

RECORD AND REPORT
PLANNING AND ZONING COMMISSION
2005-2006 ZONING HEARINGS
Wednesday, December 6, 2006 at 9:30 a.m.
360 South County Road, Palm Beach
Town Council Chambers

I CALL TO ORDER AND ROLL CALL: Chairman Robertson called the meeting to order at 9:30 a.m.

PRESENT: Harrison M. Robertson, Chairman
 Lowry M. Bell, Jr. Secretary
 Peter S. Broberg, Member (arrived at 9:34 a.m.)
 Elizabeth S. Murphy, Member
 John H. Schuler, Member
 Alan S. Golboro, Member
 William M. Guttman, Alternate Member
 Walter Anthony Dowell, Alternate Member
 Veronica Close, Director of Planning, Zoning & Building
 Paul W. Castro, Zoning Administrator
 Stirling Clarke Halversen, presiding Town Attorney

ABSENT: Nancy M. Murray, Member (Unexcused)
 Leslie A. Shaw, Alternate Member (Excused)

(Please note that Mr. Shaw attempted to participate in the meeting by telephone, but due to technical difficulties, was unable to participate. He had submitted written comments in advance of the meeting, and those comments were provided to the members both prior to the meeting, and again at the meeting.)

RECORDING SECRETARY: Cynthia M. Delp

II INVOCATION AND PLEDGE OF ALLEGIANCE: Mrs. Delp delivered the invocation and all joined in the Pledge of Allegiance.

Mr. Robertson acknowledged those in the audience who were present relative to the Royal Poinciana Plaza. He noted that this matter is not on the agenda, but the public would be invited to speak at the appropriate time. Mr. Castro suggested that public comments be heard after the presentation of the staff report.

III **CONSENT AGENDA**

- A. MINUTES: OCTOBER 3, 2006
APPROVAL OF THE MINUTES OF THE PLANNING AND ZONING
COMMISSION MEETING

MOTION BY MR. SCHULER FOR APPROVAL OF THE MINUTES.

MOTION SECONDED BY MR. BELL.

MOTION CARRIED UNANIMOUSLY.

IV **REGULAR AGENDA**

- A. Old Business: None

- B. New Business

1. Election of Chairman and Secretary

Mr. Bell nominated Mr. Robertson as Chairman.

Mr. Broberg seconded the nomination.

There were no other nominations for Chairman.

Mr. Robertson nominated Mr. Bell as Secretary.

Mr. Schuler seconded the nomination.

There were no other nominations for Secretary.

Mr. Robertson instructed that both nominations would be handled via one roll call vote. By unanimous approval, Mr. Robertson and Mr. Bell will retain their offices as Chairman and Secretary, respectively.

Ms. Close stated that it has been the policy of the Planning and Zoning Commission to hold elections for officers at the first meeting of the new zoning season. She suggested that if the Commission would like to hold the elections at a different point in the zoning season in the future, they may certainly discuss this matter and change the policy for future elections.

2. 2006-2007 Zoning Season Staff Report, Phase I

Mr. Castro welcomed the Commission to service in this new season. He noted that the matters to be discussed today represent just a small portion of the large number of study items slated for this season.

STUDY ITEM 1. Study the point of measurement for height, overall height and cubic content (where applicable) on lots along the Atlantic Ocean and Lake Worth and lots below the minimum flood elevation.

Issue

Study the zoning regulations that establish zero datum or the point of measurement for height, overall height and cubic content on lots within the Town.

The current height regulations restrict the height of structures to one-story, because of the significant grade changes from the front property line to the back of the lots. This is caused by the requirement to conform to cubic content ratios, which are measured from how the Town calculates height. In addition, differences between the zoning regulations for measuring height and the building code requirements that restrict the placement of houses on lots east or partially east of the Coastal Construction Control Line have also compounded the problem. These regulations have resulted in a number of property owners requesting point of measurement variances for height along Lake Worth and the Atlantic Ocean. Staff has been instructed to develop a proposal that would establish regulations for a point of measurement that would be based on topographic and building code conditions for lots along Lake Worth and the Atlantic Ocean.

The second portion of the study was to look at ways to allow property owners to raise the first floor levels of nonconforming buildings that were built below today's minimum flood elevation. There are many owners in Town who are extremely hampered by zoning and flood prevention regulations. In many cases property owners are not allowed to raise their buildings to meet minimum flood prevention regulations without zoning variances because those buildings do not meet current setback requirements. The intent of the second portion of this study is to investigate changes in the zoning code which would allow for nonconforming buildings to be raised to meet minimum flood prevention requirements.

Analysis

Staff evaluated two situations in which the point of measurement for building height, overall height and cubic content ratio have been troublesome because of significant front to back lot line grade changes. These situations occur on "through" lots along North Lake Way, Crest Road and Hi-Mount Road and lots along the Atlantic Ocean that are east or partially east of the Coastal Construction Control Line.

The Code identifies lots having two street frontages as being “through” lots. As such, these “through” lots by zoning code definition are required to have two points of measurement for building height, overall height, and where relevant, cubic content ratio. The measurement for the front half of the lot is the highest crown of road along the front lot line. The measurement for the back half of the lot is the highest crown of the road along the rear lot line. In many cases, the back half of the lot point of measurement is significantly lower than the front half of the lot point of measurement. This is evident in many areas of the Town’s residential zoning districts including lots along Lake Trail which also abut North Lake Way, Hi-Mount Road and Crest Road. The intent of this “through” lot height regulation is to either build a one story house if the grade change on the lot precludes a level two story house, or require a two-story house to be built with a split level floor design. However, most property owners have not wanted two story, split level homes and have opted for seeking relief to allow the construction of a home based on the street the house fronts onto. The proposed modifications are intended to re-address those situations by changing the point of measurement based on an average elevation calculation rather than front and back highest crown of road elevations. This should alleviate a large point of measurement discrepancy for these types of situations.

The lots along the Atlantic Ocean have significant elevation grade changes between the street front and rear property line. It has been very difficult to build two-story homes or second floor additions because the point of measurement is based on the highest crown of road elevation, which is significantly lower than the dune elevation where the house or addition is proposed. In addition, in the last five years most houses or additions on lots along the Atlantic Ocean which are built east, or partially east, of the Coastal Construction Control Line (CCCL) have received point of measurement variances. The hardship has been that the minimum bottom of grade beam elevation required in the Florida Building Code (15.4 feet National Geodetic Vertical Datum) is higher than the Town’s zoning code point of measurement for height (highest crown of road elevation). This is in order to ensure the house is built high enough on the dune to be above the breaking wave crest of a large storm or hurricane.

The point of measurement should be consistent with that adopted Florida Building Code provision. Therefore, Staff recommends that for all houses built east, or partially east of the CCCL, the point of measurement be 15.4 feet National Geodetic Vertical Datum (NGVD) plus an additional two feet for floor slab (17.4 feet NGVD).

Staff, also evaluated the provisions in the Code that relate to raising homes to meet the National (7.0 feet to 8 feet NGVD) and Town (7.5 feet - 8 feet NGVD) minimum flood elevation requirements. Currently, the minimum floor elevation requirements in a flood plain strictly limit the ability to renovate older homes where ground floors are below the minimum flood elevation. If a property owner has an older home that is below the minimum flood elevation, the ability to renovate that home is capped at a ceiling of 50% of its market value without raising the finished floor to the minimum flood elevation.

If the property owner wants to exceed that cap, the home either has to have its first floor raised or

the entire or home raised to build the first floor at the minimum flood elevation. The first option, which is easier, is not possible in most cases because not enough ceiling height exists to raise the floor without raising the entire home. If the home does not conform to zoning setbacks, raising the entire home would require variances. The proposed changes would allow a nonconforming home to be raised to meet the minimum flood elevation without the need for variances, provided the house is no closer than its present location. In addition, the proposal would allow for additions, provided the additions met existing zoning code requirements including setbacks, lot coverage and landscape open space.

Recommendation

Staff recommends the revisions to CHAPTER 134 - ZONING, Division 1. Definitions and rules of construction, Section 134-2 and Division 3., 134-419, Enlargement, extension, reconstruction or alteration be adopted as follows:

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

Building, height of, through lot. In those cases involving a through lot as defined in this section, the zero datum for the lot grade as set forth in the definition of the term “building height of (applicable to all districts except in the R-B district)” and the definition of the term “building, height of (applicable only in the R-B district)” and the definition of the term “building, height of, corner lot” of the portion of the building fronting on the front street to one-half of the mean lot depth shall measure its height from the grade established by the Town for the crown of the public street at its highest elevation abutting the front of the lot, and the portion of the building fronting on the rear street shall measure its height from the grade established by the Town for the crown of the public street at its highest elevation abutting the rear street yard of the lot. For the purpose of the definition, North Lake Trail shall not be considered a rear street. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest floor slab on the existing structure.

Building, height of, (applicable to R-B lots abutting Lake Trail), means the vertical distance from the top of the floor slab (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is to the point where the ceiling meets the exterior wall. If the street is at or above the minimum flood elevation, the top of the floor slab for structures may be raised eighteen inches above the crown of the public street at its highest elevation abutting the lot or the existing grade elevation of the lot at its midpoint, whichever is lower, provided that the top of the floor slab is at a minimum elevation of the crown of the public street at its highest elevation abutting the lot. To raise the floor more than the typical 18 inches above the highest street elevation pursuant to 134-898, the structure height shall be measured from a point 18 inches above the street. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum

shall be the top of the lowest first floor on the existing structure.

Building, height of, (applicable to all other lots abutting Lake Trail), means the vertical distance from the top of the floor slab (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is to the point where the ceiling meets the exterior wall. If the street is at or above the minimum flood elevation, zero datum for structures and additions shall be the crown of the public street at its highest elevation abutting the lot or the existing grade elevation of the lot at its midpoint, whichever is lower, provided that the top of the floor slab is at a minimum elevation of the crown of the public street at its highest elevation abutting the lot. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest floor slab on the existing structure.

Building, height of, (applicable to lots or portions of lots east of the State of Florida Coastal Construction Control Line (CCCL)) means the vertical distance from the top of the floor slab (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is to the point where the ceiling meets the exterior wall. The top of floor slab in all zoning districts for buildings either east or partially east of the CCCL shall be the minimum bottom of grade beam elevation as established by the Florida Building Code plus two feet. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest floor slab on the existing structure provided that said addition(s) meet the minimum requirements as established in the Florida Building Code for constructing east or partially east of the CCCL.

For all other definitions of building height, except for abutting low streets, add the following language at the end of the definition.

For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of first floor slab of the existing structure.

Sec. 134-419. Enlargement, extension, reconstruction or alteration.

(3) Minimum flood elevation. A nonconforming building may be raised to meet the minimum Town flood elevation provided:

- a. that the height as measured from the raised finished floor elevation to the bottom of the top chord of the roof framing member for a pitched roof and the ceiling of a flat roof does not get taller;
- b. that the overall height as measured from the raised finished floor elevation to the top of the roof for a pitched roof, and top of the ceiling and parapet for a flat roof;
- c. the building footprint within required setbacks is no larger; and is no closer

- to the property line than it was prior to being raised; and,
d. that any new additions meet existing lot, yard and bulk regulations.

Staff Presentation

Mr. Castro first offered a brief history of the point of measurement regulations established in the early 1990s. He began with discussing the point of measurement on the lake. The original point of measurement had no bearing on the street, but over time, the Town felt that there was a need to establish a point of measurement so someone could not build up their lot, or build a massive house, where there was a significant grade change within the Town's topography. There are dramatic grade changes not only along the lake, where the lots are higher, but along the ocean, as well, due to the height of the dune in comparison to North Ocean Boulevard. The intent of the original drafting of the lake provisions is to require that the first half of the lot be measured from the highest crown of the road on North Lake Way, and the back half of the lot be measured from the highest grade of Lake Trail. This was designed to encourage building split level homes and to reduce the mass of homes as viewed from the bike trail and the lake itself. However, since these regulations were adopted, staff has found that most residents and architects have not wanted to build homes in a split level configuration for a number of reasons. As a result, persons wanting to build a house on the lake typically requested some type of relief from the Town Council so they could build higher, or at least as high as North Lake Way. Staff has studied the existing regulations. Mr. Castro explained that if the Planning and Zoning Commission moves to approve changing these point of measurement regulations to regularly allow the heights of homes which were previously only permitted with Town Council approval, the homes along the lake may be larger and more massive. Mr. Castro attempted to illustrate various scenarios with a diagram which was distributed to the members. With this study item, staff is attempting to eliminate some of the variances being requested, which have historically been granted by the Town Council, and this is applicable not only to new development, but also for redevelopment. Mr. Castro explained that the resulting homes, if staff's recommendation is approved, may look larger from the lake, but not from North Lake Way.

Mr. Guttman asked Mr. Castro how many variances for point of measurement have been granted since the regulations were adopted some fifteen years ago. Mr. Castro responded that quite a few have been granted, both on the ocean and the lake. Mr. Guttman asked what is the percentage of reduction of these variances which would be realized if the regulations were changed per staff's recommendation. Mr. Castro responded that with an additional small change to the wording of the regulations (found on Page 5 & 6 of these minutes, under *Building, height of, (applicable to R-B lots abutting Lake Trail)* and *Building, height of, (applicable to all other lots abutting Lake Trail)*) which would change "whichever is lower" to "whichever is higher," the number of variances requested would drop dramatically for point of measurement along the lake. Mr. Guttman responded that if the Commission adopts language which does not follow the Town Council's pattern, as expressed over the last fifteen years, the Commission would just be asking the Town Council to continue to grant variances, without demonstration of undue hardship, and he saw no

wisdom in that. He felt that the Town Council has given a clear message, through granting these variances, that they would like the code to read otherwise.

MOTION BY MR. BELL TO APPROVE STAFF'S RECOMMENDATION RELATIVE TO CHANGING THE REGULATIONS FOR CONSTRUCTION ON THE LAKE, AND CHANGING THE WORDING IN THAT RECOMMENDATION TO "WHICHEVER IS HIGHER". (Mr. Castro also notes that the verbiage following "WHICHEVER IS HIGHER" should be deleted; that is, delete "PROVIDED THAT THE TOP OF THE FLOOR SLAB IS AT A MINIMUM ELEVATION OF THE CROWN OF THE PUBLIC STREET AT ITS HIGHEST ELEVATION ABUTTING THE LOT.")

Ms. Murphy stated that in contemplating alternative development standards, this is a good example of something that the Commission would like to see which would not have to meet the undue hardship rule.

MOTION SECONDED BY MS. MURPHY.

MOTION CARRIED 6-1, WITH MR. GOLBORO VOTING AGAINST THE MOTION.

Moving on to the ocean lots, Mr. Castro explained that quite often these lots are 15-20 feet National Geodetic Vertical Datum (NGVD), above sea level, and then slope back to the ocean. Today's proposal would change the regulations to be consistent with the Florida Building Code as it relates to building east or partially east of the Coastal Construction Control Line (CCCL). The current requirement, for a house built east or partially east of the CCCL, is that the bottom of the grade beam elevation is 15.4 ft. NGVD. This is the standard minimum grade beam elevation for homes along the ocean in Palm Beach. Staff has found that most architects have requested an additional 2 ft. for the floor slab itself. So, in most cases, applicants have requested 17.5 ft. or 18 ft. NGVD point of measurement variances. Typically, these lots are very deep, and there is the ability, in some cases, to build west of the CCCL, but most property owners want to build as close to the ocean and as high as possible for optimum ocean views. The intent of the code, as it exists, is to require people to step homes down from the dune, and actually build into the dune, but staff has found that because of the Florida Building Code's minimum grade beam requirement, it is not practical or feasible to build if you are east of the line at that elevation. Staff's recommendation is that if someone is building a home east or partially east of the CCCL, that the point of measurement would be that which has been established by the Florida Building Code, plus 2 feet.

Mr. Guttman again asked how this change in regulations would reduce the percentage of variances granted. Mr. Castro stated that in most cases, the need for point of measurement variances would be eliminated, except where persons want to build above the minimum grade beam height.

Mr. Guttman commented that in dealing with proposed zoning changes, the staff and the

Commission should look at the pattern of variances requested and granted. Secondly, he suggested that it would be much more advantageous to have the architects and attorneys who practice in the Town on behalf of Town residents, in applications for relief from the Town Council, to be involved in these discussions, so they can, at the outset, make their case for agreement or disagreement with the proposed changes, rather than continuing in a pattern of applying for variances from the Town Council. Mr. Castro responded that the attorneys and architects freely express such opinions to staff relative to the regulations during pre-submittal meetings, and he felt that these proposed changes directly address many of the comments which have been made. Mr. Guttman, however, felt that the place for this discussion/debate was at the Planning and Zoning Commission meetings. He preferred that this matter be deferred and placed on the next agenda for a philosophical discussion with the attorneys and architects, and that they be advised to attend the meeting. Staff agreed to contact these professionals to advise them of the upcoming meeting.

Mr. Golboro suggested that such a deferral apply to the construction on the lake as well, despite the motion for approval which already occurred. He was concerned whether the Commission realized what they approved in the earlier motion relative to construction on the lake, and questioned how much higher the lakefront construction could be with the new regulations.

Mr. Guttman stated that he is not opposed to re-opening the discussion relative to construction on the lake. He noted, however, that the Town Council's pattern of variance approval, has established "case law" which, in effect, amends and changes the zoning law. As such, he felt the Town Council either needs to stop granting such variances, or respecting the pattern of variances granted, the regulations must be changed so there is no need to ask for such variances.

Mr. Bell stated, as the maker of the motion, and as an architect, that he fully understood the implications of the recommendation, and indicated that the increase in height, as a result of the new regulations, would be no more than 3.5 feet. He saw no reason to re-address the earlier motion.

Ms. Close stated that in the future, when such regulations are being discussed, staff will try to advise the design professionals in advance of the meetings, so they can participate in the discussions prior to adoption of any changes.

**MOTION BY MR. GUTTMAN TO DEFER BOTH THE OCEAN AND THE LAKE
POINT OF MEASUREMENT ISSUES TO THE NEXT MEETING.**

Attorney Halversen advised the Commission that they first need a motion to re-consider the lakefront matter.

**MOTION BY MR. BROBERG TO RE-CONSIDER THE MOTION RELATIVE TO THE
LAKEFRONT TO ALLOW DEFERRAL TO THE NEXT MEETING.**

MOTION SECONDED BY MR. GOLBORO.

MOTION CARRIED 5-2, WITH MR. BELL AND MS. MURPHY VOTING AGAINST THE MOTION.

MOTION BY MR. GOLBORO TO DEFER BOTH THE LAKE AND OCEAN POINT OF MEASUREMENT ISSUES TO THE NEXT MEETING.

MOTION SECONDED BY MR. BROBERG.

MOTION CARRIED 6-1, WITH MR. BELL VOTING AGAINST THE MOTION.

Mr. Castro discussed the last portion of the first study item as a simple proposal which would allow a property owner to mitigate a situation where a home does not meet the minimum flood elevation. The intent of the proposed change is to allow and encourage renovation and additions to existing homes, when the house is below the minimum flood elevation. The existing regulations require that the house be raised to minimum flood level in order to do a 50%+ renovation. [Example: Property value - \$1,500,000/House value - \$100,000. Current regulations only allow up 50%, or \$50,000 in renovation costs, under one permit, if the home is below the minimum flood elevation, and this is quite limiting to the property owner.] Quite often, the existing regulations encourage tear downs rather than renovations.

Staff's proposal would allow a property owner to raise the existing house to the minimum flood elevation, within the existing setback, provided that wherever the house is non-conforming to the setbacks, the house does not become taller than it previously existed from the finished floor to the ceiling and to the top of the roof itself. Mr. Castro endorsed Mr. Shaw's notice that additional verbiage is needed in Item 3 (b) (found on Page 6 of these minutes) and recommended that the following language needs to be added: "is not any taller within the required setbacks."

Mr. Broberg viewed this as an excellent change to the code as it encourages remodels rather than tear downs. Mr. Golboro asked that Mr. Castro strike the word "raised" from the language and perhaps substitute the word "elevated" instead.

MOTION BY MR. BROBERG FOR APPROVAL OF THE STAFF RECOMMENDATION RELATIVE TO THE MINIMUM FLOOD ELEVATION.

MOTION SECONDED BY MR. GOLBORO.

MOTION CARRIED UNANIMOUSLY.

STUDY ITEM 2. Study allowing wireless telecommunication antennas in the Town's residential zoning districts.

Issue

In 1996-1997, the Town Council approved an ordinance to regulate telecommunication towers and antennas. At that time, the ordinance was constructed to allow those types of structures by right on municipally owned and operated property and by special exception in the commercial zoning districts. The intent was not to allow those types of structures in any of the residential zoning or PUD districts.

In the 2005-2006 Zoning Season, the Town approved a code amendment to allow stealth telecommunication antennas in the PUD-A zoning district (The Breakers Hotel PUD). The Town currently allows stealth telecommunication antennas by right on Town-owned property and by special exception in the Town's commercial and PUD-A zoning districts. The purpose of that approved modification was to allow wireless telecommunication companies a better opportunity to provide improved wireless telephone service to the residents of the Town.

This year, the Town Council directed staff to further evaluate the telecommunication provisions to provide more flexibility in the placement of those stealth antennas and their associated equipment. Staff looked at other zoning districts which might provide more opportunity for the providers and a streamlined process to expedite application processing of these types of applications.

Analysis

In reviewing the existing regulations, there are other zoning districts in the Town that could provide good locations for wireless telecommunication antennas. Those antennas require line of site placement with other wireless antennas and, therefore, have to be placed on taller buildings or elevated properties within the Town. As such, the existing four, five and six story buildings and height regulations within the R-D(1) and R-D(2) zoning district could provide cellular telephone providers with an easier solution to improving the quality of service in the Town.

In terms of streamlining the process for approving applications, if the Town desires to facilitate easier permitting for stealth antenna sites, the regulations can be modified to provide a quicker review procedure. A process could be created to eliminate the more time consuming special exception approval process.

Staff proposes that the Town Council special exception approval process could be eliminated. However, even though existing regulations require that antennas be designed to match the architecture and color of the building (stealth) on which they are located, Staff recommends Landmark Preservation Commission or Architectural Commission approval still be required. This will further ensure that all antennas are consistently disguised to blend in with the buildings architecture and color they are located on.

In addition, Staff continues to look at the residential zoning districts north of Wells Road which could accommodate wireless telecommunication facilities to address service discrepancies in

these areas. However, pending further review, Staff is not at this time prepared to make any recommendations for changes in zoning districts in this area.

Recommendation

Staff recommends that Division 12. TELECOMMUNICATION TOWERS AND ANTENNAS* be modified as follows:

Sec. 134-2029. Permitted of special exception use.

~~Antennas and t~~Towers shall be either a permitted use on town owned property or a special exception use in the town's commercial zoning districts.

Antennas (excluding towers) shall be ~~a special exception use~~ permitted in all the Town's commercial zoning districts, and in the R-D(1), R-D(2) and PUD-A zoning districts provided approval is granted by the Architectural Commission or Landmark Commission, whichever is pertinent. 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.

Sec. 134-2107. Criteria for review and approval of application

Modify by eliminating all references to antennas.

Sec. 134-2062. Information required.

Modify by eliminating all references to antennas.

Sec. 134-2163,. Factors considering granting special exception approval.

Modify by eliminating all references to antennas.

Staff Presentation

Mr. Castro explained that the Town Council requested that this item be studied. Antennas, as defined by the code, are required to be stealth, i.e., designed consistent with the architecture and the color of the building so they cannot easily be seen. During last zoning season, a measure was approved to allow antennas in the PUD-A Zoning District, the Breakers. It has become apparent that in other areas of the town, cellular reception is often quite poor. The proposal to be considered today is to allow antennas in the commercial and multi-family districts. This would eliminate Town Council review of these matters, but force the applicant to seek approval from either the Architectural Commission or the Landmarks Preservation Commission. The antennas would be placed on high buildings to provide much better cellular service. In the future, the single family residential districts (north of Wells Road) will be studied for antennas as well.

Deputy Town Manager, Tom Bradford, addressed the Commission. He has been working with the cellular providers to attempt to improve service on the island, for both voice and data transmission. Mr. Bradford stated that the area from Wells Road south to Via Marina has the best level of cellular service. There is a need to improve service on both the north and south extremities of the island.

Mr. Broberg inquired about the north end of the island and encouraged Mr. Bradford to move as quickly as possible to improve service in the north end. The Sailfish Club and the Palm Beach Country Club sites will most likely be explored as possible antenna locations in the north end.

**MOTION BY MR. BELL FOR APPROVAL OF THE STAFF RECOMMENDATION
RELATIVE TO WIRELESS TELECOMMUNICATION ANTENNAS.**

**MOTION SECONDED BY MR. SCHULER.
MOTION CARRIED UNANIMOUSLY.**

Prior to moving on to Study Item 3, in light of the public in the audience, Mr. Robertson invited public comments at this time.

Public Comment

Etonella Christlieb: As a thirty-five year resident of the town, she was concerned about preserving the Royal Poinciana Plaza, which was designed by a Palm Beach architect. She stated that it is in good condition, and needs to be preserved. Ms. Christlieb encouraged persons looking for a condominium to find one in West Palm Beach, and encouraged persons looking for another shopping mall to move to Palm Beach Gardens. “But if you like Palm Beach the way it is, I ask you, very simple, make it a historical site. Don’t knock it down. We have the money. I mean I was working with the Kravis Centre. I saved the School of the Arts, which is now a treasure in West Palm Beach, and I tell you it was in much worse shape than the Royal Poinciana Plaza. I also live in Europe, and we preserve buildings that are 800, 900, 1000 years old. And I don’t see any reason why we can’t turn it back. Now it looks like a military camp with the green color. Do it the original colors. Bring it back to standards and make it a historical site.”

Mr. Robertson advised Ms. Christlieb to go to the meeting of the Landmarks Preservation Commission when this will be discussed. Secondly, he noted that the Town has already begun a study of the Royal Poinciana Way area, using outside consultants. Ms. Christlieb discounted outside consultants in favor of listening to the taxpayers.

Dorothy Breskman: (Sunrise Avenue) She is concerned that this property is bound by a legal contract that the playhouse is not to be removed and is to be used; that the property is not be renovated; and, that the zoning is not to be changed.

Mr. Broberg advised Ms. Breskman that the Town of Palm Beach is going to go to trial shortly relative to the contract she mentioned.

Study Item 3. Study a provision to allow offices on the first floor of the C-TS zoning district.

Issue

During the 2005-2006 zoning season, the Town approved a modification to the zoning Code which eliminated office uses on the first floor in the C-WA and C-TS zoning districts. Prior to the modification, office uses were allowed on the first floor in these districts provided they did not have direct frontage on a sidewalk fronting a street. The reason for the change was to ensure that these districts, which are primarily designed for pedestrian shopping, did not begin to evolve into office districts.

However, after implementation of this code revision staff realized there were some areas within the C-TS zoning district where offices may be appropriate given either the building design or the existing uses in a given area. Therefore, Staff re-evaluated the office prohibition to reintroduce first floor offices in appropriate areas.

Analysis

Staff first evaluated the implementation of the new provision. While in most cases offices are not appropriate on the first floor, there were two cases in the last year where offices were deemed by the Town Council to be appropriate on the first floor. In both of those cases, the commercial buildings were occupied by only office uses on both the first and second floor. In addition, the site visits to both areas where these buildings are located (Bradley Place, north of Sunrise Avenue and the 200 block of Peruvian Avenue) demonstrated to Staff that the character of those areas were appropriate for office uses and not conducive to pedestrian window shopping.

In realizing that some areas of the Town may be appropriate for office uses on the first floor, Staff recommends reintroducing first floor office uses as a special exception in the C-TS zoning district provided certain additional conditions being met. As a special exception use, a business or commercial property owner would be required to demonstrate to the Town Council that the character of the area is primarily office on the first floor and that the building is designed as office use on the first floor.

Recommendation

Staff recommends the following revisions to Division 8. C-TS TOWN-SERVING

COMMERCIAL DISTRICT*, Section 134-1109 as follows:

Sec. 134-1109. Special exception uses.

(a) The special exception uses require a site plan and review as provided in article III of this chapter. The special exception uses in the C-TS town-serving commercial district are as follows:

...
18) Offices (excluding executive office suites), professional services, business services and securities or financial brokerage and trust companies on the first floor provided that there is at least 50% office uses on all floors of the building in which the office use is proposed and more than 50% existing office uses on the first floor within 300 feet of the proposed office use in the same zoning district.

Staff Presentation

Mr. Castro stated that during the 2005/2006 zoning season, staff had recommended that any provision allowing offices on the first floor be eliminated. Staff has reconsidered this issue since that time, and is now proposing that offices be permitted in the C-TS district on the first floor if they are in locations which had historically been used for office use, had little foot traffic or window shopping in the area, and provided the building was originally designed as an office building. (Please see specific conditions as listed on Page 14 of these minutes.) Mr. Broberg clarified with Mr. Castro that the allowed office spaces would have to have direct access onto the sidewalk.

Mr. Guttman inquired as to the anticipated percentage reduction in variances if this language was adopted. Mr. Castro felt it would be close to a 100% reduction. Mr. Guttman questioned the use of "300" feet and the accompanying wording. Mr. Castro will take another look at the language.

Mr. Broberg reminded the members that the provision of the code which is proposed for change is only a year old, and in short, it did not work. Mr. Guttman felt that there should be public comment/debate relative to this issue as well. Ms. Murphy reminded the members that when this was approved a year ago, the intent was to keep the small town character and to draw pedestrians to certain areas. She felt the new language was appropriate for true office areas, but cautioned that it should not encourage offices in areas which should be populated with restaurants and small shops. Mr. Castro responded that the conditions, included in the language, serve to offer the protection Ms. Murphy wants. The proposal would open up areas along Peruvian Avenue and Bradley Place, for example.

**MOTION BY MR. BELL TO APPROVE THE STAFF RECOMMENDATION
RELATIVE TO OFFICES ON THE FIRST FLOOR.**

**MOTION SECONDED BY MS. MURPHY.
MOTION CARRIED UNANIMOUSLY.**

V COMMENTS OF THE PLANNING AND ZONING COMMISSION AND PLANNING, ZONING AND BUILDING DIRECTOR

Ms. Close provided several updates on recent Town Council actions.

1. The Town Council has ruled that telephone participation in meetings will no longer be permitted as of January 1, 2007. Members are requested to be present at meetings to view and hear presentations, and to have their comments heard. The Town Council made no changes to attendance requirements, or reasons for excused/unexcused absences.

Ms. Murphy spoke in favor of allowing telephone participation, with improved technology. She suggested that visuals be available on the website. Ms. Murphy felt that allowing telephone participation will allow the Town to retain well qualified members, who may have the need to travel out of town, but still wish to participate. Mr. Bell agreed that visual material should be available for view on the Internet, and was in favor of telephone participation.

Ms. Close stated the Town Council is very aware of the telephone system's limitations, and in the plans for the upcoming Town Hall renovation, a much more sophisticated system will be installed in the Town Council Chambers.

2. The Planning Zoning & Building Department has placed the signed Town Council zoning applications (Variances, Special Exceptions, Site Plan Review) on the Town's website. The plans related to those applications may be viewed at the Planning, Zoning and Building Department.
3. The Town is entering into contracts for a new computer system. Ms. Close hoped that within a year, most major programs will be up and running. Mr. Broberg stated that the existing Town web page is not very user friendly. Ms. Close responded that each department has been assigned the opportunity to re-design its web page, and that work is ongoing.

The new computer system will make more information immediately available to the community, like permit application tracking and inspection results, for example. This will serve to provide "real time" information and should reduce the number of telephone inquiries into the Planning Zoning and Building Department. The new system will also provide such items as new management reports, online occupational license processing, and certain web-submitted permit applications, which will reduce traffic to the Planning Zoning and Building Department, and to and from the island.

4. The Town Council has added the Royal Poinciana Plaza to its Royal Poinciana Way study. Staff anticipates an application within the next 30 days for Town Council approval of

Special Exception, Site Plan, and Variance for the Royal Poinciana Plaza. The application will not include Comp Plan or Zoning amendments. This application would first go to the Landmarks Preservation Commission for informal approval.

5. Staff is working with the zoning consultants, and will be establishing a schedule of meetings. The consultants will be introduced to the Commission at the next meeting. Ms. Close asked the members to bring their calendars to the next meeting. She stated that staff and the consultants will outline the process to develop the Royal Poinciana Way study item.

Mr. Robertson asked the reporter present to notify the public, via newspaper articles, that the Planning and Zoning Commission will be meeting with the zoning consultants to begin the planning process for the Royal Poinciana Plaza. Ms. Close anticipated that this will be a two year process, with the first year delegated to community based visioning, and the second year oriented to technical interpretation of that vision, and presentation of any Comp Plan or zoning amendments required.

Mr. Golboro reiterated that he had mentioned a few months ago that emergency water supplies may be available to the Town from the Palm Beach Country Club and the Everglades Club, but action is required. Minor modifications would make these water supplies suitable for drinking. He noted that the Palm Beach Country Club is waiting for the Town to approach them in this matter, and he urged the town to take action.

Mr. Guttman noted that there are three zoning in progress matters which have been declared by the Town Council, and he was concerned that they might need to take priority so residents are not inconvenienced. Ms. Close confirmed that the zoning in progress matters concern generators, condo hotels, and formula restaurants. Mr. Guttman asked the attorney if there are any legal requirements to give these matters priority on the agenda for the Planning and Zoning Commission. Ms. Halversen did not know of any particular legal requirements in this regard. Ms. Close stated that these issues are slated for a future meeting, but in order to cause no hardship to residents, there is a provision for owners to seek a waiver from the Town Council.

Ms. Murphy rendered her support for Mr. Golboro's call to action relative to the emergency water supplies which may be available. She asked staff to place this matter on a future agenda for the Planning and Zoning Commission or the Town Council.

Mr. Bell asked for clarification relative to the zoning in progress item for generators. Ms. Close stated that certain requirements have been established, and for people who need to install a generator and are unable to meet those requirements, the waiver procedure is available.

Mr. Bell noted that the next meeting is on December 14, 2006, and asked staff to contact architects to attend that meeting and offer feedback to the Commission.

enter into some sort of dialogue with the Town Council about amending the 1979 agreement to permit whatever proposal he wants to put on the table, and it does not truly fall within the Special Exception criteria that are set within the zoning code, because I believe he has a much greater burden to meet than the conditions set forth in the Special Exception section. He has to convince, in my opinion, the Town Council why it should amend, what is for the moment a legally enforceable 1979 agreement to permit him to build structures that the agreement otherwise prohibits. And if it comes to the Town Council solely as a Special Exception, my fear is that the owner's attorneys will argue that the Council must grant the Special Exception as long as they meet the criteria set forth in that section, and I don't believe that's true."

VI ADJOURNMENT

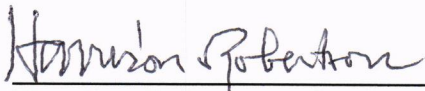
MOTION BY MR. GOLBORO TO ADJOURN THE MEETING AT 11:12 A.M.

MOTION SECONDED BY MR. SCHULER.

MOTION CARRIED UNANIMOUSLY.

The next meeting of the Planning and Zoning Commission will be held on Thursday, December 14, 2006 at 9:30 a.m. in the Town Council Chambers, 2nd floor, Town Hall, 360 South County Road, Palm Beach.

Respectfully submitted,



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



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

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