PLANNING & ZONING COMMISSION
2007-2008 ZONING HEARINGS
RECORD AND REPORT
TUESDAY, MARCH 4, 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: (0:00:01) Chairman Guttman called the meeting to order at 9:30 a.m.

PRESENT: William M. Guttman, Chairman
Alan S. Golboro, Secretary
Lowry M. Bell, Jr., Member
John H. Schuler, Member
Leslie A. Shaw, Member
Walter Anthony Dowell, 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
Paul W. Castro, Zoning Administrator
John C. Randolph, Town Attorney

ABSENT: None

RECORDING SECRETARY: Deborah A. Morakis

II. INVOCATION AND PLEDGE OF ALLEGIANCE: (0:01:35) Ms. Morakis gave the invocation and led the Commission in the Pledge of Allegiance.

III. COMMENTS FROM THE PUBLIC: (0:02:25) There were no comments from the public at this time.

IV. REGULAR AGENDA

1. Consideration of Study Item 8. Complete the next phase of the intersection vision study which includes modifying the existing proposal and determining when the Intersection Vision Requirement should be met. **(0:03:08)**

Comments were heard from Chairman Guttman, who expressed his personal frustration with this project. Mr. Guttman stated that he felt staff should have concentrated on the issues that cause a higher percentage of accidents. Mr. Guttman stated, "I do not understand why our predecessors on the 2004/2005 Planning & Zoning Commission and the 2004/2005 Town Council failed to insist on applying the intersection site triangles to all obstructions, such as parking spaces, buildings, street lights and so on, within the intersection site triangle, particularly if the incidents of crashes attributable to these other obstructions is greater than the frequency of accidents attributable to landscaping and walls. The public safety issues are the same."

Mr. Castro stated that the reason this study item is in front of the Planning & Zoning Commission and Town Council is that staff was directed to come back with a proposal. Mr. Castro stated that the current code is not being enforced due to zoning in progress. Mr. Castro stated that staff strongly recommends that this proposal be adopted.

Sgt. Fred Hess, Palm Beach Police Department, explained the information included on the crash data report that was given to the Commission.

Comments were heard from Brian Mirson, American Consulting Engineers of Florida, Town resident Jorge Sanchez and Robert Grassi, Manager of The Beach Club.

After further discussion, the following motion was made:

MOTION BY MR. LAWRENCE TO REPORT TO TOWN COUNCIL STUDY ITEM 8 WITH A NEGATIVE RECOMMENDATION.
MOTION SECONDED BY MR. BELL.
MOTION CARRIED 5 - 2 AFTER ROLL CALL VOTE, WITH MR. GOLBORO AND MR. SHAW OPPOSED.

2. Consideration of Study Item 11. Study a provision to create zoning regulations to

permit accessory entertainment uses in restaurants. **(1:14:42)**

Mr. Castro stated that the Town Council directed staff to look at the provisions that staff originally recommended and what the Planning & Zoning Commission had brought to the Town Council with the direction to go back and to try to bring the code back into line with the previous regulations prior to 1997 so that restaurants could operate and have entertainment and simply be guided by Chapter 22 that relates to entertainment uses as well as the noise ordinance and other provisions in the code relative to alcoholic beverages. Staff's proposal is to go back to the 1997 proposal that the Council originally implemented and to eliminate the nightclub use as well as the nightclub definition and to further eliminate some of the restrictions as they relate to restaurants and the alcoholic beverages portion of that, and the accounting part of that, and to allow restaurants to operate with entertainment, and to look at Chapter 22 and Chapter 6 as they relate to the serving of alcoholic beverages, to provide a closing time for restaurants that would be consistent with the serving of alcoholic beverages. At this time, there is nothing in the code to require any business establishment to close at any time. Also, specific provisions in Chapter 22 are somewhat restrictive when there is a restaurant or any type of use within fifty feet of a residential zoning district. It simply says that you have to close at midnight. Staff believes there is some room for flexibility.

Capt. Kirk Blouin of the Palm Beach Police Department reported that no noise complaints, relative to restaurants and nightclubs, were received by the Police Department within the past five years.

Chairman Guttman stated that some suggested changes were previously provided to staff. After further discussion and comments, the following motion was made:

MOTION BY MR. BELL TO APPROVE STUDY ITEM 11 WITH CHANGES AS RECOMMENDED BY THE CHAIR, AND WITH THE ADDITION THAT "NO LIQUOR MAY BE SERVED AFTER 1:00 A.M.."
Gail Coniglio, 1139 No. Ocean Blvd., stated that any restaurant or bar can legally stay open until 3:00 a.m., last call for alcohol is at 2:45 a.m.
After discussion, the motion was amended as follows:
MOTION AMENDED BY MR. BELL TO ELIMINATE THE 1:00 A.M. CLOSING TIME.
AMENDED MOTION SECONDED BY MR. GOLBORO.
MOTION CARRIED UNANIMOUSLY AFTER ROLL CALL VOTE.

After discussion, the following motion was made:
MOTION BY MR. GOLBORO TO AUTHORIZE CHAIRMAN GUTTMAN TO WORK WITH STAFF ON THE APPROPRIATE DEFINITION OF "NIGHTCLUB".
MOTION SECONDED BY MR. LAWRENCE.

MOTION CARRIED UNANIMOUSLY AFTER A ROLL CALL VOTE.

3. Consideration of Study Item 13. Study the code as it relates to flags and flagpoles. **(1:45:09)**

Attorney Randolph addressed the Commission regarding Study Item 13 and stated that the Commission made several suggestions at the last Planning & Zoning Commission Meeting to place square footage rather than dimensions in the code. Some redundant language was eliminated and references to commercial messages and the definition of "club" was discussed.

Robert Grassi, Manager of the Beach Club, stated that the Beach Club has flown a 3 ft. by 5 ft. flag with the club logo, set back approximately 175 to 200 feet for the past 38 years. The Club would appreciate being permitted to keep the flag where it has been for 38 years.

Gene Paul Stifter, General Manager of the Bath & Tennis Club, stated that the Bath & Tennis Club flies a small sandpiper flag which could be removed. Mr. Stifter did not feel that the Club would have any concerns about having to remove their flag.

Mr. David Barton, Jamaica Lane, felt the regulations were too restrictive and stated that he had a conversation a year ago with the condo manager at the Biltmore who wanted to place flags on the roof of the Biltmore, not unlike what is currently flown at the Breakers. Mr. Barton explained that wimples are plain banners that have no insignia and were used on ships when coming into port to signify what type of cargo was being carried. Mr. Barton felt that the plaza or the bridges should be permitted to fly wimples or festive flags.

After comments were heard by Commission Members, Chairman Guttman recommended that the words "club" and "organization" be removed from Study Item 13. Discussion continued and the following motion was made:

MOTION BY MR. GOLBORO TO RECOMMEND TO THE TOWN COUNCIL TO NOT APPROVE STUDY ITEM 13 AND TO LEAVE THE EXISTING ORDINANCE IN PLACE.
MOTION SECONDED BY MR. DOWELL.
MOTION FAILED 2 - 5 AFTER ROLL CALL VOTE, WITH MESSRS. BELL, SCHULER, SHAW, LAWRENCE AND GUTTMAN OPPOSED.
After further discussion, an alternate motion was made as follows:

MOTION BY MR. BELL TO APPROVE STUDY ITEM 13 AS PRESENTED, WITH THE WORDS "CLUB" AND "ORGANIZATION" REMOVED.
MOTION SECONDED BY MR. LAWRENCE.

Mr. Randolph stated that he would clean up the language to make sure that flag dimensions are proportional.

MOTION CARRIED UNANIMOUSLY AFTER A ROLL CALL VOTE.

4. Status Report on Comprehensive Plan Amendments based upon the Evaluation and Appraisal Report (Verbal). **(2:21:58)**

John Page, Director of the Planning, Zoning & Building Department, stated that staff is working with the consultants to resolve criticisms expressed at last month's Planning and Zoning Commission Meeting. Staff is working with the consultants to make sure that the EAR is provided in a manner that satisfies state standards, and also updates the Comprehensive Plan to make it as complete and as contemporary as possible. Staff will come back with more information at the April or May Planning & Zoning Commission hearing.

5. Royal Poinciana Area Planning Study Status Report (Verbal). **(2:23:44)**

Mr. Page reported that the charrette, which was held on February 23, 2008, was very successful. Approximately 200 people participated in the charrette process. The Treasure Coast Regional Planning Council also conducted a number of one-on-one interviews. TCRPC had a design studio operational for six days following the charrette and at the conclusion of the design studio, TCRPC gave a presentation at the Breakers which was attended by approximately 100 to 150 people. Their presentation detailed recommendations on everything from the bridge to Bradley Park, to the Breakers PUD, Royal Poinciana, other streets beyond, etc. References pertaining to zoning code changes, parking changes, etc., were also heard. Mr. Page reported that within four to eight weeks, the TCRPC would report its findings to the Planning & Zoning Commission and then to the Town Council.

Chairman Guttman reported that he spoke with Marcella Camblor of TCRPC to request that TCRPC report to the Planning & Zoning Commission at the April 1, 2008 meeting so the Commission can formulate a recommendation to the Town Council. Mr. Guttman stated that Ms. Camblor agreed, and added that he felt the possible landmarking of the Royal Poinciana Plaza and the possible designation of Royal Poinciana Way as a historical district may affect Treasure Coast's proposed master plan. Mr. Guttman suggested that Skip Randolph, Charlie Siemon, the Town's outside land-use expert or Michael Allen Wolf, a professor at the University of Florida's Levin College of Law be invited to attend the April 1 presentation. Chairman Guttman also requested that the Shiny Sheet publicize the report by the TCRPC on the master plan.

Mr. Shaw stated that he felt TCRPC did a superb job at the charrette, but he was disappointed in their presentation given at the Breakers and was also disappointed that TCRPC was not prepared to present their report to the Planning & Zoning Commission today. Mr. Shaw also suggested TCRPC be prepared to present alternative plans. Additional comments were heard from the Commission.

VI. COMMENTS OF THE PLANNING AND ZONING COMMISSION AND THE DIRECTOR OF PLANNING, ZONING AND BUILDING DEPARTMENT (2:36:26)

Mr. Golboro recalled that the Town Council would act upon the recommendations of the Planning & Zoning Commission for the five or six items the Council would like the Planning & Zoning Commission to study over the summer. Mr. Golboro asked if it would be possible for a subcommittee to be formed that could work with staff on these items and if that subcommittee would have to operate under the Sunshine Law.

Mr. Randolph stated that any subcommittee would have to be operated under the Sunshine Law, but that could be accomplished without forming a subcommittee simply by calling to order a public meeting of the Planning & Zoning Commission.

Chairman Guttman stated that several months ago the Planning & Zoning Commission ranked the list of planning issues it felt deserved study over the summer and that ranked list was submitted to the Town Council for consideration at its January Town Council meeting. Chairman Guttman urged Mr. Page to prepare a memorandum to the Town Council for the April Town Council Meeting to emphasize the point that this is the time to make a decision on those items. Chairman Guttman's concern was in the Commission taking on too many issues to study over the summer; he would prefer taking on one meaty planning issue.

Mr. Page stated that the Town Council would be revisiting that item at the April Town Council meeting.

VII ADJOURNMENT (2:43:29)

MOTION BY MR. BELL TO ADJOURN.
MOTION SECONDED BY MR. SCHULER.
MOTION CARRIED UNANIMOUSLY.

Respectfully submitted,

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

attachment: Letter from Ricci-Leopold dated February 19, 2008
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