PLANNING AND ZONING COMMISSION
RECORD AND REPORT - DRAFT
TOWN HALL – COUNCIL CHAMBERS – SECOND FLOOR
360 S COUNTY ROAD, PALM BEACH
TUESDAY, JUNE 16, 2015, 09:30 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 Debby Morakis, Secretary to the Planning & Zoning Commission at (561) 227-6411.

I. CALL TO ORDER AND ROLL CALL

Chair Markin called the meeting to order at 9:30 a.m. and noted for the record that due to the absences of Commissioners Mack, Scharf and Wideman, all Alternate Members would vote.

Susan Markin, Chair	PRESENT
Michael Jay Scharf, Vice Chair	ABSENT - excused
Jeffrey A. Cloninger, Member	PRESENT
Lewis Crampton, Member	PRESENT
Carol Mack, Member	ABSENT - unexcused
Floyd Wideman, Jr., Member	ABSENT - excused
Martin I. Klein, Member	PRESENT
Michael Vincent John Spaziani, Alternate Member	PRESENT
Susan Watts, Alternate Member	PRESENT
Rick Pollock, Alternate Member	PRESENT

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

It was noted for the record that due to the absences of Ms. Mack and Messrs. Scharf and Wideman, all alternates would be voting.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Ms. Morakis led the Commission with the Invocation and Pledge.

III. APPROVAL OF THE AGENDA

MOTION BY MR. KLEIN TO APPROVE THE AGENDA.
MOTION SECONDED BY MR. CRAMPTON.
MOTION CARRIED UNANIMOUSLY.

IV. APPROVAL OF MAY 19, 2015 PLANNING AND ZONING COMMISSION MINUTES

MOTION BY MR. KLEIN TO APPROVE THE MAY 19, 2015 MINUTES.
MOTION SECONDED BY MR. CRAMPTON.
MOTION CARRIED UNANIMOUSLY.

V. PROPOSED ZONING CHANGES REGARDING SUPPLEMENTAL, OFF-SITE SHARED PARKING

Paul Castro, Zoning Administrator, addressed the Commission and explained the proposed changes regarding supplemental off-site shared parking. Mr. Castro noted that the proposed changes were an attempt by staff to consider comments and discussion of the Commission at their last meeting. Mr. Castro explained that the proposed language would allow staff to revoke a shared parking permit upon receipt of three complaints. An appeal process whereby the permit holder could appeal the revocation to Council was also included. Mr. Castro explained that language was included that would prohibit shared parking where conflicting business hours exist and that staff would be able to monitor the program through complaints received and explained that typically the valet uses would police themselves. Discussion took place and Mr. Castro answered questions from the Commission. Commissioner Pollock stated that he was not clear if this proposal would solve the parking problem. Mr. Castro explained that an alternative proposal, in the form of a resolution, was being provided by Attorney Randolph. Mr. Castro said that Attorney Randolph had expressed an issue with staff's proposal being de facto rezoning. Mr. Castro explained there was not much difference between the existing code and staff's proposal, and, that Attorney Randolph's resolution would include a sunset provision after a one year trial basis. Mr. Crampton stated that he felt staff's proposal was complex and that he would prefer to see something passed by resolution on a trial basis. Mr. Castro explained that waiving the zoning code by resolution would be a variance.

Attorney Randolph addressed the Commission and explained that he and staff both worked independently based on direction heard from the Commission. Mr. Randolph stated that he had a concern about regulating through a resolution, noting the proposed resolution was being presented for discussion purposes only and was intended so as to not harm the existing zoning ordinance.

Ms. Markin noted that she liked the concept of using a resolution which would allow implementation on a trial basis and within a specific area only without affecting the entire town, but, felt the biggest problem would be in incentivizing its use.

Mr. Castro stated that staff has had challenges with determining whether surplus parking exists. Attorney Randolph stated that staffs concern was with his statement to the Commission last month about this being tantamount to a de facto variance. A simple affidavit from the property owner, confirmed by the building department that there are surplus spaces, would allow this to be tested on a one year basis. Mr. Klein commented about unintended consequence and Ms. Markin stated that she did not want to change the zoning code in order to resolve the parking problem, adding that she felt Attorney Randolph's proposed resolution addressed the Commission's concerns.

Mr. Cloninger stated that he considered surplus parking to be that which goes beyond required parking, noting the parking behind the bank and in the Esplanade, although not being utilized, was all required parking that had to be constructed in conjunction with those buildings. Mr. Cloninger stated that he was in favor of a temporary resolution. Mr. Crampton agreed and added that he felt the statute was complicated and did not allow the desired flexibility.

Mr. Castro suggested that staff reach out to Neiman Marcus, the Esplanade and the Worth Avenue Association, offering a workshop to educate the community. Ms. Mack stated that she would be in favor of moving forward with the resolution, putting the onus on the businesses, and, added that she felt there should be no free parking on Worth Avenue. Mr. Castro added that staff could monitor the parking if a sticker system were being used. Mr. Spaziani suggested the use of the term "underutilization" of the site for parking rather than the term "surplus." Mr. Castro agreed and Mr. Spaziani added that he was in favor of the resolution that allowed implementation on a short term basis. After brief comments were made by Mr. Klein, the following motion was made:

MOTION BY MR. KLEIN TO MOVE ADOPTION OF THE PROPOSED RESOLUTION.
MOTION SECONDED BY MR. CRAMPTON.
Mr. Page noted that staff had not yet gone to Neiman Marcus, 150 Worth Avenue, the Worth Avenue Association, or any merchants to determine their willingness to participate. Mr. Page asked for direction from the Commission and Ms. Markin noted that the Commission was voting to move forward with an opportunity to have a resolution as a recommendation to Council and that she felt staff should do the necessary homework and come back to the Commission with a report. Mr. Page stated that he would arrange for those meetings and report to the Commission before moving forward to Council. Ms. Markin stated that she felt the shared parking issues on Worth Avenue were two-fold; to allocate underutilized spaces for employees during the day, and, evening shared parking for businesses during off hours. Ms. Markin asked if this resolution covered both and Attorney Randolph answered that the Commission needed another conversation after this, noting for the record, that the motion was not to adopt the resolution but to recommend moving forward with the concept proposed in the resolution.
MOTION CLARIFIED THAT THE COMMISSION RECOMMENDED MOVING FORWARD WITH THE RESOLUTION CONCEPT.
MOTION CARRIED UNANIMOUSLY.

Mr. Castro stated that he felt the resolution resolved Mr. Pollock's concerns and the proposed ordinance answered other questions raised by the Commission during last months' meeting. Discussion continued and Mr. Castro and Ms. Markin both expressed the opinion that the proposed ordinance could move forward. Mr. Castro read from the proposed ordinance language that needed to be revised to no longer allow businesses with similar hours of operation to share spaces, described the written agreement required of the property owner to identify the number of shared spaces, adds the requirement of the property owner to obtain a business tax receipt, provide an inventory of users and number of spaces being used annually. Mr. Castro acknowledged that some of the strikethrough language had been erroneously removed from the proposed ordinance and would be corrected.

Attorney Randolph addressed the Commission and asked if they were satisfied with the enforcement aspect. Ms. Markin stated that she felt the Town should come up with a sticker program to identify the cars allowed to utilize shared parking. Discussion continued regarding the difficulty of enforcement, and Raychel Houston, Code Enforcement, described the process by which a property owner could post the premises and issue a letter of authorization to the Town that would allow the Police Department to issue a "trespass by warning" citation. It was expressed and agreed that the enforcement should be the responsibility of the property owner. Ms. Houston stated that she did not see any enforcement issues with the proposed ordinance. Mr. Klein asked about the language included "with enforcement assigned to the Town," and Attorney Randolph stated that he did not feel that language needed to be included and it was agreed that Mr. Castro would remove that language.

MOTION BY MR. KLEIN TO RECOMMEND MOVING FORWARD WITH THE CONCEPT.
MOTION SECONDED BY MR. POLLOCK.
MOTION CARRIED UNANIMOUSLY.

Mr. Castro stated that he would correct the strikethrough errors and make the other corrections as discussed and would forward a corrected version of the ordinance to Chair Markin for review. Ms. Watts asked if the Apollo parking lot would be involved and Mr. Castro noted that it would not be involved since it is a lot not serving any other business.

VI. PROPOSED ZONING TEXT AMENDMENTS CREATING ZONING REGULATIONS FOR PLAYGROUND EQUIPMENT IN RESIDENTIAL DISTRICTS

Mr. Castro explained the treatment of playground equipment as an accessory structure and the history of some complaints received, that anything with a backboard would require Council approval, and that staff was asked by Council to look at this and perhaps find some way to allow more flexibility. Mr. Castro explained setbacks and screening requirements, adding that language was included that would prohibit tree houses. Mr. Castro stated that all swing-sets would have to be out of the setback and explained the screening requirements.

Mr. Cloninger stated that he had received three different calls from neighbors who were concerned with "junky" equipment and added that he felt all playground equipment should be out of the setbacks and screened from the neighbors. Ms. Watts agreed and Ms. Houston displayed pictures of a swing set that had raised recent concerns and had caused staff to look at these regulations. Discussion ensued regarding setbacks and screening regulations. Ms. Markin expressed her concern with hedges as screening material as well as the regulation of height. Ms. Houston explained that previously a large playhouse had been in this location and a Code Enforcement warning had been issued requiring the property owner to remove it. This swing set was then installed in its place.

Mr. Klein stated that he felt the Town needed to encourage young families to stay and added that he felt some sort of loosening should occur but was concerned with the height and suggested the allowable height be reduced from 15 feet to between 10 and 12 feet. It was suggested that an open swing-set without a roof might be allowed. Mr. Crampton agreed with Mr. Klein and felt that the relaxed setback standards could apply as long as equipment was not visible from the street. Comments were heard from Messrs. Cloninger and Spaziani who agreed that the equipment should be screened from the street and neighbors. Concern with roofs over equipment was expressed. Mr. Klein proposed the following: to allow playground equipment without a roof, not to exceed 12 feet in height, and to be fully screened from neighbors and the street. Discussion continued. It was suggested and agreed that the height be reduced to 10 feet.

MOTION BY MR. KLEIN TO ADOPT 134.1734 WITH THE FOLLOWING CHANGES: THAT THIS BE DEEMED A 1-STORY ISSUE, THAT NO ROOFS BE PERMITTED, MAXIMUM HEIGHT OF 10 FEET BE ALLOWED AND EQUIPMENT MUST BE FULLY SCREENED FROM THE STREET AND NEIGHBORS.
MOTION SECONDED BY MR. CRAMPTON.
It was discussed and agreed that 1-story would be removed and discussion continued. Ms. Markin spoke about the bike path area. Ms. Markin stated that she used the path daily and she felt there were a lot of violations in that area. Mr. Castro explained that he wanted to include language regarding screening from the ground floor/street view. Mr. Klein agreed to modify his motion to exclude the bike path area. Discussion continued and Ms. Markin stated that she wanted to rescind her earlier comments and added she felt there should be some code enforcement issues on not well maintained playground areas that could be seen from the bike path. Attorney Randolph clarified the motion was to recommend to Council for adoption, as modified. Mr. Castro read the proposed language for the record.
MOTION BY MR. KLEIN TO RECOMMEND TO COUNCIL THE ADOPTION OF 134.1734, AS MODIFIED.
MODIFIED MOTION SECONDED BY MR. CRAMPTON.
MOTION CARRIED UNANIMOUSLY.

Mr. Castro provided an overview of proposed basketball goal language. Code enforcement language was being added to accommodate complaints received. The proposed language would allow one basketball goal that must be 15 feet from the street and 10 feet from the rear property lines. Three or more complaints within a twelve month period would result in the goal having to be removed unless approved by Special Exception and would include appeal language. Discussion ensued and Mr. Castro explained the administrative aspect of the approval process with comments heard from many of the Commissioners. It was noted that the special exception would allow conditions to be placed on approval.

MOTION BY MR. KLEIN TO RECOMMEND ADOPTION.

Discussion regarding hours and code enforcement issues relating to noise.
MOTION AMENDED BY MR. KLEIN TO INCLUDE THE HOURS OF 9:00 AM TO 8:00 PM.
AMENDED MOTION SECONDED BY MR. CRAMPTON.
Mr. Castro read the proposed text to the Commission for the record.
MOTION CARRIED UNANIMOUSLY.

VII. COMMENTS FROM PLANNING AND ZONING COMMISSIONERS AND THE PLANNING, ZONING AND BUILDING ASSISTANT DIRECTOR

Mr. Klein announced that congratulations were due Mr. Scharf as he just had is first grandchild!

Chair Markin noted that there would be no meeting of the Commission during the month of July. Unless there is some pressing business, there may not be a meeting in August.

Mr. Page stated there were two new emerging issues that would be coming to the Commission in the near future. One issue was the awning with cones painted on it over the nearby ice cream shop and Mr. Page explained that the cones were considered to be signs and a violation of the zoning ordinance. Mr. Page explained that at a recent Council meeting, Patti Sands of the Greater South County Road Association asked Council if the sign codes should be revised. Council asked that the Commission look at the sign regulations and make recommendations on any suggested changes.

Mr. Castro stated that the existing sign code is very restrictive and explained briefly what is permitted under the existing code. Mr. Castro explained that some regulations relative to hanging signs were recently provided and added that problems have come up recently with animated signs and neon signs. The cones painted on the awning at the ice cream shop would be considered logos because they identify the type of business there. Mr. Cloninger noted that nothing but a stripe, as approved by ARCOM, would be permitted. Mr. Klein added that he felt this was a multifaceted issue and an ARCOM issue. A copy of the existing sign code was distributed to the Commission for their consideration and discussion at an upcoming Commission meeting.

Comments were heard from Chair Markin who noted that she felt the Town looked great in part due to how strict its codes are.

Raychel Houston, Code Enforcement, spoke about properties that have been cited recently for having neon signs and television monitors. Mr. Cloninger stated that he agreed with everything said and noted that photograph's from the 1920's to mid-1950's showed almost all shops on Worth Avenue had their number and name of the business on the awnings. The code was changed later to no longer allow that. Mr. Klein asked that someone address the commercial free speech issue. Mr. Crampton stated that he felt this was a "slippery slope" and that he thought some of the new ought to be permitted without messing up the look of the Town. Mr. Cloninger added that he felt the Planning and Zoning Commission needed to be careful and that because someone does not like something, doesn't mean it needs to be changed. Ms. Watts agreed with comments of Chair Markin and Mr. Cloninger. Mr. Pollock stated that when changing things, interpretation will become important.

Mr. Page noted that this topic would be on the August agenda as a discussion item.

Mr. Page provided some background to the Commission and explained at a future meeting he would bring to the Commission, information relative to Federal Emergency Management Agency (FEMA) revising flood plain maps. There may be an increase in the 100 year base flood elevations on these maps. The Florida Building Code will be changing on July 1 relative to elevating commercial structures. Several staff members need to take a look at any related sections of the Town codes that will need to be amended to comply with the new building code as well as FEMA changes.

Mr. Page reported to the Commission that there has been no decision by the City of Lake Worth about any changes that would take place at the Casino.

Ms. Markin thanked Debby Morakis and staff for their hard work in preparation of the Commission meetings and thanked Raychel Houston for attending all the meetings adding that she felt Raychel's input was extremely valuable.

VIII. ADJOURNMENT

THE CHAIRMAN ADJOURNED THE MEETING AT 11:44AM.

Respectfully Submitted,

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

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