



**ROYAL POINCIANA WAY COMMITTEE
RECORD AND REPORT
TOWN HALL – COUNCIL CHAMBERS – SECOND FLOOR
360 S COUNTY ROAD, PALM BEACH
THURSDAY, NOVEMBER 29, 2012, 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 [REDACTED] or may obtain an audio recording (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

Chairman Pucillo called the meeting to order at 9:30 a.m. On roll call, Committee Members present were:

Michael Pucillo, Chair
C. Tanner Rose
Alexander C. Ives
Barbara Lindsay Buck
Susan Markin
Nancy Murray
Alan S. Golboro (left at 12:00 p.m.)

Committee Members absent: None

Staff members present were:
John Page, Director of Planning, Zoning, Building
Paul Castro, Zoning Administrator
Debby Morakis, Secretary to the Royal Poinciana Way Committee

II. [REDACTED] (9:31:01 a.m.)

Ms. Morakis led the Committee with the Invocation and Pledge of Allegiance.

III. [REDACTED] (9:31:05 a.m.)

Chair Pucillo stated that a request had been made to modify the agenda allowing the presentation of Attorney Stroud to be heard before other items and to allow public comment at the end of the meeting.

**MOTION BY MR. GOLBORO FOR APPROVAL OF THE AGENDA, AS
MODIFIED.
MOTION SECONDED BY MS. MARKIN.
MOTION CARRIED UNANIMOUSLY WITHOUT BENEFIT OF A ROLL CALL.**

VIII.

(9:35:01 a.m.)

Attorney Nancy Stroud addressed the Committee, explained her background in land use law, and, introduced Ana Gelabert-Sanchez, former Planning Director for the City of Miami. Ms. Stroud explained that together they had facilitated zoning changes in the City of Miami. Ms. Stroud gave the Committee a power point presentation explaining what she felt were the problems with using the proposed PUD-5 regulations and offered suggestions for alternative solutions. Ms. Stroud stated that she felt the PUD-5 would be more complex than necessary, could be problematic and subject to abuse, adding that she heard the need was to provide incentives to protect the character of the area. Ms. Stroud added that she felt PUDs could be effective zoning tools but were originally created for residential subdivisions, were appropriate for vacant areas, but, the standards and procedures were too flexible and would create the potential for abuse - there could be no way to assure that what was tentatively approved would be what appeared at the final approval. Ms. Stroud stated that she felt the special exception process would provide all the desired protections and suggested the better alternative would be to use the existing C-TS Zoning regulations with some additions.

Comments were heard from Chair Pucillo, who agreed that the process for PUD approvals needed to change but that would be a matter for the Planning and Zoning Commission.

Ana Gelabert-Sanchez shared slides of the City of Miami that demonstrated what happened after zoning changes were made there. Those resulted in 22 different zoning designations in various neighborhoods and required a new code be created to correct mistakes made by those zoning changes.

Attorney Stroud explained an alternative might be to use the existing C-TS zoning regulations and create a subset in the code for this area which would address this historic block. Ms. Stroud stated that would allow redevelopment under some alternative standards, would provide incentives for preservation, and, would provide protection of the Royal Poinciana Way character. This would be a simpler tool with special exception and site plan processes built in with multiple layers of protection such as the Landmark Commission, ARCOM and Town Council. Ms. Stroud stated that she felt the Design Guidelines Dr. Day was putting together were critical to making sure the area was preserved in its historic character, the idea of not allowing an alternative if more than 50% of the contributing structure was destroyed was powerful and questioned whether the five year time frame was necessary. Ms. Stroud made several suggestions for the Committee to consider including the concept of allowing the transfer of density rights, the prohibition of certain types of variances, offering assistance for expedited permitting, and, public beautification and landscaping.

Paul Castro, Zoning Administrator, explained that density variances were not allowed in the code and explained that staff felt the PUD was the best zoning mechanism to allow property

owners in this area to redevelop, adding that staff was in the process of redesigning the PUD approval process to eliminate the tentative approval. Mr. Castro stated that change would go to Local Planning Agency and Council for approval.

Comments were heard from Susan Markin to explain why she invited Attorney Stroud and Ms. Gelabert-Sanchez to speak to the Committee. Ms. Markin asked them to further explain why they felt the use of the C-TS regulations would be better than the PUD regulations. Attorney Stroud stated that she felt the PUD regulations, as written and amended, were inappropriate for this type of already developed block and would allow too much flexibility.

Alex Ives asked if the Committee's goals could be attained by using the C-TS regulations as existing and Ms. Stroud answered that she felt the regulations had preserved the area to date. Discussion continued and Mr. Ives asked if creating a subset to the C-TS regulations would create a Burt Harris concern. Ms. Stroud stated that she felt it would not be a problem since incentives were being provided. Discussion continued and comments were heard from Tanner Rose who stated that he was more concerned about the guidelines used to incentivize fixing the problem on Royal Poinciana Way, that he thought the PUD-5 would do that, and, he was unsure why a subset in the C-TS would be any less precedential.

Ms. Buck asked if the City of Miami considered creating a historic district and Ms. Stroud stated there were historic residential districts and neighborhood conservation districts in Miami. Ms. Buck spoke about the assembly of parcels, adding that she felt small parcels should be preserved. Ms. Buck stated that she felt the Committee should keep an open mind and consider all options to achieve the desired goal.

Mr. Castro gave some history and explained how this started as an overlay of a much larger area that was eventually whittled down to these five acres. Alan Golboro stated that he felt Mr. Pucillo's concept was a good one, the Committee should proceed with it, but, that he felt Ms. Stroud's suggestion was a simpler one. Mr. Golboro stated that he felt the Town was a small town and should not be compared to the City of Miami.

Nancy Murray asked Attorney Randolph for his comments about the enforceability of using a subset of C-TS versus the PUD-5 regulations. Attorney Randolph stated that he had known Nancy Stroud for 30 years and would match her credentials and experience against the best land-use attorneys in the State of Florida. Attorney Randolph questioned whether the Committee was looking for a different way rather than a better way to "skin the cat." Mr. Randolph commented about the special exception criteria, concerns about vagueness, and, added that he felt what was being described was just another approach and it made no difference what it was called.

Ms. Markin asked how a subset in the C-TS zoning district was different than an overlay and Ms. Stroud stated that she had not been involved in an overlay but that a subset would be a simpler way to more directly and with more predictably accomplish goals without the problems of a PUD. Discussion ensued regarding the differences between a subset and an overlay. Chair Pucillo agreed with Attorney Randolph's opinion that this was just another way to "skin the cat." Chair Pucillo asked Ms. Stroud's opinion on the proposed density and

parking requirements and Ms. Stroud stated that she felt the density of 13 was excessive and ten would be more appropriate, adding that she felt for owners to meet the parking requirements was burdensome. Mr. Pucillo asked Ms. Stroud to explain the transfer of development rights and Ms. Stroud stated that it was a mechanism used for preservation to allow a property owner to transfer the value of density to a different location with certain controls in place. Chair Pucillo thanked Attorney Stroud and Ms. Gelabert-Sanchez for their presentation and time and it was noted that their fees were being paid by the Neighbors' Association of Palm Beach.

Comments were heard from Bill Strawbridge, 223 Atlantic Avenue, who stated that he preferred the simpler way and that "TDRs" had existed for a long time in New York City with Grand Central Station being the first property to take advantage of this.

IV. [REDACTED] (10:03:34 a.m.)

V. [REDACTED] (10:04:06 a.m.)

**MOTION BY MR. GOLBORO TO APPROVE THE MINUTES OF THE OCTOBER 17 AND 19, 2012 COMMITTEE MEETINGS, WITH CORRECTIONS.
MOTION SECONDED BY MR. IVES.
MOTION CARRIED UNANIMOUSLY.**

VI. [PUBLIC COMMENT](#)

Public comments were heard at various times during the meeting.

VII. [REDACTED] (10:04:07 a.m.)

[REDACTED]
Dr. Jane Day, Historic Preservation Consultant, addressed the Committee stating that she was excited about working with the PUD-5. Dr. Day described the background and expertise of Stephen Muzon of the Muzon Design Firm and added that she met Mr. Muzon on October 30 to walk the block, take photos and share her historical assessment of the block. Dr. Day stated that due to Mr. Muzon's busy schedule they were not able to meet again until yesterday. Dr. Day shared pictures with the Committee providing examples of the guidelines that would be produced and added that she would work closely with Mr. Muzon and staff to prepare a presentation for the January meeting of the Committee.

Ms. Buck commented that she wanted an expert's opinion regarding the 50% rule and Dr. Day stated that she had spoken to Mr. Muzon regarding that and that he did not believe there should be any 50% rule within the PUD. Dr. Day added that he suggested that instead of having two categories (contributing and non-contributing), there should be four categories: historically contributing, architecturally contributing, urbanistically contributing, and, non-contributing. Dr. Day described these categories, provided examples of each, and, asked for input from the Committee regarding the number of

categories they wanted to include in the guidelines. Dr. Day stated that she liked the idea of having four categories.

Comments were heard from Ms. Murray who commented that she had spoken to a local architect who suggested the front 10 to 20 feet of the façade of a building could be preserved and that would allow the back to change.

Mr. Ives spoke in favor of using four categories and asked about the idea of paying into impact funds for historic preservation. Dr. Day stated that she felt it was a good idea that had been used in other places, but, added that Mr. Muzon's focus would be more on the design criteria that might be used to save the buildings rather than those types of incentives.

Comments were heard from Ms. Markin who spoke in favor of using four categories, adding that she would prefer to see the suggested guidelines become mandatory guidelines. Ms. Markin added that she was struggling with how to preserve that area and revitalize it at the same time.

Ms. Buck stated that she liked the idea of using four categories, but, was trying to focus on how to save what we want while preventing wholesale demolition. Ms. Buck mentioned the idea of creating a neighborhood conservation district and Dr. Day stated that she would contact the City of Miami to find out how the neighborhood historic districts work and would report back to the Committee.

Mr. Golboro stated that since this was one small block he felt having more categories would make it more difficult to manage, adding that he would prefer something simpler. Chair Pucillo stated that he felt having four categories would make it simpler. Mr. Castro stated that once the regulations were done they would have to be implemented by staff and he was concerned about having four categories. Discussion continued.

Chair Pucillo suggested using the Landmark ordinance as a standard. Dr. Day spoke about the Landmark Commission and Chapter 54 as being very flexible, adding that she would prefer to see all of these properties go to the Landmark Commission for continuity as opposed to having some projects reviewed by ARCOM.

Comments were heard from Chair Pucillo who stated he was troubled by having some projects go to ARCOM and others to the Landmark Commission and that he felt if using the Landmark criteria it would be more appropriate to have them reviewed by the Landmark Commission. Ms. Buck stated that since the goal was preservation, she felt it might be more appropriate for the Landmark Commission to review them. Dr. Day noted that on a commercial street like this, the front façade was what defined the character of the street. Ms. Markin asked if applications could go to the Landmark Commission if the properties were not landmarked and Attorney Randolph stated that he shared some of the same concerns about there being a mandate that a property could not be demolished when not designated as a landmark, but, he felt those issues could be worked through with a modification to the Landmark Ordinance.

Discussion continued and comments were heard from Chair Pucillo and Attorney Randolph regarding the use of the Landmark Ordinance if using the PUD-5 or a subset of C-TS and the need to be careful when putting restrictions on properties that had not previously existed. Discussion continued with comments heard from Chair Pucillo and Dr. Day regarding the use of PUD-5 versus a subset in C-TS Zoning District and Dr. Day spoke about the flood elevations, reading an email from Jeff Taylor, Building Official. Mr. Castro noted that commercial buildings would not have to be raised to meet the flood elevation requirements but would have to be flood proofed. Dr. Day spoke about the local historic property tax abatement available.

Ted Cooney, 445 Brazilian Avenue, noted that in addition to reviewing the interiors, the Commission did not strictly adhere to the Secretary of Interior standards in the exterior review and was often holding the property owner to a higher standard since they were receiving a tax break.

John Page, Director of Planning, Zoning and Building Department noted that the tax incentive only applied to the incremental value not to the complete value of the property. Dr. Day further explained the exemption program, Landmark incentives and Federal Tax Credits available.

Mr. Ives noted the Landmark ordinance had been distributed to the Committee and requested a copy of the ARCOM ordinance be provided for review.

Chair Pucillo called for a break at 12:00 p.m. Chair Pucillo called the meeting to order at 12:13 p.m., noting that Mr. Golboro had to leave the meeting at 12:00 p.m. Since some residents needed to leave, Chair Pucillo offered an opportunity for public comment at this time.

Les Evans, 249-251-253 Royal Poinciana Way, described the condition of his property and the difficulty he has experienced in doing maintenance. Mr. Evans showed the Committee a conceptual drawing of what he would like to do to his property, reducing the residential density to three units. Mr. Evans stated that he felt it was not worth the headache to get a façade easement or ask for tax incentives.

Mr. Castro explained that based on the proposal and using PUD-5 regulations, Mr. Evans would be adding 1,400 square feet of retail and would need a seven parking space variance for the commercial space. Mr. Evans further explained his concept and a brief discussion ensued with comments heard from Chair Pucillo and Ms. Markin.

Penny Townsend, 310 Via Linda, addressed the Committee stating that she was in support of the work of the Committee and wanted to make sure that all the hard work of the Committee could not be overturned by variances or special exceptions.

Comments were heard from Ted Cooney, 445 Brazilian Avenue, Landmark Commission Chair, who spoke positively about his experience with working with the Building Department and encouraged the Committee to read the Landmark Ordinance.

Ms. Murray noted that it had been eluded that the tax abatement process was a complicated process. Ms. Murray stated that while she was President of a landmark club that went through a major restoration, Dr. Day suggested she apply for the tax abatement. All that was needed was her signature on the application - it was not an onerous task.

Comments were heard from Ms. Markin who asked about the possibility of offering an expedited permit process for Landmarked properties and Mr. Castro noted that the Building Department processed applications faster than any other community in the State and explained the expedited permit process currently available for all properties. Mr. Castro commented that he felt it was unfair to offer a different process for Landmarked properties and Attorney Randolph noted that if a policy decision were made it could be done.

[REDACTED]

Chair Pucillo spoke further about the Landmark Commission's role and comments were heard from Ms. Buck who stated that she believed it made sense and a statement to the community to have the review of these buildings done by the Landmark Commission rather than by ARCOM. Chair Pucillo asked for a consensus from the Committee and Ms. Markin stated that she would be OK with it but would like to see specific criteria for tradeoffs. Ms. Buck agreed, and, Mr. Ives stated that he was in favor and looked forward to seeing the Design Guidelines.

[REDACTED]

Discussion ensued regarding parking provisions and curb cuts and it was noted that all properties on the street, under current zoning, had the right to have one residential unit, but, under PUD-5, a single residential unit would not be permitted without the required parking. Chair Pucillo shared an outline of an analysis he did on each property on the street looking at what currently exists, what would be allowed under current code, and, what could be allowed using PUD-5. Chair Pucillo explained his chart and discussed some likely scenarios, both with and without the PUD-5 and spoke about the residential and commercial parking requirements. Chair Pucillo mentioned the Daily News Building and its parking lot on the street and the need he felt to find a way in the code to get rid of the parking lot and curb cut and incentivize the conversion to retail use.

Comments were heard from Ms. Buck who reiterated that her concern was not density by the number but cubic volume. Ms. Markin stated that she felt this was a complex problem or opportunity, depending upon how you looked at it. Chair Pucillo noted that

his analysis did not include buildings on the back unless they were contiguous to buildings on the front but offered to expand his chart to include the properties in the rear. Discussion continued and Chair Pucillo suggested a size limitation of 1.5 acres be included in order to eliminate any concerns about consolidation. Parking requirements and the conversion of commercial use to retail were discussed.

[REDACTED]
[REDACTED]
It was the consensus that the size limitation on parcels be restricted to 1.5 acres.

[REDACTED]
Chair Pucillo requested this item be deferred until after hearing from Mr. Muzon. Chair Pucillo stated that he felt the Committee had made a lot of progress but was surprised the Committee had not decided what to call this and what vehicle to use and requested the Committee consider this for discussion at the next meeting.

Ms. Murray asked for a list of the different “carrots” being considered and what was currently allowed under the C-TS regulations. Mr. Castro distributed a Comparison Table of zoning requirements in both the C-TS and PUD-5.

Mr. Ives expressed his concern that it be realized what a unique situation this was for only this area and hoped the Committee chose to stay with the PUD-5 concept.

Chair Pucillo stated that he was more comfortable with the PUD, taking an existing provision in the code rather than creating a subset which he felt would create a precedent.

Ms. Markin spoke about Attorney Stroud’s presentation and commented about the potential for abuse in the PUD. Comments were heard from Mr. Castro and Chair Pucillo who both felt the potential for abuse portrayed in the presentation was not accurate. Chair Pucillo encouraged Ms. Markin to speak to Attorney Randolph and Mr. Castro regarding her concerns. Chair Pucillo noted criticisms he had heard of the PUD approval process and Mr. Castro stated that the approval process would be modified and would then go to the Local Planning Agency for approval. Discussion continued and Mr. Rose noted that Council was aware that review of the PUD process was on a future agenda for consideration by the Planning and Zoning Commission.

c Other limitations.

5 Other comments on zoning code provisions

IX. [REDACTED] (12:31:03 a.m.)

Although the Design Guidelines won’t be ready until January, Chair Pucillo suggested the Committee meet in December in order to focus on code provisions. It was the consensus of the Committee to meet at 9:30 a.m. on December 20, 2012.

Chair Pucillo clarified the directives for staff and suggested they look at the notion of a PUD versus an overlay or subset and look at the potentials for abuse and see how many could be dealt with by Planning & Zoning. Chair Pucillo asked Ms. Buck to look at edits to the draft regulations regarding parking. Mr. Castro reminded the Committee Members to bring their materials to the next meeting.

X. [REDACTED] (12:36:46 a.m.)

Without benefit of a motion, the Chair adjourned the meeting at 1:49 p.m.

Respectfully Submitted,

Michael Pucillo, Chairman
Town of Palm Beach
Royal Poinciana Way Committee