PLANNING AND ZONING COMMISSION
2008-2009 ZONING HEARING
RECORD AND REPORT
TUESDAY, APRIL 7, 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 (0:00:18:1)

Chairman Golboro called the meeting to order at 9:30 a.m.

PRESENT: Alan S. Golboro, Chairman
Leslie A. Shaw, Secretary
John H. Schuler, Member
Walter Anthony Dowell, Member
Eugene Lawrence, Member
Floyd Wideman, Jr., Member
E. James Ryan, Alternate Member
C. Tanner Rose, Jr., Alternate Member
Lewis Crampton, Alternate Member
Veronica B. Close, Asst. Director of Planning, Zoning & Building
Paul Castro, Zoning Administrator

ABSENT: None

RECORDING SECRETARY: Debby Morakis

Let the record reflect that Alternate Member Ryan will vote today due to the regular member vacancy caused by Mr. Guttman's resignation.

II. INVOCATION AND PLEDGE OF ALLEGIANCE (0:00:58:1)

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

For the record, Paul Castro, Zoning Administrator, stated that he had proof of publication.

III. COMMENTS FROM THE PUBLIC (0:04:10:01)
There were no comments from the public at this time.

IV. REGULAR AGENDA (0:04:30:0)

1. A. Approval of March 3, 2009, Planning and Zoning Commission Minutes.

   B. Approval of March 4, 2009, Planning and Zoning Commission Minutes.

   C. Approval of March 17, 2009, Planning and Zoning Commission Minutes.

MOTION BY MR. WIDEMAN TO APPROVE THE MINUTES OF THE MARCH 3, MARCH 4 AND MARCH 17 PLANNING AND ZONING COMMISSION MEETINGS.
MOTION SECONDED BY MR. SCHULER.
MOTION CARRIED UNANIMOUSLY WITHOUT BENEFIT OF A ROLL CALL.

2. Consideration of Population Density, Building Height, Lot Coverage and Parking in the Royal Poinciana Business District at the Workshops held on March 4 and 17, 2009. [Town Staff] (0:04:55:0)

Veronica Close, Assistant Director of Planning, Zoning & Building gave a power point presentation demonstrating a concept developed by staff as a result of input received from the public at the March Planning & Zoning Commission meetings and previous charrettes. This concept established a point system for grading applications for zoning amendments based on a prioritized list of desirable features which focus on density, parking, height and lot coverage.

After a lengthy discussion about the general concept of the point system, the Commission discussed each of the four elements; parking, density, height and lot coverage.

Mr. Castro stated that staff would also need help to establish a process for the implementation of any system developed.

Ms. Close added that staff would present this concept to Council at the May 2009 Council meeting and added that Council may then direct staff to work with an outside consultant to further develop the concept which would then be brought back to the Planning & Zoning Commission for further review.

Discussion continued and Mr. Crampton commented that he felt the point system was “transparent” and added that he would be in favor of the use of these basic building blocks for a point system. After additional discussion, the following motion was made:

MOTION BY MR. SHAW THAT THE CURRENT CODE BE REVIEWED AND ACCEPTED AS THE STANDARD FOR RESIDENTIAL, RESTAURANT AND RETAIL USE, AND THAT THE PARKING REQUIREMENT FOR OFFICE USE BE INCREASED TO 150 SQUARE FEET PER SPACE, STRIVING FOR MORE PARKING FOR OFFICE USES.
MOTION SECONDED BY MR. RYAN.

Mr. Lawrence suggested the motion be modified to include the engagement of a traffic engineer. Discussion continued.

MOTION MODIFIED BY MR. SHAW TO INCLUDE THE ENGAGEMENT OF A TRAFFIC ENGINEER.
MR. RYAN SECONDED THE MODIFIED MOTION.

Ms. Close stated that a traffic consultant would be part of the consultant element that would work with staff.

MOTION CARRIED 7-0 AFTER ROLL CALL VOTE.

(1:20:51:0) The Commission continued the discussion with the topic of density.

Ms. Close explained that the current zoning code allows 6 dwelling units per acre for residential density and added that commercial density is measured by lot coverage intensity, with 70% on the first floor and 70% on the second floor with special exception approval required for the second floor.

Paul Castro stated that the intensity of use for commercial uses is based on each use and its relationship for parking. Mr. Castro explained the “town-serving” concept which was adopted in the 1980's and stated that any space over 2000 square feet had to demonstrate that at least half of its customer base lives in town, works in town or stays in accommodations in town when using that business. Mr. Castro stated that the “town-serving” concept is a proposed study item that will be looked at by the Commission later this year.

Mr. Shaw stated that he would like to see the number of dwelling units per acre increased to a maximum of 20 dwelling units per acre.

Ms. Close asked the Commission to recommend a guideline for staff to analyze and take to the Town Council for the Council to review. Staff would then bring the item back to the Commission for consideration.

Mr. Shaw suggested the use of the Comprehensive Plan guideline of 13 dwelling units per acre as a base with a point system on top of that for the bonuses.

Mr. Schuler stated that he would not be in favor of making a change "here and there" without looking at the big picture. Mr. Schuler stated that he would be in favor of authorizing staff to study the program.

MOTION BY MR. SCHULER TO AUTHORIZE THE STUDY AS RECOMMENDED BY STAFF.

Mr. Lawrence suggested to approve the concept as presented by staff for bonuses for merit and recommended asking staff to continue the study.

Ms. Close stated that she had not heard from the community that they wanted to consider the highest and best use for the area. Ms. Close suggested the Commission set some definitive guidelines that staff could bring to Council and if Council authorized it, staff would bring it back to the Commission in more detail. Ms. Close stated that the numbers have to be definitive enough so the applicant or property owner would have a good idea of what would be permitted.

MOTION MODIFIED BY MR. SCHULER TO AUTHORIZE THE STUDY AS RECOMMENDED BY STAFF IN ACCORDANCE WITH THE CURRENT COMPREHENSIVE PLAN.

Mr. Rose stated that he was worried that would be "cutting half of the carrot off."

Mr. Lawrence stated that he would not want to see a minimum number of units, only a maximum number of units.

Council President David Rosow addressed the Commission and stated that what the Council asked the Commission to do was to make a recommendation on the overlay district and to make recommendations to the Council as to density, height and parking so that the Council could discuss it and come back to the Commission and ask the Commission to formulate those ideas in the form of zoning amendments for that area. Mr. Rosow stated that he felt it was premature to ask the Council to do another study on the area, but, rather, to come back to the Council with the items mentioned so the Council could debate the subject and then come back to the Commission with more direction as to what the Council believes should be the movement in the area. Mr. Rosow added, "Having heard the motion reread**,** I'm afraid you are putting the cart before the horse."

Councilman Dick Kleid, 2660 So. Ocean Blvd., concurred with Mr. Rosow and stated that the Council is asking the Commission to answer very specific questions. The Council would like to know what the Commission thinks the minimum density should be, what should the maximum density be, what should the lot coverage be and what should the height be?   Once these parameters are established the Town Council can debate and determine if the Council is comfortable to proceed with the study.

MOTION WITHDRAWN BY MR. SCHULER.

MOTION BY MR. SHAW TO APPROVE A MODIFICATION TO THE RESIDENTIAL DENSITY TO 13 UNITS PER ACRE AS A BASE IN ACCORDANCE WITH THE COMPREHENSIVE PLAN WITH A POINT SYSTEM OF UP TO 25.
MOTION SECONDED BY MR. SCHULER.
MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

Mr. Castro stated that the Town Council was looking for recommendations on four main elements: parking, density, height and lot coverage. The Commission continued the discussion regarding height and lot coverage and staff explained the existing elements.

Ms. Close suggested the Commission provide the Town Council with a recommendation for some maximum numbers and the Council could direct staff to come back to the Commission with an analysis. Ms. Close stated that the lot coverage on the first story is 70% lot coverage and there are no setback requirements and the same for the second story, 70% lot coverage for the second story and no setbacks.

Mr. Castro gave an example of what would be required for a 4000 square foot lot with a maximum building coverage of 70% or 2800 square feet; fourteen parking spaces would be required for retail and there would be no way to put fourteen parking spaces and meet the landscape open space requirements and the setbacks for a lot this size. Mr. Castro stated that the incentives all have to be looked at.

Ms. Close added that staff is careful about designing a building based on the zoning code and not promoting a "wedding cake" effect. Ms. Close cautioned the Commission to consider the number of stories and how many stories can be allowed on the street front.

Mr. Crampton stated that he agreed with Mr. Shaw and others about starting with the existing code and stated that he accepted staff's recommendation and suggested it be forwarded to the Council. Mr. Crampton added that he felt the study would come back to the Commission for a second or third time.

MOTION BY MR. LAWRENCE TO RECOMMEND TO TOWN COUNCIL THE APPROVAL OF STAFF'S RECOMMENDATION OF LOT COVERAGE NUMBERS.
MOTION SECONDED BY MR. WIDEMAN
MOTION CARRIED 7-0 AFTER ROLL CALL VOTE.

Mr. Shaw stated that he felt the Commission could do more and added that if the Council wants better guidelines, the Commission should go through the two pages from this zoning district. Mr. Shaw stated that a lot could be eliminated and the buildings could design themselves. "The minimum has been sent to the Council, I think we can do better."

Mr. Ryan stated that he felt the Commission was micro-managing a lot of the plan and suggested the Town leave the zoning in place and recommend to Town Council to use an incentive plan on each individual project brought forward. The people interested in developing their property will spend the money to do it. The nicer the plan, the greater incentive the Council will be able to grant variances for the development.

The Commission continued their discussion on building height and Ms. Close recommended the Commission look at the R-D (2) zoning district height limitations for comparison. Mr. Castro read the R-D (2) zoning district height limitations and gave the Commission several examples.

Mr. Lawrence suggested the use of 14 feet for the first floor and 11 feet floor to floor for floors two through four for a total height and after a brief discussion, the following motion was made:

MOTION BY MR. LAWRENCE TO USE 11 FEET, FLOOR TO FLOOR, FOR SECOND THROUGH FOURTH FLOORS AND 14 FEET FOR THE FIRST FLOOR HEIGHT LIMITATION.
MOTION SECONDED BY MR. SHAW.

Mr. Shaw asked if there was a reason to address floors and not simply state a minimum and maximum for height limitations. Chairman Golboro stated that the purpose was for contrast and Mr. Castro stated that there would be flexibility between floors.

MOTION CARRIED 7-0 AFTER ROLL CALL VOTE.

Chairman Golboro suggested that staff formulate a recommendation using some of the usage in the code. Mr. Golboro asked why offices were not permitted on the first floor and felt that offices should be permitted in this area.

Ms. Close pointed out the community of Winter Gardens as an example of a community that has permitted offices on the first floor and added that now that community has quickly gone from being a retail area to an office area.

Mr. Shaw suggested that personal service establishments be permitted and stated that he felt there should be a distinction between office use and personal service establishments.

Mr. Castro stated that personal service establishments such as travel agents, interior decorators provided they have a retail element within, spas, gyms, etc., are permitted on the first floor. Mr. Castro stated that when offices close at night, the area usually becomes stagnant. The purpose of the commercial town-serving district is to promote shopping.

Chairman Golboro stated that he felt this area should be looked at from a usage point of view and added that he is concerned with the safety on those streets at night. Mr. Golboro asked if a modern hotel-motel would be permitted in this area.

Councilman Bill Diamond of 220 Wells stated that he had no comment on the concept of a hotel but asked the Commission to let the Council know if the Commission would like to see all development at the property line and also asked the Commission to give direction to the public so that the public will not be frightened when they hear about a four or five story building.

Chairman Golboro asked for comments from the Testa family.

Tom Testa, 221 Royal Poinciana Way, stated that he felt that what staff has come up with in terms of a bonus system is a good idea. Mr. Testa stated that when the project started, it was based on the neighborhood average of 40 units per acre. After the charrettes, his project was revised and whittled down to less than 30 units per acre. Mr. Testa stated that in July, this project will have been in the process for three years. His family has watched the deterioration of the area and asked the Commission to keep this and the economics in mind.

3. Hearing on the Testa Family, LLC, Application to Amend the Town's Comprehensive Plan and Zoning Code. [Town Staff] **(2:45:48:5)**

    MOTION BY MR. WIDEMAN TO DEFER HEARING THE TESTA FAMILY LLC APPLICATION UNTIL THE JUNE 2, 2009, PLANNING & ZONING COMMISSION MEETING.
    MOTION SECONDED BY MR. SCHULER.
    MOTION CARRIED 7-0 AFTER ROLL CALL VOTE.

4. Staff Presentation of the 2008-2009 Zoning Season. [Town Staff] **(2:51:00:5)**

Mr. Castro stated that "Zoning Season" will end this year and there will never be a zoning season again. Mr. Castro stated that there are currently two ordinances in front of the Town Council for their consideration in April. Ordinance 5-09 is at second reading and is an Ordinance that incorporated all of the Commission's recommendations into an ordinance form relative to administrative approvals for special exceptions and outdoor seating. Mr. Castro presented a brief description of the contents of the ordinance and stated that the Council recommended approval of the intersection vision triangle which will be adopted on April 15, 2009. Mr. Castro listed many new provisions being adopted which include the regulation of condominium hotels and the commercial uses within condos and hotels, the elimination of the zoning season, and a modification to the deferral process for all zoning development. Mr. Castro also stated that Ordinance 7-09 includes parking and flags and added that staff has documented existing flags.

5. Consideration of Proposed List of Study Items for Zoning Season and Comments and Suggestions on Any Other Items for Consideration. [Town Staff] (2:56:21:0)

Mr. Castro provided the Commission with a short list of study items for their consideration and stated that it was staff's hope that the Commission would recommend to the Town Council to study these items this year in addition to any other items the Commission would like to add.

Chairman Golboro invited all members of the Commission to submit suggestions for any additional items to Mr. Castro so the items could be discussed at the May 5, 2009 Planning & Zoning Commission Meeting. Mr. Golboro asked for a report in the EAR based amendments.

Ms. Close provided an update indicating that the final changes, as approved by the Commission, were incorporated into the Comprehensive Plan that was submitted to the Town Council for first and second reading. The second reading will take place at the April Town Council Meeting. The EAR Amendments will be adopted and will then be forwarded to DCA for final action.

Mr. Castro listed the items staff wished to study which include the Royal Poinciana Area Planning Study, town-serving requirements, temporary tents on the ocean side, Comprehensive Plan Review to name a few.

Mr. Tom Bradford, Deputy Town Manager, asked for permission to add changes to the Arlington Parking Plan to the list of zoning study items to be studied during the upcoming season. Mr. Bradford stated that the Town has two residential parking programs - The Gainesville Plan and The Arlington Plan. Last year, changes were made in the Gainesville Plan provision relative to visitor parking that were well received and appreciated by residents. Staff is proposing the same provisions be made to the Arlington Plan Ordinance. Since these plans are in the zoning code, Mr. Bradford asked that this study item be added to the list for consideration at the May Planning & Zoning Commission Meeting.

Mr. Castro stated that the list of items would be prepared for consideration at the May Planning & Zoning Commission Hearing.

V. COMMENTS FROM THE PUBLIC (03:06:30:0)

There were no comments from the public.

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

Ms. Close advised the Commission that the May 5 meeting of the Planning & Zoning Commission would be held at the Royal Poinciana Chapel at 9:30 a.m. Staff will confirm this information since the City of West Palm Beach recently offered the Town the use of their new meeting facilities.

Ms. Close reminded the Commission that there will be three Ethics Workshop being offered May 6, May 7 and May 11, 2009. Attendance is not mandatory. Guidelines regarding several topics will be covered including Quasi Judicial/Ex Parte, public records, Sunshine Law, gifts law, and conflicts of interest optional.

VII. ADJOURNMENT (3:06:39:0)

MOTION BY MR. WIDEMAN TO ADJOURN AT 12:30 P.M..
MOTION SECONDED BY MR. SCHULER.
MOTION CARRIED UNANIMOUSLY

Respectfully submitted,

Alan S. Golboro, Chairman	Leslie A. Shaw, Secretary
Town of Palm Beach	Town of Palm Beach
Planning & Zoning Commission	Planning & Zoning Commission

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