

TOWN COUNCIL MINUTES OF MEETING HELD ON JANUARY 26, 1993

5:01 PM

I. CALL TO ORDER AND ROLL CALL: President Heeke called the Special Town Council Meeting to order at 5:10 PM in the Town Hall Council Chambers on January 26, 1993. On roll call, the following elected officials were found to be in attendance: Mayor Marix, President Heeke, Councilman Ilyinsky, Councilwomen Douthit and Wiener. (Absent was Councilman Weinberg). Also in attendance were Town Manager Doney, Town Attorney Randolph, Mrs. Peters, Mr. Moore, Mr. Frank, Mr. Zimmerman, Mr. Jakubiak, Mr. Elwell and William Brisson from Adley, Brisson & Engman, Zoning Consultants.

Roll Call

II. INVOCATION AND PLEDGE OF ALLEGIANCE: Invocation was given by Mrs. Peters. Pledge of Allegiance was led by President Heeke.

Invocation

III. APPROVAL OF AGENDA: Agenda was approved on motion of Mrs. Wiener, seconded by Mr. Ilyinsky with the addition under "Any Other Matters" of a Charitable Solicitation No. 352 - Margaret Thatcher Foundation.

Approval of Agenda

ANNOUNCEMENT: Mr. Heeke announced that on the tentative agenda there was an item to be brought up with regards to the consideration of the Inter-local Agreement regarding potable water supply with the City of West Palm Beach with Mayor Nancy Graham addressing the Mayor and Council. He stated the agreement has been in draft form since April of 1992 and various copies have been circulated back and forth between our staff and the staff of the City of West Palm Beach and we are very close to having a final document. He recalled Mayor Graham presented it to the City Commission of West Palm Beach last evening and some of the commissioners wished to study it further and requested there be a workshop held between the two councils and that is why this item was pulled off of the agenda. He reported progress continues to be made. Mayor Marix asked if a workshop would be held in the Town of Palm Beach after the City of West Palm Beach has had their workshop? Mr. Heeke responded that would probably be up to the next Town Council, but the thought initially was that the City of West Palm Beach would hold their workshop and their Council would act on a draft and at that point, the Town Council of Palm Beach would review the Agreement and have our staff discuss it and depending upon the complexity and the comfort level of this Council, a determination would be made as to whether this would be done at a Workshop or a regular Town Council meeting. Mayor Marix asked if there was any way that a workshop could be held in the Town. Mr. Heeke responded he believed that could be done but suggested that if they had members of their Council who wished to discuss it at a Workshop and from their perspective, they probably would want to discuss it on their own and they probably want to do that within their own political forum, as would this Council.

Announcement - from Mr. Heeke re: Agreement regarding potable water supply.

IV. PROOF OF PUBLICATION: Mrs. Peters confirmed the advertisement has been published.

V. FIRST READING OF ZONING ORDINANCE NO. 1-93. - Mayor Marix commented the first reading of this Ordinance wraps up a great number of things and she recalled the discussion at the last meeting of the Council on zoning about bulk, Floor Area Ratio, etc. She has had conversations with Mr. Moore and others and she strongly believed this entire matter should be sent back to the Zoning Commission who could still handle it within the time frame allotted and perhaps the bulk problem could be handled on a cubic foot basis. She believed the cubic feet matter has not really been looked into and the method of measuring the height hasn't either. She believed this would be a very good solution to the box looking problem without damaging the Floor Area Ratio provision. She stated cubic feet tells one how big the building is and square feet tells one how wide it is and she would like to have this matter sent back to the Zoning Commission to address it once again.

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Mr. Heeke summarized what the Mayor was asking for is the first two items in the Ordinance be sent to the Zoning Commission for further study on a cubic volume basis.

Mr. Moore stated what the Mayor is discussing is found on Page 2 of the Ordinance, Section 2, Article IV, District Regulations, which discusses the increase of lot coverage, floor limitation on second story of not more than 50% of floor area and a five foot setback on the front and side of any structure on any portion of which is in excess of 15'.

Mr. Moore noted there was an error in the Ordinance as ceiling height should be deleted. He stated the Mayor would like a continued study of this matter by the Zoning Commission and that would be an additional portion of the equation that is currently being used which is lot coverage and Floor Area Ratio to include cubic footage as an additional tool to be used in addressing the size and mass of the structure.

Mrs. Douthit believed this was worthy of being studied and she would like to see this looked at in relationship to lots which are slightly larger, such as the 11,000 and 12,000 square foot lots as the 4.5 would allow a house to be much bigger than anything in the neighborhood and she would like this considered and scaled down in some way. She believed another item which could create a serious problem is on an unbuilt lot which would be at a four foot level as opposed to the required seven feet for flood control, which means the lot would have to be filled and that makes the ceiling height three or four feet higher than anything else around it and she would like to see this examined and for every foot of fill necessary, the height would be diminished a foot to keep it in scale with the neighboring buildings.

Mayor Marix believed there was plenty of time left in the zoning year, so they could look at this very soon as there is worry about the bulk and the possibilities of reducing bulk and rewarding the property owner have not been thoroughly looked into and she would like to suggest the Zoning Commission take a look at once again.

Mr. Brisson of Adley, Brisson and Engman addressed the Mayor and Council indicating he has looked into some of these issues which they would like to have explored further by the Zoning Commission. He noted there is a good reason to look at cubic content which could be used as another tool to control or regulate mass and bulk. He noted there are other tools used in conjunction to essentially limit to what extent a property owner can go to all of the various maximums and minimums to develop a lot. He recalled there are standard setbacks, angle of vision,

the height plane, lot coverage and the FAR, which essentially limits the size of the building as far as the second story is concerned.

He commented the cubic content could be one more tool to be used to further regulate and eliminate the ability to go to all of the various minimums and maximums of the Code as they are now set, and he would envision this as the final tool in looking at bulk and mass. He stated the height also could be reduced and cubic content could be reduced to a degree. He felt they are all things that can be used as tools which may work, although it may not be to the extent the Mayor and Council wishes, but it will be studied during the Special Zoning Season.

Mrs. Wiener asked if there was any relationship between the measurement of cubic footage and the FAR? Mr. Brisson responded affirmatively noting that right now there is a FAR of 0.45 and using a 10,000 square foot lot with a two story structure which is flush on the face and the sides, and essentially there would be 22,050 square feet on the ground floor and 22,050 on the top floor and assuming a building height of 25 feet, this would give a cubic content of 56,000 square cubic feet, which would be the maximum cubic content they could have. He stated if they reduce the cubic content, it has a certain flexibility and value to it as in doing so, they would allow the builder or the homeowner to make a decision as to how he wishes to reduce his building. He stated if the cubic content is reduced lower than the 56,000 which has to be done on a ratio and if they were to limit the footage to 50,000, they would have to reduce the height of the building from 25' to 22' which would give them 56,000 cubic feet; or they could push the building into a 2000 square foot footprint, have a 0.4 FAR and this would provide flexibility. He stated that is the primary result of the cubic content.

Mrs. Wiener commented she was concerned that the 0.45 not to be reduced, asking if this was a tool to reduce that figure? Mr. Brisson responded it was not.

Mrs. Wiener asked Mr. Moore what would be the cost of having a second special zoning season, including the cost of the zoning consultant and staffwise? Mr. Moore responded that for each day the Zoning Commission was in session, it would be in the vicinity of approximately six to seven thousand dollars. Mayor Marix thought that was very good, as if it could solve this problem, it would be well worth it.

Mr. Moore explained the zoning season is set up to have time after the reorganizational meeting of the Town Council in February to have a second zoning season, and there is ample time between that time and April 30th for a second set of hearings.

Mr. Heeke asked if this would eliminate Section 2 from the proposed Ordinance to which Mr. Moore agreed.

Mrs. Douthit moved that this particular Section 2 be returned to the Zoning Commission in order to make some improvement on those assorted points which have been discussed, such as the filling of the lot and all of the aspects of this matter. Mr. Heeke noted the R-B District is a number of areas in the Town, some having smaller lots than others and he wondered if this would further complicate the matter? Mr. Moore responded if they were looking at a graduated Floor Area Ratio, they could apply the reverse graduation on smaller lots.

Mayor Marix commented that they are trying to solve the problem of the box look and anyone who knows geometry knows box and cubic footage are the same, and that is why she would like to see more attention given that, as this is one of the problems and perhaps they may come up with a solution or maybe not.

Mr. Moore advised that Zoning should not be misinterpreted as a means to design, noting a structure can be designed to make it appear very large from the street and would still meet a reduction in cubic footage by simply putting in lower ceilings in the one story portions in the rear of a property. He advised it has been pointed out before that Zoning is a function of land use and the design group that looks at the design concepts is the Architectural Commission and there is a nexus between the Architectural Commission criteria of looking at square footage, bulk and mass and cubic content, which is a listed criteria and the inclusion of cubic footage in the Zoning Ordinance, so there is a reason to look at it in the Zoning Ordinance, but the Zoning Ordinance cannot substitute for the Architectural Commission Ordinance which looks at each property in the neighborhood. He cautioned the Mayor and Council that it should not be considered that Zoning can fix the "mass" problem as the Architectural Commission is the one who deals with design and cubic content, square footage and bulk of properties.

Mayor Marix agreed but felt that since zoning does connect itself with lot coverage, setbacks, etc., it seems this would be a sensible place for this to be examined.

Mr. Heeke believed he was hearing that this will be a further assistance or another tool toward the ultimate aim and it doesn't tamper with the FAR of 0.45. Mrs. Wiener asked if there were any strange regulations, such as ceiling height which would automatically take you down to below the 4500? Mr. Moore responded the owner could choose to have a lower structure if they wished to or they could have excessively high ceilings. Mrs. Wiener responded she was not talking about excessively high ceilings, but ceilings at a height of about ten or eleven feet. Mr. Moore stated between nine and ten feet is what he was thinking about.

Mr. Heeke felt this was an opportunity of additional refinement. Mrs. Douthit moved that this issue and the other issues discussed tonight be sent back to the Zoning Commission for further examination in this Zoning Season. Seconded by Mr. Ilyinsky.

Mr. Randolph asked if the intent of this action was to remove any discussion from tonight's agenda in regard to the item as proposed? Mr. Heeke responded affirmatively as it is adding another element for consideration and he sees no reason to discuss it in detail as they are sending it back to the Zoning Commission.

Mr. Heeke commented this is an opportunity to meet some of the objections he has heard on this subject, particularly voiced by the architects as to forcing them to design unusual appearing houses. He was concerned about telling someone they couldn't build a boxy type house.

Mr. Heeke indicated the motion is to remove Section 2 from the proposed Ordinance which is on District Regulations Item (a), sub paragraphs 1, 2, and 3 and send this back to the Zoning

Commission during the present Season for the study of volumetric and height factors and graduating Floor Area Ratio.

Mrs. Wiener asked if this would tamper with the FAR of 0.45? Mr. Moore responded it would increase it on smaller lots and decrease it on larger lots, other than 10,000 square feet.

On roll call, the motion carried unanimously.

President Heeke indicated he would like to bring up under "Any Other Matters" an item of consideration for a future Zoning Commission to take a look at the overall R-B District, as perhaps there should be sub-divisions considering the difference of some of those areas.

Attorney Randolph read Ordinance No. 1-93 by title:

Ord. 1-93

AN ORDINANCE OF THE TOWN COUNCIL OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING ORD. NO. 2-74, AS AMENDED, THE OFFICIAL ZONING ORDINANCE OF THE TOWN OF PALM BEACH; PROVIDING AMENDMENTS TO ARTICLE 2, SECTION 2.10 ENTITLED "DEFINITIONS", BY REVISING DEFINITIONS (11.1) "BUILDING HEIGHT OF CORNER LOT", DEFINITION (22.1) "FLOOR AREA RATIO" AND DEFINITION (38.1) "NONPROFIT CULTURAL REGULATIONS", TO PROVIDE AMENDMENTS TO SECTION 4.10, SCHEDULE B, "SCHEDULE OF USE REGULATIONS", BY ADDING MUSEUMS OCCUPYING DESIGNATED HISTORICAL LANDMARK BUILDINGS AS SPECIAL EXCEPTION USES IN CT-S DISTRICTS; BY REMOVING NONPROFIT CULTURAL CENTERS FROM SPECIAL EXCEPTION USES IN RD-1 AND RD-2 DISTRICTS; BY CHANGING NONPROFIT CULTURAL CENTERS FROM PERMITTED USE TO SPECIAL EXCEPTION USE IN C-PC and C-B DISTRICTS; BY EXTENDING EXPIRATION DATE OF CHARITABLE EVENTS IN ALL RESIDENTIAL DISTRICTS BY ADDING PROVISION SETTING FORTH ALLOWABLE ACCESSORY USES FOR HOTELS IN RD-2 DISTRICT; BY ELIMINATING ACCESSORY USE ITEM 4 FROM RD-1 DISTRICT; TO PROVIDE AMENDMENTS TO ARTICLE 5 ENTITLED "SUPPLEMENTARY LOT REGULATIONS", BY AMENDING SECTION 5.15, "LOT AREA", TO REQUIRE NEW SINGLE FAMILY DWELLINGS BUILT ON PARCELS WITH LAND AREA EQUIVALENT TO OR GREATER THAN FOUR TIMES THE MINIMUM LOT SIZE FOR THE DISTRICT BE SUBJECT TO SPECIAL EXCEPTION APPLICATION; BY AMENDING SECTION 5.17, "EXISTING SINGLE FAMILY DWELLING DEVELOPMENT", b REWRITING SECTION FOR CLARITY PURPOSES ONLY; b AMENDING SECTION 5.20, "YARD REGULATIONS", PROVIDING LOT COVERAGE EXEMPTIONS FOR OPEN TRELLISES, b AMENDING SECTION 5.36, GARDEN WALLS AND FENCES", BY INCREASING ALLOWABLE HEIGHT OF WALLS AND FENCES IN FRONT, SIDE AND REAR YARDS; b AMENDING SECTION 5.47, "BEACH AREA", PROVIDING OCEAN VISTAS WITH LIMITED IMPROVEMENTS ON ONE HALF OF BEACH PROPERTY WIDTH; BY AMENDING SECTION 5.50, "ACCESSORY BUILDINGS AND/OR STRUCTURES", PROVIDING FOR TWO STORY ACCESSORY BUILDINGS ON PROPERTIES EXCEEDING 20,000 SQUARE FEET IN R-B DISTRICT; TO PROVIDE AMENDMENTS TO ARTICLE 6 ENTITLED "SUPPLEMENTARY USE REGULATIONS", BY AMENDING SECTION 6.54, "ACCESSORY COMMERCIAL USES IN A HOTEL", BY ELIMINATING REFERENCE TO RD-1 DISTRICT; TO PROVIDE AMENDMENTS TO ARTICLE 8 ENTITLED "NONCONFORMITIES", BY AMENDING SECTION 8.12 "CONVERSION OF NONCONFORMING USES", BY AMENDING OR DELETING PORTIONS THEREOF FOR CLARITY PURPOSES; BY AMENDING SECTION 8.24, "TERMINATION OF NONCONFORMING BUILDINGS AND/OR STRUCTURES". PROVIDING FOR RECONSTRUCTION OF BUILDINGS DESTROYED MORE THAN 50% BY FIRE OR OTHER CASUALTY OR ACT OF GOD; PROVIDING FOR SEVERABILITY; PROVIDING A PENALTY FOR A VIOLATION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Mr. Heeke stated the procedure will be they will discuss the items contained in the proposed Ordinance in their entirety and prior to calling for a motion on the Ordinance, the floor will be opened to discuss other items. He noted logos were omitted from the Ordinance as well as several other matters which were recommended by the Zoning Commission. He advised after that they will hear any comments that members of the public may have with respect to those items that were deleted.

Mr. Ilyinsky reminded everyone he has resigned his Council seat as of February 1, 1993 and will not be voting on the second reading of this Ordinance. Mr. Heeke commented that Mr. Weinberg will be back by that time, so there will be four members of the Council in attendance.

Mr. Heeke called for any discussion on Section One, Definitions and there were none. Mr. Heeke called for comments on Section 2 (b) on the Schedule of Use Regulations and there were none. Mr. Heeke called for comments on Section 3, on the Supplementary Lot Regulations and there were none. Mr. Heeke called for comments on Section 4, Supplementary Use Regulations and there were none. Mr. Heeke called for comments on Section 5, Nonconformities and there were none. He noted the balance of the Ordinance is standard items, such as severability, appeal, etc., and he opened the floor to discuss any other matters which the Zoning Commission had submitted to the Town Council for discussion but were not included in the Ordinance.

Jesse Newman addressed the Council, noting he has lived here for 41 years and has served on the Zoning Commission for twelve years and now is serving on the Architectural Commission and he wished to talk about logos. He felt it was a matter of opinion and interpretation, as what could be a logo; as it could be a trademark, a signature, a crest, a shield, a coat of arms, or an architectural detail. He is very proud of the business community in the Town of Palm Beach as it is known throughout the world as the ultimate in ambiance, ethics and high standards. He stated they do not want to change this image. He recalled there was an editorial in the Shiny Sheet on Dec. 6, 1992 which stated: "We would not want to see a huge golden pawn shop balls hanging from Via Mizner, nor would we want to see a giant Mickey Mouse, head bobbing in the Gucci Courtyard. The Zoning Commission proposal to legalize logos contain adequate safeguards against that sort of commercialism. Logos would be limited as per their recommendation to one square foot and matters of taste can and should be monitored by the Town's Architectural Commission, which must approve changes to a building's facade." He stated the Ordinance does not address the other items he referred to earlier, a signature, a trademark, etc., and these items have been in Palm Beach for

Logos

many years. He did not think a pair of interlocking "C"s or a rider astride a galloping horse would not damage the image of Worth Avenue or the other business districts, but will allow the Town's merchants to display their symbols which shoppers around the world recognize without hurting the unique appeal of Palm Beach. He suggested the Town Council approve the Zoning Commission's recommendations to allow logos in commercial districts. He stated they should remember they will not be giving up control as the logos that are here are usually registered, patented throughout the world and they have to be in good taste.

Logos

Jon Surovek, President of the Worth Avenue Merchants Association, addressed the Council, pointing out the signs on all of the mail boxes have an eagle on them and our government calls them "logos". He stated the little "Mobil" sign across the street from Town Hall is a "logo". He indicated U. S. Air in Royal Poinciana Shopping Center considers it a trademark and a logo. He thought it was important that the standards of this community be continued and it may be a case of semantics. He stated his gallery name is his registered trademark and is not a logo and he knows the signs that adorn this community, such as the little arch in the Sun Bank sign is a logo and he doesn't know what the problem is with beautiful signs and logos done in a fashion that are in concert with this Town and urged the Council to approve the Zoning Commission's recommendation on the handling of logos.

Jesse Newman again addressed the Council noting he neglected to call to their attention a photograph which shows a beautiful logo which is on the Town Hall building.

Mr. Heeke noted the recommendation of the Zoning Commission was to allow logos up to one square foot which Mrs. Douthit thought was too large. She told Attorney Randolph there has been talk about ARCOM being able to regulate the logos and she asked how they would be able to do that, as if Council agrees to this provision, there would be no way of regulating the design. Attorney Randolph explained if there was specific criteria within the Zoning Ordinance, they would have the power to regulate logos, however, when they get to the point of allowing a logo without specific regulations or criteria, the Architectural Commission will have a problem in imposing taste, as there are specific regulations and criteria within that Ordinance which they attempt to apply so there may be instances where it would be difficult, absent specific criteria, for the Architectural Commission to reject some and accept others.

Mayor Marix announced she had no problem with logos, coats of arms, and all the other great things which Mr. Newman referred to, but had a concern about the way this has been brought to the Council such as it is going to help the foreigners who don't read English, as they would recognize a logo. She thought they should look at it in this way as it is a step in the direction of destroying the Town's sign ordinance, as the Town of Palm Beach is different from other Towns. She was sure there were very cute logos but when they start changing the rules, it could be a problem as this Town has very stringent regulations as to signs and she didn't believe the logos could be properly regulated. She stated this is a lovely Town and why change it as this is an area which cannot be controlled. She didn't believe logos were a benefit to anyone or to the Town.

Mrs. Douthit felt one square foot was too large and she thought perhaps six inches would be more appropriate. Mayor Marix thought they would be opening up a Pandora's box which isn't going to help at all. Mrs. Douthit recalled the Town Attorney stating regulations could be set up such as no flashing lights, etc., and she would like to see some guidelines established. Mr. Randolph reminded there are guidelines in regard to signs, which would apply to logos. He stated neon lights are not allowed, and they talk about locations, so there are regulations within the Zoning Code now that would apply, but the question is in the event logos are allowed, they should make certain within the Zoning Ordinance, there is enough criteria to regulate it so they didn't have to rely on someone at a later time to impose their own taste. Mrs. Douthit asked Mr. Moore if this subject could go back to the Zoning Commission so the existing ones can be expanded. Mr. Moore reminded the Council that the language recommended by the Zoning Commission states 'signs should consist of lettering which specifies the name of the establishment, and/or the nature of the business and symbols and/or logos may not exceed one square foot and may be included in that allowable sign area, and would be part and parcel of the sign. He stated as far as regulating the taste of the logo, the Town Attorney speaks of additional controls and Mr. Moore stated what kind of control would be needed over and above what is had at the present time.

Mr. Ilyinsky asked if there would be control over where the signs or logos were placed to which Mr. Moore responded affirmatively. Mr. Heeke believed if someone had a logo and we had an acceptable standard, the person coming in with the logo would have some reasonable assurance that it would be acceptable.

Mrs. Wiener stated there is a zoning season every year for that exact purpose of changing things, and she recalled raising questions on certain things in the past that the Zoning Commission had come up with and she doesn't understand what the serious problem is as once again they are in a situation where it depends on whose ox is being gored. She thought the merchants in the Town of Palm Beach are people who do work within the confines of the Ordinances and they take good care of the plantings and pay for certain things on Worth Avenue which other people on other streets do not pay for and they are part of the tax base, and she finds a real problem to deny them the use of their logo on their signage and she would go along with the recommendation of the Zoning Commission on the logo matter and if anyone cares to tighten it up to some degree, that is fine.

Mayor Marix recalled they went through the logo problem a few years ago and the merchants are the ones who want the logos and she didn't understand why they needed them, as she sees no advantage for the merchants, or the residents, or the Town, as the logo itself sounds very innocent but she has a concern about whether or not they would be opening the door to change the Sign Ordinance, and she wants to help the merchants but she doesn't see how allowing them to have logos would be of a help, as all it would do is establish a precedent.

Mr. Heeke commented he was extremely sensitive to what Mr. Randolph stated about having some standards or criteria. Mr. Randolph verified that his comments were intended to answer the question of Mrs. Douthit that logos would be related to signs and the criteria the Zoning Commission had considered is the size and whether or not other criteria are necessary, he doesn't know. He recalled the Zoning Commission did not think that other criteria were necessary other than the size. He commented there are criteria there already as it cannot be lighted, for example. He stated there is criteria in regard to square footage and the location where it will be placed on the building, etc., so he believed there is criteria already existing, so it comes down to the issue as to whether or not the Town Council wishes to allow logos or not.

Mayor Marix suggested it be deferred until there is enough criteria establishing real guidelines as they did on the signs as it is obvious there are some lovely signs in the Town, and they should come up with adequate criteria before deciding on whether logos should be allowed.

Mr. Ilyinsky believed the managers and owners of the shops would probably be able to police themselves. Mrs. Douthit stated she knew that a very small percentage of our shops are owned by local residents. Mr. Ilyinsky suggested this be sent back to the Zoning Commission as they have already sent them the other item, and perhaps a little more criteria could be developed. Mr. Heeke stated he agreed with Mrs. Wiener on the size and knew of one professional sign painter who does pull about half of the permits for signs in the Town agreed also one square foot was a bit large.

Mayor Marix suggested they also consider what kind of paints would be used and if it was luminous paint and things of that kind, so that more criteria may be established.

Mr. Heeke asked for a motion to return this to the Zoning Commission, if that is the consensus? Mrs. Wiener stated she had a motion, but she was sure it would not be seconded. Mr. Ilyinsky moved that the matter of logos be sent back to the Zoning Commission. Mrs. Douthit asked if he wanted to recommend the size of the logo be reduced to half? Mr. Ilyinsky believed they knew what the Council recommendations were and if it came within a quarter inch of it, that would be alright.

Mr. Randolph stated if the Council is sending this back to the Zoning Commission, it would be up to them to consider and bring it back to the Council. Motion was seconded by Mrs. Douthit.

Mr. Randolph verified that what will happen as a result of them sending this back to the Zoning Commission is that this subject will not have an opportunity to come back to the Council for second reading. He suggested an alternative course that they could follow as well as returning it to the Zoning Commission, if they wished. He felt if they wanted this matter to live on and to have him come back to the Council with a report of what criteria now exists, he could do that. He stated what they could do is include in the first reading tonight a provision to allow logos at a six by six size and then that matter would live on to the second reading of the Ordinance and in the meantime, they would report what criteria now exists and if they are satisfied with what is now there, they would be in a position to vote on it at the second reading.

Mayor Marix stated she was not troubled by the size of six by six, but what troubled her was the disruptive type colors and if they followed the attorney's recommendation, would they be able to have control over that? Mr. Randolph stated when they compiled their report on criteria, if the Council decided there was not enough to control that type of a situation, they would simply not approve logos at the second reading of the Ordinance and send it back to the Zoning Commission.

Mr. Ilyinsky asked how long would it be before the Zoning Commission would consider this? Mr. Moore responded this will have to be done before April 30, 1993 and he will be bringing to the Feb. 9, 1993 Council Meeting a Calendar for the second Zoning Hearings for their approval.

Mr. Moore reminded the Mayor and Council that there is a regulation in the present Ordinance to control the colors, through the Architectural Commission.

Mr. Heeke commented the assumption is made that everyone would have good taste with regards to logos but he wasn't sure if there was enough criteria in the sign ordinance to control this. Mr. Randolph advised it may be difficult to regulate someone who has a trademark of a certain color and that is what they want on their logo. Mrs. Wiener reminded all colors are changed now on awnings and she felt they were playing games here and she didn't approve of this and she didn't think there was bad taste on the part of the merchants and she thought it was rude and insulting to say so. She didn't see a horde of Town residents upset and disturbed by the fact of having logos as many of them already exist anyway.

Mr. Heeke recapped the motion which is to return the logo matter to the Zoning Commission. He noted Mr. Randolph has advised we could leave this in the Ordinance and he would report to us as to what type of criteria is presently available to be used to control logos and if that is not satisfactory, this could be removed from the Ordinance at second reading and sent back to the Zoning Commission.

On roll call, the motion carried unanimously.

Motion was made to approve Ordinance No. 1-93 as read by the Town Attorney by Mrs. Douthit. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Mrs. Wiener left the meeting at 6:25 PM.

VI. FIRST READING OF ORDINANCE NO. 7-93 - AMENDMENT TO LANDMARKS ORDINANCE RELATING TO DEMOLITION OF BUILDINGS IN THE EVENT OF AN EXTREME ECONOMIC HARDSHIP. Attorney Randolph read the title of Ordinance No. 7-93.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 16 OF THE TOWN CODE OF ORDINANCES AT ARTICLE III, SECTION 16-41 THEREOF, SO AS TO PROVIDE CRITERIA FOR DEMOLITION OF LANDMARKED BUILDINGS OR BUILDINGS IN A HISTORIC DISTRICT IN THE EVENT OF EXTREME ECONOMIC HARDSHIP; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Mrs. Douthit moved for approval of Ordinance No. 7-93.

Mr. Ilyinsky stated he thought this might hamper the Landmarks Ordinance. Mayor Marix stated she too had some concerns on this and has been assured by Mrs. Earl that this could only make it easier and she wondered if adoption of the ordinance would give the Council more ability to protect the landmarked homes or does it conversely give people more reasons to tell us why they feel poor and it could mean they feel poor because they only have ten million dollars left. Mr. Randolph responded that would be up to the Town Council and the Landmarks Commission to decide under the guidelines, as presently there is not a vehicle existing in the Ordinance to allow a person to

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obtain a demolition permit as result of an economic hardship. Mr. Heeke reminded there is a provision, however, for dedesignation.

Mr. Randolph advised this subject has come up because of legal concerns where there were challenges because there were no such provisions within the Code and this is an effort to strengthen the Ordinance by including such a provision, which would allow people to show economic hardship. Mayor Marix asked what other communities do about economic hardship when they have a Landmark Ordinance as she is worried about what actually is a hardship. Mr. Randolph stated he can't tell her how they operate but can tell her that they have included identical provisions to these in their landmark ordinances. Mayor Marix asked him to suppose that the taxes went up and the value went down but it had nothing to do with being a landmark and this is the kind of thing she is afraid of getting caught on. Mrs. Douthit felt it was good that people had to come up with all of this information as now they can come in and just state they have a hardship.

Mrs. Polly Earl of the Preservation Foundation addressed the Council, indicating that the last thing they would recommend is anything that would jeopardize the landmarking ordinance or the Council's ability to interpret that. She stated they have devoted some time to other ordinances and they will continue to do that, and found that this type of criteria for demonstrating undue economic hardship was being discussed at professional conferences and amongst the people who advise the Councils and Commissions which frame landmark ordinances. She stated their suggestion that this language be considered is based on what the Town Attorney said and that is their concern for the legal viability of the Ordinance and if Council feels it needs further study to gather further information, she felt they should do so. She stated she called Orlando about why they adopted the Ordinance on economic hardship and they told her the reason they did it was because their Ordinance was declared unconstitutional at the District level because it had no objective criteria by which their Commission could judge these types of things that came before them. She advised the Ordinance before this Council is much like the Orlando ordinance.

Mr. Ilyinsky asked what would happen if a house is landmarked on a Monday and there are no objections and then on Wednesday, he tells us he has gone broke and now he wants the house to not be a landmark. Mayor Marix stated she would like to see this go through but perhaps not this particular ordinance, noting the Ordinance calls for a registered engineer or an architect and an estimate from a qualified appraiser. Mr. Randolph explained it is the applicant's burden to show they have an economic hardship and they've lost all reasonable beneficial use of the property and additionally, there is a paragraph in the Ordinance which states the Landmark Preservation Commission may choose whatever experts it wishes.

Mrs. Earl recalled there was considerable discussion with the Landmarks Commission as to how to tie down the qualifications of some of these people and there may be some wording which needs further work. Mr. Randolph agreed there was discussion and there were some amendments made to call for a qualified appraiser, although they didn't designate it should be an MAI or other designation. Mr. Ilyinsky asked if this wouldn't mean they are just temporarily landmarking houses?

Mrs. Jane Volk, Chairman of the Landmarks Preservation Commission stated there was discussion about licensed people in the State of Florida and MAI appraisers and the Commission decided to use qualified appraisers in the State of Florida. Mayor Marix knew there were people who could be hired for a few dollars who will tell you whatever you want to hear, and as long as that has been looked into, she would be satisfied. Mrs. Earl asked if the Council would like her to do a survey of the local governments in the State of Florida who may or may not have this provision and let them know how many have enacted it? Mrs. Douthit did not think that was necessary as she thought the Ordinance was well thought out and she believed it should be adopted and that doesn't mean it is in concrete as it can always be amended.

Mr. Heeke suggested that since this is first reading and if there is a second, we can adopt it, or perhaps it should be deferred until February 8th and see what additional information Mrs. Earl is able to provide as we share the same problem of those communities that worry about the constitutionality of the basic landmark ordinance, as we want to be in a position to defend our Landmarks Ordinance. Mayor Marix felt if Mrs. Earl has studied this and she thinks this will be helpful, she is in favor of it but she doesn't want to find a technicality that may harm the original ordinance.

Mr. Ilyinsky seconded the motion to adopt Ordinance No. 7-93 on first reading.

Mr. Heeke wondered if declaration of Chapter 7 would be an economic hardship. On roll call, the motion carried 2-1 with Mr. Heeke voting against the motion. Mr. Randolph believed there had to be a three-fifths vote. Mr. Heeke changed his vote to affirmative and the motion carried unanimously with the members of the Council who were in attendance.

VIII. ANY OTHER MATTERS:

352-93 Margaret Thatcher Foundation. Mrs. Peters explained a waiver to the advertising rule is necessary as the event is scheduled for February 4, 1993. She stated they were late in filing the application. She advised it was the first time this organization has filed for a charitable solicitation permit, and all Departments have approved it, however a waiver of the advertising rule is necessary.

Mr. Ilyinsky moved the Charitable Solicitation Permit for the Margaret Thatcher Foundation, No. 352-93 be approved with the waiver of the advertising rule. Seconded by Mrs. Douthit who commented on how annoyed she becomes when the requests for the charitable permits are not filed on a timely basis.

On roll call, the motion carried unanimously.

Mayor Marix urged notices be sent to make these regulations known to the people who file for the applications, as notices are sent out by the Recreation Department and by the Water Department and some type of arrangement should be made to get the word out for the protection of the residents. She thought perhaps there could be mention of this in the Annual Report, as there are ways of making people understand that this is an important subject. She thought a more concerted effort needed to be made to make it clear to people that this Ordinance is in effect. Mrs. Peters responded it is difficult to advise new charities about this Ordinance, and this particular one for

Any Other
Matters

352-93
Marg. Thatcher
Foundation

the Margaret Thatcher Foundation is going to be held in a private home. Mayor Marix felt they are not being loud and clear enough about these kinds of things.

REFINEMENT OF ZONING ORDINANCE: Mr. Heeke commented the R-B District is a large District and houses in certain parts of the District are quite different from those in other sections, and he wondered if there should be a study to sub-categorize this District with regulations which would apply to some areas and not to the other. He would like to see Mr. Brisson coordinate with the Zoning Commission and have this matter studied for the next Zoning Season. Mr. Moore responded it could be done as there are certain areas in the R-B District which have certain characteristics not found in other areas and they can add this to the next year's Zoning Calendar as it will need study. Motion was made by Mr. Ilyinsky that a study be made to make a determination as to whether or not the R-B District should be sub-categorized with certain regulations applying to certain areas of the R-B District. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Refinement
of Zoning
Ordinance

INTER-LOCAL WATER AGREEMENT WITH THE CITY OF WEST PALM BEACH. Mr. Heeke advised in his dealings with the City of West Palm Beach staff and the Town's staff on this subject, there was very open discussion and the efforts being made are sincere. He believed the bargain is only a fair one when it is fair to both sides. He advised the City of West Palm Beach has presented what he views as a very fair Agreement to their City Council, which has been in draft since April of 1992 and it is not the fault of staff that the City Council wants to have more information, as this is a very important issue and he hoped the cooperativeness between the communities would continue as this has been a long ongoing effort and he wished to publicly thank Mayor Graham and both staffs for all that has been done up to this point. He informed the Mayor and Council that this Town is very well represented in this cause.

Inter-Local
Water Agreement
With City of
West Palm Beach

IX. ADJOURNMENT. Meeting was adjourned at 6:50 PM.

Adjournment

GRACE T. PETERS
TOWN CLERK