

**PLANNING AND ZONING COMMISSION
LOCAL PLANNING AGENCY
RECORD AND REPORT
TUESDAY, MARCH 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
Martin I. Klein, Member
C. Tanner Rose, Member
Jeffrey A. Cloninger, Alternate Member
Michael Vincent John Spaziani, Alternate Member

Commission Members absent:

Lewis Crampton, Alternate Member

Staff Members present were:

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

II. INVOCATION AND PLEDGE OF ALLEGIANCE (9:31:06 a.m.)

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

III. APPROVAL OF THE AGENDA (9:31:50 a.m.)

MOTION BY MR. KLEIN TO APPROVE THE AGENDA.

MOTION SECONDED BY MR. SHAW.

MOTION CARRIED UNANIMOUSLY.

IV. OATH OF OFFICE (9:32:00 a.m.)

Ms. Morakis administered the Oath of Office to all Commission Members present.

V. COMMENTS FROM THE PUBLIC ON ANY ITEM NOT ON THE AGENDA (9:34:40 a.m.)

David Barton of Jamaica Lane briefly addressed the Commission.

VI. APPROVAL OF FEBRUARY 16, 2010 PLANNING AND ZONING COMMISSION MINUTES (9:30:00 a.m.)

MOTION BY MR. SCHULER TO APPROVE THE MINUTES OF THE FEBRUARY 16, 2010 PLANNING & ZONING COMMISSION MEETING.

MOTION SECONDED BY MR. WIDEMAN.

MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

VII. OLD BUSINESS (9:38:42 a.m.)

- A. Planning and Zoning Commission Hearing on the Testa Family, LLC, Application to Amend the Town's Comprehensive Plan and Zoning Code [Item was deferred from the January 19, 2010 Commission Meeting] [Letter from Francis Lynch dated March 4, 2010 requesting deferral to the April 20, 2010 Commission Meeting] [Town Staff]

After a brief discussion, the following motion was made:

MOTION BY MR. SCHULER TO DEFER THE HEARING ON THE TESTA FAMILY, LLC., UNTIL THE APRIL 20, 2010, PLANNING & ZONING COMMISSION MEETING.

MOTION SECONDED BY MR. WIDEMAN.

MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

B. Verbal Update on Proposed Town-serving Study [Town Staff]

John Page, Director of Planning, Zoning & Building Department explained to the Commission what happened at the last Town Council meeting when the Town Council voted to recommend proceeding ahead with the study. The Town Council requested greater clarity in the contract proposal from the consultant and also indicated that they wanted to hear more from the general public. Mr. Page stated that he contacted business groups to invite them to this Planning & Zoning Commission Meeting.

VIII. DISCUSSION OF LETTER FROM LAUREL BAKER, PALM BEACH CHAMBER OF COMMERCE, DATED FEBRUARY 26, 2010 (9:41:46 a.m.)

Chairman Golboro requested to hear general comments from the public regarding Laurel Baker's letter.

Comments were heard from Commission Members Shaw and Klein.

Paul Castro, Zoning Administrator, stated that one reason the proposal was sent back to the Planning & Zoning Commission was that Town Council questioned the relevancy today of the town-serving concept altogether. Mr. Castro stated that the Council asked staff to go back to the consultant to fine tune the proposal to not only look at the threshold, but, to look at the ordinance as it exists today. The Council wanted some more input from the business community and feedback from the community about the town-serving regulations.

Laurel Baker, Palm Beach Chamber of Commerce, stated that she felt the town-serving concept and regulations had not succeeded and what was intended by the code and what exists today did not protect residential quality. Ms. Baker added that there were at least 11 small businesses lost when Neiman Marcus and Saks were built and when the via at Armani's was closed. Ms. Baker stated that to her knowledge no town-serving applications were ever denied by the Town and that the required reporting was arbitrary, costly and could be manipulated. Ms. Baker suggested the Town pitch the town-serving regulations and start over.

Attorney Jim Brindell commented that he had been handling applications before the Town Council for nearly thirty years, many of which included town-serving elements. Mr. Brindell stated that he felt the town-serving policy deserved to be reviewed. Mr. Brindell added that he felt this was a timely study and suggested the Town also look at the uses that are subject to town-serving and the special exception requirements.

William Cummings, representing the Royal Poinciana Business District, advised the Commission that they were in support of the study and added, "We want our businesses to service the Town, but, in order to do that, we have to remain in business."

Maurizio Ciminella, owner of Amici Ristorante & Bar at 375 South County Road stated that when he opened his first location in 1994, he had to get Town Council approval and in order to get that approval, he had to close the back of the kitchen and use a 16-wheeler for refrigeration. He later expanded and reopened the kitchen. Since then, he has provided a letter from a CPA as evidence of his town-serving status annually.

John Maas of Maas and Hoffman, 312 Worth Avenue, addressed the Commission and suggested the Town maintain some level of town-serving threshold, perhaps raising the square footage limitation.

Sherry Frankel, President of the Worth Avenue Association, suggested the Town abolish the term "town-serving" and replace it with "people serving". Ms. Frankel suggested the Town save the money it would spend on a study and added that she felt proving town-serving was cumbersome and a financial burden to businesses.

Dr. Gregory Boyajian, a dentist in Town, stated that fourteen years ago he was given unanimous Town Council approval to practice here but felt the Town should eliminate the town-serving regulations. Dr. Boyajian suggested the Town buy half of all the commercial property in the Town and build parks and added that he was embarrassed by the condition of the sidewalks around Town.

Pattie Sands, President of South County Road Association, requested the Town abolish its town-serving regulations for the benefit of the island and its businesses.

Richard Rampell, resident, business owner and commercial property owner, stated that as an Accountant, he has been asked occasionally to prepare a report to determine if a business is town-serving. Mr. Rampell stated that he thought the ordinance was well intentioned, but, was too difficult to enforce and added that he would like to see the ordinance eliminated.

Ned Barnes, Palm Beach Civic Association, noted that there were not too many residents getting up to speak today. Mr. Barnes offered the services of the Civic Association to get the word out and suggested he offer a symposium. Mr. Barnes requested the Commission take more time before making a recommendation to Council.

Henry McIntosh, 124 Via Bethesda, stated that he has seen in other communities where vendors end up selling junk and he would hate to see that happen in Palm Beach. Mr. McIntosh added that while he understood the concept of town-serving, he was not sure he understood the application.

Leslie Evans, 214 Brazilian Avenue, stated that he is an Attorney in Town who represents landlords and tenants, owns buildings on Royal Poinciana Way and South County Road, is a town resident, and also has a daughter who has a store in Town. Mr. Evans stated that he thinks the town-serving rules should be abolished and suggested an all day discussion on

this topic.

Comments were heard by Commission Members Shaw, Wideman and Chairman Golboro. Chairman Golboro stated that he felt this study was important for residents and businesses.

Sherry Frankel stated that she felt a lot of residents just don't come to the Avenue to shop, and added that the Town should find out from the residents if they shop, where they shop, and when they shop.

Bob Moore, Director of South County Road Association and former Director of the Planning, Zoning and Building Department stated that he and Attorney Randolph both worked with the town-serving ordinance for thirty years. Mr. Moore stated that he felt there was great value in having Mr. Brisson involved in the study as well as with the analysis done by the Attorneys on the Planning & Zoning Commission.

Jeffrey Cloninger asked how many businesses were rejected by the Town and how many have been shut down by not being able to prove town-serving.

Mr. Moore stated that to the best of his knowledge, zero businesses have been shut down and two businesses were rejected.

Comments were heard from Chairman Golboro and Mr. Schuler. Mr. Schuler added that he felt the town-serving situation was taking the blame for some of the economic problems.

Mr. Shaw stated that he was in favor of eliminating the annual review but not in favor of the application.

Paul Castro, Zoning Administrator stated that while the Town may not have denied an application or renewal of a business tax receipt, town-serving has served a purpose. Town-serving has allowed the Town to negotiate conditions that would mitigate situations.

Mr. Moore added that the Day School always had to have more than fifty percent of its students live in Town or be children of employees who work in the Town.

Anita Seltzer of 44 Cocoanut Row asked if the Commission had been briefed by staff as to the parking requirements tied to the town-serving concept. Ms. Seltzer also asked if the need to supply parking for those businesses that are more than 2,000 square feet is related to the town-serving requirement.

Chairman Golboro said no and Mr. Castro stated that he does not believe so.

Comments were heard by Susan Polan of Illustrated Properties.

Mr. Rose commented that he felt the Commission should be asking the consultant to look at

the predicates that were in place thirty years ago and see if they still exist. Mr. Rose also stated that he thought Worth Avenue was different from Royal Poinciana Way and that a "one shoe fits all" approach would not work.

Mr. Klein stated that he was concerned that the town-serving regulations were being blamed for the economics affecting the area. Mr. Klein stated that he felt the town-serving rules were a tool of planning and added that he would like to see the consultant go through the regulations on a holistic basis and that the cost of compliance was something that needed to be addressed.

Discussion continued. Comments were heard from Council Member Diamond. Attorney Randolph clarified for the Commission that what staff heard from Town Council was that they wanted to get more for the money from the study and the cost was not to exceed \$18,000.00.

Council member Dick Kleid agreed with Attorney Randolph and stated that the Council thought it could get a broader study including some of the background and whether or not town-serving should be considered at all for the \$18,000 and staff felt that could be done.

Comments were heard from Mr. Wideman and Attorney Randolph clarified that the study was intended to assist the Commission in making a recommendation.

Mr. Castro stated that the original scope of work did not include extra trips for Council meetings and staff went back to Bill Brisson and negotiated that the fee would not include accommodations and some of the travel and several meetings were added and the scope was expanded to include the background and recommendations. Mr. Castro stated that the study would require a lot of staff time to accomplish its goal and produce something beneficial to help the Commission make recommendations to the Council.

Mr. Lawrence stated that the fatal flaw in the town-serving ordinance is the 2,000 square foot limit. There is no way a restaurant can be built in 2,000 square feet, the building type should be considered. Mr. Lawrence added that town-serving does not fit every street in Town and Mr. Spaziani agreed.

Additional comments were heard by Mr. Castro.

Discussion continued and Mr. Page agreed to contact Ned Barnes of the Civic Association to coordinate more public participation.

MOTION BY MR. SHAW TO RECOMMEND TO TOWN COUNCIL THE ELIMINATION OF THE ANNUAL REVIEW OF TOWN-SERVING FOR ALL BUSINESSES CURRENTLY OPERATING UNDER THAT REQUIREMENT.

Discussion continued. Chairman Golboro stated that he felt a motion was not in order since this item was not an agenda item.

MOTION FAILED FOR LACK OF A SECOND.

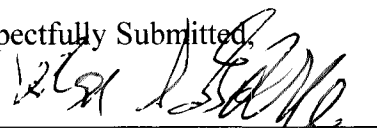
**IX. COMMENTS OF THE PLANNING AND ZONING COMMISSION AND
PLANNING, ZONING AND BUILDING DIRECTOR(11:39:43 a.m.)**

There were no further comments.

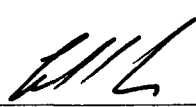
X. ADJOURNMENT(11:40:06 a.m.)

**MOTION BY MR. SHAW TO ADJOURN AT 11:39 A.M.
MOTION SECONDED BY MR. SCHULER.
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