

**MINUTES
COMMISSION WORKSHOP
CITY OF HOLLY HILL, FLORIDA**

OCTOBER 10, 2006

1. CALL TO ORDER

Mayor Roland D. Via called the workshop to order in the conference room at City Hall, 1065 Ridgewood Avenue at approximately 9:35 p.m. Attending with Mayor Via were Commissioners John Penny, Gilles Blais, Mark Reed, and Traci A. Anderson. Also attending were the following staff members: City Manager Joe Forte, Assistant City Attorney Scott Simpson, Community Development Director/City Planner Doug Gutierrez, Building Official Tim Harbuck, and City Clerk Valerie Manning.

Also attending: Jim Legary, Dan Daugherty, and Steve Smith.

2. ACCESSORY STRUCTURES

Doug Gutierrez, Community Development Director/City Planner, gave a brief presentation regarding accessory structures. Mr. Gutierrez mentioned that he went through all the land development codes of various cities to see what they have in regards to accessory structures. There are provisions for accessory structures whether its garages or living units. Mr. Gutierrez asked the Mayor and Commissioners to look through the handout on accessory structures and to give staff direction on which way they want them to go. Daytona Beach has an interesting classification called *Transition Classification* and this is where a single-family district is transitioning to a more type of multi-family rental.

Mr. Forte stated the concern that staff has is that in many cases somebody will convert a garage into a living unit. The last time they had a workshop it was mentioned that they would allow that to happen if it stayed out of the setback; if it was in the buildable area. But if they allow that to be a living unit, is it only for somebody that is of that household or a relative of that household or is it something that they are going to rent out to *anyone*? If they rent it out to anyone, his opinion is, it becomes more offensive than the flag lot issue because now they have two families living on one parcel. If they allow people to live in these converted sheds and garages, are they opening it up to anyone or are they just opening it up to family members and if it's just family members, how would they regulate it?

Commissioner Penny asked how are they going to prove that they are not really second cousins, twice removed?

Mr. Gutierrez stated it's difficult.

Tim Harbuck, Building Official, agreed with Mr. Gutierrez in that its difficult to tell if they are related or not.

Mr. Forte stated it's a policy issue.

Commissioner Reed gave a description of his next door neighbor's house with the two car garage with an apartment upstairs. That is supposed to be one person's house with one garage back there. That's the rules now, correct?

Mr. Forte stated, yes.

Commissioner Reed stated he has been there twelve years, that apartment has been rented out to two different people, front and back, almost the whole time. It really hasn't upset his life at all. There have been guests that have stayed there and there has been different uses at different times and it really doesn't hurt him.

Commissioner Penny asked does that detach structure meet with the setbacks. Is it far enough away from your house?

Commissioner Reed stated this is a huge lot and the setbacks are fine and the second structure is far from my home but the driveway they use is right on my property line. It hasn't caused a problem. No one in their neighborhood has ever complained that somebody living here is renting that house and somebody living back there is renting that apartment.

Commissioner Penny stated it sounds like they may be able to solve the problem if they allow them to build them but actually increase the required setbacks rather than going with the existing setbacks, if they are going to build this detach structure, now you have to meet some super setback. He doesn't know what that number is but it should be farther away.

Steve Smith, 1410 Riverside Drive, spoke briefly. He thinks the zoning laws are here to protect those who have invested in property and when they start compromising and allowing these structures that are supposed to be sheds and turned into living units, they can get into problems.

Attorney Scott Simpson stated they have one setback for an accessory structure that's not living, but if it's going to be living then they should apply the same setbacks as if it was a house.

Mr. Gutierrez stated that's a common theme of all these accessory uses is that if its livable then it has to meet the setbacks of a principal structure. Some of the cities will increase the size of the lot.

Attorney Simpson asked if they have maximum lot coverage.

Mr. Gutierrez stated, yes.

Mr. Harbuck stated another problem is, when they apply for a permit for an accessory structure, they are building what they call game rooms or recreational areas where they have a large open area then they might put in a bathroom and a little wet bar or something like that and that's fine but down the road they are going to convert that into a rental unit. That's one of the problems they are facing.

Mr. Forte asked what do they do about the occupancy of it. Is it relative or non-relative?

Attorney Simpson stated somebody building a recreation room, he would say it should be treated as a house. An accessory structure could be storage/garage but once they go to that next step...an easier thing for the City to say is if they are going to put a bathroom in there and make it so it has living facilities as opposed to pure storage, different regulations apply. Maybe on the application form for an accessory structure make the applicant specifically say if they have a bathroom or not and outline the *purpose* of it.

Mr. Harbuck agreed and mentioned that would eliminate a lot of this.

Attorney Simpson stated then the City would have in writing what they told the City the purpose was and have them check off is it going to have any living facilities.

Commissioner Reed asked what about home office.

Mr. Harbuck stated the way the City's current Ordinance is structured with regards to home offices, they can't have it in an accessory structure. It has to be *in* the house. In other words, whether they put in a bathroom or not, would determine what their setbacks are?

Attorney Simpson stated he thinks so. To try to say a bathroom...wash your hands but don't do anything more...at what point does it go too far and it's hard for you to judge that.

Mr. Harbuck agreed.

Attorney Simpson asked Mr. Harbuck if there is a way to let them know that it's okay for a wash-up sink but nothing more.

Mr. Harbuck stated, yes. They can do that. He would say a water closet is a good clue.

Commissioner Penny asked if staff has consensus on the setbacks.

Mr. Harbuck stated if they are going to allow a garage apartment or a living unit there, shouldn't they be the same as principal structure?

Attorney Simpson stated, yes.

Mr. Gutierrez asked if they wanted to limit the square footage.

Mr. Forte asked who can occupy it.

Commissioner Penny stated he doesn't know how they are going to enforce it.

Mr. Forte stated that's his point.

Attorney Simpson stated the other thing is, he doesn't know what the City's definition of "family" is.

Mr. Harbuck stated two or more people in or related by blood or marriage and the term may also include up to five unrelated people.

Attorney Simpson stated that's how they deal with it in South Daytona. The City may want to look at the definition of family and that would give the City the ability to be able to prove if somebody rented out the house to five *unrelated* people.

Mr. Harbuck stated, right. Because they had that problem, not in garage apartments or rentals, but in single-family homes.

Commissioner Reed asked are they talking about this tonight because there has been a problem or is it brought up because Mr. Gutierrez does a good job and he notices there is a hole in the Code.

Mr. Forte stated, no. This was brought up because the issue actually started with Steve Smith and another Mr. Smith and that's really what triggered it and staff found out that the City does have some problems where people have converted their garages and sheds into living units so staff wanted to get some direction from the Commission. Since the last workshop, staff gathered up some other information to now have this workshop. Is there *anything pending* right now that is a problem? Not anything that's been brought to his attention.

Mayor Via asked do they grandfather in, once this is established, do they grandfather in...

Mr. Forte stated it would be grandfathered.

Mayor Via asked whatever exists now.

Mr. Forte stated they are grandfathering something that was built illegally. Usually, when they grandfather something, they are grandfathering something that was legal at one time and you change the rules. Here they are trying to allow for something and they are going to grandfather something that was illegally constructed.

Mayor Via asked do we have any recourse to go backwards.

Mr. Forte stated, yes.

Attorney Simpson stated what they would do is take the position and say they have a nonconformity here that's not grandfathered in unless you prove to the City that it was legally done. It would be somewhat of a hardship probably and a little bit of a controversy.

Mr. Forte stated in a situation like Commissioner Reed's neighbor, they may be able to comply under their current condition and if they do then there's no problem. But in the other Mr. Smith's scenario, he would not be able to comply because he never received permission and permits to rent that and its five feet from the property line.

Mayor Via stated they are setting this rule now for future things but this doesn't relieve Mr. Smith's problem right now.

Mr. Forte stated other than, the other Mr. Smith built illegally. Steve Smith's neighbor, also Mr. Smith, was renting that shed out. He didn't have a license to do that and didn't have a permit to do it.

Mayor Via asked has he been stopped.

Mr. Forte stated several times.

Mr. Harbuck stated yes, he has been stopped.

Commissioner Anderson asked how many problems do they think they have in the City right now.

Mr. Harbuck stated he doesn't think they have that many. To his knowledge, maybe less than half a dozen that he knows exists. On Riverside Drive, garage apartments were a very common thing when those were built in the 1920s, 1930s, and 1940s, that was just an acceptable thing. Those on Riverside Drive, he knows they do it; they all know they do it and they've pretty much been doing it since the 1920s or 1930s. The problem he is having is issuing permits for these two-story accessory buildings with the garage on the bottom and when they go upstairs there is a nice game room with a bathroom, sink, a wet bar.

Commissioner Reed mentioned that there is one on Flomich.

Mr. Harbuck stated that's a perfect example and it's very attractive too.

Commissioner Penny asked how far is it from the property line?

Mr. Harbuck stated he thinks it's about 15 to 20 feet from the side. It's very attractive.

Mayor Via asked what if your wanting to do it on a lot where the house is not conforming to the current standards?

Mr. Forte stated your expanding a nonconforming use and they shouldn't be able to do that.

Mr. Harbuck agreed. They can't do that.

Mayor Via asked if they put an accessory structure in the back, does it have to equal the new setbacks or the setbacks from the original house?

Attorney Simpson stated, new setbacks.

Mr. Gutierrez asked whether its storage work or...

Mr. Harbuck stated, right. Regardless of what it is.

Mr. Gutierrez stated, okay.

Attorney Simpson stated it's a new structure.

Mr. Harbuck stated if they are going to amend the accessory structure part of the Ordinance, two things, esthetics (architectural value). They are buying these steel things that don't match anything and they look like commercial garages. He is hoping that they can address that as well because right now there is no way to stop them from doing that.

Mr. Gutierrez stated they should match or compliment the principal structure, no greater than 50% of the size of the principal structure.

Mr. Harbuck stated they have people building accessory structures twice the size of their home.

Mr. Gutierrez agreed.

*There was **CONSENSUS** from the City Commission to direct staff to the following: if there is going to be an accessory structure that is going to have any type of bathroom or other living type of facilities, it's going to have a residential home setback as opposed to an accessory structure setback; accessory structure is going to have to have the similar type of construction as the principal residence; staff is going to look at changing the definition of family to be more consistent with surrounding cities in terms of the number of unrelated people who can live there; and they are going to measure the setback from the nearest protrusion of the accessory structure (it may be the roof overhang or it could be a gutter) – whatever sticks out the furthest, that's what they measure it from.*

Mr. Forte stated by talking about the definition of family, are they defining who is going to live there?

Mr. Gutierrez stated or what makes up a family unit?

Mr. Forte stated even besides that, is it going to be rentable to people other than family? Is that what they are getting at?

Attorney Simpson stated understand that a “family” is going to be defined as a certain number of unrelated people living together. One of those unrelated people could be in the accessory structure in the back as a tenant.

Mayor Via asked what’s wrong with their current...

Attorney Simpson stated five is a lot.

Mr. Harbuck stated five is a bit much.

Attorney Simpson stated that’s a lot. That means they will need six unrelated people before they can actually say they have gone from a single-family to multi-family and they are talking about “unrelated” people.

Mr. Gutierrez stated maybe they should include stipulation that they provide adequate parking for that structure as well.

Attorney Simpson stated the enforcement issue they are getting into is if you go to somebody and you say to them they are renting and they say no they’re not, you have to prove it. If they let somebody stay for free or...how are they going to prove there is a rental relationship? He thinks the focus ought to be whether or not money changes hands or not, how many *unrelated* people are we going to allow in a single-family unit before we are going to say it’s multi-family and they have violated the intent of the single-family zone. I don’t care if you’re renting it or letting someone stay there or what the situation is, at some point it’s changed the character from single-family to multi-family.

Mr. Harbuck agreed and mentioned that five unrelated people is a bit much.

Attorney Simpson stated on the mid-max size for an accessory structure, his suggestion would be for them to go back and look at the definition of coverage so that they can make sure it includes accessory structures in that definition and he thinks that will take care of it.

Mr. Forte asked how many accessory structures are they going to allow on the property.

Attorney Simpson asked how many do they have now. Do they limit it?

Mr. Harbuck stated no, as many as they want as long as they meet the setbacks and don’t exceed the lot coverage.

Mr. Forte stated on a big piece of property you can have three, four...

Mayor Via stated absolutely because one can be a living quarter, one could be a garage and one could be just a storage shed.

Mr. Forte stated, or three could be living quarters.

Commissioner Penny stated he thinks they should limit it to one additional living.

Commissioner Anderson stated but then they have to prove that they are living it and then your right back to...

Attorney Simpson asked does the City have any that have more than one accessory structure.

Mr. Harbuck stated, yes. They have some that have small 8 x 10 or 10 x 10s in the backyard.

Mr. Gutierrez stated they should define sheds versus accessory structures – under 200 square feet; they have nothing along those lines.

Attorney Simpson stated they will come back with something on that issue.

3. DENSITY BONUS CRITERIA

Mr. Forte stated the density bonus came in, in regards to Marina Grande. There's a lot of discussion over increasing the density and giving a bonus of 20 down there and that it has a 35 unit density now. What they have to remember is that the City created the 35 unit density. It was a regular CC-1 zoning and when the City established the Mixed Use criteria, that established a Commercial to Residential ratio and it allowed for the 35 unit density and then the City increased that density by offering the bonus to 20 which brought it up to 55. Prior to that, the City never had...he doesn't think it was anything more than 10 or 12 units per acre.

Mr. Gutierrez stated Daytona Beach has density bonus but it's specialized. It's affordable housing and hospital districts.

Commissioner Reed stated the way he sees it, Holly Hill has the most density bonus of any other city.

Mr. Gutierrez stated 50%.

Commissioner Reed asked how did they get 55 from that math? How is 35 and 17½ add up to 55?

Mr. Forte stated he asked what 50% of 35 was.

Mr. Gutierrez stated bonuses are for affordable housing and in their hospital HM (Hospital / Medial) district, basically for care for life facilities, they can go up to 80 units per acre.

Mayor Via stated the City has 35, and he thinks Commissioner Reed's question on the table was, if the City does anything greater than 35, the City has to get more for it.

Commissioner Reed stated, absolutely. It's the only reason he is here. Because the City didn't get anything for the Marina Grande project and he is here to try to get something better out of this.

Commissioner Anderson stated she thinks 35 units per acre is high enough. Referring to Holly Hill, number one says *innovative and high quality design*, if they are going to build something your not going to come in here and build some kind of shed. The other thing is, *enhanced landscaping along public rights-of-way*, they are going to come in and do landscaping. It looks like the City is paying bonuses and stuff like this for things that they are going to do anyways.

Commissioner Reed stated, right. That's the whole reason they are talking about this.

Commissioner Anderson stated she doesn't think that they need it because they have enough density in this City.

Mayor Via stated for *a minimum of three stories and three uses*, that's where the public use comes in and where the retail comes in. The density is 35 but what's in question is if someone came to the City and had a compelling reason for doing more than 35, the City has to get something back for it. With the current zoning, they are allowed up to seven (7) stories along Ridgewood Avenue. He doesn't want super tall structures up and down Ridgewood Avenue. He thought the one would anchor the end of the town and would be okay but at the same time if the City finds out that the Master Plan is going to call for the shorter structures and the mixed retail, he doesn't even know if this density bonus will ever be used because it's Mixed Use.

Commissioner Anderson stated that's what she is saying.

Attorney Simpson stated it gives the City the ability to be more restrictive.

Commissioner Penny asked would it be prudent since most of their development or redevelopment will probably be in their CRA district?

Commissioner Anderson stated they will have to look around and see because they had that big development over there, The Charleston, and then they are going to have The Mirage which is another big development.

Commissioner Penny stated with some of these criteria's, they may be ahead of themselves in trying to readjust these because if they get through this Master Plan and we say we want more widgets, if the developer comes in and gives them more widgets then the City would give them a bonus. Whatever the City's direction is as a community they may be able to tie some of that direction into having developers pay for it.

Commissioner Reed stated what he would like to see is criteria to get a bonus is something substantial that this City spends a lot of money on. If it were the Marina Grande coming to the City again, he would like for them to spend a lot of money on the City's sewers and the infrastructure because that's where the City needs it.

Attorney Simpson stated one issue there is they have impact fees. If it's an issue of dealing with impact fees, the City has, in essence, set up impact fee structures to pay for what they are doing. His suggestion would be to tie it to something that doesn't have an impact fee.

Commissioner Penny stated the one thing he keeps hearing is the Mixed Use. The City's Mixed Use definitions are pretty slim. If they are going to do a density bonus, the Mixed Use needs to be a ratio, a greater ratio.

Mr. Forte stated there are three Mixed Use classifications but one is heavy residential and the other is heavy commercial and he isn't sure what the third one is because what Mr. Gutierrez had quoted in here, is actually out of Mixed Use II and III. Mr. Buchanan did the Mixed Use II and III; Mixed Use I are for 20 units.

Attorney Simpson stated he thinks they call it a residential base.

Mr. Forte stated one is a residential base Mixed Use and one is a commercial base Mixed Use.

Commissioner Penny stated at some point there has to be an incentive. He thinks there would be nothing better for us today than to have people living on Ridgewood Avenue, in these three and four story buildings.

Commissioner Anderson stated she thinks that is a good idea. She is just worried about...when they have so much land and they use the land, there is only one way to go and that's up and that's her worry.

Jim Legary, 342 Burleigh Avenue, stated one of the criteria for this stuff that he was talking about earlier tonight, is that they have some kind of public transportation system available and that they have a truly, self-contained operation so that they have the grocery store in there and they have the barber shop and they don't need large areas. The grocery store man that he spoke with said that you can do that in the surrounding area with 12,000 square foot which is something like half the size of Publix. But they need to have the public transportation and certainly, Ridgewood Avenue would be the corridor for that.

Commissioner Penny asked how many living units are up in the European Village. Someone can build that here with that density...they wouldn't require a density bonus to build that here.

Commissioner Reed stated he wants something that the City gets a physical, tangible, material, something solid not some vague concept.

Attorney Simpson stated there are two things that they can say, they can put a phrase in here that says the amenities for density bonus *does not* have to be site related. Secondly, they can put any other public benefit that the Commission deems acceptable.

Mayor Via stated that's good.

Commissioner Reed stated that's a good start.

Attorney Simpson stated it's hard to say what the City wants because you don't know.

Mayor Via asked can they say above a certain amount that it's so many dollars a square foot or...

Commissioner Penny stated no because then they are buying the density.

Mayor Via stated but by buying the density the City has dollars and cents to use anywhere, anyway in the City.

Attorney Simpson stated if someone decides to make that offer, the City can always deal with it then but he wouldn't put that in an ordinance or anything. He will come back with some language with rigidity.

4. SENATE BILLS 444 & 360 / COMPREHENSIVE PLAN UPDATE (EAR)

Mr. Forte stated the purpose of this was just to allow Mr. Gutierrez to give an update on where the City is at with the previous EAR which is the evaluations and appraisals report and the next one.

Mr. Gutierrez gave a brief summary of the SB 360, SB 444 and the Comprehensive Plan (EAR). He has done the amendments and is currently working on the analysis portion of it. He is going to send DCA the amended Comp Plan, the elements, based on the recommendations on the 1997 EAR with updated information but basically in raw data. He went through the EAR and amended the Comp Plan based on the recommendations and he had to tweak it a little bit more because some of them were dates specific and it was way past that date. A lot of these issues that the City had are no longer issues because they have been addressed. The reason they couldn't do it this year is because they ran out of the two windows of opportunity for so many large scale amendments so he is looking at November/December in submitting it to DCA which would constitute their first cycle for 2007. Based on what the DCAs report comes back as, he anticipates the City will probably get its sanction lifted in the Spring.

Commissioner Penny stated once they lift the sanction, are they still limited to two per year?

Mr. Gutierrez stated for large scale amendments.

Attorney Simpson stated the amendments that they have to comply with SB 360, those are exempt from the two per year.

There was brief discussion amongst staff and Commissioners regarding the Capital Improvements, water supply, school concurrency, and transportation.

In other discussions, Mr. Forte informed the Commissioners that Mr. Rainey left a message for him that he was out getting prices for fencing for the property located at 3rd Street and Ridgewood Avenue. Commissioner Penny brought up the gentleman who runs the oil changing business on the corner of LPGA Blvd. and Ridgewood Avenue promised that he was going to put a fence up on his lot and Commissioner Penny hasn't seen anything yet.

There was some discussion about absences on Boards and the rule stands according to Resolution 2000-R-43.

5. ADJOURNMENT

The workshop officially adjourned at approximately 11:20 p.m.

Attest:

City of Holly Hill, Florida

Valerie Manning
City Clerk

Roland D. Via
Mayor