PLANNING AND ZONING COMMISSION
RECORD AND REPORT - DRAFT
TOWN HALL – COUNCIL CHAMBERS – SECOND FLOOR
360 S COUNTY ROAD, PALM BEACH
TUESDAY, NOVEMBER 15, 2016, 9:30 a.m.

Please be advised that in keeping with a recent directive from the Town Council, the minutes of all Town Boards and Commissions will be "abbreviated" in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town's website at www.townofpalmbeach.com or may obtain an audio recording of the meeting by contacting Kelly Churney, Secretary to the Planning & Zoning Commission at (561) 227-6408.

I. CALL TO ORDER AND ROLL CALL

Martin I. Klein, Chair	PRESENT
Lewis Crampton, Vice Chair	PRESENT
Carol Mack, Member	ABSENT (excused)
Alan S. Golboro, Member	PRESENT
Michael Ainslie, Member	PRESENT
Kenneth Walker, Member	PRESENT
Carol LeCates, Member	PRESENT
Michael Spaziani, Alternate Member	PRESENT
Rick Pollock, Alternate Member	PRESENT

Staff Members present were:
John Page, Director of Planning, Zoning & Building
Paul Castro, Zoning Administrator
John Lindgren, Planning Administrator
Kelly Churney, Secretary to the Planning and Zoning Commission

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Ms. Churney led the Commission with the Invocation and the Pledge of Allegiance.

III. APPROVAL OF THE AGENDA

Mr. Klein recognized several citizens in attendance. He also passed along condolences to the family of Bob Moore. Mr. Klein expressed appreciation to Susan Watts, former Planning and Zoning Commissioner.

Mr. Klein also stated that he and Mr. Crampton made a request to the Town Council to transfer the LPA designation to the Planning and Zoning Commission. The Town Council decided to keep the designation but stated they would possibly consider the transfer in the future. Mr. Crampton stated that he felt the Town Council gave them a fair hearing.

Mr. Klein welcomed Carol LeCates to the Planning and Zoning Commission.

Motion made by Mr. Crampton and seconded by Mr. Ainslie to approve the agenda as presented. Motion carried with all in favor.

IV. APPROVAL OF OCTOBER 14, 2016 PLANNING AND ZONING COMMISSION MINUTES

Motion made by Mr. Crampton and seconded by Mr. Ainslie to approve the minutes from the October 14, 2016 meeting. Motion carried with all in favor.

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

No comments were heard at this time.

VI. CONSIDERATION OF THE UPDATE OF THE TOWN'S COMPREHENSIVE PLAN. CALVIN GIORDANO & ASSOCIATES

Mr. Klein stated that he would ask all of the Commissioners to bring up any questions or comments they may have regarding the Comprehensive Plan.

Mr. Spaziani had a concern regarding the existing and future population charts and felt that the future chart was not clearly titled.

Mr. Page stated that Richard Cannone, Consultant from Calvin Giordano, has addressed all of the changes that were requested at the meeting in October.

Mr. Cannone stated he corrected the titles on Table I-5.

Mr. Ainslie thanked Mr. Cannone for adding Table I-4 on Employment. He stated that the table refers to 3 educational institutions and shows 9 employees. He believes that number is incorrect and needs to be updated.

Mr. Ainslie also stated a concern for a paragraph on identifying landmarked properties in Section IX. He felt that the process for identifying properties is lengthy and unclear. He felt that dialog needs to occur between Planning and Zoning and the Preservation Foundation to discuss the process.

Mr. Page spoke about the current Landmarks Preservation Commission Landmark Process and stated that it works well, especially with the Town's limited resources.

Mr. Lindgren explained more of the Landmark Process to the Commissioners. Some discussion continued. Mr. Ainslie provided an example of a different approach to landmarking from Rhode Island.

Mr. Klein asked if the language accurately reflected the current landmarking process. Mr. Page stated he thought that it did reflect the process.

Susan Watts, 44 Cocoanut Row, spoke about the landmarking process in Rhode Island as well and stated that entire blocks of homes were landmarked at one time rather than individually.

Mr. Crampton stated he thought residents would like the newly proposed Comprehensive Plan. He provided his opinion on the following areas: preservation of the small town character, sea level rise and coastal management issues, strengthening the neighborhoods, a neighborhood improvement district, undergrounding, and the future land use element. He offered a change to Table I-4 by adding hotels and clubs as employers in the Town. He also offered a change to the section regarding the water supply by adding the future spending by the City of West Palm to upgrade their water system and the costs that could potentially be passed to the Town. He pointed out a typographical error under 6– Recreation and Open Space "the survey led" rather than "the survey lead."

Mr. Golboro told Mr. Page that the section on Undergrounding was put in at his request and he feels there are too many words and that the section regarding the referendum was incorrect. He felt that the section should be simplified. Mr. Klein stated he agreed with Mr. Golboro.

Mr. Walker asked for clarity on what makes a building a landmark in the Town. He also stated his concern about water.

Ms. LeCates stated she felt that the landmarking process was cumbersome and thought that there should be a prioritized, ongoing list and encouraged the Landmarks Preservation Commission to revisit their process. She stated her concern for water and air quality. She suggested to add a statement about future issues in the air quality section 5, page 4.

Mr. Klein suggested to change the two paragraphs on Undergrounding to read "A Town wide referendum to issue bonds for the purpose for burying overhead utilities." and to remove the rest of the first paragraph. He asked for only the first sentence of the second paragraph to remain as well. Mr. Golboro stated he did not think the reference to the bonds was necessary but did suggest a reference to the undergrounding. Mr. Page stated that the intention of the paragraphs was to be concise and to only include the basic facts. Some discussion continued on this issue. Mr. Cannone suggested to rework the section by removing the first paragraph and to leave only the first and last sentence of the second paragraph. Mr. Klein asked the Commission if they agreed with the change. There were no objections to these proposed changes. Some discussion continued whether to include a reference regarding the referendum.

Mr. Klein asked if the section regarding the Recreation and Open Space Section on page 6, was accurate. Mr. Page and Mr. Klein talked about modifying the last sentence.

Susan Watts, 44 Cocoanut Row, stated her concern about the statement in the Undergrounding section that indicated an improvement of service and thought that by stating that it is more editorial than factual. Mr. Klein stated that the sentence could be changed by stating the goal of undergrounding would be the improvement of service. Ms.

Watts also suggested changing the last sentence of the Recreation and Open Space Section as well.

Mr. Spaziani questioned the statement that indicated the possibility of exploring the designation as an Area of Critical Concern and wondered who or what group would explore that possibility. Mr. Page stated that the statement leaves that possibility open. Mr. Crampton expressed his concern with this statement at this time. Mr. Castro provided reasons as to why this statement was put into the plan. Some discussion continued on this issue.

Mr. Spaziani asked what the difference was between the Coastal Construction Control Line and the Area of Critical Concern. Mr. Castro explained the difference.

Anita Seltzer, 44 Cocoanut Row, asked if the Commission was going to approve the Comprehensive plan and expressed concern regarding the neighborhood improvement development language. She also expressed concern regarding the language in the Future Land Use element, specifically commercial businesses in the Town. Mr. Crampton explained the reason for statement on the commercial businesses. Some discussion continued on this topic.

Ms. Seltzer asked a question about Table I-1 and wondered if the figure for 2010 was correct. Mr. Lindgren responded and stated the 8,161 was correct. Some discussion continued on this topic. Mr. Page stated that he believes the data adequately represents the population in the Town.

Ms. Seltzer asked a question about the four acres indicated in the public uses section on page I-2. Mr. Lindgren stated the four acres are designated for the Town Hall, Fire Stations, Police Stations and public facilities.

Ms. Seltzer referred to the flood zone map on page I-6 and questioned if there should be a legend that explains the designations and also questioned whether this section should include inundations maps from FAU. Mr. Page responded by stating that the Town participates in the National Flood Insurance Program and is obligated to adopt certain regulations to see that all future development complies with those regulations. He also stated that the Town depends on the FEMA maps that are provided to the Town for flood plain regulations. Mr. Klein stated that they are available online. Mr. Crampton questioned whether the Town could do more to make the issue clearer to citizens. Mr. Page responded to this question.

Mr. Spaziani asked if an addendum could be added to provide clarification on the zoning designations. Mr. Page agreed and stated an addendum could be added. Mr. Klein reminded the Commission that the maps are subject to change.

Ms. Seltzer further expressed her concern about including the FAU maps and feels the Town could be in jeopardy due to the sea level rise. Mr. Castro stated that the Town's website has a section dedicated to flood plain management and provided a brief overview of the information provided on the website.

Mr. Crampton also spoke to other efforts that the Town is doing to address sea level rise and questioned whether those efforts should be in the Comprehensive Plan. Mr. Klein addressed this question.

Ms. Seltzer suggested adding more explanation regarding the level of service on the roadways, in element 2.13, policy 2.1. Mr. Cannone stated he would add it to the legend.

Ms. Seltzer questioned why the language regarding educational programs relating to the landmarking program and historic preservation in section IX-10 was stricken. Mr. Klein stated that the section was reworked to modernize the language and added that there is more information included in other paragraphs. Mr. Lindgren stated that this information was stricken because it was no longer relevant but does not preclude the Town from repeating some of the programs that were stricken. Mr. Klein added more comment on this topic. Ms. LeCates suggested to include a second sentence in this section that states "to encourage other educational programs in support of preservation." Mr. Lindgren stated a statement to this effect could be added.

Ms. Seltzer asked if a discussion regarding the NID's would occur. She also asked about the process for the approval of the Comprehensive Plan after the meeting and whether the public would be provided another opportunity to comment on the plan again. Mr. Klein responded by saying that the Planning and Zoning Commission has worked hard on the Comprehensive Plan and that there will be further opportunity for the public to comment at the Town Council meetings. Mr. Page stated that if a recommendation for the Comprehensive Plan passed today, the item would be in front of the Town Council in December or January and the Town would provide plenty of advance notice to the public. Mr. Crampton stated he believes that many feel that the Comprehensive Plan is good but questioned whether the neighborhood improvement district section is necessary.

Motion made by Mr. Crampton and seconded by Mr. Golboro to approve the Comprehensive Plan as discussed.

Mr. Klein stated that the Comprehensive Plan has largely remained the same but has been updated in the sections where it was appropriate.

Motion carried with all in favor.

Ms. Seltzer clarified that the motion was to approve all of the language and expressed concern that the motion included the approval of the NID without a significant discussion. Mr. Klein disagreed and stated that NID's were discussed at the last meeting and a recommendation to include the Statue that referenced NID's was added. Mr. Crampton stated that NID's would not be imposed on the Town but having it in the Plan will be a tool for the staff to use if needed. Mr. Lindgren agreed and stated it would need to be approved by the Town Council at a public meeting if it is to be used.

A short break was taken at 10:58 a.m. The meeting resumed at 11:05 a.m.

Mr. Golboro requested that the Town Council ask the Planning and Zoning Commission to research the method of accepting tenants coming in to commercial zones in the Town. Mr. Golboro explained some issues that he had been personally experiencing with this issue.

VII. PROPOSED ZONING TEXT AMENDMENT BY RPP PALM BEACH PROPERTY, LP, TO ALLOW OUTDOOR SEATING IN THE C-PC ZONING DISTRICT (ROYAL POINCIANA PLAZA)

Mr. Klein called for disclosure of ex parte communication: Disclosure by Several Members.

Maura Ziska, Attorney for RPP Palm Beach Property LP, stated that she is requesting two zoning text amendments and reviewed the first amendment with the Commissioners. She indicated that her client does not believe that either amendment reflected a future development opportunity and would acknowledge, in writing, that they would be bound by the 1979 agreement.

Alexandra Patterson, UpMarkets, spoke about their ongoing work to restore the plaza to align with John Volk's vision. She stated her request to modify the Code to allow outdoor dining at the Royal Poinciana Plaza. She stated that the Town Council would need to approve each request on a case by case basis. She indicated that this request would not lead to more seating and larger restaurants but to better utilize the existing courtyards.

Mr. Page stated that outdoor dining is now permitted in all commercial zoning districts with the exception of the C-PC district, where the Royal Poinciana Plaza is located. Mr. Page stated that outdoor dining can be granted by staff approval and at times, needs to be approved by the Town Council. Mr. Page stated that staff would recommend to approve outdoor dining at the Plaza, subject to the Town Council's approval since the plaza is close to residential areas. Mr. Page also stated that the Town has asked the owner to acknowledge in writing that this request does not constitute an additional development opportunity and would not interfere with the terms and conditions of the 1979 agreement.

Ms. Ziska stated that this request is agreeable to the owner and that she is in the process of drafting the letter.

Mr. Castro requested that the Town should be provided a letter by the owner, Mr. Spiegel, rather than RPP Palm Beach LP, indicating that he understands the changes that are being proposed.

Ms. LeCates stated she was in favor of the request and asked a question about the ordinance language. Mr. Castro clarified the language for Ms. LeCates.

Many of the Commissioners were in favor of this request.

Mr. Golboro asked for clarification on the approvals needed to obtain outdoor seating for each restaurant. Ms. Ziska and Mr. Castro explained the approval process if a change in the ordinance were to pass.

Mr. Castro explained that the Town Council would be able to approve or deny an application if they felt it would negatively affect the neighbors.

Mr. Ainslie asked Ms. Patterson if they were receiving a Federal Tax Credit. Ms. Patterson stated they are looking into the option.

Simon Taylor, Attorney for the Palm Beach Theater Guild, brought a memo for the Commission that discussed continued threats to the playhouse as well as a pamphlet of the shows that were at the theater. He stated that he did not oppose outdoor seating but thinks that the theater should be driving the plaza and felt that UpMarkets has taken away the theater's possibilities.

Mr. Klein stated that this approval would be a multi-month process to approve the changes to the Code and would allow for public comment at the Town Council meetings.

Mr. Klein asked if Ms. Ziska would agree to a Town Council required approval rather than staff approval for each application. Ms. Ziska stated that the request was acceptable.

Motion made by Mr. Crampton and seconded by Mr. Walker to recommend to the Town Council to amend chapter 134 to include the new section 134-1260, to require that the owner submit a letter stating that this new request does not represent additional development opportunities and to require that Town Council approve each application. Motion carried with all in favor.

VIII. PROPOSED COMPEHENSIVE PLAN AND ZONING TEXT AMENDMENTS BY RPP PALM BEACH PROPERTY, LP, TO INCREASE THE TOWN-SERVING THRESHOLD REQUIREMENT IN THE C-PC ZONING DISTRICT (ROYAL POINCIANA PLAZA)

Maura Ziska, Attorney for RPP Palm Beach Property LP, discussed the second zoning text amendment change with the Commissioners. She indicated that her client did not believe that the amendment reflected a future development opportunity and would acknowledge, in writing, that they would be bound by the 1979 agreement.

Alexandra Patterson, UpMarkets, discussed how leasing is essential to the vibrancy of the property. She stated her request to increase the threshold from 2,000 sq. ft. to 3,000 sq. ft. for the special exception permit process and the reasons for the request.

Mr. Klein stated he wrote a memo to the Town in 2009 regarding town serving. He stated in 2011, the Town Council permitted slight threshold increases in certain areas, excluding only the C-PC district.

Mr. Page stated that the representation by Ms. Ziska and Ms. Patterson was accurate. He also provided a historic overview of the threshold changes in the Town. Mr. Page indicated that staff did not have any concerns regarding the proposal. He stated this would require two changes, including a zoning ordinance change and a change to the Comprehensive Plan.

Mr. Klein asked Ms. Ziska if the same affidavit from the owner, that indicates that this request did not constitute an additional development opportunity and would not interfere with the terms and conditions of the 1979 agreement, would apply. Ms. Ziska indicated it would apply to this request.

Mr. Pollock asked if there were any drawbacks to this request. Mr. Castro stated he could not think of any.

Many of the Commissioners were in full support of the request.

Ms. LeCates asked staff if they felt that smaller businesses were being driven out of the plaza. Mr. Castro responded and provided his opinion.

Simon Taylor, Attorney for the Palm Beach Theater Guild, asked for confirmation that both changes would include the statement that indicated that the changes did not constitute additional development opportunities. Mr. Klein responded and stated that the required affidavit would cover that statement. Mr. Taylor also spoke about preserving theaters.

Mr. Golboro asked how much money it would take to open the theater doors. Mr. Taylor said it would take about 12 to 22 million dollars.

Motion made by Mr. Crampton and seconded by Mr. Walker to approve the request to recommend to the Town Council and to change the Comprehensive Plan to raise the minimum square footage for the town serving requirement to 3,000 sq. ft. in the C-PC district, to require that the owner submit a letter stating that this new request does not represent additional development opportunities and to require that Town Council approve each application. Motion carried with all in favor.

IX. COMMENTS FROM PLANNING AND ZONING COMMISSIONERS AND THE PLANNING, ZONING AND BUILDING DIRECTOR

Mr. Page stated that the meeting in December would be cancelled and that the next meeting would be January 17, 2017. Mr. Page stated that the 2017 meeting dates was handed out to all of the Commissioners and asked them to double check their calendars for holiday conflicts.

Mr. Page stated that the issue regarding commercial storage was presented at the Town Council meeting. He stated that Mr. John Eubanks, attorney for Burt Handelsman, advocated for additional changes. Therefore, the Town Council asked the Planning and Zoning Commission to revisit the issue in January 2017.

Mr. Page also indicated that off street parking was one item leftover from their study items and would be discussed at the January 17, 2017 meeting.

Mr. Golboro asked if Mr. Page would take his issue regarding new tenants in commercial zones to the Town Council. Mr. Page stated he would discuss the item with the members.

Mr. Page stated that flooding regulations in the zoning ordinance would be another item that would be coming to the Planning and Zoning Commission in early 2017.

X. ADJOURNMENT

The meeting adjourned at 11:58 a.m. with the benefit of a motion.

Respectfully Submitted,

Martin Klein, Chair
Town of Palm Beach
Planning & Zoning Commission

Lewis Crampton, Vice Chair
Town of Palm Beach
Planning & Zoning Commission