

Special Meeting of the Planning and Zoning Commission of the Town of Ocean Ridge held on Monday, April 15, 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 and Attorney Spillias were also in the audience.

III. APPROVAL OF MARCH 28, 2011 MINUTES

Atty Spillias requested two minor changes to the minutes. One was to add “or anyone else” in the first sentence of the first paragraph on Page 1 and also to change the third sentence to read Atty Spillias – asked Mr. Goray if he could render an unbiased decision to which he said he could. On Page 4, first paragraph to also add “or anyone else”.

Mr. Walker moved to adopt the January 14, 2013 minutes as amended, seconded by Mr. Marsh.

Motion carried – yea (5).

IV. DISCUSS POSSIBLE COMMERCIAL ZONING AREA

Manager Schenck summarized his memorandum by stating that the Commission directed the P & Z to review the possibility of rezoning an area in Town as commercial or mixed use. He stated the question arose when the 5011 building was given a one year extension (2014) to phase out their commercial stores. The options discussed included continuing with the current code requirements of No Commercial or possibly rezoning an area to allow commercial or some type of mixed use. He stated that it appears that the only area to accommodate additional commercial would be on either side of the 5011 building, which are currently apartments. These could either be torn down for a commercial interest or converted to a motel. He did comment that that Town could restrict the type of businesses through the comprehensive plan amendment. He concluded by stating that Briny Breezes already submitted their Comp Plan to the State to allow a commercial area along A1A, which may possibly include a restaurant. He introduced Marty Miner, Urban Design Studios, previously involved with the development of our Comp Plan and addendums, to discuss his review of the area.

Atty Spillias summarized the events which included: the Commercial Phase Out Ordinance passed in 1969 providing for a 40 year amortization period, Busch’s unsuccessful litigation contesting the ordinance, the executed agreement with the Sivitilli’s providing for an additional ten year phase out period (2013) to convert the building into Townhouse units, and the most recent one year extension of the Sivitilli agreement (2014). He stated that he had previously cautioned the Commission on granting additional extensions because of a possible perception of defacto zoning. He

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concluded by stating that this Commission needed to discuss whether to permit commercial at all, and if permitted whether to address the 5011 building in particular or expand it.

Chairman Bonfiglio clarified that the cost to amend the Comprehensive Plan would not be very significant.

Mr. Marsh asked Mr. Miner to explain if commercial zoning for this particular area would be a benefit or hindrance. Mr. Miner commented that commercial property can help expand the tax base and local services to the community. He stated a hindrance could be possible traffic concerns; however, this could be controlled by the type of commercial that is permitted. He stated that the 5011 building is 60' long which really does not allow for a lot of uses or parking. He also stated that the building is potentially nonconforming now and will remain nonconforming even if the industry standards are enacted. Atty Spillias commented that the 5011 building can do cosmetic work but also keep the same footprint. Mr. Marsh commented that Briny Breezes' intent was to have a Village Center and a commercial area in Ocean Ridge could add to it. Town Clerk Hancsak reminded the Commission that the Town currently limits the type of businesses permitted due to the long term parking concerns and the Sivitilli's work with the Town for their tenants. Mr. Marsh mentioned that permitting the 5011 building as commercial provides for more flexibility and he felt there was a benefit to allow commercial there.

Mr. Walker questioned Mr. Miner on the commercial possibility for the parcels immediately to the north and south of 5011. Mr. Miner stated that the north and south lots are both deeper than 5011 but narrow and redevelopment is possible, however; they would need to look at the impact on parking, traffic intrusion to the residential homes, and also access for garbage trucks, etc.

Chairman Bonfiglio commented on the funds expended litigating with Busch's and the Sivitilli's in order to enforce the no commercial code, which the residents originally supported. Mr. Goray stated, though, that Urban Design stated that commercial there could be a benefit to the Town. Mr. Marsh stated that he understood Chairman Bonfiglio's feelings but after looking at the aerial of the area he did not see a major change and felt the best use was to retrofit what it is there now. Mr. Goray agreed and said it should continue with the smaller shops, such as the barber shop. Chairman Bonfiglio then asked Mr. Miner if it would be benefit to keep the area as residential to which he advised that he could envision the properties further east as residential.

Mr. Jerry Lower, resident and Chairman of the P & Z Commission for Briny Breezes, suggested the possibility of a commercial area extending from Crown Colony to the Briny Town Hall (including the 3 three buildings in the unincorporated area). Mr. Miner commented that this area of A1A could provide a Village Market type of area and could be beneficial to the surrounding residents.

Mr. Marsh asked Atty Spillias if this would be spot zoning. Atty Spillias commented that the Town could rezone just 5011 or more and the fact that there is and will possibly have

additional commercial in the immediate vicinity would help with the rezoning. He added that if the area was zoned for a mixed use it could always be converted to residential. Chairman Bonfiglio questioned whether they researched the possibility of converting the stores at 5011 into additional apartments to which Lisa Sivitilli stated that the Health Dept. advised that the septic system would become inadequate if additional units other than the proposed 3 Townhomes were created. Ms. Sivitilli commented that they did not have an issue with converting to the Townhomes if required, however; she has a petition with 1,200 local signatures who would like to keep the strip stores.

Ken Kaleel, 86 Island Drive So, advised that this area has been an ongoing issue for many years as to whether to allow commercial or even permit additional commercial area. He cited three main questions both Commissions (and the residents) need to consider which include: how the 5011 building can possibly remain in its current state until the economy improves; does the Town want to create an overlay district of either mixed or purely commercial use; and what can the Town do to preserve its small Town feel. Town Clerk Hancsak mentioned that there was already a residential overlay district with less stringent zoning codes for Oceanview and Douglas which was intended to encourage raising older duplexes and triplexes for single family homes.

The Commission discussed various steps to determine what may be best suited for the Town such as commercial vs mixed use for the south area, and thereby holding joint workshops, hiring a consultant, and gathering residential input.

Mr. Goray moved to recommend hiring a consultant to develop a study and time table regarding the area on SR A1A from Tropical Dr. to Briny Breezes extending east to Old Ocean Blvd. for possible commercial or mixed use. Mr. Walker seconded the motion.

Motion carried – Yea (5).

Mr. Marsh reminded this Commission that the one year extension was not a lot of time and asked if an additional extension be considered. Atty Spillias advised that if the Town was in the process of zoning amendments he did not believe it would be a problem.

V. DISCUSS SECTION 64-47(c)(3)(b) PERTAINING TO THE PARKING OF BOATS, TRAILERS OR RECREATIONAL VEHICLES AND THE EFFECTIVE SCREENING OF SAME

Town Manager Schenck summarized his memorandum by stating that the current code requires that the equipment be effectively screened on three sides from adjoining properties and the street. A resident brought up the possibility of screening across the rear of the property to prevent visual sightings from behind the property. The resident's concern was that those properties that back up to waterways can look across and see unsightly equipment, as mentioned above, in the backyards. He pointed out that the same concern would hold true if there wasn't a waterway involved and just a backyard. Town Clerk Hancsak mentioned that staff had reviewed the code and determined that this resident's concern currently was not a code or blight violation.

Chairman Bonfiglio questioned whether screening on 4 sides would essentially create a structure. He was advised that the screening could consist of landscaping which does not have a height requirement.

Charles Ranson, 6782 N Ocean Blvd., stated that he made the initial request on behalf of his neighbor that can look across the waterway and see a boat trailer in the backyard of a residence. Town Clerk Hancsak showed a Property Appraiser aerial of the area.

Geoff Pugh, 35 Harbour Drive North, cautioned that the law of unintentional consequences could be great with this proposed change. He stated that sheds, playgrounds, etc. could also be questioned in the future. He also cited an example of a potential code violation - a boat davit that lifts a boat onto the property which then rests on chocks on the ground would technically be in violation. He concluded by questioning who would determine what is a blight or not.

The Commission agreed to table this item until after discussing the Item VI – FAR because Mr. Marsh had to leave soon and he wanted the ability to address the FAR item.

VI. DISCUSS WHETHER THE CURRENT FLOOR AREA RATIO (FAR) REQUIREMENTS SHOULD BE RE-ADDRESSED

Town Manager Schenck stated that during past budget discussions on how to increase possible revenue to the Town the current 36% FAR requirements were questioned. A question was raised if increasing the FAR and allowing larger homes would increase the tax base. This has been discussed and rejected in the past, however; the Town Commission wanted this Commission to re-address the subject.

Chairman Bonfiglio commented, and the other members agreed, that the FAR should not be connected to taxing issues.

Dr. Bajakian stated that a home is usually the largest investment for a citizen and he felt the 36% FAR was too limiting, especially for those with larger families. He stated that he believed that Boca Raton and Gulf Stream was close to 50%. He did feel that increasing the FAR would also increase the property valuations in Town. Mr. Goray agreed and felt the FAR was too restrictive and suggested possibly deducting garage space from the calculation.

Mr. Marsh stated that he was opposed to both viewpoints mentioned. He felt the Commissions should preserve the fabric of the Town and that the FAR actually controls the massing of homes. He commented that Gulf Stream's FAR was 32% and Palm Beach utilized the cubic content method, which can be extremely confusing. He also felt that the Town is not suffering and most lots are not restrictive and would allow a 4,500 sq ft home. He concluded by stating that the character would change dramatically and it would look like zero lot lines and he thought it was a huge mistake.

Mr. Goray suggested instead of changing the 36% FAR to possibly change the formula, similar to the 300 sq ft allowance for a 2nd floor foyer. Mr. Walker agreed and added that 2 story residences were mostly affected. Mr. Marsh commented that Manalapan and Gulf Stream include the garages in their FAR.

The consensus of the Commission was to have staff research other municipalities on their FAR requirements and whether garages are included in order for them to make a recommendation on whether to permit an allowance or exclusion for garage space in the FAR.

At this point Mr. Marsh left the meeting.

V. DISCUSS SECTION 64-47(C)(3)(b) PERTAINING TO THE PARKING OF BOATS, TRAILERS OR RECREATIONAL VEHICLES AND THE EFFECTIVE SCREENING OF SAME

The discussion on this item continued.

Mr. Goray moved to recommend amending the code to require screening be included from a canal side. Mr. Walker seconded the motion.

Dr. Bajakian questioned the front view of these trailers, motor homes, etc. and suggested that the code be amended to either permit a barrier higher than 6' or prohibit anything visible over 6' in height. He stated that the code required that these items be effectively screened.

Lt. Hutchins commented that he is aware of 3 properties that could be in violation. Town Clerk Hancsak advised that if the barrier height was raised then residents would complain about the loss of breeze and openness.

Mr. Walker moved to recommend amending the code at Section 64-47(c)(3)(e) to read that boats, trailers, or recreational vehicles not be permitted higher than 6' and they must be screened from abutting properties, streets and canals at the street level. Dr. Bajakian seconded the motion.

Motion carried – yea (4)

At approximately 10:20 AM a short recess was called. Approximately 5 minutes later the meeting was reconvened.

Atty Spillias explained that he was advised that Dr. Bajakian has raised a question in the past regarding a possible violation concerning his neighbor and the screening of a motor home. He stated that this is not a quasi-judicial hearing so it does not require recusal and this discussion was originally brought up by another resident and added that the discussion would affect the residents Town wide.

VII. DISCUSS AND CLARIFY SECTION 70-4(2) PERTAINING TO IDENTIFICATION SIGNAGE

Town Manager Schenck summarized this memorandum by stated that the staff would like clarification regarding the interpretation of Section 70-(4)(2) pertaining to identification signage. He stated there are three scenarios for multiple family dwellings that include freestanding signs, signs erected to walls or at the entrance to a building. A recent request by Pelican Cove wherein they requested a 5 sq ft freestanding sign in addition to one on the wall brought this to staff's attention.

After a brief discussion, Dr. Bajakian moved to recommend that Section 70-(4)(2) a, b, and c are not interpreted as being in the alternative. Mr. Goray seconded the motion.

Motion carried – yea (4)

VII. ADJOURNMENT

The meeting was adjourned at approximately 10:40 AM.

Chairman Bonfiglio

Attest:

Town Clerk