

TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING HELD ON WEDNESDAY, APRIL 14, 2010

I. CALL TO ORDER AND ROLL CALL

The Regular Town Council Meeting was called to order on Wednesday, April 14, 2010, at 9:35 a.m., in the Emergency Operations Center, 355 South County Road, Palm Beach. On roll call, all of the elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Cunningham gave the invocation. President Rosow led the Pledge of Allegiance.

III. COMMENTS OF MAYOR JACK McDONALD

There were none.

IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

Gucci Space 4-14-10

Council Member Wildrick commented unfavorably regarding the empty window storefronts in Town. However, he added that Gucci did their storefronts well and suggested that it be used as a prototype for the other vacant storefronts. Council Member Wildrick showed photo examples of the Gucci Windows. John Lindgren, Planning Administrator, noted that rather than \$150.00, the cost of Gucci's vacant storefront treatments were between \$500.00 and \$700.00 per window. Council Member Wildrick suggested this be placed as an Agenda item at next month's Town Council Meeting.

V. COMMUNICATIONS FROM CITIZENS- 3 MINUTE LIMIT PLEASE

(Another opportunity for communications from citizens will be offered immediately after the lunch break.)

Jere Zenko, 232 Tangier Avenue, commented on the unattractive, empty Shell service station on Royal Poinciana Way and suggested that a hedge or some type of buffer be placed on the property.

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2 Planning, Zoning and Building Director Page indicated that he was expecting a return call from
3 Attorney Frank Lynch regarding beautification of Testa's property.
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7 **VI. APPROVAL OF AGENDA**

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9 **DEFERRAL** of Special Exception #4-2010, to the May 12, 2010, Town Council Meeting.

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11 **DEFERRAL** of Special Exception #3-2010, to the May 12, 2010, Town Council Meeting.

12 **Motion made by Council Member Diamond, seconded by President Pro Tem Coniglio, to**
13 **approve the Agenda as amended. On roll call, the motion carried unanimously.**
14

15 **VII. PUBLIC HEARINGS**

16 Jane Day - Everglades

17 Town Clerk Cunningham administered the oath to all those who would be providing testimony.
18

19 A. RESOLUTION NO. 38-10 A Resolution of the Town Council of the Town of Palm Beach,
20 Palm Beach County, Florida, Ratifying and Confirming the Determination of the
21 Landmarks Preservation Commission that the Property Known as 347 Worth Avenue Meets
22 the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the
23 Code of Ordinances of the Town of Palm Beach; and Designating Said Property as a Town
24 of Palm Beach Landmark Pursuant to Ordinance 2-84, Also Known as Chapter 54, Article
25 IV of the Code of Ordinances of the Town of Palm Beach.[John S. Page, Director of
26 Planning, Zoning, and Building]

27
28 Historical Consultant Jane Day provided an overview of the designation of the property.

29
30 Town Attorney Randolph read Resolution No. 38-10 by title, as printed above.
31

32 Responding to President Pro Tem Coniglio, Ms. Day agreed that by designating the properties as
33 landmarked the properties would be protected from being demolished and that if any changes
34 were proposed, a review by Landmarks Preservation Commission would be required.

35
36 **Motion made by President Pro Tem Coniglio, seconded by Council Member Diamond, to**
37 **accept the Designation Report of 347 Worth Avenue as a landmarked property. On roll**
38 **call, the motion carried unanimously.**

39
40 **Motion made by President Pro Tem Coniglio, seconded by Council Member Diamond, to**
41 **approve Resolution No. 38-10, designating property at 347 Worth Avenue as a landmark of**
42 **the Town of Palm Beach on the basis that it met criteria 1, 3 and 4 of section 54-161 Town**

1 **of Palm Beach Code, Landmarks Preservation 2-84. On roll call, the motion carried**
2 **unanimously.**

3
4
B. RESOLUTION NO. 39-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Ratifying and Confirming the Determination of the Landmarks Preservation Commission that the Property Known as 350 Worth Avenue Meets the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach; and Designating Said Property as a Town of Palm Beach Landmark Pursuant to Ordinance 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach.[John S. Page, Director of Planning, Zoning, and Building]

5
6 Historical Consultant Day provided an overview of the designation of the property.

7
8 Town Attorney Randolph read Resolution No. 39-10 by title, as printed above.

9
10 **Motion made by Council Member Diamond, seconded by President Pro Tem Coniglio, to**
11 **accept the Designation Report of 350 Worth Avenue as a landmarked property. On roll**
12 **call, the motion carried unanimously.**

13
14 **Motion made by President Pro Tem Coniglio, seconded by Council Member Diamond, to**
15 **approve Resolution No. 39-10, designating property at 350 Worth Avenue as a landmark of**
16 **the Town of Palm Beach on the basis that it met criteria 1, 3 and 4 of section 54-161 Town**
17 **of Palm Beach Code, Landmarks Preservation 2-84. On roll call, the motion carried**
18 **unanimously.**

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C. RESOLUTION NO. 40-10 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Ratifying and Confirming the Determination of the Landmarks Preservation Commission that the Property Known as 405 Cocoanut Row Meets the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach; and Designating Said Property as a Town of Palm Beach Landmark Pursuant to Ordinance 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach.[John S. Page, Director of Planning, Zoning, and Building]

22
23 Historical Consultant Day provided an overview of the designation of the property.

24
25 Town Attorney Randolph read Resolution No. 40-10 by title, as printed above.

26
27 **Motion made by Council Member Diamond, seconded by President Pro Tem Coniglio, to**
28 **accept the Designation Report of 405 Cocoanut Row as a landmarked property. On roll**
29 **call, the motion carried unanimously.**

Motion made by President Pro Tem Coniglio, seconded by Council Member Diamond, to approve Resolution No. 40-10, designating property at 405 Coconut Row as a landmark of the Town of Palm Beach on the basis that it met criteria 1, 3 and 4 of section 54-161 Town of Palm Beach Code, Landmarks Preservation 2-84. On roll call, the motion carried unanimously.

VIII. ORDINANCES

A. Second Reading

None

B. First Reading

1. Royal Poinciana Way Overlay

a. ORDINANCE NO. 1-10 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 (Section I) in the Town of Palm Beach Comprehensive Plan as Last Amended on April 15, 2009, with the Adoption of Ordinance No.6-09, by Adding New Data and Analysis Describing the Royal Poinciana Mixed-use Overlay Area, and Adding Policy 1.5 That Encourages Redevelopment of the Area in a Manner That Is Sustainable, Pedestrian Friendly, and Respectful of the Area's Character, Scale, and Historic Value, and Adding Policy 2.3.8 That Provides General Parameters of Redevelopment Including Uses, Density, Lot Coverage, Parking, and Building Height, Pursuant to Chapter 163, Florida Statutes; Providing for Severability; Repealing All Ordinances or Parts of Ordinances in Conflict Hereof; Providing for Codification; and Providing for an Effective Date. [John S. Page, Director of Planning, Zoning, and Building]

President Pro Tem Coniglio recused herself, as she owns property on the street; she provided form 8b to Town Clerk Cunningham.

Planning, Zoning and Building Director Page provided an overview of the changes in Ordinance Numbers 1-10 and 2-10, which represented the final recommendations from the Planning and Zoning Commission, acting as the Local Planning Agency, to create a Royal Poinciana Way overlay.

Mr. Page responded to questions and comments by the Town Council. Several of the following issues were discussed:

- The reduction in the parking requirement, which was 40% over the existing C-TS requirement, would not be enough if the area was completely built out, per a letter from Attorney Lynch.
- By adopting the Ordinances, Mr. Page indicated that several of the following benefits to the Town were:
 1. Many of existing businesses were legal nonconforming and built prior to the current C-TS zoning regulations and many of them did not have any off street parking.
 2. The proposed regulations were more flexible in comparison to the existing regulations.
 3. The zoning regulations were made optional, whether to develop under today's regulations or the optional regulations.
 4. Improvement or development of property would require variance approval from the Council, and would continue even if there was an adoption of the Ordinances.
 5. The regulations that existed today were not so overwhelming that the property owners would be incentivized to redevelop their properties.

Mr. Kleid read the following statement into the record:

We are faced with a segment of the community who appear opposed to any material change in the Town. Their mantra is that the Town is beautiful as it is and change brings more density, traffic and visits from across the bridge to our paradise. We have witnessed this with respect to the Royal Poinciana Plaza, now with the Royal Poinciana Way overlay and, I suspect, from the e-mails I have received to date will be voiced by opponents of a new expanded Publix. I am all for transparency and debate and procedures.

However, I am fearful that what I perceive as a well organized vocal minority is dictating the evolution or more accurately described non-evolution of Palm Beach. A town that remains stagnant will eventually decay. Please know that I am not an advocate of expansive redevelopment, but surely we can make improvements which fit within the beauty of the Town, but allow revitalization of decaying areas of the Town and enhance our shopping opportunities.

There will also be those who say this town should be run for the residents and not for the business community. However, many in the business community are residents of the Town of Palm Beach.

I believe that a great number of Palm Beachers espouse a vision of revitalization, but are apathetic about taking part in the discussion. In my conversation with several owners in the area, I gleaned that the zoning changes would not encourage

1 them to reinvest in their properties. If the initial thrust of the study was to
2 revitalize a decaying area, these changes do not do that.

3
4 We have spent 3 years studying the Royal Poinciana overlay district. John Page,
5 in his memorandum, chronicles the steps gone through, starting with a public
6 charette, a Master Plan, Review by ARCOM, Landmarks and Planning and
7 Zoning, two 1/2 days with advertised meetings at the Breakers, further
8 modifications by Planning and Zoning, abandonment of the Bonus Provisions and
9 now what I perceive as a greatly watered down approach to allow and/or prompt
10 owners to reinvest in their properties. If the initial thrust of the study was to
11 revitalize a decaying area, these proposed, zoning changes do not, in my opinion,
12 do that. I therefore question whether we should approve these zoning changes and
13 thus a Royal Poinciana Way overlay.

14
15 The following residents were in opposition of Ordinance No's. 1-10 and 2-10:

16
17 *Town Clerk Cunningham administered the oath to Rachel Lorentzen and Allen Wyett who would*
18 *be providing testimony.*

- 19
- 20 • Susan Markin
- 21
- 22 • Rachel Lorentzen
- 23
- 24 • Allen Wyett
- 25
- 26 • Ann Pepper
- 27
- 28 • Anita Seltzer
- 29
- 30 • Bobbie Lindsay Buck
- 31

32 President Rosow commented that he had built a village with stores on the bottom and condos on
33 top and won many awards for its architecture. On Royal Palm Way, there was a variety of very
34 exquisite looking buildings built within the code. He asked staff to study the elimination of the
35 turnaround on Royal Poinciana Way. There could be an additional 40 spaces in that area alone.
36 The existing ordinance will doom the whole area to failure and would not do a thing; there were
37 six units per acre and Testa's was the only one mentioned. He noted that the area was destined
38 not to improve and recovery would come and go and would look the way it looks without filling
39 the stores. The era of mom and pop stores was diminishing. He also addressed that there was
40 only one service station and what income they made was not enough to sustain them.

41
42 **Motion made by Council Member Diamond to reject Ordinance No's. 1-10 and 2-10.**
43 **Council Member Kleid seconded the motion.**
44

Council Member Kleid noted that the reason he did not vote for the Ordinances was that the street would be subject to decay over the years, and should be improved, but the proposed Ordinances did not do anything in respect to that.

Upon roll call, the motion carried 4-0, with President Pro Tem Coniglio recused.

- b. ORDINANCE NO. 2-10 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 134, Zoning, by Amending Article I, Section 134-2, Definitions and Rules of Construction, by Amending the Definition of Story and Creating Definitions for Mixed Use, Mixed Use Area, Publicly Accessible Open Space; Amending Article VII, Overlay Districts by Changing the Article Title to the Royal Poinciana Mixed Use Overlay Area and Creating Overlay Regulations for Permitted and Special Exception Uses, Accessory Structures, Outdoor Seating, a Development Review Process, Minimum Lot Area, Width and Depth Requirements, Density, Setbacks, Height and Overall Height, Lot Coverage, Landscape Open Space and Publicly Accessible Open Space, Off-street Parking and a Performance Monitoring and Sunset Provision in the Following Sections: Section 134-1501 Purpose and Intent; Section 134-1502 Essential Development Concepts, Section 134-1503 Permitted Uses; Section 134-1504 Accessory Uses; Section 134-1505 Special Exception Uses; Section 134-1506 Accessory Structures; Section 134-1507 Special Regulation for Stands, Seated Dining Areas and Open Counters for Eating and Drinking; Section 134-1508 General Review Process; Commercial Uses; Site Plan Approval for New Building, New Building Additions or Change in Permitted Uses over Certain Floor Area; Section 134-1509 Lot, Yard and Area Requirements-generally; Section 134-1510 Parking Standards; Section 134-1511 Performance Monitoring; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.[John S. Page, Director of Planning, Zoning, and Building]

Ordinance No. 2-10 had been denied along with Ordinance No. 1-10 above.

2. ORDINANCE NO. 3-10 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Text of the Infrastructure Element (Section IV) of the Town of Palm Beach Comprehensive Plan as Last Amended on April 15, 2009, with the Adoption of Ordinance 6-09, by Amending Policy 12.3 to Include a 10-year Water Supply Facility Work Plan, Pursuant to Chapter 163.3177(6)(C), Florida Statutes (Water Supply Planning Requirements); Providing for Severability; Repealing All Ordinances or Parts of Ordinances in Conflict Hereof; Providing for Codification; and Providing for an Effective Date. [John S. Page, Director of Planning, Zoning, and Building]

Planning, Zoning and Building Director Page provided an overview of Ordinance No. 3-10.

Planning Administrator John Lindgren indicated that there was a Citizens' Courtesy List for the Comprehensive Plan Amendment, in order that a resident could be notified when the Notice of Intent to adopt the Comp Plan was available. The list was currently available in the meeting.

1 Town Attorney Randolph read Ordinance No. 3-10 by title, as printed above.

2
3 **Motion made by Council Member Diamond, seconded by President Pro Tem Coniglio, to**
4 **approve on first reading Ordinance No. 3-10. On roll call, the motion carried unanimously.**
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9 IX. DEVELOPMENT REVIEWS

10 A. Appeals

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12 None

13 B. Time Extensions & Waivers

- 14 1. Request for Waiver of Section 42-199, Hours of Construction, at 1 Via Mizner (Per Letter
15 Dated March 9, 2010, From Tim Givens).

16
17 **Motion made by Council Member Diamond, seconded by Council Member Kleid, to**
18 **approve the Request for Waiver of Section 42-100, Hours of Construction, at 1 Via Mizner.**
19 **On roll call, the motion carried unanimously.**
20

21 C. Variances, Special Exceptions, and Site Plan Reviews

22 1. Old Business- Less Than 15 Minutes

23
24 None

25 2. New Business- Less Than 15 Minutes

- 26 a. SPECIAL EXCEPTION #4-2010 The application of M. Timothy Hanlon; relative to
27 property commonly known as 710 South Ocean Blvd.; described as lengthy legal
28 description on file; located in the R-A Zoning District. Request for Special Exception
29 approval to permit construction of a 72-foot long tunnel for pedestrian access under South
30 Ocean Blvd. to and from the beach parcel for this landmarked property. The applicant
31 proposes to close one lane of traffic at a time during construction. [Attorney: M. Timothy
32 Hanlon]

33 *Special Exception #4-2010 was deferred to the May 12, 2010, Town Council Meeting.*

- 34 b. VARIANCE #3-2010 The application of Michael and Gayle Kalisman; relative to property
commonly known as 146 Dunbar Road; described as Lot 71 of ADAMS ADDITION,

according to the Plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, recorded in Plat Book 7, Page 68; located in the R-B Zoning District. Request for a Variance to allow construction of a 144 square foot one and two story addition for an elevator and equipment room with: (I) an east side yard setback of 13.66 feet in lieu of the 15-foot minimum required for the two story portion of the addition, and (ii) a cubic content ratio (CCR) of 4.56 in lieu of the 4.4 existing and the 3.9 maximum allowed in the R-B Zoning District. [Attorney: Maura A. Ziska, Esq.][ARCOM Recommendation: Approval of the variance. Carried 7-0.]

Ex-parte communication was declared by:

- Council Member Diamond spoke to Attorney Maura Ziska regarding the application of her client.
- Council Member Kleid spoke to Attorney Ziska, who advocated the position of her client.
- President Rosow spoke to Attorney Ziska, who advocated the position of her client.
- President Pro Tem Coniglio spoke to Attorney Ziska, where she lobbied for her client.

Attorney Ziska, on behalf of Dr. and Mrs. Kalisman, provided an overview of the applicant's request. The adjacent neighbors were in support of the request.

Architect Gene Pandula presented the architectural drawings regarding the request.

Motion made by President Pro Tem Coniglio that Variance # 3-2010 be granted and found, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 had been met. Council Member Wildrick seconded the motion. On roll call, the motion carried unanimously.

3. Old Business- More Than 15 Minutes

None

4. New Business- More Than 15 Minutes

- a. SPECIAL EXCEPTION #3-2010 WITH SITE PLAN REVIEW AND VARIANCE The application of Roy Reeves, Restaurant Operator, relative to property commonly known as 219 Worth Avenue; described as Lots 20, 21, 34 and 35, ROYAL PARK ADDITION, according to the Plat thereof, on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida recorded in Plat Book, Page 1; located in the C-WA Zoning District. Request for Special Exception for a 4,075 square foot upscale American cuisine restaurant which includes site plan review to allow a new entry door and 36 outdoor seats

on the proposed second floor patio within the proposed expansion area. The applicant is requesting umbrellas to cover the outdoor seating. The applicant also proposes to meet all conditions of approval which were granted to the previous restaurant applicant for this tenant space. The variance being requested is to eliminate the four additional off-street parking spaces required for the 74 proposed seats. [Attorney: Maura A. Ziska, Esq.]

Special Exception #3-2010 was deferred to the May 12, 2010, Town Council Meeting.

D. Other

A. Proposed Additional Theme for Vacant Storefront Displays - Norton Museum of Art. [John S. Page, Director of Planning, Zoning, and Building]

Council Member Wildrick requested that this item be on next month's agenda. He asked that the Planning Department provide photographs of vacant store fronts in the Town, and requested that 100% of window coverage be a requirement, the same as the Gucci window covering along with a proposed ordinance.

President Rosow and Town Attorney Randolph briefly left the dais.

Planning Administrator Lindgren provided a PowerPoint presentation to the Town Council. He noted that ARCOM recommended approval of the proposed theme of the displayed artwork, but not the second proposed theme of pictures of the interior and exterior of the Norton Museum.

President Pro Tem Coniglio noted that, in full disclosure, she had spoken to Kipper Lance, Norton Museum of Art, and expressed her concern at the time, as well as that of the ARCOM recommendations, that it would not appear as an advertisement for the Museum. She added that the complimentary byline would need to be consistent with what had already been done, either from the Preservation Foundation or the Historical Society in order to maintain the look without the logo.

Responding to President Pro Tem Coniglio, Mr. Lindgren noted that giving complimentary recognition to the donors was permitted by ARCOM and that it had to be legible, but the size was not addressed. He indicated that it could be added to the Ordinance. Currently, there were no bylines or logos.

President Rosow suggested using a maximum type size for the bylines, in order to be read.

Council Member Wildrick requested that a prototype be available to view before making a decision.

Council Member Kleid indicated that limiting the size of the logo or advertisement as suggested would be fair and that he would like to get this moving as quickly as possible.

1 **Motion made by Council Member Diamond to approve the Architectural Commission's**
2 **recommendations, which would not allow art displays of the interior or exterior of the**
3 **Norton Museum of Art.**

4
5 Mr. Kleid added that identification of the donor be tastefully done and not overwhelm the
6 painting.

7
8 **Maker agreed.**
9

10 Ms. Lance indicated that examples of the two options would be provided: one with the Norton
11 Museum logo and a second one that had compliments of the Museum. She added that either one
12 could be chosen that was tasteful and works within the community.

13
14 **Council Member Kleid seconded the motion.**
15

16 President Pro Tem Coniglio said she was not in favor of the logo, and since the Council would
17 be revisiting the issue, an exact allowable print size could then be identified.

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19 **Upon roll call, the motion carried unanimously.**
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X. ANY OTHER MATTERS

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22 There were none.
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XI. ADJOURNMENT

There being no further business, the April 14, 2010, Town Council Meeting was adjourned at 10:56 a.m.

Gucci Space 4-14-10

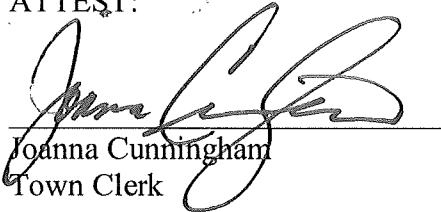
Vacant Store Fronts PowerPoint Presentation 4-14-10

APPROVED:



David A. Rosow
Town Council President

ATTEST:



Joanna Cunningham
Town Clerk