

**CITY OF ANNA MARIA
CITY COMMISSION
SPECIAL MEETING
JUNE 3, 2003
7:00 P.M.**

CALL TO ORDER (7:05)

PLEDGE TO THE FLAG

ROLL CALL: Commissioner Linda Cramer, Commissioner Duke Miller, Commissioner Tom Aposporos, Commission Chair John Quam, Mayor SueLynn

Absent with excuse: Commissioner Chuck Webb

Also present: P&Z Board Vice-Chair Ellen Trudelle, City Attorney Jim Dye, Deputy Sheriff Sgt. John Kenney, Minutes Clerk Sylvie Reichmann

Press: Sun, Islander, Herald, Sarasota Herald Tribune

1. PLANNING & ZONING BOARD RECOMMENDATION RE:

ORDINANCE #114.222 – HEIGHT OF BUILDING AND STRUCTURES

Chair John Quam read Section 6 of the ordinance, which states "No building or structure or part thereof shall exceed 37ft. as measured from the crown of the road to the highest point of the roof." He asked Vice-Chair of the Planning & Zoning Board Ellen Trudelle to present the Board's recommendation. She reported that at the P&Z Work Session on May 27th, 2003, the Board's recommendation was that Ordinance 114.222 remain at 37ft. above the crown of the road. P&Z Vice-Chair Trudelle stated that the Board additionally recommended that City Attorney Jim Dye draft an amendment that would bar variances to the height ordinance. She noted that it was recently brought to her attention that Ch. 82 may also need to be examined by the Commission and the Planning & Zoning Board to determine whether it is congruent with Ordinance #114.222.

MOTION: Commissioner Duke Miller moved to accept the Planning & Zoning Board's recommendation to retain the height restriction of 37ft. above the crown of the road, as well as the Board's recommendation for the Commission to authorize City Attorney Jim Dye to draft an amendment disallowing variances, seconded by Tom Aposporos.

Vote: Two Ayes. Two Nays. Motion failed.

Chair John Quam said he would support a motion to accept, since essentially nothing had been changed by the DEP except the placement of the responsibility for enforcement with the State's municipalities. He noted that the City of Anna Maria had the most generous height allowance on the Island, and further, that public opinion supports keeping it as it now stands. Chair Quam said he agreed with publicly stated opinions that any change in height restriction should go before a vote of the people.

Commissioner Duke Miller said he concurred with the Planning & Zoning Board's recommendation and had supported the combination of the Commission and the P&Z for meetings to discuss options to the current ordinance. He thanked

the Planning & Zoning Board members for their efforts in carefully examining the issues, in spite of a crowded meeting agenda.

Commissioner Linda Cramer said she believed, from attending the joint meetings, the discussion with the Holmes Beach Building Official and with the City Planner, two different definitions regarding starting point of measurement existed, i.e., the bottom of lowest structural member (pertaining to structures within the Coastal Construction Control Zone) vs. the top of the finished floor (for structures outside it). She said she also preferred an increased allowance to encourage the construction of sloped roofs. The Commissioner said she had been hopeful that some beneficial compromise could have been reached.

Commissioner Tom Aposporos recalled that the opinion he expressed at the outset of this question was that the measurement be defined from the finished surface of the first floor of the structure so as to enable someone to construct a two-story home with a choice of a variety of roof styles. He said he had since spoken with an architect who said that architects design from the finished first floor. Commissioner Aposporos said it would be unrealistic to require a flat roof in some sections in the city if someone wanted to build a two-story home. He said he believed it should be possible to look at the question from the standpoint of how many feet it would reasonably require to construct two floors with some reasonable variety of roof styles. The Commissioner said he did not think that every roof or height should look or be exactly the same. He said an ordinance could be adopted that restricts the width of a structure so as to preserve light and air movement for neighboring homes, could perhaps offer a prospective builder a choice between height vs. width. He said when dealing with an issue that has so much potential for change (i.e., within the coastal construction zone) an ordinance is needed that is forward thinking and reflective of real construction and architectural design concerns. Commissioner Aposporos said that allowing for two-story homes to slightly vary in height would not open the door to high rise development, and indicated that he would not support the P&Z recommendation.

Commissioner Linda Cramer said she also had consulted an architect regarding measuring from the top of the finished floor. She said she thought this method of measurement would promote architectural consistency within the city and it would be reasonable to allow this approach for structures westward of the CCCL.

AMENDED MOTION: Commissioner Duke Miller moved to accept the Planning & Zoning Board's recommendation to keep the height restriction at 37 ft. above the crown of the road. Amended motion failed for lack of a second.

Commissioner Miller asked Commissioner Aposporos to explain why he did not support disallowance of variances. Commissioner Aposporos said he would support the second part of recommendation regarding the barring of variances, if an ordinance would be adopted that did not fix the maximum elevation for any

other reason than good construction and architectural practices; allowing for construction of a two-story home at whatever elevation is determined by the site specific survey. He added that he did not understand how the debate resulted in capping height at 37 ft.

Commissioner Miller noted that there are both new and older two-story homes westward of the CCCL that conform to the current ordinance and are pleasing to look at. He said he thought one of the reasons the P&Z Board recommended the barring of variances was that the Commission would otherwise need to debate the issue over and over again.

Chair John Quam said he did not think there was mandate for two stories to be allowed everywhere in the city. He noted that the Planning & Zoning Board had discussed ceiling height and roof design. Chair Quam pointed out that allowing another 2ft. in height would not disallow flat roofs.

Commissioner Linda Cramer noted that during discussion of that point, it had been determined that adoption of the plane of light concept would restrict flat roofed homes from being 2ft. higher. She said a great deal of time and consultation had gone into the joint discussion of this ordinance, and expressed disappointment that it appeared none of the points discussed had been incorporated into the Planning & Zoning Board's recommendation.

Chair John Quam asked Planning & Zoning Board Vice-Chair Ellen Trudelle if he was correct in his understanding that most of the Planning & Zoning Board members had not wanted to restrict roof designs. She responded that this was correct. She added that most of the members also felt that the plane of light concept should be incorporated in the Code, however not as part of the height restriction ordinance, but as part of the LDR's.

Commissioner Aposporos repeated that he would like to see an ordinance that allows a maximum of two stories plus a variety of roof styles. He said if such an ordinance were passed, he would then, in compromise, support the disallowing of variances. The Commissioner said he was aware of a creative design whereby a pitched roof could be constructed with a notch along the side, so that the interior of the structure provides additional ceiling height and the roof elevation is preserved.

Public Comment

A resident said she had attended most of the meetings on this subject. She said when the measurements westward of the CCCL were reviewed, it was found that there had been no change, and therefore she believed the Planning & Zoning Board decision was fair.

A resident within the Coastal Construction Control Zone who had applied for a variance said that the P&Z had failed to come up with the compromise the joint meetings had requested of them. The wife of the resident commended the

Commissioners for their work on this project. She said she still believed it was not fair that people westward of the CCCL were being discriminated against. She noted that sometimes there are unintended consequences of legislation, and stated that she believed that not giving people westward of the CCCL relief would result in houses that all look the same.

A member of the Planning & Zoning Board said that the DEP hundred year storm elevation of 18ft. had been considered and discussed, and it was stated by the expert in Tallahassee that the site-specific survey generally arrived at a lower elevation. She said she realized that if a home was begun at the 18ft. elevation and constructed to current standards generally accepted by the city, it could not possibly stay within 37ft. and be a two-story home. Commissioner Cramer pointed out that the crown of the road is the City's defining baseline.

Commissioner Aposporos said he would be willing to do more research and consultation at his own expense and bring the Commission or the Planning & Zoning Board, and for City Attorney Dye's review, a proposed ordinance which would allow for the construction of two-story homes westward of the CCCL and throughout the city which would allow for a variety of roof designs. He added that his proposal would be designed not to allow for multi-story construction, and that he would bring this before the relevant bodies as quickly as possible.

Commissioner Miller said he thought Planning & Zoning Board had a great deal of other work to move on with, and did not think there would be any sense in continuing the discussion. Commissioner Aposporos noted the motion made this evening had failed for lack of a majority.

Planning & Zoning Board member Dale Woodland noted he had not received any feedback on his diagrams. He said he had hoped to get information from Planner Joel Freeman relative to his assumptions using Sarasota's reference line and what would be a reasonable structure size for a two-story home.

Commissioner Linda Cramer supported Commissioner Tom Aposporos' offer to bring the Commission a proposed ordinance for consideration.

Commissioner Tom Aposporos recalled that members of a quasi-judicial body should not engage in any discussion about a matter other than at an official meeting. He referred to the Snyder decision in *Jennings vs. Dade County* preventing citizen and elected official exchanges regarding matters in contention scheduled to be brought before the elected body to which the official belongs. The Commissioner said he thought the Commission needed guidance as to how careful they should be when speaking about the issue outside of a public meeting. City Attorney Jim Dye said the Snyder decision split up government decisions into separate categories, and the quasi-judicial category denotes that a decision is to be made based on what is heard at a hearing, and therefore something heard outside the hearing could taint the process. He said however, the legislature

subsequently passed a law that allows an elected official to talk with a citizen as long as the official discloses what was said for the record at the hearing. The City Attorney said that this law, however, is currently being brought into question by many lawyers as to its constitutionality. City Attorney Dye recommended that elected officials not to talk about things outside of a quasi-judicial hearing if at all possible. He noted that the quasi-legislative category is another situation not affected by these rules. The City Attorney said if the subject is an ordinance, then it is legislative, and anyone may discuss it and be consulted about it. He noted that variance application hearings are considered quasi-judicial.

Commissioner Cramer recommended scheduling a Commission Work Session. Commissioner Aposporos said he strongly advocated the joint Commission and Planning & Zoning Board meetings, and recommended continuing them. Commission Chair Quam confirmed that Commissioner Aposporos would be focusing on properties westward of the CCCL.

Planning & Zoning Board Vice-Chair Ellen Trudelle said the Board had made their recommendations and therefore would not be amenable with considering the matter again on its own. **She agreed that Commissioner Aposporos' recommendation for a joint meeting would be the best way to go. There was consensus among the Commissioner for this approach.**

Commission Chair John Quam asked if the Commissioners wanted to set a date to hear the Deporre's variance request. **Commissioner Cramer said she would first like to see Commissioner Aposporos' information and there was consensus among the Commissioners to do so prior to hearing the variance request.**

Commissioner Aposporos said he would not be in Anna Maria from June 15th to June 22nd. Commissioner Cramer said she would be out of town from June 9th through June 20th. Commissioner Miller said he would be out from the 18th of June through July 9th.

Mayor SueLynn said she would be making a recommendation that Planning & Zoning Board and the Commission to meet with Tony Arrent for an extended period of time relative to the Comprehensive Planning process.

Commissioner Aposporos said he could have his information ready by June 10th for the Planning & Zoning Board meeting. Board Vice-Chair Ellen Trudelle said perhaps the P&Z could put aside their intended agenda for that date.

There was consensus among the Commissioners for a June 23rd Joint Meeting, at 7:00 p.m. There was further consensus to invite planner Joel Freeman.

(continued)

Relative to the pending variance request, the consensus was not to set a hearing date until the joint Commission & P&Z deliberations were completed.

PUBLIC COMMENT

A resident said she was confused as to whether the joint bodies had considered all the options or not. She said she thought that they had, but agreed that if there was more information forthcoming, then she would support continued discussions.

A member of the P&Z Board said she would like to see Ch. 82 discussed at the joint meeting, also.

PRESS COMMENT

A member of the press asked if P&Z members could speak among themselves regarding a variance request that had already been approved. City Attorney Jim Dye confirmed that they could.

ADJOURNMENT

MOTION: Commissioner Linda Cramer moved to adjourn the meeting, seconded by Commissioner Duke Miller.

Vote: All Ayes. Motion carried.

The meeting adjourned at 8:53 p.m.

Respectfully submitted,

Alice Baird
City Clerk

Date Approved: 6/26/03