

| TOWN COUNCIL MINUTES OF MEETING HELD ON JANUARY 3, 1991 TO HEAR ZONING COMMISSION REPORT AND RECOMMENDATIONS | |
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| I. CALL TO ORDER AND ROLL CALL: The Special Town Council Meeting to hear the 1990-91 ZONING COMMISSION REPORT and RECOMMENDATIONS was called to order by President Heeke on January 3, 1991, at 9:30 AM in the Town Hall Council Chambers. On roll call, the following were found to be in attendance: Mayor Marix, President Heeke, President Pro Tem Ilyinsky, Councilman Weinberg, Councilwoman Wiener, (Councilwoman Douthit was absent). Also attending were: Town Manager Doney, Town Attorney Randolph, Town Clerk Peters, Mr. Moore, Mr. Frank, Mr. Zimmerman from the Building & Zoning Department and Mr. Brisson of Adley, Brisson and Engman, Zoning Consultants for the Town. | Roll Call |
| II. INVOCATION AND PLEDGE OF ALLEGIANCE: Invocation was given by Mrs. Peters. Pledge of Allegiance was let by President Pro Tem Ilyinsky. | Invocation |
| III. PROOF OF PUBLICATION: Mrs. Peters reported the Proof of Publication has been filed with the record. | Proof of Publication |
| IV. APPROVAL OF AGENDA: Mr. Ilyinsky moved for approval of the agenda. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously. | Approval of Agenda |
| V. PROCEDURE FOR COMMENTS BY GENERAL PUBLIC: Mr. Moore suggested the zoning items will be considered and the President will give the public an opportunity to speak on any of the issues. President Heeke indicated the Mayor and Town Council will discuss the proposed changes by the staff and the Zoning Commission and when that is concluded, any member of the public may speak for three minutes and if the subject has been covered by someone else, they should just concur or disagree and after receiving public comments, the Council will go into deliberation on the various items. | Procedure for Comments by General Public |
| IV. ADMINISTRATIVE PROPOSALS AND/OR RECOMMENDATIONS (ITEMS 1 THROUGH 19) AND RECEIPT OF THE RECOMMENDATIONS AND REPORT OF THE ZONING COMMISSION DATED DECEMBER 3, 1990. | Admin. Proposals and Recommendations - Zoning |
| Mr. Ilyinsky moved that the Recommendations and Report of the Zoning Commission dated December 3, 1990 be received. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously. | |
| ITEM NO. 1 - Amend footnote (3) of Section 4.20 A. Schedule of Lot, Yard and Bulk Regulations to read as follows: (change is underlined) "(3) <u>With the exception of arcades and colonnades in the C-WA District</u> all buildings shall be set back so as to provide at least a ten-foot wide pedestrian walkway between the street curbline and the building, exclusive of beautification strips, not more than five (5) feet of which may be on the Town street right-of-way, where appropriate, and additionally, to provide for the minimum building front yard setback, which shall be measured from the inside (lot side) of said required pedestrian walkway | |
| Mr. Moore called on Mr. Brisson who gave his comments: He recalled last year there were certain suggestions relative to Worth Avenue as to allowable height and Special Exceptions for extra height and the Zoning Commission and then later the Town Council requested that his office develop guidelines for design, which will be the basis for the extra zoning criteria which was to be considered this zoning season. He indicated there are eight sub items in the Design Guidelines which have been distributed to the Mayor and Council. He stated the only things he would be covering is the Design Guidelines as it relates to the zoning, which pertain to Worth Avenue. He has rearranged the order of some of the items as he felt they inter-related to each other as opposed to the way they are in the Zoning Commission Report. He has Item 1 and Item 6 together as Item 1 relates to the provision for arcades and colonnades in the Worth Avenue District which refers to Section 5.33. He stated his recommendation is arcades and colonnades be allowed providing they meet with the requirements of Section 5.33 and be subject to the Worth Avenue Design Guidelines and be subject to approval by the Architectural Commission. | |
| Mr. Heeke felt it made sense to handle Items 1 and 6 together. | |
| Mr. Moore explained the Zoning Commission's recommendation also includes the following wording: | |
| <u>"Within the C-WA District, arcades or colonnades may be constructed over the sidewalks in the required front yard setback, provided they meet the requirements of Section 5.33 (e)."</u> | |
| Mr. Adrian Winterfield addressed the Council questioning whether or not this should be handled as a Special Exception, and although the Architectural Commission will fill the same function, he viewed this as an extraordinary departure and it would be appropriate for the Council to consider and approve this before it is submitted to the Architectural Commission. He stated his confusion on the status of the guidelines as it looked to him that it was not the present intention to identify the guidelines more precisely. He stated it was not clear to him to what extent the guidelines are mandatory and to which extent the Architectural Commission maintained its dependence. | |
| Attorney Randolph understood this would first come to the Council to be determined as to whether or not a Special Exception would be granted. He stated from a staff standpoint, it was decided the review should first come to the Council as there are certain aspects which affect on the neighborhood which should be considered by the Council before a decision is made as to whether or not to grant the benefit. He felt if it was approved by the Town Council, it would then be subject to review by the Architectural Commission, who would report back to the Council as to whether or not it meets the design guidelines and ultimately, the Council would have the final approval as to whether it would move forward. | |
| Mr. Randolph stated the effect of this is if a person decides to elect to go ahead with the benefits, such as the third story or the Colannades, then these would be more than the guidelines and at that point, they would be required to meet the guidelines in order to take advantage of the benefit. | |
| Mr. Brisson explained this is not a Special Exception and would not have to come before the Town Council as it is now proposed. Mr. Randolph stated he was grouping all these benefits together. Mr. Brisson stated everything else is listed as a Special Exception but the colonnades and arcades they did not put into that category, however, the Council could put that restriction onto it, if they wished to view, however, it was his belief that it was something that they wished to encourage, with the architectural and safety controls. | |
| Mayor Marix noted it would go directly to the Architectural Commission to which Mr. Brisson agreed. | |
| Mr. Weinberg asked if they would be losing walking space on Worth Avenue if the colonnades were installed. Mr. Brisson stated the pillars will occupy a portion of the ten foot sidewalk but it would not interfere | |

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with the walking space.

Mayor Marix asked if there would be flower pots allowed in a beautification strip? Mr. Brisson stated it was not incorporated into their recommendation and it would be a separate item. Mr. Zimmerman stated the term "beautification strip" applies to those locations where there is a grass strip between the curb and the sidewalk. Mayor Marix asked what they would be doing about flowers? Mr. Zimmerman responded this does not address flowers. Mayor Marix wondered if it should as they are a very important element of this Town. Mr. Randolph did not believe this matter should be addressing the flower pots. Mr. Moore agreed stating this is an architectural feature of a building. Mayor Marix indicated she doesn't want to close the door on flower pots. Mr. Heeke stated that language is already in the Ordinance. Mr. Brisson stated this does not apply to flower pots. Mayor Marix recalled someone wanted to eliminate flower pots and she wants to protect flower pots and since we are discussing the ten foot walkway, this may be the time we should be considering the flowers, so the flower pots are not ruled out. Mr. Moore explained within the ten foot strip, they are currently prohibited. Mayor Marix stated they have to be legalized as most of the flowers are within that ten feet, and since they are redoing this section, it would be the logical thing to state flower pots are allowed or they are not. Mr. Heeke asked if the Zoning Commission discussed this matter? Mr. Moore responded they did not. Mr. Heeke indicated he would be reluctant to get into this area unless it was addressed by the Zoning Commission.

Mr. Weinberg recalled there are palm trees along Worth Avenue and if they are allowing colonnades, would they have to remove the palm trees? Mr. Moore stated this would be at the discretion of the builder as to whether a tree would remain or would have to be removed. Mr. Brisson introduced Mr. Smith, the senior designer who was responsible for the design guidelines and to answer Mr. Weinberg's question, three feet from the street would accommodate the present locations of the palm trees.

Mr. Ilyinsky moved the recommendation of the Zoning Commission dated Dec. 3, 1990 with regards to Item 1 A be approved. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mr. Winterfield asked if the guidelines allow anything to be done to the top of the arcade and wondered if the guidelines should be attached to the Ordinance as an annex. Mr. Randolph stated they will be referenced and will become a part of the Zoning Ordinance.

ITEM SIX. Mr. Brisson explained this is a referenced item and sets forth the specific details as to the location and dimensions required.

Section 5.33 as recommended by the Zoning Commission reads as follows: (e) Within the C-WA District, arcades or colonnades may be constructed over sidewalks or ways, providing that they shall not protect nearer than three (3) feet to the face of the street curb line, nor more than ten (10) feet from the exterior wall of the building; and provided that no support shall be nearer than three (3) feet to the face of the curb and said installation shall have a minimum of nine (9) feet of vertical clearance.

The design of such arcade or colonnades shall be based upon the "Worth Avenue Design Guidelines" and shall be subject to the review and approval by the Architectural Commission.

Mr. Brisson explained he has submitted a report dated Dec. 24, 1990 and in most instances reflects that which the Zoning Commission recommended, however, there are a few instances where they have recommended differently and the recommendations are not always identical. Mr. Heeke asked Mr. Brisson to point out these differences as they moved through the report.

Mr. Weinberg asked if the space could be used as a terrace or a deck for the second floor? Mr. Moore explained this would have to be by way of a Special Exception as one story is all that is permitted without a Special Exception.

Mr. Randolph suggested if there is any question on this the language could be added that the roof of the colonnade should not be used. Mr. Moore stated it is already in the Ordinance as they cannot have a second floor without a Special Exception.

Mrs. Wiener asked how wide were the sidewalks on Worth Avenue? Mr. Moore stated most of the areas are ten feet. Mrs. Wiener asked if there was a minimum space required? Mr. Smith of Adley indicated that is not addressed in the guidelines, although when ARCOM looks at it and if something is inordinately narrow, they would recommend it be different. Mr. Heeke asked if there could be a phrase added that it should be in the same plane as any existing abutting arcade? Mr. Smith stated they could put a minimum in the guidelines if the Council wished that provision. Mrs. Wiener felt it would also protect ARCOM from getting into an arbitrary situation and she would recommend that.

Mr. Heeke stated he did not want a jagged tooth effect.

Mayor Marix suggested it be put into the Ordinance as to what the size should be. Mrs. Wiener felt it should be put into the Ordinance. Mr. Smith stated the existing colonnades on the west side of Worth Avenue are not evenly spaced. Mr. Moore suggested if they put in a minimum, they should take into account the size of the column and make it six feet. Mr. Heeke believed it should be seven feet.

Mrs. Wiener moved the adoption of Item No. 6, with a modification which sets a minimum of seven feet. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

ITEM 2. Amend Section 4.10 A. Schedule of Lot, Yard and Bulk Regulations by adding a provision allowing a Special Exception for a maximum height of three stories/35' in the C-WA District with a requirement for a minimum of 25% landscaped open space, and with a reference to footnote (20) which was modified to read:

(20) One (1) story with provision for a special exception for two (2) and three stories. See Special Exception provisions in Sections 5.48 relating to allowable height and lot coverage and Sections 6.40 (Special Exception Use) and 9.60 (Site Plan Review).

In addition, the Zoning Commission recommended Section 4.20 A. "Schedule of Lot, Yard and Bulk Regulations" be amended to include a rear yard setback of ten feet for the second and third stories; and that the allowance for a Special Exception for a third story in the C-WA District be subject to a "sunset" condition, providing for its automatic repeal on April 30, 1994 unless the Town Council specifically authorizes its continuation.

Mr. Brisson stated these are items two and four in his recommendation. Mrs. Wiener asked if the sunset provision would automatically come back to the Council in three years? Mr. Moore stated it would first go to the Zoning Commission and then to the Town Council. Mrs. Wiener asked if this was automatic, to which Mr. Moore responded affirmatively.

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Mayor Marix asked if there is a large building with a smaller one next to it and this provision sunsets, would we be in the same position as we were when you have a smaller house with a larger one next to it? Mr. Randolph responded he did not believe so as everyone would be on notice there is a sunset provision.

Mrs. Wiener moved that the Town Council accept the recommendation of the Zoning Commission concerning the changes in Section 4.20 Schedule of Lot, Yard and Bulk Regulations, which is Item 2 of the Zoning Commission's Report of Dec. 3, 1990. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

ITEM IV. Mr. Moore explained the Zoning Commission recommends the approval of the proposal to amend Section 4.20 L under Special Exception Uses in the C-WA District to read:

L (1) One dwelling unit located on the second floor per fifty (50) feet of frontage.

L (2) Dwelling units located on the third floor provided; the second floor is also devoted to residential use as set forth in L (1); and, provided that the combined density of residential uses on the second and third floors does not exceed two (2) dwelling units per sixty (60) feet of frontage on Worth Avenue; and, provided such special allowance is based upon the "Worth Avenue Design Guidelines," and review and approval by the Architectural Commission.

In addition, the Zoning Commission recommended that 4.20 A, Schedule of Lot, Yard and Bulk Regulations be amended to include a rear yard setback of 10' for the second and third stories; and that the allowance for residential uses on the third floor as set forth in L (1) and L (2) be subject to a "sunset" condition, providing for their automatic repeal on April 30, 1994 unless the Town Council specifically authorizes its continuation.

Mr. Winterfield felt when they refer to the frontage, only one dimension, it is assumed that all of the buildings are the same depth and that is not so. He stated if there is going to be such a limitation, he suggested it be made in terms of square feet. Mr. Brisson responded the coverage limitations will take care of that.

Mr. Randolph stated it should be made clear that on each of these items that are passed, the language will be modified so as to incorporate the Design Guidelines as part of the Zoning Ordinance.

Mrs. Wiener felt if they abide by the Guidelines, they all relate to each other and they are allowed to do these things and asked if she was interpreting that correctly to which Mr. Brisson responded affirmatively.

Mrs. Wiener moved for approval of the Zoning Commission's Recommendation of Dec. 3, 1990 with regards to Item IV, amending Section 4.20 (B) Item L (1) L (2) and the sunset provision. Seconded by Mr. Ilyinsky. On roll call the motion carried unanimously.

Motion was made by Mr. Ilyinsky that the Worth Avenue Design Guidelines be incorporated as part of this Zoning Ordinance and as adopted as fully set forth therein. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

ITEM #3. The Zoning Commission recommends approval of the proposal to amend Section 4.20 A. Schedule of Lot, Yard and Bulk Regulations, Footnote (7) which would read:

7. The maximum density for hotels within the C-OPI commercial districts shall be thirty (30).

Mr. Brisson explained this is a housekeeping item. Mr. Weinberg moved for approval of the Zoning Commission's recommendation dated Dec. 3, 1990 with regards to Item 3 to modify Footnote (7) in Section 4.20 A. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

ITEM 5. Mr. Heeke explained this is to add to Section 4.20 B, Schedule of Use Regulations, a new item "N" Outdoor Cafe to the list of Special Exception Uses in the C-WA District. Mr. Brisson indicated this does add to the character of Worth Avenue to allow outdoor cafes. Mr. Winterfield wondered if there should be a definition for outdoor cafes and whether they should be allowed in other commercial districts of the Town. Mr. Heeke felt these were good points and perhaps they could look at this in the next Zoning Season. Mr. Moore reported they have another section in the ordinance which deals with this and this recommendation by the Zoning Commission is to simply list this as a Special Exception Use. Mrs. Wiener moved that the Town Council adopt the Recommendation of the Zoning Commission as contained in their report dated Dec. 3, 1990 regarding Item 5, which concerns putting Outdoor Cafes into the list of Special Exception usages on Worth Avenue. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

ITEM 7. Mr. Heeke explained the Zoning Commission modified the Administration's proposal to amend Section 5.48, Special Exception to Height Regulations; Special Exception Structures: to provide new height and coverage guidelines for two story and three story structures in the C-WA District, by modifying "G" to read:

C-WA District: The following provisions shall be applicable to two-story and three-story construction in the C-WA District:

1. Two story guidelines:

a. First story coverage not more than thirty-five per cent add second story coverage not more than thirty-five (35) per cent.

b. First Story coverage not more than fifty (50) per cent and second story coverage not more than thirty-five (35) per cent if designed under the Worth Avenue Guidelines in conformance with Section 6.40 (Q).

2. Three-story guidelines:

First story coverage not more than fifty (50) per cent; second story coverage not more than thirty-five (35) per cent; and third story coverage not more than twenty-five (25) per cent per special allowance under the Worth Avenue Design Guidelines in conformance with Section 6.40 (Q).

In addition, the Zoning Commission recommends Section 4.20 A, Schedule of Lot, Yard and Bulk Regulations, be amended to include a rear yard setback of 10' for the 2nd and 3rd stories; and that the allowance for increased coverage in 1 b and 2 above, be subject to a sunset condition, providing for their automatic repeal on April 30, 1994 unless the Town Council specifically authorizes its continuation.

Mrs. Wiener noted it was not an unanimous vote by the Zoning Commission and wondered what the negative point of view was? Mr. Robert M. Grace, the Chairman of the Zoning Commission, responded the general thinking of the minority members was that it was too dangerous to give anyone the opportunity to increase the number of stories on Worth Avenue beyond what we now have, and while they were sympathetic to the general desire to go back to better architecture, they were skeptical of making a channel effect on Worth Avenue and the top of the Coconut trees or the sun or the moon would not be able to be seen as it can be now.

Mr. Moore advised the sunset provision was not a recommendation by staff and was recommended to address some of the concerns that it may not be a workable regulation. Mayor Marix stated her concern about the canyon effect and wondered if in the meantime, until the sunset time has expired, there could be only a certain percentage of buildings allowed to be three stories, so there could be no canyon effect. Mr. Grace addressed the Council stating if one analyzed the lot coverage requirements and set back requirements, he felt that was enough of a control. Mr. Smith reported if a third story was ever put on in the middle of Worth Avenue, it would have to be set back fifty feet, so it doesn't interfere with the one and two story facades located in that portion of the Avenue, as they are not trying to change the character of Worth Avenue, but encourage what is there now. He indicated it would have to be a significant benefit and have provision of amenities in order to be approved by the Architectural Commission.

Motion was made by Mrs. Wiener to approve the adoption of Item 7, amending Section 5.48, Special Exception to the height regulations in the C-WA District, with the design guidelines as recommended by the Zoning Commission included therein. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

ITEM 8 - Modification to Section 6.40 adding a new paragraph (g) was recommended by the Zoning Commission, as follows, stated Mr. Brisson:

(Q) Special Exceptions in the C-WA District which involve special allowances, pertaining to residential uses, height of coverage, as referenced in Section 5.48 of this Code, shall be based upon the Worth Avenue Design guidelines and subject to review and approval by the Architectural Commission.

The Architectural Commission, in order to grant such approval, must make an affirmative finding that the proposed Special Exception is meritorious to the Town of Palm Beach because of its general appearance and adherence to the "Worth Avenue Design Guidelines" published by Adley, Brisson, Engman, Inc.

Mr. Brisson stated since this deals with Special Exceptions, this sets forth the requirements set forth in Section 5.48 and that they be based on the Worth Avenue guidelines and review and approval of the Architectural Commission.

Mr. Heeke asked if the guidelines were sufficiently identified without the date of publication? Mr. Brisson stated the Zoning Commission did reference the text and they could add the date.

Mr. Winterfield addressed the Council indicating he thought the Council was responsible for granting Special Exceptions and he believed the language raises the question as to whether or not Council on any Special Exception refers the matter to the Architectural Commission for this type of matter, pointing out it is Council and not the Architectural Commission which grants the Special Exception.

Mr. Heeke pointed out the second paragraph stated ARCOM is to make an affirmative decision and then recommends and he didn't believe there was any abrogation of the Town Council's authority here. Mr. Randolph stated perhaps this should be clarified that the approval is not a final approval and the final approval as to the granting of the Special Exception will be done by the Town Council. Mr. Brisson stated perhaps the last line should state review and recommendation by the Architectural Commission and in the final paragraph they could state: The Architectural Commission, in order to make a positive recommendation, must make and then continue on with the wording as printed, as this will take out the approval aspect but still have a positive recommendation.

Mr. Heeke summarized the comments indicating that in the first paragraph of the new wording they would change the word "approval" to "recommendation" and in the second paragraph eliminate "grant such approval" and substitute "make a positive recommendation". Mrs. Wiener noted it goes to Council for the Special Exception grant, then goes to ARCOM, and then comes back to the Council and thought it should be put somewhere that this is the procedure. Mr. Heeke suggested that the wording in the first paragraph also be changed to have "subject to" modified to read: "contingent upon".

Mr. Ilyinsky moved the recommendations for amending Section 6.40 Special Exception Uses be approved as modified. Seconded by Mrs. Wiener. Mr. Heeke noted the modifications would be the addition of the date to the Design Guidelines and in the first paragraph "subject to review and approval" will read "contingent upon review and recommendation" and in the second paragraph, the words "grant such approval" would be changed to "make a positive recommendation".

Item 1 B - Mr. Moore stated the Zoning Commission recommended approval of the Section 6.40 by adding a new paragraph (g) as follows: That the proposed use will not place a greater burden, than would be caused by a permitted use, on municipal police services due to increased traffic, or on fire protection services due to the existence of, or increased potential for fire/safety code violations.

Mayor Marix wondered if Code Enforcement should be added to this. Mr. Moore stated this would be prejudging as Code Enforcement is after the fact. Mayor Marix thought if an additional burden is put on the police and fire, it might also be put on the Code Enforcement people.

Mrs. Wiener asked what they were specifically thinking about to come up with this particular wording and Mr. Weinberg asked for a definition of "greater burden". Mr. Moore advised this was originally proposed by a citizen last year and the matter was studied as originally it would have prohibited any Special Exceptions at all being granted if it was going to increase any burden on Police or Fire and the Zoning Commission felt it was too strict a proposal and asked for it to be restudied and the recommendation as modified by the Zoning Commission. Mrs. Wiener asked for an example. Mr. Moore responded a restaurant would be an example. Mayor Marix thought the restaurant which was requested next to the Post Office would be a good example. Mr. Randolph stated it would be based on whether or not either the Police or Fire Departments would have to have more manpower as a result of a Special Exception being granted. Mr. Moore stated every month before the Special Exceptions or Variances are heard by the Council, they are reviewed with the Police and Fire Departments and this would not be anything new, however, the difference here is that the Council would have to take this into direct consideration in the granting of a Special Exception. Mrs. Wiener felt there was a difference between more usage or making it difficult to provide a service and recalled the staff comments on a Special Exception that was requested by the Villa Plati and it was not because there would be more services required but it would be difficult to provide the services if they were required, so she had a problem with this recommendation.

Mrs. Wiener did not believe the person who proposed this originally would recognize it in this form. Mr. Randolph agreed it was modified beyond the initial intent because staff felt very uncomfortable with the initial recommendation because any application for Special Exception will increase the burden, as would the permitted use, and that is why it was decided to state it would cause no more services than would a Permitted Use.

Mr. Winterfield suggested the language is surplus as it is covered by 6.40 (B). Attorney Randolph did not agree as this language is stronger than what is in the section to which Mr. Winterfield refers.

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Mr. Heeke handed the gavel to Mr. Ilyinsky to chair the meeting and moved that Item 1 B as recommended by the Zoning Commission to amend Section 6.40, Special Exception Uses to add new paragraph (g) be approved. Seconded by Mr. Ilyinsky. On roll call, the motion tied with Mrs. Wiener and Mr. Weinberg voting against the motion and Mr. Ilyinsky and Mr. Heeke voting for the motion. Mayor Marix broke the tie and voted for the motion. Motion carried by vote of 3-2.

ITEM 1 C and 1 D. Mr. Moore explained this was an item submitted the year before and was studied further this year and the Zoning Commission recommended disapproval of the proposal to add a definition for the Use Variance and Dimensional Variance. Motion was made by Mr. Ilyinsky to accept the Zoning Commission's recommendation to not approve this proposal. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

ITEM 2. Mr. Heeke indicated this is a recommendation by the Zoning Commission to amend Section 6.33 "Signs in Commercial Districts" to read as follows and to amend paragraph 6.33 (c) Location to read:

One building identification sign which is installed flat against the main wall of a building may be provided for each building street frontage provided such sign does not exceed twenty (20) square feet in area. Additionally, business signs which are installed flat against the main wall of a building are permitted for each licensed business in a building in accordance with the following regulations:

Amend Section 6.33 (c) to read as follows:

(c) Location. Tenants shall be allowed signs on first floor merchandise display areas, providing that the sign area for each individual display area shall not exceed its proportionage share of the total allowable maximum gross surface area for the building as calculated under (a) above and that the total gross surface area of all signs displayed on the building shall not exceed the maximum for that building as calculated under (a) above.

Mr. Moore explained this language permits upper storage tenants to have signage not to exceed what would be permitted on the first floor, as divided by the total of what would be permitted on the first floor. However, he stated, the signs would have to be installed on the first floor and the landlord would make the allocation. Mr. Ilyinsky moved for approval of the Zoning Commission's Recommendation on Item 2 amending Section 6.33. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

ITEM 3. Mr. Moore explained the Zoning Commission recommended approval of the recommendation as submitted by the Town Administration and modified by the Zoning Commission to amend Section 6.40, Special Exception Uses to read as follows:

(1) For Special Exceptions granted in the C-TS, C-WA, C-PC and C-B Districts, the following requirements in addition to all other applicable requirements as set forth in this Chapter (Ordinance), shall be met:

(1) The proposed use will not attract the principal portions of its customers/clients from off-island locations. The applicant shall submit evidence satisfactory to the Town Council that not less than fifty (50) per cent of the customers of the proposed use will be "town persons";

(2) In the event an owner or tenant of a property previously granted a Special Exception subsequent to the enactment of Ordinance No. 4-80 should be required to obtain a new occupational license from the Town, such new business shall also be subject to approval by the Town Council per the requirements of (L) (1) above.

Mr. Brisson recalled the purpose of this is to allow the Council to review applications for businesses which have been granted Special Exceptions so it can be proven to the Council's satisfaction that they do indeed meet the requirements of Sub Section (L) which relates to Town serving. He indicated he believed this probably should be a new footnote No. 3 under the Special Exception Uses for those Districts and referred to Section 14 of his memorandum which is somewhat different than what the Zoning Commission recommended. He indicated another change has been made subsequent to the Zoning Commission Hearings as when the Town Council considers Special Exceptions in any of these commercial districts, regardless of whether it is for the 2000 feet or for some other use that requires a Special Exception, they have been considering Sub Section L, as this is required in their normal review of the Special Exceptions and that being the case, they have suggested they not limit the reconsideration to just those Special Exceptions for 2000 square feet but to any use and this would assure the Council it is meeting the intent of when the Special Exception was originally approved. Mr. Heeke wondered if this would eliminate the problem of them forgetting, in the event there is a change in occupancy. Mr. Brisson believed it would.

Mr. Moore indicated this would lay out specifically that it must happen, for example, it would state it has to be for this particular property and use only and for this user and this would actually quantify and be specific.

Mr. Winterfield addressed the Council indicating there is one Special Exception Use which would not fall into the Intent of L-1. He noted Public or Private Parking lots almost by definition may be there for other than Town-persons.

Mrs. Wiener felt this was a housekeeping item. Mr. Heeke asked about the renewal and new occupational license, and wondered if language should be added "Other than renewal" in order to get around that. Mr. Moore agreed the intent was for a new license and Mr. Winterfield is technically correct.

Mr. Ilyinsky moved that Item 3 as modified by Mr. Brisson be approved and with the further modification made by Mr. Heeke to add the words "Other than renewal" be adopted. Seconded by Mrs. Wiener.

The new language would read:

(2) in the event an owner or tenant of a property located within the C-TS, C-WA, C-PC or C-B Districts and granted a Special Exception prior to the passage of Ordinance No. 4-80 is required to obtain a new occupational license from the Town, such new use, other than renewal, shall also be subject to the approval by the Town Council per the requirements of (L) (1) above.

On roll call, the motion carried unanimously to approve.

ITEM 4 - Mr. Heeke noted this item was to require private mail boxes to be a Special Exception was

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