminded the Town Council that the ORS Report needed to be accepted.

Motion made by Council President Pro Tem Lindsay and seconded by Council Member Cooney to accept the Ordinance, Rules and Standard Report as presented. Motion carried unanimously, 5-0.

Council Member Cooney pointed out one scrivener's error in the report and asked Deputy Town Clerk Churney to revise for the final version.

Please note: The following item was heard at 3:34 p.m.

B. Demolitions and the Related Screening of Construction Projects

Council Member Araskog provided background information on the issue.

Council President Zeidman read the five items raised for this issue.

Director Bergman spoke in support of holding pre-demolition meetings in order to ensure that contractors are aware of the Town's regulations. He provided background information on the process that is currently in place.

The Town Council provided consensus for staff to move forward with holding pre-demolition meetings.

Mr. Hauschild discussed the difference between the two dumpsters. Director Bergman spoke regarding the issue of projects having adequate screening for demolitions.

Discussion ensued regarding the screening that should be required for demolitions.

Director Bergman stated that he and Mr. Hauschild would put together their recommendations for the listed items and return to Town Council.

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

IX. RESOLUTIONS

- A. Resolution No. 005-2023: A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions For the Property Hereinafter Described And Stating That The Subject Property Meets The Criteria Set Forth In Chapter 54, Article V Of The Code Of Ordinances Of The Town Of Palm Beach, Relating To Landmarks Preservation And Titled "Tax Exemptions."

Emily Stillings, MurphyStillings, provided background information on the tax exemption for the property at 264-270 S. County Road, the Carriage House.

Council Member Araskog clarified that this request for the revision of the tax abatement was from Palm Beach County.

Motion made by Council Member Crampton and seconded by Council Member Cooney to approve Resolution No. 005-2023. Motion carried unanimously, 5-0.

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

- B. Resolution No. 006-2023: 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 205 Jamaica Lane 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 Designation 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. [The owner objected to the Landmark Designation at the December 21, 2022, Landmarks Preservation Commission meeting.]

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

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

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. She indicated that if landmarked, it would be the first John Stetson home to be landmarked. Ms. Stillings expressed appreciation to the owner for conversing with her on the 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.

Aimee Sunny, Preservation Foundation of Palm Beach, indicated that she believed this home met the criteria for designation. She thanked the owner for working with them to learn about the Landmarks program in the Town. She requested that the Town Council support the designation.

Tom Parker, 215 Jamaica Lane, spoke regarding his objections to the landmark designation on this home.

Council Member Cooney acknowledged that it is difficult to designate a home against a homeowner's wishes and stated that sometimes it is necessary to preserve significant structures. He stated that he did not support the designation for this home.

Council Member Crampton spoke in opposition to a landmark designation for this home.

Council President Pro Tem Lindsay also stated she would not support the designation. She stated that she did not believe the home was an example of historic Palm Beach.

Council President Zeidman stated she would not landmark a home that she believed did not rise to a high level of landmark status and spoke in opposition to a landmark designation for this home.

Council Member Araskog stated that she was torn on this item, especially since the architect was not represented in the Town as a landmarked home. She spoke in opposition to a landmark designation for this home.

Mayor Moore spoke regarding John Stetson homes and expressed concern that the architect was not represented in the Landmarks Program. She spoke in support of not landmarking this particular home.

Motion made by Council Member Cooney and seconded by Council Member Crampton to deny the landmark ratification of 205 Jamaica Lane. Motion carried unanimously, 5-0.

X. DEVELOPMENT REVIEW

B. Appeals

1. Appeal of ARCOM Decision RE: ARC-22-241, 624 Island Drive

This item was deferred to the February 15, 2023, meeting at the approval of the agenda.

C. Time Extensions and Waivers

1. Time Extension for 150 Worth Avenue

Mr. Bergman provided background information on the time extension request.

Yvonne Jones, General Manager of The Esplanade, discussed the repairs that would be completed prior to May 1, 2023, and explained the roof deck replacement that would begin in May.

Council President Pro Tem Lindsay inquired if a structural engineer had assessed the integrity of the entire building, to which Ms. Jones responded and discussed the changes that would be forthcoming due to the engineer's assessment. She indicated that the building was sound.

Council Member Araskog spoke in support of the time extension due to the importance of this work being completed in order to address safety concerns.

In response to questions from Council Member Crampton, Ms. Jones spoke regarding potential impacts to pedestrians and occupants of the building and provided a timeline of the work to be done. Council Member Crampton asked if staff supported the application, to which Mr. Bergman provided confirmation.

Council President Zeidman inquired about the surrounding neighbors that would be affected. Ms. Jones responded and indicated that she reached out to the neighboring properties. She stated that she would provide a detailed schedule of the upcoming repairs with the neighbors and staff.

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

Motion made by Council Member Araskog and seconded by Council Member Cooney to approve the time extension request for 150 Worth Avenue with the caveat that if there are any reported verifiable issues, the Director of Planning, Zoning and Building could handle the issue. Motion carried unanimously, 5-0.

2. Time Extension for 225 Worth Avenue (Gucci)

Mr. Bergman provided background information on the time extension request. He stated that the request is for minor interior work to be completed February 1-15, 2023.

Butch Felt, 225 Worth Avenue, provided additional information on the time extension request.

Mayor Moore spoke in support of contractors requesting more time than they may expect to eliminate the need to continue returning to Town Council for time extensions.

Council Member Araskog inquired about the outdoor work and the timeline for the work, to which Mr. Felt responded.

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

Council Member Cooney asked if pedestrians would still be able to walk around the construction. Mr. Felt confirmed pedestrians would still be able to traverse the sidewalk.

Motion made by Council Member Araskog and seconded by Council Member Crampton to approve the time extension for 225 Worth Avenue with the caveat that if there are any reported verifiable issues, the Director of Planning, Zoning and Building could handle the issue. Motion carried unanimously, 5-0.

3. Time Extension for 266 Colonial Lane

Mr. Bergman provided background information on the time extension request and stated that the request is to extend the time to the end of July 2023.

Jeff Burkhardt, Burkhardt Construction, provided additional information on the request.

Motion made by Mr. Cooney and seconded by Council President Pro Tem Lindsay to approve the time extension for 266 Colonial Lane as requested. Motion carried unanimously, 5-0.

D. 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 February 15, 2023, Town Council meeting pending Architectural Review.]

This item was deferred to the February 15, 2023, meeting at the approval of the agenda.

- b. **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 February 15, 2023, Town Council meeting pending Architectural Review.]

This item was deferred to the February 15, 2023, meeting at the approval of the agenda.

- c. **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 February 15, 2023, Town Council meeting pending review by the Landmarks Preservation Commission.]

This item was deferred to the February 15, 2023, meeting at the approval of the agenda.

- d. **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 February 15, 2023, Town Council meeting pending review by the Architectural Review Commission.]

This item was deferred to the February 15, 2023, meeting at the approval of the agenda.

- e. **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.] [This project shall be deferred to the February 15, 2023, Town Council meeting pending Architectural Review.]

This item was deferred to the February 15, 2023, meeting at the approval of the agenda.

- f. **ZON-22-151 (ARC-22-234) 760 N OCEAN BLVD—PALM BEACH COUNTRY CLUB (COMBO) - SPECIAL EXCEPTION WITH SITEPLAN 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 Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 7-0.] [The Architectural Review Commission approved the 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.] [The Architectural Review Commission approved this project at the December 16, 2022, meeting. Motion Carried 4-2.]

No ex parte communication was declared at this time.

Maura Ziska, attorney for the applicant, explained the zoning requests to the Town Council.

Tom Youchak, Architect, presented the architectural modifications proposed for the existing commercial building.

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

Council Member Araskog inquired about the size of the space to be added, to which Ms. Hofmeister-Drew responded. Council Member Araskog asked about the distance between the balconies and the nearest residences and inquired about the hardship, to which Ms. Ziska responded.

Council Member Cooney inquired if the organization would be amenable to changing their exterior lights to a softer light, to which Mr. Youchak responded. Council Member Cooney spoke in support of the application.

Motion made by Council Member Cooney and seconded by Council Member Araskog

that Variance ZON-22-151 shall be granted and find, in support thereof, that all the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met. Motion carried unanimously, 5-0.

Motion made by Council Member Crampton and seconded by Council Member Cooney to approve Special Exception and Site Plan ZON 22-151, 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.

- g. **ZON-22-111 239 S COUNTY RD STE 2A AND 1D—SPECIAL EXCEPTION REQUEST WITH SITE PLAN REVIEW.** The applicant, Palm Beach Club Services LLC (Franck Savoy, COO), has filed an application requesting Town Council review and approval for Special Exception Request with Site Plan Review to allow a professional office (4,875 SF) in excess of 3,000 SF in the C-TS district in an existing two-story office building. [This project was deferred to the January 11, 2023, Town Council meeting.] [This project has been withdrawn by the applicant.]

This item was withdrawn at the approval of the agenda.

2. New Business

- a. **ZON-22-123 (COA-22-042) 218 PHIPPS PLZ (COMBO)— VARIANCES** 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 of variances for (1) the flood resistant construction requirements from Chapter 50-114 of the Florida Building Code, (2-4) reduced building setback requirements in the south and west yards, (5) reduced garage parking requirements, and (6) reduced mechanical equipment (pool heater) setback requirements in the north yard in conjunction with the renovation of and addition to an existing detached rear accessory structure, the construction of a new pergola, and side wide landscape and hardscape improvements for a Landmarked property. The Landmarks Preservation Commission will perform the design review component of the application. [The Landmarks Preservation Commission Recommendation: Implementation of the proposed variances (2-6) will not cause negative architectural impacts to the subject landmarked property. Carried 7-0. A second motion approved variance 1, based on Chapter 50, Sections 116 and 117 with a condition relating to a utility easement. Carried 7-0.] [The Landmarks Preservation Commission approved this project as presented at the December 21, 2022, meeting. Carried 7-0.]

Ex parte communications were disclosed by Mayor Moore and Council Member Cooney.

Maura Ziska, attorney for the applicant, explained the zoning requests. Patrick

O'Connell, Patrick Ryan O'Connell Architects, presented the site plan and explained the variances.

Council Member Cooney spoke regarding the history of the structure and expressed appreciation that the structure was being retained.

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

Motion made by Council President Pro Tem Lindsay and seconded by Council Member Crampton that Variance ZON-22-123 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Chapter 50, Sections 116 and 117 have been met; and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the Town that ensures a recorded easement will be granted, if necessary, to underground utilities in the area. Motion carried 4-1, with Mr. Cooney dissenting.

- b. **ZON-22-129 (ARC-22-187) 441 AUSTRALIAN AVE (COMBO) — VARIANCES** The applicant, John and Ginny Collett, has filed an application requesting town council review and approval for development of a new two-story single-family structure, requiring variances for (1) developing a lot deficient in area in the RC zoning district, (2) developing a lot deficient in width in the RC zoning district, and (3) to reduce the required front yard landscaped open space, in conjunction with the construction of a new two-story residence. The Architectural Commission will perform design review of the application. [This project shall be deferred to the February 15, 2023, Town Council meeting pending Architectural Review.]

This item was deferred to the February 15, 2023, meeting at the approval of the agenda.

- c. **ZON-23-002 (ARC-22-241) 624 ISLAND DR (COMBO)—VARIANCES** The applicant, Holly Ann Bartlett, as Trustee of the 1220 South Ocean Boulevard Trust dated May 23, 2013, has filed an application requesting Town Council review and approval Variances (1) to exceed the maximum amount of lot coverage and to exceed the maximum amount of Cubic Content Ratio (CCR) in the R-B zoning district in conjunction with the enclosure of an existing open-air courtyard of a two-story residence with a new skylight. The Architectural Commission will perform design review of the application. [This project was denied at the December 16, 2022, Architectural Review Commission.]

This item was deferred to the February 15, 2023, meeting at the approval of the agenda.

- d. **ZON-23-003 (ARC-22-242) 1030 S OCEAN BLVD (COMBO) — VARIANCES** The applicant, Martin L. Edelman as Trustee of the 1030 South Ocean Trust dated March 24, 2022, has filed an application requesting Town Council review and approval for a Variance to reduce the required vehicular

queue backup of 18'-0" on a street closer than allowed for the installation of two new vehicular driveway gates. The Architectural Commission will perform design review of the application. [This project was denied at the December 16, 2022, Architectural Review Commission and will not move forward.]

This item was withdrawn from the agenda at the approval of the agenda.

- e. **ZON-23-006 139 N COUNTY RD - OUTDOOR PROMOTIONAL EVENTS - THE PARAMOUNT THEATRE - SPECIAL EXCEPTION WITH SITE PLAN REVIEW** The applicant, WEG Paramount LLC (Lester Woerner), has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for Outdoor Promotional Events in the open-air courtyard of the Paramount Theatre, an existing three-story commercial building.
TIME CERTAIN: NOON

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

Jamie Crowley, attorney for the applicant, presented background information on the special exception application and spoke regarding a text amendment that he had previously proposed that produces safeguards for outdoor events. He explained negotiations with the attorney representing the Sun and Surf Condominiums on this application. He spoke regarding terms that have been agreed upon that would be compiled in a declaration of use agreement to be approved by Town Council at a future meeting.

Ellyn Bogdanoff, attorney representing Sun and Surf, stated that she agreed with all of Mr. Crowley's statements with the addition of one condition, which was that three decibel readings should be taken at each of their events.

Mr. Murphy provided staff comments on the application.

Mr. Crowley clarified the three types of events that would be held in the space.

Council Member Araskog inquired if traffic and/or parking study had been done, to which Mr. Murphy responded. Council Member Araskog inquired if his client would be willing to obtain a traffic study. Mr. Crowley stated he believed they had enough parking for their events. Discussion ensued on whether a study would be needed for this special exception application.

Council President Pro Tem Lindsay expressed concern that she has not been made aware of the future uses of the space. Mr. Crowley responded to her concerns. Council President Pro Tem Lindsay expressed further concern over the property having adequate parking for future additional parking requests. Mr. Crowley responded that increases would only be approved if there were no complaints from neighbors. Ms. Lindsay expressed concern over intensification

in this area.

Council Member Cooney inquired if the events would only be held on the first floor, to which Mr. Crowley provided confirmation.

Mayor Moore asked Mr. Crowley to provide notice to additional neighbors, including St. Edwards Church, as parking at the church would not be permissible. Mayor Moore stated that she believes that parking will be a problem. Mr. Crowley agreed to provide more notice.

Council President Zeidman inquired about the existing offices in the building. Mr. Crowley responded and discussed the amount of parking allowable based on the principle of equivalency. Council President Zeidman inquired about the noise decibel levels allowed for that location. Mr. Crowley responded.

Ms. Araskog requested clarification regarding the special events, as well as documentation certifying to the business being town serving. Mr. Crowley and Mr. Murphy responded.

Council President Zeidman called for public comment.

Elaine Hirsch, Sun and Surf, requested that the decibel levels be measured from her terrace. She expressed concern over increased traffic due to the already existing traffic problems in that area.

Daniel Hurley, Sun and Surf, expressed appreciation that a new owner had bought the property. He expressed concern over the hours of operation and the decibel levels.

Rita Krauss, Sun and Surf, spoke in support of the property being turned into condominiums.

Burt Manning, Sun and Surf, inquired about the impact on the quality of life of the neighbors and spoke in opposition of any project that would degrade the quality of life of the residents.

Jennifer Goffman, Sun and Surf, inquired about where the concerts will be held.

Jerry Zaro, President of the Sun and Surf 100 Building's Board, spoke regarding the negotiated terms and the process for the board's consideration of the agreement.

Burl Simonsen, President of the Sun and Surf 130 Building's Board, stated that he believes that they had negotiated good terms with the attorney but would have to take the negotiations to his board for approval.

Council Member Crampton congratulated Mr. Crowley and the board presidents for working together on a compromise.

Mr. Crowley delineated the terms that were agreed upon and stated that these items would be documented in a declaration of use agreement at a future Council meeting. Following were the terms that were agreed upon: (1) Reduce number of events to four per month; (2) Invite the board and/or residents to one of three sound tests in the courtyard; (3) Monitor decibel readings three times during events; (4) There will be no amplified music or DJ's; (5) Reduce number of attendees to 75, and if there were no complaints after 2 events, it would be increased in increments of 25 up to a maximum of 150; (6) Events would end at 9:00 p.m. during the week and 10:00 p.m. on the weekends; (7) The types of events that would be allowed are cultural, religious, educational and promotional to the permitted uses in the CTS zoning district; (8) Guests will be instructed to utilize the parking on the property; (9) Notifications of all events will be sent to the neighboring properties.

Motion made by Council Member Crampton and seconded by Council Member Cooney to approve Special Exception and Site Plan ZON 23-006, with the abovementioned conditions that have been approved upon between the attorney for the applicant and the attorney for the Sun and Surf Condominiums, and subsequently verified by a declaration of use agreement to be presented to Town Council at a future meeting, 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. The motion was withdrawn.

Council Member Cooney expressed concern over the automatic incremental increases of capacity and invited discussion of the cap of 150 attendees.

Council Member Araskog spoke regarding the importance of ensuring that the project is town serving and inquired if the requirement could be increased. She expressed concern over the Council making this decision until they had all of the information in front of them. She stated that she believes that it is an intensification of use and she spoke in support of the noise levels being measured on the terrace of the public comment speaker.

Council President Pro Tem Lindsay spoke in support of the increase of capacity being done at a slower pace than every two weeks. She inquired about when the first event would be held if approved, to which Mr. Crowley responded.

Council President Zeidman stated that she would be supportive of maintaining the attendance at 75-80 people, with the applicant returning to Town Council for any increase in capacity. She spoke in support of the events ending at 8:00 p.m. on Sunday and during the week and 9:00 p.m. during the weekend.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to defer the item to the February 15, 2023, Town Council Development Review Meeting. Motion carried unanimously, 5-0.

Please note: A lunch break was taken at 2:40 p.m. The meeting resumed at 3:28 p.m.

- f. **ZON-23-012 (ARC-22-212) 246 EVERGLADE AVE (COMBO) – VARIANCES.** The applicant, 246 Everglade LLC, has filed an application requesting town council review and approval for site modifications including variances for (1) reduced landscape open space (2) for reduced air conditioning equipment setbacks and (3) for reduced pool equipment setbacks. The Architectural Commission will perform design review of the application. [This project shall be deferred to the February 15, 2023, Town Council meeting pending Architectural Review.]

This item was deferred to the February 15, 2023, meeting at the approval of the agenda.

- g. **ZON-23-013 (ARC-22-231) 7 LA COSTA WAY (COMBO) — SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** The applicant, La Costa Way Trust (Cooper Andrew TR), has filed an application requesting Town Council review and approval variances (1) for a reduced 2nd story street rear-yard setback for a new second story roof top terrace, (2) a variance to provide deficient landscape open space, and (3) a variance to exceed 2-story lot coverage maximum, all as part of a renovation to an existing nonconforming one-story residence. The Architectural Commission will perform design review of the application. [This project shall be deferred to the February 15, 2023, Town Council meeting pending Architectural Review.]

This item was deferred to the February 15, 2023, meeting at the approval of the agenda.

- h. **ZON-23-014 (ARC-22-243) 302 SEABREEZE AVE (COMBO) - SITE PLAN REVIEW AND VARIANCE** The applicant, Sean Rooney, has filed an application requesting town council review and approval for development of a new two-story single-family structure on a parcel, comprised of platted lots, which is deficient in lot width and lot area in the R-B zoning district requiring Site Plan Review, and a variance to provide one garage parking spot in lieu of the two required. The Architectural Commission will perform design review of the application. [This project shall be deferred to the February 15, Town Council meeting pending Architectural review.]

This item was deferred to the February 15, 2023, meeting at the approval of the agenda.

- i. **ZON-23-025 (COA-22-055) 210 VIA DEL MAR (COMBO) – SPECIAL EXCEPTION WITH SITE PLAN REVIEW** The applicant, BEACHBOYZ DEVELOPMENT LLC., has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for reduced

vehicular gate setbacks on a cul-de-sac street. The Landmarks Preservation Commission will perform the design review for modifications to the existing Landmarked residence and grounds. [This project shall be deferred to the February 15, 2023, Town Council meeting pending Landmarks Preservation review.]

This item was deferred to the February 15, 2023, meeting at the approval of the agenda.

XI. ANY OTHER MATTERS

Council Member Araskog inquired if the Town Council could hold a discussion on the February 15, 2023 agenda on notifications to neighbors for Development Review projects. She wanted to discuss how the notices are being handled, as well as notice language.

Council Member Araskog also asked if the Town Council could hold a discussion about how the Town is following up to ensure that construction sites have a parking manager on site. Mr. Bergman introduced Craig Hauschild, Engineer, to discuss the issue. Mr. Hauschild discussed the process for the parking attendants and how the Town monitors the parking managers and handles violations.

XII. ADJOURNMENT

The meeting adjourned at 4:51 p.m. on January 11, 2023 without the benefit of a roll call.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Kelly Churney, Deputy Town Clerk
Date: _____