PLANNING AND ZONING COMMISSION
RECORD AND REPORT
TOWN HALL – COUNCIL CHAMBERS – SECOND FLOOR
360 S COUNTY ROAD, PALM BEACH
TUESDAY, JANUARY 21, 2014, 08:30 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 (09:30:41 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
Martin Klein, Vice-Chair
Floyd Wideman, Member
Lewis Crampton, Member (left meeting at 11:15 a.m.)
Bobbie Lindsay Buck, Member
Bruce Langmaid, Member
Alan S. Golboro, Member
Thomas Greenbaum, Alternate Member (left meeting at 11:18 a.m.)
Kevin Kenny, Alternate Member
Danielle H. Moore, Alternate Member

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

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

III. APPROVAL OF THE AGENDA (09:32:17 a.m.)

Chair Rose identified changes to the agenda postponing the presentations of Mr. Mouzon and Ms. Day and called for a motion to approve the agenda as amended.
MOTION BY MR. KLEIN TO APPROVE THE AMENDED AGENDA.
MOTION SECONDED BY MR. CRAMPTON.
MOTION CARRIED UNANIMOUSLY WITHOUT BENEFIT OF A ROLL CALL VOTE.

IV. OATH OF OFFICE FOR NEW MEMBER (09:33:43 a.m.)

Ms. Morakis administered the Oath of Office to Ms. Moore, who will serve as an Alternate Member.

V. COMMENTS FROM THE PUBLIC ON ANY ITEM NOT ON THE AGENDA (9:34:00 a.m.)

There were no comments heard from the public at this time.

VI. APPROVAL OF OCTOBER 15, 2013 PLANNING AND ZONING COMMISSION MINUTES (09:35:18 a.m.)

MOTION BY MR. WIDEMAN TO APPROVE THE MINUTES OF THE OCTOBER 15, 2013 PLANNING & ZONING COMMISSION MEETING.
MOTION SECONDED BY MR. KLEIN.
MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

VII. CONSIDERATION OF PUD-A AMENDMENT BY THE BREAKERS PALM BEACH, INC. (09:36:07 a.m.)

Chair Rose and Mr. Golboro declared ex-parte communication.

James M. Crowley, Attorney with the firm of Gunster Yoakley addressed the Commission on behalf of The Breakers Palm Beach, Inc., introducing Paul Leone and Alex Gilmurray from The Breakers; Jim Norquest, Planner; Steven L. Polio, Architect; and, Chad Gruber, Engineer, all here with him today. Mr. Crowley explained the proposed project, demonstrating with a power point several renderings and photos of the existing conditions and the proposed new fitness center. The applicant is proposing to amend the Breaker's PUD adding 4,190 square feet to construct a new fitness center to be used by the Breaker's members and guests only. The existing fitness center will be relocated to the expanded area where the Ocean Terrace is. Mr. Crowley explained that amendments to the PUD have been done by Resolution in the past and explained previous projects that were completed as a result of Resolution 1-98 and Resolution 4-05. Mr. Crowley noted that the current application did include an error in the parking statement, but, explained that sufficient parking (164 spaces) already exist to accommodate the proposed expansion. Mr. Crowley explained that the current application would exceed the 20,000 limitation in the PUD Agreement.

Chair Rose called for comments from the Commission. Paul Castro, Zoning Administrator, explained Staff's recommendation stating there would be no traffic impact to the surrounding roadway segments. Mr. Castro stated there was an issue in 1998 when the Starlight Ballroom and Beach Club were built; the Breakers had to reduce the size in order to retain the development rights. Subsequent and through several different Resolutions, there have been more than 40,000 square feet added and staff believes they have used the development rights. Mr. Castro stated that staff has no objections and a discussion occurred with comments being heard from Mr. Crampton regarding the vested rights. Mr. Wideman complimented the Breakers on their presentation and stated that he felt it would be a fine addition to the Breakers. Mr. Golboro stated that he did not see any structural engineer sign-off. John Page, Director of Planning, Zoning and Building

Department stated that would be taken care of when the permit application was submitted.

Mr. Klein echoed the comments of Mr. Wideman complimenting the project, and added that he would not be comfortable with passing a resolution one way or another without addressing the issue of the 11,000 square feet. Mr. Castro requested the Commission make a recommendation to Council one way or another and explained that it was a separate issue that came up during review of the PUD Amendment. Mr. Castro explained that the Breaker's believes they have the vested right to build 11,621 sq. ft. and staff believes the Breakers have built over 40,000 sq. ft. of additions since the resolution in 1998, adding that it may have been missed or was an oversight in the past. Mr. Castro again requested the Commission make a recommendation to Council, one way or another, so that there would be no question in the future for staff or the applicant as to what the Breakers has the right to build. Discussion continued with comments heard from Messrs. Klein and Crampton. Mr. Rose stated that he felt it was a documentation issue. Mr. Crowley added that he felt Council had approved previous projects as presented and that the resolutions were never amended. Mr. Crowley answered questions and Mr. Castro added that an elevator would be installed to provide handicapped access to the tower feature. Ms. Buck thanked the Breakers for their presentation and stated that she had no problem with the expansion of the fitness center.

Town Attorney John Randolph added that Mr. Crowley had attempted to meet with him and Mr. Castro but that meeting did not happen due to his schedule. Mr. Randolph stated, therefore, that he had no legal opinion to offer the Commission as to whether staff or the applicant was correct and advised the Commission that if they were prepared to make a recommendation regarding this they should do so. Mr. Randolph added that the Commission could act on this application or defer to Council if they felt they did not have enough information. Ms. Buck added that she felt that was what the Commission should do. Mr. Wideman stated that he felt the application was complete and should be approved and that the two issues should not be combined; adding that he felt the Commission could make a second recommendation. Mr. Castro stated that staff agreed and recommended approval of the project. Discussion continued and it was determined that two motions would be made.
MOTION BY MR. KLEIN TO APPROVE THE PUD AMENDMENT AS PRESENTED.
MOTION SECONDED BY MR. WIDEMAN.
MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

Chair Rose called for a second motion related to the square footage. Mr. Klein stated, "The Breakers takes the view that it had preserved 11,000 plus square feet. The Town would like some clarity and takes the view that because of various actions subsequent to that the 11,000 square feet has been utilized more than enough and that through some inadvertence that was never clarified. The Breakers is asking for 4,000 sq. ft. which has been approved, the question is do we want to deduct that 4,000 from the 11000 leaving a net of 7,000 odd square feet which the Breakers still feels is preserved and which the Town still feels may not be preserved. Do I get it? (All agreed). I understand the

Breakers' view is they are willing to go along with the deduction of the 4,000 odd square feet, leaving a net of 7,000 square feet. If that is the case I make a motion incorporating all of that."

MOTION BY MR. KLEIN AS STATED ABOVE.

MOTION SECONDED BY CRAMPTON.

Mrs. Buck asked if staff was of the opinion that the Commission should recommend to take this deduction. Mr. Castro stated that staff felt that the Breakers had already used all of it explaining that the motion on the floor was to reduce the 4,190 sq. ft. from 11,621 sq. ft. and that would be a benchmark than could be reduced in the future. Discussion continued. Chair Rose restated the motion that with regard to the present amendment to the PUD-A, the 11,000 will be reduced by the amount of square footage that is being utilized in the PUD-A, and the difference would be preserved for future use.

MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

VIII. Ordinance No. 1-2014 (09:48:13 a.m.)

An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning; Article X, On-Street Parking Permits; Division 2, Residential Districts; Section 134-2296, Issuance Of Special Parking Permits Upon Application, To Include A New Subparagraph (D) To Provide For The Issuance Of Temporary Group Permits; Amending Division 3, Residential Districts Adjacent To Commercial Districts; Section 134-2328, Temporary Group Permits, To Provide For An Application Fee; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Tom Bradford, Deputy Town Manager, addressed the Commission and explained the proposed ordinance. After a very brief discussion, it was determined that the Ordinances would be voted on separately.

MOTION BY MR. WIDEMAN TO APPROVE ORDINANCE NO. 1-2014 AS PRESENTED.

MOTION SECONDED BY MR. KLEIN.

A brief discussion ensued with questions heard from Mrs. Buck who asked about the requirement that a resident obtain 2 visitor parking permits prior to getting a temporary permit. Mr. Bradford explained the program.

MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

IX. Ordinance No. 2-2014 (09:56:25 a.m.)

An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning; Article X, On-Street Parking Permits; Division 2, Residential Districts; Section 134-2293, Designation Of Controlled Parking Residential Areas, To Delete Section 134-2293 In Its Entirety ; Amending Division 2, Residential Districts; Section 134- 2295, Procedures For Determining Controlled Parking Residential Areas, To Require Website Maps And Proper Display Of Permits; Providing For Severability;

Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Mr. Bradford explained this was a housekeeping item that would eliminate a redundant section in the code and update the section that requires the Town Clerk keep a map to also require the Clerk to keep a map on the Town's website.

MOTION BY MR. KLEIN TO APPROVE ORDINANCE NO. 2-2014 AS PRESENTED.
MOTION SECONDED BY MR. WIDEMAN.
MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

X. Ordinance No. 3-2014 (09:58:18 a.m.)

An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning; Article X, On-Street Parking Permits; Division 2, Residential Districts; Section 134-2301, Penalties, To Clarify The Penalty For Illegal Parking And Providing For The Issuance Of Citations For All Other Violations Of This Division ; Amending Division 3, Residential Districts Adjacent To Commercial Districts; Section 134-2234, Establishing A Fine For Illegal Parking And Providing For The Issuance Of Citations For All Other Violations Of This Division; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Mr. Bradford explained the proposed Ordinance and described instances where the Town received complaints from citizens who alleged that workers on the Avenue were in possession of visitor's parking permits. Mr. Bradford explained that a parking citation could be imposed upon the non-resident but there was no mechanism in the Code that would allow action against the resident. Discussion ensued and Mr. Bradford addressed questions from the Commission. Raychel Houston, Parking and Code Enforcement, addressed the Commission, further explained the situation and the difficulty encountered with parking enforcement. After further comments and questions from the Commission members, the following motion was made:

MOTION BY MR. KLEIN TO APPROVE ORDINANCE NO. 3-2014.
MOTION SECONDED BY MR. WIDEMAN.
MOTION PASSED 5-2 WITH MRS. BUCK AND MR. GOLBORO OPPOSED.

XI. CONSIDERATION OF THE STUDY ITEM REPORT (10:27:14 a.m.)

Paul Castro, Zoning Administrator addressed several study items that staff would like direction on.

Study Item 1. Third story issues related to access, and use of attic space within single family homes.

Mr. Castro explained the problems encountered with attic spaces and described the proposed definitions and language changes.

For the record, Mr. Crampton left the meeting at 11:15 a.m. Mr. Greenbaum left the meeting at 11:18 a.m.

Attorney Randolph suggested a provision might be added that would allow the Town access for a future inspection. Mr. Castro noted that would be similar to a kitchen agreement and not a practical solution. Discussion continued and Mrs. Buck made suggestion on how "attic" should be redefined: as non-habitable space within a roof system of a building with less than 7 feet of headroom and used only for storage, mechanical or access to rooftop; removing the pull down stairs, and, allowing no more than one electrical outlet. Mr. Castro commented about rooftop access and the current provisions in the code regarding ceiling heights and windows. Discussion continued. Mr. Castro stated that staff would bring both the proposed language and the Commission's concerns to Council.

MOTION BY MRS. BUCK THAT "ATTIC" IS DEFINED AS SUGGESTED, REMOVING PULL DOWN STAIRS AND NO MORE THAN ONE ELECTRICAL OUTLET, WITH CONFORMING CHANGES THROUGHOUT.

MOTION SECONDED BY MR. KLEIN.

Ms. Morakis noted for the record that Messrs. Crampton and Greenbaum left the meeting so Mr. Kenny would vote.

MOTION CARRIED 5-2 WITH MESSRS. LANGMAID AND GOLBORO OPPOSED.

<u>Study Item 2. Study allowing signs in certain situations where a commercial tenant space does not front a street and the parking for the tenant space is not fronting a street.</u>

Mr. Castro explained that signs are only allowed for businesses that front on a street. Certain spaces where tenants do not front on a street are not permitted signage. Staff would like to allow more flexibility for those tenants. Mr. Castro described the situation that exists at both the rear of 2875 S. Ocean Blvd. and 230 Royal Palm Way. After a brief discussion, the following motion was made: Motion by Mr. Wideman to approve Study Item 2. This motion failed for lack of second and discussion continued.

MOTION BY MR. GOLBORO TO ADOPT THE LANGUAGE CHANGES PROPOSED IN STUDY ITEM 2.

MOTION SECONDED BY MR. KLEIN.

MOTION CARRIED 7-0 AFTER ROLL CALL VOTE.

<u>Study Item 3. Study the content regulations for business signs</u>.

Mr. Castro stated this was an effort to provide additional language to allow signs that match only the dba names registered with the State of Florida.

MOTION BY MR. WIDEMAN TO ADOPT THE ZONING CODE LANGUAGE CHANGES PROPOSED IN STUDY ITEM 3.

MOTION SECONDED BY MR. KLEIN.

MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

Chair Rose suggested minor grammatical changes and they were agreed to by Mr. Castro.

Study Item 4. Study the definition of "lot" as it relates to lots fronting on the Atlantic Ocean.

Mr. Castro demonstrated with a drawing that identified the mean high water line, the bulkhead line, and, the bulkhead/seawall line along with several aerial photographs to describe the proposed language changes. Mr. Castro stated that this could be considered a Bert Harris issue. Attorney Randolph explained the Bert Harris Act and added that any issues could be handled on a case by case basis. Comments were heard from Commission Members and Attorney Randolph advised the Commission that if it felt this was a good ordinance change it should recommend approval to Council, and should leave it to Council to consider any potential Bert Harris threat. Mr. Castro explained this affects approximately 7 or 8 properties or possibly a few more, but did not affect properties on the beach side of the beach area zoning district. Comments were heard from Mr. Golboro regarding taxation and assessed valuation; and, Mr. Klein added that he felt the proposal was a wise change and would support it.

MOTION BY MR. WIDEMAN TO APPROVE ZONING LANGUAGE CHANGES PROPOSED IN STUDY ITEM 4.
MOTION SECONDED BY MR. KLEIN.
MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

Study Item 5. Modify the notice provisions for code amendments, special exceptions or variances which increase the density over what exists on a property.

Mr. Castro explained this proposal would be moving existing language to the correct location in the code and adds another provision that would require a 1,000 foot notice for a special exception or variance which would increase the density.

MOTION BY MR. WIDEMAN TO APPROVE ZONING LANGUAGE CHANGES PROPOSED IN STUDY ITEM 5.
MOTION SECONDED BY MR. KLEIN.
MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

Study Item 6. Study creating separate zoning regulations for a veterinarian use or animal boarding facilities.

Mr. Castro explained how a veterinarian office would have more of an impact than a medical office due to animal boarding, walking, pedestrian and traffic, etc. Mr. Castro explained the proposed changes that would make a veterinarians office a special exception use no matter the size, allowing the use within two districts in the Town and prohibiting it in the other districts. Comments were heard from Mr. Wideman and Mrs. Buck who asked about the prohibition on Royal Palm Way. Mr. Castro stated that staff felt it was not consistent with existing uses in the area. Chair Rose stated that he felt a veterinarian office on Royal Palm Way would be out of place. Mr. Wideman agreed it should be prohibited there and added there was no outdoor space available there to walk a dog.

MOTION BY MR. GOLBORO TO APPROVE ZONING LANGUAGE CHANGES PROPOSED IN STUDY ITEM 6.
MOTION SECONDED BY MR. WIDEMAN.
MOTION CARRIED 6-1 WITH MRS. BUCK OPPOSED.

Study Item 7. Clarify in the definition of "building height for construction east of the Coastal Construction Control Line" that the point of measurement can be the highest crown of road if that elevation is higher than the minimum bottom of grade beam required by the State plus 2 feet.

Mr. Castro explained the current code requirement and read the proposed language changes that would allow a project to be built at the crown of the road without a variance. Mr. Castro projected drawings of several locations in Town to provide examples to the Commission. A discussion ensued with comments heard from Mr. Golboro who stated for drainage reasons he preferred to require a variance; Mrs. Buck expressed her concerns about flooding and drainage. Mr. Klein expressed his concern regarding requiring variances and asked what the genesis for this proposal was. Mr. Castro stated that someone had come in and asked why they were required to build at the crown of road and lose a foot. Mr. Golboro stated that roads were currently being milled; he felt this was minor now but it should be the right of Council to make one house higher than the next. Mr. Rose suggested language changes eliminating the word "either" since three items were involved. Discussion continued briefly. Mr. Klein stated that he would move to support this with concerns to be addressed at another time.

MOTION BY MR. KLEIN TO ADOPT ZONING LANGUAGE CHANGES PROPOSED IN STUDY ITEM 7.
MOTION SECONDED BY MR. WIDEMAN.
MOTION CARRIED 5-2 WITH MRS. BUCK AND MR. GOLBORO OPPOSED.

Mr. Castro explained that Staff would provide the draft Record and Report to Council as backup for this Council item and Chair Rose offered to review the Commission's proposed language changes.

XII. COMMENTS OF THE PLANNING AND ZONING COMMISSION AND PLANNING, ZONING AND BUILDING DIRECTOR (12:27:39 a.m.)

Mr. Page explained there would be an upcoming referendum on the PUD-5 zoning changes scheduled for March 25 and noted that the presentations scheduled for Steve Mouzon and Jane Day would be postponed until after the results of the referendum. Mr. Page explained to the Commission that Council has decided to not have the Commission further review the parking and traffic plan prepared in 2006.

Attorney Randolph address the Commission advising of the public records request received regarding the PUD-5. Attorney Randolph also explained the procedure the Commissioners should use to forward any Town related emails to a Town email address to allow ease in retrieval of Town related documents. Mr. Page stated that he would follow up with Spencer Wilson to determine how best this could be handled. Attorney Randolph explained that a challenge had been filed regarding Ordinance 5-2013 and that this was scheduled for an administrative hearing on February 24. The Town filed a motion for continuance until after the March 25 referendum. The administrative hearing officer postponed the matter until after May 1.

Chair Rose noted there would not be a meeting of the Planning & Zoning Commission in February.

XIII. ADJOURNMENT (12:36:28 a.m.)

MOTION TO ADJOURN AT 12:36 P.M.

Respectfully Submitted,

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

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