PLANNING AND ZONING COMMISSION
RECORD AND REPORT
TOWN HALL – COUNCIL CHAMBERS – SECOND FLOOR
360 S COUNTY ROAD, PALM BEACH
TUESDAY, SEPTEMBER 23, 2014, 09:30 a.m.

Please be advised that in keeping with a 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 an audio recording of the meeting may be obtained by contacting Debby Morakis, Secretary to the Planning & Zoning Commission at (561) 227-6411. As a point of reference, you will find the recording times listed on these minutes at the beginning of each item.

I. CALL TO ORDER AND ROLL CALL(09:31:13 AM)

Susan Markin, Chair
Michael Jay Scharf, Vice Chair
Jeffrey A. Cloninger, Member
Lewis Crampton, Member (Left at 11:30 a.m.)
Carol Mack, Member (Left at 11:30a.m.)
Danielle H. Moore, Member
Floyd Wideman, Jr., Member
Michael Vincent John Spaziani, Alternate Member
Susan Watts, Alternate Member
Randolph H. Guthrie, Alternate Member (Unexcused Absence)

Staff Members present were:
John Page, Director of Planning, Zoning, Building
Paul Castro, Zoning Administrator
Debby Morakis, Secretary to the Planning & Zoning Commission

Chair Markin called the meeting to order at 9:30 a.m.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Ms. Morakis led the Commission with the invocation and Pledge of Allegiance.

III. APPROVAL OF THE AGENDA (09:41:17 AM)

MOTION BY MR. WIDEMAN FOR APPROVAL OF THE AGENDA.
MOTION SECONDED BY MS. MOORE.
MOTION CARRIED UNANIMOUSLY.

Chair Markin noted for the record that both Carol Mack and Lewis Crampton would have to leave the meeting between 11:15 and 11:30 and added that the Commission could visit the Town's model for the Royal Poinciana Way area in the EOC either after the break or at their leisure.

IV. APPROVAL OF AUGUST 19, 2014 PLANNING AND ZONING COMMISSION MINUTES (09:42:52 AM)

MOTION BY MR. WIDEMAN FOR APPROVAL OF THE AUGUST 19, 2014 PLANNING AND ZONING COMMISSION MINUTES.
MOTION SECONDED BY MS. MOORE.
MOTION CARRIED UNANIMOUSLY.

V. PRESENTATION BY THOMAS BRADFORD, DEPUTY TOWN MANAGER, ON TOWN OF PALM BEACH PARKING PROGRAMS (09:43:24 AM)

Tom Bradford, Deputy Town Manager, provided the Commission with a summary of the Town's parking plans and explained that the Town's parking systems are managed in three "silos" with enforcement being handled through the Police Department; the maintenance and collection of money handled through the Public Works Department; and, the administration of rules, regulations and fines handled through the Finance Department. Mr. Bradford gave a brief history of the Town's parking regulations beginning in the 1940's through today and explained that there had been numerous parking studies done between 1969 and 2011. Mr. Bradford added that he currently chairs the staff parking committee which meets monthly and deals with all things parking including looking at replacing or finding alternatives to the parking kiosks. These kiosks' computers become obsolete after about three years and are subject to extreme wear due to weather conditions. Mr. Bradford went on to explain the placard permit parking program which includes approximately 315 parking spaces throughout Town, noting that parking regulations for off-street or on-sight parking is covered in Chapter 134 of the Zoning Code and falls under therefore would fall within the purview of the Planning and Zoning Commission.

Mr. Bradford answered questions from the Commission about ownership of the Apollo parking lots explaining that it is owned by the Peruvian Avenue Corporation, and, at one time some parts of the lot were leased by the Town for parking for the public. Mr. Scharf asked why the yellow lights were always flashing on the Parking Control SUV's and added that he felt it was an eyesore. Ann-Marie Taylor, Police Department, stated that it was a safety and visibility issue and explained the Town currently owns four of the Ford Escape vehicles and one scooter. Mr. Bradford explained the cost effectiveness of the SUV type vehicles and noted that the Cushman vehicles were no longer being manufactured. Mr. Crampton asked how much revenue was provided to the Town as a result of the parking fees, tickets and fines and Mr. Bradford stated that it was nearly $2 million dollars. Mr. Crampton asked if the Town had considered a two-level parking fine structure with lower fines during the summer and higher prices during season. Mr. Bradford stated that staff had looked a different plan that would include escalating ticket prices. Ms. Markin stated that she felt the biggest problem with parking during the summer was with beach goers.

Ms. Moore noted the need for a correction on Exhibit B, Figure 12, at South Ocean and Royal Palm Way stating that she thought there was parking available at the Suntrust Building. Mr. Bradford agreed and Mr. Cloninger asked if the costs of administration of the parking program and the revenue collected were "a wash" and Mr. Bradford answered that he felt it was close. Mr. Wideman asked "where do we go from here?" Mr. Bradford stated that in his opinion, he would like to see the Town simplify the parking rules and regulations on a town-wide basis at least within the commercial areas; when new development comes before the Town, he would like to require they provide a parking plan; and, he would like to see the elimination of the parking kiosks. Mr. Bradford explained that technology now exists that permits nearly everything to be done with a smart phone eliminating the need for kiosks, and wondered if the Town would be ready for that. Mr. Bradford explained that the Town would soon be doing a trial pilot with some kiosks no longer accepting cash or coins, and accepting only debit and credit cards. Discussion continued.

Ms. Watts suggested doing away with all free parking and suggested instead a resident parking sticker program that could be used anywhere in Town. Mr. Bradford stated that this could be possible but that it would be complicated and explained the process for implementation of the residential plans (Gainesville and Arlington). Mr. Scharf asked if any consideration was given to the London system and asked about the recent request of Bricktop's to eliminate their required parking. Mr. Bradford explained there are systems in place that require evidence of compliance with parking requirements upon issuance of a business tax receipt. Zoning Administrator, Paul Castro explained the issues related to the required parking and enforcement problems over time. Mr. Cloninger asked why a Town-wide parking sticker program that could identify Town residents and be operated independently of the Arlington and Gainesville plans could not be implemented. Mr. Cloninger also asked how Meat Market's occupancy differed from previous occupants in the same location. Mr. Castro answered that there have always been issues there and explained the principal of equivalency requirements and provisions that have been added to the code to address parking issues. Mr. Bradford explained that many studies had been done over the years resulting in many suggestions for improvement being made, some very radical, and noted that some suggestions were implement and then changed back. Discussion continued.

Alexander Ives, Executive Director of the Preservation Foundation, addressed the Commission and stated that he had done a rough analysis of Development Review issues and between January and June, 2014; forty variances had been requested with 39 approved and only one denied. Mr. Ives suggested staff study what the variances being approved were to determine in which areas the Council was hearing pressure. Mr. Castro explained that study had been done. Ms. Markin requested staff provide a report on the number of variances granted in the past five years.

William Cooley, 171 El Pueblo, complimented Mr. Bradford on his report and stated that he felt the Town needed one or more parking ramps or lots and asked if the Town could study if there was a place where a ramp could be built in Town or in West Palm Beach, suggesting this be a revenue bond issue that could pay for itself over time. Mr. Cooley added that he felt the Council was its own worst enemy and should learn to say no, this would cut down on some variance requests. Mr. Cooley added that he felt the public beach was destroying the center of Town and the Town should consider moving the public beach to Phipps Park.

Ms. Markin stated that she felt the only thing the Commission could do to find a solution to the parking issues was to address some of the abuses of the system including variances. Ms. Markin introduced Raychel Houston, Parking and Code Enforcement Manager and asked her to describe some of the issues she faced with parking enforcement.

Raychel Houston, Parking and Code Enforcement Manager, explained a recent ordinance change that would allow the Town to prohibit further parking permits from being issued when there was abuse of the system. Ms. Houston explained the license identification program the department uses and estimated that during the summer, approximately 40% of the vehicles on the street in the commercial areas were employees jockeying vehicles to avoid the parking time limits.

Comments were heard from Ms. Markin who stated she felt this was a real problem that could be fixed. Mr. Cloninger suggested that the business tax program could be used to require business to provide the number of employees and evidence of sufficient parking spaces exist before a business tax receipt could be issued. Mr. Castro explained the unintended consequences of such action including the lack of sufficient staff to implement that and the shortage of parking. Mr. Castro stated that the Town's parking standards were suburban and not urban in nature. Discussion continued. Ms. Houston stated that certain commercial lot owners recently started requesting that vehicles parked illegally in their lots be ticketed. Mr. Scharf suggested the Town implement larger fines against residents who abuse the system by selling their residential parking permits.

John Page asked if State statutes might limit fine amounts. Ms. Houston explained that a \$250.00 per day limit on code violations brought before the Code Enforcement Board existed, and, added that within the past year Council passed an ordinance that prescribed the loss of a permit but would not impose a fine.

Mr. Bradford reminded the Commission that the on-sight parking regulations could fall under the umbrella of the Planning and Zoning Commission as well as the residential permit parking because those were both in Chapter 134, but, if the Commission wanted to delve beyond that the Commission would have to formally ask the Council if they wanted the Commission to do so. Mr. Bradford stated that he would be happy to work with the Commission on these issues adding that building a garage or changing parking rates would not fall within the purview of the Commission. Ms. Markin agreed and stated that she did not want to see this Commission wasting its time.

Alexander Ives described a building at 1111 Lincoln Road in Miami as an example of a very large parking facility that appears much smaller due to its architecture, adding that this building was able to incorporate a restaurant and retail spaces within.

Anita Seltzer, 44 Cocoanut Row, addressed the Commission speaking about the 2006 traffic study done prior to the reconfiguration of Publix, the Flagler Bridge and the Town's effort to implement the PUD. Ms. Seltzer added that Testa's had been required to conduct an engineering report for their overlay requests but that she thought the Town didn't conduct a study of the parking and traffic consequences for the PUD. Mr. Bradford answered (inaudible).

Paul Castro explained that when the application from Testa's came in with the original overlay, what was being proposed was probably five times more intense than what was included in the study area. Mr. Castro stated that a traffic study was done by Testa's and the county and it was determined there was adequate capacity and traffic concurrency was met. Ms. Seltzer asked if there was a traffic study done prior to the creation of the Town Square COA project and Mr. Castro answered that no traffic study was required since there was no intensification of use on the site and the on street parking was looked at by the Town's consultants Kimley Horn as well as the Town's engineers.

Chair Markin called for a five minute break and the meeting reconvened at 11:40 a.m.

MOTION BY MR. WIDEMAN TO ASK COUNCIL FOR THE ABILITY TO BE INVOLVED IN THE PARKING SITUATION. Mr. Wideman stated that he felt the motion should not be more specific than that.
MOTION SECONDED BY MR. CLONINGER.
MOTION CARRIED 7-0 WITHOUT BENEFIT OF A ROLL CALL.

For the record, due to the departure of Mr. Crampton and Ms. Watts, Alternate Members Spaziani and Watts voted.

VI. DISCUSSION ITEMS: (11:45:19 AM)

A. SUPER MAJORITY VOTE FOR ZONING/COMPREHENSIVE PLAN CHANGES.

Comments were heard from Mr. Wideman who stated that he would approve of a requirement for a super majority vote for any changes in the Comprehensive Plan. Mr. Cloninger agreed and Ms. Moore asked if that was within the purview of the Commission. Mr. Castro stated that there was a provision in the code that required a super majority vote for a zoning change, and, the Commission could ask Council for permission to look at possible scenarios in which the Council may need a super majority for approval of certain items within Chapter 134.

Mr. Scharf stated that he was in favor of a requirement for a super majority. Both Mr. Spaziani and Ms. Watts agreed. Chair Markin asked staff if there were other things relative to variances that should be included and Mr. Castro stated that he felt the language could be framed in such a way as to be broad enough to ask Council to allow the Commission to look at different types of scenarios within Chapter 134 that could require a super majority vote.

MOTION BY MR. CLONINGER THAT THE PLANNING AND ZONING COMMISSION RECOMMEND TO COUNCIL THE OPPORTUNITY TO STUDY A REQUIREMENT FOR A SUPER MAJORITY VOTE ON MATTERS RELATED TO CHAPTER 134 / ZONING ISSUES AND COMPREHENSIVE PLAN ISSUES.
MOTION SECONDED BY MS. MOORE.
MOTION CARRIED 7-0 WITHOUT BENEFIT OF A ROLL CALL.

Alexander Ives suggested that as the Commission studies this matter they consider that a super majority threshold sometimes gives more power to a minority, adding that he felt the Town had done a pretty good job with the system that exists.

Mr. Castro advised that staff would prepare draft language for clarification and noted that both this item and the parking issue would go before Council in October.

B. <u>REPLACING NONCONFORMING BUILDINGS DESTROYED BY FIRE, NATURAL CAUSES, ETC.</u>

Chair Markin stated that she asked for this to be a discussion item in order to bring this to the Commission's attention. Mr. Spaziani provided some background information relative to difficulty encountered by residents when obtaining insurance and closing loans on non-conforming properties. Mr. Cloninger added that he felt if someone had a non-landmarked building in a state of disrepair there would be no harm to the Town to allow someone to demolish and rebuild in the same footprint. Mr. Castro explained changes in the code since 2011 would now allow anyone to rebuild if a structure was demolished by an act of war, terrorism, hurricane, etc. so long as the State would allow it, if the land was east of the Coastal Construction Control Line. Mr. Castro further explained another part of the code that was changed that would allow even a non-conforming structure to be raised to meet the minimum flood elevation without variances. Mr. Scharf asked if rebuilding on the same footprint would require review by the Architectural Commission and Mr. Castro stated that would be required only if making changes to the appearance of the structure and such determination would be made by the Planning Administrator.

Mr. Castro noted that staff would be bringing a housekeeping item to the Commission that would clarify language within another provision of the Code for consistency.

C. <u>TOWN-SERVING REGULATIONS:</u>
(12:00:42 AM)

Mr. Castro explained the Town-serving provision in the Code that requires businesses with over 2000 sq. ft. to prove they are not attracting more than 50% of their customers from off-island. Special exceptions were granted over the years for many large businesses with tenant spaces over 2000 sq. ft. Council asked staff to study the Town-serving regulations as well as the history of zoning approvals for businesses over 2000 sq. ft. Bill Brisson of Adley Brisson was hired and it was determined there was not one case in which the Town denied a special exception for Town-serving. After analysis, it was recommended that changes in the Code be made to provide flexibility in different zoning districts. It was recommended that the C-WA district increase its threshold from 2000 sq. ft. to 4000 sq. ft.; the COPI district eliminated the Town-Serving requirement; C-TS district changed its threshold from 2000 sq. ft. to 3000 sq. ft. ; CPC district remained unchanged due to the 1979 agreement; and, the CB district was changed to 3000 sq. ft. Council was advised that once these changes were made it would be difficult to go back because of the Burt Harris act.

Discussion continued and Mr. Castro answered questions from the Commission. Ms. Markin expressed her concern with maintaining the quality of life for residents. Mr. Castro stated that this was a broader issue for Council and was not a staff initiated study. Mr. Castro noted that the Commission could take this to Council asking if they wanted staff to look at this but he felt this could become a legal issue. Mr. Page agreed and stated that once Council increased those square footage thresholds, pulling back may no longer be an option.

Mr. Wideman noted that while he felt the requirement to prove Town-serving was a wonderful idea conceptually; he felt it proved nearly impossible to enforce. Mr. Castro explained the requirements for businesses to provide evidence of Town-serving at renewal of their business tax receipt; their difficulty in providing this documentation; and the difficulty staff has in reviewing these documents.

Chair Markin stated that she felt the point of this discussion was to make sure the Commission was aware of the Town-serving concept and that the requirements had been relaxed.

Mr. Cloninger stated that he felt it was important that the Town look at these businesses; recognizing the difficulty in proving Town-serving and he felt there was a difference in impact on the Town between a retail business or office and a bar and restaurant. Ms. Watts asked who controlled the licensing of bars, restaurants and liquor licenses. Mr. Castro explained the State statutes and municipal regulations and explained that nightclub and bar uses had been made more flexible in recent years.

Mr. Spaziani stated that he felt the Town should maintain the Town-serving requirement and that the Declaration of Use Agreements should also be looked at. Mr. Spaziani also noted that he felt changes could result in litigation.

Mr. Castro answered questions from the Commission related to liquor license regulations and restrictions and conditions of approval granted by Council relative to hours of operation for restaurant uses in Town. Discussion continued. Chair

Markin read for the record the definition in the zoning code of nightclub; adding that she felt the language was ambiguous and could be a subject for future discussion. It was noted that no changes to the current Town-serving requirements could be made without input from the Planning and Zoning Commission.

VII. COMMENTS FROM THE PLANNING AND ZONING COMMISSIONERS AND PLANNING, ZONING AND BUILDING DIRECTOR(12:34:19 AM)

Chair Markin noted that the next meeting of the Planning and Zoning Commission would be held on October 21.

Mr. Page stated that staff would take the Commission's recommendations to Council on October 14. Discussion continued and Mr. Castro noted there would not be sufficient time for staff to provide any backup to the Commission between the Council meeting and the Planning and Zoning Commission meeting but these items would be placed on the agenda for discussion. Mr. Castro also suggested he could provide the Commission with a presentation relative to the parking code.

Chair Markin wondered if it would be appropriate for the Commission to make a statement to Council relative to some current applications with large parking variances. Mr. Castro noted that since Council meetings are a quasi-judicial hearing it would not be appropriate for the Commission to give recommendations on land development matters without being present at that meeting and speaking as a resident and not as a Commissioner.

Ms. Markin advised that after the Planning and Zoning Commission adjourned, the Commission and the public was welcome to walk across the street to the EOC and visit the Royal Poinciana Way Area model.

VIII. ADJOURNMENT

MOTION BY MS. MOORE TO ADJOURN AT 12:45 P.M.
MOTION SECONDED.
MOTION CARRIED UNANIMOUSLY.

Respectfully Submitted,

Susan Markin, Chair
Town of Palm Beach
Planning & Zoning Commission

Michael Jay Scharf, Vice Chair
Town of Palm Beach
Planning & Zoning Commission