PLANNING & ZONING COMMISSION
2007-2008 ZONING HEARINGS
RECORD AND REPORT
TUESDAY, FEBRUARY 5, 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 (left at 11:15 a.m.)
Leslie A. Shaw, Member
Walter Anthony Dowell, Alternate Member
Eugene Lawrence, Alternate Member
Floyd Wideman, Jr., Alternate Member
John S. Page, Director of Planning, Zoning & Building
Paul W. Castro, Zoning Administrator
John C. Randolph, Town Attorney

ABSENT: Elizabeth S. Murphy (unexcused)

RECORDING SECRETARY: Deborah A. Morakis

II. INVOCATION AND PLEDGE OF ALLEGIANCE: (0:01:00) Ms. Morakis gave the invocation and led the Commission in the Pledge of Allegiance.

III. PROOF OF PUBLICATION: (0:01:49) Mr. Castro verified that proof of publication had been accomplished with regard to this meeting.

IV. COMMENTS FROM THE PUBLIC: (0:02:07) There were no comments from the public at this time.

Chairman Guttman reported that he had conversations with several people, and suggested the Planning & Zoning Commission take another long-term look at the Town's water supply despite the fact that it did not make the list of the top five planning items recommended to Town Council. Mr. Guttman stated that he felt that looking at the water supply this summer could be done without consultants, and requested that Mr. Page mention to Town Council that at least the Chairman feels that water should be something the Town Council should focus upon in choosing a major planning topic for the Planning & Zoning Commission to study over the summer.

MOTION BY MR. BELL TO INCLUDE THE TOWN'S WATER SUPPLY AS A TOP PRIORITY FOR THE PLANNING & ZONING COMMISSION TO STUDY OVER THE SUMMER.
MOTION SECONDED BY MR. SHAW.
After further discussion,
MOTION CARRIED UNANIMOUSLY.

V. REGULAR AGENDA

1. MINUTES: JANUARY 2, 2008 **(0:11:02)**
   APPROVAL OF THE MINUTES OF THE PLANNING AND ZONING COMMISSION MEETING

Chairman Guttman pointed out that the Town Council has voted to go to a shorter version of minutes. In the future, a link to the meeting audio file will be added to the abbreviated minutes on the internet.

Mr. Bell asked that a copy of the audio disc of the meeting be provided. Mr. Page stated that would be possible and he would look into it.

Mr. Shaw stated that he understood the process, but did not agree with the outcome. Mr. Shaw stated, "to give up the depth of the minutes as they are produced now is a mistake." After additional comments, the following motion was made:

MOTION BY MR. SHAW THAT THE PLANNING & ZONING COMMISSION MAKE THE STATEMENT THAT IT FEELS IT IS IMPORTANT THAT THE PLANNING & ZONING COMMISSION MINUTES BE PRODUCED WITH THE LENGTH AND DEPTH AS THEY ARE NOW.

MOTION SECONDED BY MR. BELL.

Mr. Page advised the Commission that the Town Council has already taken action, and approved an abbreviated format for the minutes of all of the Town's Boards and Commissions, including Town Council minutes.

THERE WAS NO VOTE MADE ON THE MOTION.

MOTION BY MR. SCHULER TO APPROVE THE JANUARY 2, 2008 MINUTES.
Mr. Bell stated that on page 17, the Commission asked Mr. Castro to put reflectors on County Road. Mr. Bell asked if that had been done.

Mr. Castro stated that due to budgetary considerations, reflectors were not placed on County Road. Staff did tell the Planning & Zoning Commission that staff would look into having a public meeting for all people impacted by the intersection vision area and report at this meeting to recommend a course of action.

Chairman Guttman requested that this discussion about site triangles be continued later in this meeting.

MOTION SECONDED BY MR. GOLBORO.
MOTION CARRIED UNANIMOUSLY.

2. Consideration of Study Item 12 related to modifications to the zoning regulation to require easements and underground placement of utilities. **(0:19:20)**

   Attorney Skip Randolph provided a status report of Study Item 12. The amendments that were recommended would allow the Town to obtain easements for undergrounding of utilities on private properties within the Town. Mr. Randolph stated that to date, he has not figured out a way to do this. Mr. Randolph asked that this item be deferred.

   After hearing comments from Mr. Shaw and Chairman Guttman, the following motion was made:

   MOTION BY MR. GOLBORO TO DEFER STUDY ITEM 12.
   MOTION SECONDED BY MR. SCHULER.
   MOTION CARRIED UNANIMOUSLY.

   Attorney Randolph clarified that Study Item 12 would be deferred until a later meeting. Chairman Guttman suggested that the Town Council provide some guidance of whether they mean to pursue the larger issue of undergrounding overhead utilities before the Planning and Zoning Commission takes up this deferred item.

3. Consideration of Study Item 13 related to proposed code modifications to the regulations regarding flags and flagpoles. **(0:26:13)**

Chairman Guttman stated that he previously provided Attorney Randolph with written technical and legal comments on the flag and flagpole ordinance. Chairman Guttman asked Mr. Randolph's law firm to provide the Town Council with a legal opinion that states that the adoption of the proposed ordinance will not violate the Constitution of the United States of America or the Constitution of the State of Florida, and that the proposed ordinance, when duly adopted, will be a binding, valid and legally enforceable ordinance.

Attorney Randolph stated that this ordinance was drafted based upon a great deal of research and was aimed at meeting the requirements of the United States and Florida Constitutions. Mr. Randolph stated that the purpose of drafting the ordinance the way it was done was to address the constitutional infirmities relating to it.

Chairman Guttman requested that Attorney Randolph state that in his opinion, the ordinance does meet the constitutional requirements of the United States and the State of Florida.

Attorney Randolph stated that in his opinion, the ordinance that was drafted does meet the constitutional requirements. The infirmities that were pointed out in the lawsuit are addressed in his memo and the proposed ordinance. Mr. Randolph read the section of the ordinance for the record.

Additional comments were heard from members of the Commission.

Robert Moore, former Director of the Planning, Zoning and Building Department addressed the Commission, and stated that when the ordinance dealing with flags was originally constructed, protocol was researched by Mr. Bradford. Mr. Moore asked if this ordinance was intended to prohibit existing clubs from flying flags.

Attorney Randolph stated that there was no intention of this kind other than to provide this Commission with a definition of commercial use. Mr. Randolph stated that a flag is a portable and temporary item and would not be grand-fathered. This would be a policy decision of this Commission and the Town. Attorney Randolph stated that another question that was raised is relative to flags for colleges and sports teams.
After further discussion, the following motion was made:
(0:59:30)

MOTION BY MR. SCHULER TO REFER STUDY ITEM 13 BACK TO STAFF FOR FURTHER STUDY.
MOTION DIED FOR LACK OF A SECOND.
After further discussion, the following motion was made:
(1:13:42)
MOTION BY MR. SHAW TO MODIFY THE PROPOSED ORDINANCE BY REMOVING THE WORD "CLUB".
MOTION SECONDED BY MR. GOLBORO.
MOTION CARRIED 4-3 AFTER A ROLL CALL VOTE WITH MR. BELL, MR. GOLBORO, AND CHAIRMAN GUTTMAN OPPOSED.

Discussion continued and the following motion was made:
(1:18:24)
MOTION BY MR. SHAW TO APPROVE THE MODIFICATIONS TO THE ORDINANCE WITH CHANGES: THE EXCLUSION OF THE WORD "CLUB" IN THE COMMERCIAL MESSAGE, DELETION OF 4 ½ FT. X 6 FT. SIZE LIMITATION.
MOTION SECONDED BY MR. LAWRENCE.
MOTION CARRIED 5-2 AFTER ROLL CALL VOTE WITH MR. BELL AND MR. GOLBORO OPPOSED.

Mr. Wideman asked if emblems would be prohibited. It was suggested that the word "organization" should be removed from the ordinance.
(1:20:47)
MOTION AMENDED BY MR. SHAW TO EXCLUDE THE WORDS "CLUB" AND "ORGANIZATION" FROM THE ORDINANCE.
AMENDED MOTION SECONDED BY MR. LAWRENCE.
MOTION FAILED 3-4 AFTER ROLL CALL VOTE WITH CHAIRMAN GUTTMAN, MR. BELL, MR. GOLBORO AND MR. WIDEMAN OPPOSED.

Discussion continued and the following motion was made:
(1:24:00)
MOTION BY MR. WIDEMAN TO INCLUDE THE WORDS "CLUB" AND "ORGANIZATION" IN THE ORDINANCE.
MOTION SECONDED BY MR. GOLBORO.
MOTION CARRIED 4-3 AFTER ROLL CALL VOTE WITH MR. SHAW, MR. DOWELL AND MR. LAWRENCE OPPOSED.

4. Comprehensive plan amendments based upon the Evaluation and Appraisal Report. **(1:25:40)**

Chairman Guttman expressed his frustration that nearly 40% of the Comprehensive Plan is outdated and contains many errors.

(1:40:00)
Tim Frank, Planning Administrator, reported on the EAR based Comprehensive Plan Amendment and described three of the updates being implemented; the GIS computer generated maps, the capital improvement plan, and the state mandated school concurrency plan. Mr. Frank provided an explanation of the new GIS maps, including a future land-use map which will be included in the Comprehensive Plan.

(1:51:10)
Henry Iler, Iler Planning Group, presented the Planning & Zoning Commission with an update of the EAR based amendments to the Comprehensive Plan. Mr. Iler explained the sections of the Comprehensive Plan and gave a power-point presentation on the goals, objectives and policies. Mr. Iler stated that revisions will be made to the Comprehensive Plan over the next few weeks. Those revisions would be brought back to the Planning & Zoning Commission in March, then to the Town Council in March or April. The report will then be transmitted to the DCA for their review, which typically takes 60 to 90 days. The DCA will then send a report of compliance. Iler Planning Group will then get that report and bring it back to the Planning & Zoning Commission and the Town Council in mid to late summer.

Members of the Planning & Zoning Commission were given an opportunity to comment on the presentation and Mr. Iler answered questions. Mr. Golboro requested that this item be postponed in order to allow more time to study the backup material.

Mr. Bell addressed the potable water section of the Comprehensive Plan and a discussion took place regarding that topic.

Chairman Guttman stated, "the quality and quantity of potable water in this community is a major issue and it needs to be addressed in a comprehensive and systematic manner." Chairman Guttman pointed out some sections of the Comprehensive Plan that were out of date and Mr. Iler stated that he would be working with staff to correct those errors.

Mr. Frank explained the Comprehensive Plan matrix which covers the progress of items that are included in the plan.
Mr. Golboro commented that he felt the report was incomplete and not up to par.

Chairman Guttman stated that the Planning & Zoning Commission was previously known as the Zoning Commission. The Town Council redefined the mission of this Commission and changed its name. It was noted that State code defines the Town Council as the Local Planning Agency (LPA)

Mr. Randolph stated that Chairman Guttman could request that the Town Council give consideration to appointing the Planning & Zoning Commission as the LPA.

Chairman Guttman stated that such a recommendation was unanimously approved by the Commission, but Town Council has not acted upon that recommendation.

After additional comments were heard by others on the Commission, Chairman Guttman stated that he had arranged to meet with Mr. Page, Mr. Frank and Mr. Iler and would prefer to leave his comments with staff as public record. Chairman Guttman stated that he felt it was the consensus of the Commission that the philosophy of the Commission should be to not try to meet the narrow mandates imposed by the state, but to look at the entire array of planning issues that could affect the Town's infrastructure, land-use, etc. Chairman Guttman felt the deadline that Mr. Iler referred to could not be met, but the Commission could finish its comprehensive and systematic review by June or July.

Mr. Golboro asked if it would be possible to have additional meetings to cover this material. Chairman Guttman asked that the Commission think about the "big-picture planning issues" that were not adequately addressed in the document for consideration at subsequent meetings.

5. Royal Poinciana Area Planning Study Status Report (Verbal). **(02:45:15)**

Mr. Frank reported on the status of the Steering Committee meetings. The charrette for the Royal Poinciana Area will start on Saturday, February 23 at the meeting hall at St. Edward's Parish from 10:00 a.m. to 3:00 p.m. After the charrette, the designers will move to a design studio which will be located at the former Preservation Foundation Building. The designers will be designing around the clock, and the design studio will be open to the public from 9:00 a.m. to 9:00 p.m. Toward the end of the week, there will be presentations based on the feedback received from the public. On Friday, February 29, from 3:00 p.m. to 5:00 p.m. there will be a presentation of the work in progress at the Breakers or at St. Edwards. The final location will be determined by the Steering Committee.

VI ADJOURNMENT (02:48:00)

Chairman Guttman called for comments of the Director of the Planning, Zoning and Building Department and Members of the Commission.

Mr. Shaw commented that he would like to ask for the consensus of the Commission, and stated that he was concerned about the sentiments in Town to readdress the landmarking issue of the theater and/or the plaza. In his opinion, it would be counterproductive to make any decision until after this process goes forward. Given that there will be at least two council meetings before the Commission has any information or feedback to give to the Council regarding the Commission's recommendation, he would ask that the Council not consider any landmarking until we hear this. If the property is landmarked it will greatly affect what will be the outcome of the decision of this review process.

MOTION BY MR. SHAW TO RECOMMEND TO THE TOWN COUNCIL NOT TO TAKE ACTION REGARDING THE RECOMMENDATION OF THE LANDMARK COMMISSION REGARDING THE LANDMARKING OF THE ROYAL POINCIANA THEATER UNTIL AFTER THE RPAPS IS COMPLETED.
MOTION SECONDED BY MR. BELL.
After comments and discussion,
MOTION FAILED 2-5 AFTER ROLL CALL VOTE, WITH MESSRS. GOLBORO, DOWELL, LAWRENCE, WIDEMAN, GUTTMAN OPPOSED.

Mr. Page updated the Commission regarding site triangles, and stated that Staff will come back at the March Planning & Zoning Commission meeting with a proposal to maintain status quo. Staff has had a policy of trying to address these problematic corners on a case-by-case basis at permit issuance. Staff will recommend the implementation of a 25% improvement standard. If a property owner surpasses that 25% standard, we will recommend anything in that vision site triangle be trimmed for safe traffic passage.

Mr. Lawrence stated that we have to tell the people in the Town whose hedges will get cut down. The preliminary review of this has indicated that there will probably not be a hedge over 30 inches high on the south side of North Lake Way from the Country Club to Mediterranean. Mr. Lawrence stated, "it's not how it is implemented, but what is implemented."

Chairman Guttman stated that he shared Mr. Lawrence's concern about taking action, even on a reduced program, without community input.

Mr. Golboro asked that when staff presents their report next month, they convert the 25 and 50 percent standards to dollar figures. Chairman Guttman felt that should be done, but might be problematic.

Mr. Castro stated that American Consulting Engineers is working on aerial samples, and is outlining what the proposed site triangle would look like in problematic areas and areas that are not problematic, and will bring that back to the Commission in March.

(03:00:52)
MOTION TO ADJOURN BY MR. BELL.
MOTION WAS SECONDED AND PASSED 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

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