

**PLANNING AND ZONING COMMISSION
2008-2009 ZONING HEARING
RECORD AND REPORT
TUESDAY, MARCH 3, 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 (0:00:54)

Mr. Golboro called the meeting to order at 9:31 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
John S. Page, Director of Planning, Zoning & Building Department
Paul Castro, Zoning Administrator
John C. Randolph, Town Attorney

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

ABSENT: None

RECORDING SECRETARY: Deborah A. Morakis

II. INVOCATION AND PLEDGE OF ALLEGIANCE (0:01:30)

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

Secretary Golboro called for nominations for Chair of the Planning & Zoning Commission.

**MOTION BY MR. DOWELL TO NOMINATE MR. GOLBORO AS CHAIR.
MOTION SECONDED BY SCHULER.**

There being no further nominations, Secretary Golboro declared himself the Chair and called for nominations for Secretary.

**MOTION BY MR. DOWELL TO NOMINATE MR. SHAW AS SECRETARY.
MOTION SECONDED BY MR. SCHULER.**

There being no further nominations made, Chairman Golboro declared Mr. Shaw the Secretary of the Planning & Zoning Commission.

Chairman Golboro stated at the Special Town Council Meeting on March 2, 2009 the Town Council acted to accept Mr. Guttman's resignation. Mr. Golboro stated that he was sorry that Mr. Guttman resigned and added that Mr. Guttman has always served this Town well and hoped he would serve again in the future.

III. PROOF OF PUBLICATION (0:01:35)

Mr. Castro stated that he had proof of publication.

IV. COMMENTS FROM THE PUBLIC (0:04:25)

Comments were heard from Laurel Baker of the Palm Beach Chamber of Commerce. Ms. Baker stated that the Chamber of Commerce sent the Planning & Zoning Commission a memo indicating that it hoped that the Planning & Zoning Commission would educate those that are fearful of proposals coming forward.

V. REGULAR AGENDA

A. MINUTES: February 3, 2009 (00:07:18)

Approval of the minutes of the Planning and Zoning Commission meeting

**MOTION BY MR. SHAW TO APPROVE THE MINUTES OF THE
FEBRUARY 3, 2009 PLANNING & ZONING COMMISSION MEETING.**

MOTION SECONDED BY MR. WIDEMAN.

**MOTION CARRIED UNANIMOUSLY WITHOUT BENEFIT OF A ROLL
CALL.**

B. 2008-2009 Study Item (00:07:49)

1. Hearing on the Testa Family, LLC, Application to Amend the Town's Comprehensive Plan and Zoning Code. [Calvin Giordano & Associates]

Chairman Golboro called for Ex-Parte communication from the Commission.

Chairman Golboro stated that he met with Mr. Lynch and the Testa family.
Mr. Ryan stated that he met with Mr. Testa.
Mr. Shaw stated that he met with the Testa family and reviewed the plans.

Mr. Frank Lynch, Attorney with the law firm of Moyle, Flanigan, Katz, Breton, White & Krasker, P.A., stated that the applicant, Testa Family, LLC., is wholly owned by the Testa Family. Mr. Lynch gave some history of the Testa family and their business in the Town of Palm Beach. Mr. Lynch explained the application that was initially filed with the Town and stated that staff had requested the application be held in abeyance until the Town had an opportunity to study the district as a whole. The Testa family felt this was a good idea and participated in the Charrettes and reviewed the Treasure Coast Study in coming up with their revised application which is before the Planning & Zoning Commission now. Mr. Lynch identified several people who will speak to the Commission and asked that their names and qualifications be entered into the record: Ramon Trias of Trias and Associates, Rick Gonzalez of REG, Tykys R. Holloway of Kimley-Horn and Associates, Inc., and Richard S. Serra of Keshavarz & Associates, Inc. Mr. Lynch also asked that the revised application be entered into the record.

Mr. Tom Testa of 221 Royal Poinciana Way, President of Testa Family LLC., the applicant on the zoning application, introduced several members of his family who were in attendance. Mr. Testa stated that he lives and works in the area and is raising fifth generation town residents. His family is the owner and operator of Testa's, the third oldest family restaurant in the State of Florida and the oldest in Palm Beach. Mr. Testa stated that the original proposal submitted in 2006 was undertaken to create an overlay district so that other owners in the area could make changes to enhance the district. At the request of Town staff, the application was held in abeyance in order to participate in the greater study of the area. This was done with the assumption that the delay would benefit the whole area. After the Charrette process was completed, modifications were made to the original plan, reducing the density down to a minimum economically viable 30 units per acre based on the drawings and comments that had been produced at the Charrette. The goal is to replace Testa's restaurant with less square footage; a modern, energy-efficient building complete with a terrace and wood decor; to bring back the residential component which is a necessary backbone to any pedestrian friendly area. Mr. Testa stated that as the largest land owner on this block, he sees this as an opportunity to pioneer the way to a renaissance of the area and return the district to the way it was 25 years ago. Mr. Testa stated the hurricanes of 2004 and 2005, along with a fire that kept his doors closed in 2006, have taken a toll on the old buildings. He was informed by the Fire Marshal that a sprinkler system needs to be installed in the restaurant building which could easily cost \$400,000.00 for a retro-fit. After additional comments, Mr. Testa thanked the Commission for their time and consideration today, and stated, "Please know that each and every member of the Testa family greatly appreciates your support and fellowship through the years. Our family seeks only to better the Town and to preserve the visions and dreams of our predecessors, both public and private."

(0:34:42.0) Mr. Ramon Trias of Trias & Associates, a town planner and architect talked

about the history of the area and demonstrated some examples of architecture in the area with boards and a power-point presentation. Mr. Trias stated that in this area, there are many buildings dating from the 1920's that have mixed use. Some of the early ideas from the 1920's were used in the conceptual design for the Testa's property.

(0:41:42:0) Rick Gonzalez with REG Architects, described the proposed floor plans and building features. Mr. Gonzalez stated that instead of one large building, four small buildings connected with breeze ways and walkways is being proposed for the project. A green roof with a small swimming pool and deck area will be on the top floor.

Mr. Trias concluded his power-point presentation and stated that this area has some of the best urban design and architecture in America.

Mr. Wideman commented that he noticed there are only three retail locations and a condominium complex in the presentation. The walk-thru's are to residential areas only, not to retail.

Mr. Trias explained that staff had also raised that point and he stated that he anticipates the application to be revised.

Mr. Castro pointed out that the application is to create an overlay for the entire block. If an overlay is created the plans would have to come back under a process to be approved by the Town Council. Today's hearing is legislative in nature in terms of zoning text and comprehensive plan text amendments to create an overlay. The plans shown today are very site specific and only deal with the Testa property.

Tykys Holloway, a registered professional engineer and certified urban planner with Kimley-Horn and Associates, Inc., presented slides to demonstrate a traffic study showing existing and proposed for the Testa property only. Mr. Holloway stated that there are three items to be considered: Palm Beach County's traffic concurrency standards, the Town's Comprehensive Plan and Zoning Code, and the Department of Community Affairs and associated State statutes and Florida laws. A traffic study was submitted to Palm Beach County and Palm Beach County has issued a letter of approval. Mr. Holloway stated that the proposed project will cause a decrease in traffic in the area.

(0:57:05:0) Mr. Schuler stated that he thought the density would be increased and Mr. Holloway answered that intensity would be reduced and by reducing intensity, traffic would be reduced.

Mr. Wideman added that there is no mention of intensity in the Comprehensive Plan. .

Mr. Shaw stated that the Comprehensive Plan as it exists would not allow the proposed development and the Commission was here for a review of the Comprehensive Plan and possible modification.

Chairman Golboro stated that this hearing was restricted to only the Testa property and that the future meetings, on March 4 and March 17, will be to discuss the area.

Mr. Castro stated that the area is the entire block consisting of the 200 block of Royal Poinciana Way from Royal Poinciana to the south side of Sunset Avenue, from Bradley Place east to County Road. The Testa family focused on their property as an example or illustration of how their proposed amendments might work.

Mr. Ryan stated that he did not see an elevation in the drawings and asked what the average size of the density in the plan would be.

Mr. Trias stated that this was an illustrative application and the elevations are not the focus. The average unit will be between 2000 to 2500 square feet except on the first floor. The first floor will be limited to less than 2000 square feet.

Mr. Golboro stated that his concern was with the water level and added that none of the area could afford underground parking.

Mr. Trias stated that after checking with the FEMA codes, he was aware that he would not be five feet above the ground. Underground, the parking will be as deep as necessary.

Paul Castro, Zoning Administrator, clarified that in this zoning district, only two stories are permitted. The second story is permitted with Town Council approval. The land use category allows up to three stories, but, that is the maximum threshold for the entire commercial land use area which includes Worth Avenue and Royal Palm Way. Mr. Castro stated that the application is for the entire block. The applicant is proposing an overlay over the commercial town-serving district. In order to accomplish that, they need to make changes to the comprehensive plan text as well as many changes to the Town's zoning code as it relates to creating the RPVOA, which is the overlay being considered today. The overlay allows the opportunity for much more flexibility within that block. It is unclear to staff how the administration of that overlay would work because the property owners within that area would have the option of either developing under the commercial town-serving zoning regulations or applying for the overlay regulations and going through the quasi-judicial process in front of the Town Council. The overlay regulations are more flexible and allow more lot coverage, more height, more density and less landscaped open space to be attributed to the properties within the overlay. Mr. Castro clarified that in the illustration, the applicant show four buildings. It is one building based upon the building code because under the building in the example is a sub-basement and the sub-basement holds all the parking for all the uses above.

Shelly Eichner, of Calvin Giordano & Associates, gave a presentation on the staff report. Ms. Eichner reiterated that when the review of the application was done, it was strictly as it relates to an amendment to the text of the comprehensive plan and zoning codes. No analysis or review of any of the architectural elevations or the proposed site plans was done. Ms. Eichner stated that typically, the word density relates to residential and the number of units per acre. Intensity refers to non-commercial, non-residential square

footage floor area ratios and the like. This zoning overlay is an option and therefore, not everyone within the overlay area would automatically have the benefits or the requirements. Anyone within that area could still remain commercial. Ms. Eichner stated that when doing the traffic analysis, the maximum potential development was looked at. The traffic analysis submitted by the applicant was based on a mix of office, commercial and residential uses. Their analysis does not comport to the potential development within the zoning overlay. Ms. Eichner stated that as the Town's consultant, she could not complete an analysis of the applicant's traffic analysis due to the inconsistency in the data. Ms. Eichner stated that no objection was found to many issues raised such as water, sewer, parks, open space and schools. Ms. Eichner stated that some of the design concepts within the overlay area need to be further clarified and added that her recommendation, as a consultant to staff, is that this application not be adopted at this time. Ms. Eichner encouraged the applicant to continue to work with herself and staff to further vet out the issues and concerns with the application to make text changes to the comprehensive plan and to create requirements within a zoning overlay district.

Mr. Castro stated that staff has concerns with the process itself and added that the application was silent on the process. The proposal that evolved included a proposal for a pattern book that would go along with design guidelines. The Town has decided not to use a pattern book for residential areas. Mr. Castro stated that the process needs work.

Mr. Lawrence asked if there was any reason why this block alone was chosen as an overlay and Mr. Castro stated that he thought the applicant felt it was the gateway to the area. Discussion continued.

John Page stated that the upcoming workshops which will be held on March 4 and March 17 will be about much more than the Testa's property, it is about the Royal Poinciana District area, except for Royal Poinciana Plaza.

Attorney Skip Randolph stated that the Planning & Zoning Commission could, after reviewing the entire district on March 4, decide that you would like to see this application expanded to a larger area. Mr. Randolph stated that he felt the Commission should use the time today to give their consideration to the application, as presented, i.e. the overlay district on this street and deal with the staff comments that are related to this specific application and any comments from the public related to this specific application. Mr. Randolph added that the Commission may not be in a position at the end of this day to make decisions until they have heard testimony related to the whole district. Mr. Randolph stated that because this is Testa's application, the Commission should give them a full opportunity to be heard and to hear any comments from the public related to it.

(1:27:12:0) Ms. Eichner added that the areas that staff disagrees with are the key issues such as traffic, density, compatibility with the area.

Mr. Castro stated that there are no entitlements and added that if these amendments are to go through, each property owner would have to go through a quasi-judicial process to develop guidelines and a pattern book. Those details have not been ironed out.

Mr. Lynch stated that he was in agreement with most of the comments and issues raised and he could work with staff and the consultant to resolve all but two issues, height and density. The applicant may be willing to withdraw the requirements of the pattern book and design guidelines and may also be willing to allow this to go forward on a site plan review basis before Council.

Mr. Castro stated that in order to develop under these overlay regulations, which are much more flexible than the code today in that zoning district, then the project had to have merit. Mr. Castro added that some of the elements encouraged within the Worth Avenue Design Guidelines are vias, balconies, arcades.

Chairman Golboro asked if the Commission should deal with this application as only the Testa's one acre.

Mr. Randolph stated that the Commission should not deal with this as one acre. The Commission should deal with this as a whole district and added that the Planning & Zoning Commission is looking at this application as a legislative process.

Chairman Golboro stated that he felt the Commission needed an action plan and Mr. Castro suggested that the Commission could take action on the application for this block.

Mr. Page stated that staff does see merit with what has been proposed and added that with some additional work with the applicant, a solution could be met. Mr. Page recommended that the Commission defer action on this application until April to allow staff time to work with the developer to resolve the issues discussed.

Mr. Randolph advised the Commission that the applicant and staff would need input from the Commission and some sort of a process with criteria set forth needs to be established.

Comments were heard from several residents and members of the Planning & Zoning Commission and after some additional discussion, the following motion was made:

MOTION BY MR. WIDEMAN TO DEFER THE HEARING ON THE TESTA APPLICATION UNTIL THE APRIL 5, 2009 PLANNING & ZONING COMMISSION HEARING.

MOTION SECONDED BY MR. SHAW.

MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

**VI. COMMENTS OF THE PLANNING AND ZONING COMMISSION AND
PLANNING, ZONING AND BUILDING DIRECTOR (2:20:41:0)**

Mr. Page reminded the Commission about the two scheduled Royal Poinciana Business District workshops. These workshops will be held at the Breakers on March 4 and March 17, beginning at 9:30 a.m. Mr. Page added that the April meeting of the Planning & Zoning Commission will be held in the Town Hall Council Chambers. However, due to upcoming renovations, meetings of the Commission after that will be held at several alternate locations to be announced.

VII. ADJOURNMENT (2:22:03:0)

**MOTION TO ADJOURN AT 11:54 a.m.
MOTION SECONDED.
MOTION PASSED UNANIMOUSLY.**

Respectfully submitted,

Alan S. Golboro, Chairman
Town of Palm Beach
Planning & Zoning Commission

Leslie A. Shaw, Secretary
Town of Palm Beach
Planning & Zoning Commission

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