MINUTES OF THE SPECIAL TOWN COUNCIL MEETING REGARDING ZONING HELD ON 3/15/99

I. CALL TO ORDER AND ROLL CALL

President Lesly Smith called the meeting to order at 5:06 p.m. in the Town Council Chambers. Town Clerk Pollitt called the roll, and the following elected Officials were found to be in attendance: Mayor Paul Ilyinsky; President Lesly Smith; President Pro-Tem Allen Wyett; Councilmen Leslie Shaw; Jack McDonald, and Sam McLendon. Also attending the meeting were: Town Manager Robert J. Doney; Town Attorney John Randolph; Director of Planning, Zoning, and Building Robert Moore; Zoning Administrator Paul Castro; Planner/Coordinator Tim Frank; Zoning Consultant William Brisson from Adley, Brisson, Engman, Inc.; and Town Clerk Mary Pollitt.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Pollitt gave the invocation, and President Smith led the Pledge of Allegiance.

III. PROOF OF PUBLICATION

Town Clerk Pollitt affirmed the proof of publication.

IV. APPROVAL OF AGENDA

President Pro-Tem Wyett made a motion to approve the agenda. The motion was seconded by Councilman McDonald and carried unanimously.

V. APPROVAL OF THE MINUTES FOR THE FEBRUARY 15 & 16, 1999, SPECIAL TOWN COUNCIL MEETINGS

President Pro-Tem Wyett made a motion to approve the minutes from the February 15 & 16 Special Town Council meetings. The motion was seconded by Councilman McDonald and carried unanimously.

VI. FIRST READING OF ORDINANCE NO. 1-99, ZONING AMENDMENTS, MODIFICATIONS, AND ADDITIONS

Mr. Randolph read Ordinance No. 1-99 by title.

AN ORDINANCE OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 134, ZONING, OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, BY AMENDING SECTION 134-2, DEFINITIONS AND RULES OF CONSTRUCTION, BY MODIFYING THE DEFINITION OF MODIFYING THE DEFINITIONS OF BUILDING ANGLE OF VISION AND BUILDING HEIGHT PLANE; MODIFYING THE DEFINITION OF CUBIC CONTENT RATIO (CCR); DELETING THE DEFINITION OF FLOOR AREA RATIO (FAR) AND CHANGING ALL REFERENCES TO FLOOR AREA TO REFER TO CUBIC CONTENT RATIO WHERE APPLICABLE; MODIFYING THE DEFINITION OF RESTAURANT; BY CREATING SEC. 134-66 TITLED TOWN COUNCIL, ARCHITECTURAL COMMISSION AND LANDMARK COMMISSION SUPPLEMENTARY APPLICATION REQUIREMENTS, TO PROVIDE A PROVISION FOR THE IDENTIFICATION OF HISTORIC/SPECIMEN TREES ON APPLICATION PLANS; AMEND SEC 134-87, APPLICATION, BY CLARIFYING THAT ALL BUILDING PERMIT APPLICATIONS SHALL HAVE PLANS IDENTIFYING HISTORIC/SPECIMEN TREES AND HOW THEY WILL BE PROTECTED; BY AMENDING SECTION 134-172, HEARING PROCEDURE, BY CLARIFYING THAT SPECIMEN/HISTORIC TREES MUST BE IDENTIFIED ON ALL PLANS FOR SPECIAL EXCEPTION AND VARIANCE APPLICATIONS AND HOW THEY WILL BE PROTECTED; BY AMENDING SECTION 134-229, REQUIREMENTS FOR GRANTING, BY CLARIFYING THAT

SPECIMEN/HISTORIC TREES MUST BE IDENTIFIED AS PART OF ALL SPECIAL EXCEPTION APPLICATIONS; BY AMENDING SECTION 134-327, APPLICATION, BY CLARIFYING THAT SPECIMEN/HISTORIC TREES MUST BE IDENTIFIED AS PART OF ALL SITE PLAN APPLICATIONS; BY AMENDING SECTION 134-755, APPLICATION OF REGULATIONS, BY ADDING A NEW PROVISION LIMITING THE HEIGHT OF BUILDINGS IN RELATION TO FAA REQUIREMENTS; BY AMENDING SECTIONS 134-790, 134-840, 134-890, 134-945, AND 134-1055, SPECIAL EXCEPTION USES, BY ADDING PEDESTRIAN BEACH ACCESS TUNNELS TO THE LIST OF SPECIAL EXCEPTION USES IN THE R-AA, R-A, R-B, R-C AND R-D(2) DISTRICTS; BY AMENDING SECTIONS 134-791, 134-841, 134-891, 134-946, 134-1001, 134-1056, 134-1110, 134-1160, 134-1210, 134-1260, 134-1305, 134-1400 AND 134-1478, ACCESSORY STRUCTURES, BY DELETING AND ADDING MODIFIED REGULATIONS PERTAINING TO DISH ANTENNAS IN THE R-AA, R-A, R-B, R-C, R-D(1), R-D(2), C-TS, C-WA, C-OPI, C-PC, C-B, PUD AND BEACH AREA ZONING DISTRICTS TO PROVIDE FOR THE NUMBER, SIZE AND SCREENING OF DISH ANTENNAS; BY ADDING SECTIONS 134-801, 134-851, 134-902, 134-957, 134-1013, 134-1068, 134-119, 134-1169, 134-1218, 134-1267, 134-1313, 134-1401 AND 134-1479 TITLED AIR CONDITIONING AND GENERATOR EQUIPMENT TO CROSS REFERENCE MODIFIED REGULATIONS PERTAINING TO SAID EQUIPMENT; BY AMENDING SECTION 134-893 LOT, YARD AND AREA REQUIREMENTS-GENERALLY; BY DELETING THE MAXIMUM ALLOWABLE FLOOR AREA RATIO IN THE R-B DISTRICT; BY CHANGING THE CURRENT CUBIC CONTENT RATIO TO A SLIDING SCALE BASED ON LOT SIZE, AND INSTITUTING A MAXIMUM ALLOWABLE CUBIC FOOTAGE IN THE R-B DISTRICT; BY MODIFYING THE REQUIRED FRONT YARD AND SIDE YARD SETBACKS IN THE R-B DISTRICT SO THAT SETBACK REQUIREMENTS APPLY INDIVIDUALLY TO THE FIRST AND SECOND STORIES; BY INCREASING THE MAXIMUM ALLOWABLE LOT COVERAGE FOR ONE-STORY STRUCTURES IN THE R-B DISTRICT; BY ELIMINATING SECTION; BY AMENDING OR CREATING SECTIONS 134-896, 134-952, 134-1013 AND 134-1068, SPECIAL EXCEPTIONS TO HEIGHT LIMITATIONS, BY INCREASING THE ALLOWABLE SIZE OF ARCHITECTURAL TOWERS IN THE R-B DISTRICT AND ALLOWING TOWERS FOR ONE-FAMILY AND TWO-FAMILY HOUSES IN THE R-C, R-D(1) AND R-D(2) ZONING DISTRICTS; BY AMENDING SECTION 134-948, LOT, YARD AND AREA REQUIREMENTS, BY MODIFYING THE MINIMUM FRONT YARD AND STREET YARD SETBACKS FOR TWO-FAMILY AND TOWNHOUSE STRUCTURES IN THE R-C DISTRICT TO REQUIRE 40% OF THE STRUCTURE FACING THE STREET HAVE AN ADDITIONAL 20 FOOT SETBACK WHEN A GARAGE DOOR FACES A STREET AND REQUIRING THAT AT LEAST 25% OF THE FRONTAGE OF A BUILDING ALONG ANY STREET BE SET BACK AT LEAST 10 FEET BEYOND THE MINIMUM SETBACK; REDUCING THE MINIMUM SIDE YARD SETBACK FOR ONE STORY TWO-FAMILY STRUCTURES AND INCREASING THE MINIMUM SIDE YARD SETBACK FOR THE SECOND STORY IN THE R-C DISTRICT FROM TWENTY-FIVE TO TWENTY-THREE AND ONE HALF FET AND THE OVERALL BUILDING HEIGHT FROM 5 FEET FOR A PARAPET ON A FLAT ROOF AND 10 FEET FOR ALL OTHER TYPES OF ROOFS TO 3 FEET AND 8 FEET HEIGHT RESPECTIVELY; BY ELIMINATING THE EXISTING 134-952, SPECIAL EXCEPTION TO HEIGHT REGULATIONS; SPECIAL EXCEPTION STRUCTURE THAT ALLOWS FOR THREE STORY MULTI -FAMILY STRUCTURES IN THE R-C DISTRICT; BY AMENDING SECTION 134-1576, CORNER LOTS, BY REDUCING THE REQUIRED MINIMUM SIDE YARD SETBACK FOR A ONE-STORY GARAGE OF A STRUCTURE LOCATED ON A CORNER LOT AND INCREASING THE SIDE YARD SETBACK FOR THE SECOND STORY OF SUCH STRUCTURE IN THE R-B DISTRICT; BY AMENDING SECTION 134-1636, STREET LOT LINES BY PROHIBITING THE USE OF PUBLIC OR PRIVATE STREETS IN CALCULATING REQUIRED YARDS, BUILDING ANGLE OF VISION AND BUILDING HEIGHT PLANE; BY AMENDING SECTION 134-1699, STRUCTURES AND SIGNS ALONG LAKE TRAIL, BY MODIFYING THE HEIGHT OF ALLOWABLE WALLS AND FENCES TO ALLOW MEASUREMENT OF THE HEIGHT OF CERTAIN WALLS TO BE TAKEN FROM THE HIGHEST GRADE DIRECTLY ADJACENT TO THE WALL OR FENCE; BY AMENDING SECTION 134-1728, AIR CONDITIONING EQUIPMENT, BY ALLOWING ONLY ONE AIR CONDITIONER CONDENSING UNIT, PROVIDED CERTAIN CONDITIONS ARE MET, TO BE PLACED IN THE REQUIRED FRONT YARD, STREET SIDE YARD AND STREET REAR YARD SETBACKS; BY CREATING SECTION 134-1729, GENERATORS AND SWIMMING POOL EQUIPMENT, TO EXCLUDE SUCH EQUIPMENT FROM BEING PLACED IN THE REQUIRED FRONT YARD, STREET SIDE YARD AND STREET REAR YARD SETBACKS BY AMENDING SECTION 134-1965, BUILDING GROUPS, ACCESS, BY INCREASING THE REQUIRED MINIMUM SIDE YARD SETBACK OF THE SECOND STORY OF TOWNHOUSE STRUCTURES IN THE R-C DISTRICT; BY AMENDING SECTION 134-2176, NUMBER OF PARKING SPACES REQUIRED–SCHEDULE, BY REDUCING THE NUMBER OF REQUIRED OFF-STREET PARKING SPACES FOR MULTI-FAMILY DWELLINGS OF FIVE UNITS OR LESS; BY AMENDING SECTION 134-2177, LOCATION OF PARKING SPACES, BY MODIFYING THE ALLOWABLE LOCATION OF PARKING SPACES TO ALLOW BELOW GROUND LEVEL PARKING PERTAINING TO THIS CODE SECTION; PROVIDING FOR A PENALTY FOR A VIOLATION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREOF; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Attorney Frank Chopin addressed the Mayor and Town Council and explained that Architects Jacquie Albarran, Jeff Smith, and Gene Pandula formed a committee for better architecture in the Town, and Attorney Robert Deziel and he were part of that committee. He said the purpose of the committee was to look at the draft of Ordinance 1-99 that came out on January 26th with the view of offering comments to the Town Council from the perspective of its effect on promoting or fostering better architecture in the community. He said the committee had two comments–one that could be dealt with presently and the other one would be addressed at the April 22nd Zoning Commission meeting.

Mr. Chopin said there was a provision in Ordinance 1-99, Section 134.893, Subsection 13, which deals with amendments to the cubic content ratio (page 8 of the draft). He said this amendment keeps the 4.5 ratio for remodeling or renovations where less than 50% of the market value is involved through the year 2002, but for new construction, keeps the 4.5 ratio until May 6, 2000. It then provides a new set of cubic content ratio guidelines which fundamentally brings it down into the area of 3.5 with an exception. He said the committee suggested the Town Council consider allowing architects or owners, during this transition period, to elect to be bound by the new law rather than being required to stick to the old requirements until such time of the expiration of the transition period. He said the committee thought the reduction in the cubic content ratio was a good thing, including the transition period, but it was also good to allow people to be bound by the new rules earlier than the time of the effective date. He said it was a "no lose" proposition because it speeds up the implementation of the anticipated reduction of the cubic content ratios.

Mr. Chopin said the second recommendation that would be referred to the Zoning Commission deals specifically with Sections 843(c), 893(c), and 893(1)(a)(1) which in varying degrees address lots in the R-B zoning district or R-A district and impose greater setback requirements with respect to a number of larger lots. When lots are bigger than the minimums in the R-B or R-A zoning districts, in many cases, the minimum setbacks from the R-AA district are imposed. Mr. Chopin said there was no argument with the greater setback requirement, but it was incomplete, because it hampers good architecture and does not foster good architecture. He gave the example of the Anthony property where the fifteen foot setback resulted in a large building being built that loomed over his client's house on Pendleton.

Mr. Chopin said the result of this ordinance was the creation of a situation where there was a dramatic reduction in height because of the greater setbacks. (He presented a demonstration using three dimensional model buildings showing examples of the height plane as permitted by the ordinance.) Mr. Chopin said although the houses would appear smaller from the street if the ordinance were enacted, it forces the architecture to be limited which impedes the ability of the architect to create a home that has diversity and architectural style. He said a house could be built, theoretically, that was 300 feet long that had a uniform building plane all the way across with no diversification allowed simply because there is no opportunity for that in the existing code. Mr. Chopin said he hoped he had explained that from a mathematical point of view and from the building height plane that going to a higher level does not increase the mass from the perspective of the neighbors or the neighbors in general.

Jeff Smith, Architect, explained the committee was attempting to elevate the building height plane from 22 feet to 25 feet in the R-A district and to 30 feet in the R-AA district to be able to have a sufficient height plane. Mr. Smith gave examples of existing land marked buildings with interesting architectural features that would not be allowed under Ordinance 1-99. Mr. Smith said he was attempting to demonstrate that 22 feet is such a minimal height for properties that contain 20,000 -60,000 sq. ft. that the architect could only max out the design and not be able to play with the roof heights. He said these were subtle differences, and it was very important for the architects to be able to create designs that are not monotonous.

Jacquie Albarran, Architect, pointed out that the architects are very supportive of the cubic content change and the sliding scale, and if anyone wants to make a house higher, the house has to be squeezed into less square feet, or if they go up in one area, they have to go down in another one.

Mr. Wyett said he understood other Councils have put limits on heights because they did not want to see large houses looming over the neighbors' houses. He questioned if Mrs. Albarran was saying the size of the lots are creating problems for good architecture?

Mr. Deziel responded that the committee was proposing for consideration that the increased heights will only apply to lots in excess of 20,000 square feet and the setbacks will increase from the current 15 feet that is required in the R-B district. He recalled that when the beam height was reduced from 25 to 22 feet, the problem was that there were 25 ft. beams on 10,000 square foot lots, and that was a good move at the time to deal with lots below 20,000 square feet. He noted that the setbacks will increase as the height is increased.

Mr. Wyett said he was sympathetic to the fact that zoning should eventually be associated with the size of the lot to unify the Town. He suggested that perhaps the Town should be one zoning area as far as residential zones go and the size of the lot with restrictions would determine what would be allowed on the lot.

Mrs. Smith asked Mr. Chopin if the committee had made the presentation to the Zoning Commission?

Mr. Chopin responded they did not because the committee was not formed until February 27, 1999, the date after the ordinance was drafted. He said it was in the study of that ordinance during the last three weeks that people became aware of the problems related to the regulations.

Mr. McLendon agreed with Mrs. Smith that this should be presented to the Zoning Commission. Mr. McLendon said the line of sight was presented very well in the demonstration; however, the alternate structures that could exist on the site were not presented.

Mr. Chopin said the principle that the committee was attempting to present was that a larger looking structure would not be built by allowing a higher building.

Mr. Shaw questioned if a property met the size requirements of the next zoning district without regard to the

height, would not the setback apply?

Mr. Smith replied affirmatively.

After further demonstrations by Mr. Chopin and Mr. Deziel, Mr. Shaw said, in fairness, that their comments were not being addressed towards the smaller lots.

Mr. Chopin said they were not addressing every possibility because of time constraints, but they did want to make the prima fascia case that this is something that should be looked at.

Mr. Shaw said the passage of Ordinance 1-99 would not take away from the existing conditions; however the committee was actually making an application for next year's zoning before this year's zoning is finished. He said the dialogue, although it has merit, is about two months early.

Mr. Chopin said he has requested that this be considered by the Zoning Commission at their April 22nd meeting.

Mr. Shaw said he thought this was a valid thought but the timing was inappropriate. Mr. Shaw said another underlying issue needs to be addressed and that was he was not convinced that it should be that easy to build R-A and R-AA houses in the R-B district. He said there are districts where things should take place, and he was not sure that it was appropriate for a district that is not intended for the building of massive houses to allow applicants the right by accumulation of property to build what is not designed to be built in that area. He suggested that such massive accumulation of lots in the R-B district should perhaps have limitations that would not allow applicants to build to the maximum.

James Bertles, Vice Chairman of the Zoning Commission, addressed the Mayor and Town Council and said he was prepared to argue against the committee's proposal, but he was pleased to say that, on behalf of the Zoning Commission, he appreciated the committee's ideas, and thought they were good ones. He said he was not prepared to say if the ideas would work or would not work, and there were a lot of issues that the Zoning Commission would like to examine and have staff comments. Mr. Bertles said all members of the Zoning Commission are in favor of increasing diversity and architectural integrity in the R-B district.

Mr. Bertles said he did not think the Zoning Commission would have any problem dealing with the transitional rule which would allow people to elect into the new law if they do not wish to be subject to the current law. He suggested the Town Council pass the committee's request to the Zoning Commission.

Mr. Moore said his department has seen Mr. Chopin's demonstration and thought it has merit to be forwarded to the Zoning Commission. Mr. Moore said the next Zoning Commission meeting will be held April 22nd at 9:30 a.m., and the committee will be included on the agenda if the Town Council directs that.

Mr. Wyett asked Mr. Deziel if he thought the proposed changes would eliminate many of the requests for variances and special exceptions that the Town Council presently hears?

Mr. Deziel responded he thought it would reduce the number.

Mr. Wyett said he was for simplifying the codes to allow applicants to understand them and reduce the number of variances that come to the Town Council. He said the history of every restrictive zoning ordinance that has been adopted has resulted in a greater load for the Town Council.

Mr. Moore said this provision is a liberalization of the zoning requirements and will not create additional variance requests but will tend to reduce them.

Mrs. Smith asked if the Town Council members would like to have additional discussion or send this item to the Zoning Commission on April 22nd?

Mr. McLendon said he would like to follow Mr. Bertles recommendation to send it to the Zoning Commission.

Mrs. Smith said this can be presented to the Zoning Commission on April 22nd.

Mr. Moore clarified that the issue would be part of next year's zoning, because it had not been advertised this year.

Mrs. Smith asked Attorney Randolph if an applicant can elect to be governed by the new zoning rules?

Mr. Randolph responded the ordinance would have to be modified, because there would be inconsistent rules in effect during the period of time before the new rules took effect.

Mrs. Smith asked if the applicant could not apply for a variance during that time?

Mr. Randolph replied that could be done presently.

Mr. Castro recalled a discussion that took place earlier, and one of the issues related to this was that the reason for the sliding scale was an attempt to get the Architectural Commission out of the size issue and placing the

issue on the lot itself. He said this was a two-step process where the zoning ordinance would be changed and also look at the regulations related to the Architectural Commission's guidelines. If the sliding scale were allowed as opposed to the 4.5 ration, the Architectural Commission still has the opportunity to consider the volume and the mass of the house related to other properties within 200 feet. He said that has not been changed or studied in relationship to this proposed change in the zoning ordinance. He said he was not sure that using the sliding scale would help the applicant, because the Architectural Commission is still looking at the houses in relationship to the neighborhood.

Mr. Wyett asked if the sliding scale reflected what ARCOM has been allowing in the last few years?

Mr. Brisson responded that the proposed sliding scale is probably more liberal and allows larger structures that what ARCOM has been approving.

Mr. Wyett said he thought the waiting period was self-defeating and not helping anyone.

Mrs. Smith asked Mr. Chopin if this argument could not be made before the Zoning Commission even if the ordinance passes so that the Town Council could change the ordinance in the next few months?

Mr. Chopin responded that since the changes would not be advertised, the Council and the Zoning Commission can only deal with issues during certain months of the year, that probably could not happen. Mr. Chopin added that the Town would not have the legal authority to apply an ordinance before its effective date unless the Town did something to allow that to happen sooner.

Mr. Shaw said he did not understand what Mr. Chopin was saying. He said the ordinance now states the maximum CCR is 4.5. The proposal on the table states if the lot is 4,000 square feet, the CCR can be 4.6, but if the lot is over 5,000 square feet, the numbers will be reduced. He said there is nothing in the ordinance that states the applicant cannot build a smaller house today.

Mr. Chopin said the point is that the ordinances are not identical, but there is nothing that states an applicant cannot come in with a smaller house.

Mr. Shaw said the discussion was about the extras that the applicant can get.

Mr. Chopin noted that this ordinance sends a message to ARCOM that the Town Council is going in a certain direction.

Mr. Shaw said if applicants want to proceed and use the new rules which exclude the towers, the terraces, and the patios, then they should stay with the old rules (4.5 CCR), and they will be fine. Mr. Shaw said the applicants do not have a choice of staying with an FAR or not, the FAR's are gone when the new ordinance is adopted. He said the applicants will either build to a CCR on one set of rules or one that comes in the future.

Mr. Chopin said it seemed to him that if someone goes to ARCOM and adopts the cubic content ratio contained in the ordinance, he would argue before ARCOM that if ARCOM were becoming unduly restrictive, that the issue had already been looked at by the Town. He added that ARCOM's attitude towards size is a message that comes through from the phasing in of the CCR.

Mr. Moore said if the option is used, then there has to be some assurance if the applicants select the sliding scale, the smaller CCR with a bonus of 5%, that when they appear before the Architectural Commission, the Architectural Commission will be concerned only with mass and how it is placed on the property and the architectural features of the house. Currently, ARCOM is concerned with cubic content and square footage. If someone declares that they want to use the new provision and comes to ARCOM, he questioned what methodology would staff use to address the issue of ARCOM not having the ability to address the comparison of houses within 200 feet for the cubic content and square footage?

Mr. Randolph replied the Architectural Commission ordinance would have to be changed. He said the problem, as he saw it, was the conflict that exists between the Architectural Commission and an applicant. Mr. Randolph said it makes it a little bit more complicated to administer, because when a zoning regulation is passed, that zoning regulation is usually consistently applied within the zoning district, so there is not one lot applying a 4.5 rule and another lot in the next zoning district applying an entirely different set of rules. He said his concern was with the even application of the zoning ordinance within an entire zoning district once applicants can pick and choose which regulations they want to apply.

Mr. Moore said, if that were the case, then it was clear the one and three year extensions should be dropped and change the Architectural Commission ordinance, or just leave it alone as it is right now and not make it optional.

Mrs. Smith said this was the very first time she had heard of this proposal.

Mr. Chopin said it would probably be unfair to drop the transition rule because of all of the work that is in progress. He said he did not mean to create a controversy.

Mrs. Smith said her thought was that she would need some time to consider the proposal and would not be prepared to take action on Mr. Chopin's proposal. She said she would like to hear what the Zoning Commission

had to say, because they seemed to adopt the idea of a transition period as a good idea.

David Barton, a resident of Jamaica Lane, addressed the Town Council and said the first reading of Ordinance 1-99 has been supported by all of the comments made at the meeting. He said Ordinance 1-99 should be deferred, and he requested reconsideration based on the following: "Last month by a shaky 3-2 vote, Town Council added another nail in the coffin of the once quiet north end....It approved a more liberal, as it was just confirmed, and confusing, as has been confirmed, R-B zoning change and did this without recognizing this legislation was not in context with the Town's long range plan without recognizing the Town has not thought through the ultimate impact of this legislation, nor did the staff or the three Council voters who note that this zoning change was not in context with neighborhood differences....really not in context with anything Town-serving. Merely, it was passed, this confusing legislation, to give a green light to pacify developers, to give them encouragement to overbuild every small piece of residential property they can get their hands on.

"The Council then added another nail in the coffin to the north end homeowners by neutering ARCOM. Again, you just heard. Included in this legislation was a serious new limitation of ARCOM control. In effect, it said ARCOM could no longer freely interpret Town ordinance, Section 5.387 to provide flexibility in zoning that for years has served this Town well. Why, now, change ARCOM's role which has been the only deterrent over building?

"Finally, this short-sighted, developer-friendly legislation threw in the sliding scale CCR element which totally confuses most homeowners. From comments,...most think this change will somehow reduce overbuilding on small lots, little realizing that it will do just the opposite. The Town members who voted in favor of this confusing legislation did so saying, 'We have to do something, we've been talking about doing something for a year.' This is a sad commentary for voting in favor of any legislation. The Town staff also favored doing something, with this commentary, the sliding scale is only the first part of a grander scheme, but they failed to indicate what that might be but urged the Council to pass this piece-meal approach anyway saying to trust them, that the rest of their thinking about things like this would one day emerge. This reasoning and rationale should not be the basis of passing legislation that will increase overbuilding and overcrowding on small lots and will ultimately cost millions and millions more in increased property taxes. It will increase density, over-utilization of the entire infra-structure of the Town's facilities and services. It will not discourage demolition or encourage renovation as called for in the Comprehensive Plan and worse it breaks what trust the homeowners might have had or were led to believe that the Zoning Workshops of last November and proposals forthcoming would somehow curtail over building. Councilman Allen Wyett expressed cogent reasons for opposing this liberal work and rigid zoning change. He mentioned the need for flexible zoning provided by 5.387. He sighted the need for more, not less, creativity in the house size, designs, and settings. This past week, during Dr. Gindroz' presentations Councilman Sam McLendon again asked why the concept of sub R-B zoning districts was not also presented to the Town Council for possible alternative consideration? Mr. Moore said this would require Town takings if any reduction of zoning ever occurred. What Mr. Moore didn't add was 'What would it take and how might the Town provide financially for such takings?' Some creative arrangement, possibly a revolving fund, could be created by a public private developer or partnership formed for more responsible re-development or houses on small lots in the north end."

Mr. Barton suggested Palm Beach needs long range planning, and any town needs to know how zoning changes will or will not further long range goals for residential areas. He said this was particular germane to Palm Beach, a nearly saturated town on a barrier island. He added that knee jerk legislation is a disservice to any town, and such short-sighted action is as if the Council wants to end the character of the residential areas of Palm Beach.

Mr. Barton said the first reading of this ordinance should be reconsidered.

Mr. Wyett said he wanted to mention that the Zoning Commission had not recommended the phasing in of proposed changes in the R-B district over a three year period but was the recommendation of Mr. Shaw. He said it was not an advertised item but was listed on page 60 of the minutes as follows: "Mr. Shaw offered to modify the motion to one year for new plans and three years for existing plans having previously suggested that it should be a phased in program."

Mr. Moore said that Mr. Castro had one small change to call to the Council's attention in Ordinance 1-99.

Mr. Castro referred to the bottom of page 10, Section 15, number 7, of the ordinance, and said the Town Council decided at the last meeting not to adopt a change in the side yard setback to step the setbacks for the one and two story portions of the houses in the R-B district. He said that staff is requesting the Town Council to reconsider providing a 12.5 foot side yard setback for the one story portion of the house, and a 15 foot setback for the second story portion of the house which provides greater flexibility in the design of a home and provides the architect additional leeway in terms of placing a house on a lot.

Mr. Moore added that it would give the Architectural Commission flexibility on massing and how the mass of the house is located on the property. Mr. Moore said 12.5 feet is written into the zoning ordinance, but what the Council denied was the 10 ft. recommendation and did not act on the staff recommendation of 12.5 feet.

Mr. Wyett made a motion to adopt a 12.5 / 15 foot profile for the side yard setbacks for one and two story houses. The motion was seconded by Mr. McDonald and carried unanimously.

Mr. Wyett questioned if the Council would want to authorize another advertisement and extend the zoning season

relative to the presentation heard earlier at this meeting?

Mr. Moore responded there was a problem with that and it was the Council has run out of time. April 22nd is the last date for the Zoning Commission hearing, and the ordinance calls for all zoning changes to take place during the months of November through April. He pointed out that Mr. Chopin's report should have been made earlier to the Zoning Commission or to the Town Council; however, Mr. Chopin's committee did not form in time to do that.

Mrs. Smith suggested this could be an agenda item for a Town Council meeting, because she was sure the Zoning Commission would like to discuss that issue.

Mr. Shaw made a motion to approve Ordinance No. 1-99 as read by Mr. Randolph and amended by the previous motion. The motion was seconded by Mr. Wyett and carried unanimously.

Mr. McLendon said he would like to request that Mr. Brisson look into a Master Plan as mentioned by Mr. Barton.

Mrs. Smith said she took exception to Mr. Barton's remarks especially those regarding long range planning which the Town has been doing since it was founded and the capital improvement plan which extends for ten years.

VII. ANY OTHER ITEMS

There were none.

VIII. ADJOURNMENT

The meeting was adjourned at 6:40 p.m.

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Mary A. Pollitt, Town Clerk