

**MINUTES OF THE TOWN COUNCIL MEETING REGARDING ZONING HELD ON
FEBRUARY 15 & 16, 1999**

I. CALL TO ORDER AND ROLL CALL

President Lesly Smith called the meeting to order at 9:30 a.m. in the Town Council Chambers. Town Clerk Pollitt called the roll, and the following Elected Officials were found to be in attendance: President Lesly Smith; President Pro-Tem Allen Wyett; Councilmen Leslie Shaw; Jack McDonald, and Sam McLendon. Mayor Paul Ilyinsky was absent. Also attending the meeting were: Town Manager Robert Doney; Town Attorney John Randolph; Director of Planning, Zoning & 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. APPROVAL OF AGENDA

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

IV. PROOF OF PUBLICATION

Town Clerk Pollitt affirmed the proof of publication.

VI. 1998-1999 ZONING PROPOSAL STAFF REPORT (ITEMS 1 & 2 AND 4 THROUGH 19) AND THE RECOMMENDATIONS AND REPORT OF THE TOWN ZONING COMMISSION, DATED JANUARY 14, 1999 ON ITEMS 1 & 2 AND 4 THROUGH 19

Mr. Moore announced that Ray Gindroz, a consultant for the Pattern Book concept, will be present at the February 16th meeting to address the Town Council.

Item 1. Study a provision for providing criteria, standards and procedures for designing architecturally significant homes and incentives for their preservation.

Zoning Commission action:

On a vote of 7-0, the Zoning Commission recommends approval of the recommendation of the Town Administration to give no further consideration to the proposal to provide criteria for the designation of architecturally significant homes and incentives for their preservation.

Mr. Brisson introduced the first item and said there have been instances where architecturally significant homes do not meet the criteria for designation as landmarks under the Town's Landmark Preservation Ordinance for their preservation and have been demolished and replaced by new construction. He said that this item was included in the 1997-98 Zoning Season and was deferred due to considerable concern among the Zoning Commissioners and legal counsel relating to criteria for inclusion in the listing of qualified structures and potential conflicts with the Landmarks Commission's role and criteria.

Mr. Brisson said that during the review, there simply seemed to be little logical connection between the relaxation of lot, yard and bulk regulations and the successful encouragement of retaining "architecturally significant structures" when one has purchased such a structure primarily for the land on which it sits so that a home more to the owner's satisfaction can be constructed. Mr. Brisson said he and the staff found some problems

in developing legally supportable criteria for a very subjective subject, i.e., "architectural significance," outside of the criteria of the Landmarks Commission, and the practical consideration that such measures are highly unlikely to be successful in achieving their intended goal, it is suggested that no further consideration be given to this proposal, and the Zoning Commission agreed with that recommendation.

Mr. Shaw moved approval of the recommendation of the Zoning Commission to give no further consideration to this proposal. The motion was seconded by Mr. Wyett and was approved unanimously.

- Item 2. Study the Worth Avenue Design Guidelines for consistency and uniformity in the 100, 200 and 300 blocks of Worth Avenue and consider incorporating into the C-WA district the C-TS zoned areas along Peruvian Avenue and County Road abutting the C-WA district.**

RECOMMENDATIONS

1. Amend the Section IX, subsections C and D of the Worth Avenue Design Guidelines for the Mid-Avenue and West-End Development Areas (200 and 300 blocks) to read as follows:

C. SPECIAL ALLOWANCES

1. Commercial development, redevelopment, restoration or renovation providing an enhanced level of amenities and features in accordance with paragraph "D"
~~following~~; shall be eligible for an increase in maximum building coverage as follows:
 - a. New 2-story buildings: maximum first story building coverage, ~~50%~~ 75%; 2nd story maximum coverage, ~~35%~~ up to 50%.
2. Mixed-use commercial and residential development, redevelopment, restoration or renovation providing commercial uses on the ground floor and residential uses above, and providing an enhanced level of amenities and features in accordance with paragraph "D"; ~~following~~; shall be eligible for an increase in maximum building coverage and allowable residential units as follows:
 - a. Existing buildings:
 - (1) Second story maximum coverage; ~~35% and a maximum of one (1) residence per each fifty (50) feet of frontage on Worth Avenue.~~
 - (a) Commercial use: up to 50%
 - (b) Residential use: up to 50% with a maximum of one (1) residence per each fifty (50) feet of frontage on Worth Avenue
 - (2) Third story maximum coverage, 25% and a maximum one (1) additional residence per each sixty (60) feet of frontage on Worth Avenue; ~~provided, however, that all uses above the first floor shall be residential uses only.~~
 - b. New 2-story buildings: maximum first story building coverage, ~~50%~~ 75%; ~~maximum second story coverage, 35%, and a maximum one (1) residence per each fifty (50) feet of frontage on Worth Avenue.~~
 - (1) Maximum second story coverage:
 - (a) Commercial use: up to 50%
 - (b) Residential use: up to 50% with a maximum of one (1) residence per each fifty (50) feet of frontage on Worth Avenue.
 - c. New 3-story buildings:
 - (1) Maximum first floor building coverage, ~~50%~~ 75%;
 - (2) Maximum second story coverage, ~~35%~~ up to 50% and a maximum one (1) residence per each fifty (50) feet of Worth Avenue frontage;
 - (3) Maximum third story coverage, up to 25% and a maximum one (1) additional residence per each sixty (60) feet of Worth Avenue frontage; ~~provided, however, that all uses above the first floor shall be residential uses only and that the combined density of residential uses on the second and third floors does not exceed two (2) dwelling units per sixty (60) feet of frontage on Worth Avenue.~~

D. CRITERIA FOR APPROVAL OF SPECIAL ALLOWANCES.

New development, or substantial and appropriate redevelopment, restoration or renovation proposals shall be reviewed by

the Landmarks Commission and the Architectural Commission in relation to the appropriate provision of a greatly enhanced level of amenities and features which will significantly benefit the development, the general public, the Avenue and the Town of Palm Beach.

Based on the following list of desirable amenities and features, and a positive determination of the Architectural Commission; a proposed development, redevelopment, restoration or renovation may be approved for a Special Allowance.

- * Public arcades, vias, courtyards, useful open space and interconnection.
- * Private open spaces, patios, terraces, balconies, loggias, etc.
- * Mixed-use development with upper-story residential.
- * Restoration of original facade.
- * Appropriate style change.
- * Varied roof heights, towers, chimneys, etc.
- * Two story and/or three-story structures shall provide a heightened level of architectural amenity and enhancement such as real or simulated balconies, loggias, or step-backs, etc. to ensure that such stories shall have the appearance associated with residential design.
- * Any other significant amenities or features determined to be appropriate for review by the Architectural Commission.

E. LIMITATIONS ON THE USE OF SPECIAL ALLOWANCES

Special Allowance granted for residential uses may not be accumulated or transferred to any other building or site.

ZONING COMMISSION action:

(1) On a vote of 7-0, the Zoning Commission recommended disapproval of the proposal as submitted by the Town Administration to modify the Worth Avenue Design Guidelines for development in the 200 and 300 blocks of Worth Avenue. The Zoning Commission felt that the changes last Zoning Season for the 100 Block of Worth Avenue to emulate the 200 and 300 blocks were sufficient and no other changes were necessary.

1. Modifying the special allowances for the 200 and 300 blocks of Worth Avenue in the Worth Avenue Design Guidelines to incorporate the provisions adopted for the 100 block during the 1997-98 Zoning Season.

Mr. Brisson said the first part of Item 2. for consideration was the proposed modifications to the Worth Avenue Design Guidelines for the East End Development Area (100 block). During the 1997-98 Zoning Season, interest was expressed in (1) treating all areas of Worth Avenue equally and, (2) investigating the appropriateness of including the abutting C-TS zoned area of Peruvian Avenue within the C-WA zoning district. He recalled that last year's changes were specifically aimed at the 100 block of Worth Avenue to allow it to develop and to encourage emulation of a signature type of structure as in the 300 block. He said the purpose of this amendment was to encourage further emulation of this particular type of style in the 200 and 300 blocks because the 300 block is already of that character and the 200 block has its own style.

Mr. Brisson said some guidelines have been developed to allow an increase of coverage on the first and second floors and eliminating the requirement that the second and third floor both be residential. He added that the requirements have been incorporated in the Guidelines that two and three story structures provide a height and level of architectural amenity and enhancement such as balconies, step-backs, or loggias, to ensure that the upper floors have a residential appearance.

Mr. Brisson said that while recognizing the extensive first floor coverage prevailing throughout the 200 and 300 blocks of the Avenue, it is appropriate to allow greater first floor coverage under the Worth Avenue Design Guidelines. However, increases in allowable coverage on upper floors should be more limited to avoid encouraging structures that would be too massive and which could change the prevailing character of these areas. Therefore, the following coverage limitations were suggested for inclusion in the Worth Avenue Design Guidelines for the 200 and 300 blocks of the Avenue: 75% for the first story, up to 50% for the second story, and up to 25% for the third story.

After commenting on the recommendations of the Zoning Commission, Mr. Shaw made a motion to approve the decisions that were made.

Mrs. Smith said she understood that the first part of item 2 was the only part that was being considered and the Zoning Commission recommended disapproval of that part. There were no changes on Item 1.

Mr. Shaw's motion died for lack of a second.

Mr. Wyett said if more development is allowed in the 200 block of Worth Avenue, parking and congestion problems will result.

Mr. Shaw said it was already developed to that level and by bringing it into conformity, it gives the opportunity for the properties to be upgraded and developed within the facade within the design that is presently there.

Mrs. Smith responded that if an applicant wanted to change the use of the second floor to commercial, he or she would have

to come before the Town Council for the granting of a special exception—like Neiman Marcus did. She said she was not in favor of taking away the residential requirement for the 200 and 300 blocks of Worth Avenue.

Mr. Wyett made a motion to accept the recommendation of the Zoning Commission to disapprove the proposal to modify the Worth Avenue Design Guidelines for development in the 200 and 300 blocks of Worth Avenue. The motion was seconded by Mr. McLendon.

Mr. Shaw asked that the motion be split into two parts: 1) to change the coverage; and 2) to eliminate the use of the residential. Mr. Wyett declined to do that.

Mr. Shaw said that the changes proposed by staff on page 4 under 1.c. in the “red” book, with the exception of the residential use, are valid and would bring Worth Avenue into conformity.

On roll call, the motion carried 4/1 with Mr. Shaw casting a negative vote.

Mrs. Smith asked Mr. Shaw what he meant by “conformity with what” because there is no conformity on Worth Avenue.

Mr. Shaw replied that there is none, but to attempt to bring conformity would be better for everyone.

The following is the second part of Item 1:

1. **Consider incorporating into the C-WA district the C-TS zoned areas along Peruvian Avenue and County Road abutting the C-WA district.**

ZONING COMMISSION action:

(2) On a vote of 7-0, the Zoning Commission recommended approval of the recommendation by the Town Administration to retain the existing C-TS zoning designation for the properties along Peruvian Avenue and South County Road rather than rezone these areas to C-WA.

The expressed purpose of the C-WA district is “...to preserve and enhance an area of unique quality and character oriented to pedestrian comparison shopping and providing a wide range of retail and service establishments...”

Mr. Brisson said having revisited the commercially zoned area along Peruvian Avenue it is apparent that this area does not share the same character as that of Worth Avenue proper. Whereas Worth Avenue is pedestrian-oriented with continuous commercial facades punctuated by vias, Peruvian Avenue is more vehicular oriented with off-street parking and physical separations between uses. Peruvian is neither a continuous pedestrian shopping environment, nor does it share the visual continuity of architecture that characterizes Worth Avenue.

Mr. Brisson said that while many of the uses along Peruvian Avenue are compatible with the C-WA district, they are also compatible with the C-TS district. There is a generic compatibility between the uses permitted in both the C-TS and C-WA districts in that both are primarily oriented toward retail and service uses. However, offices are a permitted use on the 2nd floor and allowed by special exception on the ground floor in the C-TS district. Offices are only allowed above the first floor in the C-WA district, and then only by special exception. There is a significant number of offices located along Peruvian Avenue, particularly on the north side of the street.

Mr. Brisson said there appears no necessity to apply the Worth Avenue Design Guidelines in order to encourage compatible redevelopment. The balance of the south side of Peruvian is too disparate in character and too interrupted by parking to be considered as part of the C-WA district.

Mr. Wyett made a motion to approve the recommendation of the Zoning Commission to retain the existing C-TS zoning designation for the properties along Peruvian Avenue and South County Road rather than rezone these areas to C-WA. The motion was seconded by Mr. McDonald. On roll call, the motion carried unanimously.

Item 3 was moved to the February 16, 1999, Town Council meeting at 9:30 a.m. and is the last item on this document.

- Item 4. **Consider a proposal to amend the zoning ordinance to limit the redevelopment potential of any one existing individual residential estate property to not more than ten (10) additional residential dwelling units.**

ZONING COMMISSION action:

On a vote of 7-0, the Zoning Commission recommended approval of the recommendation of the Town Administration not to limit the redevelopment potential of any one existing residential estate property to more than ten (10) additional residential

dwelling units. (Note: The Comprehensive Plan required consideration of this zoning item)

Mr. Brisson said that Item 4 was the result of language incorporated in the Comprehensive Plan that was to be considered and acted upon that would limit the redevelopment potential for any one existing residential estate property to not more than ten additional dwelling units. Mr. Brisson said this would actually affect two properties in the Town, the Palm Beach Country Club and the Everglades Club. Mr. Brisson said although it is unlikely that either the Everglades Club or the Palm Beach Country Club properties will succumb to pressures for redevelopment to residential use any time in the foreseeable future, the singling-out of just these two properties for such a significant reduction in potential redevelopment could have serious implications in light of the Bert Harris Act. Further, both Clubs are now in the process of voluntarily abandoning their development rights.

Mr. Brisson said it was the recommendation of the staff and the Zoning Commission to approve not to limit the redevelopment potential of any one existing residential estate property to more than ten (10) additional residential dwelling units.

Motion made by Mr. Shaw to approve not to limit the redevelopment potential of any one existing residential estate property to more than ten (10) additional residential dwelling units. The motion was seconded by Mr. McLendon and carried unanimously.

Item 5. Study the RD-(1) and RD-(2) Zoning Districts relative to increasing the side yard setback requirements for two-family structures from 12.5 feet to 15 feet or implementing an FAR of 0.60.

ZONING COMMISSION action:

On a vote of 7-0, the Zoning Commission recommended approval of the recommendation of the Town Administration not to increase the side yard setback requirements for two-family structures in the RD-(1) and RD-(2) Districts from 12.5 feet to 15 feet, or implement an FAR of 0.60.

Mr. Brisson said that these regulations are intended to protect the nearby single-family development, and the height limits were intended to be similar to the single-family homes with the same setbacks. He said there were no areas in these districts where two family structures are likely to be built which would have any impact on neighbors who are smaller. The neighboring structures will nearly always be multi-family. Review of the properties in this district uncovered only one vacant 50-foot lot south of Chilian Avenue which is also adjacent to a developed 50-foot single-family lot located in the R-C district. Both of these lots are flanked by multi-family structures.

Mr. Brisson said he could see no basis for changing these setbacks to make them more compatible with the R-B District.

Finally, Mr. Brisson stated there appeared to be no basis for the institution of an FAR of 6.0, or any other FAR for that matter. These districts are intended for multi-family projects and such projects are, by their nature and allowable density, expected to be more massive than structures developed in less dense districts such as the R-B or even the R-C.

Mr. Brisson said he and the staff recommended these changes not be made, and the Zoning Commission agreed.

Mrs. Smith asked Mr. Moore and Mr. Brisson if they thought there would be any possibility that several properties could be combined in these zoning districts for use as a large, multi-family structure?

Mr. Brisson said the request to look at the item was based on increasing the side yard setback for two-family structures—not the multi-family structures. Mr. Brisson clarified that the large, multi-family structures would not be built next to single-family development but next to other large multi-family development.

Mr. Wyett said that was not the intent of the Town Council if he remembered correctly. The Town Council was concerned that the multi-family homes were looming and dense over their neighbors. He said the idea was to have the buildings no closer together than what was allowed in the R-B district, and two multi-family homes should not be that close together. Mr. Wyett said one figure on the first floor and a different figure on the second floor may be the way to go.

Mrs. Smith asked Mr. Klein if this discussion took place during the Zoning Hearings?

Mr. Klein replied the matter was discussed but not necessarily in the same context that it was being discussed by the Town Council.

(Mrs. Smith noted that item number 3, regarding the R-B zoning district will be heard at the meeting scheduled for February 16th.)

Mr. Moore said that the likelihood of two, two-family dwellings being built in the R-D(1) or R-D(2) zoning districts which permits multiple units to be built in one building was almost none, and therefore would have been an unnecessary change to put into the Zoning Ordinance. He said that in the R-C district, that is a different story.

Mrs. Smith asked that a larger zoning map of the Town be made available at the meeting to allow the public to identify the different zoning districts.

Mr. Wyett made a motion to defer item 5 until a map could be made available. The motion was seconded by Mr. McDonald and carried unanimously.

(This item was continued to after the lunch break.)

After discussion, Mr. Wyett made a motion to approve the recommendation of the Zoning Commission to not to increase the side yard setback requirements for two-family structures in the R-D(1) and R-D(2) Districts from 12.5 feet to 15 feet, or implement an FAR of 0.60. The motion was seconded by Mr. Shaw and carried 5-0 on a roll call vote.

Item 6. In the R-C district study instituting a floor area ratio of 0.60 and/or cubic content ratio; reducing the height from 25 feet to 23 feet for all buildings; increase side yard setbacks for one and two-family homes from 10 feet and 12.5 feet respectively to 15 feet.

ZONING COMMISSION action:

(1) On a vote of 7-0, the Zoning Commission recommended approval of the proposal as submitted by the town Administration to amend Section 2.10, Definitions by modifying Definitions (11) and (11.05) to read as follows:

(11) BUILDING, HEIGHT OF, (APPLICABLE TO ALL DISTRICTS EXCEPT THE R-B AND R-C DISTRICTS)

The vertical distance measured from the grade established by the Town for the crown of the public or private street or road at its highest elevation abutting the lot to the bottom of the top chord roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs. For flat roofs the measurement is to the point where the ceiling meets the exterior wall. The grade, as identified above, is defined as the zero datum for a lot.

(11.05) BUILDING, HEIGHT OF, (APPLICABLE ONLY IN THE R-B AND R-C DISTRICTS)

The vertical distance from the top of the floor slab (excluding garage) to the bottom of the top chord roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs. For flat roofs the measurement is to the point where the ceiling meets the exterior wall. (To raise the floor more than the typical eighteen (18) inches above the highest street elevation pursuant to Section 5.18 of the Zoning Code, the building height shall be measured from a point eighteen (18) inches above said street.

In no instance may the height of any portion of a structure exceed twenty-two (22) feet in building height as measured from its finished floor.

Mr. Brisson said that in recent years there has been an increasing trend toward replacing older, smaller single-family and multi-family structures in the R-C district with two-family, two-story construction which maximizes development on the lot(s) involved, often resulting in structures considered to be out-of-scale with the prevailing character of structures in the area.

Mr. Brisson presented picture examples of structures that appeared large for the lot and the neighborhood.

Following are the existing regulations for development in the R-C district.

	Regulation	Single-family	Two-family	Townhouse	Multi-family
Min.	lot size	10,000 sf	13,333 sf	20,000 sf	15,000 sf
Min.	lot width	75'	75'	150'	100'
Min.	lot depth	100'	100'	100'	100'
Density (d.u./acres)		4	6	6 w/site plan rev.	6 w/site plan rev.
Min.	front yard setback	25'	25'	25'	25' or ht. of bldg.
Min.	rear yard setback	15'	15'	15'	30'
Min.	side yard setback	10'	12½'	10'	20' or ht. of bldg.
Max.	bldg. height	2/25'	2/25'	2/25'	2/25'; 3 rd story via Sec. 5.48

MINUTES OF THE TOWN COUNCIL MEETING HELD ON 2/15 & 2/16/1999

Max. overall height	25'+5' for flat roof and +10' for pitched roofs	25'+5' for flat roof and +10' for pitched roofs	25'+5' for flat roof and +10' for pitched roofs	Bldg. ht. +5' for flat roof and +10' for pitched roofs
Max. lot coverage	35%	35%	35%	2-story, 35% 3-story*, 25%
Min. ldscp, open space	35	35	35	35
* by Special Exception under Sec. 5.48				

Mr. Brisson said he and staff toured those portions of the Town zoned R-C to become fully reacquainted with the development patterns and the character of recent redevelopment in these areas. The following map shows all R-C zoned areas in the Town, although those areas most likely to experience significant redevelopment pressures are the areas lying:

1. In the central portion of Town between Brazilian and Peruvian Avenues from South County Road to Lake Trail.
2. North of the Breakers between Park and Atlantic Avenues from Bradley Place to South County Road, and between Main Street and Root Trail from South County Road to Ocean Boulevard.

Mr. Brisson said there has been a trend over the past ten years or so of smaller single-family and multi-family structures in the R-C District being replaced by two-story, two-family structures. This trend is accelerating. Such development has largely taken place in the central part of Town (between Brazilian and Chilian) and in the northern R-C zoned area between Park and Atlantic Avenues.

These R-C zoned areas are characterized by smaller single-family homes and small multi-family structures ranging in cubic content ratio (CCR) from 3.0 to about 4.5 with a few structures exceeding a CCR of 5.0. Larger multi-family structures of two, three and even more stories are scattered throughout the R-C District, but do not set the character for the areas.

In the central part of Town, many of the older homes and multi-family structures were constructed at the existing grade of probably about 3½ to 4 feet above sea level, before the imposition of the 7½-foot base flood elevation. Most of these structures also appear to have been built probably closer to 20 or 22 feet in height, considerably less than the allowable building height of 25 feet,. The recent pattern of building two-story, two-family homes at the base flood elevation of 7½ feet above sea level, maximizing both building height and overall height, in conjunction with maximizing lot coverage and minimizing setbacks, has resulted in structures of much greater overall mass than is typical of the area. When front-loading garages are lined up facing the street the massive appearance is exacerbated.

Similar construction has also occurred in the R-C zoned area between Park and Atlantic Avenues in the part of Town just north of the Breakers. While this area does not have the same problem with the lower existing grade as does the area in the central part of Town, new two-story, two-family structures are still being built to the maximum limits of the lot, yard and bulk regulations, particularly with regard to building height and overall height.

Mr. Brisson said he accompanied Town staff on a tour of the R-C district to identify the development character throughout the district, the consultant visited and viewed 20 two-family projects in the R-C district — 12 in the central part of Town and 8 in the areas north of the Breakers. Of these, development statistics were taken from nine site plans — four in the central part of Town and five in the area north of the Breakers. The following table summarizes the most pertinent development statistics for each.

ADDRESS	YEAR BUILT	LOT SIZE (SF)	COV. (%)	BLDG. HT.	OVERALL HT.	AVG. UNIT SIZE* (SF)	CCR
230/232 Brazilian	1998	16,521	34.9	23' 3"	32'	5,550	7.63
247 Brazilian	1988	18,000	29.0	24' 7½"	31' 7½"	5,202	6.51
235 Chilian	1992	12,500	34.6	20'	26' 6"	4,240	6.78
347/349 Chilian	1995-6	12,500	34.0	25' 8"	34' 6"	3,947	8.15
219 Everglades**	1994	10,913	34.1	25'	33'	3,660	7.88
232/236 Everglades	1997-8	11,918	34	25'	30' 6"	4,036	7.95
242/246 Everglades**	1997	11,918	34	25'	33'	4,163	8.18
247/249 Seminole	1994	11,870	32	21' 8"	30' 6"	3,713	6.78
253/257 Seminole	1998	13,436	30.3	24'	32' 8"	3,735	6.81
* Includes garage and all other space counting towards CCR. ** Although 25% of the structure is built at 25', for simplicity, the CCR has been computed using the predominant height of 23'6"; the actual CCR is marginally greater than shown.							

Data in the table indicates that most structures have been built at or very near the maximum allowable lot coverage of 35%, at heights in excess of 22 feet, and overall heights in excess of 30 feet with just over half being 32 feet or higher.

Mr. Brisson said it appeared that three factors are most influential in creating structures that appear too massive in relation to their

surroundings — coverage, height and an unbroken facade along the frontage (usually the result of front-loading garages).

While any reduction in allowable coverage would automatically result in smaller buildings, it is believed that reduction in the allowable heights and a provision that would ensure that there is variation in the setback of the front facade of the buildings would be most effective in reducing the apparent mass of new two-family structures without necessarily reducing the overall square footage achievable. It is also believed this approach would probably preclude the need to institute a cubic content ratio in the R-C district at this time.

1. Allowable Building Heights

During the tour of the R-C district, it appeared to Mr. Brisson and Town Staff that if the building heights were reduced, it would, in some instances, bring the structure more into conformance with the character of the area. Since the building height and overall height of a structure in the R-B district has been found to be acceptable, it is suggested that the maximum allowable building height in the R-C district be reduced from 25 feet plus 5 feet for a flat roof and 10 feet for a pitched roof to 22 feet plus three feet for a flat roof and eight feet for any other style roof. As can be seen on the following table, when the CCR of the nine two-family projects was recomputed using a maximum building height of 22 feet, the CCR's were usually reduced by more than 6%. In addition, reduction of the overall heights, while not reducing the CCR, would further lessen the mass of the building.

ADDRESS	ORIGINAL BLDG. HT.	ORIGINAL CCR	CCR @ 22'	CHANGE
230/232 Brazilian	23' 3"	7.63	7.36	-3.5%
247 Brazilian	24' 7½"	6.51	6.00	-7.8%
235 Chilian	20'	6.78	NA	NA
347/349 Chilian	25' 8"	8.15	7.08	-13.2%
219 Everglades	23' 6"	7.88	7.38	-6.3%
232/236 Everglades	25'	7.95	7.44	-6.4%
242/246 Everglades	23' 6"	8.18	7.66	-6.4%
247/249 Seminole	21' 8"	6.78	NA	NA
253/257 Seminole	24'	6.81	6.42	-5.7%
NA indicates building height was already 22 feet or less.				

Mr. Brisson said that in addition, it is suggested that height of structures should be measured in the same manner now used in the R-B district. That is, measure the height of a building from 7½ feet above sea level, or from the finished floor elevation if a non-habitable portion such as the garage is built at a lower level. This would reduce the apparent mass of the structure by lowering the height of that portion of a building where the finished first floor of a garage is located at less than 7½ feet above sea level.

1. Unbroken Mass Along Street Fronts

To address the problem of unbroken mass along the front setback, which is usually the result of front-loading garages, it is suggested that where front-loading garages are used, at least 40% of the building facing the street be set back an additional 20 feet beyond the required front yard setback. This provision will not require side loaded garages, but will result in a variation of the building frontage facing the street, thereby breaking up the frontal mass.

Further, it is suggested that where two-family structures are located on corner lots, the above requirement apply only to that street yard determined to be the front yard. However, at least 25% of the frontage of the building along the side street frontage should be required to set back an additional 10 feet beyond the minimum side street yard setback in order to break the mass of the house along the street side.

2. Special Exception for Increased Height for Multi-family Structures

Multi-family structures are presently allowed to go to three stories under a special exception, provided lot coverage does not exceed 25%. With a maximum allowable density of only six units per acre in the R-C district, there appears to be little need to provide for an additional story for multi-family structures. This provision tends to imply that the Town finds taller structures to be potentially acceptable in the R-C district. Therefore, it is suggested that the special exception for a third story be eliminated.

3. Towers as Architectural Features

A provision to allow a tower as an architectural feature on single-family and two-family structures in the R-C district is included in the Staff's recommendation under Item 13 to be discussed later. The Zoning Commission agreed with the Staff's recommendation as it will allow for varied roof height and greater flexibility in design.

4. Side Yard Setbacks

The side yard setback for two-family units in the multi-family districts has always been slightly greater than that for single-family uses (12½ feet compared to 10 feet). Because two-family development is likely to continue to occur adjacent to existing single-family homes, and the newer two-family structures are likely to be more massive than existing single-family homes, an increase in the side yard setback is warranted. It is suggested that the side yard setback for two-family, and townhouse development be kept at 12½ for the first story but increased to 15 feet for the second story.

Because of the smaller minimum lot width (75 feet) for single-family structures in the R-C district, no increase in the side yard setbacks for single-family structures is recommended.

5. Rear Yard Setbacks Abutting Commercial Property

One of the purposes of rear yard setbacks is to protect the adjoining property owner with a spatial buffer between structures. However, when an R-C zoned property abuts commercially zoned property to its rear, there is little need to afford such protection to the adjoining commercial property. Therefore, In order to provide more flexibility in the R-C district, it is suggested that the minimum rear yard setback be reduced from 15 feet to 10 feet for R-C properties which abut commercially zoned property along the rear lot line.

6. Multi-Family Minimum Lot Size

Finally, during review of the R-C regulations, it was noticed that the minimum lot size for multi-family structures is identified as 15,000 square feet. However, the maximum allowable density for multifamily uses is six units per Palm Beach acre (40,000 square feet). Since multi-family structures, by definition, must include at least three units, the smallest parcel size that can accommodate three units and be consistent with the density limitation is 20,000 square feet. Therefore, it is suggested that the minimum lot size for multi-family structures in the R-C district be changed to 20,000 square feet to correct this error and accurately reflect the density limitation in the district.

Ron Kolins addressed the Town Council and said he would like to discuss limiting the tie beam height to 22 feet in the R-C zoning district.

Mr. Castro pointed out that the staff did not address or study the issue of where the point of measurement is taken. The task was to specifically look at the R-C district, incorporating a height similar to the R-B district. That issue was not advertised as part of the zoning season, but the staff would do that at the direction of the Town Council.

Mr. Kolins said he would like to urge the Town council not to restrict the height of the tie beam in the R-C district to twenty-two (22) feet. He explained that as more restrictions are placed on building height, the ability of the architects is restricted to exercise their imagination and skills to design buildings of greater interest, different shapes, and different roof levels so that the buildings are different from each other without being so dramatically different that they do not fit with each other in a particular district.

Mr. Kolins said he realized that architects are different, and some will wish to maximize to the limits while others will rely on cleverness to create designs of interest. He said, on balance, it is better to give the architects the room and the flexibility to utilize their skills to produce homes and buildings of interest. He said for that reason, to reduce the tie beam height to twenty-two feet is restrictive in size, use of space, and ceiling heights, and the result will be full maximization of that twenty-two feet every, single time resulting in a lot of boxes.

Mr. Kolins offered two suggestions for dealing with the issue if the Town Council considered his remarks to have merit. He suggested leaving the height at twenty-five feet to the tie beam as it is presently or, as an alternative, lower the tie beam height to twenty-three and one half feet, but allow half of the structure to go up to as high as twenty-five feet. This will allow flexibility and create greater interest.

Mr. Moore said this is an issue which has resulted in heated debate on occasion during Architectural Commission meetings. He said generally the Architectural Commission proposals are maximizations of the limits allowed in the district, and appeals of ARCOM decisions have reached the Town Council. The issues of size and point of measurement seem are the most significant issues. He noted that in further proposals in the R-C district, there are no provisions for reduction of floor space, and that has not been a problem in the neighborhoods in the opinions of the Architectural Commission and the neighbors. The problems have been the height of the structures, the proximity to the side yards, and the location of the garages. Mr. Moore said it was the staff and the Zoning Commission's recommendation that the Town Council address the massiveness of these townhouses in the R-C district.

Mr. Moore said the point of measurement is taken from the crown of the road currently and in the particular case presented, the point of measurement will be from the finished floor level from wherever the ground level has to be raised to reach 7.5 feet. He said, in essence, the height will not be that much different, but the way it is measured will be different--from the finished floor instead of the crown of the road.

Mr. Kolins said he thought it was said that the point of measurement will be taken from eighteen inches above the crown of the road.

Mr. Castro said the normal way of measuring is from the crown of the road or to the 7.5 feet whichever is higher; however, in the R-B district, a mechanism is provided for further relief or the eighteen inches. Mr. Castro explained that not in all cases, is the eighteen inches allowed. He gave the example if the street elevation was 7.0 feet, the starting point would be 8.5 feet.

Mrs. Smith asked where in the Zoning Code did it show the differences and the allowances that are made so the applicant will know exactly where the measurement starts from?

Mr. Castro replied it was on page 7 of the Zoning Commission Report under Item 6 (1) under 11. and 11.05. He quoted, under item 11, "the grade, as identified above, is defined as zero datum." Under item 11.05, which refers to the R-B district, Mr. Castro quoted, "the building height shall be measured from a point eighteen inches above said street."

Responding to a question from Mrs. Smith concerning towers in the R-C district, Mr. Castro said a proposal to be considered later would allow a tower feature in the R-C district which is not allowed presently.

Mr. Kolins said if his previous suggestions were not acceptable, he would propose 50% of the floor space be allowed to go to twenty-five feet and the remaining footage to twenty-three feet six inches. He said that twenty-two feet would not change anything.

Responding to questions from Mr. Wyett and Mrs. Smith, Mr. Moore said that, under the proposed change, the underground garages would lose in height if the garage had only half of the height underground. He clarified that currently the space would have to be accounted for, and there would be no exemption.

Mrs. Smith questioned the reasoning for applicants wanting to use underground parking when they would be penalized?

Mr. Castro replied the intent was to provide flexibility to have the garage at a lower level without losing the height on the principal portion of the house as shown on page 20 of the Zoning Commission Report. Mr. Castro said there is a provision, to be considered later, that would allow more height than currently allowed by the Code for architectural features such as a tower that could go up approximately five feet higher than the allowed maximum height.

Mr. Kolins said he and Mr. Castro agree that there should be different heights allowed in the R-C district; however, Mr. Castro wants to put that height in the towers and he does not.

Mr. Shaw said, contrary to Mr. Kolins proposal, if the twenty-two feet were accepted as a valid point, he suggested twenty-two feet to the tie beam for 50% of the structure and allowing the remaining 50% to go to twenty-five feet.

Mr. Castro said, under 11.3 in the Zoning Code, properties abutting low streets states, "For the purpose of establishing zero datum lot grade for all of those other R-B, R-C, R-D(1), R-D(2), C-TS, here and above, in those cases involving a street or

streets having a low existing street elevation abutting in the lot, and in the event such street elevation is below plus 7.5 feet NGVD then such lot grades shall be measured from plus 7.5."

Responding to questions from Mrs. Smith and Mr. Shaw concerning the number of streets in the R-C district that are below 7.5 feet, Mr. Moore said most of the streets are between 4.5 to 5.0 feet and only the upper ends of Atlantic and Everglade Streets may have elevations of 7.0 to 7.5 feet.

Mr. Shaw said the critical issue is the amount of fill used for new construction to bring the site up to 7.5 feet, and a one-story residence can loom over a neighboring property.

Mr. Klein said he thought the object was to make the R-C district consistent with the existing code. One of the problems is to have a uniform definition where the topography varies considerably.

Mr. Wyett said he looked at the long term aspect, and many of the affected streets have very old homes on them. Over a period of time, they will be bought and converted. He said the question is, "What is the street going to look like in ten or twenty years?"

Mr. Wyett said he was not sure that this was a practical approach for the very low streets, and the inside ceiling heights would be restricted. If it is a two-family or multi-family house, nothing is provided for an underground garage. He said he preferred underground garages, because it takes cars off the streets.

Mr. Moore responded underground garages will have an allowance in this provision where they did not have an allowance before.

Mr. Wyett suggested that any item that affects a proposal should be included all together and considered together in future zoning seasons.

Mr. Wyett said if a compromise is to be reached between having underground garages to get cars off the street and heights of buildings, people are going to have to accept the fact that the total height will be a little higher.

Mr. Moore said the major criticism of the duplexes that are being built and the negotiation that occurs at the Architectural Commission now is based on the fact the developers are saying they are entitled to twenty-five feet while ARCOM is saying the structure is too large and does not fit into the neighborhood. He said the issue of keeping cars off the street is addressed in the requirement for a two car garage. He said the point is not the issue of the garages, but the issue of the massiveness of the overall height of these structures. He suggested if the Town Council thought there was nothing wrong with the overall height of the structures, knowing the conflict with ARCOM, then it should be addressed as a height issue. The mass of the building and other architectural features are dealt with later, and there was no intent to penalize the developer other than have them consider what exists in the surrounding neighborhoods. He said the question for the Town Council is whether these duplex style buildings should be smaller in the R-C neighborhoods.

Mr. Wyett said the Town Council should not accommodate ARCOM as they work within the rules and regulations that the Town Council sets up. He said he did like Mr. Kolins' suggestion of a variance between twenty-two and twenty-five feet which would result in more interesting homes.

Mrs. Smith clarified that this was not brought up as a problem to try to accommodate the Architectural Commission, but after the Town Council listened to ten or twelve homeowners who lived in smaller houses and objected to the larger duplexes, the item was sent to staff.

Mr. McLendon said he agreed with some of Mr. Kolins' suggestion, however he did not want to go all the way up to the twenty-five feet suggested.

Mr. Shaw said he did not see why there would be any motivation or benefit to go to the expense to construct below grade garages if the building is still limited to twenty-two feet.

Mr. Brisson responded Mr. Shaw was correct—that it did not necessarily encourage below grade garages.

Mr. Wyett said he still endorsed the idea of variable heights.

Mr. Wyett made a motion to adjust the recommendation to keep the existing maximum at twenty-five feet but 50% of the structure must have a height of twenty-two feet or less.

Responding to a question regarding advertising related to that motion from Mrs. Smith, Mr. Randolph said it was possible to make that motion, because the motion that was made was less restrictive than what was advertised and would have no detrimental effects.

Mr. Wyett said he would like give some relief to those houses that are raised from a low level to the required FEMA level.

After a lengthy discussion regarding the point of measurement and the height to the tie beam, Mr. Kolins said his concern was the height of the tie beam if it were to be only twenty-two feet.

Mr. Shaw said if the point of measurement were left to begin at the crown of the road and the twenty-five foot height requirement to the tie beam were changed to twenty-three and one-half feet would accomplish what Mr. Kolins requested,

and would give the owner the option of using whatever part of the eighteen inches (from the crown of the road) that he wishes.

Mr. Moore said the staff thought that additional flexibility was gained by using the method of measuring that is used in the R-B zoning district.

Mr. Shaw said he was not sure that Mr. Moore's method gives more and he was starting to understand what Mr. Kolins was saying by stating that keeping the same concept, the answer is to measure off the crown of the road and make it twenty-three and one-half feet or FEMA. He said the Town has the right, on the streets that are very low, to meet the national standard of 7.0 feet.

Mr. Kolins reiterated that he thought the proposal was very limiting from an architectural standpoint, and he did not think the Town would want to do that.

Responding to questions from Mr. Shaw regarding how the height was measured in the R-B district, Mr. Frank replied the height was limited to using the twenty-two feet plus the eighteen inches. He said that it was indicated eight years ago when this was initiated that the other districts would be included but that was never followed through.

Mrs. Smith asked Mr. Kolins if he would be comfortable compromising with twenty-three and one-half feet?

Mr. Kolins responded he would like to have half the house not to exceed twenty-three and one-half feet and half of the house not to exceed twenty-five feet or some numbers in-between there would be acceptable.

Zoning Commission member Martin Klein said the Commission studied this issue extensively while attempting to deal with varying topography, the desire to reduce bulk—but not too drastically, and a common thread of having some kind of certainty. After deliberation, the Zoning Commission unanimously concluded with the recommendation and thought that twenty-two feet was appropriate.

Mr. Kolins suggested a compromise to change the twenty-two foot number to twenty-three and one-half feet and leave everything else the same.

Mr. Moore replied he would agree with that suggestions.

Mr. Wyett made a motion to approve the recommendation of the Zoning Commission with the following change: In no instance may the height of any portion of a structure exceed twenty-three feet six inches (23.5) feet in building height as measured from its finished floor. The motion was seconded by Mr. Shaw. On roll call the motion carried 5-0.

Mr. Brisson said he had two items, 2D and 2E that were associated with the previous item. He explained that the 2D proposal was to have two stories at twenty-two feet high, and based on the last action, he suggested the twenty-two feet be changed to twenty-three and one-half feet

2. Amend Section 4.10, A. Schedule of Lot, Yard and Bulk Regulations as the pertain to the R-C district as follows:
- D. Modify the building height requirements for single-family, two-family, townhouses, and multi-family structures to read as follows:

Height (Stories/Feet)
2/25(18)
<u>2/22(18a)</u>

ZONING COMMISSION ACTION:
The Zoning Commission recommended approval of the proposal as submitted by the Town Administration to amend Section 4.10, A. Schedule of Lot, Yard and Bulk Regulations by modifying the building height requirements for single-family, two-family, townhouses, and multi-family structures in the R-C District to read as follows: Height (Stores/Feet) 2/22(18a).

Mr. Shaw made a motion to approve Item 6. (2D) with the change to twenty-three and one-half feet. The motion was seconded by Mr. Wyett and carried 5-0 on a roll call vote.

Mrs. Smith asked Mr. Brisson to explain what 18a was. Mr. Brisson replied that 18a was the footnote and it added in the three feet for a flat roof and eight feet for all other roof styles and, if adopted, would include the R-C as well as the R-B districts.

(2E) ZONING COMMISSION ACTION:
The Zoning Commission recommended approval of the proposal as submitted by the town Administration to amend Section 4.10, A. Schedule of Lot, Yard and Bulk Regulations by modifying footnote (18a) to read as follows:

(18a) Maximum overall height of a building in the R-B or R-C Districts shall be the maximum allowable building

height, plus three (3) feet for a flat roof and eight (8) feet for all other roof styles. When a parapet is used above the maximum building height (see Section 2.10 (11.05)), the building overall height will be calculated based on the flat roof style identified above. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.

Mrs. Smith asked Mr. Brisson to explain the phrase, "parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment" and asked how many townhouses are there with parapet walls above the maximum allowable height?

Mr. Brisson replied he did not know how many, but this is allowed in the R-B district and this change is to use the same language and allow it in the R-C district.

Mr. Castro added that this is existing language, and parapets were allowed previously.

Mr. Moore explained a flat roof could not be built without have a parapet.

Mr. Wyett commented that he was concerned about the architectural designs this might encourage and questioned if anything would be gained by making this change.

Mr. Brisson said, referring to pitched roofs, that presently everyone is building big, high pitched roofs. Everyone is building to the maximum ten foot roof allowance and the result is massive structures. This will result in the same thing; however the roofs will only be eight feet over instead of ten feet. The architects are building houses to have the appearance of impressive size and mass and are not using the figures for design variance.

Mr. Shaw said if the concern of the ten feet referred to the steepness of the mass then it should not be controlled by feet, it should be controlled by pitch. He gave examples of spanning twenty and thirty feet sections, going to the same height, but increasing the pitch of the roof. He suggested the roof pitch, perhaps, should not exceed 6/12.

Mr. Moore replied that a barrel tile roof needs a minimum of 4/12, and that would be a nightmare to administer. He said the recommendation is exactly what the builders are doing in the R-B district and not having any problems.

Mr. Frank mentioned that the pitch varies with the style and gave the example of a Bermuda style that requires a higher pitch.

Mr. Shaw made a motion to approve item 6 (2E) with the twenty-three and one-half feet, without the other changes. The motion was seconded by Mr. McLendon and carried 5-0 on roll call.

(2F) ZONING COMMISSION ACTION:

The Zoning Commission recommended approval of the proposal as submitted by the town Administration, and modified by the Zoning Commission, to amend Section 4.10, A. Schedule of Lot, Yard and Bulk Regulations by adding a reference to a new footnote (29) to the minimum front yard requirement for two-family and townhouse structures, as follows:

Front Yard (Feet)
25 (29)

With said footnote (29) to read as follows:

(29) For two-family and townhouse structures in the R-C district having a garage(s) facing a street, not less than forty percent (40%) of the structure facing said street shall have a setback of not less than twenty (20) feet greater than the minimum setback otherwise required. Where two-family or townhouse structures are located on corner lots, the foregoing requirement shall apply only to that street on which the garage fronts.

However, in no instance shall a two-family or townhouse structure have less than twenty-five (25) percent of the frontage of the building along any street frontage set back less than an additional ten (10) feet beyond the street yard setback otherwise required.

Mr. McLendon made a motion to approve the recommendation of the Zoning Commission. The motion was seconded by Mr. Shaw and, on roll call, carried 4-0. (Mr. McDonald was out of the room.)

(2G) ZONING COMMISSION ACTION:

The Zoning Commission recommended approval of the proposal as submitted by the town Administration, and modified by the Zoning Commission, to amend Section 4.10A Schedule of Lot, Yard and bulk Regulations by modifying the side yard setback for two-family and townhouse structures in the R-C District to read as follows:

	Side Yard (Feet)
Two-family	12½ <u>1-story, 12½</u> <u>2-story, 15</u>
Townhouses	(1) <u>1-story, 12½</u> <u>2-story, 15</u>

Mr. McLendon made a motion to approve the recommendation of the Zoning Commission. The motion was seconded by Mr. Shaw and carried 4-0 on a roll call vote. (Mr. McDonald was out of the room.)

(2H) ZONING COMMISSION ACTION:

The Zoning Commission recommended approval of the proposal as submitted by the Town Administration to amend Section 4.10, A. Schedule of Lot, Yard and Bulk Regulations by adding a reference to a new footnote (30) to the minimum rear yard requirement for single-family, two-family, and townhouse structures in the R-C District as follows:

Rear Yard (Feet)
15 <u>(30)</u>

With said footnote (30) to read as follows:

(30) When the rear property line of an R-C zoned property abuts a commercially zoned property, the minimum rear yard shall be ten (10) feet.

A motion was made by Mr. Wyett to deny the recommendation of the Zoning Commission. The motion was seconded by Mr. Shaw and carried 4-1 on a roll call vote with Mr. McLendon casting a negative vote.

(2I) ZONING COMMISSION ACTION:

The Zoning Commission recommended approval of the proposal as submitted by the Town Administration to amend Section 4.10A. Schedule of Lot, Yard and Bulk Regulations by deleting the reference to footnote (2)(a) associated with multi-family structures in the R-C district as follows:

Multifamily (10)~~(2)(a)~~

and delete footnote (2)(a) which reads as follows:

~~(2)(a) — Two (2) stories, with provisions for a special exception for three (3) stories. See special exception provisions in Sections 5.48, 6.40 and 9.60.~~

Mr. Shaw made a motion to approve the recommendation of the Zoning Commission to delete the footnote. The motion was seconded by Mr. McLendon and carried 5-0 on a roll call vote.

(2J) ZONING COMMISSION ACTION:

The Zoning Commission recommended approval of the proposal as submitted by the Town Administration to amend Section 4.10, A. Schedule of Lot, Yard and Bulk Regulations by modifying the minimum lot size for multi-family uses in the r-C District to read as follows:

Area (Sq. Ft.)
15,000 <u>20,000</u>

Mr. Shaw made a motion to approve the recommendation of the Zoning Commission. The motion was seconded by Mr. McLendon and carried 5-0 on a roll call vote.

(3) ZONING COMMISSION ACTION:

The Zoning Commission recommended approval of the proposal as submitted by the Town Administration to amend Section 5.48 SPECIAL EXCEPTION TO HEIGHT REGULATIONS; SPECIAL EXCEPTION STRUCTURES, sub-item A in its

entirety which reads as follows:

~~A. Three-story guidelines: R-C zoning district lot coverage not more than twenty-five (25) percent.~~

and amend sub-item I to read as follows:

~~In no event shall the building height in an R-C zoning district exceed three (3) stories or forty (40) feet. Further I In no event shall the building height in an R-D(1) or R-D(2) zoning district exceed five (5) stories and fifty-five (55) feet, unless increased to a maximum of sixty-two and one-half (62½) feet as follows...~~

Mr. Shaw made a motion to approve the recommendation of the Zoning Commission. The motion was seconded by Mr. Wyett and carried 5-0 on a roll call vote.

Item 7. Study a requirement that enclosed accessory building in the R-AA and R-A districts provide the same front yard setback as the required setback of the principal structure on a property.

ZONING COMMISSION ACTION:

The Zoning Commission recommended approval of the recommendation of the Town Administration not to require that enclosed accessory buildings in the R-AA and R-A districts provide the same front yard setback as the required setback of the principal structure on a property. (Note: Currently, the Zoning Ordinance requires enclosed accessory structures be provided with a front setback of 35 feet or 2 feet for every 1 foot in building height, whichever is greater.)

BACKGROUND

As understood, this proposal is intended to prohibit one-story security buildings, guest houses, pool cabanas or other accessory structures from being located in front of the principal structure.

COMMENTARY

At present, the front yard setback for structures in the R-A and R-AA districts is 35 feet, or one foot for each foot in building height, whichever is greater. These requirements also apply to accessory structures.

The additional setback based on height, which is referred to as the "building height plane" requirement, was instituted in these zoning districts to ensure that newly constructed, larger, homes would not appear too massive from the street.

This proposal implies that it is more attractive to have the principal structure be the first thing to be seen from the street. This does not appear to be a zoning issue. It might be something the Architectural Commission would review on a case by case basis, but, as long as an accessory structure meets the setback requirements, the Zoning Code should not arbitrarily prevent an accessory structure from being located in front of the principal structure. Further, this proposal significantly reduces the ability for creative development design on these larger lots.

It is believed that the existing setback regulations, angle of vision and building height plane requirements are adequate to control bulk and mass in the R-A and R-AA districts.

After discussion, Mr. Wyett moved this item be considered for further study during next year's zoning season. The motion was seconded by Mr. McLendon and carried 5-0 on a roll call vote.

Item 8. Proposed Revision to Section 2.10(39.6), page 2004.3 of the Zoning Ordinance.

ZONING COMMISSION ACTION:

Amend Section 2.10. Definitions., by amending the following language in the definition of restaurant (39.6) to provide a percentage threshold for the amount of food sales to liquor sales required to constitute a restaurant. The proposed revision is as follows:

(39.6)RESTAURANT. Every building or part thereof and all accessory buildings used in connection therewith or any place or location kept, used or maintained as, advertised as, or held out to the public to be a place where meals or foodstuffs are prepared and/or served and in which 51% or more of the gross sales or gratuitous value is derived from serving of food and/or non-alcoholic beverages; either gratuitously or for profit, to the general public. (Records documenting this must be maintained at the premises).

Reason for Proposed Revision

The proposed change to the definition of restaurant is to provide a definitive threshold for determining whether a business is operating as a restaurant or a nightclub type of use. There have been issues raised in the recent past relative to a restaurant that has been considered to be primarily operating as a nightclub. The proposed revision identified above incorporates some of the language used by the State to regulate a restaurant type of liquor license so that there is a clear distinguishing factor between restaurant and night club uses.

A motion was made by Mr. Shaw to approve the recommendation of the Zoning Commission. The motion was seconded by Mr. McDonald and carried 4-0. (Mrs. Smith was out of the room.)

Item 9. Proposed Revision to Section 2.10(10.1) and (11.5) and Section 5.14(b), pages 1996, 1997 and 2036.1 respectively, of the Zoning Ordinance.

ZONING COMMISSION ACTION:

The Zoning Commission recommended approval of the proposal as submitted by the Town Administration to amend Section 2.10. Definitions, by amending the definitions for Building Angle of Vision (10.1) and Building Height Plane (11.5), and also Section 5.14(b) to read as follows:

(10.1) BUILDING ANGLE OF VISION. A line drawn from the front yard property line as determined in Section 5.14(b), fifty (50) degrees either side of a line drawn perpendicular or radial to the front yard property line.

(11.5) BUILDING HEIGHT PLANE. A height limiting plane extending at an inclined angle from the intersection of the front yard property line as determined in Section 5.14(b), and the zero datum grade for a lot, or seven and one-half feet mean sea level, whichever is higher, as defined in "height of building" and "overall height of building".

Section 5.14. STREET LOT LINES. The front lot line, side street line or rear street line of any lot shall be the right-of-way line (the street line) of the abutting street except when the following conditions exist:

(a)...

(b) For the purpose of uniformity in administration of regulations contained in this ordinance, no portion of a public or private street right-of-way as defined herein shall be ~~included in~~ used as the front property line when calculating the required front yard, street side yard, or street rear yard areas or in building angle of vision and building height plane for determining required building setbacks, nor shall any portion of a public or private street right-of-way be used in the computations of required minimum abutting lot areas. Further, cul-de-sacs and street transitions at street intersections, as shown on the town council approved subdivision plats having public or private streets therein, shall likewise not be included as a portion of required setback areas, ~~or~~ required minimum lot area, or in the calculation of building angle of vision or building height plane

Reason for Proposed revision

These regulations are intended to ensure that the mass of the house is not too imposing from public view. They were adopted to ensure that as a house or accessory structure got taller and wider, the further it would be setback and the less imposing it would appear from a street view. This proposed revision ensures that the building angle of vision and building height plane regulations in the R-AA and R-A zoning districts are measured from the intended point of measurement which is either the front property line, or the edge of street when the property line is in the middle of the street.

Since the language is not clear and concise, the proposed revisions in the definitions of these two regulations cross reference a proposed amended provision that specifically identifies that the building angle of vision and building height plane are measured from outside any public or private street right-of-way.

A motion was made by Mr. Shaw to approve the recommendation of the Zoning Commission and seconded by Mr. McLendon. On roll call, the vote carried 4-0. (Mrs. Smith was out of the room.)

Item 10. Proposed Revision to Section 4.20, page 2019, 2021 and 2024 of the Zoning Ordinance.

ZONING COMMISSION ACTION:

The Zoning Commission recommended approval of the proposal as submitted by the Town Administration, and modified by the Zoning Commission to amend Section 4.20, Schedule B. Schedule of Use, by adding a provision allowing one pedestrian beach tunnel by Special Exception Use with conditions in the R-AA, R-A, R-B, R-C and RD-2 zoning districts. The proposed new Special Exception use to be added to each of the residential zoning districts previously identified is to read as follows:

Pedestrian access tunnel to the beach as an accessory use provided that prior written approval is obtained from all governmental agencies having jurisdiction.

Reason for Proposed Revision

The Town's zoning code does not specifically address a pedestrian tunnel to the beach in the Town. Despite that fact, historically the Town has allowed a property owner along the ocean to construct such a tunnel to the beach as an accessory use to a use permitted in those zoning districts. The pedestrian tunnel has provided safe access to the beach from under busy North and South Ocean Boulevards. This proposed provision would specifically allow a property abutting the Atlantic Ocean to have one pedestrian tunnel under Ocean Boulevard. The condition would be that written consent be obtained from all governmental entities that have an interest in the request.

Mr. McLendon made a motion to approve the recommendation of the Zoning Commission with the condition the property owner execute a Unity of Title. The motion was seconded by Mr. Shaw and carried 5-0 on a roll call vote.

Item 11. Proposed Revision to Section 4.20, page 2012 of the Zoning Ordinance.

ZONING COMMISSION ACTION:

The Zoning Commission recommended approval of the proposal as submitted by the Town Administration to amend Section 4.20. Application of regulations, by providing a paragraph (g) to add language in the zoning ordinance identifying that the maximum height of buildings and structures in all zoning districts in the Town cannot, under any circumstance, exceed a certain height without prior notice to and approval by the Federal Aviation Administration. The proposed new language is as follows:

Section 4.20. Application of regulations.

(a) ...

(g) In all zoning districts, no building or structure may exceed 100 feet in height above the natural grade unless notice and approval by the Federal Aviation Administration (FAA) under 14 CFR, part 77, specifically part 77.13, has occurred. Should the FAA find such building or structure would exceed an Obstruction Standard, said building or structure shall not be permitted under the provisions of Chapter 333, Florida Statute, State Statute 333.025(1).

Reason for Proposed Revision

The Town is not located within the Airport Land Use Noise Zone as identified in Article 18, Palm Beach County Airport Zoning Regulations (See Airport Land Use Noise Zone map on next page). As such, the Town did not adopt the building regulations of Article 18 to mitigate airport noise.

Staff also evaluated the Airport's height zones and has determined that the Town's zoning requirements for the maximum height for buildings and structures in the zoning districts that are within that "Conical Zone" (C-TS, C-WA, C-OPI, RD-2, R-C, R-B, R-A, R-AA and Beach Area) are more stringent, and thus below the allowable building or structure height limitations permitted in Article 18 of the Palm Beach County Airport Zoning Regulations.

Despite this fact, the Town is below the Palm Beach International Airport's imaginary surface zones which under Florida Statute 333 requires the Town to adopt regulations that mitigate the impact to the Airport. To ensure the Federal and State Government that the Town will enforce the building height limitations within the Airport's imaginary surface zones, the Town is proposing this new zoning regulation.

Mr. Shaw made a motion to approve the recommendation of the Zoning Commission. The motion was seconded by Mr. McLendon and carried 5-0 on a roll call vote.

Item 12. Proposed Revision to Section 5.17, page 2037 of the Zoning Ordinance.

ZONING COMMISSION ACTION:

The Zoning Commission recommended approval of the Town Administration recommendation that no change is needed to Sec. 5.17 relating to nonconforming single-family homes in the "R" Districts. Staff.

Mr. Wyett made a motion to approve the Zoning Commission's recommendation that no changes be made to the "R" districts. The motion was seconded by Mr. Shaw and carried 5-0 on a roll call vote.

Item 13. Proposed Revision to Section 5.22, page 2031, "PERMITTED SPECIAL EXCEPTIONS OF HEIGHT REGULATIONS" of the Zoning Ordinance.

Amend Section (5.22)(d), Permitted Special Exceptions of Height Regulations, by amending the following language to paragraph (d) which allows one tower on a house as an architectural feature in the R-B zoning district. In addition, this proposal also adds a provision to allow a tower as an architectural feature on single family and two-family home

in the R-D(2), R-D(1) and R-C zoning districts. The following changes are proposed:

(d) In the R-AA and R-A zoning districts, an observation tower may be constructed as an integral part of a single-family dwelling. The height of such tower may exceed the allowable building height limit and overall building height limit of the dwelling by ten (10) feet. In the R-D(2), R-D(1), R-C and R-B zoning district, one tower as an architectural feature may also be constructed as an integral part of a single-family dwelling provided that it does not exceed the allowable overall height; is setback an additional five (5) feet on the front, rear, side, and street side and street rear yards; and, such tower has no usable floor area. The area of such tower shall not exceed 1% of the gross floor area of the dwelling in the R-AA and R-A zoning districts and 2% of the gross floor area of the dwelling in the R-D(2), R-D(1), R-C and R-B zoning districts. For a two-family dwelling each unit is allowed one architectural tower feature and said tower feature may not exceed 2% of the individual dwelling unit floor area. It is the intention of this section to allow only one towers as an architectural feature on a house and not to allow habitable space in upper areas of a tower on a house in the R-D(2), R-D(1), R-C and R-B zoning districts. It is also the intent that this section not apply to entry facades or parapets.

ZONING COMMISSION ACTION:

The Zoning Commission recommended approval of the proposal as submitted by the Town Administration to amend Section (5.22)(d), Permitted Special Exceptions of Height Regulations, by amending paragraph (d) to allow a tower as an architectural feature on single-family and two-family homes in the R-D(2), R-D(1) and R-C zoning districts with language as shown in (d) above.

Reason for Proposed Revision

During the 1995-1996 Zoning Season the Town Council adopted a regulation which intended to allow one tower, as an architectural feature, on houses in the R-B zoning district provided it met certain criteria. During the 1996-1997 Zoning Season these provisions were fine tuned by clarifying that only one tower was allowed on a house.

This revision proposes to also allow a tower on a single-family and two-family structure in the R-D(2), R-D(1) and R-C zoning districts. In addition, this proposed amendment would allow the architectural tower to be more in scale with the each dwelling unit.

In the R-A and R-AA zoning district 1% of the floor area on those larger homes provides the opportunity to place a tower on a house that looks like a tower. However, because of the floor area limitation of the homes that can be built on the smaller lots in the R-B zoning district, it was found that a structure with the appearance of a tower feature could not be built if only 1% of the floor area of the house was the maximum area that could be devoted towards an architectural tower feature.

By looking at a recent zoning application for a tower in the R-B zoning district staff determined that allowing 2% of the floor area of a house devoted to an architectural tower feature was more in scale with the average size of a house in that district. As an example, under the existing requirements a 4,500 square foot house on a 10,000 square foot lot could only accommodate a 45 square foot architectural tower feature. That is a small feature that in staff's opinion would not look proportional to the house. However, the proposed modification would allow a 90 square foot feature that might appear more like a tower than a chimney.

In addition, if staff's proposal to reduce the maximum height of a one and two-family dwelling units is approved in the R-C zoning district, an architectural tower feature meeting the same regulations as homes in the R-B zoning district should be allowed. This proposal would allow a tower feature for a single-family dwelling and two-family dwelling in the R-C, R-D(1) and R-D(2) zoning districts. By allowing the same provision for a tower feature on a single-family and two-family dwelling, this provision allows some flexibility in a portion of the roof height and should encourage better design.

Mr. Castro said that the area of the towers allowed in the R-B district was increased from 1% to 2%, as recommended by the Zoning Commission, and was not specifically noted in the report. He said the proposal under (d) provides the capability in the R-C, R-D(1), and R-D(2) zoning districts to have tower features as architectural features only to provide flexibility in the front elevation. Mr. Castro said the staff and the Zoning Commission recommended approval of the revision.

Mr. Shaw said he would like to see the tower element not be considered as part of the CCR when used for mechanical in the R-B district or any districts the CCR may be used later.

Mr. Randolph questioned if this were a new issue and needed to be advertised.

Mr. Moore said this may be considered under Item 3 to be heard on February 16th.

Mr. Randolph said he did not think the issue of the towers not being included in the CCR had to be heard by the Zoning Commission, and the Zoning Season was extended to allow the addition of items.

Mr. Wyett made a motion to approve the recommendation of the Zoning Commission to allow towers as architectural elements. The motion was seconded by Mr. Shaw and carried 5-0 on a roll call vote.

Item 14. Proposed Revision to 5.45, page 2040.7 of the Zoning Ordinance.

Amend Section 5.45 STRUCTURES AND SIGNS ALONG LAKE TRAIL, by amending the following language to allow walls and fences within 25 feet of Lake Trail to be constructed to a height of four feet above the Trail when a swimming pool barrier is required. The proposed revisions is as follows:

(5.45) STRUCTURES AND SIGNS ALONG LAKE TRAIL. No wall, fence or structure over four (4) feet high (as measured on the lake trail side of the wall, fence or structure from the top of the wall fence or structure to the crown of the existing paving of the lake trail directly opposite of such point of measurement) shall be erected or constructed along the easterly side of the ~~L~~Lake ~~t~~Trail within twenty-five (25) feet of the easterly right-of-way line of said ~~L~~Lake ~~t~~Trail, as the same is now laid out, established and used, except as provided below.

A wall or fence that does not abut Lake Trail, but is within twenty five (25) feet of the easterly right-of-way of the Lake Trail, shall be allowed four feet in height as measured from the highest grade directly adjacent to said wall or fence to the top of the wall or fence directly opposite such point of measurement. The natural grade along the side property line within the Lake Trail setback area may not be artificially changed to raise the height Of said wall or fence. In addition, no wall or fence shall exceed a maximum height of seven (7) feet as measured from the lowest grade directly adjacent to said wall or fence to the top of the wall or fence directly opposite such point of measurement.

No signs shall be permitted within said twenty-five-foot area easterly of said lake trail except property protection signs approved by the architectural commission.

ZONING COMMISSION ACTION:

The Zoning Commission recommended approval of the proposal as submitted by the Town Administration, and modified by the Zoning Commission , to amend Section 5.45 STRUCTURES AND SIGNS ALONG LAKE TRAIL to allow walls and fences within 25 feet of Lake Trail to be constructed to a height of four feet above the Trail, said provision as stated previously above: *(Changes by the Zoning Commission are shown in strikeout language.)*

Mr. Castro explained this change was suggested because of problems encountered over the last several years. The current code may preclude property owners from constructing a four foot high wall or fence if a property slopes up from Lake Trail. Although the proposed revision still only allows a four foot high wall or fence along Lake Trail, as measured from the crown of Lake Trail, the proposed new provision allows a four foot high wall or fence to slope up as the property slopes up. This proposal would continue to provide an openness along Lake Trail, yet allow the property owners along the trail to construct a side wall or fence to meet the life safety requirements to construct a swimming pool and maintain some privacy. The code requires that a swimming pool be protected with a minimum 4 foot high wall or fence (measured from the grade of the adjacent property)with a self latching gate to minimize the chance of unsupervised children from wandering onto the property and falling into the pool.

Responding to Mrs. Smith's question regarding leveling of the property, requiring fill, from the house to the lake over the sloping land, Mr. Castro responded that fill can be put in as long as it does not exceed four feet in height from Lake Trail. Mr. Castro explained the staff initiated this change to make the administration of this provision of the ordinance more reasonable and rational without changing the intent of the ordinance.

Mr. Wyett, citing the example of his own property on Lake Trail, said this change would have created a problem with his neighbor resulting in a very high wall between the properties.

Mr. Castro replied the Zoning Code states the grade of the property cannot be artificially raised; however the Building Department will allow the point of measurement from the highest grade on either side of the property line, and from that grade, a four foot high wall will be allowed. He said that would not negatively impact the neighbors.

Mr. Moore explained a four foot high fence at the Bike Trail would suffice for the requirement that a swimming pool must be fenced.

Mr. Shaw questioned the language in the proposal regarding "abut and within" as it pertained to fences. Mrs. Smith said that could be worked out with the staff for clarification.

Mr. Wyett made a motion to approve the recommendation of the Zoning Commission with the language clarification. Mr. Shaw seconded the motion. On a roll call vote, the motion carried 5-0.

Item 15.

Proposed Revision to Sections 5.50, pages 2044 of the Zoning Ordinance.

Amend Section 5.50, Accessory buildings and/or structures.(c), by adding a provision that would preclude the placement of air conditioning equipment within the front yard setback. The following language is recommended:

Section 5.50. Accessory buildings and/or structures.

(a)...

...

© Air conditioning equipment in excess of two (2) units or in excess of four (4) feet in height, measured above the natural grade, or occupying more than twenty-five (25) feet in area shall be considered an accessory structure and shall

be constructed or erected or placed in compliance with all the provisions of the ordinance applicable thereto. However, in no instance shall any mechanical equipment, including air conditioning equipment, be placed in the required front setback, street side setback, or street rear yard setback.

ZONING COMMISSION ACTION:

The Zoning Commission recommended approval of the proposal as submitted by the Town Administration, and modified by the Zoning Commission to amend Section 5.50, Accessory buildings and/or structures. (c), by adding a provision precluding the placement of air conditioning equipment within the front yard setback, to read as follows: *(The language is as above. The strikeout language was taken out by the Zoning Commission.)*

Mr. Moore said the Building Department has had applications for air conditioning and swimming pool equipment to be placed in the front yards of homes that were under construction in the vicinity of the streets and corners of abutting properties.

Mr. Moore said the intent is not to prevent the applicants from putting equipment in the front yard but to keep the equipment in the area of the structure itself. The Zoning Commission did not specifically discuss placing the equipment next to the front of the house if the applicants did not mind hearing the noise from the equipment.

Mr. Shaw said he had no objection of having the mechanical equipment in the front of the house, but if it were, it should be within the minimum distance for Code Compliance from the building and properly site screened with a wall or landscaping. He said he did not think this was a detriment to the property, and he questioned that the equipment should always be placed on the side or in the back yard.

Replying to a question from Mrs. Smith, Mr. Moore said he thought the Zoning Commission was in sympathy of not inflicting one person's mechanical equipment upon the neighbors or the public at-large and therefore the concept of restricting in the front yard and street side yards was heartily endorsed. He said that the intention was to keep the equipment away from the property lines, the public view, or the audio limits.

Reason for Proposed Revision

This is a housekeeping item. The proposed revision clarifies that no type of accessory structure, including any equipment that services a residence, may be placed in any required street yard setback.

Mr. Shaw made a motion to modify item 15 to permit air conditioners, pool pumps, etc. in the prescribed setbacks so long as they are adjacent to the building, as close as permitted by the Code, for electrical access, and they are site screened from the public with a wall and/or vegetation.

Mr. Moore said the equipment would have to be approximately two feet from the building.

The motion was seconded by Mr. McLendon.

Mr. Wyett said the problem could be solved, without additional regulation, by placing additional units in the rear of the property.

On roll call, the motion carried 3-2 with Mr. McDonald and Mr. Wyett casting negative votes.

Mr. Randolph clarified that the motion was an approval subject to an exemption for air conditioners within two feet and properly landscaped.

Mr. Moore said the equipment could be located within two feet of the house in the front yard, street side yard, and rear side yard.

Mr. Randolph said he did not understand the motion, because he thought the equipment had to be two feet from the house because that much separation was required; however, the equipment could extend into the front yard as far as possible, because no limitations were placed on it. Mr. Randolph questioned if the equipment were eighteen feet wide and two feet from the house, would it be allowed if landscaped properly?

Mr. Shaw said perhaps the real issue was to allow air conditioning condenser units only.

Mrs. Smith, who voted on the prevailing side of the issue, made a motion to reconsider the issue because the previous motion was not clear. Mr. Shaw seconded the motion. On roll call the motion carried 5-0.

Mr. Shaw made a motion to approve as written with the adjustment that air conditioning condenser units may be placed in the front street, side street, and rear street setbacks so long as the projection of the unit is not more than five feet from the building and meets all codes. The units would be placed two feet from the house. The motion was seconded by Mr. McLendon.

Mr. Castro clarified the language contained in item © would remain the same regarding the number of units. Mr. Shaw said he was changing his motion to have one air conditioning unit in the front and one in the rear. Mr. McLendon agreed as the seconder of the motion.

Mr. Randolph said he wanted to make sure that the motion did not change any of the prohibitions set forth in paragraph © or (d). He stated that anything larger than defined in paragraph © is an accessory structure and cannot be placed

within the setback. The Town Council members agreed with that statement.

On roll call, the motion carried 5-0.

Item 16. Proposed Revision to Section 5.51, page 2047 of the Zoning Ordinance.

Amend Section 5.51(b)(8), Dish antennas., by amending the existing language to allow each dwelling unit on a multi-family development the capability of having a television dish antenna. The new provision is proposed to read as follows:

- (8) Dish antennas. A dish antenna shall be an accessory structure and shall be constructed, erected or placed in compliance with all of the provisions of this ordinance applicable to accessory structures. No dish antenna shall exceed ~~two (2.0)~~ one (1) meters in diameter in the R-A and R-B residential zoned districts; no dish antenna shall exceed two (2) meters in the R-AA zoned district; and, no dish antenna shall exceed three meters in any other zoning district. Only one such antenna may be erected as an accessory structure on any one residential ~~building lot~~ dwelling unit. Further, an unattached antenna shall not exceed eight (8) feet in height above ground (average grade) in the R-A and R-B residential zoned districts; such antenna shall not exceed twelve (12) feet in height above ground (average grade) in any other zoning district. No dish antenna shall be located closer than ten (10) feet to any side or rear lot line. No unattached antenna shall be erected in a required front yard, required street side yard or required rear street yard setback area in any zoning district. No dish antennas exceeding one (1) meter in diameter shall be located on the roofs of or attached to buildings. All dish antennas shall be screened from neighboring property, public view and from public and private streets and ways. In any zoning district, no form of lettering, advertising or identification shall be allowed on such antenna or its framework (other than the manufacturer's small identification plate). All such antennas shall be neutral in color and, to the extent possible, compatible with the surrounding neighborhood in appearance and character. Note: One (1) meter in the metric system of measurement equals thirty-nine and thirty-seven one hundredths (39.37) inches, or three and twenty-eight one hundredths (3.28) feet).

ZONING COMMISSION ACTION:

The Zoning Commission recommended approval of the proposal as submitted by the Town Administration, and modified by the Zoning Commission, to amend Section 5.51(b)(8), "Dish Antennas.", to provide for regulations for dish antennas of one meter or less in diameter. Dish antenna regulations are provided in the following table.

ZONING DISTRICT			
R-B & R-A	R-AA	R-C, R-D(1) & R-D(2)	COMMERCIAL
Dish antennas greater than 1 meter in diameter, but not greater than 2 meters, shall be subject to the following:	Dish antennas greater than 1 meter in diameter, but not greater than 3 meters, shall be subject to the following:	Dish antennas greater than 1 meter in diameter, but not greater than 3 meters, shall be subject to the following:	Dish antennas greater than 1 meter in diameter, but not greater than 3 meters, shall be subject to the following:
No dish antenna shall exceed 2 meters in diameter.	No dish shall exceed 3 meters in diameter.	No dish shall exceed 3 meters in diameter.	No dish shall exceed 3 meters in diameter.
Not more than 1 dish antenna per building lot.	Not more than 1 dish antenna per building lot.	Not more than 1 dish antenna per building.	Not more than 1 dish antenna per building.
Dish antennas shall not be attached to a building.	Dish antennas shall not be attached to a building.	Dish antennas shall not be attached to a building.	Dish antennas shall not be attached to a building.
*Unattached dish antennas shall not exceed 8 feet in height above avg. grade.	*Unattached dish antennas shall not exceed 12 feet in height above avg. grade.	*Unattached dish antennas shall not exceed 12 feet in height above avg. grade.	*Unattached dish antennas shall not exceed 12 feet in height above avg. grade.
*Unattached dish antennas shall be located no closer than 10' to any side or rear lot line.	*Unattached dish antennas shall be located no closer than 10' to any side or rear lot line.	*Unattached dish antennas shall be located no closer than 10' to any side or rear lot line.	*Unattached dish antennas shall be located no closer than 10' to any side or rear lot line.
*No unattached dish antennas shall be located in a required front yard, street side yard or rear street yard setback.	*No unattached dish antennas shall be located in a required front yard, street side yard or rear street yard setback.	*No unattached dish antennas shall be located in a required front yard, street side yard or rear street yard setback.	*No unattached dish antennas shall be located in a required front yard, street side yard or rear street yard setback.
Dish antennas not greater than 1 meter in diameter shall be subject to the following:	Dish antennas not greater than 1 meter in diameter shall be subject to the following:	Dish antennas not greater than 1 meter in diameter shall be subject to the following:	Dish antennas not greater than 1 meter in diameter shall be subject to the following:
No more than 1 dish antenna per dwelling unit.	No more than 1 dish antenna per dwelling unit.	No more than 1 dish antenna per dwelling unit.	No more than 1 dish antenna per /tenant space
Dish antennas may be attached or unattached to the building.	Dish antennas may be attached or unattached to building.	Dish antennas may be attached or unattached to building.	Dish antennas may be attached or unattached to building.

Those regulation in the table that begin with an asterisk (*) identify that the regulation pertains to all unattached dish antennas within that respective zoning district.	
All attached and unattached dish antennas shall be screened from public view, and private and public streets and ways.	
Dish antennas located in the Beach Area zoning district shall be subject to the regulations of the zoning district to which the Beach Area property is adjacent.	
All dish antennas shall be neutral in color, and to the maximum extent possible, compatible with the surrounding neighborhood appearance and character. In addition, no form of lettering, advertising or identification shall be allowed on any such antenna or its framework (other than the manufacturer's small identification plate).	
Note: One (1) meter in the metric system of measurement equals 39.37 inches or 3.28 feet.	

Mr. Moore mentioned that this issue was discussed extensively at the Zoning Commission hearings.

Mrs. Smith questioned if the provision, if passed, were enforceable?

Mr. Castro replied that the provision requiring dish antennas to be site screened from the street is presently in the Code. He added that if the dish owners had applied for permits to install the dish antennas, they would not be visible from the street, and if they can be seen from the streets, the owners are in violation of the Code today.

Mr. Castro explained that this item was changed to provide flexibility and comply with the existing FCC regulations as they apply to dish antenna reception. The existing zoning ordinance only allows one dish antenna per residential building on a lot. This precludes dwelling unit owners in multi-family buildings from the opportunity of having the dish antenna technology that is becoming more prevalent in today's television market. The proposed revision would provide a provision to allow smaller dish technology on each dwelling unit provided that it is screened from the neighboring properties' view, public view, and from public and private streets. The antenna must also be compatible to the surrounding neighborhood in appearance and character.

Mr. Castro said that only one dish antenna up to three meters in size is allowed in the commercial districts presently. He noted that the table showed exactly the number of dish antennas and the sizes that would be allowed in each zoning district.

Responding to questions from Mr. Wyett regarding the number of dish antennas allowed in single family homes, Mr. Castro said any number of dishes would be allowed except only one dish may be between one and two meters. The smaller ones would be allowed. He said the Zoning Commission discussed the issue and decided that residences may need five or six dishes and that was all right as long as they were screened from the street and neutral in color.

Mr. Castro explained that the language related to screening dishes from neighboring properties was changed because of the problem of reception.

Mr. Shaw made a motion to approve the recommendation of the Zoning Commission with the change that under commercial space that no limitation on the number of dish antennas. The motion was seconded by Mr. Wyett. On roll call, the motion carried 5-0.

Item 17. Proposed Revision to Section 6.21., page 2054.4 of the Zoning Ordinance.

Amend Section 6.21. OFF-STREET PARKING.*(D) *Location of parking spaces.* (3)(f), by modifying the language to clarify that underground parking would be permissible within the special exception provision. The proposed revised language reads as follows:

The tTown cCouncil may permit, as a special exception , the establishment of required off-street parking facilities of commercial uses in zoning districts differing from the district of the principal use of structures they are intended to serve if the following conditions are met:

- (a) ...
- ...
- (f) The said parking area shall be located at ground level or below ground level and shall not be located within any structure above ground.

ZONING COMMISSION ACTION:
The Zoning Commission recommended approval of the proposal as submitted by the Town Administration, and modified by the Zoning Commission, to amend Section 6.21. OFF-STREET PARKING.*(D) *Location of parking spaces.* (3)(f), to clarify that underground parking would be permissible within the special exception provision, to read as above.

Mr. Castro said this item was related to the Neiman-Marcus project and was a housekeeping item. He said this provision specifically identifies below ground parking that would be in a "structure" but that would not impact neighboring properties. He said this provision would consider parking in a residential or different district other than a commercial use.

Motion made by Mr. Shaw to approve the recommendation of the Zoning Commission. The motion was seconded by Mr. Wyett and carried 5-0 on a roll call vote.

Item 18. Proposed Revision to 6.21 , page 2054 of the Zoning Ordinance.

Amend Section 6.21, Schedule of Off-street Parking Requirements, by amending paragraph (2) to read as follows:

- (2) Multi-family dwellings (3 units or more)

# of units	Required parking spaces
3	10 8
4	12 10
5	14 12
6 or more units	2 per dwelling unit plus 1 per 5 units or portion thereof

ZONING COMMISSION ACTION:
The Zoning Commission recommended approval of the proposal as submitted by the Town Administration to amend Section 6.21, Schedule of Off-street Parking Requirements, by amending paragraph (20 as stated above.

Mr. Castro said this item originally was presented to the Town Council during the 1995-1996 zoning season, the Town amended this provision in the ordinance to ensure that there was adequate parking provided for guests and service people in multi-family developments of five units or less. Since that amendment, staff has had the opportunity to re-evaluate the effectiveness and the demand for the parking required for the smaller multi-family development. Staff believes that requiring three and four unit developments to provide two parking spaces per unit plus two additional off-street parking spaces is adequate. The two additional off-street parking spaces must be separately located in an area other than behind the garage. This for example would provide a three dwelling unit building with eight parking spaces during times when overflow parking is needed, with the capability of parking another six cars in the garage driveways. Staff believes this is more than adequate off-street parking for this type of use.

Mr. Wyett said that many of these new units have more than two cars because of live in staff, visitors, or whatever. He questioned the advisability of reducing the parking requirements.

Mr. Castro gave the example of the requirements for a three family dwelling unit which required fourteen parking spaces which should be adequate for guests most of the time.

Motion made by Mr. Wyett to approve the recommendation of the Zoning Commission. The motion was seconded by Mr. McLendon. Mr. Shaw said he was not satisfied with the numbers. Mr. McDonald said he agreed with that, and Mr Wyett withdrew the motion. Mr. McLendon withdrew his second.

Mr. Shaw made a motion to modify the language as follows:

# of units	Required parking spaces
3	8
4	11
5	13
6 or more units	2 per dwelling unit plus 1 per 4 units or portion thereof

The motion was seconded by Mr. Wyett.

Mr. Randolph said he did not have a problem with the first three changes but the 6 or more units change was not advertised.

Mr. Shaw said he would change the last part of the motion to stay the same or 6 or more units would have 2 per dwelling unit plus 1 per 5 units or portion thereof. Mr. Wyett agreed with the change. On roll call, the motion carried 5-0.

Item 19. **Proposed Revision to Sections 5.42, 6.40, 9.61 and 10.41, pages 2040.6, 2068, 2106.1 and 2012.1, respectively, of the Zoning Ordinance.**

Amend Section 5.42. MISCELLANEOUS LOT REGULATIONS, 6.40. by adding a new provision; by amending Special exception uses., by providing additional information in item (m); by adding additional clarifying language in Section 9.61 item (k); and, by adding language in Section 10.41 HEARING PROCEDURE, to ensure that specimen/historic trees are identified on all surveys and plans for development applications and that applications have written provisions on how said trees are to be protected during construction. The following additions, changes and modifications are proposed:

(5.42) MISCELLANEOUS LOT REGULATIONS.

(a) *Reserved.* All Town Council zoning applications, and Landmark Commission, Architectural Commission and Building permit applications shall include a signed and sealed survey with all pertinent information including the location of historic/specimen trees. In addition to the survey, a detailed written explanation of how said trees shall be protected by barricading shall accompany said survey.

(b)...

Sec. 6.40. Special exception uses.

Special exception uses and their related accessory uses or any expansion, enlargement, or modification of an existing special exception use, or any physical expansion of an existing special exception use or facility, shall be permitted only upon authorization by the town council, provided that such uses shall be found by the town council to comply with the following requirements and other applicable requirements as set forth in this chapter [ordinance]. All special exception uses require site plan review in accordance with Section 9.60 of this chapter [ordinance]. (For additional standards applicable to Planned Unit Development, see Article 1 of the chapter [ordinance].)

(a)...

....

- (m) If historic/specimen trees are located on the subject property, the location of said historic/specimen trees shall be identified on a signed and sealed survey. In addition, adequate landscaping, and screening and barricade protection of historic/specimen trees are shall be demonstrated to be provided as required herein: in Section 6.40 and 9.60 of the ordinance.
- (k)...

...
Sec. 9.60. Site plan review.

...
(9.61) APPLICATION. The applicant and/or his agent shall furnish to the town as a part of his application for site plan review a professionally prepared study and detailed report, at the applicant's expense, of the impact of the proposed development on the infrastructure and operation of the town including

development requirements for utility services such as storm water sewers, garbage and trash collection and all other matters relating to the provision of public utilities and/or services by the town.

Application for site plan review shall be filed by the fee simple property owner. The fee simple title holder may authorize a designee, agent or representative by power of attorney filed with the building official. The application shall include those of the following items deemed to be applicable by the building official:

(a)...

...
(k) Landscape plan, including types, sizes and locations of vegetation and decorative shrubbery, and showing provisions for irrigation and maintenance. (Location on the site of all existing trees protected by town regulations shall be shown on the plan that specifies the means of protecting said trees with barricading.)

(10.41) HEARING PROCEDURE. Applications for special exceptions or variances shall be accompanied by proper exhibits which shall be timely filed and shall include plans, documents and other materials to adequately depict and support the request. At a minimum, all applications for a variance shall include a plot plan identifying the following information: Location of structure(s), lot size setbacks per cent of lot coverage, per cent landscaped open space (front yard and total lot), and finished topographical elevations. In addition, if historic/specimen trees are located on the subject property, a signed and sealed survey with all pertinent information including the location of historic/specimen trees is required and a detailed written explanation of how said trees shall be protected by barricading shall accompany said application.

ZONING COMMISSION ACTION:

The Zoning Commission recommended approval of the proposal as submitted by the Town Administration to amend Section 5.42. MISCELLANEOUS LOT REGULATIONS, 6.40. by adding a new provision; by amending, "Special exception uses.", by providing additional information in item (m); by adding additional clarifying language in Section 9.61 item (k); and, by adding language in Section 10.41 HEARING PROCEDURE, to ensure that specimen/historic trees are identified on all surveys and plans for development applications and that applications have written provisions on how said trees are to be protected during construction. Said provisions to read as stated above.

Mrs. Smith asked Mr. Moore how the Building Department will track historic or specimen trees on properties and questioned the work ability of the ordinance unless the property owner is notified before the work begins? She suggested that the property owners should be required to put up a bond as protection for the trees.

Mr. Moore responded the required identification on the survey is a step before other Town approvals are applied for. He said that all historic trees are recorded in Palm Beach County and the burden would be upon the applicant to ensure that the property is free of encumbrances.

Mrs. Smith expressed concern about the procedures that would be in place to alert the Building Department if the trees were not identified on a survey.

Mr. Moore replied that his department is currently computerizing the list of historic/specimen trees, and they will show up on the computer when a permit is processed. Mr. Moore said the proposed additions to the provisions in the zoning ordinance are housekeeping to ensure that the applicants for Zoning, Building, Landmark Commission and Architectural Commission approvals provide a provision to identify specimen/historic trees on surveys and plans, and also to ensure that said trees are subsequently protected during construction work on the site.

Mr. Castro added that he would follow-up with developers and architects to insure that trees were properly identified on surveys.

After the discussion of fines and enforcement for the destruction of historic trees, Mr. Randolph said those things could be considered by the Ordinance, Rules and Standards Committee. He said the present question before the Town Council was how to beef up the Zoning Ordinance to make sure that when people come in for Special Exceptions and Site Plan Reviews that the Town has been advised of the trees.

Mrs. Smith clarified that when people attempt to claim a clear title to a property, they would be notified of any specimen trees located on the property.

Mr. Moore replied that was true and responded that information was not currently required; however, by amending this ordinance, it would be required in the future.

Mr. Randolph said the Town Council would be going beyond the intent of the Zoning Ordinance if the discussion was about how to amend the Specimen Tree Ordinance, and the discussion of fines and amendments to the Ordinance could be done at another time. He said this discussion was about incorporating the provisions of that ordinance within the Zoning Code so that when a Site Plan Review or a Special Exception is heard, applicants would be required to present a survey. He advised that with an approval of a Special Exception, the Town Council could impose conditions that would require fines if the trees were destroyed.

MINUTES OF THE TOWN COUNCIL MEETING HELD ON 2/15 & 2/16/1999

Mr. McDonald made a motion to approve Sections 6.40, 9.60, Site Plan Review and the Hearing Procedure. The motion was seconded by Mr. Shaw. On roll call, the motion carried 5-0.

This meeting as adjourned at 3:15 p.m. to February 16th at 9:40 a.m.

President Lesly Smith reconvened the Town Council meeting of February 15th at 9:40 a.m on February 16, 1999.

Mr. Moore announced that Raymond Gindroz of Urban Design Associates had to return to Pittsburgh due to the illness of a family member. Mr. Moore said he had discussed the times when Mr. Gindroz could return to Palm Beach to make the presentation that was part of the R-B Zoning District. Mr. Moore said he believed the legislative issues related to Item 3 could be presented at this meeting and have the Town Council take action on those issues. He suggested that Mr. Gindroz appear before the Town Council on March 9th at a time certain for his presentation regarding the issues of the pattern book and the sample streets in the R-B district.

Mrs. Smith suggested that the Town Manager's office should verify the time Mr. Gindroz will appear which may be 1:30 p.m. on March 9th.



Item 3. In the R-B district study the Floor Area Ratio (FAR) and Cubic Content Ratio (CCR) including; reducing the FAR from .45 to .43; allow Architectural Commission, upon petition, to award 2% building bonus if the proposed building or alteration is of great architectural merit, reduces the appearance of bulk and contributes to improved appearance of the street; or, reduce the FAR to .35 plus .08 for garage and terrace with the covered terrace restricted to one story with provision for the 2% building bonus as above.

Increase the minimum lot width from 100 feet to 125 feet in the R-B district.

In the R-B district, reduce the side street yard and rear street yard setback from 30 feet to 18 feet for corner lots if usage is restricted to a one-story, two-car garage with 2nd story above garage remaining 30 feet from street and increase the rear yard setback to 20 feet.

Mr. Moore recalled the R-B Zoning district has presented problems from time to time regarding the amount of permitted square footage under the Zoning Ordinance versus a conflict with the Architectural Commission's ordinance which dictates that they review the square footage and cubic content as it relates to the neighborhood withing 200 feet of the subject property. As a result of this concern both pro and con for larger homes, the Town Council requested the staff to assess the Ordinance. He said the staff provided three workshops for the general public in early November which were advertised. The Zoning Commission's recommendations are outlined in their report.

Mr. Moore said this is essentially a change in the ordinance that would assure property owners the certainty of what they could do in the R-B Zoning District, and there are ways to obtain the same amount of square footage. He said the Zoning Commission offered suggestions for ways to have square footage.

Mr. Brisson presented a map of the northern portion of the Town of Palm Beach showing the R-B district. Mr. Brisson recommended that the cubic content ratio be used in place of the floor area ratio with liberalization of the CCR. He suggested that unenclosed balconies be allowed up to 5% and not be included in the allowed CCR. He suggested that garages remain within the allowable CCR.

Mr. Brisson said he would attempt to address each of the recommendations made in the report by the Zoning Commission. He said that (1), (2), and (3A) of Item 3 are linked and deal with the definition of cubic content and the elimination of the use of the Floor Area Ratio (FAR).

ZONING COMMISSION RECOMMENDATIONS:

The Zoning Commission addressed each of the recommendations for modification to the R-B District regulations contained in the Adley, Brisson, Engman Technical Memorandum as follows:

- (1) The Zoning Commission recommended approval of the proposal as submitted by the Town Administration, and modified by the Zoning Commission, to amend Sec. 2.10, Definitions, 13.31 CUBIC CONTENT RATIO (CCR) to read as follows:

A measure of land use intensity, expressing the mathematical relationship between the cubic content of a building and the unit of land. It is arrived at by dividing the gross cubic content (as calculated by multiplying building height as defined in section 2.10(11.05) times building width times building depth) of all structures by the gross area of the lot. Unenclosed covered patios, loggias, balconies, porches or terraces located on the first floor of the structure shall not be counted in calculating the cubic content of a structure, provided the aggregate cubic content of such appurtenances does not exceed 3% 5% of the total cubic content of the structure. Such appurtenances so erected may not in the future be enclosed or converted to permanent additions to the structure if such conversion would increase the cubic content of the structure beyond that allowed by the applicable CCR. Note: It is suggested that a deed restriction could be used as a mechanism to enforce this regulation)

- (2) The Zoning Commission recommended approval of the proposal as submitted by the Town Administration to amend Sec. 2.10, Definitions to delete (22.1) FLOOR AREA RATIO (FAR) in its entirety and change to CCR all references to FAR located elsewhere in the Code as appropriate.

- (3) The Zoning Commission recommended approval of the proposal as submitted by the Town Administration to amend Sec. 4.20, Schedule A, Schedule of Lot, Yard and Bulk Regulations pertaining to the R-B District by deleting the following reference:

~~‡ A maximum floor area ratio FAR of 0.45 (including basements) shall be allowed in the R-B District.~~

Homeowners are primarily interested in expanding floor area and second increasing the mass. If the ccr is increased the floor area can be expanded with modification of the height or mass. The thrust during the past 12 years is that one cannot expect to max out their project.

The balconies, etc. if on the first floor these do not tend to contribute to the mass of the structure; however, they do if they are on the second floor. The first three recommendation are agreed to by the staff.

Mr. Brisson summarized that the substance of those proposed changes was the elimination of the Floor Area Ratio and no longer be used for a tool governing mass and bulk in the R-B District, and the Cubic Content Ratio be used as the only tool. He added the a liberalization of the Cubic Content Ratio was recommended and unenclosed patios, loggias and things of that nature located on the first floor of the structure not be included within the cubic content allowed under the Cubic Content Ratio. This would be allowed up to a maximum of 5%. Garages would be included within the allowable Cubic Content Ratio.

BACKGROUND

Despite the imposition of controls on the floor area and cubic content, and reducing the maximum height in the R-B District, existing single-family homes continue to be demolished and replaced with homes constructed to the maximum allowable mass. This results in structures that are still out-of-scale and character with the surrounding area. Therefore, the Council has requested a re-study of most of the factors affecting the building envelope in the R-B District. The following discussions relate to possible changes to the lot, yard and bulk regulations within the existing framework of the Zoning Code, but do not include more creative or complex approaches that will be discussed during the workshops to be held in early November.

The following is the commentary from the Zoning Commission Report and Recommendations dated January 14, 1999.

COMMENTARY

A. FAR and CCR

Over the years the Town has instituted a series of measures which, in effect, require the developer of a property in the R-B district to choose among the various maximums and minimums contained in the lot, yard and bulk regulations. It is not possible to build to all of the maximums and minimums in this district.

The least complicated way to further limit mass and bulk in the R-B District, and thereby encourage construction of homes in scale with those which have given the R-B District its character, is to further restrict the primary aspects of design, the foremost of which are the FAR and CCR.

ESTABLISHED CHARACTER OF THE R-B DISTRICT

In 1992, as part of our investigation of bulk regulations, the FAR was computed for all homes in the R-B district. At that time, 73% of all two-story homes in the R-B district had an FAR of 0.35 or less, and almost 84% had an FAR of 0.40 or less. When incorporating the FAR first recommended, it was suggested that an FAR as low as 0.35 was, in our opinion, supportable by the data we analyzed. This is still true. At that time, the cubic content ratio was not under discussion.

The maximum allowable height in 1992 was 25 feet for two-story homes, although it appears that maximization of height was not the rule at that time. With an FAR of 0.35, a two-story, "box" style home on a 10,000 square foot lot, built at the maximum height of 25 feet would have had a CCR of 4.375. At a height of 22 feet, the resultant CCR would have been 3.85; and at 20 feet, the CCR would have been 3.50.

We have come to recognize that homeowners are most concerned with maximizing the floor area in an architecturally interesting manner, and then, secondarily, may be interested in increasing the mass of the building by taking advantage of allowable height. Consequently, it is felt that it would be appropriate to eliminate the FAR and rely solely on the CCR as the zoning tool by which to limit the appearance of mass and bulk.

Recent experience has indicated that new homes are still being constructed out-of-scale with the neighborhood and surrounding properties. This indicates that the current CCR of 4.5 is still too high. Therefore, in order to encourage construction consistent with the overwhelming majority of the homes built during the more formative years of the R-B District, it is suggested the maximum CCR be set at 4.0, which is somewhere in the upper-middle of the range of what one would have expected of two-story homes built prior to 1992.

By employing only the CCR, the architect or homeowner has the flexibility to achieve the greatest amount of floor area allowable within the coverage and setback limitations of the district. However, to achieve the maximum floor area, the height needs to be reduced below the maximum allowable. A CCR of 4.0 on a 10,000 square foot lot will allow a "box" style, two-story home of 4,444 square feet at a height of 18 feet; 4,000 square feet at 20 feet; and 3,636 square feet at the maximum allowable building height of 22 feet.

It is believed that elimination of the FAR as a factor in limiting mass and bulk in the R-B district simplifies the process and removes the need to look at more complex solutions such as bonuses in floor area for architectural merit. Finally, it is also believed that garages should remain in the calculation of the CCR since garages contribute to the overall mass and bulk of the building and should be counted no less simply because they are not usually air conditioned.

Mr. Shaw said he would like to see the 2% allowed for towers used for mechanical purposes would not be counted in the 5% allowance in the R-B district.

Mr. Brisson clarified that if the 5% allowance were used for patios, loggias, or anything else, a tower would still be allowed.

Lowry Bell, Member of the Architectural Commission, addressed the Town Council and stated he thought the sliding scale, as presented, was too restrictive especially for numbers between 10,000 and 20,000 cubic feet. He said ARCOM has not had a major problem with reducing the mass of the houses and some of the biggest critics are ARCOM's biggest supporters. The flexibility of not being too restrictive has given ARCOM the ability to allow those people who have done a wonderful job in creating something on their property to have more square footage, but not more than the zoning permits. He said he supported the 5% allowance for patios, loggias, etc. He added the ten foot setback requirement would be a big improvement.

Responding to Mr. Shaw's concern regarding controlling the number of variance requests the 5% allowance would open up, Mr. Randolph said perhaps Mr. Brisson's suggestion for a sentence to be added to the ordinance, "There shall be no variances granted under this provision for the enclosure of unenclosed patios, loggias, etc. in the event the applicant determined to use the 5%" would help.

Mr. Randolph said he was not comfortable with the language and was not sure if it would have to be advertised before the Town Council could consider it. He said that the law states "use variances" cannot be granted, but variances can be granted regarding structures.

Mr. Shaw made a motion to approve Items 1, 2, and 3A with the inclusion in item 1 that towers will be excluded from the CCR as long as they meet the size as indicated elsewhere in the Code and that they are used for mechanical purposes only. The motion was seconded by Mr. Wyett.

Mr. Randolph asked for clarification on the motion--the tower does not have to be used for mechanical equipment as long as it is not habitable space. Mr. Shaw agreed with that statement, and Mr. Wyett accepted that also.

On roll call, the motion carried 5-0.

3B. Amend Section 4.20 by deleting the CCR limitation of 4.5 and replacing it with a sliding scale

ZONING COMMISSION RECOMMENDATION:

The Zoning Commission recommended approval of the proposal as submitted by the Town Administration to amend Sec. 4.20, by deleting the CCR limitation of 4.5 and replacing it with the following:

For lots less than 10,000 sf the CCR shall be calculated as follows:

4.0 plus [(10,000 minus the lot size) ÷ 10,000]

For lots 10,000 to 20,000 sf of the CCR shall be calculated as follows:

3.5 plus [(20,000 minus the lot size) ÷ 20,000]

For lots 20,000 to 60,000 sf the CCR shall be calculated as follows:

2.5 plus [(60,000 minus the lot size) ÷ 40,000]

In no case shall the cubic content of structures on a lot exceed 150,000 cubic feet.

The Zoning Commissioners expressed concern over the degree to which the CCR is being reduced for lot sizes between 10,000 and 20,000 square feet, and particularly between 10,000 and 15,000 square feet. Mr. Brisson said the staff created a sliding scale, and staff will be comparing the way the sliding scales affect the proposals and the amount of buildable space under the proposals.

Mr. Brisson said the existing 4.50 CCR is too high and the homes continue to come before the Architectural Commission at a size that is out of scale with the surrounding properties. Mr. Brisson said two problems exist: one is the size of the structure in relation to the lot and the second one is the size of the structure in relation to the surrounding area. The sliding scale tends to reduce the absolute size, depending on the lot, that has some relationship to the surrounding area. He said the sliding scale, in most instances, should allow the type of home that one would typically expect in the R-B district. He said that he tried to reach a goal of having approximately 4,000 sq. ft. of air conditioned space on a lot in the R-B district.

(Mr. Brisson presented examples of his proposed sliding scale table)

Mr. Brisson said most of the problems occur in the R-B district where the lots are between 10,000 and 15,000 sq. ft. Under the existing requirements, on a 10,000 sq. ft. lot, the square footage/cubic content would be reduced by approximately 6.4% for 3,864 sq. ft. of floor area with an average of 22 ft. height to the tie beam. Mr. Brisson said his proposal would allow 3,636 sq. ft. including the garage. He said the alternative plan would not provide any change.

Mr. Brisson said if the alternative sliding scale is used in conjunction with a 10,000 sq. ft. Lot, nothing is gained. He said presumably the goal is to get the Architectural Commission out of the numbers game and let them deal with the architectural facts, and this scale would allow larger houses with the smaller lots than have recently been approved. He added that he did not think the sub-standard lots were a problem, and essentially there was no change unless something close to the original proposal is used.

Mr. Brisson gave examples for different lot square footages.

David Barton, 216 Jamaica Lane, addressed the Town Council and said there was a difference in view points between homeowners and property owners. He said the Comprehensive Plan has no plans or goals to preserve the future of the R-B zoning district. He said the Town's long awaited response to the problems of development in the R-B district is pathetic. He said the plan presented (by Mr. Brisson) does not come close to solving the problem of overbuilding large houses on too small lots. It is a mere token CCR reduction in a wonderful sounding sliding scale nomenclature and does not encourage renovation or discourage demolition as called for in the Comprehensive Plan.

Mr. Barton said what is proposed is inadequate and premature and should be deferred until it becomes contextual with long range Town planning. Zoning without planning is a knee jerk activity--not thinking through what the impact will be. Mr. Barton said the long involved Council meetings where homeowners, developers, and attorneys speak exists because of the chronic neglect by this and past Palm Beach Town Councils for not attending to the Town's long range planning interests. He quoted the late Governor, Lawton Chiles: "Once again the special

MINUTES OF THE TOWN COUNCIL MEETING HELD ON 2/15 & 2/16/1999

interests has prevailed over the public interest and the prospect of private gain has prevailed over the public good.”

Mr. Barton said Palm Beach’s north end is worth saving, and the aim should be to keep its character and not change it to a gaudy, over built Boca Raton. He said the rezoning plan should be shelved and rethought until long range planning is in place.

Lowry Bell, member of the Architectural Commission, addressed the Town Council and said the sliding scale is as Mr. Barton said. It would allow larger houses to be built in the north end. He said he did not feel the sliding scale was appropriate at the present time.

Nikita Zukov, member of the Landmarks Commission, addressed the Town Council and said he agreed with Mr. Bell that the scale should be adjusted. He suggested the scale could start with 4.2 or 4.0. He said the scale should be only a guide.

James Bertles, member of the Zoning Commission, addressed the Town Council and said two important points were made by Mr. Gindroz: 1) Size is not the problem but 2) Architecture and Design are the problems. Mr. Bertles said he agreed that the 5% allowance for patios, loggias was good.

Mr. Bertles said it was crucial to take ARCOM out of the size business, and he favored a sliding scale; however the sliding scale proposed is too restrictive. Mr. Bertles referred to a chart in the Zoning Commission Recommendations and Report dated January 14, “Results of Application of Sliding Scale CCR”, following page 19. He said this chart is the one that is more effective rather than the additional charts that Mr. Brisson did when he was comparing 10,000, 12,000, and 14,000 sq. ft. lots.

Responding to a question from Mrs. Smith regarding the figures on the two charts, Mr. Brisson said the figures on the charts were changed.

Mr. Bertles said the chart was too restrictive, although he favored the sliding scale CCR, he thought it was being reduced too much.

Jorge Sanchez, member of the Zoning Commission, addressed the Town Council and said he thought the 4.5 number (CCR) was a totally fictitious number and is a ceiling that has never been reached. He said the real numbers are quite different when an actual building is constructed on a small lot. He said numbers are being compared that are non-existent. He suggested that the real numbers are the ones ARCOM has used in the past or the ones that Mr. Brisson lowered.

Martin Klein, Chairman of the Zoning Commission addressed the Town Council and reported there was unanimity on the Zoning Commission although some of the members thought the scale was too restrictive and others did not. He noted that after the Zoning Commission met, the staff ran additional numbers for presentation to the Town Council. By the way of guidance, he said the Town Council was hearing the application of the numbers to a concept of a sliding scale.

Ambrose Monell, 635 Crest Road, addressed the Town Council and commended the efforts of all involved in trying to resolve the issues. He said the Zoning Commission recommendations represented a major step forward and any decision made will be restrictive to some people concerned with property values.

Lowry Bell said he would like to address the issue of getting ARCOM out of the size business, and he did not believe that ARCOM was in the size business. He said he felt strongly that most of the architects serving on the Architectural Commission and other members do not address the size, as such. He gave examples of recent ARCOM approvals that would be larger than the proposed sliding scale numbers.

David Barton said he would like to speak about the architectural element in the proposal. He said ARCOM is doing the best job possible for the Town, and the idea of taking them out of the business of dissimilarity (Section 5.387) is a grave mistake. He said he opposed any change in the proposal that would neuter the Architectural Commission.

Eric Adams, Architectural Commission member, said although some applicants came before the Architectural Commission thinking they could build a certain size of house. He said ARCOM, in the highest affirmation of what they do, is the adjustment of equities between and among property owners, and it is not unreasonable today for people to be looking for larger homes. He said a sliding scale, if adopted, should be less rigid and more applicable to what a realistic situation is and that is what ARCOM is confronted with every time they meet. Mr. Adams said, he thought, that ARCOM is in the size business out of necessity. He said if ARCOM is doing its job properly, then ARCOM is not allowing someone to impose upon his neighbor while preserving one’s right to build a fully sized home.

Polly Earl, Director of the Preservation Foundation, addressed the Town Council and said the important thing being developed at this meeting is a process to recognize and define the problems, but the process will be ongoing. She urged moderate change for the CCR and the Town Council not go further than the recommendations of the staff and the Zoning Commission. She said she agreed that good architecture is the key and the overall values in Palm Beach come from the fact that it is Palm Beach. If the quality of Palm Beach is allowed to deteriorate, then all values will be downgraded.

Hamlin Beatty, 1263 North Lake Way, addressed the Town Council and said, as a recent new resident and buyer of adjacent property below 7.5 feet, he would be interested in the number of lots below 7.5 in the north end. He said he thought a sliding scale is the only reasonable approach to the size issue.

Mr. Shaw said he thought the CCR numbers ARCOM has approved in the last five years is critical. He said he understood the differences in the charts as presented by Mr. Brisson. He said he did not understand the difference between flexible zoning and a sliding scale. He said less than 1/10 of 1 percent of the houses in the north end will be able to be larger by using the new proposal, and by shifting the 5% to the patios and the 2% to the towers, there is no need to go to alternate one (as presented by Mr. Brisson). He said people who live in their homes and face new situations with what they want to do with their homes, should be protected and should not be confronted with changing zoning that seriously affects their immediate plans. He proposed considering a “grandfathering” of zoning that any property that is going to be renovated and meets the 50% standard be allowed for a period of up to 3 years to work within the old FAR requirement, but any new construction or any major reconstruction above the 50% be required to meet the new standards.

Mr. Wyett said he had spoken to about 150 residents in the north end and approximately 20% of the people he talked to thought the zoning restrictions were too liberal. Another 30% did not want a huge house next door to them and the remaining 50% want to be able to expand when they need to. Mr. Wyett said the 20% were very vocal. He said he was concerned about the Burt Harris Property Act. He concluded that Palm

Beach is among the most beautiful towns in America and what is in place now works. Mr. Wyett said everytime the Town Council passes more restrictive zoning, the number of applications for hardship or without hardship come before Council, and it is going to increase. He urged that unless something better results, nothing should be done.

Mr. McLendon said he supported the sliding scale as developed by the Zoning Commission because he was in favor of using numbers to reach decisions.

Mr. Randolph said that anytime the Zoning Code is amended after 1995, the Town would be subject to the Burt Harris Act. He said he recommended to the people he represents that they should not hesitate to make amendments. The burden of proof for someone who files for relief under the Burt Harris Act is that they be able to show that as a result of the action of the Council in adopting a new regulation that their property has been inordinately burdened as a result. He said the Council would have to look at the regulation and make a determination if an appraiser would testify and give an affidavit that as a result of the action the property has been inordinately burdened. The test under the definition is that the owner because of governmental restrictions is permanently unable to obtain reasonable investment expectations for the property or that the owner is left with uses that are unreasonable such that the owner bears permanently a disproportionate share of a burden posed for the good of the public which in fairness should be borne by the public at large. Mr. Randolph said one thing to keep in mind is that once the claim is filed, the Town has 180 days in which to address the claim, and it does not mean that just because a claim is filed that the case will go to court. Several options are available under the Act, one of which is to settle with the property owner.

Mr. Wyett suggested this issue should be deferred and looked at in more detail to determine if people would not be hurt as a result of some benefits to the Town.

Mrs. Smith asked Mr. Moore how much more comprehensive could this study be? What was not heard and what was not taken into consideration while this proposal was being addressed?

Mr. Moore responded one thing was the type of moratorium, but he wished to make his remarks after everyone was heard from.

Mr. Monell said the Council should avoid solving one problem and creating a myriad of other problems and suggested giving consideration of using a sliding scale for minimum lot sizes up to 12,000 or 15,000 sq. ft., using a ratio of 3.75--from that point to the larger lot sizes use 3.75.

Mr. Moore recalled the Town Council did defer this issue last year with instruction to the staff to have open discussions for public input and have some equitable regulation. Beyond that, the Civic Association held open sessions for all residents, and the Preservation Foundation has done the same. Mr. Moore said both sides of the issue were represented with the presentations heard at this meeting. He noted that the Zoning Commission recommendations on page 6 and quoted: "...it should be noted that Mr. Ray Gindroz stated, specifically, that he supported the sliding scale CCR, and indeed felt it was necessary to reduce the CCR in order to reduce mass and provide the opportunity for incentives for development within the guidelines of the Pattern Book." Mr. Moore said the proposal is an interim step, and the Zoning Commission has recommended two methods to attack the problem that has resulted in heated debate. One is the development of a sliding scale with certainly liberalization. He said other incentives, after item 3b., that are designed to be bonuses for persons seeking to build new homes or seeking to enlarge their homes. He said it is import for the Town Council to realize that this is only one part of the puzzle.

Mr. Moore said if the Town Council authorizes a study for several streets as suggested by Mr. Gindroz, the Zoning Commission will have examples to make further recommendations to the Town Council next year. It may be that certain neighborhoods will have higher or lower CCR's than the sliding scale. The sliding scale is an interim tool to be used. Mr. Moore requested the Town Council to consider the interim changes with the full understanding that there is another part coming forward, but the first step would be the proposed legislative changes.

Responding to Mrs. Smith's question about Mr. Gindroz's presentation on March 9th, Mr. Doney replied that 2:00 would be the time certain.

Mrs. Smith asked how many architects participated in the discussion of this issue before the Zoning Commission with the exception of Mr. Pandula or other architects who are commission members?

Mr. Moore recalled that a couple of architects came to the meeting but did not speak.

Mr. Brisson explained the sliding scale became more dramatic with the larger lots with larger homes because these are cases where someone is trying to develop R-A homes in the R-B district.

Mr. Wyett said he thought it was unfair to people who have 20,000 sq. ft. lots and extremely unfair to people who live on the Lake who want to redevelop. He said he was concerned with regulations that would discourage proper redevelopment, and he thought ARCOM could do the job.

Mrs. Smith said she disagreed. The Town Council was not trying to promote redevelopment, but trying to find a compatible formula to work with the existing property owners.

Mr. Brisson explained the rationale for his scale numbers below 10,000 sq. ft.

Mr. Shaw said, although he understood Mr. Wyett's position and he agreed with him on the excessively large lots, he thought the Town Council needed to take a stand and do something. He said Mr. Brisson could easily modify the scale so that it either ends at 60,000 sq. ft. or 3.0 or 3.5. He continued that since this is step one and Mr. Gindroz's presentation is step two and the Town Council should do something based on the presentations contingent on the effective date for approval of a plan for incentives that will give back what is taken away. If something is not done, time and money has been wasted.

Mrs. Smith said the next step is not Mr. Gindroz but several considerations to be heard later, and Mr. Gindroz's presentation will be the pattern book concept.

Mr. Shaw made a motion to approve Item 3(b) with the original proposed sliding scale for lots up to 10,000 sq. ft. and that Mr. Brisson be instructed to provide a scale that will go from 10,000 sq. ft. up to 60,000 sq. ft. with an ending CCR or 3.5; that there be a three year

moratorium or grandfathering for houses that are to be remodeled and following the 50% requirement for remodeling renovations whereby they would be able to build to the existing 4.5 CCR. Mr. McLendon seconded the motion.

Mrs. Smith said as part of the Zoning Commission recommendations, "The Zoning Commission strongly emphasizes that the following recommendations conditioned upon its previous sliding scale CCR." She questioned which sliding scale was intended? Mr. Moore and Mr. Brisson indicated it was the original sliding scale.

Mrs. Smith questioned the Zoning Commission's intent for ARCOM to get away from height issues, because she thought that height and mass were the same thing and should not be taken away from the Architectural Commission.

Mr. Moore recalled the height was discussed by the Zoning Commission and the theory was if the Zoning Ordinance permitted 22.0 ft. tie beam in the R-B district, they would be permitted to have that.

Mr. Randolph clarified that the three year moratorium in Mr. Shaw's motion was not really a "grandfathering" provision but just a provision that will state this provision will not be effective until 2002 for specific properties.

Mr. Shaw said that was correct and he left it up to staff to come up with the correct wording but the intent was that existing properties may be renovated and have up to 50% based on the 4.5 CCR since there is no FAR.

Responding to Mr. Randolph's question regarding the projected number of permits the Building Department may receive in the next three years, Mr. Shaw said it was the intent to see properties remodeled and not torn down and rebuilt. He thought this would motivate property owners to remodel.

Mrs. Smith said she thought it was important during the transition period for ARCOM to have full control over reducing the size of the house. Mr. Gindroz said if the house was big and attractive and an old fashioned style house in Palm Beach, those could not be built today; but an absolutely hideous house that was too high could be built below the Code and ARCOM would be unable to do anything about reducing the height of it. She said ARCOM's hands would be tied with this proposal and she thought there had to be more of a grace period if it is adopted--talking new houses too.

Mr. Shaw said he was agreeable to make everything effective September 1st.

Mrs. Smith said that was too short a time in the building process.

Mr. Randolph pointed out that anyone who has plans on the table presently has no right to expect to anticipate that those plans will be approved. Mr. Randolph said he thought the Town Council had to pass reasonable regulations and should not base their decision on how long people would have before it went into effect. He said if the change would an inordinate burden on the property, it would be just as much a burden five years from now as the deadline the Town Council is giving them to comply.

Mr. Shaw said his intent was to give reasonable time.

Mr. Wyett suggested using one year across the board.

Mr. Shaw offered to modify the motion to one year for new plans and three years for existing.

Mrs. Pollitt read the motion to approve item 3(b) with the original sliding scale for lots up to 10,000 sq. ft.; 10,000 up to 60,000 sq. ft. the CCR would be 3.5.

Mr. Shaw added that the motion picked up from the existing chart which had the 10,000 sq. ft. lots at 4.0 CCR and to create the scale from 10,000 to 60,000 sq. ft. where the CCR will go from 4.0 to 3.5. He said he put in a three year period of renovation or remodeling of existing structures and he was willing to include an effective date of one year for new houses.

Mr. Randolph clarified that the effective date for new houses would be one year and the effective date for remodeling would be three years.

On roll call, the motion carried 3-2 with Mr. Shaw, Mr. McLendon, and Mrs. Smith casting affirmative votes and Mr. Wyett and Mr. McDonald casting negative votes.

3C. Amend Section 4.20 by increasing the maximum allowable lot coverage for one-story structures to read as follows: 1-story/35% 40%

ZONING COMMISSION ACTION:

The Zoning Commission recommended approval of the proposal as submitted by the Town Administration to amend Section 4.20, by increasing the maximum allowable lot coverage for one-story structures to read as follows: 1 - story/35% 40%

Motion made by Mr. Shaw to approve the recommendation of the Zoning Commission. The motion was seconded by Mr. Wyett and carried 5-0 on a roll call vote.

4. Increase the minimum lot width in the R-B District from 100 feet to 125 feet

ZONING COMMISSION ACTION:

The Zoning Commission recommended approval of the recommendation of the Town Administration not to increase the minimum lot width in the R-B District from 100 feet to 125 feet, as it would create too many nonconforming lots.

Mr. Shaw made a motion to approve the recommendation of the Zoning Commission. The motion was seconded by Mr. McLendon.

Mr. Brisson said there are very few lots in the R-B District that are vacant and little likelihood of just increasing the lot width will result in any significant number of wider lots, but it will make any lots that are presently not 125 feet wide nonconforming.

On roll call, the motion carried 4-1 with Mr. Wyett casting a negative vote.

5A. Amend Section 4.20, Schedule a, Schedule of Lot, Yard and Bulk Regulations to change the front yard setback in the R-B district to read as follows:

1-story: 25 feet	1 st story: 25 feet
2-story: 30 feet	2 nd story: 30 feet

ZONING COMMISSION ACTION:

The Zoning Commission recommended approval of the recommendation of the Town Administration to amend Section 4.20, Schedule a, Schedule of Lot, Yard and Bulk Regulations to change the front yard setback in the R-B district to read as follows:

1-story: 25 feet	1 st story: 25 feet
2-story: 30 feet	2 nd story: 30 feet

Mr. Moore explained the change would require the second story to be set back to 30 feet with the first story set back to 25 feet where presently a two story house must have both stories set back to 30 feet. He said this is a design tool to assist dealing with the issue of mass as it is perceived from the street.

Mr. Shaw made a motion to approve the recommendation of the Zoning Commission. The motion was seconded by Mr. McLendon. On roll call, the motion carried 5-0.

5B. Change the side yard setback in the R-B district by modifying footnote (13)(b) to read as follows:

The minimum side yard setback for ~~one-story construction~~ the first story shall be twelve and one-half (12 ½) ten (10) feet; and minimum side yard setback for ~~two-story construction~~ the second story shall be fifteen (15) feet.

ZONING COMMISSION ACTION:

The Zoning Commission recommended approval of the proposal as submitted by the town Administration, and modified by the Zoning Commission, to change the side yard setback in the R-B district by modifying footnote (13)(b) to read as follows:

The minimum side yard setback for ~~one-story construction~~ the first story shall be twelve and one-half (12 ½) ten (10) feet; and minimum side yard setback for ~~two-story construction~~ the second story shall be fifteen (15) feet.

Mr. Moore said this would give the applicant the ability to build within ten feet of the property line on a one story element with the second story portion at fifteen feet from the side property line. Currently, both would have to be at fifteen feet.

Mrs. Smith questioned if the Zoning Commission did not have conversation regarding the closeness of the structures.

Mr. Moore said the staff proposal was at 12.5 feet but the Zoning Commission thought it should be more liberal to provide greater architectural freedom for the siting of the one story elements on the property.

Mr. Wyett said he agreed with Mrs. Smith.

Mr. McDonald made a motion to deny the recommendation of the Zoning Commission. The motion was seconded by Mr. Wyett.

Mr. Moore asked for clarification of the motion. If it were to deny the ten feet setback or to allow the staff proposal of 12.5 for one-story element and 15 for two-story? The approval was for 15.

On roll call, the motion carried 5-0.

5 C. Change the rear yard setback in the R-B district to read as follows:

10 feet	1 st story: 10 feet
	2 nd story: 15 feet

ZONING COMMISSION ACTION:

The Zoning Commission recommended approval of the proposal as submitted by the Town Administration to change the rear yard setback in the R-B district to read as follows:

10 feet	1 st story: 10 feet
	2 nd story: 15 feet

Mr. Shaw made a motion to approve the recommendation of the Zoning Commission. The motion was seconded by Mr. McLendon. (This motion was withdrawn.)

Mrs. Smith questioned the reasoning for decreasing the sideyard setbacks and increasing the second story rear yard setback.

Mr. Moore said the Zoning Commission thought the second story should be set back more because of complaints received by the Architectural Commission.

Mr. Wyett made a motion to approve the recommendation on a basis of fifteen feet only regardless if it is one or two-story.

Mr. Moore said that was not advertised.

Mr. Wyett withdrew the motion.

Mr. Shaw made a motion to approve the recommendation of the Zoning Commission as stated. The motion was seconded by Mr. McLendon. The motion failed 2/3 on roll call with Mr. Shaw and Mr. McLendon casting affirmative votes and Mr. McDonald, Mr. Wyett, and Mrs. Smith casting negative votes.

Mr. McDonald made a motion to deny the recommendation of the Zoning Commission. (The ordinance will stay as is.) The motion was seconded by Mr. Wyett and carried 3/2 with Mr. McDonald, Mr. Wyett, and Mrs. Smith casting affirmative votes and Mr. Shaw and Mr. McLendon casting negative votes.

6. Amend Sections 5.34, Corner Lots and 5.35 Through Lots to read as follows:

(5.34) CORNER LOTS

- (a) Where any lot is located on any street intersection or where two (2) or more intersecting street lines outline any lot, or where any lot is located upon any corner, one side of the lot facing a street shall be determined to be the front street line of the lot by the orientation of the building facing a street and the other side of the lot facing a street shall be determined to be the side street of the lot, provided that such choice, in the opinion of the building official, shall not be injurious to the existing or desirable future development of surrounding property. Except for the R-B district, The the required street side yard shall have the same setback as the front street yard of such lot, and shall have the same provisions, requirements and restrictions as a required front street yard. (See Attachment One of this ordinance for illustration.)

In the R-B district, the required street side yard setback for the first story shall be twenty-five (25) feet except that a one-story two-car garage shall be set back not less than eighteen (18) feet. Any second story portion of the structure shall be set back not less than 30 feet.

ZONING COMMISSION ACTION:

The Zoning Commission recommended approval of the proposal as submitted by the Town Administration and modified by the Zoning Commission to amend Section 5.34, Corner Lots, with language as above.

Motion made by Mr. Shaw to approve the recommendation of the Zoning Commission. The motion was seconded by Mr. McDonald and carried 5-0 on roll call.

(5.35) THROUGH LOTS

- (a) Where any lot extends the entire depth or width of a block and has frontage on more than one street at opposite ends of the lot, one side of the lot facing a street shall be determined to be the front street line of the lot by the orientation of the building facing a street and the other side of the lot facing a street shall be determined to be the rear street frontage, provided that such choice, in the opinion of the building official, shall not be injurious to the existing or desirable future development of surrounding property. Except for the R-B district, The the required rear street yard shall have the same setback at the front of such lot, and shall have the same provisions, requirements and restrictions as a required front yard.

In the R-B district, the required rear street yard setback for the first story shall be twenty-five (25) feet except that a one-story two-car garage shall be set back not less than eighteen (18) feet. Any second story portion of the structure shall be set back not less than 30 feet.

ZONING COMMISSION ACTION:

The Zoning Commission recommended approval of the proposal as submitted by the Town Administration, and modified by the Zoning Commission to amend Section 5.35, Through Lots, with language as above.

Motion made by Mr. McDonald to approve the recommendation of the Zoning Commission.

Mr. Shaw said his concern was with a double deep lot where, in essence, the back of the through lot could be everyone's front lot. By allowing this to happen, one person on the street could have an eighteen foot setback when everyone else on the street has a twenty-five foot setback.

Mr. Moore recalled very little discussion by the Zoning Commission regarding this issue.

Mr. Castro said the corner side of a house on a corner lot will often face another facing house. He said the object was to provide some

relief for those situations where lots had more restrictive setbacks on two or more sides, and a garage could be constructed in that case.

Mr. Shaw said the hardship is not the same when someone owns a 10,000 sq. ft. lot on one street and another 10,000 sq. ft. lot on another street.

Mr. Castro mentioned a situation where one property bordered on three streets.

Mrs. Smith asked why this was studied?

Mr. Moore replied it was requested by a Town Council member.

Mr. McDonald withdrew his motion.

Mr. Wyett made a motion to deny the recommendation of the Zoning Commission. The motion was seconded by Mr. McDonald. On roll call, the motion carried 5-0.

7. **The Zoning Commission recommended that the review by the Architectural Commission of development within the R-B District of the Town exclude consideration of cubic content, gross floor area and height, in its determination of similarity or dissimilarity with surrounding properties, thereby limiting the Architectural Commission's responsibilities to architectural features, architectural compatibility, arrangement of the components of the structure, and the appearance of mass from the street.**

Mr. Moore said the Zoning Commission thought that the size should be a zoning matter and not dictated by the Architectural Commission. The location of mass on the property was recognized as an architectural task and ARCOM should have and continue to maintain the ability to direct the massing of how the structure sits on the property.

Mrs. Smith said her concern was that part of the question of the mass is the height, and she did not see a reason to take the height out of the discussion by the Architectural Commission.

Mr. Bertles said he agreed with Mrs. Smith, but he did recommend taking ARCOM out of the numbers game.

Mr. Randolph said on the basis of the Council's decision not to have the CCR applicable to renovations for a period of three years and new houses for a period of one year, should ARCOM be allowed to continue to address those issues during that hiatus?

Mr. Moore replied if the Town Council would approve this, it needs to become effective at the same time as the other.

Mr. Shaw made a motion to approve item Number 7 excluding the reference to height and that the effective date would be immediately upon passing of the ordinance but would be effective in one year for new construction and three years for renovation. The motion was seconded by Mr. McLendon and carried 4-1 with Mr. Wyett casting a negative vote.

Mrs. Smith announced this meeting would reconvene at 2:00 p.m. on March 10, 1999, with Mr. Ray Gindroz's presentation.

The meeting was adjourned at 1:15 p.m.

Mary A. Pollitt, Town Clerk