



.Our File Number: 53286-00001
Writer's Direct Dial: (561) 650-0633
Writer's E-Mail Address: jcrowley@gunster.com

March 9, 2023

Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480

Re: LOI for 139 N County Rd - Zoning Case Number: ZON-23-020
Certificate of Appropriateness Number: COA-23-003

We are pleased to submit the accompanying documents and drawings in connection with our combination application for Certificate of Appropriateness, Development Review and Site Plan, Special Exception and Variance Approval (the "Application") for the redevelopment of the Paramount property at 139 North County Road, Palm Beach, FL (the "Property"). An historic site survey of the property done in 1980 noted the building was designed by prominent New York architect, Joseph Urban, and that the theatre was at one time a prominent meeting place in the Town, but that the future of the building "is in great doubt." The Property was designated as a local landmark by the Town of Palm Beach on September 14, 1982. Section 54-71 of the Town Code of Ordinances requires Landmarks Preservation Commission approval for exterior changes on a landmarked property, and Section 134-329 of the Town Code of Ordinances requires Town Council review and approval for site plan changes on properties that are not zoned single-family residential (the "Code").

As part of the redevelopment and revitalization of the Property and its historic structures, the Application proposes renovation and restoration of the existing landmarked Paramount Theater, a 4-story mixed use building of 41,270 sf, that was completed in 1927. The historic theater ("Theater") was a cultural hub of Palm Beach that fell into disrepair and suffered from an unsympathetic renovation completed in 1987. The Application proposes to repair and restore the exterior of the building to a state more consistent with Urban's original vision, and to renovate the interior of the building in order to restore the Property's status as an iconic Palm Beach landmark.

As an integral component of the project, we also propose to build out the existing surface parking lot to the south with a new residential development consistent with the scale and character of the existing Theater building. This property was always envisioned for development (it was previously zoned R-C), presenting an opportunity to fill in a 'missing tooth' in Palm Beach's fabric. The new structure includes two levels of underground parking, a motorcourt partially below grade, and four new houses totaling 31,170 sf, built above the motorcourt, on a raised garden level that includes a shared residential garden.

Phillips Point, Suite 500 East, 777 South Flagler Drive • West Palm Beach, FL 33401-6194 | 561-655-1980 | Fax: 561-655-5677 | www.gunster.com

BOCA RATON • FORT LAUDERDALE • JACKSONVILLE • MIAMI • ORLANDO • PALM BEACH • STUART •
TALLAHASSEE • TAMPA • VERO BEACH • WEST PALM BEACH

ACTIVE:16715994.1

The focal point of the newly renovated Theater will be a new public event space utilizing a significant portion of the former auditorium space with a maximum occupancy of 250 people. During the renovation, we will uncover and restore the beautiful faceted stained wood ceiling which is such a significant feature of the original Theater building. Much of the space surrounding the exterior courtyard and at the northwest corner of the building will be developed as a new private club with a variety of entertaining spaces for members. In addition, surrounding the courtyard will be a new 40 seat public-facing restaurant, serving only breakfast and lunch, at the north and fronting the street will be refurbished and reinvigorated retail space. We will also extend additional new retail space throughout the new development along North County Road. Finally, the Application proposes a private club that will be located within the renovated Paramount Theater building, with an initial membership of 225 members that will be selected to ensure that more than 50 per cent of members are "Town Persons" for purposes of the applicable "Town Serving" requirement.

Overall, our intention is to knit together our proposed design into the wonderfully eclectic and contextual neighborhood 'fabric' that is synonymous with the island of Palm Beach.

The existing ingress and egress on Sunrise Avenue will be maintained, and the single ingress and egress on Sunset Avenue will be replaced with two (2) curb cuts that will provide access to the residential units and the back of the Paramount Building. Underground parking totaling 116 spaces is proposed, which will exceed the parking demand for the renovated Paramount Building (and the new uses proposed therein), and the proposed four (4) new homes, which is 89 parking spaces in accordance with the Town's principal of equivalency for parking set forth in Section 134-2175(a)(3) of the Town Code, resulting in a parking surplus of 23 spaces. See attached Parking Statement for more information on the calculation of required parking.

1. Criteria for Development Order Approval

A. Landmarks Preservation in accordance with Section 54-122 (New Construction).

(a) The following aspects of new construction shall be visually compatible with the buildings and environment with which the new construction is visually related:

- (1) The height, the gross volume, and the proportion between width and height of the façade;
- (2) The proportions and relationships between doors and windows;
- (3) The rhythm of solids to voids created by openings in the façade;
- (4) The material used in the façade;
- (5) The texture inherent in the façade;
- (6) The colors, pattern and trim used in the façade; and

- (7) The design of the roof.
- (b) Existing rhythm created by existing building masses and space between them should be preserved.
- (c) The landscape plan should be sensitive to the individual building and its occupants and needs and should be visually compatible with the buildings and environment with which it is visually related.
- (d) A new street façade should blend directionally with other buildings with which it is visually related; which is to say, when adjacent buildings have a dominant horizontal or vertical expression, that expression should be carried over in the new façade.
- (e) Architectural details should be incorporated as necessary to relate the new with the old and to preserve and enhance the inherent architectural characteristics of the area.

The Application proposes four (4) new homes on the site that are visually and architecturally compatible with the existing Paramount Building and the neighboring buildings and environment. The proposed height, gross volume, and the proportion between width and height of the façades of the new homes are similar to the existing for the Paramount Building. The doors and windows for the new homes are proportionately scaled, and the rhythm, size and alternating flat-topped and arched design of the doors and windows in the proposed houses are patterned after those in the Paramount Building. The low-pitched clay barrel tile roof elements on the Paramount Building have also been incorporated with the design of the new homes on the Property, and the stucco texture with soft earth-toned colors used on the Paramount Building are also proposed for the new homes. The overall height of the existing Paramount Building's glass dome is higher than the overall height proposed for the new homes, which are well below the overall height of the adjacent Sun and Surf Condominium buildings. The landscape design for the four (4) new homes is an urban landscape design similar to what is being expanded upon for the Paramount Building area. Palms are used to shade courtyard and pool areas adjacent to the proposed new homes, which will encourage outdoor use by the homeowners. Large palms are also proposed for the public sidewalk areas adjacent to the homes that run along North County Road and Sunset Avenue, which tie into the proposed street landscape for the Paramount Building in order to create a comfortable shaded walkway setting that will encourage pedestrian use.

B. Landmarks Preservation in accordance with Section 54-123 (Exterior Alterations).

- (a) The criteria set forth in section 54-122, if applicable, shall be considered in passing upon an application for exterior alterations; provided that the commission may consider the original design of the building and the

buildings visually related to it and disregard alterations subsequently made thereto.

- (b) Exterior alterations shall not affect the architectural quality or historical character of the building.

The Application proposes modifications to the existing Paramount Building that are visually compatible with the height, gross volume, and the proportion between width and height of the façade of the adjacent buildings and environment. While these proposed modifications are minor with respect to their overall impact on the existing look and massing of the Theater building, these modifications will restore Urban's original vision for the Property and allow for access to the proposed four (4) new homes on the south side of the Property. The proposed alteration to the Theater building that will allow for access to the new homes will occur at the southeast corner, on the back of the existing Theater building, and will not be visible from public rights-of-way. There will be no impact on the street presence of the existing Theater building. It is also important to note that this façade has been modified over time. The proposed design alterations will be visually compatible with the height, gross volume, and the proportion between width and height of the façade of the adjacent buildings and environment. The rhythm created by the existing Paramount Building masses and space between them will be preserved and highlighted by the new building elements that are being done to restore the look of the building back to the architect's original design. Because of the approach to return the building to the original design where possible, and limiting the adjustments to the building to areas that do not change the look of the building from the adjacent streets, the proposed alterations do not affect the architectural quality or historical character of the building.

- C. Site Plan Review Approval in accordance with Section 134-329. Site Plan Review is required for new building(s) or for changes in permitted use in Section 134-1107, which involve more than 2,000 square feet of building floor area in the C-TS zoning district, per Section 134-1112 of the Town of Palm Beach Code of Ordinances.

- (1) Sufficiency of statements on ownership and control of the subject property and sufficiency of conditions of ownership or control, use and permanent maintenance of common open space, common facilities, or common lands to ensure preservation of such lands and facilities for their intended purpose and to ensure that such common facilities will not become a future liability for the town.
- (2) Intensity of use and/or purpose of the proposed development in relation to adjacent and nearby properties and the effect thereon; provided, however, that nothing in this subsection shall be construed as granting the town council the authority to reduce residential densities below that permitted by the use regulations in article VI of this chapter.

- (3) Ingress and egress to the property and the proposed structure thereof, with particular reference to automotive and pedestrian safety; separation of automotive traffic; traffic flow and control; provision of services and servicing of utilities and refuse collection; and access in case of fire, catastrophe or emergency.
- (4) Location and relationship of off-street parking and off-street loading facilities to thoroughfares and internal traffic patterns within the property, with particular reference to automotive and pedestrian safety, traffic flow and control, access in case of fire or catastrophe, and screening and landscaping.
- (5) Proposed screens and buffers to preserve internal and external harmony and compatibility with uses inside and outside the property boundaries.
- (6) Manner of drainage on the property, with particular reference to the effect of provisions for drainage on adjacent and nearby properties and the consequences of such drainage on overall town capacities.
- (7) Utilities, with reference to hook-in locations and availability and capacity for the uses projected.
- (8) Recreation facilities and open spaces, with attention to the size, location, and development of the areas as to adequacy, effect on privacy of adjacent and nearby properties and uses within the property, and relationship to communitywide open spaces and recreation facilities.
- (9) Such other standards as may be imposed by this chapter for the particular use or activity involved.
- (10) Height of commercial structures with reference to adjoining buildings, the effect on uniformity in height, and the general principle of retaining the low profile scale of commercial architecture.
- (11) Visible size and bulk. The proposed development should be so arranged that it minimizes the visible bulk of the structures to drivers and pedestrians on abutting roadways, the point of reference being the centerline of the abutting roadways, with the intent being to maintain visual impact of multistory buildings at the same relative level of intensity as a single-story building at the minimum required setback.

The request for the renovation and restoration of the Paramount Building and addition of the four (4) new homes meets all of the criteria for Site Plan Approval set forth in Section 134-329 that apply to this Application. The warranty deed for the property establishes ownership of the Property belonging to WEG Paramount LLC, which has the authority to file this Application. Furthermore, the proposed site plan will not adversely affect the public interest, and the proposed residential use for a portion of the Property will be in harmony and compatible with the existing commercial and office uses on the property, and not in conflict with adjacent

residential uses in the surrounding neighborhood. Most of the adjacent properties in the neighborhood were developed with residential units in excess of 2 stories, and the proposed building heights of the new homes are appropriately scaled for the adjacent Paramount building and the surrounding neighborhood. The development of residential homes on the portion of the Property fronting Sunset Avenue is compatible with the existing residential development in the surrounding area. As stated previously, the existing ingress and egress on Sunrise Avenue will be maintained, and the single ingress and egress on Sunset Avenue will be replaced with two (2) curb cuts that will provide access to the residential units and the back of the Paramount Building. Pedestrian walkways will be upgraded to promote walkability along the perimeter of the Property, and within the Property itself. Also, as mentioned previously, 116 undergrounding parking spaces will be utilized to meet the parking demand for the existing Paramount Building and the proposed four (4) new homes; eight (8) of the parking spaces will be solely used by the owners of the four (4) new homes, and two (2) of the spaces will be used only by the homeowners' guests. The design of the traffic circulation on the Property, the parking and the pedestrian walkways has carefully studied by our civil and traffic engineers in order to create a safe environment for both vehicular and pedestrian uses on and adjacent to the Property. The storm water drainage system and utilities will be upgraded to meet all Town requirements. Open spaces with the Paramount Building portion of the Property, including the enclosed courtyard, are being maintained, and open space areas with landscaping, pools and other amenities are proposed for the four (4) new homes on the southern portion of the Property. The height of the existing Paramount Building will be maintained, and not altered, whilst the height of the proposed four (4) new homes is similar to the Paramount Building, and the overall height is slightly less than the existing Paramount Building. Both the Paramount Building and the proposed new homes will be significantly lower than the adjacent Sun and Surf Condominium buildings, and compatible with the heights of the other nearby residential structures. The design of the Project maintains appropriate massing and rhythm of buildings along the adjacent roadways in order to ensure compatibility with the surrounding area in terms of size and architectural style.

D. Special Exception in accordance with Section 134-229:

I. Criteria:

- (1) The use is a permitted special exception use as set forth in article VI of this chapter.
- (2) The use is so designed, located and proposed to be operated that the public health, safety, welfare and morals will be protected.
- (3) The use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.

- (4) The use will be compatible with adjoining development and the intended purpose of the district in which it is to be located.
- (5) The use will comply with yard, other open space, and any special requirements set out in article VI for the particular use involved.
- (6) The use will comply with all elements of the comprehensive plan.
- (7) The use will not result in substantial economic, noise, glare, or odor impacts on adjoining properties and properties generally in the district.
- (8) Adequate ingress and egress to property and proposed structures thereon and off-street parking and loading areas will be provided where required, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
- (9) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, and economic impact shall be compatible and in harmony with properties in the district.
- (10) Location, availability and compatibility of utility service for the use shall be satisfactory to ensure health and safety.
- (11) Refuse and service areas for the use shall not adversely affect automotive and pedestrian safety and convenience, traffic flow and control, or access in case of fire or catastrophe.
- (12) In all districts except the C-OPI district, and also with the exception of hotel, motel and timeshare uses, the proposed special exception use will not attract the principal portion of its customers/clients from off-island locations. The applicant shall submit evidence satisfactory to the town council that not less than 50 percent of the customers of the proposed use will be town persons. Evidence submitted in support of this contention shall include credible data or information suitable for review by the town to determine the credibility and the appropriateness of the applicant's conclusion. The submittal shall include a description of the types of information used and the methodology employed to arrive at the conclusion. Information used shall include, but shall not be limited to, lists of customer/client addresses or certification thereof by an independent certified public accountant approved by the town, market studies prepared by independent professional firms, or data from similar operations under the control of the applicant. The town may in the future require the applicant to demonstrate to the satisfaction of the town council that the special exception use is continuing to be town-serving.
- (13) If historic/specimen trees are located on the subject property, the location of said historic/specimen trees shall be identified on a signed and sealed survey. In addition, adequate landscaping, screening and barricade

protection of historic/specimen trees shall be demonstrated to be provided as required in this chapter.

- (14) The proposed use will not place a greater burden than would be caused by a permitted use on municipal police services due to increased traffic or on fire protection services due to the existence of or increased potential for fire/safety code violations.

II. Special Exceptions Requested:

- a. Request for Special Exception for a private club use in the C-TS zoning district, per Section 134-1109(a)(3) of the Town of Palm Beach Code of Ordinances.
- b. Request for Special Exception with Site Plan Review for permitted uses over 3,000 square feet of gross leasable area in the C-TS zoning district, per Section 134-1109(a)(11) of the Town of Palm Beach Code of Ordinances.
- c. Request for Special Exception for restaurant use in the C-TS zoning district, per Section 134-1109(a)(22) of the Town of Palm Beach Code of Ordinances.
- d. Request for Special Exception for outdoor café seating in the C-TS zoning district, per Section 134-1109(a)(14) of the Town of Palm Beach Code of Ordinances.
- e. Request for Special Exception for maximum building height of two (2) stories in the C-TS zoning district, per Section 134-1113(8)(c) of the Town of Palm Beach Code of Ordinances.
- f. Request for Special Exception for shared parking, per Section 134-2182(b) of the Town of Palm Beach Code of Ordinances.

III. Justification for Special Exceptions Requested:

All of the Special Exceptions being requested are permitted within the C-TS zoning district, and the location of these uses within the existing building will ensure that they are appropriately located as to protect surrounding properties from any adverse impacts. The private club use will enable the Property owners to ensure that club membership exceeds the Town serving requirement set forth in Chapter 134 of the Town Code. Similarly, any events conducted within the cultural event

space will be designed such that more than 50 per cent of attendees will be Town Persons, and the owners of the Property will maintain records of these event attendees in order to demonstrate to the satisfaction of the Town Council that the events are in fact Town Serving. The proposed restaurant use will have minimal impact on surrounding properties because it will only operate for breakfast and lunch when the Property is not functioning at peak capacity. The proposed parking structure provides a surplus of parking which exceeds the requirements of the Town code, and parking at the garage will be limited to valet parking only, which will ensure that there is no excess traffic stacking onto adjacent streets. The proposed outdoor café seating is limited to club members and will be located within the existing interior courtyard in order to minimize any noise or odors that could be experienced from outside the Property. Existing utility service will be maintained and enhanced, and the proposed refuse enclosure has been designed to ensure that it will not be seen or smelled from adjacent properties. The proposed height of the residential buildings was designed to achieve harmony and balance between the existing Theater building and the taller multifamily buildings adjacent to the Property. The scale of these buildings was also studied in relation to other Urban works in the Town of Palm Beach.

E. Variances in accordance with Section 134-201(a):

I. Variance Criteria:

- (1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.
- (2) The special conditions and circumstances do not result from the actions of the applicant.
- (3) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.
- (4) Literal interpretation of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.
- (5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
- (6) For granting of a variance to sections 134-387 or 134-390 through 134-392, pertaining to the regulation of nonconforming uses, the following additional findings shall be made pertaining to the nonconforming use for which the variance is requested:

- a. It is the continuance of a unique hotel or residential use that has, for at least 15 years proven compatible with the surrounding uses; and
 - b. Neither rezoning to a district which would allow the use, nor inclusion of the subject use as a permitted or special exception use in the district would act to achieve the preservation of the subject use without opening the possibility of the incursion of uses incompatible with the immediately surrounding area and, further, such variance shall:
 1. Be granted only for the continuation of the same hotel or residential use; and
 2. Require the applicant to submit a declaration of use limiting the utilization of the property for which the variance was granted to the same use as that existing at the time the variance was granted.
- (7) The grant of the variance will be in harmony with the general intent and purpose of this chapter, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare. In granting any variance, the town council may prescribe appropriate conditions and safeguards in conformity with this chapter. Upon granting a variance the town council may require the landowner to provide a declaration of use agreement which shall be recorded in the public records to ensure continuing compliance with the town council imposed conditions of such grants. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

II. Variances Requested:

- a. Request for Variance for front yard setback to allow a front setback of 0 feet in lieu of the 11 feet to 16.9 feet minimum required in the C-TS zoning district per Sections 134-1113(5)b. & 134-1113(5)c. of the Town of Palm Beach Code of Ordinances.
- b. Request for Variance for rear yard setback to allow a rear setback of 0 feet in lieu of the 22 feet minimum required in the C-TS zoning district per Section 134-1113(7)c. of the Town of Palm Beach Code of Ordinances.
- c. Request for Variance for front (street) side yard setback to allow a front (street) side setback of 0 feet in lieu of the 11 feet to 16.9 feet minimum required per Section 134-1576(a) of the Town of Palm Beach Code of Ordinances.

- d. Request for Variance for three (3) stories in lieu of the two (2) stories maximum permitted in the C-TS zoning district per Section 134-1113(8)b. of the Town of Palm Beach Code of Ordinances.
- e. Request for Variance for building height to allow a building height 38.5 feet in lieu of the 25 feet maximum permitted in the C-TS zoning district per Section 134-1113(8)b. of the Town of Palm Beach Code of Ordinances.
- f. Request for Variance for overall building height to allow an overall building height 48.58 feet in lieu of the 30 feet maximum permitted in the C-TS zoning district per Section 134-1113(8)d. of the Town of Palm Beach Code of Ordinances.
- g. Request for Variance for lot coverage to allow 85% lot coverage in lieu of the 70% maximum permitted in the C-TS zoning district per Section 134-1113(9)b. of the Town of Palm Beach Code of Ordinances
- h. Request for Variance for building length of 340.5 feet in lieu of the 150 feet maximum permitted in the C-TS zoning district per Section 134-1113(10)b. of the Town of Palm Beach Code of Ordinances.
- i. Request for Variance for a floor area of 45,445.86 square feet in lieu of the 15,000 square feet maximum permitted in the C-TS zoning district per Section 134-1113(12)b. of the Town of Palm Beach Code of Ordinances.
- j. Request for Variance for overall landscape open space to allow 2% landscape open space in lieu of the 25% minimum required in the C-TS zoning district per Section 134-1113(11)b. of the Town of Palm Beach Code of Ordinances.
- k. Request for Variance for a sub-basement front yard setback of 0 feet in lieu of the 5 feet minimum required per Section 134-1611(2)d. of the Town of Palm Beach Code of Ordinances t for Variance for front yard landscape open space to allow 1% front yard landscape open space in lieu of the 35% minimum required in the C-TS zoning district per Section 134-1113(11)c. of the Town of Palm Beach Code of Ordinances.
- l. Request for Variance for a sub-basement front yard setback of 0 feet in lieu of the 5 feet minimum required per Section 134-1611(2)d. of the Town of Palm Beach Code of Ordinances.
- m. Request for Variance for a sub-basement street side yard setback of 0 feet in lieu of the 5 feet minimum required per Section 134-1611(2)d. of the Town of Palm Beach Code of Ordinances.

- n. Request for Variance for a sub-basement rear yard setback of 0 feet in lieu of the 5 feet minimum required per Section 134-1611(2)d. of the Town of Palm Beach Code of Ordinances.
- o. Request for Variance to allow tandem (and triple stacking) parking where parking is required to be so arranged that each automobile may be placed and removed from the parking space without the necessity of moving any other automobile to complete the maneuver per Section 134-2172 of the Town of Palm Beach Code of Ordinances.
- p. Request for Variance to not provide the required single loading space for new retail buildings between 4,000 and 25,000 square feet per Section 134-2211 of the Town of Palm Beach Code of Ordinances.
- q. Request for Variance for a 22 feet drive aisle width in lieu of the 25 feet required per Section 134-2171 of the Town of Palm Beach Code of Ordinances.
- r. Request for Variance for a floor or ramp grade of up to 14.6 percent in the parking structure in lieu of the 12 percent maximum grade for floors or ramps permitted in Section 134-2171(a) of the Town of Palm Beach Code of Ordinances.
- s. Request for Variance for an 8-foot wall height within ten (10) feet of the side and rear property line in lieu of the 7-foot maximum permitted in Section 134-1669 of the Town of Palm Beach Code of Ordinances.
- t. Request for Variance for a generator between 64 kW and 100 kW in lieu of the 60 kW maximum generator permitted within a side or rear setback per Section 134-1729(2)a. of the Town of Palm Beach Code of Ordinances.

III. Justification for Variances Requested:

Many of the requested variances relate to the “Lot, Yard, and Area Requirements” for the C-TS zoning district found in Section 134-1113 of the Town Code. These variances are necessary because the landmarked Theater building is nonconforming with respect to setbacks, height, building length, and parking, as is the overall Property with respect to landscaped open space. The design of the four (4) new homes on the Property has been done to reflect the design, mass and features that exist on the Paramount Building and the surrounding neighborhood. The nonconforming conditions that currently exist on the Property have been in place for almost 100 years, and are special circumstances that are specific to this Property which were not created by the current ownership. The continuation or

expansion of these nonconformities creating the need for variances is being done to meet other approval criteria requiring that any new structures be consistent, harmonious, and compatible with the existing structures on the Property and with the surrounding development. The variances requested are the minimum needed to design the southern portion of the Property in a way that will be compatible and complimentary to the existing Paramount Building, and the surrounding area, and to make the nonconforming parking configuration meet current code. The variances involving the drive aisle widths and ramp grades within the parking structure are justified in part because parking in the garage will be limited to valet parking, eliminating any potential confusion or navigation issues through the garage for members of the public who are unfamiliar with its design. In addition, the project design attempted to maximize the number of parking spaces in order to ensure that parking for, and access to, the Property is sufficient to meet the demands of the proposed uses.

It is important to note that the Property is bordered on the east by the Sun and Surf Condominium buildings, six and seven story buildings that tower over the Property and the streetscape from County Road. Across from the Sun and Surf buildings sits the Ocean Towers building at 139 Sunrise Avenue, a four-story condominium building. Further to the east on Sunrise Avenue lies the 150 N. Ocean Building, which is a five-story building. Directly across the street to the south of the Property, there exists a landmarked 3-story apartment building with a covered arcade over the sidewalk.

The building height variance is necessary to achieve harmony and balance between the existing Paramount building and these much taller buildings which surround the Property. It should be noted that at the time prior owners of the Property consented to the Landmark designation, they were proposing a similar development with underground parking, retail and office over the parking lot which currently exists at the Property that was designed by Gene Lawrence. The owners at time consented to the landmark designation on the specific condition that the development plan be authorized by the LPC and the Town Council. This plan, although approved by the Landmarks Preservation Commission, never came to fruition. The wall height variance along the east side of the property is needed to more effectively buffer our neighbors visually from the walled equipment/trash area for the Paramount building, and to better buffer our neighbors from any noise generated from within the walled equipment/trash area.

The other variances required for the redevelopment of the Property arise from the configuration of the Property, which has never had sufficient parking or landscaped open space, and which has always exceeded maximum lot coverage. As discussed below, all of the various attempts to redevelop and revitalize the Property during the last 50 years have included similar requests for variances and special exceptions due to the limited area to provide off street parking. Although

much of the additional landscaping we are proposing does not qualify for “landscaped open space,” either because it is above existing pavement or above the underground parking garage, the perception of the Property from the streetscape will be far “greener” than it has been for many years, if ever.

Finally, the variance requested for the 64 kW to 10 kW generator is also needed because of the existing limitations of space to locate the generator. There are criteria within Section 134-1729(3) for the allowance of a generator greater than 60 kW, but not greater than 100 kW, to be up to 5 feet from a rear or side yard property line, and read as follows:

- a. The output of a 60 kW or less generator is incapable of providing enough electricity for the basic necessity of occupying a building and/or protecting interiors or possessions in a building from the damaging effects of prolonged loss of power.
- b. The proposed location is not merely for the convenience or preference of the applicant, but that there is no other location outside of the required setbacks that will provide for safe placement of the generator.
- c. The proposed location represents the minimum intrusion into the required setback(s) necessary to safely accommodate the generator.

Based on the initial analysis of the power needs for the existing Theater building, a minimum of a 64 kW generator will be required; however, the size may need to be increased, therefore we are requesting up to a 100 kW generator, which is the limit for a generator before it must be housed in an enclosed structure. The final size of the generator will be the minimum needed to provide service to the existing theatre building during emergency power outages to protect the historic interiors and prevent damage to the building. These emergency power outage situations are, by their nature, rare events. Because the Property is surrounded on three sides by rights of way, the existing Theater building is already nonconforming in terms of meeting setbacks, and generators are not permitted within street yard setbacks without a variance, the only location available to locate the generator is in the rear of the property. This location will have the added benefit of keeping the generator hidden from view, and not being visible to the public. The generator is proposed to be within a walled equipment/trash area, and will be at least 10 feet from the rear property line, but will not be out of the 22-foot rear setback. This is the minimum intrusion into the setback that could be accommodated. The proposed generator will meet all other code requirements.

2. Site History

The Paramount Theater building was designed by noted architect Josef Urban in 1926. Urban’s other notable works in Town include the Bath and Tennis Club and Mar-a-Lago.

According to the Department of State's Master Site File ("Master Site File"), the theater officially opened on January 9, 1927, with the screening of the American classic film "Beau Geste." At this time, there were 1080 orchestra seats and 26 boxes containing three ranks of seating. The remainder of the building was designed for 20 retail shops facing the street, 13 office spaces, and second-story apartments. As summarized in the Landmarks Designation Report, the main structure at the Property was "designed as a complete cultural center...[with] a superb blend of cinema, residences, restaurants, commercial shops and offices.

From the time of its opening until 1968, the Paramount Theater was the cultural epicenter of the Town, hosting live stage productions and movie screenings. According to a 1982 article in the Palm Beach Post, the theater showcased personalities including Will Rogers, W.C. Fields, and Babe Ruth. During the 1930s and '40s, Big Bands featuring Duke Ellington and Glen Miller would grace the stage. In later years, the Theater would host rock acts such as Electric Light Orchestra, Ted Nugent and The James Gang, as well as comedy acts like The National Lampoon Touring Show. During the 1970s, jazz and blues acts like Dave Brubeck and B.B. King would perform.

The Theater remained profitable for its first 30 years. However, during the 1960s, ownership began to raise concerns that the Theater use was beginning to lose its economic viability. In 1968, the Theater closed its doors for good.

Few meaningful alterations were made to the Property prior to its closure in 1968. Our research indicates that limited maintenance was done during this period, with roofing work and renovation of the exterior second-story terraces being examples of the limited extent to which owners of the Property were investing capital on its upkeep. Then, in 1973, an application was filed to demolish the Theater building and to replace it with shops and offices. Although we have found many references to this development application, we have been unable to locate the application and related plans despite our records requests to the Town.

After the adoption of the Town's Landmarks ordinance in 1979, the Property became a topic of conversation as a candidate for historic designation. During this time, the Property owner agreed to voluntarily accept the landmarking of the Property on the condition that the Town accept an adaptive reuse plan to be presented to ARCOM and LPC. Handwritten notes on the LPC Property File Form provide as follows: "voluntary designation a[s] part of the Agreement made between the owners and the Town Council in the "adaptive reuse package."

The "adaptive reuse package" was prepared by architect Eugene Lawrence and Peter Van Anandel of the Gunster law firm. There were two alternative proposals for the Theater building under the adaptive reuse package: one consisting of a 200-seat restaurant and a 250-seat theater, and one consisting of the conversion of the Theater into office and retail space. Famed architect John Volk participated in the preparation of the as built

drawings for the Theater building at this time. The adaptive reuse plan also called for development of the eastern portion of the Property, replacing then-existing tennis courts with a new multi-story structure consisting of underground parking with office and retail uses above.

The adaptive reuse plan was approved by both ARCOM and LPC in 1979. Members of the LPC who voted in favor of the adaptive reuse plan included Robert Ballinger and John Volk. A copy of a Lawrence rendering for the Property included in the adaptive reuse submittal is attached hereto as Exhibit "A".

Although the adaptive reuse plan never came to fruition, it was clearly the basis for the agreement to voluntarily designate the Property as an historic Landmark. And while the plans were well received by both ARCOM and LPC, economic conditions during the early 1980s prevented the ambitious plans from being implemented.

Conclusion

Our current submittal is an attempt to finally implement restoration, redevelopment and adaptive reuse plans that have been fifty years in the making, which were originally designed and reviewed by some of the brightest architectural minds in the history of Palm Beach. While none of the previous owners of the Property could align the stars to implement their plans, we are hopeful that those previous plans are instructive as a template for what is necessary to finally reincarnate the Property and restore it to its former grandeur.

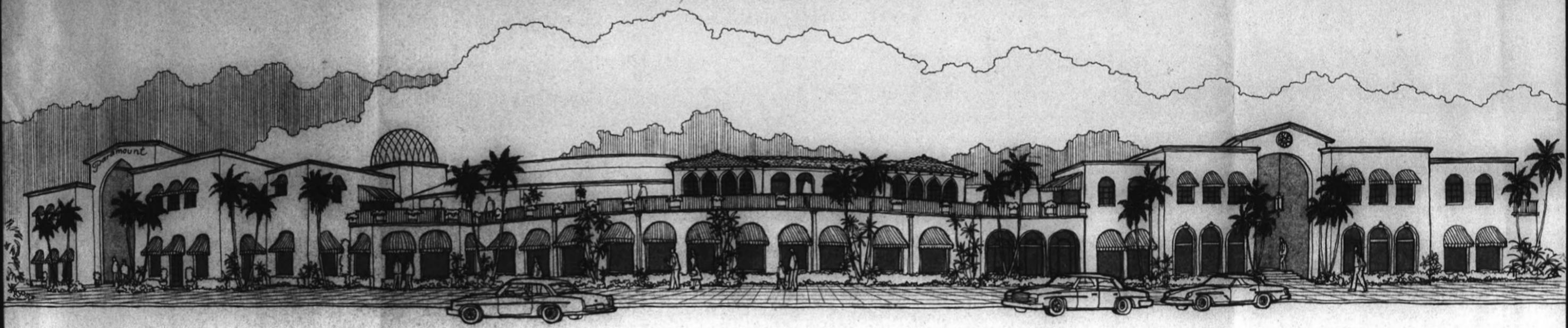
Sincerely,

A handwritten signature in blue ink, appearing to read "JMC", is centered below the word "Sincerely,".

James M. Crowley

JMC/op

Exhibit "A"



VIEW FROM NORTH COUNTY ROAD



THE LAWRENCE GROUP
CHARTERED ARCHITECTS & PLANNERS, PALM BEACH · STUART · FLORIDA

PARAMOUNT BUILDING