

Special Meeting of the Planning and Zoning Commission of the Town of Ocean Ridge held on Monday, October 22, 2007 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	Gerald Goray
Ward Northrup	Mauro Walker
Chairman Bruce Gimmy	

It was noted that one alternate, Mark Marsh, was also present.

### III. APPROVAL OF JUNE 18, 2007 MINUTES

Mr. Bonfiglio moved to adopt the June 18, 2007 minutes, seconded by Mr. Walker.

Motion carried – yea (5).

### IV. DISCUSS THE OLD OCEAN BLVD. TRAFFIC STUDY COMPLETED BY SIMMONS & WHITE, TRAFFIC ENGINEERS

Town Manager Schenck commented that Simmons & White completed the traffic study with their findings and recommendations. He introduced Ron Rennebaum, president of Simmons & White.

Mr. Rennebaum commented that after reviewing the Code of Ordinances it was clear that the Town can choose to mandate clearing any obstructions within the 15-18' ROW. He added that the prior order of the Commission was to clear 6' of the western ROW, however the Commission requested that the P & Z review Old Ocean Blvd. again and consider any additional recommendations. He commented that notification letters by the Town Manager has brought the majority into compliance with the 6' requirement, however, there are still 3-4 properties that need to push back their encroachments.

Mr. Walker asked Mr. Rennebaum to describe the 25' "safe sight corner" to which he advised that a triangle is drawn from the edges of the ROWs at the corners and limit any vegetation to lower than 30" or higher than 6' above the pavement surface. Mr. Walker was concerned that some of the property described may be private property. Mr. Rennebaum commented that the Town could obtain a safe sight easement.

Mr. Goray asked if the 6' clearing is viable and practical for Old Ocean Blvd. to which Mr. Rennebaum advised that with the uniqueness of the street it is viable. He added that he noticed minimal vehicle traffic, slow speeds and stop signs at the intersections. Mr. Goray commented that he agreed that 25' is important as a safe sight corner. Mr. Goray questioned the best method for the P&Z to recommend to the Commission to benchmark the 6' now and also take back the entire ROW in the future. Mr. Rennebaum stated that there could be many more possibilities but the 6' does provide a safe zone. He added that

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politically it may be hard for the Town to take back the ROW entirely but they could mandate any new improvements must not encroach into the 18' ROW. Atty Spillias advised that the properties can not be grandfathered and reminded the commission that clearing the ROW is not a legal issue and that the Commission has the decision on whether they want any obstructions in the ROW.

Mr. Northrup stated that 25' at various intersections would definitely encroach into private property and would create a hardship for some, such as the wall at Adams and Old Ocean Blvd. Mr. Rennebaum stated that the safe sight corners may be difficult now but the Town may want to consider an easement for any improvements in the future.

Chairman Gimmy questioned where the measurements would be taken from and how it would be enforced. He was advised that staff could be given guidelines such as the 6' and if any vegetation encroaches then code enforcement should cite the owner. Town Manager Schenck stated he would be satisfied with that and this would provide a paper trail. Mr. Gimmy added that he felt a linear park was an excellent idea if the entire ROW was utilized.

Mr. Marsh stated that his concern involved where the measurement starts for the 6' measurement because the edge of pavement can change. He added that a definitive point of reference should be determined prior to any code enforcement rules being adopted. Mr. Rennebaum stated that while the edge of pavement does change, the edge of pavement for walkers is their edge mark.

Mr. Northrup commented that the P & Z's original recommendation, also accepted by the Commission, was to clear 6' from the west side of Old Ocean Blvd. and he felt it should remain.

Mr. Bonfiglio stated that the Town may want the entire ROW in the future for a linear park and they should make it known to the adjacent property owners now.

John Wooten, 5907 N Ocean Blvd., reiterated his prior concerns that the stop signs do not correct all the problems and added that the Town should reclaim at least 6' of the ROW on the west side and proceed through code enforcement if necessary. He distributed several photographs of various intersections showing encroachments and suggested a possible crosswalk at the major intersections. He concluded by stating that a linear park would be beautiful but the Town should make the road safe now and enforce the laws.

Town Manager Schenck advised that of the 12 letters sent out only 2 property owners have not complied south of Corrine St. but they advised that they would do so. He added that a couple of the properties have since grown out some. He commented that north of Corrine St. the three property owners will comply when the underground utility lines are put in. He stated that the 25' safe sight corners may present a problem because some of the vegetation may be on private property.

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Mr. Walker agreed with Mr. Marsh that it would be useful for residents to have a line defined to ensure that the vegetation does not grow beyond it.

Mr. Bonfiglio commented that the code already gave the Chief authority to use his discretion, however if the code was too ambiguous it could be changed. Atty Spillias advised that the Chief has addressed safety issues in the past and has enforced the code as much as he thought possible. He added that the code could be changed but if it deals with private property there could be a grandfather issue and the code could then be applied to new development. Manager Schenck commented that currently the Town could probably require 15-18' cleared.

Mr. Goray stated that he believed the 6' was a reasonable compromise but the key is continual enforcement. He also agreed with the safe zones for the corners on Old Ocean Blvd. and to possibly expand the areas in the future.

Mr. Marsh suggested obtaining an aerial photo and issue it to the homeowners so they are aware of the encroachment and there is something actually concrete to enforce. Manager Schenck mentioned that there is no formal survey.

Mr. Goray moved to urge the Commission to strictly enforce the 6' clear zone through the code enforcement provisions. Mr. Walker seconded the motion.

Motion carried – Yea (5).

Mr. Walker moved to recommend creating specific requirements at the Old Ocean Blvd. intersections that provides for safe sight lines as much as possible in the ROW area beyond the 6' as determined by the Town Manager and Simmons & White's recommendations. Mr. Goray seconded the motion.

Motion carried – Yea (5).

### V. DISCUSS FENCING AROUND POOLS THAT WERE CONSTRUCTED PRIOR TO MARCH OF 1994

Atty Spillias summarized his memorandum by stating that he was asked whether the Town is required to make the residential swimming pool barrier requirements in the Florida Statutes retroactive or whether the Town could impose lesser restrictions than those currently required under Florida Statutes for pools prior to March 1994. He has determined that the Town is not required to make the safety feature requirements retroactive nor could the Town impose lesser restrictions than those prescribed by the statutes when they are applicable. He stated that the Town could require compliance if there is a modification that requires a permit, because then it could trigger total compliance if the code were amended.

Chairman Gimmy questioned if the Town is negligent or assumes any liability if there are not retroactive requirements to which Atty Spillias commented that the Town is not liable.

Mr. Goray suggested recommending requiring State Statute compliance for pool regulations any time a permit is required and applied for concerning a pool modification. He added that he appreciated Chairman Gimmy's concern but he felt the issue was too complex and that it was a practical issue in light of the legal opinion this Commission received. Mr. Walker agreed. A brief discussion ensued wherein the Commission was advised that if a permit was required it would be major thus probably triggering the new requirements.

Chairman Gimmy stated that he was glad to hear from the attorney that there was no legal liability but he felt strongly that the Town should take some sort of action for public safety.

Mr. Goray moved to recommend to the Town Commission that the Town stress the danger of not having barriers around pools and that consideration should be taken to provide proper barriers for those pools constructed prior to March 1994 and not mandated by current requirements by placing it on the website.

VI. DISCUSS PROPOSED LANGUAGE TO PERMIT HOME BUSINESS  
OCUPATIONAL LICENSES

Town Manager Schenk mentioned that this topic has been brought up several times in the past regarding working out of a home. He added that it may be a zoning issue if the property is used as a commercial property.

Atty Spillias commented that he has reviewed several other municipalities, particularly Boynton Beach, and he provided a layout of operative language that could be incorporated into Town's Code. He added that the language is geared more towards home computer type work.

After a brief discussion the consensus of the P & Z Commission was to keep the code as it is currently in place, citing that if there is blatant commercial activity then there are provisions in the code for code enforcement.

VII. ADJOURNMENT

The meeting was adjourned at approximately 10:20 AM

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Chairman Gimmy

Attest:

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Town Clerk