



TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES FROM THE SPECIAL TOWN COUNCIL MEETING: 2004 - 2005 ZONING HEARING HELD ON MONDAY, FEBRUARY 28, 2005

I. CALL TO ORDER AND ROLL CALL

The meeting was called to order by President Pro-Tem Norman Goldblum at 9:30 a.m. in the Town Council chambers. On roll call the following Elected Officials were found to be in attendance:

Mayor Jack McDonald
President Pro-Tem Norman P. Goldblum
Councilman Denis P. Coleman
Councilman Richard M. Kleid
Councilman Allen S. Wyett

President William J. Brooks was absent from the meeting.

Also attending for all or part of the meeting were:

Town Attorney John C. Randolph
Director of Planning, Zoning and Building Robert L. Moore
Assistant Director of Planning, Zoning and Building Veronica Close
Zoning Administrator Paul Castro
Planning Administrator Timothy M. Frank
Zoning Consultant William Brisson
Town Clerk Mary A. Pollitt

II. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Town Clerk Pollitt. The pledge of allegiance was led by President Pro-Tem Goldblum.

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III. APPROVAL OF AGENDA

Councilman Wyett made a motion to approve the agenda as printed. The motion was seconded by Councilman Kleid and carried 4-0 on roll call as President Brooks was absent from the meeting.

IV. PROOF OF PUBLICATION

President Pro-Tem Goldblum verified that Paul Castro received proof of publication.

V. PROCEDURES FOR COMMENTS BY GENERAL PUBLIC

President Pro-Tem Goldblum said that staff would present the Study Items with an opportunity for any member of the general public to speak at the end of the presentation. The Town Council will then deliberate and provide direction to the staff.

VI. 2004 - 2005 ZONING SEASON STAFF REPORT PHASE II AND THE TOWN PLANNING AND ZONING COMMISSION'S RECORD AND REPORT ON THE PHASE II STUDY ITEMS

President Pro-Tem Goldblum announced Item 17, the Royal Poinciana application, was withdrawn by the applicant and required a motion to be withdrawn.

Councilman Wyett made a motion to approve the withdrawal of Study Item 17, the Royal Poinciana application, at the request of the applicant. The motion was seconded by Councilman Kleid and carried 4-0 on roll call as President Brooks was absent from the meeting.

2003 NEW HOME SURVEY - R-B DISTRICT

Zoning Administrator Paul Castro reported that issues related to the R-B zoning district were studied beginning in the late 80's and continuing into the 1990's including the size of homes in the district. He continued that several regulations were adopted over the years including the cubic

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content ration, the angle of vision, a rear yard building height plane, and an average of street set backs at one time.

Mr. Castro said Phase II of the study will be presented at this meeting recalling that Urban Design Studio presented information regarding the massing, sizing, existing conditions, and built out models using the Town Code at the minimum floor elevation for Ridgeview Drive and Jamaica Lane in January. He explained this study will have information from the homes built in 2003 whereas last year's presentation was from the homes built in 2001/2002 using the sliding scale to show the impact and the effects on the neighborhoods.

Mr. Castro presented a power point presentation for the following homes built in 2003 in the R-B district using the sliding scale and noting any variances that were granted by the Town Council:

313 Dunbar Circle
264 Sanford Ave.
395 North Lake Way
250 Kawama Lane
101 Casa Bendita
222 Plantation Road
247 Southland Road
211 Ridgeview Drive
253 Ridgeview Drive
255 Ridgeview Drive
341 Garden Road
220 Mockingbird Trail
227 Angler Avenue
108 Dolphin Road
162 Dolphin Road
162 E. Inlet Drive

Mr. Castro noted that all of the Code requirements, when they are combined, make it difficult for an applicant to achieve the maximum size or built out conditions for any residence.

Bill Brisson, Brisson Planning Solutions regarding the Street by Street Analysis

Bill Brisson, Brisson Planning Solutions, said the Planning & Zoning Commission, the staff, and he have considered various methods in an attempt to insure construction is compatible with existing homes in the R-B Zoning District including the pattern book and the bonus zoning approach. He continued the most successful method to date has been the sliding CCR; however, some still believe the houses being built are out of scale with existing homes in certain areas.

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Mr. Brisson said the latest attempt involved reviewing eight sample streets in the R-B district to determine if a multiple of the averages could be used to retain the character of the community; Mediterranean Road, Queen's Lane, Garden Road, Jamaica Lane, North Lake Way, and North Ocean Boulevard, Ridgeview, and Seaspray Avenue. He explained that the data was subjected to 100%, 105%, or 110% of the average CCR, and after reviewing all of the data, the outcome suggested 110% of the average CCR on the street would probably be an acceptable target as the maximum allowable CCR. He continued this number would allow for some evolution, homes could increase in size over time, and the CCR is lowered over the present allowable CCR for homes with an average CCR of approximately 3.0. He said the homes with larger CCR average would be allowed larger CCR's and gave the example of the 'Sea' streets, and newer homes would be compatible with existing homes.

Mr. Brisson, noting some of the problems with the study, said the Town has some incomplete data which has been utilized to date; however, would need refining to actually set a CCR average. He continued that to avoid any legal controversy regarding data accuracy, the Town could hire a consultant to actually compute the individual CCR's for each and every property.

Mr. Brisson stated, after working with the Town for many years, he did not think there is any way of tweaking the zoning ordinance with all of the techniques already used that will achieve the policy to maintain the existing character and allow some gradual change in the various neighborhoods. He continued that, in his opinion, the only way to do that is to subdivide the R-B district into districts that represent the type of character the Town policy wishes to achieve, and modify the zoning regulations to reflect what exists or what the community wishes to see built in that district.

Mr. Brisson recommended establishing a neighborhood CCR index for the R-B district based on the measurement of 400 linear feet from the edges of the property in either direction along both street faces with a CCR based on 110% of the neighborhood index or 3.0, whichever is the greater, where no one would be required to build at a CCR of less than 3.0. He added the recommended maximum, if the neighborhood average was greater than 4.5, would be 4.5 on any street, and this situation would occur in a few instances. He continued that no variances would be allowed to the CCR and other staff recommendations would be included as follows:

- Existing properties with CCR's of less 4.5 would be considered conforming regarding maximum CCR's and would not be subject to some of the non-conforming provisions particularly the 50% rule;
- Existing properties with CCR's of more than 4.5 would be considered non-conforming;
- All of the CCR bonus provisions, i.e. the 3% awning allowance, would be eliminated;

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- A consultant would calculate the CCR's with costs to be paid for by the applicants;
- The CCR's would be recorded to maintain a continuing data base;
- The consultant would be required to be available for expert witness services in the event of challenges;
- The street by street CCR would sunset after a period of ten years to allow additional review.

Councilman Kleid questioned if the Planning and Zoning Commission intended to eliminate the largest and smallest houses within the 400 linear feet?

Mr. Brisson responded that staff's original recommendation included that provision but the Commission did not eliminate the houses. He added that on a full street by street basis, the elimination does not make a significant difference; however, if fewer properties are involved, the difference would be somewhat greater. He continued that the Planning and Zoning Commission suggested looking at both sides of the street; however, the staff suggested the west side of North Lake Way not be included.

Mayor McDonald questioned Mr. Brisson's recommendation regarding the small zoning districts?

Mr. Brisson replied the smaller zoning district is preferred using the CCR within those districts, either the sliding scale or the street by street method, but other problems are not related directly to the CCR and set backs and certain other regulations as well could improve the situation if the zoning were regulated in small districts.

Responding to Mayor McDonald's question pertaining to eliminating all variance requests, Attorney Randolph replied that is possible if a maximum is set. Mr. Randolph stated the proposed CCR's would have to be based on the best information available with the applicant paying for any consultant's services and bound by the expert's decision.

Councilman Wyett questioned the two car garage requirement at approximately 600 square feet as it related to the lower CCR values.

Mr. Castro responded the staff recommended a 3.5 CCR as the lower floor, and the Planning and Zoning Commission recommendation was 3.0. He added staff recommended a slightly higher CCR to allow for some of the issues such as the garage.

Councilman Wyett said implementation of this 3.0 CCR would decrease property values in the R-B district.

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Mr. Brisson, responding to questions regarding his CCR recommendation, said he thought the CCR should be over 3.0 but not necessarily as high as 3.5. He added he did not recommend implementation of the change this season nor zoning in progress at this time as the implementation strategies need to be established during the summer, and it is too early to enact any legislation allowing the staff to consider the garage issue.

President Pro-Tem Goldblum questioned how the proposed calculations would coincide with the complaints received regarding a large two story home constructed next to a bungalow and how that situation can be eliminated?

Mr. Castro replied that situation cannot be eliminated, because two different situations are in conflict with each other; one is the bungalow constructed in the late 50's or early 60's and the other is the larger new home that provides the owner with a higher marketable home value. He added the problem is to try to balance those two situations, but it is difficult to do so.

Attorney Randolph said the re-districting could be implemented, and if the Council found that a district had a common feature, i.e. one story homes, and the Council wanted to perpetuate that feature within a particular district, then that district could have one story homes. He continued that the current Code makes it difficult to have a policy that would not allow two story homes when it is allowed by zoning. Mr. Randolph said a way to deal with issues of light, air, and view is through set backs and other regulations in effect – lot coverage, etc.

PUBLIC COMMENT:

Lowery Bell, Member of the Zoning Commission, said he voted against the sliding CCR proposals because the issue is complicated and difficult to control; however, the CCR is the best plan and could be reduced by approximately 5% that would cure most of the problems.

Councilman Wyett asked Mr. Bell, who is an architect, if good design could solve some of the problems and was it bad 'streetscape' to have one and two story homes on the same street?

Mr. Bell replied it was not bad to have one and two story homes on the same street, and the architectural design and proper landscaping were the keys to the situations.

Joanna Golino, Secretary of the Planning and Zoning Commission, a registered architect, 245 Seminole Avenue, said she thought the neighborhood index was the correct action to control the sizes of houses as it addresses what is happening with the immediate neighborhood. She continued that the staff's suggestions for the sub-zoning were good ideas; although, many years may be required to study the zoning and tweak it to the point where it is correct for each sub-zoning area. Mrs. Golino stated the neighborhood index should be passed immediately because it would establish a low threshold and allow other innovative zoning

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techniques, i.e. bonus zoning, by setting a low enough threshold to encourage the kind of building the residents would like to see in the north end and other parts of Town while allowing diversity.

Mrs. Golino said the arguments that restricting the size will diminish the property values and families cannot be raised in houses under 3,000 square feet are not false arguments. She said larger houses have a place in Palm Beach such as on the 'Sea' streets, Queen's Lane, along the Ocean, and in the R-A districts or in places where there are presently predominantly large houses; however, smaller houses have always had a place in Palm Beach in park like settings with palm trees and gardens and views of the sky. She continued that the ultimate value of real estate in Palm Beach is not tied into maximizing buildable square footage but in maximizing the beauty, the grace, and the green space inherent to older neighborhoods.

Councilman Kleid asked Mrs. Golino if she thought the CCR indexing is a stop gap measure or the ultimate answer?

Mrs. Golino responded the procedure is an important first step, and if the neighborhood index is 3.0 with a 4.5 maximum, the problem of overbuilding will be helped immediately. She added that if the neighborhood indexing works correctly, the subdividing of the R-B zoning district will not be necessary. She noted the neighborhood index is basically built in and is applicant driven with staff review only when the application is submitted.

Henry McIntosh, 124 Via Bethesda, suggested the cost of the CCR study within 400 feet of an applicant's property be borne by the Town as the Town's building fees are high with sufficient excess every year and questioned if there was a way to differentiate between the application of a speculator or the application of a person who intends to build and live in the home? He suggested a person may be required to live in a newly constructed residence to qualify.

Attorney Randolph said speculators take on a bad connotation; however, when zoning is considered, the use of the land and not the ownership is considered, and the Town has to focus on adopting criteria that will be applicable to everyone as speculators cannot be discriminated against according to the law.

Planning, Zoning & Building Director Robert Moore said 400 ft. is being proposed from either side of the property along both sides of the street primarily involving a total of 9 houses which would not be as expensive as Mrs. Golino's recommendation of a 400 ft. radius which would include many more properties. He noted the information would go into a data bank and the properties would not have to be redone unless improvements were made to increase cubic contents.

Mr. Randolph said if that procedure were adopted, it would compare to the previous

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ARCOM procedure when CCR's were looked at to determine the mass of the houses.

Jere Zenko, 232 Tangier Avenue, said she supported staff and the recommendations of the Planning and Zoning Commission and commented on the number of new constructions that were built by speculators and only three of the new homes that Mr. Castro included in his presentation were constructed by owners who would live in them.

Nancy Murray, member of the Planning and Zoning Commission, said the Commission requested input regarding ownership of the homes with building permits issued in 2003.

Mr. Castro responded sixteen homes were used in his presentation but he was unaware of the relevancy of the type of ownership and that was not distinguished during the information gathering.

Ms. Zenko stated her concerns included determining what property taxes would be on a yearly basis rather than the profit the house would bring after the death of the owner. She added that younger home buyers with families may have trouble affording the \$40,000 tax bill on a \$2 million house in Palm Beach. Ms. Zenko cited other municipalities in the country who have punitive taxes placed on those who buy land for the purpose of development or for the purpose of holding. She suggested until the Town deals with the developer issue, that will ruin the Town, destroy property values and the Palm Beach way of life.

Ms. Zenko mentioned performance zoning is also used in other areas which includes benefits for those property owners who landmark their properties, etc. and suggested if homeowners knew benefits were available for building smaller houses, smaller houses would be built.

Councilman Wyett commented that the Town of Palm Beach was built by speculators in the past, and the zoning regulations should eliminate the bad designs.

David Barton, 216 Jamaica Lane, commented on the maximization study presented by the Town involving Ridgeview Drive. He said every street in the north end could end up like Ridgeview Drive if the current zoning is continued. Mr. Barton questioned if the Town Council would act on anything at this meeting?

President Pro-Tem Goldblum replied the Council would act on the recommendations.

Mr. Barton, noting that a zoning workshop was scheduled for March 9th, said zoning would be discussed in context at that meeting and was not at this meeting. He added that the CCR has been a failure when small lots are involved; Jamaica Lane has been mostly renovated and not rebuilt; and most people do not use garages for cars but for storage purposes. He said the Town Council is causing the overbuilding, not the developers, and the increased lot coverage

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has caused flooding problems according to the engineers heard from after recent flooding.

Assistant P Z & B Director Veronica Close announced the March 9th will be rescheduled as the presenter was unavailable on that date to a future date.

Mr. Barton stated the strategic plan has no land use planning component in it and is deficient for that reason. He requested the Council reconsider how the planning and zoning subjects are dealt with.

Mayor McDonald, addressing Mr. Barton, said the Council's task at this meeting was to deal with the recommendations made by the Zoning Commission, including a recommendation to approve zoning in progress, and the function of the workshop is to discuss issues not dealt with in the recommendations heard at this meeting. He added the Zoning Commission will study items during the next zoning season.

Councilman Coleman asked Mr. Barton what action he would take if he were a Council member?

Mr. Barton responded he would not take any action until it was decided how planning would relate to zoning. He continued that, based on the maximization study alone, zoning in progress should be implemented stopping any new building utilizing different methods: zoning in progress or a permit by permit basis.

Nancy Murray, member of the Planning and Zoning Commission, said the Commission saw staff's presentation of the 13 or 16 houses that were built from the 2003 building permits and the Commission said the CCR does not work based on that study. She continued that she lives in the north end, since 1969, and the Commission concluded with one dissension that the neighborhood CCR was a starting point with bonus zoning, and that recommendation is before the Town Council for consideration at this meeting.

Councilman Kleid made a motion to adopt a policy to establish a neighborhood CCR index for the R-B district; such index to be established by the applicants for subject property by measurements of 400 linear feet from the property along both sides of the street; development shall be allowed up to 110% of the neighborhood index or 3.0, whichever is greater but not to exceed a maximum of 4.5 and not to allow any variances to the neighborhood CCR index and such policy shall be effective for the 2005-2006 zoning season.

Mayor McDonald requested that Councilman Kleid limit that motion to the R-B zoning district?

Councilman Kleid responded that was in his motion.

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The motion was seconded by Councilman Coleman.

Councilman Wyett said that without bonus and incentive systems, that particular recommendation has problems and pointed out that garages must be taken into account, and although the Zoning Commission is headed in the right direction, this recommendation is not a complete set of plans to encourage or guide people to redevelop or improve their property. He requested this recommendation be deferred to allow for consideration of bonus plans, garages, and a more comprehensive approach taken rather than a rush to judgement.

Mr. Castro said the Planning and Zoning Commission and staff made other recommendations and requested Mr. Brisson to review those to possibly include them in the motion that is on the floor.

Mr. Brisson itemized the following recommendations for inclusion in the motion:

- All existing properties with CCR's of less than 4.50 would be conforming with regard to the maximum CCR provision and therefore would not be subject to the 50% rule;
- Those properties with CCR's in excess of 4.50 would be considered non-conforming;
- All of the CCR bonus provisions, i.e. 3% allowance for awnings would be eliminated;
- The Town would hire a consultant to calculate the CCR's on the street segment and the applicant or the property owner would be responsible for the cost of the consultant;
- The Town will record all CCR's calculated by the consultant to include in a data base;
- The consultant would be required to be available for expert witness services in the event of a challenge;
- The neighborhood index would be used only on the west side of North Lake Way and the east side of North Ocean Boulevard.

Councilman Kleid and Councilman Coleman said they would accept those provisions as part of the motion.

On roll call, the motion carried 3-1 with Councilman Wyett casting a negative vote. President Brooks was absent from the meeting.

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Councilman Kleid requested the Town Council to direct the staff to study and report to the Planning and Zoning Commission on incentive bonus zoning for next year and proceed as quickly as possible to subdivide the R-B zoning district.

Councilman Kleid made a motion to move that both the staff study and report back to the Planning and Zoning Commission on incentive bonus zoning and subdividing of the R-B zoning district by next zoning season. The motion was seconded by Councilman Coleman and carried 4-0 on roll call. President Brooks was absent from the meeting.

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Let the record show the meeting was adjourned for a 15 minute break at 11:00 a.m.

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President Pro-Tem Goldblum announced a change in the meeting date from March 9th to March 23rd at 9:30 a.m. to hear the Siemon and Larsen presentation funded by the Civic Association. The meeting will take place in the Town Council chambers.

Mr. Moore requested clarification regarding the issue of studying bonus incentives be for the 2005-2006 zoning season with Zoning in Progress declared for the 2005-2006 zoning season.

Councilman Kleid said the intent was not to have Zoning in Progress but to have it go into effect November 1, 2005.

Robert Wood, former Chairman of the Zoning Commission, clarified that, at the present time, the proposal does not constitute Zoning in Progress but it will go into effect as Zoning in Progress on November 1, 2005.

Councilman Kleid responded that was correct.

Mr. Castro said that at the November Town Council meeting, Zoning in Progress will be declared.

Mr. Wood, referring to Councilman Wyett's remarks regarding loss of property values for houses on streets that have one story bungalows, no two story houses and low CCR's, suggested that between now and November, 2005, the Town should hire several independent appraisers to validate that fact as a good possibility exists the Town would be challenged under the Harris Act for a form of inverse condemnation of land, loss of property values, for specific pieces of property. He

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cautioned that if the Harris Act litigation was successful, and if it becomes a class action suit for various people in the north end, the Town could face bankruptcy.

Mr. Moore replied he would discuss the issue with Attorney Randolph and ample time exists between now and November to determine if appraisals should be done.

Attorney Randolph said an individual needs to show their reasonable investment backed expectations have been inordinately burdened to prevail under the Harris Act. He said if what the Town Council passes, does provide for that, and if an appraiser can show their reasonable investment backed expectations have been inordinately burdened as a result of the Council's actions, then perhaps a property owner could be successful in a Bert Harris action. He continued that it is never his recommendation for the Council to not pass reasonable actions based upon a threat of a Bert Harris action being brought; however, the Council should be aware that when zoning regulations are changed that 'down zones' or affects a property, that the Town could be subject to such a claim. He added that is why the bonus zoning is important to inform someone who may file such a claim that there are bonuses that can be obtained as a result of the applying the neighborhood index to their property. He said the two should go hand in hand.

Councilman Kleid said he thought that was accomplished by directing the staff and bonus zoning would be before the Town Council next year.

Councilman Coleman asked if the legal issues were satisfied?

Attorney Randolph replied 'no', and anytime the Council passed an action as was passed, potentially, anyone may make a claim under the Burt Harris Act. He said Mr. Wood's recommendation was to have information at hand prior to putting any changes in place.

Councilman Wyett reiterated the bonus zoning should be included with any recommendations as one package.

Maia Farrish, Preservation Foundation, said the philosophical issue incorporated with tax relief should be presented to the homeowner, making it possible for people to live in Palm Beach. She said the focus and philosophy going into the conversation should not be how to protect people when they are selling their property, but how to encourage property owners and homeowners to want to stay in Palm Beach and the quality of life.

Councilman Coleman responded the Town has very little to contribute to savings on the tax bills as the County assesses 80% of the bill.

Mrs. Farrish stated she was suggesting a more pro-active philosophy in the debate.

Royal Victor, Via Tortuga, said he urged the Town Council to come down on the side of the

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residents of Palm Beach regarding their primary concern that this is their place of residence.

STUDY ITEM 1B. Study aggregation of lots and its effect on building size/ratio

Mr. Brisson recalled this item was initiated in previous years where the discussion was to aggregate lots in the R-B district, and the problem was identified as not with the size of the lots themselves but with the size of the structures that are allowed on the lots under the existing sliding scale (CCR). He said subsequent analysis of the lots from a different direction, and as typically happens, as the size of the lots increases, the size of the homes increase as well resulting in homes that are considered too massive for the surrounding area.

Mr. Brisson continued that as the lot sizes increase, the cubic content ratio in place, the sliding scale, only is reduced slightly allowing the house to increase size but not as large if the CCR scale did not slide. He said that the Town, previously, enacted provision applying certain of the R-A district lot, yard, and bulk regulations to lots that are R-A size, 20,000 square feet or more, that are located in the R-B district. He added this would appear to be a reasonable lot size beyond which to consider limiting the cubic content, the physical size of the structure, in the R-B district.

Mr. Brisson summarized that 82% of the lots in the R-B district contain less than 20,000 square feet and 90% of the lots have been developed with a cubic content of less than 78,000 cubic feet allowed on a 20,000 square ft. lot. He noted that the Planning & Zoning Commission recommended against setting a maximum cubic content of 78,000 cubic feet for all lots 20,000 square feet and above and recommended subdividing the R-B district. He continued the staff recommendation was to set a maximum cubic content of 78,000 cubic feet for all lots 20,000 square feet and above.

Councilman Kleid made a motion to accept the recommendation of the Planning & Zoning Commission and continue to direct study of the R-B zoning district for subdividing of that district. Motion died for lack of a second.

Councilman Wyett made a motion to deny the recommendation. Motion died for lack of a second.

Councilman Kleid made a motion to confirm the action of the Planning and Zoning Commission to reject the 78,000 cubic feet maximum. Councilman Wyett seconded the motion. On roll call, the motion carried 4-0 President Brooks was absent from the meeting.

Responding to a request from Mr. Castro regarding staff direction, **Councilman Kleid made a motion to direct staff to study and report back to the Planning and Zoning Commission the dividing of the R-B zoning district into subdistricts. The motion was seconded by Councilman Coleman and carried 4-0 on roll call as President Brooks was absent from the meeting.**

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STUDY ITEM #2: Review process for Regulatory Applications

Councilman Wyett made a motion to approve the Planning and Zoning Commission's recommendation to defer this item to a future meeting date to allow staff the opportunity to review the Siemon & Larsen report. The motion was seconded by Councilman Kleid and carried 4 - 0 on roll call as President Brooks was absent from the meeting.

STUDY ITEM 4: Phase II of a maximization study for Ridgeview Drive and Jamaica Lane

Councilman Wyett made a motion to confirm the Planning and Zoning Commission's suggestion taking no action on this item. The motion was seconded by Councilman Kleid and carried 4-0 on roll call as President Brooks was absent from the meeting.

STUDY ITEM #6: Redevelopment of nonconforming structures

A. Codification of the "50% rule" as interpreted by Town Council

Mr. Brisson explained this item related to the voluntary demolition and reconstruction of nonconforming homes and the Town Council directed interpretation of the 50% rule or up to 50% of the cubic content of the structure over the life of the building as opposed to being able to do 50% demolition one year and 50% another year which had been the prior interpretation. He continued that although his original recommendation was to codify this interpretation, that may not be the case presently with the potential of sub-divisions in the R-B district that may change some of the nonconforming numbers.

Responding to Councilman Wyett's question regarding what constitutes 50%, Attorney Randolph replied if the roof were removed and replaced exactly as it was, it would not count as part of the 50%, and it would only count toward the 50% if the style or pitch were changed.

Mr. Castro replied that issue was the second part of this item.

Councilman Wyett said it made sense to separate the issue between residential houses and a multi story building recognizing the fact that apartment buildings do not last forever and become

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obsolete.

Len Rubin, Attorney with Boose, Casey, and Ciklin, 515 North Flagler Drive, West Palm Beach, FL, said he wanted to speak regarding the difference between commercial and residential structures, and specifically those along Royal Palm Way. He recalled that the Brown Brothers Harriman Building utilized the 50% provision to redevelop, and he urged the Town Council to use the older interpretation for the 50% provision for commercial buildings to allow property owners to redevelop the properties as it is beneficial to the Town as a whole.

Councilman Wyett made a motion to include a roof provision allowing changing a roof as part of the non-conforming building without loss of volume provided the roof is the same style, height, and size as the previous roof. The motion was seconded by Councilman Kleid and carried 4-0 on roll call as President Brooks was absent from the meeting.

Councilman Wyett made a motion to instruct the Planning and Zoning Commission to study the differential between individual residential properties and commercial structures (including large apartment buildings, condominiums, and co-ops) regarding the 50% rule.

Attorney Randolph questioned if the zoning regulations within the commercial and multi-family districts should be amended as a study is essentially the same thing. He suggested the Town Council should decide what to do with the Zoning Commission's recommendation before going ahead with the motion that is on the floor. He continued that his interpretation of the Zoning Commission's recommendation was to return to the previous interpretation made by staff and do not interpret the 50% rule as being over the life of the building, and that would accommodate the Council's purposes as it relates to the commercial and multi-family properties.

Mr. Randolph suggested, before another study is undertaken, a determination should be made to approve or disapprove the Zoning Commission's recommendation which was to go back to the rule that the 50% is not over the life of the building, but may be done in separate increments, as has been done in the past.

Councilman Wyett replied doing the renovations in increments makes it a very expensive proposition and cited the Il Ilgano example. He said the Code should separate residences from commercial and large multi-story buildings.

Mr. Randolph commented that provision would favor the commercial and multi-family units in Town versus the single family home owner as far as being able to redevelop their properties.

Mr. Moore said the rebuilding of Il Ilgano example was a building code and easement problem and not a zoning problem. He suggested the recommendation of the Zoning Commission was before the Town Council at this time; although the Zoning Commission could consider the commercial vs. residential issue if the Town Council so directed. He added the attempt is to

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discourage demolition wherever possible and keep renovations and small additions on as an option.

Councilman Wyett made a motion to approve the Zoning Commission's recommendation to not exceed 50% of the existing cubic footage at any one time or during any one renovation; removal could be done in steps. Councilman Kleid seconded the motion. On roll call, the motion carried 4-0 as President Brooks was absent from the meeting.

Councilman Wyett made a motion to submit to the Zoning Commission a study for them to study the separation between private residences and commercial/multi-story condominiums and co-ops. Councilman Kleid seconded the motion. On roll call, the motion carried 4-0 as President Brooks was absent from the meeting.

B. Consistency between the intent section and the current nonconforming provisions.

Mr. Brisson said the recommendation for language in the intent section would relate to how certain nonconformities are currently treated. Upon advice from Attorney Randolph, the Planning and Zoning Commission took no action on this item.

Councilman Wyett made a motion to confirm the action of the Planning and Zoning Commission to take no action thus not inserting any additional language into the Code. The motion was seconded by Councilman Kleid and carried 4-0 on roll call as President Brooks was absent from the meeting.

C. Reconsider the time allowed for completion of voluntary restoration, demolition or reconstruction of a nonconforming structure

Mr. Brisson explained different time periods exist for new or remodel construction between those that were made unusable or unsafe by lack of normal maintenance; the voluntary reconstruction; and the Building Code itself. He said the recommendation was to use the time frames that are presently in the Building Code and apply them in the zoning portion of the Code for voluntary restoration and demolition and reconstruction of the nonconforming structures, i.e. the small projects of less than 3,999 sq. ft. would be given 12 months to complete construction; medium projects between 4,000 and 8,999 sq. ft. would be given 20 months; and large projects of 9,000 sq. ft. or more would be given 27 months. He added these changes would be applied to Sections 134.390 for restoration and 134.419.

Councilman Kleid made a motion to amend Article IV. in accordance with the staff recommendation set forth on page 45 of the Phase II staff report. The motion was seconded by Councilman Wyett and carried 4-0 on roll call as President Brooks was absent from the meeting.

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STUDY ITEM 7: Study a proposal to increase required off-street parking for all type of residential development based on the size or number of bedrooms

Mr. Brisson noted that the Planning and Zoning Commission recommended deferral of this item as they were unable to arrive at a conclusion. Mr. Brisson, after outlining the current provisions for off-street parking, said research has shown that communities seldom require more than three spaces or approximately one space per 750 sq. ft. in excess of 3,750 sq. ft. He added that he had no statistical information that provides specifics for the number of parking spaces required for houses with a large number of bedrooms in the Town of Palm Beach; however, based on the available information, the suggestion was to increase the parking requirement for one family and two family dwellings with the number of spaces based on the size of the dwelling resulting in a slight increase in the parking requirements for units of 6,000 sq. ft. or more as outlined:

Single- and two-family dwellings

Floor area of unit:

<u>Under 3,000 sf</u>	<u>2 per dwelling unit</u>
<u>3,000 to 6,000 sf</u>	<u>3 per dwelling unit</u>
<u>6,001 to 9,000 sf</u>	<u>4 per dwelling unit</u>
<u>Over 9,000 sf</u>	<u>5 per dwelling unit</u>

Townhouses and multi-family dwellings (three units or more):

Units with floor area under 3,000 sf

<u>3 units</u>	<u>8</u>
<u>4 units</u>	<u>11</u>
<u>5 units</u>	<u>13</u>
<u>6 or more units</u>	<u>2.5 per dwelling unit</u>

Units with floor area of 3,000 or more sf

<u>3 units</u>	<u>11</u>
<u>4 units</u>	<u>14</u>
<u>5 units</u>	<u>18</u>
<u>6 or more units</u>	<u>3.5 per dwelling unit</u>

Mr. Castro said the Planning and Zoning Commission primarily discussed the issues surrounding the single family units including the street congestion, narrow streets, and the possible increase of garages on site with the potential for reducing the CCR in the R-B district that would result in loss of habitable space.

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Councilman Coleman questioned if it were unreasonable to require the people who are going to be responsible for the increase in traffic to provide off-street parking?

Mr. Castro replied his concerns were for the multi-family units that would be required to have increased off-street parking, perhaps to the point of not being able to develop the property. He noted that the Planning and Zoning Commission was mainly concerned with single family homeowners, and the Commission may want to provide flexibility in the Code in terms of what a required parking space is and determine how the space is accessed.

President Pro-Tem Goldblum said his recommendation would be to leave the single family units alone and have the Commission review the multi family situations.

Councilman Wyett said he would like to see more green space in the center of Town, less intensive development with parking and green space increases.

Attorney Randolph, responding to Councilman Coleman's question regarding down-sized zoning, said the Council would be allowed to make changes limiting the number of units in a particular zoning district. He added that changing parking requirements allows the applicants to determine the number of units based on the number of parking spaces which is a legitimate means to deal with the intensity in a particular district.

Councilman Wyett made a motion to send to Planning and Zoning Commission a study of how to increase parking in the multi-family units. Councilman Coleman seconded the motion.

Henry McIntosh said if the result of more stringent parking relations is less density, that is not a bad thing.

Attorney Randolph clarified that the motion was the same as the Planning and Zoning Commission's recommendation which was to defer it for further study.

Councilman Wyett said the difference was that his focus was on multi family units, basically in the center of Town, and eliminating the study of single family homes.

On roll call, the motion carried 4-0 as President Brooks was absent from the meeting.

STUDY ITEM 9: Signage in the Public Rights of Way

Planner Tim Frank explained that signage in the Public-Rights-of-Way is placed by the Town, the Department of Transportation, and quasi public signs placed for directional purposes.

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After hearing Mr. Frank's report, **Councilman Wyett made a motion to approve the Planning and Zoning Commission's recommendation to assign the project to staff for further study with the staff reporting to the Planning and Zoning Commission with an action plan. The motion was seconded by Councilman Coleman and carried 4-0 on roll call as President Brooks was absent from the meeting.**

STUDY ITEM 11: Digitization of the official land use and zoning maps

Mr. Castro explained the digitized maps were not prepared presently but are progressing and the plan is to present them to the Council next zoning season for formal adoption.

Councilman Wyett made a motion to approve the deferral of Study Item 11 to the 2005/2006 Zoning Season. The motion was seconded by Councilman Kleid and carried 4-0 on roll call.

STUDY ITEM 16: Miscellaneous study items pertaining to clean-up of code language and modification of previous code changes

- A. This proposed change clarified that both required off-street parking spaces in a garage are required to be provided with at least an eight foot wide free and clear access into each space

Mr. Castro said the staff wanted to make sure both cars fit in a garage without moving a vehicle to remove one, and the proposed language would do that.

Motion made by Councilman Wyett to approve the proposed language change. The motion was seconded by Councilman Coleman and carried 4-0 on roll call as President Brooks was absent from the meeting.

- B. This proposed change clarifies that two story accessory buildings in the R-B zoning district cannot exceed an overall height of 25 feet

Sec. 234-891 Accessory structures

Mr. Castro explained that the Planning and Zoning Commission recommended approval of all the miscellaneous items listed in the staff report.

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Councilman Wyett made a motion to approve the Planning and Zoning Commission's recommendation. The motion was seconded by Councilman Kleid and carried 4-0 on roll call as President Brooks was absent from the meeting.

- C. This proposed change removed language in the R-AA and R-A district sections of the code which incorrectly relate to the R-B district

Mr. Castro said this change would simply remove any incorrect language.

Councilman Kleid made a motion to approve the recommendation to remove the language. The motion was seconded by Councilman Wyett and carried 4-0 on roll call as President Brooks was absent from the meeting.

- D. This proposed change corrects a typographical error resulting in an incorrect reference

Mr. Castro said this change would eliminate the '(1)' in front 134-227 because no such section exists.

Councilman Wyett made a motion to approve the change. The motion was seconded by Councilman Kleid and carried 4-0 on roll call as President Brooks was absent from the meeting.

- E. This proposed change provides language which includes ancillary structures and uses at municipal docks currently not allowable under Sec 134-1697, Structures over Lake Worth. In response to requests of long standing tenants at the Town Docks and to remain competitive with offerings at other upscale local dock operations, the Town is interested in upgrading the Town Docks. In the course of doing the necessary research to secure all permits and approvals, Town staff has discovered that current ancillary structures and uses do not appear allowable under Section 134-1697 even though the Town has operated these municipal facilities at the current location since the early 1940's. Town staff wishes to correct this discrepancy by offering amendments for consideration.

Mr. Castro said this proposal would change some of the language for structures over Lake Worth, uses permitted in the R-B district, and accessory uses to allow the Town to continue operating the municipal facilities at the current locations and to rebuild these facilities over the

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water. He added that any operations would have to be approved by the Town Council as Special Exception Uses.

Councilman Wyett made a motion to approve the language changes. The motion was seconded by Councilman Coleman and carried 4-0 on roll call as President Brooks was absent from the meeting.

VII. OTHER ITEMS

Mr. Castro said another study item will be coming to the Town Council regarding intersection vision and, once the data is assembled, will be presented at another regular meeting before the Zoning Season.

Councilman Coleman suggested the general contractors have the responsibility for all parking on a construction site and urged the Council members to consider that. Mr. Coleman said he would probably come back to the Council with a proposal in the future.

VIII. ADJOURNMENT

The meeting was adjourned at 12:55 p.m.



William J. Brooks, Town Council President



Mary A. Pollitt, Town Clerk