

TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES FROM THE SPECIAL TOWN COUNCIL MEETING HELD ON JANUARY 6, 2003 REGARDING THE ZONING COMMISSION'S REPORT

I. CALL TO ORDER AND ROLL CALL

President William J. Brooks called the Special town Council meeting to order at 9:30 a.m. on Monday, January 6, 2003, in the Town Council Chambers. On roll call, the following Elected Officials were found to be in attendance: Mayor Lesly S. Smith, President William J. Brooks, President Pro-Tem Norman P. Goldblum, Councilman Jack McDonald, Councilman Samuel C. McLendon, and Councilman Allen S. Wyett. Also attending for all or part of the meeting were: Town Attorney John C. Randolph; Director of Planning, Zoning & Building Robert L. Moore; Zoning Administrator Paul Castro; Assistant Director of Planning, Zoning & Building Veronica Close; Planning Administrator Timothy M. Frank; and Town Clerk Mary A. Pollitt. Consultant for the Town of Palm Beach William P. Brisson, Adley, Brisson & Engman, also attended the meeting.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Town Clerk Pollitt. The pledge of allegiance was led by President Brooks.

III. APPROVAL OF AGENDA

Councilman Wyett made a motion to approve the agenda. The motion was seconded by President Pro-Tem Goldblum and carried 5-0 on roll call.

IV. PROOF OF PUBLICATION

Town Clerk Pollitt verified proof of publication.

V. PROCEDURES FOR COMMENTS BY GENERAL PUBLIC

President Brooks said, as the agenda consists of many items pertaining to zoning, whomever wishes to speak should come to the podium as the item is discussed.

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VI. 2002-2003 ZONING SEASON STAFF REPORT AND THE TOWN ZONING COMMISSION'S RECORD AND REPORT

Director of Planning, Zoning & Building Robert Moore explained the Zoning Season Report, dated December 11, 2002, is the result of the zoning meetings held in early December. He said the first item to be discussed is Study Item no. 1 regarding the proposed R-B conservation overlay district. He introduced William Brisson, Town Consultant from Adley, Brisson, Engman, and John Moore with his associate from Smith & Moore who would be contributing to the presentations.

Study Item I. Proposed R-B Conservation Overlay District

Zoning Commission Report:

On a motion by Mr. Broberg, seconded by Mr. Bell, by a vote of 5-2 (Messrs. Kleid and Robertson dissenting), the Zoning Commission agreed to approve the concept of an overlay district for the "Sea" streets, and consider the details in this meeting. Additional discussion ensued among the Commissioners and Mr. Broberg suggested that each of the regulatory proposals be voted on individually.

The Zoning Commission considered each of the Staff recommendations pertaining to regulations for the proposed "Sea" Streets R-B Conservation Overlay District and voted as follows:

On a motion by Mr. Broberg, seconded by Mr. Lawrence, by a vote of 4-3 (Messrs. Kleid, Robertson and Bell dissenting), the Zoning Commission recommended approval of the Staff recommendation to reduce the minimum lot area from 10,000 square feet to 6,125 square feet.

On a motion by Mr. Sanchez, seconded by Mr. Lawrence, by a vote of 4-3 (Messrs. Kleid, Robertson and Bell dissenting), the Zoning Commission recommended approval of the Staff recommendation to reduce the minimum lot width from 100 feet to 65 feet.

On a motion by Mr. Bell, seconded by Mr. Broberg, by a vote of 6-1 (Mr. Kleid dissenting), the Zoning Commission recommended approval of the Staff recommendation to limit the maximum lot width to 100 feet.

On a motion by Mr. Bell, seconded by Mr. Broberg, by a vote of 6-1 (Mr. Kleid dissenting), the Zoning Commission recommended approval of the Staff recommendation to retain the minimum lot depth as 100 feet.

On a motion by Mr. Lawrence, seconded by Mr. Broberg, by a vote of 4-3 (Messrs. Kleid, Robertson and Bell dissenting), the Zoning Commission recommended approval of the Staff recommendation to set the maximum CCR at 4.0 for the principal structure, 1.0 for accessory structure, and to limit the CCR to 4.4 for all structures combined.

On a motion by Mr. Bell, seconded by Mr. Broberg, by a vote of 5-2 (Messrs. Kleid and Robertson dissenting), the Zoning Commission recommended approval of the Staff recommendation to retain the existing front yard

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setback for the principal structure at 25 feet for the 1st story and 30 feet for the 2nd story.

On a motion by Mr. Broberg, seconded by Mr. Sanchez, by a vote of 5-2 (Messrs. Kleid and Bell dissenting), the Zoning Commission recommended approval of the Staff recommendation to change the side yard setback for the principal structure from 12 ½ feet for the 1st story and 25 feet for the 2nd story to a minimum of 5 feet with the combined setbacks to be not less than 17 feet, and to require a minimum 10 foot separation from neighboring buildings on abutting lots.

On a motion by Mr. Bell, seconded by Mr. Lawrence, by a vote of 6-1 (Mr. Kleid dissenting), the Zoning Commission recommended approval of the Staff recommendation to change the rear yard setback for the principal structure from 10 feet for the 1st story and 15 feet for the 2nd story to 15 feet for both the 1st and 2nd stories.

On a motion by Mr. Bell, seconded by Mr. Sanchez, by a vote of 5-2, (Messrs. Kleid and Robertson dissenting), the Zoning Commission recommended approval of the Staff recommendation to change the front yard setback for accessory structures from 12 ½ feet for the 1st story and 30 feet for the 2nd story to a minimum of 65 feet.

On a motion by Mr. Broberg, seconded by Mr. Lawrence, by a vote of 6-1 (Mr. Kleid dissenting), the Zoning Commission recommended approval of the Staff recommendation to change the side yard setback for accessory structures from 12 ½ feet for the 1st story and 25 feet for the 2nd story to a minimum of 5 feet with the total of both side yard setbacks being not less than 30 feet.

On a motion by Mr. Lawrence, seconded by Mr. Sanchez, by a vote of 4-3 (Messrs. Kleid, Robertson and Bell dissenting), the Zoning Commission recommended approval of the Staff recommendation to change the rear yard setback for accessory structures from 10 feet for the 1st story and 15 feet for the 2nd story to a minimum of 5 feet for the 1st and 2nd story.

On a motion by Mr. Sanchez, seconded by Mr. Lawrence, by a vote of 5-2 (Messrs. Kleid and Bell dissenting), the Zoning Commission recommended approval of the Staff recommendation to change the maximum building height of the principal structure from 2 stories/22 feet and an overall height of 30 feet to 2 stories/20 feet and an overall height of 28 feet, and to change the maximum building height of accessory structures (garages/guest houses) from 1 story/15 feet overall, and 2 stories/25 feet overall for lots of 20,000 square feet or more, to 2 stories/23 feet overall for accessory structures (garages/guest houses) on all lot sizes. Mr. Bell commented that he believed that the ceilings would be too low.

On a motion by Mr. Bell, seconded by Mr. Broberg, by a vote of 5-2 (Messrs. Kleid and Robertson dissenting), the Zoning Commission recommended approval of the Staff recommendation to change the existing maximum coverage limitation from 40% for a one-story structure and 30% for a two-story structure to 33% for both one-story and two-story structures.

Beginning of Town Council's discussion on the R-B Overlay District.

Zoning Administrator Paul Castro said the Town, over the past twelve years, has worked diligently to create zoning regulations within the R-B zoning district which regulated size, mass, and setbacks in the R-B district, predominantly in the north end of Town. He continued that during the twelve years, the cubic content ratio, a floor area ratio (no longer used), a building height plane, a rear building height plane, angle of vision from the street, and a landscaped open space requirement that were

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intended to help preserve the character of the streets and the size of homes. He added that last year staff submitted to the Town Council a recommendation for the R-B district, relating to five distinct areas of Town with regulations for those five areas. The Town Council instructed staff that the sliding scale, implemented three years earlier, should stay in place, and staff should monitor the results reporting in three to five years the results of that implementation. He noted that at the same time, staff was directed to study the 'Sea' streets, Seaview, Seabreeze Avenue, and Seaspray, and to create a preservation conservation overlay district for those streets, if possible.

Mr. Castro continued that staff had to determine what the purpose and intent was for the study, and the goal was determined to be to create specific regulations to preserve and conserve the character that is inherent to those uniquely identified streets. He explained the methodology developed was using the previously collected data or regulations and a previous study that could be meshed to come up with more consistent regulations that could exist with the character of the neighborhood. After studying several other jurisdictions, the staff found that the Town's regulations were more sophisticated than rules and regulations from other districts. He added that only five homes were demolished and redeveloped in that area during the past two years; however, thirty-two major renovations were made during the past two years. He said one reason is that the existing homes are so different from today's Code that renovations are more plausible than demolition and rebuilding.

Mr. Castro continued that staff reviewed the character of the neighborhood, predominantly a mixture of one and two story homes with varying architectural styles ranging on lot sizes from 4,000 square feet to 29,000 square feet. He added that most of the cubic content ratios for the homes with accessory structures were higher than the sliding scale would allow in the current Zoning Code. He noted that staff has provided recommendations on pages 3 through 5 in the 2002-2003 Zoning Book.

After reviewing staff's recommendations, Mr. Castro introduced John Moore and Ted Saum from Smith & Moore Architects.

Mr. Saum explained the procedure used by his firm to prepare the report listing separate characteristics, existing characteristics, suggested proposals, and the rationale for the proposals. He said the key in some of the Code changes would be to eliminate the need for variances with renovations being more compatible with the neighborhood, and the resulting new construction, with a smaller two story mass and a one or two story accessory structure, would end up being very consistent with the existing residences. He added, overall, the landscaping or green space would be enhanced with this plan.

Mr. Castro added that the presented proposal is an overlay over the existing zoning, and the regulations that are not shown in the table would still be in effect in the R-B zoning district.

President Pro-Tem Goldblum asked what the interior heights of the rooms were in the proposal?

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Mr. Saum replied that the ceilings would be 9.0' to 9.5' on the first floor and 9.0' on the second floor with 18 to 24 inches of structure in between the floors. He added the measurements could be reworked to allow additional height on the first floor.

President Pro-tem Goldblum said an 8.0' ceiling is not saleable on today's market, and asked how many bedrooms were calculated for the small houses?

Mr. Saum responded three and four bedrooms could be achieved, depending upon the configuration and the accessory structure.

President Brooks said he shared the concern regarding the height of the ceilings, especially on the second floor. He asked if there were opportunities to be more realistic?

Mr. Castro responded that this regulation is the only one that is more restrictive, and the other regulations are more flexible. He added the reasoning was not to allow the houses to have elevations that would tower over the neighboring homes, and since the homes below 7.0 NGVD would have to meet FEMA requirements, the height has to be gained from some source.

Councilman Wyett said he did not think a 22' or 23' house would be 'towering', and he urged the Council to maintain the 22'. Mr. Wyett said he did not understand why money was spent on this project, and most of the presented proposals were not agreeable, especially the idea of limiting the size of a lot. He questioned the constitutionality of limiting lot sizes, and, in this case, micro-managing was an error.

President Pro-tem Goldblum said he concurred with Mr. Wyett's comments, and these regulations would be restricting free enterprise.

Mr. Saum said he thought the Town Council would see fewer variances come to the Council if these regulations were adopted.

Attorney Ron Kolins, representing Lloyd and Diana Ecclestone, said he registered objections on behalf of his clients to adopt an overlay of this zoning district and urged the Town Council not to approve this. He said, if this were adopted, it would be the beginning of chopping up the Town into many overlay or little zoning districts. He added outdated standards in the Town of Palm Beach would be perpetuated if this was allowed to happen. Mr. Kolins said these three 'Sea' streets did not sit in a vacuum; streets exist on both sides of them.

Mr. Kolins said if the overlay zoning district was approved as presented by staff, the properties on South Ocean Boulevard should be exempted from the requirements as those homes have a different character than the rest of the streets. Mr. Kolins said the Town has a variance procedure to handle the

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applications individually and urged that a blanket variance not be granted to this district. He added that residents who want to keep the homes in question or recreate homes similar to them in the future, the mechanism is in place to do that, and it clearly can be done.

Mr. Castro responded that the proposal does not include the lots on the ocean or the lake, because those lots have different characteristics and much larger homes. He continued that the staff considered the compatibility and comparable issues related to the houses and the character of the houses on the streets.

Mayor Smith said the entire question came up because the residents of the 'Sea' streets asked the Town to save their neighborhoods. She continued that the residents were concerned about the building that was taking place and the large homes that were there. She said staff came up some interesting and excellent ideas, and the Strategic Planning Board is reviewing this issue and speaking against assimilating three lots as this would be the destruction of the neighborhood. She suggested the Town Council review this issue and let it go to the neighbors on the street, because they are the ones the Town is attempting to protect.

Mayor Smith asked how many renovations are taking place or have taken place on the 'Sea' streets?

Mr. Castro replied thirty-two major renovations have been done in the last two years. He added that the ceiling heights, to his knowledge, were not raised.

Councilman Wyett said he agreed with Attorney Ron Kolins that flexibility should be maintained, and rules should not be set for three streets that apply to every house on each of the streets because of the differences in the houses. He said zoning is too complicated as it is and should be simplified, not made more complicated.

Leslie Shaw, 318 Seaspray Avenue, said he did not agree with the concept of an overlay district; it is confusing in concept and should not lend itself to misunderstanding. Mr. Shaw said consideration should be given to the effect the sliding scale has had on the entire R-B district during the last few years. He said the idea of reducing the maximum lot size has a negative impact; the size of the land is not the issue but the size of the house that is built on the land.

Mr. Shaw said the issues of new construction and renovation should be separated. He continued that the preservation of existing houses should be considered over new construction which should not be built with variances on setbacks. He added that one thing that was omitted and had been proposed when this concept came up approximately two years ago was the relationship between the minimum side setbacks and the neighbor with the potential of an existing residence being pushed over to five feet from the lot line.

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Mr. Shaw said one thing that should be addressed through zoning, is to take advantage of the front yard, not constantly pushing the properties back. He requested this issue go to a public forum, and suggested the first four pages of the book presented at this meeting should have been mailed to the property owners on the 'Sea' streets. He also requested this be deferred for one year and not passed at this meeting.

Mr. Castro replied this issue is a two year process, and the direction sought this year was to proceed forward to be able to go to the residents and show them the proposal.

Mr. Moore recapped that the staff, under the direction of the Town Council, had picked five test areas, held meetings with the residents, and received input from residents on both sides of the issue. He requested direction from the Town Council for the next Zoning Season, 2003-2004.

Dick Kleid, 2660 South Ocean Boulevard and member of the Zoning Commission, said he was one of the Commissioners who voted against this proposal questioning the appropriateness of creating an overlay district of just three streets and was concerned with the possibility of spot zoning. He continued that he thought the Town was over complicating the zoning process by use of the overlay method, and he agreed with Mr. Wyett's comment on micro-managing.

Mr. Kleid said he thought the present system, particularly the sliding scale ratio, should be given a chance to work.

Harrison Robertson, 134 Seagate Road and member of the Zoning Commission, said he thought the Town had an excellent present zoning code, including the CCR, and had the tools to deal with the large mansions in inappropriate neighborhoods. He added overlays would only add complexity to the zoning laws, and Seaview Avenue should be eliminated from the proposed overlay because it is entirely commercial and institutional from the ocean to Cocoanut Row.

Mr. Robertson noted that in the staff report, only five teardowns and approximately thirty renovations have occurred, so apparently demolition is not a big problem for the two 'Sea' streets. He added the overlays may not be constitutional and urged the Town Council not to spend anymore of the taxpayers money and scuttle the project.

Councilman McLendon said it bothered him when he learned that 80% of the lots in the north part of Town are non-conforming and require so many variances. He said he supported a study to modify the present zoning to at least include some sub-districts and reduce the number of variances that are required. He added the Council should take note of the fact that the Zoning Commission approved the first few items on the report by a 4 to 3 vote which does not show overwhelming support for the items.

Lowry Bell, Zoning Commission member, said he had grave reservations regarding the overlay district,

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and the overlay district actually permits the building of larger houses than the sliding scale. He added that one result of approving the overlay district would be over building in the area with accessory structures and other items. He encouraged the Town Council to let the sliding scale work.

Wendy Victor, Trustee of the Preservation Foundation, said she represented the Foundation and was in favor of the overlay district. She said from the Governor of the State down, protecting historic resources is a primary focus, and it is deemed as not only good for the residents but for their financial interests. She said she saw the overlay as an organic way of redeveloping the street in time. She said she disagreed with Attorney Kolins, and the charge for public officials is to protect what the residents have loved and brings people to Palm Beach. She continued that the present Zoning Code was not right for the R-B district.

Attorney Kolins, responding to Mrs. Victor's comments, said he did not intend to say that there is anything wrong with the character of the streets, but he was concerned about the impact of an overlay zoning district in concept and in specifics.

Councilman Wyett said he did not want the perception that zoning and preservation are tied together. He said he supported preservation on a house by house basis which sometimes becomes a streetscape. He continued that zoning should not be used as a preservation function, because zoning encompasses everything in a street, neighborhood, or zone.

James Bertles, 226 Eden Road and Chairman of the Zoning Commission, said he was confused because the Zoning Commission was asked to look at an overlay district by the residents of the Town and the Town Council, and he suggested the Town Council look at the big picture. He continued that the charge of the Zoning Commission is to preserve what is good about Palm Beach and to control the growth in a way that achieves the Strategic Planning Board's vision of what Palm Beach should be in ten to twenty years.

Mr. Bertles said the three 'Sea' streets are clearly different from the other streets in Town. He said, if he had his wishes, he would have all the zoning districts reexamined, because they, both residential and commercial, do not make sense in the way they are presently configured. He continued that the R-B zoning district is a compilation of different neighborhoods with different characteristics, and it is a mistake that they are all treated the same.

Mr. Bertles said the Zoning Commission recommended that the issue should be presented to the residents of the three streets, and he suggested that should be done.

President Brooks commented that development will occur on the 'Sea' streets, and the question is how the development will be handled?

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Councilman Wyett made a motion to defer the issue and to examine several aspects of the issue: the side yard setback—moving from 12.5 ft. on one story and 25.0 ft. for the second story to a 5.0 ft. minimum; (*motion continues*) the Building Department come back with a modification of the proposal for the Town Council to study and after that, the idea be submitted to the residents of the area.

Mayor Smith questioned how can the Building Department come back with a modification if they have not heard what the residents want? She suggested the people in the neighborhood should be heard from.

Councilman Wyett responded he thought the neighbors should speak, but they should not see just one number, and they should be given several choices.

President Brooks asked Mr. Wyett if he wanted to amend his motion to include that or should the motion stand as is?

Councilman Wyett said he would amend his motion to have a variation of the various proposals that are changed to give people choices of what they want.

President Brooks said the Town Council has the confluence of the Strategic Planning Board's final recommendation going before the residents and hearing from other residents as well.

President Pro-Tem questioned if there are public meetings for the people on the street, should there be a certain percentage of homeowners that are represented?

Attorney Randolph said the Town could not mandate how many residents should represent the homeowners, and it was a matter of interest as to how many people attended the meetings.

Attorney Randolph asked, clarifying the motion, if the motion was to defer this for final consideration until the input is received from the public?

President Brooks replied that was not the motion.

Councilman Wyett explained that this proposal was not for immediate adaptation, but it was consideration and advice. Therefore, the motion was to send it to the people with the provision that people be given suggestions, 5 ft. - 10 ft. - 50 ft. - 100 ft., whatever numbers would work, and also to describe the difference between a renovation of an existing piece of property and a potential building of a new piece of property.

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Councilman McDonald asked if there were a second to the motion and what was the motion?

President Brooks said there was no second to the motion. He asked the Town Clerk to read the motion.

Town Clerk Pollitt said she had the motion as: "A motion to send this issue to the people, have them examine it, it will be submitted to the residents, give choices to the residents and identify those choices with new property vs. renovations".

President Brooks said that was the essence of the motion.

Councilman Wyett agreed.

President Pro-Tem Goldblum asked if the issue would then be reconsidered by the Town Council? **Mr. Goldblum seconded the motion with the inclusion of the consideration by the Town Council.**

Councilman McDonald said he agreed with Chairman Bertles that the entire Zoning Code should be restudied, but that was not the issue before the Town Council at this meeting. He said the best approach is not to approve the overlay program but to defer it until the workshops are done with that information coming back to the Town Council who then will make the decision to adopt the program or not.

Councilman Wyett said that was the essence of the motion.

Mr. Castro pointed out that the proposal is based on the character of the streets and if other numbers are provided, they are not going to be consistent with the character of the street. He said he would prefer receiving feedback from the residents first before providing them with other recommendations.

Attorney Randolph said he thought the motion was a deferral for a final consideration of this item until the Council can get input from the residents of the 'Sea' streets.

Mr. Moore said, although the Town Council is not specifically taking action on this item, his department is being authorized to go forward, have the public meeting with the residents of the 'Sea' streets, present the issues to them, receive their feedback, and report back to the Town Council.

Harrison Robertson, speaking regarding the report of the Strategic Planning Board, said the CCR, adopted in 1999, should have a number of years to determine if it works in the R-B district. He suggested waiting another year or two before anything else is considered. He said the Strategic Planning Board concluded that variances are not the cause of 'mansionization' in Town, and the variance procedure can be very effective in dealing with the problems of mega mansions. Mr. Harrison

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noted four items the Strategic Planning Board suggested be done and overlays were not included in those suggestions.

The motion carried 5-0 on roll call.

Mayor Smith requested the meetings be held in February and March to give the residents of the streets a couple of dates including an evening time.

Mr. Moore agreed those two months will be fine with the Building Department staff.

Attorney Randolph clarified the motion, as read by the Town Clerk, and was voted on by the Council members. He said there were several points made and he understood the motion was to defer final consideration of this item until the Council has input from the public, but that the item that would go to the public for consideration is the item that was before the Town Council for consideration at this meeting.

Councilman Wyett responded he was very clear to defer this item to the general public of the area for consideration and the Building Department should give them examples and choices, not exactly what was submitted to the Town Council.

Attorney Randolph said that was why he wanted clarification, because Bob Moore attempted to clear that up, and it was his understanding that this would be going to them as a basis and that, in the discussion, of course, they would consider other alternatives, but the Building Department is not going to go back with several alternatives other than what was presented at this meeting. He said a clarification was needed on the motion, and it was not passed the way Mr. Wyett thought it was going to be passed.

Councilman McDonald made a motion for reconsideration of the previous motion regarding the overlay district. The motion was seconded by Councilman McLendon and carried 5-0 on roll call.

Councilman McDonald said he made some comments at the time the first motion was seconded and those items were not put into the original motion or maybe the motion is different from what Mr. Wyett intended.

Councilman McDonald made a motion to defer approving the overlay project until the Building Department has had a chance to hold workshops with the residents of that area; get their input, then come back and report to the Town Council with the Town Council deciding any action that would be appropriate at that time. The motion was seconded by President Pro-Tem Goldblum.

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Mr. Moore questioned if it was the intent of the motion to send any changes that came out of the public meetings back to the Zoning Commission next fall and back to the Town Council in 2004 or should it go back to the Town Council without consideration by the Zoning Commission first?

Attorney Randolph said he thought the recommendations would go back to the Zoning Commission.

Councilman McDonald said that was correct and should be made part of the motion.

Councilman Wyett said he would like to see the Building Department charged with making sure they explain each of the issues at the public meetings.

Mr. Moore said that was done originally with meetings with the residents, and those residents who came understood what the issues were. He said they would be happy to give them what they need, a comprehensive review.

Attorney Randolph added that the minutes of this meeting can be made accessible to the public to aid in understanding some of the issues.

Nancy Murray, Alternate member of the Zoning Commission, said she thought a broad, general picture needs to be presented to the residents before going into the technicalities of the issues.

President Brooks clarified that the Lake front and Ocean front homes in the R-B district would be excluded from the study.

President Pro-Tem Goldblum said he was concerned with the fact the a resident is restricted from expanding their way of life although the resident may like the neighborhood. He suggested that an explanation be given at the meetings stating that if the suggestions are approved, the way of life may be restricted a particular parcel.

President Brooks said this was not correct, and the limitation is for construction not ownership of the lots.

Attorney Randolph clarified a resident would have a maximum of 100 feet on the lot to build a larger home.

After additional discussion, **the motion carried 5-0 on roll call.**

Zoning Study Item II - 1. Point of Measurement

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Zoning Commission Report:

Staff discussed its recommendations regarding point of measurement on the dune. Mr. Lawrence noted that there are also areas along the beach that are zoned R-B and may have the same type of problems, and if the proposal is approved, perhaps these areas should also be considered. Mr. Castro explained the differences between those areas, and that current regulations adequately address Mr. Lawrence's questions and concerns. Mr. Broberg asked if properties along High Mount should also be considered. Mr. Castro responded that the current regulations adequately address this area.

On a motion by Mr. Robertson, seconded by Mr. Kleid, by a vote of 6-1 (Mr. Bell dissenting), the Zoning Commission recommended approval of the Staff recommendation against changing the method of measuring building height for structures on high oceanfront lots in the R-AA and R-A zoning districts.

On a motion by Mr. Broberg, seconded by Mr. Robertson, by a vote of 4-3 (Messrs. Sanchez, Bell, and Bertles dissenting), the Zoning Commission recommended approval of the Staff recommendation to Amend ARTICLE I, IN GENERAL, Sec. 134-2., Definitions and rules of construction, (b) Definitions, by adding a new definition of building height on low lots in the R-AA district, to read as follows:

Building, height of, (applicable only to structures on lots located on the west side of South Ocean Boulevard between Via Agape and Sloan's Curve in the R-AA district and having a natural ground level lower than that of the roadway on which the lot fronts) means the vertical distance from the point the exterior wall meets the minimum flood elevation or the natural grade, whichever is higher, to the top chord of the 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.

Town Council discussion:

STUDY ITEM 1. Study the point of measurement of height in the R-AA and R-A zoning districts.

Consultant William Brisson from Adley, Brisson, Engman, Inc. explained that existing properties in the R-AA and R-A districts which are located either along the dune line or off the dune. He continued that typically the homes that are located on the top of the dunes are 20 ft. to 23 ft. above grade, and in the past, if a variance were not issued, they would have height limitations from 14 ft. to 17 ft. above the actual base of the dune upon which they were built. He said there are three locations in Town in these districts which, in the past, have been handled on a case by case basis for variances, and usually the Town would limit the height somewhat to assure that the buildings were compatible with the adjoining structures.

Mr. Brisson said the change was an attempt to see if the regulations could be adjusted to alleviate the need for a variance. He reported that the staff and the Zoning Commission both because of the cumbersome nature of the changes that would have to be in the Code for infrequent cases, suggested against changing the method of measuring building height for structures on high oceanfront lots in the R-AA and R-A zoning districts, and any new instances be addressed using the variance situation.

Councilman Wyett made a motion to uphold the Zoning Commission's recommendation against changing the method of measuring building height for structures on high oceanfront lots in the

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R-AA and R-A zoning districts. The motion was seconded by Councilman McDonald and carried 5-0 on roll call.

Low Elevation Properties in the R-AA District

Mr. Brisson explained the issue of low elevation existed in only one area in the Town between Via Agape and Sloan's Curve where the elevation drops dramatically from South Ocean Boulevard, 20 ft. to approximately 5 ft. at Lake Worth. He continued there have been no instances where the existing regulations have been abused, but it is possible under the existing regulations with the point of measurement being the crown of the road at approximately 20 ft. down to 7.5 ft. He said with those regulations, a 45 ft. or 55 ft. high structure could be built, although no one has done this to date. He suggested a regulation should be adopted which would clarify the true intent of the Code to insure the actual building height from the point of measurement would be 30 ft. He added this has been done in the beach district, and the recommendation is to have a regulation that will force the building to be measured 30 ft. as the ground level slopes downward with the point of measurement being the vertical distance from the point of the exterior wall where it meets the minimum flood elevation or the natural grade, whichever is higher, to the top corner of the roof framing member. He continued that for a flat roof, the point of measurement measured to where the ceiling meets the exterior wall. He said these changes will limit the actual building height so the height will not be overpowering to any adjoining neighbors, and the building height will be realistic.

Mr. Castro said the issue is when the measurement is taken from the crown of the road of Ocean Boulevard to 30 ft., as the building moves from the dune, the height is substantially high from the lake. He continued that only one structure has been constructed under the current Code but was not built to the height that it might have been. He reiterated that this recommendation was before the Town Council so someone in the future could not take advantage of this loop hole in the Code.

Councilman McDonald asked why the Zoning Commission's vote was 4-3 on an issue which would appear non-controversial?

Zoning Chairman Jim Bertles responded he did not recall the reasoning on the vote but he voted against it, although he was in favor of the change, because of the parenthetical wording that staff could not fully explain to him. At the time, he suggested deleting the parenthetical, deleting the qualifier, and having it apply universally to wherever physically it would apply.

Zoning Commission member Lowry Bell said he voted against the change because the language was complicated and not because he was opposed to the intent. He said the language was not clear enough for him.

Mr. Brisson explained the parenthetical wording in question limited the regulation to the properties on the west side of South Ocean Boulevard.

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Mr. Moore added that one other property in Town, on Hi-Mount Road in the R-B district, would be subject to this regulation if it was not specifically limited to R-AA and R-A.

Mr. Brisson said the height measurement is measured with the average of the streets, and the R-B district does not have the problem because there is a method in place to take care of it.

Councilman McDonald made a motion to approve the recommendation of the Zoning Commission to amend Article I, In General, Sec. 134-2. The motion was seconded by President Pro-Tem Goldblum and carried 5-0 on roll call.

Zoning Study Item II - 2. Maximum Residential Densities for Commercial Zoning Districts

Zoning Commission Report:

Staff discussed its recommendations on this item. On a motion by Mr. Kleid, seconded by Mr. Robertson, by a vote of 7-0 the Zoning Commission recommended approval of the Staff recommendation to amend the following sections of the Zoning Code as they relate to residential uses and densities in commercial zoning districts, hotel and time sharing densities in commercial zoning districts, and densities in PUD's, all to read as follows:

- a. Amend DIVISION 8, C-TS TOWN-SERVING COMMERCIAL DISTRICT, Section 134-1109, Special Exception Uses, by deleting subsection (a)(13) and amending subsection (a)(3) to read as follows:
(3) ~~Multifamily dwellings.~~ One single-family dwelling unit, or multiple dwelling units up to a maximum of six units per gross acre, whichever is higher, may be located above the first floor.
(13) ~~One family dwelling units located above the first floor.~~
- b. Amend DIVISION 9, C-WA WORTH AVENUE DISTRICT, Section 134-1159, Special Exception Uses, by deleting subsection (a)(8) and amending subsection (a)(12) to read as follows:
(8) ~~Multifamily residential~~
(12) Residential uses as follows:
 - a. ~~Residential uses~~ Single-family or multiple residential dwellings on the second and third floors, up to a maximum of 10 dwelling units per acre as provided for in the Worth Avenue Design Guidelines, which...
- c. Amend DIVISION 10, C-OPI, OFFICE, PROFESSIONAL, AND INSTITUTIONAL DISTRICT, Section 134-1209, Special Exception Uses, by modifying subsection (10) to read as follows:
(10) ~~Multifamily residential.~~ One single-family dwelling unit, or multiple dwelling units up to a maximum of six units per gross acre, whichever is higher, may be located above the first floor.
- d. Amend DIVISION 11, C-PC PLANNED CENTER DISTRICT, Section 134-1259, Special Exception Uses, by modifying subsections (5) and (11) to read as follows:
(5) ~~Restaurants, hotels,~~ theaters, nightclubs, lounges/bars.
(11) ~~Timesharing uses at a maximum of nine units per acre and hotels at a maximum of 26 units per acre.~~
- e. Amend DIVISION 12, C-B COMMERCIAL DISTRICT, Section 134-1304, Special Exception Uses, by modifying subsections (5) and (6) to read as follows:
(5) ~~Hotels at a maximum of 26 units per acre.~~
(11) ~~Timesharing uses at a maximum of nine units per acre.~~
- f. Amend ARTICLE V. PLANNED UNIT DEVELOPMENT PROCEDURE, DIVISION 3. REGULATIONS, Section 134-654 to read as follows:

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Residential densities in special exception planned unit developments permitted under this article shall be as follows:

PUD District	Use District	Maximum Density Permitted under PUD* (units per acre)
PUD -1	R-B	6 <u>4</u> ⁽¹⁾
PUD -2	R-C	44 <u>6</u> **
	R-D(1)	45 <u>13</u> **
PUD-3	R-C	44 <u>6</u> **
	R-D(1)	45 <u>13</u> **
	R-D(2)	48 <u>13</u> **
PUD-4	R-AA	2/3**
	R-A	2**
	R-B	4**

Town Council Meeting:

Mr. Brisson said there are certain districts in the Comprehensive Plan that do not have regulations that are entirely consistent. He identified one of the problems as residential densities in the Planned Unit Developments that actually exceed the densities that are allowed in the Town's Comprehensive Plan; secondly, the C-PC and the C-B districts allow hotels and time-sharing uses with no densities attached to them. He continued that he and the staff identified the different types of uses that are presently allowed in the various commercial districts, and the recommendations were that residences as a principal use not be allowed in commercial districts but would be allowed above the ground floor only; allow one residential unit above the ground floor or six units per acre, whichever is higher; and use the same densities in the hotel and time-sharing uses in the C-B and C-OPI districts.

Responding to Mayor Smith's question regarding time-share in Palm Beach, Mr. Castro said time-sharing is allowed in one district, C-B.

Mr. Brisson added that time-sharing is allowed as a special exception use in the RD(2) district; however the density is limited to nine units per acre.

Councilman McDonald made a motion to approve the recommendation of the Zoning Commission to amend the sections of the Zoning Code as they relate to residential uses and densities in commercial zoning districts, hotel and time sharing densities in commercial zoning districts, and densities in PUD's. The motion was seconded by President Pro-Tem Goldblum and carried 5-0 on roll call.

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Zoning Study Item II - 3. Air Conditioning, Swimming Pool and Generator Equipment

Zoning Commission Report:

Staff discussed its recommendations on this item. Mr. Castro indicated that the provision for screening needed to be modified from the original recommendation to exclude reference to fences and include hedges in its place. On a motion by Mr. Robertson, seconded by Mr. Bell, by a vote of 7-0 the Zoning Commission recommended approval of the Staff recommendation, as modified by the Zoning Commission and acceptable to Staff, to amend CHAPTER 134 - ZONING, Division 3, HEIGHT, Section 134-1607, Permitted exceptions, and Division 6. STRUCTURES, Subdivision 1. In General, Section 134-1728, and Section 134-1729 as follows:

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Sec. 134-1607. Permitted exceptions.

Permitted exceptions to height regulations in this chapter in district other than R-AA, R-A and R-B shall be as follows:

1. In all zoning districts other than R-AA, R-A and R-B districts, structures for the housing of elevators, stairways, tanks, skylights not exceed ten percent in total area of the roof area on which they are placed, skylights not more than four feet in height above the roof and ventilation fans, ~~air conditioning equipment~~, solar panel not exceeding three feet in height above the roof. ~~Air conditioning equipment shall not exceed three four feet above the minimum building requirement for elevated stands on a roof. , or~~ Similar equipment to operate and maintain the building, radio and television antennas for reception purposes only, church steeples, flagpoles and chimneys may be erected no more than 40 percent above the footage height limits of the district within which they are located as prescribed by this chapter; provided, however, that such structures located upon the roof area shall not cover in the aggregate a roof area greater than 15 percent of the ground floor area of such building or structure. Those essential items of equipment as identified in this section which must be permitted on the roof of a building shall be sight screened from view insofar as possible.

Sec. 134-1728. Air conditioning and swimming pool heating equipment

No portion of any air conditioning and/or swimming pool heating equipment shall be located closer than five feet from a side or rear property line. In addition, such air conditioning or swimming pool heating equipment shall be completely screened with a minimum five foot high wall and/or hedge-fence from the neighboring property. In addition, a Air conditioning and/or swimming pool heating equipment in excess of two (2) units located within a required setback or in excess of four (4) feet in height, measured above the natural grade or minimum flood elevation, whichever is greater, or occupying more than twenty-five (25) square feet in total 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 accept as stated herein.

~~In no instance shall more than one air conditioning condenser unit~~ One (1) piece of air conditioning or swimming pool heating equipment not in excess of four (4) feet in height, measured above the natural grade or the minimum flood elevation, whichever is greater, nor occupying more than twenty-five (25) ten (10) square feet in area shall be allowed placed within each a required front yard. No portion of Such air conditioning or swimming pool heating equipment shall be located no closer than two feet from the building and does not extend more than five feet from the principal structure building nor closer than twenty (20) feet to the front, street side or street rear property line. In addition, and such air conditioning or swimming pool heating equipment shall be completely screened from the neighboring property by with a minimum five foot high wall and/or fence-hedge-hedge and from the street by a minimum five foot high wall or fence and three foot high hedge outside of said wall-or fence. In addition, cooling towers, and-air handlers and swimming pool heating equipment, except as provided for above, are prohibited in the required front setback, street side yard setback or street rear yard setback.

However, any house that fronts on two or more streets shall be allowed to place ~~two air conditioning units and/or swimming pool heating equipment~~ in one each required street side or street rear yard setback provided that the combination of said units equipment does not exceed two in each of said setbacks; are not more than four feet in height above the natural grade or the minimum flood elevation, whichever is greater; occupy no more than twenty-five (25) square feet in total area; and are set back a minimum of twenty feet from the property line and are screened from view by a five foot high wall or fence and three foot high hedge outside of said wall or fence.

Sec. 134-1729. Generators and swimming pool filters and pumps.

Generators, ~~swimming pool filters pumps and heaters~~ shall not be placed in the required front ~~setback~~, street side ~~yard setback~~ or street rear yard setbacks. One generator shall be allowed in a required side or rear yard provided said generator is set back a minimum of five feet from the property line; is enclosed in a sound absorbing encasement; does not exceed a maximum height of seven feet above the neighboring property owner's grade; is screened from the neighboring property by a wall the same height as the generator; and said wall contains sound absorbing material. "Sound absorbing" as used in this section shall mean sound that does not exceed the allowable decibel level as set forth in Article V of Chapter 42.

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In addition, swimming pool pumps and filters shall be allowed in a required side or rear yard provided said equipment is placed no closer than five feet from the side or rear property line and is enclosed in a pump house not exceeding a height of four feet. However, any lot that fronts on two or more streets shall be allowed to place ~~two pieces of pool equipment~~ one swimming pool filter and pump in one a required street side and/or street rear yard setback provided that said equipment is set back a minimum of twenty feet from the property line and is screened from view by a five foot high wall or hedge. swimming pool filter and pump, in combination with a pool heater and/or air conditioning unit does not exceed three pieces of said equipment; is set back a minimum of twenty feet from the street side or street rear property line; and, is screened from view from the neighboring property owner and street by a minimum five foot high wall and/or hedge.

Town Council:

Mr. Castro said staff was directed to review this section because of the technical language and the length of the text; however, several issues have been clarified, and one of those issues was air conditioning equipment on the roof which is required to be on a stand by a new Building Code, but the current Code allows only a maximum height of three feet above the roof. He continued that the proposal is that air conditioning equipment be allowed not to exceed four feet (raised from staff's recommendation of three feet) above the minimum building requirement for elevated stands.

Mr. Castro continued that other proposals, as modified by the Zoning Commission, while providing more restrictive requirements as related to air conditioning units in the side rear yard, provided some flexibility with screening and a minimum separation of air conditioning units on the side and rear yards; additionally air conditioning units would be allowed in front, rear, or side setbacks when the house fronts on two or three streets with screening and a minimum 20 ft. setback. He added that generator equipment is being considered specifically in the proposal, because the Code is currently silent regarding generator equipment. He read the proposal for that issue: 'One generator shall be allowed in a required side or rear yard provided said generator is set back a minimum of five feet from the property line; is enclosed in a sound absorbing encasement; does not exceed a maximum height of seven feet above the neighboring property owner's grade; is screened from the neighboring property by a wall the same height as the generator; and contains sound absorbing material within that wall.'

Mr. Castro said the new language clearly defined when and where some swimming pool and filter equipment as well as heating equipment would be allowed in the side yards.

President Pro-tem Goldblum questioned if the Code addressed the issue of carbon monoxide gas from generators?

Mr. Castro replied the equipment would have to meet the relevant building and fire codes as they relate to fumes and exhaust and the safety standards in the Code.

Councilman McDonald moved approval of the Zoning Commission's recommendation regarding Study Item II - 3 with the provision the word 'hedge' be replaced by 'wall' and the elimination of placing a unit in the front setback. The motion was seconded by President Pro-Tem Goldblum. On roll call, the motion carried 5-0.

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Zoning Study Item II - 4. Setbacks for Docks, Piers, and Appurtenances

Zoning Commission Report:

Staff discussed its recommendations on this item. On a motion by Mr. Bell, seconded by Mr. Lawrence, by a vote of 7-0 the Zoning Commission recommended approval of the Staff recommendation, to amend Sec. 134-1697. Structures over Lake Worth, and ARTICLE III. BULKHEADS AND PIERHEADS ON LAKE WORK, to read as follows:

Sec. 134-1697. Structures over Lake Worth

No structure shall be erected or constructed west of the established bulkhead or bulkhead line or over the waters of Lake Worth except docks, which shall be unenclosed accessory structures as defined in this chapter meet the requirements in Article III. BULKHEADS AND PIERHEADS ON LAKE WORTH, Sec. 62-75. Construction specifications. No cooking, sleeping, or business activity shall be permitted or conducted on a dock.

ARTICLE III. BULKHEADS AND PIERHEADS ON LAKE WORK...

Sec. 62-75. Construction specifications.

- (a) *Generally.* All construction of bulkheads, piers and landing docks covered in this article shall comply with the specifications of this section.
- (b) *Location and alignment.* The west face of bulkheads are to be on the designated bulkhead line.
- (c) *Projections.* The west face of bulkheads shall be without projections, except at the top, where a cap or coping may be used. The transition from the face of the bulkhead to the outer face of the cap or coping shall not be abrupt. An administrative waiver by the Director of Public Works for batter (style) piles may be granted from this provision as identified in Section 62-74(a).
- (d) *Elevation of top.* The top of bulkheads or cutoff walls shall be governed by sound engineering recommendations, and the same shall be approved by the department of public works.
- (e) *Elevation of bottom.* The bottom of bulkheads or cutoff walls shall be governed by sound engineering recommendations, and the same shall be approved by the department of public works.
- (f) *Elevation of filled land lying west of the present A1A right-of-way.* The elevation of such fill will be such that drainage of any filled area will be routed away from the right-of-way ditches of State Road A1A.
- (g) *Tightness.* Bulkheads and cutoff walls shall be impervious to the passage of sand.
- (h) *Location and alignment.* Piers, landing docks and/or all associated appurtenances thereto may be built westward from the bulkhead lines a maximum of 150 feet. In addition, piers, landing docks and/or all associated appurtenances may not be built further than 150 feet from land nor more than 6 feet west of the U.S. Pierhead Line in Lake Worth. ~~In addition, piers, and landing docks and/or all associated appurtenances shall also be setback a minimum of 40 25 feet from the side property line.~~ All appurtenances to said piers or landing docks shall be setback a minimum of 15 feet from the side property line. No vessel that is docked at said pier or landing dock shall be allowed to extend past a continuous line extending from the side property line out into Lake Worth or the Palm Beach Inlet. These provisions may not be varied from unless a variance pursuant to Sections 134-171, 134-172, 134-173 and 134-201 has been granted by the Town Council.
- (i) *Elevations of top.* The elevations indicated for piers and docks must be in conformance to good engineering practice.
- (j) *Presence of rock.* If in the construction of bulkheads, piers or landing docks, rock too hard for penetration is encountered, before required penetration has been attained, the applicant will be required to give the department of public works satisfactory proof of its ability to penetrate the rock sufficiently to provide a structure equally as stable as though no rock had been encountered, and the structure had been built with the prescribed penetration in sand.
- (k) *Profiles with application.* If in the construction of any structure covered in this section is made, such application must be accompanied by a profile taken along the line of the proposed structure, such profile to show the character of materials encountered to elevations of required penetrations.
- (l) *Plans.* All plans accompanying applications for structures covered in this section must be prepared by, or in collaboration with, a civil engineer licensed to practice in the State of Florida.
- (m) *Datum plane.* The datum plane to which above elevations are referred is based upon National Geodetic Vertical Datum.
- (n) *Inspection.* The town council has the right at all times, through it authorized agent, to inspect work being done

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under this section.

(o) *Approval of department of public works.* Penetration and elevations of piles being used in these structures shall be in accordance to good engineering practice. The plan of the work shall have the approval of the department of public works.

Town Council meeting:

Mr. Castro said the existing Code allows piers, landing docks and their appurtenances within ten feet of the side yard, and the Zoning in Progress at this time allows the piers, landing docks and their appurtenances (includes boat lifts and dolphin piles) to have a minimum setback of 25 ft. He said the staff recommendation was to require the docks to have a 25 ft. setback but their appurtenances be modified to allow a 15 ft. setback in lieu of the 10 ft. setback which is in the present Code. He added this is further restricting dolphin piles and boat lifts as well as docks but not to the extent of the Zoning in Progress regulations.

Councilman Wyett questioned how the change in the ordinance would reflect on existing docks that will be repaired or replaced?

Mr. Castro responded if this change was implemented at 25 ft., the dolphin pile could not be removed without replacing it at 25 ft. He continued an existing dock could be kept but if more than 50% of the dock was demolished during renovation, then it has to meet the 25 ft. setback.

President Pro-tem Goldblum said the setbacks are a safety factor, and a boat can be tied up at a dock without the dolphin piles being extended further out from the dock. He continued that the lines can be crossed, and the boat is just as safe as having the dolphin piles the same distance as the dock. He suggested the dolphin piles should be 25 ft.—same as the docks. Mr. Goldblum said he thought it was more dangerous to have the dolphin piles away from the dock, and they should be even with the dock.

President Pro-tem Goldblum made a motion to approve the Zoning Commission's recommendation with the amendment that the pilings be the same distance as the docks, 25 ft. The motion was seconded by Councilman McLendon and carried 5-0 on roll call.

Zoning Study Item II - 5. Filing Fees for Zoning Applications

Zoning Commission Report:

Staff discussed its recommendations on this item. On a motion by Mr. Bell, seconded by Mr. Sanchez, by a vote of 7-0 the Zoning Commission recommended approval of the Staff recommendation to amend Sec. 134-38, Filing fees for rezoning, special exception use, variance, appeal or other matter requiring public hearing, to read as follows:

		<u>Existing</u>	<u>Proposed</u>
(1) Fee for request for a PUD application.....	\$2,500		\$2,500
(2) Fee for application for a special exception use, or a modification or expansion thereof.....	\$700		<u>\$800</u>

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Multi-family dwelling and commercial uses.....	\$800	<u>\$1,000</u>
Plus, for each additional special exception request.....	\$200	<u>\$250</u>
(3) Added requests for zoning variances contained within a special exception or site plan review request.....	\$200	<u>\$250</u>
Plus, for each addition variance request.....	\$150	<u>\$200</u>
(4) Fee for zoning variance requests involving uses or structures.....	\$500	<u>\$750</u>
Multi-family dwellings and commercial uses.....	\$700	<u>\$800</u>
(5) Fee for zoning variance requests involving signs, awning, fences, gateposts and similar incidental accessory items.....	\$300	<u>\$400</u>
(6) Additional fee for each added item of a multiple point variance request within one zoning request application.....	\$200	<u>\$300</u>
(7) Fee for filing of an application for site plan review pursuant to Article III of this chapter in those instances that involve no other type of zoning application concurrent therewith and which involve new building construction or involve new building additions exceeding two thousand (2,000) square feet of total floor area.....	\$600	<u>\$800</u>
Multifamily dwelling or commercial use.....	\$1,000	<u>\$1,200</u>
(8) Fee for all other site plan review applications.....	\$400	<u>\$500</u>

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	<u>Existing</u>	<u>Proposed</u>
(9) Fee for comprehensive plan amendment		
Text.....	\$1,300	<u>\$1,500</u>
Future land use map.....	\$1,500	<u>\$2,000</u>
(10) Zoning change.....	\$1,500	<u>\$2,000</u>
(11) Submittal of Zoning text amendments.....	\$40	<u>\$40</u>
(12) Zoning text amendments (if studied).....	\$40	<u>\$300*</u>

*minimum plus all cost associated with the consultant and legal fees for analysis, study and report on any study item determined by the ~~Building Official~~ Director of Planning, Zoning, and Building to be large scale ~~Together with a sum sufficient to pay publication costs of the notice required to be published.~~

Town Council Meeting:

Mr. Castro recalled that the development review fees were raised in 1996 to reflect the user fees appropriate with the staff time. He said the recommendation is to raise the fees moderately to account for the staff time put into the proposals. He pointed out the fee for (1) Fee for request for a PUD application on page 23 should read Existing - \$2,500 and Proposed - \$2,500, and there is no suggested increase.

President Pro-tem Goldblum made a motion to approve the recommendation of the Zoning Commission to amend Section 134-38. The motion was seconded by Councilman McLendon and carried 5-0 on roll call.

Zoning Study Item II - 6. Landscaped Open Space Requirements

Zoning Commission Report:

Staff discussed its recommendations on this item. On a motion by Mr. Broberg, seconded by Mr. Robertson, by a vote of 7-0 the Zoning Commission recommended approval of the Staff recommendation, as modified by the Zoning Commission, to amend ARTICLE VI, District Regulations, Division 2 through Division 7, *Landscaped open space*, Sections 134-793(a)(12), 134-843(a)(12), 134-893(a)(12), 134-948(11)e., 134-1004(11)e. and 134-1059(11)g. of Chapter 134, Zoning to read as follows:

R-AA. Section 134-793. Lot, yard and area requirements-Generally

 (a) schedule of regulations.

(12) Landscaped open space.

b. Additionally, not less than 45 percent of the required front yard must be landscaped open space in the R-AA district.

R-A. Section 134-843. Lot, yard and area requirements-Generally

 (a) schedule of regulations.

(12) Landscaped open space.

b. Additionally, not less than 45 percent of the required front yard must be landscaped open space in the R-A district.

R-B. Section 134-893. Lot, yard and area requirements-Generally

 (a) schedule of regulations.

(12) Landscaped open space.

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- b. Additionally, not less than 40 percent of the required front yard must be landscaped open space in the R-B district.

R-C. Section 134-948. Lot, yard and area requirements-Generally

(a) schedule of regulations.

(11) Landscaped open space.

- e. Additionally, not less than 40 percent of the required front yard must be landscaped open space for single-family and two-family homes in the R-C district and not less than 35 percent of the required front yard must be landscaped open space for all other type of development.

R-D(1) Section 134-1004. Lot, yard and area requirements-Generally

(a) schedule of regulations.

(11) Landscaped open space.

- e. Additionally, not less than 40 percent of the required front yard must be landscaped open space for single-family and two-family homes in the R-D(1) district and not less than 35 percent of the required front yard must be landscaped open space for all other type of development.

R-D(2) Section 134-1059. Lot, yard and area requirements-Generally

(a) schedule of regulations.

(11) Landscaped open space.

- g. Additionally, not less than 40 percent of the required front yard must be landscaped open space for single-family and two-family homes in the R-D(1) district and not less than 35 percent of the required front yard must be landscaped open space for all other type of development.

Town Council meeting:

Mr. Castro said this was a housekeeping item resulting from the deletion of the grass-crete from the Code last year, and the minimum landscape open space requirements required for the front yards in all of the Town's zoning districts were inadvertently deleted. He said the request was for all of those requirements to be put back into the Code.

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

Zoning Study Item II - 7. Front Yard Setbacks for Deep Lots in the R-B Zoning District

Zoning Commission Report:

Staff discussed its recommendations on this item. On a motion by Mr. Bell, seconded by Mr. Kleid, by a vote of 7-0 the Zoning Commission recommended approval of the Staff recommendation to amend Sec. 134-893. Lot, yard and area requirements-Generally, (a) Schedule of regulations, (5) Front yard by adding a new subsection "c." to read as follows:

(5) Front yard.

- a. The minimum front yard setback for the first story is 25 feet.
- b. The minimum front yard setback for the second story is 30 feet.
- c. The minimum front yard setback for lots equal to or greater than 150 feet deep shall be subject to a front setback requirement of 35 feet or two feet for every one foot in building height, whichever is greater.

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Town Council Meeting:

Mr. Castro explained this item was a request to review specifically lots in the R-B district that may not be 20,000 sq. ft. or more but are very deep. He continued, that after review, there is the ability to provide a larger front yard setback on these deeper lots, and the recommendation was a 35 ft. setback or 2 ft. for every 1 ft. in building height for lots that are 150 ft. or more deep.

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

Zoning Study Item II - 8. Mayoral Voting Power on Tie Votes

Zoning Commission Report:

Staff discussed its recommendations regarding the Mayor's voting power in case of tie votes on zoning items. The Commission did not believe that any changes were required in Sec. 134-261(d) as originally proposed by Staff, and Staff concurred. On a motion by Mr. Lawrence, seconded by Mr. Broberg, by a vote of 7-0 the Zoning Commission recommended approval, as modified with exclusion of the proposed changes in Sec. 134-261(d), of the Staff recommendation, to amend Sec. 134-142, Exercise of town council powers, and Sec. 134-261(c), Town council actions; submission to zoning commission for recommendations and report; hearings, to read as follows:

Sec. 134-142

In exercising its powers, the town council may, upon appeal, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination made by an administrative official in the enforcement of this chapter and may make any necessary order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote by three-fifths of the town council shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant on any matter upon which the town council is required to pass under this chapter. In the event of a tie vote, the Mayor shall cast the deciding vote, which shall constitute the three fifth's requirement of the Town Council stated herein.

Sec. 134-261

(c) If an adverse report is given by the zoning commission or if a protest against such proposed amendment, supplement, change, modification or repeal shall be presented in writing to the town clerk, duly signed and acknowledged by the owners of 20 percent or more, either of the area of the lots included in such proposed change or of those immediately adjacent in the area thereof extending 500 feet therefrom, such amendment shall not become effective except by the favorable vote of three-fifths of all the members of the town council. In the event of a tie vote, the Mayor shall cast the deciding vote, which shall constitute the three fifth's requirement of the Town Council stated herein.

Town Council Meeting:

Mr. Castro said the staff originally recommended changes to three provisions in the Code, and after the Zoning Commission discussion, item (d) did not need to be modified at all, and staff concurred with that. He continued, that based on the Charter, the Mayor should have the ability to vote when there is a tie vote related to any zoning items.

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Councilman Wyett moved approval of the Zoning Commission's recommendations. The motion was seconded by Councilman McLendon.

Councilman McDonald said he disagreed with the Zoning Commission's recommendation, and the reason for the disapproval was that presently the Mayor is able to discuss the issues out of the Sunshine Law with any member of the Town Council. He continued if the Mayor is a voting member, that will no longer be true, and it also places the Mayor in a position to be the deciding vote on an issue. He said he thought that was one situation the Charter Review Commission did not want to put the Mayor in, and secondly, this situation arises so infrequently and to put the Mayor under the Sunshine Law for two or three votes a year does not make sense.

President Brooks said he did not agree with Councilman McDonald because under the present situation, an applicant can defer an item if one or two Council members are absent from the meeting. He continued that if the Mayor could vote in those infrequent situations, this could result in expeditiously moving an item.

Councilman McDonald said he understood the change would apply only to appeals from the administrative procedure.

Attorney Randolph responded that, currently, the Code requires a 3/5 vote of the Town Council in order to vote on any variance or special exception. He clarified this change would apply to every land use item that came before the Town Council.

Councilman McDonald said he would like to hear the Mayor's position on this item, and questioned if the Charter would have to be revised since the Mayor is not part of the 3/5 vote of the Council.

Attorney Randolph replied he did not believe there was anything inconsistent in the Charter and the Zoning Ordinance, and he had reviewed that.

Councilman McDonald clarified that the Zoning Ordinance would be amended, saying that the Mayor would be considered as part of the 3/5 of the Council.

Attorney Randolph replied that was correct.

Mayor Smith said she was not speaking to this issue.

Mr. Castro, reading from the Charter, said, "The Charter does say, under Section 3.05 (h) that the Mayor shall have the right to vote at all regular or special Town Council meetings in order to break a tie vote on any ordinance, resolution, or motion, but shall not otherwise vote, except as here and after provided in the Charter."

Councilman McDonald questioned how the Zoning Ordinance could give the Mayor the right to vote

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when the Charter does not provide that right?

Attorney Randolph said the Charter did say the Mayor has a right to break a tie on any motion, resolution or otherwise, and these issues are voted on by motion. He said it is only the Zoning Ordinance that has language that is not consistent with the Charter.

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

Zoning Study Item II - 9 Zoning Season Extension

Zoning Commission Report:

Staff discussed its recommendations on this item. Mr. Bell commented that he did not feel it necessary that the Zoning Commission meet in October. Other Commissioners noted that perhaps extending the Zoning Season to May might be too late in the year and that many residents left before that month. Mr. Bell moved for disapproval of the proposal, but the motion died for lack of a second. On a motion by Mr. Kleid, seconded by Mr. Broberg, by a vote of 6-1 (Mr. Bell dissenting) the Zoning Commission recommended approval of the Staff recommendation to amend Sec. 134-261, Town Council actions; submission to zoning commission for recommendations and report; hearings, subsection (d), to read as follows:

- (d) No hearings shall be held on any application for rezoning of property or for modifications or amendments of this chapter except during the annual zoning season which shall be the months of October, November, December, January, February, March, ~~and April~~, and May of each year. All applications for rezoning or applications to amend, supplement, change, modify or repeal this chapter shall be filed only during the months of May and June, ~~July~~; and no later than the ~~first last~~ Tuesday in ~~August~~ July of each year. Any proposed amendment to change property from one zoning district to another zoning district shall require the favorable vote of at least four members of the town council

Town Council meeting:

Mr. Castro said this item was a request by the staff to consider the specific time frame for Zoning Season to be extended from October through May, a total of two additional months, for the purpose of conducting zoning business. He continued that part of the request was to reduce the time frame for submission of applications to provide additional time for the staff to prepare for the October/November meetings. He said some members of the Zoning Commission opposed the change because they did not want to meet in October, and the Zoning Season extension to May was too late for residents to participate in the meetings.

Councilman Wyett said he thought the Commission might need some flexibility although he was against holding meetings when residents were away, and he suggested the Town Council might want to give itself authority to call a special zoning hearing should the occasion arise.

Lowry Bell, member of the Zoning Commission, said his feelings were the same as Mr. Wyett's comments as residents should be in residence and many of the residents do not return to Palm Beach until late November.

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Mayor Smith said the Strategic Planning Board had a recommendation to extend the Zoning Season, because of the applications that are made public. She mentioned problems were encountered during the winter months when there was not enough time to submit the issues before April.

Mr. Moore said the Town Council did approve and call the meetings for the Zoning Commission, and this change would allow for any subjects the Town Council wished to have considered to be discussed later in the season.

Councilman McLendon made a motion to approve the recommendation of the Zoning Commission. The motion was seconded by Councilman McDonald and carried 3-1 on roll call with Councilman Wyett casting a negative vote, and President Brooks was out of the room.

III. COMPREHENSIVE PLAN STUDY ITEMS

Zoning Commission Report:

Veronica Close, Assistant Director, introduced this portion of the agenda, and outlined the reasons for these items and how the staff would proceed with its presentation.

Comprehensive Plan Study Item III - 2. Amendment to the Capital Improvements and Coastal Management/Conservation Elements

Staff discussed its recommendations on this item. On a motion by Mr. Sanchez, seconded by Mr. Bell, by a vote of 7-0 the Zoning Commission recommended approval of the Staff recommendations pertaining to updating the Capital Improvements Element and Coastal Management/Conservation Element as follows:

1. In accordance with Comprehensive Plan Policy 6.1 the Town of Palm Beach Five Year Capital Improvement Plan FY 2003 through FY 2007 should be adopted (see attached table). The subject table replaces Table VIII-1 Funding Requirements Capital Improvement Program.
2. In accordance with Objective 5 of the Coastal Management/Conservation Element which states:

"The Town shall protect and restore its beaches and dunes. The measurement of this objective is the extent to which beaches and shores are protected and restored, and the degree the following policies are implemented."
3. A table will be added to the Coastal Management/Conservation Element entitled: "Five Year Coastal Management Plan" and staff further recommends adding the following policies:

POLICY 5.8

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The Town will commence the Mid Town Beach nourishment program in FY 2001 with additional expenditures and activities in FY 2002.

POLICY 5.9

The Town will commence the South of Mid Town Beach nourishment program in FY 2001 with additional expenditures and activities in FY 2004.

POLICY 5.10

The Town will commence the North End Restoration nourishment program in FY 2001 with additional expenditures and activities in FY 2004.

POLICY 5.11

The Town will commence the South End nourishment program in FY 2001 with additional expenditures and activities in FY 2004.

POLICY 5.12

The Town will commence the Phipps Ocean Park nourishment program in FY 2001 with additional expenditures and activities in FY 2002.

Town Council meeting:

Assistant Planning, Zoning and Building Director Veronica Close said the staff reviewed the Comprehensive Plan and identified some areas for improvements.

Planning Administrator Tim Frank explained the first change related to the expiration date of the Comprehensive Plan which was at the beginning of 2002, and the time period was extended by the State. He continued that the change involves only the capital improvements that have to be reported in the Comprehensive Plan and extends them out on a time line. He added that the changes are reflective of the budget and the Town's Comprehensive Plan reflects the fact that the capital improvement extends out a couple of additional years.

Councilman McDonald made a motion to approve the recommendation of the Zoning Commission. The motion was seconded by President Pro-tem Goldblum and carried 5-0 on roll call.

Comprehensive Plan Study Item III - 3. Amendment to the Comprehensive Plan Regarding Storm Drainage Improvements

Zoning Commission Report:

Because James Bowser, Town Engineer, was present at this time, this item was heard next, so that he would be available to respond to questions regarding storm drainage. Staff discussed its recommendations on this item. Mr. Bell expressed concern about water retention on specific properties and is opposed to using berms rather than underground drainage. He read into the record a memo from Mr. Dusey to Mr. Elwell concerning water retention and swales in the Phipps Estate. Mr. Bowser responded explaining how

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underground retention is not practical nor effective in all locations in the Town and that in such cases swales are the only practical solution.

On motion by Mr. Bell, seconded by Mr. Broberg, by vote of 7 - 0, the Zoning Commission recommended that the Town Council direct Staff to study the use of swales, and eliminate their use wherever possible.

Mr. Sanchez asked if the Town's drainage plan was based on how the Town would be developed in the future. Mr. Moore responded that indeed the drainage plan was based on 'maximum re-development' in the future rather than just current development patterns.

On a motion by Mr. Lawrence, seconded by Mr. Bell, by a vote of 7-0 the Zoning Commission recommended approval of the Staff recommendations, as modified by the Zoning Commission, pertaining to updating the Future Land Use and Infrastructure Elements as they pertain to storm drainage.

FUTURE LAND USE ELEMENT:

Change OBJECTIVE 5, as follows:

- ...POLICY 5.1a Flooding will not occur during a one-year storm for systems served by pumping stations or during a three-year storm for systems with gravity outfalls, and the minor flooding associated with a five-year storm ~~would~~ shall be carried off within sixty minutes.
- POLICY 5.1b Negative impacts of stormwater discharge upon water quality in Lake Worth are ameliorated by the retention of the first ~~one~~ three two inches of rainfall prior to discharge into the Town system, ~~or the post-development runoff does not exceed predevelopment runoff for a three-year one -hour storm, whichever is greater;~~...
- POLICY 5.1c For all commercial, ~~multi-family, new residential subdivision, and single-family lots of one-half acre or more;~~ or residential development or redevelopment, where the proposed work falls into one of the following categories:
- (A) The proposed work exceeds 25% of the market value of the property;
 - (B) The proposed work includes the construction of a new swimming pool;
 - (C) The proposed work includes the redevelopment of more than 20% of landscaped open space, 20% of the impervious area of the site including buildings, patios, etc. or a combination thereof which exceeds 20%;
 - (D) The proposed work includes new driveways or parking areas;
 - (E) The proposed work includes replacement or reconstruction of parking areas other than parking areas designed for less than three residential units; or
 - (F) Other development as may be deemed appropriate by the Town Engineer.
- a. ~~— The impact on the system will not lower the LOS as stated in 5.1a and 5.1b; or,~~
- b. ~~— The drainage problem area is scheduled and contracted for improvement in the Town's Capital Improvement Program; or,~~

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c. ~~The developer upgrades the drainage system to meet LOS as stated in 5/1a and 5/1b; or,~~

d. ~~The post-development runoff does not exceed pre-development runoff, thereby preventing additional degradation of the system;~~

~~And, for all single-family development of a half-acre or less which is not the result of new subdivision, that one of the four above requirements will be met, when feasible, or that no degradation of existing drainage capacity occurs as the result of development.~~

INFRASTRUCTURE ELEMENT:

Change OBJECTIVE 5, as follows:

Development orders and permits for new development or redevelopment shall be issued only if the proposed project meets the Town's adopted level of service standards, or if needed expansion of facilities is coordinated with future development.

...POLICY 8.1

The Town shall establish the following level of service standards;

1. Flooding will not occur during a one-year storm for systems served by pumping stations, or during a three-year storm for systems with gravity outfalls; and the minor flooding associated with a five-year storm ~~would~~ shall be carried off within sixty minutes.
2. Negative impacts of stormwater discharge upon water quality in Lake Worth are ameliorated by the retention of the first ~~one~~ three two inches of rainfall prior to discharge into the Town system, or the post-development runoff does not exceed predevelopment runoff for a three-year one -hour storm, whichever is greater;...

POLICY 8.2

Prior to the issuance of a development order or permit, the Town shall review drainage plans and calculations for all projects, and shall make and record a determination that:

For all commercial, multi-family, new residential subdivision, and single-family lots of one-half acre or more; or residential development or redevelopment, where the proposed work falls into one of the following categories:

- (A) The proposed work exceeds 25% of the market value of the property;
- (B) The proposed work includes the construction of a new swimming pool;
- (C) The proposed work includes the redevelopment of more than 20% of landscaped open space, 20% of the impervious area of the site including buildings, patios, etc. or a combination thereof which exceeds 20%;
- (D) The proposed work includes new driveways or parking areas;
- (E) The proposed work includes replacement or reconstruction of parking areas other than parking areas designed for less than three residential units; or
- (F) Other development as may be deemed appropriate by the Town Engineer.

1. ~~The impact on the system will not lower the LOS as stated in Policy 8.1; or,~~

2. ~~The drainage problem area is scheduled and contracted for improvement in the Town's Capital Improvement Program; or,~~

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3. ~~The developer upgrades the drainage system to meet LOS as stated in 8.1; or,~~

4. ~~The post-development runoff does not exceed pre-development runoff, thereby preventing additional degradation of the system;~~

~~And, for all single-family development of a half-acre or less which is not the result of new subdivision, that one of the four above requirements will be met, when feasible, or that no degradation of existing drainage capacity occurs as the result of development.~~

Town Council Meeting:

Assistant Director Close explained that Ordinances 15-01 and 21-02 relating to storm drainage improvements were passed, and these changes are the text amendment to the Comprehensive Plan required by those ordinances.

Councilman Wyett conveyed Zoning Commission member Lowry Bell's concern regarding these changes: Mr. Bell had problems with using swales to control water retention, because the swales can be removed after the certificate of occupancy is received or can wear away in time.

Mr. Moore responded a provision was included that every five years, a resident has to have certification to insure the plan is still working. He added that Town Engineer Bowser said the Town needs to have flexibility because each property is different, the percolation is different, and he wanted that language to stay in the Code.

Councilman Wyett commented that he had problems with the inspections that put a work load on the Building Department, and they were an invasion of property rights.

Mr. Moore replied that policy was already in place, and the changes presented were just catching up to the existing policy.

President Pro-Tem Goldblum requested the Building Department set up a tickler file to send out a reminder ninety days before the end of the five years to the property owner.

Mrs. Close said the Department planned to send out reminders at the beginning of the year when the period was up to allow the resident time to correct any problems.

President Pro-tem Goldblum made a motion to approve the recommendations of the Zoning Commission including the direction to staff to study the use of swales, and eliminate their use wherever possible and adopt staff recommendations as modified by the Zoning Commission pertaining to updating the Future Land Use and Infrastructure Elements as they pertain to storm drainage. The motion was seconded by Councilman Wyett and carried 5-0 on roll call.

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Comprehensive Plan Study Item III - 1.

Future Land Use Map (FLUM) and Zoning Map Comparison

Zoning Commission Report:

Tim Frank, Planning Administrator, and William Brisson, Planning Consultant from Adley, Brisson, Engman, presented the process used to determine inconsistencies between the FLUM and the Zoning Map. The Staff explained to the Commission how the inconsistencies between the Future Land Use Map and the Zoning Map were found and that virtually all were the result of scrivener's errors in the original coloring of the Future Land Use Map. The Commission decided to review each parcel and vote on it before moving to the next.

Town Council Meeting:

Planning Administrator Tim Frank explained the State Growth Management Act (FS 163) provides that the municipalities comprehensive planning map, the future land use map that is part of the Comprehensive Plan, and the zoning map must be consistent. Mr. Frank reported the staff found nine parcels in the Town that have conflicts between the two maps. He added that most of the errors were errors in graphics and drafting or oversights on the part of people who put them forward. He said the choice was to change either the zoning map or the future land use map, and in all but two of the cases, the recommendation was to change the future land use map.

Mr. Frank said all the land owners affected by this change were notified by certified mail, although the staff did not think State Statutes required this. He added that few objections were received from the notified land owners.

PARCEL 1: 200 North Ocean Boulevard

Zoning Commission Report:

Mr. Robertson initiated discussion with questions regarding the status of the Comprehensive Plan and Zoning Code and the Staff provided comments and explanations.

After the Staff made its presentation, Mr. Klein posed questions to the Town Attorney regarding the legality and legal effects of the proposed changes; whether there had been proper notification of the affected property owners, etc. Mr. Randolph responded in the affirmative and explained that the changes to the Future Land Use Map would not be officially undertaken until next year.

Mr. Robertson expressed concern over the proposed land use designation for single-family use when the property is actually a multi-family structure. Staff explained that the multi-family structure was a special circumstance approved under the PUD 4 and that the proposed single-family designation would ensure that this specific structure was the only form of multi-family structure that would be allowed. If, for some reason, it were to be removed in the future, then only single-family structures would be allowed on the property.

The Staff indicated that any changes recommended would be implemented in the following zoning season, after receiving Town Council direction this year. On a motion by Mr. Bell, seconded by Mr. Kleid, by a vote of 6-1 (Mr. Robertson dissenting), the Zoning Commission recommended approval of the Staff recommendation to change the Future Land Use designation from Multi-Family Moderate Density to Single-Family Residential.

Town Council Meeting:

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Planning Administrator Tim Frank clarified that the future land use of the beach area would be changed to be single family; the east side is included with the west side; thereby making the entire parcel single family.

Councilman McDonald made a motion to approve the Zoning Commission's recommendation. The motion was seconded by President Pro-tem Goldblum and carried 5-0 on roll call.

PARCEL 2: 251 Bradley Place

Zoning Commission Report:

On a motion by Mr. Broberg, seconded by Mr. Robertson, by a vote of 7-0 the Zoning Commission recommended approval of the Staff recommendation to change the Zoning designation from C-TS Commercial to R-C Medium Density Residential.

Town Council meeting:

Planning Administrator Tim Frank said the existing land use, has the parcel as being used as a multi-family residential structure; however, the zoning shows it as zoned commercial and the future land use map should show it as multi-family, moderate density which is consistent with the adjoining parcels. He said the zoning should be changed to multi-family, moderate density, making it consistent with the adjoining parcels and the existing land use of the property.

Councilman McDonald made a motion to approve the recommendation of the Zoning Commission to change the Zoning designation from C-TS Commercial to R-C Medium Density Residential. The motion was seconded by President Pro-tem Goldblum and carried 5-0 on roll call.

PARCEL 3: 40 Cocoanut Row

Zoning Commission Report:

James Brindell, attorney, who represents the Breakers, owners of the property, commented that the Breakers is not sure at this time what it would like to do with the property and wished to reserve the option of coming before the Town for a change in the land use designation in the future if necessary. Mr. Bell asked the Staff if the land use designation could be changed in the future and the Staff responded in the affirmative. On a motion by Mr. Bell, seconded by Mr. Kleid, by a vote of 6-1 (Mr. Robertson dissenting), the Zoning Commission recommended approval of the Staff recommendation to change the Future Land Use designation from Multi-Family High Density to Commercial.

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Town Council Meeting:

Planning Administrator Tim Frank said this recommendation was unusual in the sense that it would be an increase in usage in the future land use map. He explained the property is owned by the Breakers, and a bank is currently located on the site with a parking lot. He said if the future land use of this parcel is not changed, the commercial area would be deprived of commercial parking.

Councilman Wyett said the highest and best use of this property is not commercial as it is now being used, but sometime in the future, a three to five story building, condominiums, could be developed on the site.

Mayor Smith said she did not see any reason the future land use should be changed to commercial.

Attorney Jim Brindell, representing the Breakers, said the Breakers had not focused on this property, and it is difficult to say at this time if the property has a future as commercial or residential. He said it is worrisome to have the parking lot out of sync with the main building; however, the Breakers does not have a problem with the status quo as long as the Town has no problems with the current use with the understanding the Breakers may return at some future time, and it may be easier to go from commercial to residential than residential to commercial uses.

Mrs. Close explained she wanted it to be clear that these parcel proposals are presented to get direction from the Town Council for what the Zoning Commission will review next year. She said the staff had time to talk to applicants and to work on the Comprehensive Plan amendments over the summer and bring them back to the Council next year. Mrs. Close said the task this year was to resolve the inconsistencies, and 40 Cocanut Row has an inconsistency. She said it is generally easier to go from a commercial zoning designation to a multi-family designation as indicated by Attorney Brindell, and that was the reasoning the staff used to make the recommendation that it remain commercial. She continued the applicant, the Breakers, can return in the future if they wish to pursue a change in the designation.

Councilman McDonald made a motion to approve the recommendation of the Zoning Commission to change the Future Land Use designation from Multi-Family High Density to Commercial. The motion was seconded by Councilman McLendon and carried 5-0 on roll call.

PARCEL 4A: 247, 231, & 221 Royal Palm Way

Zoning Commission Report:

On a motion by Mr. Lawrence, seconded by Mr. Bell, by a vote of 7-0, the Zoning Commission recommended approval of the Staff recommendation to change the Future Land Use designation from Multi-Family Moderate Density to Commercial.

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PARCEL 4B: 209 & 215 Seaview and 218, 222, 224 & 228 (West Drive) Phipps Plaza Drive

On a motion by Mr. Broberg, seconded by Mr. Robertson, by a vote of 7-0, the Zoning Commission recommended approval of the Staff recommendation to change the Future Land Use designation from Commercial to Multi-Family Moderate Density.

PARCEL 4C: 236 (South Drive A) Phipps Plaza Drive

On a motion by Mr. Broberg, seconded by Mr. Robertson, by a vote of 7-0, the Zoning Commission recommended approval of the Staff recommendation to change the Future Land Use designation from Commercial to Multi-Family Moderate Density.

Town Council meeting: (4A, 4B, and 4C Parcels were considered together by the Town Council)

Planning Administrator Tim Frank explained these three parcels have a number of designations on the Future Land Use map that are inconsistent with the zoning. He said four changes are recommended to the Future Land Use map which would bring the entire parcel into conformance with what the zoning currently reflects.

President Pro-Tem Goldblum made a motion to accept the recommendations of the Zoning Commission. The motion was seconded by Councilman McLendon and carried 5-0 on roll call.

PARCEL 5: Parcels 8, 9, 10 "The East Plaza" subdivision

Zoning Commission Report:

A history of this item was provided by the Staff. Mr. Sanchez indicated that he was aware that the owners of the property were marketing the property as R-B single family. The Commission expressed their belief that based on the R-B zoning and the underlying plat of single-family lots, that the appropriate land use was Single-Family Residential. They also determined that since the exercise involved corrections of scrivener's errors, that designation as Single-Family Residential was appropriate. On a motion by Mr. Sanchez, seconded by Mr. Robertson, by a vote of 6-1 (Mr. Bell dissenting), the Zoning Commission recommended disapproval of the Staff recommendation to change the Future Land Use designation from Commercial to Multi-Family Moderate Density; and alternatively recommended that the property be designated **Single-Family Residential** and Staff concurred.

Town Council Meeting:

Planning Administrator Tim Frank explained the parcel in question was actually the parking lot that is behind the First National Bank (Wachovia), and a single family subdivision was plotted in the

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existing parking lot. He continued that supplemental parking for commercial use can be utilized in the single family zoning district; however, the Future Land Use map had the entire parking lot designated as commercial. He said, staff's recommendation, consistent with the patterns that have developed over the years, is to change the commercial area shown on the map to residential as it is presently zoned.

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

PARCEL 6: 266 South Ocean Boulevard & 109 Royal Palm Way

Zoning Commission Report:

On a motion by Mr. Bell, seconded by Mr. Kleid, by a vote of 7-0, the Zoning Commission recommended approval of the Staff recommendation to change the Zoning designation on the property from R-C Residential Moderate Density to C-B Commercial.

It was noted that an easement existed on the eastern portion of the property requiring a 50' buffer of landscaped open space along the eastern portion of the property.

Town Council Meeting:

Planning Administrator Tim Frank referred to a court action that directed these parcels be rezoned to commercial. He said the change is requested to comply with the court order.

Motion made by President Pro-tem Goldblum to approve the recommendation of the Zoning Commission. The motion was seconded by Councilman McLendon and carried 5-0 on roll call.

Attorney Randolph requested ex parte communications be declared by the Town Council members on the parcels, starting with parcel 1.

No ex parte communications were declared by any member on any of the items heard to this point in the meeting.

Town Clerk Pollitt swore in any members who would speaking on any item.

PARCEL 7: 215 Brazilian Avenue

Zoning Commission Report:

Mr. Brindell, representing the property owner, commented that the owner is trying to find the most appropriate and economically viable use for the property. Mr. Kleid moved to accept the

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recommendations of the Staff, to change the Future Land Use Map from Commercial to Multi-Family Moderate Density, which motion died for lack of a second. Mr. Robertson expressed concern over changing the land use category from Commercial to Multi-Family Moderate Density when the use is, and has been for a long time, a hotel. Staff explained that even under a Commercial land use designation, only the R-D(2) and C-B zoning districts contain a provision to allow hotels, and that this zoning district designation would not be appropriate at this location. Staff also explained that if the land were designated Commercial on the Future Land Use Map and zoned commercially, there would be the possibility that the land would be developed in another form of commercial use, which would not be appropriate within this residential area.

On a motion by Mr. Broberg, seconded by Mr. Kleid, by a vote of 6-1 (Mr. Robertson dissenting), the Zoning Commission recommended approval of the Staff recommendation to change the Future Land Use designation from Commercial to Multi-Family Moderate Density.

Town Council Meeting:

Planning Administrator Tim Frank said the Future Land Use map designated the property as being commercial while the Zoning map shows it as R-C, medium density, Residential. He said this is the Plaza Hotel property which is a non-conforming use in a Residential zoning district not unlike the Brazilian Court and the Chesterfield hotels.

Councilman Wyett said the proper zoning adjustments should be made to allow improvements on the property.

Attorney Brindell reported the owner is attempting to find a good solution for this property either as an expanded hotel or another use. Mr. Brindell said if anything is out of sync, it is the zoning as the property has commercial uses on three sides.

Councilman McDonald made a motion to approve the recommendation of the Zoning Commission. The motion was seconded by President Pro-tem Goldblum and carried 5-0 on roll call.

PARCEL 8: 160 Brazilian Avenue

Zoning Commission Report:

On a motion by Mr. Robertson, seconded by Mr. Sanchez, by a vote of 7-0, the Zoning Commission recommended approval of the Staff recommendation to change the Future Land Use designation from Commercial to Single-Family Residential.

Town Council meeting:

Planning Administrator Tim Frank reported that the staff believed the Future Land Use map should

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reflect the current zoning.

President Pro-tem Goldblum made a motion to approve the Zoning Commission's recommendation. The motion was seconded by Councilman Wyett and carried 5-0 on roll call.

PARCEL 9: Town Golf Course/Tres Vidas Condominium

Zoning Commission Report:

On a motion by Mr. Bell, seconded by Mr. Broberg, by a vote of 7-0, the Zoning Commission recommended approval of the Staff recommendation to change the Future Land Use designation for the Tres Vidas property from Multi-Family Moderate Density to PUD; and, to change the Future Land Use designation for a portion of the Town Golf Course from PUD to Public Recreation.

Town Council Meeting:

Planning Administrator Tim Frank said this is a situation where a drafting error was made on a split map. He requested a change to the Future Land Use designation from Commercial to Single-Family Residential, reflecting what the current zoning and existing land use are.

Councilman McDonald made a motion to approve the recommendation of the Zoning Commission. The motion was seconded by President Pro-tem Goldblum and carried 5-0 on roll call.

VII. TIME CERTAIN ITEMS - 2:00 P.M. OR SOON THEREAFTER

A. STAFF UPDATE ON PROPOSED INITIATION OF FORECLOSURE - 1496 NORTH LAKE WAY, CODE ENFORCEMENT BOARD CASE NO. 02-1396

Greg Kino, Attorney for the owner, reported some of the permitting issues were held up over the holiday period, but those issues were resolved with Harry Ackerman in the Building Department on this date. Mr. Kino referring to a CitiBank letter guaranteeing \$110,000 - \$111,000 in the account that will be used to bond the project as traditional bonding was not available on a single family residence. He added that if all the money is deposited in that account, it may be hard to expedite payment of the sub-contractors. He said that the contractor's estimate is \$75,000 for the remaining work as many of the materials are already purchased and are in storage waiting to be installed. As required, there is available money to cover the 135%. He said the work will be finished by April.

Mr. Moore reported the owner did have a general contractor; the issue of 135% was at issue before this meeting; and the January 3rd letter indicates \$111,243.01 in the checking account.

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Mr. Moore added the Town will have to receive some documentation to be reviewed by the Town Attorney that would give the Town control of the monies as well as the owner having control. He continued that, as work was completed, money would be released to pay the subs with a sign-off by the Town, and some time will be required to complete that. He said the project appears to be moving forward rather than backwards.

Brian House, Chief Code Compliance Officer, said he visits the project daily, but he saw no more than four people on the job site at one time since November. He continued that the project does not appear to be moving forward as rapidly as it should be.

Mayor Smith noted that since the permits were issued as of this meeting, maybe that was reason not so many people were on site.

President Brooks objected to the location of the dumpster, and progress is at a snail's pace as viewed from the road. He asked that the dumpster be moved or removed.

Town Council took no action on this project.

B. PROPOSED INITIATION OF FORECLOSURE - 317 GARDEN ROAD; CODE ENFORCEMENT BOARD CASE #01-1417

Attorney Ray Royce, representing the owner, reported since the December meeting he has met with Mr. House; his client; legal counsel handling the litigation regarding the fire; visited the site twice; and learned additional facts regarding the case.

Mr. Royce said that in April of 2001, Consolidated Equities (owner) employed Gregory Guiliano Construction and General Contractor to expand the residence. On November 25, 2001, Guiliano Construction had an unlicensed plumbing sub contractor, Rain Do Plumbing, conducting work on the premises with a crew of three people who were sweating copper pipe involving the use of torches, and employees were also smoking cigarettes. He said the workers left at 2:00 or 3:00 p.m. with a fire reported at 5:00 p.m. on that day. He continued that this is an uninsured loss; a suit was brought against the contractor; and the delay that has taken place resulted from several concerns including: 1) extensive delay waiting for the Fire-Marshall's report which took approximately six months; 2) the hiring of an independent fire investigator in connection with a law suit.

Mr. Royce said the ruins and remains were left as evidence as a result of the law suit, and the structure was demolished in July 2002. He continued the matter was before the Code Enforcement Board in May or June 2002, and there were separate fines levied – demolition, fencing the property, cleaning up the property. He added that Judge Brown entered an order in September 2002, long after things were done, instructing the owner not to do anything else, and that order expired on October 12, 2002.

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Mr. Royce said the current situation is that a 12 - 15 ft. ficus hedge exists on Garden Road that blocks the view from the street except for an area approximately 15 ft. wide at one end of the lot where a driveway was located. A 10 - 12 ft. stone or concrete wall is on the east side of the property; thick foliage is located on the back of the property as well as on the west side of the property. He concluded that unless you walk onto the property, not much is visible from the street.

Mr. Royce said a swimming pool and two small, unfinished concrete block buildings remaining on the lot. He added that his client has made efforts to finish and repair the fencing on the lot and to hire a gardener to take care of the lot.

Mr. Royce mentioned that approximately \$89,000 in fines have accrued through the Code Enforcement Board actions, and based on the actions taken by his client, he thought the amount was too high. He offered to continue working with Mr. House to work out the details of the remaining problems, and asked that no foreclosure action be taken at this time by the Town.

Chief Code Compliance Officer Brian House said he and Attorney Royce did disagree on the issue of the \$89,000 fines. He said the site was awful; the tin tags on the roofs of the two buildings are rusted; old tar paper on the roofs; unpainted buildings; the fence that was installed was not correct; and more work needs to be done on the property.

Councilman McDonald said he was disappointed that the site was not in compliance, and the amount of the fine can be dealt with later. He said the most important issue with the Town was that the property look good . He added that in lieu of going ahead with a foreclosure action at this meeting, he would like the site to be in compliance by January 14, 2003, the date of the next Town Council meeting.

Councilman McDonald made a motion to allow Mr. Royce's client to bring the property into compliance as directed by the Code Enforcement Board by correcting the roofs on the buildings in back, protecting the swimming pool in a proper manner, and fixing the gate on the fence by January 14, 2003. The motion was seconded by Councilman Wyett and carried 5-0 on roll call.

VII. C. REQUEST FROM RONALD K. KOLINS, ESQ. FOR A VARIANCE FROM SECTION 42-199, "HOURS OF CONSTRUCTION WORK," OF THE TOWN'S CODE OF ORDINANCES TO COMPLETE A PLANNED CONSTRUCTION PROJECT (1410 SOUTH OCEAN BOULEVARD)

Attorney Ron Kolins, representing the owners - the Picowers, recapped the history

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of this request: this request was considered at the December Town Council meeting with concerns expressed by the Mayor and Town Council regarding the impact hammering of the sheet piles which would take four to five weeks to install. Mr. Kolins continued that, working with Town staff and engineers, the request for construction timing and planning has changed dramatically.

Mr. Kolins said specially modified sheet piles will be constructed, allowing them to go together in a certain kind of way, resulting in the ability to work from both ends of the wall utilizing two crews and two sets of equipment. He continued the new schedule required will be approximately four six hour days, 10:00 a.m. to 4:00 p.m. He said the vibrating hammering is projected to take approximately nine days with the entire time for those types of work to cover approximately thirteen days with four days being in the objectionable category.

Mr. Kolins noted that turtle season begins April 1st, the same for the Town and DEP, and DEP indicated in an informal way that they would allow his client to extend beyond the April 1st date. He requested the Town go along with whatever authority is obtained from DEP to extend beyond April 1st.

Mr. Kolins clarified he had two requests: 1) permission from the Town to extend beyond the April 1st Turtle deadline as determined by DEP; and 2) permission to proceed on the estimated schedule of four days of impact hammering.

Mr. Moore reported that it may be Turtle Season for the Town starts March 1st for lights only, and that is being checked on. He continued if the Town's deadline is March 1st, then the Town would have to find a way to give Mr. Kolins some relief, because the job cannot be finished during the month of March. He concurred the amount of time has been reduced regarding the annoying banging of the diesel powered hammer to drive the sheet piling, and the time requested is four days, 10:00 a.m. to 4:00 p.m., no Sundays or holidays.

Mr. Kolins said confusion over the March 1st/April 1st Turtle inception may be due to the fact that the west coast of Florida is March 1st but the east coast of Florida has an April 1st beginning date.

President Pro-Tem Goldblum said he was concerned with the main point, not the length of time of the hammering, but the vibration along the coast line to all the dwellings north and south of the Picowers. He added this could cause structural cracks.

Mr. Kolins responded this issue was presented to the professionals involved in the project, and the conclusion was that not even the Picower's residence will be affected

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by the vibrations.

Angeline Fairchild, Kimley-Horn Engineers, reported that Notting Engineers, a geo-technical firm, was involved in the evaluation and based on the knowledge of the two adjoining properties, they have stated there will be no impact to either of the two residences. She continued that seismographs will be installed with monitoring stations at the property limits on both the north and south existing sea walls and inside the Picower's residence. After the operation begins, attenuation curves will be established resulting in the ability to adjust equipment to have the vibration come into acceptable levels for both the house and the property lines.

Councilman McDonald made a motion to approve the two requests.

Councilman McDonald said this was a reasonable request, and substantial legal, civil remedies were available if property damage resulted. He continued that he did not see that the Town could preclude the applicant from constructing in that manner.

Councilman Wyett said he was concerned about the Turtle Season and requested the Picowers provide a turtle monitor to assure no turtle eggs are lost.

Councilman McDonald said DEP approval would take care of his concerns.

Mr. Kolins said Chief Code Compliance Officer House reported the Town's Turtle Season begins March 1st, and the project will go into April.

Mayor Smith said DEP will not take care of any turtle nests that may be on the beach. She continued that the Town would get environmental groups very interested March 1st, and the Town does not have a person who would monitor the nests, but the applicant could hire a monitor who could move the nests, if necessary.

Councilman McDonald incorporated the condition to have a turtle monitor on the job in his motion.

Mr. Kolins said his client has written agreements drafted for the Goodrich property to the north and the Miller property to the south covering various emergencies, and these are not signed but the attorney is satisfied with the draft.

The motion was seconded by President Pro-tem Goldblum and carried 5-0 on roll call.

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Comprehensive Plan Study Item III - 4.

Clarification of the Range of Uses in Land Use Categories

Zoning Commission report:

Staff discussed its recommendations on this item. After the Staff presentation, Mr. Bertles identified two areas of concern over the proposed language. He felt the proposed language was unnecessarily broad, and he stated that he wished to retain the present language of Objective 2. He felt that the proposed language would, perhaps, give developers a basis for change in the community that was not envisioned in the original language. Mr. Bertles also suggested deleting the last sentence in the proposed new language for Policy 2.1. He was concerned over who would make the determination that a use not listed in a land use category was equivalent in character, intensity and impacts to those uses listed. The Commission was in agreement.

Ms. Golino expressed concern over the height limits contained in the land use categories. Since the maximum heights may only be allowable as special exceptions in certain instances, she suggested that such maximum heights should be noted as only applicable in limited circumstances. The Commission was in agreement.

On a motion by Mr. Klein, seconded by Mr. Sanchez, by a vote of 7-0 the Zoning Commission recommended approval of the Staff recommendations, as modified by the Zoning Commission, pertaining to the uses, densities and intensities allowable within each of the various land use categories, as follows:

CHANGES TO TEXT SECTIONS OF THE EXECUTIVE SUMMARY:

Summary of the Future Land Use Plan

The land use categories defined in this Element are compatible with the Town's individual zoning districts. Specific uses, dimensional regulations, and other requirements are identified in the Zoning Ordinance. Since industrial uses and mobile homes are prohibited in the Town, they are excluded from discussion in the Plan. Table I-3, following, summarizes the Future Land Use Plan Map in tabular form:

TABLE I-3
FUTURE LAND USE, 2006
Town of Palm Beach

LAND USE CATEGORY	ACRES	PERCENT
Single-family <u>Residential</u> (up to 4 du/ac)	1,103	53
Multi-family <u>Moderate Density</u> (up to 6 du/ac)	117	6
Multi-family <u>High Density</u> (6 up to 13 du/ac)	226	11
Commercial	93	5
Public	4	0
<u>Public</u> Recreation	106	5

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Private Group Use	219	11
Approved PUD (up to 13 du/ac)	168	8
Conservation	39	2
TOTAL*	2,076	100

* Parts may not add to 100% nor to total acreage of 2,076, due to internal rounding.

Single-Family Uses

This is the most predominant land use in the Town. The Future Land Use Plan Map designates 1,103 acres of land for this use of which about 48 acres are vacant. The preferred locations are those with good visual qualities, buffered from annoying traffic influences with easy access to shopping and recreation.

Appropriate uses include estates, single-family homes, residential PUD's and cluster development up to a maximum density of four dwelling units per gross Palm Beach acre (40,000 square feet). Public uses and facilities, including public and private schools, group homes and foster care facilities, essential services, and private group uses and cultural uses are also permitted within this category on a limited basis.

It is estimated that another 85 single-family dwelling units can be accommodated at an average density of 1.8 units per acre.

Multi-Family Uses

Two multi-family categories, permitting varying densities and uses, are shown on the Future Land Use Plan. In total, the Future Land Use Plan designates about 343 acres of land for this use of which about 8 acres are vacant. Some of these lands are undevelopable, or have been committed to open space associated with other residential units, and most cannot be developed at maximum allowable density due to limited parcel sizes. Consequently, it is estimated that these vacant lands can accommodate about 35 additional multi-family units.

The preferred locations are adjacent to high accessibility corridors; areas with good visual qualities; near commercial centers, and recreation and open space areas to offset effects of higher density.

Multi-Family Moderate Density: Appropriate uses include single-family and two-family homes, townhouses, multi-family units, and residential and mixed-use PUD's up to a maximum density of six dwelling units per gross Palm Beach acre (40,000 square feet); public uses and facilities; public and private schools; private group uses; group homes and foster care facilities; and essential services. The Plan designates about 117 acres of land for this use.

Multi-Family High Density: Appropriate uses include single-family and two-family homes, townhouses, multi-family units, and residential and mixed use PUD's up to a maximum density of thirteen dwelling units per gross Palm Beach acre (40,000 square feet). and, hotels up to 26 units/gross Palm Beach acre along with associated accessory commercial uses and time-sharing uses up to 9 units/gross Palm Beach acre may be appropriate under carefully controlled conditions. Other appropriate uses include public uses and facilities, public and private schools, private group uses, group homes and foster care facilities, and essential services. The Plan designates about 226 acres of land for this use.

Commercial Uses

While only one commercial category is specifically identified on the Future Land Use Plan Map, the Town provides for commercial uses at varying intensities under different zoning categories. The Plan designates about 93 acres for commercial uses, of which only about one-half acre remains vacant. Appropriate uses include general business and service establishments, offices, banks, and financial institutions a wide range of commercial retail, service, professional and business uses largely intended to serve Town persons; hotels, motels and time-sharing uses; public uses and facilities; public and private schools; private group uses; and

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residential uses located above the ground floor.

Public Uses

The Plan designates approximately four acres of land for this use. Appropriate uses include public schools, low intensity public facilities at a scale and intensity necessary to primarily serve the needs of Town persons, and owned, operated, franchised, or supervised by a governmental agency. The designation of a property for Public Use on the Future Land Use Plan Map recognizes the current use of the property; and, further, that such properties may also be appropriate for residential or commercial development. The Zoning Ordinance is the tool which indicates those uses which are specifically allowed.

Recreation Uses

The Plan designates approximately 106 acres of land for this use. This category is intended for low intensity public recreational uses or activities at a scale and intensity necessary to primarily serve the needs of Town persons, and to preserve the natural and scenic resources of the Town. Only public facilities, owned, operated, franchised or supervised by a public governmental entity, are given this designation.

Private Group Uses

The Plan designates approximately 219 acres of land for this use. Appropriate uses include low intensity private clubs, golf and country clubs, houses of worship, museums and non-commercial recreation-type or cultural uses at a scale and intensity intended to primarily serve the needs of Town persons. The designation of a property for Private Group Use on the Future Land Use Plan Map recognizes the current use of the property; and, further, indicates that such properties may also be appropriate for residential or commercial development. The Zoning Ordinance is the tool which indicates those uses which are specifically allowed or prohibited.

Approved PUD

This category represents Planned Unit Developments that have been approved by the Town Council. The Plan designates approximately 168 acres of land for this use. Only the Breaker's PUD contains remaining development potential. If built to maximum density, this PUD could hold another 251 multi-family units and some commercial development. Densities in new PUD's shall be limited to the maximum density allowable in the land use category and zoning district in which they are located prior to their approval, but shall not exceed thirteen units per acre.

Conservation

This category is intended primarily for the spoil islands in Lake Worth which comprise about 39 acres. An additional 3-acre conservation parcel is located south of Southern Boulevard in the Blossom Estate subdivision. Both areas are unique, and will be preserved and protected from development and the negative impacts of public use.

Maps I-1 through I-7, comprising the Town's Future Land Use Map Series, provide mapping of future land use, recreation areas and their general service areas, historic sites and districts, beaches and shores, wetlands and estuarine areas, flood plains, and soils, follow. There are no existing or planned waterwells, cones of influence, rivers, bays, fresh water lakes, harbors, or economic mineral deposits in the Town of Palm Beach.

...OBJECTIVE 2

Maintain the character of the Town as a predominantly residential community having only the type and amount of businesses and other support services necessary to meet the needs of Town residents.

~~To ensure a range of land use categories of varying densities and intensities throughout the Town that are consistent with the natural and built-up environment, existing and emerging development patterns, topography and soil conditions, and the availability of essential services; and, to maintain the Town as a predominately residential community having only the type and amount of businesses and other~~

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~~support services necessary to meet the needs of Town residents.~~

POLICY 2.1

~~The Town shall adopt land development regulations, or amend its existing regulations, such that said regulations shall be based on, and consistent with, the Future Land Use Plan and the following residential densities:~~

- ~~2.1a — Conservation — no urban development permitted.~~
- ~~2.1b — Single-Family Residential — single-family residential at a maximum density of four units per gross acre;~~
- ~~2.1c — Multi-Family Moderate Density — multi-family residential at a maximum of six units per gross acre; and;~~
- ~~2.1d — Multi-Family High Density — multi-family residential uses at a maximum density of thirteen units per gross acre; time-sharing uses at a maximum of nine units per gross acre; and, hotel and motel uses at a maximum density of 26 rooms per gross acre (hotel and motel rooms are considered to be equivalent to 0.5 du).~~

The listing of appropriate land uses in each of the individual land use categories identifies those uses generally expected to be appropriate. However, other uses which are deemed by the Town to be equivalent in character, intensity, and impacts to those listed shall also be appropriate.

Policy 2.1.1 Where essential services are indicated as an appropriate use, essential services shall include public utility facilities related to water supply, telephone (excluding wireless telecommunication facilities), cable television, gas, electrical distribution systems and town-owned services such as sanitary sewer, stormwater drainage, and solid waste collection and disposal systems, including any necessary appurtenant structures serving the Town.

POLICY 2.2

~~Maintain or strengthen Town Ordinances that may not sufficiently create, preserve and enhance areas of attractive, small-scale retail, personal and professional/business services, developed either as a unit or in individual parcels, providing for the frequently recurring needs of Town residents; and, modify existing regulations such that said regulations address the location and extent of non-residential land uses in accordance with the Future Land Use Map, and the following descriptions and intensities of land use:~~

- ~~2.2a — Commercial uses — general business and service "Town-serving" uses, or general business uses which are substantiated to attract, or be expected to attract, a majority of its patronage from "Town persons."~~
 - ~~(1) — "Town-serving" is defined as "Establishments principally oriented to serving the needs of Town persons which would not substantially rely upon the patronage of persons not defined as Town persons. Commercial establishments of 2,000 square feet of gross leasable area are assumed to meet the intent of the first part of this definition."~~
 - ~~(2) — "Town persons" is defined as "All full-time and seasonal residents as well as visitors staying at accommodations and employees working in establishments located within the Town."~~
 - ~~(3) — The Town shall incorporate in its Land Development Regulations provisions for the location of commercial uses of a greater intensity that are considered compatible with the Future Land Use Plan and character of the Town.~~
- ~~2.2b — Public buildings and facilities — public schools, low intensity public buildings and facilities, such as fire and police stations, Town Hall, etc., of a scale necessary to primarily serve the~~

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needs of Town persons:

- 2.2c ~~Recreational uses—low intensity public recreational uses or activities, natural resources and scenic resources of a scale and intensity necessary to primarily serve the needs of Town persons.~~
- 2.2d Private group uses—low intensity private group uses such as private clubs, golf and country clubs, public and private schools, and other such non-commercial uses at a scale land intensity intended to primarily serve the needs of Town persons.
- 2.2e ~~Approved PUD's—existing or previously approved PUD's, and new PUD's that shall be approved only within the density limits of the land use category in which they are located prior to approval of the PUD. PUD densities shall not exceed 13 dwelling units per acre.~~

Development orders shall be issued by the Town only for new residential development or redevelopment that is consistent with the Future Land Use Map and associated Future Land Use Designations set forth in the following policies.

Policy 2.2.1 – Single-Family Residential – Intended to accommodate and preserve estates and single-family residential development at a maximum density of four dwelling units per gross Palm Beach acre (40,000 square feet) and a maximum height of two stories.

Appropriate uses include single-family dwellings, residential PUD's as set forth in Policies 11.1.1 and 11.1.4, cluster development, public uses and facilities, public and private schools, private group uses, group homes and foster care facilities, and essential services.

Policy 2.2.2 – Multi-Family Moderate Density – Intended to accommodate and preserve residential development at a maximum density of six dwelling units per gross Palm Beach acre (40,000 square feet) and a maximum height of two stories.

Appropriate uses include single-family, two-family, townhouses and multi-family dwellings; residential PUD's as set forth in Policy 11.1.2; mixed-use PUD's as set forth in Policy 11.1.3; public uses and facilities; public and private schools; private group uses; group homes and foster care facilities; and essential services.

Policy 2.2.3 – Multi-Family High Density – Intended to accommodate residential development at a maximum density of 13 dwelling units per gross Palm Beach acre (40,000 square feet) and, under limited circumstances, a maximum height of five stories.

Appropriate uses include single-family, two-family, townhouses and multi-family dwellings; residential PUD's as set forth in Policy 11.1.2; mixed-use PUD's as set forth in Policy 11.1.3; hotel and motel uses up to 26 rooms per gross Palm Beach acre (40,000 square feet) and associated accessory commercial uses (hotel and motel rooms are considered to be equivalent to 0.5 dwelling units); timesharing uses up to nine units per gross Palm Beach acre (40,000 square feet); public uses and facilities; public and private schools; private group uses; group homes and foster care facilities; and essential services.

POLICY 2.3

Development orders shall be issued by the Town only for new non-residential development or redevelopment that is consistent with the Future Land Use Map and descriptions and intensities of land use as set forth in the following policies.

Policy 2.3.1 – The following definitions shall pertain to the application of the non-residential land use designations and associated policies:

- a. "Town-serving" shall mean establishments principally oriented to serving the needs of Town persons and not substantially relying on the patronage of persons not defined as Town persons. Commercial establishments of 2,000 square feet or less

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of gross leasable area are assumed to meet the intent of the first part of this definition.

- b. "Town persons" shall mean all full-time and seasonal residents of the Town as well as visitors staying at accommodations in, or employees working in establishments located within, the Town.

Policy 2.3.2 – Conservation – Intended to preserve and protect unique natural areas from development and the negative impacts of public use. No urban development is permitted.
Policy 2.3.3 – Commercial – Intended to create, preserve, and enhance areas of attractive, small-scale, retail, personal and professional/business services, and mixed commercial/residential use, developed either as a unit or in individual parcels, providing primarily for the frequently recurring needs of Town persons with limited provision for more intensive commercial uses that are considered proven to be compatible with the Future Land Use Plan and the character of the Town.

- a. Appropriate uses include a wide range of commercial retail, service, professional and business uses for residents and visitors; hotels/motels up to 26 rooms per gross Palm Beach acre (40,000 square feet); timesharing uses up to 9 units per gross Palm Beach acre (40,000 square feet); offices; public uses and facilities; public and private schools; private group uses; and residential uses located above the ground floor.
- b. Except for uses located in the Worth Avenue zoning district (C-WA), one residential unit may be located above the ground floor, or up to a maximum density of six dwelling units per gross Palm Beach acre, whichever is greater. In the Worth Avenue zoning district the maximum allowable density shall be 10 dwelling units per gross Palm Beach acre provided the Worth Avenue Design Guidelines are met.
- c. Maximum lot coverage for non-residential uses shall be 75%.
- d. In limited circumstances, the maximum building height shall be three stories.

Policy 2.3.4 – Public – Intended to recognize existing locations of, and provide sites for, public uses, structures and facilities.

- a. Appropriate uses include public schools, low intensity public buildings and facilities such as fire and police stations, Town Hall, etc, of a scale and intensity necessary to primarily serve the needs of Town persons. Only public uses owned, operated, franchised, or supervised by a governmental agency are given this designation.
- b. The designation of a property for Public use on the Future Land Use Plan Map recognizes the current use of the property; and, further, that such properties may also be appropriate for residential or commercial development with uses identified under the Single-Family Residential and Commercial land use categories. The Zoning Ordinance is the tool which indicates those uses which are specifically allowed.
- c. Maximum lot coverage shall be 40%.
- d. In limited circumstances, the maximum building height shall be three stories.

Policy 2.3.5 – Public Recreation – Intended to provide for low intensity public recreational uses or activities, natural resource and scenic resources of a scale and intensity necessary to primarily serve the needs of Town persons. Only public facilities owned, operated, franchised, or supervised by a public governmental entity are given this designation.

Policy 2.3.6 – Private Group Use – Intended to provide for low intensity uses such as private clubs, golf and country clubs, public and private schools, houses of worship, museums, and

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non-commercial recreation-type or cultural uses at a scale and intensity intended to primarily serve the needs of Town persons.

- a. The designation of a property for Private Group Use on the Future Land Use Plan Map recognizes the current use of the property; and, further, that such properties may also be appropriate for residential or commercial development with uses identified under the Single-Family Residential, Multi-family Moderate Density, and Commercial land use categories. The Zoning Ordinance is the tool which indicates those uses which are specifically allowed.
- b. Maximum lot coverage shall be 40%.
- c. In limited circumstances, the maximum building height shall be three stories.

Policy 2.3.7 – Approved PUD – Intended to recognize existing or previously approved PUD's and provide for new PUD's within the density limits of the land use category in which they are located prior to approval of the PUD. PUD densities shall not exceed 13 dwelling units per gross Palm Beach acre...

[NOTE: Existing Policies 2.3, 2.4 and 2.5 on page I-30 should be renumbered to 2.4, 2.5 and 2.6.]

...OBJECTIVE 11

Provide The Town's land development regulations shall include provisions for Planned Unit Developments and other innovative regulations and techniques that will assist the Town in maintaining its high standards, quality of life, and appropriate mix and location of land use types and structures; and, in ensuring that new development is compatible with existing surrounding properties.

POLICY 11.1

The Town shall continue to employ the PUD technique, which it has used successfully in the past, particularly the PUD 4 provision of the Zoning Ordinance to promote creative reuse of historically or architecturally significant structures in the Town. The following types of Planned Unit Developments shall be allowed in the Town:

- Policy 11.1.1 Single-family PUD's located within the Single Family Residential Land Use Category not exceeding four dwelling units per gross Palm Beach acre.
- Policy 11.1.2 Mixed residential development located within the Multi-Family Moderate or Multi-Family High Density Land Use Categories, not exceeding the maximum density allowable within the Land Use Category.
- Policy 11.1.3 Mixed-use development within the Multi-Family Moderate Density or Multi-Family High Density Land Use Categories, allowing for a mix of residential uses not exceeding the maximum allowable density within the Land Use Category and nonresidential development not exceeding 20% of the gross floor area of the PUD.

The following equivalencies shall be used in determining the intensity of the nonresidential components:

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<u>Land Use Type</u>	<u>Unit of Measurement</u>	<u>Equivalence to One Dwelling Unit of Gross Density</u>
<u>Hotels, motels or similar transient facilities</u>	<u>Number of bedrooms</u>	<u>Two bedrooms</u>
<u>Principal Commercial Uses</u>	<u>Total floor area</u>	<u>750 square feet</u>
<u>Accessory Commercial Uses</u>	<u>Total floor area</u>	<u>1,500 square feet</u>
<u>Other Nonresidential Uses</u>	<u>Total floor area</u>	<u>1,000 square feet</u>

Policy 11.1.4 In order to encourage preservation of historic residential structures, such single-family structures may be permitted to be converted through a historic preservation PUD to contain multiple residential units, within the confines of the existing structure, provided the density does not exceed four dwelling units per gross Palm Beach acre.

Town Council Meeting:

Consultant Bill Brisson explained this item contained many changes including: the Zoning Commission reviewed the Comp Plan and Zoning regarding what uses were allowed in both the Comp Plan and the Zoning Code that were left to interpretation and the objective was to eliminate the need for interpretation as much as possible; the State in recent legislation requires the Comp Plan include in the Future Land Use map element building and structural intensities or show the limited heights that are allowed in the various land use categories, FAR, or coverage; suggested changes to policies and objectives to bring them in line with the current State standards for specificity; any uses that were allowed in the zoning districts should be also allowable in the appropriate land use category; the Palm Beach acre is 40,000 square feet and this was identified in the policies in the Comp Plan to inform the reader the figure that the density is computed on – with some changes recommended by the Zoning Commission; *Mr. Brisson recommended language be added to identify who would determine what uses that are not listed but would be equivalent in the future as follows: However, other uses that are deemed by the Town Council or the Building Official.*

Councilman Wyett questioned Policy 2.3.4- Public–Intended to recognize existing locations of etal. He asked if *public/private* schools should be included in the text to be consistent?

Mr. Brisson said private could be included; however, the intent is that the public use category is only dealing with publically owned properties; however, the private group use could have public uses in it or private schools.

Mayor Smith questioned the definition in Policy 2.3.6 – Private Group Use – of non-commercial recreation type or cultural uses?

Mr. Brisson responded with examples of the Society of the Four Arts and the Preservation

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Foundation.

Mr. Brisson said more specificity was given to the Planned Unit Developments that are allowed in the various land use categories. He noted that a provision was not put in, referring to the Royal Poinciana Plaza example, to allow for a PUD in a commercial zoning district that would have residential uses.

Mayor Smith clarified that would preclude development of the Royal Poinciana Plaza at this time?

Mr. Brisson confirmed that statement is true, and obviously the Town can add a provision for that type of PUD with a Comp Plan modification. He explained that if a redevelopment of the Royal Poinciana Plaza was proposed to allow multi-family or other residential uses, the Comp Plan would have to be amended with the appropriate PUD language added to the Zoning Code.

Mr. Castro said this proposal mirrors the existing land use policies for that specific area, Royal Poinciana Plaza, prior to and after the Royal Poinciana application. He continued that a proposal could be made at any time to try another type of mixed residential use when they are prepared, but it was not appropriate for staff to provide that type of provision when none existed in the Code.

Mr. Brisson added that a minimum of ten acres are required for planned developments, and he was not aware of any other property other than the Royal Poinciana Plaza that would be eligible for that type of development.

Councilman McLendon made a motion to accept the recommendations of the Zoning Commission. The motion was seconded by Councilman McDonald.

Attorney Randolph requested clarification of the motion and Mr. Brisson's additional language on page 21 of the Zoning Report, specifically replacing the deleted sentence to read: "*however, other uses which are deemed by the Town Council*".

Councilman McDonald said he was approving Mr. Brisson's recommendation also. Councilman McLendon said he would accept that too. On roll call, the motion carried 5-0.

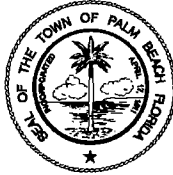
VIII. ANY OTHER MATTERS

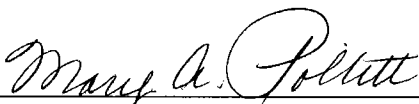
Mr. Castro announced the next meeting is scheduled for February 19, 2003, and the time will be 5:01 p.m.; however, the request is to change the time to 9:30 a.m. The second reading of the ordinance will be on March 5, 2003.

Minutes From the Special Town Council Meeting Held on 1/ 6/ 2003 Regarding Zoning

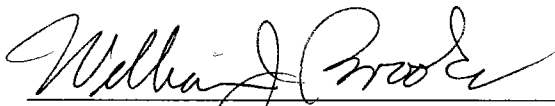
IX. ADJOURNMENT

The meeting was adjourned at 3:45 p.m.





Mary A. Pollitt, Town Clerk



William J. Brooks, Town Council President

