

Public Hearing and Special Meeting of the Planning and Zoning Commission of the Town of Ocean Ridge held on Wednesday, January 29, 2003 in the Town Hall Meeting Chambers.

The meeting was called to order at 8:00 AM by Chair Bruce Gimmy and roll call was answered by the following:

Gerald Goray
Ward Northrup

James Bonfiglio
Peggy Smith

Chairman Bruce Gimmy

III. CONTINUATION OF DISCUSSION PROPOSED ORDINANCE NO. 540; A TOWN-INITIATED REQUEST FOR ADOPTION AND ENACTMENT OF A NEW LAND DEVELOPMENT CODE AND A NEW CODE OF ORDINANCES, FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN AND IN CONFLICT THEREWITH, PROVIDE FOR A PENALTY FOR THE VIOLATION THEREOF, PROVIDE FOR THE MANNER OF AMENDING SUCH CODE, PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE

Town Clerk Hancsak advised that the proposed code was reviewed through Page 189, however, several items were deferred to allow time for independent study. The board agreed to proceed with the rest of the proposed code first.

Mr. Northrup commented that muck and peat are not actually considered fill and suggested deleting it as fill material on Page 190 (formerly Section 14-117). The board concurred with this suggestion.

On Page 191 Mr. Northrup stated that he did not agree with the change concerning loose rock from 5' to 2' in (a)(2) because he felt it was still too close to the surface and suggested it be changed back to the original 5'. He suggested changing (a)(2) back to the current provision and also suggested changing (a)(1) to be in proportion with (a)(2). The board concurred.

Mr. Northrup moved to recommend adding a provision in the code to protect adjacent lots of construction sites from wind erosion as a result of land dirt on Page 192(c). Mr. Goray seconded the motion.

Town Manager Dailey commented that staff has received several complaints regarding dirt blowing around the area of construction sites, but added that staff has also received complaints regarding the eyesore of the construction type fencing.

Motion carried – Yea (5).

Mr. Bonfiglio moved to recommend that the Commission adopt the prior standard for former Section 14-136 (a)(2) to keep it the same as the current code provision. Mr. Northrup seconded the motion.

Motion carried – Yea (5).

The board concurred to suggest adding **asphalt and/or** before hazardous waste in the second sentence of Page 191(e)(1). They also agreed to suggest changing Page 191(f) to read **the monitoring of an engineer** instead of shall be done under the continued observation of an engineer in the fifth sentence. Also on Page 193(1) the board agreed that the sentence should continue with **and water holding pockets**.

Atty Spillias advised the board that his firm intended to revise the section pertaining to the engineer's recommendation on Page 192.

On Page 196(j) the board requested that the statement be made clear that the South Florida Water Management is the reference referred to. Atty Diffenderfer advised that this could be revised.

Mrs. Harris, 127 Marlin Drive, questioned the new sentence added to Page 199(c) regarding landscaping and questioned if any consideration was taken into the future construction of bicycle paths. Town Clerk Hancsak explained that walls can be erected right on the property line except that there are certain provisions for landscaping when a wall is erected adjacent to a ROW. Town Clerk Hancsak also stated that it has already been recommended and determined that only a maximum of 2' will be added, where possible, for bicycles along SR A1A. She added that the Town was opposed to any widening of SR A1A believing that any additional pavement could increase the risk of widening the road later. Atty Diffenderfer stated that this section would be revised to add **except grass**. He stated that this provision was added because of the traffic obstruction concern.

Comm Willens questioned if this provision would include all properties or only new. He was advised this provision would only affect new.

Mrs. Smith questioned whether this section conflicts with the section pertaining to required landscaping in conjunction with walls. Atty Spillias advised they would review the code to see if there was a conflict.

Shane Ames, architect in Delray Beach, commented that the provision did not state which side of the ROW was being addressed. Town Manager Dailey questioned whether the intent would prohibit a canopy effect on sidewalks and streets. Atty Spillias advised that if the landscaping produced a safety hazard then the Dept. of Public Safety has the authority to take action.

Mr. Jones commented that the Town's landscaping project on Woolbright Road (east of the bridge) has plantings within 5' and it looked attractive.

Mr. Goray questioned if this code revision would actually create more a problem and felt it was counterproductive and therefore moved to recommend that the language on Page 199 (c) be redrafted to address only the traffic safety and vertical height issue for landscape material. Mr. Bonfiglio seconded the motion.

Mr. Jones commented that lower vehicles needed to be considered when drafting the language on traffic safety. Town Manager Dailey stated that part of the original discussion amongst the Commission was that there is a continual problem with Ficus hedges constantly growing into the roadway.

Motion carried – Yea (5).

There was a brief discussion regarding the definition and/or meaning of the mean high water line, however, the board all stated they were comfortable with the language and did not recommend any changes to Page 201(c).

The board concurred that Page 207(1)(a) regarding temporary signs needed to be changed to **all such signs** in the last sentence.

At this point the board began discussing the items from Page 49-53 that were previously deferred.

Chairman Gimmy stated that during previous discussions the suggestion was made to possibly allow a certain percentage for covered balconies/porches in the FAR, similar to the 300 square feet allowed for ceilings 16' or higher.

Mr. Goray advised that he had consulted with three architects who all stated that the code requirements for Ocean Ridge were rather restrictive in regards to setbacks, lot coverage and FAR. However, he added that they agreed they were provisions to control the massing of a building. He reiterated his prior comments regarding the economic impacts the FAR could have on property owners. He stated that he felt the code pertaining to FAR should remain as is or compromise with a provision for allowing for a certain percentage.

Shane Ames, architect, stated that he represents several clients and he felt the Town's code is the most restrictive he has experienced. He stated that the overall effect in the proposed change to the FAR would actually be larger space air-conditioned homes. He felt the 75% rule was appropriate because it does control the box appearance, however, the code as proposed would force the property owner to cut out all outdoor roofed areas. He mentioned that Boca Raton makes exceptions to allow front porches to encroach into the front setbacks by 8'. He asked that this board not recommend making the code any more restrictive. Mr. Bonfiglio asked if it was possible to recommend including the entire slabbed area with an increased FAR percentage and possibly allow for an exemption of 600-800 square feet for porch areas. Mr. Ames commented that he felt that including roofed porches and balconies were a detriment to the code.

Jose Obeso, architect in Boca Raton, stated that he agreed with Mr. Ames and added that including covered porches in the calculations for FAR would definitely restrict the type of home that could be built. He stated that he currently was designing a courtyard style home for a client and the proposed code would greatly restrict this type of house. He also agreed that property owners would build larger living areas and small to no covered porches, if any at all because of this provision.

Mr. Jones commented that he felt the Commissions' intent was to control the larger mass buildings and the code needs to address the loopholes without the Town appearing like a sanctuary. He added that the architects definitely try to exceed what is allowed.

Chairman Gimmy left at approximately 9:50 AM and passed the gavel to Vice Chair Bonfiglio.

Mr. Goray moved to recommend excluding all covered porches and balconies (not include) in the FAR definition. Mrs. Smith seconded the motion.

Mr. Bonfiglio asked what effect this motion would make to which Atty Spillias advised that it would have no effect on porches but the change would affect other nonhabitable areas that could be converted in the future. He stated that the change is actually minimal.

Motion carried – Yea (4).

Mr. Northrup moved to recommend that chimneys should be exempt from the maximum building height requirements. Mrs. Smith seconded the motion.

Concerning the building height Mr. Jones stated that he felt 36' was reasonable but based on an architect's comment stating that within 10' of a roofline the chimney must be 3' or higher he suggested allowing so much square feet per flume. He reiterated his comments that basing the height from the lowest slab would definitely impact the value and the size of some of the homes built above ground that may be regulated by the CCCL. He stated that he felt adding fill for these homes would greatly impact drainage and stated that frangible walls were a better solution.

Mr. Ames stated that the requirement for most chimneys is to allow 2' above the roof line up to 10' away, plus an additional 2' for a smoke diverter. He stated that the DEP regulates the elevation for homes east of the CCCL and suggested having a good definition of a basement in place.

Comm Willens commented that allowances may be necessary for homes that are sloped (between A1A and Old Ocean Blvd.). Atty Spillias reiterated that there was some discussion about possibly creating an overlay area.

Motion carried – Yea (4).

Mrs. Smith moved to recommend limiting the height of the chimney a maximum of 4' above the ridge of the roof. Mr. Northrup seconded the motion.

Mr. Jones suggested verifying that this motion meets the state requirement in the Florida Building Code.

Motion carried – Yea (4).

Regarding where the building height should actually be measured from Mr. Northrup stated that a former Commissioner had suggested basing the height on the middle of a plane. Mr. Goray suggested utilizing the proposed code as the general rule and provide for an overlay district where the grade was an issue. Mr. Bonfiglio suggested basing it on the septic tank elevation. Atty Spillias stated that Mr. Goray's suggestion could be accomplished.

Mr. Goray moved to recommend that as a general rule the method for determining floor elevation (and ultimately height) as redrafted on Page 181 remain, except for those that have a natural grade differential sufficient to build a basement or garage (with a minimum of 10' grade differential) with the height to be determined from the first floor elevation and also that those properties east of the CCCL would be determined by DEP's requirements for first floor living elevation. He added to recommend that Page 181(5) concerning basements be placed back into the code. Mr. Northrup seconded the motion.

Motion carried – Yea (4).

The board concurred that Page 89 regarding Height and Yard Exceptions should remain the same with the exception of the removal of chimneys from this provision.

Mrs. Harris questioned if the board was going to discuss the 10% allowance for exceeding the maximum tie beam. Town Clerk Hancsak and Atty Spillias advised that this proposed revision was placed into the code to allow for architectural features that are currently prohibited by code and also to prevent a loophole that allows for an extremely high structure such as a belfry to be constructed on top of the 24' tie beam.

Mr. Ames suggested changing it to read the perimeter length of the tie beam or take a percentage from the buildable lot area or coverage and place a height restriction in the code.

Mr. Goray moved to recommend that on Page 46 (of the reprint) (g), Building envelope exceptions, the language be redrafted to allow non-habitable decorative architectural features to exceed the maximum tie beam height by 10% of the actual FAR provided that they do not exceed 28' for a single story structure or 36' for a two story structure. Mr. Northrup seconded the motion.

Motion carried – Yea (4).

Regarding the 75% second floor calculations Mr. Bonfiglio reminded everyone that this has been in the code since 1996. Mr. Ames suggested revising the definition that the second floor roofed area can only be 75% of the roofed area of the first floor. However, he did state that this may restrict the appearance of the home for architectural features such as bay windows.

Mr. Goray moved to recommend that the 75% second floor calculation be calculated as 75% of the first floor structure under roof and that 2nd floor roofed porches/balconies are included, bay windows would not be included provided they are 20% or less on any one façade and they do not extend out beyond the overhang, porches/balconies are defined as anything extending over the 3' overhang and a bay window is defined as having a sill 12" or higher above floor level. The motion was seconded by Mr. Northrup.

Motion carried – Yea (4).

Mr. Jones commented that he was instrumental in having the resolution pertaining to split lots adopted because of the oceanfront lots that could greatly exceed the FAR for a building on one lot. He suggested a revision permitting the first 1,000 square feet to be included in the FAR provided that 100% of the building is on one piece of the property.

Jose Obeso, speaking on behalf of his clients, stated that the FAR should be based on the percentage from both lots.

Mr. Ochs, 132 Island Drive, stated that he has approximately 1,000 square feet on the other side of the road and not being permitted to use it could reduce his property value. He added that he felt allowing a certain percentage would be a good idea.

Mr. Harris, 127 Marlin Drive, stated that two possible solutions included a sliding scale to treat properties identical or consider a tax relief. Atty Spillias commented that the tax relief was not an option because the property appraiser sets the assessed value.

Mr. Goray declared that he lived on Island Dr. and could be affected by this provision but felt Mr. Jones suggestion was an equitable solution. Atty Spillias commented for the record that Mr. Goray could discuss and vote on this item because it was a proposed provision of general application and therefore was not a conflict.

Mr. Northrup moved to recommend that lots separated by a street or ROW in single ownership be permitted to utilize a maximum of 1,000 square feet of land area of the separated piece in total FAR calculation provided the overall FAR does not exceed 36%. Mrs. Smith seconded the motion.

Motion carried – Yea (4).

Mr. Northrup moved that these recommendations be presented to the Commission as a whole regarding the Definition Section and Land Development Code. Mrs. Smith seconded the motion.

Motion carried – Yea (4).

III. ADJOURNMENT

The meeting was adjourned at approximately 12:15 P.M.

Chairman Gimmy

Attest:

Town Clerk