

RECORD AND REPORT
PLANNING AND ZONING COMMISSION
2005-2006 ZONING HEARINGS
Tuesday, April 18, 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
 Nancy M. Murray, Member
 Elizabeth S. Murphy, Member (arrived at 9:36 a.m.)
 John Schuler, Member
 Alan S. Golboro, Member
 William M. Guttman, Alternate Member
 Walter Anthony Dowell, Alternate Member
 Leslie A. Shaw, Alternate Member
 John C. Randolph, Town Attorney
 Veronica Close, Director of Planning, Zoning & Building
 Paul W. Castro, Zoning Administrator
 Timothy M. Frank, Planning Administrator
 William F. Brisson, Brisson Planning Solutions (Zoning Consultant)

ABSENT: None

RECORDING SECRETARY: Cynthia M. Delp

II INVOCATION AND PLEDGE OF ALLEGIANCE: By Mrs. Delp

III CONSENT AGENDA

Mr. Robertson noted that the "Consent Agenda" item was placed on the agenda in an effort to conform to the style of the Town Council agenda. There were no matters to

discuss today under the Consent Agenda.

IV REGULAR AGENDA

A. Old Business

1. Minutes, March 23, 2006
Approval of the Minutes of the Planning and Zoning Commission Meeting

(Let the record show that Ms. Murphy had not yet arrived when this item was handled. Mr. Broberg abstained from this vote since he had not attended the March 23, 2006 meeting. Messrs. Guttman and Dowell voted to approve the minutes.)

**MOTION BY MR. SCHULER FOR APPROVAL OF THE MARCH 23, 2006 MINUTES.
MOTION SECONDED BY MR. GUTTMAN.
MOTION CARRIED UNANIMOUSLY.**

The Planning and Zoning Commission recognized Mrs. Delp's work on the March 23, 2006 Minutes with a round of applause.

2. Staff Presentation of the 2005-2006 Zoning Season (Ordinance #1-06)

Mr. Castro explained that this is an opportunity to review what has been done during the past zoning season. He noted that four (4) community meetings were held with residents, two relative to the Neighborhood Index CCR and two relative to the R-B district. Also, the town contracted with Siemon and Larsen to produce two reports, one on Alternate Development Standards and one on special exceptions. Both of those proposals have been set aside at this time, as the Planning and Zoning Commission directed staff to discuss overlays and/or subdivision of the R-B district first at today's meeting. The commission also reviewed the possibility of employing the Practical Difficulties Test with respect to review of variances, but ultimately recommended against it. The Town Council will discuss Alternate Development Standards and the Practical Difficulties Test at their meeting on Wednesday, May 3, 2006.

Within Ordinance 1-06, however, several changes to the code were adopted this year. More flexibility for basements to be outside the building footprint was provided in the code changes. Changes for sub-basements were likewise included. Provisions were also adopted to preserve the vista of the lake from Lake Trail. Another code change made the construction time periods in the zoning code consistent with the building code provisions. A provision to limit the height of outdoor lighting on private property was added to the zoning ordinance as well.

Mr. Castro explained that the Town Council had requested the change in the construction time to allow for completion of large construction projects. Ms. Close added that this change was made in recognition of the new prohibition for Saturday construction work during the season, and to

make the zoning code consistent with the changes to Chapter 18 of the Building Code which occurred last year. Mr. Golboro suggested that this be reviewed further in the next year as he felt it would hurt the owners of smaller properties. Mr. Robertson stated that he will ask staff to study this further next season.

B. New Business

1. Consideration of the Summary of Participant Comments at the R-B Community Meetings

Mr. Brisson explained that since 1990, the town has been studying the R-B district (about 12 different studies) in many different ways, i.e., overlays, re-districting, structural regulations, etc. These efforts were directed toward compatibility of new development. Mr. Brisson directed the commission to the Staff Report, beginning on Page 3, for the summary of the participant comments from the two recent community meetings (January 19, 2006 and January 26, 2006) devoted to discussion of the R-B Zoning District. Approximately 60 persons attended the first meeting at St. Edward's Parish Hall and about 30 attended the second in the Council Chambers.

Most participants liked landscaping, the appearance of new development, and diversity of architecture within the area in which they live. On the other hand, most participants dislike traffic/speeding, site triangle/intersection vision problems/hedges affecting visibility; inadequate street lighting, condition or paving of roads, and older, obsolete, or poorly maintained homes. He stated that considerably more people like the new homes and the recent development patterns than were concerned over the size of new homes. Residents defined the North end as the area from Wells Road to the inlet. When asked about variances, some residents responded that they feel there is a need for greater flexibility, particularly for minor items such as design changes, or minor infringements or overhangs. During the second of the two meetings, residents were asked for their opinions regarding subdividing the R-B district, and most were against the proposal. Most residents of the Sea Streets, however, were in favor of a separate district distinction for their neighborhood.

Mr. Dowell questioned why staff has brought the matter of subdividing the R-B zoning district to the table if the residents have expressed that they do not want this. Mr. Castro responded that the Planning and Zoning Commission and the Town Council had asked staff to look at re-districting the very large R-B district based upon certain like characteristics of certain areas within the R-B district. The intent was to determine if the code should, or did, reflect the built environment, or the "geography" in the community. Mr. Dowell responded that the community meetings were "grass roots democracy in action," and in light of the general disapproval expressed for re-districting, he felt that the Sea Streets could be addressed with re-districting, but other areas of the R-B district should be left alone.

Mr. Brisson commented that when a zoning ordinance is not working correctly, it should be reviewed to ensure that it is working effectively, which is sound planning. He stated that good

planning is not simply just a matter of popular opinion; there are many other factors involved, and it may be necessary to modify the ordinance to have it work more effectively.

Mrs. Murray remarked that quite often the public's emotional cry has been to leave the R-B district alone. However, the Town Council has been criticized for approving too many variances. The undue hardship test has not been satisfied in the approval process of most of the variances. Mrs. Murray stated that breaking the R-B district into four or five basic neighborhoods would establish standards for each of the neighborhoods, and would reduce the need for and number of variances.

2. Consideration of Preliminary Maps Regarding Possible Zoning Sub-District or Overlay Areas with the R-B Zoning District

Mr. Brisson referred the commission to Page 10 of the Staff Report, "Initial Suggestions for Overlays to, or Subdivision of, the R-B District", and to the four colored maps which follow in that document. The four maps are identified as such:

Map 1:	R-B District Lot Size Six Categories
Map 2:	R-B District Lot Sizes Simplified Groupings
Map 3:	R-B District Lot Sizes Predominant Patterns
Map 4:	Initial Subdistrict Delineation

Mr. Brisson reviewed and contrasted each of the maps with the commission. Mr. Brisson explained that so far the lot size is the only data used in defining characteristics within the R-B district. He also explained that these maps only represent initial thoughts, and staff will look at more types of data in the summer to further refine the maps. Staff will perform this refinement by looking at the R-B district with respect to several other factors (listed on page 16 of the staff report), like lot width and depth, setbacks, etc. Staff will present refined maps to the Planning and Zoning Commission at their October 3, 2006 meeting. After that, meetings will be held with the public to determine public opinion on the matter and suggestions for how the neighborhoods would or would not benefit. Mr. Brisson noted that re-districting is an option, and overlay districts are being considered.

Mr. Castro added that during the summer, staff will do extensive field research toward ascertaining specific neighborhood common physical characteristics within the R-B district. During November and December, staff will work extensively with the residents relative to any proposal being developed.

Mr. Bell stated that if this re-districting proposal was initiated because it was thought that the number of variances was too large, it may not really be necessary. He quoted Mr. Wyett's comments from the March 23, 2006 minutes wherein Mr. Wyett stated that the number of variance requests reviewed has dramatically dropped from approximately 20 to a more recent

average of 6 requests. As such, Mr. Bell questioned if the attempt to subdivide is designed to decrease the number of variance requests, or to improve architecture. Mr. Castro responded that the R-B district “doesn’t work for the entire geographical area in which it’s located” as to setbacks, lot coverage, cubic content ratios. “All of the lot, yard and bulk regulations in our code don’t match the built environment. The Town is 99% non-conforming. The residential areas and the lots vary in area and depth and width throughout the R-B district.” He explained that the town has gone from no zoning, to more flexible zoning, to considerably tightened zoning, and staff has struggled over the years to work with architects and planners to find a way to allow homes to be built using the current code. Mr. Castro noted that the June Town Council meeting shows a full agenda for development review and variance requests, in contrast to lighter numbers in the past few months. Staff is interested in making the code more consistent with the development patterns which exist and are seemingly acceptable to the residents.

Mr. Robertson asked whether the staff would consider recommending that the North end area be left alone as the R-B district, but take the other R-B neighborhoods like the Sea Streets and Ibis Isle and create new districts for them. Ms. Close responded that staff has looked at this, and it can be accomplished either through re-districting or overlays.

Mr. Guttman believed that there has been a decline in the number of variance requests in the last year. As a possible reason for that decline, he noted that some of the Town Council members are known to more rigorously apply the undue hardship test, and as a result, architects and attorneys may be advising against making applications for variances. Secondly, Mr. Guttman thought it would be a good idea, if the intent is to meet with the public in the fall, that the town allocate funds to hire a facilitator with experience in land use planning to help the residents work through the concept of re-districting. Mr. Guttman asked several questions relative to the four maps. Mr. Brisson responded to each of them stressing that the four maps are strictly based on lot size at this time. Mr. Brisson also noted that a letter has been received from Attorney James Brindell, on behalf of 41 lakefront property owners who would like their properties re-zoned to R-A.

Mr. Golboro complimented staff on being able to gather this information within 30 days to make this presentation. He stated that he is personally very open to the overlay concept, if it can be shown that the neighborhoods will be preserved. He felt that approval of overlays would ease the staff’s burden in the re-write of the code.

Mrs. Murray advocated making uniform code changes which offer help to the small lots so that those owners find help within the code to remodel or add to their homes rather than having them feel they have no other recourse but a tear down.

Ms. Close posed the question of whether, for the very small lots, the commission wants them to be able to continue to develop those lots or conversely, should they be required to combine lots. She explained that staff will be working on several ways to assist those small lot owners in improving their properties.

Mr. Shaw also complimented staff on today's presentation. He stated that it is the charge of the Planning and Zoning Commission to look to the next decade, not just to the next season. He noted that there is a distinct difference between Maps 3 and 4, and suggested that Map 3 be used as the basis for re-districting, rather than Map 4. He stressed that in addition to looking at setbacks, garages and open space should be given due consideration. Mr. Shaw regarded the appropriate first step as identifying the different sections of town, which are different, "but yet similar to their neighbors, so that one size does not fit all."

Ms. Close advised that the commission should take some type of action with regard to the report, so this can be taken to the Town Council for consideration. She reiterated that if the Town Council directs, staff will do field work this summer looking at additional physical characteristics of the lots, like topography, for example; refine the map(s); come back to the commission in October with the refined maps; then take it to the Town Council for direction; proceed to community meetings in the winter; and, then return to the Planning and Zoning Commission in the spring with the results.

MOTION BY MR. BELL TO CONSIDER NO MORE THAN THREE (3) DISTRICTS (PER MAPS 3 AND 4) IN THE R-B DISTRICT FOR PRESENTATION TO THE TOWN COUNCIL.

MOTION SECONDED BY MRS. MURRAY.

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

Mrs. Murray asked Mr. Randolph a question about the Sunshine Law, that being, if the North end homeowners association invites Mrs. Murray to a meeting to discuss some of these pertinent matters, is that permissible? Mr. Randolph responded that this would be allowed, but it is not permissible for two or more members of the same board/commission to discuss issues which come before the board. He clarified that if other members of the commission are present at that meeting, while Mrs. Murray is addressing the group, and the other members do not participate in the discussion, that is likewise not a violation of the Sunshine Law.

3. Comments Regarding Next Year's Zoning Season

Mr. Castro verbally provided a list of the preliminary study items for next fall explaining that staff is also requesting that the commission note any additional study items for inclusion on the list. The commission asked for a written list of these items, which was not prepared at the time. However, later during the meeting, Mr. Castro prepared a typed list of the study items and distributed it to the commission members. That list is as follows. Please note that Study Items 1-15 were as presented originally by Mr. Castro. Items 16-20 were added at the request of the Planning and Zoning Commission members, and/or as a result of discussion with the commission relative to the study items.

April 18, 2006

Preliminary List of Study Items for 2006-2007 Zoning Season

1. Study the redistricting of the R-B zoning district.
2. Study the C-PC zoning district and its relation to Poinciana Way and Breakers Hotel in terms of land use and zoning regulations..
3. Study the point of measurement for height along the Ocean and Lake.
4. Study the point of measurement for existing homes when being raised to meet minimum flood elevations for FEMA.
5. Next phase of intersection vision study regarding identifying unsafe intersections and determining when the intersection vision compliance shall occur.
6. Study varying setbacks based on lot width in the R-B zoning district.
7. Study the provision for point of measurement for height of walls in the front setback.
8. Study the provision which prohibits office on the first floor in the C-TS zoning district.
9. Study allowing exit only gates closer than eighteen feet from the street pavement.
10. Study Chapter 134 as it relates to setback requirements for the Ocean Bulkhead Line.
11. Extend zoning season to have at least one meeting a month throughout the year.
12. Clarify the angle of vision in the R-B zoning district.
13. Study the location and maximum decibel levels for generators.
14. Investigate location of underground electric transmission boxes on private property.
15. Study the construction table time line as it relates to the smaller projects.
16. Study the elimination of the requirement that when a single-family home is demolished by more than 50% cubic volume it has to meet the existing lot, yard and bulk requirements in the zoning code. (Suggested by Mr. Broberg)
17. Update the Siemon and Larsen Report on variance applications. (Suggested by Mr. Guttman)
18. Study the delegating the authority to consider and decide on variances to another board or

commission. (Suggested by Mr. Guttman)

19. Study the requirement for garages on single-family homes. (Suggested by Mr. Shaw)
20. Complete the Evaluation and Appraisal Report of the Comprehensive Plan.

Let the record show that Mr. Guttman registered his concern about the study item concerning the Royal Poinciana Plaza due to the pending lawsuit; because the Mayor has previously called for the appointment of an ad hoc committee of residents to study the Royal Poinciana Plaza; and, because Mr. Guttman felt that redevelopment of Royal Poinciana Way, as a whole, should simultaneously be studied. Mr. Guttman also suggested that draft ordinance language for the Alternative Development Standards, overlays or subdistricts be placed on the Town's website to allow for public comment in advance of meetings. He also requested some additional lead time for distribution of meeting backup materials to the commission. Mr. Guttman acknowledged that staff has been pressured, and he stated that he would personally support that the Town should hire additional staff to ease this burden.

In addition to the list above, Mr. Guttman suggested that the commission study the procedures related to appeals of decisions made by the Landmarks Preservation Commission and ARCOM to the Town Council, especially to consider some constraints on the appeal process. Mr. Guttman felt that the Town Council should uphold the decisions of these advisory boards unless their decisions are "capricious or arbitrary". Mr. Guttman also felt it would be worthwhile to recommend to the Town Council that a set of fair rules dealing with the amount of time an appellant has to argue his case be established.

Mr. Robertson stated that he fully agreed with Mr. Guttman relative to the appeal process and the amount of time that an appellant has to argue his case, and noted that he is personally working toward a code change to that effect.

Mr. Shaw agreed that Royal Poinciana Way is a neighborhood and needs further discussion including discussion of the Breakers PUD. Mr. Shaw stated that he believed that many of the study items on the list are actually carry-over items from previous zoning seasons, and as such, he would like to know the reason for the carry-over. Mr. Shaw also commented that if the timetable for re-districting is two years, if approved, he would be hesitant to make a series of code changes next season that may or may not be modified again. He suggested Study Item #19 for an aggressive approach toward review of garages for single family dwellings, and noted his support for Mr. Broberg's suggested study item #16 dealing with the 50% rule. Mr. Shaw suggested that ideas be developed for the possibility of creating a sub-board to the Planning and Zoning Commission if that board was assigned to hear variances. Mr. Shaw noted that he was not in favor of the Planning and Zoning Commission assuming the duty of variance review. Also, Mr. Shaw was in favor of the Planning and Zoning Commission having a meeting prior to October to further discuss these study items.

Mrs. Murray agreed with Mr. Broberg and Mr. Shaw about the need to review the 50% rule. She felt it was also important to look at the underground utility issue as it relates to front yard easements. Ms. Close responded that this would be addressed in Study Item #14. Mrs. Murray clarified that she was not only interested in the placement of the transmission box, but also with the wires themselves. Mr. Golboro responded that he is on the committee assigned to this matter. It is the wish of the committee that the easements will occur in the streets, with only very few impacting the properties. Mrs. Murray also suggested that each commission member provide staff with fax numbers and e-mail addresses to facilitate notifications and distribution of information to the commission.

Mr. Bell asked Mr. Castro whether the CCR would be studied. Mr. Castro responded that although it was not specifically listed as a study item, it would be studied as part of the R-B zoning district.

4. Setting the Schedule for the Summer Planning and Zoning Commission Meetings

Mr. Castro stated that a planning workshop has been suggested for Thursday, June 1, 2006. A public hearing dedicated to review of the rough draft of the Evaluation and Appraisal Report (to amend the Comprehensive Plan) has been suggested for Tuesday, July 18, 2006. On October 3, 2006, staff would like to bring the results of the summer field work to the Planning and Zoning Commission for review, along with the final draft of the Evaluation and Appraisal Report.

Mr. Robertson stated that he had recommended to staff that a special meeting devoted to planning be held. He had invited Mr. Tim Frank, Planning Administrator, to address the commission, in lecture form, during that meeting regarding planning in general, the commission's role in planning for the town, and upcoming planning activities for the next season.

Several members stated they would not be able to attend the June 1, 2006 meeting. This sparked a lengthy discussion on other proposed dates. Staff had planned taking the list of study items to the Town Council in May so that staff can receive direction from the Town Council relative to the study items to enable commencement of the work that is required. Mr. Bell suggested that the commission further discuss the list of proposed study items this afternoon. Others felt they were not prepared to discuss the study items without having a written list to review. It was at this point that Mr. Castro left the meeting to prepare the written list of study items referenced earlier in this Record and Report. Ms. Close explained that at this point, it is only necessary to create a list of study items, not to delve into the specifics of each of the study items. That activity is reserved for the fall after staff has studied each of them and has prepared its report.

Mrs. Murray asked if it was appropriate for the commission to take on the Royal Poinciana Plaza as a study item. Mr. Randolph responded that he would recommend that "unless there is some urgency in discussing it, that we at least let the pending case take its course so that there is no

overlap between those two.”

After hearing lengthy discussion about the dates and the subject matter of the various meetings, Mr. Robertson called for a motion relative to the meeting dates.

MOTION BY MR. GOLBORO TO AFFIRM THE MEETING DATES PROPOSED BY STAFF: JUNE 1, 2006, JULY 18, 2006, AND OCTOBER 3, 2006.

MOTION SECONDED BY MR. SCHULER.

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

Mrs. Murray asked whether the absence rules apply to these summer meetings. Mr. Guttman noted that although he may not be able to physically attend some or all of the summer meetings, he will be available to participate in the meetings by phone. Mr. Randolph has stated that if a member participates by telephone, that member is counted as present for the meeting.

5. Discussion of Civic Association Report

Ms. Close stated that the commission members had received notice and have been invited to the meeting which will occur on Wednesday, May 10, 2006 between the Town Council and its boards to discuss the results of the Civic Association’s findings. Today, commission members were invited to discuss the subject prior to that Town Council meeting. The Town Council has asked that the Chairmen of the boards and commissions represent their boards/commissions at the meeting with the Town Council. All members of each of the boards/commissions are invited to attend the meeting. The Town Manager has asked for written comments from board and commission members to be submitted to the town on or before Thursday, April 27, 2006.

Mr. Golboro, referencing the first paragraph of the introduction, emphasized the word “responsibility”. He commented that board/commission members must realize that they are responsible for their actions. He also recommended, referencing the second to last bullet on Page 5 of the report, that the Planning and Zoning Commission should set their own agenda for an upcoming meeting at the end of their previous meeting.

Mr. Shaw differentiated the Planning and Zoning Commission from other town boards/commissions in that the decisions of ARCOM, the Landmarks Preservation Commission, and the Code Enforcement Board are final, unless appealed, whereas the Planning and Zoning Commission can only make recommendations to the Town Council. He also called attention to the reference in the document that many decisions of the boards/commissions are being overruled by the Town Council. Mr. Shaw noted that this demands further qualification, since in his experience as a member of ARCOM, he was not aware of many overrules by the Town Council.

Mr. Shaw stated that he found the second paragraph on Page 3 of the Civic Association report confusing. He felt that there is room for improvement in the area relative to interview and qualification of applicants for service on boards/commissions, but noted that when he served on the Town Council, several Town Council members did not want to participate in applicant interviews.

Mr. Schuler agreed with Mr. Shaw's comments. He referenced the section of the report speaking about "consider providing additional training to enhance the effectiveness of boards and individuals". Mr. Schuler stated that many of the opinions expressed by commission members at an ARCOM meeting are representations of that member's taste, and taste cannot be addressed by additional training. He felt that many aspects of the Civic Association's report need to be studied before changes are effected.

Mr. Guttman stated that the appointment of well-qualified citizens to the Town's boards/commissions is an important theme of the Civic Association's report. "In my view, however, I don't think the Town Council can do better than appoint smart generalists with proven track records of good judgement". He also felt it would be difficult to remove politics from the appointment process, but noted that members of the Town Council are accountable to the electorate for the appointments they make. "Instead of proposing mandatory qualification standards such as educational requirements, appropriate prior experience, and pertinent competencies for service on Town commissions, the Civic Association's report calls for the chairpersons of those commissions to identify qualified applicants, but in the absence of specific qualification standards, using the chairpersons of town commissions as gatekeepers is vexing." Mr. Guttman felt that this suggested process would be much too subjective, and "could be politicized with favorites getting a leg up." Using the chairpersons in this way could also lead to potential unintended conflicts of interest. Mr. Guttman stated that it appears that the Planning and Zoning Commission is the only commission without any established eligibility rules for membership, and he proposed that a requirement be added to the code requiring at least one architect and one non-practicing lawyer with real estate experience to serve on the commission. He also agreed with Mr. Brooks and Mr. Kleid in their opinions that it is unwise for Town Council members to express their opinions to the individual boards concerning matters which will ultimately be heard by the Town Council. Mr. Guttman supported the idea that members of boards/commission should be evaluated for their performance, and suggested a system whereby members would rate the performance of their fellow board members, yet he acknowledged that this may negatively impact the collegiality on the commission. Mr. Guttman endorsed the Civic Association's suggestion for continuing education seminars, budget allocations for the commissions, and empowering the chairmen to set their meeting agendas.

Mr. Bell did not support Mr. Guttman's suggestion for members ranking another member's performance in service to the commission, but he agreed that the Planning and Zoning Commission would benefit from having requirements for architects and lawyers to serve on the commission.

Mr. Robertson reminded the commission members that they are encouraged to submit their comments relative to the Civic Association report to the Town Manager by April 27, 2006.

V. COMMENTS OF THE PLANNING AND ZONING COMMISSION AND PLANNING AND ZONING DIRECTOR

Mr. Randolph wished to expand his earlier comments relative to the Sunshine Law. In response to the question whether two or more members of the Planning and Zoning Commission can attend a meeting of the North end property owners association, Mr. Randolph noted that the members can attend, provided the meeting is a public meeting, and provided there is no discussion directly between the members. He discouraged any member from attending private meetings of a group like the North end property owner's association, for example. If a member did elect to attend such a private meeting, that member should be sure that he/she is the only member of the Planning and Zoning Commission in attendance. He felt it could be considered a violation of the Sunshine Law if more than one member of the Planning and Zoning Commission attended the same private meeting at the same time. He cited the community meetings held at St. Edward's Parish Hall as the type of meeting where it is perfectly acceptable for multiple members of the commission to attend.

Mr. Randolph re-visited the subject of meeting absences as well. He stated that the summer meetings approved today will be considered official meetings of the board, and as such, attendance/absence rules apply. He explained that if a member misses more than two meetings in a calendar year (unexcused absences), that member may be removed from the commission for lack of attendance. Mr. Randolph stated that the ordinance defines an acceptable absence as one based upon illness, death, religious holiday, or for requirements of legal proceedings. He clarified that the ordinance requires a member who is going to be absent for any of the reasons just listed to notify the Town Manager by letter in advance of the meeting.

Mr. Guttman commented that if participation by phone is permitted, it would be much easier to satisfy the attendance requirements for service on the commission, and it may not be necessary to have as many allowable absences as were included in Mr. Golboro's motion at the March 23, 2006 meeting. Mr. Shaw commented that the Landmarks Preservation Commission, ARCOM, and the Code Enforcement Board already meet all year round and have seemed to manage very well with the two allowable absences. Mr. Golboro clarified his March 23, 2006 motion by stating that it was a recommendation to extend the zoning season to twelve months of each year, and to provide additional absences for those who have already made plans to be away.

Mr. Randolph advised that if the Planning and Zoning Commission begins to have monthly meetings all year round, the subject of absences from meetings may have to be re-visited to determine if the absence rules apply only to the twelve meetings and not to additional ad hoc meetings which might be scheduled, or whether the rules apply to all meetings. Mr. Robertson asked Mr. Randolph if his statement that participation by telephone is counted as that member being present is just his opinion, or is it based upon legal precedent. Mr. Randolph indicated that

there are many Attorney General's opinions which would allow telephone participation as presence at a meeting. He noted however, that the telephone participant cannot be considered part of a quorum. Mr. Robertson noted his preference for members to physically attend the commission meetings.

VI COMMENTS FROM THE PUBLIC

Mr. Ralph Del Deo (265 Fairview Road) stated that he was encouraged to hear that zoning overlays may be considered rather than subdividing the R-B zoning district.

With regard to the Sunshine Law, Mr. Del Deo commented that almost all residents are members of the Civic Association. He asked about their board meetings which are not open to the public, especially since decisions made at those meetings may be brought before the Town Council for action. He asked if Mr. Randolph was saying that any member of a town board or commission could not attend one of these Civic Association meetings or serve on the Civic Association boards. Mr. Del Deo complimented Mr. Robertson on his comments regarding keeping all branches of the town government in the town. Mr. Del Deo hoped that the Town Council would re-visit that and find a way to accomplish it.

Mr. Guttman, on behalf of the Civic Association, stated that Mr. Randolph was asked several years ago for an opinion from the Attorney General relative to the Civic Association's procedures for monthly forums. He stated that it is required that the Civic Association's meetings are open to the public, regardless of whether attendees are members of the Civic Association or not. No one is allowed to debate with another member of the Town Council. If more than one Town Council member speaks at one of these meetings, they speak on totally different issues, never on the same subject matter.

Ms. Murphy added that no more than one member of any town board/commission may serve on any of the committees at the Civic Association.

Mr. Golboro, as a citizen, strongly complained about two existing conditions in town, and questioned how these were ever approved. They are as follows: 1) Along the Lake Trail, there is a 10 ft. wall there which has now had a fence placed on top of it. 2) There is a house being constructed on County Road which is disturbing.

Mr. Sam Boykin (Jamaica Lane) congratulated Mr. Robertson on his comments regarding "keeping everything in the building here. I think that is an appropriate thing." Back to the Sunshine Law, Mr. Boykin stated that he had asked Mrs. Murray to speak at a small meeting of the North end property owners association (regarding splitting up the north end zoning) to be held at the Heart of Palm. He asked if this was a violation of the Sunshine Law. Mr. Randolph responded that there is no reason that Nancy Murray should not attend this meeting. However, if the association invited two or more members of the commission to the meeting, and it was in a private place, it would be a violation of the Sunshine Law. On the other hand, if the meeting was

held in a civic hall with the press present and the public welcome, any number of members of the commission could attend the meeting.

Ms. Murphy clarified that all members of the Planning and Zoning Commission could be invited to the same cocktail party, provided they do not discuss any matters which may come before the commission. Secondly, she echoed Mr. Golboro's statements about that "horrible" wall on the Lake Trail. She recommended that when such things are being constructed, that the permit be placed directly on the wall to allow for better reporting and enforcement.

Mr. Robertson stated that the commission was just handed the list of twenty (20) study items for 2006/2007, just typed by Mr. Castro. Mr. Bell stated that he wanted to discuss these study items this afternoon.

MOTION BY MS. MURPHY THAT THE STUDY ITEMS BE DISCUSSED AT THE JUNE 1, 2006 MEETING.

MOTION SECONDED BY MR. SCHULER.

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

Ms. Close advised the commission to notify staff of any other study items which they would like added to the list.

Mr. Bell did not understand why there is a move afoot to increase the number of meetings when the meetings end so early. He felt it would be better to continue today's meeting into the afternoon.

Ms. Murphy asked that the east walls on Lake Trail be added as a study item. Ms. Close advised that this was studied last year and the Town Council took no action. Mr. Castro explained that the Town Council asked staff to study raising the height of the walls on the east side of Lake Trail. They decided against that and to leave it as it is today; the wall may be four (4) feet above the Lake Trail in height. Most higher walls were granted by variance as is the case with the wall mentioned by Mr. Golboro and Ms. Murphy.

VII ADJOURNMENT

MOTION BY MR. SCHULER TO ADJOURN THE MEETING AT 12:15 P.M.

MOTION SECONDED BY MS. MURPHY.

MOTION CARRIED UNANIMOUSLY.

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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