

SPECIAL TOWN COUNCIL MEETING AT 5:01 PM ON APRIL 13, 1993

Roll Call

I. CALL TO ORDER AND ROLL CALL - President Weinberg called the Special Town Council Meeting on zoning to order at 5:01 PM on April 13, 1993 in the Town Hall Council Chambers. On roll call, the following Elected Officials were found to be in attendance: Mayor Ilyinsky, Council President Weinberg, President Pro Tem Wiener, Councilwomen Douthit, Smith and Royal. Also attending were Mr. Doney, Attorney Randolph, Mrs. Peters, Mr. Zimmerman, Mr. Moore, Mr. Elwell, Mr. Jakubiak, Mr. Bitzer, Mrs. Martinuzzi and Mr. Crouse.

Invocation

II. INVOCATION AND PLEDGE OF ALLEGIANCE - (given at the beginning of the Town Council Meeting at 9:30 AM).

III. APPROVAL OF AGENDA - Motion was made by Mrs. Wiener, seconded by Mrs. Douthit to approve the agenda as published. On roll call, the motion carried unanimously.

IV. PROOF OF PUBLICATION - Mrs. Peters confirmed there was proof of publication.

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V. FIRST READING OF AMENDED ZONING ORD. NO. 9-93 - Attorney Randolph read the Ordinance No. 9-93 by title:

AN ORDINANCE OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING ORDINANCE NO. 2-74, AS AMENDED, THE OFFICIAL ZONING ORDINANCE OF THE TOWN OF PALM BEACH; PROVIDING AMENDMENTS TO ARTICLE 2, SECTION 2.10 ENTITLED "DEFINITIONS", BY REVISING DEFINITIONS (11), "BUILDING, HEIGHT OF", BY REVISING DEFINITION (11.1) "BUILDING, HEIGHT OF, CORNER LOT", BY REVISING DEFINITION (11.2) "BUILDING, HEIGHT OF, CORNER LOT", BY REVISING DEFINITION (11.3) "BUILDING, HEIGHT OF LOT ABUTTING LOW STREETS", BY REVISING DEFINITION (11.4) "BUILDING, OVERALL HEIGHT OF", BY ADDING A NEW DEFINITION (11.05), "BUILDING, HEIGHT OF" (APPLICABLE ONLY IN THE R-B DISTRICT), BY ADDING A NEW DEFINITION (13.31) "CUBIC CONTENT RATIO", BY ADDING A NEW DEFINITION (29.05) "LOGO", TO PROVIDE AMENDMENTS TO ARTICLE 4 ENTITLED "DISTRICT REGULATIONS" BY AMENDING SECTION 4.10, SCHEDULES OF REGULATIONS, BY AMENDING SCHEDULE A, SCHEDULE OF LOT, YARD AND BULK REGULATIONS, BY INCREASING LOT COVERAGE FOR TWO STORY BUILDING IN R-B DISTRICT, BY REDUCING BUILDING HEIGHT AND OVERALL BUILDING HEIGHT FOR ONE AND TWO STORY BUILDINGS IN R-B DISTRICT, BY ADDING A NEW PROVISION TO R-B DISTRICT, BY ADDING A NEW PROVISION TO R-B DISTRICT ENTITLED, "MAXIMUM CUBIC CONTENT RATIO", BY DELETING PROVISION FOR "BUILDING HEIGHT PLANE" IN R-BDISTRICT; TO PROVIDE AMENDMENTS TO ARTICLE 6 ENTITLED "SUPPLEMENTARY USE REGULATIONS" BY AMENDING SECTION 6.33, "SIGNS IN COMMERCIAL DISTRICTS", PROVIDING FOR BUSINESS LOGOS IN CONJUNCTION WITH PERMITTED SIGNS; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Mr. Moore recalled at the second Zoning Commission hearing on February 25, 1993, the Council sent back to the Zoning Commission several zoning matters. He stated the Zoning Commission did meet again and put forth their recommendations on the R-B District and the Logo issue and their report was sent to the Council. He recalled at the Zoning Commission meeting, there was input from the design community. He stated as a result of that, there has been recommended a change in the Ordinance which deals with the mass of homes located in the R-B District and a summary of the changes is contained in his memorandum of April 2, 1993.

He announced the changes have been put into the Ordinance and represent a compromise relating to the mass of structures associated with the development and redevelopment in the R-B, low density residential zoning district. He stated anomalies will occur as a result of these changes and the property owners may have to come for a variance when one of these surfaces, but on the whole, it is the staff's belief and the design community's belief that these changes will result in fewer variance requests.

He stated the change on logos is also in the Ordinance.

He went over the chart he prepared with the changes:

	BEFORE	AFTER
FLOOR AREA RATIO, FAR	45%	45%
CUBIC AREA RATIO CAR	None	42.5%
LOT COVERAGE ONE STORY	30%	30%
LOT COVERAGE TWO STORY	25%	30%
POINT OF MEASUREMENT	7.5 or Crown whichever higher	Top of floor to top of plate*
ONE STORY HEIGHT	15' to ceiling	12' to top of beam or plate**
ONE STORY FLAT ROOF W/PARAPET	17'	15'

ONE STORY PITCHED ROOF	20'	20'
TWO STORY HEIGHT	25' to ceiling	20' to top of beam or plate**
TWO STORY FLAT ROOF W/PARAPET	27'	23'
TWO STORY PITCHED ROOF	30'	28'

*NOTE: NO PENALTY FOR THE TYPICAL LOW NORTH END LOT AND/OR STREET AT ELEVATION 3.5 or 4'

**TRAY, VAULTED OR CATHEDRAL CEILINGS ARE EXEMPT FROM THE REGULATION

Joanna Frost-Golino, Chairman of the Architectural Commission addressed the Council spoke in support of the changes. She thought there was a need to address the issue of mass and bulk in a fair way. She is constantly being confronted, in reviewing plans for ARCOM, with the growing incongruity of new plans and existing neighborhoods. She explained the ARCOM Ordinance prohibits excessive dissimilarity due to gross square footage, cubical contents, building height and quality of design and materials. She noted three of the four criteria deal with the size of the structure and not with the design. She stated many plans are presented to ARCOM which do not fit into the neighborhood, because of size, even though the plans do meet requirements of the Zoning Code and they must deny the plans which are in compliance with the Zoning Ordinance. She felt strongly there was something amiss when one set of ordinances in the Town seems to be placed in opposition to other Town ordinances. She recalled when they were discussing as to whether or not to reduce the FAR Requirements, there were comments with regards to the reduction who would state it was okay not to restrict the FAR, because ARCOM was there to regulate the size when a building is too big for the neighborhood. She advised this put ARCOM in an awkward position of looking at a proposed structure designed to the Zoning Code maximums which could be two to four times the size of neighboring houses. She indicated to approve the plans would be in direct violation of the not too dissimilar ARCOM Ordinance. She believed the zoning ordinances should reflect the size of existing neighborhoods and when they gave the Town Staff the task of doing a study determining existing size statistics of all the R-B Districts, they did the study but to the best of her knowledge, the findings of that study were never publicly discussed. She recalled the data did show over 90% of the existing residences falls under a FAR of .35 and .45 is allowed. She noted the changes in the Ordinance do not change the FAR but look at establishing a Cubical Contents Ratio and it would make sense to her to have this CCR be in line with what is existing. She thought if they used a liberal estimate of 10' for average existing ceiling heights and using the statistics provided by the study, they would come up with an equivalent CCR of 3.5 or less for 90% or less of all the existing construction in the R-B District. She believed to impose a limit of 3.5 would be too restrictive and not allow for the growing demand for larger homes, but felt an upper limit of 4.0 or 4.25 for proposed construction would be a help to have the new construction be in harmony with existing neighborhoods. She indicated the FAR will remain the same and this CCR would help the problem of excessive mass at the beginning of the design process before ARCOM submission by not allowing applicants to build to the maximums in the Zoning Code.

She believed the proposal to adjust building height was essential to attain this goal, as the increase will allow more design flexibility while the building height reduction will help to reduce the appearance of mass. She felt the new method of measuring building height will help address the mass but allow more liberal use of interior space.

She felt the elimination of the building height plane requirements was a good step to reducing the unnecessary regulation. She reflected that the problems they are having in this Town are not because of design, but size, and they needed to address that in a straightforward way with clear, simple, understandable zoning regulations which will limit size and applied fairly and consistently to all, residents, architects, developers alike.

Michael Burrows addressed the Council indicating he was disturbed by some of these proposals. He noted during the 40 years he has been there, they have seen houses shrunk in many ways, from the side and from the top and he felt what has been arrived at in today's code as it now exists, ought to be satisfactory to control what development there will be in the future. He knew the need today was for larger homes as more and more younger people are moving into Palm Beach with families which means they need more space.

He felt there were already existing requirements for ground coverage and setbacks so from his perspective, this was all that was needed to address the mass of a house. He knows there have been some problems in the north end along the ridge, however he did not believe this should be the controlling force for what they propose to be doing with the entire R-B District.

He wished to talk about the story height, noting there is a lot of architecture advanced by the use of tray ceilings, but a lot is not, and he thought to force someone to use a tray ceiling if they do not wish to do so is unfair.

He was concerned about the one story height going from 15' to 12'. He pointed out it does depend on what the construction is, and they will find by lowering the ceilings, it will force the windows to be installed lower. He thought this would be a grave error if this is adopted. He used as an example a one story house with a flat roof. He thought if the ceiling was 12' presuming it is a Regency style house and depending on the manner of the construction, the beam could be from two to three feet in depth which means the sliding door could be as little as nine feet. He thought that was too low for certain types of architecture.

Mr. Burrows then referred to the two story houses, as if it is assumed there may be a three foot truss between the floors with 25' of total height up to the ceiling of the second floor, this would allow for a 12' high first floor ceiling and a 10' high second story ceiling, which would come to 25'. He thought to reduce it to 20', assuming it has the same structural configuration, could make it a nine foot height for the first story and eight feet for the second story, which he finds unacceptable as the windows would have to be installed much lower and the second floor windows must be installed at least three feet from the floor, so they would end up with a series of homes with very small windows, vertically.

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Mr. Burrows asked the Council to give this more study and this not be adopted because of a problem with a few houses, which he knew they had to deal with. He knows it is not an easy situation, but they didn't want to force themselves in some kind of a position which would be difficult to recover from.

He suggested they continue with the zoning they already have in place.

Mrs. Royal asked Mr. Burrows if a three foot truss was a standard for better buildings? Mr. Burrows responded it is not a question as to whether it is for better buildings but is a question of what the architect might select.

Mrs. Carole Diggs, President of the Palm Beach Board of Realtors addressed the Council noting they have put some ads in the paper to get feedback from the local residents to make a determination if they are concerned with the proposed changes. She believed there was some confusion as to what the proposed change would look like, as it is difficult to visualize. She suggested a list of addresses be published of homes that are currently built to the maximum specifications and a list of those homes that are built close to the change, so the public can go look at them and get some idea of what this is all about.

Mrs. Douthit asked if Mr. Moore had any comments on this. Mr. Moore exhibited a drawing which showed what would be taken out of a two story house.

Mr. Moore stated he is not a designer nor an architect but he has seen five foot trusses used and also a slab for the second story which is no more than eight inches thick for second story construction, so it is a design element which the architect would choose to use in order to accomplish the interior design. He has been studying the problems with exterior appearance for three years and in fact when the design community spoke at the Zoning Commission meeting, they made a point very clear that the problems that were being addressed were penalizing in prior attempts to address the interior of a building, and it was at their suggestion the proposed changes were looked at and in fact, there were additional changes proposed which will be before the Council as to whether or not they should be studied for next year's Zoning.

Mr. Moore advised the zoning consultant, Mr. Brisson, did not recommend the reduction in height or one story buildings, as Mr. Brisson felt that was too severe, but the Zoning Commission did not agree. He addressed the comments of Mrs. Frost-Golino on reducing mass in a neighborhood, they did the study of the R-B Zoning District and the FAR, which is not a cubic ratio, although she applied a ten foot multiplier to that, it was somewhere in the vicinity of .35, which is 10% lower than the maximum allowed today. He advised they can't get duplication one hundred per cent on using those statistics as today's homes, unlike the homes built in the 40's, 50's, 60's and some in the 70's are designed for year round living rather than seasonal living in the winter. He reported those factors were taken into consideration in leaving the Floor Area Ratio at .45 which was 10 percentage points higher than what was the characteristic of the neighborhoods. He knew the Zoning Commission did take that into consideration in November and this has been heard by the Zoning Commission twice this year, but Mr. Burrows did not address the Zoning Commission or hear the exchange, and perhaps they should have invited builders as well as designers to those hearings.

Mr. Moore believed on the question of the characteristic of the neighborhood, they must go to the Zoning Ordinance as to what is being looked at in the R-B District, which is a low density, single family residential district; R-A is Estate zoning, residential and R-AA is Large Estate Residential and heretofore, the authors of the original Zoning Ordinance 2-74, at the design community's request, left the parameters as maximum, for those zoning districts for the most part. He noted the Council has heard the comments of Mrs. Frost-Golino on the problems they have at the Architectural Commission that the house not be too dissimilar in style to the rest of the homes in the area, and not too dissimilar in square footage as well as cubic footage, hence the concept of adding a dimension within the Lot, Yard and Bulk regulations of cubic footage which would tie together with the Architectural Commission's Ordinance.

Mr. Moore explained it was not the consultant who put this idea forward for discussion, but it was the architects that came, as they invited 18 who practice regularly in front of the Architectural Commission and approximately half showed up with their input, and as a result they have heard the comments of all concerned at the March meeting and this is the first reading of Ordinance No. 9-93.

Dr. Sten Lilja addressed the Council noting the proposal before the Council has been accomplished through the dedicated work by recognized architects in this Town and has been approved by the Zoning Commission. He didn't recognize anyone here today who had been at the last Zoning hearing and he felt what this all boils down to is money as the bigger volume which can be built and sold means larger commissions for the realtors and he asked them to take into consideration the fact there are a few people who are interested in making as much money as possible, but there are a large number of residents in the Town who do not wish to have larger than necessary construction being forced upon them and asked them to take into consideration the motive, which is a matter of money and asked them to adopt the Ordinance.

Gene Barbato addressed the Council wondering how this proposed zoning revision occurred, as there seems to be a few people who are against the original zoning and just because houses are being built according to what they are allowed under the Code, all of a sudden people don't want that and they want the Code changed. He noted the Code has been in effect since 1974 and now there are a few people who don't like what is being built around them and they want it changed. He thought they should not adopt the proposed changes, as the Board of Realtors have spoke against it, as have others. He pointed out there are many areas they are getting into, such as the ceiling heights, the beam height, going into the rafters for the extra height, the height of the road, the crown of the road and it is a complicated matter. He suggested this be studied further as this is not something that can be decided easily.

Mrs. Smith noted from her point of view, this has nothing to do with personalities and she thought it was better to keep it on an impersonal basis, but she knows one of the problems that came up was not out of the woodwork and occurred approximately three or four years ago when a proposed building was to be put up in the north end with a vertical wall that would be 38' high. She recalled many of the people that were considering this building both in the neighborhood and on the Architectural Commission were alarmed at the size of this building. She recalled at that time changes to the Zoning Code were being contemplated and this was heard by the Zoning Commission a year ago. She stated a year has past in which she has not observed a great deal of interest or

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enthusiasm until about four months ago. She knew this was being studied for a long time and it is primarily the areas in the north end that they are concerned with, as well as the rights of the property owners to sell their houses, to demolish them, to modify them and build new houses, but to the older residents who have lived there for a long time and are concerned about their neighborhoods. She felt it was her job to look at this from both sides, not just the realtors, but also the property owners, the long time residents and the new younger families now coming into Palm Beach and then reach an equitable solution.

Mrs. Douthit commented this has been looked long and hard and the most recent change does not penalize anything in anyway to her understanding. She knew roof heights were going to be lower, but they were allowed to use interior space that was not permitted before. She knew they could now use uncounted cubic square feet and nothing has been lessened but actually they have gone up five per cent for the two story houses in the lot coverage, and she didn't view this as a reduction and penalizing anyone in any way. She thought having the input from nine architects was beneficial.

Mr. Moore responded the changes that are being imposed are more generous with the lot coverage recommended to go from 25 to 20 percent and the use of the cathedral or vaulted ceilings are not being counted in the height configuration, as they had been counted before. He thought this was a restructuring of the existing regulations. He believed the change in measurement will benefit the ultimate designer and the ultimate property owner as the way it was measured prior to this was more restrictive and it is not penalizing for the low lot. He believed this will reduce the number of applications for variances for high lots, as they don't have to come before the Council under this method of measurement.

Mrs. Douthit responded she doesn't have a problem with people coming for variances, but it will be easier and cheaper for them not to be obliged to come before the Council.

Alexander Beal, Chairman of the Zoning Commission addressed the Council summarizing what was done after two zoning hearings, indicating they brought to the Council a suggestion after their first meeting held this year, noting that substantially everything that is here with the exception of the height of the building is something the prior Council instructed the Zoning Commission to consider including the cubic content of the buildings. He pointed out they wanted it lowered and the only way they could reduce this without cutting down the Floor Area Ratio was to reduce the height. He doubted whether there were many houses constructed in the Town with 15' high ceilings as most have nine or ten feet high ceilings. He recalled they did invite by letter eighteen architects to attend the Zoning Commission meeting and nine of them did respond and offered their input. He stated what they have done is carry out the mandate given to them by the Council to cut down the height of buildings since the massive construction that has been going on in the north end has been very much criticized over a period of years. He felt they did everything that the Town Council asked them to do.

Mrs. Wiener believed they have come a long way as a few years ago she was hearing figures such as 2.75 and 3.75 and what she considered totally unlivable conditions for someone who does live here year round, and at this point of time, they have come to a reasonable situation, although it may not be optimal, but whether they are or not, they are not in the mode they were in a few years ago where a few people were trying to have their opinions spread throughout the R-B District, and she has no real quarrel with this although she doesn't understand why if a house is one story, why that house can't be 15', when a two story house can be 20, as they are talking about bulk from the exterior. She stated what she thinks could be considered is in the ARCOM Ordinance they talk about similar size and style and she interprets that as "track houses". She thought they landmarked homes because they are unique and different from the neighbors. She thought this is a part of the charm of this island and this is something that needs to be looked at. She stated if she came before the Architectural Commission with a timbered Normandy home, such as they landmarked today, and she wanted to build it in any neighborhood in the Town, it would be totally different and totally dissimilar and therefore, would be unacceptable and that is something that needs to be addressed. She thought she was in the forefront of not having small homes in the R-B District as regardless of what anyone's opinion may be, this is the real world and they are living in the 90's, full time, because of air conditioning, and what was applicable in 1920 and 1930 is no longer applicable in 1990, and they must respect the people in the Town - the taxpayers - and must give them certain leeway as far as style is concerned. She felt they have come a long way and if it a matter of one or two foot on a one family home, she didn't believe that was a major problem. She was glad to see that they were not in the angry mode which they had here a few years ago, and she commended the Zoning Commission for the work and the real desire to put together what is right for the Town and what is right for the residents.

Gene Barbato addressed the Council stating he too appreciates the efforts of the Zoning Commission and others have put into this, but the problem is they have expended their energy on something that the people do not want. He urged the Council to put this off for another year and study it.

Mrs. Douthit stated she will make a motion to recommend approval of the first reading of the Zoning Ordinance No. 9-93 and this is done after receiving the input from the architects and staff. Motion was seconded by Mrs. Royal.

Mrs. Wiener stated she would like to see another foot added on a one story house. Mr. Moore responded the recommendation was made by the design community for the 12' and it was discussed that if 20' was acceptable for the two story, the 15' should be acceptable for one story, however, the Zoning Commission strongly felt it should be 12'. He felt they could raise it to 13 or 14' as he viewed it as no difference but it would mean they would have to make the changes in the Ordinance for the second reading. Mrs. Smith asked why the pitched roof would be at 20' and Mr. Moore responded the design of the pitched roof would have less of an effect of the wall effect because of the angle of the roof. Mrs. Smith did not agree.

Jackie Alberran Mendoza, Architect, addressed the Council noting she would like to see the additional foot for a two story houses. She advised she has been designing this past week within the new parameters and has found she has a six inch problem, as the structure is using trusses, not joists on the second floor to allow the air conditioning ducts and what that does to the second floor is if there are ten foot ceilings on the first floor is that if they want tray ceilings and the proportions of the second story would be 8' doors and windows, that would only leave 6" for the beam on top and they need 12", so she is short of making the ten foot ceilings on the first floor.

Mrs. Smith asked if the maker of the motion and the seconder would accept an amendment to their motion to which they agreed and Mrs. Smith stated the amendment would be to add one foot for one story and two stories. On roll call, the motion carried unanimously.

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VI. FIRST READING OF AMENDED LANDMARKS ORD. NO 7-93. Attorney Randolph read the Ordinance No. 7-93:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA AMENDING CHAPTER 16 OF THE TOWN CODE OF ORDINANCES AT ARTICLE III, SECTION 16.41 THEREOF SO AS TO DELETE THE PROHIBITION OF LOGOS, PROVIDING CRITERIA FOR DEMOLITION OF LANDMARKED BUILDING OR BUILDINGS IN AN HISTORIC DISTRICT IN THE EVENT OF AN EXTREME ECONOMIC HARDSHIP; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Mrs. Douthit moved for approval of Ordinance No. 7-93. Seconded by Mrs. Royal. On roll call, the motion carried unanimously.

Adjournment

VII. ANY OTHER MATTERS - There were no other matters.

VIII. ADJOURNMENT - Meeting adjourned at 5:43 PM.

Grace T. Peters
Town Clerk