

**PLANNING AND ZONING COMMISSION
2009-2010 ZONING REPORT
RECORD AND REPORT
TUESDAY, DECEMBER 8, 2009, 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
Martin I. Klein, Member
Lewis Crampton, Alternate Member
Jeffrey A. Cloninger, Alternate Member
Michael Vincent John Spaziani, Alternate Member

Commission Members absent: None

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 (9:30:10 a.m.)

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

III. COMMENTS FROM THE PUBLIC (9:31:23 a.m.)

Chairman Golboro announced that this meeting of the Commission was as both the Local Planning Agency (LPA) and the Planning & Zoning Commission. Chairman Golboro then called for comments from the public.

Laurel Baker, Executive Director of the Chamber of Commerce, applauded the Commission for doing a study on Town-Serving and stated that what exists right now favors large businesses to the detriment of what the residents have expressed an interest in having. Ms. Baker urged the Commission to come up with a plan that would prevent residents from having to cross the bridge.

John Eubanks, of Breton, Lynch, Eubanks & Suarez-Murias, PA, on behalf of the Palm Beach Towers Condominium Association, distributed to the Commission a copy of a letter written to Attorney Randolph, alleging improper meeting notice, as well as map and boundary issues.

Attorney Randolph stated that Mr. Eubanks' letter simply repeated issues raised in a memo received yesterday. Mr. Randolph reminded the Planning & Zoning Commission of their role as the Local Planning Agency (LPA), and added that the Commission acts in an advisory capacity to make recommendations to the Town Council. Mr. Randolph stated that should the Town Council accept any recommendations for change, the Council would have to hold additional public hearings and advertise the Comprehensive Plan and ordinance amendments at that time. Mr. Randolph agreed there were some deficiencies in the map, but, that the map was actually drawn broader than the area being given consideration to. Mr. Randolph stated that although the statute requires the LPA to have at least one public hearing, this meeting was the second public hearing. A third public hearing could also be held prior to a recommendation being made to the Town Council. Mr. Randolph stated therefore, that he felt there was no reason to cancel this meeting due to defective notice, and, added that he did not agree the notice was defective.

Paul Castro, Zoning Administrator stated that he also felt there was no problem with the notice and that the notice went over and above statute requirements. Mr. Castro stated that the Statute does not require a map be included, but, a map was added for clarification of the location of the overlay area.

Arnold Hoffman, 150 Bradley Place, commented about the Town codes and suggested the Town Council be provided with a written report on each of the proposed changes.

John Grosskoff, General Manager of the Palm Beach Towers, stated that he was here today representing the Palm Beach Towers and seven sister condominiums; The Biltmore, Le Ermitage, Leveritt House, Parc Regent, Sun and Surf, 100 and 130 Sunrise and Ocean Towers. Mr. Grosskoff stated that these condominiums represent more than 1000 property owners and taxpayers in the Town of Palm Beach. Meetings were held over the past six weeks and the group represented by all these condominiums unanimously support and ask that the Commission please say no to this proposal

today. Petitions were presented to the Commission and Mr. Grosskoff stated that the group has retained Tim Frank.

Tim Frank, former Planning Administrator for the Town of Palm Beach, stated that he felt competent studies needed to make some of the changes proposed have not been done. Mr. Frank commented that removal of pervious surfaces could cause drainage problems, and relaxation of the parking requirements could be disastrous. Mr. Frank said that he looked at seven or eight maps and to this day, he does not know where the overlay district is.

Discussion continued and comments were heard from Commissioner Crampton and Chairman Golboro.

Mr. Klein asked Mr. Frank what he would propose the Commission do and Mr. Frank responded by stating that while he liked what the Commission was doing, he understood that some of the decisions made would not be popular with people. Mr. Frank stated that he believed there was a lack of feasibility and parking studies for this area.

Mr. Klein responded by stating that he felt the Commission has been at this for many years and had listened closely to what the residents wanted. A much grander proposal had been presented to the Commission and this Commission decided to move deliberately, judiciously and incrementally. Mr. Klein stated that he did not want to reward benign neglect with increased density and added that the Commission could revisit the topic again in the future.

Mr. Frank answered additional questions from Commissioners Crampton, Shaw and Schuler.

Additional comments were heard from: Doug Williamson, of 369 North Lake Drive; Jay Denger of 127 Puffin Court, Royal Palm Beach, as Manager of Leveritt House and Parc Regent; Jere Zenko; and, Scotch Piloso, 244 Sunset Avenue, representing Sunset Condo Association.

Tom Testa of 221 Royal Poinciana Way, asked that some time be given before making any recommendations, and, that this proposed overlay be looked at from an economic viability standpoint.

IV. LOCAL PLANNING AGENCY ITEMS:(12:25:36 a.m.)

- A. ORDINANCE NO.1-10 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 . [Marcela Camblor]. Royal Poinciana Mixed Use Overlay Comprehensive Plan Amendments

- 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 ACCESSORY DWELLING, BUILDING FRONTAGE, COURTYARD BUILDING, LIVE WORK BUILDING, MIXED USE BUILDING, MIXED USE VIA BUILDING, MULTI-FAMILY BUILDING, RETAIL AND OFFICE BUILDING, FRONT YARD/PORCH, STOOP, FORECOURT, SHOPFRONT, GALLERY, ARCADE, LINER BUILDING MIXED USE, MIXED USE AREA, PUBLICLY ACCESSIBLE OPEN SPACE, PARK ONCE; AMENDING ARTICLE VII, OVERLAY DISTRICTS BY CHANGING THE ARTICLE TITLE TO THE ROYAL POINCIANA MIXED USE OVERLAY AREA AND CREATING OVERLAY PERFORMANCE REGULATIONS FOR PERMITTED AND SPECIAL EXCEPTION USES, SETBACKS, OFF-STREET PARKING, LOT COVERAGE, PUBLICLY ACCESSIBLE OPEN SPACE AND LANDSCAPE OPEN SPACE, BUILDING TYPES, HEIGHT AND OVERALL BUILDING HEIGHT IN THE FOLLOWING SECTIONS: SECTION 134-1501 PURPOSE AND LIMITATIONS; SECTION 134-1502 ESSENTIAL DEVELOPMENT CONCEPTS, SECTION 134-1502(a) PERMITTED USES; SECTION 134-1502(b) ACCESSORY USES; SECTION 134-1503 SPECIAL EXCEPTION USES; SECTION 134-1504 ACCESSORY STRUCTURES; SECTION 134-1505 SPECIAL REGULATION FOR STANDS, SEATED DINING AREA AND OPEN COUNTERS FOR EATING AND DRINKING; SECTION 134-1506 GENERAL REVIEW PROCESS; COMMERCIAL USES; SITE PLAN APPROVAL FOR NEW BUILDING, NEW BUILDING ADDITIONS OR CHANGE IN PERMITTED USES OVER CERTAIN FLOOR AREA; SECTION 134-1507 PROPERTY DEVELOPMENT REQUIREMENT-GENERALLY; SECTION 134-1508 SPECIAL PERFORMANCE STANDARDS; SECTION 134-1509 PERFORMANCE MONITORING AND SUNSET PROVISION; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE. [Marcela Camblor]. Royal Poinciana Mixed Use Overlay Land Development Regulations
- C. ORDINANCE NO. 3-10 AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TEXT OF THE INFRASTRUCTURE ELEMENT (SECTION IV) IN THE TOWN OF PALM BEACH COMPREHENSIVE PLAN AS LAST AMENDED

ON APRIL 15, 2009 WITH THE ADOPTION OF ORDINANCE 6-09, BY AMENDING POLICY 12.3 TO INCLUDE A 10-YEAR WATER SUPPLY FACILITY WORK PLAN, PURSUANT TO CHAPTER 163.3177(6)(C), FLORIDA STATUTES (WATER SUPPLY PLANNING REQUIREMENTS); PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREOF; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. [John Lindgren] 10-year Water Supply Facility Work Plan

Mr. Page stated that Ordinance No's. 1-10 and 2-10 are integrally tied together and suggested that they be discussed jointly but that separate motions should be made.

MOTION BY MR. KLEIN TO ACCEPT ORDINANCE NO. 3-10.

MOTION SECONDED BY MR. SHAW.

After a brief discussion, the motion and second was withdrawn.

Mr. Shaw asked how an item that had been previously voted on by the Commission could be reconsidered and Attorney Randolph stated that a motion to reconsider would have to be made by someone on the prevailing side of the motion. Discussion continued.

John Lindgren, Town Planning Administrator, described Ordinance No. 3-10 and stated that staff used a template for this work plan as supplied by the South Florida Water Management District to create the plan. Mr. Lindgren stated that a revision was made to one page of the Ordinance after legal review and that the Commission's recommendation should be based on that amendment.

Chairman Golboro called for comments from the public regarding Ordinance No. 3-10. There were none.

**MOTION BY MR. KLEIN TO RECOMMEND ADOPTION OF
ORDINANCE 3-10 TO THE TOWN COUNCIL, AS AMENDED.**

MOTION SECONDED BY MR. WIDEMAN.

MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

Chairman Golboro called for discussion about Ordinance Nos. 1-10 and 2-10. Attorney Randolph advised the Commission about how to address scribes' comments with staff.

Marcella Cambor, Town Consultant, addressed the Commission and stated that both Ordinances would be discussed in the same presentation. To clarify, Ms. Cambor also stated that the difference between the initial 30 acres and the 20.1 acres in the district now have to do with the public right-of-ways. The 20.1 acres refers to only the private properties. Ms. Cambor added that Ordinance No. 2-10 proposes amendments in three categories: lot coverage, height and distribution of uses. Ms. Cambor clarified that in 2006, American Consulting Engineers did a

parking study for the Town which was the basis for the second parking study done by Gibbs Planning and by Glatten Jackson at the Charrette in 2008. Ms. Cambor continued with her presentation and answered questions from Commissioners.

A discussion took place regarding height. Ms. Cambor explained that while the footprint would be smaller, the volume would be the same and the setbacks would be twenty feet, except on Sunset Avenue.

Mr. Cloninger commented that he felt the whole idea was wrong and requested the opportunity to read his statement into the record. Mr. Cloninger suggested the Commission recommend that Town Council say no to this proposal and end the Town's contract with Marcella Cambor now.

Mr. Lawrence read his statement into the record and added that he felt this was form-based zoning, there was no reason for Ordinance No. 2-10, and, something simpler was needed.

Mr. Spaziani stated that he was concerned over the whole concept of economics and that there would be no demand for these units.

Mr. Rose agreed with Mr. Lawrence that it was a good idea to go back to land-use zoning, not form-based zoning.

Chairman Golboro suggested that Mr. Lawrence work with staff in the next 30 to 60 days to come up with a land-based zoning structure that would be much simpler and more direct for the Commission to consider at the next meeting and Mr. Page stated that could be done.

Attorney Randolph cautioned the Commission against delegating its authority to a smaller group for potential violations of the Sunshine Law.

MOTION BY MR. KLEIN TO DIRECT STAFF TO COME BACK WITH A SIMPLER ORDINANCE INCORPORATING COMMENTS MADE BY THE COMMISSION.

MOTION SECONDED BY MR. ROSE.

During discussion, Mr. Crampton stated that he would support moving toward land-based zoning and noted that would be a major philosophical step for this Town. Mr. Wideman stated that he agreed with Mr. Lawrence and read an excerpt from Policy 1.5a.

Mr. Page summarized his understanding of the Commission's directive to take the 35 pages that identify the building types and sub-information that follow, simplify the language, and, bring that back to the Commission in February.

Discussion continued and comments were heard from the public. Ms. Markin stated that she felt this discussion was refreshing and suggested the Commission form a sub-committee to meet in the sunshine.

MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

MOTION BY MR. KLEIN TO DEFER FURTHER CONSIDERATION OF ORDINANCE NO. 1-10.

MOTION SECONDED BY MR. WIDEMAN.

MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

Discussion took place regarding the appointment of a sub-committee. Chairman Golboro stated that he would rather not have a sub-committee and requested that the work be done by staff and brought back to the Commission. Chairman Golboro asked Mr. Page to provide statistics of other developments for comparison.

Discussion continued.

Chairman Golboro announced that further consideration would be deferred until the January 19, 2010. The meeting was adjourned for a 10 minute break.

V. COMMENTS FROM THE PUBLIC(12:25:37 a.m.)

Comments from the public were heard throughout the meeting.

VI. PLANNING AND ZONING COMMISSION ITEMS: (10:32:30 a.m.)

After a brief discussion,

MOTION BY MR. KLEIN TO APPROVE THE AGENDA AS MODIFIED.

MOTION SECONDED BY MR. SHAW.

MOTION CARRIED UNANIMOUSLY.

Commission members made ex-parte communication declarations.

A. Approval of November 9, 2009 Planning and Zoning Commission Minutes.

John Page, Director of Planning, Zoning and Building stated that there were some corrections made to the minutes of the November 9, 2009 meeting including a correction to the meeting start time. The meeting started at 9:30 a.m. On page 2, under comments from the public, a sentence was added referencing a letter that was read into the record requesting a postponement of any decision about the Royal Poinciana Mixed Use Overlay District. A correction was also made to the motion about the third story. The third story was not to be as of right, it was to be a special exception and the square footage on the third story was to be carved out of the first and second floors.

Mr. Crampton added that he was listed as a regular member and should be listed as an alternate member.

MOTION BY MR. KLEIN TO APPROVE THE MINUTES AS MODIFIED.

MOTION SECONDED BY MR. SHAW.

MOTION CARRIED 7-0.

- B. 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 November 9, 2009 Commission Meeting] [Town Staff].

Mr. Page called for a formal motion to defer hearing the Testa Application.

MOTION BY MR. WIDEMAN TO DEFER HEARING THE TESTA APPLICATION UNTIL JANUARY 19, 2010.

MOTION SECONDED BY MR. SCHULER.

MOTION CARRIED UNANIMOUSLY.

- C. Town-serving Regulations [Martin Klein and Tanner Rose]

Chairman Golboro called the meeting back to order after a brief break, then called for comments from Mr. Klein and Mr. Rose regarding their Town-Serving reports.

Mr. Klein stated that he had no additional comments about his report.

Mr. Rose gave a brief synopsis of his report and made a recommendation that the Planning and Zoning Commission recommend to the Town Council that an RFP be developed.

Chairman Golboro complimented both Mr. Klein and Mr. Rose for their work on these reports.

MOTION BY MR. SCHULER TO THANK MR. KLEIN AND MR. ROSE FOR THEIR WORK ON THE TOWN-SERVING REPORTS.

MOTION SECONDED BY NUMEROUS COMMISSION MEMBERS.

MOTION CARRIED UNANIMOUSLY.

Discussion continued.

Mr. Crampton stated that he concurred and suggested that the Commission take the recommendations from these two reports and focus on four items:

1. Whether or not the 2000 square foot minimum should be raised.
2. Should the 50% threshold for island customers be lowered to 40%.
3. Should the Town-Serving data as required every year now be required every other year.
4. Should the Commission recommend that the Town Council hire a consultant.

Mr. Castro clarified the town-serving requirements as implemented by staff.

Mr. Shaw stated that he felt the problem was with the GLA (gross leasable area) and stated that he felt it was a hardship to the business community.

Mr. Castro added that the problem encountered by staff is that the language in the code for demonstration of town-serving is very broad and only the Town Council can approve town-serving.

Laurel Baker stated that she felt the town-serving system was archaic and added that if no one had been denied in proving town-serving, what was the purpose of it? Ms. Baker suggested that the town-serving moniker was wrong and suggested re-phrasing.

Chairman Golboro asked Ms. Baker to provide the Commission with some suggestions from the storekeepers in town at February's Planning & Zoning Commission meeting.

Ms. Markin commended the Commission for looking at town-serving and reminded the Commission that they have a fiduciary responsibility to the Town. Ms. Markin added she was concerned with changing the town-serving requirements without resident input and that tax incentives were needed for these town-serving businesses.

Mayor Marix, 1570 No. Ocean Blvd., commented that what makes this Town special is that the Town is different, and, added that she felt the town-serving requirement was a great asset and added that the Town prevailed in numerous litigation attempts.

VII. COMMENTS FROM THE PUBLIC(12:25:32 a.m.)

There were no additional comments.

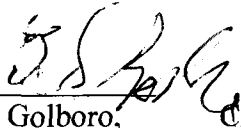
VIII. COMMENTS OF THE PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY AND PLANNING, ZONING AND BUILDING DIRECTOR(12:25:33 a.m.)

No additional comments were heard.

IX. ADJOURNMENT (12:26:00 a.m.)

A motion to adjourn was made and seconded. The meeting was adjourned at 12:40 p.m.

Respectfully Submitted,



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



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