

**CITY OF ANNA MARIA
CITY COMMISSION SPECIAL MEETING
MEETING HELD AT ANNA MARIA COMMISSION CHAMBERS
10005 GULF DRIVE – ANNA MARIA, FL
THURSDAY, MARCH 12, 2009
7:00 P.M.**

CALL TO ORDER

Chair Quam called the meeting to order at 7:00 p.m.

PRESENT: Mayor Fran Barford, Commissioner Jo Ann Mattick, Commissioner Dale Woodland, Commissioner John Quam, Commissioner Christine Tollette, and Commissioner Chuck Webb.

Staff present: City Clerk Alice Baird, Building Official Bob Welch, City Planner Alan Garrett, City Attorney Jim Dye, Public Works Director George McKay, and Code Enforcement Officer Gerry Rathvon.

Press present: Sun, Islander.

Chair Quam announced that one additional item would be added on the Agenda – Item # 3 – Recommendation on Bids for Underground Utility Locates for Phase II Drainage Improvements.

1. **Public Hearing Amending Chapter 114 - Amending the Single-Family District (R-1); Providing for Amendment to Sections 114-221, by Amending Use Regulations, 114-222, by Amending Lot, Yard, Bulk and Parking Regulations; and Deleting in its Entirety the Two-Family District (R-2) by Deleting Sections 114-241, Use Regulations, 114-242 by Deleting Lot, Yard, Bulk and Parking Regulations. First Reading of Ordinance No. 09-699.**
City Clerk Baird read the Ordinance by title.

Chair Quam officially declared the Public Hearing open.

Public Comment

Tom Turner, N. Shore Dr., felt the Ordinance left a lot out. It was his opinion that with eliminating the R-2 District the Ordinance title should be Residential.

Mr. Turner asked for clarification relating to the language “only 50% of the structure may exceed 27’ in height based on the square footage of the main level not exceeding 27 feet in height”. He suggested that the language should refer to “the footprint”.

Mr. Turner felt a definition should be added for Pre FIRM homes. He pointed out that senior citizens own many of the homes and may need to add on at some point. If structurally able, he felt they should be allowed to add on a second level without having to go through a variance request.

It was Mr. Turner’s opinion that the City was rushing into the adoption of the Ordinance and felt that the proposed Ordinance, and the Landscaping and Non-Conforming sections, should be adopted as one entire Ordinance rather than

separately. He felt the Ordinance was poorly planned and presented and that it should go back to the P&Z Board for further review.

Sally Eaton, 316 Spring Ave., stated she would speak in regard to the Landscaping Ordinance – See Agenda Item # 2.

Larry Albert, 711 Gladiolus, voiced concern relating to the language regarding the 50% of the structure exceeding 27' in height. (Ref: Section 114-222 (5)) He suggested the “wedding cake formula” be considered. Mr. Albert suggested either 60% or 70% be allowed for those wanting to install a pool and deck. He also felt a hardship would be placed on those owning 50-ft. lots. Mr. Albert did not believe “the main level” language was clear. He also asked for clarification relating to the language “Through lots (setback from street)”.

Mr. Albert asked what would be accomplished from removing pool equipment from the setback. He suggested if the reason was due to a noise issue that it could be addressed by regulating the pool equipment hours of operation. He further suggested that a fence or type of landscaping be required if noise was the concern.

Micheal Coleman, Pine Ave., also addressed the 50% rule. He acknowledged that no one wanted a stacked type home, however, felt that the more a design is restricted, the more the designs will all be same. Mr. Coleman used the example of the homes built in Holmes Beach.

Mr. Coleman voiced opposition to not allowing the pool equipment in the setback.

Robin Wall, 112 Palmetto Ave., suggested the City Commission meet with a couple of architects to establish a solution to the “box look” - rather than implementing the 50% rule.

Ms. Wall said she did not want to see pool equipment in the side yard setbacks.

Barbara DeVicky, owner of property on Fern St. and Gladiolus, felt the 50% rule, if implemented, would affect the value of her property on Gladiolus.

She suggested that solar panels should be considered on the homes in Anna Maria. However, if the 50% rule were approved, there would be no availability for a large solar panel thus defeating the purpose of energy efficiency.

In regard to the pool equipment in the side yard setbacks, her neighbor had removed foliage from her property and she experiences the noise from the equipment located in her neighbor's (rental property) side yard. If pool equipment is allowed in the side yards, she felt something should be required of the property owner that requires the sound be blocked.

Hearing no further public comment, Chair Quam officially closed the public comments portion of the hearing.

Planner Garrett reviewed the draft Ordinance in detail as recommended by the P&Z Board. The recommendation of the P&Z Board is for merging the R-1 and R-2 District together for one Residential District. The proposed Ordinance permanently deletes the R-2 District and brings the aspects of the R-2 District into the R-1 District for one simple Residential District. Discussion continued as follows:

- Eliminate the building of any future two-family dwellings and all existing two-family dwellings would become a non-conforming use.

Planner Garrett explained that language could be added that all existing two-family dwellings would be a permitted use and would therefore retain their rights to add on to the structure - as long as the setbacks, building coverage, and lot coverage requirements have been met. *Planner Garrett* estimated approximately sixty two-family dwellings in Anna Maria.

Commissioner Mattick was opposed to making all two-family dwellings in the City as non-conforming.

Commissioner Woodland informed that for the last twenty years, 2/3rds of the existing homes in the R-1 District are non-conforming uses.

Commissioner Webb agreed the rights of the property owners would be removed and did not feel any non-conforming uses should be created. Discussion followed relating to creating a new class of non-conformities.

City Attorney Dye suggested the Commission identify what the benefit would be for the City for eliminating a two-family dwelling or what the harm is that is in it being prohibited.

After discussion, it was the consensus that staff develops limitations such as certain percentages of increased space, etc. in order to give two-family dwellings some ability - but not as much as the existing 2/3rds of non-conforming use homes have today.

Commissioner Mattick suggested the restrictions be based on the lot size.

Commissioner Woodland asked if the current language, relating to the protective rights for hotels/motels owners, had been translated to the LDR's - ability to rebuild to the current use and current footprint and the protection of the non-conforming uses in the R-1 District discussed in the Comp Plan. *Commissioner Woodland* also asked how many 10,000 sq. ft. lots were in the R-2 District

Planner Garrett will research *Commissioner Woodland's* questions prior to the next meeting.

Explanation followed relating to the Affordable Housing Plan in the Comp Plan and how it applies to duplexes.

- Noted that Sec. 114-221 (4) – “shall not be located closer than 1,000 feet to another community residential home serving six or fewer clients” should be stricken. Explanation followed.
- Section 114-222 (1) Maximum density – has been modified to be consistent with the Comprehensive Plan.
- Sec. 114-221 (3) – DCA required Mobile Homes (permitted in FEMA A zones only) in the Comp Plan.

Commissioner Webb did not feel Mobile Homes were appropriate and that a Comp Plan amendment would be needed.

- Sec. 114-221 (3) Community Residential Homes are deemed a Residential use by State law.
- Sec. 114-222 (4) *Swimming pools* – “and its deck” being stricken. *City Planner* explained.

In answer to *Chair Quam’s* questions, Planner Garrett informed there is no requirement on the size of a pool. Lengthy discussion followed relating to the pool not being considered as part of the lot coverage and drainage requirements (swales, etc).

Planner Garrett said the drainage issue could be addressed in other sections of the Code pertaining to single-family, commercial, mixed-use development.

- Sec. 114-222 (3) a. *Lot coverage*. *Commissioner Webb* asked that staff look at a graduated scale whereas if the size of the lot goes up, the coverage goes down.

Commissioner Webb pointed out that the lot coverage was calculated on both lots. A structure could be permitted on one lot with that total calculation. He questioned if there was language in the event the other lot is later sold.

Planner Garrett proposed that if an individual owns two lots that they merge the two lots together into one lot – therefore, precluding the ability to sell the other lot. *Planner Garrett* will research.

- Sec. 114-222. (5) *Maximum setbacks*. *Planner Garrett* suggested changing “Through lots (setback from street)” to “Through lots (setback from streets)”.

Discussion followed relating to the setback requirements.

- Sec. 114-222 (5) – Language relating to “Only 50% of the structure may exceed 27’ in height based on the square footage of the main level not exceeding 27 feet in height”. *Planner Garrett* explained that the percentage is based on anything under roof. It does not state where the percentage can be located.

Commissioner Mattick voiced opposition to the language and used the example of someone wanting to add an elevator to a home.

Commissioner Tollette did not feel the language would solve the issue of a box-style home or the esthetics of the community. She suggested an Architectural Review Committee be established whenever a three-story home would be built. *Commissioner Mattick* agreed.

Commissioner Webb felt architectural standards may need to be established.

Commissioner Woodland said he would not support the 50% language and felt 75% would allow more flexibility than 50%.

After discussion, *Planner Garrett* suggested after approving the merging of the R-1 and R-2 Districts, the Commission workshop and discuss the intensity, size of the lots, dealing with setbacks, etc. issues.

It was the consensus of the Commission that the 50% language is stricken from the proposed Ordinance.

- Sec. 114-222 (5) (3) relating to Mechanical equipment not allowed within the setbacks. *Planner Garrett* confirmed that prohibited equipment dealt primarily with the noise issue.

Planner Garrett read the definition of a setback. He suggested that discussion be held at later date as whether or not the equipment related to the pool has setback with the pool, or - does the equipment related to the pool have the setback of the house.

In answer to *Commissioner Tollette's* question, *Commissioner Woodland* informed that a pool pump should be ran 4 hours in the winter; 6 hours in spring and fall; and 8 hours in the summer. She suggested some type of education should be established for those who have pools.

- *Commissioner Mattick* agreed with the language in Sec. 114-222 (5) subsection (3) but felt subsections (1), (2), and (4) were clarified in the Table Insert. *City Planner Garrett* explained the purpose for the subsection language. He stated subsection (4) Setbacks may not be reduced – would preclude an individual from asking for a variance. Discussion followed.

It was the consensus of the Commission that subsection (4) is stricken.

- Sec. 114-222 (5) (8) *Minimum housing size* - *Commissioner Webb* asked how this subsection related to mobile homes. *Planner Garrett* responded.
- Sec. 114-222 (5) (9) *Detached structures* – *Commissioner Mattick* did not feel the language made it clear that the detached structures would be included in the lot coverage.

Planner Garrett informed he will provide the Commission with language solutions for the following issues discussed that evening:

- How to better develop standards with design.
- Type of scale for lot coverage and building coverage.
- Duplex / two-family structures – types of limiting the ability to add on.

The Ordinance will be revised and the final hearing will be held on March 26, 2009.

Chair Quam officially closed the Public Hearing.

2. First Reading – Ordinance 09-700 – Landscaping.

City Clerk Baird read the Ordinance by title.

Public Comment

Margaret Jenkins, Chilson Ave., suggested “redevelopment or the expansion of existing uses” should be stricken from Sec. 114-420 (b).

Ms. Jenkins thanked Robin Wall for all the work she put into the drafting of the proposed Ordinance. She did feel, however, the Ordinance was too restrictive and that it would be a burden on the property owner. She gave the example of requiring a 7 ft. tree and stated most would not be able to afford it.

Tom Turner, N. Shore Dr., also felt the types of plantings were too restrictive. He suggested the Ordinance only include the prohibited trees and shrubs and that a person be allowed to plant whatever they wanted to on their lot.

Sally Eaton, 316 Spring Ave., said she and her husband concurred with the recommendations of the EEEEC Committee and the City Planner in regards to the vegetation requirements between the Commercial and the ROR properties where they abut. She pointed out that her property backs up to the new construction at 315 Pine Ave. and unfortunately did not have the advantage of having such detailed requirements when the 315 Pine Ave. Site Plan was approved. Ms. Eaton stated, however, that though Mr. Coleman was not required to at the time, he has generously provided the Eaton’s with four plants for their lawn that were suggested by Mr. Coleman’s Landscape Architect.

Micheal Coleman, Pine Ave., said he agreed with the concept of the Ordinance, except did not feel a person should be required to plant specific trees or shrubs in their yard. He pointed out that many of the allowed plantings listed could only be determined by hiring an Architectural Landscaper. Mr. Coleman was opposed to the Ordinance as written.

Mr. Coleman voiced concern about the vegetative buffers being required to be at least 7 feet in depth. (Ref: (g) b))

Robin Wall, 112 Palmetto Ave., felt the proposed Landscaping Ordinance was a good Ordinance for Anna Maria, the property owners, and for the native wildlife and environment. She informed that the EEEEC and P&Z Board recommended the buffering requirement regardless of an alley for commercial uses.

Ms. Wall explained that the Ordinance did not effect existing properties - only applies to new development or significant expansion. Ms. Wall explained how the elements of the Comprehensive Plan policies were satisfied by the proposed Ordinance. She stated that the native plant requirement of 25% for new residential was minimal and gives flexibility. She pointed out that Sanibel's Code requires 75% native plantings and Palmetto requires 100%.

Ms. Wall encouraged the Commission to support the Ordinance as written.

Staff and Commission Comments

Building Official Bob Welch responded to whether or not the Ordinance would be enforceable. He said it would require some retraining and would be difficult to enforce where plantings are behind fences, etc. He pointed out there was no requirement to require inspections so it would not be possible to go into the backyards and determine what plantings would need replaced. However, it would be easy to enforce plantings in the front for residential. There would, however, be an additional cost to the property owner since landscaping plans will need to be submitted to the City.

Commissioner Mattick said she was in favor of a Landscape Ordinance but felt it could be simplified. She did not feel the language in subsection (e) – Vehicle use parking area landscaping requirements for C-1 and commercial uses in ROR – would allow the parking requirements in the ROR District to be met.

Commissioner Mattick agreed that the vegetative buffer of 7 ft. in depth was too high. She further felt the language in subsection (i) d) was subjective and did not feel the maintenance standards could be enforced as required in subsection (j).

Commissioner Mattick referenced (l) Permits for tree removal and pointed out that a fee for tree removal would have to be added the fee schedule. She further pointed out that (o) Irrigation – should be corrected to read “device” rather than “devide”.

Commissioner Woodland said he was in agreement with the 25% native planting requirement. He pointed out that the 7 ft. tree-planting requirement only pertained to the Commercial and ROR Districts and not to the Residential. He also agreed that the language in subsection (i) d) should be more specific.

Commissioner Tollette asked that visuals and estimated costs that included the cost for a landscaped design plan be provided. She suggested the Ordinance only list the prohibited plantings. She asked for clarification relating to the planting of certain prohibited grasses. *Planner Garrett* responded.

Commissioner Tollette said she would also like to hear comments from Code Enforcement Rathvon relating to the enforcement issues.

Code Enforcement Rathvon said she was not familiar with many of the plantings and would need additional training. She suggested the landscape inspection be a portion of the final inspection process and stated that enforcing the Ordinance afterwards would be more difficult.

Commissioner Webb said the adoption of a Landscape Ordinance was very common. Broward County was used as an example. He suggested the Ordinance be continued and that the Commission workshop the details of the Ordinance. *Commissioner Woodland* disagreed and felt the Ordinance was very well written.

Chair Quam voiced concern relating to the enforcement issue.

City Attorney Dye suggested that rather than the list of plants being a part of the Ordinance - that the authority to adopt the list by Resolution be stated in the Ordinance.

It was agreed that City Planner Garrett would provide visuals with costs at the March 26, 2009 Public Hearing.

--- **MOTION: Stating it 9:22 p.m., Chair Quam moved that the meeting is continued until completion of the Agenda. Commissioner Woodland seconded the motion.
Motion carried – All Aye.**

3. Recommendation on Bids for Underground Utility Locates for Phase II Drainage Improvements (BMPs) Project (W226).

Mayor Barford asked for authorization for the City to sign a contract with Adkins Contracting for the Underground Utility Locaters for the Phase II Drainage project. All parties have reviewed and are in agreement with the contract and recommend the Mayor be authorized to sign it on behalf of the City.

**MOTION: Commissioner Webb moved to authorize the Mayor to sign and accept the contract agreement between the City of Anna Maria and Adkins Contracting, Inc. for construction services in the amount of \$8,400. Commissioner Woodland seconded the motion.
Motion carried – All Aye.**

4. Approval of Capital Improvement Advisory Committee (CIAC) Members.

Boardmembers - George Barford, William Snow, Carl Pearman, Robert Barlow, and Tom Turner. All terms to expire March 2011.

Commission Liaison – Dale Woodland

Staff Representative – Director of Public Works George McKay

MOTION: Commissioner Woodland moved to approve the appointment of the Capital Improvement Advisory Committee (CIAC) members. Chair Quam seconded the motion.
Motion carried – All Aye.

**5. Special Event – Ginny & Jane E’s Flea Market -
March 15, 2009 – 9:00 a.m. to 4:00 p.m. (Due to March 1, 2009 Rain Out)**
Mayor Barford informed that Law Enforcement has approved the March 15, 2009 rain date and would continue to monitor the traffic.

MOTION: Commissioner Webb moved to approve the Special Event for Ginny & Jane E’s Flea Market for March 15, 2009 – 9:00 a.m. to 4:00 a.m. Commissioner Tollette seconded the motion.
Motion carried – All Aye.

Adjournment

Chair Quam moved to adjourn the meeting at 9:26 p.m. Commissioner Tollette seconded the motion. Motion carried – Aye.

Alice Baird, CMC, City Clerk

MINUTES APPROVED: _____