

RECORD AND REPORT
PLANNING AND ZONING COMMISSION
2004-2005 ZONING HEARINGS
Thursday, January 27, 2005 at 9:30 a.m.
360 South County Road, Palm Beach
Town Council Chambers

I Call to Order and Roll Call: Mrs. Golino, Secretary, and Acting Chairman called the meeting to order at 9:32 a.m.

PRESENT: Joanna Golino, Secretary
 Lowry M. Bell, Member
 Peter S. Broberg, Member
 Harrison M. Robertson, Member
 Jorge Sanchez, Member
 Nancy M. Murray, Member
 Elizabeth S. Murphy, Alternate Member (*Voting member today*)
 Susan Markin, Alternate Member
 John Schuler, Alternate Member
 John C. Randolph, Town Attorney
 Robert L. Moore, Dir. of Planning, Zoning & Building
 Veronica Close, Assistant Director of Planning, Zoning & Building
 Paul W. Castro, Zoning Administrator
 Timothy M. Frank, Planning Administrator
 William F. Brisson, Zoning Consultant

ABSENT: None

RECORDING SECRETARY: Cynthia M. Delp

II Invocation: By Mrs. Delp

III Pledge of Allegiance:

IV Approval of Minutes of December 16, 2004 Planning & Zoning Commission Meeting:

MOTION BY MR. BELL FOR APPROVAL OF THE MINUTES.

MOTION SECONDED BY MR. ROBERTSON.

MOTION CARRIED UNANIMOUSLY.

V Election of Chairman (and Secretary, if necessary)

Mrs. Golino called for nominations for Chairman.

Mr. Bell nominated Mr. Robertson as Chairman, and this nomination was seconded by Mr. Broberg. Mr. Sanchez nominated Mrs. Golino as Chairman. The election was decided by paper ballot. Mr. Robertson was elected as Chairman.

Mrs. Golino will remain the Secretary of the Planning and Zoning Commission.

Mr. Robertson thanked the members for electing him as Chairman. He stated that he was honored to follow Mr. Bertles and Mr. Kleid in that position, and pledged to do his best as Chairman.

VI Proof of Publication: Mr. Castro verified that proof of publication relative to this hearing was obtained.

VII Robert's Rules: Mr. Robertson announced that in this hearing Robert's Rules of Order will be observed.

VIII Procedures for Input by the General Public:

Mr. Robertson stated that approximately three minutes will be afforded to any member of the public who wishes to speak on any given agenda item. The public will be invited to speak after the staff and/or applicant presentations.

Comments by Mr. Kleid, former Chairman of the Planning and Zoning Commission

Mr. Kleid thanked each of the members for the privilege of serving the Town with them on the Planning and Zoning Commission. He expressed his confidence in the remaining commission members.

IX Set date and time for consideration of the proposed Poinciana Plaza mixed use Planned Unit Development application:

Attorney James Brindell stated that he had spoken with staff in advance of this meeting relative to possible suggestions for hearing dates. He suggested having the meeting on April 19, 2005 since this is already a scheduled meeting date of the Planning and Zoning Commission. Mr. Robertson asked staff if that date was agreeable to them. Mr. Castro responded that the meeting should occur during the season to ensure optimum public input. He noted that after the Planning

and Zoning Commission makes a decision on the matter, it will then be reviewed by the Town Council, and this should likewise take place during the season.

At this point, a barrage of public comment was heard. For the reader, the speaker's name will be identified at the left margin, and the speaker's comments will be summarized and paraphrased after that.

MR. SCHULER: Questioned why the applicant was not prepared to make the presentation at this meeting.

MR. CASTRO: Clarified that at the last meeting, it was understood that this project would be on the agenda today only to set a future date to hear the matter. Originally, the matter was planned for January 28, 2005, but the applicant was unable to address all of the issues brought up at the various charrettes by that date.

MR. SCHULER: Felt that this applicant is setting the agenda for the Planning and Zoning Commission to review this project.

FRANK CHOPIN: Suggested that it is not an accident that the applicant wants the project heard in April, as that is when many residents are out of town. He commented that everyone who has seen this proposal has rejected it as a bad idea, and the applicant has not demonstrated any reason to approve a zoning change. He suggested that if the project is not denied outright today, that a date should be set for next week to hear the project.

MR. CASTRO: Stated that staff has not seen a product from the applicant to date. When that is ultimately received, staff must have adequate time to review the submission and write a report to the Planning and Zoning Commission and the Town Council on the merits of the application. This is one reason to postpone the matter to later in the zoning season. He felt the date would have to be later than early March.

MR. BRINDELL: Stated that he was not present today for a hearing on the matter, since the Planning and Zoning Commission had voted, at a previous meeting, that the only action to take place today would be to set a future date to hear the matter. He added that early on in the process, the applicant was advised that this would be a two zoning season process. Three public input sessions have already been conducted, and the client is trying, with his consultants and architects, to address the concerns and comments made during those sessions.

MR. ROBERTSON: Noted that the application was filed last July, and the applicant was advised to have three charrettes which were held. The reaction to the proposal, during those sessions, was extremely negative. He asked for suggestions from the members for a hearing date, but noted that staff needs sufficient time to review the proposal. Due to the controversial nature of the project, the hearing should be held when most residents can attend.

MRS. MURRAY: Agreed that April is too late to hear the project, and stated that if it cannot be heard sooner, it should be deferred to the Fall.

MR. BRINDELL: Stated his preference for the middle of March, but staff has a conflict with that time period. He noted that the zoning season has recently been extended by adding October and May, yet very little of the zoning season is actually being used.

LETA FOSTER: Stated that she has been passing out petitions against the project, and with the exception of two real estate salespersons, every person asked has signed the petition. The town residents are against this. There is no more room for over-development in the town.

WILLIAM GUTTMAN: Noted that he attended all three charrettes, and the overwhelming input was that the Royal Poinciana Plaza should remain commercial and the character of the commercial space ought to stay the same. He suggested that the developer submit a “commercial only” proposal to the town, and one which is town serving and meets the characteristics of the present Plaza. The residents who voiced these strong opinions would not be available in April or for any of the next several Town Council meetings.

COUNCILMAN JACK MCDONALD: Stated he understood the reluctance of staff and the applicant to proceed today, but stressed that the residents want this resolved. He urged the Planning and Zoning Commission to make a decision and move forward.

JERE ZENKO: Spoke about the special qualities of the Town, and asked who is encouraging this application and why. This matter has the attention of an extraordinary number of people who expect the Planning and Zoning Commission to uphold the zoning code and reaffirm the commitment to the Town’s adopted Comprehensive Plan. She claimed that the residents expect the Planning and Zoning Commission to reject a proposal for mixed use development at the Plaza, and any code amendments which might become necessary to facilitate the project.

SUSAN LEE: Told a story about the unfortunate experiences of one of the former tenants at the Royal Poinciana Plaza, i.e., the management/landlord not making necessary repairs after the hurricane, financial considerations of the tenant having to make the repairs herself, and requiring the tenant to sign a ten year lease to get back in the space. Ms. Lee maintained that this property owner has no hardship, as he virtually chased this valuable tenant away.

LORI VOLK: Identified herself as Vice Chairman of the John L. Volk Foundation. She referred to the 1979 agreement which was signed by the original owner of the Plaza, and again in 1980 by the current owner, Mr. Spiegel. She read six points from the agreement as follows:

1. Prohibits the owner from separately conveying any portion of the twelve acres developed by Royal Poinciana Plaza site.
2. Prohibits the owner from constructing any new buildings in the plaza after completion of the construction approved in 1979.
3. Requires owner to continue to lease the space occupied and used by the theatre only for use as a theatre of the performing arts or visual arts, and for lectures and other special events.
4. Requires any purchaser of the plaza to agree to prohibit use of the theatre for any purpose other than a theater for performing or visual arts.
5. Prohibits the owner from alleging economic hardship, objecting to or consenting, by legal action, to any zoning which precludes further development of the plaza.

6. Prohibits the owner from instigating or participating in legal action to repel the current zoning ordinance.

Ms. Volk claimed that there is no reason to create new rules or regulations to take this application forward. Since the applicant is still not ready with a presentation, she recommended denial of the application, adherence to the 1979 agreement, and letting the applicant take the matter to a court of law.

STEVEN ARNOLD: Identified himself as a resident and former retired theatre manager/administrator. He described the Playhouse as a unique facility which should be preserved. If the current owner cannot find anyone to operate it, it is probably for lack of trying. The theatre is well known, and Palm Beach is very desirable. The theatre can be operated as a commercial or non-profit venture. "It would be a disaster to destroy that facility or alter it so that it cannot be used for the live performing arts."

MS. MARKIN: Reminded Mr. Brindell that this item had previously been on the Planning and Zoning Commission's agenda, and he has asked that it be postponed several times. She stated that the Planning and Zoning Commission has the right to defer this matter to the next zoning season to give the residents the opportunity to be heard.

MR. ROBERTSON: Stated that the commission cannot deny the application today as the commission had agreed to meet today to set a new hearing date. Furthermore, no evidence has been presented by the applicant to date, and a full evidentiary hearing is required.

MR. BRINDELL: Reiterated that he is here to set a hearing date.

MS. MURPHY: Stated that the hearing must be held during high season.

MR. RANDOLPH: Stated that a motion was made at the last meeting to allow the applicant to return today to set a date for the hearing.

MR. MOORE: Suggested that the commission selects a date for the hearings some time after the second week of November 2005 and mid-March of 2006.

Mr. Bell asked Mr. Randolph if the Planning and Zoning Commission had the right to deny the application today, and Mr. Randolph responded that they did not have that right.

MOTION BY MR. BELL TO POSTPONE THE MATTER TO DECEMBER OF 2005, SPECIFICALLY WITHIN THE FIRST TWO WEEKS IN DECEMBER.

MOTION SECONDED BY MS. MURPHY

Mr. Robertson asked Mr. Brindell if he had any objection to the motion. Mr. Brindell responded that he would prefer to have the hearing in April, but would accept the time specified in the motion.

MR. SCHULER: Maintained that there should be an immediate hearing for the project, perhaps in two weeks or a month.

BRIAN BURNS: Urged the Planning and Zoning Commission to step up to their responsibilities. The charrettes have taken place, but this applicant is not prepared to go forward. The residents are disappointed and distressed at the quality of life in the town, and that their interests often take a back seat. He recommended turning down the project.

MR. SANCHEZ: Agreed with Mr. Schuler that the commission should hear this proposal as soon as possible without further delays. He felt the applicant should do whatever he needs to do to file the submission documents earlier, and to have staff take extraordinary measures to accomplish their review before the meeting in February.

MAIA FARISH: Noted that at the Landmarks Preservation Commission when applicants are not ready to present time and time again, their applications are typically removed from the agenda and they would have to re-apply. She questioned why this applicant is allowed to continue to defer.

Ms. Murphy asked Mr. Randolph if the Planning and Zoning Commission has the right to ask the applicant to be ready to present at the already scheduled February 10, 2005 meeting. Mr. Randolph responded that the commission has the right to do this, but it may not afford staff sufficient time to review the project and prepare a report.

MOTION WITHDRAWN BY MR. BELL, AND MS. MURPHY, AS THE SECONDER.

FRANK CHOPIN: Maintained that even if the applicant is heard later in February, too many residents will be unavailable for that meeting, and subsequent Town Council meetings. The people must be allowed to be heard relative to this matter. He asked the commission to set the meeting for next week, and if the applicant is not ready, he can withdraw his application and re-submit it at a later date. He questioned why this proposal is even being considered if the application has not been properly and completely filed. He spoke in support of Mr. Bell's previously withdrawn motion.

Mr. Castro stated, for the record, that the application has been filed since July, but no Master Plan or the proposed changes to the amendments originally contemplated by the applicant have been filed. Since the charrettes, the applicant has "gone back to the drawing board" in an attempt to respond to the comments heard. As such, the completed and revised proposal is not yet ready.

WENDY VICTOR: Noted that this project was originally discussed at the Town Council in November of 2001, and at that time, the Mayor and Town Council thought this proposal might be a good idea. She felt the developer is telling the town what to do; and, that it is the duty of the Planning and Zoning Commission to "take a firm stand and get rid of this thing."

Mrs. Golino proposed that the commission set February 10, 2005 as a date certain to hear the proposal. She noted that the comments being made by the public, while appreciated, are not on the agenda today, and that the commission has no legal right to deny the application today. If the application is heard on February 10th, the commission then has the right to approve, deny, or defer. If the applicant requests another deferral, the commission has the option to remove the application from the agenda, forcing the applicant to re-apply later if he wishes to proceed with the project. She also encouraged the members of the public, who were present and so concerned about over-development, to stay for the entire meeting today as other very important topics of interest would be discussed later today.

Ms. Markin agreed with Mrs. Golino, and asked staff how much time they need to review the project. Mr. Castro responded that 2-3 weeks would be necessary. Mr. Brindell stated that he could probably have the submission documents ready in approximately 10 days to two weeks. Ms. Markin encouraged Mr. Brindell to try to expedite the submission, and he stated he would try.

YVELYNE DE MARCELLUS MARIX: Commented that the issue here is whether or not to re-zone the Plaza, not the fact that detailed plans for apartment buildings have not yet been received. She did not see why the applicant had to formulate and submit the required plans, and staff has to take the time to review the submission and do a report, etc, when the real issue is whether to re-zone the Plaza.

Mr. Schuler asked whether the commission could say that they will not approve a re-zoning of the project. Mr. Randolph responded that the commission can say that, but the commission must first look at the merits of the application to allow for due process. This applicant has the right to make a presentation on a specified hearing date. As such, Mr. Schuler agreed with Mrs. Golino's suggested hearing date of February 10th, but wondered if the matter could be heard, then, by the Town Council in February as well.

WILLIAM GUTTMAN: Noted that the Civic Association has hired Siemon & Larsen, who plan to provide their presentation to the Planning and Zoning Commission on February 10th. He requested that if the applicant will be heard on February 10th, that the applicant be made to file his documents by Noon on February 4, 2005 to allow the Civic Association's consultant time to respond.

BRIAN BURNS: Questioned why the Planning and Zoning Commission is not simply empowered to issue an advisory opinion on this proposal...that the commission has no intention to change the zoning of the Royal Poinciana Plaza for the next year, and asking the applicant to return next year if he so desires. He asked the commission to help the citizenry and issue an opinion.

Mr. Randolph reminded the commission and all others present that the commission is seated as a quasi-judicial body and is required to hear the facts pertaining to an application prior to acting on a proposal. This applicant has not yet given a presentation. He recommended that a hearing date

be set to give the applicant the opportunity to present his case during a scheduled meeting of the Planning and Zoning Commission, and cautioned that decisions must be made based upon information given during that meeting.

At this point, there was continued discussion about when to schedule the hearing. When Mr. Robertson suggested a date later in February than the 10th, there was an outcry from the public in the audience. Mr. Robertson promptly advised the public that the staff is required to review applications submitted, and must be given the opportunity to do so, and he would not be “stampeded into pleasing the public by setting some date that doesn’t get the staff adequate time to study and give us their recommendations.” After further discussion, the following motion was made:

MOTION BY MRS. MURRAY TO SET THE MEETING DATE FOR THURSDAY, FEBRUARY 17, 2005 AT 9:30 A.M. TO HEAR THE ROYAL POINCIANA PLAZA’S MASTER PLAN, AND THAT THE APPLICANT IS REQUIRED TO SUBMIT THE MASTER PLAN AND THE APPROPRIATE DOCUMENTS BY FEBRUARY 4, 2005.

MOTION SECONDED BY MR. SANCHEZ.

During discussion, Mrs. Zenko reminded the commission that a change in the Comprehensive Plan must be forwarded to Tallahassee for action.

MOTION CARRIED UNANIMOUSLY.

Let the record show that there was a short recess at 10:50 a.m. and the meeting reconvened at 11:00 a.m.

X 2004-2005 PHASE II ZONING PROPOSAL STAFF REPORT

2003 NEW HOME SURVEY- R-B DISTRICT

Mr. Castro stated that last month, Urban Design Studio presented a Phase II of the study which showed Ridgeview Drive and Jamaica Lane at minimum flood elevations and maximum build out at a CCR of 3.5 and 4.0. At that time, further consideration of that item was deferred so the commission could see the results of the new homes built in 2003 which were based on the sliding scale. This new homes report had been provided to the members in advance of this meeting to give them the opportunity to visit the sites included in the report. Each of the properties were evaluated for the following data: Lot size, House size, CCR allowed and built, lot coverage, height to the bottom of the top chord, and landscaped open space. Sixteen addresses were included in the report, all of them in the north end of the island. Mr. Castro reviewed each one of the properties included in the report, displaying each home on screen, after which the commission members offered commentary relative to their impressions of the house on the particular lot and on a particular street.

For the reader, the following is a paraphrased assortment of commissioners’ comments relative

to each of the homes discussed.

Commission comments:

313 Dunbar Road: Located at the end of Dunbar Road against the lake. Looks huge. The CCR did not work here. Much too big.

264 Sanford Avenue: Looks all right. So much depends on the location. This is in the middle of the block and was well landscaped. CCR worked here. This house was quite controversial at ARCOM due to its size. House is overly large, appearing much larger than houses immediately around it. They have maxed the CCR and the house is very boxy. Too much of a box. This is a perfect example of the “shoe boxes” which too often are built as a result of the zoning code.

Ms. Murphy commented that as she drove the town, she found most of the homes to be aesthetically pleasing, and they did not seem to be as big as the ones surveyed last year. The reason for this, she felt, was that so many homes are now bigger, that the large ones are less noticeable. “It didn’t feel like Palm Beach.” She cautioned the commission to be very careful about increasing the CCR.

395 North Lake Way: This was the first house where the lot size is 22,000 square feet, which is like an R-A type lot. As such, it needs to be dealt with differently, but the house is still very large on the lot.

Let the record show that during the discussion relative to 395 North Lake Way, Ms. Markin noted how high certain houses just north of 395 North Lake Way are being built. She is aware that residents complain about houses which are built up so high, especially in consideration of water run off issues.

250 Kawama Lane: No commissioner comment regarding this home.

101 Casa Bendita: Oceanfront property. Massive house. Looks too large for the site and skews and distorts those which are near it.

222 Plantation Road: Since it has a front loaded garage, you do not look at a large paved driveway area. This is a good example of how a front loaded garage can be preferred over a side loaded garage, especially on smaller lots where a side loaded garage takes too much of the lot area just to provide for the automobile. Looks like the house is too close to the road, and there are too many pavers. Would like to see more landscaping.

247 Southland Road: This is such a disappointment to see this two story home on a street which is almost all one story homes. This was built to the maximum CCR and that is the problem with the sliding scale. Found it offensive that it was a two-story house. Feels sorry for the neighbors to either side.

Mr. Sanchez noted that this home is his neighbor to the West. He commented that if he had the

same house to the east, he would be very upset as it would destroy his view, his air, his sky, his everything. “If we can put a stop to such an enormous CCR on a small street, it would be to everybody’s advantage.”

211 Ridgeview Drive: “It is obviously completely out of scale, and there is obviously something broken here.” This is one of three new homes on Ridgeview and the developers have succeeded in transforming a very low level residential street into what it is today. Shocking.

During the discussion relative to this home, Mrs. Golino noted how many walls there are in the Town of Palm Beach, many of which have been spawned as a result of drainage regulations. She felt that the commission should review property walls and drainage as a planning issue in the future.

253 Ridgeview Drive: Too much house on the lot, but not as bad as the incomplete house across the street.

255 Ridgeview Drive: Looks like just a garage. This is a good example of why side loaded garages became the preferred choice. Would look better with two smaller garage doors than one big one. When this house came to ARCOM and was approved, it had a very large tree where there are now two small palms. Consider requiring major landscape elements to remain after approvals. Make the landscape architect responsible for ensuring that the landscape material is installed and/or maintained as approved. Shocked that large driveway was approved.

Ms. Markin commented that the commission had thought that homes can be bigger if they are landscaped properly, but landscaping is “far from guaranteed”.

Ms. Murphy recalled that during the joint meeting with ARCOM and the Landmarks Preservation Commission, the group had talked about how to enforce approvals post Certificate of Occupancy. She suggested that a series of photos be taken at time of C.O., which could provide a means to check on the property at a later date.

Mr. Sanchez took this opportunity to advocate stones with grass between them to green up the area. This was once counted as pervious area, but is no longer counted as such. This forces owners to cement from one point to another.

340 Garden Road: Completely out of scale. Maxed out. In looking at this house and others, you don’t have to check the calculations to know that they’ve maxed out the CCR.

220 Mockingbird Trail: No commission comments.

227 Angler Avenue: Too large. Out of scale.

It was noted the houses included in the report are a mix of being developer driven and owner driven.

JAN CONROY: Noted that it is apparent that it is hard to separate just the cubic content out because every lot is different. You have to address every lot individually, and consider all aspects of every lot.

108 Dolphin Road: No commission comments.

162 Dolphin Road: No commission comments.

DAVID BARTON: Complimented Mr. Castro on this review of the newly constructed homes. Every one of these is out of proportion with the neighborhood. He asked the commission to imagine having full streets built with such homes.

Mrs. Golino agreed with Mr. Barton, and pointed out that that is exactly what the maximization study showed. This needs to be addressed by the commission as a planning commission.

162 East Inlet Drive: No commission comments

Mr. Sanchez commented that this review makes it clear that a large lot can take a higher CCR, but a smaller lot cannot. As such, Mr. Sanchez recommended that zoning overlays for the R-B district should be investigated.

YVELYNE DE MARCELLUS MARIX: Brought up a “nightmare” on Ocean Boulevard close to Mockingbird Trail where the lot is filled so high that the lot is already, before building, the height of the roof of the neighbor behind it and beside it. She invited everyone to go look at this home as it is “probably one of the most appalling things that I’ve ever seen done to the neighbors”. She felt it makes of mockery of the code.

Mrs. Murray commented that in reviewing a site, one must consider the CCR, the topography, the FEMA requirements, the amount of pervious/impervious area, etc. all of which have a cumulative affect on the bulk you see when you look at the site.

J. WILLIAM WEEKS, 210 Jamaica Lane: Pointed out that 201, 206 and 290 Jamaica Lane have not been included in the survey.

Mr. Schuler stated that a number of these homes have been built by developers who are trying to make these houses into something they are not, namely mansions. The architecture is poor in many of these instances, and insisting on good architecture would be a good solution to the problem.

Mr. Brisson had distributed a Supplemental Information Sheet showing the number of properties in the north end which could still be expanded using the current CCR. Ms. Murphy commented that the number of properties which fall into that category is “scary”.

Mrs. Golino commented that the problem is that we are allowing development in a neighborhood

which is out of character with the neighborhood. As such, she again suggested that the commission consider establishing a neighborhood index. The information presented today clearly shows that the sliding scale is broken, and something must be done to fix it.

GENE BARBATO, 1280 North Lake Way: Expressed his concern that the CCR was being misrepresented because no matter what you do with the CCR, a two-story home could still be built, and/or a house could be built side line to side line. He felt that people have the right to build a two-story house, and advocated the sliding scale. He called attention to what he perceived as calculation errors in the report relative to the lakefront properties.

Let the record show that the meeting adjourned for lunch at 12:15 p.m. and it was reconvened at 1:30 p.m.

Bill Brisson, Brisson Planning Solutions regarding the Street by Street Analysis

Over the years, the Town has explored various methods to try to keep the size and mass of construction compatible with that which was existing in the surrounding areas in the R-B district. Methods tried since the early 80s include angle of vision, height plane, FAR, CCR, Sliding Scale CCR, Pattern Book, bonus zoning. The most successful thus far has been the sliding scale, but the biggest problem with it is that it applies to all of the properties within the R-B district uniformly with the only variation being lot size. Last year, staff was directed to do a street by street CCR analysis. Eight streets were selected to see how a street by street CCR might work if applied to the whole district. The streets selected for the study are Mediterranean Road, Queens Lane, Garden Road, Jamaica Lane, North Lake Way, North Ocean Boulevard, Ridgeview Drive, and Seaspray Avenue. Mr. Brisson noted that some of the streets needed to be broken up into segments to group like characteristics together.

Mr. Brisson explained that the intent of the analysis is to determine an average CCR for a street. He found that the compiled data was reasonably good enough to arrive at a reasonable and accurate conclusion. He explained that if the street CCR concept was adopted and implemented, the data would have to be collected when an application is submitted, and would have to be verified by someone.

Mr. Brisson called attention to the Summary of Findings (Page 5) of the Phase II Staff Report which tells what would happen on each street if an average CCR was used for the street, or 105% or 110% of that average. Mr. Brisson referred to the handout, previously distributed, entitled *Supplemental Information* which contains what would result if the staff recommendations were put into place. Generally, using 110% of the average CCR on a street as the maximum CCR, it reduces the allowable CCR on the streets that have low average CCRs, (namely Mediterranean, Garden, Jamaica and Ridgeview) as compared to what the sliding scale now shows. On the streets that have a high average CCR like Seaspray, North Ocean Boulevard and North Lake Way, using 110% of the average tended to allow an increase over what the sliding scale would now permit.

Mr. Brisson explained what he perceived as the drawbacks to using an average CCR. He stated that the data is incomplete; the data must be verified; the average CCR is difficult to implement; it is very complex; and, it must be sustainable by law. Given the drawbacks, however, if it were implemented, when an application would be submitted, someone (most likely a hired consultant) would have to calculate the CCR using plans and field visits. The consultant would be responsible for those calculations, and the applicant would pay the consultant to help determine what the owner could build on his property. Once the calculations were done, they would be on record and would be used for any further calculations on the street. Mr. Brisson cited certain situations, however, where an average CCR might be unnecessarily lowered as a result of recalculations of the average CCR after a demolition of one of the larger homes on the street. So, to attempt to address some of the anticipated problems, Mr. Brisson directed the commission to Page 12 of the Staff Report, Recommendations, wherein the staff recommendation to establish a floor of 3.5 CCR along with a maximum of 4.5 CCR is listed, along with ten other recommendations needed to implement such a plan. Mr. Brisson again referred to the Supplemental Information sheet to show the result of the average CCRs on the studied streets, using the recommended floor and ceiling CCR.

Mrs. Golino commented that if the goal is to build homes within a neighborhood that really fit into the neighborhood, there should be no ceiling or floor CCR. The calculations would speak for themselves, and the mathematical result plus 5% or 10% percent to allow for growth would be the CCR for that street.

Mr. Brisson listed other alternatives to the street by street index. One is to continue using the sliding scale, but this does not maintain the character of any one given area. Another option is to eliminate the sliding scale and institute a lower CCR, perhaps 3.5. Mr. Sanchez commented that 3.5 is too low for the Sea streets and too high for the streets in the north end. Mr. Brisson agreed that it does not work to try to apply one CCR number to all of a particular zoning district. He stated that an option for a neighborhood index CCR (using houses within 400 ft. of a given property) would better reflect the character of an area, but it would be even more complicated than a street by street CCR.

Mr. Sanchez spoke in support of comparing houses within a certain number of feet on a streetscape rather than within a radius of that many feet because quite often streets which are back to back have very different characteristics. Mrs. Murray recalled that it had been suggested that the low and high figures be thrown out in the street by street averaging process to arrive at a true average. Mr. Brisson admitted that he had forgotten to mention that he did throw out the high and low figures when he performed his averaging calculations. Mr. Brisson also noted that the data he used in his calculations is 2001 data. Ms. Murphy commented that when the data is updated, the numbers will inevitably be higher, which could be a reason to have a maximum. She also suggested that an increase to 105% of the average may resemble the desired "evolution" that people want more than an increase to 110% of the average. Ms. Murphy thought they might consider throwing out the high number, but keeping the low number to encourage smaller homes.

Ms. Markin commented that at the extreme north end, there are very small one-story homes. She asked if the 105% or 110% averages would allow second story homes or two car garages. If not, the integrity of the neighborhood may be maintained, but the property values are being extremely limited. She noted that as offensive as the large homes are in the north end, there are also very small single story homes with no garages or carports which are not being maintained, which are likewise offensive. Mr. Castro and Mr. Moore responded that you cannot have it both ways. With averaging, these smaller homes may not be able to add a second story or add a two car garage. Mr. Brisson noted that a CCR floor might allow these additions for these smaller homes. He also noted that a low CCR does not necessarily mean a small house. A low CCR simply means less of the land is used by the house in relation to the size of the lot. Mr. Broberg asked how many times a property can avail itself of the additional percentage provided by the averaging. Mr. Brisson responded that there is no limitation on this, but the increase would be gradual.

Mrs. Golino questioned the wisdom of excluding the North Lake Way and North Ocean houses from the calculations for a given east/west street, as these properties are neighboring properties, and because including them could work to increase the street's CCR to a more palatable figure. For the same reason, she also did not feel that throwing out the high and low figure was advisable. Mr. Brisson admitted that in actuality, throwing out the highs and lows makes very little difference. Nor would including the North Lake Way and North Ocean houses, although it could have some affect on the numbers.

At this point and after working on this since the 1980's, Mr. Brisson offered his professional recommendation to the Town and the Planning and Zoning Commission; that is, the only way to develop appropriate zoning in the R-B district is to break up the R-B zoning district into smaller districts which represent the character that people are trying to preserve. This concept was suggested in the 98/99 zoning season, but it was tabled to see how the sliding scale would work. Most people now feel the sliding scale is not working. The R-B district is too big to be solved by one figure. He felt that although the street by street index or the neighborhood index might work, it would be fraught with problems.

Mr. Bell stated that most houses in the north end have about 2,600 square feet. A 5% increase would only afford an additional 130 square feet, which Mr. Bell thought was not enough to build an addition of any kind. A 10% increase would provide 260 square feet for a reasonable addition.

Mrs. Golino agreed with Mr. Brisson that the R-B district should be divided into smaller districts. She also felt the Planning and Zoning Commission needs to do an appropriate planning job first to study the existing planning areas. That might require developing sub-committees to accomplish this. However, she was concerned that this was a long range planning process and until this is accomplished many more houses will be built based on the sliding scale and more damage will be done to our neighborhoods. She urged the commission to act now to stop the overbuilding. In keeping with that goal, she offered her recommendations. She recommended asking the applicant to calculate the average CCR for all properties within 200 feet of any point

of their property. That would become the neighborhood CCR index for their particular project only. The buildable CCR for that project alone would be 110% of that average. No floor or ceiling would be required. This proposal would be able to be implemented immediately. This proposal would mean less work for staff and addresses immediate neighbors as a neighborhood index. This proposal is less subject to challenge. It would allow larger homes where larger homes are acceptable. It does not preclude doing possible future zoning modifications such as bonus zoning.

Mr. Castro stated his agreement and disagreement with various aspects of Mr. Brisson's and Mrs. Golino's proposal, and with some of Ms. Markin's concerns, but challenged the commission to take a stand on this issue.

Mr. Brisson, asked to comment about Mrs. Golino's proposal, stated his reservations about the 200 ft. radius as it may involve other streets. The advantage of using the street by street analysis is that there is data now to give an owner some idea as to approximately what he could build on a given street. He agreed that the applicant should have to calculate the average CCRs.

Mr. Sanchez commented that the commissioners must decide if they want the neighborhood concept or not. Secondly, he stated that currently developers have a uniform pick within the R-B district locations, as the real estate is valued similarly due to the zoning code. The neighborhood concept would change that. Regarding Mrs. Golino's proposal, he stated it is very simple and buys time to develop overlays. He disagreed with the 200 ft. radius, and was in favor of 400 ft. along the street rather than a radius. He also cautioned that the averaging should never go under 110% to avoid problems with property rights legislation.

Ms. Markin remarked how much she loves the north end of the island, but cautioned the commission that they must be realistic and allow evolution of the properties to occur to allow property owners to have a practical and functional home. She stated that it is inevitable that the north end will change from how it is today. The commission's goal should be to temper that change and still facilitate the upgrading of the homes.

At this point and after quite lengthy discussion, the Chairman encouraged Mrs. Golino to present her proposal and requested a motion. Mrs. Golino first reported that she had presented her ideas to the chairpersons of ARCOM and the Landmarks Preservation Commission, and both were very enthusiastic about it. She appreciated Ms. Markin's previous comments about the north end homes, and stated that she understands the area very well, having lived there for many years. In recognition that change must be permitted to some degree, she proposed that perhaps a floor should be established, but certainly not one as high as 3.5 CCR. A CCR of 3.0 would be a better choice as this is more than adequate to build a small house with a garage. She would accept averaging the homes within either 200 ft. or 400 ft., as had been suggested, but agreed that it should be either 200 or 400 linear feet on the street. She also suggested using the FAR (Floor Area Ratio), which is available from the property rolls, rather than the CCR, to help persons in determining what they could build on a property.

Mr. Robertson asked Mr. Brisson to respond. Mr. Brisson stated that the only problem he had with Mrs. Golino's original proposal was the averaging should be done with a linear distance from the subject property rather than a radial distance. He also felt the applicant should do the calculations and that he should be responsible for the costs. Mr. Castro offered his opinions that the CCR is much more difficult to deal with than the FAR, but he was not sure if the FAR would address the mass and scale of a property. He liked the street concept; that the applicant is to do the calculations; and, that the town would hire a consultant to verify the calculations. Mr. Castro also expressed his concern, as staff, that whatever is done must be reasonable, realistic, and defensible, especially in consideration of the persons who purchase small lots with small homes and want to upgrade them.

JERE ZENKO: Stated it disturbs her that the burden in this proposal is placed on the applicant, or buyer. She felt that the burden of disclosure should be upon the seller and the seller should absorb the costs.

DAVID BARTON: Praised staff and the commission for presenting the most encouraging approach to this problem that he has heard in five years. He stated that when the CCR was implemented by the town, it had not been tested first. That was unacceptable, per Mr. Barton. To pull numbers out of the air is likewise unacceptable. He maintained that the problem of overbuilding has not been well stated by an official body of the town. It is the responsibility of the governing body of the town to know the limits of growth in the town. Every service in town is more over-consumed. He felt that very little planning is being done by the Planning and Zoning Commission. Mr. Barton stated that the town has allowed all of this to happen, not the developers. The town must be more policy driven than market driven. Long range planning must be addressed to preserve the quality and character of the town. He called for communication with the public before things are passed, and suggested invoking zoning in progress to stop over-building. As a policy thought, Mr. Barton stated, "A town that fosters public interest is a town that stands tall. A town that fosters special interests is no town at all."

ALLEN WYETT, TOWN COUNCIL PRESIDENT: Was disturbed that this issue has been discussed every year for many years, and "we hack it to death." He stated that the zoning regulations have already been reduced substantially to reduce the size of homes, and the sliding scale has helped. Mr. Wyett noted that the small, north end homes were built by speculators, and to try to protect homes with no garages or carports is not realistic. It was his opinion that if the size of the allowable home on a small lot is further reduced, it will destroy residents' "nest eggs". He was very concerned about bringing property values down on small properties, which could encourage the joining of small lots, which would further enable building a large house. He asked the commission to be careful with how the rules are changed.

GENE BARBATO: Commented that there are a tremendous number of non-conforming lots in this area, and questioned how many of the over 1500 lots are non-conforming. Mr. Moore responded that approximately 85% to 90% are non-conforming.

MOTION BY MRS. GOLINO THAT THE TOWN ADOPT A POLICY TO ESTABLISH

A NEIGHBORHOOD CCR INDEX FOR THE R-B DISTRICT, SUCH INDEX TO BE ESTABLISHED BY APPLICANTS FOR A SUBJECT PROPERTY BY MEASUREMENT OF 400 LINEAL FEET FROM THE PROPERTY ALONG THE STREET; DEVELOPMENT SHALL BE ALLOWED UP TO 110% OF THE NEIGHBORHOOD INDEX, OR 3.0, WHICHEVER IS GREATER.

MOTION SECONDED BY MR. BROBERG.

Mrs. Murray thought that a ceiling should be established. Mrs. Golino commented that she did not include a ceiling in her motion in consideration of the Sea streets homes which are typically larger. Mr. Sanchez responded that the average CCR on the Sea streets is already 4.5. As such...

MOTION AMENDED TO ADD A CEILING OF 4.5 CCR.

Mr. Bell asked Mrs. Golino if she would accept 115%, rather than 110%, but she stated she would like to keep it at 110% as Mr. Brisson's data is readily available at 110%. She noted that Mr. Brisson had previously mentioned that the data used was from 2001, so the resulting current averages will undoubtedly be higher.

Mr. Broberg asked Mrs. Golino if her motion was intended to include the 400 lineal feet on both sides of the street, and **SHE RESPONDED THAT IT SHOULD INCLUDE BOTH SIDES OF THE STREET.**

Ms. Murphy asked whether we could add the words "adopt the policy in the 2005/2006 zoning season." Mrs. Golino asked if this would trigger zoning in progress. Mr. Moore stated that the decision to invoke zoning in progress belongs to the Town Council. **MRS. GOLINO STATED THAT SHE WOULD STRONGLY SUGGEST THAT THE TOWN COUNCIL INVOKE ZONING IN PROGRESS AND INCLUDED THAT REQUEST IN THE MOTION.**

Due to the additions to the motion, Mr. Robertson asked Mrs. Golino to re-state the motion.

MOTION BY MRS. GOLINO THAT THE TOWN ADOPT A POLICY TO ESTABLISH A NEIGHBORHOOD CCR INDEX FOR THE R-B DISTRICT, SUCH INDEX TO BE ESTABLISHED BY APPLICANTS FOR A SUBJECT PROPERTY BY MEASUREMENT OF 400 LINEAL FEET FROM THE PROPERTY ALONG BOTH SIDES OF THE STREET. DEVELOPMENT SHALL BE ALLOWED UP TO 110% OF THE NEIGHBORHOOD INDEX, OR 3.0, WHICHEVER IS GREATER, BUT NOT TO EXCEED A MAXIMUM OF 4.5, AND SUCH POLICY SHALL BE EFFECTIVE FOR THE 2005-2006 ZONING SEASON, WITH ZONING IN PROGRESS EFFECTIVE IMMEDIATELY.

MOTION SECONDED BY MR. BROBERG.

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

WOULD PREFER 115%, RATHER THAN 110%.

Mr. Castro noted that this recommendation would be brought to the Town Council at their meeting on February 28, 2005, and at that time, staff will be making the commission's recommendation to create zoning in progress until next zoning season, when staff would bring back the specific regulation for consideration by the Planning and Zoning Commission and recommendation to the Town Council. Mr. Moore stated that after working on this for the past twenty years, a step has finally been taken to try to preserve the character of the streets.

Further discussion relative to this study item (which actually occurred at the end of the meeting.) *Mrs. Delp notes that for purposes of continuity and comprehension of the understanding of the outcome of this item, the record and report of what transpired is found here in the document.*

Ms. Murray wondered whether Mrs. Golino's motion included that there would be no variances permitted from the established ceiling. Mrs. Golino responded that it was not included in the motion, but it had been part of staff's original recommendation for this item. Mrs. Murray felt this was very important as it helps to deal with all of the variances requested. Mrs. Golino agreed that this was a crucial point, and stated she would agree to amend her motion.

**MOTION BY MRS. MURRAY TO RECONSIDER THE PREVIOUS MOTION
RELATIVE TO THE NEIGHBORHOOD CCR.**

**MOTION SECONDED BY MS. MURPHY.
MOTION CARRIED UNANIMOUSLY.**

**MOTION BY MRS. GOLINO TO RE-MAKE THE MOTION SHE STATED EARLIER,
AND AMEND IT TO NOT ALLOW ANY VARIANCES TO THE PROPOSED CCR
NEIGHBORHOOD INDEX.**

MOTION SECONDED BY MR. BROBERG.

**MOTION CARRIED 6-1, WITH MR. BELL VOTING AGAINST THE MOTION FOR
REASONS PREVIOUSLY STATED.**

STUDY ITEM 1B: Study aggregation of lots and its effect on building size/ratio.

Mr. Brisson offered introduction and explanation of this study item. He recommended **“dividing the R-B district into separate zoning districts that are more homogenous with respect to lot size, mass and bulk of existing structures, etc., so that regulations can be prepared that are**

appropriate to maintaining the desired character of each area.”

Mr. Broberg stated that he agreed with Mr. Brisson that the R-B zoning district needs to be broken up into more homogenous sections. As such, he made the following motion:

MOTION BY MR. BROBERG THAT STAFF, ALONG WITH MR. BRISSON’S COMPANY, COME BACK TO THE PLANNING AND ZONING COMMISSION DURING NEXT ZONING SEASON WITH A RE-DEFINED R-B DISTRICT.

MOTION SECONDED BY MRS. GOLINO.

Mrs. Golino added that this motion does not preclude the commission from studying the planning aspects associated with this.

MOTION CARRIED UNANIMOUSLY.

Mr. Brisson’s second recommendation is as follows:

For lots which are combined after (insert date of adoption) to encompass a gross area of 20,000 square feet or more, the aggregate of the gross cubic content of all structures on the resulting parcel/lot shall not exceed 78,000 cubic feet. Mr. Brisson noted that this represents a house of approximately 7,800 square feet.

Mr. Sanchez commented that he is in favor of aggregating lots, as that would be reminiscent of the way Palm Beach used to look. He felt that limiting it to 78,000 cubic feet, even though that might appear to be a big house, is not appropriate as it really depends on how many lots are being aggregated. Ms. Murphy agreed that aggregation of lots is a very good thing as she loves to see a house surrounded by a huge plot of land. She wished there could be some reward (tax relief or some type of bonus) to owners for purchasing more land and not necessarily building more on the land.

Mrs. Golino called attention to various homes included the 2003 New Home Survey, discussed earlier today, which would have had to have been built smaller if this recommendation would have been in effect.

MAIA FARISH (Preservation Foundation): Commented regarding Ms. Murphy’s wish for an incentive to aggregate lots. She asked if conservation easements have been considered in the town to date. She cited an example of western ranchers having allowed conservation easements relative to their land in exchange for tax breaks which has been very successful.

JERE ZENKO: Mentioned the concept of “performance zoning,” implemented in Lake County, Illinois, which works to the effect that you can get tax benefits for building less than what is allowed on a property. She stated that she built her own Palm Beach house smaller than she could have, but received no tax benefits. Mrs. Zenko maintained that the town could give this

type of tax break, much the same as it offers tax breaks to landmarked homes.

Mr. Castro cautioned that if we do not implement some type of aggregation of lots, the R-B district streets will all look very different as bigger homes will be built. He recommended adoption of the recommendation. As for the tax breaks mentioned, he noted that only a very small part of an owner's property taxes come back to the town. As such, he did not think it would provide enough of an incentive to entice owners to build smaller homes on their lots.

Mr. Sanchez spoke in favor of conservation easements. He stated that the historic value of aggregating properties is great as it provides more trees, better air, less traffic, etc. Mr. Castro responded that lots can be aggregated under this proposal, but no more than 78,000 cubic feet could be constructed on the aggregated lots. Mr. Sanchez objected to the limitation.

**MOTION BY MR. BELL NOT TO APPROVE THE STAFF RECOMMENDATION #2 AS WRITTEN ON PAGE 39 OF THE PHASE II STAFF REPORT.
MOTION SECONDED BY MR. SANCHEZ.**

Mrs. Murray stated that while most members probably agree with both sides in principle, the 78,000 cubic feet is probably not enough, especially when outbuildings are included as well. Mr. Castro defended the recommendation as a means to retain the character of the neighborhood. Mr. Sanchez countered that the owner of two aggregated lots cannot be treated the same as an owner of twenty aggregated lots. Ms. Markin asked the commission to remember that staff was asked to make a recommendation in this regard by the commission. She thought that perhaps it could be re-worded to accommodate some of Mr. Sanchez's concerns, but commented that his concerns are an exception. Mr. Sanchez was amenable to the limitation if the recommendation was limited to the aggregation of only two lots.

Ms. Murphy felt the commission was basically in agreement. She remarked that if they did not take action now to control the size of homes on aggregated lots, the result will be more and more houses which are out of proportion with the smaller homes. She recommended that the commission take action to say that 78,000 cubic feet is not appropriate as a maximum, but at the same time, explore other ways to encourage aggregation of lots without involving larger houses. She volunteered to research the topic of conservation easements, and other bonuses to property owners.

MOTION CARRIED 5-2, WITH MRS. GOLINO AND MR. ROBERTSON VOTING AGAINST THE MOTION.

Mrs. Murray asked staff to bring back an alternative proposal later in this zoning season.

STUDY ITEM #2: Review process for Regulatory Applications

The Town Council directed staff to evaluate the zoning applications that have been submitted and attempt to modify certain provisions which would eliminate some of the applications that are heard by the Town Council.

Mr. Brisson explained that staff recommends deferral of this item to a future date to allow staff and the commission have an opportunity to review the Siemon & Larsen report, which was contracted by the Palm Beach Civic Association.

**MOTION BY MR. BELL TO DEFER THIS MATTER.
MOTION SECONDED BY MR. BROBERG.**

Ms. Close stated that the date to hear this matter will be decided later in this agenda.

MOTION CARRIED UNANIMOUSLY.

STUDY ITEM #4: Phase II of a maximization study for Ridgeview Drive and Jamaica Lane

Mr. Castro explained that there has already been much discussion relative to this topic today, and he had little more to say on the subject.

The Planning and Zoning Commission took no action on Study Item #4.

STUDY ITEM #6: Redevelopment of nonconforming structures

A. Codification of the “50% rule” as interpreted by Town Council

“Continue to study the nonconforming structure provision in the ordinance as it relates to redevelopment or renovation of nonconforming buildings at the same size, height, scale and location. Clarify the nonconforming section of the code as it relates to percentage of demolition and the time frame for demolition and reconstruction which would and would not exceed 50% of the cubic footage.”

Mr. Brisson explained that last year the Town Council approved an interpretation of the 50% rule where they have determined that in the ensuing year, a property owner would not be able to redevelop, or tear down and reconstruct, an existing non-conforming structure to greater than 50% of its cubic content (prior to the reconstruction) more than once in the life of the building. Previous to that interpretation, there was an interpretation that 50% could be done at a given point in time, and later the other 50% could be done, resulting in basically a whole new

building. The new interpretation has been in effect for one year, and if it is viewed as acceptable to the town, staff recommends that it be codified and the language included in the code.

Secondly, in the past, staff has interpreted the removal of a roof as counting toward the 50% rule because when the roof is removed, there is no longer any cubic content, and more than 50% of the home has been affected. The reality of the situation is, however, that a roof will probably be replaced several times during the life of a structure. The current recommendation is that replacement of a roof be considered normal maintenance and repair, and it would not be counted as part of the 50%, if the replacement of the roof does not change the roof style, size or pitch.

Mr. Moore stated that he disagrees with the first recommendation. It would mean that if one lives in a non-conforming house, the owner can only re-do 50% of the house (cubic content) over the lifetime of the house. This would encourage tear downs, which is against everything the commission is trying to do. Mr. Sanchez agreed and stated that this is another example of zoning conflicting with landmarking. He claimed that there is not one landmarked building in the town that does not violate the code, and questioned whether a clever attorney could then say that landmarked buildings must be demolished and brought into compliance. Mr. Moore noted that landmarked buildings are exempted by the code, but all of the Sea streets would fall under this category.

Mr. Castro explained that the non-conforming theory is that if you demolish more than 50% of a building, that building is lost, and any new building must conform to the code.

Mr. Moore commented that there is a compromise to help a resident. Homes get older and need repair and maintenance. He suggested that perhaps a 50% remodel be permitted every 5 years, or every 10 years, in order to discourage tear downs. Mr. Broberg asked Mr. Moore to explain the other 50% rule with regard to FEMA and the Florida Building Code. Mr. Moore explained that if you are going to re-build more than 50% of the value of your home, then you must bring up the floor level to 7.5 and you must remodel the house to meet today's codes. This could be a very expensive proposition, which could make a tear down more attractive to an owner. To alleviate this, the town has always allowed an appraisal figure, or 50%, plus 20%, to be used in the calculations.

Mr. Schuler recalled that at ARCOM, quite often the owner would want to increase the ceiling height which requires removal of the roof. Mr. Moore responded that situations such as this have been handled with a variance in the past. The proposal in the Staff Report would preclude that type of change, i.e., when the roof is removed, the cubic content is destroyed.

Mr. Randolph clarified that the proposal being made is consistent with an action taken last year by this commission. Ms. Close stated that staff had been asked to make an interpretation in accordance with the code, as written, until such time as there is another recommendation, like the one being discussed today. She felt it was advisable to allow the previous interpretation of non-conformities to continue (forgetting "over the life of the building") until the R-B zoning district has been reviewed further.

MOTION BY MR. SANCHEZ TO DENY THE RECOMMENDATION OF STAFF FOR STUDY ITEM 6A, ON PAGE 43 OF THE PHASE II STAFF REPORT.

MOTION SECONDED BY MR. BELL.

As there were some questions from the members, Mr. Castro clarified that if this motion passes the commission is voting to continue to allow someone to demolish half of a building and re-build, and then come back later to demolish and re-build the other half, together with obtaining variances or other required approvals, as necessary.

MOTION CARRIED UNANIMOUSLY.

B. Consistency between the intent section and the current nonconforming provisions

This change was proposed to Article IV, NONCONFORMITIES, Division 3. BUILDINGS AND STRUCTURES:

“However, there exist within the Town certain nonconforming buildings or structures that are in character with the surrounding neighborhood and beneficial to the Town, the continued existence of which is considered preferable to their demolition and replacement. This section contains provisions which encourage the continued existence of such nonconforming buildings and structures.”

The commission felt that the wording in the recommendation was confusing. Mr. Randolph questioned who would make the determinations referenced in the wording. He did not feel the language was necessary, and if it is necessary, it needs to be more specific.

After further discussion, **the commission took no action on Study Item 6B.**

C. Reconsider the time allowed for completion of voluntary restoration, demolition or reconstruction of a nonconforming structure.

The intent of this recommendation is to establish consistency between the time allowed in the Building Code and the Zoning Code.

MOTION BY MR. BELL TO ADOPT THE STAFF’S RECOMMENDATION AS SHOWN ON PAGE 45 OF THE PHASE II STAFF REPORT.

MOTION SECONDED BY MS. MURPHY.

MOTION CARRIED UNANIMOUSLY.

STUDY ITEM 7: Study a proposal to increase required off-street parking for all type of

residential development based on the size or number of bedrooms

This issue concerns the possible need to increase the parking requirements for large residential units, and was deferred from Phase I Zoning Season hearings.

In short, the recommendation would increase the parking requirements for one and two-family dwellings with the number of spaces increasing as the size of the house increases. The same is the case with townhouses and multi-family dwellings, for as the number of dwelling units increases, so do the number of required parking spaces, over and above what is required now.

Mr. Castro commented that historically, no more than two parking spaces within a garage have been required for single family homes. It becomes difficult to require more than that unless there is a circular driveway. The commission had also previously discussed allowing one of the required parking spaces to be in front of the garage itself to avoid creating additional impervious area.

Mr. Sanchez commented that he finds difficulty with what is being proposed since requiring a two car garage adds so much more bulk to a house, especially when the commission is trying to control the size of the homes. He felt this matter deserves more study.

MOTION BY MR. SANCHEZ TO DEFER THE MATTER FOR FURTHER STUDY AND RECOMMEND THAT THE TOWN COUNCIL RE-STUDY THE REQUIREMENT FOR A TWO CAR GARAGE, DEPENDING ON THE ZONE AND BASED UPON THE NEIGHBORHOOD STUDY.

**MOTION SECONDED BY MS. MURPHY.
MOTION CARRIED UNANIMOUSLY.**

At 4:45 p.m., there was a five minute recess to allow Mr. Frank to set up for the next item. Let the record show that Ms. Markin did not return to the meeting after the break. Mr. Bell, also did not return immediately, but returned later.

STUDY ITEM #9: Signage in the Public Rights of Way

Mr. Frank assured the commission that since street signage is addressed in the Comprehensive Plan, the Planning and Zoning Commission is the correct venue for this discussion. Mr. Frank stated that Robert Eigelberger, a Town resident and member of the Landmarks Preservation Commission, has helped Mr. Frank, as a volunteer, in assessing the situation with signage in the public rights-of-way of the town. He noted that signs are placed in the right-of-way by the Department of Transportation, by the Town, and by the Police Department. The DOT and the Town's Public Works Department are enthusiastic that this subject is being studied. Problems noticed include aesthetics, size, height, color, and number of signs. Mr. Frank noted that the

number of sign posts is excessive, and this could be alleviated by one post holding multiple signs. Mr. Frank showed the commission a series of slides which illustrate the various types and numbers of signs present on the south side of Royal Poinciana Way and certain other streets in the town. Mr. Frank distributed a handout showing particular types of signs which can be purchased with a bronze backing, instead of signs with the typical shiny metal backing. Mr. Frank identified his goal as being directed to inventory the signs, meet with the agencies responsible for the signs, and determine which signs could be co-located, and/or removed.

MOTION BY MRS. GOLINO TO ACCEPT STAFF'S RECOMMENDATION FOR FURTHER ANALYSIS OF THE SIGNAGE ISSUE.

Mr. Frank stated that Mr. Eigelberger had wondered if a member of the Planning and Zoning Commission would agree to work with them on this project.

MOTION SECONDED BY MRS. MURRAY.

Mr. Sanchez noted that he was the commissioner who originally asked that this subject be studied. His major concern was and still is the proliferation of signs on the public rights of way, and his desire to see them removed, not organized.

Ms. Murphy mentioned that at the Beautification Committee meeting of the Palm Beach Civic Association last week, the subject of the redundancy of signs was discussed with Mr. Paul Brazil, Director of Public Works. She volunteered to be the commission member to assist with this study.

MOTION CARRIED UNANIMOUSLY.

STUDY ITEM #11: Digitization of the official land use and zoning maps

Staff recommended for deferral of this study item.

MOTION BY MS. MURPHY FOR DEFERRAL TO THE 2005/2006 ZONING SEASON.

MOTION SECONDED BY MR. BELL.

MOTION CARRIED UNANIMOUSLY.

STUDY ITEM #16: Miscellaneous study items pertaining to clean-up of code language and modification of previous code changes.

(Please see the Phase II Zoning Staff Report for specific language corrections.)

- A. This proposed change clarifies that both required off-street parking spaces in a garage are required to be provided with at least an eight foot wide free and clear access into each space.

MOTION BY MR. SANCHEZ FOR APPROVAL.

MOTION SECONDED BY MR. BELL.

MOTION CARRIED UNANIMOUSLY.

- B. This proposed change clarifies that two story accessory buildings in the R-B zoning district can not exceed an overall height of 25 feet.

MOTION BY MR. BELL FOR APPROVAL.

MOTION SECONDED BY MS. MURPHY.

MOTION CARRIED UNANIMOUSLY.

- C. This proposed change removes language in the R-AA and R-A district sections of the code which incorrectly relate to the R-B district.

MOTION BY MR. BELL FOR APPROVAL.

MOTION SECONDED BY MR. BROBERG.

MOTION CARRIED UNANIMOUSLY.

- D. This proposed change corrects a typographical error resulting in an incorrect reference.

MOTION BY MR. BROBERG FOR APPROVAL.

MOTION SECONDED BY MR. BELL.

MOTION CARRIED UNANIMOUSLY.

- E. This proposed change provides language which includes ancillary structures and uses at municipal docks currently not allowable under Sec 134-1697, Structures over Lake Worth. In response to requests of long-standing tenants at the Town Docks and to remain competitive with offerings at other upscale local dock operations, the town is interested in upgrading the Town Docks. In the course of doing the necessary research to secure all permits and approvals, Town staff has discovered that current ancillary structures and uses do not appear allowable under Section 134-1697 even though the Town has operated these municipal facilities at the current location since the early 1940's. Town staff wishes to correct this discrepancy by offering amendments for consideration.

Mr. Castro explained that it is anticipated that the Dock Master facility will be rebuilt into some type of office center concept, with the ability to provide toiletries and other accessory items to those who dock boats there.

MOTION BY MR. BELL FOR APPROVAL.

MOTION SECONDED BY MS. MURPHY.

MOTION CARRIED UNANIMOUSLY.

OTHER STUDY ITEMS:

Mr. Castro reminded the commission and the audience that there will be a meeting of the Planning and Zoning Commission on Thursday, February 10, 2005 to transmit the Record and Report of this meeting to the Town Council.

There will also be a meeting on Thursday, February 17, 2005 relative to the Royal Poinciana Plaza proposal.

XI SET DATE AND TIME FOR CONSIDERATION OF ADDITIONAL ZONING STUDY ITEMS

After discussion, it was decided that the following additional topics would be discussed at the meeting on Thursday, February 10, 2005:

Intersection Vision Report (Follow up to last year's report)
Planning Area Study
Presentation of EAR Schedule

It was also decided that Study Item #2, Review process for Regulatory Applications, (deferred earlier in this meeting) would be discussed at a meeting on Tuesday, March 29, 2004.

XII ANY OTHER ITEMS

Under discussion, Mrs. Murray suggested an amendment to Mrs. Golino's earlier motion concerning the neighborhood index. *(Mrs. Delp notes that for purposes of continuity and comprehension of the understanding of the outcome of that study item, the record and report of the further discussion of this item is found beginning on Page 18.)*

XIII ADJOURNMENT:

MOTION BY MRS. GOLINO TO ADJOURN THE MEETING AT 5:32 P.M.

MOTION SECONDED BY MR. BELL.

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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