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PLANNING AND ZONING COMMISSION'S RECORD AND REPORT OF MEETINGS HELD DECEMBER 1 - 2, 2003

The Planning and Zoning Commission of the Town of Palm Beach met in regular session on Monday, December 1, 2003 and continuing to Tuesday, December 2, 2003 in the Town Council Chambers at 360 S. County Road in Palm Beach, Florida. -The meeting was called to order by the Chairman at 9:30 a.m.. A roll call dis-closed that a quorum of the members of the Planning and Zoning Commission was present as follows:

PRESENT:

ABSENT:

James B. Bertles - Chairman
Richard Kleid - Secretary
Peter Broberg - Member
Jorge Sanchez, Member
Harrison Robertson - Member
Lowry Bell - Member
Joanna Golino - Member
Nancy Murray - Alternate Member
Elizabeth Murphy - Alternate Member
Susan Markin - Alternate Member

Mrs. Delp, the recording secretary, led the invocation and the Pledge of Allegiance.

Peter Elwell, the Town Manager, welcomed the Commission and thanked them for their efforts in the past and for their work this zoning season.

Mr. Bertles then opened the floor to nominations. Mr. Bell nominated Mr. Bertles as Chairman and Mr. Kleid as Secretary. Mr. Robertson seconded those nominations. Mr. Sanchez made a motion to declare a unanimous ballot for Mr. Bertles as Chairman and Mr. Kleid as Secretary. Mr. Bell seconded the motion. Mr. Bertles and Mr. Kleid were re-elected Chairman and Secretary by acclamation.

Mr. Jorge Sanchez, regular member, entered the meeting at this time.

Mr. Castro, Zoning Administrator, confirmed proof of publication.

Mr. Bertles announced that Roberts Rules of Order would govern the proceedings, and that public input would be allowed after each item was discussed by the Commission.

Mr. Castro asked that Study Item 15 be deferred to a January meeting date.

It was decided by the Commission that Item #11, relating to the property owner's request to rezone the property located at 215 Brazilian Avenue (Plaza Inn) from R- C to C-B, would be considered at the same time as Item #5 relating to the Staff's recommendation for amending the Future Land Use Map to eliminate the inconsistency between the Future Land Use Map and the Zoning Map for this property.

Mr. Moore, the Director of Planning, Zoning & Building, distributed copies of a page from the Strategic Plan entitled "Governance Actions" and asked the members to review Item A3 "Boards and Commissions" for discussion at the December 10, 2003 meeting.

For purposes of this Record and Report, there were no declarations of ex parte communication unless specifically stated under a given study item.

Mrs. Delp administered the oath to all those who intended to testify at the meeting.

I. Town-Initiated Proposed Comprehensive Plan Future Land Use Map Amendments

Study Item 1. 200 North Ocean Boulevard

Mr. Brisson presented the Staff's analysis and recommendations pertaining to this property. On a motion by Mr. Kleid, seconded by Mr. Bell, by a vote of 7-0, the Planning and Zoning Commission recommended approval of the Staff recommendation to change the designation on the Future Land Use Map for both the Warden House property (200 North Ocean Boulevard) and the associated beach parcel from Multi-Family Moderate Density to Single-Family Residential.

Study Item 2. 40 Cocoanut Row

Mr. Brisson presented the Staff's analysis and recommendations pertaining to this property. Mr. John Groskopf, manager of the Palm Beach Towers at 44 Cocoanut Row, asked for some assurance that a new multi-story building would not be permitted to be constructed at the site. Mr. Moore assured him that this was a land use change, not a zoning change. Only two stories are permitted at this site. On a motion by Mr. Kleid, seconded by Mr. Bell, by a vote of 7-0, the Planning and Zoning Commission recommended approval of the Staff recommendation to change the designation on the Future Land Use Map for the property from Multi-Family High Density to Commercial.

Study Item 3. 247, 231, & 221 Royal Palm Way; 215 Seaview and 218, 222, 224 & 228 Phipps Plaza (West Dr.); and 236 Phipps Plaza (South Dr.)

Mr. Bertles declared an ex parte communication with Mr. Jack Thompson of the Palm Beach Day School. Mr. Brisson presented the Staff's analysis and recommendations pertaining to these properties. Staff noted that the property owner of 246 Seaview Avenue had been notified in error that his property was included within this proposal. On a motion by Mr. Bell, seconded by Mr. Sanchez, by a vote of 7-0, the Planning and Zoning Commission recommended approval of the Staff recommendation to change the designation on the Future Land Use Map for 247, 231, & 221 Royal Palm Way from Multi-Family Moderate Density to Commercial, and 215 Seaview, 218, 222, 224 & 228 Phipps Plaza (West Dr.), and 236 Phipps Plaza (South Dr.) from Commercial to Multi-Family Moderate Density.

Study Item 4. Parcels 8, 9, & 10 "The East Plaza" subdivision

Mr. Brisson presented the Staff's analysis and recommendations pertaining to these properties. On a motion by Mr. Bell, seconded by Mr. Kleid, by a vote of 7-0, the Planning and Zoning Commission recommended approval of the Staff recommendation to change the designation of these properties on the Future Land Use Map from Commercial to Single-Family Residential.

Study Item 5 and 11. 215 Brazilian Avenue

Mr. James Brindell, representing the property owner, made his presentation in support of the property owner's request to change the current zoning from R-C to C-B. At this time, Mr. Bertles read a letter of opposition from the Treasurer of the Brazilian of Palm Beach Association Inc. into the record, which had been received by all members of the Commission. Mr. Brisson presented the Staff's analysis and recommendations pertaining to this property and Commission members asked questions and offered comments. Mr. Ray Royce, representing the Brazilian Condominium Association, voiced opposition to the proposed rezoning requested by the property owner.

Mr. Bell made a motion to approve the Staff recommendation with the proviso that the Town Council give every consideration to improving the hotel's appearance. Mr. Randolph opined that this proviso is not appropriate as part of the motion. Mr. Bell amended the motion to approve the Staff recommendation without the proviso and the motion was seconded by Mrs. Golino. On a vote of 7-0, the Planning and Zoning Commission recommended approval of the Staff recommendation to change the designation of this property on the Future Land Use Map from Commercial to Multi-Family Moderate Density.

On a motion by Mr. Bell, seconded by Mr. Kleid, by a vote of 7-0, the Planning and Zoning Commission recommended disapproval of the property owner's request to change the zoning of the property from R-C

Medium Density Residential to C-B Commercial offices.

Study Item 6. 160 Brazilian Avenue

Mr. Brisson presented the Staff's analysis and recommendations pertaining to this property. On a motion by Mr. Broberg, seconded by Mr. Bell, by a vote of 7-0, the Planning and Zoning Commission recommended approval of the Staff recommendation to change the designation of this property on the Future Land Use Map from Commercial to Single-Family Residential.

Study Item 7. Town Golf Course and Tres Vidas Planned Unit Development (PUD) properties

Mr. Kleid declared that he had an ex parte communication with a resident of the Harbor House. Mr. Brisson presented the Staff's analysis and recommendations pertaining to these properties. On a motion by Mr. Bell, seconded by Mrs. Golino, by a vote of 7-0, the Planning and Zoning Commission recommended approval of the Staff recommendation to change the designation of the Tres Vidas PUD property on the Future Land Use Map from Multi-Family Moderate Density to Approved PUD; and, to change the designation on the northernmost portion of the Town Golf Course from Approved PUD to Public Recreation.

Study Item 8. Audubon Society Property

Mr. Brisson presented the Staff's analysis and recommendations pertaining to this property. On a motion by Mr. Broberg, seconded by Mr. Robertson, by a vote of 7-0 (Mrs. Murray voting in the place of Mr. Sanchez, who briefly left the room), the Planning and Zoning Commission recommended approval of the Staff recommendation to change the designation of this property on the Future Land Use Map from Private Group Use to Conservation.

II. Town-Initiated Proposed Rezonings

Study Item 9. 251 Bradley Place

Mr. Brisson presented the Staff's analysis and recommendations pertaining to this property. On a motion by Mr. Broberg, seconded by Mr. Bell, by a vote of 7-0, the Planning and Zoning Commission recommended approval of the Staff recommendation to change the zoning designation of this property on the Zoning Map from C-TS town-serving commercial to R-C medium density residential.

Study Item 10. 266 South Ocean Boulevard and 109 Royal Palm Way

Mr. Brisson presented the Staff's analysis and recommendations pertaining to this property. On a motion by Mr. Bell, seconded by Mr. Broberg, by a vote of 7-0, the Planning and Zoning Commission recommended approval of the Staff recommendation to change the zoning designation of this property from R-C medium density residential to C-B commercial district.

Mr. Robertson left the meeting at 11:40 a.m..

III. Applicant-Initiated Proposed Rezonings

Study Item 12. 455 North County Road

All members present, other than Mr. Sanchez, received a letter from Francis X. J. Lynch, and declared the same when Mr. Bertles called for ex parte communication. Mr. Frank Lynch, representing the property owner, made his presentation in support of the property owner's request to change the current zoning from R-AA large estate residential to RA estate residential. Mr. Brisson presented the Staff's analysis and recommendations pertaining to this property and Commission members asked questions and offered comments. Mr. Chris Kellogg voiced his objection to changing the private driveway easement to a public road in front of his property. Mr. Gene Pandula, on behalf of the Town's Landmarks Preservation Commission, voiced the Commission's objection to subdividing the landmarked property. Mr. John Mashek, speaking on behalf of the Preservation Foundation, supported the objection of the Landmarks Preservation

Commission to subdivision of the property. Mrs. Wendy Victor also voiced her objection to rezoning the property to R-A. On a motion by Mr. Bell, seconded by Mrs. Golino, by a vote of 7-0 (Mrs. Murray voting in place of Mr. Robertson who had left the meeting), the Planning and Zoning Commission recommended disapproval of the applicant's request to change the zoning of this property from R-AA large estate residential to R-A estate residential.

Study Item 13. Beach Area District Text Modifications

Mr. Broberg announced that he has a conflict relative to this issue as he represents the property owner to the south of the applicant's property, and that he would not participate in the discussion or vote on this item. Mr. Ron Kolins, representing the applicants, Kevin and Lisa McGovern, made his presentation in support of the property owner's request to increase the allowable size of beach houses on properties located in the Beach Area district and adjacent to the R-B district.

Mr. Brisson presented the Staff's analysis and recommendation that on lots 125 feet or wider that the maximum beach house size be increased from 200 square feet to 500 square feet. Commission members followed with questions and comments. Specifically, Mrs. Golino expressed concern over more than doubling the allowable size; Messrs. Kleid, Bell, and Bertles wanted to ensure that the view of the ocean is not blocked; and Mr. Sanchez favored larger beach houses provided that portions of the structure be "open". Mrs. Golino suggested an intermediate step, limiting beach house size to 350 square feet for lots between 125 feet and 150 feet in width, and allowing a 500 square foot beach house for lots 150 feet or more in width.

On a motion by Mr. Bell, seconded by Mrs. Golino, by a vote of 7-0 (Mrs. Murray voting in place of Mr. Robertson and Ms. Murphy voting in place of Mr. Broberg), the Planning and Zoning Commission requested the Staff to look into the matter further, taking into consideration comments made by the Commission, and to report back on Tuesday, December 2, 2003 for further consideration by the Commission as the first item of business.

The Commission recessed for lunch at 12:30 p.m. and reconvened at 1:30 p.m., with Mr. Robertson in attendance.

IV. Zoning Study Items

Study Item 14. Residential Redevelopment – Neighborhood Scale

R-AA district

Mr. Brisson presented the Staff's analysis and recommendation not to limit the aggregation of lots in the R-AA district. On a motion by Mr. Kleid, seconded by Mr. Robertson, by a vote of 7-0, the Planning and Zoning Commission recommended approval of the Staff's recommendation not to limit the aggregation of lots in the R-AA district.

R-A district

Mr. Brisson presented the Staff's analysis and recommendation pertaining to limiting the aggregation of lots in the R-A district. Commission members followed with questions and comments. Specifically, Mr. Bertles suggested that where there is a problem it is the size of the home, not the size of the lot. Therefore, we should be limiting the size of the house, not the size of the lot. On a motion by Mr. Bell, seconded by Mr. Sanchez, by a vote of 7-0, the Planning and Zoning Commission recommended not to pursue a regulation to limit the aggregation of lots in the R-A district.

R-B district

Mr. Brisson presented the Staff's analysis and recommendation pertaining to limiting the aggregation of lots in the R-B district. Commission members followed with questions and comments. Mrs. Golino saw no problem with combining the lots as it increases green space. She advocated limiting the size of the house on the lot according to the neighborhood, and suggested that limiting the aggregation of lots may not be the best way to solve the problem and that it would penalize those who would want to do what others may have already done. Mr. Sanchez noted that the character of individual areas is bound to change; and Mr. Kleid commented that the basic consideration is density and more green space and that we should be

encouraging lot assemblage. A number of Commissioners suggested that other methods should be explored to address the problem such as a study of the neighborhood averages as they relate to structure size, further reduction in the Cubic Content Ratio (CCR), changes to setbacks, etc.

Mrs. Marix commented that she owns two adjacent lots and should be permitted to combine them. She was also concerned that the Town does not check that green space requirements are maintained. Mr. Robertson moved to approve the Staff recommendation #3 limiting the size of aggregated parcels in the R-B district. The motion died for lack of a second. On a motion by Mr. Kleid, seconded by Mr. Bell, by a vote of 6-1, (Mr. Robertson dissenting) the Planning and Zoning Commission recommended disapproval of the Staff recommendation limiting the aggregation of lots in the R-B district. Rather, the Planning and Zoning Commission recommended that the Staff study, for next year, how to regulate the size of houses on aggregated lots in the R-B district.

Study Item 15. Maximization Study; Recently Constructed Homes and Maximum Build-out Study

At the request of Staff, this item was deferred to a date to be set at the conclusion of the Planning and Zoning Commission meeting.

Study Item 16. Nonconforming Structures

Mr. Brisson presented the Staff's analysis and recommendations pertaining to modifying various provisions relating to the treatment of nonconforming structures in the Town.

1. The "50% rule" as applied to nonconforming single-family structures

Members of the Planning and Zoning Commission commented with regard to the Staff's recommendation that nonconforming structures may be voluntarily demolished and restored or reconstructed provided that not more than 50% of the cubic footage is involved over the life of the structure. Mr. Broberg found no problem with the interpretation that has been applied by the Staff in the past that the structure may be restored in stages of not greater than 50% which may result in a completely new structure. However, he noted that this should only apply to nonconforming single-family homes and that the home should look substantially like the original structure. Mr. Sanchez noted that landmarked homes should not be limited and Staff responded that there is already an exception for landmarked structures. It was also pointed out by Staff that the 50% rule does not apply to normal maintenance and repairs. Mrs. Golino mentioned it takes twice as long to rebuild 50% at a time as opposed to completely rebuilding the structure at one time. Mr. Sanchez suggested eliminating the 50% rule.

Discussion continued and there was a general consensus that the Town should allow the rebuilding of a nonconforming single-family structure on the same building footprint provided that it retain the same exterior appearance. Town Councilman Norman Goldblum spoke in favor of allowing construction to continue beyond the 50% threshold in order to mitigate the length and level of construction activity within a given neighborhood. Mr. Sanchez made a motion to do away with the "50% rule" and allow people to restore their nonconforming single-family homes. The motion died for the lack of a second. On a motion by Mr. Kleid, seconded by Mr. Broberg, by a vote of 7-0, the Planning and Zoning Commission recommended disapproval of the Staff recommendation. Rather, the Planning and Zoning Commission recommended to continue to allow single-family homes to be rebuilt as the Staff has been interpreting the "50% rule". Further, the Planning and Zoning Commission recommended that Staff be instructed to return with a study on the ability to rebuild the entire home on the same footprint and with substantially the same style at one time.

2. Additions to nonconforming single-family homes

Member of the Planning and Zoning Commission commented with regard to the Staff's recommendation that no additional variances should be allowed to be requested when a nonconforming single-family home is expanded as permitted under Section 134-419(2). Mr. Kleid suggested that a study should be done regarding not allowing variances when a 2nd story addition is undertaken as allowed under the present exemption. Mrs. Golino was not in favor of limiting the ability to apply for a

variance. She also commented that zoning should not dictate architecture. Mr. Sanchez commented that the prettiest homes on a given street are the non-conforming ones, and that non-conformity provides Palm Beach charm.

On a motion by Mr. Kleid, seconded by Mr. Sanchez, by a vote of 7-0, the Planning and Zoning Commission recommended disapproval of the Staff recommendation to limit variances when additions are allowed to nonconforming single-family structures. Further, the Planning and Zoning Commission recommended that Staff be instructed to conduct a study of the two items. The first would be to study the prohibition of future variances after total reconstruction of a non-conforming house, and the second involves studying no restrictions on applying for variances in projects that involve less than total reconstruction.

3. Demolition and reconstruction, when combined with additions to nonconforming single-family homes.

On a motion by Mr. Sanchez, seconded by Mr. Bell, by a vote of 7-0, the Planning and Zoning Commission recommended disapproval of the Staff recommendation to limit variances when additions are allowed to nonconforming single-family structures.

4. The "50% rule" as applied to nonconforming multi-family and nonresidential structures

Members of the Planning and Zoning Commission commented with regard to the Staff's recommendation that nonconforming multi-family and nonresidential structures may be voluntarily demolished and restored or reconstructed provided that not more than 50% of the cubic footage is involved over the life of the structure. Mr. Sanchez and Mrs. Golino were in favor of this recommendation. Mr. Bertles questioned whether or not the Town wants to perpetuate such structures.

On a motion by Mr. Bell, seconded by Mr. Sanchez, by a vote of 7-0, the Planning and Zoning Commission recommended approval of the Staff recommendation to limit voluntarily demolition and restoration and reconstruction of a nonconforming multi-family or nonresidential structure to not more than 50% of the cubic footage over the life of the structure.

5. Necessity of obtaining a variance for raising a structure to meet FEMA minimum finished floor elevation requirements when rebuilding a nonconforming structure involuntarily damaged by less than 50%

On a motion by Mr. Broberg, seconded by Mrs. Golino, by a vote of 7-0, the Planning and Zoning Commission recommended approval of the Staff recommendation to eliminate the need for variances from the lot, yard and bulk requirements to meet Federal Emergency Management Agency (FEMA) requirements for minimum floor elevations when rebuilding on the same footprint a nonconforming structure involuntarily damaged by less than 50%.

6. Necessity of obtaining a variance for raising certain structures located east of the CCCL to meet FEMA requirements when rebuilding a nonconforming structure involuntarily damaged in excess of 50%

On a motion by Mr. Broberg, seconded by Mr. Sanchez, by a vote of 7-0, the Planning and Zoning Commission recommended approval of the Staff recommendation to eliminate the need for a variance to meet FEMA minimum flood elevation requirements when rebuilding certain nonconforming structures located east of the Coastal Construction Control Line (CCCL) and involuntarily damaged in excess of 50%.

7. Modification of Section 134-416(d) expressing the Town's intent with regard to nonconforming structures

On a motion by Mr. Bell, seconded by Mr. Broberg, by a vote of 7-0, the Planning and Zoning Commission recommended approval of the Staff recommendation to modify Section 134-416(d) to more accurately express the Town's policy towards the continued existence of nonconforming structures.

8. Reduction in the time frame for completion of voluntary reconstruction of a nonconforming structure from 18 month to 12 months.

Due to a possible conflict with time provisions of the building code, on a motion by Mr. Broberg, seconded by Mr. Robertson, by a vote of 7-0, the Planning and Zoning Commission recommended the Staff re-study this issue.

Study Item 17. Off-Street Parking for Residential Development

On a motion by Mr. Robertson, seconded by Mr. Bell, by a vote of 7-0, the Planning and Zoning Commission recommended approval of the Staff recommendation to defer this investigation until February, 2004.

Study Item 18. Beach Access Easements

Mr. Brisson presented the Staff's analysis and recommendations pertaining to the selling of easements to the beach, and sale or transfer of land for beach access in less than the minimum lot width required in the zoning district. Commission members followed with questions and comments. Specifically, the Planning and Zoning Commission was concerned over the effect the proposed provision might have upon lands in the south end of Town and that the provision may not achieve what was intended. Mr. Sanchez was in favor of the idea but did not like the wording. Mr. Broberg was very concerned that access to the beaches is preserved. On a motion by Mrs. Golino, seconded by Mr. Sanchez, by a vote of 7-0, the Planning and Zoning Commission recommended the Staff re-study the issue including consideration of the historic use of the property and issues relative to purchasing easements by property owners who live directly across the street from the ocean.

A short recess was then taken from 4:10 p.m. to 4:20 p.m..

Study Item 19. Accessory Structures such as Canvas Awnings, Portable Beach Cabanas and Carports

Mr. Brisson presented the Staff's analysis and recommendations pertaining to prohibiting freestanding awnings and carports and prohibiting portable beach or swimming pool cabanas within required setbacks, and associated additions or changes to the definitions section of the Zoning Code.

1. On a motion by Mr. Sanchez, seconded by Mrs. Golino, by a vote of 4-3, (Messrs. Robertson, Bell and Bertles dissenting) the Planning and Zoning Commission recommended approval of the Staff recommendation to prohibit freestanding awnings and carports and to prohibit portable beach or swimming pool cabanas within required setbacks.
2. On a motion by Mr. Sanchez, seconded by Mr. Kleid, by a vote of 7-0, the Planning and Zoning Commission recommended approval of the Staff recommendation to add a new definition for "carport" and modify the definitions of "pergola" and "trellis".

Study Item 20. Submerged Lands in Lake Worth

Mr. Kleid declared ex parte communication with Gerry Frank, Chairman of the Citizens Association of Palm Beach. Mr. Brisson presented the Staff's analysis and recommendations pertaining to the status of submerged lands in Lake Worth and their ability to be filled and developed. Commission members followed with questions and comments. Specifically, the Planning and Zoning Commission was concerned over the unintended effect the Staff's recommendation to designate submerged lands as Conservation in the Comprehensive Plan might have upon the ability of property owners to construct docks over submerged lands in Lake Worth. Mr. Harold Epstein, second Vice Chairman of the Citizens' Association of Palm Beach, stated that any development in the south end of town be kept to a minimum due to impending roadwork and existing traffic conditions. On a motion by Mr. Bell, seconded by Mr. Kleid, by a vote of 7-0, the Planning and Zoning Commission recommended deferring the matter and requested that the Staff study the issue further to resolve the possible effect of constructing docks over submerged lands in Lake Worth.

Study Item 21. Assembly Uses

Mr. Brisson presented the Staff's analysis and recommendations pertaining to modifying the Zoning Code to ensure that houses of worship are treated no differently than other places of assembly. On a motion by Mr. Bell, seconded by Mr. Sanchez, by vote of 7-0, the Planning and Zoning Commission recommended approval of Staff recommendations 1 through 4 to ensure that houses of worship are treated no differently than other places of assembly.

Study Item 22. Two-Family Residential Development

Mr. Brisson presented the Staff's analysis and recommendations pertaining to modifying the Zoning Code so that when two-family developments are constructed, and later sold independently, each unit will have an equivalent opportunity to make improvements and still be able to meet the applicable minimum landscaped

open space and coverage limitations. On a motion by Mr. Sanchez, seconded by Mr. Bell, by vote of 7-0, the Planning and Zoning Commission recommended approval of Staff recommendations to add a new Section 134-1968 requiring each unit and associated lot of a two-family dwelling to meet the lot coverage and landscape open space requirements independently of each other.

Study Item 23. Landscaped Open Space Requirements

Mr. Brisson presented the Staff's analysis and recommendations pertaining to increasing the landscaped open space requirements in the RAA, R-A and R-B zoning districts. Commission members followed with questions and comments. Specifically, Mrs. Golino felt that the requirement in the R-B District should be 45% on corner lots. The Commission was also concerned over the effect on the "Sea Streets" where garages are set further back, and also that the green space calculations be shown on the survey. Mr. Broberg mentioned he would like to see more usable open space in the rear of the property and would like to see the front setback reduced. Staff advised the Commission that this was considered last Zoning Season and the Town Council decided not to reduce the front setback.

On a motion by Mr. Robertson, seconded by Mr. Sanchez, by vote of 7-0, the Planning and Zoning Commission recommended approval of Staff recommendations as follows, with one modification (as shown in bold). The motion was made with the proviso that language be added to give credit for garages in the rear of the house and those garages which are separate structures in the rear of the property.

1. Amend Sec. 134-793. Lot, yard and area requirements—Generally, subsection (a)(12)a, in the RAA district to read as follows:
(12) Landscaped open space.
 - a. The minimum landscaped open space is ~~50~~ 55 percent.
2. Amend Sec. 134-843. Lot, yard and area requirements—Generally, subsection (a)(12)a, in the RA district to read as follows:
(12) Landscaped open space
 - a. The minimum landscaped open space is ~~45~~ 50 percent.
3. Amend Sec. 134-893. Lot, yard and area requirements—Generally, subsection (a)(12)a, in the RB district to read as follows:
(12) Landscaped open space
 - a. The minimum landscaped open space is ~~40~~ 45 per cent except as follows:
 - b. The minimum landscaped open space is ~~40~~ 42.5 percent for houses built on corner lots, houses with side-loaded garages, or houses with garages which are set back a minimum of 65 feet from the front property line.

The meeting was recessed at 5:30 p.m. until 9:30 a.m. the following morning, December 2, 2003.

* * * * *

The meeting of the Planning and Zoning Commission recessed from the previous day, was reconvened by the Chairman at 9:30 a.m. on December 2, 2003 in the Town Council Chambers at 360 S. County Road in Palm Beach, Florida. -Upon role call, a quorum of the members of the Planning and Zoning Commission was present as follows:

PRESENT:

ABSENT:

James B. Bertles - Chairman
in at 10:43 a.m.)

Peter Broberg - Member (came

Richard Kleid - Secretary

Lowry Bell - Member

Jorge Sanchez, Member

Harrison Robertson - Member

Joanna Golino - Member

Nancy Murray - Alternate Member

Elizabeth Murphy - Alternate Member

Susan Markin - Alternate Member

Study Item 13. Beach Area District Text Modifications

At this time, the Planning and Zoning Commission took up this matter which had been deferred to provide the Staff an opportunity to develop other recommendations based on the comments made the previous day by the Planning and Zoning Commission.

Mr. Brisson presented the Staff's revised recommendations pertaining to the allowable size of beach houses on Beach Area properties adjacent to the R-B zoning district, including regulations providing for 200 square foot beach houses on lots with between 100' and 124' of frontage; 350 square feet on lots between 125' and 149 feet of frontage; and up to 500 square feet on lots with 150 or more feet of frontage.

The Planning and Zoning Commission, Staff and the public commented with regard to the Staff's recommendations. Mr. Castro suggested that the Planning and Zoning Commission consider a condition which would require that all new beach cabanas under this proposal recreate the ocean vista required in the Zoning Code, since the code currently allows a property owner to keep nonconforming walls if they are not demolished by more than 50%. In addition, he suggested that no variances be allowed to the size of the beach house or any of the vista requirements.

Mrs. Wendy Victor felt that the size of the beach house should be dictated by use rather than by the size of the lot or principal residence. Mr. Sanchez thought Mr. Castro's idea of restoring the ocean vista was terrific. Mr. Bertles suggested that the ocean vista be restored any time a building permit is issued for a beach cabana/beach house except for repairs or maintenance, but wasn't sure about no variances being allowed. Mr. Kolins suggested that the recommendations being made were going beyond the scope of what was advertised. Mr. Randolph said that conditions such as recommended by Mr. Castro could be incorporated into the proposal for large beach cabanas, but that such a condition for all cabanas would require proper advertising before the Town Council considers them. Mr. Castro noted that all beach houses are special exceptions based on historical interpretation. It was the consensus of the Planning and Zoning Commission that in order to be safe, any beach houses over 200 square feet should specifically be identified as special exceptions.

1. On a motion by Mrs. Golino, seconded by Mr. Kleid, by vote of 6-1 (Mr. Sanchez dissenting, and Mrs. Murray and Ms. Murphy voting in place of Messrs. Broberg and Bell, respectively), the Planning and Zoning Commission recommended approval of Staff recommendations, as modified by the Planning and Zoning Commission, to limit beach house size adjacent to the R-B zoning district to 350 square feet for lots between 125 and 149 feet in width and to 500 square feet for lots of 150 feet or more in width.
2. On a motion by Mrs. Golino, seconded by Mr. Kleid, by vote of 5-2 (Messrs. Sanchez and Robertson dissenting, and Mrs. Murray and Ms. Murphy voting in place of Messrs. Broberg and Bell, respectively), the Planning and Zoning Commission recommended adding provisions for beach houses larger than 200 square feet adjacent to the R-B district to require reestablishing the ocean vista and prohibiting variances to beach house size and ocean vista requirements.

The following represents changes to Section 134-1472, Height, width and length limit for properties adjacent to properties in the R-B district, to accomplish the intent of the two foregoing motions, and reads as follows:

No structure or beach building more than one story ~~or but not to exceeding~~ eight feet in height as measured from the natural grade or crown of the road, ~~whichever is less, to the underside of the roof,~~ plus four feet in height to the highest point of the roof, with maximum dimensions no greater than 10 feet by 20 feet but occupying not more than 20% of the width of the lot ~~and shall be constructed on the privately owned property lying east of Ocean Boulevard, except as provided for by special exception under subsection (1) of this section.~~ However, this restriction shall not be deemed to apply to jetties or groins, or other structures for the protection of the beachfront.

- (1) For properties lying east of Ocean Boulevard and having a lot frontage of 125 feet or greater, the maximum size of a beach house may be increased, by approval of a special exception, up to the maximum size set forth in the following table; and, provided further that the conditions and standards set forth in the table and the requirements of Sections 134-1472 and 134-1474 are met, and the special exception is found to meet the standards of Sections 134-227 through 134-233.

	<u>ON LOTS OF 125 BUT LESS THAN 150 FEET IN WIDTH</u>	<u>ON LOTS 150 FEET OR GREATER IN WIDTH</u>
<u>a.</u>	<u>Maximum Size: 350 square feet</u>	<u>Maximum Size: 500 square feet</u>
<u>b.</u>	<u>Neither width nor depth shall exceed 20'</u>	<u>Maximum Dimensions: 20' by 25'</u>
<u>c.</u>	<u>When a beach house in excess of 200 square feet is newly constructed, expanded to exceed 200 square feet, or demolished, restored or reconstructed in excess of 50% of its existing cubic footage, the property on which such beach house is located shall be made to conform to the requirements and limitations set forth in subsections (2), (3) and (4) of this section, and no application will be accepted for variance to those subsections, or to dimensional limitations (size or height) of the beach house.</u>	

- (2) In order to preserve a sense of openness, ocean vistas must exist from the front to rear lot lines equal to 50 percent of the lot width. Within the vista area ~~no all structures and/or~~ vegetation shall ~~not~~ exceed 30 inches in height measured above Ocean Boulevard.
- (3) No additional walls, fences, hedges or other structures or growth shall be erected or grown eastwardly of Ocean Boulevard to a height greater than four feet above the surface of Ocean Boulevard pavement along which such wall, fence or growth is maintained.
- (4) No parking shall be allowed in the beach area district.
3. On a motion by Mrs. Golino, seconded by Mr. Kleid, by vote of 5-2 (Messrs. Sanchez and Robertson dissenting, and Mrs. Murray and Ms. Murphy voting in place of Messrs. Broberg and Bell, respectively), the Planning and Zoning Commission recommended that the following provisions pertaining to beach houses be advertised for subsequent consideration by the Town Council:
- A. That when any beach house is newly constructed, or undergoes expansion which results in an increase in its existing square footage, or is demolished, restored or reconstructed in excess of 50% of its existing cubic footage, on properties adjacent to the R-AA, R-A or R-B district, the property on which such beach house is located shall be made to conform to the ocean vista requirements and other limitations as to the height of walls, fences, hedges or other structures or growth along the frontage of Ocean Boulevard.
- B. That when a special exception is applied for involving construction, renovation or improvement to a beach house in excess of 500 square feet on property adjacent to the R-AA or R-A districts, the applicant will be precluded from asking for a variance to the dimensional limitations (size or

height) of the beach house; to the ocean vista requirements; and to the other limitations on the height of walls, fences, hedges or other structures or growth along the frontage of Ocean Boulevard.

Study Item 24. Right-of-Way Signage

Mr. Frank presented the Staff's analysis and recommendations that certain key intersections be inventoried for signage and that the Staff work with the Public Works Department and the Florida Department Of Transportation (FDOT) toward a program to improve the appearance of these intersections, and that the Staff study signage enhancement programs of other municipalities. On a motion by Mr. Sanchez, seconded by Mrs. Golino, by a vote of 7-0 (with Mrs. Murray and Ms. Murphy voting in place of Messrs. Broberg and Bell, respectively), the Planning and Zoning Commission recommended approval of the Staff recommendation to take no action to change the code.

Mr. Broberg entered the meeting at this time.

Study Item 25. Outdoor Seating for Restaurants and Takeout Prepared Food

Mr. Castro presented the Staff's analysis and recommendations to allow extra outdoor seating as part of a takeout food business in the GTS district and the proposal to eliminate the requirement that special exceptions for stands, seated dining areas and open counters for eating and drinking be renewed annually. Mr. Robertson noted he is against the proposal because it represents an intensification of commercial uses. On a motion by Mr. Sanchez, seconded by Mrs. Golino, by a vote of 6-1, Mr. Robertson dissenting (Mrs. Murray voting in place of Mr. Bell), the Planning and Zoning Commission recommended approval of the Staff recommendations.

Study Item 26. Vias and Walkways

Mr. Castro presented the Staff's analysis and recommendations to eliminate offices as an allowable use on the first floor in the C-WA district; clarify the language concerning offices on the first floor in the GTS district; and add language specifically regulating office uses and signs in the GTS and C-WA zoning districts. On a motion by Mr. Kleid, seconded by Mrs. Golino, by a vote of 7-0 (Mrs. Murray voting in place of Mr. Bell), the Planning and Zoning Commission recommended approval of the Staff recommendations.

Study Item 27. Bike Trail Access from Roadways

Mr. Castro presented the Staff's analysis and recommendations to prohibit driveways from connecting to any bicycle and pedestrian access to Lake Trail. On a motion by Mr. Broberg, seconded by Mr. Robertson, by a vote of 7-0 (Mrs. Murray voting in place of Mr. Bell), the Planning and Zoning Commission recommended approval of the Staff recommendations.

Study Item 28. Office Suites

Mr. Castro presented the Staff's analysis and recommendations to create a definition and use regulations for "Executive office suites" in the C-TS, C-WA, C-OPI, and C-PC commercial zoning districts. On a motion by Mr. Sanchez, seconded by Mr. Robertson, by a vote of 7-0 (Mrs. Murray voting in place of Mr. Bell), the Planning and Zoning Commission recommended approval of the Staff recommendations.

Study Item 29. Digitization of Official Land Use and Zoning Maps

Mr. Castro presented the Staff's recommendation to defer consideration of this item until the 2004-05 Zoning Season. On a motion by Mr. Kleid, seconded by Mr. Sanchez, by a vote of 7-0 (Mrs. Murray voting in place of Mr. Bell), the Planning and Zoning Commission recommended approval of the Staff recommendation.

Study Item 30. Driveway Curb Cuts and Site Visibility Triangles

Ms. Murphy declared that she had been contacted by the Palm Beach Civic Association relative to this item. Mr. Castro presented the Staff's analysis and recommendation to include a cross-reference in the Zoning Code to the Right-of-Way Manual, developed by the Public Works Department, and adopted by the Town Council. The Planning and Zoning Commission commented with regard to the Staff's recommendation. Mr. Sanchez did not like the site visibility triangle, noting that many properties do not

currently meet this requirement. Mr. Castro noted that this requirement is already in the Town's Code of Ordinances and that the recommendation is only to provide a cross-reference in the Zoning Code to ensure the public is aware of the requirement. Mr. Broberg asked how these requirements got in the Code without going before the Planning and Zoning Commission. Mr. Randolph responded that the Right-of-Way Manual deals with public property and is handled outside of the Planning and Zoning Commission's role in zoning matters relating to private property. Mr. Moore mentioned that the Planning Staff had already provided input, and that the requirements related to site triangles will not be applied retroactively. Mr. Sanchez would like matters like this, and other changes to the Town Codes, to go before the Planning and Zoning Commission.

1. On a motion by Mr. Robertson, seconded by Mr. Sanchez, by a vote of 5-2 (Messrs. Broberg and Bertles dissenting and Mrs. Murray voting in place of Mr. Bell), the Planning and Zoning Commission recommended approval of the Staff recommendation.
2. On a motion by Mr. Sanchez, seconded by Mr. Broberg, by a vote of 7-0 (Mrs. Murray voting in place of Mr. Bell), the Planning and Zoning Commission recommended that the Planning and Zoning Commission be able to have input into both existing and future portions of the Right-of-Way Manual affecting private property, before adoption by the Public Works Department or the Town Council. In addition, as part of the motion, the Planning and Zoning Commission requested that the Town Council also allow the Planning and Zoning Commission to retroactively review the changes recently adopted that affect site visibility triangles and curb cuts in the Right of Way Manual.

Study Item 31. Housekeeping Items

Ms. Close presented the Staff's analysis and recommendations to modify the Zoning Code to clean up minor items that may have resulted in inconsistencies or unintended consequences due to previous actions by the Town. On a motion by Mr. Kleid, seconded by Mr. Broberg, by a vote of 7-0 (Mrs. Murray voting in place of Mr. Bell), the Planning and Zoning Commission recommended approval of Staff recommendations A through K under this study item.

Other Items

The Planning and Zoning Commission will meet at 9:00 a.m. on January 15, 2004 to hear the presentation by the Staff and consultant concerning Study Item 15 on the Maximization Study in the R-B zoning district and the new Home Survey in the R-B district for 2001 and 2002.

The Planning and Zoning Commission deferred the approval of the minutes of the October 2, 2003 meeting until the meeting on December 10, 2003.

The Planning and Zoning Commission directed Staff to prepare the Planning and Zoning Commission's Record and Report, based on their recommendations, for their consideration and approval at their meeting on December 10, 2003.

The meeting was declared adjourned by the Chairman at 11:30 a.m..

Respectfully submitted:

James B. Bertles - Chairman
Town of Palm Beach
Planning and Zoning Commission
Commission

Richard Kleid - Secretary
Town of Palm Beach
Planning and Zoning