DRAFT

PLANNING AND ZONING COMMISSION
2008-2009 ZONING HEARING
RECORD AND REPORT
TUESDAY, FEBRUARY 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)

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

PRESENT:
William M. Guttman, Chairman
Alan S. Golboro, Secretary
Leslie A. Shaw, Member
Walter Anthony Dowell, Member
Eugene Lawrence, Member
Floyd Wideman, Jr., 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

ABSENT:
John H. Schuler, Member (unexcused)
E. James Ryan, Alternate Member (excused)

Let the record reflect that Alternate Member Rose will vote due to Mr. Schuler's absence.

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.

III. PROOF OF PUBLICATION (0:02:14)

Mr. Castro stated that he had proof of publication.

IV. COMMENTS FROM THE PUBLIC (0:02:25)

There were no comments heard from the public.

V. REGULAR AGENDA

A. MINUTES: January 6, 2009 **(0:02:58)**
Approval of the minutes of the Planning & Zoning Commission Meeting

MOTION BY MR. WIDEMAN TO APPROVE THE JANUARY 6, 2009, RECORD AND REPORT.
MOTION SECONDED BY MR. DOWELL.
MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

B. 2008-2009 Study Item

1. Study item proposing an increase in the off-street parking requirements for larger single-family homes in all residential zoning districts. [Town Planning Staff] **(0:03:38)**

Paul Castro, Zoning Administrator, provided an overview of the study item to the Commission and stated that a recommendation came from The Ordinances, Rules and Standards Committee (ORS) and the Town Council that would require more parking spaces in the estate district, based upon the home size. Mr. Castro added that there are a lot of functions and parties in that area and not sufficient parking available. This proposal would require more parking spaces based upon the size of the home. Mr. Castro added that there would be no need for a waiver. After a brief discussion, the following motion was made:

MOTION BY MR. WIDEMAN TO APPROVE STAFF'S RECOMMENDATION.
MOTION SECONDED BY MR. SHAW.
MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

2. Consideration of the Town's response to the Objections, Recommendations and Comments (ORC) Report from the Florida Department of Community Affairs on the Evaluation and Appraisal Report (EAR)- based amendments to the Town's Comprehensive Plan. [Town Planning Staff] **(0:10:20)**

John Lindgren, Planning Administrator, stated that last month staff provided the Commission with the Objections, Recommendations, Comments Report (ORC) and since then, staff has worked with the Town's consultant to form a response to the ORC report. This proposed response was previously provided to the Commission.
Chairman Guttman stated that he had some drafting comments that he would

provide and commented that staff needs to address the underlying data and analysis that is in the Comprehensive Plan that is out of date and added that he would like to see this process should begin this summer. Comments were heard from the Commission and after a brief discussion, the following motion was made:

MOTION BY MR. GOLBORO TO RECOMMEND APPROVAL TO TOWN COUNCIL THE RESPONSE PREPARED BY STAFF TO THE OBJECTIONS, RECOMMENDATIONS AND COMMENTS (ORC) REPORT FROM THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS ON THE EVALUATION AND APPRAISAL REPORT (EAR)-BASED AMENDMENTS TO THE TOWN'S COMPREHENSIVE PLAN.
MOTION SECONDED BY MR. WIDEMAN.
MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

C. Old Business

1. Study Item 4. Modify Ocean Vista Requirement in the Beach Area Zoning District Relating to State Law. [CG&A] **(00:21:58:0)**

Skip Randolph, Town Attorney, stated that he previously presented the Commission with a memorandum regarding the history of the Ocean Vista Ordinance, along with minutes and the prior recommendations of the Planning & Zoning Commission. Mr. Randolph stated that he has provided two alternative ordinances. Alternative A is an ordinance that does away with an ocean vista equal to 50% of the width of the property and provides, as the Planning & Zoning Commission suggested at their last meeting, to have one height across the whole property of 42 inches. The second ordinance, Alternative B, provides that for 50% of the property there will be a four-foot rule and for 50% of the property there would be a 30-inch rule, that has existed over the years and which would be applied prospectively.

Mr. Castro described the photographs that were provided to the Commission demonstrating the various vegetation heights using foam boards.

Editorial changes were provided by Mr. Guttman.

Mr. Castro briefly stated staff's position on the vista ordinance and added that staff believes it can regulate hedges below 42 inches. Mr. Castro stated that what staff was attempting to do in the original proposal and in the Alternative B proposal, was to require when a new cabana is built, or when something is planted or built, then a vista should be created if permitted by the State. The State issues field permits to private property owners and municipalities to do that work.

Mr. Lawrence stated that the State does issue a field permit in writing which is posted on the job. These field permits are not recorded in the municipality.

Mr. Randolph read paragraph C1 on page 5 and stated that Alternative 1 provides less of a conflict between the Town and the State. Alternative 2 includes language that means in the event of a conflict, State law will prevail.

Mr. Guttman suggested that Mr. Randolph contact the Department of Environmental Protection (DEP) for their written opinion.

Mr. Shaw stated that he would like to formulate a motion to accept Alternative B because it has some history in the Town and some purpose, but, his apprehension is with the six-foot issue.

Mr. Randolph stated that creating windows in Seagrapes is not in conflict with state guidelines and that is something that can be looked at and resolved with a tweak to the ordinance.

MOTION BY MR. SHAW TO APPROVE VERSION B, AS PRESENTED, WITH THE UNDERSTANDING THAT MR. RANDOLPH WILL LOOK INTO BOTH ALLOWING WINDOWS TO BE CUT INTO THE HEDGES TO CREATE THE VISTA, AS REQUIRED; AND, ALSO READDRESS THE ISSUE OF THE HEIGHT OF TREES.
The motion died for lack of a second. After a brief discussion, an alternate motion was made:

MOTION BY MR. WIDEMAN TO ACCEPT PLAN B.
MOTION SECONDED BY MR. DOWELL.
MOTION CARRIED 6-1 WITH MR. SHAW DISSENTING.

2. Study Item 15. (a) Zoning Amendment Application to Modify the Off-Street Parking Requirement for Retail Uses in the C-PC Zoning District. [CG&A]

(b) Modify the Parking Requirement for Retail Uses in all Commercial Zoning districts as proposed by the Town's consultant and Staff. [CG&A] **(1:23:49:5)**

Paul Castro advised the Commission that he received a request to withdraw the applicant-oriented part of Study Item 15 and staff's recommendation was to withdraw the staff's portion of the Study Item as well.

MOTION BY MR. GOLBORO TO ACCEPT STAFF'S RECOMMENDATION TO WITHDRAW STUDY ITEM 15. MOTION SECONDED BY MR. WIDEMAN. MOTION CARRIED 7-0 AFTER A ROLL CALL VOTE.

Mr. Randolph clarified for the Commission that since this matter has now been withdrawn by the applicant, it will not be presented for interpretation at the next meeting of the Town Council.

3.. Discussion of possible planning study items to be initiated by the Commission. [Town Planning Staff] **(1:25:54:7)**

Chairman Guttman requested the Commission provide additions, deletions or modifications to the list of proposed planning projects.

Mr. Shaw stated that he did not feel there was a need for so many consultants and expressed his desire for the Commission to add the study of the "town-serving requirement" to the list of planning items to be studied. It was suggested by Chairman Guttman that as a business owner affected by this requirement, Mr. Shaw should recuse himself concerning this issue.

Mr. John Page, Director of the Planning, Zoning & Building Department suggested that the Commission allow staff to compile some preliminary data and statistics for consideration by the Commission, without the use of an outside consultant at this time.

Chairman Guttman stated that he felt this should be placed on the list of proposed planning items that goes to the Town Council for authorization and suggested it be handled in two phases. Mr. Guttman suggested staff provide the research, as described, and added there needs to be an opportunity for community input.

Mr. Castro stated that this issue will be one of the items on the list coming to the Commission in April. Discussion continued.

Mr. Golboro stated that FPL has hardened the electrical supply to the south end of Palm Beach but has not hardened the supply to the north end. Mr. Golboro suggested that this issue also be studied further.

Anita Seltzer, a resident of 44 Cocoanut Row, requested that the record show that only people are in the audience. Four of them are residents of the Town and three of them are Council members. Ms. Seltzer asked what the Town policy was on advertising these meetings.

Mr. Castro stated that there was some problem in getting the agenda on the website but that the meetings are noticed legally and the agenda is usually posted on the website.

Ms. Seltzer stated that a memo dated February 3 was not available upon a resident request the day before this meeting.

Mr. Golboro apologized to Ms. Seltzer and stated that this memorandum was sent to the Commission as a reminder of the information the Commission needed for today's meeting.

Mr. Page clarified that staff routinely posts the agenda to the website and will continue to do that.

Mr. Shaw commented that the website is not easily navigated and suggested some improvements to make it more user friendly. Mr. Shaw asked when the Town changed consultants and suggested that when issues of historical importance are considered, the Town bring back Mr. Brisson as the Town's consultant since he has the level of knowledge needed.

Mr. Page stated that Mr. Brisson served as a consultant to the Town and that the Town was satisfied with his service, but, he was no longer able to provide the services needed. Due to Mr. Brisson's slim staffing and remote location, the Town opted to transition to a new consultant.

Chairman Guttman suggested that should the Town decide to make a change in outside consultants, the Planning & Zoning Commission should play a role in the vetting process.

Mr. Randolph advised the Commission that the ultimate decision regarding hiring will be made by Town Council. Discussion continued regarding the various ways for the Planning & Zoning Commission to be involved in the hiring process and what role the Commission can play.

Mr. Kleid, Town Council President, addressed the comments of the previous speaker alleging that he did not want to study the town-serving study item. Mr. Klein stated that he had no recollection of which way he voted on this item and added that this was a decision of the majority vote of the Town Council.

It was the consensus of the Commission that the study item "Explore land-use and financial incentives to retain and promote town-serving retail businesses", be modified to leave out the term "town-serving" and make "town-serving" a separate study item.

Mr. Golboro suggested that FPL provide the Town with a status report of the hardening of electrical service to the island. Chairman Guttman called for a motion. Mr. Shaw stated that he felt this issue has merit to get a response and should not be a study item. It was suggested that Mr. Page write to FPL and post it on the website. No motion was made.

VI. COMMENTS OF THE PLANNING AND ZONING COMMISSION AND PLANNING, ZONING AND BUILDING DIRECTOR (2:05:35:1)

Mr. Page stated that due to town hall renovations, arrangements have been made to relocate various commission meetings outside of this Council Chambers and into alternative meeting facilities. It has been tentatively determined that the Planning & Zoning Commission will be temporarily relocated to the Preservation Foundation for a period of approximately fifteen month starting in April, 2009 and extending through June, 2010. More information will be provided at the next Planning & Zoning Commission Meeting. Mr. Page reminded the Commission that the Ocean Vista requirement was only one of approximately fifteen different zoning season study items that were eventually approved by the Commission and endorsed or adopted by the Town Council. In all but one instance, the recommendation coming from the Planning & Zoning Commission and staff are one and the same. The conversion of hotels to condominiums was an issue that Council wanted addressed. The recommendation from staff will be different than that of the Commission.

Mr. Castro stated that regarding the Condo-hotel conversion issue, the biggest challenge was the parking aspect and staff felt it was not appropriate for the commercial entities within hotels. It was stated that the list of potential study items would be brought to the Commission in the month of April and Town Council may approve the list in the month of May.

Chairman Guttman expressed a desire to "get going" on the list during the summer months. After further discussion, it was determined that additional study item list ideas may be submitted for the April meeting and added that the March 3 meeting would be devoted to the Testa's application. If time permits, the Commission could then start its town-driven examination of height, population density and lot coverage for an area slightly larger than the area covered in the Testa's application. The Planning & Zoning Commission will continue on additional meeting dates of March 4 and March 17.

Attorney Randolph stated that he was not available for a meeting on March 4.

Chairman Guttman stated that he hoped by the end of the meeting on March 17, there could be a sense of consensus among the Commission and residents. Mr. Guttman asked the Commission to think creatively about how to try to seek a consensus. Mr. Guttman stated that he had arranged for John Page to speak at a Civic Association Forum to get the word out that the Town is seeking input from the residents and added that John Ripley of the Preservation Foundation will probably do something similar with members of the Preservation Foundation.

Mr. Page recapped the March meetings. The Testa's application will be heard on March 3 and that hearing may take the bulk of that day. On March 4 and March 17 the Commission will meet to seek input from residents.

Mr. Castro advised the Commission that the application for Testa's was revised three times. A copy of the application will be provided to the Commission today. Legal notices will be sent to residents within 1000 feet of the property.

VII. ADJOURNMENT **(2:31:30:2)**

MOTION BY MR. SHAW TO ADJOURN.
MOTION SECONDED.
MOTION PASSED UNANIMOUSLY.

Respectfully submitted,

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

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