PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY
RECORD AND REPORT
TOWN HALL – COUNCIL CHAMBERS – SECOND FLOOR
360 SOUTH COUNTY ROAD, PALM BEACH
TUESDAY, FEBRUARY 22, 2011, 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 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 (9:30:19 a.m.)

Chairman Golboro called the meeting to order at 9:30 a.m. On roll call, Commission Members present were:

Alan Golboro, Chairman
Leslie Shaw, Vice-Chair
C. Tanner Rose, Member
Eugene Lawrence, Member
Martin I. Klein, Member
Lewis Crampton, Alternate Member
Jeffrey A. Cloninger, Alternate Member
Michael Vincent John Spaziani, Alternate Member

Commission Members absent were:
John Schuler, Member (excused)
Floyd Wideman, Member (excused)

Staff Members present were:
John Page, Director of Planning, Zoning, Building
Veronica Close, Assistant Director
Paul Castro, Zoning Administrator
Debby Morakis, Recording Secretary

Let the record reflect that Alternate Members Crampton and Cloninger voted due to the above absences.

II. INVOCATION AND PLEDGE OF ALLEGIANCE (9:32:28 a.m.)

Ms. Morakis led the Commission with the invocation and Pledge of Allegiance.

III. APPROVAL OF THE AGENDA

Chairman Golboro suggested the agenda be amended to call for comments from the audience now as well as later in the meeting.

MOTION BY MR. KLEIN TO MOVE APPROVAL OF THE AGENDA, AS AMENDED.
MOTION SECONDED BY MR. CRAMPTON.
MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

Comments were heard from Geri Zenko of 232 Tangier Avenue, who stated that she found Ordinance No.'s 3-11, 4-11 and 5-11 confusing.

Fred Weisenbach of Orley Shabahang Persian Carpet addressed the Commission and stated that he was here with fellow shop keepers to address the issue of signage. Chairman Golboro suggested that Mr. Weisenbach address the Commission with his comments later in the meeting during the Commission discussion of signs.

IV. APPROVAL OF JANUARY 18, 2011 LOCAL PLANNING AGENCY AND PLANNING AND ZONING COMMISSION MINUTES (9:40:00 a.m.)

Mr. Shaw commented that he felt the minutes were too brief and Chairman Golboro suggested that in the future staff include more detail in the minutes.

MOTION BY MR. KLEIN FOR ADOPTION OF THE MINUTES OF THE JANUARY 18, 2011 PLANNING & ZONING COMMISSION MEETING.
MOTION SECONDED BY MR. CRAMPTON.
MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

V. OLD BUSINESS (9:43:03 a.m.)

a. ORDINANCE NO. 1-11
An Ordinance Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Text Of The Future Land Use Element Of The Town Of Palm Beach Comprehensive Plan As Last Amended On August 11, 2010,With The Adoption Of Ordinance No. 3-10, By Amending The Data & Analysis In The Future Land Use Element And Amending Policy 2.3.1 As It Addresses Square Footage Thresholds For Town-Serving Businesses; Providing For Severability;

Repealing All Ordinances Or Part Of Ordinances In Conflict Hereof; Providing For Codification; And Providing an Effective Date.

Chairman Golboro called for ex-parte communications from the Commission and none were declared.

John Page, Director of Planning, Zoning, Building noted that the Commission had in recent months after hearing a report from Bill Brisson made strong recommendations to the Town Council pertaining to the Town-serving regulations. Mr. Page stated that staff presented the Commission's recommendations to the Town Council, and, it was now time to put those recommendations into ordinance form.

Paul Castro, Zoning Administrator, explained the modifications the Town Council made to the Commission's recommendation for Ordinance No. 1-11. Mr. Castro advised the Commission that Town Council had directed staff to change the number in the Commercial Worth Avenue District from 3,000 square feet to 4,000 square feet. All other modifications and proposals from the Planning & Zoning Commission were passed through the Town Council and were now in ordinance form. Mr. Castro explained that Ordinance No. 1-11 was the transmittal ordinance to the Department of Community Affairs, and, Ordinance No. 2-11 encapsulated the policy within the Comprehensive Plan. Mr. Castro added that these ordinances would have first reading in April and further explained that the second reading would happen after the Evaluation and Appraisal Report (EAR) came back from the Department of Community Affairs and any concerns were satisfactorily addressed.

Mr. Spaziani stated that he was concerned with the Day School and the Declaration of Use Agreement. Mr. Castro explained that the only exemptions would be for hotel uses and time-shares and that schools would still be required to provide Town-serving documentation.

Messrs. Crampton and Rose both suggested that both Ordinances be approved.

Mr. Shaw thanked the Council for accepting the majority of the Commission's recommendations, but, questioned why Council would want to increase the square footage limitation on Worth Avenue. Mr. Shaw stated that he did not want to see smaller stores being combined into larger stores. Adding, "The smaller stores keep the charm on the Avenue. I want more hoops." Mr. Shaw also asked how the conditions on prior approvals could be eliminated.

Mr. Castro advised the Commission that Attorney Randolph had ruled that each individual business would have to go through the process of a quasi-judicial hearing to ask for relief. Mr. Castro stated that businesses could submit a joint application providing they were within a certain proximity of each other, provided the appropriate legal descriptions and that legal notification requirements were met.

Messrs. Cloninger and Lawrence had no comments.

MOTION BY MR. CRAMPTON FOR APPROVAL OF ORDINANCE NO. 1-11.
MOTION SECONDED BY MR. KLEIN.
MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

b. ORDINANCE NO. 2-11

An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, At Section 134-2 By Amending The Definition Of Town-Serving By Increasing The Square Foot Threshold In Certain Commercial Zoning Districts; Section 134-229 By Exempting Hotel, Motel and Timeshare Uses And The C-OPI Zoning District From The Town-Serving Requirements; Sections 134-1107, 134-1109, 134-1157, 134-1259, 134-1302 And 134-1304 By Increasing The Town-Serving Square Foot Threshold And Changing The Term Occupational License To Business Tax Receipt In The C-TS, C-WA And C-B Zoning Districts; Section 134-1259 By Changing The Term Occupational License To Business Tax Receipt In The C-PC Zoning District; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing For An Effective Date.

Discussion about Ordinance No. 2-11 was heard with Ordinance No. 1-11.

MOTION BY MR. CRAMPTON FOR APPROVAL OF ORDINANCE NO. 2-11.
MOTION SECONDED BY MR. KLEIN.
Mr. Castro clarified that staff was waiting for the ORC report from DCA to come back.
MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

c. ORDINANCE NO. 3-11

An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Text Of The Future Land Use Element Of The Town Of Palm Beach Comprehensive Plan As Last Amended On August 11, 2010 With The Adoption Of Ordinance No. 3-10, By Amending The Data & Analysis In The Future Land Use Element And Amending Policy 7.3 As It Addresses Rebuilding Structures Located Seaward Of The Coastal Construction Control Line (CCCL), And Permitting Nonconforming Building And Structures To Be Rebuilt Provided Certain Conditions Are Met; Providing For Severability; Repealing All Ordinances Or Parts Of Ordinances In Conflict Hereof; Providing For Codification; And Providing For An Effective Date.

Mr. Castro stated that he had met with Mr. Rose to make some modifications to the language of Ordinance No. 3-11. The proposed changes would allow all residents to be able to rebuild on the same footprint if there was damage or unintended destruction, provided minimum floor elevations were met. Mr. Castro explained that the proposed changes also provided for a definitive time frame in which a permit had to be obtained.

Chairman Golboro stated that he felt this was a good first step, but, his concern was with the “50% rule”.

Mr. Castro explained that it was a State requirement that any reconstruction or rebuilding that exceeded 50% of the value of the structure would have to comply with the electrical, mechanical, plumbing and structural requirements of the code currently in place.

Mr. Klein reiterated that he felt the Commission had done all it could do by eliminating the gross disparity that existed between the different types of property owners.

Mr. Castro stated that every local impediment had now been eliminated.

Chairman Golboro suggested the Commission make a recommendation to the Mayor and Council to proceed diligently to eliminate this hardship by making suggestions for change to the state laws.

Mr. Cloninger agreed with Chairman Golboro.

Council Member Bill Diamond of 220 Wells Road noted that acts of man and terrorism had also been included in the proposed language and added that he felt this was a good idea.

Mr. Castro explained the life safety issues that require all codes be met, and, added it would be a problem for the building official to have to know what code was in affect when a building was built.

Discussion continued and additional comments were heard by Messrs. Shaw and Klein.

Mr. Klein motioned that the Town pass a resolution to explore these issues. The motion died for lack of a second.

Mr. Rose stated that the cost to rebuild to code was built into most insurance policies and the elimination of that requirement might lead to unintended consequences.

MOTION BY MR. ROSE TO ADOPT ORDINANCE NO. 3-11, AS MODIFIED.
MOTION SECONDED BY MR. KLEIN.
MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

d. ORDINANCE NO. 4-11

An Ordinance Of The Town Council Of The Town of Palm Beach, Palm Beach County Florida, Amending Chapter 134, Zoning, At Sections 134-417, 134-419 And 134-420 By Amending The Provisions To Clarify The Regulations For Raising A Nonconforming Building To Meet The Minimum Flood Elevation Requirements And Allow A Nonconforming Building and Structure To Be Rebuilt Within a Defined Time Limit If Non-Intentionally Destroyed By Act of Terrorism Or War, Or By Fire Or Act Of God Or Nature; Providing For Severability; Providing For Repeal Of Ordinances in Conflict; Providing For Codification; Providing For An Effective Date.

Discussion about Ordinance No. 4-11 was heard with Ordinance No. 3-11.

MOTION BY MR. ROSE TO ADOPT ORDINANCE NO. 4-11, AS MODIFIED.
MOTION SECONDED BY MR. KLEIN.
MOTION CARRIED 7-0 AFTER ROLL CALL VOTE.

Mr. Page suggested that Building Official Jeff Taylor be invited to the next meeting of the Planning & Zoning Commission to answer any questions of the Commission.

Mr. Spaziani asked where the Town would be if the State were to decide not to allow buildings, roads or utilities to be rebuilt east of the Coastal Construction Line.

Mr. Klein stated that normally a more stringent application of the building code applied to construction east of the CCL and Mr. Castro added that break away construction, pilings, etc. were required east of the CCL.

Comments were heard from Mr. Rose and Chairman Golboro suggested the Commission make a motion to recommend that the Mayor and Council ask the State to examine the issues.

Mr. Shaw agreed and added that he felt it was a good idea to have staff come back next month and help the Commission focus on what their recommendations should be.

e. **Distribution of Data from the Parking Study for the Royal Poinciana Way Area. (10:21:39)**

Assistant Director Veronica Close provided the Commission with an update of data compiled to date relative to the parking study done in the Royal Poinciana Way Area. Ms. Close demonstrated with a power point presentation some draft color-coded maps and a spreadsheet depicting on-street and off-street parking and stated that staff would be working to further clean up the data and would present it formally using a GIS program at a later date.

Mr. Shaw asked if data on shared parking could be incorporated in order to differentiate between day time parking and evening parking. Ms. Close indicated that she would look into that.

Comments from the Commission were heard and a discussion followed. Ms. Close advised the Commission that this study was a collaborative effort of staff members from three departments.

Chairman Golboro mentioned that he had previously suggested that the Town look at the lot behind the Palm Beach Hotel that had been deeded to the Town for a park. Mr. Page indicated he would pass that information on to Mr. Bradford.

Mr. Cloninger stated that when the Palm Beach Hotel was converted to condominiums, it was never promised parking. Mr. Cloninger stated that he felt to take away green space from the Town to benefit one private enterprise would be a mistake.

Discussion continued and Mr. Klein stated that the Town Charter had certain provisions intended to keep green space, and, one provision was called Park Avenue Park. Mr. Klein noted that these parks could not be sold without approval.

In response to a question from Mr. Cloninger, Ms. Close indicated that in order to create parking on any state road including Royal Palm Way, Royal Poinciana Way, So. County Road, No. County Road, So. Ocean Boulevard and Southern Boulevard, the Town would be required by the Department of Transportation to conduct a parking study.

Comments were heard from Council Member Diamond who stated that a similar situation with beach access existed on Clarke Avenue. Mr. Diamond suggested that the parking for the offices of Jeffrey Cloninger Real Estate, Christian Angle Real Estate and the TD Bank location be confirmed.

Comments were heard from Bob Moore of 420 Santa Fe Road, West Palm Beach, who confirmed what Mr. Cloninger had said regarding the parking situation created by the Palm Beach Hotel when it became a condominium in 1979 or 1980 and dropped from 600 units to 300 units. Mr. Moore stated that each document had been reviewed by Town Attorney Randolph and included an acknowledgement that there were no parking spaces provided. Mr. Moore stated that the parking that did exist across the street had been sold and added that the Hotel's parking problem was one of their own creation.

Mr. Crampton stated that he felt that the Hotel's parking problem was a parking problem for the entire area and added that he hoped the Town would be able to provide some positive suggestions on how to solve the problem.

Chairman Golboro noted that he once lived on Sunrise Avenue and found there to be no parking spaces available then.

Ms. Close stated that staff intended to come back next month to provide the parking data in its final form to the Commission.

VI. NEW BUSINESS (10:54:23 a.m.)

a. Discussion of Zoning Regulations Regarding Signs in Vias.

Mr. Page reminded the Commission that recently it had made recommendations to the Town Council for zoning changes that would allow hanging signs in arcades and vias. Mr. Page stated that Code Enforcement realized there were a number of businesses that had non-compliant signs and several merchants had appeared at a recent Town Council Meeting to ask for some relief for displaying signs in front of their businesses. Mr. Page explained that the Town Council addressed the issue back to the Planning & Zoning Commission for their discussion. Mr. Page also noted that the current zoning ordinance regulates the type, size and location of commercial signs.

Comments were heard from Gay Cinque of 3 Golfview Road, who stated that she opened a jewelry store "Off Worth" in Via De Mario ten years ago. Mrs. Cinque stated that hanging signs would not be a solution for her problem since they would not be seen from the street.

Comments were heard from Brenda Bonner for Pattie Esbia. Ms. Bonner spoke about a recent code enforcement issue relative to their business sign.

Raychel Houston, Code Enforcement Supervisor, addressed Ms. Bonner's comments and explained that several properties had been cited by Code Enforcement and noted that the property owners had chosen to come into compliance. Ms. Houston presented pictures of other signs in the area that would not be in compliance with the current code.

Comments were heard from Messrs. Cloninger, Golboro and Klein who agreed that it was clear there was an issue.

Mr. Castro explained the existing sign regulations that now allow businesses that front on vias to have, at a minimum, 10 square feet of signage on a window or wall based upon a tenant space of 18 lineal feet or less. Larger spaces would be permitted 20 square feet.

Mr. Castro noted that the code was silent on marquee signs or signs at the entrance to the vias. Mr. Castro stated that staff was proposing to allow these types of signs, marquees menu signs.

Comments were heard from Mr. Cloninger who asked if the Town differentiated between signs on Worth Avenue and signs on private property in the vias. Mr. Castro stated that due to the proliferation of signage occurring within the vias, the Town had adopted a Code Amendment that treated the vias the same as streets.

Mr. Rose stated that he had listened to what happened during the Town Council meeting and then walked through the vias. Mr. Rose noted that there were few directories on the Peruvian side of the vias.

Mr. Klein asked for staff recommendations and asked if signage came up at ARCOM. Mr. Castro answered that most signs do require ARCOM review and some receive administrative approval.

Mr. Page stated that he felt the public would count on directory type signs and added that staff felt favorably about allowing them. Mr. Page asked the Commission for feedback.

Discussion continued and it was determined that directory signs and signs in the via be handled separately.

Mr. Shaw asked for clarification of how the size of all signage was calculated. Mr. Castro noted that signs on the directory would not be included in these calculations.

Mr. Klein stated that he felt it was the consensus to allow marquee or entrance signs and suggested staff bring back proposed language for the Commission to consider.

Discussion continued about size regulations and Mr. Lawrence stated that he felt there was lots of charm in the fact that the signs were all different; directory signs should be permitted; and, signs in the vias should not be expected to be seen from the street.

Comments were heard from Jere Zenko, 232 Tangier Avenue, who stated that she liked the directory signs.

Bill Diamond stated that he felt the individual store owners should work with the Worth Avenue Association and that the Association should regulate the signs.

Mr. Page stated that staff would bring back a proposal for the Commission to consider at the next Planning & Zoning Commission Meeting. Mr. Page clarified his understanding of the Commissions feelings that directory signs and hanging signs should be permitted and the size limitations should be maintained. Mr. Page asked if the Commission had a recommendation for the placement of signs on store fronts or if they should be permitted off-site.

Mr. Spaziani agreed with Mr. Page and stated that he felt the signs needed to be in front of the tenant space.

Mr. Rose also agreed and asked whether interior signs within a store would be counted as part of the sign allowance. Mr. Rose also asked if the Town regulated going out of business signs.

Mr. Castro answered that if signs could be seen from the walkway they would be counted and added that the Town did have provisions about sale signs.

Mr. Cloninger stated that he also agreed and suggested that Code Enforcement be notified that electioneering signs were not permitted. A discussion took place and Ms. Houston explained how Code Enforcement handled those types of signs.

It was the consensus of the Commission that they did not want to see individual business identification signs over arches in the vias.

Gay Cinque commented that the business owners had all suffered through the summer while the Worth Avenue renovation was being done and asked for consideration to allow signs currently in violation to remain during season.

Mr. Page asked for the Commission's thoughts about menu signs for restaurants and Messrs. Rose and Cloninger agreed that if they were on the property and enclosed in glass they could be permitted, but, sandwich type boards or chalk boards should not be permitted.

Council Member Diamond added, "We do not want to set up a "via policia".

VII. COMMENTS FROM THE PUBLIC ON ANY ITEM NOT ON THE AGENDA 1:42:50 a.m.)

There were no additional comments heard from the public.

VIII. COMMENTS OF THE PLANNING AND ZONING COMMISSION AND PLANNING, ZONING AND BUILDING DIRECTOR (11:43:01 a.m.)

Mr. Crampton commented about the Governor's actions concerning the Department of Community Affairs and asked if staff could provide a report at the next meeting of the Planning & Zoning Commission and Mr. Page agreed.

Mr. Cloninger asked why, when the Commission turned down Ordinance No's 26-10 and 5-11 three times, staff pushed it forward.

Mr. Page explained that when the Commission went on record as not favoring the conversion of retail space to office space on Peruvian and Bradley, staff took that to Town Council, and, the Town Council instructed staff to put together an ordinance to allow those offices and include language that no parking variances would be required, overriding the Commission's recommendation.

Bill Diamond advised the Commission that he did not participate in the Council's discussion because his wife owns property on that corner.

Mr. Klein stated that he felt the original request that started this was inappropriate and that was why he voted against it. Discussion continued and comments were heard from several Commission Members regarding spot zoning.

Gay Cinque stated that she owned the property at 319 Peruvian Avenue and wondered why the north side and the 300 block of Peruvian Avenue were not included.

Mr. Castro answered that the reason it was not included was because most of that block was retail or restaurant use and that the new buildings were retail spaces.

Additional comments were heard from Ms. Zenko.

IX. ADJOURNMENT(11:58:47 a.m.)

MOTION BY MR. SHAW TO ADJOURN AT 12:07 P.M.
MOTION SECONDED UNANIMOUSLY.
MOTION CARRIED WITHOUT BENEFIT OF A ROLL CALL VOTE.

Respectfully Submitted,

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