



TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on May 10, 2023

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order on May 10, 2023, at 9:31 a.m. On roll call, all elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. COMMENTS OF MAYOR DANIELLE H. MOORE

Mayor Moore stated she did not have any comments.

IV. COMMENTS OF TOWN COUNCIL MEMBERS

Council Member Araskog raised an issue about how the Business and Administrative Committee was noticed on the agenda. Council President Zeidman stated she understood the issue and discussed the intent to make the agenda as user-friendly as possible.

Council President Zeidman stated that Phipps Plaza Park would be reviewed by the Town Council at 11:30 a.m. She indicated that Code Review issues would be at 10:00 a.m. with Sean Suder, ZoneCo.

V. COMMUNICATIONS FROM CITIZENS – 3-MINUTE LIMIT, PLEASE

Anita Seltzer, 44 Cocoanut Row, expressed concern about the discussion that occurred at the May 9th Town Council meeting regarding issues related to Code Review.

VI. APPROVAL OF AGENDA

Wayne Bergman, Director of Planning, Zoning and Building, stated in addition to the items listed for deferral on the printed agenda, the following items were being modified: *Addition of Time Extension for 257 Sanford Avenue under XI. Development Review, D. Time Extensions*

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

VII. APPROVAL OF THE CONSENT AGENDA

A. **127 ROOT TRAIL**

RESOLUTION NO. 041-2023 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.”

B. **272 QUEENS LANE**

RESOLUTION NO. 042-2023 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.”

C. **323 CHILEAN AVENUE**

RESOLUTION NO. 044-2023 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.”

D. **ZON-23-029 (ARC-23-014) 325 VIA LINDA (COMBO)—SPECIAL EXCEPTION WITH SITE PLAN REVIEW.** The applicant, Three Palm Trees, LLC, has filed an application requesting Town Council review and approval for a Special Exception and Site Plan Approval to permit a reduction in the required setback for the proposed driveway gate and gateposts. The Architectural Commission will perform a design review of the application. [The Architectural Review Commission approved this project at their April 26, 2023, meeting. Carried 5-2.]

Please note: This item was pulled from consent and was not included in the approval of the consent agenda. It was placed under IX. A.

- E. **ZON-23-038 (ARC-23-029) 3400 S OCEAN BLVD (COMBO)—SITE PLAN REVIEW.** The applicant, ATRIUMS OF PALM BEACH, has filed an application requesting Town Council review and approval for Site Plan Review for the pool deck amenity level within the courtyard of the buildings located above the bermed parking structure that includes a new pavilion, landscape, hardscape, and structural engineering work. The Architectural Commission will perform a design review of the application. [The project was approved by the Architectural Review Commission, including the recommendation to the Town Council regarding the site plan, on the consent agenda at the April 26, 2023, Architectural Review Commission meeting. Carried 7-0.]
- F. **ZON-22-110 (ARC-22-162) 2773 S OCEAN BLVD (COMBO)—SITE PLAN REVIEW** The applicant, Carlyle House Condominium, has filed an application requesting Town Council review and approval for site plan review for demolition and redesign of the pool, pool deck, and associated landscape and hardscape. The Architectural Commission shall perform a design review of the application. [The Architectural Review Commission approved this project at their April 26, 2023, meeting. Carried 7-0.]
Motion made by Council Member Cooney and seconded by Council Member Crampton to approve the consent agenda, as amended, with the removal of ZON-23-029 (ARC-23-014), 325 Via Linda, which will be heard under IX. A. Motion carried unanimously, 5-0.

VIII. PRESENTATIONS

A. Code Review Update

1. Discussion Regarding Memorandum Proposing Additional Meeting Dates for PZ Commission and Town Council

TIME CERTAIN 10:00 AM

Sean Suder, Zone Co.

Council President Zeidman stated that IX., B. was intentionally placed on the agenda close to Mr. Suder's presentation.

Mr. Suder reviewed the budget and expenses for the Code Review project over the past year. He discussed the intent for summer meetings scheduled with the Planning and Zoning Commission to delve into the code review.

Council President Zeidman mentioned the public's fear that all the changes would be made over the summer when there would be low public participation due to seasonal travel. She asked Mr. Suder to address this issue. Mr. Suder discussed the items that would be completed during the summer months and how he hoped to have a first draft of the Code ready in October for public review, comments, and revisions. The original idea was to have the code adopted in March or April of next year, but with HB 250, that adoption goal may have to be modified.

Council Member Crampton was pleased with the length of time for review by the

Town Council and the public. He also recommended asking the Palm Beach Daily News to add some content to the newspaper over the summer. Their editor would work with Mr. Bergman and Mr. Sudor to layout the best way to review the code.

Council President Zeidman stated that the purpose of working in the summer was to produce a draft for the public to review.

Council President Pro Tem Lindsay was glad that the public would have time to review the draft and to make changes. She thought that many of the Town groups should participate in reviewing the draft document.

The Council discussed groups that should be alerted to participate in the Code Review once a draft Code is presented.

Council Member Crampton thought Messrs. Bergman and Suder should work on a communication plan to allow various groups to participate.

Council President Zeidman recollected her discussion with the Town Council on whether they should put together a steering committee or to use the Planning and Zoning Commission. The Town Council elected to use the Planning and Zoning Commission. Council President Zeidman asked about Council Member Cooney's suggestion on using local design professionals. Council Member Cooney thought the design professionals should be able to test and work with the document to determine if anything needs to be modified. Council President Zeidman also recollected that the Town Council thought it important for the public to be involved in the review.

Council Member Crampton thought the elected officials should be the steering committee, however, he liked Council Member Cooney's suggestion to use a group of design professionals in a review since they interact with the Code in their daily work.

Council Member Araskog wanted to have a conversation about Senate Bill 250. Her concern with the bill was the possibility that it would be extended beyond 2024. Council Member Araskog thought the elected officials should use their mailing lists to notify the public about issues related to Code Review. Council Member Araskog also expressed her concern about the meetings planned for the summer months, particularly in June, July, and August. She preferred to see the meetings begin in the fall.

Mayor Moore thought it was troubling that comments were made that there was not enough public involvement with the Code Review. She thought the public that wanted to be involved had participated. She thought the Town had been doing a good job communicating with the public about items relating to Code Review.

Council Member Cooney understood Council Member Araskog's concerns.

However, he also knew that a deeper delve into the Code Review had to occur. He thought the timeline was acceptable. He thought that his fellow citizens did care about the review and will ultimately be concerned about how code changes will impact their property rights.

Council President Zeidman understood the newspaper's intent to spread the news, however, she asked that the headlines be carefully stated in the future. She felt the headline did not do justice to the Town of Palm Beach Code Review process.

Council President Pro Tem Lindsay agreed with Council Member Cooney's comments. She has heard from many residents that had the opportunity to engage in the review and would have future opportunities to engage. She thought the additional 6 months would extend the public's opportunity to engage in the process.

Council Member Crampton agreed with the other Council Members and thought there was good momentum in reviewing the Code. He thought the Town should move forward as long as there was a valid communications plan.

Council President Zeidman pointed out that if the review were delayed, it would delay the draft of the Code from being produced until the next summer. Council President Zeidman thanked the Planning and Zoning Commission for their willingness to participate in twice-a-month meetings over the summer.

Council President Zeidman asked Town Attorney Randolph about the Town Council's participation during summer months. Town Attorney Randolph stated that if the Council Member had a legitimate reason to miss a meeting over the summer months, he/she could participate over Zoom and vote. Town Attorney Randolph reminded the Council they would not make final decisions at these meetings; they were more like workshops.

Council President Zeidman clarified that the Town Council would need a quorum of 3 people to conduct business. Council President Zeidman stated that the meeting on July 25th may be an issue. Council President Zeidman stated that possibly the dates could be worked out.

Discussion ensued about the possible availability of summer meeting dates.

Council Member Araskog asked about Planning and Zoning Commissioners voting over Zoom. Town Attorney Randolph stated if one of the members had a legitimate reason to be absent, they could vote over Zoom.

Council Member Araskog asked Mr. Suder about the timing of the reviews for different areas of the Town and when they would be completed. Mr. Suder responded.

Mr. Bergman discussed smaller changes and inconsistencies that had been changed

in the Code over time. He presented the five items: 1) Business Tax Receipts; 2) Mechanical equipment placed on roofs; 3) Nonconformities; 4) Reduce 9 definitions of height to one and define one point from which to measure; and 5) Freeboard; for review that had been presented to the Planning and Zoning Commission because immediate attention was necessary. Mr. Bergman stated that the five items would be presented by ordinance at the June meeting. He indicated that a Local Planning Agency meeting would also be scheduled in June.

Council Member Araskog expressed concern about the mechanical equipment placement on commercial roofs. She thought it would change the fabric of the Town and thought it needed to be studied further. She further expressed her concerns about the other proposed zoning changes.

Council Member Crampton understood Council Member Araskog's concerns; however, he thought her concerns would be reviewed when the Town Council reviewed the draft ordinances.

Council Member Araskog thought the items should be sent back to the Planning and Zoning Commission so that they could further review the items with photographs.

Mayor Moore thought a robust discussion was had by the Planning and Zoning Commission on all the items. She thought some of the items should be moved forward. Subsequently, the Town Council would further review the item when a draft ordinance is presented.

Council President Zeidman and President Pro Tem Lindsay agreed with Mayor Moore.

Mr. Bergman discussed the Planning and Zoning Commission's conversation and recommendation on freeboard.

Council Member Cooney was pleased that the conversation on increasing the freeboard would be paused. He thought it would be important to keep an eye on this issue in the future.

Council Member Crampton wondered about the industry's opinion on freeboard and asked that the staff look at current practice of other coastal cities.

Council Member Araskog asked to see photographs of the areas in Town where mechanical equipment is on the roofs.

Council President Pro Tem Lindsay thought the discussion of freeboard should be in the same conversation as any discussion about fill on a property. She thought there were other communities that dealt with fill more successfully.

Council President Zeidman summarized that the Town Council thought it was

acceptable for staff to return with the BTR issue with square footage and proper language; the point of measurement for heights, nonconforming issues; and also for commercial mechanical equipment to be sent back to the Planning and Zoning Commission to pursue the visual option suggested by Council Member Araskog. She then stated there would be no change at this time related to freeboard, except that Mr. Bergman will research current ordinances from other municipalities regarding freeboard and fill.

Council Member Araskog asked if the Planning and Zoning Commission deferred the conversation of freeboard and fill for a conversation in August, to which Mr. Bergman provided confirmation.

Mr. Suder found the path forward acceptable.

Please note: A short break was taken at 11:27 a.m. The meeting resumed at 11:41 a.m.

Council President Zeidman called for public comment.

Gary Pohrer, 1356 N. Ocean Blvd., thought the issue of a 50% maximum on second-story homes did not make sense. He pointed out that there are many two-story homes where the second story is significantly more than fifty percent.

Stan Johnson, 244 Nightingale Trail, thought it would be helpful for the public to have access to items posted on the agenda or available summary reports. He was pleased to hear about the pause of the freeboard discussion as he thought the unintended consequences should be considered.

Mr. Bergman affirmed that staff could prepare a summary for residents to view on the website. Council President Zeidman suggested that Sean Sudor could be asked to assist in preparing summaries.

IX. REGULAR BUSINESS

A. Matters Pulled from the Consent Agenda

ZON-23-029 (ARC-23-014) 325 VIA LINDA (COMBO)—SPECIAL EXCEPTION WITH SITE PLAN REVIEW. The applicant, Three Palm Trees, LLC, has filed an application requesting Town Council review and approval for a Special Exception and Site Plan Approval to permit a reduction in the required setback for the proposed driveway gate and gateposts. The Architectural Commission will perform a design review of the application. [The Architectural Review Commission approved this project at their April 26, 2023, meeting. Carried 5-2.]

Ex-parte communications were declared by Council Member Cooney.

Maura Ziska, attorney for the owner, presented an overview and the zoning requests for the project.

Molly Mitchell, Dailey Janssen Architects, presented the architectural plans for the proposed vehicular gate.

Council Member Araskog asked about surrounding gates and the proximity to the street. Ms. Mitchell responded.

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

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to approve Special Exception No. ZON-23-029 and Site Plan Review as said applications meet criteria set forth in Sections 134.229 and 134.329, respectively, of the Town Code, and finding that approval of the site plan will not adversely affect the public interest, that all zoning requirements governing use have been met and that satisfactory provision and arrangements have been made concerning items 1-11 of Section 134.329, and providing the property owner voluntarily commits issuance of a building permit to either provide or record a utility easement satisfactory to the town that ensures a recorded easement will be granted if necessary for underground utilities. Motion carried unanimously, 5-0.

- B. Update Regarding the Planning & Zoning Commission Recommendations to Town Council for Consideration
Wayne Bergman, Director of Planning, Zoning and Building
- C. Comprehensive Plan Update - Evaluation and Appraisal Review (E.A.R.) of the Town's Comprehensive Plan
Jennifer Hofmeister-Drew, Planner III

Ms. Hofmeister-Drew reviewed the requirement of the evaluation and appraisal review of the Town's Comprehensive Plan.

Council Member Araskog wondered if there would be any conflict moving forward with the comprehensive plan and the new Senate Bill 250. Mr. Randolph did not believe there would be any conflict with Senate Bill 250.

Council President Pro Tem Lindsay asked Ms. Hofmeister-Drew if the recommendations of the strategic plan would be reviewed when updating the Comprehensive Plan. Ms. Hofmeister-Drew stated she would review the strategic plan recommendations and any changes that occur in the Code Review.

Council President Zeidman asked about the elements she looks at in the strategic plan when making changes to the Comprehensive Plan. Ms. Hofmeister-Drew explained that the way a strategic plan and a comprehensive plan relate to one

another is the comprehensive plan should be the umbrella. The strategic plan further helps with capital improvement programming and budgeting. The goals from the strategic plan will help in implementing the goals of the comprehensive plan.

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

D. Follow-up Discussion Regarding Public Notices

James Murphy, Assistant Director of Planning, Zoning & Building Dept.

Mr. Murphy provided an update to the public notice process with regard to upcoming projects in the Town. He noted that since roll-out of the new process, the department has handled approximately 450 applications. Approximately 19,500 pieces of mail have been distributed to residents via regular first-class mail.

Council President Zeidman asked about the possibility of a GIS position. Mr. Bergman noted that the new software in the PZB Department would rely on a GIS position which would be paid for out of the Building Enterprise Fund. A proposal has been sent to the City Manager as part of the budget process for the coming fiscal year.

Council Member Araskog thanked staff and was in favor of phase two. She thought having a GIS position would benefit the Town as a whole. She liked the idea of a certificate of mailer, the property posting, and the additional brochure. Council Member Araskog stated that she understood the letters were late due to the late posting of the agendas.

Council Member Crampton agreed with Council Member Araskog's suggestions. He was in favor of the interactive map but cautioned staff that it could become a popularity contest. Mr. Murphy stated the primary reason for this would be a pictorial graphic of what projects are being proposed in specific areas.

Council Member Cooney was in support of the suggestions.

Council President Pro Tem Lindsay agreed. She asked how long the posting would remain in front of the property. She was concerned that the signs would be left up for months after the project. Mr. Murphy stated that the postings would be left up for 30 days prior to the project.

Council President Zeidman asked how many postings would be put up at one time. Mr. Murphy stated that staff proposed this solution for only commercial and multi-family projects.

Council President Zeidman asked if there was a way to add an entire street

for the notice requirement.

Council President Pro Tem Lindsay thought that a posting could solve the problem of the street receiving notice. She thought that many of the neighbors would see a posting.

Council Member Cooney agreed with Council President Pro Tem Lindsay but thought the Town should first start with the commercial and multi-family properties.

Mr. Murphy stated that staff could develop some recommendations and return to the Town Council.

Council President Zeidman thought that residential projects should receive a posting as well.

Council Member Araskog thought residential projects should be added.

Council President Zeidman called for public comment.

Anita Seltzer, 44 Cocoanut Row, indicated that no backup was provided to the public for this item. She discussed the difficulty for the public to provide feedback for the Tuesday meeting. She also asked about how a radius is calculated for the notice.

Council Member Araskog thought it would be good for staff to look at the **316 S COUNTY** notice requirement to ensure enough notice to cover a street.

X. RESOLUTIONS

RD (310-316 S COUNTY RD)

RESOLUTION NO. 061-2023 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 316 S County Rd Meets the Criteria as Set Forth in Ordinance No. 2- 84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach; and Designating Said Property as a Town of Palm Beach Landmark Pursuant to Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach.

Ex parte communications were declared by Council Member Cooney.

Council President Zeidman requested confirmation of the proof of publication. Acting 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 and 3 for Landmark Designation.

Motion made by Council Member Cooney and seconded by Council Member Crampton to make the designation report part of the record. Motion carried unanimously, 5-0.

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

Council President Zeidman asked if the owners were supportive of the designation. Ms. Stillings stated that the owners did not support the designation but would also not object.

Motion made by Council Member Cooney and seconded by Council Member Crampton to adopt Resolution 061-2023, designating the property at 316 S County Road (310-316 S County Road) as a landmark of the Town of Palm Beach, on the basis that it meets criteria Numbers 1, and 3 of Section 54-161 of the Town of Palm Beach Code and in the Landmarks Preservation Ordinance No. 2-84. Motion carried unanimously, 5-0.

XI. DEVELOPMENT REVIEWS

A. Declaration of Use Agreements

1. **ZON-23-019 (COA-23-002) 363 COCOANUT ROW—THE VINETA HOTEL (COMBO)—SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** - Declaration of Use Agreement &

Seating Chart Review

Please note: This item was deferred to the June 14, 2023, meeting at the Approval of the Agenda, Item V.

Please note: A lunch break was taken at 1:05 p.m. The meeting resumed at 1:48 p.m.

B. PUD AMENDMENTS

1. **ZON-23-049 (ARC-23-057) 2 S COUNTY RD - PUD AMENDMENT**

Resolution No. 003-00, The Breakers Planned Unit Development (PUD-A), Related to Site Modifications at the Tennis Center

RESOLUTION NO. 043-2023 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Resolution No. 3-00, The Breakers Planned Unit Development (PUD-A), to Authorize Renovation, Expansion and Reconstruction of The Breakers Tennis Courts.

Ex-parte communications were declared by Council Members Araskog, Cooney, Crampton, and Council President Zeidman.

Jamie Crowley, attorney for The Breakers, discussed the renovation of the existing tennis courts. He stated that the Resolution that has been in effect since 1972 must be amended. Each time the Resolution is amended, the applicant has to go before the Planning and Zoning Commission and then to the Town Council for approval. All of the terms and conditions of the PUD that are still active will remain unchanged, except for Modification #10 where the description of the tennis area will be changed to allow for renovation and expansion of the tennis facilities.

Mr. Bergman stated that the staff had no objections to the requested amendment.

Council Member Cooney asked about the proposed change to the PUD. Mr. Crowley responded and pointed out the addition of the pickleball courts. Council Member Cooney asked about the number of undeveloped residential units that could be developed within the scope of the PUD. Mr. Crowley said there are 251 undeveloped residential units. Those units may be developed as residential or could be converted to hotel or hotel accessory uses.

Council Member Araskog asked about the proximity of the closest residence. Mr. Crowley responded that the closest residences are across Royal Poinciana. He said it is not where anyone would be disturbed. Council Member Araskog asked about the notice area for this project and Mr. Crowley responded.

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

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to approve Resolution 043-2023. Motion carried unanimously, 5-0.

Council Member Cooney asked about the timeline for construction. Mr. Crowley stated they have to go to ARCOM and then back to the Town Council in June for the site plan. They are anticipating that this will be done during the summer.

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. **ZON-22-021 (ARC-22-022) 160 SEAVIEW AVE (COMBO) – VARIANCES** The applicant, Coral Beach Corporation (Angela Feldman, President) and Seaview Holdings, Inc. (David Feldman,

Director), has filed an application requesting Town Council review for variances to exceed the point of measurement elevation higher than allowed to be measured from and to reduce the required street side yard setback for a new guest house on combined parcels at 160 and 170 Seaview Avenue. ARCOM will perform design review of the application. [The Architectural Review Commission deferred the project to their March 29, 2023, meeting.] This project shall be deferred to the July 12, 2023, Town Council meeting pending review by the Architectural Review Commission.

Please note: This item was deferred to the July 12, 2023, meeting at the Approval of the Agenda, Item V.

- b. **ZON-22-032 (HSB-23-003) 594 N COUNTY RD (COMBO)—VARIANCES** The applicant, George Marucci, has filed an application requesting Town Council review and approval for variances (1 and 2) to reduce both side yard setback requirements for two, one-story additions to a historically significant one-story building. The Landmarks Preservation Commission will perform the design review. [The Landmarks Preservation Commission deferred this project to the April 19, 2023, meeting.] This project shall be deferred to the June 14, 2023, Town Council meeting pending review by the Landmarks Preservation Commission.

Please note: This item was deferred to the June 14, 2023, meeting at the Approval of the Agenda, Item V.

- c. **ZON-22-088 (ARC-22-126) 240 OLEANDER AVE (COMBO) – VARIANCES** The applicant, PTMJM Florida Investment Properties, LLC (Patricia Lambrecht), has filed an application requesting Town Council review and approval for variances (1) for development on a lot which is deficient in minimum lot area and (2) deficient in lot depth in the RC zoning district and (3) to exceed the maximum allowed lot coverage, in conjunction with the construction of a new two-story single-family residence. The Architectural Commission will perform design review of the application. [The Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 7-0.] [The Architectural Review Commission approved this project with minor modifications and a final Chair Review of the updates at their April 26, 2023, meeting. Carried 7-0.]

Council Members Araskog and Cooney declared ex-parte communications.

Maura Ziska, attorney for the applicant, presented an overview of the project and the zoning requirements for the project. This is for demolishing a three-unit multi-family building and replacing it with a single-family residence. It is a nonconforming lot, requiring a variance for the new structure. A one-car garage was requested as part of the project by ARCOM.

Gregory Bonner, B1 Architects, presented the architectural plans proposed for the new residence.

Council Member Crampton thought the project would be a major improvement on the street.

Council Member Araskog asked for a view of the streetscape.

Mr. Bergman provided staff comments on the project. He said the original notice was listed on the agenda and it took a while to get through ARCOM. The plan has been revised as requested and the variance requested for the conversion from a two-car garage to a single garage was properly noticed before this meeting.

Council Member Cooney lamented the loss of the multi-family units in the Town but thought the project looked good.

Council President Pro Tem Lindsay agreed with Council Member Cooney. She thought the project was nice, although she believes this project will eliminate more affordable housing in the town.

Council Member Araskog also missed the multi-family units. She asked to see the front and the proposed space for parking. A short discussion ensued about parking for this residence.

Mayor Moore pointed out that the proposed home would decrease density on the street. While she also lamented the loss of the multi-family unit, she thought the house was charming and would be a very nice addition to the street.

Council Member Cooney thought the trucks traversing this street would be a challenge. Council Member Araskog pointed out that this fact led to her concern regarding parking.

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

Motion made by Council Member Crampton and seconded by Council Member Cooney to approve ZON-22-088 and find in

support thereof that all the criteria applicable to this application have been met as set forth in Section 134.201 (a) items 1-7 have been met and providing that the property owner voluntarily commits issuance of a building permit to either provide or record a utility easement satisfactory to the town that ensures a recorded easement will be granted if necessary for underground utilities.

Council Member Araskog asked about the hardship, to which Ms. Ziska responded. Council Member Araskog did not feel there was a hardship.

Motion carried 4-1, with Council Member Araskog dissenting.

- d. **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 a design review of the application. This project shall be deferred to the June 14, 2023, Town Council meeting pending review by the Landmarks Preservation Commission.
Please note: This item was deferred to the June 14, 2023, meeting at the Approval of the Agenda, Item V.
- e. **ZON-23-033 (ARC-23-024) 1540 S. OCEAN BLVD AND 114 OCEAN VIEW RD (COMBO)—VARIANCES.** The applicant, 1540 S Ocean LLC (Steven Kirsch, Managing Director) has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for the construction of a new plunge pool, deck, and landscaping for an existing 136 square foot beach cabana at 1540 S Ocean Blvd and 114 Ocean View Road and for a variance (1) to the minimum frontage and variance (2) to the established ocean bulkhead line setback. 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 6-1.] [The Architectural Review Commission approved this project with minor modifications at their April 26, 2023, meeting. Carried 6-1.]

Ex-parte communications were declared by Council Member Cooney.

Maura Ziska, attorney for the applicant, presented an overview of the project and the zoning requirements for the project. There is an existing beach cabana. The applicant is asking for a variance to modify the previous approval to spruce it up and add some landscaping and hardscaping. The variance is needed because of the width and the setback from the bulkhead line. She noted those variances were granted in 2021, but the applicant is asking to modify the existing cabana.

Jason Skinner, Dailey Janssen Architects, presented the landscape and hardscape plans for the proposed beach cabana.

Ms. Ziska stated the hardship for the application.

Mr. Bergman provided staff comments on the project.

Mr. Skinner stated that the project was approved at the Architectural Review Commission (ARCOM) without the deck.

Council Member Araskog was glad that a portion of the deck was removed.

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

Motion made by Council Member Crampton and seconded by Council Member Araskog to approve ZON-23-033 be approved and find in support thereof that all the criteria applicable to this application have been met as set forth in Section 134.201 (a) items 1-7 have been met. Motion carried 3-2, with Council Members Araskog and Cooney dissenting.

Council President Zeidman said the Town Council has discussed its desire to issue approval of fewer variances in the future. She asked what would have to be reformed in the code to allow a situation such as this one to not show up as needing a variance.

Mr. Bergman said there were two variances for this project. One was to deal with the intrusion on the beach that is closer than 150 feet from the bulkhead line. For waterfront properties on the Intracoastal or on the ocean, some type of waterfront setback line is necessary to act as the rear property line. He said this might be worked out with ZoneCo (Sean Suder). Mr. Bergman said the other

variance was because the minimum lot width was unmet. Those are two metrics that may be looked at as part of the Code revisions.

- f. **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 the 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. [The Architectural Review Commission deferred the project to their March 29, 2023, meeting.] This project shall be deferred to the June 14, 2023, Town Council meeting pending review by the Architectural Review Commission.
Please note: This item was deferred to the June 14, 2023, meeting at the Approval of the Agenda, Item V.
- g. **ZON-23-017 (COA-23-001) 1100 S OCEAN BLVD—MAR A LAGO (COMBO)—SPECIAL EXCEPTION WITH SITE PLAN REVIEW.** The applicant, Mar A Lago Inc., has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for modifications to a private club Special Exception Use including the construction of a new one-story approximately 250 SF guardhouse to an existing Landmarked structure. The Landmarks Preservation Commission will perform the design review. [Town Council requested the applicant to follow up from discussion at the April 4, 2023, Town Council meeting regarding moving the guardhouse and the traffic management plan.]

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

Harvey Oyer, attorney for the applicant, restated the two directives given to him at the March meeting. Mr. Oyer argued that Mar-a-Lago traffic was not the reason for traffic problems. He stated that the guardhouse is not the traffic issue in the Mar-a-Lago end of town. The traffic issue is a much bigger issue that is not in any way precipitated by the guardhouse.

Council President Zeidman said to some extent, it is what it is in terms of the protection of a former president, guided by federal law. Mr. Oyer reviewed the plans for the proposed guardhouse and explained the reasons he believed the application complied with all the criteria for the special exception and site plan review. He said

the traffic management plan was submitted to the Town Council per the council's request.

Council Member Cooney asked if the traffic management plan was part of the application. He thought it had to be part of the application because approval of this makes a permanent change to the traffic plan adopted and included in the Declaration of Use Agreement. He views them as related because the original approval of the club contemplated where traffic goes. He believes any approval should be conditional upon the Town Council's approval of the Declaration of Use.

Council Member Crampton thought the traffic study was a positive development. However, he asked Captain Guelli to state his assessment of the area.

Captain Joe Guelli, Police Department, provided his assessment of the traffic study and he did not believe the solution was working. He initially thought the Bath & Tennis club should be used to check cars prior to entering the site. He did not believe the Bath & Tennis Club would allow them to use their site anymore. Captain Guelli thought the southern entrance should be used to assess traffic during events.

Council Member Araskog acknowledged that the use has changed. She said that while it was agreed upon that this could be a residence, it was supposed to be in one area, and it seems to have expanded. She wondered if some limitations could be applied through the Declaration of Use to allow the use of the south entrance. She also thought event start times could be defined in the Declaration of Use Agreement.

Council Member Cooney thanked Captain Guelli for his presence in the area. He said the general scenarios for events mirror what he has observed happening in the area.

Mr. Oyer has called a former President of the Bath & Tennis Club and that president had no knowledge of the Bath & Tennis Club not allowing it to be utilized, and he believed that they always would as an accommodation for the greater good of the community.

Council President Pro Tem Lindsay said there is some new information in the supporting documentation. She thought at the very least, before moving forward, that the Town Council should see an agreement between the Bath & Tennis Club and Mar-a-Lago that allows for the use of this for events when it is called for. She wanted to understand more about the notion that 'it is not working.'

She has experienced the backup when heading south and she has received considerable complaints from residents in the south end who cannot get through to have dinner in town. Council President Pro Tem Lindsay asked Captain Guelli if each of the events are contributing to the problem. She asked if there are impacts on the traffic regardless of the size of the events. Captain Guelli said it had been his experience that any event contributes to traffic issues. Mr. Oyer said it appears as if Mar-a-Lago is being asked to solve other background traffic issues. He said there are traffic issues that extend beyond Mar-a-Lago.

Council President Zeidman said Mr. Oyer has presented to the Town Council the guardhouse location which only the Secret Service could decide based on their mandate to provide safety for the former President and his immediate family. As long as a former President decides to live there and call this his one residence, the town has to live with that. It is a club, and that was granted a long time ago. She stated there are basic facts that the town has to live with, and she asked how important it is to Mr. Oyer to get the guardhouse approved. Mr. Oyer said very important. Separated from traffic, the guardhouse needs to be in the proposed location.

Mr. Oyer said this is facilitated solely by the Secret Service and he could provide examples of what is in place at every one of the former president's and former vice-president's residences. He said this one is the nicest guardhouse architecturally because it is Mar-a-Lago. This was to pass LPC and the National Trust for Historical Preservation.

Council President Zeidman called for public comment.

Nadar Kazeminy, 100 Worth Avenue, thought using the Bath & Tennis Club parking lot was the best solution to queue the cars. William Gilbane, 675 N. Lake Way, thought reducing the large events at the club would be a solution.

Anne Pepper, 333 Seaspray Avenue, thought more study should be given to the southern address for the entrance.

Mr. Oyer provided rebuttal arguments to the public comments. Council Member Araskog thought that while the former president was using the Club as his residence, he was now using it as a business.

Mr. Oyer stated that the Bath & Tennis Club and Mar-a-Lago do compare schedules for large events. Mr. Oyer also stated that Mr.

Trump had a personal office in the club, and it was not his headquarters for his main office as that is located in New York.

Council Member Cooney did not believe Mr. Oyer's statement of vested property rights for event sizes was accurate since the declaration of use agreement had changed.

Council Member Crampton said the Town Council needs to separate the decision about the building from the traffic decision. Council President Zeidman stated she would be looking for some ability to return and look at how the plan is working. She wanted to condition the motion upon an updated Declaration of Use Agreement.

Mr. Oyer said the applicant had conducted a revised Exhibit "D" to the Declaration of Use Agreement, a revised traffic management plan. That has been done and turned into the Town staff for review. The Town's consultant also reviewed the plan, and comments have been addressed. Mr. Oyer agreed that the revised traffic management plan could be the new Exhibit "D," and the Declaration of Use could be amended accordingly.

Brian Kelley, Simmons & White, spoke about the traffic management plan and elements in the plan that can assist with traffic.

Mr. Oyer noted there are ideas in the traffic management plan for mitigating traffic issues.

Council Member Araskog thought the motion should include a condition that the Declaration of Use should be updated. She also thought the applicant should be required to return after one season for a re-evaluation.

Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to approve Site Plan Special Exception ZON-23-017, as said applications meet criteria outlined in sections 134-229 and 134-329, respectively, of the town code and finding that approval of the site plan will not adversely affect the public interest, that all zoning requirements governing the use have been met and that satisfactory provision and arrangement have been made concerning sections 1-11 of section 134.329, with the following conditions: the traffic plan will be added to the Declaration of Use Agreement as Exhibit D, The Town Council, Applicant, and Police Department shall re-evaluate the Traffic Plan after one

season, the guardhouse shall be removed as soon as the secret service is no longer required to protect someone on the site. **Motion carried 3-2, Council Members Cooney and Araskog dissenting.**

Mr. Kelley discussed the plan to observe events during the next season.

- h. **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. [The Landmarks Preservation Commission deferred this project to the March 22, 2023, meeting.] This project shall be deferred to the June 14, 2023, Town Council meeting pending review by the Landmarks Preservation Commission.
Please note: This item was deferred to the June 14, 2023, meeting at the Approval of the Agenda, Item V.
- i. **ZON-23-028 (ARC-23-013) 177 CLARKE AVE. (COMBO)—VARIANCES** The applicants, James Coleman Baker and Veronica Chen Baker, have filed an application requesting Town Council review and approval of variances including (1) Cubic Content Ratio, (2-4) to vest existing rear and side setback encroachments due to the demolition of more than 50% of the building, and (5) to allow a two-story accessory structure in support of the construction of a new two-story residence, alterations to an existing garage structure and landscape and hardscape improvements. The Architectural commission will review the design review component of the application. [The Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause a negative architectural impact to the subject property. Carried 7-0.] [The Architectural Review Commission approved this project with minor modifications at their April 26, 2023, meeting. Carried 7-0.]

There were no ex-parte communications declared at this time.

Maura Ziska, attorney for the applicant, presented an overview of the project and the zoning requirements for the project. The property has an existing home that is connected to a nonconforming garage. Historically, the variances would not be necessary if the two-story accessory structure were unattached.

Kristen Kellogg, Smith Kellogg Architecture, Inc., presented the architectural plans for the proposed new residence.

Mr. Bergman provided staff comments on the project.

Council Member Cooney thought the requests were acceptable. Council Member Araskog expressed concern because the proposal was for a new building. She wondered why the proposed structure could not conform to the Code. Ms. Ziska responded.

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

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to approve Variance ZON-23-028 shall be granted and find in support thereof that all of the criteria applicable in this application as set forth in 134.201(a) items 1-7 have been met and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement satisfactory to the town that ensures a recorded easement will be granted, if necessary, for underground utilities in the area. Motion carried unanimously, 5-0.

- j. **ZON-23-034 (ARC-23-026) 171 EL PUEBLO WAY (COMBO) – SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** The applicants, Kevin Ryan and Carolyn Pressly- Ryan, has filed an application requesting Town Council review and approval for special exception with site plan review for development of a single-family dwelling on a lot in R-B zoning district which is deficient in lot width and area, and (3) variances for (1) a reduced swimming pool setback, (2) a variance to exceed maximum allowed equipment screening wall height, and (3) a variance to allow a supported second floor balcony to encroach into the required front yard. The Architectural Commission shall perform design review of the application. This project has been deferred to the June 14, 2023, Town Council meeting.
Please note: This item was deferred to the June 14, 2023, meeting at the Approval of the Agenda, Item V.

- k. **ZON-23-041 (ARC-23-032) 176 SEMINOLE AVE (COMBO)— VARIANCES** The applicant, William Paca Beatson, Jr. Trustee of the William Paca Beatson Revocable Trust dated January 8, 2021, has filed an application requesting Town Council review and approval for four (4) Variances required to convert an existing two-car garage into interior storage space and to construct a second-

story addition over the rear garage with site and landscape alterations, including (1) to eliminate required garage parking spaces, (2) to construct a second floor addition with reduced rear setbacks, (3) to exceed the maximum allowable Cubic Content Ratio (CCR), and (4) to reduce the overall Landscape Open Space below the required minimum. The Architectural Commission will perform the design review component of the application. This project shall be deferred to the June 14, 2023, Town Council meeting pending review by the Architectural Review Commission.

Please note: This item was deferred to the June 14, 2023, meeting at the Approval of the Agenda, Item V.

2. New Business

- a. **ZON-22-121 (HSB-22-012) 428 CHILEAN AVE (COMBO)—VARIANCE.** The applicant, David Mooney, has filed an application requesting Town Council review and approval for a variance to exceed maximum equipment screening wall height, to screen equipment in the west side yard. The Landmarks Preservation Commission shall perform design and flood plain variance review of the application. This project shall be deferred to the June 14, 2023, Town Council meeting pending review by the Landmarks Preservation Commission.

Please note: This item was deferred to the June 14, 2023, meeting at the Approval of the Agenda, Item V.

- b. **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, (2) to exceed the maximum amount of Cubic Content Ratio (CCR), (3) to exceed the maximum allowable building height, and (4) to exceed the maximum allowable overall building height, 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 clerestory. The Architectural Commission will perform design review of the application. [The Architectural Review Commission deferred this project for restudy to the May 24, 2023, meeting. Carried 7-0.] This project shall be deferred to the June 14, 2023, Town Council meeting, pending review by the Architectural Review Commission.

Please note: This item was deferred to the June 14, 2023, meeting at the Approval of the Agenda, Item V.

- c. **ZON-23-020 (COA-23-003) 139 N COUNTY RD—THE PARAMOUNT THEATER (COMBO) - SPECIAL**

EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES

The applicant, WEG Paramount LLC, has filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review for the renovation of an existing Landmarked theater structure and the construction of a new three-story mixed use (retail and four residential units) development including Special Exception requests (1) to permit Private Club use in the C-TS district, (2) for square footage > 3,000 SF in the C-TS district, (3) for Restaurant use in the C-TS district, (4) for Outdoor seating use (100 seats) associated with a restaurant or private club in the C-TS district, (5) for a maximum of two stories in the C-TS district and (6) for shared parking in the C-TS district. The applicant is also seeking Site Plan Review for new building(s) or for changes in a permitted use in Sec. 134-1107 which involves more than 2000 square feet of building floor area in the C-TS zoning district. Additionally, the applicant is seeking review and approval for Variances (1) to reduce the required front yard for new construction, (2) front side street yard for new construction, (3) and rear yard setback requirements for new construction, (4) to allow three stories in lieu of two stories in CTS district, (5) to exceed the maximum height, (6) to exceed the maximum overall building height, (7) to exceed the maximum allowable lot coverage limitation, (8) to exceed the maximum building length permitted, (9) to exceed the maximum building size (floor area) permitted, (10) to reduce the required overall landscape open space, (11) to reduce the required front yard landscape open space, (12) to reduce the required front yard setback for the subterranean parking level, (13) front side street yard setback for the subterranean parking level, (14) and rear yard setback requirements for the subterranean parking level, (15) a variance to permit tandem and triple stacking for parking in the garage structure, (16) a variance to eliminate the required onsite loading space, (17) a variance to reduce the required drive aisle width, (18) a variance to exceed the maximum drive aisle slope in a garage, (19) a variance to exceed the maximum height of a perimeter wall on a side or rear property line, and (20) a variance to allow a generator (between 64kW-100kW) within a required side or rear setback, in conjunction with the renovation of an existing Landmarked theater structure and the construction of a new three-story mixed-use (retail and four residential units) development with two subterranean parking levels (127 parked spaces). The Landmarks Preservation Commission will perform the design review. This project shall be deferred to the June 14, 2023, Town Council meeting pending review by the Landmarks Preservation Commission.

Please note: This item was deferred to the June 14, 2023, meeting at the Approval of the Agenda, Item V.

- d. **ZON-23-042 (ARC-23-043) 259 OLEANDER AVE (COMBO) – VARIANCES** The applicant 259 Oleander LLC (Uriel Rubinov, Manager), has filed an application requesting Town Council review and approval for (8) variances related to the redevelopment of an existing parcel, including relief from (1 – 3) minimum lot width, depth and area requirements in the R-C zoning district, (4 – 7) front, rear, and side yard setbacks requirements, (8) maximum lot coverage requirements. The Architectural Commission shall 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 demotion of the house on this property and the proposed project at their April 26, 2023, meeting. Carried 7-0.]

Ex-parte communications were declared by Council Member Cooney.

Maura Ziska, attorney for the applicant, presented an overview of the project and the zoning requirements for the project. The property is in the RC zoning district on Oleander, and the applicant desires to demolish a 4-unit multifamily building to construct a single-family residence. Several variances will be necessary because the property is only 3,360 square feet in area.

Rafael Saladrigas, Studio SR Architecture + Design, presented the architectural plans proposed for the new residence.

Mr. Bergman provided staff comments on the project.

Council Member Cooney thought the new residence would be contextual within the neighborhood. Council Member Crampton agreed with Mr. Cooney.

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

Council Member Araskog asked about the proximity of the proposed home with the adjacent neighbors. Mr. Saladrigas responded. Council Member Araskog expressed concerns about the number of variances being requested. She asked about the size of the proposed home.

Mr. Saladrigas discussed the reasons for the requests for several variances.

Council Member Araskog asked about the hardship. Ms. Ziska

responded.

Council President Zeidman liked the proposed architecture and how it was stepped back.

Motion made by Council Member Cooney and seconded by Council Member Crampton to approve Variance ZON-23-042 shall be granted and find in support thereof that all of the criteria applicable in this application as set forth in 131.201(a) items 1-7 have been met and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement satisfactory to the town that ensures a recorded easement will be granted, if necessary, for underground utilities in the area.

Council Member Araskog asked Mr. Randolph if on the variances and the description, with the small size of the lot, a hardship would exist because the use would not be allowed under the current code.
Motion carried unanimously, 5-0.

- e. **ZON-23-044 (COA-23-017) 360 SEASPRAY AVE (COMBO)—VARIANCES** The applicants, Justin and Meira Besikof, have filed an application requesting Town Council review and approval of (3) Variances to (1) to reduce the required street side yard (west) setback, (2) to provide no garage parking, and (3) to not provide code compliant screening for a swimming pool, in conjunction with proposed exterior alterations, additions, and site modifications to a Landmarked single-family residence. The Landmarks Preservation Commission will perform design review of the application. This project shall be deferred to the June 14, 2023, Town Council meeting pending review by the Landmarks Preservation Commission.
Please note: This item was deferred to the June 14, 2023, meeting at the Approval of the Agenda, Item V.
- f. **ZON-23-045 (COA-23-018) PHIPPS PLAZA PARK (COMBO) - SPECIAL EXCEPTION WITH SITE PLAN REVIEW** The applicant, Town of Palm Beach, has filed an application requesting Town Council review and approval of a Special Exception and Site Plan Review in conjunction with landscape and hardscape improvements proposed for Phipps Plaza Park. The Landmarks Preservation Commission will perform the design review component of the application. [The Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative impact to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation

Commission approved this project at the April 19, 2023, meeting. Carried 7-0.]

Paul Brazil, Director of Public Works, stated that as part of the development of the carriage house, one of the conditions was for the park to be improved. One of the owners of the carriage house have dedicated \$300,000 for improvement of the park. This was presented to the Town Council a few months ago. After that and before the Landmarks Preservation Commission reviewed the project, there was additional public input from the garden club and other residents.

Ex-parte communications were declared by Council Member Crampton and Council President Pro Tem Lindsay.

Dustin Mizell, Environment Design Group, presented the landscape and hardscape plans proposed for the site.

Council President Pro Tem Lindsay thanked Ms. Bickford for her donation. She thought that the design was usable and accessible. She also believed it would be less expensive to maintain. She thought the plan was a nice improvement.

Council Member Crampton asked Mr. Mizell his opinion if the material proposed would attract birds, bees and butterflies, to which Mr. Mizell responded in the affirmative. Council Member Crampton thanked the professional for his efforts.

Mayor Moore thought the plan looked beautiful. She recommended that the Town provide trash cans and asked Mr. Brazil to ask his staff to empty the cans.

Council Member Araskog thanked the professional for his design and the native plantings.

Council President Zeidman called for public comment.

Bob Shelton, 215 Phipps Plaza, thanked Ms. Bickford's acceptance of the residents' recommendations. He asked about the maintenance of the park and hoped it would be better maintained than it is now.

Edith Eglin, 242 S. County Road, was excited about the proposed changes.

Council President Pro Tem Lindsay explained why the park would require less maintenance.

Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay approval of ZON-23-045, Phipps Plaza Park special exception with site plan as said application meets the criteria set forth in Section 134-229 and 134-329 respectively, of the Town Code, and finding that approval of the site plan will not adversely affect the public interest, that all zoning requirements governing use have been met and that satisfactory provision and arrangements have been made concerning items 1-11 of Section 134.329, and providing the property owner voluntarily commits issuance of a building permit to either provide or record a utility easement satisfactory to the town that ensures a recorded easement will be granted if necessary for underground utilities. Motion carried unanimously, 5-0.

- g. **ZON-23-046 329 WORTH AVE—SPECIAL EXCEPTION WITH SITE PLAN REVIEW** The applicant, 329 Worth Avenue LLC (Matthew & Adrienne Raptis), have filed an application requesting Town Council review and approval for a Special Exception with Site Plan Review to allow a 12-seat lounge/bar with the service of beer, wine, and liquor at the existing Churchill Cigar Co. retail space in the C-WA Worth Avenue zoning district.

There were no ex-parte communications declared at this time. Maura Ziska, attorney for the applicant, presented an overview of the project and the zoning requirements for the project. She noted that the Raptises own Churchill Cigar Company, and they would like the option to have twelve seats for the service of beer, wine, and liquor on a limited basis. There are no plans to serve via or anywhere other than inside the store.

Deborah Nichols, the Architect, presented the architectural plans proposed for modification to the existing retail space.

Mr. Bergman provided staff comments on the project. He noted that this application was submitted before a zoning in progress was declared for bars, restaurants, lounges, clubs and private clubs. He said that by right, the establishment could stay open until 3:00 a.m. Adrienne Raptis, the owner, discussed the hours of operation in her existing building. She said the operative hours are 9:00 a.m. to 5:00 p.m., and she did not foresee staying open later than 10:00 p.m. She is not looking to provide a bar atmosphere.

Council Member Araskog amended her ex parte communications. Council Member Cooney asked about the ventilation system of the

existing business. Ms. Nichols responded that the ventilation system had been supplemented because of the use of smoking cigars.

Council President Zeidman asked about the smells coming out of the business. Matthew Raptis, owner, responded.

Council President Pro Tem Lindsay asked if the applicant would request a liquor license. Ms. Ziska stated that the owners also own all of the storefronts in the Via Roma.

Council Member Araskog asked if someone could smoke cigars outside. Mr. Raptis stated that would not be allowed. Council Member Araskog expressed concern about the possible noise with the change in use.

Mr. Raptis stated the Via was enclosed. He said the gentleman adjacent to them own the space next door. The Via will not be open and no one lives above.

Council Member Araskog expressed concern for health, safety, and wellness.

Ms. Ziska reviewed the plan and reiterated that the Via is a closed space.

Council President Pro Tem Lindsay expressed some concern about the odor. Mr. Raptis stated that there was no odor of cigars in the Via.

Mr. Raptis thought about the closing time and requested to close at 10:00 p.m.

Ms. Ziska stated that patrons are already smoking cigars in the store. The applicants are only requesting the addition of alcohol. Council Member Araskog asked about outdoor seating.

Council Member Crampton was not a fan of the use but believed the applicant deserved a chance.

Motion made by Council Member Crampton and seconded by Council President Zeidman, that Special Exception ZON 23-046 and Site Plan Review be approved, as said applications meet criteria set forth in Sections 134.229 and 134.329, respectively, of the Town Code, and finding that approval of the site plan will not adversely affect the public interest, that all zoning requirements governing use have been

met and that satisfactory provision and arrangements have been made concerning items 1-11 of Section 134.329, and providing for a Declaration of Use that would cover the hours of operation and all smoking and alcohol use would remain inside the building. Also, after one year, the applicant would return to the Town Council for review.

Mayor Moore suggested making the approval conditional rather than requiring a Declaration of Use which would have to be returned to the Town Council.

Council Member Araskog thought there should be a declaration of use agreement and it should be returned to the Town Council next month for approval.

Council President Zeidman was supportive of the motion made by Council Member Crampton, but requested to add that if there were complaints about the smoking, the applicant would return to the Town Council for review.

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

Motion failed 2-3, with Council President Pro Tem Lindsay and Council Members Araskog, and Cooney dissenting.

Motion made by Council Member Cooney and seconded by Council Member Crampton to defer the project to the June 14, 2023 meeting. Motion carried 4-1, with Council Member Araskog dissenting.

- h. **ZON-23-047 1040 N LAKE WAY—VARIANCE** The applicant, 1040 N LAKEWAY LLC (Frances Lynch, Manager), has filed an application requesting Town Council review and approval for a variance to allow an addition to an existing dock, further expanding an existing nonconforming north setback.

There were no ex-parte communications declared at this time. Donna Isham, Docks & More, presented the architectural plans proposed to expand a dock.

Mr. Bergman provided staff comments on the project.

Council Member Araskog asked about the hardship for the variance. Ms. Isham responded.

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

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to approve Variance ZON-23-047 shall be granted and find in support thereof that all of the criteria applicable in this application as set forth in 131.201(a) items 1-7 have been met and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement satisfactory to the town that ensures a recorded easement will be granted, if necessary, for underground utilities in the area. Motion carried unanimously, 5-0.

- i. **ZON-23-048 (ARC-23-048) 755 N COUNTY RD (COMBO) - SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** The applicant, Beach Club Inc, has filed an application requesting Town Council review and approval for Special Exception with Site Plan Review and Variance(s) to exceed the maximum allowable lot coverage and Cubic Content Ratio (CCR) in order to expand an outdoor covered pavilion. The Architectural Commission shall perform the design review of the application. [The project was approved by the Architectural Review Commission, including the recommendation to the Town Council regarding the site plan and variance, on the consent agenda at the April 26, 2023, Architectural Review Commission meeting. Carried 7-0.]

Ex-parte communications were declared by Council President Zeidman, and Mayor Moore.

Maura Ziska, attorney for the applicant, presented an overview of the project and the zoning requirements for the project. She said the applicant wants to increase the number of seats in an existing pavilion. To increase the number of seats, the dining pavilion will have to be widened by 340 square feet on each side, which requires special exception with site plan approval and a variance for lot coverage and CRR.

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 Cooney to approve Special Exception ZON 23-048 and Site Plan Review be approved, as said applications meet the criteria set forth in Sections 134.229 and 134.329, respectively, of the Town Code, and finding that approval of the site plan will not adversely affect the public interest, that all zoning requirements governing use have been met and that satisfactory provision and

arrangements have been made concerning items 1-11 of Section 134.329, 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 satisfactory to the town that ensures a recorded easement will be granted, if necessary, for underground utilities in the area. Motion carried unanimously, 5-0.

Motion by Council Member Cooney and seconded by Council Member Araskog that Variance ZON-23-048 shall be granted and find in support thereof that all of the criteria applicable to this application as set forth in section 134-201(a) items 1-7 have been met. Motion carried unanimously, 5-0.

- j. **ZON-23-050 (ARC-23-036) 243 SEASPRAY AVE (COMBO) – VARIANCES** The applicant, 243 Seaspray LLC (Larry Meyer, Manager), has filed an application requesting Town Council review and approval for (2) variances for (1) a reduced west side yard setback and (2) a reduced north rear yard setback, as it pertains to construction of a new two-story single family residence. The Architectural Commission shall perform design review of the application. [The Architectural Review Commission deferred this project to the May 24, 2023, meeting. Carried 7-0.] This project shall be deferred to the June 14, 2023, Town Council meeting, pending review by the Architectural Review Commission.
Please note: This item was deferred to the June 14, 2023, meeting at the Approval of the Agenda, Item V.
- k. **ZON-23-052 1306 N LAKE WAY—VARIANCES** The applicant, James A. & Patricia Q. Read, have filed an application requesting Town Council review and approval for (2) variances to (1) install a boat lift within the required marine structure setback and (2) to exceed maximum dock width. There were no ex-parte communications declared at this time. Jamie Crowley, attorney on behalf of the owners, presented the architectural plans proposed to expand a dock. The request is to put a boat lift onto a nonconforming dock to the side setback. Mr. Bergman provided staff comments on the project. Council President Zeidman called for public comment. No one indicated a desire to speak.

Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to approve Variance ZON-23-052 shall be granted and find in support thereof that all of the criteria applicable in this application as set forth in 134.201(a) items 1-7 have been met and providing that the property owner did voluntarily commit that prior to the

issuance of a building permit to either provide a recorded utility easement or an easement satisfactory to the town that ensures a recorded easement will be granted, if necessary, for underground utilities in the area. Motion carried unanimously, 5-0.

1. **ZON-23-058 (COA-23-012) 127 DUNBAR RD (COMBO)—**
VARIANCE The applicant, 127 Dunbar Trust, has filed an application requesting Town Council review and approval for a Variance to exceed the maximum height allowable for a perimeter wall located on a side property line. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval. [The Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause a negative impact to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation Commission approved this project at the April 19, 2023, meeting. Carried 7-0.]

Ex-parte communications were declared by Council Member Cooney, and Mayor Moore.

Meghan Taylor, Tralongo & Taylor, presented the architectural plans proposed for the modification to the site wall. The variance was for a height variance.

Mr. Bergman provided staff comments on the project.

Council Member Crampton asked if there was an agreement with the neighbor. Ms. Taylor responded.

Council Member Araskog asked about the current height of the wall. Ms. Taylor responded the wall is currently 10 feet and 2 inches and the top of the roof is 13 feet and 9 inches. The proposed wall would be lower than the existing wall.

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

Motion made by Council Member Cooney and seconded by Council Member Crampton to approve Variance ZON-23-058 shall be granted and find in support thereof that all of the criteria applicable in this application as set forth in 134.201(a) items 1-7 have been met and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement satisfactory to the town that ensures a recorded easement will be granted, if necessary, for underground utilities

in the area. Motion carried unanimously, 5-0.

D. Time Extensions

1. Time Extension Request for 257 Sanford Avenue

Mr. Bergman reviewed the time extension for 257 Sanford Avenue. This time extension would be approximately four additional months, until September 10, 2023.

Matt Corson, Cury Group, requested a four-month time extension.

Council Member Cooney asked about the neighbor's complaints which pertained to delaying the extension.

Mayor Moore asked if four months was enough time. Mr. Corson assured the Town Council that four months was sufficient time to complete the work.

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

Mayor Moore asked if the extension of four months would be enough time. Mr. Corson said he believes the four months will be plenty of time.

Motion by Council President Pro Tem Lindsay and seconded by Council Member Crampton to approve the Time Extension Request for 257 Sanford Avenue until September 10, 2023. Motion carried unanimously, 5-0.

XII. ANY OTHER MATTERS

XIII. ADJOURNMENT

The meeting adjourned at 5:44 p.m. without the benefit of a motion.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Kelly Churney, Acting Town Clerk
Date: _____