MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON JANUARY 26, 1998

I. CALL TO ORDER AND ROLL CALL

The Special Town Council meeting was called to order by President Lesly Smith at 5:01 p.m. on January 26, 1998.

President Smith announced that Mayor Ilyinsky would not be attending the meeting. He had a dizzy spell and had been admitted to Good Samaritan Hospital earlier in the day on Monday.

President Smith also announced that councilman McLendon was out of town and would also not be present.

On roll call, the following Elected Officials were found to be in attendance: President Lesly Smith, President Pro-Tem Leslie Shaw, Councilmen Jack McDonald and Allen Wyett. Councilman Sam McLendon was absent. Also in attendance were: Town Manager Robert Doney; Town Attorney John Randolph; Police Chief Joe Terlizzesse; Police Major Frank Croft; Parking Control Manager Henry Marchman; Director of Planning, Zoning, & Building Robert Moore; Zoning Administrator Paul Castro; Town Consultant William Brisson; and Town Clerk Mary Pollitt.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Town Clerk Pollitt. President Smith led the Pledge of Allegiance.

III. PROOF OF PUBLICATION

Town Clerk Pollitt affirmed that proof of publication was received.

IV. APPROVAL OF AGENDA

President Smith announced several changes would be made to the agenda as follows:

Defer Resolution 1-98, the Breakers, to February 9, 1998, 5:01 p.m.Consider Ordinance 1-98, separating out Section 5.48 and the Worth Avenue Guidelines to be considered at first reading under Ordinance number 2-98 at the February 9th 5:01 p.m. Town Council meeting.

A motion was made by Mr. Shaw to separate out Section 5.48 and the Worth Avenue Guidelines from Ordinance 1-98 and the new ordinance shall be 2-98 to be heard at the February 9th 5:01 p.m. Town Council meeting. The motion was seconded by Mr. McDonald.

Mr. Wyett said a number of interested persons were in attendance at this meeting and he thought the announcement ought to be clarified that the Council would not hear the Breakers P.U.D. or the Worth Avenue issue at this meeting.

President Smith repeated the information for all of the attendees who had not heard the announcement. Mrs. Smith said anyone present who would not be able to attend the February 9th meeting was welcome to make comments at this meeting.

On roll call, the motion carried 4-0.

A motion was made by Mr. Shaw to approve the agenda as amended and seconded by Mr. McDonald. On roll call, the motion carried 4-0.

V. ADOPTION OF AMENDMENTS TO THE BREAKERS PLANNED UNIT DEVELOPMENT - RESOLUTION NO. 1-98

This item was deferred to the February 9th Town Council meeting at 5:01 p.m.

VI.. SITE PLAN REVIEW NO. 1-98. THE APPLICATION OF THE BREAKERS PALM BEACH, INC. RELATIVE TO PROPERTY LEGALLY DESCRIBED AS THE BREAKERS ROW PLAT NO. 1-REPLAT, PLAT BOOK 46 PAGES 188 THROUGH 199, COMMONLY KNOWN AS 1 SOUTH COUNTY ROAD, LOCATED IN THE PUD-A ZONING DISTRICT. TO ALLOW SITE PLAN APPROVAL TO DEMOLISH THE EXISTING BEACH CLUB FACILITIES (APPROXIMATELY 48,000 SQUARE FEET AND CONSTRUCT NEW FACILITIES OF APPROXIMATELY 20,000 SQUARE FEET ON THE SITE OF THE EXISTING BEACH CLUB AT THE BREAKERS HOTEL AND TO CREATE A NEW 15,000 SQUARE FOOT "STARLIGHT BALLROOM" AND 8,000 SQUARE FEET OF PRE-FUNCTION AREA AND A SERVICE BASEMENT OF APPROXIMATELY 13,500 SQUARE FEET FOR STORAGE AND KITCHEN SUPPORT FOR A TOTAL CONSTRUCTION OF 36,500 SQUARE FEET. THE REQUEST IS ALSO FOR SITE PLAN APPROVAL TO CONSTRUCT A TEMPORARY 250 SPACE PARKING LOT WITHIN THE BREAKERS PUD TO BE LOCATED ON THE SOUTHEAST CORNER OF ROYAL POINCIANA WAY AND COCOANUT ROW. (STAFF RECOMMENDS DEFERRING THIS ITEM TO A SPECIAL TOWN COUNCIL MEETING AT 3:00 P.M. ON FEBRUARY 9, 1998)

A motion was made by Mr. Wyett to defer the Site Plan Review No. 1-98 to the February 9, 1998, Town Council meeting to be heard at 3:00 p.m. The motion was seconded by Mr. Shaw. On roll call, the motion carried 4-0.

VII. FIRST READING OF ORDINANCE NO. 1-98, ZONING AMENDMENTS, MODIFICATIONS AND ADDITIONS

Mr. Randolph read Ordinance No. 1-98 by title:

AN ORDINANCE OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING ORDINANCE NO. 2-74, AS AMENDED, THE OFFICIAL ZONING ORDINANCE OF THE TOWN OF PALM BEACH; BY AMENDING SECTION 2.10, DEFINITIONS, BY FURTHER DEFINING THE DEFINITION OF BUILDING HEIGHT AND HOW THE MEASUREMENT OF HEIGHT IS CALCULATED IN ALL ZONING DISTRICTS; BY AMENDING SECTION 4.20, APPLICATION OF REGULATIONS, SCHEDULE A, LOT, YARD AND BULK REGULATIONS BY ADDING LANGUAGE IN FOOTNOTE (14) THAT ALLOWS LANDSCAPE OPEN SPACE CREDIT FOR GRASS CRETE; BY ADDING CORRECTIVE LANGUAGE AND ADDRESSING THE MAXIMUM HEIGHT OF HOUSES WITH COMBINATION FLAT AND PITCHED ROOF STYLES IN FOOTNOTES (18) AND (18a) IN THE R ZONING DISTRICTS; BY MODIFYING THE C-OPI DISTRICT BY ADDING A HEIGHT REQUIREMENT FOR THREE STORY BUILDINGS AND CHANGING THE MAXIMUM LOT COVERAGE FOR TWO AND THREE STORY BUILDINGS; BY AMENDING SECTION 4.20, APPLICATION OF REGULATIONS, SCHEDULE B., SCHEDULE OF USE REGULATIONS BY ALLOWING SECURITIES OR FINANCIAL BROKERAGE AND TRUST COMPANIES AS A PERMITTED USE AND/OR SPECIAL EXCEPTION USE IN THE C-TS DISTRICT, BY AMENDING SECTION 5.15, LOT AREA BY ELIMINATING ACCESSORY STRUCTURES ASSOCIATED WITH SINGLE FAMILY DEVELOPMENT THAT HAS HAD A CERTIFICATE OF OCCUPANCY FOR AT LEAST FIVE YEARS, FROM THE REQUIREMENT OF A SPECIAL EXCEPTION WITH SITE PLAN REVIEW APPROVAL; BY AMENDING SECTION 5.22, PERMITTED SPECIAL EXCEPTIONS OF HEIGHT REGULATIONS BY MODIFYING THE REQUIREMENT THAT ALLOWS ONE TOWER AS AN ARCHITECTURAL FEATURE IN THE R-B DISTRICT BY PROVIDING A FRONT YARD SETBACK AND SPECIFICALLY EXCLUDING ENTRY FACADES AND PARAPETS AS A TOWER FEATURE; BY AMENDING SECTION 5.36, GARDEN WALLS AND FENCES BY MODIFYING THE EXISTING LANGUAGE ON HOW TO MEASURE THE HEIGHT OF WALLS, FENCES, GATES AND GATE POSTS, AND BY PROVIDING A SETBACK FOR WALLS OVER FOUR (4) FEET IN HEIGHT THAT ABUT A ROADWAY TO ACCOMMODATE A HEDGE; BY AMENDING SECTION 5.51, MINIMUM YARD, LOT AND BULK REGULATIONS, BY MODIFYING THE REQUIREMENTS FOR UNENCLOSED ACCESSORY STRUCTURES BY SPECIFICALLY ADDRESSING SETBACKS FOR THOSE STRUCTURES THAT ARE TWO STORY OR OVER FIFTEEN (15) FEET IN HEIGHT; BY AMENDING SECTION 6.21, OFF-STREET

PARKING (F), BY PROVIDING A FRONT SETBACK FOR PARKING LOT AREAS, BY INCREASING THE REQUIRED MINIMUM INTERIOR LANDSCAPE AREA FOR PARKING LOTS FROM FIVE (5) PER CENT TO TEN (10) PER CENT AND BY CHANGING THE REQUIRED PERIMETER LANDSCAPE AREA FOR PARKING LOTS FROM TEN (10) PER CENT TO FIFTEEN (15) PER CENT; BY AMENDING SECTION 6.21, OFF-STREET PARKING, BY ADDING A NEW PROVISION ALLOWING OFF-SITE SHARED PARKING IN THE C-PC ZONING DISTRICT; BY AMENDING SECTION 6.21(F) UTILIZATION OF YARDS, AND 6.21(H), UTILIZATION OF STRUCTURES, BY REQUIRING TOWNHOUSE AND MULTI-FAMILY REQUIRED OFF STREET PARKING TO BE ENTIRELY WITHIN A BUILDING STRUCTURE; BY AMENDING SECTION 8.23, REGULATION OF NONCONFORMING BUILDINGS AND/OR STRUCTURES, BY PROVIDING LANGUAGE TO ALLOW REMODELING AND REFURBISHMENT OF NONCONFORMING BUILDINGS AND/OR STRUCTURES THAT ARE NOT UNSAFE OR UNUSABLE BY LACK OF NORMAL MAINTENANCE OR ORDINARY DETERIORATION; BY PROVIDING A COMPLETION DATE OF SAID REMODELING AND REFURBISHMENT OF EIGHTEEN (18) MONTHS RATHER THAN ONE YEAR, AND BY PROVIDING A MORE STRICT THRESHOLD FOR THE AMOUNT OF DEMOLITION, RESTORATION AND RECONSTRUCTION THAT CAN OCCUR TO A NONCONFORMING BUILDING AND/OR STRUCTURE; BY AMENDING SECTION 8.24,TERMINATION OF NONCONFORMING BUILDINGS AND/OR STRUCTURES BY PROVIDING CLARIFICATION ON RECONSTRUCTION AFTER A FIRE OR OTHER CASUALTY OR ACT OF GOD, AND TO PROVIDE NEW LANGUAGE REQUIRING THAT NONCONFORMING BUILDINGS AND/OR STRUCTURES PARTIALLY OR ENTIRELY EAST OF THE COASTAL CONSTRUCTION CONTROL LINE COMPLY WITH ALL FEDERAL, STATE AND LOCAL LAWS RELATING TO THE COASTAL CONSTRUCTION CONTROL LINE; BY AMENDING SECTION 10.13, VARIANCES, BY ELIMINATING LANGUAGE THAT REQUIRES SECOND KITCHENS TO BE APPROVED BY THE VARIANCE PROCESS; BY AMENDING SECTION 11.10, TOWN COUNCIL ACTIONS ON AMENDMENTS, BY MODIFYING THE PROCEDURE FOR SUBMITTING ZONING APPLICATIONS AND TO ALSO SET A SPECIFIC DATE FOR THE DEADLINE FOR SUBMITTING REZONINGS, MODIFICATIONS OR AMENDMENTS TO THE ZONING ORDINANCE; PROVIDING FOR A PENALTY FOR A VIOLATION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREOF; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Mr. Robert Grace, a Town resident, addressed the Town Council. Mr. Grace said he found it quite confusing to understand what part of the agenda had been deferred and what part was included in Ordinance No. 1-98.

Mrs. Smith explained the item deferred from this meeting was the discussion of the Worth Avenue Guidelines and the Neiman-Marcus store.

Mr. Grace presented two exhibits to the Town Council. Mr. Grace identified the exhibits as item 5 from the Zoning Commission's report which amends Section 4.20A, Schedule of Lot, Yard and Bulk Regulations as they pertain to the C-WA district (a chart shows the proposed changes); and from Ordinance 1-98, Section 5, Article 4, amending Section 4.20, Application of regulations, A. Schedule of Lot, Yard, and Bulk regulations. Mr. Grace said the problem was that the two charts are not the same. He listened to the tapes from the meeting and found that the Council made no changes to the Zoning Commission's recommendation. Therefore, Ordinance No. 1-98 should be the same as the recommendation of the Zoning Commission. Mr. Grace compared the tables under height and lot coverage, and noted the ordinance does not have exactly the same wording as the recommendation of the Zoning Commission.

Mrs. Smith replied that this section was taken out of the ordinance as it was amended at this meeting; however, she said that Mr. Grace raised a question on how two different things were approved.

Mr. Brisson said he could explain the difference. At the time of the Zoning Commission recommendation, the explanation was that 65% and 30% lot coverages shown in the right hand column on page five of the Zoning Commission's report only applied under the Worth Avenue Special Exception as opposed to permitted coverages. Mr. Brisson said after it was approved and the Council originally looked at it, the feeling was it was misleading, because it had the appearance of being allowed when it was only allowed under a special exception. Mr. Brisson said it was taken out of the chart and referenced in footnotes 20 and 29. The Worth Avenue Guidelines have these numbers, and they are correct there.

Mr. Shaw requested Mr. Brisson clarify the middle column under three story on both documents that stated "height - Story/feet" with 3/"nothing" listed under that.

Mr. Brisson replied that was correct, because there is no height set in the regulations themselves and was only allowable under the special exceptions which was indicated in the footnotes. The three story height is only allowable as a special exception, and the heights that are allowable would be in the Worth Avenue Guidelines.

Mr. Shaw said he had an objection to that, although it was not being discussed at this meeting. Mr. Shaw said he thought there should be some heights listed and guidelines. In the event the item is approved, he suggested 35 feet or less to the tie beam with permission to utilize the space within the pitched roof area as third story habitable space so as to minimize the effect of the mass without necessarily creating a dormer effect, and it should be architecturally acceptable. Mr. Shaw suggested base guidelines should be established regardless if they were special exception uses.

Mr. Grace questioned if the Town Council was approving what the Zoning Commission recommended or other language?

Mr. Brisson responded the answer was the Town Council was approving the Zoning Commission recommendations in substance but the answer would be "no" by appearance on the charts. Mr. Brisson explained that after the Town Council had heard the recommendations, the staff thought the reader might be confused by the charts, and the changes were made to allay that confusion.

Mrs. Smith said she did not understand why the language could not be changed to simplify the issue to show what is permitted and what is not. Mrs. Smith asked why the information could not be put in the paragraph and not included in a footnote?

Mr. Moore responded that could be done and will be clarified for Ordinance No. 2-98.

Mr. Grace said he agreed with Mrs. Smith's actions and found that the most incomprehensible way to write an ordinance is to have the necessary information in parentheses resulting in confusion and difficulty in location of information.

Mr. Grace asked if he were correct regarding the content of the new clause in Ordinance 2-98 that would state residential use is not necessary if the use looked like residential use, and this issue would be discussed at some other time?

Mrs. Smith replied that would be discussed on February 9th.

Mr. Wyett suggested that the issue of off-site shared parking that was extended to Royal Poinciana Plaza be removed from general approval to a specific approval to allow his comments to be heard on the issue.

Mr. Wyett recommended the approval of Ordinance No. 1-98 with the exception of the item related to the Worth Avenue Guidelines as noted above.

Mr. Randolph advised that if the Town Council would like to separate that one item out from Ordinance No. 1-98, it could be included in Ordinance 2-98 or if the issue could be addressed rather quickly, it could be dealt with at this meeting.

Mr. Wyett replied he thought it could be dealt with rather quickly.

Mr. Wyett said that Royal Poinciana Plaza backs up to a strong residential area of Palm Beach Towers, and that opens up the entire area for night time parking. Mr. Wyett said the Town should be looking at the issue of allowing commercial night time operations under the windows of residences carefully.

Mr. McDonald questioned how Royal Poinciana Plaza could use the parking lot if they were restricted from parking cars there?

Mr. Wyett responded this issue was for shared parking only where an agreement between the parking lot owner and, for example, a restaurant would be executed. The parking lot in question does not belong to the Palm Beach Towers but to the Royal Poinciana Plaza.

Mr. Moore said the parking lot is used for the evening events that take place in Royal Poinciana Plaza now, and this would add the ability to use a portion thereof for valet parking as a special exception use in addition to the permitted use.

Mr. Wyett responded said that this issue opens up the possibility sometime in the future to intensify the parking, and currently most of the traffic is on the north side of the complex. Mr. Wyett said he did not believe the Council should codify additional parking at this time.

Mr. Moore replied the parking is not being codified, but an approval of Ordinance 1-98 would allow the issue to come before the Town Council to be considered as a permitted special exception use.

Mr. Shaw said if it did not change the substance of the Ordinance, if the one item were pulled out, he would make a motion to approve Ordinance No. 1-98, as amended, with the further stipulation that the shared parking in Poinciana Plaza be pulled as a separate item to be followed by this vote. Mr. Wyett seconded the motion.

Mrs. Smith said the shared parking issue would be pulled and discussed on February 9th.

Mr. Shaw said he intended to pull the item out to allow voting specifically on that item.

Mr. Wyett questioned the legality of that action.

Mr. Randolph replied that a separate ordinance for the shared parking issue was not before the Town Council. Mr. Randolph said he thought the item could be pulled for a subsequent discussion and included in Ordinance 2-98 for first reading on February 9th. Mr. Randolph said the Town Council could vote Ordinance 1-98 up or down.

Mr. Shaw said he had no objection to Ordinance 1-98 the way it reads, and the Town has the necessary controls.

Mrs. Smith asked Mr. Shaw if he would like to re-state his motion.

Mr. Shaw replied, that under the circumstances, he would withdraw his motion to remove the shared parking issue and make a motion to approve Ordinance 1-98, as modified at the beginning of this meeting. The motion was seconded by Mr. McDonald.

On roll call, the motion carried 3-1 with Mr. Wyett casting a negative vote.

Mr. Shaw clarified with Mr. Randolph that a vote required 3/5 of the Council members for approval.

VIII. ANY OTHER ITEMS

Mrs. Smith questioned if the Town Council would have sufficient time to discuss the issues of the Worth Avenue Guidelines, the Breakers P.U.D., and the second reading for the Ordinance on February 9th?

Mr. Randolph said the Town Council has two meetings and suggested a motion should be made setting the date for the second reading. He said the first night would include the first reading of Ordinance 2-98 with a public hearing, and at the second meeting residents still have an opportunity to be heard.

Mrs. Smith suggested the second meeting should be scheduled on Friday, February 27, 1998, at 10:00 a.m.

Mr. Shaw made a motion to schedule a second meeting at 10:00 a.m. on Friday, February 27, 1998. The motion was seconded by Mr. McDonald. On roll call, the motion carried unanimously.

IX. ADJOURNMENT

The meeting was adjourned at 5:30 p.m.

Mary A. Pollitt
Town Clerk