

**MINUTES OF THE TOWN COUNCIL MEETING: 1997-1998 ZONING HEARINGS
HELD ON TUESDAY, JANUARY 6, 1998
WEDNESDAY, JANUARY 7, 1998
FRIDAY, JANUARY 9, 1998**

I. CALL TO ORDER AND ROLL CALL

President Lesly Smith called the Town Council Meeting to order at 9:30 a.m. on January 6, 1998, to consider the 1997-1998 Zoning Recommendations from the Zoning Commission. On roll call, the following Elected Officials were found to be present: Mayor Paul Ilyinsky, President Lesly Smith, President Pro Tem Leslie Shaw, Councilmen Sam McLendon, Jack McDonald, and Allen Wyett. Also present for all or part of the three day meetings were Town Manager Robert Doney, Town Attorney John Randolph, Planning, Zoning, and Building Director Robert Moore, Zoning Administrator Paul Castro, Town Engineer James Bowser, and Town Clerk Mary Pollitt. Town Consultant William F. Brisson from Adley, Brisson, Engman, Inc. was also present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

The Invocation was given by Mrs. Pollitt. Mrs. Smith led the Pledge of Allegiance.

III. APPROVAL OF AGENDA

Mr. Wyett made a motion to approve the agenda. The motion was seconded by Mr. McLendon. On roll call, the motion carried unanimously.

Mrs. Pollitt requested that two Charitable Event Applications be added to the agenda for consideration at this meeting:

Simon Wiesenthal Center, No. 264-98 and the Angels of Charity, No. 435-98.

Mrs. Pollitt said that Mr. Novak from the Simon Wiesenthal Center and Mrs. Dorothy Sullivan from the Angels of Charity were present at this meeting to explain the applications. Mrs. Pollitt explained that both organizations would have events before the next regularly scheduled Town Council meeting.

Mrs. Smith requested an additional motion to include the two charitable applications.

Motion made by Mr. Wyett and seconded by Mr. Shaw to reapprove the agenda with the additions of the two charitable event applications. The motion carried unanimously.

Simeon Wiesenthal Center – No. 264-98

Mr. Robert Novak from the Simon Wiesenthal Center addressed the Town Council and explained that this was the tenth consecutive year that the Simon Wiesenthal Center will have its annual Palm Beach Reception. He said the Center had been on time every year; however, this year someone else who no longer works for the organization was responsible for the preparation of the permit application.

Mrs. Smith asked Mr. Novak if he were going to be personally responsible for seeing that the paper work will be done?

Mr. Novak responded he would do that.

Mr. McDonald made a motion to approve application No. 264-98. The motion was seconded by Mr. McLendon and carried unanimously.

Angels of Charity – No. 435-98

Mrs. Sullivan explained that the Angels of Charity is a brand new organization which will be devoted to raising

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funds for all the children who have needs. She said that during the process of organizing a new charity, the person who had the assignment to obtain the permit did not do so. That person no longer handles that function, and Mrs. Sullivan promised that it would not happen again.

Mr. McDonald made a motion to approve application No. 435-98. The motion was seconded by Mr. McLendon and carried unanimously.

IV. PROOF OF PUBLICATION

Town Clerk Pollitt stated that proof of publication was received.

After discussion, the Council members decided to stop at 5:00 p.m. with this meeting and break at approximately 12:30 noon for lunch.

Mrs. Smith thanked the members of the 1997-1998 Zoning Commission and acknowledged the Chairman, Robert Wood, and the Secretary, Martin Klein who were present at the meeting.

V. PROCEDURES FOR COMMENTS BY GENERAL PUBLIC

Mrs. Smith asked that any member of the audience who wished to speak move to the front of the room, close to the microphones, to facilitate the progress of the meeting.

VI. AMENDMENTS TO THE BREAKERS PLANNED UNIT DEVELOPMENT (ITEM 1, 1997-1998 ZONING PROPOSAL STAFF REPORT)

Note: The changes and/or additions to the existing Code which were recommended by the Zoning Commission are "underlined", and deletions are identified by "~~strikeout~~". Changes made to the proposals by the Zoning Commission have been identified in "**bold**" type.

Zoning Administrator Paul Castro summarized the modification of the proposed Breakers P.U.D. Amendment. The request to delete the construction of the left and right turn lanes on County Road at the main hotel entrance; the request to widen the main hotel entrance road to four lanes and eliminate the abutting parking; and to upgrade the current signal when the entrance was closed were withdrawn by the Breakers before the Zoning Commission considered the P.U.D. modification.

Mr. Castro said the current request is to modify the P.U.D. by demolishing the 40,000 square foot Beach Club and constructing a new 20,000 square foot Beach Club. An additional request was to demolish and rebuild the Starlight Ballroom from 9,500 square feet to 36,500 square feet of which 15,000 square feet is the ballroom and the remainder would be pre-function and basement kitchen storage area. The Breakers requested the consideration of the 1981 development rights from the approval for the additional 11,121 square feet for the Starlight Ballroom and the extension of dates for the reevaluation of the closure of the Pine Walk Transfer Station to a date in the future to be determined. Additionally, the Breakers requested to eliminate the condition to construct the parking deck that was in the P.U.D. approval and the seventy spaces along the Pine Walk drive; to eliminate the request to close the Pine Walk entrance to the hotel; to postpone the implementation of the two hundred parking spaces which were to be located in phases 8 and 9; to extend the dates of construction of phases 1A, Priority 1, and phase 5; and to extend the construction hours to complete the work on said projects.

Mr. Castro said the staff's recommendations were to allow the proposed improvements to the Beach Club and the Starlight Ballroom and allow the development rights for the previously improved expansion to remain in place. The staff believed that it is a policy decision and not a planning issue relative to those decisions. In terms of the seventy parking spaces along Pine Walk, staff believed that the 250 parking spaces that will be temporarily provided in the northwest corner of the P.U.D. in addition to the existing 877 spaces will be adequate and remove the need for the spaces. Staff believed that the condition for a parking deck or other similar structure; however, should remain within the P.U.D. approval, and the 250 parking spaces will have to be allotted somewhere else when priority one, phase 1A. With the proposed 250 space parking lot, the postponement of the 200 spaces in phases 8 and 9 is acceptable, and staff recommended that the Pine Walk entrance remain open to accommodate the Beach Club and the Ballroom traffic when construction is completed.

Mr. Castro reported that most of the staff's recommendations were upheld by the Zoning Commission; however, some changes were made. Specifically, some of the changes related to overall parking and traffic circulation; stating specific dates related to deferral to some of the items; and specific landscape plans for a buffer strip between the Breakers' property and the Lauder property to the south.

Mr. Castro reported on the actions of the Zoning Commission at their meetings as follows:

1. On a vote of 7-0, the Zoning Commission recommends approval of the request to demolish and reconstruct the Beach Club as set forth in the proposed Breakers PUD Amendment.
2. On a vote of 7-0, the Zoning Commission recommends approval of the request to demolish and reconstruct

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- (a) ~~The area to be used for off-site shared parking shall be in the C-TS, C-WA, C-PC or C-OP zoning district; and, except for shared parking within a parking garage or underground/under building parking area, any area used for off-site shared parking shall be accessible only to and used by parking attendants and shall have controlled access in the form of gates or other barriers acceptable to the Town that can be accessed and used only by parking attendants.~~

After hearing from staff, the Town Consultant, and discussion, Mr. Shaw made a motion to approve the recommendation of the Zoning Commission for the proposal as submitted by the Town Administration to amend Section 6.21, (I)(2), SUPPLEMENTAL OFF-SITE SHARED PARKING, subsection (a) to read as stated in (a) above. The motion was seconded by Mr. McLendon and carried 4-1 with Mr. Wyett casting a negative vote.

- Item 3. On a vote of 7-0, the Zoning Commission recommends deferring consideration of incentives for preserving architecturally significant homes to the 1998-99 Zoning Season to allow for further study.

After discussion, Mr. Wyett made a motion to defer this item for consideration of incentives for preserving architecturally significant homes to the 1998-99 Zoning Season to allow for further study. The motion was seconded by Mr. McLendon and carried unanimously.

- Item 4. On a vote of 7-0, the Zoning Commission recommends disapproval of the proposal, as submitted by the Town Administration, to reduce the parking requirements for restaurants that are open only for breakfast and lunch.

After hearing from Town Consultant Brisson and staff, Mr. McLendon made a motion to accept the Zoning Commission's recommendation to disapprove this proposal, as submitted by the Town Administration, to reduce the parking requirements for restaurants that are open only for breakfast and lunch. Mr. Shaw seconded the motion which carried unanimously.

- Item 5. On a vote of 4-2, (Ms. Royal and Mr. Sanchez dissenting, and Messrs. Bertles, Lawrence and Fink recusing themselves due to a conflict of interest, with Messrs. Metzger and Sanchez as voting alternates) the Zoning Commission recommends approval of the proposal as submitted by the Town Administration to amend the Zoning Code and provide special allowances in the Worth Avenue Design Guidelines for development in the 100 block of Worth Avenue. The specific changes and provisions are to read as follows:

1. Amend Section 4.20 A, Schedule of Lot Yard and Bulk Regulations as they pertain to the C-WA district to read as follows:

	Rear - Feet	Height - Stories/Ft.	Lot Coverage - Per Cent
One-story	(10)	1/15(18)(20)(29)	70 75
Two-story	10 (10)(25)	2/25(18)(20)(29)	70 65
Three-story	3/25(20) 10	3/(18)(20)(29)	30

NOTE: () indicates reference to footnote

- (29) Refer to Worth Avenue Design Guidelines for special allowances to coverage, height, building length and gross floor area limitation.

2. Amend Section 5.48, SPECIAL EXCEPTION TO HEIGHT REGULATIONS, SPECIAL EXCEPTION STRUCTURES to read as follows:

- G. C-WA District: The following provisions shall be applicable to two-story and three-story construction in the C-WA District:

1. ~~Two-story guidelines:~~

- a. ~~First story coverage not more than thirty-five (35) per cent and second story coverage not more than thirty-five (35) per cent.~~
- b. ~~First story coverage not more than fifty (50) per cent and second story coverage not more than thirty-five (35) per cent if designed under the Worth Avenue Design Guidelines in conformance with Section 6.40 (Q).~~

2. ~~Three-story guidelines: First story coverage not more than fifty (50) per cent and second story coverage not more than thirty-five (35) per cent; and third story coverage not more than twenty-five (25) per cent per special allowance under the Worth Avenue Design Guidelines in conformance with Section 6.40 (Q).~~

1. Two-story guidelines: First story coverage not more than thirty-five (35) per cent and second story coverage not more than thirty-five (35) per cent. Additional coverage and other special

allowances may be granted if the structure(s) is built in accordance with the Worth Avenue Design Guidelines in conformance with Section 6.40 (Q).

A third story and other special allowances, may be granted if the structure(s) is built in accordance with the Worth Avenue Design Guidelines in conformance with Section 6.40 (Q).

3. Amend Sec. 4.20 of the Zoning Code, B. Schedule of Use Regulations for the C-WA District, by deleting the current subsections L(1), L(2) in their entirety and replacing them with the following:

L. Residential uses on the second and third floors as provided for in the Worth Avenue Design Guidelines which are incorporated by reference as part of this Zoning Ordinance as if fully set forth herein.

4. Modify the Section VII. GUIDELINES FOR INDIVIDUAL DEVELOPMENT AREAS, page 57 and 60-67 of the Worth Avenue Design Guidelines to read as follows:

EAST-END DEVELOPMENT AREA

URBAN DESIGN OBJECTIVES

- * To preserve, maintain and enhance existing Mediterranean-Revival/Neo-Classical character of the area.
- * To encourage the protection and enhancement of non-designated but potential Mediterranean-Revival/Neo-Classical historical structures.
- * To encourage new development and remodeling to use Mediterranean-Revival, Neo-Classical architectural styles or other updated compatible variants.
- * To insure compatibility of new development with existing uses and these Guidelines through ~~review and recommendation of the Landmark's Commission~~ and review and approval of the Architectural Commission.
- * To encourage the remodeling/rehabilitation of incompatible buildings and storefronts in the area, including the provision of multiple storefront entrances, and unification of display windows, awnings, colors, materials, and signage.
- * To encourage the use of arcades or colonnades along Worth Avenue frontages.
- * To encourage the interconnection of additional vias, courtyards, patios and other passageways both on and off-site; and,
- * To encourage ~~upper-story residential use~~ upper-story residential use as part of the East-End Development Area design.

Provisions for Special Allowances have been included in these Guidelines in order to:

- (1) Encourage the maintenance and restoration of the architectural heritage of Worth Avenue;
- (2) Encourage the creative use of modern variants of the Mediterranean-Revival, Neo-Classical and other compatible architectural styles;
- (3) Promote use of Mediterranean-type pedestrian characteristics such as arcades, shopping vias, courtyards and patios, fountains and sculpture, extensive landscaping, multi-level development, hidden staircases, and ~~especially~~ the provision for upper-story residences or the appearance associated with upper-floor residential design.
- (4) Ensure the continued competitiveness and economic viability of Worth Avenue as a whole.

Use of these Special Allowances for substantial improvements meeting the intent of this section will enhance the quality, character and image of the Avenue; and will also provide a visual linkage between contemporary development and the Avenue's unique historical past.

A. ELIGIBILITY FOR SPECIAL ALLOWANCES

In order to encourage the maintenance of the Avenue's original architectural heritage and encourage the creative and

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the Starlight Ballroom as set forth in the proposed Breakers PUD Amendment with the further recommendation that the applicant needs to provide a more definitive plan to the Town Council for management and control of overall parking and traffic circulation during peak use of the proposed new hotel amenities.

3. On a vote of 7-0, the Zoning Commission recommends approval of the request by the Breakers to retain for future use the development rights for the 11,121 square feet of accessory hotel space previously approved in 1981 but not used in this application.
4. On a vote of 7-0, the Zoning Commission recommends approval of the request to extend the date for closure of the Pine Walk Transfer Station as set forth in the proposed Breakers PUD Amendment.
5. On a vote of 7-0, the Zoning Commission recommends approval of the request to postpone consideration of the transfer of the development rights of Phase 1a (Priority 1) of the PUD until no later than the 2011-2012 Zoning Season (which is the designated start date in the prior PUD approval) or no later than during the Zoning Season immediately prior to the intended undertaking of development of Phase 1a, whichever comes first. The Breakers shall give the Town written notice of its intention to commence development of Phase 1a at least six months prior to said Zoning Season.
6. On a vote of 7-0, the Zoning Commission recommends approval of the request to postpone consideration of the transfer of the development rights of Phase 5 (Priority 8) of the PUD until no later than the 2011-2012 Zoning Season (which is the designated start date in the prior PUD approval) or no later than during the Zoning Season immediately prior to the intended undertaking of development of Phase 5, whichever comes first. The Breakers shall give the Town written notice of its intention to commence development of Phase 5 at least six months prior to said Zoning Season.
7. On a vote of 7-0, the Zoning Commission recommends approval of the request to eliminate the requirement to add 70 parking spaces where the Pine Walk entry to the hotel was to be closed with a cul-de-sac.
8. On a vote of 7-0, the Zoning Commission recommends approval of the request to eliminate the requirement to close Pine Walk and remove the associated traffic signal at County Road.
9. On a vote of 7-0, the Zoning Commission recommends approval of the request to postpone implementation of the requirement to add 200 parking spaces at Phases 8 and 9 until such time as the impacts of development indicate they are needed.
10. On a vote of 7-0, the Zoning Commission recommends conditional approval of the request to temporarily locate the required 250 permanent parking spaces at the northwest corner of the PUD in the Phase 1a (Priority 1) Area. The conditions are that these 250 spaces shall be required parking spaces, raising the total required number of parking spaces associated with the hotel operation to 1,127; and, if and when the Phase 1a area is developed, these 250 parking spaces shall be relocated to an area acceptable to the Town.
11. On a vote of 7-0, the Zoning Commission recommends approval of the staff recommendation to retain the requirement for construction of a parking structure in the future as set forth under Phase 1, item I in the 1981 PUD approval.
12. On a vote of 7-0, the Zoning Commission endorses the provision of a buffer strip between the Breakers property and the Lauder property to the south and suggests that the parties jointly implement such a buffer to the extent possible.
13. On a vote of 7-0, the Zoning Commission recommends that the applicant's request for a waiver of the hours of construction be deferred to the Town Council for its consideration.

After hearing staff comments, presentation by representatives of the Breakers, and public input, the Zoning Commission took the following actions with respect to the thirteen individual items included in the proposed amendment to the Breakers PUD:

- Item 1. A motion was made by Mr. Shaw and seconded by Mr. McDonald to approve item 1 as recommended by the Zoning Commission for the request to demolish and reconstruct the Beach Club as set forth in the proposed Breakers P.U.D. Amendment. On roll call the motion was approved unanimously.
- Item 2. Mr. Shaw made a motion to approve item 2 as recommended by the Zoning Commission for the request to demolish and reconstruct the Starlight Ballroom as set forth in the proposed Breakers P.U.D. Amendment subject to a definitive parking plan, approved by staff and Town Council. The parking plan that specifically addresses the Starlight Ballroom and the traffic flow adequate to the south side of the property must be submitted to the staff before the January 26th Town Council meeting. The motion was seconded by President Smith and carried unanimously.
- Item 3 A motion was made by Mr. Shaw to approve the recommendation of the Zoning Commission for approval of the request by the Breakers to retain for future use the development rights for the 11,121 square feet of accessory hotel space previously approved in 1981 but not used in this application. The

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motion was seconded by Mr. McLendon and carried on a roll call vote of 4-1 with Mr. Wyett casting a negative vote.

Item 4 Mr. McDonald made a motion to approve item 4 to approve delaying the development of the 11,000+ square feet to before the year 2011 that includes 24 units, 3 stories, 45 feet in height, priority 8, phase 5. Pine Walk would remain in use until some further decision is made on where the development rights for the 3 story unit buildings will be located on the property at some future subsequent time. The motion was seconded by Mr. Wyett. On roll call, the motion carried unanimously.

Item 5 Mr. Shaw made a motion to approve the recommendation of the Zoning Commission to postpone consideration of the transfer of the development rights of Phase 1a (Priority 1) of the P.U.D. until no later than the 2011-2012 Zoning Season (which is the designated start date in the prior P.U.D. Approval) or no later than during the Zoning Season immediately prior to the intended undertaking of development of Phase 1a, whichever comes first. The Breakers shall give the Town written notice of its intention to commence development of Phase 1a as least six months prior to said Zoning Season. The motion was seconded by Mr. McLendon and carried unanimously on roll call.

Item 6 A motion was made by Mr. Wyett to approve the recommendation of the Zoning Commission to postpone consideration of the transfer of the development rights of Phase 5 (Priority 8) of the P.U.D. until no later than the 2011-2012 Zoning Season (which is the designated start date in the prior P.U.D. approval) or no later than during the Zoning Season immediately prior to the intended undertaking of development of Phase 5, whichever comes first. The Breakers shall give the Town written notice of its intention to commence development of Phase 5 at least six months prior to said Zoning Season. The motion was seconded by Mr. McLendon and carried unanimously.

Item 7 Mr. Wyett made a motion to approve the recommendation of the request to eliminate the requirement to add 70 parking spaces where the Pine Walk entry to the hotel was to be closed with a cul-de-sac. The motion was seconded by Mr. McDonald and carried unanimously.

Item 8 A motion was made by Mr. Shaw to approve the recommendation of the Zoning Commission for the request to eliminate the requirement to close Pine Walk and remove the associated traffic signal at County Road. The motion was seconded by Mr. Wyett and carried unanimously.

Item 9 Mr. Shaw made a motion to approve the recommendation of the Zoning Commission for the request to eliminate the requirement to add 200 parking spaces at Phases 8 and 9 until such time as the impacts of development indicate they are needed. Mr. McLendon seconded the motion, and it carried unanimously.

Item 10 A motion was made by Mr. Wyett to approve the Zoning Commission's recommendation for the approval of the request to temporarily locate the required 250 permanent parking spaces at the northwest corner of the P.U.D. in the phase 1a (Priority 1) Area. The conditions are that these 250 spaces shall be required parking spaces (striking the total number of parking spaces associated with the hotel operation at 1,127), and if and when the Phase 1a area is developed, these 250 parking spaces shall be relocated to an area acceptable to the Town. The motion was seconded by Mr. Shaw and carried unanimously.

Item 11 Mr. Wyett made a motion to approve the Zoning Commission's recommendation to retain the requirement for construction of a parking structure in the future as set forth under Phase 1, item I in the 1981 P.U.D. approval. The motion was seconded by Mr. Shaw and carried unanimously.

Item 12 Mr. Wyett made a motion to approve the endorsement of the Zoning Commission for a buffer strip between the Breakers property and the Lauder property to the south with the condition a written agreement with the Lauders be executed. Mr. McLendon seconded the motion which carried unanimously.

Item 13 Mr. Wyett made a motion to defer the request for a waiver of the hours of construction to a regular Town Council Meeting. The motion was seconded by Mr. McLendon, and the motion carried unanimously.

VII. 1997-1998 ZONING PROPOSAL STAFF REPORT (ITEMS 2 THROUGH 26) AND RECEIPT OF THE RECOMMENDATIONS AND REPORT OF THE TOWN ZONING COMMISSION, DATED DECEMBER 4, 1997

President Smith identified the following items from the Zoning Report.

Item 2. On a vote of 7-0, the Zoning Commission recommends approval of the proposal as submitted by the Town Administration, to amend Section 6.21, (I)(2), SUPPLEMENTAL OFF-SITE SHARED PARKING, subsection (a) to read as follows:

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- (1) Maximum first floor building coverage, 50% 75%;
- (2) Maximum second story coverage, 35% 65% and a maximum one (1) residence per each fifty (50) feet of Worth Avenue frontage;
- (3) Maximum third story coverage, 25% 30% and a maximum one (1) additional residence per each sixty (60) feet of Worth Avenue frontage; provided, ~~however, that all uses above the first floor shall be residential uses only that the combined density of residential uses on the second and third floors does not exceed two (2) dwelling units per sixty (60) feet of frontage on Worth Avenue.~~

D. CRITERIA FOR APPROVAL OF SPECIAL ALLOWANCES.

New development, or substantial and appropriate redevelopment, restoration or renovation proposals shall be reviewed by the Landmarks Commission and the Architectural Commission in relation to the appropriate provision of a greatly enhanced level of amenities and features which will significantly benefit the development, the general public, the Avenue and the Town of Palm Beach.

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

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

E. LIMITATIONS ON THE USE OF SPECIAL ALLOWANCES

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

~~VIII. SPECIAL ALLOWANCES~~

IX. SPECIAL ALLOWANCES FOR THE MID-AVENUE AND WEST-END DEVELOPMENT AREAS

Provisions for Special Allowances have been included in these Guidelines in order to:

- (1) Encourage the maintenance and restoration of the architectural heritage of Worth Avenue;
- (2) Encourage the creative use of modern variants of the Mediterranean-Revival, Neo-Classical and other compatible architectural styles;
- (3) Promote use of Mediterranean-type pedestrian characteristics such as arcades, shopping vias, courtyards and patios, fountains and sculpture, extensive landscaping, multi-level development, hidden staircases, and especially the provision for upper-story residences.

Use of these Special Allowances for substantial improvements meeting the intent of this section will enhance the quality, character and image of the Avenue; and will also provide a visual linkage between contemporary development and the Avenue's unique historical past.

A. ELIGIBILITY FOR SPECIAL ALLOWANCES

In order to encourage the maintenance of the Avenue's original architectural heritage and encourage the creative and compatible use of Mediterranean-Revival style and characteristics, as well as Neo-Classical and other compatible architectural styles, on the Avenue; the following buildings are eligible to earn special allowances as specified in Section "C", following:

1. New buildings constructed on the Avenue in accordance with the Town of Palm Beach Zoning Code and the design guidelines described in Sections VI and VII. Approval of Special Allowances shall be subject to review and recommendation for approval by the Architectural Commission.
2. Existing buildings which were not designed in the Mediterranean-Revival, NeoClassical, Art Deco, Art Moderne, or other

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~~similar compatible style; and which, through substantial and appropriate exterior renovation, are voluntarily converted to the Mediterranean-Revival or Neo-Classical style or modern variant thereof in accordance with the Town of Palm Beach Zoning Code and the design Guidelines described in Sections VI and VII. Approval of Special Allowances shall be subject to review and recommendation for approval by the Architectural Commission.~~

3. Existing Mediterranean-Revival, Neo-Classical, Art Deco, Art Moderne, or other similar or compatible style buildings which have not been designated as Landmarks; and, which are voluntarily restored through substantial and appropriate exterior renovation to the appropriate style in accordance with the Town of Palm Beach Zoning Code and the design Guidelines described in Sections V. and VI. Approval of Special Allowances shall be subject to review and recommendation for approval by the Architectural Commission.

B. DEFINITIONS

For the purpose of determining eligibility for a special allowance, the following definitions shall apply:

1. SUBSTANTIAL EXTERIOR RENOVATION OR RESTORATION

Improvements costing 15% or more of the appraised value of the structure. The applicant shall be responsible for submitting an up-to-date appraisal so that the Building Official can certify the appraisal value and construction costs.

2. APPROPRIATE EXTERIOR RENOVATION OR RESTORATION

Improvements which are consistent with the design Guidelines described in Sections VI and VII, and recommended for approval by the Architectural Commission.

C. SPECIAL ALLOWANCES

1. Commercial development, redevelopment, restoration or renovation providing an enhanced level of amenities and features in accordance with paragraph "D", following, shall be eligible for an increase in maximum building coverage as follows:

~~a. Existing buildings: 2nd story maximum coverage, 35%.~~

~~b a.~~ New 2-story buildings: maximum first story building coverage, 50%; 2nd story maximum coverage, 35%.

2. Mixed-use commercial and residential development, redevelopment, restoration or renovation providing commercial uses on the ground floor and residential uses above, and providing an enhanced level of amenities and features in accordance with paragraph "D", following, shall be eligible for an increase in maximum building coverage and allowable residential units as follows:

a. Existing buildings:

(1) Second story maximum coverage, 35% and a maximum of one (1) residence per each fifty (50) feet of frontage on Worth Avenue.

(2) Third story maximum coverage, 25% and a maximum one (1) additional residence per each sixty (60) feet of frontage on Worth Avenue; provided, however, that all uses above the first floor shall be residential uses only.

b. New 2-story buildings: maximum first story building coverage, 50%; maximum second story coverage, 35%; and a maximum one (1) residence per each fifty (50) feet of frontage on Worth Avenue.

c. New 3-story buildings:

(1) Maximum first floor building coverage, 50%;

(2) Maximum second story coverage, 35% and a maximum one (1) residence per each fifty (50) feet of Worth Avenue frontage;

(3) Maximum third story coverage, 25% and a maximum one (1) additional residence per each sixty (60) feet of Worth Avenue frontage; provided, however, that all uses above the first floor shall be residential uses only and that the combined density of residential uses on the second and third floors does not exceed two (2) dwelling units per sixty (60) feet of frontage on Worth Avenue.

D. CRITERIA FOR APPROVAL OF SPECIAL ALLOWANCES.

New development, or substantial and appropriate redevelopment, restoration or renovation proposals shall be reviewed by the Landmarks Commission and the Architectural Commission in relation to the appropriate provision of a greatly enhanced level of amenities and features which will significantly benefit the development, the general public, the Avenue and the Town of Palm Beach.

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

* Public arcades, vias, courtyards, useful open space and interconnection.

* Private open spaces, patios, terraces, balconies, loggias, etc.

* Mixed-use development with upper-story residential.

compatible use of Mediterranean-Revival style and characteristics, as well as Neo-Classical and other compatible architectural styles, on the Avenue; the following buildings are eligible to earn special allowances as specified in Section "C", following:

1. New Buildings constructed on the Avenue in accordance with the Town of Palm Beach Zoning Code and the design guidelines described in Sections VI and VII. Approval of Special Allowances shall be subject to review and ~~recommendation~~ for approval by the Architectural Commission after review and approval by the Town Council.

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2. Existing buildings which were not designed in the Mediterranean-Revival, NeoClassical, Art Deco, Art Moderne, or

other similar compatible style; and which, through substantial and appropriate exterior renovation, are voluntarily converted to the Mediterranean-Revival or Neo-Classical style or modern variant thereof in accordance with the Town of Palm Beach Zoning Code and the design Guidelines described in Sections VI and VII. Approval of Special Allowances shall be subject to review and recommendation for approval by the Architectural Commission.

3. Existing Mediterranean-Revival, Neo-Classical, Art Deco, Art Moderne, or other similar or compatible style buildings which have not been designated as Landmarks; and, which are voluntarily restored through substantial and appropriate exterior renovation to the appropriate style in accordance with the Town of Palm Beach Zoning Code and the design Guidelines described in Sections V. and VI. Approval of Special Allowances shall be subject to review and ~~recommendation~~ for approval by the Architectural Commission after review and approval by the Town Council.

B. DEFINITIONS

For the purpose of determining eligibility for a special allowance, the following definitions shall apply:

1. SUBSTANTIAL EXTERIOR RENOVATION OR RESTORATION

Improvements costing 15% or more of the appraised value of the structure. The applicant shall be responsible for submitting an up-to-date appraisal so that the Building Official can certify the appraisal value and construction costs.

2. APPROPRIATE EXTERIOR RENOVATION OR RESTORATION

Improvements which are consistent with the design Guidelines described in Sections VI and VII, and recommended for approval by the Architectural Commission.

C. SPECIAL ALLOWANCES

1. Commercial development, redevelopment, restoration or renovation providing an enhanced level of amenities and features in accordance with paragraph "D", following, shall be eligible for elimination of the height and building length limitations and the 15,000 square foot limit on gross floor area, and an increase in maximum building coverage as follows:

Existing buildings:

- (1) one-story building, maximum coverage, 75%;
- (2) two-story buildings, 2nd story maximum coverage, 35% 65%

a. Arcades over the sidewalk shall not count towards building coverage. Where no arcades are provided landscaping shall be planted.

b. New 1-story buildings, maximum coverage, 75%

bd. New 2-story buildings: maximum first story building coverage, 50% 75%; 2nd story maximum coverage, 35% 65% .

e. New 3-story buildings: maximum first story building coverage, 75%; 2nd story maximum coverage, 65%; 3rd story maximum coverage, 30%

2. Mixed-use commercial and residential development, redevelopment, restoration or renovation providing commercial uses on the ground floor and residential uses above, and providing an enhanced level of amenities and features in accordance with paragraph "D", following, shall be eligible for elimination of the height and building length limitations and the 15,000 square foot limit on gross floor area and an increase in maximum building coverage and allowable residential units as follows:

a. Existing buildings:

- (1) one-story building, maximum coverage, 75%;

(+)(2) Second story maximum coverage, 35% 65% and a maximum of one (1) residence per each fifty (50) feet of frontage on Worth Avenue.

(2)(3) Third story maximum coverage, 25% 30% and a maximum one (1) additional residence per each sixty (60) feet of frontage on Worth Avenue; provided, however that all uses above the first floor shall be residential uses only that the combined density of residential uses on the second and third floors does not exceed two (2) dwelling units per sixty (60) feet of frontage on Worth Avenue.

b. New 2-story buildings: maximum first story building coverage, 50% 75% maximum second story coverage, 35% 65% ; and a maximum one (1) residence per each fifty (50) feet of frontage on Worth Avenue.

c. New 3-story buildings:

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- * Restoration of original facade.

- * Appropriate style change.

- * Varied roof heights, towers, chimneys, etc.

- * Any other significant amenities or features determined to be appropriate for review by the Architectural Commission.

E. LIMITATIONS ON THE USE OF SPECIAL ALLOWANCES

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

The members of the public who spoke regarding this issue were: Robert Grace, Nancy Douthit, Polly Earl, Adrian Winterfield, Christine Franks, Martin Klein (representing the Zoning Commission), Attorney James Brindell, representing Murray Goodman, Architect Gene Lawrence, representatives from Neiman-Marcus, John Maus from the Worth Avenue Association, Town Consultant Bill Brisson, and Chamber of Commerce Chairman Jesse Newman.

After discussion and hearing from the members of the public as noted above, a motion was made by Mr. McDonald to approve the recommendation of the Zoning Commission with the deletion of the economic provision as listed in Number 4 on page 8 of the Worth Avenue Guidelines. The motion was seconded by Mr. Shaw. On roll call, the motion carried 4-1 with Mrs. Smith casting a negative vote.

Item 6. On a vote of 5-2 (Mr. Bertles and Ms. Royal dissenting), the Zoning Commission recommends approval of the proposal, as submitted by the Town Administration, and amended by the Zoning Commission, to amend Sec. 4.20, A. Schedule of Lot, Yard and Bulk Regulations pertaining to the R-B District to decrease the maximum allowable FAR from 0.45 to 0.40 and and contrary to the Town Administration's recommendation decrease the maximum allowable CCR of both one and two story single family homes from 4.5 to 4.0.

The following members of the public spoke regarding this issue: Bill Bodgett, Kristi Posvar, Helen Bertles Ferrare, Martin Klein, Eileen Morris, Susan Gordon, Helene Newman, Polly Earl, Robert Wood, Elinor Woolems, Robert Deziel, Sten Lilja, Ambrose Monell, Lisa Kaye, Laurel Baker, Joanna Frost-Golino, Nancy Douthit, Mary Frankel, Edwin Burk, Peter Broberg, William Guttman, Addrian Wwinterfield, Gail Coniglio, Joy Hearn, Donald Milasky, Tracy Mandell, and Jim Bertles.

After hearing comments from the public and discussing the issues, Mr. McDonald made a motion to deny items 6 and 8 (*see below*). The motion was seconded by Mr. Wyett. On roll call, the motion carried unanimously. Mr. McDonald requested in his motion that the item should be considered during the 1998/1999 zoning season with the Building Department, ARCOM, and the Zoning Commission with workshops included as part of that review and study.

Item 7. On a vote of 7-0, the Zoning Commission recommends approval of the recommendation of the Town Administration to defer consideration of instituting a maximum floor area ratio (FAR) in the R-A and R-C Districts to the 1998-99 Zoning Season to allow for further study. In addition the Zoning Commission recommended that no interim regulations be employed regarding lots in the R-A district that are under 20,000 square feet in area.

After discussion, Mr. McDonald made a motion to approve the recommendation of the Zoning Commission and Town Administration to defer consideration of instituting a maximum floor area ratio (FAR) in the R-A and R-C Districts to the 1998-99 Zoning Season to allow for further study. In addition the Zoning Commission recommended that no interim regulations be employed regarding lots in the R-A district that are under 20,000 square feet in area. The motion was seconded by Mr. Shaw and carried unanimously.

Item 8. On a vote of 7-0, the Zoning Commission recommends approval of the proposal as submitted by the Town Administration:

1. To amend Sec. 4.20, A, Schedule of Lot, Yard and Bulk Regulations as it pertains to minimum rear yards in the R-B District, to read as follows:

One-story structure: ~~10~~ 12 ½ feet

Two-story structure: ~~10 feet~~

First story 12 ½ feet

Second-story portion 15 feet

2. And to refrain from creating a sliding scale for rear yard setbacks for lots exceeding 20,000 square feet in area based on the depth of the lot.

The Town Council denied this item as part of the motion for item 6 as noted above.

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- Item 9. On a vote of 7-0, the Zoning Commission recommends approval of the proposal as submitted by the Town Administration to amend Section 2.10. Definitions., clarifying how the measurement of the height of buildings is calculated by amending the Code as follows:

(11) BUILDING, HEIGHT OF, (APPLICABLE TO ALL DISTRICTS EXCEPT THE R-B DISTRICTS). The vertical distance measured from the grade established by the Town for the crown of the public or private street or road at its height highest elevation abutting the lot to the ~~top of the beam or plate of the top story~~: bottom of the top chord roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs. For flat roofs the measurement is to the point where the ceiling meets the exterior wall. The grade, as identified above, is defined as the zero datum for a lot.

(11.05) BUILDING, HEIGHT OF, (APPLICABLE ONLY IN THE R-B DISTRICTS). The vertical distance from the top of the floor slab (excluding garage) ~~to the top of beam or plate of the top story to~~ the bottom of 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. (To raise the floor more than the typical eighteen (18) inches above the highest street elevation pursuant to Section 5.18 of the Zoning Code, the building height shall be measured from a point eighteen (18) inches above said street.

After hearing comments from the staff and discussion of the item, Mr. Shaw made a motion to approve the recommendation of the Zoning Commission to amend Section 2.10. Definitions., clarifying how the measurement of the height of buildings is calculated by amending the Code as stated (above) in (11) and (11.05). The motion was seconded by Mr. McLendon and carried 4-1 with Mr. Wyett casting a negative vote.

- Item 10. On a vote of 7-0, the Zoning Commission recommends disapproval of the proposal, as submitted by the Town Administration, to add a new definition for "dimensional variance."

After hearing comments from the staff and discussion, Mr. McDonald made a motion to approve the Zoning Commission recommendation to disapprove of the proposal, as submitted by the Town Administration, to add a new definition for "dimensional variance." *(This was a disapproval to add a new definition.)* The motion was seconded by Mr. Wyett and carried 4-1 with Mr. Shaw casting a negative vote.

- Item 11. On a vote of 7-0, the Zoning Commission recommends approval of the proposal, as submitted by the Town Administration, to amend Section 4.10, SCHEDULE OF LOT, YARD AND BULK REGULATIONS, FOOTNOTE (14), to allow a twenty-five (25) percent credit for uncovered residential required off-street parking, drive aisles and driveways that are provided with an acceptable grass-crete material. Footnote (14) would be amended as follows:

(14) Additionally , not less than thirty-five (35) per cent of the required front yard must be landscaped open space in the R-C, R-D(1), R-D(2), C-OPI, C-TS, and C-B districts; not less than forty (40) percent in the R-B district; and not less than forty-five (45) per cent in the R-AA and R-A districts. In the R districts, required off-street parking, driveways and drive aisles that are uncovered and provided with an acceptable grass-crete material may be allowed twenty-five (25) percent credit for meeting the site's overall landscape open space requirements. Said grass in the grass-crete surface shall be well maintained in a healthy manner.

After discussion and hearing comments from staff, Mr. Shaw made a motion to approve the recommendation of the Zoning Commission and the Town Administration to amend Section 4.10, SCHEDULE OF LOT, YARD AND BULK REGULATIONS, FOOTNOTE (14), to allow a twenty-five (25) percent credit for uncovered residential required off-street parking, drive aisles and driveways that are provided with an acceptable grass-crete material. Footnote (14) would be modified as shown in the above paragraph. The motion was seconded by Mr. Wyett and carried 4-1 with Mrs. Smith casting a negative vote.

- Item 12. On a vote of 7-0, the Zoning Commission recommends approval of the proposal, as submitted by the Town Administration, to amend Section 4.20 A, SCHEDULE OF LOT, YARD AND BULK REGULATIONS, FOOTNOTES (18) AND (18a) to correct a typographical error and address the maximum height of houses with combination flat and pitched roof styles by amending the language to read as follows:

(18) Maximum overall height of a building shall be the maximum allowable building height (see Section 2.10(11)), plus five (5) feet for a flat roof and ten (10) feet for all other roof styles. When a parapet is used above the maximum building height (see Section 2.10(11)), the building overall height will be calculated based on the flat roof style identified above. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.

(18a) Maximum overall height of a building in the R-B District shall be the maximum allowable building height, plus three (3) feet for a flat roof and eight (8) feet for all other roof styles. When a parapet is used above the maximum building height (see Section 2.10 (11.05)), the building overall height will be calculated based on the flat roof style identified above. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.

After hearing the comments from staff, Mr. Shaw made a motion to approve the recommendation of the Zoning

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Commission and the Town Administration to amend Section 4.20A, ~~SCHEDULE OF LOT, YARD AND BULK REGULATIONS~~, FOOTNOTES (18) AND (18a) to correct a typographical error and address the maximum height of houses with combination flat and pitched roof styles by amending the language to read as indicated in paragraphs (18) and (18a) above. The motion was seconded by Mr. McDonald and carried 4-1 with Mr. Wyett casting a negative vote.

- Item 13. On a vote of 7-0, the Zoning Commission recommends approval of the proposal, as submitted by the Town Administration, to correct scrivener's errors and inconsistencies by amending Section 4.20.A. ~~SCHEDULE OF LOT, YARD AND BULK REGULATIONS~~ to identify the maximum allowable height and lot coverage for a three-story building in the C-OPI District to be 35 feet in height and 25% coverage.

After hearing an explanation from Zoning Administrator Paul Castro, Mr. McDonald made a motion to approve the recommendation of the Zoning Commission and the Town Administration to correct the scrivener's errors and inconsistencies by amending Section 4.20A as stated above. The motion was seconded by Mr. Shaw and carried unanimously.

Mr. McLendon left the meeting at the lunch break for the remainder of the day, leaving four voting Town Council members and the Mayor's vote in case of a tie.

- Item 14. On a vote of 6-1, (Mr. Bertles dissenting) the Zoning Commission recommends approval of the proposal, as submitted by the Town Administration, and amended by the Zoning Commission, to amend Section 4.20 B. ~~SCHEDULE OF USE REGULATIONS~~, to allow brokerage and trust companies under 2,000 square feet in the C-TS zoning district as a permitted use above the first floor and as a special exception use on the first floor with conditions as set forth in item 16 below. The recommended changes read as follows:

Permitted Uses:

3. ~~Reserved~~ Securities or financial brokerage and trust companies above the first floor only

Special Exception Uses:

9. Banks and financial institutions, excluding ~~securities or financial~~ brokerage and trust companies

16. Offices, professional services, ~~and~~ business services and securities or financial brokerage and trust companies located on the first floor provided such use has no frontage on, or entrance directly onto, a sidewalk fronting a roadway.

After hearing comments from Zoning Administrator Castro and Attorney Greg Kino, representing a client who proposed the change, Mr. Shaw made a motion to approve the recommendation of the Zoning Commission to amend Section 4.20 B. ~~SCHEDULE OF LOT, YARD AND BULK REGULATIONS~~ to allow brokerage and trust companies under 2,000 square feet in the C-TS zoning district as a permitted use above the first floor and as a special exception use on the first floor with conditions as set forth in item 16 (as stated above) and the proposed changes listed before item 16. Mr. Wyett seconded the motion. On roll call, the motion carried unanimously.

- Item 15. On a vote of 7-0, the Zoning Commission recommends approval of the recommendation by the Town Administration which is not to allow home occupations as an office use in the single-family residential zoning districts of the Town.

After hearing Mr. Castro's comments and discussing the issue, Mr. Shaw made a motion to approve the recommendation of the Zoning Commission and the Town Administration not to allow home occupations as an office use in the single-family residential zoning districts of the Town. The motion was seconded by Mr. McDonald and carried 4-0 (Mr. McLendon was absent for the remainder of the 1/7/98 meeting.)

- Item 16. On a vote of 7-0, the Zoning Commission recommends approval of the proposal, as submitted by the Town Administration, to amend Section 4.20. B. ~~SCHEDULE OF USE REGULATIONS~~, by adding a new item N. Auction House under the list of Special Exception Uses of the C-PC district.

After hearing comments from Attorney Peter Broberg, Adele Kahn, and staff members, Mr. Shaw made a motion to deny or disapprove of the recommendation of the Zoning Commission to approve the proposal to amend Section 4.20.B. ~~SCHEDULE OF USE REGULATIONS~~, by adding a new item N. Auction House under the list of Special Exception Uses of the C-PC district. The motion was seconded by Mr. Wyett and carried unanimously. Mr. Randolph clarified that the item would not be restudied by staff during the 1998-1999 Zoning Season.

- Item 17. On a vote of 7-0, the Zoning Commission recommends approval of the proposal, as submitted by the Town Administration, to amend Section 5.15 LOT AREA, (c), to read as follows in order to clarify that proposed accessory structures on a developed lot that is four times the minimum lot size would not require Special Exception with Site Plan Review approval:

(c) Any new single-family dwelling ~~or~~ and associated accessory structure(s) in the R-A and R-B zoning districts, constructed on one (1) or more platted lots or unplatted parcel(s), or combinations thereof, involving a land equivalent to or greater than four (4) times the minimum lot size for the district, shall be subject to an application for special exception with site plan review. In the event the lot size is sixty thousand (60,000) square feet or more, the proposed

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structure(s) shall have minimum setback requirements equivalent to the R-AA district. This provision shall not apply to new accessory structures that are accessory to an already existing single-family dwelling.

After hearing comments from staff, the public and after discussion, Mr. Shaw made a motion to approve the recommendation of the Zoning Commission to amend Section 5.15, LOT AREA, (c), to read as identified in paragraph (c) above in order to clarify that proposed accessory structures on a developed lot that is four times the minimum lot size would not require Special Exception with Site Plan Review. As part of the motion, the words "existing single family dwelling with a certificate of occupancy exceeding five years" being added to the language. The motion was seconded by Mr. McLendon. On roll call, the motion carried 3-2 with Mayor Ilyinsky breaking the tie vote. Mrs. Smith and Mr. Wyett cast negative votes.

- Item 18. On a vote of 7-0, the Zoning Commission recommends approval of the proposal, as submitted by the Town Administration, and amended by the Zoning Commission, to amend Section (5.22)(d), Permitted Special Exceptions of Height Regulations, by adding the following language to paragraph (d) which allows towers as an architectural feature in the R-B zoning district:

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

After hearing comments from the staff, general public and after discussion, Mr. Shaw made a motion to approve the recommendation of the Zoning Commission, as amended by the Zoning Commission, to amend Section (5.22)(d), Permitted Special Exceptions of Height Regulations, by adding the following language to paragraph (d) which allows towers as an architectural feature in the R-B zoning district as stated in the preceding paragraph. The motion was seconded by Mr. McDonald and carried 4-0.

- Item 19. On a vote of 7-0, the Zoning Commission recommends approval of the proposal, as submitted by the Town Administration to amend Section 5.36, GARDEN WALLS AND FENCES to read as follows in order to clarify the measurement of walls, fences, gates and gate posts; allow for wall pillars; and provide a setback for walls over four (4) feet in height that abut a roadway to accommodate a hedge:

5.36 GARDEN WALLS AND FENCES. Except as otherwise provided herein, garden walls or fences may be located or constructed within the required yard areas and shall conform to the following regulations except where special requirements are set forth for specific screening purposes elsewhere in this ordinance:

(a) *Front yard.* All garden walls and/or fences located between in the front ~~building line and the street right-of-way line~~ setback area shall not exceed six (6) feet in height. The height of a wall or fence located in the front yard set back area, fronting on a street, shall be measured on the street side of the wall or fence from the top of the wall or fence and shall not exceed six (6) feet in height above the the crown of the street at a point directly opposite such points of measurement. (See Attachment Five for illustration, attached at the end of ~~ordinance: this chapter~~) If the wall or fence in the front setback area is not fronting on a street, said wall or fence shall be measured from the lowest grade on either side of the property line adjacent to said wall or fence. The natural grade along the side property line within the front setback area may not be artificially changed to raise the height of said wall.

Walls and fences in a required front yard, street side yard, or rear street yard more than four (4) feet in height shall be set back three (3) feet from the street property line and have ~~street landscaping of on~~ the street side of the wall or fence consisting of a continuous hedge at least three (3) feet in height at the time of planting.

(b) *Gateposts, and gates and pillars* located in front, street side and rear street yard areas. Gateposts, and pillars not exceeding three (3) feet in any horizontal dimension may be erected and/or constructed in connection with the erection and/or construction of a wall, fence, or in connection with an existing or proposed hedge; ~~s~~Said gateposts, ~~and~~ gates and pillars shall not exceed a height of two (2) feet above the maximum wall height permitted in this section. Wall pillars shall be spaced a minimum twenty (20) feet on center. In the event gates are to be erected at driveway entrances, said gates must be provided with a minimum driveway area in front of, and perpendicular to said gates of nine (9) feet wide by eighteen (18) feet deep,

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as measured from the street pavement. For properties with driveways located on a cul-de-sac or dead end streets, the required setback may be reduced provided it is approved as a Special Exception by the Town Council under the standards of Section 6.40.

(c) *Side and rear yards.* All garden walls and/or fences located ~~between~~ within ten (10) feet of the side or rear property line building line and the side or rear lot line shall not exceed seven (7) feet in height except walls and/or fences located in for a required street side yard setback of a corner lot and the required rear street yard setback for a through lot where they shall conform to the provisions of subparagraph (a) above. The height of a wall or fence located in a side or rear yard shall be measured from the lowest grade on either side of the side or rear property line adjacent to said wall or fence to from the top of the wall or fence and shall not exceed seven (7) feet in height from the lowest natural grade elevation opposite such point(s) or measurement. This section prohibits an artificial change in the natural grade in any way to raise the height of said wall. (See Attachment Five for illustration, attached at the end of ~~ordinance~~ this chapter.)

(d) *Restrictions.* Such garden wall or fence shall, in addition, conform with section 5.16 of this ordinance and in no case be located closer than two and one-half (2 ½) feet of the rear lot line nor be located within the street right-of-way or streetward of the front lot line as provided for in section 5.14.

After hearing comments from the staff and after discussion, the Town Council considered items (a), (b), (c), and (d) separately.

Mr. McDonald made a motion that was seconded by Mr. Shaw to approve the recommendation of the Zoning Commission to amend Section 5.36. GARDEN WALLS AND FENCES to read as stated in (a) *Front Yard* (above). On roll call, the motion carried 4-0.

A motion was made by Mr. McDonald and seconded by Mr. Shaw to deny the pillar portion of (b) *Gateposts, gates and pillars, located in front, street side and rear street yard areas* but approving the remaining language. On roll call, the motion carried 4-0.

A motion was made by Mr. McDonald and seconded by Mr. Wyett to approve (c) *Side and rear yards* as recommended by the Zoning Commission. On roll call, the motion carried 3-1 with Mrs. Smith casting a negative vote.

No action was taken on (d) Restrictions as there were no changes in the current language.

Item 20. On a vote of 7-0, the Zoning Commission recommends approval of the recommendation of the Town Administration not to increase the required open vista requirement for properties within the Beach Area district from fifty per cent (50%) to eighty per cent (80%) .

After hearing comments from the staff and after discussion, Mr. Shaw made a motion to approve the Zoning Commission's recommendation not to increase the required open vista requirement for properties within the Beach Area district from fifty per cent (50%) to eighty per cent (80%). The motion was seconded by Mr. McDonald and carried 3-1 with Mr. Wyett casting a negative vote.

Item 21. On a vote of 7-0, the Zoning Commission recommends approval of the proposal, as submitted by the Town Administration, to amend Section 5.51, MINIMUM YARD, LOT AND BULK REGULATIONS, subsection (c) as follows to ensure that two- story, unenclosed accessory structures meet the same setback as the principal structure:

(c) ~~No~~ Unenclosed accessory structures shall comply with all open yard requirements contained in this ordinance for the principal structure, except that one-story, unenclosed accessory structures that do not exceed fifteen (15) feet in overall height may ~~shall~~ be located within ten (10) feet of a side or rear lot line, with the exception of garden walls and fences, which are regulated by section 5.36 of this ordinance.

After discussion and hearing comments from the staff, Mr. Wyett made a motion to approve the Zoning Commission's recommendation to amend Section 5.51, MINIMUM YARD, LOT AND BULK REGULATIONS, subsection (c), as stated above, to ensure that two-story, unenclosed accessory structures meet the same setback as the principal structure. The motion was seconded by Mr. McDonald and carried 4-0.

Item 22. On a vote of 7-0, the Zoning Commission recommends approval of the proposal, as submitted by the Town Administration, to amend Section 6.21, OFF-STREET PARKING* (F) of the Zoning Ordinance to read as follows in order to provide more of a setback for off-street parking spaces from a street and also to provide more of a landscape open space requirement for parking lots by modifying the language as follows:

(F) *Utilization of Yards....*

In all districts for all other permitted or approved special exception uses, required front, street side, or street rear yards may not be used for off-street parking, but all other yards may be used for such purposes. In addition, no required or supplemental off-street parking shall be located closer than fifteen (15) feet from a front, street side, or street rear property line. ~~If a side or rear yard or nonrequired front, street side or street rear yard is used for parking purposes, it~~ Required or supplemental off-street parking shall be effectively screened with hedges or walls or a combination thereof

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~~placed at the appropriate building line between the off-street parking and any street. Such screening shall not be less than six (6) feet high and shall laterally extend across the entire building line which separates the parking area from the street except for the access way. Such screening shall also be required along the interior lot lines and shall not be less than four (4) feet in height and shall not encroach upon the rear easement line. The height of said required screening shall be measured as set forth in Section 5.36 of this ordinance. Each parking space shall have an adequate and substantial wheel stop or curb, not less than six (6) inches in height, located at least four (4) feet from the abutting side or rear property line and not less than two (2) feet from required landscaping. Such two-foot setback may be part of the ten-foot by twenty-foot parking space and need not be paved, but shall not be included in the calculations of required landscaped open space. Further, all required interior landscaping not already protected by wheel stops shall be protected by a curb, a minimum of six (6) inches in height, around the perimeter of such landscaped area to prevent damage by vehicles maneuvering within the parking area. Such curbing must be so designed as not to prevent the drainage of water from the paved area into the landscaped area.. In addition to the screening requirements above, the interior of the parking area must have suitable landscaping, including the provision of shade trees, such landscaped area to be not less than five (5) ~~ten (10)~~ per cent of the parking and drive aisle area. The total area devoted to landscaping, comprising both the screening and the interior landscaping, must be at least ~~ten (10)~~ fifteen (15) per cent of the parking and drive aisle area. A site plan showing the landscaping, and the irrigation facilities for the landscaping must be submitted.~~

After hearing the comments from the staff and after discussion, a motion was made by Mr. Wyett and seconded by Mr. McDonald to approve the recommendation of the Zoning Commission to amend Section 6.21, OFF-STREET PARKING* (F) of the Zoning Ordinance as stated in the preceding paragraph (F) in order to provide more of a setback for off-street parking spaces from a street and also to provide more of a landscape open space requirement for parking lots by modifying the language. The motion was seconded by Mr. McDonald and carried 4-0.

Item 23 was heard on Friday morning, January 9, 1998, with the meeting beginning at 9:35 a.m. Mr. McLendon was present at the meeting on January 9, 1998, until 10:30 a.m. and voted on item 23 and (a) of item 24.

Attorney Tracy Biagatti substituted for Attorney John Randolph at the Friday morning meeting.

Item 23. On a vote of 7-0, the Zoning Commission recommends approval of the proposal, as submitted by the Town Administration, to amend Section 6.21(F), *Utilization of yards.*, and 6.21(H) *Utilization of structures* to require that all town house and multi-family development of less than five dwelling units provide required off-street resident parking spaces entirely within the building. These sections shall read as follows:

(F) *Utilization of yards.*

...

In the R-C, R-D(1), and R-D(2), required parking (except guest spaces) for all town house development shall be located within a garage. Supplemental parking may be permitted in any setback area or yard area provided, however, that ~~one (1) of the required parking spaces for each unit shall be within a garage. All such required and/or supplemental space,~~ not located within a structure, shall require effective screening by hedges and/or walls permitted by code not less than six (6) feet in height which shall be placed between the off-street parking and any street and/or interior lot lines.

The forgoing requirement for garage or screened parking applies only to new construction, redevelopment or major remodeling involving more than fifty (50) percent of the existing cubic content of the structure.

In all districts where permitted, multi-family development of less than five dwelling units shall provide all required parking (excluding guest spaces) within a garage. For all other multi-family development and in all districts for all other permitted or approved special exception uses, required front, street and street rear yards may not be used for off-street parking, but all other yards may be used for such purposes. If a side or rear yard or nonrequired front, street side or street rear yard is used for parking purposes, it shall be effectively screened with hedges or walls or a combination thereof placed at the appropriate building line between the off-street parking and any street. Such screening shall not be less than six (6) feet high and shall laterally extend across the entire building line which separates the parking area from the street except for the access way....

(H) *Utilization of Structures.*

(1) The structure shall conform to all lot, yard and bulk requirements of the district in which it is located except as follows:

In the R-C, R-D(1) and R-D(2) Districts, when ~~townhouse or~~ multi-family development of five or more units includes all required off-street parking (other than required guest spaces) in parking located underground or wholly under the building, using the Town's minimum base flood elevation as the starting point, the first eight (8) feet of such under story parking shall not count towards allowable building height; and, maximum allowable building coverage may be increased by five (5) percent.

After hearing staff comments, comments from Zoning Chairman Robert Wood and after discussion, Mr. Shaw made a motion to approve the recommendation of the Zoning Commission to amend Section 6.21(F), *Utilization of yards.*, and 6.21(H) *Utilization of structures* to require that all town house and multi-family development of less than five dwelling units provide required off-street resident parking spaces entirely within the building. The changes to reflect the modification are stated in paragraphs (G) and (H) above. The motion was seconded by Mr. McLendon and carried unanimously.

Item 24. On a vote of 7-0, the Zoning Commission recommends approval of the proposals, as submitted by the Town Administration, and amended by the Zoning Commission, to amend Sections 8.23, REGULATION OF

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~~NONCONFORMING BUILDINGS AND /OR STRUCTURES, subparagraph (a), and Section 8.24,~~
TERMINATION OF NONCONFORMING BUILDINGS AND/OR STRUCTURES to read as follows in order to allow for demolition, restoration and reconstruction of all nonconforming buildings and strengthen the parameter within which the building would have to be converted to conforming buildings. In addition, the following language is to clarify that reconstruction of certain structures located east or partially east of the coastal construction control line must meet all Federal, State and local building requirements:

Sections 8.23, REGULATION OF NONCONFORMING BUILDINGS AND /OR STRUCTURES

~~(a) Restoration. Any nonconforming building and/or structure which has less than fifty (50) per cent of its previous existing floor area made unsafe or unusable by lack of normal maintenance or by ordinary deterioration may be restored or reconstructed as before, provided that the floor area of such building and/or structure shall not exceed the floor area which existed prior to such damage. All repairs shall be completed within one (1) year after damages occur or such building and/or structure shall not be rebuilt unless rebuilt as a conforming building and/or structure.~~

(a) Voluntary Restoration, Demolition and Reconstruction. A nonconforming building and/or structure may be restored as before, or partially demolished and reconstructed provided that demolition, restoration or reconstruction for such purpose does not exceed fifty (50) per cent of its existing cubic footage and provided that the reconstruction of said building and/or structure does not exceed the floor area, gross leasable floor area and/or cubic footage which existed prior to said demolition restoration or reconstruction. All restoration and reconstruction shall be completed within one (1) year after commencement. In the event said restoration or reconstruction is not completed within one year, such building and/or structure shall not be restored or reconstructed unless restored or reconstructed as a conforming building and/or structure.

(b) Alterations and Repairs. Normal maintenance and repair and incidental alteration of a nonconforming building and/or structure is permitted, provided it does not increase the area, volume or size. A building used for single-family or multi-family residential purposes may be altered in any way to improve interior livability, provided, however, that no alterations shall be made which would increase the number of dwelling units.

Single-family dwellings may be added onto or partially demolished in accordance with Sections 5.17.

Section 8.24, TERMINATION OF NONCONFORMING BUILDINGS AND/OR STRUCTURES

a. Destruction or Partial Destruction Any nonconforming structure which is destroyed by fire or other casualty or act of God, to the extent of fifty (50) per cent or less, as determined by cubic footage prior to its destruction may be reconstructed in its original location to its original size and configuration.

b. A nonconforming structure which is destroyed by fire or other casualty or act of God, to the extent of more than fifty (50) per cent, as determined by cubic footage prior to its destruction shall be rebuilt only as a conforming structure except:

(1) In the event that a nonconforming designated landmark; single-family dwelling; public structure; or public/private group use which is entirely west of the coastal construction control line is destroyed by fire or other casualty or act of God, to the extent of more than fifty (50) per cent, as determined by cubic footage prior to its destruction, such designated landmark; single-family dwelling; public structure; or public/private group use may be reconstructed in its original location to its original size and configuration. No other nonconforming building and/or structure so destroyed shall be rebuilt unless rebuilt as a conforming building and/or structure.

(2) Any designated landmark; single-family dwelling; public structure; or public/ private group use that is located partially or entirely east of the coastal construction control line may be rebuilt to the maximum extent possible in its original location to its original size and configuration provided it meets all local, State and Federal requirements for buildings and/or structures located east of the coastal construction control line.

The Town Council considered (a) on page 23 of the Zoning Report of item 24 separately. Mr. Shaw made a motion to change the language in paragraph (a), Section 8.23, 7th and 8th lines, from "one year" to "eighteen months". The motion was seconded by Mr. Wyett and carried unanimously.

Mr. Shaw made a motion, seconded by Mr. Wyett, to approve the changes, as recommended by the Zoning Commission, as listed in (a) and (b) of Section 8.24, TERMINATION OF NONCONFORMING BUILDINGS AND/OR STRUCTURES. On roll call, the motion carried 4-0 as Mr. McLendon had left the meeting.

Items 25 and 26 were heard at the meeting held on Wednesday, January 7, 1998, with Mrs. Smith, Mr. Shaw, Mr. McDonald, and Mr. Wyett voting. Mr. McLendon was absent.

Item 25. On a vote of 7-0, the Zoning Commission recommends approval of the proposal, as submitted by the Town Administration, to delete the following language from criterion (g) of Section 10.13. VARIANCES:

(g) That the grant of the variance will be in harmony with the general intent and purpose of this ordinance, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare. In granting any variance, the Town Council may prescribe appropriate conditions and safeguards in conformity with this ordinance.

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Upon granting a variance the ~~t~~Town ~~c~~Council may require the land owner to provide a "declaration of use" agreement which shall be recorded in the public records to ensure continuing compliance with ~~t~~Town ~~c~~Council imposed conditions of such grants. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance. ~~In this regard, in the event that the town council should grant a variance to the terms of Subsection 5.51(a)(6) of this ordinance which prohibits the installation of a kitchen or cooking facilities in an accessory building in the R-AA, R-A and R-B single-family zoning districts, in that event a condition of such council grant shall in all cases be that an annual sworn statement satisfactory to the town shall be furnished to and filed with the town building and zoning department by the property owner involved to the effect that such accessory building is not being and has not been used for separate rental purposes but rather continues to be used for lawful accessory uses only as provided in the regulations contained in this ordinance.~~

After hearing staff comments and after discussion, Mr. Wyett made a motion to approve the recommendation of the Zoning Commission to approve the proposal to delete the language from criterion (g) of Section 10.13. VARIANCES as stated in the previous paragraph. The motion was seconded by Mr. McDonald and carried 4-0.

- Item 26. On a vote of 7-0, the Zoning Commission recommends approval of the proposal, as submitted by the Town Administration, to amend Section 11.10 of the Zoning Ordinance to read as follows in order to clarify the procedure for submitting a zoning application and also to set a specific date for the deadline for rezoning, modifications or amendments to the Zoning Ordinance:

(11.10) Town council action of amendments.

The town council may from time to time on its own motion or on petition, signed by the fee simple property owner (or authorized designee, agent or representative by power of attorney filed with the building official or his designee) of the property involved, amend, supplement, change, modify or repeal the regulation, restrictions or district boundaries herein established.

Any proposed amendment, supplement, change, modification or repeal shall first be submitted to the building official or his designee who shall submit to the zoning commission for its recommendations and report. Upon filing of the recommendations and report by the zoning commission, the town council shall proceed to hold a public hearing in relation thereto, giving at least fifteen (15) days' notice of the time and place of such hearing in a newspaper having a general circulation in the town, and by posting on the official bulletin board of the town hall.

...

No hearings shall be held on any application for rezoning of property or for modifications or amendments of the zoning ordinance except during the annual zoning season which shall be the months of November, December, January, February, March and April of each year. All applications for rezoning, or applications to amend, supplement, change, modify or repeal the zoning ordinance shall be filed only during the months of May, June, July, August and no later than the first Tuesday in September 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 (4) members of the ~~t~~Town ~~c~~Council.

After hearing comments from the staff and Chairman of the Zoning Commission Robert Wood and after discussion, Mr. Shaw made a motion to modify the language of item 26 to read "ordinance shall be filed during the month of May, June, July, and no later than the first Tuesday in August". The motion was seconded by Mr. McDonald. The motion carried 4-0.

Mr. Randolph concurred that the language could be modified to that extent at this time. Mr. Shaw requested, and Mr. Moore agreed, that the list of study items submitted to the Town Council members would be in the form of a short summary of each item to explain the intent of the items.

VIII. ANY OTHER ITEMS

Mrs. Smith mentioned that when Joy Hearn from the Palm Beach County Tax Appraiser's office was present at the meeting on the first day, she was asked if she would like to read into the record the establishment of standards and values for the Property Assessor's office, and she declined to do that. Mrs. Smith said she did have copies of 195.032 and wanted to enter these into the record so the Zoning Commission would have them.

Mr. Doney suggested that Mr. Gary Nikolits be invited to Zoning Commission meetings when F.S. 195 is considered. He said that Chapter 197 is also used in addition to the Florida Administrative Code when they develop criteria to establish market value and other details.

Mr. Wood said that perhaps the Town may want to consider employing their own appraiser to look at selected streets, lots, etc. to give the Town an idea if a great risk would be incurred under the Harris Act prior to the Zoning Commission studying some of the questions concerning FAR, etc. next year.

Mr. Wood reported that he talked to Ms. Hearn after her appearance at the meeting and she indicated that when the FAR would be reduced from .50 to .45 there would be certain streets that were undesirable to begin with and certain small lots would suffer a reduction in value to some extent. Ms. Hearn said there was an impact; however, she did not give any amounts.

Mr. Wyett reported that Ms. Hearn told him that some of the lots that were 10,000 or less square feet have failed to increase in value recently.

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~~Mr. Moore said he would discuss the issue with Mr. Randolph and report back at the 5:01 p.m. meeting on January 26, 1998, when the first reading of the zoning ordinance will take place.~~

Mr. Moore announced the second reading of the ordinance would take place at 5:01 p.m. on February 9, 1998.

After discussion regarding Mr. Wood's suggestion to have an appraisal report for the Town, Mr. Wood thought that it should be more of a research project.

Mayor Ilyinsky thanked Mr. Wood for his efforts on behalf of the Zoning Commission.

IX. ADJOURNMENT

The meeting on January 9, 1998, was adjourned at 4:10 p.m., concluding the meetings to consider the 1997-1998 Zoning Commission Report.

Mary A. Pollitt, Town Clerk