

TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES FROM THE SPECIAL TOWN COUNCIL MEETING REGARDING ZONING HELD ON WEDNESDAY, JANUARY 5, 2005, 9:30 A.M.

I. CALL TO ORDER AND ROLL CALL

President Wyett called the Special Town Council Meeting - Zoning Hearing - to order at 9:30 a.m. in the Town Council chambers.

On roll call the following Elected Officials were found to be in attendance: Mayor Lesly S. Smith; President Allen S. Wyett; President Pro-Tem Samuel C. McLendon; Councilman William J. Brooks; Councilman Norman P. Goldblum; and Councilman Jack McDonald.

Also attending for all or part of the meeting were: Town Attorney John C. Randolph; Assistant Town Manager Thomas G. Bradford; Planning, Zoning and Building Director Robert L. Moore; Assistant Planning, Zoning and Building Director Veronica Close; Zoning Administrator Paul Castro; and Town Clerk Mary A. Pollitt. William Brisson, Adley, Brisson, Engman, the Town's Zoning consultant was also present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Pollitt gave the invocation. President Wyett led the invocation.

III. APPROVAL OF AGENDA

Councilman Brooks made a motion to approve the agenda as printed. The motion was seconded by Councilman Goldblum and carried 5-0 on roll call.

IV. PROOF OF PUBLICATION

Town Clerk Pollitt verified proof of publication.

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V. PROCEDURES FOR COMMENTS BY GENERAL PUBLIC

President Wyett called for comments from any member of the public. There were none.

VI. 2004-2005 ZONING SEASON STAFF REPORT AND THE TOWN PLANNING AND ZONING COMMISSION'S RECORD AND REPORT

Zoning Administrator Paul Castro requested the Breakers PUD amendment, Study Item 18, be moved to the front of the agenda before any of the Study Items were heard, and after the PUD was heard, Urban Design Studio's visual presentation regarding Ridgeview Drive and Jamaica Lane, Study Item 4, would be presented.

Councilman Brooks made a motion to hear the Breakers PUD, Study Item 18, before any of the other items. The motion was seconded by President Pro-Tem McLendon and carried 5-0 on roll call.

The Town Clerk administered the oath to all persons who would be giving testimony during the proceedings.

STUDY ITEM 18. Property owner request to amend Breakers PUD and rebuild beach cabanas, add seating, modify the restaurant area, and add additional building area for service space.

Mr. Castro explained the procedure would be to hear the Breakers presentation, the staff report, the Planning and Zoning Commission report, and to authorize staff to draft a resolution for the Breakers PUD to be considered at the Town Council meeting scheduled for February 15, 2005.

Attorney James Brindell, representing the Breakers, said this request was for the last major change that would occur at the Breakers at the end of the ten year period where major upgrades have taken place.

He explained the cabana area at the south end of the property currently contained 56 cabanas which will be reduced to 20 cabanas; the bar/grill area will be remodeled to include 136 seats; and new pool configurations will be added, i.e. jacuzzis, small pavilion, new locker-restroom building, laundry facility. He added the master plan would be updated to reflect the number of changes made over the last several years.

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Mr. Brindell addressed the questions of enclosing the pool equipment to reduce the noise levels and construction traffic on Via Bethesda. He said that Via Bethesda would only be used when certain types of equipment were needed for the cabana improvements, and a management plan, approved by the Building Department, will be in place before construction begins delineating the construction traffic flow plan.

Mr. Castro said staff's concerns did relate to the screening of the pool equipment and the construction traffic. He added the Town Council will consider a Site Plan Review with a Special Exception that runs concurrent with this application that will be presented at the Town Council February 15th meeting.

Councilman Goldblum ascertained that the odors from the restaurant and the noise from the laundry will not be issues with the neighbors or patrons.

Responding to questions from Councilman Brooks, Mr. Brindell replied construction is planned for the summer of 2005 with completion by the 2005-2006 season.

Mr. Castro suggested the Bethesda traffic recommendations be part of conditions for approval at the February meeting.

Mayor Smith added Mr. Brindell would save time if he discussed traffic controls with the neighbors on Bethesda before the February meeting.

Mr. Brindell said he would do that.

Councilman Brooks made a motion to approve the petition to amend the Breakers PUD.

No one from the public came forth to comment on the issue.

President Pro-Tem McLendon seconded the motion. The motion carried 5-0 on roll call.

STUDY ITEM 4: Phase II of a Maximization Study for Ridgeview Drive and Jamaica Lane

Zoning Administrator Castro explained Russell Scott and his associate from Urban Design Studio would present the second phase of the study. He reported the Planning and Zoning Commission recommended the item be deferred, in terms of the maximization study, to consider neighborhood by neighborhood CCR with a recommendation to be presented at the Commission's January 27th meeting as it related to the study.

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Mr. Castro continued that several studies have been conducted over the past twenty years with several zoning code regulations implemented that were intended to reduce the size, the scale of the mass of homes; i.e. the angle of vision, the building height plane, floor area ratio, and the cubic content ratio. After summarizing the Zoning Commission studies over the past years, he said the Commission is reviewing the maximization study, and the new homes in the R-B district on the interior lots with part of the study reviewing the FEMA requirements as related to the existing elevations and the maximum possibilities.

Russell Scott, Urban Design Studios, presented a computer program showing a generated projection of existing conditions and the possible development under the current development regulations.

After viewing the presentation and discussing existing conditions and potential development, **Councilman Goldblum made a motion to accept the staff's recommendation to move forward with the staff's study to be presented at the January 27th meeting of the Planning and Zoning Commission and defer to the Town Council on February 28th; reviewing the neighborhoods, the bonus zoning endorsed by the Town Council, and presenting a specific volume recommendation at the February meeting. The motion was seconded by Councilman McDonald. On roll call, the motion passed 5-0.**

STUDY ITEM 5: Complete work as identified in the Strategic Plan related to planning and zoning items

- A. Review and strengthen "town-serving" commercial development ordinance**
- B. Tighten commercial development standards to prevent certain uses which are determined to be inappropriate in the Town**
- C. Explore way to promote retention of small and independent Town-serving businesses**

Zoning Consultant William Brisson reviewed the three items one at a time, noting that the town-serving requirement is known as the 2,000 square foot limitation which allows uses greater than 2,000 square feet by virtue of only a special exception which has been in place since the early 1980's withstanding all of the legal challenges that were posed to it in nearly 25 years. He said the staff has been unable to develop new ways to strengthen the ordinance which would work without possibly jeopardizing the ability to defend something that has already stood the challenges, and staff recommended no change to the present town-serving ordinance, and the Planning and Zoning Commission agreed with that recommendation.

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Mr. Brisson reported that changes in drive-through facilities were identified as an example of unwanted commercial development in the Town. He continued that the recommendation was to prohibit retail drive-in facilities in the Worth Avenue District, C-WA, but he would be cautious in making recommendations related to chain stores, and for all practical purposes by virtue of the definitions, fast food restaurants would be allowed only in the C-PC district and not in any other district.

Mayor Smith expressed her concern regarding allowing fast food restaurants or drive throughs in Royal Poinciana Plaza and suggested that issue should be reviewed at this time.

President Wyett said he agreed with the Mayor.

Consultant Brisson, commenting on item C., exploring ways to promote retention of small and independent Town-serving businesses, said the staff recommended eliminating from the Worth Avenue District and the C-TS District the present allowance for office professional services, business services, etc. on the ground floor without frontage on the sidewalk.

After discussion of items A., B., and C., **Councilman McDonald made a motion the Town Council take no action on Study Item 5. A. and the Planning and Zoning Commission's recommendations be accepted on Study Items 5. B. and C.**

Zoning Commission Study Item 5.B. recommendation: "Accept Staff's recommendation to prohibit drive-in retail facilities in the C-WA Commercial Worth Avenue District."

Zoning Commission Study Item 5.C. recommendation: "to delete the language in the Zoning Code allowing for offices on the ground floor in the C-TS and C-WA districts." (Clarification: banks would still be a permitted use on the first floor in the C-TS district, but would not be permitted in the C-WA zoning district on the first floor.)

The motion was seconded by Councilman Brooks and carried unanimously.

STUDY ITEM 7: Study a Proposal to Increase required Off-Street Parking for all Type of Residential Development Based on the Size or Number of Bedrooms

Consultant Brisson explained the Planning and Zoning Commission deferred this item until its scheduled January 27th meeting; therefore, making no recommendation.

Councilman McDonald made a motion to defer Item 7. The motion was seconded by Councilman Brooks and carried 5-0 on roll call.

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STUDY ITEM 8: Study the Town Zoning Code and the Comprehensive Plan, regarding submerged lands of Lake Worth as they relate to zoning, bulkhead and mean high water line

the following is a verbatim record of the proceedings:

Randolph: As you will recall, this item came up as a result of some inquiries in regards to proposed construction west of the bulkhead line in the south end of Town, into Lake Worth, and the Building and Zoning Staff are of the opinion that the Zoning Code as it now exists precludes that kind of development; however, they had suggested some clarification in the language of the Zoning Code so as to make it more clear if it needed to be made more clear – that development would not be allowed waterward of the bulkhead line. Subsequently, a law suit was filed in regard to this matter, and as a result of the tendency of that law suit, it was my recommendation to the Zoning Commission that we not make any changes to our Zoning Code at this particular time, and that we rely on the Code as it exists.

I am just concerned in regard to the Bert Harris Property Rights Act that by making changes, subsequent to the adoption of the Bert Harris Act, we might be fueling some activity for further litigation, so I would suggest that there be no change in the Code at this particular time for two reasons: 1) dependency of the law suit; and 2) because of the Bert Harris concerns.

Brooks: Yes, I will make that motion in a moment, but a question first, sir. Have we not filed a response on that last suit asking for a motion of summary...

Randolph: Yes.

Brooks:due to the fact that they have not obtained proper environmental.....

Randolph: Yes, and that is the way we will proceed.

Brooks: Okay. But it's not likely okay. Then I make the motion that we make no change in our existing Code as regards development westward of the bulkhead line.

McLendon: Second.

Wyett: Is there any comment from the general public?

None

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Wyett: Hearing and seeing none, I call the question.

On roll call the motion carried 4-0 as Councilman McDonald was temporarily out of the room.

STUDY ITEM 12: Study a Provision to allow Office Use on the First Floor with Direct Street Frontage in the C-TS Zoning District

Consultant Brisson said that both staff and the Zoning Commission recommended prohibiting office uses on the first floor with direct street frontage in the C-TS Zoning District.

Councilman Goldblum made a motion to not allow office uses on the First floor with direct street frontage in the C-TS Zoning District. President Pro-Tem McLendon seconded the motion. The motion carried 4-0 on roll call as Councilman McDonald was temporarily out of the room.

STUDY ITEM 14: Increasing the Landscape Open Space in the R-B Zoning District

Zoning Administrator Castro recalled that Urban Design Studio looked at the pervious and impervious areas of Ridgeview Drive and Jamaica Lane, and based on reviewing the existing and built-out conditions, utilizing the minimum landscaped open-space requirements, a drastic difference exists in terms of the hardscape. He continued the landscape open requirements were increased last year in the R-AA (55%), large estate, and the R-A (50%) districts.

Mr. Castro said the staff's recommendation was to increase the landscape open space requirement in the R-B district for lots under 20,000 square feet to 45% and over 20,000 square feet to what is required in the R-A district (50%). He added that in keeping with the interest to increase perimeter landscaping, the recommendation is to have a minimum threshold of 50% of the landscaping be within ten feet of the side and rear property lines and within the front yard.

He noted that the Planning and Zoning Commission did recommend an increase in the R-B and R-C districts but did not recommend the perimeter landscaping.

Richard Kleid, Chairman of the Planning and Zoning Commission, said the Commission thought that by regulating where the landscaping should be would create box-like structures, and the Architectural Commission could review the landscaping, project by project.

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Councilman Brooks made a motion to accept staff's recommendation regarding the perimeter of the property including the increases as stated, 40% to 45% for lots under 20,000 sq. ft. in the R-B district *and the R-C district*, and 50% for lots over 20,000 sq. ft. in the R-B district. The motion was seconded by President Pro-Tem McLendon. On roll call, the motion carried 4-0 as Councilman McDonald was temporarily out of the room.

Mr. Castro mentioned that staff recommended the same 45% landscape open space requirement for a single family home in the R-C district.

Councilman Brooks said he accepted that in the previous motion. The Council members agreed that was part of the motion.

STUDY ITEM 15: Allowing Telecommunications Antennas in the PUD-A Zoning District

Zoning Administrator Castro explained this item related to the Breakers PUD district and stealth antennas would be allowed in this residential area. He said the recommendation is allow the antennas by special exception only in this zoning district and if the towers cannot be placed on Town-owned properties or the company cannot provide the service needs of Town residents without the towers.

President Wyett said he was concerned that the Town may lose revenues if the towers are placed in residential areas and not on Town-owned property.

Mr. Castro replied the Planning and Zoning Commission also expressed concerns over loss of revenue, and as Attorney Randolph pointed out, applicants will apply to the Town first and demonstrate the necessary services to Town residents cannot be carried out using Town facilities before other sites are considered.

Councilman McDonald said the Town should temporarily forget about the revenue issue and provide the best service for the citizens.

Councilman Brooks said he recommended a minimal approach be used as technology will eventually solve and answer the discussion.

After further discussion, Councilman McDonald made a motion to approve the Zoning recommendation that adopted the staff recommendation to Chapter 134 - Zoning, Division 12, TELECOMMUNICATION TOWERS AND ANTENNAS, Section 134-2029, Permitted or special exception use:

Antennas and towers shall be either a permitted use on the town owned property or a

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special exception use in the town's commercial and PUD-A zoning districts. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

The motion was seconded by Councilman Brooks.

Mr. Castro advised the possibility may exist that the Breakers could request a tower feature at the Breakers as the property is so large, because this was approved and clarified this motion was for stealth technology in the existing towers of the building only.

Councilman McDonald amended his motion to include the revision 'antennas for the Breakers PUD-A excluding and not including towers'. Councilman Brooks accepted the revision, and the motion carried 5-0 on roll call.

STUDY ITEM 17: Property Owner Requests for Amendments to the Future Land Use Element of the Comprehensive Plan and Zoning Code to Allow Mixed Use Commercial and Residential Development in the Royal Poinciana Plaza

Mr. Castro recommended this item be deferred to the Town Council meeting scheduled for February 28, 2005, after the Planning and Zoning Commission meets on January 27th and 28th. He added that staff anticipates the item will be deferred to a later date at the February 28th meeting.

Councilman Brooks made a motion to defer the item to the Town Council meeting scheduled for February 28th. The motion was seconded by Councilman Goldblum and carried 5-0 on roll call.

Councilman Brooks, referring to Study Item 7, increase in residential parking requirements, that was deferred, said he would like to see the Council review traffic congestion related to construction, especially in the north end of the Island.

Councilman McDonald said he had made a recommendation to limit the number of parking permits issued on a given street at any point in time.

Mr. Moore responded Planning, Zoning and Building worked on a plan before the hurricanes but offered to research the status of the issue and report at a later meeting.

Attorney Randolph recalled the Council adopted an ordinance to restrict the parking of

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commercial vehicles on residential streets and discussion at a staff meeting took place resulting in both of the items moving forward at this time.

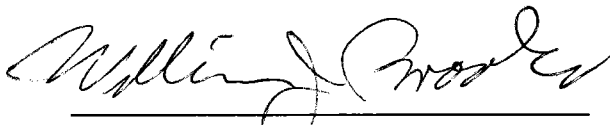
Councilman Brooks made a motion to defer Item 7 to the February 28, 2005, Town Council meeting. The motion was seconded by Councilman McDonald and carried 5-0 on roll call.

VII. OTHER ITEMS

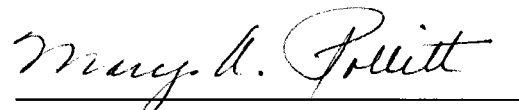
There were no other items.

VIII. ADJOURNMENT

The meeting was adjourned at 11:30 a.m.



Town Council President



Mary A. Pollitt, Town Clerk