PLANNING AND ZONING COMMISSION
RECORD AND REPORT - DRAFT
TOWN HALL – COUNCIL CHAMBERS – SECOND FLOOR
360 S COUNTY ROAD, PALM BEACH
TUESDAY, APRIL 19, 2016, 9:30 a.m.

Please be advised that in keeping with a recent directive from the Town Council, the minutes of all Town Boards and Commissions will be "abbreviated" in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town's website at www.townofpalmbeach.com or may obtain an audio recording of the meeting by contacting Kelly Churney, Secretary to the Planning & Zoning Commission at (561) 227-6408.

I. CALL TO ORDER AND ROLL CALL

Chair Klein called the meeting to order at 9:30 a.m.

Martin I. Klein, Chair	PRESENT
Lewis Crampton, Vice Chair	PRESENT
Susan Markin, Member	ABSENT (unexcused)
Michael Scharf, Member	PRESENT
Carol Mack, Member	PRESENT (left the meeting at 12:47 p.m.)
Alan S. Golboro, Member	PRESENT
Michael Ainslie, Member	PRESENT
Michael Spaziani, Alternate Member	PRESENT
Susan Watts, Alternate Member	PRESENT
Rick Pollock, Alternate Member	PRESENT

Staff Members present were:
John Page, Director of Planning, Zoning & Building
Paul Castro, Zoning Administrator
Debby Morakis, Secretary to the Planning and Zoning Commission
Kelly Churney, Secretary to the Planning and Zoning Commission

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Ms. Churney led the Commission with the Invocation and the Pledge of Allegiance.

III. APPROVAL OF THE AGENDA

Motion made by Mr. Golboro and seconded by Mr. Crampton to approve the agenda. Motion carried with all in favor.

IV. APPROVAL OF MARCH 22, 2016 PLANNING AND ZONING COMMISSION MINUTES

Motion made by Mr. Golboro and seconded by Mr. Crampton to approve the minutes. Motion carried with all in favor.

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

No comments were heard from citizens at this time.

At this time, Skip Randolph, Town Attorney joined the meeting via telephone. Also, Ms. Churney administered the oath at this time to persons who wished to testify.

VI. NEW BUSINESS - PROPOSED PLANNED UNIT DEVELOPMENT AMENDMENTS

Request by the Breakers Palm Beach, Inc., to amend the Breakers PUD Agreement for the PUD-A Zoning District.

Call for disclosure of ex parte communication: Disclosure by several Commission Members

Jamie Crowley, Attorney with the Gunster Law Firm, and Paul Leone represented The Breakers Palm Beach, Inc.

Mr. Crowley presented the proposed extension of the PUD Agreement to the Commission. The Breakers would like to extend four deadlines that expire on December 31, 2025 by 25 years to December 31, 2050. These developments include 1) the commencement of development of the 251 unbuilt residential units, 2) the golf course to remain open space, 3) the Pine Walk Transfer Station lease, 4) 149 units located west of County Rd that could be transferred to the eastern portion of the PUD. Mr. Crowley presented the master plan with the phases of future development of the PUD and explained in detail, each extension deadline.

Mr. Page stated that Paul Brazil, the Director of Public Works could not be in attendance but noted that Eric Brown, the Assistant Director of Public Works was present should the Commissioners have any questions.

Mr. Castro stated that Mr. Crowley's presentation of the PUD was a fair representation and provided the Commissioners with his thoughts regarding the Transfer Station.

Commission Comments: Mr. Crowley was asked about the possibility of transferring development rights. The Commissioners also wanted to know why the Breakers would like to extend their deadline at this time. Mr. Crowley stated when The Breakers decide to develop the property, it will take years of planning. However at this time, they would like to maintain a status quo for another 25 years.

Mr. Brown explained the ongoing need for the Transfer Station. Discussion continued.

Mr. Leone stated that this is a work in progress and gave some insights on the PUD. He also stated that both the current generation of the Kenan family and the next are consistent

in their wishes to maintain the property as it is today but also want to protect their fiduciary rights in the PUD.

Discussion ensued between the Commissioners and Mr. Leone.

Commission Comments: Mr. Golboro inquired about the possibility of converting the Transfer Station to the Town by title or a permanent easement. Many members agreed that The Breakers are a positive corporate citizen and have a good relationship with the Town.

Discussion ensued regarding the future development within the PUD and the approval process that would be required. Mr. Castro reiterated that The Breakers will need a large amount of time to plan for the development of the PUD. All future development projects will need staff and Town Council approval.

Mr. Crowley noted the Town has benefited from The Breakers for extending previous deadlines of the PUD.

Discussion ensued with Mr. Crowley and the Commission regarding the possible development on the south side Royal Poinciana Way and County Rd as well as other portions of the PUD.

Mr. Ainslie asked The Breakers to include staff as early as possible on the future development of the PUD. Mr. Crowley agreed and stated they try to include the Town's staff on any projects.

Anne Pepper – 333 Seaspray Avenue, questioned the value of the time extension to The Breakers in relationship to what the Town will receive if they decide to grant the extension. She also concurred with Mr. Scharf's concern in which he asked about the future generations of the Kenan family and their plans for the development of the PUD.

Maisie Grace – 247 Seaspray Avenue, thanked The Breakers and the Kenan family for all they have done for the Town. She also suggested giving The Breakers a 50 or 75 year extension as long as they would commit not to develop within the next 25 years.

Motion made by Mr. Crampton and seconded by Mr. Spaziani to recommend the approval of the amendment to the PUD. Motion carried 6-1 with Mr. Golboro opposed.

Mr. Page noted that he would speak with the Town Council regarding the concerns of the Commissioners.

At this time, the meeting adjourned for a short break at 10:40 a.m.

VII. OLD BUSINESS - ZONING TEXT AMENDMENTS

Note: Study items under Old and New Business are numbered in accordance with the 15 ongoing Code review assignments directed by the Town Council.

7. **Review varying side yard setback requirements and possible related Zoning Code requirements on smaller lots on Seaview Avenue, Seaspray Avenue and Seabreeze Avenue (Sea Streets) in the R-B zoning district for consistency and appropriateness, including a possible change limiting the maximum lot size for residential development on the Sea Streets.**

Mr. Castro presented the changes and modifications to the Zoning Code for the R-B district, in relationship to the Sea Streets that were recommended from the last meeting. The changes made in blue in the document provided to the Commissioners (Exhibit 1) were additions from the last month's meeting. Some changes that were discussed included limiting combinations of lots to build larger homes and rebuilding a home in the same footprint of the previous home. Mr. Castro gave the Commissioners a handout of a city block (Exhibit 2) when he discussed keeping the architectural style consistent on the street. Mr. Castro also explained the items regarding rebuilding requirements, such as site plan review, height requirements and any additions meeting current code.

Mr. Page discussed with the Commissioners the intent in keeping the unique character of the Sea Streets when rebuilding on the same footprint. He recommended adding to 7 (a) "…..requirements as set forth in this Section if redevelopment on the same footprint, ***or with greater setbacks***, as existed prior to demolition….." to allow more flexibility to owners wanting to improve their home.

Mr. Klein stated he would like to include in the record emails he received from Carol LeCates and Anne Pepper as well as a copy of an advertisement in the local newspaper that has incorrectly indicated the Commission's intent on rebuilding on the same footprint. (Exhibits 3, 4 & 5)

Mr. Ainslie questioned the language in the newly added paragraph on page 2 under Lot area. Mr. Castro indicated he could change the section in question to state **"which could have been built"** rather than "built" in what current zoning would allow on a single lot.

Mr. Klein asked Mr. Randolph to comment on these changes in regards to the Bert Harris Private Property Act. Mr. Randolph provided the Commissioners his thoughts on this topic.

Discussion ensued between the Commissioners and Mr. Castro regarding the combining of lots and what would be allowed to be built under the suggested changes as well as what could be built under the current code. They continued to discuss unity of title when lots are combined and whether or not there are any restrictions on what can be demolished.

Ms. Mack expressed concern to Mr. Castro regarding the proposal to keep the architectural style consistent on the same street. Discussion ensued regarding this issue.

Maisie Grace – 247 Seaspray Avenue, questioned the proposed language for the ceiling height requirements when rebuilding. Ms. Grace also stated she liked trying to keep a

similar architectural style to maintain the character but suggested looking at the surrounding homes within 200' of the property or to build in accordance with ARCOM standards or in accordance with the street. Mr. Castro commented on building heights when rebuilding.

Carol LeCates – 212 Seabreeze Avenue, read her email that was sent to the Commissioners opposing the changes to the Sea Streets. (Exhibit 6)

Jackie Albarran – Landmark Preservation Commissioner, expressed her concerns regarding building heights and thought the heights should be calculated existing floor to existing roof when rebuilding.

Anne Pepper – 333 Seaspray Avenue, reiterated that this new provision should be considered an incentive option for renovation rather than demolition and rebuilding and wants to make sure the language in the new prevision clearly states this intent.

Rebecca Grimes – 232 Seabreeze Avenue, stated that she was confused by the new provisions and urged the Commissioners to visit the Sea Streets before they make any changes to the Code. She also asked Mr. Castro about travelling variances. Mr. Castro made comments on variances and setbacks. Mr. Golboro stated that these changes are to allow reconstruction with ease.

Discussion ensued regarding building heights and architectural styles in the new proposed provision.

Mr. Spaziani restated that this initiative began to preserve this historical homes that reflects the Sea Streets district.

Mr. Pollock stated he is concerned the Commission is trying to cover many problems with one ordinance. He also stated ARCOM should be deciding which architectural style is appropriate. Mr. Castro explained that this initiative began from the Planning and Zoning Commission because over the years the Commission has seen several projects where the owner tried to preserve the older home but had too much damage and needed many variances when rebuilding. Discussion ensued.

Motion made by Mr. Golboro and seconded by Mr. Ainslie to recommend the modified language to the Town Council and to include the language "or with greater setbacks" in 7 (a). Discussion ensued. **Motion carried with all in favor.**

9. Review language governing maximum linear building dimensions and lot coverage to prevent same from applying to underground structures (in sub-basements not visible aboveground).

Mr. Castro explained the amended language for existing residential timeshares in the C-PC district that will need to meet the code for sub-basements. He noted the addition "**the setback minimum will be 5 feet from the property line**". He suggested maybe it should

also say "*or the setback requirement is provided for in the zoning district – whichever is greater.*" Mr. Castro continued to explain the intent of this change. He went on to discuss the section for the Commercial districts, excluding the C-PC district. Mr. Castro proposed the sub-basement's maximum lot coverage of 70% for all districts with the exception of the C-PC and residential districts.

Ms. Watts asked Mr. Castro to discuss the regulation on the utilization of sub-basements as well as drainage issues for sub-basements. Mr. Castro addressed these issues.

Mr. Ainslie expressed concern about unattractive entrances to sub-basements. Mr. Scharf stated he does not feel that sub-basements are necessary and only the developers will stand to gain from this initiative.

Anita Seltzer – 44 Cocoanut Row, asked Mr. Klein to ask Mr. Castro to clarify the reason for segregating out the C-PC district. Mr. Castro provided an explanation.

Maisie Grace – 247 Seaspray Avenue, stated that she is against underground parking and is concerned about safety and the possibility of more traffic on the island.

Motion made by Mr. Golboro and second by Mr. Ainslie to recommend to Town Council to approve the amended language to include Mr. Castro suggestion of "a minimum of 5 feet from the property line or the setback requirement as provided for in the district it is located it." Motion carried 6-1 with Mr. Scharf opposed.

10. Review minimum landscaped open space requirements, clarifying how same is to be calculated when "greenspace" exists above underground structures.

Mr. Castro explained the proposed amended language for landscaped open space over a sub-basement. He stated that landscaped open space over a sub-basement will not count as landscaped open space in the C-PC district, in residential districts as well as timeshare uses. He further explained the amended language pertaining to the Commercial districts relating to lot coverage and landscape open space.

Motion by Ms. Mack and seconded by Mr. Ainslie to recommend to Town Council to approve the amended language. Motion carried 6-1 with Mr. Scharf opposed.

14. Study Potential revisions to the Zoning Code to require transformers for underground electric utilities to be screened.

Mr. Castro explained that he spoke with Tom Bradford, Town Manager, regarding the transformers. If the Commission decides to adopt this proposal, the owners will be required to screen their transformers from the street. He also stated that the Town, or the owner, can put in the landscaping around the transformers. However the owner will be responsible for the replacement if FPL needs to remove the landscaping.

Mr. Golboro expressed concern about the current unscreened, green boxes all over the island, which many are in disrepair. Mr. Castro stated that the Town cannot require the

utilities to put in landscaping but they could require the owner to do so. Mr. Golboro stated that moving forward, when the utilities are put in, what can the Town require? Mr. Castro felt that this was more of a Public Works issue.

Mr. Klein asked about the cost of the landscaping? Mr. Castro reiterated that it will the property owner's responsibility to maintain the landscaping.

Mr. Scharf asked about the quality of the landscaping that will be put in for the owners and the possibility of the transformers being buried in the right of way. Tom Bradford, Town Manager, addressed these concerns. He said that transformers can be put underground however FPL has not accepted a standard for underground transformers. Mr. Castro added that was the reason the new language states screen from view from the street insomuch as possible because it may not be possible to screen them if they are in the right of way.

Motion made by Mr. Ainslie and seconded by Mr. Crampton to recommend to Town Council to approve the amended language. Discussion ensued. **Motion carried 6-1 with Mr. Scharf opposed.** *For the record, Ms. Watts voted in place of Ms. Mack, who left the meeting at 12:47 p.m.*

VIII. NEW BUSINESS - TEXT AMENDMENT

13. Review the existing schedule of off-street parking spaces for various land use types to determine if adjustments should be made to the minimum number of required spaces.

This item was deferred to the next meeting by Mr. Klein.

IX. COMMENTS FROM PLANNING AND ZONING COMMISSIONERS AND THE PLANNING, ZONING AND BUILDING DIRECTOR

Mr. Page notified the Commissioners that their August meeting date needed to be changed or cancelled due to a change in the Town Council meeting dates. He also stated that with the exception of item 13 that was deferred, the Commission had completed all of the topics that were directed by the Town Council. A discussion ensued between the Commissioners, Mr. Page and Mr. Castro about cancelling some of the upcoming meetings. It was decided that the May 17th and the August 16th meetings would be cancelled. Mr. Page also announced that staff is anticipating that the Comprehensive Plan would be ready soon to present to the Commissioners. Mr. Golboro stated he would like to have a session where the Commission could discuss items that they would the Town Council to consider as future topics. Mr. Crampton also stated he would like "allowing the Planning and Zoning Commission to reassume the planning functions from the Town Council" to be a future discussion item. It was decided that the next meeting date will be June 21st.

X. ADJOURNMENT

The meeting was adjourned at 12:58 p.m. without the benefit of a motion.

Respectfully Submitted,

Martin Klein, Chair
Town of Palm Beach
Planning & Zoning Commission

Lewis Crampton, Vice Chair
Town of Palm Beach
Planning & Zoning Commission

Exhibit 1

TOWN OF PALM BEACH

Information for Planning and Zoning Commission Meeting on: April 19, 2016

To: Planning and Zoning Commission

From: John S. Page, Director, Planning, Zoning & Building Department

Re: Proposed Modifications and Changes to Chapter 134, Zoning

Date: April 11, 2016

Staff has drafted the following additional Code modifications based on your actions during the March 22, 2016 Commission meeting. Staff is requesting that the Planning and Zoning Commission consider these proposed changes and make recommendations to the Town Council. Five study items appear in "BOLD" print, and are numbered in accordance with the 15 Code review assignments directed by the Town Council to the Commission in October. Newly proposed text is in add/delete format. Additional changes from your last meeting are provided in blue font with bold italicized explanation notes for ease of identification. If you have any questions about the changes, please contact Paul Castro at 227-6406.

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7. Review varying side yard setback requirements and possible related Zoning Code requirements on smaller lots on Seaview Avenue, Seaspray Avenue and Seabreeze Avenue in the R-B zoning district for consistency and appropriateness. (Based on last Commission meeting, provide draft language for limiting the maximum lot size on the "Sea Streets" to prevent the combination of existing lots in order to build larger homes.)

Note: Based upon the re-lettering of Sec. 134-893 by adding a new subsection (a) and changing the existing subsections (a) and (b) to (b) and (c), Sec. 134-446 related to building on nonconforming lots needs to change to cross reference appropriate sub-section of the Code. That change is provided at the end of this study item.

Sec. 134-893. - Lot, yard and area requirements—Generally.

(a) In order to protect the unique, residential character of Seaview Avenue, Seaspray Avenue and Seabreeze Avenue (Sea Streets), partial or complete demolition and reconstruction of a single-family dwelling on a lot 75 feet or less in width is exempt from the lot, yard and area requirements as set forth in this Section if redeveloped on the same footprint as existed prior to demolition provided the following conditions are met:

1. The proposed single-family dwelling is of an architectural style consistent with the architecture of the single-family dwellings within the R-B zoning district on both sides of the subject street, between the intersecting streets in both directions, where the dwelling is situated as determined by the Architectural Commission.

Note: Based on the attached definition of city block and the diagram attached at the end of the memorandum, Staff has attempted to revise the language above to reflect the intent of the Commission.

2. The proposed single-family dwelling shall meet the requirements in Sec. 134-893(c).

3. The height and overall height from the point of measurement of the proposed single-family dwelling is no higher than the dwelling being demolished.

4. Square footage added to the proposed single-family dwelling shall meet all lot, yard and bulk zoning requirements in the Code.

(~~a~~b) *Schedule of regulations.* In the R-B low density residential district, the schedule of lot, yard and area requirements is as given in this section:

(1) *Lot area.* **The minimum lot area is 10,000 square feet. Residential lots, or portions thereof, on Seaview Avenue, Seaspray Avenue and Seabreeze Avenue (Sea Streets) created after (date this Ordinance becomes effective) cannot be combined to create a larger single-family dwelling than that which existed on the lot prior to the properties being combined. This shall not preclude the combination of lots, or portions thereof, on the Sea Streets for the purpose of constructing accessory structures or providing more landscape open space. However, this combination of lots, or portions thereof, shall preclude future use of the additional land in order to build a larger single-family dwelling.**

For lots of 20,000 or more square feet in the R-B district, except for those lots between Dunbar Road and Reef Road which are adjacent to the waters of Lake Worth, the following shall apply:

a. When the width of a lot in the R-B district is equal to or greater than the minimum required for a lot in the R-A district, development of the lot shall be subject to the minimum side yard setback and angle of vision provisions of the R-A district.

b. When the width of the lot is equal to or greater than the minimum required for a lot in the R-AA district, development of the lot shall be subject to the angle of vision provisions of the R-AA district, and lots of 150 feet or more in width shall have the following side yard setbacks: Lots of 150-154 feet in width are required to have a 17.5 foot setback; lots of 155-159 feet in width are required to have a 20-foot setback; and for lots of 160 feet or more in width the setback shall be 22 feet plus two feet for each additional ten feet in width in excess of 169 feet, to a maximum side yard setback of 30 feet.

c. When the depth of a lot in the R-B district is equal to or greater than the minimum required for a lot in the R-A district, development of the lot shall be subject to the minimum front and rear yard setbacks and building height plane provisions of the R-A district.

d. When the depth of the lot is equal to or greater than the minimum required for a lot in the R-AA district, development of the lot shall be subject to the minimum front and rear yard setbacks and building height plane provisions of the R-AA district.

e. When the area of a lot in the R-B district is equal to or greater than 20,000 square feet, development of the lot shall be subject to the maximum coverage and minimum open space provisions of the R-A district, except that the maximum allowable lot coverage for single-story development shall be 30 percent.

f. When the area of the lot is equal to or greater than 60,000 square feet, development of the lot shall be subject to the maximum coverage and minimum open space provisions of the R-AA district, except the minimum allowable lot coverage for single-story development shall be 30 percent.

g. The provisions in subsections (1) a through f above do not apply to lots 20,000 square feet or greater in area between Dunbar Road and Reef Road which are adjacent to the waters of Lake Worth.

(2) *Lot width.* The minimum lot width is 100 feet.

(3) *Lot depth.* The minimum lot depth is 100 feet.

(4) *Density.* The maximum density is four dwelling units per acre.

(5) *Front yard.*

a. The minimum front yard setback for the first story is 25 feet, however the front yard setback may be reduced to a minimum of 20 feet, or portion thereof, provided the required rear yard setback for the first story is increased by the amount of reduction in the front yard.

b. The minimum front yard setback for the second story is 30 feet, however the front yard setback may be reduced to a minimum of 25 feet, or portion thereof, provided the required rear yard setback for the first and second story is increased by the amount of reduction in the front yard.

(6) *Angle of vision.*

a. The building angle of vision (front setback) for one-story buildings is 100 degrees.

b. The building angle of vision (front setback) for two-story buildings is 100 degrees.

c. Building angle of vision is not applicable to lots fronting on cul-de-sacs.

d. No portion of any individual building shall extend beyond a line drawn from the front property line 50 degrees either side of a line drawn perpendicular or radial to the front yard property line. For lots exceeding the minimum required width, the base angle of vision (50 degrees on either side of the line) shall be increased by two degrees for each ten feet of increased lot width over the minimum up to a maximum additional width of 40 feet in the R-B district.

e. In the case of corner lots or through lots with frontage on the following primary north-south roadways, the building angle of vision shall be applied only to the frontage along the designated primary north-south roadway: North Ocean Boulevard; South Ocean Boulevard; North County Road; South County Road; and North Lake Way.

f. In the case of other corner or through lots, the building angle of vision shall be applied only to the front yard as determined by the orientation of the building.

g. For exceptions to these regulations, see section 134-895.

h. For the purposes of determining application of the building angle of vision, an accessory structure shall be considered part of the principal structure when it is separated from the principal structure by a distance of less than 25 feet. When an accessory structure is separated by a distance of 25 feet or more from the principal structure, it shall be treated as separate structure and individually subject to the building angle of vision.

(7) *Side yard.*

a. The minimum side yard setback for the first story shall be 12½ feet.

b. The minimum side yard setback for the second story shall be 15 feet.

(8) *Rear height plane setback.* 25 feet.

(9) *Rear yard.*

a. The minimum rear yard setback for the first story is ten feet except as provided for in subsection (5)a.

b. The minimum rear yard setback for the second story is 15 feet except as provided for in subsection (5)b.

(10) *Height and overall height.*

a. For one-story buildings, the maximum building height is 14 feet.

b. For two-story buildings, the maximum building height is 22 feet.

c. Maximum overall height of a building in the R-B district shall be the maximum allowable building height plus three feet for a flat roof and eight feet for all other roof styles. When a parapet is used above the maximum building height, as defined in_section 134-2, 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.

d. The vertical distance to the top of the beam or plate as described in the building height definition in section 134-2 shall not be more than 18 feet (one story) or 26 feet (two stories) above the crown of street at its highest elevation abutting the lot or the average elevation (taken at the crown of the street) of each of the two streets abutting the lot in the case of corner or through lots.

(11) *Lot coverage.*

a. The maximum lot coverage for one-story buildings is 40 percent.

b. The maximum lot coverage for two-story buildings is 30 percent.

(12) *Landscape open space.*

a. The minimum landscaped open space is 45 percent, of which 50 percent of that percentage is required to be perimeter landscaping within ten feet of the property line. The perimeter landscaped open space requirement shall not apply to lots 20,000 square feet or more in area.

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

(13) *Cubic content ratio.*

a. The maximum cubic content ratio shall be as follows:

1. For lots of less than 10,000 square feet, the maximum allowable CCR shall be calculated as follows: 4.00 + [(10,000 - the lot size) ÷ 10,000].

2. For lots between 10,000 and 60,000 square feet which are not identified in subsection 4 of this section, the maximum allowable CCR shall be calculated as follows: 3.50 + [(60,000 -the lot size)÷ 50,000) × 0.5].

3. For lots of greater than 60,000 square feet which are not identified in subsection 4 of this section, the maximum allowable CCR shall be 3.50.

4. For lots of 20,000 square feet or greater which are adjacent to the waters of Lake Worth from Dunbar Road to Reef Road, the maximum allowable CCR shall be 4.50. For purposes of determining whether a lot is adjacent to the waters of Lake Worth, the traversing of all or a portion of the lot by Lake Trail shall not be considered when determining that adjacency.

5. Exceptions. One architectural tower feature involving no habitable space, as otherwise permitted under subsection 134-896(b), shall not be counted in calculating the cubic content of the structure. Unenclosed covered patios, loggias, balconies, porches or terraces located on the first floor of the structure shall not be counted in calculating the cubic content of a structure, provided the aggregate cubic content of such appurtenances does not exceed five percent of the total cubic content of the structure. Such appurtenances so erected may not in the future be enclosed or converted to permanent additions to the structure if such conversion would increase the cubic content of the structure beyond that allowed by the applicable CCR.

b. For purposes of calculating the cubic content ratio, lot size shall be rounded to the nearest 100 square feet. For purposes of computing the resultant cubic content, the cubic content ratio shall be rounded to two decimal places. A table illustrating the cubic content ratio and associated cubic content for varying lots sizes resulting from the application of the above formulas is provided as Attachment A to this chapter. This table also provides approximations of the likely floor areas achievable at varying average building heights.

(~~b~~c) *Existing building lots.* A single-family structure may be constructed on any existing nonconforming lot at the time of adoption of the ordinance from which this section derives in the R-B zoning district if the lot is less than the minimum area and/or dimension required for building lots in this district; provided, however, that a special exception with site plan review would be required for an unplatted lot and site plan review would be required for a platted lot. In addition, all new construction must comply with all other provisions of the schedule of lot, yard and bulk requirements in subsection (a) of this section and provided, further, the owner of such lot shall not own any adjacent vacant land which would create a conforming lot if the vacant land were combined with the lot deficient in area.

Sec. 134-446. - Development and redevelopment of nonconforming residential lots.

(a) Vacant land located in any zoning district which does not conform to the minimum requirements of lot dimension or lot area as required by the schedule of lot, yard and bulk regulations for the district as given in article VI of this chapter may be developed or redeveloped as allowed in subsections (b) and (c) provided that multi-family residential use and single-family residential use does not exceed the maximum density allowed for the site, as identified in the future land use element in the town's comprehensive plan. Development of a single-family residential dwelling unit on a vacant residentially zoned lot which has existed in the same configuration for a minimum of 30 years is allowed subject to subsection (b) or (c), whichever is relevant.

(b) The development or redevelopment of land which does not conform to the requirements of

lot dimension or lot area requirements in the R-C, R-D(1), R-D(2), C-TS, C-WA, C-OPI, C-PC,

C-B and PUD zoning districts shall be subject to an application to the town council for a variance.

(c) The development or redevelopment of land which does not conform to the requirements of lot dimension or lot area requirements in the R-AA, R-A and R-B zoning districts shall be subject to an application to the town council for special exception and/or site plan review as provided for in subsections 134-793(b), 134-843(b) and 134-893(~~b~~c).

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9. Review language governing maximum linear building dimensions and lot coverage to prevent same from applying to underground structures (in sub-basements not visible aboveground).

10. Review minimum landscaped open space requirements, clarifying how same is to be calculated when "greenspace" exists above underground structures.

Maximum linear building dimension for sub-basements:

Sec. 134-1113. - Lot, yard and area requirements—Generally.

In the C-TS town-serving commercial district, the schedule of lot, yard and area requirements is as given in this section:

(1)...

(10) *Length.*

a. For one-story buildings, the maximum building length is 150 feet.

b. For two-story buildings, the maximum building length is 150 feet.

c. Sub-basements are exempt from the maximum building length requirement.

Sec. 134-1163. - Lot, yard and area requirements—Generally.

In the C-WA Worth Avenue district, the schedule of lot, yard and area requirements is as given in this section:

(1)...

(10) *Length.*

a. For one-story buildings, the maximum building length is 150 feet.

b. For two-story buildings, the maximum building length is 150 feet.

c. For multi-family building maximum dimensions, see section 134-1871 et seq.

d. Refer to the Worth Avenue Design Guidelines for special exception requirements providing for special allowances to coverage, height, building length and gross floor area limitations

e. Sub-basements are exempt from the maximum building length requirement.

Sec. 134-1213. - Lot, yard and area requirements—Generally.

In the C-OPI office, professional and institutional district, the schedule of lot, yard and area requirements is as given in this section:

(1)...

(10) *Length.*

a. For one-story buildings, the maximum building length is 150 feet.

b. For two-story buildings, the maximum building length is 150 feet.

c. For three-story buildings, the maximum building length is 150 feet.

d. Sub-basements are exempt from the maximum building length requirement.

Sec. 134-1308. - Lot, yard and area requirements—Generally.

In the C-B commercial district, the schedule of lot, yard and area requirements is as given in this section:

(1)...

(10) *Length.*

a. For one-story buildings, the maximum building length is 150 feet.

b. For two-story buildings, the maximum building length is 150 feet.

c. Sub-basements are exempt from the maximum building length requirement.

Maximum Lot coverage for sub-basements:

Note: The proposal, as identified below, maintains the existing sub-basement regulations for residential units, time-share units, and the C-PC District and also creates separate sub-basement regulations for the remaining Commercial zoning districts based on creating a sub-basement maximum lot coverage rather that a percentage outside of the building footprint. Staff also is proposing a minimum setback for all sub-basements as no setback requirement exists at this time.

Sec. 134-1611. - Sub-basement exception.

(1) For residential and time-share development or redevelopment, and for commercial development within the C-PC, Planned Commercial District, ~~N~~no portion of a sub-basement may be located beyond the confines of the outer walls of the first floor above it except under the following conditions:

(~~1~~a) The sub-basement shall have at least 51% of its floor area within the confines of the outer walls of the main portion of the building located above the sub-basement.

(~~2~~b) The ~~portion of the~~ sub-basement ~~outside of the outside walls of the main portion of the building located above the sub-basement~~ shall ~~have no physical appearance and~~ be entirely hidden from view from any elevation of the building.

(~~3~~c) The developed grade outside the walls of that portion of the sub-basement that is outside the walls of the main portion of the building located above the sub-basement shall not be raised or altered in order to be hidden from view, more than two feet above the natural grade.

(~~4~~d) The portion of the sub-basement outside of the outside walls of the main building above the sub-basement shall not be allowed to count in the calculations for landscape open space requirements and shall count toward lot coverage. ~~and,~~

(e) The sub-basement shall be setback a minimum of five feet from a property line.

(2) For development or redevelopment in commercial zoning districts with the exception of the C-PC, Planned Commercial District, a sub-basement shall be allowed under the following conditions:

(a) Lot coverage on a property, including a proposed sub-basement, shall not exceed a maximum of 70%. Said lot coverage shall be the lot coverage for all buildings and structures on a property of above and below ground.

Note: The maximum lot coverage of 70% continues to be Staff's recommendation, however, based on the discussion at the last Commission meeting it must be noted that within Commercial Zoning Districts the maximum lot coverages vary from 35% to 75%. As such, in

order to meet intent, the following alternative language may be considered:

(a) Lot coverage, including a proposed sub-basement, shall not exceed maximums allowed in the commercial zoning district.

(b) The ~~portion of the~~ sub-basement ~~outside of the outside walls of the main portion of the building located above the sub-basement~~ shall be entirely hidden from view from any elevation of the building.

(c) The developed grade outside the walls of that portion of the sub-basement that is outside the walls of the main portion of the building located above the sub-basement shall not be raised or altered in order to be hidden from view, more than two feet above the natural grade.

(d) The portion of the sub-basement outside of the outside walls of the main building above the sub-basement shall be allowed to count in the calculations for landscape open space requirements **and shall count toward lot coverage.**

(e) The sub-basement shall be setback a minimum of five feet from a property line.

---

14. Study Potential revisions to the Zoning Code to require transformers for underground electric utilities to be screened.

Sec. 134-1516. - Underground location of utility service lines.

1. Boxes housing essential services in the front, street side and street rear yard setbacks shall be screened from view from the street in so much as possible by either a wall or hedge planted and maintained at a height the same as or greater than said essential service box. An essential service is defined in Sec. 134-2 of the Code.

2. At the time that any new buildings or structures are being constructed or located on any privately owned property or at the time that any existing buildings or structures on privately owned property are being reconstructed, substantially extended and enlarged or structurally altered, such buildings or structures shall have an entirely underground location for all utility service lines, electrical distribution systems, wires and cables, which connect to and service such buildings or structures.

Sec. 134-2. - Definitions and rules of construction. Modified

(a)Rules of construction. For the purpose of this chapter, the regulations are structured so as to be strictly permissive. As such, only those uses and structures which are specifically permitted in the Code of Ordinances are allowed. If there is no specific language in the Code which addresses a use or a structure, then said use or structure is not permitted.

The term "used for" shall include the term "designed for", the term "structure" shall include the

term "building", the term "lot" shall include the terms "plot" or "tract", and the term "shall" is mandatory and not permissive.

In the interpretation or application of any provision of this chapter, it shall be held to be the minimum requirement adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulations shall be controlling.

(b)Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

...

Essential services means public utility facilities related to water supply, telephone, cable television, gas and electrical distribution systems, and town-owned and town-operated services such as sanitary sewer, stormwater drainage, and solid waste collection and disposal systems, including any necessary appurtenant structures serving the town, but not including buildings housing employees.

---

15. Change Chapter 134 related to on-street parking fee to cross reference the schedule of fees for on-street parking rather than have the specific fee in the Zoning Regulations.

Note: This change was made based on Staff's recommendation to ensure that the fee could be adopted in the fee schedule by resolution and not by an ordinance change to Chapter 134.

Sec. 134-2327. - Issuance.

Under this division, parking permits may be granted to persons as follows:

(1) *Resident permits.* To persons who are residents of any particular area in which parking is so restricted, to be limited to that particular area in which parking is so restricted for every vehicle owned by those persons.

(2) *Visitor/service permits.* Upon application by such owner, up to two visitor/service permits may be issued, which permits may be used by such owner for the sole purpose of providing parking on a temporary basis to service vehicles which are conducting work at such owner's premises or for visitors of such owner's residence. These permits shall be used only for the period of time during which business is to be conducted by the service vehicles or for the duration of stay of a visitor to the residence for which the permit is issued.

The application for a visitor/service permit or permits shall be filed by such owner. A fee is

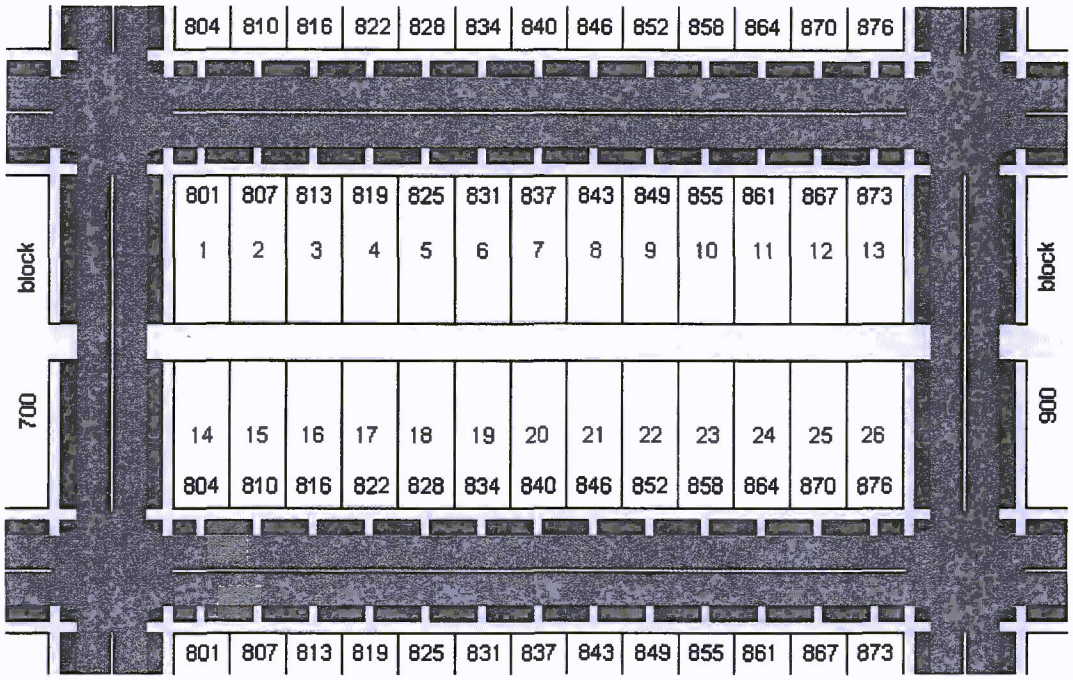
hereby authorized for issuance of said permit ~~of $20.00~~, payable to the finance department ~~shall be charged~~ for each visitor/service permit. The amount of the fee shall be established by resolution of the town council and may be amended from time to time by resolution of the town council. These permits shall not be affixed to the vehicle, but shall be placed in a clearly visible place on the inside of the visitor's or service vehicle observable through the front windshield of the vehicle. The permits shall be valid only for the period of time during which the service vehicle is conducting work at the premises or for the period of time a visitor is at the premises.

(3)*Temporary group permits.* To residents as provided in section 134-2328.

(4)*Adjacent resident permits.* To persons who are residential users in a commercially zoned area immediately adjacent and contiguous to the residential area in which parking is restricted, to be limited to that particular area in which parking is so restricted, for not more than two vehicles owned by that person and upon proof shown that on-site parking is not available to that person on the property in which he resides within the commercially zoned area.

cc: Thomas G. Bradford, Town Manager
Jay Boodeshwar, Deputy Town Manager
John C. Randolph, Town Attorney
Paul W. Castro, AICP, Zoning Administrator

Exhibit 2



More details

Exhibit 3

211 Seabreeze Ave. Photo
Carol LeCates
to:
kdominguez
04/19/2016 08:38 AM
Cc:
jpage, pcastro
Hide Details
From: Carol LeCates <clecates@comcast.net>
To: kdominguez <kdominguez@townofpalmbeach.com>
Cc: jpage <jpage@townofpalmbeach.com>, pcastro <pcastro@townofpalmbeach.com>

1 Attachment

IMG_2419.JPG

Hi Kathleen,

Attached is a photo of the recently renovated 211 Seabreeze Ave., to correct the record in the Preservation Foundation Seabreeze Report. Please forward to P & Z, ARCOM, and Council.

Thank you,

Carol LeCates

Sea Street Photos for P & Z Meeting
Carol LeCates
to:
kdominguez
04/19/2016 08:38 AM
Cc:
jpage, pcastro
Hide Details
From: Carol LeCates <clecates@comcast.net>
To: kdominguez <KDominguez@TownofPalmBeach.com>
Cc: jpage <jpage@townofpalmbeach.com>, pcastro <pcastro@townofpalmbeach.com>
History: This message has been replied to.

3 Attachments

PICT0098.JPG PICT0099.JPG PICT0091.JPG

Good Morning Kathleen,

Would you kindly forward this e-mail to the members of P & Z for this morning's meeting? (I'm sorry for the late notice.) They should also go to ARCOM and Council.

The photos are of the former 200 S. County Rd. (#s 31, 98, and 99) and 212 Seabreeze Ave. (#89), replaced by our home at 212 Seabreeze. The architect was Pat Segraves, who was a member of the Landmarks Commission at that time.

Thank you!

Carol LeCates

Exhibit 4

please send to all P&Z and review
Anne Pepper to: JPage 04/18/2016 06:34 PM

1 attachment

Article29CoralGablesCottageRegulations (dragged).pdf

JP,
I know this is late as the meeting tomorrow will discuss Sea Streets. This came from Coral Gables and this section of the ordinance is worth studying to see if some could be applied to the wording you are working on. I will attach the front page, too. I got it from Gene Pandula as he was at a meeting regarding FL preservation and this is how Coral Gables preserves its Cottage Houses. The first page does not really apply except the purpose which is the same as ours as the houses must have features specific to the one style and we have a more diverse mix of architecture. The goal remains renovation, restoration and not demolition.
Thank you,
Anne

Anne Pepper Interiors
235 S. County Road #203
Palm Beach, Florida 33480
annepepper@mac.com
(561) 655-4417 office
(561) 820-0033 fax

Coral Gables Cottage as outlined in Section 29-5.

Sec. 29-5 - Eligibility (existing development).

To qualify for the incentives contained in Section 29-6, the subject property must:

(a) Be located north of Sunset Road.
(b) Be zoned R, single-family residential.
(c) Have a frontage no greater than sixty-five (65) feet.
(d) Include a single-family dwelling built prior to 1940.
(e) Include a single-family dwelling having at least twelve (12) of the features identified in the Coral Gables Cottage definition. (Section 29-3)

Sec. 29-6 - Incentives for existing development.

The following provisions may be utilized by qualified cottage properties in order to modify, alter or add to an existing Coral Gables Cottage, provided that the resulting changes made to the dwelling do not diminish its character or its status as a Coral Gables Cottage (as outlined in the eligibility criteria, Section 29-5).

(a) Setbacks:
  1. New additions and alterations may utilize the same setbacks and extend as close to the property line as the main walls of the existing Coral Gable Cottage with the limitation that the addition/alteration may not be closer than two (2) feet, six (6) inches to the property line, and, when combined with all other existing structures may not result in the following: (3240)
     a. side yard of less than 250 sq.ft.
     b. front yard of less than 750 sq.ft.
     c. rear yard of less than 150 sq.ft.
  2. Where existing setbacks meet current standards, a reduction in the setback requirement of up to twenty-five (25%) percent shall be permitted, with the same limitation outlined in subsection.
     a. 1, above.
     b. Ground Area Coverage: Coral Gables Cottages shall be permitted to occupy up to forty-eight (48%) percent of the building site. Auxiliary buildings or structures, whether free standing or attached to the primary building, including swimming pools, may occupy additional site area provided, however, that the total ground area coverage for all structures shall not exceed fifty-eight (58%) percent of the site.
     c. Enclosed garages may be converted to living space or storage space subject to the following requirements:
        (1) That a carport, porte-cochere or breezeway is provided for the storage of an automobile;
        (2) That the converted garage may not be used as a rental unit.
     d. The landscape open-space requirement of thirty-five (35%) percent for single-family dwellings (Section 3-1(o) may be reduced by five (5%) percent.

Sec. 29-7 - Eligibility (new construction).

(Deleted 1/14/97--Ordinance No. 3219).

Sec. 29-8 - Incentives for new construction.

(Deleted 1/14/97--Ordinance No. 3219).

Exhibit 5

Palm Beach Zoning Board examines development problem on 'Sea' streets, Palm Beach Daily News – February 15, 2016

- Commission votes for change, allowing owners to only rebuild on the same footprint of existing house.
- This Seaspray to Seaview property with 4 combined lots offers the fading opportunity to build a family compound in the heart of Palm Beach.

Contact us today for more information.

Kevin M. Leonard, 561.632.3144, KevinLeonard@ValoreGroup.com

Founder of Valore Group in Palm Beach; Mr. Leonard retains extensive sales and marketing experience. Clients know that everything will be taken care of when working with Kevin. His success is in part due to his ability to coordinate the details of today's sophisticated transactions and direct his team in all areas. Kevin has an established record and is known for discretion and privacy when representing his clients.

Mr. Leonard strategically merged Valore Group with the Keyes Company; the largest Real Estate Company in Florida. The family owned company historically exceeds over $4.4 Billion of Annual Sales in South Florida. As a founding member and shareholder of Leading Real Estate Companies of the World® and Luxury Portfolio International™ our network consistently achieves over $321 Billion per year in sales globally. Mr. Leonard has appeared on CNN, MSNBC, Bravo, CNBC, Barron's and PBS as an expert in luxury real estate and is responsible for over $3 billion dollars in luxury home sales to date.

Gary M. Feldman, 970.948.3737, GaryFeldman@ValoreGroup.com

Gary Feldman is a resident of Aspen and Palm Beach and has been a leading Aspen Realtor since 1985, conspicuously in high-value transactions where discretion and privacy are important.

Along the way, Gary has served as President, Director and MLS Director of the Aspen Board of Realtors. He has been Chairman of the Professional Standards Committee and an instructor for the Ethics/Fair Housing course. These honors and memberships are the tangible benchmarks that have come with Gary's long-term dedication to continually improving the professionalism across the spectrum of real estate transactions.

But these achievements are not the true highlights of Gary's outstanding resume. It's his ability to earn a client's trust, day after day, year after year, deal after deal, that makes buyers, sellers and fellow agents seek Gary out as a trusted advisor and confidante there's no trophy or plaque for that. Only a lifetime of friends and associates who trust Gary with their homes.

VG | VALORE GROUP
A DIVISION OF KEYES LUXURY REAL ESTATE

Exhibit 6

----- Forwarded by John Page/PalmBeach on 05/12/2016 02:21 PM -----

From: Carol LeCates <clecates@comcast.net>
To: mayor@townofpalmbeach.com, council@townofpalmbeach.com, commissioner@townofpalmbeach.com
Cc: "Ives, Alexander" <aives@palmbeachpreservation.org>, kdominguez@townofpalmbeach.com, "LeCates, Francis" <flecates@gmail.com>, jpage@townofpalmbeach.com, pcastro@townofpalmbeach.com
Date: 04/01/2016 03:30 PM
Subject: Sea Streets Zoning

Dear Mayor, Council, and Commissioners,

I am writing to urge further study before your consideration of zoning modifications to the Sea streets. As residents of 212 Seabreeze Ave., my husband and I are opposed to the the Planning and Zoning Commission's proposed ordinance changes for our area, due to the following detrimental aspects:

1) The abrogation of property owners' rights to combine lots (proposed due to pervasive misconceptions regarding lot combinations)

2) The creation of an incentive to demolish (where existing non-conformities provide ample incentive to preserve under *current* law)

3) The weakening of privacy and property rights of adjacent owners through the perpetuation of gross non-conformities

4) The increase in bulk

5) A divergence from generally espoused planning and zoning practices

First and foremost, **the notion that lot combinations will proliferate simply is not supported by the facts**. For several decades there have been fears of lot combinations that have never come to pass under the existing code. There is an apparent misconception that all of the homes on normal sized lots on our block are the result of lot combinations. The modern home at 228 Seabreeze may have triggered the recent zoning discussions, but in fact it was *not* a combination (as erroneously stated in the Preservation Foundation report, which contains numerous mistakes), but rather an existing and properly sized lot for a zone with a minimum lot width of 100' (and one on which the old structure already had been demolished by the previous long-time owners). If combinations were rampant, the homes at 211 and 215 Seabreeze, which were for sale simultaneously 2 years ago, would not have remained as separate homes (one renovated and one new) on under-sized lots. Circumstances on Seaspray have been roughly similar. Furthermore, the frequency of adjacent properties being available at the same time is extremely low, with there having been only 2 such situations on our block in over 2 decades and only one of them (ours) resulting in merged lots. I believe ours is the **only** combination of under-sized lots on all of Seabreeze Ave. and both the

corner setback requirements and the deteriorated state of the previous properties made this a compelling case 13 years ago. So not only is there much hand-wringing over a problem that doesn't exist, but it defies logic to ban the combination of lots that together would create the minimum lot size actually specified by the zoning code.

Second, given that the sole aim of the proposed changes is to preserve the aura of earlier times on under-sized lots, it seems odd to encourage the re-use of a *footprint,* but not the preservation of the structure itself. This use of existing footprints for completely new structures would perpetuate, in the majority of lots, one or *more* egregious non-conformities (zero lot lines, 2-3' setbacks) that are antithetical to enlightened zoning guidelines, most especially those related to privacy.

In our own case, the home directly behind ours on Seaspray has an old accessory structure that sits ***inside*** our property line. Under the zoning law in effect when we purchased our property, we had the right to expect that if that structure were to be demolished there could be no new structure infringing on our property. But under the proposed changes, we would have the burden of potential litigation to recover what is rightfully ours! My guess is that this property would never be demolished, precisely due to its nonconformity. A related concern is that the majority of older garages with small or no setbacks are now used strictly for residential or professional use, entailing more active property use than a garage and further impinging on neighbors' privacy. And in these cases, again, **there is ample incentive under current law to preserve the existing structure due to the *irreplaceable* nature of the nonconformity.** Hence, the largest unintended consequence of the new proposal is the incentive to destroy rather than preserve, because the nonconformity can be recreated. Demolitions surely will be accelerated under this scenario.

Another disturbing consequence of encouraging new construction is that there will be greater bulk due to the creation of larger 2-story structures where there were previously single story homes. It is only a matter of time before our zone will look more like an R-C than an R-B, with less light, space, and air between tiny lots. In my previous experience as a zoning board member in another state, this aspect alone would have doomed the proposed code change.

Since we began coming to Palm Beach, and then residing here, my husband and I have observed the gradual improvements to the Sea streets and we are proud to have been part of them. The newer homes and renovations on our block have been done by owners and architects with remarkable sensitivity to the feeling of the neighborhood and we think each of them is an enhancement and an example of what every town should strive for. (Some will no doubt be deemed landmark worthy 50-100 years from now.) Run-down properties have been spruced up or replaced on their *original* lots without dramatic change to the code and we think that moderate progress has proceeded without warrant for interference. Many forget that these streets have a mixture of lot sizes; the presence of a handful of larger homes that meet every zoning requirement, or the use of a modern design, should not precipitate hysteria and calls for code change. For those who prefer uniformity of architecture and lot size, gated communities and

private associations may be the answer. But municipalities cannot legislate architectural taste.

Therefore, I believe the current proposal for modification of the code is truly misguided. Would it not make more sense to have a setback exception for under-sized lots in the RB zone, along with an increase in the percentage of a home being renovated before it was subject to current requirements? It appears that the Council has been in the habit of granting aggregate side setback variances in the range of 20' on under-sized lots, so why not use that for the exception, with a specified minimum? Given the wide range of property irregularities on these streets, it seems far more prudent to make small changes and monitor the activity thereafter.

I am grateful for the creativity that continues to grace this lovely neighborhood, and I would prefer not to see zoning turned on its head to fix something that is working very well.

Respectfully,

Carol LeCates

N.B. Please forward to ARCOM members and Planning Zoning Commissioners.