PLANNING AND ZONING COMMISSION
2007-2008 ZONING HEARING
RECORD AND REPORT
TUESDAY, AUGUST 5, 2008, 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: **(0:01:38)** Secretary Golboro called the meeting to order at 9:30 a.m.

PRESENT: Alan S. Golboro, Secretary
John H. Schuler, Member
Leslie A. Shaw, Member
Eugene Lawrence, Member
Floyd Wideman, Jr., Alternate Member
Martin I. Klein, Alternate Member
E. James Ryan, Alternate Member
John S. Page, Director of Planning, Zoning & Building
Tim Frank, Planning Administrator
John C. Randolph, Town Attorney

ABSENT: William M. Guttman, Chairman (absent)
Lowry M. Bell, Jr., Member (absent)
Walter Anthony Dowell, Member (absent)

RECORDING SECRETARY: Deborah A. Morakis
Let the record reflect that due to absences, all alternates will vote today.

II. **INVOCATION AND PLEDGE OF ALLEGIANCE: (0:02:45)**
Ms. Morakis gave the invocation and led the Commission in the Pledge of Allegiance.

III. **COMMENTS FROM THE PUBLIC: (0:04:03)** There were no comments from the public at this time.

IV. **REGULAR AGENDA**

1. Approval of June 3, 2008, Planning and Zoning Commission Record & Report. **(0:04:20)**

MOTION BY MR. SCHULER TO APPROVE THE JUNE 3, 2008, RECORD AND REPORT.
MOTION SECONDED BY MR. KLEIN.
MOTION CARRIED UNANIMOUSLY.

2. Approval of June 18, 2008, Joint Commission Meeting (to discuss the Royal Poinciana Master Plan) Minutes. **(0:04:38)**

MOTION BY MR. SHAW TO APPROVE THE MINUTES OF THE JUNE 18, 2008, JOINT COMMISSION MEETING.
MOTION SECONDED BY MR. LAWRENCE.
MOTION CARRIED 5 TO 2 AFTER A ROLL CALL VOTE WITH MR. SCHULER AND MR. WIDEMAN ABSTAINING SINCE THEY WERE NOT IN ATTENDANCE AT THE JUNE 18, 2008 MEETING.

Secretary Golboro, acting Chairman, temporarily adjourned the meeting of the Planning & Zoning Commission and convened the meeting of the Town's Local Planning Agency.

3. Public Hearing as Local Planning Agency (LPA) for Approval of Updated EAR Based Comprehensive Plan Amendments and Transmittal to the Florida Department of Community Affairs (DCA). **(0:06:08)**

Mr. Tim Frank, Planning Administrator, explained that the document being presented to the Commission today contained all comments and corrections discussed at previous meetings. Mr. Frank explained that once this document is endorsed by the Town Council, all of the dates will be updated and the first and second reading of the ordinance will take place at the August and September Town Council meetings. Mr. Frank stated that the LPA was required to approve the Plan as well as approve to transmit this document to the Florida Department of Community Affairs. Mr. Frank stated that by passing such a motion, the LPA would send this to the Town Council for their approval. Then it would be sent to the DCA for their recommendations and comments which would be returned to the Town within forty-five days.

MOTION BY MR. SHAW TO RECOMMEND TO THE TOWN COUNCIL APPROVAL OF THE UPDATED EAR BASED COMPREHENSIVE PLAN AMENDMENTS.
MOTION SECONDED BY MR. SCHULER.
MOTION CARRIED UNANIMOUSLY AFTER ROLL CALL VOTE.

MOTION BY MR. SHAW TO APPROVE THE TRANSMISSION OF THE UPDATED EAR BASED COMPREHENSIVE PLAN AMENDMENTS TO THE TOWN COUNCIL AND THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS (DCA).
MOTION SECONDED BY MR. SCHULER.
MOTION CARRIED UNANIMOUSLY AFTER A ROLL CALL VOTE.

MOTION BY MR. SHAW TO ADJOURN THE MEETING OF THE LPA.
MOTION SECONDED BY MR. SCHULER.
MOTION CARRIED UNANIMOUSLY AFTER A ROLL CALL VOTE.

Secretary Golboro, acting as Chairman, reconvened the meeting as the Town's Planning and Zoning Commission. **(0:14:25)**

4. Discussion relative to the Planning & Zoning Commission's recommendations for development of the Royal Poinciana Area District. **(0:15:02)**

John Page, Director of Planning, Zoning and Building Department, read comments from Chairman Guttman to the Commission.

Mr. Golboro stated that he felt that the Commission owed the Town Council a consensus on most of these items.

Mr. Shaw expressed his concern that by going forward with a massive redesign of permitted uses in the Royal Poinciana area, it would open up a pandora's box of congestion and permitted uses that would not be desirable to residents. Mr. Shaw also added that consideration of the Zoning Code should be addressed relating to the town-serving ordinance.

Mr. Schuler stated that the continuation of the bike path below the new bridge was something that could be done, and added that the Department of Transportation should be advised that the Town approves of it. The improvement of the intersection of Royal Poinciana Way and Cocoanut Row by pushing the curbs out to cover the painted traffic lanes would be an improvement and would also offer pedestrians more protection and ease in crossing the street.

Mr. Wideman agreed with Mr. Shaw and stated that the root of discontent is that what was proposed will inevitably invite off-island traffic. Mr. Wideman stated that he felt there were enough shops on the Island and commented that the things he wanted in this town should serve the Town and not Palm Beach County. Mr. Wideman stated that continuity of the bike trail as well as some change in the traffic pattern would be excellent, but, to rebuild that entire area would make no sense.

Mr. Klein stated that one of the problems he sees is that if there were a tragedy, the area could not be rebuilt. Mr. Klein stated that a healthy business community in the Town is necessary and added that he would like Staff to come back with recommendations for changes to the Zoning Code.

Mr. Ryan stated that he agreed with his colleagues and added that he saw no grandiose plans to redevelop the area in the near future. Mr. Ryan stated that flexible setbacks and side-yards should be considered.

Mr. Lawrence remarked that as an Architect he works all over the country and stated that he does not know a single community in this country that equals Palm Beach. "What makes Palm Beach, "Palm Beach," is that we have different housing, clubs, churches, shopping, restaurants, etc., and the business community makes a substantial contribution to this community." Mr. Lawrence stated that a use-based zoning code for the area would be workable.

Mr. Shaw commented regarding the differences between a bedroom density and a traffic density and reiterated his concern with landmarking the Royal Poinciana Plaza.

Mr. Golboro ruled Mr. Shaw out of order and stated that the Commission is not under zoning season, and, stated that issue should not be discussed at this time. Mr. Golboro commented that the Commission decided that it was in favor of land-based zoning and added that he was against expanding the study. Mr. Golboro stated, “The Town is shrinking, not growing. Retailers do not want to come here. What will happen with the Testa’s plan? The Commission must write the statute this will fall under.”

Mr. Klein agreed with what was said and commented regarding Mr. Page’s July 10 memorandum. Mr. Klein commented that he did not hear anyone disagree and went on to make the following motion:

MOTION BY MR. KLEIN THAT THE PLANNING & ZONING COMMISSION RECOMMEND TO THE TOWN COUNCIL APPROVAL OF THIS POINT, AND, THAT STAFF BE DIRECTED TO COME BACK AND PREPARE ANY NECESSARY ZONING AMENDMENTS REQUIRED IN ORDER TO IMPLEMENT THE ANNOUNCING ARRIVAL POINT.

Chairman Golboro requested the motion be modified, and stated that Staff would have to hire Treasure Coast to do that job.

Discussion continued.

Mr. Klein modified his motion to recommend to the Council to extend the Treasure Coast contract to come back for land-based zoning and Mr. Klein added the recommendation of the adoption of the announcing arrival and that Treasure Coast and/or Staff be ordered to do whatever is required to move this along.

MOTION AMENDED BY MR. KLEIN FOR THE PLANNING & ZONING COMMISSION TO RECOMMEND TO THE TOWN COUNCIL APPROVAL OF THIS POINT, AND, THAT TREASURE COAST COME BACK AND PREPARE ANY LAND-BASED ZONING AMENDMENTS REQUIRED AND THAT TREASURE COAST AND/OR STAFF DO WHATEVER IS REQUIRED.

Mr. Lawrence stated that he thought what the Commission was doing was making a recommendation to Council in terms of the approval of this plan.

AMENDED MOTION SECONDED BY MR. LAWRENCE.

Skip Randolph stated that the Council was looking for feedback from the Commission regarding these issues and cautioned the Commission against making any motions relating to amendments to the code, since it is not zoning season.

Mr. Klein stated then that the Staff or Treasure Coast would then look at any zoning changes, if necessary. Mr. Klein said, "The concept is that the Commission recommends approval of this."

MOTION RESTATED BY MR. KLEIN THAT ITEM #1 IS A RECOMMENDED COURSE OF ACTION TO THE TOWN COUNCIL AND RECOMMENDS THAT TREASURE COAST AND STAFF DO WHAT IS NECESSARY TO IMPLEMENT IT.

Mr. Shaw asked why this involves Treasure Coast.

Attorney Randolph reminded the Commission that there was a motion and a second and asked if the Commission was going to act on that motion.

After additional discussion, the motion failed. A substitute motion was made as follows:

MOTION BY MR. SHAW TO RECOMMEND ENGAGING THE TREASURE COAST REGIONAL PLANNING GROUP TO DEVELOP A LAND-BASED ZONING PLAN FOR THE AREA OF ROYAL POINCIANA WAY, NORTH FROM ROYAL POINCIANA WAY TO THE NORTHERN LIMITS OF THEIR REVIEW AREA, ELIMINATING THE BREAKERS PUD AND ROYAL POINCIANA PLAZA.

After discussion, the motion was modified as follows:
MOTION MODIFIED BY MR. SHAW TO RECOMMEND THAT THE TOWN COUNCIL MAKE THE APPROVAL TO ENGAGE TREASURE COAST TO DEVELOP A LAND-BASED ZONING PLAN.

Mr. Golboro reiterated that the Commission should continue to tell the Town Council that the Commission is interested in land-based zoning and that the Commission needs the assistance of Treasure Coast in order to write that zoning for this area.

Attorney Randolph asked for a second on the substitute motion.
Mr. Klein withdrew his earlier motion. Mr. Shaw then restated his motion as follows:

MOTION BY MR. SHAW TO RECOMMEND TO THE TOWN COUNCIL ENGAGING THE TREASURE COAST REGIONAL PLANNING GROUP TO DEVELOP A LAND-BASED ZONING PLAN FOR THE AREA OF ROYAL POINCIANA WAY, NORTH FROM ROYAL POINCIANA WAY TO THE NORTHERN LIMITS OF THEIR REVIEW AREA, EXCLUDING THE BREAKERS PUD AND ROYAL POINCIANA PLAZA FROM THE STUDY AREA.

Mr. Schuler asked Mr. Shaw if he would have a problem if the Town Council requested Staff to do this.

Mr. Shaw stated that he could leave out the word "Treasure Coast."

MOTION SECONDED BY MR. SCHULER.
MOTION CARRIED UNANIMOUSLY AFTER A ROLL CALL VOTE. (1:03:45)

Mr. Klein began formulating the basis for a motion. Discussion continued and Mr. Wideman asked if the Commission could go through all the items rather than each item one at a time.

Chairman Golboro asked that Mr. Klein do that.

Mr. Klein recommended that the Breakers PUD and Royal Poinciana Plaza be deleted. Mr Klein also recommended to exclude from this discussion the centralized parking garage near Publix, the building of the north-south street should be for discussion, and recommended the approval of the transportation analysis.

Mr. Shaw asked if the parking garage was the only thing being eliminated and Mr. Klein agreed.

MOTION BY MR. KLEIN TO RECOMMEND APPROVAL TO THE TOWN COUNCIL OF THE REPORT, WITH THE FOLLOWING EXCLUSIONS: THE NORTH-SOUTH STREET, THE ROYAL POINCIANA PLAZA, THE PROPOSED PARKING GARAGE, AND, THE BREAKERS PUD.
MOTION SECONDED BY MR. LAWRENCE.
MOTION CARRIED UNANIMOUSLY AFTER A ROLL CALL VOTE.

Resident Anita Seltzer stated that she would like the minutes to reflect that she was the only citizen present at this meeting. Ms. Seltzer stated, "I respect what the Commission is trying to accomplish and understand this is the first time the Commission is working under their new mandate as the Local Planning Authority. I am concerned that notification was not sufficiently given for the scheduling of this meeting so that more people could be here to listen to what is happening. This is the thrust of the beginning of the development of the center of the Town as we know it. I am not standing in front of a tank in Tiananmen Square, but, I am the only one here and that should be put into the minutes."

Mr. Golboro agreed and stated, "This time of year, even the legal notices go unnoticed. This meeting was noticed legally. No real action will be taken regarding the zoning until the zoning season starts." Mr. Golboro then asked if there were any comments from the Testa's people.

Frank Lynch, here on behalf of Testa's, stated that an amendment to the comprehensive plan application that Testa's filed two years ago has been submitted and stated that the application was revised based on the charrettes as well as comments that were heard after their first application. The number of units now being asked for has been reduced.

Attorney Randolph cautioned the Commission not to speak out of zoning season regarding any application that has been filed.

V. COMMENTS OF THE PLANNING AND ZONING COMMISSION AND PLANNING, ZONING AND BUILDING DIRECTOR (1:13:48)

Mr. Page, Director of the Planning, Zoning and Building Department noted that the Planning & Zoning Commission is the first of the three commissions to give feedback to the Town Council and stated that feedback from all three Commissions would be summarized and given to Town Council in September.

Mr. Golboro expressed his concern about the differences between an ARCOM meeting and a Planning & Zoning Hearing. Mr. Golboro said, "ARCOM considers the concept of the finish. Planning & Zoning is to look at the bulk and the traffic, etc. I'd like the Council to understand that the finish is defined by the marketplace, whereas, the zoning bulk is designed for the Town's long range usage. That is an important difference between comments of the Planning & Zoning Commission and comments from ARCOM, etc."

Mr. Page noted that alternative meeting locations will be considered in a few months due to the Town Hall renovations.

Mr. Schuler stated that a lot of discussion has taken place regarding "town-serving" and requested Staff explain what "town-serving" is so that the Commission could have an opportunity to discuss this in more detail at a future meeting.

Mr. Page stated that he would be happy to meet with any Commission members, as needed. Mr. Page also reminded the Commission that the next meeting of the Planning & Zoning Commission is scheduled for Tuesday, October 7, 2008. **(1:18:20)**

Town Council Member Susan Markin, addressed the Commission and stated that she purposely waited until the end of the meeting, so as not to influence any positions. Ms. Markin stated that she was trying to understand the Commission's position, since Town Council did ask the Commission for input. As a result of the comments heard today, Ms. Markin added that she had three questions for the Planning & Zoning Commission. Ms. Markin's first question related to the bike path. She asked, "Should the bike path continue through the Royal Poinciana Plaza property, and do you want a guy on a bike with no shirt on riding by?"

Mr. Shaw stated that he would like to see the bike path go straight and not jog.

Ms. Markin stated that would be impossible because Palm Beach Towers is there.

Mr. Golboro stated that the land in front of the theater could be filled in and the bike path could go out into the lake.

Ms. Markin then clarified what she understood, "You are approving the bike path to go under the bridge and from that point southward you have no formal recommendation."

Mr. Golboro asked for comments from each Commission Member.

Mr. Ryan stated that there are physical drawbacks and that since the path cannot go straight he would prefer the path go through Royal Poinciana Plaza and then track around the Towers so the bike path is not along the street, but, more inland.

Mr. Klein stated that he would leave it the same unless somebody tells us that we can do it otherwise.

Mr. Wideman said he would leave it the same way except to go under the bridge to get away from the dangers of people going across the bridge.

Mr. Lawrence stated that he would not make a recommendation beyond the bridge. Mr. Lawrence added that should be something that comes out of the planning of these other studies.

Mr. Golboro stated that he recommends the bike path go down as far as it can and if it were allowed, that it be filled in, encroaching into the inter-coastal, including in front of the Towers.

Mr. Schuler stated that he would like to see the bike path go under the bridge and as far as it can go. "If they put in that fill dirt as proposed, we may have more space to work with."

Ms. Markin then asked her second question, "On the items you have approved today, were they discussed and approved because they were in front of you as a result of the study, or, were they approved by you because in your hearts and minds as residents, those are the things you want to see changed in this town?" Ms. Markin stated that this is the kind of input that she, as a Councilperson, is looking for, and, stated that just because we did the study and charrette, that does not mean that is what the residents want.

Mr. Golboro stated that what this Commission is telling the Council is that the Commission is looking for land-based zoning. "Most of those other points are not land-based zoning. Most of those points are regarding occupancy and usage."

Ms. Markin posed her third question to Mr. Lawrence and asked, "If we are a premier residential community, first and foremost, supported by viable and dynamic businesses, or, is it the other way around." She stated that is her belief, as a Councilperson, and as a resident in this community, that we are first and foremost a premier residential community, and that our businesses are here to support us in the best possible way, whether it is for town-serving, or whether it is for town services. Ms. Markin added, "I don't see it as beating up on the businesses, I see it has having a priority and a perspective in the Town as to what comes first. Is it our residents, or our businesses? If you are saying they are equal, I will accept that."

Mr. Lawrence stated, "The business component is a vital part of this community. There is no question that we are a premier residential development. The other components in the community are equally important. The churches, the schools, the clubs and the balance of facilities that we have in this Town is what makes for the quality of life, but, the business community is a very important part of that."

Ms. Markin stated that she agreed and added that she felt no one would deny that fact.

Mr. Shaw stated that he had a follow up comment from the last meeting. At the last meeting, he made a statement that he felt the Comp Plan or the zoning use regulations for the commercial areas were not always consistent with how the land is being used. Whether businesses are "town-serving" or whether a structure or area is retail use versus business use. Mr. Guttman suggested that he meet with Mr. Frank to discuss these items. Mr. Shaw stated that he met briefly with Mr. Frank to discuss this and said that Mr. Frank's suggestion was to ask the Commission to request as part of the review of the comp plan, that the Commission look at the land uses of commercial space and how it applies to actual use. "We may find that we can clean up a lot of the use issues which would then affect special exceptions, and, it also will give consideration to analyzing "town-serving."

Mr. Frank added that if the Commission looked at the uses allowed in the Comprehensive Plan and compare those to the existing land uses that are already there, a lot of problems could be mitigated. Mr. Frank stated, "As the ordinances are set up, any existing use that is not compatible with the Comprehensive Plan is allowed to continue in its present form, unless that use is removed. As those uses change, instead of having to seek a special exception to replace the use that has been historically in that area, we should look at the Comprehensive Plan as to what is allowed in certain districts. What we do then is to update the Comprehensive Plan, then we will allow the zoning changes to be made to accommodate those changes."

Mr. Golboro said, "That is exactly what we are talking about. We are eliminating the wrapping around the courthouse."

VI. ADJOURNMENT (1:31:50)

MOTION BY MR. SCHULER TO ADJOURN THE MEETING. THERE BEING NO OBJECTION, THE MEETING WAS ADJOURNED AT 11:00 A.M. WITHOUT BENEFIT OF A ROLL CALL VOTE.

Respectfully submitted,

William M. Guttman, Chairman Town of Palm Beach Planning and Zoning Commission	Alan S. Golboro, Secretary Town of Palm Beach Planning and Zoning Commission

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