

SPECIAL MEETING HELD BY THE PLANNING AND ZONING COMMISSION FOR THE TOWN OF OCEAN RIDGE, FLORIDA, TO BE HELD IN THE TOWN HALL ON MONDAY, NOVEMBER 26, 2001, AT 8:00 A.M.

The meeting was called to order and roll call was answered by the following:

Commissioner Smith  
Commissioner Walker

Commissioner Northrup  
Chairman Gimmy

It noted that Commissioner Bonfiglio arrived at approximately 8:07 A.M.

III. APPROVAL OF OCTOBER 15, 2001 MINUTES

Mr. Northrup moved to approve the Oct. 15, 2001 as presented. Mrs. Smith seconded the motion.

Motion carried – Yea (5).

IV. DISCUSS PROPOSED ORDINANCE NO. 536; AMENDING THE CODE OF ORDINANCES AT CHAPTER 26, ARTICLE XV, SECTION 26-233, REGARDING BOARD OF ADJUSTMENT; AUTHORIZING THE TOWN MANAGER, PRIOR TO THE EXPIRATION OF THE SIX MONTH GRACE PERIOD FOLLOWING THE GRANTING OF A VARIANCE, TO GRANT AN EXTENSION OF TIME UP OT AN ADDITIONAL SIX MONTHS TO INITIATE BUILDING CONSTRUCTION, IN ACCORDANCE WITH THE PLANS FOR WHICH SUCH VARIANCE WAS GRANTED

Town Manager Dunham summarized his memorandum, which stated that Section 26-233 of the Code provides that a variance would automatically lapse if building construction has not commenced within six months from the date of the approval. He added that the code does not provide a mechanism to extend a deadline for those who have made a good faith effort to begin construction on time. This proposed ordinance would authorize the Town Manager to approve a one-time six-month extension with any future requests to be heard before the Board of Adjustment.

Mr. Bonfiglio suggested adding a cut off date to apply for an extension. Atty Spillias advised that Paragraph (e)(2)(b) could start with No later than thirty days -----.

After a brief discussion Mr. Bonfiglio moved to recommend approval of Ordinance #536 as amended by the Town Attorney. Mr. Northrup seconded the motion.

Motion carried – Yea (5)

Town Manager Dunham suggested that Item VII be discussed first because the representative from Palm Beach, who would be explaining their code, was not present yet.

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Mr. Bonfiglio moved to amend the Agenda Order as suggested. Mrs. Smith seconded the motion.

Motion carried – Yea (5).

VII. DISCUSS DEFINITION OF A HEDGE AND LIMITATIONS OF HEDGE HEIGHTS

Town Manager Dunham summarized his memorandum by stating that Comm Bingham had mentioned her concerns to the Town Commission regarding the unlimited growth of hedges (except the 10' Australian pine tree) and the lack of a regulation limiting the height of hedges. The Town Commission referred this item back to the P & Z. She also expressed that she did not feel that hedges should be planted on the property lines. Town Manager advised this Commission that this issue was brought before them in March 1998 and it was decided that no recommended changes be made.

Comm Bingham, who was present, commented that part of the problem was that a property owner would plant species as a hedge when they are currently not allowed as a tree. She used a 20' high ficus hedge as an example. She added that these so called hedges cut down the breeze (making worse conditions for no-seeums) and force pedestrians to walk further into the roadway when the hedges obstruct the street. She also stated that she felt there should be a minimum setback requirement for plantings from the ROW or street.

Comm Bridges stated that he felt the landscaping and tree permit code should be carefully thought out. He also stated that he felt some trees should be added to the current list and some should be removed, using the Strangler Fig as an example of a tree that should be allowed to remain. He stated that he did not have a problem with a higher height for hedges, citing that Palm Beach has many properties with high hedges that help shield each other from their neighbors.

Chairman Gimmy suggested revisiting this section of the code and presenting it back to the Town Commission. He stated that he felt a 10-15' height should be adequate and but agreed that some of the hedges get too wide.

Mr. Walker questioned whether there is a problem with enforcement when plantings encroach on public property. Town Manager Dunham stated that if the plantings cause a traffic or safety hazard then the Town does enforce the correction of the encroachment. He added that in the case of a property to property it was a civil matter, however, the adjacent property owner may trim what encroaches on their property. Mr. Walker agreed that maintenance should be completed even though it could be very costly and added that some property owners do not maintain their property as they should.

The staff commented that they would review the code to see if there was an inconsistency regarding whether some tree species are prohibited for residential homes. Comm Bridges stated that DOT requires that any plantings on their ROW be kept 10' from the pavement

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and suggested a similar requirement for the Town, even possibly reducing it to 6' because vehicles don't travel at the same speed as on state roads. Mr. Northrup stated that plantings in the ROW destroy swales and agreed that the code should possibly be reviewed again. Comm Bingham agreed and stated that swales should be considered when plantings are contemplated adding that water should be given the opportunity to be absorbed into the property before flowing into the street.

Mrs. Smith and Mr. Walker agreed that there should be a hedge height requirement with proper maintenance. Mr. Bonfiglio stated that he felt the Town can't micromanage the heights and hedges because he felt it starts to invade a privacy issue. He did state that he was in favor of prohibiting the plantings of invasive species. Town Clerk Hancsak reminded the Commission of the similar comments made in the March 1998 minutes and the final recommendation that no changes be made. Chairman Gimmy agreed with Mr. Bonfiglio regarding micromanaging and added that enforcement could be tough to which Mr. Bonfiglio reminded him that unless it was on public property it was a civil matter.

Comm Bridges stated that there was once a code requirement that a hedge could not exceed 6' in height within any setback area, however it has since been removed and there is no limitation now. Comm Bingham stated that probably 90% of the problems would be solved if ficus hedges were controlled. She added that it was unfair for adjacent property owners to have to fund trimming or repairs to their home because of these plantings.

Mr. Bonfiglio inquired whether there was an ordinance relating to the control of intrusive root systems and a mechanism to control landscape from creating traffic obstructions. Atty Spillias advised that the Director of Public Safety acts as the traffic engineer and can declare a safety hazard if it affects public property. Mr. Bonfiglio commented that the only problem then is a question of aesthetics and what is attractive to one may not be to another and still felt this would be micromanaging. He added that he felt a larger group of people should decide whether to instill regulations for aesthetics and suggested this item be re-addressed during the comprehensive study of the code.

Mr. Northrup stated that invasive species should not be allowed within 25' of the lot line adding that there should be some control but felt residents should have the right to protect themselves from their neighbors and was not in favor of a height limitation. Comm Bridges agreed that this should be done for new plantings but also stated that some plantings, depending on the species, should be allowed 6' from the ROW in some areas.

Mrs. Smith stated that she felt there should be a height restriction out of respect for their neighbors.

Mr. Walker commented that if the plantings affect public function then existing ordinances should cover any requests for trimming and otherwise it would be a civil matter. He agreed with Mr. Bonfiglio that he did not feel the Town should micromanage but added that there should possibly be a regulation on maintenance.

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Town Clerk Hancsak questioned the Town Attorney whether the Town could incorporate maintenance requirements into the ordinance. Atty Spillias stated that an Appearance Board may be necessary and provisions could be made for aesthetics, however they must be specific for enforcement.

Mr. Gimmy stated that he too does not want to micromanage and believed that maintenance was a subjective call because he could think of several areas where the plantings do not affect the neighbors and it is not offensive. He questioned whether the Town had a right to try to control that.

Atty Spillias stated that the staff would be requesting a joint meeting in January possibly split into two half day sessions to review the code section by section with primary involvement in the Land Development Code. He advised that after that meeting staff would come back with draft language. Mr. Walker suggested presentations from other communities to which Atty Spillias stated that this might occur after the first initial joint meeting.

Mr. Bonfiglio questioned whether any complaints regarding the hedges had been received. Town Manager Dunham advised that there were not any complaints.

### V. DISCUSS METHOD BY WHICH THE MAXIMUM ALLOWABLE FLOOR AREA RATIO IS DETERMINED

Town Manager Dunham stated that he has been advised that Mr. Castro, from the Town of Palm Beach, was unable to attend the meeting. He then summarized his memo, which stated that the 36% maximum floor area (FAR) allowed is determined by dividing the total square footage of livable space by the total area of the lot. He stated that Comm Bridges had expressed his doubt to the Town Commission that this was the best way to determine the measure of land use intensity of a single-family or estate-family residence. He added that Comm Bridges felt that the Town of Palm Beach uses a better method to determine the measure of land use intensity for residential development. This method is called the cubic content ration (CCR) and is determined by dividing the gross cubic content, as calculated by multiplying building height times exterior building width times exterior building depth of all structures, by the gross area of the lot. The Town Commission directed that P& Z and staff review this issue.

Comm Bridges stated that he felt the CCR was the best way to control FAR and the Town of Palm Beach has since eliminated FAR altogether because it contradicts the new CCR. He stated that the method is essentially taking any finished floor level (FFL) and multiplying it by the tie beam which equals the height and then forming individual cubes to formulate a total cubic content. He explained that this method allows for a variation in total square footage of a home on a lot depending on the height of the home. He added that most of the regulations do not have to be affected, such as maximum height, not counting unenclosed decks or balconies (although he believes there should be some sort of control), 2<sup>nd</sup> story only 75% of first story, and lot coverage, and minimum setback requirements. He mentioned that the Town of Palm Beach has different setbacks for

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single and two story residences. He also stated that Palm Beach still has a height limitation that is based on the lowest floor being 1.6' above the crown of the road or 8.5' if it is a low area and the distance between the finished floor elevation and the under side of the tie beam or wooden plates is 25'. He gave the example that a 10,000 square foot home could build possibly build a 4,000 square foot residence. He commented that the most difficult thing to work out is the actual cubic ratio (CCR) the Town desires.

Town Manager Dunham stated that the idea was not to decrease the density but get the benefit of spreading the home out on the lot vs. becoming smaller as more height is added. Mr. Walker commented the objective was to maintain the volume from outside the building.

Mr. Gimmy commented that he understood and believed that it has merit but he questioned the drainage if the lot coverage could possibly increase from 35% to 40%. Comm Bridges stated that the lot coverage could remain at 35%. Town Manager Dunham advised Comm Bridges that the P & Z were reviewing the possibility of increasing the 15% pervious area and it will be discussed with the Town Commission at the joint meeting.

Town Clerk Hancsak clarified that most of the zoning regulations could remain in effect with possible minor changes to the FFE, building height and the elimination of the FAR.

The Commission concurred that the CCR was a great concept.

Chairman Gimmy questioned if there were any legal issues involved with this proposed change. Atty Spillias stated that it was a legal issue but was a policy issue. He questioned where the Town of Palm Beach got their information and any down sides have been discovered. Comm Bridges stated that he believed that it originated in England and advised that Palm Beach has not actually implemented it yet because they are still trying to determine the appropriate CCR for their municipality. Mr. Walker suggested calling it Building Volume to Lot Size.

Chairman Gimmy asked the Town Manager what he thought of this concept. Mr. Dunham stated that the staff can work with it and if the goal was to make the building appear less intense then he definitely favored it. Comm Bridges stated that the Town Manager could be given an isometric on cubes for information purposes.

Mr. Walker moved to recommend that the staff be directed to develop a proposal on the cubic content concept for the code re-write. Mr. Bonfiglio seconded the motion.

Motion carried – Yea (5).

## VI. DISCUSS METHOD BY WHICH BUILDING HEIGHTS ARE DETERMINED

Chairman Gimmy stated that it was not necessary to discuss this item at this time because it went hand in hand with the last item discussed.

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Mr. Walker amended his motion to include a proposal for the method by which building heights are determined to the last motion. Mr. Bonfiglio seconded the motion.

Motion carried – Yea (5).

VIII. SCHEDULE FUTURE MEETING

The Commission concurred that the next meeting would be the joint meeting with the Town Commission in mid-January.

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Town Clerk

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Chairman Gimmy