

**CITY OF ANNA MARIA  
PLANNING & ZONING BOARD  
REGULAR MEETING AT ANNA MARIA COMMISSION CHAMBERS  
10005 GULF DRIVE – ANNA MARIA, FL  
TUESDAY, MAY 19, 2009  
6:30 P.M.**

**CALL TO ORDER**

Planning and Zoning Chair Doug Copeland called the meeting to order at 6:31 p.m.

**PLEDGE TO THE FLAG**

**ROLL CALL:** Boardmembers Margaret Jenkins, Sandra Mattick, Chair Doug Copeland, Frank Pytel, Randall Stover, and Jim Conoly.

**Absent w/excuse:** Boardmember Mike Yetter.

**Staff present:** City Clerk Alice Baird, City Planner Alan Garrett, Building Official Bob Welch, and Minutes Clerk Stacey Johnston.

**Press:** Sun and Islander.

**1. Approve April 7, 2009 Meeting Minutes.**

**MOTION: Boardmember Jenkins moved to approve the April 7, 2009 Meeting Minutes as written. Boardmember Mattick seconded the motion. Motion carried – All Aye.**

**2. Presentation and Discussion of Establishing a Floor Area Ratio (FAR) for the City of Anna Maria Including Design Incentives.**

*Planner Garrett* stated that the City Commission had the same concern as the P&Z Board regarding the intensity of the different uses of the residential structures and shoebox type development that is being seen. The mass seems to be wrong and no type of architectural demonstration is being applied. The City Commission discussed various levels of how to regulate and how to encourage different types of details for the different houses. The Code currently allows for lot coverage and building coverage. No language covers the vertical portion of the homes. Planner Garrett explained the daylight plain that had been discussed by the City Commission. Of the four City Commissioner's in attendance at their last meeting, two were in favor of not making any changes to the Code and the other two wanted to see ways of encouraging better designs and trying to reduce the mass of the homes. It was agreed by the City Commission to forward the Floor Area Ratio (FAR) concept to the P&Z Board for their recommendations.

Planner Garrett presented a detailed explanation and examples of the differences between the FAR and lot coverage. He pointed out that the FAR is a ratio of both floors – therefore, going vertical and includes the Gross Floor Area of the main structure, plus any detached garage and or accessory structure- then divided by the lot area to determine the final FAR. He pointed out that any enclosed garage below would increase the FAR.

Different base Floor Area Ratios were discussed. For those persons wishing to build a large structure in square footage, points would need to be accrued by utilizing the FAR Incentives and, for example, building different roof angles, focal point of an entrance, etc. Explanation and examples followed.

*Boardmember Pytel* voiced his concern of the complexity and potential expense involved with the FAR concept. He was concerned that the idea would not change the box style homes and with the concept being too complex would cause unintended consequences. Boardmember Pytel suggested that the 50% or 75% on the second living level would also address the light plain. He agreed that he was more concerned about the second living level.

*Boardmember Conoly* stated he had attended the City Commission meeting when the FAR was discussed. He questioned if there would be the same amount of credit for obtaining the FAR ratio as for usable space and as for unusable space.

*Planner Garrett* informed that the City's Code does not currently have a Floor Area Ratio. He had informed the City Commission that if they were to go forward with the FAR plan, he would like for them to make a determination of what they felt were appropriate incentives.

When considering the light plain, *Boardmember Mattick* did not feel one story over parking would be much different than a three-story when considering it was built next to a one level structure. She pointed out that the view would still be blocked.

Boardmember Mattick said she would like to see a maximum building size regardless of the lot size.

*Planner Garrett* informed that City Commissioner Woodland felt that the building size should be 35% - not to exceed.

*Boardmember Stover* discussed FEMA building requirements. *Planner Garrett* stated that with the FAR concept, the floor base would have to be reduced which would encourage the builder to pursue the other architectural features and incentives.

*Commissioner Pytel* brought up the idea of taking away property rights and limiting what a property owner can do.

*Building Official Welch* explained that it was true some esthetic rights may be taken away, however, the City currently limits to 35% building coverage on the lot. He agreed that the FAR was very complicated but provided examples of how the different types of incentives would work.

*Chair Copeland* felt there was a huge difference between property rights and developmental rights whereas property rights are where you can do something with your property versus developmental rights that are regulated by the City - by

determining how much you can do with a property. He felt as long as an owner can do something with their property, then their property rights would not be prohibited.

Chair Copeland asked what the City Commission's opinion of the P&Z Board's previous suggestion to limiting the second living level to 50% or 75%. Discussion followed.

*Planner Garrett* suggested that the P&Z Board consider rather than the pursuing the FAR concept, for those wanting a second living level it can only be 50%. However, building could be increased up to a 75% maximum by utilizing certain criteria.

In response to *Boardmember Stover's* question relating to FEMA requirements, *Building Official Welch* explained that an addition could be built on the ground level of a Pre FIRM home – up to 50% of the market value of the home and dependent on enough lot coverage to do so. He said, however, as Floodplain Manager he did not recommend it.

Additional explanation followed relating to the base flood elevation and the responsibility of the City to the community as a whole to encourage elevated FEMA compliant homes.

*Boardmember Mattick* further questioned if the City should be concerned as to protecting the ground level homes and encouraging the light plain development.

*Planner Garrett* suggested the following points be recommended to the City Commission based on the P&Z Board's discussion:

- Looking more at the second living level as opposed to the structure itself.
- Feeling that the FAR was complicated - consider implementing percentages for the second living level.
- Concerns that there may be more elevation of homes than is needed.

*Boardmember Conoly* stated he would be in favor of leaving the Code as it currently reads.

### **Public Comment**

*Tom Turner*, 850 N. Shore Dr., was opposed to the FAR concept. He felt it was a complicated system that many people could not understand. He suggested that the garage level not be counted in the 35% lot coverage – that the living space above be limited either on the second or third floor, or any combination.

*Robin Wall*, 112 Palmetto Ave., said she liked the idea of a percentage reduction and of incentives. She suggested that an architect be consulted for input.

### **Further Board Discussion**

*Boardmember Stover* felt a joint City Commission and P&Z Board workshop should be held to determine a method for preventing the box style homes to

continue being built, determine incentives to encourage attractive architecture, and then explore the avenues to achieve it.

*Boardmembers Conoly, Mattick, and Jenkins* each felt no further action should be pursued unless a benefit to the City could be shown.

After discussion, *Chair Copeland* reported that three of the P&Z Board members were in favor of further pursuing the issue.

**3. Discussion of Changes in Section 114-133 Nonconforming Use and Section 113-134 Nonconforming Structures.**

*Planner Garrett* addressed the current Nonconforming Use and Nonconforming Structures section of the Code and informed that the City Commission had asked that the P&Z Board review the section one additional time. He pointed out that to be a nonconforming use means that the permitted use is not listed in the permitted use table. To be a nonconforming use means the use was legally allowed at one time, however, government had later changed the allowed use - thus taking the use away.

*Planner Garrett* recommended that the following section be removed from the current Code language: "Sec. 114-133 (2) The use exists at a density in excess of that allowable for the zoning district in which it is located". Explanation followed. It was noted that City Attorney Dye had stated that density did not belong in Nonconforming Use.

*Planner Garrett* asked for P&Z Board discussion relating to Sec. 114-133 (3) (d) *Alteration or repair of structure housing use* and Sec. 114-134 (f) *Alteration and repairs*. He reminded that the Board had previously agreed that modifications be made that allows a person to expand the nonconforming use provided that the total habitable area does not increase.

Sec. 114-134 (f) relates to a nonconforming structure. *Planner Garrett* asked for discussion relating to "including but not limited to roof replacement" of that section. He pointed out that a roof can be replaced for a nonconforming structure but the Code did not allow it replaced for a nonconforming use.

*Boardmember Stover* asked for clarification on how a nonconforming use could be repaired.

*Building Official Welch* explained that nonconforming uses are encouraged to go away. Without the additional language relating to roof replacement, if the building were to become dilapidated and becomes unsafe and the City were to require the building removed, the use would no longer be allowed. The Rod & Reel Pier and motels in the City were used as examples of nonconforming uses.

After discussion, it was agreed that both the Nonconforming Uses and Nonconforming Structures should both include the language "including but not limited to roof replacement."

*Building Official Welch* and *Planner Garrett* informed that City Attorney Dye would be making some language changes throughout the code for the purpose of avoiding any legal concerns.

Discussion followed relating to City Attorney Dye and Commissioner Webb's disagreement at their recent City Commission meeting that Sec. 114-133 (2) be removed.

#### **Public Comment**

***Robin Wall***, 112 Palmetto Ave., stated that when the City Commission approved Ordinance 09-699 on March 26, 2009 they approved adding Add Section 14-221. (b) *Permitted uses*. (5) Two-family dwellings existing as of April 1, 2009. She pointed out that the P&Z Board had not recommended the language and asked for clarification on what would now happen to the two-family dwelling in the Residential District.

*Chair Copeland* stated that the P&Z Board had provided their recommendation and suggested Ms. Wall discuss her concerns with the City Commission.

Ms. Wall then asked if the P&Z Board could recommend that the two-family dwellings be limited in their expansion.

*Boardmember Pytel* responded to *Chair Copeland's* question if the P&Z Board should revisit the issue. He stated that the City Commission did not agree with the P&Z Board's recommendation so felt there was no need to revisit it at this time. *Chair Copeland* agreed.

***Tom Turner***, 850 N. Shore Dr., stated that all lots fewer than 7,500 sq. feet were nonconforming lots. He felt that those lots built to FEMA regulations and elevated should not be included as nonconforming structures.

#### **4. New Business.**

##### **517 Blue Heron Dr. Dock Request Update**

*Boardmember Pytel* asked for an update relating to the request for a proposed residential docking facility located at 517 Blue Heron Drive, Lot 12 Bay Harbor.

*Planner Garrett* explained that there were only a few lots where the City limits going any further than the lot itself. He informed that the City Commission is looking at entering into an agreement with Manatee County to extend the boundaries to allow jurisdiction of the waterways in order to permit the docks, enforce the codes, etc. *Planner Garrett* stated the City Pier is currently not in the Anna Maria city limits. An Interlocal Agreement is being pursued until such time as the City can address the State during open session to extend the city limit boundaries to include portions of the water.

*Planner Garrett* also informed that City Attorney Dye would be addressing an issue where the boundaries of Holmes Beach and Anna Maria overlap.

**Super Majority Clarification Request**

*Boardmember Pytel* asked that the P&Z Board discuss what their understanding of the Super Majority rule is and how to best incorporate the intent of the voter's wishes in the LDR's. He suggested clarification be made as to when the super majority rule was needed and when it was not, how it relates to the Charter, etc.

*Building Official Welch* explained that the super majority rule would appear in the Administrative portion of the Code rather than the Land Development Code.

*Planner Garrett* stated that the super majority would only be required when considering a change to the Future Land Use Element of the Comprehensive Plan. Examples followed. He suggested that the P&Z might want to add language in the Code relating to rezoning of land - that if such rezoning requires a change in the FLUM, that change shall require a super majority vote. Planner Garrett agreed to pursue the request.

**5. Old Business – None.**

**Adjournment.**

**Boardmember Conoly moved that the meeting be adjourned at 8:14 p.m. Boardmember Jenkins seconded the motion.**

**The next meeting is scheduled for Tuesday, June 2, 2009, 6:30 p.m.**

---

**Alice Baird, CMC, City Clerk**

**MINUTES APPROVED: \_\_\_\_\_**