PLANNING & ZONING COMMISSION
2006-2007 ZONING HEARINGS
RECORD AND REPORT
THURSDAY, MARCH 1, 2007

I. **CALL TO ORDER AND ROLL CALL**: Mr. Bell, Acting Chairman, called the meeting to order at 9:30 a.m.

PRESENT:
Lowry M. Bell, Jr., Secretary
John H. Schuler, Member
Alan S. Golboro, Member
William M. Guttman, Member
Eugene Lawrence, Alternate Member
Floyd Wideman, Jr., Alternate member
Veronica B. Close, Director of Planning, Zoning & Building
Paul W. Castro, Zoning Administrator
William F. Brisson, Zoning Consultant

ABSENT:
Harrison M. Robertson, Chairman (excused)
Elizabeth S. Murphy, Member
Leslie A. Shaw, Member (unexcused)
Walter Anthony Dowell, Alternate Member (unexcused)
John C. Randolph, Town Attorney

(*Please note that in light of Mr. Robertson's absence, Mr. Bell chaired the meeting and Mr. Lawrence and Mr. Wideman were voting members today.)*

RECORDING SECRETARY: Deborah A. Morakis

II **INVOCATION AND PLEDGE OF ALLEGIANCE:** Mr. Castro delivered the invocation and all joined in the Pledge of Allegiance.

III **REGULAR AGENDA**

A OLD BUSINESS:

1. Proposed Modifications to Study Item 8. Generators

Bill Brisson, Zoning Consultant and Sr. Planner with LaRue Planning & Management Services, Inc., briefly described the February 26, 2007 memorandum which incorporates the proposed changes to the generator regulations.

Zoning Administrator, Paul Castro noted that some minor modifications were made by staff as a result of some grammatical issues and for clarification, and noted that these modifications may not be reflected in the original report mailed to the Commission, but were provided in hard copy today. There are additional modifications that will be incorporated. Those modifications are not substantive in nature, but instead will be included for clarity. Mr. Castro distributed a copy of the draft ordinance to the Board.

Mr. Brisson gave a substantive summary of the changes to the proposed regulations as a result of Planning & Zoning member comments as well as comments from the public heard during the previous meeting. The size of the generator allowed within the setback has been changed from less than 60 kw to not more than 60 kw. Therefore, one that is 60 kw exactly is allowed within the setbacks. Wherever a reference is made to yards, the word setback was added so there would be no confusion. Staff has incorporated a waiver provision, instead of requiring a variance. Essentially, the waiver includes the provision that a larger generator may be placed within the setback provided certain criteria are met. Generally, these criteria are that a 60 kw generator could not adequately provide for the basic necessities of occupying the building and protecting the interior of the building and its possessions from the expected negative effects of a prolonged power outage.

Secondly, if there is no safe and conforming location to put the generator outside of the setbacks a waiver can be granted. Lastly, a waiver can be granted if the location within the setback is the minimum intrusion into the setback that would be required to safely locate the generator on the property. Wing-walls, or three-sided walls at least four feet high or the height of the generator should be required to screen all generators, whether inside or outside the setbacks. The exhaust wording has been changed such that exhaust is now required to be vented upwards or away from the neighboring property as much as practically feasible. The time frame for routine testing and maintenance is the same and is limited to two one-hour periods during weekdays, excluding Friday, Saturday and Sunday. For repairs, the time was extended to include Monday through Saturday for the periods from 10:00 a.m. to 5:00 p.m.

Mr. Castro clarified that some of the redundant language dealing with maintenance and testing versus repair of the generators has been cleared up.

Mr. Golboro asked if staff had waived the requirement that the generators be enclosed. His concern was for the more than 60 kw size generators. Mr. Brisson stated that although it was suggested that all of the larger generators be fully enclosed in a structure, staff does not believe that larger generators need to be enclosed as long as they meet the noise standards.

Mr. Golboro expressed his concern that the noise from a generator located between three buildings at a condominium in an open area with no roof would rise and would be unbearable for residents. Mr. Golboro objected totally to not having the larger generators fully enclosed as they are now.

Mr. Castro stated that Staff recommends against full enclosure as it can pose a severe problem for property owners. It substantially raises the cost of the generator. The enclosure has to be much larger in order to be able to maintain or perform repairs on these generators, or replace a generator.

Mr. Golboro asked if anyone had stood next to a generator rated at 175 kw that is not enclosed. The newer generators are now 300 kw and 400 kw. Mr. Golboro objected to the measurement being taken at the property line and felt they should be measured at the unit, not at the property line, and that they should be enclosed. Mr. Brisson stated that the regulations are intended to protect the adjoining property owners from the adverse effects. The condominium association would normally be involved in the location and selection of the generators that are for their own properties.

Mr. Lawrence commented that at an apartment complex the generator would more than likely be a diesel powered generator and would not have a jacket. A sound jacket is the first line of defense and having all those internal combustion engines in an enclosure is very dangerous and very difficult. The sound could be controlled with the jackets. Mr. Lawrence pointed out that requiring a hedge to be installed along walls at side or rear setbacks could pose a maintenance issue. A wall should be sufficient and the hedge would be unnecessary. A generator cannot be placed in the front yard anyway.

Mr. Guttman commented that he would like to think that the Board of Directors at these condominiums would be doing the right thing for their condominium owners. Mr. Schuler suggested that a housing could be put in the ordinance as an option. Mr. Lawrence again suggested that the requirement be eliminated in the rear yard setback. Mr. Castro stated that today, in the existing code, if a wall is more than four feet in a side or rear yard, a hedge is not required, and a wall cannot be more than seven feet. Mr. Castro's recommendation would be to measure from the property line. Mr. Guttman again suggested that the larger units should be measured at the manufacturer's capacity and not at the property line. Mr. Brisson reminded the commission that the regulations in the zoning are usually intended to protect surrounding properties and not to protect the property owner who is installing the generator.

Mr. Brisson indicated that there were a few other items to apprise the Planning & Zoning Commission of where changes have not been made. One question that was posed was how these regulations would be enforced and it was determined that they would be handled on a complaint basis. There was a suggestion not to allow underground fuel storage tanks. However, Staff feels it is not necessary to prohibit underground tanks particularly from an aesthetic standpoint. Underground tanks would be only associated with larger sized generators and they would be required to meet the setback regulations as with other structures even though they are underground. There was a suggestion that the smaller package generators should be handled differently. Perhaps these should be allowed to be louder at the property line. Staff is not recommending any changes to allow smaller generators closer to the property line. Also, Staff is not in support of allowing setbacks in different zoning districts to be treated differently. Mr. Lawrence commented that it had also been suggested that the Fire Department be notified of the location of any LP tank so in the event of an emergency they would be aware of their existence. After further discussion and comments, the following motion was made:

MOTION BY MR. SCHULER TO APPROVE THE REVISED GENERATOR RECOMMENDATIONS AS PRESENTED WITH THE STIPULATION THAT THE HEDGE REQUIREMENTS BE ELIMINATED.
MOTION SECONDED BY MR. GUTTMAN WITH THE EMPHASIS THAT A SEMICOLON (;) BE ADDED AFTER THE WORD SETBACKS IN THE INTRODUCTORY PARAGRAPH AT SEC. 134-1729, DELETE THE LAST SENTENCE IN SECTION 134-1729 (a) 4 , ADD A SEMICOLON (;) AFTER THE WORD AREAS IN THE INTRODUCTORY PARAGRAPH AT (b) AND REMOVE THE LAST SENTENCE AFTER THE SEMICOLON (;) IN (b) 4
MR. SCHULER ACCEPTED THOSE SUGGESTIONS.

Mr. Golboro commented that language such as measurement as recommended by the manufacturer should be added. Mr. Brisson explained why he believed the language would be unnecessary.

MOTION CARRIED FIVE (5) TO ONE (1) WITH MR. GOLBORO OPPOSED.

2. Extending Zoning Season and the Role of the Planning and Zoning Commission

Veronica Close, Director of the Planning, Zoning & Building Department, presented the Board with a listing of possible planning items that might be of interest, per the Commission's previous request. The first part of the list is taken from the Evaluation and Appraisal Report which will be incorporated into the Comprehensive Plan. The second group of items are those items that Staff has added after doing some brainstorming and might be planning activities of interest to the Board. Ms. Close announced that at the March 8 workshop, there will be three speakers to present to the Commission. They are Alexander Garvin, Jim Murley, and Dana Little. They will speak to the Commission about the role of planning and zoning commissions in the area of planning. Ms. Close recommended the Commission review Staff's list of study planning items, and listen to the presenter's comments, and Staff will schedule a discussion at a future meeting. Staff will then collate all the comments and prepare an agenda item for a future meeting of the Town Council.

Mr. Guttman suggested the Planning & Zoning Commission be very careful and not overload itself with planning issues so that it fails to be focused and tackle the issues in a comprehensive and systematic way. The big ticket items such as the Royal Poinciana Area Study are likely to occupy the Planning & Zoning Commission's time for at least a 12 to 24-month period. It would call for very intensive and thoughtful participation by this Commission. Each year Town Council must approve a prioritized list of planning issues that should be tackled in a particular year. A more important task would be to articulate conceptually the planning role that falls within the Planning & Zoning Commission's mission. The issue of drainage has been an ongoing, long-term study item and the Town Council has embraced it as an issue they want to resolve. Additional comments were heard by Mr. Guttman about each item on the list.

Ms. Close commented that these items are on the list and staff recognizes that many of these issues are part of the Evaluation and Appraisal Report which is an assessment of the Town's Comprehensive Plan. The Comprehensive Plan has a number of elements in it: historic, housing, infrastructures, environment resources, etc. Amendments will be developed by other groups but will come back to the Commission at the end of the comprehensive planning process because the Commission is involved with the adoption of any amendments to the Comprehensive Plan. Staff does not foresee the commission as being intimately involved in many of these items, but will be holding public hearings in the end on some of them and will make recommendations to the Town Council. Staff has tried to specify on the list when another agency or department is involved that would be responsible for the actual formulation of the goals and objectives.

Mr. Guttman added the only role for the Commission is to ask the technical people outside of the Planning and Zoning Department who had a hand in formulating the recommendation, to appear so that the Commission could ask probing questions, recognizing that Commissioners are lay people.

Mr. Golboro agreed with most of Mr. Guttman's comments and added that he wished to discuss less of the strategic use and more of the institutional use of the Planning and Zoning Commission itself. Mr. Golboro complimented whoever was involved in adding the people to the Planning and Zoning Commission who are real estate oriented and who know how to deal with the real estate.

Mr. Guttman continued with comments about each item on the list and noted that the Royal Poinciana Area Planning Study will be very important since an application to rezone part of Royal Poinciana Way has been received, and as a community we need to have a vision or road map. In the next several years there will be a movement on the part of the property owners to redevelop the area. Taking a lot of the stakeholders interests into account will be a major undertaking. The South County Road commercial district may be a potential area to look at and Mr. Guttman would prioritize it lower than the Royal Poinciana Way. The commercial district around Town Hall is under pressure as well. The Worth Avenue commercial district is the heart and soul of our commercial district in town. They do a good job themselves and he suggested that a representative of the Worth Avenue Association come before the Commission to talk about the sort of problems they are having before the Commission considers that issue. Mr. Guttman questioned whether the Lake Worth Bridge area would fall under the jurisdictional purview of the Board. He indicated that increased open space, which is derived from the strategic plan, is hard to plan for.

Mr. Wideman said that he agreed with Mr. Guttman's comments, but still sees a blurring on this planning function. The Town Council has not given the Commission a mandate of what the Commission's planning function is. It is a blur between zoning and the type of buildings and how to lay out traffic, etc. What is the planning function and what areas should the Commission concentrate on? A lot of the items on the list are not within the Commission's purview such as the water supply. Mr. Wideman suggested that monthly meetings would be needed to address all these items.

Ms. Close responded that staff put this list together as a wish list, without reference to resources, either in staffing or time. These were merely talking points of items which could be short term or long term planning issues. The Planning and Zoning Commission reviews all comprehensive plan amendments. Staff will hold an orientation session for our new members that may help clarify the role of the Planning and Zoning Commission.

Mr. Bell recognized Mr. Kleid, President of the Town Council, and asked for his comments. Mr. Kleid stated that this exercise was an attempt to stimulate discussion. Originally, there were many people who felt that the Planning and Zoning Commission should concentrate on planning. There were comments by the Town Council that perhaps the Commission should have a longer season or maybe meet on a particular day each month. These were things that the Town Council considered in relation to the discussion now. Clearly the Commission has adopted the Royal Poinciana Area Planning Study. There are no exact thoughts as to what the Council would like the commission to do. They are seeking input from the Commission and would like this kind of conversation to continue. The experts that are coming next week may give some ideas for further discussion. The Town Council is seeking the Commission's input on whether the Commission would like to have more of a role in planning, and what that role would be.

Mr. Guttman commented that the Code of Ordinances, right now, sets out the planning function of the Planning and Zoning Commission as one that revolves around the comprehensive plan requirement at the state level. A memorandum he wrote talked about switching the planning agency role from the Council to this Commission. At the moment, the code is specific about the planning function of this Commission and right now, the Commission is brainstorming on whether to go beyond what is presently contemplated.

Mr. Kleid noted that what he thought he was hearing today was that the Commission is not interested in pursuing anything further. The Commission appears to want to limit itself to what the code is recognizing and that is a correct or possible answer. That is the kind of feedback the Council is looking for.

Mr. Guttman felt that Mr. Kleid was misinterpreting his viewpoint. To the extent that the Commission does planning, it should be specifically land use based. Mr. Kleid agreed with Mr. Guttman.

Mr. Schuler stated that the Commission should see what decisions the Town Council comes to relative to any of these issues before the Commission spends time on something that would not be in their best interest or in the Town's best interest. There are many legal issues involved in the Royal Poinciana Study. He agreed that dialogue should continue.

Mr. Golboro agreed about being land based or real estate based. An example is the two bridges and the surveys on the south bridge that are underway at the present time. The Commission has never met with the FDOT as to what they are surveying and if the Town had not interfered two years ago, a Circle would be there. Part of this planning involves hearing outside entities that are using our land and how they are planning to use it. They should not have to come to the Town Council. Strategic planning is not just five and 10 years. It is two years off. Before people who are using our land are allowed to get to that point, the Commission needs to review it first and hear it regularly. The undergrounding is part of it. FDOT should come before the Commission regarding A1A and the Commission should hear it.

Mr. Kleid added that those are the ideas and kinds of things that should be debated and that is what the Council would like to hear about.

Ms. Close advised the Commission that on March 8, 2007 at 9:30 a.m., three presenters would appear: Alexander Garvin from New York, James Murley, the former Director of State Department of Community Affairs, and a representative from the Treasure Coast Regional Planning Council. They will be speaking to the Commission in general terms regarding planning and zoning commissions and their roles and planning functions in general. Ms. Close reminded the Commission that the March 8TH meeting will be an informational workshop.

The next meeting dates are March 19, 2007 and March 20, 2007 for consideration of regular zoning season study items. There is also a meeting scheduled for April 24, 2007.

MOTION BY MR. SCHULER TO CONTINUE THIS MEETING UNTIL MARCH 8, 2007.
MOTION SECONDED BY MR. GUTTMAN.
MOTION PASSED UNANIMOUSLY AFTER A ROLL CALL VOTE.

PLANNING & ZONING COMMISSION
2006-2007 ZONING HEARINGS
RECORD AND REPORT (continued)
THURSDAY, MARCH 8, 2007 @ 9:30 a.m.

Veronica Close, Director of the Planning, Zoning and Building Department welcomed all attendees to this informal workshop. Roll was not called, but it was noted that Commission members Guttman, Dowell, Murphy, Lawrence and Robertson were in attendance. Town Attorney Skip Randolph was also in attendance as well as Mayor McDonald, Council President Kleid, and Councilpersons Brooks and Coniglio.

Ms. Close introduced the first presenter, Mr. Alexander Garvin, President of Alex Garvin & Associates, Inc., a planning and real estate consultant who presented an interesting and informative power point presentation that included pictures of Worth Avenue as well as areas of Chicago, Pittsburgh and Denver. Mr. Garvin described the various tools used in the planning process that include regulations, incentives and capital improvements and explained the difference between form-based and place-based planning. Mr. Garvin answered various questions from the audience.

Ms. Close then introduced the second speaker, Mr. James F. Murley, Director of the Catanese Center for Urban and Environmental Solutions of Florida Atlantic University, former Director of the Florida Department of Community Affairs, and former Executive Director of 1,000 Friends of Florida. Mr. Murley discussed land use law and the Evaluation and Appraisal Report, also known as EAR and then answered questions from the audience.

Mr. Dana P. Little, AICP, of the Treasure Coast Regional Planning Council, Urban Design and Town Planning Studio was introduced and presented a power point presentation and spoke about Town planning, the need for urban design in determining land uses and the use of steering committees and oversight committees when conducting a planning study. The presenters then fielded questions from the audience.

Ms. Close thanked everyone for attending and the workshop was adjourned at 12:15 p.m.

Respectfully Submitted,

Harrison Robertson, Chairman
Town of Palm Beach
Planning and Zoning Commission

Lowry Bell, Secretary
Town of Palm Beach
Planning and Zoning Commission

dam