

DRAFT

**PLANNING & ZONING COMMISSION
2006-2007 ZONING HEARINGS
RECORD AND REPORT
THURSDAY, JUNE 14, 2007 9:30 a.m.**

- I. CALL TO ORDER AND ROLL CALL:** Mr. Lowry Bell, Acting Chairman, called the meeting to order at 9:30 a.m.

PRESENT: Lowry M. Bell, Jr., Secretary
John H. Schuler, Member
William M. Guttman, Member
Elizabeth S. Murphy, Member
Leslie A. Shaw, Member
Alan S. Golboro, Member
Walter Anthony Dowell, Alternate Member
Eugene Lawrence, Alternate Member
Floyd Wideman, Jr., Alternate member
Veronica B. Close, Director of Planning, Zoning & Building
Paul W. Castro, Zoning Administrator
Timothy Frank, Planning Administrator
John C. Randolph, Town Attorney
Lynda Venne, Purchasing Agent

ABSENT: Harrison M. Robertson, Chairman (unexcused)

(Please note that in light of Mr. Robertson's absence, Mr. Bell chaired the meeting and Mr. Dowell was a voting member.)

RECORDING SECRETARY: Deborah A. Morakis

- II. INVOCATION AND PLEDGE OF ALLEGIANCE:** Ms. Morakis delivered the invocation and all joined in the Pledge of Allegiance.

III. APPROVAL OF THE AGENDA

No discussion or motion was made for approval of the agenda.

Veronica Close, Director of the Planning, Zoning & Building Department addressed the Commission and explained that the Planning & Zoning Commission was here today to act as the selection committee for a recommendation to the Town Council for a Planning Consultant for the Royal Poinciana Area Planning Study. There are four candidates that responded to the RFP out of five invited to submit a proposal. These candidates are set to appear for one hour segments each starting at 11:00 a.m. The Planning & Zoning Commission also received some documents that are normally used by selection committees for the selection of consultants based on the Consultants Competitive Enforcement Act. Ms. Close stated Staff's recommendation was to consider some base questions and look at evaluation criteria and use a standard method of ranking the presenters. Additional suggestions from Ms. Close were to decide how and when to receive public input and to appoint a timekeeper so that the Consultants do not go over their allotted time.

Lynda Venne, Purchasing Agent for the Town of Palm Beach addressed the Commission and

offered to answer any questions.

Chairman Bell opened the floor for public comments. He announced that the public would also have an opportunity to comment at the end of the day.

Ralph Del Deo of Fairview Road addressed the Commission and stated that he hoped the Commission would consider what is going on in Tallahassee with respect to property taxes and stated that the Town could have a significant shortfall in tax revenue. Keeping in mind these budgetary concerns, Mr. Del Deo stated that he had not heard a lot of people clamoring for change and recognized that the Town would have a difficult choice to make.

Mr. Guttman responded to Mr. Del Deo's comments and stated that after his review of the proposed tax reform bill for Fiscal Year 2007/2008, there would be a special exemption that would not require the Town to revert to a rollback rate.

Mr. Del Deo stated there "it would not pay to set one's feet in concrete when you don't know how high the tide will go." Mr. Del Deo stated that there is no advantage to panicking or rushing now into a contract that the Town could not escape. By waiting a few weeks, the Commission could get a better perspective.

Mr. Guttman agreed and stated that he would urge whatever recommendation this Commission makes today be deferred to the July 10, 2007 Town Council Meeting.

Mr. Golboro noted that the mandate of the Town Council was for the Commission to select the best candidate for a Planning Consultant for the Royal Poinciana Area Study. The Town Council will make the decision to move forward with funding.

Mr. Shaw stated that the Commission has an obligation to plan for the future and part of planning for the future is to insure a tax base and a revenue base for this community. If the work of this Board shows that the redevelopment of an area has the potential of increasing the tax base, the Commission should recommend it.

Ms. Murphy stated that she felt that when a motion for a recommendation was made to the Town Council, it would be subject to the Town having funds to pay for it.

William Strawbridge, a resident and Member of the Architectural Review Commission, asked if there was zoning in place for the parcels that would be studied?

Ms. Close answered that all the properties are currently zoned.

Mr. Strawbridge added that the scope of work was broader than was necessary. Studies this broad are used when a whole area has gone bad or needs to be redone. There would be more value if the study was more focused.

Sam Boykin addressed the Board and cautioned this Committee and the Town Council that he has seen a lot of money wasted here in studies and things about traffic for \$190,000.00. It was promised to the north end residents, by Mr. Brazil, that he would coat the north end streets with some blacktop. That has never happened and doesn't look like it is planned. Mr. Boykin stated he felt the Town ought to live up to its promises to the citizens of the community.

Chairman Bell stated that there would be another opportunity for citizen comments at the end of the hearing after all the presentations were made.

Mr. Wideman stated that he agreed with the citizens who had spoken, and felt the project should not go ahead and that the study was ill-defined and unnecessary.

Mr. Guttman disagreed and stated that there is at least one redevelopment proposal on Royal Poinciana Way. "If re-zoning is done in a piecemeal fashion rather than developing an overarching theme, we will end up mucking up a very important area of our town". The Royal

Poinciana Plaza lawsuit will have a decision in the next five days. Mr. Guttman suggested asking one general question of each of the four candidates: "Why is planning important for the Royal Poinciana Area, even if we try to maintain it as a historic area?".

Further discussion took place and additional comments were heard by Mr. Wideman and Mr. Guttman.

Ms. Murphy stated that nothing is wrong with Royal Poinciana Way, it's what's right with Royal Poinciana Way. It is a special and important entrance to Palm Beach. The area should be improved and the sea of asphalt should be changed.

Mr. Shaw stated that there were two redevelopment proposals to the area by owners. In both cases, there was an outrage and uproar. One ended up in a lawsuit and one is sitting waiting in the background to see what the Town is going to do. The Town has an obligation to look at the entire area and determine what would be the best use. This is a zoning issue, and the Town has the talents and resources within the Staff and with Town consultants to put together a Comprehensive Plan. Mr. Shaw felt that a plan should be developed that looks beyond one parcel at a time.

Mr. Schuler stated that his concern was the density issue. The infrastructure is a big problem that will cost the Town more. Mr. Schuler stated that he liked the architecture in the area and is not concerned about the architecture. Mr. Schuler would be happy to listen to what these candidates have to say.

Mr. Guttman spoke about the evaluation process. He stated that he tried to make the format slightly more focused and sent it to Veronica Close last Monday with a request that she send that to the Commission and that was not done. Mr. Guttman tried to apply the evaluation criteria sheet just to the written proposals. Some of the questions are meant to evaluate the written proposals. He suggested a more open type of evaluation and using a ranking

Mr. Golboro asked if the Town were to down-zone these properties, and ten years from now these properties lost value, would the Town face more lawsuits?

Town Attorney, Skip Randolph stated that there is that potential if an area is down zoned. The State of Florida has a property rights act which provides that in the event an inordinate burden is placed on a property, the property owner would have an opportunity to come in with an appraiser and show that value was lost and a property owner could then file a lawsuit. Prior to doing that, the Town would have an opportunity to negotiate with the property owner to reach some reasonable accommodation.

Ms. Close offered, as an example of this kind of study, West Palm Beach's current study of their entire downtown, looking at zoning, comprehensive land use and any changes they may contemplate. The existing zoning and future land use in the Royal Poinciana Area are very controlled at the present time. Ms. Close apologized to Mr. Guttman for not distributing his list of questions earlier. The list was distributed today.

Mr. Shaw added that if the Town or a Board initiates a zoning change, the costs are borne by the Town. If a property owner initiates a change, then the property owner would bear the cost of the change. If the property owners are looking for a change, could an application presented by them be expanded since we have an obligation to look beyond the four corners of their property and ask that they pay for this?

Mr. Randolph answered that you could ask that. The only responsibility would relate to their property. There is no requirement on the Town's part to go forward with a study of the area just because one party asked for it.

Further comments were heard from Mr. Shaw and Mr. Guttman.

Mr. Guttman endorsed the concept that Mr. Shaw raised. "Once we've decided on a

recommendation, the Town could ask Mr. Spiegel and the Royal Poinciana Association to ante up something as it relates to their property in the study area. There is also \$50,000.00 in planning money that we could get from FDOT.” Mr. Guttman suggested that perhaps The Preservation Foundation may also wish to contribute something.

Ms. Murphy felt that it would be completely inappropriate and unjust to ask them to pay for it since there would be beneficiaries all around them that would not be paying. Ms. Murphy was in favor of asking the Department of Transportation or other groups for payment.

IV. REGULAR AGENDA

A. Old Business

Consideration of Responses to the Request for Proposal from Consultants on the Royal Poinciana Area Planning Study

1. Review of Selection Procedure

Ms. Close read, for the public, the list of suggested generic questions that the Commission could pose to the candidates for a consultant.

Mr. Guttman suggested that the question “Has your firm processed any Florida Comprehensive Plan amendments in the past two years?” be deleted and that another question regarding the importance of planning be added. He indicated that the Staff was capable of processing any Planning & Zoning amendments.

Ms. Close responded regarding the development of comprehensive planning and zoning amendments included in the RFP since the Town has traditionally used a Consultant for that process. Although the Staff is capable of doing them, we currently do not have the resources as far as time limits are concerned. Most of the candidates did include development of Comprehensive Plan and zoning amendments in their responses. If consultants for the study were not retained for that purpose, the work would be referred to the Town’s Planning Consultant.

Mr. Shaw was concerned that Treasure Coast Regional Planning Council was not in the mix.

Ms. Close stated that Treasure Coast Regional Planning Council is a public agency and, as such, is not in a position to compete with the private sector. They had indicated that they would be more than happy to respond to a request to come in to make a presentation. They have an urban design studio that functions in a similar manner as what would be heard today. Earlier in the year they indicated they would be available for such a study if their services were requested by the Town. If the Planning & Zoning Commission wished, the Staff could contact the Treasure Coast Regional Planning Council to arrange a presentation.

Mr. Schuler stated that he understood that they would use other consultants to provide certain services, and the Town would have to bear the burden of those other consultants.

Ms. Close stated that Treasure Coast Regional Planning Council underwrites some of those costs. They do use national consultants, but at a reduced rate. They indicated that costs including any required consultants would total approximately \$125,000.00.

Mr. Dowell asked why \$400,000.00 should be spent as opposed to \$125,000.00.

Ms. Close stated that the Planning & Zoning Commission may want to hear the presentation to see what their resources are. They work regionally and for the public sector, not private clients.

Mr. Guttman stated that the Treasure Coast Regional Planning Council’s planning process is

form-based driven and will probably be the most intrusive from a private property perspective.

Mr. Lawrence stated that the Commission had talked about form-based zoning versus use-based zoning and use-based zoning gives more flexibility and spontaneity to the Town and lets the neighborhood become itself.

The Commission decided to have the Chairman ask the questions of the presenters.

Mr. Shaw suggested that the applicants identify whether the study should be form based or use based.

Ms. Close added that the Town Council wanted the study to be based on land use and zoning and not on architecture. It was suggested to consultants, however, to look at the urban form as they do their visuals and graphics for their presentation, but she hoped it was clearly understood that there would not be a large architectural component in the study.

Council President Dick Kleid verified Ms. Close's remarks regarding the direction from the Town Council that it was supposed to be based on use.

Mr. Lawrence asked what the scoring criteria would be.

Ms. Close stated that a rating sheet, based on the evaluation that was sent out, was being adjusted now. Usually this occurs at a meeting before the presentations are heard. Since the Commission decided on one meeting, Staff is incorporating the Commission's changes "on the fly" and will distribute them as soon as they are ready.

Mr. Schuler stated that he did not want to use a rating sheet to rank the applicants, and would like to rate them based on his own opinion.

Mr. Guttman suggested that a ranking of one to five would work.

John Ripley, of the Preservation Foundation, addressed the Commission and stated that the Preservation Foundation supports this process and is encouraged that the Town is taking on the project. Mr. Ripley encouraged the Commission to get some idea of what form-based zoning is from the firms. Appearance does count. Form, scale, massing and design issues should come first so that our historic town does not look disjointed. Form based zoning does not have to be restrictive. Palm Beach has always considered form and design together with use.

After a brief break, the meeting re-adjoined at 11:00 a.m.

The first presenters were Urban Design Associates, represented by Donald K. Carter, President of Urban Design Associates and W. Thomas Lavash of Economics Research Associates. They made a power-point presentation and then answered questions from the Commission.

The Commission took a lunch break and reconvened at 1:30 p.m.

The firm of Dover, Kohl & Partners, represented by Andrew Georgiadis and Canan Mutlu, Town Planners, made a power point presentation and then answered questions from the Commission.

Alex Garvin and Nick Peterson of Alex Garvin & Associates, Inc., made a power point presentation and then answered questions from the Commission.

Philip Enquist, Beth Erickson and Douglas Boyd of Skidmore Owings & Merrill, LLP made a power point presentation and then answered questions from the Commission, which concluded the presentation portion of the agenda.

B. New Business

None

V. COMMENTS FROM THE PUBLIC

Patrick Flynn, President of the Palm Beach Theater Guild addressed the Commission and stated that an inspection of the theater was done recently and cost estimates from Conkling & Lewis would be prepared shortly. Mr. Golboro asked if Mr. Flynn could come back when those were received and Mr. Flynn said he would.

John Ripley of the Preservation Foundation stated that Palm Beach was not planned and designed by the property owners, but by professionals. "The ARCOM and Landmarks Commission serve to protect the Town by protecting form and design. The Planning & Zoning Commission serves to protect the public and commercial space. Words in a document are not enough, and the Town needs to see real public participation with real visuals that the public can understand. All of the people who made presentations were of star status. The Town needs to look at the specific work they performed, and not their knowledge. He continued to say that although the Preservation Foundation would be happy to work with anyone that the Planning & Zoning Commission and the Town Council chose. We do feel that Urban Design Associates would be the best option given their breadth of experience, their relationship with Palm Beach in the past and their professional aptitude."

VI. COMMENTS OF THE PLANNING & ZONING COMMISSION AND PLANNING, ZONING AND BUILDING DIRECTOR

A discussion followed regarding the merits of asking Treasure Coast Regional Planning Council to make a presentation.

Mr. Dowell stated that he would like to hear from the Treasure Coast Regional Planning Council, and that he had trouble endorsing anything costing \$400,000.00. He envisioned a three-legged stool: the Staff, Preservation Foundation and the Treasure Coast Regional Planning Council working together. Mr. Dowell added that he felt we should keep more local involvement and also keep the dollar cost in mind.

Mr. Schuler agreed and felt these firms all made excellent presentations. Mr. Schuler suggested deferring a decision to a date in the fall; that the Commission could hear from Treasure Coast Regional Planning Council; make an analysis of the cost involved; and by then, the Town would have some answers regarding the lawsuit.

MOTION BY MR. SCHULER TO DEFER THE DECISION TO SELECT A CONSULTANT UNTIL A LATER DATE AFTER HEARING A PRESENTATION FROM TREASURE COAST REGIONAL PLANNING COUNCIL, ANALYZING THE COSTS AND AFTER RESOLUTION OF THE LAWSUIT.

Mr. Guttman stated that he felt there is a benefit in trying to rank and recommend one of the four candidates that appeared today, taking into consideration costs and the quality of their written and oral presentations. In his opinion, one or two of the applicants today are superior to Treasure Coast. Mr. Guttman suggested that the Commission rank these four applicants, and automatically have as a default the Treasure Coast Regional Planning Council. Treasure Coast Regional Planning Council is similar to Urban Planning Associates and Dover Kohl. They are a form-based design outfit and are less expensive. Mr. Guttman suggested the Commission urge the Town Council not to make a decision at the June 19 Town Council Meeting, but wait until the July 10 Town Council Meeting which would give the Town Council and Staff time to evaluate the impact of what is going on in Tallahassee. "This is a project that warrants the best and brightest that we can bring to the table. If, in the end, we are under revenue pressure, then we know what our default position would be".

Ms. Murphy stated that she felt it would not be wise to defer this matter. Ms. Murphy said she

would be in favor of ranking these four today and then making that recommendation subject to adequate funding and subject to possibly replacing the winning contender with Treasure Coast.

Mr. Golboro stated that Treasure Coast Regional Planning Council should give a presentation. After a month, a recommendation could be made to the Town Council. Mr. Golboro stated that he believed it was important to invest money. The Commission should postpone this but not until the fall. They should have another meeting this summer, and will know three things: the outcome of the lawsuit, the state budget, and what Treasure Coast Regional Planning Council can produce for us. The Commission should not make a recommendation today.

Mr. Bell stated that he was opposed to spending this kind of money for this study since the Town of Palm Beach was developed by individual architects along the way; a good job has been done in the Town; there is no reason to spend this kind of money for this type of consultant; and, this town was developed on a piece by piece basis and is beautiful.

After further comments and discussion by the Commission, the motion died for lack of a second.

Ms. Close explained that Treasure Coast Regional Planning Council would underwrite part of the cost and has indicated that they would be interested in helping the Town in this study. They are similar to other urban design studios. They have indicated that they would be happy to come and make a presentation, but cannot compete in the RFP process.

Mr. Shaw noted that every one of the proposals seen today indicated that they hire outside consultants. The Commission was asked to rank these four applicants. He stated that the economics does not change how they should be ranked. It is up to the Town Council to make that decision. Once the Town Council knows the Planning & Zoning Commission's opinion, which is what the Town Council asked for, the Town Council will then make an economic decision.

Mr. Randolph advised that if the Commission did not feel they had enough information to rank these firms, then the Commission could defer the decision. Deferral of this decision should not be based on the Commission's opinion that this study is too expensive, as it is the Town Council's decision to spend the funds or not. The Commission could make several recommendations, but the Town Council is looking for the Commission's advice.

Additional comments were heard from Mr. Wideman indicating that he does not see the concept as something the Town really wants.

A discussion followed regarding the merits of ranking the presenters now or deferring the decision.

Ms. Murphy recommended that the Commission rank these four, but leave open the door to use Treasure Coast. She reiterated that while Royal Poinciana Way is quite nice, it could be so much more, she favored the idea of having retail and restaurants on both sides and encouraging people to get out and walk, and to including native vegetation. She believed the Town owed it to future generations to make this gateway to Palm Beach the best it can be.

Mr. Golboro commented that he had asked each of the presenters today what their work product was and stated that he would also like to hear from Treasure Coast Regional Planning Council. "They could be the best qualified. They are small, local and subsidized."

**MOTION BY MS. MURPHY TO RANK THESE FOUR FIRMS AND RECOMMEND SAME TO THE TOWN COUNCIL SUBJECT TO FUNDING AND SUBJECT TO POSSIBLY REPLACING THE FIRM WITH TREASURE COAST REGIONAL PLANNING COUNCIL OR WORKING WITH TREASURE COAST.
MOTION SECONDED BY MR. GUTTMAN.**

Mr. Dowell stated that would be almost a left-handed invitation to Treasure Coast Regional Planning Council and stated he was not prepared to vote until he heard from Treasure Coast.

Ms. Murphy stated the Commission could replace the top contender with Treasure Coast.

Mr. Shaw asked that the motion be modified to indicate that the Commission could select one of the four, and after hearing Treasure Coast's presentation, the Commission would then make a recommendation between the top choice today and Treasure Coast. The Commission owed it to these presenters today not to leave them in abeyance.

After further discussion and comments, it was agreed that Veronica Close would contact Treasure Coast Regional Planning Council to invite them to appear before the Commission.

MOTION AMENDED BY MS. MURPHY: TO RANK THE TOP CANDIDATE OUT OF THE FOUR HEARD TODAY AND TELL THE TOWN COUNCIL THAT THE COMMISSION WOULD ALSO LIKE TO HEAR FROM TREASURE COAST REGIONAL PLANNING COUNCIL.

AMENDED MOTION SECONDED BY MR. GUTTMAN.

AFTER A ROLL CALL VOTE, THE MOTION PASSED 4 TO 3 WITH MR. SCHULER, MR. GOLBORO AND MR. DOWELL OPPOSED.

Mr. Schuler stated that the reason he voted no was that there are too many loose ends to come up with a recommendation with stipulations.

Mr. Golboro stated that he voted no because the Commission should eliminate Treasure Coast Regional Planning Council totally or put them in before this vote.

Ms. Close suggested that the Commissioners discuss the reasons for their ranking and maintain a record of the decision.

Mr. Guttman gave his comments about the four presentations and stated that cost is an important factor. The lowest priced proposal was from Alex Garvin. He believed the SOM written and oral presentation was somewhat "canned" and they didn't understand the community. He also felt the partners or representatives selected to make the presentation from Dover, Kohl & Associates were not the first team in their firm. After further comments, Mr. Guttman stated that Urban Design Associates is slightly more expensive than Alex Garvin, but not enough to be a deal breaker. Mr. Guttman was disappointed that Ray Gindros did not represent Urban Design since he knows the Town well. Alex Garvin knows the Town well and made the effort for his firm.

Mr. Lawrence stated that he felt form-based zoning was not the right solution for the Town of Palm Beach. There are a lot of things beyond the form of the buildings involved. Mr. Garvin was the only one who stepped up to the plate and addressed the thorny issue of the playhouse and the bike trails. He believed having a small firm and having the principal involved was a big plus, and that with Garvin the Town would know what it was getting.

Mr. Wideman also mentioned Mr. Garvin's presentation and stated he felt that Mr. Garvin had a feel for the town.

Mr. Shaw concurred that Mr. Garvin has a lot of passion for the Town of Palm Beach. Urban Design Associates or Alex Garvin would be his recommendation.

Mr. Timothy Frank asked the Commission Members to place their names at the top of the form and rank one through four in the boxes beside the names of the firms; one being the highest ranking and four being the lowest.

Attorney Skip Randolph recommended that the Commission needed to make it clear that this

was only their recommendation and advice to the Town Council and was further subject to the Commission having an opportunity to interview Treasure Coast Regional Planning Council. This recommendation is not binding on the Town.

Mr. Guttman asked about the use of a steering committee. Mr. Guttman asked if the consultants, after consulting with members of the Town Council, Staff and possibly individual members of this Commission, select a steering committee that they wanted, so that the Committee could operate outside of the sunshine.

Mr. Randolph answered that the steering committee would have to work in the sunshine.

After Staff tabulated the ranking sheets, the results were as follows (with the lowest number being the highest score):

First Place with 11 points: Alex Garvin & Associates, Inc
Second Place with 12 points: Urban Design Associates
Third Place with 23 points: Dover, Kohl & Partners
Fourth Place with 24 points: Skidmore Owings & Merrill, LLP

Ms. Close advised the Commission that Staff would prepare a report to the Town Council including the Commission's recommendations regarding hearing a presentation by the Treasure Coast Regional Planning Council.

Mr. Shaw asked if Treasure Coast Regional Planning Council could be invited now to make a presentation.

Ms. Close advised that she would make the arrangements right now for Treasure Coast Regional Planning Council to come. Further discussion took place about possible dates. It was decided that Thursday, June 21, 2007 would be the best date for the majority of Commission members, if possible.

Mr. Dowell and Mr. Bell both commented that summer meetings are onerous since they spend most of the summer out of town.

VII. ADJOURNMENT

**MOTION TO ADJOURN BY MR. SCHULER AT 4:20 P.M.
MOTION SECONDED BY MANY AND CARRIED UNANIMOUSLY.**

Respectfully Submitted,

Lowry Bell, Secretary/Acting Chairman
Town of Palm Beach
Planning and Zoning Commission

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