PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY
2010 ZONING REPORT
RECORD AND REPORT
TUESDAY, NOVEMBER 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

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

Alan Golboro, Chairman
Leslie Shaw, Vice-Chair
John Schuler, Member
Floyd Wideman, Member
C. Tanner Rose, Member
Eugene Lawrence, 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
Debby Morakis, Recording Secretary

II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. APPROVAL OF THE AGENDA (9:21:35 a.m.)

MOTION BY MR. SHAW FOR APPROVAL OF THE AGENDA.
MOTION SECONDED BY MR. SCHULER.
MOTION CARRIED UNANIMOUSLY WITHOUT BENEFIT OF A ROLL CALL.

IV. APPROVAL OF SEPTEMBER 21, 2010 LOCAL PLANNING AGENCY AND PLANNING AND ZONING COMMISSION MINUTES (9:21:40 a.m.)

Mr. Rose commented that he felt there had been some confusion at the last Town Council Meeting about the Planning & Zoning Commission's vote taken during the September meeting concerning office use on the first floor. Mr. Rose wanted everyone to realize that the vote was 5-2 in favor of not allowing office use on the first floor.

Mr. Castro explained what had been presented to Council and stated that he could not explain why it had been reported in the paper the other way.

Mr. Spaziani stated that he wanted to make sure the Planning & Zoning Commission was informed about what had happened at the last Council meeting. Mr. Spaziani said, "Although the Planning & Zoning Commission, as the LPA, voted five to two on September 21, 2010, to reject inclusion of Section 134-1107 and 134-1109, to permit office uses on the first floor in the 200 block of Peruvian and Bradley Place in the C-TS Zoning District as part of Ordinance No. 26-10, our position regarding the vote was misstated by the Chairman of this Commission at the Council meeting, and, as a result, that misstatement also appeared in the November 11 issue of the Palm Beach Daily News which said the Planning & Zoning Commission recommended the change. It was also reported in the paper that the Council had directed staff to come up with an amendment that would enable those offices to convert back to retail without having to provide additional parking. Staff informed the Commission that it intended to present a report detailing the unintended consequences of the proposed language change. The Commission did not receive a report. Clearly, any effort to grandfather parking spaces is a serious unintended consequence."

Mr. Castro advised the Commission that staff presented the Commission's recommendation clearly to the Council and that staff left that proposal in the ordinance because staff's recommendation was in contradiction to the Commission's recommendation. What came out of that meeting was a difference in the principal of equivalency for parking. Mr. Castro added that staff would come back to the Commission next month with a proposal that would exempt those two areas from the principal of equivalency if they changed back from office to retail.

Discussion continued and additional comments were heard from Messrs. Spaziani and Wideman.

Mr. Castro explained that staff was obligated to draft, advertise and present the most flexible ordinance for Council consideration.

Additional comments were heard from Messrs. Klein and Shaw.

Town Attorney John Randolph explained that staff would generally advertise everything that had been considered by the Commission, whether approved or not, so that Council could have a choice. If Council did not want to see a particular change made, it could then be deleted from the Ordinance, but, it could not be added to the Ordinance if it was not advertised.

Mr. Klein stated that he felt staff had not done anything untoward.

Attorney Randolph stated that Mr. Castro had made it clear to the Council what the Commission's position was, then indicated what had been published and what staff's recommendation to the Commission had been and Council chose, after a long period of time, to go with the previous recommendation of staff.

Discussion continued and comments were heard by Bob Moore, Director of the South County Road Association. Mr. Moore echoed some of the comments made and added that staff represents the Commission and the Town Council and has an obligation to present both sides of the issue. Mr. Moore reiterated that he felt the presentation was fair.

Anita Seltzer of 44 Cocoanut Row stated that she had voiced her concerns at both the September and October meetings concerning the unintended consequences. Ms. Seltzer requested that the text of her comments be read back into the minutes and also wanted to include a copy of November 11 Shiny Sheet.

Chairman Golboro stated that he could understand her comments being added but that the Shiny Sheet could not be included. Chairman Golboro stated that staff had been directed to abbreviate all minutes.

Mr. Klein added that the meetings were recorded and any comments could be heard on the audio recording.

MOTION BY MR. SHAW TO APPROVE THE MINUTES OF THE SEPTEMBER 21, 2010 PLANNING & ZONING COMMISSION MEETING, AS PRESENTED.
MOTION SECONDED BY MR. KLEIN.
MOTION CARRIED UNANIMOUSLY AFTER A ROLL CALL VOTE.

V. APPROVAL OF THE OCTOBER 19, 2010 PLANNING AND ZONING COMMISSION MINUTES (9:45:40 a.m.)

MOTION BY MR. SCHULER TO APPROVE THE MINUTES OF THE OCTOBER 19, 2010 PLANNING & ZONING COMMISSION MEETING.
MOTION SECONDED BY MR. KLEIN.

Mr. Wideman noted that a correction was needed in the minutes at the motion made by Mr. Klein to approve the Town-Serving Concept. Mr. Wideman stated that he had seconded the motion but that the minutes reflected that he was also opposed. Chairman Golboro suggested the minutes be approved subject to this correction.

MOTION CARRIED 7-0, PENDING CORRECTION.

VI. OLD BUSINESS (9:45:41 a.m.)

a. Status Report on the Proposed Ordinance Regarding the Town-Serving Study

Mr. Page, Director of Planning, Zoning, Building Department explained that the recommendations of the Planning & Zoning Commission had been transmitted to the Town Council in November and Town Council approved the recommendations with only one change. The Planning & Zoning Commission's recommendation in the C-WA Zoning District was to amend the maximum square footage from 2,000 square feet to 3,000 square feet. Mr. Page reported that Town Council tweaked the Commission's recommendation and increased the maximum square footage to 4,000 square feet. Mr. Page added that staff would create changes to the zoning text and comprehensive plan to incorporate those changes and would then bring the Ordinance back to the Commission in codified format for the Commission's approval.

b. Update on Sunrise Avenue Parking Situation

Mr. Page provided a brief update on the Sunrise Avenue Parking situation and added that Town Council had asked the Planning & Zoning Commission to look at the parking situation in the Sunrise Avenue area to see if a possible solution could be found. Mr. Page explained that when Publix was approved by the Town Council, there were some concerns by residents at the Palm Beach Hotel that their existing off-street parking would be lost and added that staff had started a process of collecting data that could be presented back to the Commission and the Council to determine what, if any, changes could be made to our existing parking ordinances.

Chairman Golboro declared ex-parte communication stating that he had met with the president of the Condo Association at the Palm Beach Hotel.

Veronica Close, Assistant Director of Planning, Zoning & Building, reported that staff was in the process of confirming the number of off-street parking spaces available and would be using a Geographical Interface Software system (GIS) to graphically depict and work with the parking data collected. Ms. Close added that Tom Bradford had already done an analysis of available on-street parking and that staff was also calculating the square footages of land uses in the area.

Mr. Shaw suggested that this should be done on a town-wide basis.

Mr. Wideman asked if the residents who were losing the parking spaces were doing anything about it or were they counting on the Town to solve the problem for them.

Mr. Castro stated that there were only three or four situations in Town where there had been Town Council approved off-site, required, or supplemental shared parking. Mr. Castro noted that Coco's was one and added that they would be coming to Council to ask for off-site shared parking at the Paramount.

Discussion continued.

Dick Spilberg, President of the Palm Beach Hotel and Condominium Association, indicated that 47 parking spaces would be lost on February 1 and that the Hotel needed between 35 and 40 spaces to operate. Mr. Spilberg indicated that he had been in contact with Green's Pharmacy, Testa's, Echo, Paramount, and others to find parking.

Chairman Golboro stated that the Commission would try to find a long-term solution to the entire parking problem in the area along Sunrise.

Mr. Page advised the Commission that staff would bring the parking data back to the Commission in December.

VII. NEW BUSINESS (10:15:00 a.m.)

a. Proposed Comprehensive Plan Amendments and Zoning Text Amendments for a Proposal to Allow Nonconforming Buildings and Structures to be Rebuilt

Mr. Castro reported that this proposal was being brought back to the Planning & Zoning Commission for proposed language changes that would allow the redevelopment of most of the non-conforming buildings in the Town. Mr. Castro explained the existing provisions in Chapter 134 and stated that the concept was to eliminate the non-conforming status of all of the buildings in the Town and to allow them to be redeveloped at the same intensity, density, footprint, height and configuration.

Mr. Klein asked what standard of rebuilding would be applied. Mr. Castro answered that the same building could be built but to the current building code standards. There would have to be some flexibility in the code to allow staff to work with property owners.

Mr. Lawrence added that there are two codes; the zoning code and the building code.

Discussion continued and comments were heard by Chairman Golboro and Mr. Castro.

Attorney Randolph asked what the Commission was attempting to achieve and stated that he had never seen a provision in a zoning code that would allow someone to voluntarily tear down and rebuild. Mr. Randolph stated that there would then be no point to all the zoning changes made in the past forty or fifty years.

Chairman Golboro suggested a representative from the insurance industry be brought in.

Mr. Spaziani stated that he deals with this on a daily basis and that insurance companies often have difficulty finding underwriters that would insure buildings if they are unsure they can be rebuilt.

Bill Diamond of 220 Wells Road asked if all of these "re-buildings" would have to go to ARCOM or could they be rebuilt as a matter of right.

Mr. Castro stated that the single family homes could be rebuilt after a natural disaster, but, they could not be rebuilt if voluntarily demolished.

Mr. Cloninger commented that during the Royal Poinciana Way steering committee meetings, it was noted that the infrastructure in the area was crumbling and added that most of the buildings were old and it might not be economically feasible to remodel; it might be cheaper to rebuild. Mr. Cloninger commented, "If we don't make this change, when this gets redeveloped we could end up with buildings set back further with angled-in parking."

Mr. Randolph suggested that the Commission look at each district one at a time and tailor the regulations accordingly. Mr. Randolph added that he felt it would be a disaster to pass a provision that gets rid of all the non-conforming structures and allow people to rebuild.

Mr. Cloninger stated that his original proposal had been intended just for the Royal Poinciana Way area.

Mr. Shaw agreed with Mr. Randolph and stated that he felt staff had done a superb job giving the Commission the opportunity to analyze the pros and cons. Mr. Shaw made several suggestions including breaking the amendments into two categories; natural disasters and voluntary demolitions.

Mr. Rose also agreed and stated that he felt the Commission needed to look at the overlay district first. Mr. Rose added that he did not think the voluntary demolition should be town-wide.

Mr. Klein agreed with Mr. Randolph.

Mr. Crampton commented that he thought the whole idea had good intentions and he was in favor of it, but, it should be gone over point by point.

Chairman Golboro asked for a motion to divide this into two categories; acts of God versus voluntary demolition.

Mr. Castro stated that staff could separate the issues, but, it would all have to come together at the same time for the transmission of comprehensive plan amendments.

Mr. Shaw asked if staff was comfortable that the intent to be able to rebuild for natural disasters would include fire. Mr. Castro agreed. Discussion continued.

MOTION BY MR. SHAW TO EXPAND THE ABILITY TO REBUILD FOR NATURAL DISASTERS TOWN-WIDE.

Chairman Golboro suggested that staff go further and possibly get pre-approval for buildings on the ocean. Discussion continued. Mr. Castro explained that the intent would be to allow people to rebuild with as little bureaucracy as possible.

Attorney Randolph reminded the Commission that there was a motion on the floor.

MOTION, AS RESTATED BY MR. SHAW, TO EXPAND UPON THE CURRENT ABILITY TO REBUILD NON-CONFORMING BUILDINGS THAT ARE DESTROYED BY HURRICANE OR OTHER NATURAL DISASTERS TO INCLUDE ALL TOWN STRUCTURES.
Discussion continued.

MOTION SECONDED BY MR. KLEIN.
MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

Mr. Shaw started to formulate a motion and then withdrew it.
MOTION BY MR. SHAW FOR THE COMMISSION TO CONSIDER THE ABILITY FOR THE REBUILDING OF VOLUNTARY DEMOLITIONS AND REBUILDING OF COMMERCIAL STRUCTURES, SUBJECT TO AN ENGINEERING REPORT THAT THE STRUCTURES THEMSELVES ARE IN A….
Mr. Shaw withdrew his motion.

Attorney Randolph added that he felt the Commission had already addressed the problem with insurance companies.

Mr. Page asked if the Commission wanted staff to bring back more exacting regulations. Discussion continued, and, it was agreed that the Commission was not ready for further action.

VIII. COMMENTS FROM THE PUBLIC ON ANY ITEM NOT ON THE AGENDA (11:10:22 a.m.)

There were no comments from the public.

IX. COMMENTS OF THE PLANNING AND ZONING COMMISSION AND PLANNING, ZONING AND BUILDING DIRECTOR (11:10:28 a.m.)

Mr. Page stated that staff would bring back the Town-serving changes in a codified format and will also bring back the parking data in the next month.

A brief discussion took place regarding the next Planning & Zoning Commission meeting

Mr. Castro explained that staff would bring the Commission's proposal to Council in December, seek direction to draft the ordinance and bring it back to the Commission as the LPA. Staff suggested the December meeting be cancelled so that the ordinance could come back along with the Town-Serving ordinance, with other issues in January.

MOTION BY MR. SCHULER TO CANCEL THE DECEMBER MEETING.
MOTION SECONDED BY MR. LAWRENCE.
Discussion continued.
MOTION FAILED 2 TO 5 AFTER ROLL CALL.

Mr. Shaw stated that he felt failure to attend a meeting should not impact a person's ability to serve on a Committee when the meeting schedule changes.

Mr. Page stated that the meeting attendance rules applied uniformly to all Boards and Commissions.

A discussion took place regarding the appropriate procedure to cancel a meeting and it was determined that the Chairman and staff would determine if a meeting was necessary for December.

Mr. Page advised the Commission that staff would advertise the Town-Serving issue for the month of January.

MOTION BY MR. SCHULER TO ADJOURN THE MEETING AT 11:35 A.M.
MOTION SECONDED BY MR. WIDEMAN
MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

Respectfully Submitted,

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

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