

Special Meeting of the Planning and Zoning Commission of the Town of Ocean Ridge held on Monday, January 14, 2013 in the Town Hall Meeting Chambers.

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

Mark Marsh
Mauro Walker

Dr. Richard Bajakian
Gerald Goray

Chair Jim Bonfiglio

Manager Schenck, Attorney Spillias and Manuel Palacios, Zoning Official, were also in the audience.

III. APPROVAL OF MARCH 28, 2011 MINUTES

Mr. Marsh moved to adopt the March 28, 2011 minutes, seconded by Dr. Bajakian. Motion carried – yea (5).

IV. APPLICATION SUBMITTED BY MILLER LAND PLANNING, INC. (BRADLEY MILLER), 508 E BOYNTON BEACH BLVD. BOYNTON BEACH FL 33435, REPRESENTING LC HOMES OF SOUTH FLORIDA, LLC, 351 N CONGRESS AVE., BOYNTON BEACH, FL 33426, REQUESTING A PUBLIC HEARING REGARDING THE PROVISIONS OF THE LAND DEVELOPMENT CODE AT CHAPTER 64; ZONING, ARTICLE 5; SUBDIVISIONS; SECTIONS 64-100 THROUGH 64-105 PERTAINING TO REPLATTING REQUIREMENTS. THE APPLICANTS ARE REQUESTING TO REPLAT THE EXISTING 2 LOTS LOCATED AT THE EXTREME SOUTHWESTERN END OF HUDSON AVE. INTO 2 NEW CONFIGURED LOTS TO MAKE POSSIBLE FOR TWO WATERFRONT LOTS. THE PROPERTY IS LOCATED AT THE EXTREME WEST END OF HUDSON AVE. ON THE SOUTH SIDE OR GENERALLY DESCRIBED AS LOT 15&16 (SUBJECT TO AN EASEMENT FOR ROW FOR THE INTRACOASTAL WATERWAY – A/K/A/ FLORIDA EAST COAST CANAL), BLK 6, BOYNTON BEACH PARK SUBDIVISION (EXACT LEGAL DESCRIPTION LOCATED AT TOWN HALL)

Atty. Spillias explained that this was a quasi-judicial hearing and asked the Commission if they had any ex parte communications with the applicant. Mr. Goray explained that he had brief discussions with Mr. Miller and he has also worked with him in unrelated matters. Atty Spillias clarified that Mr. Goray could render an unbiased decision. Mr. Marsh commented that he was a resident of Hudson Ave. to which Atty Spillias advised that this would not be a conflict. He then swore in those who wished to give testimony for both hearings listed on the agenda. Clerk Hancsak explained that all fees had been paid and that there was no additional correspondence.

Bradley Miller, representing the property owner, explained a drawing in which he drew in the actual 2 lot lines, the 2 lots as they are currently deeded, and the proposed

replatting and reconfiguration of the 2 lots. He advised that the proposed building square footage for Lot 1 is 4,300 (+/-) and Lot 2 is 6,200 (+/-).

Town Clerk Hancsak read the administrative comments which stated that the applicant spoke with staff/Town Attorney several times and it appears that the proposed plat meets the minimum total square footage, minimum depth & width requirements. Staff advised that the actual building plan submittal will verify that they meet all zoning and building requirements. Actual approval would also be contingent on any other necessary agency approvals such as the Health Dept.

Chairman Bonfiglio questioned a utility easement proposed to be abandoned. Mr. Miller advised that the easement was originally planned for flag lots and created by the prior owner but is not necessary anymore. He also questioned the proposed driveway width to Lot 2. Mr. Miller advised that the lot frontage along Hudson Ave. for Lot 2 was 30' (10' driveway & 2 10' buffers on each side) as required by code. Chairman Bonfiglio was concerned for adequate access for emergency fire/EMS vehicles. Mr. Miller advised that there would still be a 25' turning radius and it should not present a problem. Staff advised that a letter from the Fire Dept. stating that the access was sufficient would be required at the time of building permit submittal.

Mr. Marsh cited his concerns which included the notch in the middle of both lots. He was advised that in order to meet the 80' width requirement for Lot 2 the notch was necessary. Mr. Marsh also stated that he felt the house and septic system would be "shoe horned" and the lots could not support 3 car garages. He added the proposed design would not be similar to other homes on the street and he would like to see more uniformity. He felt the elevations for the septic system may be an issue because that area is very tidal to which Mr. Miller advised he would research that in further detail.

Mr. Goray clarified that a similar replat was approved on the northwest side of Hudson Ave. Clerk Hancsak advised that similar to this request the north side of Hudson Ave. was replatted from 3 existing lots into 3 newly configured lots and that the middle lot had approximately 10' more feet of lot frontage along Hudson Ave.

Mr. Walker clarified that the notch was necessary. Staff advised the 80' width is based on a calculation in the lot dimensions and therefore was necessary as presented and a variance would not be applicable in this situation. Town Clerk Hancsak also advised that the Town Engineer would be reviewing the plat to determine it meets all requirements.

There was no public comment and the Commission went into executive session.

Chairman Bonfiglio stated that he was concerned they would be recommending approval of a flag lot but acknowledged that it was approved for the north side of Hudson Ave. He added that he was not in favor of it then and could not support it now for that reason.

Mr. Marsh stated that he too was concerned that most of the other lots are situated north to south and the configuration is not pleasing.

Mr. Walker stated he was concerned with the 10' driveway.

Attorney Spillias reminded the Commission that their recommendation needed to be based on whether the proposed plat meets the code requirements. He added that some of the items of concern will be addressed at the time of building permit submittal. He also stated that submerged lands cannot be counted into the FAR calculations. Mr. Marsh asked if good planning can be challenged to which Atty Spillias mentioned that the Town's platting criteria was not that specific.

Mr. Goray stated that while he agreed and appreciated the comments by his fellow Commissioners he said that the applicant started with 2 dysfunctional lots and the proposed plat would be more advantageous to both the property owner and Town from a tax standpoint. He added that it has already been approved for the north side of Hudson Ave. Mr. Walker agreed and felt it was the highest and best use for the property.

Atty Spillias stated that while the Commission can render an opinion the decision needs to be based on the code requirements.

Chairman Bonfiglio again stated he felt that the 10' driveway issue should be resolved before a recommendation is made, thereby possibly not wasting the applicant's time. He added that Lot 16's size (the lot with the ROW easement) is not the fault of the Town.

Dr. Bajakian moved to recommend approval of the replat as submitted. Mr. Walker seconded the motion.

Motion carried – Yea (Bajakian, Goray, Walker)
Nay (Marsh, Bonfiglio)

V. APPLICATION SUBMITTED BY OCEAN BREEZE, LLC (JEFFREY PARKER, MANAGER), % ERNIE VARVARIKOS, 5582-A N OCEAN BLVD., OCEAN RIDGE, FL 33435 REQUESTING A PUBLIC HEARING REGARDING THE PROVISIONS OF THE LAND DEVELOPMENT CODE AT CHAPTER 63; GENERAL AND ADMINISTRATIVE PROVISIONS, ARTICLE IV; SITE PLAN REVIEW PROCEDURES, SECTION 63-53; MAJOR DEVELOPMENT APPLICATION AND SITE PLAN REQUIREMENTS SITE PLAN REVIEW PROCEDURES, SECTION 63-51(a)(4) SITE PLAN APPROVAL OF MINOR OR MAJOR DEVELOPMENT APPLICATION OR MODIFICATION AND SECTION 63-51(b)(2) MAJOR DEVELOPMENT REVIEW FOR WHAT IS KNOWN AS OCEAN BREEZE, LLC. THE APPLICANTS ARE REQUESTING TO DEMOLISH THE CURRENT FOUR BUILDING, FIFTEEN UNIT COMPLEX, AND REBUILD SEVEN TWO-STORY TOWNHOME UNITS WITH A ROOF DECK AREA WITH INDIVIDUAL POOLS, AND INDIVIDUAL PARKING SPACES, DENSITY PERMITTED AS A RESULT OF ORDINANCE 565. THE PROPERTY IS LOCATED AT 11 ADAMS ROAD OR GENERALLY

DESCRIBED AS LOTS 3-7, OCEAN SHORE ESTATES SUBDIVISION
(EXACT LEGAL DESCRIPTION LOCATED AT TOWN HALL)

Atty. Spillias explained that this was a quasi-judicial hearing and asked the Commission if they had any ex parte communications with the applicant to which there were none. Clerk Hancsak explained that all fees had been paid and one additional piece of correspondence was received. Clerk Hancsak read an email from Patrice Mahon, Treasurer of the Board of Directors for Ocean Walk Condo, 5801 N Ocean Blvd. #101. The email related a concern that the property will become a more dense usage because the 15 motel bedroom units will now become 7 – 3 bedroom homes with 7 dipping pools. The pools are located in the rear of the property and only 5' from Ocean Walk. She felt the pools could be a great danger to their families and guests. She questioned if the pools will be properly fenced and also whether there will be sufficient landscaping along the north end of the property to screen the pools. Her last concern involved the protection of Ocean Walk's landscaping when the developer goes forward.

Ken Kaleel, attorney representing Ocean Breeze, LLC, summarized the request and advised that it was similar to the Site Plan and Plat that was approved in 2006, however; this Site Plan now has reductions in the square footage and massing. The proposed Town Homes are reducing from 3 stories to 2 stories and from approximately 4,000 sq ft to 3,000. He stated that the replat was done back then.

Ernie Varvarikos, 5572 N Ocean Blvd., agent for Ocean Breeze, LLC, stated that the only real difference in the previous site plan to this site plan was that the structures were being reduced from 4 to 3 bedrooms/ 4 ½ baths to 3 ½ baths. He then summarized each of the renderings that were supplied in the packets.

Mr. Marsh questioned if the treatment plant on the southwest corner was walled. Mr. Varvarikos advised it was not but there was sufficient landscaping. He added that there was a wall on the north and east side of the property. Mr. Marsh also questioned the need for the 3rd floor deck with the spiral staircase if it only presents a view of Ocean Walk's tennis court and parking lot. Mr. Varvarikos advised that the ocean can be seen from the deck area, however; they were rethinking that its best use may be for the deck to house the a/c compressors only thereby eliminating the spiral staircases. Mr. Marsh also questioned the drainage to which he was advised that there would be an exfiltration trench and drainage review by the Town Engineer would be required. Mr. Marsh commented that this development was similar to Pelican Lane located in Delray Beach and added that it looks intense but it really isn't and it works for the area.

Chairman Bonfiglio commented that he had previously voted against the original site plan due to its size and traffic volume and he is pleased that the project has been scaled back. He was concerned for emergency access to the pool areas if the individual courtyard gates are locked and suggested a delineated walking path from either or both sides leading back to the pool areas.

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Mr. Walker stated he thought the proposed project was the highest and best use for the property provided all code requirements are met to which Mr. Varvarikos advised they met all of the requirements. Mr. Goray agreed stating the project had a good “beach side” look and would be a good addition to the Town.

At this point the meeting was opened for public comment.

Gerry Magruder, 9 Ridge Blvd., questioned if this was the same site plan because she thought there was an atrium located in the center to provide for drainage. She was advised that the site plan had not changed from the 2006 approved site plan. Clerk Hancsak reminded the applicant that she did not have a recorded copy of the plat on file and would need one. Mrs. Magruder was concerned that the drainage would flow towards the detention area at Woolbright. Clerk Hancsak read the 2006 motion which included that the driveways must consist of permeable pavers, for better drainage, and this was carried into this new site plan. She added that our engineers would provide the drainage review during the building permit process.

Gail Bernheim, 5709 N Ocean Blvd., stated that her home and adjacent lot abuts the project and she felt it was really dense. She stated she will have to deal with the noise of the compressors from her deck and bedroom area which would directly affect her. She felt the height of the new structures would restrict her ocean breeze. Mr. Walker and Dr. Bajakian advised her that there was an ordinance regarding decibel levels and the police dept. had a noise meter to determine any violations. Mr. Marsh asked if she would like to see a wall on the western side of the property thereby providing more of a buffer for her. She advised that the noise levels and traffic directly affect her, and she is not concerned with the wall. Mr. Marsh advised that unfortunately both properties are in a mixed multi-family and single family area but the new homes should actually be quieter. He added that the new a/c systems should also be quieter than the current window units.

Cheryl Olanoff, 566 David Lane, stated she was favor of the project, however; as she related the first time she was concerned with ample parking in the event of a party. She would also like 6 units instead of 7 to provide for more green space. She also felt her breezes would diminish considering the landscaping and proposed height. She questioned if the septic system was adequate to which she was advised that the Health Dept. approves the sanitation system.

Jay Hines, 11 Adams Road, stated that he resides in the current apartments and is delighted the building will be torn down and rebuilt. He stated that the current buildings are eyesores with many problems. He added that the north side of property may have problems with mold because it lacks adequate sunlight.

Chairman Bonfiglio summarized the public concerns which included: the septic system; adequate parking; and noise issues. He stated that parking and more green space conflict with each other, the septic system is self contained and he isn't sure how to address the A/C systems but he agrees they will probably be quieter than the window units.

Ken Kaleel commented that a developer cannot plan for parking for a party and special arrangements can be made through the police dept. for functions and each unit provides for a minimum of 4 spaces. He stated that he felt the new compressors would be a vast improvement to what is there now and added that almost every resident can hear a compressor from their neighbor at some time. He also stated that the septic system is approved by the Health Dept. He felt from a marketing standpoint this was a beneficial project for the Town. Mr. Bonfiglio questioned if some sort of shields could be used to buffer the a/c compressors to which Mr. Marsh commented that there are shields but they would not last long and can be costly.

Mr. Marsh commented that he under the neighbors concerns but the proposed development meets or exceeds the setbacks. He stated that he would like to see ample landscaping on the west side and possibly architectural features on that side of the building. He felt the height of the a/c compressors will actually be a benefit for the neighbor and they will also be further away (35').

Mr. Walker moved to recommend approval of the Ocean Breeze Site Plan as submitted but also contingent on: additional landscaping on the northwest and northeast side of the property, removal of the spiral staircases, and to delineate an access to the rear portion of property from either one or both sides of the property for emergency reasons.

Motion carried – Yea (5).

VI. SCHEDULE FUTURE MEETING DATE TO DISCUSS COMMERCIAL ZONING AREA AND FLOOR AREA RATIO (FAR) REQUIREMENTS

Town Manager Schenck stated the Town Commission directed the P & Z Commission to review the current zoning regulations that eliminated commercial in the Town. He stated that there are only 2 commercial businesses remaining. The Sun Dek (permitted to operate through a court stipulation) and the 5011 Stores (sunset date of June 2015 after an extension to their existing agreement was granted). It was questioned if it may be in the Town's best interests to visit whether there should be a commercial district created through a Comprehensive Plan Amendment. A commercial district may enhance the taxable value and may also enhance the town and surrounding communities.

Atty Spillias explained that the Commission extended the settlement agreement for the 5011 Stores, which actually extended the grandfathered provision of the phase out period. He recommended to the Commission at that time that this be the only extension because otherwise it may be construed as a defacto zoning change, so during this time frame discussions could take place to see if there is an interest in creating a commercial zoning area or district, which would require a Comprehensive Plan amendment. He added that the Town could create a commercial potential property and the justification is that the surrounding area is business. The Sun Dek has a court order with no expiration date to operate as is, but if they should change the use it would violate the order and the grandfathering status would cease.

Ken Kaleel, 86 Island Drive South, mentioned that the original thought process in phasing out the commercial was to eliminate the transient housing in Town but losing Busch's came with the process. Atty Spillias commented that Busch's filed suit but lost. Mr. Kaleel suggested that the discussions should probably also involve Briny Breezes and Gulfstream to possibly see the desire of creating an overlay district. He added that years ago Comm McCarty had this vision of creating a small town section of little shops. He cautioned though that input should be required from the surrounding residents and the Town residents as a whole. He concluded by stating that he was hesitant on spot zoning but if the end result is beneficial to the Town then research should be done to see how to make it work.

Comm Brookes, 15 Ocean Ave., stated this subject came up at a Commission meeting and it seemed most the public in the audience were in favor of some type of commercial. He thought that the Town may be protected against sober houses if there was a specific area designated as commercial. Atty Spillias stated that he did not feel that creating a commercial district would prevent it, other than larger institution type commercial, as the laws are stricter regarding the ADA protected sober houses.

After further discussion, the consensus of the P & Z Commission was to advise the Commission at the Feb. 4, 2013 meeting that they needed to define the scope or direction to include but not limited to: whether they are referring to commercial zoning anywhere in town or to a specific area; what type of commercial; what type of criteria; and whether it should be joint meetings for the discussions. They also felt these meetings should be well publicized to allow for public input.

Concerning the Floor Area Ratio (FAR), Town Clerk Hancsak explained that during the budget meetings the Commission had suggested reviewing the possibility of increasing the FAR which could ultimately affect the taxable value. She also stated that a resident was possibly going to appear at the last Commission Meeting (which he did not) and suggest that the code be reviewed so as to possibly eliminate the FAR but adhere to all of the code requirements. This would in essence allow for additional living area under the building envelope. Chairman Bonfiglio also stated that the Mayor had mentioned in the past the possibility of permitting permanent sheds in the setback areas. The consensus was to schedule another meeting to discuss these items.

VII. ADJOURNMENT

The meeting was adjourned at approximately 10:15 AM.

Chairman Bonfiglio

Attest:

Town Clerk