

Special Meeting of the Planning and Zoning Commission of the Town of Ocean Ridge held on Monday, December 09, 2002 in the Town Hall Meeting Chambers.

The meeting was called to order at 8:00 AM by Vice Chair James Bonfiglio and roll call was answered by the following:

Bruce Gimmy
Ward Northrup

Jeff Lee
Peggy Smith

James Bonfiglio

III. Approval of November 18, 2002 Minutes

Mr. Lee moved to approve the November 18, 2002 minutes, seconded by Mr. Bonfiglio.

Motion carried – Yea 5.

IV. Recommendations Regarding Abandonment, Retaining and/or Maintaining, Clearing, Lighting and Public Safety for Each of the Rights of Ways or Alleys Located in Town

Town Attorney Spillias commented that he has determined that the Town cannot charge a license fee for obstructions in the ROW's. He stated that public property can only be leased for public purposes and would have to go out to bid. He also stated that it was less clear regarding the issue of abandoning and retaining an easement. He commented that the Town could suggest that if the ROW were to be abandoned the Town would want property owners to obtain a drainage easement.

Mr. Gimmy stated that he thought the Town Engineer commented that it would be wise to keep the areas for drainage. Town Engineer Tropepe stated that the jurisdictional areas need to drain and therefore those areas need to remain the same. She added that the question lies with the upland areas and whether an easement is definitely needed because ½ of the drainage usually flows to the back. She also stated currently the Code of Ordinances states that a neighbor can't adversely impact another neighbor and each property must retain 1" of rainfall in one hour. Vice Chair Bonfiglio reiterated that the ROW's and alleys were never considered in the Flood Control Study. Ms. Tropepe stated that only the ROW's in the front of properties were considered.

Atty Spillias stated that if this Commission felt that a drainage easement was necessary they could make a case by case recommendation to the Town Commission. He also stated that concerns were raised if the lot size increased the property owner could build a larger home. After researching this he advised that he does not believe a condition could be placed on the property owners if the ROW's or alleys were abandoned.

Mr. Lee commented that some of the ROW's and alleys were supposed to have been improved but weren't and the owners would just be getting their original property. Atty

Spillias stated that the reason they were originally platted was for ingress and egress and if they are not used for that purpose then that right is gone.

Mrs. Smith asked if there was a code requirement for a swale in the rear of the property. She was advised there was not, however, Town Engineer Tropepe again stated there was a code requirement to retain 1" of water whether it be in the front or the rear, which must be proven by the property owner. Mr. Gimmy stated that unfortunately this really only applies to new construction. He also stated that he felt this requirement is inadequate in Florida.

Town Manager Dailey summarized her memo (copy attached to minutes) by reminding the board what the Town Commission's original direction for the ROW's included, which was clearing & costs, maintenance levels & costs, lighting, and public safety issues. She also summarized the actions already taken by the P & Z.

Regarding the Coconut Lane Extension, Mr. Lee stated it was covered with mangroves and the Town can't maintain it but they should clear it of any debris in the ROW area.

Vice Chair Bonfiglio asked Director Hillery the impact on the Public Safety Dept. if the Town did not abandon the ROW's or alleys. Director Hillery commented that if they were not surfaced they would need to have a walking patrol or the all terrain vehicle approximately two times nightly. He stated that he did not feel additional officers were necessary, however, it would impact the current patrolling. He added that Chickasaw and Anna St. were already patrolled because they are cleared and maintained. Director Hillery also stated that his department would have to create a scheme to patrol the alleys and Edith St. because they are only accessible to a certain area. Vice Chair Bonfiglio suggested making their recommendations on the three alleys and then if necessary have Director Hillery obtain costs.

Regarding the Edith St. (west of SR A1A) ROW, Mr. Lee commented that it doesn't seem to be needed by the Town unless it would be made into a road and suggested abandoning it. Vice Chair Bonfiglio reminded the members that Pelican Cove submitted correspondence in favor of the Town maintaining this ROW and that the Hudson Ave. residents would like the ROW abandoned.

Linda O'Neil, property manager for Pelican Cove, commented that they would like the ROW to remain as turf and be retained and maintained.

Mr. Gimmy asked the Town Attorney for an update on the property owners at the west end of Hudson Ave. on the south side. Atty Spillias stated that there is a current litigation with them regarding a flag lot and wanting access for both from Hudson Ave. He stated that one plan proposed by them was to improve Edith St. the entire length. He added that if the ROW was abandoned it could possibly raise a claim. However, Atty Spillias stated that in his opinion that while the Town may be making access more difficult it is not denying access considering the fact that they want to reconfigure the already platted lots. Therefore, he felt if Edith St. was abandoned they would not have a claim and they

haven't even actually submitted plans yet. Atty Spillias also stated that he felt the Town had a strong position either way. Mr. Lee agreed with Atty Spillias. Vice Chair Bonfiglio stated that he felt the Town would be cutting off a negotiating tool if the ROW was abandoned.

Mr. Lee moved to recommend that Edith St. be abandoned, seconded by Mrs. Smith.

Motion failed – Yea (Lee, Smith)

Nay (Jimmy, Northrup, Bonfiglio)

Regarding the Hudson/Ocean Ave. alley (#3) Atty Spillias commented that if this Commission was going to recommend abandonment they should recommend it conditional on a cross easement by the adjacent property owners.

Mr. Jimmy read the mission statement for the Town and stated that he felt it would be difficult to enforce the maintaining of these alleys and ROW's.

Comm Bingham, 1 Ocean Ave., stated that one of alleys has chatahoochee rock and it is difficult keeping the rock on the alley. She added that she felt there is actually more width than the 15' thought for the alley.

Mr. Lee questioned if it would be possible for an exit from the alley to either go through Hudson Ave. or Ocean Ave. The Commission did not feel that would be in the best interest of the Town.

Mr. Jimmy expressed his concern with the thought of larger homes being built in Town. Christine D'Angelo, property owner of 6113 N. Ocean Blvd., commented that while a property owner may be eligible to build a larger home the Town would also be receiving an increased tax base thereby increasing revenues and decreasing costs to the Town.

Mr. Northrup moved to recommend not to abandon Alley #3 (between Hudson and Ocean Ave.). Mr. Jimmy seconded the motion.

Motion carried – Yea (5)

Atty Spillias stated that they still may have an implied easement for access.

Regarding Alley #2 Vice Chair Bonfiglio commented that any fence encroachments would have to be removed. Mr. Lee stated that it did not appear the jurisdictional area extended as far as the drawing reflects. Town Engineer Tropepe stated that a biologist checked the area and advised her that even though the area may not have mangroves does not mean it is not jurisdictional.

Mr. Lee commented that he felt some homes along Ocean Ave. may be rebuilt in the future and they should have access from the back and this could benefit the Town to have the access from there.

Mr. Lee moved to recommend that the Alley #2 (between Ocean Ave. and Coconut Lane) not be abandoned and improved according to the proposal submitted for the upland area. Mrs. Smith seconded the motion.

Sandra Morrison, 2 Coconut Lane, questioned if the alley is improved would the Town check where the upland area actually is. Vice Chair Bonfiglio stated that he believes the drawing accurately shows it. Mr. Lee stated that he felt the Town would ultimately get a jurisdictional determination in the future.

Mr. Gimmy recused himself due to the fact that he would be personally affected by this recommendation and advised he would file a Voter Conflict with the Clerk's Office.

Motion carried – Yea (4)

Mr. Northrup questioned whether Alley #1 is a benefit to anyone. Atty Spillias stated that this alley would most likely not be used by any property owner to the west of the Town Hall and that the Town currently owns a 50' ROW that extends east to west through the parking lot.

Mr. Gimmy moved to recommend not to abandon Alley #1 (between Coconut Lane and Town Hall), seconded by Mr. Northrup.

Motion carried – Yea (5)

Vice Chair Bonfiglio directed Director Hillery to research the cost per year to maintain the level of police patrol for the four areas just voted on to maintain.

Mr. Gimmy moved to recommend that no paving (change to the pervious area) or lighting be completed in any of the ROW's or alleys, seconded by Mr. Northrup.

Motion carried – Yea (Gimmy, Northrup, Smith, Bonfiglio)
Nay (Lee)

The Commission concurred that they would discuss the costs and time limits at the next meeting scheduled for Monday, Dec. 16, 2002 at 8 A.M.

Vice Chair Bonfiglio commented that the evidence necessary to retain all the ROW's or alleys is for ingress/egress to their homes and also for the public to traverse them for access and access to the ICWW or as far as possible.

Atty Spillias suggested that at the final meeting the Commission list all the reasons for their recommendations and their final motions.

Atty Spillias mentioned that the staff would like to schedule a meeting for Jan. 13, 2003 to discuss the code revisions. He added that the staff planned to distribute a new draft

copy of the revisions the week of Dec. 16th. He also stated that there was a possibility that a proposed plan for the Sivitilli property would also be on that meeting.

The meeting was adjourned at approximately 9:50 A.M.

Vice Chair Bonfiglio

Attest:

Town Clerk