TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING HELD ON WEDNESDAY, JUNE 15, 2011

I. CALL TO ORDER AND ROLL CALL

The Regular Town Council meeting was called to order on Wednesday, June 15, 2011 at 9:30 a.m. in the Town Council Chambers. On roll call, Mayor Gail Coniglio, Council President Pro Tem Robert Wildrick, Council Member William Diamond, Council Member Richard Kleid, and Council Member Michael Pucillo were found to be present. Council President David Rosow was absent. In the absence of Council President Rosow, Council President Pro Tem Wildrick presided over the meeting.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Owens gave the invocation. Council President Pro Tem Wildrick led the Pledge of Allegiance.

III. COMMENTS OF MAYOR GAIL L. CONIGLIO

Mayor Coniglio invited everyone to the upcoming Planning and Zoning Commission meeting on Tuesday, June 21, 2011 at 9:30 a.m., to discuss the changes in land planning that have been established by the Florida Legislature.

IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Council Member Diamond commented on a letter that the Town Council received from a pet store owner on South County Road regarding code complaints for poodle-shaped topiaries outside his business. The topiaries are attractive and Council Member Diamond asked that we look into whether or not we want to allow these, so that people will have a little more flexibility in attracting business.

V. COMMUNICATIONS FROM CITIZENS

Larry Goldberg, 3360 S. Ocean Blvd, spoke in support of re-opening the discussion regarding the Breakwaters project, commended the work of staff on the budget, spoke in support of lobbying the state and federal governments for shore protection funds and reduced restrictions, and proposed funding projects through general obligation bonds.

Clerk's Note: Item VI. was heard before Item V.

VI. APPROVAL OF AGENDA

The following changes were made to the agenda:

WITHDRAWAL: Item VIII.B.1, Publix Supermarket Request for Waiver of Hours, was withdrawn.

DEFERRAL: Item VIII.C.2.c., Special Exception #14-2011 with Variances, was deferred.

ADDITION: Item IX.A., Approval of Major Matters Considered by the Architectural Commission at its meeting of May 25, 2011, was added.

Motion was made by Council Member Kleid and seconded by Council Member Diamond to approve the Agenda, as amended. On roll call, the motion carried 4-0, with Council President Rosow absent.

VII. ORDINANCES

A. Second Reading

1. ORDINANCE NO. 14-11 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, At Section 134-2 To Create Definitions Of Business Directory Sign and Menu Sign; At Section 134-2435 By Creating A Provision To Permit Business Directory Signs At The Entrances To A Via Or Esplanade; Section 134-2446 By Creating Said Section To Provide A Provision To Allow A Menu Sign At The Entrance Of A Restaurant Or Merchant Retail Take-Out Food Establishment; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing For An Effective Date. [John Page, Director of Planning, Zoning, and Building]

Town Attorney Randolph read Ordinance No. 14-11 by title, as printed above.

Motion was made by Council Member Diamond and seconded by Council Member Kleid to adopt Ordinance No. 14-11. On roll call, the motion carried 4-0, with Council President Rosow absent.

B. First Reading - None

VIII. DEVELOPMENT REVIEWS

Town Clerk Owens administered the oath to all those who would be providing testimony.

A. Appeals – None

B. Time Extensions & Waivers

1. ~~Request for Waiver of Section 42-199, Hours of Construction Work, at 135 Bradley Place (Publix Supermarket) Per Letter Dated May 23, 2011, from Martin C. Gierlach.~~ – *Withdrawn*

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business – None

2. New Business

a. **SITE PLAN REVIEW #8-2011 WITH SPECIAL EXCEPTION AND VARIANCES** The application of 250 RPW LLC (Anthony Cordasco); relative to property commonly known as **250 Royal Palm Way**; described as lengthy legal description on file; located in the C-OPI Zoning District. The applicant is requesting a Site Plan Review to (1) modify the exterior of the existing office building by increasing the height of the parapet; and (2) modify the configuration of the spaces in the existing parking garage which will reduce the total number of parking spaces to accommodate two handicap parking spaces and allow an accessible entry into the building from the parking garage where one currently does not exist. Cornices and architectural features will be added to enhance the façade of the building. Landscaping will be added to the sidewalks on the south and west side of the building. The Special Exception request is to allow the parapet to be increased on the third story. The following variances are requested in conjunction with the proposed renovation: to allow the addition of a parapet onto the roof of a nonconforming building which increases the overall height in the required front, street side yard (west), and side yard (east) setbacks; to allow the overall height to be raised to 48.5 feet at the entry parapet and 45.5 feet at the building parapet in lieu of the 40 foot maximum allowed in the C-OPI Zoning District; to allow the number of parking spaces in the garage to be reduced from 75 spaces to 72 spaces proposed in lieu of the 84 required based on the gross leasable square footage of the building (which remains unchanged); to allow a building identification sign above the roof level of the building which is not allowed by Code. The height of the proposed sign will be 44.3 feet. In addition, to allow a variance for a 2 foot wide in-ground landscape strip along the walkways abutting the north and west facades of the building in lieu of potted plants or removable planters which would be required by Code. [Attorney: Maura

Ziska]

The following ex-parte communications were declared: Council Member Diamond spoke with Attorney Maura Ziska, who advocated the position of her client.

Attorney Ziska, representing the owners of 250 Royal Palm Way, LLC, provided an overview of the applicant's request. Also speaking on this project was Architect Danny Brown, GSP Architects.

Zoning Administrator Castro provided staff's comments, noting that the Fire Marshall is requesting that the applicant demonstrate that they have proper ventilation when they put the skin over the parking garage.

Discussion ensued among the Town Council regarding concerns over the height of the building identification and street address signs, and possible alternatives.

Rick Keitel, owner of Wilmington Trust Building, 240 Royal Palm Way, which is next door, spoke in opposition to this project, stating that his building would be dwarfed by the applicant's building, and that there was no hardship for the applicant.

Motion was made by Council Member Diamond to remand this matter back to ARCOM for re-study and re-recommendation. Motion died for lack of a second.

Motion was made by Council Member Pucillo and seconded by Council Member Kleid that Site Plan Review #8-2011 with Special Exception and Variances be approved based upon the finding that the approval of the site plan would not adversely affect the public interest and that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement has been made concerning Section 134-329, items 1 through 11; that the variances be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been met; that the special exception shall be granted based upon the finding that such grant will not adversely affect the public interest and that the applicable criteria set forth in Section 134-229 of the Town Code has been met; and that these approvals will be subject to staff recommendations and the conditions that the building identification signage will be lowered, the street address signage will be placed along the front column, and the applicant will work with the Fire Department to address their concerns with respect to the ventilation. On roll call, the motion carried 3-1, with Council Member Diamond dissenting and Council President Rosow absent.

b. **SPECIAL EXCEPTION #13-2011 WITH SITE PLAN REVIEW** The application of Karen Egger; relative to property commonly known as **216 Colonial Lane**; described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a Special Exception with Site Plan Review to allow the construction of 2,890 square foot, two-story single family residence on a

non-conforming unplatted lot which is 75 feet in width in lieu of the 100 foot minimum; 82 feet in depth in lieu of the 100 foot minimum required; and 6,150 square feet in area in lieu of the 10,000 square foot minimum required in the R-B Zoning District. [Attorney: Maura Ziska]

The following ex-parte communications were declared: Mayor Coniglio spoke with a neighbor regarding their concerns; Council Member Diamond spoke with Attorney Maura Ziska and Architect Jackie Albarran, who advocated the position of their client; and Council Member Pucillo spoke with Attorney Ziska, who advocated the position of her client.

Attorney Ziska, representing the owners of 216 Colonial Lane, provided an overview of the applicant's request. Architect Jackie Albarran, SKA Architect & Planner, presented the plans. Kyle Abney provided an overview of the project's "green" elements.

Zoning Administrator Castro provided staff's comments. He stated that the Town had received letters of objection from three neighbors: Mr. Harpel, Mr. Chopin, and Ms. Tiffany Schauer. The complaints were in regards to notice and to the height of the project. Mr. Castro stated that proper legal notice had been provided. He stated that this project did not go before the Architectural Commission as it was not a combination project. He noted that pavement and draining plans, as well as plans for the cistern, had not been provided, but that they would need to be provided at the time the building permit is submitted. If this project is approved, it will go before the Architectural Commission, who will address the height of the project as it relates to the neighbors.

Tiffany Schauer, 224 Colonial Lane, spoke in opposition to the project.

Motion was made by Council Member Diamond and seconded by Council Member Kleid that Special Exception #13-2011 with Site Plan Review, shall be granted based upon the finding that such grant will not adversely affect the public interest and that the applicable criteria set forth in Section 134-229 of the Town Code has been met; that the Site Plan be approved based upon the finding that the approval of the Site Plan would not adversely affect the public interest and that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement has been made concerning Section 134-329, items 1 through 11; and that these approvals will be subject to staff recommendations. On roll call, the motion carried 4-0, with Council President Rosow absent.

c. ~~**SPECIAL EXCEPTION #14-2011 WITH VARIANCES** The application of Palm Beach Country Club, Inc.; relative to property commonly known as **760 North Ocean Boulevard**; described as lengthy legal description on file; located in the R-A Zoning District. The applicant is requesting a Special Exception with Site Plan Review modification to demolish the existing caretaker's house on the west side of the Club golf course and build a new~~

~~caretaker's house in the same proximity. The proposed house will be 5,581 square feet. The following variances are being requested: to allow a front yard setback/building height plane setback for the new caretaker's house to be 19.5 feet in lieu of the 49.5 foot minimum required and to allow an angle of vision to be 136.86 degrees in lieu of the 120 degrees maximum allowed. [Attorney: Maura Ziska]~~ - *Deferred to the July 13, 2011 Town Council meeting.*

d. **SPECIAL EXCEPTION #15-2011 WITH VARIANCE** The application of Palm Beach Day Academy, Inc.; relative to property commonly known as **241 Seaview Avenue**; described as lengthy legal description on file; located in the R-B Zoning District. The applicant is requesting a Special Exception approval to modify the interior of the school to remove classrooms that were temporarily constructed in the old auditorium and convert that space back to a complete auditorium with 299 fixed seats. The intent is to relocate theater type performances from the gymnatorium (where they are currently held) to the newly renovated auditorium. The goal would be to have theater-type performances in the new auditorium and athletic events or larger events in the gymnatorium. It is not the intention of the school to have two major events in both facilities at the same time. A variance is requested to provide zero parking spaces in lieu of the 75 additional off-street parking spaces required for the conversion of the old auditorium/classroom area back into an auditorium. [Attorney: Maura Ziska]

The following ex-parte communications were declared: Council Member Diamond met with Attorney Ziska and several representatives of the school, who advocated their position; Council Member Kleid met with the Chairman of the Board, the Head of School, Assistant Head of School, and Attorney Ziska, who advocated their position; Council Member Pucillo met with Attorney Ziska, who advocated the position of her client; and Council President Pro Tem Wildrick met with Attorney Ziska and the applicant, who advocated their position.

Mayor Coniglio met with Attorney Ziska and the Headmistress, who advocated their position. Mayor Coniglio further disclosed that her daughter works at this school. She stated that she has discussed the issue of whether or not she needed to recuse herself with Town Attorney Randolph, who opined that, since her daughter is one of many, this would not inure to her any special benefits. The Council concurred that the Mayor did not need to recuse herself on this item.

Attorney Ziska, representing the owners of 241 Seaview Avenue, provided an overview of the applicant's request.

Zoning Administrator Castro provided staff's comments. The additional assembly use would require that the applicant obtain a parking variance; however, if the current Declaration of Use Agreement was to be revised to state that only one facility at a time can be used for major events, then the need for a parking variance would be mitigated. Mr. Castro also requested that the Council revise its Declaration of Use Agreement to require that the school submit an annual Certificate of Compliance with their business tax receipt renewal.

Carolyn Jaeger, 215 Phipps Plaza, spoke in opposition to this project.

Mr. Castro stated that the applicant should also be aware that there was a Fire Marshall's comment regarding sprinklers; however, it does not need to be a condition of approval.

Motion was made by Council Member Diamond and seconded by Council Member Kleid that Special Exception #15-2011 with Variance shall be granted based upon the finding that such grant will not adversely affect the public interest and that the applicable criteria set forth in Section 134-229 of the Town Code has been met; the variance be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been met; and that these approvals will be subject to staff's recommendations for modification of the current Declaration of Use Agreement to state that only one facility at a time may be used to hold an event that will attract the public, and that the applicant will be required to submit an annual Certificate of Compliance with its business tax receipt renewal. On roll call, the motion carried 4-0, with Council President Rosow absent.

(1) Request for Waiver of Section 42-199, Hours of Construction Work, at 241 Seaview Avenue (Palm Beach Day Academy) Per Letter Dated June 1, 2011, from Maura A. Ziska.

Assistant Director of Planning, Zoning, and Building Veronica Close provided an overview of the request. Ms. Close also provided staff's comments. Staff is requesting that the extended hours be used for interior work only, that no work staging area or other evidence of building activity, other than delivery of materials, shall be conducted outside, that noise levels shall comply with the Code, and that everyone within a 200 ft. radius be notified of the construction.

Motion was made by Council Member Diamond and seconded by Council Member Kleid to approve the Request for Waiver of Section 42-199, Hours of Construction Work, at 241 Seaview Avenue (Palm Beach Day Academy) subject to staff's recommendations that the extended hours be used for interior work only, that no work staging area or other evidence of building activity, other than delivery of materials, be conducted outside, that noise levels shall comply with the Code, and that everyone within a 200 ft. radius be notified of the construction. On roll call, the motion carried 4-0, with Council President Rosow absent.

e. **VARIANCE #9-2011** The application of John Ceriale.; relative to property commonly known as **230 South Ocean Blvd.**; described as Lot 528, Poinciana Park, Second Addition, Plat Book 6, Page 86; located in the R-B Zoning District. Variances requested are: to add onto an existing first floor porch and balcony on the southwest corner of the house. The request is to increase lot coverage 135 square feet, from 28.7 to 29.4 percent in lieu of the 25 percent maximum allowed and to construct an addition to the first floor porch and second floor balcony with a street side yard setback of 20.16 feet in lieu of the 30 foot minimum required. [Attorney: Jose A. Gonzalez]

Ex-parte communication was not declared by any member of the Town Council.

Attorney Jose Gonzalez, Gonzalez Architects, representing the owners of 230 S. Ocean Blvd., provided an overview of the request.

Zoning Administrator Castro provided staff's comments. He clarified that the two variances the applicant will need are a street side yard setback variance for the raised element at the back porch, and a lot coverage variance for the modification to the stairs.

Motion was made by Council Member Diamond and seconded by Council Member Pucillo that Variance #9-2011 be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been met, and that these approvals will be subject to staff's recommendations. On roll call, the motion carried 4-0, with Council President Rosow absent.

f. **VARIANCE #10-2011** The application of M. McDermott, Trustee for the David M. McDermott Revocable Trust u/a/d 1/3/2006; relative to property commonly known as **252 Seaspray Avenue**; described as Lots 409, 413 and 415, POINCIANA PARK 2nd addition, according to the plat thereof recorded in Plat Book 6, Page 86, of the Public Records of Palm Beach County, Florida; located in the R-B Zoning District. The applicant is requesting a Variance to construct a second story addition that would enclose the balcony and would result in a 4.67 foot setback in lieu of the 15 foot minimum setback required in the R-B Zoning District. [Attorney: Maura A. Ziska]

The following ex-parte communications were declared: Council Member Diamond met with Attorney Ziska, who advocated the position of her client.

Attorney Ziska, representing the owners of 252 Seaspray Avenue, provided an overview of the applicant's request. Architect Mark Marsh presented the plans.

Zoning Administrator Castro provided staff's comments.

Motion was made by Council Member Diamond and seconded by Council Member Pucillo that Variance #10-2011 be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been met, and that these approvals will be subject to staff's recommendations. On roll call, the motion carried 4-0, with Council President Rosow absent.

D. Other - None

IX. ANY OTHER MATTERS

A. Approval of Major Matters Considered by the Architectural Commission at its meeting of May 25, 2011. *Consent Agenda item deferred from the June 14, 2011 Town Council meeting.*

Town Attorney Randolph provided an update on the item regarding 445 Antigua Lane, opining that the appeal was not timely filed. He recommended that this item be pulled from the Consent Agenda for the sole purpose of approving the agreement between the property owner and Mr. and Mrs. Guild.

Attorney Timothy Hanlon, representing the property owner, stated that the property owners and the Guilds have reached an agreement, and that they are requesting that the Town Council pull this item from the Consent Agenda for the sole purpose of approving their agreement.

Motion was made by Council Member Diamond and seconded by Council Member Pucillo to pull Item No. B–023–2011 Demolition; Construction of New Residence at 445 Antigua Lane, from the Consent Agenda for the sole purpose of approving the agreement between the property owner and Mr. and Mrs. Guild. On roll call, the motion carried 4-0, with Council President Rosow absent.

Town Attorney Randolph distributed to the Town Council a copy of the proposed agreement between the property owner and the Guilds.

Attorney Hanlon provided a summary of the agreement. The one objection of the Guilds was the hindrance of their view by the proposed guest house. The owners have agreed to move the guesthouse two feet to the north, and to not substantially increase the height of the landscaping as approved by the Architectural Commission.

Motion was made by Council Member Diamond and seconded by Council Member Pucillo to approve the agreement between the property owner and Mr. and Mrs. Guild relating to Item No. B–023–2011 Demolition; Construction of New Residence at 445 Antigua Lane. On roll call, the motion carried 4-0, with Council President Rosow absent.

Motion was made by Council Member Diamond and seconded by Council Member Kleid to ratify the remainder of the items on the Consent Agenda. On roll call, the motion carried 4-0, with Council President Rosow absent.

X. ADJOURNMENT

There being no further business, the June 15, 2011, Town Council Meeting was adjourned at 11:38 a.m.

APPROVED:

Robert N. Wildrick
Town Council President Pro Tem

ATTEST:

Susan A. Owens, MMC
Town Clerk