

**PLANNING AND ZONING COMMISSION
LOCAL PLANNING AGENCY
RECORD AND REPORT
TUESDAY, FEBRUARY 16, 2010, 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(9:30:00 a.m.)

Chairman Golboro called the meeting to order at 9:30 a.m.

On roll call, Commission Members present were:

Alan Golboro, Chairman
Leslie Shaw, Secretary
John Schuler, Member
Eugene Lawrence, Member
Floyd Wideman, Member
C. Tanner Rose, Member
Lewis Crampton, Alternate Member
Jeffrey A. Cloninger, Alternate Member
Michael Vincent John Spaziani, Alternate Member

Commission Members absent:

Martin I. Klein, Member (unexcused absence)

Staff Members present were:

John Page, Director of Planning, Zoning, Building
Paul Castro, Zoning Administrator
John C. Randolph, Town Attorney
Debby Morakis, Recording Secretary

For the record, Alternate Member Lewis Crampton voted due to the absence of Martin

Klein.

On roll call, Commission Members present were:

TestA

Commission Members absent:

TestC

Staff Members Present were:

TestB

II. INVOCATION AND PLEDGE OF ALLEGIANCE(9:30:39 a.m.)

Ms. Morakis gave the invocation and led the Commission in the Pledge of Allegiance.

III. APPROVAL OF THE AGENDA (9:31:57 a.m.)

MOTION BY MR. SCHULER TO APPROVE THE AGENDA.

MOTION SECONDED BY MR. WIDEMAN.

MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

**IV. COMMENTS FROM THE PUBLIC ON ANY ITEM NOT ON THE AGENDA
(9:32:37 a.m.)**

Council Member Bill Diamond, 220 Wells Road, asked two questions. "Why was there a 40% reduction in the proposal for parking when there was no increase in the density; and, to what extent would the change in the Comprehensive Plan for the area of the original proposal, now expanded to the Royal Poinciana Plaza, affect that development."

Ex parte communication declarations were made.

Mr. Castro stated that the south side of Royal Poinciana Way was the south boundary of the Commercial Town-serving district and was within the overlay since it was the boundary for that district, which does not include the Royal Poinciana Plaza.

**V. APPROVAL OF JANUARY 19, 2010 PLANNING AND ZONING
COMMISSION MINUTES (9:35:10 a.m.)**

Chairman Golboro noted some typographical errors were corrected.

MOTION BY MR. SCHULER TO APPROVE THE MINUTES OF THE JANUARY 19, 2010 PLANNING & ZONING COMMISSION MEETING, WITH THE CORRECTION OF SOME TYPOS.

MOTION SECONDED BY MR. SHAW.

MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

VI. A. ORDINANCE NO.1-10 (9:35:50 a.m.)

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE COMPREHENSIVE PLAN OF THE TOWN OF PALM BEACH, AS AMENDED, IN ACCORDANCE WITH THE LOCAL GOVERNMENT COMPREHENSIVE PLANNING AND LAND DEVELOPMENT REGULATION ACT, BY AMENDING THE FUTURE LAND USE ELEMENT TO INCLUDE THE ROYAL POINCIANA MIXED USE OVERLAY AREA IN THE MANNER AND FORM ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. [Staff] Royal Poinciana Mixed Use Overlay Comprehensive Plan Amendments

A brief discussion took place regarding the removal of public and private school uses from within the overlay area.

Mr. Castro stated that public and private schools would be permitted, but, would have to be developed under the Commercial Town-serving regulations and not the overlay regulations.

MOTION BY MR. SCHULER TO REMOVE PUBLIC AND PRIVATE SCHOOLS FROM THE OVERLAY REGULATIONS.

MOTION SECONDED BY MR. WIDEMAN.

MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

A discussion took place regarding the "park once" item in Ordinance No. 1-10.

MOTION BY MR. SCHULER TO RECOMMEND TO THE TOWN COUNCIL APPROVAL OF ORDINANCE NO. 1-10 WITH CHANGES.

MOTION SECONDED BY MR. WIDEMAN.

MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

Attorney Randolph asked if comments had been heard from the public regarding Ordinance No. 1-10. After a brief discussion, it was determined that the previous vote should be rescinded in order to hear comments from the public.

**MOTION BY MR. SHAW TO RESCIND THE LAST VOTE.
MOTION SECONDED BY MR. CRAMPTON.**

Before a roll call could be taken, comments from the public were heard.

Lori Volk stated that she was confused by the new language and asked for a definition of private group use.

Robb Allen, President of the Palm Beach Biltmore Condominium stated that many of the condominium owners were pedestrians and added that they were concerned that Sunset Avenue would become a parking alley. Mr. Allen asked the Commission to consider requiring parking entrances be spaced out and asked that the parking requirements for Publix not be reduced.

Chairman Golboro asked if staff had any communication with Publix.

Mr. Castro stated that he had not had any communication from Publix and added that it would not benefit Publix to not provide enough parking and that was why they were looking to acquire the neighboring property to be able to build a bigger store and provide more parking. Mr. Castro added that staff was not concerned about parking issues relative to Publix, but, there was an issue at Royal Poinciana Way.

A brief discussion took place regarding why the Commission voted on the elimination of curb cuts. Mr. Castro explained that existing curb cuts would be grand-fathered.

Mr. Schuler questioned if a property owner could ask for a curb cut on Royal Poinciana Way.

Mr. Castro explained that a property owner on Royal Poinciana Way who did not own property on Sunset Avenue would have the right to be able to provide access to their property from Royal Poinciana Way and could do so by applying for Site Plan Review for a curb cut.

Attorney Randolph suggested the Commission treat the earlier motion that was made as a motion to reconsider the previous action.

**MOTION BY MR. CRAMPTON TO RECONSIDER THE PREVIOUS ACTION.
MOTION SECONDED BY MR. ROSE.
MOTION CARRIED 7-0 AFTER A ROLL CALL.**

Chairman Golboro called for comments from the public.

Mr. Cloninger requested an opportunity to present an alternative proposal and read his statement into the record. Mr. Cloninger's recommendation was to modify the existing regulations in the C-TS Zoning District to allow an owner to rebuild to 100% coverage in the event of a natural disaster or demolition and rebuild. Mr. Cloninger proposed ending the contract with Marcella Cambior.

Mr. Castro clarified that only single-family homes, two-family homes or landmarked structures could be rebuilt. A brief discussion continued.

Jere Zenko of 232 Tangier Avenue commented that she liked what Mr. Cloninger proposed.

Robb Allen of the Palm Beach Biltmore stated there were a lot of condominiums in the area and if they were unable to rebuild after a hurricane lots of families would be displaced and the character of the area would be changed. Mr. Robb suggested the Commission recommend any multi-family structure damaged or destroyed be rebuilt to the same number of units so as not to displace families.

Bill Diamond, 220 Wells Road, stated "Like you folks, I have been following this thing and doing this for several years. The way its been stripped down, it is really unnecessary. Mr. Cloninger's proposal would achieve what we want to achieve. We don't need to justify all the work done to date and all the payments to consultants and time taken. Lets make it simple and get to where we want to go without substituting something that we don't know the real results of."

Eric Javits, speaking for himself as a resident of the Palm Beach Biltmore, suggested that an underground parking garage built under the Royal Poinciana Plaza could ultimately be the best thing for Palm Beach.

John Grosskopf, General Manager of Palm Beach Towers, 44 Coconut Row, stated that Palm Beach Towers would support Mr. Cloninger's proposal.

Mr. Spaziani requested staff produce a chart comparing the existing C-TS zoning district regulations with the proposed changes.

Mr. Page stated that based upon the specific direction of the Commission last month, staff amended the proposed Ordinance No. 1-10 and Ordinance No. 2-10. It would be up to the Commission to choose delaying a decision in order to allow staff time to put together a chart.

Anita Seltzer of 44 Coconut Row requested to see a visualization of what the proposed allowances would be in terms of what the setbacks would look like and where the vias, open spaces and walkways would be. Ms. Seltzer stated, "Ordinance No. 1-10 states that the area is a vibrant mixed-use district, but, on the other hand, we are being told the area is deteriorated and run down. How can it be

both? If it is a vibrant mixed-use district, why do we need an overlay?"

Mr. Shaw stated his concern with Mr. Cloninger's proposal was that zoning changes from day to day. Mr. Shaw wondered if the rest of the Town's zoning districts would not be coming to ask for the same thing.

After discussion,

MOTION BY MR. SCHULER TO RECOMMEND TO THE TOWN COUNCIL THE APPROVAL OF AMENDED ORDINANCE NO. 1-10.

MOTION SECONDED BY MR. WIDEMAN.

MOTION CARRIED 6-1 WITH MR. SHAW OPPOSED.

B. ORDINANCE NO. 2-10

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 134, ZONING, BY AMENDING ARTICLE I, SECTION 134-2, DEFINITIONS AND RULES OF CONSTRUCTION, BY AMENDING THE DEFINITION OF STORY AND CREATING DEFINITIONS FOR MIXED USE, MIXED USE AREA, PUBLICLY ACCESSIBLE OPEN SPACE; AMENDING ARTICLE VII, OVERLAY DISTRICTS BY CHANGING THE ARTICLE TITLE TO THE ROYAL POINCIANA MIXED USE OVERLAY AREA AND CREATING OVERLAY REGULATIONS FOR PERMITTED AND SPECIAL EXCEPTION USES, ACCESSORY STRUCTURES, OUTDOOR SEATING, A DEVELOPMENT REVIEW PROCESS, MINIMUM LOT AREA, WIDTH AND DEPTH REQUIREMENTS, DENSITY, SETBACKS, HEIGHT AND OVERALL HEIGHT, LOT COVERAGE, LANDSCAPE OPEN SPACE AND PUBLICLY ACCESSIBLE OPEN SPACE, OFF-STREET PARKING AND A PERFORMANCE MONITORING AND SUNSET PROVISION IN THE FOLLOWING SECTIONS: SECTION 134-1501 PURPOSE AND INTENT; SECTION 134-1502 ESSENTIAL DEVELOPMENT CONCEPTS, SECTION 134-1503 PERMITTED USES; SECTION 134-1504 ACCESSORY USES; SECTION 134-1505 SPECIAL EXCEPTION USES; SECTION 134-1506 ACCESSORY STRUCTURES; SECTION 134-1507 SPECIAL REGULATION FOR STANDS, SEATED DINING AREA AND OPEN COUNTERS FOR EATING AND DRINKING; SECTION 134-1508 GENERAL REVIEW PROCESS; COMMERCIAL USES; SITE PLAN APPROVAL FOR NEW BUILDING, NEW BUILDING ADDITIONS OR CHANGE IN PERMITTED USES OVER CERTAIN FLOOR AREA; SECTION 134-1509 LOT, YARD AND AREA REQUIREMENTS-GENERALLY; SECTION 134-1510 PARKING STANDARDS; SECTION 134-1511 PERFORMANCE MONITORING AND SUNSET PROVISION; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE, [Staff] Poinciana Mixed Use Overlay Land Development Regulations

Mr. Page recapped changes made in Ordinance 2-10 since last month as a result of recommendations made by the Commission. These changes were: the required side yard setback was eliminated for two-story buildings; the front yard setback for a third story when a third story is permitted was increased from five feet to fifteen feet on all streets except for Royal Poinciana Way; the option of roof-top parking was eliminated.

Chairman Golboro polled the Commission members who had suggested changes and asked if the changes were satisfactory. Messrs. Shaw, Schuler and Rose were satisfied. A brief discussion continued.

Anita Seltzer, 44 Coconut Row stated, "For the record, the Town Council did not endorse the Treasure Coast Regional Planning Council master plan. There is language within this Ordinance that this Commission did not discuss in public. Testa's did not ask for a reduction of parking requirements and their application already provided for adequate parking for their project. Their project has yet to come forward to this body. There should not be a reduction of 40% of parking for that area. Mr. Gibbs warned that his comments about the area and its viability economically were all anecdotal and he made a disclaimer that what he said should not be used as a substitute for adequate studies to substantiate the proposal that you are about to make and bring forward to the Council."

Attorney Randolph requested the speaker identify those areas of the Ordinance that have not been spoken about and whether she wished the Commission speak about them.

Ms. Seltzer stated that part of it had to do with the discussion of service stations in the form of backwards gas stations which require that the main retail building and the pumps be placed in the rear or side of the property. Ms. Seltzer asked if any of the Commission recalled discussing this.

Mr. Castro stated the topic was discussed during the original presentation by Marcella Cambler and Chairman Golboro also recalled a discussion involving Mr. Crampton.

Mr. Wideman added that he felt it was time the Commission voted on this Ordinance.

Jay Denger, Manager at the Leverett House, stated that he was concerned about the "canyon affect" created by having two-story buildings close to the street on Sunset Avenue.

Jere Zenko added that a canyon exists there now.

**MOTION BY MR. WIDEMAN TO RECOMMEND APPROVAL
OF ORDINANCE NO. 2-10, AS AMENDED.
MOTION SECONDED BY MR. CRAMPTON.
MOTION CARRIED 6-1 AFTER A ROLL CALL VOTE, WITH
MR. SHAW OPPOSED.**

C. Updated Information on Proposed Town-serving Study (Town Staff)

Paul Castro, Zoning Administrator, stated that at the direction of the Commission, staff contacted Bill Brisson of Larue Planning & Management Services Inc., to get an estimate of the cost to do the town-serving reevaluation; specifically, the 2,000 square foot threshold, as well as looking at uses that are permitted and the special exception uses that have to automatically demonstrate town-serving. Mr. Brisson's estimate was included in the backup provided to the Commission members. Mr. Castro stated that staff anticipates doing much of the data collection through the Town's EDEN System and the GIS System. Mr. Brisson would look at trends of commercial uses over the last 25 years and come back to the Commission with a report on whether the 2,000 square foot threshold was adequate or should be changed. The preliminary estimated cost is \$15,000 plus travel expenses. Mr. Castro added that if the fee was less than \$25,000, staff could proceed forward to the Town Council and use Mr. Brisson as a sole source in order to do the study since he did the work in 1979-1980.

Mr. Rose stated that he thought this was terrific, but, was hoping this would include a broader scope.

Mr. Castro stated that staff would be tackling most issues in-house.

Mr. Rose stated that he was all for keeping the fees down and added that he hoped there were some other statutory tools that could be used to help with tenant mix and diversity. Mr. Rose stated that he felt there were tremendous differences as to the way the town-serving should be applied to Worth Avenue versus the Royal Poinciana area.

Mr. Castro stated that looking at the mix of uses was not included in the scope of the study. Discussion continued.

Mr. Crampton stated that he agreed with the need for the study, but stated that \$15,000 was too high if staff was doing all the work.

Mr. Castro stated that the fee would be on an hourly basis, plus reimbursables, but could not exceed \$25,000.

Mr. Schuler asked if staff could not undertake the whole process and Mr. Castro

stated that only Mr. Brisson knew what was done in the 1979-1980 study. Mr. Castro added that staff was comfortable using him. Mr. Castro also added that Mr. Brisson would provide a technical memorandum and be at the Planning & Zoning Commission meeting to present it.

Chairman Golboro stated that he would be frightened not to use Mr. Brisson. Mr. Golboro added that although Mr. Klein was not present today, he thought Mr. Klein would be in support.

Mr. Castro stated that staff would collect the data from 1980 forward of all Special Exceptions granted over 2,000 square feet. Staff would also use the EDEN software system to pull out all information relative to business sizes, and obtain information from the Town's GIS system.

Chairman Golboro asked for comments from Bob Moore, former Director of Planning, Zoning & Building Department.

Bob Moore of 420 Santa Fe Road, West Palm Beach, Director of the South County Road Association, stated that he came before this Commission to ask, on behalf of the South County Road Association, that the Town study the town-serving concept again to see what the affect was on the 2,000 square feet limitation over the last 30 years. Mr. Moore stated that he thought what the Town was getting from Mr. Brisson for \$15,000 was excellent and relatively inexpensive and added that Mr. Brisson was an excellent speaker and expert witness in the courtroom. Mr. Moore also added that he felt Mr Rose's comment about Worth Avenue was excellent because Worth Avenue has turned into a more "region-serving" area.

Comments were heard from Mr. Shaw who stated he was not in favor of using an outside source and would prefer to hear recommendations from the community.

Chairman Golboro stated that he was not willing to undertake this study without professional backup.

MOTION BY MR. CRAMPTON TO RECOMMEND TO THE TOWN COUNCIL TO HIRE LARUE PLANNING AND MANAGEMENT SERVICES INC.

MOTION SECONDED BY MR. ROSE.

Chairman Golboro called for public comments. Hearing none,

MOTION CARRIED 6-1, WITH MR. SHAW OPPOSED.

Comments were heard from Chairman Golboro who blamed Council for not appropriately hiring the outside consultant, thereby causing two and one-half years of discussion by the Commission.

VII. COMMENTS OF THE PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY AND PLANNING, ZONING AND BUILDING DIRECTOR(10:52:45 a.m.)

Mr. Schuler suggested that material being distributed to the Commission be dated and with page numbers and Mr. Page agreed.

Mr. Spaziani again requested a chart of the differences between the C-TS zoning district and the overlay.

Mr. Shaw stated that he would like to see the establishment of view easements to protect the views of the Town while entering the Town via the bridges.

Attorney Randolph stated that would be something the Commission could look at in conjunction with the Town Council. Attorney Randolph reminded the Commission that the Landmarks Commission has already addressed this regarding Royal Poinciana Way through the Flagler Memorial Bridge designation.

Chairman Golboro suggested that other Commission members attend presentations of plans to the Town by Florida Department of Transportation.

John Page stated that staff would prepare the Commission's recommendations on Town-serving and present to the Town Council in March. Ordinance No. 1-10 and Ordinance No. 2-10 as well as the Ten Year Water Supply Plan would be presented to the Town Council in April. Mr. Page stated there have been some recent rule changes limiting the number of times each year a jurisdiction can propose changes to the Comprehensive Plan to the State.

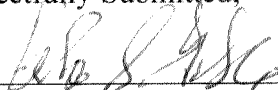
VIII. ADJOURNMENT

MOTION BY MR. SCHULER TO ADJOURN AT 11:03 A.M.

MOTION SECONDED.

MOTION CARRIED UNANIMOUSLY.

Respectfully Submitted,



Alan S. Golboro, Chairman
Town of Palm Beach
Planning & Zoning Commission



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