



**TOWN OF PALM BEACH**  
Planning, Zoning & Building Department  
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**PLANNING, ZONING, & BUILDING DEPARTMENT**

**PZ&B Staff Combination Memorandum: Town Council and Landmarks Preservation Commission**

**FROM:** Wayne Bergman, MCP, LEED-AP *WB*  
Director PZ&B

**SUBJECT:** ZON-23-020 (COA-23-003) 139 N COUNTY RD—PARAMOUNT THEATER  
(COMBO)

**MEETING:** JANUARY 10, 2024 TC  
JANUARY 17, 2024 LPC

**Applicant:** WEG Paramount LLC (Lester Woerner)  
**Professional:** Stantec Architecture | RAMSA  
**Representative:** James Crowley, Esq.

**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 greater than 3,000 SF in the C-TS district, (3) for Outdoor café seating use associated with a private club in the C-TS district, (4) for two stories in the C-TS district, (5) for shared parking in the C-TS district, and (6) for a modification to a previously approved Special Exception for Churches, synagogues or other houses of worship to allow for a flexible event space. The applicant is also seeking Site Plan Review for new building(s) or for changes in a permitted use in Sec. 134-1107 which involve 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 setback, (2) front side street yard setback, (3) and to reduce the required 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 require 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) to reduce the front side street yard setback for the subterranean parking level, (14) to permit mechanical lift parking in the parking garage, (15) a variance to exceed the maximum height of a perimeter wall on a side or rear property line, (16) to permit residential uses on the first level in the C-TS zoning district in lieu of the above the first-floor requirement, (17) to allow generators on a roof(s), (18) to exceed the maximum height of a screening wall for mechanical equipment on a roof, (19) to exceed the maximum height of mechanical equipment on a roof, and (20) to exceed the maximum height of chimneys, in conjunction with the renovation and adaptive reuse of an existing Landmarked theater structure and the construction of four

connected residences with ground floor retail components with two levels of subterranean parking. The Landmarks Preservation Commission will perform the design review.

**HISTORY:**

See attached 'Site History'.

An application, ZON-23-006, was presented for approval for 'outdoor promotional events' within the courtyard of the landmarked property at the January 11, 2023, Town Council meeting, but was ultimately withdrawn by the applicant. Most recently, a zoning text amendment submitted by the applicant is currently under review for consideration to propose zoning changes allowing covered arcades over the public right-of-way in the C-TS zoning district, similar to the provisions provided for the C-WA zoning district. The Planning & Zoning Commission, at their November 8, 2023, meeting, voted 4-3 to recommend denial of the proposed zoning text amendment for covered arcades and colonnades.

The current item was originally scheduled and presented at the April 19, 2023, LPC meeting, where design review and specific direction regarding the scale, massing, height and architectural proportion and detailing of the new construction was provided, with much discussion regarding the impact that the new construction could have on the prominent landmark as it pertained to its bulk, height, and massing. The matter was deferred to the May 17, 2023, meeting, and has been subsequently deferred at the request of the applicant. The application was re-noticed and readvertised for the July meeting.

Since the April LPC meeting, there was discussion at the May 2023 Town Council meeting, pertaining to the 'order' of review for combination projects requiring some form of zoning relief. Currently, those 'combo' projects involving zoning action require going before the design review commission first, followed by Town Council for final action on Variances, Special Exception requests, and/or Site Plan Reviews. Direction was given that commercial projects requiring some form of zoning action from Town Council be heard first, prior to the design review commission. The Paramount application predates that policy change and was therefore presented first before the Landmarks Preservation Commission before Town Council has acted upon it. At the July 19, 2023 LPC meeting, a slightly modified design was presented again, and additional discussion commenced. After a lengthy discussion, a motion was made and seconded that the project be deferred until the Town Council can act on the variances and special exception requests. Once approved by the Town Council, the project shall return to the Commission with a complete application, including the tax abatement application. Motion carried unanimously, 7-0. This is the first time the application is being presented to Town Council.

**THE PROJECT:**

The applicant has submitted plans, entitled "PARAMOUNT THEATER FINAL DROP OFF - DECEMBER 7TH, 2023 APPLICATION # COA-23-003 (ZON-23-020)", as prepared by **Stantec Architecture** and **RAMSA** date stamped by the Town, December 08, 2023.

The applicant is requesting review and approval of the following scope of work for a Certificate of Appropriateness and has submitted a Historic Preservation Tax Abatement application for the proposed improvements:

- Rehabilitation and renovation of the existing three-story landmarked theater, office and retail spaces and external sitework improvements.

- Façade renovations and alterations to the primary and secondary street facing façades and all other elevations.
- Substantial interior demolitions and improvements.
- Construction of three-story mixed use residential structures with four residential units and some ground floor retail above two levels of subterranean parking to replace the surface parking lot. This new construction is not included in Tax Abatement.

The following Special Exceptions, Site Plan review and/or Variances required to complete the project, and shall be reviewed by Town Council:

**SPECIAL EXCEPTION REQUESTS + SITE PLAN REVIEW**

1. SITE PLAN REVIEW: Sec. 134-1112: Site Plan Review for new building(s) or for changes in permitted use in Sec. 134-1107 which involves more than 2,000 SF of building floor area in the C-TS zoning district.
2. SPECIAL EXCEPTION #1: Sec. 134-1109(a)(3): Special Exception for a private club use (475 members) in the C-TS zoning district.
3. SPECIAL EXCEPTION #2: Sec. 134-1109(a)(11): Special Exception with Site Plan Review for permitted uses over 3,000 SF of gross leasable area (GLA) in the C-TS zoning district.
4. SPECIAL EXCEPTION #3: Sec. 134-1109(a)(14): Special Exception for outdoor café seating in the C-TS zoning district. 74 outdoor seats on level 1 (42 private club, 32 public restaurant) + 66 outdoor seats on level 2 of private club = total 140 outdoor seats.
5. SPECIAL EXCEPTION #4: Sec. 134-1113(8)(c): Special Exception for maximum building height of 2 stories.
6. SPECIAL EXCEPTION #5: Sec. 134-2182(b): Special Exception for shared parking.
7. SPECIAL EXCEPTION #6 Modification to previously approved SE for a Churches, synagogues or other houses of worship, for worship space for 200 patrons. SE #27-93 for church use for 1,800 square feet of first floor space for church purposes and not more than 63 seats.

**VARIANCE REQUESTS**

1. VARIANCE #1: Sec. 134-1113(5) (b)-(c): A variance for a front yard setback of 0 ft in lieu of the 11' to 16.9' required.
2. VARIANCE #2: Sec. 134-1113(7)(c): A variance for a rear yard setback of varying 5'-3" to 7'-11" ft in lieu of the 22' minimum required.
3. VARIANCE #3: Sec. 134-1576(a): A variance for a front (street) side yard setback of 0' in lieu of the 11' to 16.9' required.
4. VARIANCE #4: Sec. 134-1113(8)(b): A variance for 3 stories in lieu of the 2 stories maximum permitted.
5. VARIANCE #5: Sec. 134-1113(8)(b): A variance for a building height of 36'-10" ft in lieu of the 25'-0" maximum building height permitted.
6. VARIANCE #6: Sec. 134-1113(8)(d): A variance for an overall building height of 41'-3" in lieu of the 35'-0" maximum overall building height permitted.
7. VARIANCE #7: Sec. 134-1113(9)(b): A variance for lot coverage of 84% (48,652 SF) in lieu of the 70% maximum permitted.
8. VARIANCE #8: Sec. 134-1113(10)(b): A variance for a building length of 340.5 ft in lieu of the 150 ft maximum building length permitted.
9. VARIANCE #9: Sec. 134-1113(12)(b): A variance for a floor area of 67,157 SF in lieu of

- the 15,000 SF maximum floor area permitted. *NOTE new SF=25,887 NEW RESIDENCES.*
10. VARIANCE #10: Sec. 134-1113(11)(b): A variance for an overall landscape open space of 2% in lieu of the 25% minimum required.
  11. VARIANCE #11: Sec. 134-1113(11)(c): A variance for a front yard landscaped open space of 4.5% in lieu of the 25% minimum required.
  12. VARIANCE #12: Sec. 134-1611(2)(d): A variance for a subbasement front yard setback of 2'-8" in lieu of the 5'-0" minimum setback required.
  13. VARIANCE #13: Sec. 134-1611(2)(d): A variance for a subbasement street-side yard setback of 2'-8" in lieu of the 5'-0" minimum setback required.
  14. VARIANCE #14: Sec. 134-2172: A variance to install mechanical car lifts (78 rows) in a 162-space parked garage. *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.*
  15. VARIANCE #15: Sec. 134-1669: A variance to exceed by 1' the maximum allowable wall height on a side or rear property line. All walls and/or fences located within ten feet of the side or rear property line shall not exceed seven feet in height.
  16. VARIANCE #16: Sec. 134-1107(a)(9): A variance to four (4) new residences to be located on the first floor in lieu of residences only being permitted above the first floor in the C-TS district.
  17. VARIANCE #17: Section 134-1729(2)(j) Variance to permit 5 generators located on a roof.
  18. VARIANCE #18: OPEN AIR MECHANICAL ENCLOSURE located on the roofs of theater building item J @ 114" high and 98" above roof in lieu of 48" is permitted.
  19. VARIANCE #19 Sec. 134-1607(1) Variance to exceed the maximum height of AC equipment located on the roofs of house #1-4 item @ 66" high above roof in lieu of 48" is permitted.
  20. VARIANCE #20 Variance to exceed maximum height of chimneys is 35'. (Chimney height house 1 is 39'-6" or 47'-8" and house 2,3,4 is 43'-0" or 51'-2". Chimneys may be erected to a height not to exceed 40 percent above the building height limit.

Site Data			
<b>Zoning District</b>	C-TS	<b>Lot Size (SF)</b>	<u>58,098 SF</u> 34,001 SF (theater site) 24,097 SF (parking lot)
<b>Future Land Use</b>	COMMERCIAL	<b>Courtyard Area</b>	4,460 SF (ground floor)
<b>Total Building Size</b>	+/- 41,270 SF Paramount building <u>25,887 SF new houses</u> 67,157 SF total	<b>Finished Floor Elev.</b>	12' NAVD (theater) 8.5' NAVD (retail liner)
<b>Crown of Road</b>	7.37' NAVD	<b>FEMA FLOOD ZONE</b>	X
<b>Year Constructed</b>	1926	<b>Architect</b>	Josef Urban
<b>Designation as Landmark</b>	09/14/82	<b>National Register District</b>	12/12/73

<b>Lot Coverage</b>	Existing: 41% (24,233 SF) Proposed: 84% (48,652 SF) Permitted: 70% (40,668) <i>Variance requested</i>	<b>Square Footage/ Floor Area (SF)</b>	Existing: +/- 41,270 SF New: 25,887 SF Total: 67,157 SF SF Permitted: 15,000 SF <i>Variance requested</i>
<b>Front Yard Open Space</b>	Existing: 15% Proposed: 15.85% Permitted: 25% <i>Variance requested</i>	<b>Landscape Open Space (LOS)</b>	Existing: 15% Proposed: 4.5% Permitted: 25% <i>Variance requested</i>
<b>Parking</b>	<u>Parking Equivalency (PoE) Credits: 124</u> Required: 64 new + 45 space deficient = 109 required spaces Proposed: 162 spaces (78 lifts) Surplus: 53 spaces <i>Variance for mechanical lift parking</i>	<b>Building Length</b>	Existing: 163'-2" Proposed: 340.5' Permitted: 150' <i>Variance requested</i>
<b>Height</b>	Permitted: 25'-0" Proposed: 36'-10" <i>Variance requested</i>	<b>Overall Height</b>	Permitted: 35'-0" Proposed: 41'-3" <i>Variance requested</i>
<b>Stories</b>	Permitted: 2-stories Proposed: 3-stories <i>Variance requested</i>		
<b>Private Club</b>	475 members Including private dining 195 interior seats 112 outdoor café seats	<b>Church Space</b>	Existing: 63 people Proposed: 200 people (Sunday service only)
<b>Surrounding Properties / Zoning</b>			
<b>North</b>	One-story commercial / C-TS and R-C		
<b>South</b>	Three-story residential w/ ground floor retail / C-TS and R-C		
<b>East</b>	1950 Six-story condominium-SUN & SURF / R-C		
<b>West</b>	One-story commercial / C-TS		

**CONSISTENCY WITH THE COMPREHENSIVE PLAN:**

A preliminary review of the project indicates that the proposed **application** appears **consistent** with the **COMMERCIAL** designation of the Future Land Use Map of the Comprehensive Plan, but the proposal is an intensification of the site's current use:

- **Land Use Element:** The Town recognizes that future development and attendant population growth would aggravate traffic problems, perhaps bringing the Town to a critical level of overuse. The Town has therefore adopted the following policy regarding growth: To prevent critical and dangerous overuse of its streets, parking resources, public services and facilities, and damage to its historic character and to overall property values of the community, the Town will take all technical and administrative measures legally available, including the use of this Comprehensive Plan, to minimize the change or transition of existing low-density areas or structures to more intensive use patterns, and thereby lower the pattern of density, where possible, and to minimize tourism inflow.

- **Land Use Element:** It continues to be a major objective of the Town to inhibit further commercialization, contain commercial uses to limited geographic locations, and to promote commercial uses which are primarily oriented to serving the needs of residents, employees and visitors staying in accommodations in the Town, while discouraging those businesses that attract customers and clients from off the Island.
- **Land Use Element: POLICY 2.3:** Development orders shall be issued by the Town only for new non-residential development or redevelopment that is consistent with the Future Land Use Map and descriptions and intensities of land use as set forth in the following policies. 2.3.1 The following definitions shall pertain to the application of the non-residential land use designations and associated policies: a. “Town-serving” shall mean establishments principally oriented to serving the needs of Town persons and not substantially relying on the patronage of persons not defined as Town persons. Commercial establishments (other than those in the “Commercial – Office, Professional & Institutional” (C-OPI) zoning district, which are not required to meet town-serving requirements) of 3,000 square-feet or less of gross leasable area in the C-PC, C-TS and C-B zoning districts, and 4,000 square-feet or less of gross leasable area in the C-WA zoning district are assumed to meet the intent of the first part of this definition. b. “Town persons” shall mean all full-time and seasonal residents of the Town as well as visitors staying at accommodations in, or employees working in establishments located within, the Town.
- **Land Use Element: POLICY 2.3.3:** Commercial – Intended to create, preserve, and enhance areas of attractive, small scale, retail, personal and professional/business services, and mixed commercial/ residential use, developed either as a unit or in individual parcels, providing primarily for the frequently recurring needs of Town persons with limited provision for more intensive commercial uses that are proven to be compatible with the Future Land Use Plan and the character of the Town.
  - d. In limited circumstances, the maximum building height shall be three stories.
- **Land Use Element: POLICY 2.4:** To prevent critical and dangerous overuse of its streets, parking resources, public services and facilities, and damage to its historic character, and to overall property values of the community, the Town will take all technical and administrative measures legally available, to minimize the change or transition of existing low-density areas or structures to more intensive use patterns, and thereby lower the pattern of density, where possible, and to minimize tourism inflow.
- **Land Use Element: POLICY 2.5:** To continue to enforce the provisions of the Town's Zoning Ordinance which are directed toward the encouragement of Town-serving commercial uses and the discouragement of those uses which are likely to attract patronage on a regional level.

**STAFF ANALYSIS:**

The existing lot is 1.45-acre corner parcel on the southeast intersection of Sunrise Avenue and North County Road, a prominent location in the Commercial, Town Serving District. The site is improved with an existing three-story Landmarked structure—the Paramount Theater—which was designated a Palm Beach Landmark in 1982. The theater occupies the northern portion of the site, and a 46-car surface parking lot occupies the southern portion. The application proposes the renovation and restoration of the historic Landmarked Paramount Theatre, and the addition of new attached three-story mixed building on the existing parking lot to the south of the site; specifically,

the new structure includes two levels of underground parking, some street level retail components, a partially below grade motor court, and three new connected three-story residences and one two-story residences built above the motor court, and a raised garden level that includes a shared residential garden.

The proposal includes the renovation and restoration of the existing Landmarked Paramount Theater, a multi-story theater (now office, retail, and church services) and a two-story commercial liner building designed in 1926 by Josef Urban. Between the two structures is a courtyard area which contains approximately 4,460 SF of outdoor area surrounded mostly by the existing building. The entry breezeway at the street corner provides an unobstructed vista into and out of the courtyard area and provides a glimpse of the theater's main entrance. Historically, the building contained apartments, offices, retail and restaurants as companion uses to the theater.

The building was designed as a Town destination that served as a community venue that engaged the site and the prominent corner location. The original plan consisted of the fan shape auditorium diagonally positioned on the site that addressed the intersection of Sunrise Avenue and North County Road with a celebrated triple-height entry breezeway to the courtyard and main entrance of the theater, topped with the still surviving original Paramount signage in script inset with light bulbs. A copper sheathed dome is located above the main entrance lobby and is decorated with intersecting arches. The main auditorium once boasted interior heights of two and a half stories and could accommodate crowds of over 1,200 people. When it opened in November of 1926, there were 1080 orchestra-level seats and 156 box seats. It is documented that the live theater remained in operation until 1968. The last movie shown at the Paramount was sometime in the late 1970s.

After this time, the space remained mostly dormant. After the adoption of the Town's Landmarks ordinance in 1979, the Paramount Theater and its potential redevelopment opportunities became a passionate topic of conversation. During this time, the then-owner agreed to voluntarily accept the landmarking of the Paramount on the condition that the Town accept an adaptive reuse plan that would be presented to ARCOM and LPC. 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.

The adaptive reuse plan also called for development of the eastern portion of the property, replacing the then-existing tennis courts with a new multi-story structure consisting of underground parking with office and retail uses above. This scheme required zoning relief to convert the uses (Special Exception#: 12-83 with Variances and Site Plan Review). Interestingly at that time, there was resistance on the change of use conversion from Town residents, the Preservation Foundation and the Town Council, who wished the space to remain a theater. During this revitalization project, the interior of the theater was gutted and retrofitted with infrastructure that created two floors where the large theater space existed.

Retail tenants included a surf shop, ice cream shop, chocolatier, jeweler, and clothing boutiques. Office tenants included property management services, broadcasting, design services, and civic associations. A portion of the ground floor dormant theater space was converted for use by the Paramount Church in 1994 and was in operation for nearly 27 years. Currently, there is a small coffee shop and a gallery, office spaces, and vacant spaces along N. County Road. A pop-up retail store, wine merchant, and home furnishings store are located along Sunrise Avenue.

The two most significant aspects of the project are (1) the re-programming of the Landmarked Paramount Theater, and (2) the construction of the four connected residential units in the mixed use buildings and underground parking garage. Considerable revisions to the architecture and the proposed program have progressed over the months. The proposal includes the following program:

- Private social club utilizing a portion of the former first and second floor auditorium space with a maximum membership of 475 people. This includes a private restaurant on the ground level and second level with 195 indoor seats and an additional 112 outdoor café seats.
- A 200 seat church for Sunday services is also proposed to occupy a portion of the second floor of the private club when it is not in use.
- A new three story mixed use building with four, residential units (three of which are three-story and one is two-story) with three utilizing ground floor commercial space.
- Two levels of subterranean parking garage.

The total program within the Paramount Theater is an intensification of the site when compared to its current usage, but may be in line with the original 1926 occupant loads.

#### **PARKING ANALYSIS AND PROGRAM**

Through the principle of equivalency outlined in the zoning code as it pertains to parking credits, the existing uses attribute towards a 124-space parking credit, outlined below:

- Existing Uses and Parking Principle of Equivalency (PoE) credits = 124 parking credits  
General Office = 14,745 SF (59 spaces)  
General Retail= 9,683 SF (49 spaces)  
Church/Synagogue = 63 seat church via SE (16 spaces)

When reviewing the proposed uses housed solely in the paramount building, a deficit of 45 parking spaces is attributed, outlined below:

- Proposed Uses in PARAMOUNT building = 169 required spaces.  
Social Club = 475 members (119 spaces at 1 per 4 members)  
Auditorium / event space = 200 seats (50 at 1 per 4 seats)

Next, factoring in the parking requirements for the new construction over the existing surface parking lot, outlined below:

- New Construction on 46 space parking lot = 64 required spaces  
Surface lot = 46 spaces  
Residential (4) units = 8 spaces  
New retail @1,934 SF = 10 spaces

64 new required spaces + 45 space deficient = 109 required spaces.

Proposed garage is for 162 spaces, yielding 53 surplus spaces.

The applicant is proposing a two-level subterranean parking garage accommodating 162 parked vehicles (78 utilizing mechanical lifts via **Variance #14**) accessed off Sunrise Avenue. The actual parked amount proposed with 162 spaces minus 109 required spaces, resulting in a surplus of 53 parking spaces. The proposed parking is housed in the underground parking levels that will be utilized to meet the parking demand for the existing Paramount Building uses and retail uses. The new construction for the proposed four (4) new homes eight will have (8) of the parking spaces will be solely used by the owners in private garages on the sunken motor court area, and two additional spaces will be used only by the homeowners' guests.

While the applicant is not deficient in provided parking space, and in fact, has surplus parking, it



is imperative to note that the proposed garage structure requires two (2) setback variances (**Variances #12, 13**), the use of three non-traditional parking methods in the form of tandem, triple stacked, and mechanical lifts (**Variance #14**). Staff had expressed serious concerns of the possible ramifications of the initial underground parking garage edifice as it pertained to vehicle and pedestrian safety, and the applicant has since responded and redesigned the garage, removing three prior variances for drive aisle width, backup space, and slope of vehicular ramping.

### **SPECIAL EXCEPTION REQUESTS**

The applicant's proposal includes six separate Special Exception requests. While all of the requests are interconnected, for analysis purposes they are identified independently as follows.

As it pertains to the **Special Exception #1**, the applicant is proposing a private member club (475 members) in an adaptive reuse plan for the landmarked structure. The two-story theater is proposed to be broken into spaces of varying size and uses. The entire building is conditioned with a maximum occupancy limit of 412 people. Since the Paramount theater opened in 1926 a lot has changed within the Town—most notably the development of the north end of the island for residential lots after the post-war boom, an overall more year-round lifestyle, and the dramatic development of West Palm Beach just over the bridge. This is an opportunity for the Town Council to consider whether private clubs (and restaurants, bars, lounges and nightclubs) should continue to be special exceptions uses in the various commercial zoning districts, or whether these uses should be capped / limited, or prohibited in certain areas – in the future.

As it pertains to the **Special Exception #2**, for permitted uses over 3,000 SF of gross leasable area (GLA) in the C-TS zoning district. The applicant has some retail spaces that may exceed this area amount. It is important to note that none of the new construction retail comes anywhere close to the limit, as the total new retail SF is less than 2,000 SF. This request is for the adaptive reuse of the retail component of the Paramount building.

As it pertains to the **Special Exception #3**, to permit outdoor café seating in connection with the private dining component of the private club. The plans indicate dining areas for 195 dining seats inside the building, accommodated throughout both levels of the structure and 112 outdoor café seatings located in the courtyard, and on the second level terrace areas.

As it pertains to the **Special Exception #4**, for a maximum building height of 2 stories in the C-TS district, there are plenty of two-story buildings in the immediate vicinity that would justify the granting as the approval would not be incongruous with the height of surrounding area. There is an abutting two-story residence to the east along Sunset Avenue, a one-story commercial building (synagogue) currently under review for a multistory development, a landmarked three-story building to the south and a one-story commercial building to the north. The Paramount building itself, contains two- and three-story portions of buildings.

As it pertains to the **Special Exception #5** to allow for shared parking, the applicant is proposing to have the underground parking garage serve as the communal parking repository for all of the required parking for the on-site retail component, the private club use, and the religious service uses for the project. The applicant is proffered that the religious services on Sunday will not conflict with the standard operating hours for the private club and are therefore seeking the shared parking.

Finally, the applicant is seeking **Special Exception #6**, to modify the 1993 Special Exception (SE #27-93) that granted approval for church use for 63 seats. The applicant is seeking to expand that

use for a house of worship use with up to 200 seats patronage. The applicant has proffered Sunday services only for the religious use and as not to conflict with the private club patrons, which is submitted to be closed during service hours. The entire landmark building is conditioned with a maximum occupancy limit of 412 people.

#### **VARIANCE REQUEST ANALYSIS**

**Variances #1, 2 and 3**, are variance requests to reduce the required front, rear and street-side setback requirements. The proposed design responds to the immediate context of North County Road in the architecture by building closer to the street edge on a commercial roadway while still providing sufficient sidewalk width and pedestrian clearance. The applicant has broken up the façades of the new construction appropriately and at multiple iterations in the plans. The existing Paramount building, angled on the site, has several portions of it that encroach up to the property lines. **Variance #1** is to reduce the front yard (west) along North County Road setback of varying 5'-3' to 7'-11" lieu of the 11' to 16.9' required; while **Variance #2** is to reduce the rear yard setback of 0' in lieu of the 22' minimum required, by allowing the trellis over the vehicular drive off of Sunrise Avenue. **Variance #3** is to reduce the required front street (south) side yard setback of 0' in lieu of the 11' to 16.9' required which would allow the design to be built to the property line along Sunset Avenue.

**Variance #4** requests to permit three stories where 2 are permitted. The applicant is proposing a three-story mixed use development addition to the Paramount building. Technically there are three, three-story residences, or houses, and one, two-story residence, constructed above two levels of subterranean parking garage, to replace the existing surface parking lot.

Historically the Town has allowed applicants to request an additional story when the result would not contravene the Comprehensive Plan. Policy 2.3.3d of the Comp Plan allows for those properties with a commercial FLUM designation in limited circumstances, the maximum building height shall be three stories. The site contains a non-conforming three-story landmarked theater structure with a two-story liner building along the street frontages. South of the subject site, similarly zoned and with the same Comp Plan Designation, there exists a landmarked 3-story apartment building with a covered arcade over the sidewalk. Nevertheless, only two commercial zoning districts today (the C-WA and C-POI) allow the possibility of three-stories. The Town has a long-standing practice of allowing variance requests for third floors, or for additional floors based upon the allowed number of floors in the district, but the reality is that third floors are prohibited in this zoning district. Simply stated, the C-TS zoning district does not permit, nor recognize, third floors. It is this administration's opinion that the variance should not be even able to be requested. That said, with over 40 years of precedent, the request is part of this application.

The applicant is proposing mixed use with residential units above the underground parking garage on the southern portion of the site. The applicant has responded to comments to adapt the massing of the proposed units to be more submissive to the landmarked structure. Note that this request also involves a Special Exception for maximum building height of 2 stories in the C-TS district and then also requires a variance. As such, staff is not supportive of the request, unless the C-TS zoning district, in the future and with code reform, acknowledges three stories.

**Variances #5 and 6**, request relief to exceed the maximum building of 25' and the maximum overall building height of 35', these two requests are fundamentally linked to the above-described Variance 4. Should the Town Council find merit in the request for an additional story, then these variance requests would follow confirming that the proposed building heights of the new homes

are appropriately scaled for the adjacent Paramount building and the surrounding neighborhood.

That said, when viewing the context of the proposal in relation to the landmarked three-story building and more importantly the two-story liner component of the theater, there are considerable opportunities to lower the heights of the new residences to be more in scale with its immediate context - i.e., the two-story commercial liner of the Paramount. Currently, the proposed new construction will be taller than the vaulted expanse of the auditorium of the theater yet below only the signature dome of the landmarked building. The applicant has lowered the heights of the new residences including the removal of a “story” from House 1.

**Variance #7** requests for lot coverage of 84% in lieu of the 70% maximum permitted. The underground garage counts towards the lot coverage, including when it is outside of the building envelope. So, while the four units have been designed in a separate manner, the entirety of the structure counts towards the lot coverage—including the below grade outline regardless of motor court, plantings, or other open to the sky elements within. The Comprehensive Plan limits properties with the Commercial Future Land Use designation (non-residential uses) at 75% maximum lot coverage; and the applicant demonstrated the non-residential land uses accounts for 52% lot coverage. The proposed combination of residential and non-residential land uses totals the 84% lot coverage.

**Variance #8** requests to exceed the maximum building length of 340.5 ft in lieu of the 150 ft maximum building length permitted. The existing landmarked building has a nonconforming building length of 163’-2”. The new construction at the south portion of the site has been designed to vary in setback, style, and changes in plane, yet the Code requires the entirety of the development to be viewed as a single building at 340’-6”. The applicant has broken up the façades of the new construction appropriately and at multiple iterations in the plans. Specifically, the applicant has provided three deeper recesses in the façade articulation of varying widths (10’-2”, 9’-9”, and 8’-7”) and depths to break up the architectural expanse.

**Variance 9** requests to the increase in floor area for the site, as the existing non-conforming structure is already above floor area. Therefore, any new construction would trigger a variance request. The new construction has been designed in a way that is not overwhelmingly monolithic and is generally well-articulated. Individually, none of the new residential units are above the 15,000 SF limit, but cumulatively result in new 25,887 SF residences to be added to the existing 41,270 SF landmarked building, which is a total Floor Area of 67,157 SF, since the entire development is physically connected. As the request is a nearly 200% increase over the allowance, perhaps the applicant can further study areas to reduce the mass and overall SF of the buildings when viewed from the corner rights-of-way. A variance for a floor area of 67,157 SF in lieu of the 15,000 SF maximum floor area permitted. *NOTE new SF=25,887 NEW RESIDENCES.*

**Variances #10 and 11** request to reduce the required overall landscape open space and front yard open space, as the landscape opportunities are limited within the landmarked theater portion of the site, and the incorporation of a subterranean parking garage prohibits any landscape open space opportunities above ground. Since the initial submittal, the applicant has shifted the subterranean parking garage to the east in order to comport with the required 5’-0” setback. Not only did this effort remove one of the setback variance requests, it also provided an increase in overall landscape open space.

**Variances #12 and 13**, are requests to reduce the required front and street-side setback

requirements for the two-level underground parking garage. The request to grant these variances are made to maximize the opportunity to provide the required parking necessary for the intended uses. The below grade structure is hidden from view, in a commercial district with limited setback requirements anyway for above ground structures. Approval of the requests would allow the construction of the garage closer to the property lines along North County Road and Sunrise Avenue. The applicant has shifted the subterranean garage to comport with the rear setback requirements.

**Variance #14** is a variance to install mechanical car lifts (78 rows) in a 162-space parked garage. 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. The applicant had originally submitted the garage design with nonconforming drive aisle widths, noncompliant ramp sloping, and the two additional forms of non-traditional parking stalls. The applicant had redesigned to comport with the spatial requirements of slope, back up and drive aisle widths, but still proposes the use of mechanical parking lifts. 78 parking stalls will house mechanical lifts. On a practical note, the use of mechanical lifts to store vehicles will require (at times) a large number of valet attendants, and while the vehicle storage plan may work in concept, reality may show that both the timely management and operation of these mechanical lifts are not feasible.

**Variance #15** requests to exceed by the maximum allowable wall height in a side or rear property line. All walls and/or fences located within ten feet of the side or rear property line shall not exceed seven feet in height. The request is made for a higher screening wall between discordant uses to properly mitigate impact of traffic noise, trash and equipment yard and loading zone.

**Variance #16** requests to construct four (4) new residential components on the first floor in lieu of residences only being permitted above the first floor in the C-TS district. According to the applicant, "...due to the significant amount of adjacent residential use, it was important to the design of the four (4) homes to locate portions of these homes on the first floor, which will more effectively transition into the adjacent residential, and thereby make the proposed project more compatible to the adjacent residential use."

While this site is zoned C-TS and has a Comprehensive Plan designation of Commercial, the limited use of small retail spaces within the three residential units along North County Road and the elimination of retail entirely for the easternmost residential unit—the allocation of commercial use on this portion of the site has been restrained and, as evidenced by the variance request, eliminated. House 1 is designed with no retail component, House 2 is designed with a corner 553 SF retail unit at sidewalk level, House 3 has a longer 975 SF retail unit at sidewalk level, and finally House 4 has a small 406 SF retail unit at sidewalk level. Larger commercial spaces are 'permitted uses' up to 3,000 SF in the zoning district as a matter of right, yet would not be an appropriate



placement considering the neighboring property to the east is a two-story residence.

**Variance #17** is to permit generators on the roofs of the buildings. The applicant is proposing five generators on the roofs on the complex—one on the Paramount building, and one on each of the four residential units. Staff supports this request and maintains that, in general, rooftop locations for mechanical equipment (including AC equipment, generators, chillers, and other venting equipment) is the most appropriate location for commercial and larger mixed-use developments such as this, as it provides opportunities for green space and moves the potentially noisy and unsightly equipment typically delegated to side yards furthest away from abutting property owners.

**Variance #18** is to permit the open air mechanical equipment located on the roof of the Paramount building to be 114” in lieu of 48”. The screening mechanism is to ensure that the new rooftop projections will be visually hidden from view.

**Variance #19** is to permit AC equipment located on the roofs of houses #1-4 item @ 66” high above roof in lieu of 48” is permitted. Staff maintains that the most responsible placement of these equipment is on the roofs of the buildings. Yet the code is antiquated in the mechanical equipment height projection allowances. Staff agrees with the applicant’s statement that “the variances for the roof-mounted mechanical enclosure and equipment will allow for the relocation of the equipment away from the perimeters of the Property, which would have a greater impact on our neighbors”.

**Variance #20** is to permit the four chimneys to project higher than permitted above the main roof line. Chimneys may be erected to a height not to exceed 40 percent above the building height limit. It could be argued that the architectural projections further exacerbate the vertical height of the new construction. Chimney height house 1 is 39’-6” or 47’-8” and house 2,3,4 is 43’-0” or 51’-2”.

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### **HISTORIC PRESERVATION ANALYSIS**

The historic research provided in the Paramount Theater’s Florida Master Site File, included as part of the structure’s local Landmark designation, describe the resource as being “designed as a complete cultural center... and a superb blend of cinema, residences, restaurants, commercial shops, and offices. It was designed in 1926, by Joseph Urban, world-renowned Austrian architect...and the success of the overall design concept of the theater is demonstrated by the fact that commercial and residential properties have continued in use and increased in value to the present time, while the theater itself remained in operation until 1968”.

Ample historic documentation of the Paramount Theater exists, and the applicant has provided historic drawings and photos documenting the building throughout its existence. Urban’s Mediterranean Revival architectural design blends dramatic 1920’s theater architecture with a partially enclosed outdoor courtyard, reminiscent of a Mediterranean piazza surrounded by companion uses in small shops. The architectural design also blends subtle elements of Art Deco architecture, which was growing in popularity in South Florida at the time of the building’s construction. Character-defining architectural details include sloped barrel tile roofs, stucco facades, Gothic and Oriental arched openings, regularized fenestration, turned wood spindles and balustrades, exterior circulation paths and stairways, and a dramatic domed entryway.

The application seeks to restore the exterior facades of the theater based on historic documentation and by utilizing appropriate material and design considerations. Sheet D-4.1 of the architectural

plans provide the original 1926 Joseph Urban design of the front façade, as well as existing and proposed elevations. Most notably, the central courtyard façade is being restored with the original tripartite glazing stack that was a prominent element in Urban’s design (detail provided on Sheet D-10). Additionally, the proposed window, door, and storefront replacement program generally reflect Urban’s original design elements. New awnings, canopies, and planters based on original designs are also being appropriately reintroduced. Details of recreated historic and new architectural elements proposed at the site are provided on Sheets D-11 through D-15.

The east (Sheet D-4.2) and south (Sheet D-4.3) elevations do see some fenestration rearrangement and removal, particularly on the ground floor as a result of new internal programming and additions. These alterations are largely requested on more utilitarian side elevations.

### **ARCHITECTURAL DESIGN ANALYSIS**

Development on the surface parking lot consists of residential and mixed-use housing units over a subterranean parking garage. Three of the units contain a retail liner component along County Road, and all of the buildings utilize varying architectural designs and massing articulations. The architectural drawings identify these buildings as House 1, House 2, House 3, and House 4. The four residential units are positioned with three (House 2, House 3, and House 4) of frontage along North County Road that are each three stories in height (requiring a special exception and a variances) and contain square footage of 5,656 (House 1), 6,982 SF (House 2), 5,931SF (House 3) and 7,338 SF (House 4). The revised scheme proposed since the July Landmarks meeting further reduces the overall SF mass of the four structures from 27,687 SF to 25,887 SF. Additionally, House 1, with frontage along Sunset Avenue and immediately abutting a two-story residence to the east, has been reduced from three-stories to two-story in height. It must be noted that for zoning purposes, the below grade level does not count towards a story.

The C-TS zoning district allows for *Residence(s) above the first floor* as a permitted use. Technically speaking, none of the residences are located *above* the first floor as the design contains a hybrid blend of street level retail (at grade, sidewalk elevation) and an elevated ‘first floor’ of the residences, which are positioned behind and at a higher elevation than the liner component. Further, the program of House 1 - the easterly most structure along Sunset Avenue, has been designed without a retail component. To this end, the applicant has requested Variance 16 to locate four (4) new residences on the first floor in lieu of residences only being permitted above the first floor in the C-TS district.

Since the previous submittal and discussion at the last LPC meeting, the applicant has revised many aspects of the of the proposed buildings, including lowered overall heights, reductions in square footages, modified fenestration proportions, and detailing modifications in an attempt to address Landmarks Preservation Commission concerns regarding scale, mass, and visual compatibility with the surrounding streetscape. Many of the exterior changes are successful, but some less so - specifically the architectural embellishments placed over the subterranean garage access between House 1 and House 2, which add unnecessary hierarchical importance to recessed secondary element. Additionally, the parapet crenelations on House 1 have become more intricate in design and more increased in scale. The vehicular portico to the east of House 1 has become more accentuated through the use of a descending roofed structure supported by double trellis members, which adds greater emphasis to the drive aisle immediately abutting a neighboring residential property.

In addition to their street level pedestrian entrances, the new residences may also be accessed by the central subterranean motor court level. This level provides a two-bay garage for each residence with vehicle entry and exit lanes accessing Sunset Avenue. Construction of the above-ground mixed-use units requires 12 variances, specifically three for setbacks (**Variances #1, 2, 3**), three for height (**Variances #7**), one for building length (**Variance #8**), one for building floor area (**Variance #9**), one for the location of the residential units on the first floors (**Variance #16**) and two for decreased landscape open space (**Variances #10, 11**) that are linked to several of the nonconforming aspects of the existing Landmarked Theater.

The applicant is proposing a two-level valet-operated commercial subterranean parking garage accommodating 162 parked vehicles with primary access off Sunrise Ave. The proposed garage structure itself requires 3 variances, specifically two setback variances (**Variances #12, 13**), one for the use of non-traditional parking methods in the form of mechanical lifts (**Variance #14**).

Finally, the application involves a variance associated with the general improvements and alterations to the site, specifically regarding the eastern portion of the parcel including the construction of an 8' high site wall (**Variance #15**) that would visually mitigate the trash area and loading area. And four variances (**Variances # 17-20**) deal with rooftop projections in one form or another.

While architecturally there is still considerable further refinement that needs to occur that can be eventually addressed at a return trip to Landmark Preservation Commission; what really is of paramount importance is for Town Council to provide direction on the general program (Special Exception requests) and the overall building envelope to be considered (Variance requests), as the numerous Special Exception and Variance requests that, if not approved by Town Council, would render the project, as presented, undevelopable and a substantial restudy would be necessary.

### **CONCLUSION:**

Approval of the project will require multiple separate motions to be made by the Town Council. There are six (6) separate Special Exceptions, One (1) site plan, and twenty (20) variances requests. All of the requests can be approved or denied in whole, partially or individually.

Approval of the project will require two (2) separate motions to be made by the Landmarks Preservation Commission:

- (1) for the overall design of the project in accordance with the aforementioned criteria, subject to any imposed conditions, and
- (2) that the implementation of the proposed variances **will or will not** cause negative architectural impact to the subject property.

### PARAMOUNT SITE HISTORY

The Paramount Theatre building was originally designed by prominent New York architect Joseph Urban. Construction of the building was completed in 1927, and was designated a landmark structure in the Town of Palm Beach on September 14, 1982. The following is the recent history of the zoning and certificate of appropriateness requests for the property.

DATE	NATURE OF REQUEST/ACTIVITY	PETITION NUMBER AND DESCRIPTION	COMMENT/NOTES
August 18, 1982 and July 13, 1983	Certificate of Appropriateness for exterior alterations; partial approval granted on August 18, 1982, and final approval granted on July 13, 1983.	COA#: 11-82	Approved by Landmarks Preservation Commission. Extension granted by LPC on May 22, 1985.
November 9, 1983	Certificate of Appropriateness for exterior alterations, which modifies COA# 11-82.	COA#: 10-83	Approved by Landmarks Preservation Commission. Extension granted by LPC on May 22, 1985.
June 14, 1983	A request for revised site plan showing parking structure.	Special Exception#: 12-83 with Variances and Site Plan Review  Moratorium Waiver#: 15-83M	Matter was postponed at June 14, 1983 Town Council meeting. No evidence found in files that this matter was taken up again.
December 21, 1983	Certificate of Appropriateness for exterior modifications and landscaping.	COA#: 13-83	Approved by Landmarks Preservation Commission. Extension granted by LPC on May 22, 1985.
November 14, 1984	Certificate of Appropriateness for a sign for Christina Boutique in lettering not to exceed 5 inches in height.	COA#: 24-84	Approved by Landmarks Preservation Commission.
November 14, 1984	Certificate of Appropriateness for a sign for Pearl and Dan Braswell Antique & Precious Jewellery in lettering not to exceed 5 inches in height.	COA#: 25-84	Approved by Landmarks Preservation Commission.
November 14, 1984	Certificate of Appropriateness for a sign for the Red Pony in lettering not to exceed 5 inches in height.	COA#: 26-84	Approved by Landmarks Preservation Commission.
November 14, 1984	Certificate of Appropriateness for a sign for Gartner Hand Made Belgium Chocolates in lettering not to exceed 5 inches in height.	COA#: 27-84	Approved by Landmarks Preservation Commission.
January 9, 1985	Certificate of Appropriateness for exterior light fixtures.	COA#: 1-85	Landmarks Preservation Commission determined that



DATE	NATURE OF REQUEST/ACTIVITY	PETITION NUMBER AND DESCRIPTION	COMMENT/NOTES
			the lighting, as proposed, was not appropriate, and deferred the project. The project was subsequently deferred three more times. No evidence was found that this matter was taken up again, nor was evidence found that the LPC approved this COA.
January 9, 1985	Certificate of Appropriateness for a painted sign on the front window in goldleaf for Gerald E. Marsh, Inc.	COA#: 3-85	Approved by Landmarks Preservation Commission.
September 24, 1986	Certificate of Appropriateness for sign subject to staff approval of style and size of letters.	COA#: 17-86	Approved by Landmarks Preservation Commission.
December 17, 1986	Certificate of Appropriateness for signage for "Chocolate 'N Chills" ice cream shop.	COA#: 19-86	Approved by Landmarks Preservation Commission.
January 28, 1987	Certificate of Appropriateness for four white window signs.	COA#: 3-87	Approved by Landmarks Preservation Commission.
January 28, 1987	Certificate of Appropriateness for white vinyl window signage.	COA#: 4-87	Approved by Landmarks Preservation Commission.
January 28, 1987	Certificate of Appropriateness for two window signs to read "Perspective Design" in goldleaf with the remainder of the lettering in black vinyl.	COA#: 5-87	Approved by Landmarks Preservation Commission.
October 28, 1987	Certificate of Appropriateness for identification signage on door and windows to read: Joey's Deli.	COA#: 24-87	Approval not found in files.
December 8, 1987	A variance to allow the applicant to occupy approximately 1,600 square feet of office space for the Palm Beach Broadcasting Company on the first floor in lieu of second floor as required.	Variance#: 60-87	Town Council APPROVED the request.
December 8, 1987	A variance to allow the applicant to occupy approximately 1,200 square feet of office space for Island Realty and Property Management, Inc. on the first floor in lieu of second floor as required.	Variance#: 61-87	Town Council APPROVED the request.
April 27, 1988	Certificate of Appropriateness for identification signage to be in goldleaf lettering on the bottom of	COA#: 5-88	Approved by Landmarks Preservation Commission.

DATE	NATURE OF REQUEST/ACTIVITY	PETITION NUMBER AND DESCRIPTION	COMMENT/NOTES
	the glass window to read "PALM BEACH TV – 19" on the first line with "EXECUTIVE OFFICE" centered below it.		
April 27, 1988	Certificate of Appropriateness for the on-the-ground installation of a 16' diameter satellite dish to be painted green with adjacent landscaping on the North County Road side, thorough landscape screening on the east and south sides of the parking lot, and restriping of the parking spaces.	COA#: 7-88	Approved by Landmarks Preservation Commission.
May 25, 1988	Certificate of Appropriateness for two signs hand-lettered onto the window.	COA#: 10-88	Approved by Landmarks Preservation Commission.
May 25, 1988	Certificate of Appropriateness for removal and replacement of existing balcony guardrails to match existing, and replacement of rotted elements.	COA#: 13-88	Approved by Landmarks Preservation Commission.
June 14, 1988	A variance from Section 4.20, schedule of Use Regulations, to allow the applicant to occupy approximately 1,100 square feet of office space on the first floor in lieu of second floor as required.	Variance#: 35-88	Town Council APPROVED the request.
August 14, 1988	Certificate of Appropriateness for white vinyl signage on glass doors for "S.W.A.K. SURF SHOP."	COA#: 21-88	Approved by Landmarks Preservation Commission.
January 10, 1989	A variance from Section 5.51(f) of the Town Zoning Ordinance to allow installation of a second Dish Antenna on the premises, and only one antenna is permitted by code.	Variance#: 72-88	Town Council DENIED the request.
January 20, 2010	Certificate of Appropriateness for railing replacement.	COA#: 016-09	Approved by Landmarks Preservation Commission.
July 14, 2010	Permit the operation of a real estate brokerage office on the first floor.	Variance#:12-2010	Variance for Unit 15 in the Paramount Building. Did not meet all of the Special Use requirements in Section 134-1109(18). Town Council APPROVED the request.
May 10, 2017	Permit the replacement of an existing non-conforming sign (Section 134-2437 – Size of Sign) with an exact replacement.	Sign Variance#: V-16-2017	Town Council APPROVED the request.

DATE	NATURE OF REQUEST/ACTIVITY	PETITION NUMBER AND DESCRIPTION	COMMENT/NOTES
May 17, 2017	Certificate of Appropriateness for exact replacement of Paramount sign.	COA-020-2017	Approved by Landmarks Preservation Commission.
April 11, 2018	Permit the operation of a real estate brokerage office on the first floor.	Z-18-00085	Variance for Unit 15 in the Paramount Building. Did not meet all of the Special Use requirements in Section 134-1109(18). Town Council APPROVED the request.