

PLANNING AND ZONING COMMISSION
2006-2007 ZONING HEARINGS
RECORD AND REPORT
THURSDAY, FEBRUARY 22, 2007, 9:30 a.m.

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

PRESENT: Harrison M. Robertson, Chairman
Elizabeth S. Murphy, Member
John H. Schuler, Member
Alan S. Golboro, Member
William M. Guttman, Member
Leslie A. Shaw, Member
Walter Anthony Dowell, Alternate Member
Eugene Lawrence, Alternate Member
Floyd L. Wideman, Jr. Alternate Member
Veronica Close, Director of Planning, Zoning & Building
Paul W. Castro, Zoning Administrator
William F. Brisson, Zoning Consultant
John C. Randolph, Town Attorney

ABSENT: Lowry M. Bell, Jr. Secretary (Excused)

(Please note that in light of Mr. Bell's absence, Mr. Dowell was a voting member today.)

RECORDING SECRETARY: Cynthia M. Delp

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

III. **CONSENT AGENDA**

- A. MINUTES: DECEMBER 14, 2006
APPROVAL OF THE MINUTES OF THE PLANNING AND ZONING
COMMISSION MEETING

MOTION BY MR. SCHULER FOR APPROVAL.
MOTION SECONDED BY MR. GUTTMAN.
MOTION CARRIED UNANIMOUSLY.

IV. **REGULAR AGENDA**

A. Old Business: None

B. New Business

Mr. Robertson commented that two lengthy memos were placed on the dais for each member; one from Mr. Guttman and one from Ms. Close. Ms. Close explained that the memorandum from staff was provided for reference, and a quick summary of the memorandum is found on the first page. The staff memo concerns extending the zoning season.

1. Study Item 8. Generators

Ms. Close stated that staff has worked diligently to prepare this generator report as an expedited item, all in an effort to enable the passing of an ordinance in time for the hurricane season. She deferred to Mr. Bill Brisson, Zoning Consultant. Mr. Brisson stated that the present generator regulations do not adequately address generator noise, and placement. The Town has instituted zoning in progress relative to generators which placed certain restrictions on them. Mr. Brisson referred to the current regulations as “sparse”: None are permitted in the street yards; if there is one in the side yard or rear yard, it must be placed 5 feet from the property line; a generator may not exceed a height of seven feet above the neighboring property owner’s grade; and, a generator must be soundproofed to meet current decibel levels, which are between 55 and 60 at night, and from 61 to 66 decibels during the day, depending on the area of Town in which they are located.

Mr. Brisson indicated that most residents want a larger generator. These will typically range from 48 inches to 8 feet in height, from 6 to 16 feet in length, from 3 to 5 feet in width, and can cover up to 84 square feet. (He referred to the table listed in the generator report.) Mr. Brisson noted that even the smallest of the generators can exceed the Town’s decibel regulations unless they have some sound buffering. Staff believes that generators should be treated at least as strictly as air conditioners. Ideally, they should not be located in side or rear yards, but in many cases, this cannot be accomplished. As such, staff is recommending that generators be allowed in side and street yards, but with more strict criteria. Staff’s original recommendation was that if the generator is 60 kw or larger, it would have to meet all of the lot, yard, and bulk regulations of the principal structure. In reconsidering this, however, staff believes that generators 60 kw or larger should only be held to the regulation that they not be located within the required setback, as staff would not want to promote regulations which would result in an increased number of variance requests to the Town. Staff does not recommend limiting the hours of operation to daylight hours, as power needs for residents extend beyond daytime hours. Further, staff does not believe that generators need to be in an enclosed building, provided they are adequately screened and have sound buffering. Mr. Brisson stated that the zoning in progress restrictions for generators require that the generator be no more powerful than that necessary to generate 75% of the load required to run the building in a non-emergency situation, but staff recommends that this be abandoned within the new regulations, and that there should be no limitations on output capability provided there is adequate screening and sound proofing. Staff is also recommending that exhaust mufflers be vented vertically, protecting landscape and neighboring properties.

Staff recommends that the Town be exempted from all generator regulations as any of the Town's generators serve a public purpose in both emergency and non-emergency situations. Staff recommends that generators of less than 60 kw be allowed in side and rear yards, provided they are set back at least 5 feet from the property line, that they meet prescribed decibel levels, that they be screened by at least 3 walls which are the same height as the generator (front or back and two wing walls); that the exhaust is vented upward; that testing be done only during certain periods; and; that testing occur for no more than 30 minutes during certain days of the week. (Please see the Town of Palm Beach Zoning Proposal Staff Report GENERATORS 2006-2007 for exact wording of staff recommendations. Note that Mr. Brisson added the "three wall" requirement during his presentation.)

Staff recommendations relative to generators 60 kw or larger are that they would need to be placed outside the required setbacks; cannot exceed decibel limitations; if greater than 100 kw, site plan review would be required; if the generator is visible from the street, it would have to be screened and approved by either ARCOM or the Landmarks Preservation Commission, and walls and landscape material shall not be considered when determining a generator's visibility; exhaust must be vented upward; and; establishing certain regulations regarding allowable days and times for testing and maintenance. (Please see Town of Palm Beach Zoning Proposal Staff Report GENERATORS 2006-2007 for exact wording of staff recommendations.)

Mr. Castro explained that the impetus for studying and changing these generator regulations was several requests for much larger generators than the regulations anticipated, especially those which serve condominiums and very large single family homes. Staff determined that the existing regulations were insufficient. He noted that the Town may have to revisit the decibel regulations at some future time to determine if, perhaps, an increase in the allowable decibel levels for generators is warranted. Mr. Castro stated that in most cases, there is sufficient room on a property to locate a generator out of the setback, but most often, the property owner does not want it located in their living area, and chooses to place it in the setback which results in a variance request.

Mr. Schuler noted that some of the older homes on smaller lots may have no other choice than to place the generator in the setback. For cases like this, Mr. Castro responded that some owners may still need to request a variance. Mr. Castro indicated that it takes approximately two months for a variance application to go through the application/hearing process, and an additional five to seven days for an expedited permit.

Mr. Golboro objected to condos and large buildings increasing their generator and fuel storage capacities when it is the objective of the Town to discourage persons from staying on the island during hurricanes. He was also concerned about the noise generated by larger generators. As such, he felt larger generators should be in an enclosed building. Staff responded that for generators 100kw and larger, the generators can typically run more quietly.

Ms. Close stated that staff shares the concern about residents remaining on the island during hurricanes. That is why the zoning in progress regulations related to generators limited the size of the generators to provide only 75% of the power needs. It was her understanding that

insurance companies who serve the island residents are interested in residents having 100% of their power needs met. She stated that Palm Beach Towers went to great expense to locate their very large generator in a soundproof shroud. Placing large generators in a building is likewise a good idea. It is likewise possible to use 3 smaller generators, for example, instead of one large one.

Mr. Guttman stressed the importance of involving architects, engineers and other experts in this discussion. (Please note that several of these persons were present in the audience, and their comments will follow later in these minutes.) He questioned whether there are other methods of sound muffling which might be more effective and aesthetically pleasing, other than walls. He also noted that more specifics about the walls should be included in the regulations. He urged staff to examine the Town's decibel levels further, and questioned the threshold of what is "too much" noise. Mr. Guttman called for the guidelines to be flexible enough to discourage variance requests for generators from becoming commonplace. He felt that an abundance of variance requests for generators would pit neighbor against neighbor. Mr. Guttman questioned who would enforce the generator regulations; the police department or code enforcement.

Mr. Castro addressed Mr. Guttman's comments. He stated that staff had contacted attorneys, architects, and other professionals who work with generators requesting that they attend this meeting. Regarding the height of walls around generators placed in the side yard, Mr. Castro responded that these generators should be properly screened, and staff feels that the "three wall" option provides the best screening. Regarding decibel levels, staff is not attempting to study all decibel levels for all equipment, but would consider a possible exemption for generators in an emergency situation, i.e., creating an allowable excess. With regard to variances, as he stated earlier, Mr. Castro commented that in most cases, property owners are able to site the generator outside of the setback, but choose to place it in the setback for their own convenience. He agreed that there should be sufficient flexibility in the regulations so as to not encourage variances. Regarding staff's recommendation to exclude larger generators from the bulk regulations, Mr. Castro stated that staff attempts to catch code infringements at the permit stage, and code enforcement would respond to any complaints.

Mr. Shaw stated that he would have liked to have seen an inventory of existing generators in the town, as he felt that the overall impact of generators in the town stem from the smaller generators which serve most single family homes. He maintained that when a person purchases a generator, it has a decibel standard which is not under the control of the user. As such, if the generator receives a permit from the Town, the Town would forfeit its right to attempt to control the decibels emitted by that generator. He discouraged a focus on enforcement or citations. He did not believe that LP exhaust is as dangerous as diesel or gas fumes, and thought that the code might address those differences in the venting section. Mr. Shaw did not know how the town would deal with smaller, portable generators. He cited the example of his own small 15kw generator and stated that he thought it was ridiculous to have had to erect a two foot high wall around it. Mr. Shaw noted that in some package units, the exhaust system is integral to the package. In cases like these, he questioned how they would be vented upward. Mr. Shaw disagreed with the proposed regulations, Section (b) 4. where it is proposed that the walls around generators "shall not be considered when determining a generator's visibility." He also stated

that if the Town attempts to deal with sound, it should be measured from where it is heard, which may not be at the property line.

Mr. Castro responded that the proposed regulations were intended for all generators, regardless of size. He noted that the most contentious generators have been the very large type typically used at condominiums because of placement and impact to neighbors. Staff is not so concerned about venting of LP gas, but noted that many of these generators have backup diesel or gas fuel supplies. Regarding measuring decibel levels, Mr. Castro stated that the property line has always been the place to take the decibel readings. Staff tried to provide for flexibility in the regulations while also providing protection for the neighbors. Staff did not have the generator inventory data that Mr. Shaw was interested in, but Mr. Castro noted that many generator permits are issued and reviewed on a daily basis. He stated that while walls may not be the only answer to screening generators, they provide necessary screening from the neighbors.

Mr. Shaw maintained his position that the regulations need to make a distinction between package units and generators in structures, as there are too many variables involved. He felt the regulations might be premature before more information is gathered.

Ms. Murphy asked that when permits are issued for generators placed in the side yard, that consideration be given to where the underground power lines will be placed. Regarding walls, the proposed regulations state that landscaping should not be considered as permanent screening. Ms. Murphy appreciated that, but suggested that the regulations include a provision that walls should be appropriately landscaped for the benefit of neighbors. Regarding the issue of variances, Ms. Murphy suggested that not being able to use your home as intended might be construed as the “undue hardship” required for variance approval. She noted that other communities allow decibel levels to be raised after a hurricane, and she supported adopting such a proposal for the town.

Mr. Robertson asked for comments from the professionals who wished to speak relative to generators.

Michael Dudash of FP&L Ready Power complimented staff on the study thus far. He stated he is a proponent of the “three wall” screening vs. housing generators in buildings; and, of waiving the decibel level regulations after a hurricane. He suggested that generator maintenance be allowed to be performed during the same hours as construction is permitted. He appreciated that residents want privacy and sound buffering from neighbor’s generators. He suggested that the walls might be lined with an interior lining for additional sound buffering.

Attorney Frank Lynch from Moyle Flanigan addressed the Planning and Zoning Commission. He noted that his firm represented Palm Beach Towers regarding their request for a very large generator. He stated he understood the Town’s purpose in wanting people to be out of town during a hurricane, but noted that most damage from a storm comes from water intrusion which leads to mold and toxicity. Mr. Lynch remarked that there are some residents that simply will not leave their homes, and those residents deserve protection too, i.e., air conditioning, operating fans, and security systems. He advocated preservation of people and property in any set of regulations. Mr. Lynch favored staff’s proposed regulations, recognizing that variances may be

appropriate in certain instances.

Dan Divine of Kohler Generators stated that generator size and decibels are closely related. He felt the enclosures will quite often greatly increase the total size of the generators on a given site. As such, he advocated allowing the decibel level to increase to enable reduction in the size of the generator. Mr. Divine questioned why a 60 kw generator is acceptable in the side yard, but a 100 kw generator is not, especially since they are very similar in size. He stated that most homes in Palm Beach would be adequately serviced by a 100kw generator.

Mr. Guttman asked how mufflers differ. Mr. Divine answered that mufflers reduce the noise coming from the engine, and most noise comes from the engine and the fan. Some mufflers are more effective than others, like the critical grade which is typically used at hospitals. Noise increases as the amount of air being moved increases. Mr. Divine agreed that insulating the internal walls of an enclosure is effective in reducing noise, but by making the enclosure larger to “turn” the air will effectively reduce the noise. Some insulation materials are better than others. Most utilize 1" or 2" foam padding, and some are lead lined.

Ms. Close stated that staff is trying to provide a community based performance level for decibels which is acceptable to the community. Such levels vary from community to community and state to state.

Jeff Taylor, Town of Palm Beach Combination Inspector and Plan Reviewer, stated that most generators come with manufacturer’s specifications which list the decibel level. A custom enclosure will, of course, cut down the noise. Mr. Taylor stated that a 50 kw generator will handle a 200 amp service, or a 4,000 sq. ft. home.

Mr. Shaw reiterated that there needs to be a focus on the needs of the majority of residents. He remarked that when a person purchases a Kohler generator, the person has bought a package unit which is already designed and cannot be redesigned.

Mr. Golboro, addressing condo generators, wanted the commission to know that noise rises. He felt that insisting that numerous walls around a generator will greatly increase the noise level on the upper floors of the condos. He advocated disseminating the noise with fewer walls.

Jeffery W. Smith of Smith Architectural Group expressed his pleasure with staff’s efforts to deal with this subject, but noted that are several items which still need to be addressed. He felt that all of the zoning districts need to be considered in the development of regulations. Mr. Smith stated that in the R-AA Zoning District, there should never be a generator located 5 feet from someone’s property line. He objected to a 100 kw generator being located 5 feet from a property line in the R-B zoning district, as was suggested by someone earlier. Regarding exhaust venting upward, that will be a problem especially at condominiums where the venting chimney would inevitably be located near condo unit windows. He advocated an immediate elimination of the requirement for an enclosure and eliminating the 75% capacity limitation which are provisions which are now included in the zoning in progress regulations. This would enable residents to submit permit applications for generators which were previously prohibited by the zoning in progress. Mr. Smith pointed out that several of the Town’s homes have 250 kw generators, as an

example to illustrate that not only condo buildings have large generators. Lastly, Mr. Smith commented that it is his belief that people stay on the island during a storm to monitor their own homes for damage, because too much time elapses before the police let residents back on the island.

Mr. Philip Steinberg, Town resident at 1640 South Ocean Boulevard, stated that he has been trying to add a generator to his property for about a year. He stated he had ARCOM approval, but was denied a 3 ft. variance for setback. He explained that both of his neighbors signed in support of his generator. Further, the generator was going to have the required walls and landscaping and was to have hospital housing, i.e., the most quiet type available. He asked that the regulations and those administering the regulations be more reasonable.

Mr. David Wojcieszak, Consulting Engineer, stated that siting of the generator is critical; that that a generator has four sides, with each of the sides having a different decibel reading; that exhaust is not the major factor creating the noise, but instead it is the cooling air going in and out of the generator which creates the noise. He stated that generators in residences are a convenience to the owner, and are not required by code. However, protecting the interior environment after a storm is very important, i.e., controlling interior humidity levels, as this often can present an insurance issue. Mr. Wojcieszak maintained that the 75% maximum capacity stipulated in the zoning in progress is probably 50% oversized, larger than a residence really needs. If a larger generator is run at only 50% capacity, it becomes much less efficient. It is always better to size a generator for the proper load. In summary, he felt that if a group of professionals who understand power and generators is assembled, the need for variances will be greatly reduced. He noted relative to noise that the ambient noise in Palm Beach is 55 decibels, and if the ocean is rough that day, it can be 65 decibels at the shoreline.

Mike McFarlane of Energy Efficient Electric addressed the commission as a contractor who installs many generators in Palm Beach. He disagreed that 55 decibels is easy to achieve, and felt that 70 decibels is more practical. He stated the purpose of generators is to protect the interiors and furnishings in emergency situations. Mr. McFarlane felt that 100 kw generators are very practical and can be as quiet as a 60kw generator. To be practical, Mr. McFarlane felt that the 60 kw size needs to be increased, along with the decibel level.

Architect Gene Lawrence complimented staff on the proposed regulations as a large improvement over the zoning in progress regulations. He reminded the commission that a generator is an internal combustion engine, and as such, is better located in the open air, than interiorly. Mr. Lawrence questioned the 60 kw break in the proposed regulations. He felt that if the generator is properly sited with the sound controlled the size is less an issue. Mr. Lawrence noted that generators, when purchased, are purchased as is. "We shouldn't be making laws for things we can't choose." He was comfortable with a 60 kw generator in the setback if it is properly screened.

Mr. Guttman advocated taking the consensus ideas to the Town Council on March 13, 2007 to modify the zoning in progress as a recommendation of the Planning and Zoning Commission. Secondly, he recommended that the Planning and Zoning Commission meet again to try to adopt a more formal set of regulations for Town Council review. He recommended swift action for the

benefit of the residents.

Ms. Close recommended that the commission meet next week to revisit this matter.

Mike Dudash with FP&L Ready Power asked that the commission change the language to “above a 60kw”, which has a 250 amp capacity. He felt that a 60 kw generator would handle a 5,000 square foot home, approximately 65 % of the homes on the island.

Mr. Lawrence stated that the “sound control in generators is a very achievable science.”

Mr. Shaw advocated arriving at regulations for the smaller Palm Beach homes with smaller electrical services. Mr. Brisson responded that if we allow a 60 kw generator within the setback, that takes care of the bulk of the smaller homes. Of course, generators smaller than 60 kw could also be located in the setback. Mr. Shaw countered that smaller generators are typically noisier and do not meet many of the codes. He asked staff to examine the smaller generators as they represent the reality for most residents in town.

MOTION BY MR. SCHULER TO ACCEPT THE REGULATIONS AS RECOMMENDED BY STAFF, ACKNOWLEDGING THAT STAFF WILL MAKE SOME MODIFICATIONS TO THE REGULATIONS AS OUTLINED TODAY, AND THAT THE REGULATIONS RETURN TO THE PLANNING AND ZONING COMMISSION ON THURSDAY, MARCH 1ST, IN TIME TO MEET THE DEADLINE TO PASS THE REGULATIONS ON TO THE TOWN COUNCIL FOR ACTION AT THEIR MARCH MEETING.

MOTION SECONDED BY MR. GUTTMAN.

Mr. Golboro complimented staff on their work to produce the proposed regulations.

MOTION CARRIED UNANIMOUSLY.

At this point, there was a short recess from 11:15 a.m. to 11: 25 a.m.

2. Schedule Changes for 2006-2007 Zoning Season Calendar

Mr. Castro explained that at the February Town Council meeting, staff submitted phasing of study items and changes to the proposed zoning calendar to the Town Council. This information was provided as backup for today’s meeting. Mr. Castro explained that phasing the study items became necessary as staff has been unable to reach an agreement on the fee structure proposed by the Town’s new zoning consultants who had recently been selected. As such, staff has once again employed the services of Mr. Brisson who had worked as the Town’s zoning consultant for many years. Mr. Castro reviewed the Phase II Study Items for the March 19 and March 20 meetings of the Planning and Zoning Commission, as listed in the backup material. The topics are as follows:

1. Review the variance criteria to consider additional categories.
2. Study delegating the authority to consider and decide on variances to another board or commission.
3. Study the establishment of regulations regarding home use licenses.
4. Study housekeeping items to rectify unforeseen discrepancies in the Zoning Code.
5. Study the recent trend in conversion of hotels into condominium hotels.
6. Study the nightclub issue as it relates to restaurants

Items to be studied over the summer are:

1. Study redistricting a portion of the R-B zoning district.
2. Study fast food, take-out chain food restaurants and the “formula” restaurants
3. Royal Poinciana Area Planning Study

Mr. Shaw noted that study of the 50% rule is not listed as a study item. Secondly, he recommended that the Planning and Zoning Commission meet on a specific day of the month, which is typical of the other commissions, instead of having random meeting dates.

Ms. Close responded that establishing meeting dates and their frequency will be discussed later in the agenda. She attempted to clarify the process related to zoning study items. The Town Council typically reviews the comprehensive list of proposed study items, and then selectively approves certain ones for study. If a study item is not selected for study in a given year, it will evidence itself on the next list of study items. A study item will not be removed from the list unless the Town Council instructs staff to remove it from the list permanently.

Mr. Robertson stated that the Town Council wants the Planning and Zoning Commission to take on a larger planning role, and he was concerned that there were not enough planning items on the study list. Ms. Close stated that this matter is covered under the next agenda item, and the zoning calendar being presented today is just for those items which have already been approved for study by the Town Council.

3. Extending Zoning Season and the Role of the Planning and Zoning Commission

Ms. Close referred to the Staff’s memorandum to the Planning and Zoning Commission dated February 21, 2007. She stated that President Kleid, at the Town Council meeting in February, mentioned an item regarding extending the zoning season and other issues related to the commission. She stated it was his intent to stimulate discussion relative to the role of the Planning and Zoning Commission and relative to frequency of commission meetings.

Mr. Kleid addressed the commission at this time stating that Ms. Close had accurately portrayed the Town Council’s action. He explained that he placed this on the agenda because he has heard from many residents that they would like the Planning and Zoning Commission to take on a stronger planning role, and to establish a particular day of the month for regular meetings. He asked the commission to also consider whether they want to meet more than 8 months of the year, and whether they need more excused absences.

Mr. Guttman referred to his memorandum dated February 20, 2007. He questioned what role the Town ordinance contemplates the Planning and Zoning Commission to have other than the land use based planning associated in the Comp Plan. He thought that the Town Council wants the commission to expand its mission statement. Mr. Guttman referred to the Strategic Planning Board established some years ago by the mayor. His opinion was that strategic planning should not be done any more frequently than every 5 years. He felt that the Town's Strategic Plan was the genesis of many of the studies which are currently ongoing to improve the town. Mr. Guttman thought that the Planning and Zoning Commission would benefit from hearing from some distinguished urban planners. He stated that he had contacted Alexander Garvin, a nationally recognized planner. Mr. Garvin will be available to address the commission on Thursday, March 8th, if that is the will of the commission, relative to the role of planning commissions across America. Mr. Guttman had spoken to Ms. Close regarding having a few other distinguished urban planners address the commission on that date as well to assist the commission in developing a new mission statement. He stressed the value in hearing from nationally recognized experts. In fact, if the search for a planner for the Royal Poinciana Area Planning Study is expanded, Mr. Guttman requested that staff fully describe the scope of the study for planners who might want to be involved, so they can provide estimates.

Ms. Close stated that the current process is that at the end of the zoning season, staff will come back to the Planning and Zoning Commission with a list of study items, state regulations regarding Comprehensive Planning, and zoning applications from individuals. The commission then has the opportunity to add to that list, which is ultimately taken to the Town Council for consideration. The Town Council prioritizes the list and assigns study items which staff will study over the summer months. Staff presents a report of these study items at the beginning of the zoning season. In addition, the commission, per State statutes, works with the Evaluation and Appraisal Report (EAR) and changes to the Comprehensive Plan. The EAR is currently being reviewed by the state and when that review is complete, the Town has 18 months to adopt Comp Plan amendments for the issues discussed in the EAR. Also, the Strategic Plan is due for review in 2008. Ms. Close advised that the commission is restricted to amending Chapter 134 only during the zoning season, but there are no restrictions on when comprehensive planning can be done.

Michael Victor, 208 Via Tortuga, speaking as a resident, asked to address the commission under Public Comments at this time because he had to leave. He stated that he sits on the Executive Committee of the Palm Beach Civic Association. He recalled a document that the Civic Association presented to the Town Council approximately a year ago relative to Town boards and commissions with the objective of upgrading the role of the Town boards and commissions. He stressed the importance of an effective daily planning effort within the town, noting that Palm Beach can afford the very best assistants to the Town's boards and commissions. He encouraged that a major emphasis be placed on a dedicated planning effort in the town.

Mr. Golboro commented that the Strategic Plan misses the day to day function of the "service to real estate". He referred to this service as the help the commission can give to the Town Council by being more proactive with such issues as burying power line and plans to improve the Southern Boulevard circle, items which Mr. Golboro felt could be heard in the summer months.

Ms. Murphy was in favor of having Planning and Zoning Commission meetings on a specific day of the month, suggesting the third Thursday of the month. She commended Mr. Guttman on his report to the members. She stated that the Planning and Zoning Commission should be the Local Planning Agency for the town, rather than the Town Council. Ms. Murphy advocated that the commission take on one or two Town issues annually with a proactive approach. She was in favor of Alexander Garvin address the commission. Also, she felt that the Planning and Zoning Commission should have its own planning consultant. Ms. Murphy looks forward to the ten year anniversary of the Town's Strategic Plan and applauded the progress already made due to the Plan.

Mr. Golboro, in response to a question by Mr. Dowell, stated that in order to bury the utility lines, the utilities will have to bore into the properties, which will require easements everywhere there is a switch box. In addition, this will take up green space. This is one of the Town issues which needs to be addressed proactively.

Mr. Shaw commented that the Planning and Zoning Commission is being asked by the Town Council to make a determination about what planning role the commission should have, and then the Town Council will evaluate that. He suggested that perhaps the Town Council should first set the role of the Planning and Zoning Commission, and then inform the commission of that role, especially since the commission can only make recommendations to the Town Council, instead of making decisions which are final.

Mr. Guttman thought that it was very important to limit the number of planning tasks assigned to the Planning and Zoning Commission in any twelve month period. That would require brainstorming potential planning opportunities and then assessing how important the public perceives these issues before acting on them. He advocated distinguishing between the planning roles of the Town Council and the Planning and Zoning Commission to avoid duplication. He urged the commission to take no action until the commission is addressed by the planning experts. He stressed that there needs to be a way to connect to the community on these planning issues so the public is aware of the planning issues being discussed by the commission, and so the public is involved in the process. Mr. Guttman stated he is prepared to meet as often as necessary, during the zoning season, to accomplish the planning goals of the Planning and Zoning Commission.

Mr. Dowell questioned if there is a need for the commission to be more proactive about burying the utility lines prior to any referendum. Ms. Close responded that this matter will come back to the Planning and Zoning Commission in the future. Ms. Close also advised the commission that the staff is trained as planners and would enjoy working with the best planning professionals as possible to resolve the Town's planning needs.

Mr. Golboro was in favor of the Planning and Zoning Commission being the "sounding board" for the Town Council, and was in favor of the commission's meetings occurring before the Town Council meetings rather than after.

Mr. Wideman felt that the commission needs to be assigned a specific planning function; that the commission should not have to pick and choose projects, but instead, be told what projects to

review.

Mr. Robertson advocated that the commission approve the study list presented by staff today. He requested that staff prepare a study list and schedule for planning, just as they do for zoning. Mr. Robertson listed some planning functions that he felt should be addressed by the commission; the Comp Plan and EAR review; a yearly review of the Strategic Plan; and, moving forward with the Royal Poinciana Area Planning Study. Mr. Robertson asked Mr. Frank, Planning Administrator, if he is prepared to move forward as outlined. Mr. Frank answered affirmatively describing the upcoming process relative to the EAR and Comp Plan, and listing the topics which will be dealt with by the commission in an ambitious planning role. Mr. Robertson stated he would be in favor of having regular meetings of the Planning and Zoning Commission which would be devoted to planning only. Mr. Robertson also felt that separate consideration should be given to the Strategic Plan.

Ms. Close clarified that some of the EAR issues, like traffic and parking, are being worked on by other groups, and will not be handled by the Planning and Zoning Commission in depth, although reports by these other groups may be presented to the commission.

MOTION BY MR. SCHULER TO APPROVE THE STAFF'S RECOMMENDATION AS SET FORTH IN THE MEMORANDUM OF FEBRUARY 2, 2007 ADOPTING THE LIST OF STUDY ITEMS AND THE PROPOSED SCHEDULE FOR PHASE II OF THE 2006-2007 ZONING SEASON.

MOTION SECONDED BY MR. GUTTMAN.

Ms. Murphy asked that the list of study items include the creation of more green space, including the Town's purchase of land to create more green space. She also stated she would like more information about the educational conferences available to the commission members. Lastly, since the planning role of the Planning and Zoning Commission is to be expanded, she suggested the appointment of a new board to hear variances, rather than the Planning and Zoning Commission as had been suggested previously.

Mr. Golboro thought that the schedule should be postponed until after the Town Council establishes the planning role of the commission. Mr. Robertson respectfully disagreed.

MOTION CARRIED 5-2, WITH MESSRS. GOLBORO AND SHAW DISSENTING.

Moving back to planning, Mr. Robertson reiterated his request to staff for a planning study item list and schedule. Mr. Guttman cautioned that the commission not take on more than humanly possible, and that the staff not be asked to do that either, especially in light of the Royal Poinciana Area Planning Study. Ms. Close clarified that the Royal Poinciana Plaza was incorporated into the Royal Poinciana Area Planning Study by the Town Council.

Extending the Zoning Season

Regarding extending the zoning season, Mr. Robertson stated his position that he is opposed to

extending the zoning season. He was in favor of longer meetings, or more meetings, without extending the season into the summer months when many members are out of town.

Mr. Shaw advocated meeting all year round in order to accomplish both the planning and zoning functions of the town. He commented that members of other boards have the same attendance requirements as the Planning and Zoning Commission, but meet year round, and those members manage to serve using the allowable absences.

Mr. Wideman commented that planning will take a lot of time, and will require monthly meetings on a specific day of the month.

Mr. Guttman felt that the commission should understand and experience its planning role, and assess how much assistance can be provided by outside experts prior to establishing year round meetings.

MOTION BY MR. SCHULER TO LEAVE THE ZONING SEASON AS IT IS, WITH POSSIBLE RECONSIDERATION OF THE MATTER AT A LATER DATE.

MOTION SECONDED BY MS. MURPHY.

Mr. Wideman asked that the motion include that the Planning and Zoning Commission would meet on a specific day of the month. Others felt that this was a separate issue.

Ms. Close clarified that when the staff returns to the commission with a list of the planning items, staff will also bring a proposal to establish a set meeting date and time for consideration. Mr. Golboro advocated establishing meeting dates during the summer months, and cancelling them if they are not necessary.

Ms. Close, in response to a question from Ms. Murphy, stated that the Town Council's position is that a member must be physically present at the meeting to be counted as present. Telephone participation is not permitted at this time. Ms. Close stated that for quasi-judicial hearings, where there are presentation materials to be viewed, presence at the meeting is required. With improved technology, there is the possibility of changes in this area in the future.

MOTION CARRIED 6-1, WITH MR. GOLBORO DISSENTING.

Mr. Shaw reiterated his opinion that the commission should meet year round to meet the Town's planning needs.

V. COMMENTS FROM THE PUBLIC

VI. COMMENTS OF THE PLANNING AND ZONING COMMISSION AND PLANNING, ZONING AND BUILDING DIRECTOR

Ms. Close read Mr. Bell's written comments into the record; that he objects to having the zoning

season expanded until the time when the meetings last longer than three hours; and, that he objects to having zoning meetings in the summer when residents are away; and, this has been the Town's policy for years.

VII. ADJOURNMENT

MOTION BY MR. GOLBORO AT 12:55 P.M. TO ADJOURN TODAY'S MEETING TO THURSDAY, MARCH 1, 2007 AT WHICH TIME THE MEETING WILL RECONVENE.

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

(MEETING TO BE CONTINUED THURSDAY, MARCH 1, 2007)