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SUMMARY
ZONING COMMISSION MEETING
April 17, 2001
9:30 a.m.

I **CALL TO ORDER AND ROLL CALL:** The meeting was called to order at 9:30 a.m. by Chairman James B. Bertles

Members Present: James B. Bertles, Chairman
 Richard M. Kleid, Vice Chairman
 Eugene Lawrence, Member
 Rodney B. Fink, Member
 Rita Taca, Member
 Jorge Sanchez, Member (arrived at 9:34 a.m.)
 Peter Broberg, Member
 Martin Klein, Alternate Member
 Harrison Robertson, Alternate Member
 Joanna Golino, Alternate Member

Members Absent: None

Staff Present: Robert L. Moore, Director of Planning, Zoning & Building
 Veronica Close, Assistant Director of Planning, Zoning & Building
 Paul W. Castro, Zoning Administrator
 William F. Brisson, Zoning Consultant
 Albert P. Dusey, Director of Public Works
 James Bowser, Town Engineer

Recording Secretary: Cynthia M. Delp

II **INVOCATION:** Given by Mrs. Delp

III PLEDGE OF ALLEGIANCE

IV PROCEDURES FOR INPUT BY THE GENERAL PUBLIC

Mr. Bertles stated that we will hear from staff, then the public, and then have commission discussion.

V STAFF PRESENTATION OF THE 2000-2001 ZONING SEASON (ORD. #1-01)

Mr. Castro stated that there was a three-fold purpose for this meeting today. 1) To review items approved by the Town Council during the last zoning season. 2) To list new items that the Zoning Commission would like the Town Council to study next year 3) To review the staff report dated April 11, 2001 relative to Storm Drainage Recommendations. Mr. Castro began by reviewing Ordinance #1-01, addressing changes to the Zoning Ordinance. Copies of the ordinance were provided to the members.

Items for Study during the next Zoning Season

Harrison Robertson, Alternate Member of the Zoning Commission, had written correspondence dated April 5, 2001 to Mr. Moore with various suggestions for study items. A copy of this correspondence was distributed to the Zoning Commission. Mr. Castro read the five items listed in Mr. Robertson's letter into the record. Mr. Bertles called for public comments. There were none.

Zoning Commission comment

Mr. Klein stated that some of the items listed in Mr. Robertson's letter may have constitutional implications. He asked for input from the staff and the Town Attorney prior to any action by the Zoning Commission. (There was no Town Attorney present today due to scheduling conflicts.)

Mr. Bertles attempted to clarify by saying that the Zoning Commission is recommending to the Town Council that they direct staff to study certain items for the next Zoning Season.

Harrison Robertson Item #1: A cap on the number of dwelling units

Mr. Moore stated that this has already been declared as unconstitutional. Therefore, no motion was made.

Harrison Robertson Item #2: A cap on the number of building permits annually

MOTION BY MR. BROBERG RECOMMENDING THIS AS A STUDY ITEM.

MOTION SECONDED BY MR. FINK.

ROLL CALL: Mr. Broberg: Yes

Mr. Fink: Yes

Mr. Lawrence: Yes

Ms. Taca: Yes

Mr. Sanchez: No

Mr. Kleid: No

Mr. Bertles: Yes

MOTION CARRIES 5-2-0

Mr. Sanchez explained his negative vote by voting on the side of the rights of a property owner. Mr. Robertson responded that he believes the right of a property owner is subordinate to the welfare of the town.

Harrison Robertson Item #3: Provision for demolition permits to include plans for substituted construction Mr. Lawrence commented that a property owner should have the right to tear down a property and sod it, and then think about what he wants to build on the lot.

Mr. Bertles called for a motion, but none was sponsored relative to this item.

Harrison Robertson Item #4: Better public notice of variance applications. Also Special Exceptions. Mr. Moore commented that the legal ad for these items can be made larger in the newspaper. Mr. Bertles spoke in strong support of better notice to the public.

MOTION BY MR. SANCHEZ SUPPORTING THIS AS A STUDY ITEM, AND IN FACT, REQUESTING THAT PROPERTY OWNERS WITHIN 600' OF THE SUBJECT PROPERTY TO BE NOTICED.

MOTION SECONDED BY MR. FINK.

MOTION CARRIED UNANIMOUSLY UPON A ROLL CALL VOTE.

Harrison Robertson Item #5: Have such applications (variance and Special Exceptions) heard and decided by the Town Zoning Administrator with right of appeal to Town Council: Mr. Moore stated that this item has already been speculated. The Town Council has asked the staff to look at this matter in order to free up some of the Council's agenda.

MOTION BY MR. LAWRENCE TO APPROVE THIS ITEM FOR STUDY.

MOTION SECONDED BY MR. SANCHEZ.

MOTION CARRIED UNANIMOUSLY UPON A ROLL CALL VOTE.

Mr. Bertles asked about the deadline for submitting proposed study items for next season. Mr. Castro replied that the deadline for filing an application for a code amendment this year is August 7, 2001. The Town Council will then decide in September whether to choose to study this item.

David Barton, 216 Jamaica Lane: Questioned whether the Zoning Commission was the Planning Commission also. Mr. Barton commented further that the Zoning Commission meetings should be advertised as a Planning Commission, as zoning is a tool of planning.

Mr. Moore responded that the Zoning Commission, by ordinance, also must review any municipal planning issue. So, the Zoning Commission serves as the Planning Commission for the town as well. The newly created Strategic Planning Board was created as a separate body to deal with long range planning issues and will be chaired by the Mayor. The Strategic Planning Board will meet, hear from the

public and make recommendations to the Town Council.

Leslie Shaw: As a current member of the Architectural Commission, he called for a better mix of the commissions, so that all the boards work in concert ...the Zoning Commission, the Landmarks Preservation Commission and the Architectural Commission. Secondly, he addressed the matter of using basements as a way to provide usable space to an owner, which may benefit the Town by decreasing the need for such large footprints. He called for a re-defining of the word "basement." He commented regarding the legal notice for variances, special exceptions and site plan reviews, feeling that the ad should be more user friendly, and provide notice of deferrals. Mr. Shaw stated he hopes for a change in philosophy to a more daring one which focuses more on the Town than the individual, and one that asks what are the impacts to the neighbors. He also emphasized that "neighbor" is not only the one across the street, but is the property directly adjacent and behind a property.

Wendy Victor: Spoke relative to the Strategic Planning Board, the meeting which has already occurred and two meetings scheduled in May. She called for much greater public involvement.

David Barton: Commented that he had no idea of when the Strategic Planning Board met. He called for better notice to the public. He stated that the Town is "going to hell in a hand basket" due to overbuilding. He cited statistics for new construction as taken from Page 86 of the Town's Annual Report, wherein it states that in 1991 there were 14 permits issued for new construction, in 1999, there were 205, and in fiscal year 2000, there were 347.

Mr. Moore responded that there are less than 150 lots in the Town that are on vacant land. For the record, he stated that the Town is "not going to hell in a hand basket. The Town has been in business for ninety-some years. It is the finest residential community in the world. People are knocking down our doors to get here. It is a beautiful town to live in."

Mr. Bertles brought the meeting back to order, and asked for specific study items. He also suggested that all members of the Landmarks Preservation Commission, Architectural Commission, and Zoning Commission be notified of the next meeting of the Strategic Planning Board. Staff will take care of that notification.

Discussion relative to Building Moratorium

Mr. Robertson asked that the Zoning Commission re-consider a moratorium on building in an effort to control the flooding problem and the over-building problem. Ms. Close stated that the Town Attorney, though he could not be here today, asked that any discussion regarding a moratorium be delayed till he was able to attend. Mr. Moore stated that a moratorium would be subject to attack, and must be legally defensible. Ms. Golino suggested that a moratorium might be limited to the R-B district as there is currently an R-B study underway. Mr. Randolph could address that at a future Town Council meeting. Wendy Victor supported Ms. Golino's suggestion for a moratorium in the R-B zoning district.

MOTION BY MR. SANCHEZ TO RECOMMEND TO THE TOWN COUNCIL THAT STAFF BE DIRECTED TO STUDY A BUILDING MORATORIUM , NOT BASED ON DRAINAGE ISSUES, BUT DUE TO THE ONGOING R-B STUDY, WITH SAID MORATORIUM BEING LIMITED TO THE R-B DISTRICT.

MOTION SECONDED BY MR. BERTLES, AFTER PASSING THE GAVEL.

ROLL CALL VOTE: Mr. Sanchez: Yes
Mr. Bertles: Yes
Mr. Lawrence: No
Mr. Broberg: No
Ms. Taca: No
Mr. Fink: Yes
Mr. Kleid: No MOTION FAILS 3-4-0.

MR. MOORE ANNOUNCED, FOR THE RECORD, THAT THE STRATEGIC PLANNING BOARD WILL MEET ON FRIDAY, MAY 4, 2001 AT 9:30 A.M. AND WEDNESDAY, MAY 16, 2001 AT 1:30 P.M.

It was suggested by Ms. Golino for the Zoning Commission to have another meeting in a month to deal strictly with Long Range Planning issues, with the members of the Landmarks Preservation Commission and the Architectural Commission invited to attend. Mr. Moore asked that such a meeting be held off until the fall, when an entire day could be devoted to it as a first meeting of the Zoning Commission. Mr. Bertles asked that such a meeting be made a permanent part of the Zoning Season, and asked staff to effect this change.

There was some expressed concern about the number of variances being issued. It was questioned whether the zoning code could be simplified in an attempt to reduce the number of variances requested. Mr. Moore responded that the Zoning Ordinance was developed in 1974, and modified annually since then. Every time it becomes more restrictive, more non-conformities are created, thus contributing to increased variance requests. Mrs. Yvelyne de Marcellus Marix, 1570 North Ocean Boulevard, commented that she is devastated about the Town Council's decisions on variances. She advocated that the Town Council ask the question....what is the hardship, as prescribed in the code. She felt too many variances are approved. She also noted that a variance request must be the minimum variance to save a situation, not the maximum. Mr. Sanchez commented that hardship used to be a strict word, but now the word is used much more liberally. Mr. Goldblum stated that the Town Council does consider hardship, and unless there is a hardship, the variance is not approved.

VI STAFF RECOMMENDATION REGARDING POTENTIAL SOLUTIONS TO

STORM DRAINAGE ISSUES FOR NEW CONSTRUCTION AND REDEVELOPMENT

Ms. Close stated that the Public Works Department and Planning, Zoning & Building met to prepare this report. The report was distributed to all Zoning Commission members. Mr. Moore explained that these recommendations are the staff's best effort to help the drainage problem until the streets can be brought up to an improved level of service.

1. Consider increasing post development retention requirements on site.

Recommendation: All new construction or redevelopment, regardless of property size, must retain first 2" of rainfall on property prior to discharge into the town system, except those exempted by Town Engineer. The drainage plan is required prior to site plan review by Town Council, ARCOM or Landmarks Preservation Commission review. If none of these reviews are required, the drainage plan is required at building permit application submission.

Mr. Broberg asked how 2" of retention can be achieved. Mr. Jim Bowser, Town Engineer, answered that it can be achieved probably by less development on the lot. Mr. Bowser stated that the recommendation is that a drainage plan must be developed and approved prior to going through any site plan or architectural review process. Mr. Sanchez opposed the staff's recommendation on this item, feeling that it would be better to concentrate on better systems in the streets, because even a 2" retention may not be sufficient in heavy rains. He felt that the 2" requirement was just placing a band aid on a much larger problem. Mr. Moore responded that the 2" requirement is an attempt to keep an increased amount of water on the site longer to delay its entry into the Town's street systems, and it doubles the existing 1" requirement.

Mrs. Polly Earl, Director of the Preservation Foundation: Offered some comments to apply to all 16 drainage recommendations. She did not want to see any of them adopted without first asking the question of how these recommendations will impact landmarked homes, and how they will impact our traditional neighborhoods. When these types of properties try to re-develop, they need to be able to do so. She called for a real in-depth study things other than just engineering criteria.

David Barton: Commented that he has experienced three 50 year storms in 16 months, which has cost him a great deal of money so far. He maintained that if the Town allows these big houses to continue to be built, the flooding will increase. He asked that building be stopped to allow time to find ways to deal with the drainage. Mr. Barton was asked whether he supported requiring 2" of on site retention, and his response was that he did not support it.

MOTION BY MR. SANCHEZ TO DENY RECOMMENDATION #1 BECAUSE THE 2" RETENTION WILL NOT WORK, AND TO KEEP THE RETENTION AT 1".

THE MOTION FAILED FOR LACK OF A SECOND.

**MOTION BY MR. FINK TO RECOMMEND ITEM #1 TO THE TOWN COUNCIL.
MOTION SECONDED BY MR. KLEID.**

**MOTION CARRIED 5-2-0, WITH MR. SANCHEZ AND MR. BERTLES VOTING
AGAINST.**

2. Timing of Site Improvements

Recommendation: Require grading of lot, placement of retention walls and perimeter landscaping (including front where feasible) earlier in the construction project.

Mr. Broberg felt that the word “earlier” was too vague, and that a time should be chosen, such as when the slab is poured. He felt retention areas should be placed at the beginning of the project as well. Mr. Moore suggested that the time be specified as the time of the foundation pour.

MOTION BY MR. BROBERG TO RECOMMEND ITEM #2 TO THE TOWN COUNCIL.

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

3. Use of a consulting engineer to review storm drainage plans; specific plan requirements.

Recommendation: Retain a consulting engineer to review storm drainage plans.

**MOTION BY MR. KLEID TO RECOMMEND ITEM #3 TO THE TOWN COUNCIL.
MOTION SECONDED BY MR. SANCHEZ.
MOTION CARRIED UNANIMOUSLY.**

4. Monitoring improvements to property after initial storm drainage/open space plans are approved.

Recommendation: Require recorded approved as-built storm drainage plans prepared by a certified professional land surveyor as a condition of final Certificate of Occupancy.

**MOTION BY MR. BROBERG TO RECOMMEND ITEM #4 TO THE TOWN COUNCIL.
MOTION SECONDED BY MR. FINK.
MOTION CARRIED 6-1-0, WITH MR. SANCHEZ VOTING AGAINST.**

5. **Review Town Code related to underground parking**

Recommendation: Prohibit parking below grade or the use of underground structures in flood zones without a recorded hold-harmless agreement.

MOTION BY MR. SANCHEZ TO RECOMMEND ITEM #5 TO THE TOWN COUNCIL.

MOTION SECONDED BY MR. FINK.

MOTION CARRIED UNANIMOUSLY.

6. **Consider a requirement for gutter systems on all new construction and redevelopment**

Recommendation: Require gutter systems on all new construction and redevelopment.

MOTION BY MR. LAWRENCE TO **RECOMMEND AGAINST** ITEM #6.

MOTION SECONDED BY MR. SANCHEZ.

MOTION CARRIED 6-1-0, WITH MR. FINK VOTING AGAINST.

7. **Reconsider the 25% allowance to open space requirements for the use of grass-crete.**

Recommendation: Eliminate the 25% allowance to open space requirements for the use of any grass-crete type of surface.

This item is a zoning study item for next season. Thus, no motion was made.

8. **Review the open space requirements for the Town**

Recommendation: Revise the minimum open space requirement for the R-C District from 35% to 40%.

This item is a zoning study item for next season. Thus, no motion was made.

9. **Alternate trash days/use containerized system to minimize trash in drainage system**

Recommendation: The Public Works Department continues to recommend the use of a containerized yard trash system.

Mr. Dusey advocated containerizing the yard trash in 95 gallon plastic containers which must be brought out to the street and then taken back to the side or rear of the house. This measure is being suggested to keep yard debris out of the inlets, as clogged inlets cause flooding. A pilot project has been proposed this year to use these containers in one area of town. There was a good deal of discussion relative to this matter with various disadvantages noted, but no motion was sponsored relative to it.

10. Explore the possibility of obtaining an emergency permit from SFWMD to operate emergency storm water pumping stations.

Recommendation: The Public Works Department should continue their efforts to obtain the SFWMD permit regarding this issue.

Ms. Close stated that the Town Council has already directed the Public Works Department to pursue this, so no motion was required.

11. Require alternative methods of on-site water retention

Recommendation: Do not mandate any particular method of storm water retention.

MOTION BY MR. LAWRENCE TO RECOMMEND ITEM 11 TO THE TOWN COUNCIL.

MOTION SECONDED BY MR. FINK.

MOTION CARRIED UNANIMOUSLY.

12. Reduce the threshold (50%) of redevelopment which requires compliance with retention requirements.

Staff did not support this item. No motion was sponsored.

13. Reduce the number of days within which to sod/seed and irrigate after demolition

Staff did not support this item. No motion was sponsored.

14. Increasing percolation rate requirements.

Staff did not support this item. No motion was sponsored.

15. Raise building pads only with no increase in overall lot elevation

Staff did not support this item. No motion was sponsored.

16. Changing the FEMA minimum flood elevation requirement

Staff is recommending no action at this time due to changing FEMA requirements. No motion was sponsored.

VII ANY OTHER ITEMS

Mr. Castro gave a brief overview of the R-B Phase II Study, describing the goals and objectives, and the tasks involved in the project.

Mr. Castro stated that Monday, November 19, 2001 and Tuesday, November 20, 2001 (if necessary) will be the first meeting dates of the 2001/2002 Zoning Season. Following that, there will be a meeting on December 3, 2001. Another meeting date will be set dedicated to long range planning issues.

Mr. Broberg stated that it is admirable to want to reduce the number of variances granted, but owners must have some certainty to know what they can do with their properties. He cautioned staff to be sure, in deliberating changes to the zoning code, that the ability to re-develop existing homes is not taken away. The houses must be allowed to be more liveable, and perhaps sometimes larger.

Mr. Castro stated that the Zoning Commission's recommendations will be compiled in a report, and he requested authorization for the Chairman and the Secretary to sign the document. The Commission gave the authorization.

VIII ADJOURNMENT:

The meeting was adjourned at 1:06 p.m. without benefit of a motion.

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