



**PLANNING AND ZONING COMMISSION AND LOCAL PLANNING AGENCY
RECORD AND REPORT
TOWN HALL – COUNCIL CHAMBERS – SECOND FLOOR
360 S COUNTY ROAD, PALM BEACH
TUESDAY, NOVEMBER 15, 2011, 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 Chairman

John Schuler, Member

Eugene Lawrence, Member

Floyd Wideman, Jr., Member

Martin Klein, Member

Lewis Crampton, Alternate Member

Jeffrey Cloninger, Alternate Member

Michael Spaziani, Alternate Member

Commission Members absent:

C. Tanner Rose, Member (excused)

Staff Members present were:

John Page, Director of Planning, Zoning, Building

Paul Castro, Zoning Administrator

Debby Morakis, Secretary to the Planning & Zoning Commission

For the record, Alternate Member Crampton voted in Mr. Rose's absence.

II. INVOCATION AND PLEDGE OF ALLEGIANCE(9:34:56 a.m.)

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

III. APPROVAL OF THE AGENDA(9:35:48 a.m.)

MOTION BY MR. KLEIN FOR APPROVAL OF THE AGENDA.

MOTION SECONDED BY MR. CRAMPTON.

MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

IV. COMMENTS FROM THE PUBLIC ON ANY ITEM NOT ON THE AGENDA(9:35:49 a.m.)

Geri Zenko of 232 Tangier Avenue addressed the Commission, explaining her experience with PUD's in Illinois and suggested that PUD's in Palm Beach be granted to run with the owner and not with the land.

Chairman Golboro stated that he thought there were three PUDS' in the Town. Mr. Castro stated that there was a fourth and smaller PUD on the north end of the island. A brief discussion took place and Mr. Castro stated that he would bring a report regarding PUD's back to the Commission.

V. APPROVAL OF OCTOBER 18, 2011 PLANNING AND ZONING COMMISSION /LOCAL PLANNING AGENCY MINUTES(9:46:17 a.m.)

MOTION BY MR. KLEIN FOR APPROVAL OF THE OCTOBER 18, 2011 PLANNING & ZONING COMMISSION/ LOCAL PLANNING AGENCY MINUTES.

MOTION SECONDED BY MR. SCHULER.

Mr. Schuler requested that the minutes be corrected to include his comments regarding the density element of the Testa application. Mr. Castro stated that at the direction of Town Council, minutes were to be brief and no longer prepared verbatim. Mr. Page stated that Mr. Schuler's comments would be added.

MOTION AMENDED BY MR. KLEIN FOR THE ADOPTION OF THE MINUTES WITH ONE CORRECTION.

AMENDED MOTION SECONDED BY MR. SCHULER.

MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

VI. NEW BUSINESS(9:46:20 a.m.)

- a. Study Item Regarding the Regulations for Building East of the Coastal Construction Control Line.

Paul Castro, Zoning Administrator, addressed the Commission, demonstrated examples of the current regulations for building east of the Coastal Construction Control Line using a Google aerial map, and, advised the Commission that the Council requested this matter be brought to the LPA to see if any changes should be made to the current regulations. Mr. Castro stated that he would recommend a change to exempt those homes west of the Coastal Construction Control Line that were on the west side of the road.

Discussion ensued and comments were heard from Mr. Wideman who asked for clarification of staff's recommendation. Mr. Shaw suggested an average of the four houses on either side be used. Mr. Castro stated the Council's concern was with much deeper lots where much deeper setbacks were required and Mr. Golboro asked about properties further south. Mr. Castro demonstrated on a map and suggested the elimination of averaging on the front setbacks. Mr. Klein stated that he thought his understanding was that the Commission was being asked to fix something that was an unintended consequence of an action previously taken to deal primarily with lots on the ocean side and east of the CCCL. The affect of the change that was done had an unintended effect on smaller lots on the western side and staff was recommending that we undo that piece of it so that the unintended consequence would no longer exist and those lots on the western side would be the subject of the standard existing zoning rules as they existed prior to this change. Mr. Castro agreed that this was what was being recommended.

MOTION BY MR. KLEIN FOR APPROVAL OF STAFF'S RECOMMENDATION.

MOTION SECONDED BY MR. WIDEMAN.

Mr. Castro asked the Commission to provide their thoughts on the eastern side of the road. A brief discussion took place and Mr. Castro restated the recommendation that the averaging setback in the rear would still exist, but, would be eliminated in the front and on the west side of the road.

MOTION AMENDED BY MR. KLEIN TO INCLUDE STAFF'S RECOMMENDATIONS.

AMENDED MOTION SECONDED BY MR. WIDEMAN.

MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

VII. OLD BUSINESS (10:04:09 a.m.)

- a. Proposed Royal Poinciana Village Overlay Area Ordinances.

ORDINANCE 29-11

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TEXT OF THE FUTURE LAND USE ELEMENT OF THE TOWN OF PALM BEACH COMPREHENSIVE PLAN AS LAST AMENDED ON JULY 13, 2011, WITH THE ADOPTION OF ORDINANCE NOS. 1-11 AND 3-11, BY AMENDING THE FUTURE LAND USE ELEMENT AND AMENDING POLICY 2.3.3 TO PROVIDE FOR THE CREATION OF AN OVERLAY AREA WITHIN THE C-TS ZONING DISTRICT WITHIN THE AREA BOUNDED BY THE EAST RIGHT OF WAY LINE OF BRADLEY PLACE TO THE WEST, THE SOUTH RIGHT OF WAY LINE OF SUNSET AVENUE TO THE NORTH, THE WEST RIGHT OF WAY LINE OF NORTH COUNTY ROAD TO THE EAST AND THE NORTH RIGHT OF WAY LINE OF ROYAL POINCIANA WAY TO THE SOUTH; FURTHER AMENDING POLICY 2.3.3 TO PROVIDE INCREASES IN HEIGHT FROM THREE (3) STORIES TO A

MAXIMUM OF FOUR (4) STORIES, CHANGE IN DENSITY FROM SIX (6) UNITS PER PALM BEACH ACRE TO A MAXIMUM OF TWENTY-FOUR (24) UNITS PER PALM BEACH ACRE AND CHANGE IN LOT COVERAGE FROM SEVENTY-FIVE PERCENT (75%) TO EIGHTY-FIVE PERCENT (85%) ON THE FIRST FLOOR, SIXTY-FIVE PERCENT (65%) ON THE SECOND FLOOR, FIFTY PERCENT (50%) ON THE THIRD FLOOR AND FORTY PERCENT (40%) ON THE FOURTH FLOOR PROVIDED CERTAIN THRESHOLD CRITERIA ARE MET, AND PROVIDING FOR SAID CERTAIN THRESHOLD CRITERIA; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREOF; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

ORDINANCE 30-11

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 134, ZONING, AT ARTICLE VI, DISTRICT REGULATIONS, DIVISION 8 BY CREATING SECTION 134-1121 ROYAL POINCIANA VILLAGE OVERLAY AREA ("RPVOA") WITHIN A PORTION OF THE COMMERCIAL TOWN-SERVING ZONING DISTRICT BOUNDED BY THE EAST RIGHT-OF-WAY LINE OF BRADLEY PLACE TO THE WEST, THE SOUTH RIGHT-OF-WAY LINE OF SUNSET AVENUE TO THE NORTH, THE WEST RIGHT-OF-WAY LINE OF NORTH COUNTY ROAD TO THE EAST AND THE NORTH RIGHT-OF-WAY LINE OF ROYAL POINCIANA WAY TO THE SOUTH, WHICH ALLOWS FOR THE USE OF THE FOLLOWING ZONING CODE PROVISIONS IF ELIGIBILITY AND THRESHOLD CRITERIA IN THE RPVOA, AS PROVIDED FOR IN THIS ORDINANCE, ARE MET: PROVISION OF A "PURPOSE" SECTION; PROVISION OF RPVOA PERMITTED USES, SPECIAL EXCEPTION USES, PROHIBITED USES AND ACCESSORY USES; PROVISION FOR ACCESSORY STRUCTURES; VARIED LOT, YARD AND BULK REQUIREMENTS AS FOLLOWS: INCREASED MINIMUM LOT SIZE FROM FOUR THOUSAND (4,000) SQUARE FEET TO FORTY THOUSAND (40,000) SQUARE FEET; INCREASED MINIMUM LOT DEPTH AND LOT WIDTH BASED ON THE THROUGH LOT REQUIREMENT FOR THE RPVOA; INCREASED RESIDENTIAL DENSITY FROM SIX (6) DWELLING UNITS TO A MAXIMUM OF TWENTY-FOUR (24) DWELLING UNITS PER PALM BEACH ACRE; A RESIDENTIAL COMPONENT OF NOT LESS THAN TWENTY-FIVE (25) PERCENT OF THE TOTAL DEVELOPMENT; INCREASED NUMBER OF STORIES FROM A MAXIMUM OF TWO (2) STORIES TO A MAXIMUM OF FOUR (4) STORIES; INCREASED LOT COVERAGE FROM SEVENTY (70) PERCENT TO ALMOST ONE-HUNDRED (100) PERCENT IN THE SUB-BASEMENT, EIGHTY-FIVE (85) PERCENT ON THE FIRST FLOOR, SIXTY-FIVE (65) PERCENT ON THE SECOND FLOOR, FIFTY (50) PERCENT ON THE THIRD FLOOR AND FORTY (40) PERCENT ON THE FOURTH FLOOR; INCREASED HEIGHT FROM A MAXIMUM OF TWENTY-FIVE (25) FEET TO

FIFTY (50) FEET BY SPECIAL EXCEPTION; INCREASED OVERALL HEIGHT FROM THIRTY-FIVE (35) FEET TO SIXTY (60) FEET BY SPECIAL EXCEPTION; A TWO (2) FOOT FRONT SETBACK FOR A SUB-BASEMENT AND DIFFERING BUILDING SETBACK REQUIREMENTS FOR TALLER BUILDINGS; DECREASED LANDSCAPE OPEN SPACE FROM A MINIMUM OF TWENTY-FIVE (25) PERCENT TO TEN (10) PERCENT; INCREASED BUILDING LENGTH FROM A MAXIMUM OF ONE HUNDRED FIFTY (150) FEET TO THREE HUNDRED (300) FEET AND THE ELIMINATION OF THE MAXIMUM FLOOR AREA REQUIREMENT; PROVIDING A SITE PLAN REVIEW PROCESS; CREATING NEW DEFINITIONS FOR THE RPVOA; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Chairman Golboro called for ex-parte communication and none was declared.

Comments were heard from Alex Ives of 237 Jamaica Lane, Executive Director of the Preservation Foundation at 311 Peruvian Avenue, who asked if the Commission could provide a better understanding of how and why the unit and density numbers were chosen for the Testa's project. Mr. Ives also suggested further discussion of a five year review or sun-setting provision should the overlay move ahead.

Attorney Frank Lynch, representing the Testa family, addressed Mr. Ives' comments and stated that a walking tour of the neighborhood had been done to see what existed. Mr. Lynch stated that in that block, buildings exist from one to seven stories, with some from sixty to eighty units. Mr. Lynch stated that the Testa family hoped to revive what was in the area, providing a town-serving district, part of which included residences. The project would trade that intensity of use for an increase in density.

Chairman Golboro called for comments from the Commission; Mr. Spaziani stated that his main concern was with parking. Mr. Castro explained that fifty percent of all parking would have to be underground and the remaining fifty percent would have to be onsite.

Mr. Cloninger stated that he felt the Commission needed to be careful not to make a decision based on admiration of the Testa family rather than on what would be best for the Town. Mr. Cloninger asked for clarification that this development was being done by the Testa family and not a developer and asked if financing was in order. Mr. Lynch stated that the Testa family was committed to the project, having every intention of maintaining a restaurant there. Mr. Lynch added that no demolition would be done until financing was in place. Discussion continued and Mr. Cloninger asked what would prevent a major developer from assembling the smaller pieces of property in the area and creating a "City Place". Mr. Castro stated that the intent of the overlay was to allow people to assemble property and rebuild if the special criteria was met, adding that the only property that would not qualify was the Bradley House Hotel since it was landmarked, and, the building in front of it that is not on a through lot.

Chairman Golboro asked if the Town could insist that the Testa sign remain and Mr. Lynch agreed. Discussion continued regarding what would happen should the project fail. Mr. Page explained that Town Ordinances were in place that would address this event.

Mr. Schuler again expressed his concern for density and added that he felt the residents of Palm Beach were concerned with the proposed density. Mr. Lynch stated that the original request had been reduced from 40 units per acre to 24 units per acre.

Comments were heard from Mr. Shaw who suggested that not less than 75% of the parking be held underground with the understanding that no parking for any of these structures ever be used for third-party parking. Mr. Lynch stated that the applicant had no intention of creating a parking lot but that providing underground parking for 75% was not achievable. Mr. Shaw added that he did not want to see surface parking at all.

Mr. Lawrence expressed his concern and asked for clarification about what floors would be used for commercial and residential uses. Mr. Castro responded further explaining staff's recommendations that only retail uses be permitted on the first floor; office or residential uses be permitted on the second floor; and only residential use be permitted on the third and fourth floors. Mr. Castro noted that the definition of vertical mixed use would need to be modified.

Comments were heard from Mr. Wideman who stated that he felt the area met the needs of townspeople. He disagreed with Mr. Schuler's concern about increasing the density, adding that he felt that Testa's had done a good job putting together the project.

Mr. Klein stated that he felt the Ordinances, as presented, met what was previously approved. Mr. Klein reiterated his comment that it was time to move forward and approve the project, adding that he felt the issues that still needed to be resolved were possibly including a sunset provision of five or seven years and the parking. Comments in response were heard from Mr. Lynch and Mr. Castro who stated that staff did not recommend a sun-setting provision.

Chris Heggen of Kimley-Horn & Associates, Inc., 1920 Wekiva Way, West Palm Beach, addressed the Commission stating that a requirement to provide 75% underground parking would be too stringent and that the site might only accommodate 60% or 65% of the parking. Mr. Castro indicated that staff had a problem with that and that parking must be provided on-site and not on-street. Mr. Castro stated that there was no provision in the off-street parking requirements that would allow someone to have any of the required parking off-site.

Discussion continued regarding parking and a sun-setting provision. Chairman Golboro stated that he felt there should be a sunset on the entire provision prior to the commencement of construction. Mr. Golboro also commented about setbacks for the third and fourth floors. Mr. Castro stated that the intent was to allow for arcades on the

front sidewalks. Discussion continued and the following motion was formulated.

MOTION BY MR. KLEIN FOR THE ADOPTION OF ORDINANCES 29-11 AND 30-11; PROVIDING A 7 YEAR SUNSET PROVISION; NO ALTERATION OF TOWN PARKING REQUIREMENTS THUS REQUIRING 50% OF PARKING BE UNDERGROUND AND 50% OF PARKING ON-SITE; CHANGE TO DEFINITION OF VERTICAL MIXED-USE; SPECIAL REVIEW CRITERIA BE INCLUDED; SUBJECT TO REVISED TRAFFIC CONCURRENCY PLAN.

MOTION SECONDED BY MR. CRAMPTON.

Mr. Shaw asked for clarification of “shall” and “landmarked.” After discussion, the motion was modified as follows:

MOTION MODIFIED BY MR. KLEIN TO PROVIDE A 5 YEAR SUNSET PROVISION.

MODIFIED MOTION SECONDED BY MR. CRAMPTON.

MOTION CARRIED 5-2 WITH MESSRS. SCHULER AND WIDEMAN OPPOSED.

Mr. Klein proposed a motion that the Chairman, Secretary and staff be authorized to correct any technical glitches in the Ordinance. Chairman Golboro stated that he would look at the Ordinance with no motion needed.

b. [Proposed Beach Area Ordinance.](#)

ORDINANCE NO 31-11

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY FLORIDA, AMENDING CHAPTER 134, ZONING, AT SECTIONS 134-1472 AND 134-1473 BY REFERENCING CHAPTER 66 FOR THE REQUIREMENT OF REMOVAL OF PEST PLANTS AND ELIMINATING THE REMOVAL DEADLINE DATE IN THE BEACH AREA ZONING DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

MOTION BY MR. KLEIN FOR APPROVAL OF STAFF’S RECOMMENDATION FOR OF ORDINANCE 31-11.

MOTION SECONDED BY MR. WIDEMAN.

MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

c. [Discussion on Commercial Motion Picture Making.](#)

John Page, Director of Planning, Zoning, Building, addressed the Commission and explained that at the direction of the Commission, staff drafted proposed changes to the regulations of motion picture making. Mr. Page stated that Attorney Randolph reviewed the proposed changes and it was his opinion that the existing ordinance should stand as is and not be changed.

Chairman Golboro called for comments from the Commission. It was the consensus that the Commission was in agreement with Mr. Randolph's opinion.

Bill Metzger, 277 Esplanade Way, addressed the Commission and stated that he had met with staff and Attorney Randolph and added that two items in Mr. Randolph's memo illustrated inconsistencies within the current code. Mr. Metzger gave examples of types of filming that may or may not be permitted within the Town and suggested as an example a story about Henry Flagler, which might be filmed at both the Breakers and Whitehall. Existing code would require Town Council approve filming at the Breakers but would prohibit filming at Whitehall since that property resides within a residential district and no provision for an exception to this code exists. Mr. Metzger also noted that while events may be held at Mar-a-lago, filming was prohibited there and added that pirated scenes were often shot in Palm Beach and sold commercially.

Discussion continued. Mr. Metzger wondered why the Town would not want to be part of the process and seize an opportunity that could be beneficial to the Town to control by ordinances an activity that was already taking place. Mr. Metzger then explained some of the possible benefits to the Town, citing the recent filming of the movie "Parker."

Mr. Page stated that Council had solicited comments from ORS and the Planning & Zoning Commission. Comments were heard from Messrs. Crampton and Klein who both spoke in opposition to changing the ordinance. Mr. Cloninger added that he felt film making might be beneficial to explore.

Anne Metzger, 277 Esplanade Way, stated that she understood the Commission's concerns and added, "If you delve deeper into this and can let go of the fear then you can make an informed, intelligent decision. If it is driven by fear it's really hard to understand all the nuances."

Mr. Shaw suggested that the Metzger's draft an ordinance that protects the residents of the Town that staff could review. Mr. Metzger stated that he had offered to do that but did not have time to present something prior to the filming. Mr. Page stated that Mr. Shaw's recommendation would be appropriate discussion for the ORS Committee.

VIII. COMMENTS OF THE PLANNING AND ZONING COMMISSION AND PLANNING, ZONING AND BUILDING DIRECTOR(11:59:31 a.m.)

John Page provided the Commission with several updates including: an invitation would be extended to Ryan Matthews of the Florida League of Cities to provide an update to the Commission at his convenience about changes in the Legislature; Penny Redford, Sustainability Manager with the City of West Palm Beach would address the Commission about their green initiative tentatively in January; Mr. Castro would provide a report to the Commission regarding the Breaker's PUD approvals at a future date; the legal description

provided to the Town for the overlay area might be amended to run to the center of the street.

Mr. Page noted that since nothing pressing was on the Commission's December calendar, the Commission could possibly cancel the December 20, 2011 meeting. After a brief discussion, the following motion was made:

MOTION BY MR. SCHULER TO CANCEL THE DECEMBER 20, 2011 MEETING OF THE PLANNING & ZONING COMMISSION.
MOTION SECONDED BY MR. SHAW.
MOTION CARRIED UNANIMOUSLY.

Mr. Shaw requested the Commission have a discussion about the authorization for the individual use and design/decorative planting of parkways and the maintenance of those parkways, and, what regulations currently exist in Town to control parking lots and the rental of parking spaces to a third party.

Chairman Golboro suggested that meters be added to Royal Poinciana Way from 6:00 p.m. to 10:00 p.m. to increase visitor revenue and added that he also felt that the Commission should study the licensing of gardeners.

Mr. Page advised the Commission that Council was currently looking at all parking throughout Town. A brief discussion ensued regarding valet parking. Mr. Schuler stated that he felt that regulating lots would be more trouble than it was worth and the Commission should be cautious about over-regulating the Town.

Mr. Castro advised the Commission that no one would be permitted to rent out their required parking spaces and if it was happening that would be a code enforcement issue. Mr. Castro continued by explaining the parking regulations in Chapter 134 and added that the parkway planning issue would be handled by Public Works and he would bring it to their attention.

IX. ADJOURNMENT

MOTION BY MR. SHAW TO ADJOURN.
MOTION SECONDED BY MR. SCHULER.

Ted Cooney, 495 No. Lake Way, requested back-up materials for the Planning & Zoning Commission be made available. Mr. Page stated that he would look at what would be required of staff to make it available.

MEETING ADJOURNED AT 12:16 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