

Public Hearing and Special Meeting of the Planning and Zoning Commission of the Town of Ocean Ridge held on Monday, September 19, 2005 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:

James Bonfiglio  
Ward Northrup  
Mark Marsh

Gerald Goray  
Ellen Bierlin  
Chairman Bruce Gimmy

### III. APPROVAL OF AUGUST 1, 2005 MINUTES

Mr. Bonfiglio moved to approve the minutes as submitted, seconded by Mrs. Bierlin.

Motion carried – Yea (6)

### VI. DISCUSS REGULATION OF SECURITY SIGNS

Town Manager Mathis advised that signs not regulated by the Town Code, such as real estate signs, are not permitted, including security signs. He added that most residences locate the signs in the front yard to deter burglaries and the question is whether they should be permitted and regulated in some manner.

After some discussion the Commission concurred that security signs should be permitted and the code should reflect same.

Mr. Bonfiglio moved to recommend that security signs be permitted provided they meet the following conditions: a maximum of 2 signs are permitted provided they are on two separate faces of the structure and they must be placed within 10' of the structure and not exceed 80 square inches. Mr. Marsh seconded the motion.

Motion carried – Yea (6)

### V. DISCUSS LIMITING HEIGHT ON BALCONIES

Town Manager Mathis' memorandum explained that a number of homes have subsequently added a balcony that almost reaches the maximum roof height and is currently permitted under the existing code. He added that Mr. Marsh requested that this be placed on the agenda to discuss the possibility of limiting the height to the highest floor elevation.

Mr. Marsh distributed photographs to the Commission of one such balcony added to a home on North Ocean Blvd. He asked the Town Clerk to summarize the code requirement. Town Clerk Hancsak commented that the Town's contracted zoning/building contractor, Hy-byrd Inspections, Inc., approved this particular balcony

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because it was not considered a third floor (being that there was no roof) and it was still located within the building envelope and did not exceed the roof height.

Mr. Marsh stated that he felt these types of balconies should be regulated citing that besides being an aesthetic issue, looking like a fire escape to some, they presented a privacy issue to adjacent neighbors. He suggested possibly limiting the height of these types of structures.

Mr. Bonfiglio commented that the code does not prohibit a resident to build a "Look Out" directly into the roof and asked if this could be regulated. Mr. Marsh stated that the Commission could possibly consider restricting them to the highest living area.

Mr. Goray stated that there are also homes where a "Look Out" is built directly into the home and they do not appear violative or a disruption of privacy to neighbors and therefore it may be difficult to extinguish in the code the difference in various types of balconies. Mrs. Bierlin agreed that some of the structures were not appendages.

Chairman Gimmy stated that the balconies can possibly be done creatively and added that he was not against them because homeowners buy in this area for the location to the ocean. He also stated that he was not concerned about the privacy factor.

Speaking from the public, Ernie Vavarikos, architect and resident at 5586 N. Ocean Blvd., agreed that the balconies looked like a fire escape, however, he did not feel it was a privacy issue as much as an appearance issue and suggested maybe requiring stairs from the inside a structure.

Mr. Bonfiglio questioned if the current code would have prohibited the stairs being located from the inside. Town Atty Spillias advised that the floor area ratio must then be considered. He stated that the code could possibly be drafted limiting the design.

Mr. Goray asked Mr. Marsh if he was aware of any codes in other communities addressing this issue to which he replied that there is suggested language but most other communities have an architectural review board. Mr. Goray then stated that the Town has previously declined the idea of creating an architectural board that would legislate or dictate aesthetics and an exception should not be made for this. He added that he would not be opposed to reviewing ordinances from other communities for ideas.

George Bierlin, 26 Hudson Ave., stated that he did not feel these add on structures were complimentary to an existing residence.

The consensus of the Commission was to direct staff to review codes from other communities that do not utilize architectural review boards and report back to the Commission.

VI. DISCUSS DEFINITION OF TRANSIENT AND RESIDENTIAL USE

Atty Spillias stated that the ordinance distributed to them was being proposed after a property owner was recently cited to appear before the Code Enforcement Special Master for operating a commercial use or time share out of an existing single family home. He stated that Abercrombie & Kent (A&K) contracted with a property owner to rent out the residence for time periods usually consisting of 1-2 weeks. The Special Master Hearing became very involved based on the arguments presented and also because the Special Master was concerned that there was no actual language to specifically prohibit this type of agreement between A&K and the property owner. After written arguments were submitted A&K and the homeowner acknowledged that they did violate the code and it was agreed that they could operate in the same manner until the end of the year. Subsequent to the hearing the Commission directed staff to draft an ordinance narrowing the code.

Atty Spillias explained the contents of the proposed ordinance and summarized the addition of "space for parking a recreational vehicle, trailer, or mobile home" to the definition of residential use and the adding of a definition of transient housing unit and vacation rental or unit to the code. He added that the latter two was then added to the sections pertaining to prohibited uses within the zoning districts. He commented that the Commission must determine the appropriate time of either 30, 60, or 90 days to insert in the definition of vacation rental or unit. He stated that the Town has historically interpreted that anything more than 30 days is not considered commercial based on a Florida statute.

After some minor discussion regarding 30 days and amending some minor language the Commission concurred to forward this ordinance to the Town Commission.

Mr. Goray moved to recommend the adoption of Ordinance 560 as amended to add for hire, lease or rent purposes in the residential area definition and amending the 7<sup>th</sup> paragraph on the first page beginning with "Whereas" and inserting 30 days where applicable. Mr. Bonfiglio seconded the motion.

Motion carried – yea (5)

VII. DISCUSS MOTEL AND RENTAL APARTMENTS "OVERLAY"

Town Manager Mathis summarized his memorandum by stating that the staff has received several inquiries involving the re-building of addresses where there are 8 or more units. Current codes grandfather the structures as is, however, if re-building were to occur the code would prohibit the same density and consideration of an "overlay" would permit the re-building the structure/s with a decreased number of units but still exceeding the code requirements. He provided an example of a 50% rule, such as Emerald Shores, whereby they currently have 17 units and would be permitted to re-build 8 under an overlay provision. He concluded by stating that an overlay could result in the elimination of older motels and apartments with new structures with less density.

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Atty Spillias stated that several potential purchasers have discussed the possibility of raising an existing structure and re-building reducing the current density (however, still exceeding the density requirement) and meeting all other code requirements. He stated variances are not available for density issues however, an overlay would extend provisions. He added that staff has contemplated changing the zoning but there is a concern with spreading an increase in density throughout the Town limits. He mentioned it would be similar to the overlay approved for the Oceanview/Douglas area.

Mrs. Bierlin and Mr. Marsh commented that they felt that the proposed 50% overlay is reasonable and would reduce the transient population while increasing the taxable value.

Mr. Northrup questioned whether the tax base would actually change citing that a higher or equal tax revenue may be generated with a re-build according to the current actual density permitted. He commented that this proposal would permit overlays all over Town and he was not in favor of overlaying anything or allowing any more density the current code would permit.

Mr. Bonfiglio stated that he agreed with Mr. Northrup and he is unsure what the Town's ultimate goal was when they adopted the ordinance to convert commercial to residential, such as what did they want those structures replaced with.

Atty Spillias stated that potential developers have advised the Town that the cost of the property is so great that in order to make it feasible to re-build they needed to build more units that the code allows.

Ernie Vavarikos, 5582 North Ocean Blvd., commented that the properties with 8 or more units do not meet most of the zoning code requirements, citing 11 Adams Road as an example. He stated that he had proposed building 7 units complying with the code instead of the current 15 and by re-building it would generate approximately 10 times more tax revenue. He added that the current code would permit 4 units on the property.

Mrs. Bierlin commented that this Commission was not aware of why previous Commissions adopted the current zoning regulations, however upgrades may be made to the dynamics of the Town.

Mr. Goray agreed with Mrs. Bierlin and stated that he felt the Town has become stagnant the way it is and the Town would be well served to permit enhancements to those properties thereby increasing property values in the process.

George Bierlin, 26 Hudson Ave., agreed with Mr. Goray adding that the population would also decrease slightly. He also stated that if the Town does not progress in this manner these multiple family units will "condominiumize" and then they can't aggregate the units back together to allow for re-building in the future. He felt now was the time to make a statement. Town Clerk Hancsak mentioned that she had an inquiry a couple of weeks ago regarding converting one of these buildings into condominiums. Town Manager Mathis stated that he agreed with Mrs. Bierlin's earlier comment regarding

reducing the transient or renting population citing crime problems in the extreme south end of Town involving renters.

Mr. Bonfiglio asked Atty Spillias to what extent the Town can place in changing the code to allow for an overlay permitting more buildings and money generated. Atty Spillias stated that the Town never has to consider economics but the question is whether the Town wishes to create a greater incentive to change the character of former motels and is it something the Town wants to consider.

Mr. Goray stated that he felt approving this overlay concept actually falls under a health and safety issue in that re-building would improve septic systems and would provide safer more sound structures and replace the older structures.

Atty Spillias stated that the same goal may be accomplished through an amendment to the grandfathering section, or possibly creating a waiver for properties and impose conditions, or through a Planned Unit Development (PUD), but he needed direction on whether the Commission approves of the concept. He stated that West Palm Beach has provisions when meeting certain criteria to obtain a density waiver but added he would need to research it further for Ocean Ridge. He also suggested that this apply for multiple family districts only.

Mr. Bonfiglio stated that he did not object to the Town Atty researching alternatives. The Commission concurred.

Mr. Bonfiglio moved to recommend that the Town Commission not address redevelopment of present standing motels/apartments by overlay but examine alternative methods to develop these properties by a PUD, variances or waivers. Mr. Northrup seconded the motion.

Motion carried – yea (6).

## VII. ADJOURNMENT

The meeting was adjourned at approximately 9:55 AM

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Chairman Jimmy

Attest:

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Town Clerk