

RECORD AND REPORT
PLANNING AND ZONING COMMISSION
2004-2005 ZONING HEARINGS
Thursday, February 10, 2005 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
 Joanna Golino, Secretary
 Lowry M. Bell, Member
 Peter S. Broberg, Member (arrived at 9:34 a.m.)
 Jorge Sanchez, Member (arrived at 9:32 a.m.)
 Nancy M. Murray, Member
 Elizabeth S. Murphy, Alternate Member (*Voting member today*)
 Susan Markin, Alternate Member (arrived at 9:37 a.m.)
 John Schuler, Alternate Member
 John C. Randolph, Town Attorney
 Robert L. Moore, Dir. of Planning, Zoning & Bldg. (arrived at 10:00 a.m.)
 Veronica Close, Assistant Director of Planning, Zoning & Building
 Paul W. Castro, Zoning Administrator
 Timothy M. Frank, Planning Administrator

ABSENT: None

RECORDING SECRETARY: Cynthia M. Delp

II Consideration of transmittal of the Record and Report of the Town Planning and Zoning Commission to the Town Council

The Chairman and Mr. Castro recognized Mrs. Delp for the quality and preparation of the Record and Report. The commission recommended no changes to the document.

MOTION BY MR. BELL FOR APPROVAL OF THE RECORD AND REPORT.

MOTION SECONDED BY MRS. MURRAY.

MOTION CARRIED UNANIMOUSLY. *(Let the record show that Mrs. Murphy was the voting alternate member for the entire meeting in place of Mr. Kleid, and Mr. Schuler voted on this motion in lieu of Mr. Broberg, who had not yet arrived.)*

III Town of Palm Beach, Florida Town-Wide Intersection Site Distance/Visibility Study by Aerial Photography, Final Report, by American Consulting Engineers of Florida, LLC

Mr. Castro reminded the commission that last year, these consultants performed a study which provided a recommendation for new regulations dealing with site visibility issues in the town. At that time, both the Town Council and the Planning and Zoning Commission requested further study of the matter by asking for an in-depth review of crash data, and a surveying of the town's streets together with reviewing aerial photography.

Ms. Close clarified that the Town Council actually did adopt a new standard last year, under zoning in progress, for future development, and the consultant is working with staff to develop an ordinance to that effect. The study being presented today relates to existing conditions, or retroactive applications. Mr. Castro added that in certain instances, the old regulations are still being applied as they are more restrictive. He explained that while under zoning in progress, the most stringent of the regulations is typically applied.

Let the record show that Chairman Robertson recognized Councilman Bill Brooks and Councilman Norman Goldblum in the audience.

Mr. Brian Mirson and Mr. Gareth Klotz represented American Consulting Engineers of Florida, LLC. Mr. Mirson identified himself as a professional engineer and a certified planner, and proceeded to outline the summary of the findings of this study. He explained that the standards being proposed are less constraining than the Town's previous standards. The new standards are more appropriate, however, as each of the Town's intersections was individually analyzed to ensure that individually prudent solutions were achieved at each of the intersections. The previous standard was a 15'x30' triangle, without regard to specific intersection configuration.

The report states, "Sight impacts related to private property resulted in 284 private properties at 113 intersections within the sight triangles." Only twenty-one (21) of these are situations where the application of the new standards would result in an affect to a structure or wall. This could potentially cause a significant expense to a property owner if that property owner is required to make a change to maintain the triangle. Mr. Mirson reported that they also analyzed the accidents which have occurred in the town for the last three years. That analysis revealed that there is no chronic problem in the town as far as site distance causing the accidents.

In deliberating whether a change in current regulations should be made, Mr. Mirson stated that "it is prudent to meet current standards" in a sequence which is appropriate to the Town of Palm Beach. To accomplish this, on the public rights-of-way, bushes need to be lowered below

42"and/or removed. A program of back-planting could also be implemented, i.e., planting behind existing bushes, etc. so that the new material is out of the sight triangle, but still provides the privacy and protection initially afforded by the anterior vegetation. This ultimately results in tiered landscaping. As the twenty-one (21) impacted properties (referenced above) are sold, renovated, and/or reconstructed, these properties would have to be brought up to the new standards.

Mr. Bell commented that the accident data reveals that most of the accidents involve out-of-towners. That is not unusual, according to Mr. Mirson, as the persons living in and driving the town's streets every day are fully aware of the characteristics of the streets.

Mr. Sanchez offered his perspective citing the intersection of Royal Palm Way and County Road as an example. It is the intersection with the most accidents, yet there are no obstructions impeding the sight triangle. As the Town of Palm Beach prides itself as being a very beautiful town, Mr. Sanchez did not look forward to a day when hedges, trees and site walls are cleared or cut back, as he felt that would promote a dramatic change to the look of Palm Beach. He suggested that if clear intersections produce the most accidents, then it would follow that having some obstacles in the sight triangle may actually help to make drivers slow, stop and look more carefully. Mr. Mirson responded saying that there is a difference between using traffic calming techniques and that which actually constrains sight distance. As traffic engineers, they try to create a safe environment while still maintaining traffic calming, and a connection to the community fabric. The 15'x30' triangle which has been in place would unnecessarily remove too many bushes, etc., without affecting the clear zone. The changes required to conform to the new regulations could be done over a specified period of time to avoid a dramatic change.

Mrs. Golino noted that Mr. Mirson's report indicates that 284 properties are impacted by trees, shrubs, and hedges. She felt that was a significant number and questioned whether change to those 284 properties should be allowed to happen over a period of time, or whether change should be effected more quickly. Mr. Mirson responded that this is a policy issue.

Mrs. Golino asked whether the 284 properties impacted by trees, shrubs, and hedges were ranked according to worst conditions. Mr. Gareth Klotz, Traffic Engineer with American Consulting Engineers, responded that the 278 intersections in the town were not ranked relative to the impact of the hedges, etc. Each intersection was analyzed using aerial photographs, and by actually driving each of the town's intersections from every approach.

Ms. Markin stated that since she lives in the north end of the town, she noted that at almost every intersection in the north end, there is some sort of sight obstruction. She also noted that the crash data reviewed, from January 2001 through December 2003, is already old information, even though this is the most current data available. In the time since then, the town has experienced an increase in traffic, and will probably continue to experience an increase. Therefore, she suggested it is reasonable to assume that the number of crashes will increase also. As such, it is very important for new construction to adhere to the new guidelines, or as Mr. Castro clarified earlier, to the existing guidelines, whichever is more stringent. Mr. Mirson

reiterated that the existing regulations are more onerous to a property owner than is actually required for new construction.

Ms. Markin commented that Palm Beach loves its privacy hedges, and residents are aware of hedges, and how to drive accordingly allowing for them. Visitors, however, are not familiar with negotiating town streets, and would be more prone to having accidents as a result. She also stated that more and more families with small children are moving into the town. That coupled with the increased traffic in town creates the potential for more problems. She did not feel that peoples' safety should be sacrificed to save hedges. Mr. Sanchez felt that accidents are not due to bushes, but instead to the way people drive. He advocated installing cameras at corners. Mr. Mirson agreed that the Town's demographics indicate an increase in the number of children in the town. Accidents occur when people make mistakes. The goal is to create a roadway system which is as "forgiving as possible"; and, to balance providing traffic calming with providing enough decision-making relative to visibility.

Ms. Murphy inquired regarding the 284 instances as to whether the consultants isolated the situations where bushes and/or hedges can be cut back as opposed to being cut down. Mr. Mirson replied that in all cases, none of the vegetation needs to be cut down entirely. They simply need to be below 42". He again advocated back planting as a means to meet the new standards while still retaining privacy.

Mr. Castro commented that when he drives the north end of the island, he finds it very unsafe, and uncomfortable to have to "sneak" out into the intersection in order to safely proceed. With saving lives at the heart of the matter, the goal of this exercise is to arrive at some reasonable sight visibility regulations which are more realistic and effective than those which are currently in place. Staff wants to be proactive, rather than reactive, with regard to this matter.

Mr. Randolph addressed the concerns expressed by Mr. Sanchez relative to his fear that the character of the Town would change if these regulations were implemented. Mr. Randolph stated that change will occur as a result of implementation and enforcement of the regulations, not by simply passing the proposed regulations. He recalled that the existing onerous sight triangle regulations were passed nearly twenty years ago. At that time, there was an outcry from the residents relative to the impact on the character of the town if all were required to comply. To respond to that outcry, a new provision was adopted to require that only major renovations or reconstructions would have to comply. Mr. Randolph advised the commission that if total compliance was required to the current regulations, the character of the town would be changed much more than if the proposed new regulations were adopted. He maintained that the manner of enforcement of the regulations is the key. Mr. Robertson interjected his opinion that safety takes priority over beauty.

Mr. Broberg commented that he has lived in the north end all of his life. While a few of the streets are questionable, he does not find it dangerous to drive the north end. He stated that there have only been four (4) crashes in the three year period studied which are attributed to bushes. Mr. Broberg agreed that the current regulations should be softened, but maintained that the

commission should not get “too carried away with this.”

Mr. Mirson stated that he has not defined the town’s intersections as “unsafe.” The accident data history shows that there is not a safety problem in the town, but there is a substandard condition which has the possibility of creating an accident which could have otherwise been avoided. He commented that the current regulations offer solutions which are not only inappropriate, but in many cases, do not solve the sight distance problem. He advocated adoption of the new regulations, and suggested that a further discussion take place on the implementation of the regulations.

Mr. Bell disagreed with Mr. Sanchez, and cited an example from his Banyan Road neighborhood where very tall hedges formerly were planted right to the corner. With new development, the hedges have been cut back a few times, and the intersection is actually more aesthetically pleasing than it was with the tall hedges.

Ms. Markin recalled that the consultants had been asked to arrive at an alternative solution relative to sight triangles, one which would be more conducive to Palm Beach, and they have done that. They have reported a substandard condition in the town. Traffic continues to increase and the population consists of more young people. She was not in favor of installing cameras at intersections, or taking hedges down everywhere. It was her belief that most residents would respond to a letter from the Town indicating that there is a problem at their intersection with sight visibility, and requesting that the resident take action to rectify the situation within a year. Ms. Markin reiterated that the consultants have done a good job, and have done exactly what they were asked to do.

Mr. Sanchez re-stated his opinion that it is incorrect to blame vegetation for accidents, as the intersections with the most accidents have no vegetation impeding the sight lines. Mr. Mirson clarified that he has not stated that the accidents are a result of trees and shrubs. He reminded the commission that the scope of the consultant’s project did not include doing a traffic study to analyze safety in the community. Their charge was to evaluate the existing sight triangle regulations and to make recommendations for appropriate new standards to be implemented over time.

Mrs. Golino noted that some residents have hedges which they believe are on their properties, but are really on public property. That being the case, the Town could, without letter notification, take down these hedges at will. As such, she agreed with Mr. Randolph that the manner in which regulations are enforced is very important. She thought it was important to focus on comparing the existing regulations to the new regulations. In her view, the existing 15'x30' triangle does not work, and she favored the new regulations.

Mrs. Murray brought up the subject of the Town’s liability with regard to making the roads safer. Mr. Randolph stated that because this is a legislative matter, there would be no increased liability as a result of not making any changes. Mr. Mirson supported that statement by reminding the commission that the study reveals there is not a chronic problem within the town. He added that

liability is really not the issue here; rather, it is the appropriateness of the Town's codes.

Ms. Murphy suggested that instead of removing hedges, traffic flow should be reviewed to identify problem intersections, and possibly make them "No Left Turn" streets.

MOTION BY MR. BELL TO ADOPT THE TOWN-WIDE INTERSECTION SITE DISTANCE VISIBILITY STUDY AS PRESENTED.

MOTION SECONDED BY MRS. GOLINO.

Under discussion, Mr. Broberg asked Mr. Mirson to explain the difference between the existing regulations and the proposed regulations. Basically, the existing regulations employ an unforgiving 15'x30' triangle, while the new regulations, using a new sight triangle, identify what needs to be done over time, property by property and intersection by intersection, based on the geometry of each intersection.

Mr. Sanchez asked whether Public Works, under the new regulations, would be able to remove trees from the public rights-of-way at will. The trees in the Wells Road Scenic Vista were particularly mentioned. Ms. Close responded that the consultant's recommendations, which are staff supported, are to develop a plan on how to address encroachments in the public rights-of-way and on private property. This could be a Phase III part of the study. Mr. Randolph asked Ms. Close to clarify whether she meant that if the new regulations are adopted today, implementation will be discussed at another time. Ms. Close responded affirmatively.

Mr. Moore assured the commission that the trees in the public right-of-way at the Wells Road Scenic Vista are protected by the Town Council, and the Public Works Department could not just remove them.

Mr. Mirson acknowledged that there are always exceptions to any regulations. The Town must start with a new set of standards which are appropriate and fit this community, and then review exceptional issues on a case by case basis. Mr. Schuler asked whether residents would seek a variance from the Town Council if they do not wish to comply with the new regulations. Mr. Mirson stated that the variance procedure is one way to handle it, or through the implementation procedure in determining what will be allowed to be grandfathered.

Mr. Randolph stated that with the current regulations, a variance would have to be obtained if an owner wanted exception to the code, but with the new regulations, something as simple as a waiver (from the Town Council) could be requested, provided it did not negatively impact the public health, safety and welfare. Implementation methods have not been determined at this point, and may be reserved for a later discussion.

MOTION CARRIED 4-3, WITH MESSRS. BROBERG, SANCHEZ AND ROBERTSON VOTING AGAINST THE MOTION. *(Mr. Sanchez stated his reasons for voting against the motion as follows: 1) "It's another poor excuse to bloat staff in the future;" and 2) "It does*

not address the real problem of accidents that we are addressing.”)

Mr. Broberg asked when the commission could expect to discuss implementation. Ms. Close responded that staff will work on this over the summer, and will bring it back to the commission in the Fall.

IV Evaluation and Appraisal Report Schedule

Mr. Frank noted that the members were previously provided with the schedule and time line related to the Evaluation and Appraisal Report (EAR). He explained that the EAR serves to evaluate and appraise the previously adopted Comprehensive Plan (Comp Plan), which was written approximately 8 years ago and was placed into effect approximately 7 years ago. He explained that the role of the Planning and Zoning Commission, in the EAR process, is to review the old Comp Plan’s goals, objectives and policies, and make a determination of whether the goals have been met. Then staff will write a report to the State of Florida as a summary of those findings. Mr. Frank was confident that the EAR process will not reveal many problems with the existing Comp Plan, as he and Mr. Brisson (Zoning Consultant) had developed a matrix which is reviewed annually to ensure that certain actions have been taken and schedules have been met.

Mr. Frank noted that the EAR public hearings will not be the appropriate forum for public comment concerning perceived problems in the town. The Comp Plan public hearings will provide that forum.

MOTION BY MR. SANCHEZ TO ACCEPT THE TIMETABLE FOR THE PREPARATION OF THE EVALUATION AND APPRAISAL REPORT FOR THE TOWN OF PALM BEACH.

MOTION SECONDED BY MR. BELL.

Mr. Schuler noted that some of the dates are summer dates and questioned whether these meetings should not be held during the season. Mr. Frank responded that while that would be very important for meetings to develop a new Comprehensive Plan, it is not as important for the EAR. He noted that the meetings for the Comp Plan are approximately two years away.

MOTION CARRIED UNANIMOUSLY.

With regard to the EAR, the Planning and Zoning Commission will be required to hold a workshop prior to May 15, 2005.

V Any Other Items:

Farewell to Mr. Sanchez

MOTION BY MS. MURPHY TO EXPRESS TO JORGE SANCHEZ THE COMMISSION'S APPRECIATION FOR HIS YEARS OF FAITHFUL AND EXCELLENT SERVICE ON THE COMMISSION, AND TO EXPRESS DISAPPOINTMENT THAT THE PLANNING AND ZONING COMMISSION WILL NOT HAVE HIM WORKING WITH THE COMMISSION IN THE FUTURE.

**MOTION SECONDED BY MRS. GOLINO.
MOTION CARRIED UNANIMOUSLY.**

Upcoming meeting dates

Let the record show that the date of the EAR workshop was set for **April 19, 2005**, which is a previously scheduled meeting date for the Planning and Zoning Commission. Staff noted that on **March 29, 2005** the Planning and Zoning Commission will meet to hear the Palm Beach Civic Associations's Siemon and Larsen Report relative to variances, special exceptions and site plan reviews. The **February 17, 2005** meeting, previously scheduled, has been cancelled.

Implementation of Sight Triangle Regulations, Comment by Mr. Bell:

Mr. Bell suggested that if the regulations are implemented over time, intersections where traffic comes from the left should be looked at first. Ms. Close noted Mr. Bell's comment.

VI Adjournment:

**MOTION BY MR. BELL AT ADJOURN THE MEETING AT 11:10 A.M.
MOTION SECONDED BY MS. MURPHY.
MOTION CARRIED UNANIMOUSLY.**

Respectfully submitted,

**Harrison Robertson, Chairman
Town of Palm Beach
Planning and Zoning Commission**

**Joanna Golino, Secretary
Town of Palm Beach
Planning and Zoning Commission**

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