



**PLANNING AND ZONING COMMISSION AND LOCAL PLANNING AGENCY
DRAFT RECORD AND REPORT
TOWN HALL – COUNCIL CHAMBERS – SECOND FLOOR
360 S COUNTY ROAD, PALM BEACH
TUESDAY, MAY 21, 2013, 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 (tape or CD) of the meeting 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 (9:30:43 a.m.)

Chair Rose called the meeting to order at 9:30 a.m. On roll call, Commission Members present were:

C. Tanner Rose, Chair
Leslie Shaw, Vice Chair
Floyd Wideman, Member
Martin Klein, Member
Lewis Crampton, Member
Bobbie Lindsay Buck, Member
Bruce Langmaid, Alternate Member
Thomas Greenbaum, Alternate Member
Kevin Kenny, Alternate Member (arrived at 9:45 a.m.)
Angela D. Usher, Palm Beach County School Board, Member

Commission Members absent were:

Jeffrey Cloninger, Alternate Member (unexcused)

Staff Members present were:

John Page, Director of Planning, Zoning, Building
Paul Castro, Zoning Administrator
Debby Morakis, Secretary to the Planning & Zoning Commission

- II. INVOCATION AND PLEDGE OF ALLEGIANCE (9:34:39 a.m.)
Ms. Morakis led the Commission with the invocation and Pledge of Allegiance.
- III. APPROVAL OF THE AGENDA (9:34:40 a.m.)
MOTION BY MR. KLEIN FOR APPROVAL OF THE AGENDA.
THE MOTION WAS SECONDED BY MR. WIDEMAN.
MOTION CARRIED UNANIMOUSLY WITHOUT BENEFIT OF A ROLL CALL.
- IV. OATH OF OFFICE FOR NEW MEMBER (9:35:00)
This item was deferred until later in the meeting due to a delay in Mr. Kenny's arrival.
- V. COMMENTS FROM THE PUBLIC ON ANY ITEM NOT ON THE AGENDA
(9:35:09 a.m.)
Chair Rose called for comments from the public. None were heard.
- VI. APPROVAL OF APRIL 16, 2013 PLANNING AND ZONING
COMMISSION/LOCAL PLANNING AGENCY MINUTES
MOTION BY MR. KLEIN FOR APPROVAL OF THE APRIL 15, 2013 MINUTES.
MOTION SECONDED BY MR. WIDEMAN.
MOTION CARRIED UNANIMOUSLY.
- VII. COMPEHENSIVE PLAN AMENDMENT ORDINANCE: (9:36:09 a.m.)

ORDINANCE NO. 5-2013

An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Text Of The Future Land Use Element Of The Town Of Palm Beach Comprehensive Plan, By Amending The Future Land Use Element Data & Analysis And Policies 2.3 And 11.1 To Provide For The Creation Of A PUD-5 Within An Area Of Property Designated Commercial On The Future Land Use Map, Which Is Bounded By Bradley Place, Sunset Avenue, North County Road, And Royal Poinciana Way; Further Amending Policy 2.3.3 To Provide For The Creation of Commercial/Mixed-Use PUD's, The Creation Of The PUD-5, Detailing An Increase In The Maximum Allowable Density, And Creating Maximum Lot Coverages For First, Second and Third Stories In The PUD-5 Area; Further Creating Policy 11.1.5 That Details Mixed-Use PUD Development Requirements Within Commercial Land Use Categories Provided Certain Threshold Criteria Are Met, And Providing For Said Certain Threshold Criteria; Providing For Severability; Repealing All Ordinances Or Parts Of Ordinances In Conflict Hereof; Providing For Codification; And Providing For An Effective Date.

VIII. ZONING TEXT AMENDMENT ORDINANCE: (10:54:56 a.m.)

ORDINANCE NO. 6-2013

An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County Florida, Amending Chapter 134, Zoning, At Section 134-476 By Creating Purpose Language For An Optional PUD-5, Historic Preservation Mixed Use Development, With A Contributing Building Report And PUD-5 Design Guidelines Adopted By Reference For The Five Palm Beach Acres In the C-TS Zoning District Between Royal Poinciana Way And Sunset Avenue And Bradley Place And North County Road And By Prohibiting The Use Of The PUD-5 Regulations For Five Years If A Contributing Building Is Voluntarily Demolished; Section 134-477 By Creating A Review Process For The PUD-5 And Prohibiting Variances From Certain Lot, Yard And Bulk Regulations; Subdivision II, Sections 134-531, 134-532, 134-533 And 134-534 By Adding Submittal Requirements For A PUD-5; By Creating A New Approval Process For PUDs And Amendments To PUDs By Eliminating The Tentative And Final Approval Process And Replacing With A Streamlined Approval Process; And By Creating A New Completion Deadline for PUDs; By Eliminating Subdivision III, Sections 134-561 And 134-562 Related To The Tentative And Final PUD Approval Process; By Renumbering 134-563 To 134-561 Adding PUD Amendments And Eliminating Property Owner Consent To Amend PUDs; By Renumbering 134-564 To 134-562, Adding PUD Amendment Language, Eliminating The Existing Time Frame Requirement For Commencement And Providing For New Commencement Language In The PUD Resolution; Section 134-651 By Creating PUD-5 As A Special Exception And Site Plan Review; Section 134-652 By Adding The PUD-5 And Identifying The Area Where A PUD-5 May Be Applied; Section 134-653 By Adding A Maximum PUD-5 Lot Size And Providing A Provision Which Prohibits A Variance From The Maximum Lot Size; Section 134-654 By Creating A Density for the PUD-5 Of Ten Dwelling Units Per Palm Beach Acre With A Maximum Of Thirteen Dwelling Units Per Palm Beach Acre In Lieu Of The Maximum Six Dwelling Units Per Acre Allowed In the Underlying C-TS Zoning District; Section 134-656 By Providing Permitted And Special Exception Uses In The PUD-5 And Creating Separation Requirements Between Residential And Commercial Uses; Section 134-657 By Creating A Minimum Public Open Space Requirement In The PUD-5 With A Provision Prohibiting A Variance From that Requirement; Section 134-687 By Providing Requirements That A PUD-5 Preserve The Main Street Character, Size And Bulk Which Currently Exists In The Five Palm Beach Acres; Section 134-688 By Providing Qualifying Language For The PUD-5 And Further Incorporating By Reference The Contributing Building Report And PUD-5 Design Guidelines; Section 134-689 By Eliminating The Requirement For Street Trees And Adding Language Which Requires Trees Bordering Projects Whenever Possible; Section 134-690 By Adding Language That A PUD-5 Is Required To Have Curb Cuts And Vehicular Access From Only Sunset Avenue; Section 134-691 By Providing A PUD-5 Off-street Parking Exception For Replacement Of Existing Commercial Square Footage Or Intensity Of Use, New

Ground Floor Retail Use, Or Retail Use Which Replaces Ground Level Off-street Parking And Curb Cuts Fronting Royal Poinciana Way; Section 134-692 By Adding Language That Prohibits Variances For Lot Coverage, Height, Overall Height and Public Open Space and Providing New Regulations Creating A PUD-5 Density Of Ten to Thirteen Dwelling Units Per Palm Beach Acre In Lieu Of The Six Dwelling Units Per Acre Currently Allowed In The C-TS Zoning District, Provided Certain Conditions Being Met, By Creating Maximum Heights and Overall Heights, Including A Provision For Three Stories Where Only Two Stories Is Currently Allowed, By Adding First Floor And Second Floor Lot Coverage Of Seventy Percent And A Third Story Lot Coverage Of Thirty-five Percent, By Creating Setbacks Based On PUD Approval, By Eliminating Required Setbacks And Determining Setbacks During The Approval Process And By Creating A Minimum Thirty Percent Public Open Space Requirement; Section 134-693 By Creating Said Section And Providing A Five Year Sunset Provision Unless The Town Council Approves An Extension; Section 134-1109 Creating The PUD-5 As A Special Exception Use Within The Defined Five Palm Beach Acres In The C-TS Zoning District; By Adopting By Reference The Attached Palm Beach PUD-5 Design Guidelines And The Contributing Building Report: The Historic Character Of Royal Poinciana Way; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing For An Effective Date.

Chair Rose called for comments from the public on either ordinance before the Commission went into executive session.

Anita Seltzer, 44 Cocoanut Row, requested the public have an opportunity to speak after hearing Commission comments.

William O. Cooley, 8 Windsor Court, spoke in opposition to the PUD-5 as drafted, and, read a statement into the record.

Chair Rose agreed to allow additional time for public comments after Commission deliberation. Mr. Rose noted that at the April meeting, the Commission voted 5-2 to ask staff to prepare the ordinances now before the Commission. Chair Rose called for comments from Commission members.

Comments were heard from Mr. Shaw who expressed his concern for preservation and building height, noting that he was adamantly opposed to permitting a third story. Discussion ensued.

Mr. Wideman stated that he felt there would be no benefit to the citizens of Palm Beach and was totally against amending the Comprehensive Plan to benefit only seven or eight commercial land owners.

Mr. Klein commented that he was puzzled why discussion was taking place regarding these ordinances now and suggested separate motions be made regarding the adoption of the ordinances now before the Commission.

Comments were heard from Chair Rose who stated that he knew some concerns had been raised and added that he hoped the Commission could recommend to Council the adoption of both ordinances, as advertised.

**MR. KLEIN MOVED ADOPTION OF ORDINANCE NO. 5-2013 AND
ORDINANCE NO. 6-2013.
MOTION SECONDED BY MR. SHAW.**

Chair Rose called for discussion from the Commission. Mr. Wideman asked for clarification of the motion and if the intent was to move adoption of both ordinances as drafted. Mr. Klein confirmed that was the intent. Mr. Crampton read sections of the proposed ordinance into the record, noting that he felt these ordinances brought improvements to the area and he would continue to support the proposal. Ms. Buck stated that after the last meeting of the Commission she had spoken with Dr. Day and asked if it would be possible for someone to add another story on a Landmarked property. Ms. Buck stated that Dr. Day replied "that happens all the time", and, that concerned her. Ms. Buck stated that the street is over 900 feet long with more than 700 feet of it being made up of "contributing" buildings, leaving only about 20% of the block that could be redeveloped. Ms. Buck added that she felt no additional stories should be permitted on any contributing buildings.

Comments were heard from Mr. Langmaid who stated that he felt the Town should look closely at what goes into the PNC Building and the Testa's property and added that he would only have a problem with a third story if it were on the front.

Mr. Greenbaum commented that he felt this would affect only two properties at the most and would make an improvement to the area.

Mr. Kenny was sworn in as an Alternate Commission Member. After being sworn in, Mr. Kenny stated that he preferred not to weigh in on this discussion since he was new to the Commission and had not taken part in deliberations.

Angela Usher, representing the Palm Beach County School Board, stated that the School Board was in support of the proposal and would be able to handle any increased density.

Mr. Wideman repeated that he was against the proposal and felt these ordinances would do nothing for this area or for the people of this Town.

Mr. Klein suggested an additional motion to go along with the motion on the floor, to recommend Council limit the height of contributing buildings to no more than two stories.

Attorney Randolph advised the Commission that while he did not wish to squelch discussion, he recommended that a separate motion be made for each ordinance, and, advised that it would be inappropriate to accept another motion with one already on the floor. Mr. Klein withdrew his motion until the first motion was dealt with.

Dr. Jane Day, Historic Preservation Consultant for the Town from 1992 to 2012, addressed the Commission stating that she had been in attendance at all meetings for the proposed PUD5 and that she had relooked at every letter to the editor and also called the City of Naples within the past few days. Dr. Day explained the development of her Contributing Buildings report as well as her work with Steven Mouzon who had originally suggested 4 or 5 stories be permitted for the street. Dr. Day answered questions from the Commission, noting that it had been determined that the Landmarks Commission would be the body reviewing PUD-5 applications since the Landmark Ordinance had language in it that would require Council ratify Landmark approvals.

Chair Rose stated that he felt there was a clear desire to eliminate the third story element and expressed concern with being stuck with existing C-TS regulations.

Mr. Shaw asked what options the Commission had and Mr. Page stated that the Commission could pass the ordinances as drafted, make modifications to them or deny them.

Mr. Castro clarified that although the Commission had the ability to make recommendations to modify the ordinances, staff would take the ordinances as they exist along with any recommendations for changes to Council in order to provide Council the most flexibility.

Comments were heard from Ms. Buck, Dr. Day and Mr. Rose who stated he felt the Landmarks Commission had the tools to deal with any third stories. Mr. Klein agreed and suggested this discussion continue only after his initial motion was withdrawn with Mr. Shaw's consent. Mr. Klein added that he would then make a substitute motion that the Commission recommend approval of Ordinance No. 5-2013, and, depending on the outcome of that, he would then make a subsequent motion for approval of Ordinance No. 6-2013.

Mr. Crampton stated that he felt Mr. Klein's suggestion made sense and this was becoming confusing. Chair Rose suggested a separate motion be made for each ordinance and suggested that the Commission recommend to Council that a third story not be allowed over contributing buildings on the north side of Royal Poinciana Way.

MOTION MADE BY MR. KLEIN TO RECOMMEND ADOPTION OF ORDINANCE NO. 5-2013 WITH THE PROVISIO TO NOT RECOMMEND THIRD STORIES.

MOTION SECONDED BY MR. SHAW, WITH CLARIFICATION.

Mr. Shaw asked about removing or leaving a sentence in the ordinance referencing the 35% for the third story. Mr. Castro stated that he felt the Comprehensive Plan would not need to be revised because a third story could be allowed where permitted. Attorney Randolph stated that he felt staff was not in a position to redraft this document today but was looking for direction. Attorney Randolph also reminded the Commission that an opportunity for public comment had been agreed upon earlier.

Comments were heard from Anita Seltzer, Coconut Row, who asked if ex-parte was required and Attorney Randolph answered no. Ms. Seltzer commented about the absence of competent studies needed to sustain these proposed changes and prevent unintended consequences. Ms. Seltzer asked several questions about the principal of equivalency, why variances could be permitted, staff's parking inventory and the boundary map. Ms. Seltzer stated that she felt approval and implementation of the proposed changes would irreversibly change the heart of main street forever.

Nancy Murray, 249 Monterey Road, former Member of the Planning & Zoning Commission and Member of the Royal Poinciana Way Committee stated that she felt this was a very complicated issue and hoped the Commission did not throw out the baby with the bath water when voting on this issue.

Alexander Ives, resident, Royal Poinciana Way Committee Member, Executive Director of the Preservation Foundation, and, Member of the Architectural Commission stated that he felt the purpose was not to help out a developer or 20 to 30 people but to make sure this area of town survives.

Attorney Randolph explained what would happen procedurally when this motion is sent to Council. The ordinance would go to Council in its current form, as advertised and if Council accepts the recommendation, they will not have an opportunity to address it at first reading. They could direct staff to go back and make changes. Mr. Castro further explained staff procedure.

MR. KLEIN WITHDREW HIS PREVIOUS MOTION. MR. SHAW ACCEPTED. MOTION BY MR. KLEIN TO RECOMMEND COUNCIL ADOPT ORDINANCE NO. 5-2013, AS WRITTEN.

MOTION SECONDED BY MR. SHAW.

MOTION CARRIED 4-3, WITH MR. SHAW, MR. WIDEMAN AND MS. BUCK OPPOSED.

MOTION BY MR. KLEIN TO RECOMMEND COUNCIL ADOPT ORDINANCE NO. 6-2013, AS WRITTEN.

MOTION SECONDED BY MR. CRAMPTON.

MOTION FAILED 3-4 WITH SHAW, WIDEMAN, BUCK AND LANGMAID OPPOSED.

Attorney Randolph asked Mr. Langmaid if he understood his vote and Mr. Langmaid stated that he did.

MOTION BY MR. SHAW TO RECOMMEND THAT ORDINANCE NO 6-2013 BE MODIFIED TO ELIMINATE A THIRD STORY ON ALL CONTRIBUTING BUILDINGS THAT FRONT ROYAL POINCIANA WAY.

MOTION SECONDED BY MR. CRAMPTON.

MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

IX. COMMENTS OF THE PLANNING AND ZONING COMMISSION AND PLANNING, ZONING AND BUILDING DIRECTOR (10:55:00 a.m.)

Paul Castro explained that Council would consider on first reading both ordinances on June 12, 2013 at 9:30 a.m.

Mr. Page explained that Steve Mouzon, author of the Design Guidelines, was tentatively scheduled to attend a workshop at the Planning & Zoning Commission meeting on October 15 and that the Landmarks Commission would also be invited to that meeting. Mr. Page advised the Commission that Council would be considering the possible elimination of the Planning & Zoning Commission at the June Council meeting and noted that the public would be able to attend and comment.

Chair Rose indicated that the next meeting of the Commission would be scheduled for October unless something came up that would require the Commission's action.

X. ADJOURNMENT (10:58:36 a.m.)

MOTION BY MR. SHAW TO ADJOURN AT 11:06 AM.

MOTION SECONDED AND CARRIED UNANIMOUSLY.

Respectfully Submitted,



C. Tanner Rose, Chair
Town of Palm Beach
Planning & Zoning Commission

Leslie A. Shaw, Vice Chair
Town of Palm Beach
Planning & Zoning Commission