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MINUTES

PLANNING AND ZONING COMMISSION

2003-2004 ZONING HEARINGS

Tuesday, March 16, 2004 at 9:00 a.m.

360 South County Road, Palm Beach

Town Council Chambers

- I **Call to Order and Roll Call:** Mr. Kleid, Secretary of the Planning and Zoning Commission, called the meeting to order at 9:30 a.m.

PRESENT: Richard M. Kleid, Secretary
 Lowry M. Bell, Member
 Joanna Golino, Member
 Nancy M. Murray, Member
 Elizabeth S. Murphy, Alternate Member
 Susan Markin, Alternate Member
 John Schuler, Alternate Member
 John C. Randolph, Town Attorney
 Robert L. Moore, Director of Planning, Zoning & Building
 Veronica B. Close, Asst. Dir. of Planning, Zoning & Building
 Paul W. Castro, Zoning Administrator

ABSENT: Peter S. Broberg, Member (Unexcused)
 Harrison M. Robertson, Member (Unexcused)
 Jorge A. Sanchez, Member (Unexcused)

RECORDED AND TRANSCRIBED BY: Cynthia M. Delp

It should be noted that all three Alternate Members were voting members today in light of the absences of Messrs. Broberg, Robertson, and Sanchez.

II **Election of Chairman and Secretary:**

Mr. Bell nominated Mr. Kleid as Chairman. Mrs. Murray seconded the nomination. There were no other nominations. Upon a roll call vote, Mr. Kleid was unanimously affirmed as Chairman.

Mr. Kleid nominated Mr. Bell as Secretary. Mr. Schuler seconded the nomination.
Mrs. Murphy nomination Mrs. Golino as Secretary. Mrs. Markin seconded the nomination.
A ballot revealed 4 votes for Mr. Bell and 3 votes for Mrs. Golino. Mr. Bell was affirmed as Secretary.

III **Proof of Publication:** Mrs. Close verified proof of publication.

IV Study Item Regarding Proposed Modification of Intersection Vision Requirement in Chapter 134, Zoning:

Mrs. Close offered some background information relative to this subject. She stated that sight visibility was discussed at the January 13, 2004 Town Council meeting. The matter was then forwarded to the Planning and Zoning Commission for action. Ms. Close listed the three related motions made by the Planning and Zoning Commission at their January 15, 2004 meeting. Those recommendations went to the Town Council in February, and the Town Council directed Staff to hire a traffic engineer and consultant to study Phase I, the development of a proposal for sight visibility, but not retroactively. In March, the consultant submitted a draft proposal which was forwarded to the Planning & Zoning Commission. Staff met several days later to discuss this proposal, and that proposal is before the Planning & Zoning Commission today. Ms. Close noted that Staff had a very short time frame to develop the proposal, but in order to have the matter discussed during the season, the time had to be compressed.

Ms. Close stated that Mr. Castro will present existing code requirements, and then Mr. Brian Mirson, of American Consulting Engineers of Florida, LLC, and Mr. Garreth Klotz, Traffic Engineer, will make a presentation. After discussion, the Planning & Zoning Commission will formulate a recommendation which will be taken to the Town Council at their April meeting. That final report will include taking the Planning & Zoning Commission recommendations and applying them to five (5) typical intersections. It will also include an overlay of crash data illustrated on a GIS map. At the April meeting, the Town Council will direct Staff as to whether they choose to proceed to an ordinance, defer the matter to the next zoning season, or take any other action.

Mr. Castro explained the existing code provisions for sight visibility, drawing a distinction between intersections with signals, and through streets without signals. He stated that staff has most concern regarding sight visibility on through streets without signals.

Mr. Mirson stated that the Town quite often has sight visibility of 30'-40', while 300' is the minimum standard for a safe stopping distance, according to the "Green Book," (the American Association of Highway and Transportation Officials,) the standard for municipal roads. To accomplish this, either the edge of the road needs to be further away from the stop bar, or the obstacle, hedge or wall needs to be closer to the home. He noted that hedges greater than 42" can be considered an obstacle. As such, they should either be moved back or cut lower to preserve sight visibility. The challenge in such matters is the implication to the residents versus what is prudent and appropriate for the protection of the public. Mr. Mirson clarified that the "Green Book" is interpreted and applied by many, and his firm uses the standards to arrive at a prudent alternative, i.e., what may be prudent for the town to make a better situation than exists currently.

Mr. Bell questioned the consultants relative to the Police Department Report, included in the consultant's report, relative to intersection crashes. That crash data is for the time period from January of 2001 through February of 2004, a three year period. Mr. Klotz responded that under the Manual of Uniform Traffic Control Devices, an intersection experiencing five (5+) or more traffic accidents within a twelve month period is regarded as a substandard condition. He noted that some of the crashes counted on the Police Department's report may not have had anything to do with sight visibility at all, but instead can be attributed to cell phones, distracted drivers, and the like. Another important factor to consider when evaluating intersections is the width of the streets, a measurement which varies from 16.25 ft. up to just over 38 ft. in the Town. Wider streets provide a greater sight visibility distance than streets which are narrow. Mr. Klotz stated that their goal is to have the Town understand that the existing distance regulations present in the code today are not prudent, and are substandard to current guidelines. A site distance of thirty feet (30') at an intersection is typically not acceptable to a driver to allow for safe exit out onto a major roadway.

Mrs. Golino referred back to the crash data questioning what is driving the change that is before the Planning and Zoning Commission today, noting that so many of the accident locations are at intersections with signals. One might conclude that accidents at these locations may be more likely caused by poor driving than a bad intersection condition. Mr. Castro responded that the study was not spurred by the crash data, but instead by a wall built according to code on South County Road which resulted in poor sight lines. It was then decided that the code should be reviewed to evaluate existing Town standards, and determine if any changes were required.

Mr. Bell commented that it appears most accidents are occurring in the commercial areas, although most sight visibility complaints have concerned residential areas. He saw no purpose in changing the existing standards unless

they pertain to the commercial areas where accidents are occurring.

Town Council Member, Norman Goldblum, stressed the impact of parked cars when coming out from side streets. He felt that addressing the problem of parked cars would be an easy fix to the problem. It was not known if cars are being parked legally or illegally, but parking is regulated by the Police Department. It was noted that spots should be clearly marked if parking is prohibited. Ms. Murphy commented that there are places in town where cars are legally parked, but views are still quite obstructed.

Ms. Markin asked the consultants whether, if our standards are substandard according to State and Federal guidelines for sight visibility at intersections, the Town of Palm Beach is liable as a municipality if an accident occurs at such an intersection. Mr. Mirson responded that he believes the Town is liable, and that it is prudent for the Town to bring its codes and intersections up to standards. He stated, however, that the Town could be defended under the concept that traffic data has indicated a lack of a problem.

Mrs. Golino referred to the Table on Page 5 for designed speed and sight distance required, noting that the sight distance for a left hand turn is 335 feet at a speed of 30 mph. This could involve, especially in the north end, an entire block from street to street, forcing hedges and walls lower than 3.5 feet, or hedges and walls set back fifteen (15') feet from the edge of the road. She felt this could have a tremendous affect on the look of the north end.

Mr. Kleid stated, and it was confirmed by Mr. Moore, that only standards for new construction and major remodels were being discussed today. Keeping in mind Mrs. Golino's previous comments, Mr. Moore admitted that the 15' x 30' sight triangle may not be ideal, but residents have been able to live with it. It still provides some level of vision at intersections, without a huge taking of residents' properties.

Mr. Klotz commented, according to what he has read, if a municipality has a problem with its roadway, and takes measures to correct the situation, and another fatality happens, the court recognizes that the municipality is working to correct the problem. Mr. Randolph did not think that the Town has any liability now if nothing is done to correct the code, but if a new standard is adopted, and the Town does not follow through with it operationally, then the Town could be subject to being sued. Mr. Mirson reiterated that 300' is the minimum safe stopping distance, which is used by well over 75% of municipalities or counties.

Mr. James Bowser, Town Engineer, while recognizing what the standards are, stated that the FDOT standards do not work in the Town. It appears that something should be done to improve the code, but some medium ground must be found. As for the 15' x 30' sight triangle, 15' is too generous and 30' is too short, in his opinion. The Public Works Department would like there to be a standard to apply to all new development, one that will improve traffic safety, but not take private property. Mr. Bowser was in favor of moving hedges back, and the practice of backplanting to allow for new hedge growth prior to removal of the original planted hedge.

Ms. Close summarized the various courses of action which had been mentioned, i.e., take no action; cut hedges; increase the 15'x30' sight triangle; decrease the speed limit; eliminate some parking spaces; and, aggressively enforce illegal parking. She asked Mr. Mirson to suggest an option available to the Town. He responded with a strong suggestion to change the 15'x30' sight triangle to a new standard to be determined by the Town. He added that the 15'x30' sight triangle is defensible, however, as justified by the accident data, but it would be prudent to make a change. Mr. Mirson stated that his firm is not prepared to discuss a compromise (between the existing conditions and the established minimum guidelines) today. He stated his firm will not compromise their position, but instead will provide to the Town what they believe, from a policy perspective, the Town can live with and yet remain prudent. Mr. Moore asked Mr. Mirson how long it would take his firm to develop their prudent position on this matter. Mr. Mirson responded that it would take approximately five to ten days. He will consider parking near intersections, lanes, hedges, and the like in formulating that prudent position. Mr. Randolph asked Mr. Mirson if he had previously stated that the 15'x30' sight visibility triangle was prudent. Mr. Mirson responded that it is defensible by the crash data, but it is significantly less than what he would suggest as appropriate. This is, after all, a policy choice. Mr. Goldblum noted, for the record, that the Town has already taken prudent action to reduce the speed limits in town.

Ms. Markin commented that Mr. Bowser's comments were on target. Palm Beach has unique situations with tall hedging and privacy concerns, and residents know what they are willing to deal with. Regardless of accident data, there is a problem in Town with hedges and walls. She advocated addressing situations where views are blatantly obstructed, together with looking at the parking near those intersections, rather than taking another approach which could be totally disruptive to the property owners. Whatever new regulations may be developed, they must be enforceable. Ms. Markin perceived that due to the younger population in Town, people are driving faster, and sometimes more recklessly. She commented that we need to strike a balance between what exists and the minimum standards.

Mr. Randolph stated it is important to determine whether the problems experienced in driving the Town are a result of needing new standards, or a result of people not adhering to existing standards. Ms. Close asked Mr. Mirson, as part of their contract in developing the five (5) typicals, to incorporate the comments of the Planning and Zoning Commission, and suggested that Mr. Mirson return to the Planning and Zoning Commission's April meeting with the report, rather than sending it first to the Town Council. Mrs. Golino requested, in their review of the five typicals, that the consultant provide information as to whether there are hedges or walls there now which would not meet current code provisions. Ms. Close responded that an example of such a condition could be included. Mr. Randolph suggested that someone do a survey of where the problems are, and whether they are a result of not complying with the 15'x30' rule.

MOTION BY MR. BELL THAT THE PLANNING AND ZONING COMMISSION MEET AGAIN IN APRIL, AFTER THE STUDY IS COMPLETED, THAT THE CONSULTANTS AND MR. BOWSER RETURN TO THAT MEETING, THAT THE CONSULTANTS WORK WITH MR. BOWSER TO FORMULATE JOINT RECOMMENDATIONS FOR THAT MEETING, AND TO ASK THE POLICE DEPARTMENT TO EXAMINE THE OTHER 91 ACCIDENT LOCATIONS TO DETERMINE IF HEDGES/WALLS WERE CONTRIBUTING FACTORS.

MOTION SECONDED BY MS. MARKIN.

MOTION CARRIED UNANIMOUSLY.

Mrs. Golino asked that a random windshield survey be done regarding grandfathered hedges, as this is essential information. Mrs. Murray asked that there be follow up regarding how many hedges are in the right of way. Mr. Moore responded that unfortunately, the Town does not have the staff or the time to perform a windshield survey. He did feel it was prudent to ask the Police Department what their records indicate at intersections where accidents have occurred, and which of those might be due to hedges that do not even meet current standards. A representative from the Police Department will attend the April meeting.

Ms. Markin added a suggestion that in order to save the money that the Town would expend on engineers and traffic studies in the future, a Town employee could be hired specifically for hedge patrol and enforcement. Overgrowth of hedges, of course, could be considered a chronic problem due to rapid plant growth in the South Florida climate.

Mr. Kleid thanked the consultants for an excellent and thorough presentation.

V **Any other items**

The next meeting of the Planning and Zoning Commission will be held on April 20, 2004 at 9:30 a.m.

MOTION BY MR. BELL FOR APPROVAL OF THE JANUARY 15, 2004 MINUTES.

MOTION SECONDED BY MRS. MURRAY.

MOTION CARRIED UNANIMOUSLY, 6-0. (Mr. Schuler did not vote as he was not a member of the Planning and Zoning Commission in January.)

Ms. Close notified the Planning and Zoning Commission that the Town Council will meet relative to the Strategic Plan on March 26, 2004, during which recommendations from the various boards and commissions of the Town will be reviewed relative to Governance. This topic had been discussed by the Planning and Zoning Commission at their December meeting.

Mr. Kleid made note of a letter from Martin Klein which had been distributed to all of the members.

Mr. Moore noted that Mr. Brooks has provided a copy of an article from the *New York Times* relative to the issue of large homes being built in older neighborhoods, specifically Manhattan Beach. Copies were distributed to the members.

Ms. Close also noted that the Town Council will be meeting on April 1, 2004 to discuss the maximization study.

VI Adjournment:

MOTION BY MR. BELL TO ADJOURN THE MEETING AT APPROXIMATELY 10:45 A.M.
MOTION SECONDED BY MR. SCHULER.
MOTION CARRIED UNANIMOUSLY.

Richard M. Kleid, Chairman
Planning and Zoning Commission

Lowry M. Bell Jr., Secretary
Planning and Zoning Commission

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