

**MINUTES — APRIL 11, 2023
CITY OF INDIAN ROCKS BEACH
REGULAR CITY COMMISSION MEETING**

The Indian Rocks Beach Regular City Commission Meeting was held on **TUESDAY, APRIL 11, 2023**, in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

Mayor-Commissioner Kennedy called the meeting to order at 6:00 p.m., followed by the Pledge of Allegiance and a moment of silence.

PRESENT: Mayor-Commissioner Joanne Moston Kennedy, Vice Mayor-Commissioner Jude Bond (left @ 8:35 p.m.), Commissioner Denise Houseberg, Commissioner Joseph D. McCall, Commissioner Lan Vaughan, and City Manager Gregg Mims.

OTHERS PRESENT: City Attorney Randy D. Mora, Finance Director Daniel A. Carpenter, CGFO (left @ 6:45 p.m.), City Clerk Deanne B. O'Reilly, MMC, PCSO Captain Michael Leiner, Fire Chief Jeffrey Davidson, Planning Consultant Hetty Harmon, AICP, and IT Consultant Matt Sabella.

(To provide continuity for research, items are listed in agenda order, although not necessarily discussed in that order.)

1A. REPORT OF Pinellas County Sheriff's Office. No Report.

1B. REPORT OF Pinellas Suncoast Fire & Rescue District.

Fire Chief Davidson presented the fire district's report for March 2023.

1C. PRESENTATION OF the Annual Comprehensive Financial Report for the Fiscal Year Ended September 30, 2022, by Moore Stephens Lovelace, P.A.

Joel Knopp, CPA, Stakeholder of Moore Stephens Lovelace CPAs & Advisors, presented the Annual Comprehensive Financial Report for the Fiscal Year Ended September 30, 2022, and stated the city is in a very good financial position and has no debt.

2. PUBLIC COMMENTS.

Kelley Cisarik, 448 Harbor Drive South, stated the Florida House of Representatives Ways and Means Committee will meet tomorrow on HB 833, Vacation Rentals, the companion bill to SB 714, Vacation Rentals.

Ms. Cisarik stated the Appropriations Committee on Agricultural might hear SB 714, sponsored by Senator DiCeglie, on Tuesday, April 18, 2023.

Ms. Cisarik stated she has been asking for a faster unit than a fire truck for about five or six years. She noted this transport unit would allow a paramedic to respond from that unit and go directly to the hospital.

John Pfanstiehl, 448 Harbor Drive South, thanked the city attorney for informing the beach mayors at the BIG-C Meeting about Senator DiCeglie's bill, SB 714. He stated HB 833 mirrors SB 714, which is being heard and voted on tomorrow. These bills would erase all the STRs regulations the city commission has worked so hard to implement. There would be no rules to speak of. The city's senator, Senator DiCeglie, betrayed the city with SB 714. He threw cities, families, and seniors under the bus. The city needs someone in Tallahassee to represent the city — a lobbyist.

At the last meeting, **Don House, 2104 Beach Trail**, stated that the mayor made a nice presentation concerning her trip to Washington, D.C., regarding beach renourishment. There was a photo from the trip with several people, but anybody that "actually lived on the beach" was missing from that photo. Some of them that "actually live on the beach" went to the Pinellas Board of County Commission Meetings, which he did. He said that they requested a meeting with the county commissioners for two years to plan an attack plan for how they could get the beach renourished. The problem was he spoke, and then someone else spoke, and County Commissioner Long told them that they did not need to listen to their experts because the county had their experts.

Tom Wilson, 444 Harbor Drive South, stated the city does not have a lot of money coming in and suggested the city commission might want to consider implementing parking fees. He is all for having no parking on the side streets except when there is a city or a civic organization event. The city has an over saturation with short-term vacation rentals. Eventually, the bubble is going to burst.

Elizabeth McMullin, 481 Harbor Drive South, stated there are grass flats between 20th Avenue and Harbor Drive South in the harbor where the manatees feed. There are boaters and wave runners that go over this area at high speed and get stuck in this area scaring up the grass flats.

Ms. McMullin stated she reached out to the Florida Fish and Wildlife Conservation Commission (FWC) and asked them to improve the signage for the area. The FWC reviewed the area and said the area was adequately marked in accordance with the rest of the state. She asked the FWC what else can the residents do. The FWC suggested that residents put signs on their docks to encourage people to understand that there are manatees in this area and to slow down. She stated signs are available for free from Save the Manatee; however, she has been waiting three months for her sign. She purchased a sign for \$27.75 plus tax from Osburn Signs in St. Petersburg, which issues the signs for the rest of the Intracoastal. The sign is 24" X 30", pre-drilled, aluminum, and illuminated.

Phil Wrobel, 112-13th Avenue, complained about the lack of enforcement of golf carts on Gulf Boulevard. It has been something that he has been complaining about for years, and it seems to be getting worse.

Cynthia Espiritu, 207-23rd Avenue, stated that current and future decisions should consider property owners' rights and not just residents' rights. As a result of not living here full-time, property owners are restricted from voting for city commissioners. But regardless pay a significant amount of property taxes for the property they own in Indian Rocks Beach, which results in a scenario of taxation without representation at a local level

3A. REPORT OF the City Attorney:

City Attorney Mora stated he appeared before the Barrier Islands Governmental Council (BIG-C) and gave a presentation that was intended to be specifically on SB 714 and inquiries made by some of the members there, it became a broader discussion of the legislative session.

SB 774, Financial disclosure form. Require all municipal mayors and city commissioners of a municipal governing body to file an annual Full Disclosure of Financial Interests (Form 6) with the Florida Commission on Ethics. These individuals are currently required to file only a Limited Disclosure of Financial Interests (Form 1). Form 6 filings are of a heightened level of disclosure. Form 6 requires filers to report their net worth, assets, and liabilities. The filer must report the specific identification and value of each asset which exceeds \$1,000 in value and provide the name and addresses for the creditor for each liability which exceeds \$1,000 in amount and its amount and must submit a statement of the value of the reporting person's net worth as of December 31 of the preceding year or a more current date.

SB 102, Affordable housing. Citing this act as the "Live Local Act"; deleting the authority of local governments to adopt or maintain laws, ordinances, rules, or other measures that would have the effect of imposing controls on rents; providing an exemption from ad valorem taxation for land that meets certain criteria; authorizing local governments to

adopt ordinances to provide an ad valorem tax exemption for portions of property used to provide affordable housing meeting certain requirements; suspending, for a specified period, the General Revenue Fund service charge on documentary stamp tax collections; authorizing the Governor, under the Florida Job Growth Grant Fund, to approve state or local public infrastructure projects to facilitate the development or construction of affordable housing. This bill has been signed by the governor.

SB 170. Local Ordinances. This bill would require a governing body of a municipality to prepare or cause to be prepared a business impact estimate before the enactment of a proposed ordinance. It also authorizes courts to assess and award reasonable attorney fees and costs, and damages in certain civil actions filed against local governments. The bill requires a municipality to suspend enforcement of an ordinance that is the subject of a certain legal action if certain conditions are met; provides certain procedures for continued meetings on proposed ordinances for municipalities, etc. This ordinance takes effect on October 31, if passed.

SB 714/HB 833, Vacation Rentals. This bill is scheduled to be heard by its second of three committees in the house this week. He thereafter provided a brief review of SB 714.

3B. REPORT OF the City Manager:

CODE ENFORCEMENT REPORT FOR MARCH

- 87 Parking Citations Issued
- 13 Violation Letters
- 5 Notices to Appear

CAPITAL IMPROVEMENTS PROJECTS

- The Bay Boulevard Reconstruction Project from 23rd Avenue to 27th Avenue is complete.
- Kolb Park Tennis/Pickleball Court Fence Project
The Kolb Park Tennis/Pickleball Courts will be closed from April 13th to May 5th for the installation of a new fence around the tennis/pickleball courts.

3C. REPORTS OF the City Commission:

COMMISSIONER McCALL:

- Stated Beachfest will not happen this year. But the HOA is working on different solutions and fundraising ideas as they move forward, given some challenges with that event.

MAYOR-COMMISSIONER KENNEDY:

- Stated the city is still working on the beach renourishment, and as she gets more information, the city commission will be advised.
4. **ADDITIONS/DELETIONS.** None.
5. **CONSENT AGENDA:**
- APPROVAL OF the March 28, 2023, City Commission Investiture Ceremony Minutes.**
 - AUTHORIZING the City Manager to enter into contracts for special magistrate services.**
 - ACCEPT/FILE the Annual Comprehensive Financial Report for Fiscal Year Ended September 30, 2022.**

City Attorney Mora read the Consent Agenda, consisting of Agenda Items Nos. 5A through 5C, by title only.

MOTION MADE BY COMMISSIONER McCALL, SECONDED BY COMMISSIONER VAUGHAN, TO APPROVE THE CONSENT AGENDA, CONSISTING OF AGENDA ITEM NOS. 5A THROUGH 5C, AS WRITTEN. UNANIMOUS APPROVAL BY ACCLAMATION.

6A BOA CASE NO. 2023-03 — 2011-1ST STREET — RESCHEDULED
~~**CONSIDERING A VARIANCE REQUEST** from Sec. 110-344 (4) of the Code of Ordinance to allow for a pool to encroach 16 feet into the 25 feet front yard setback resulting in a total front yard setback of 9 feet to allow for a new pool, for the property located at 2011 1st Street, Indian Rocks Beach, Florida, and legally described as Lot 16, Block 54, Indian Beach Re- Revised, as recorded in Plat Book 5, Page 67, of the Public Records of Pinellas County, Florida. Parcel #01-30-14-42030-054-0010. **RESCHEDULED TO JULY 11, 2023**~~

7A. ORDINANCE NO. 2023-02 — FIRST READING.
 An ordinance of the city of Indian Rocks Beach, Florida, establishing a comprehensive regulatory scheme regarding the marketing and operation of short-term rentals within the city; creating a new Article V, "Vacation Rental Regulations," within Chapter 18 - "Businesses"; establishing a comprehensive ordinance regulating the registration, inspection, safety, and operation of vacation rentals within specified zoning districts in the city of Indian Rocks Beach; creating related definitions; making related findings; providing for codification, severability, and for an effective date.

City Attorney Mora read Ordinance No. 2023-02 by title only.

City Attorney Mora stated there had been several meetings on short-term vacation rentals since November 2022, some work sessions and some led by public comment, all very substantive. This ordinance had been workshopped by line review at least twice, and based on the consensus direction of the city commission as it was composed at that time, this is the product of that input.

City Attorney Mora stated one novel point raised in the last 24 hours in correspondence that the city commission received was an email raising the concern about interior drawing plans as potentially soliciting or setting the groundwork for copyright infringement claims to the design of a particular structure. He did speak directly to the individual who sent that correspondence. His legal analysis of the issue is it does not impede anything that the city is doing here. It is well-established that local jurisdiction as a function of permitting, safety, and otherwise, and regulation can require design specifications. The city commission can talk about how that language reads and what level of detail. The vision for that language was not that its layout where every single vase and table was going to be but rather to require the property owner to represent where the dimension is for purposes of identifying bedrooms and otherwise ensuring that the safety requirements of ingress and egress are satisfied. At least, that was the intention of the addition of that language. To the extent there is the potential for copyright or some other intellectual property violation that is entirely borne, most likely by a third party gaining access to public records and misusing those records in some fashion, that possibility always exists.

City Attorney Mora stated he had received renewed interest last week in the legislative impact of the Bert J. Harris, Jr. Private Property Act, memorialized in Florida Statute 70.001. There has been some suggestion that the Florida Statute was not given its due attention in this process. He would have to object to that representation if only to say he has tacitly and explicitly been referring to the Bert Harris Act since 2017. He has advised the city commission that potential claims exist with the parties' reasonable investment-backed expectations.

City Attorney Mora stated the Bert Harris Act was enacted in 1995. The Bert Harris Act creates a compensable claim for the diminution in value based on a specific act of government that diminishes a person's value based on that person's reasonable investment-backed expectation of a person's property.

Mayor-Commissioner Kennedy stated that she, City Manager Mims, Captain Leiner, and Sheriff Gualtieri met to discuss the short-term vacation rental ordinance and the enforcement of the ordinance.

Mayor-Commissioner Kennedy advised the sheriff that the residents felt the city had not enforced its codes. As the city goes forward, she wants to ensure the city can enforce this ordinance once adopted.

Captain Leiner stated the most significant thing that the sheriff brought up during the meeting was that the sheriff's office could enforce anything that the city wanted to be enforced. The sheriff was concerned that he did not want something out there that the city commission and the residents felt would be enforced, but for some reason, the sheriff's office could not enforce it.

Captain Leiner stated the way he looks at it when he responds to any of the city's inquiries, he is giving it an enforcement perspective. The first test, can the sheriff's office physically, do it? The second test is the equitable application of it, and that one is difficult. It is easily defined as an impartial application of it. However, it draws him into the city attorney's area. For example, it might be difficult for deputies to differentiate between residents and short-term vacation rentals concerning pools and hot tubs and who can and cannot be there after 10:00 p.m. However, this can be handled through the city's noise ordinance. He stated the deputies know how to deal with noise. The deputies can use reasonable person's standards or sound meters.

Captain Leiner stated it would be difficult to explain to deputies how to figure out if a vehicle parked on a roadway is related to somebody visiting a full-time resident or a short-term rental. Something like that would be referred to code enforcement.

Captain Leiner stated parking would also be difficult to enforce. The deputies would probably write a report and refer it back to code enforcement.

POOLS/WATER FEATURES DISCUSSION

Commissioner Vaughan stated the city commission wants to create an ordinance, and the goal of the ordinance is compliance.

Commissioner Vaughan asked that the city commission revisit the pool hours for short-term rentals to be placed back into the ordinance where the city has a definite switch. For the simple fact that if a person goes to a noisy house and the pool is supposed to close, and they are loud in the background, it is an effortless switch. It is straightforward to say they are not supposed to be outside; please bring it in. The sheriff's office received a call on noise rather than making multiple trips for someone who happened to remain in the backyard.

Captain Leiner stated the noise would be based on a reasonable person's standards. Anyone making loud noise past 10:00 p.m., whether resident or short-term renter, would be asked to leave their pool/hot tub based on the noise ordinance.

Captain Leiner stated from the perspective of hot tubs and quiet time hours, that is something the sheriff's office would refer to code enforcement for enforcement.

Mayor-Commissioner Kennedy stated there was a lengthy discussion about the pool because many residents were upset that the city commission deleted it from the ordinance. They were concerned about the enforcement of pool hours for short-term rentals. The sheriff stated it was not enforced after 10:00 p.m. and that he wanted her to reiterate that to the city commission and the public.

Commissioner Vaughan clarified that it would not be enforceable by the sheriff's office or the code enforcement division.

Captain Leiner stated many of those items are related to noise, and if there is a loud, obnoxious party going on next door, call the sheriff's office, and it will be taken care of.

Commissioner Vaughan stated one of his challenges through the residents he has spoken with is that it is not the call. It is the call this weekend, next weekend, and the following weekend. The call is when they have to get up in the morning and go to work the following day. It is a revolving door for many of the city's constituents. A pool hour seems like a solid way to shut it down consistently.

Commissioner Vaughan asked when the deputies cite someone for noise, are the deputies citing the person being noisy, and how is that going for work for the property owner.

Captain Leiner stated that the way he looks at it is the deputy would cite the person making the noise, then follow up with the city afterward for the repeat violations for that address. The deputies will not be dealing with that portion of the city code.

Commissioner Vaughan stated that some cities are using decibel monitors. Is that something that the city should look into, or is that something that is not enforceable?

Captain Leiner stated the city has a sound meter that the code enforcement officers use, and the sheriff's office also has sound meters.

Commissioner Vaughan asked if the city could require short-term vacation rentals to install sound meters outside their properties.

City Manager Mims stated Commissioner Vaughan refers to the equipment people install on their property to monitor noise levels.

City Attorney Mora stated he was asked to look into this but has not identified a jurisdiction that does it. But he is not saying the city cannot. The city can require the installation of that device. The question, of course, becomes the violation. There will not be the creation of sound; the absence of the device identified during any inspection is a violation.

Commissioner McCall stated he still believes in humans and thinks that 90% or more will comply if advised. He thinks the enforcement if the city gets tangled up in that, it is just a rabbit hole. The city cannot predict what that 10% will do. There will be trouble houses, loud tenants, parties, etc. It is the nature of the beast that the city commission is talking about. However, if it is not in the ordinance, the city cannot advise them. He does not think anyone should be peeking over fences to check to see who is in a pool. He believes that is taking the argument to the extreme. He feels that if the city says that someone is running a vacation rental business, this is what the city requires. The property owners must advise their renters to be out of the pool/hot tub by 10:00 p.m. Ten o'clock is not an unreasonable time.

Commissioner McCall stated that as an ordinance, this is what the city would like for the tenants visiting the city and staying in vacation rentals that they are out of the pools and hot tubs by 10:00 p.m. When it comes down, push comes to shove, and if someone is unruly and the sheriff's office becomes involved, it is because of noise. The sheriff's office will have a two-prong approach for vacation rentals: (1) too loud, noisy (the noise ordinance) and (2) no one allowed in pools or hot tubs after 10:00 p.m. (vacation rental ordinance).

Commissioner McCall stated he had a problem with this language before and asked how the deputies would make that determination. The city requires a sign to be posted in the front of the house, identifying it as a vacation rental home, so the deputies will know that they are responding to a vacation rental home.

Commissioner McCall stated he also had an issue with not requiring the same rule for all properties. He said vacation rentals are a business. Vacation rentals are a licensed business, like any other licensed business in the city; that is what makes the distinction. It is a house, possibly like the house next to it, but it is a licensed business, and the owner's determination made that.

Commissioner McCall stated, in his mind, those restrictions do apply. The city should have an ordinance to outline what the city expects. It is the owners' and tenants' responsibility to respect that. The city can go down the rabbit hole with enforcement and possibilities endlessly.

Commissioner Houseberg asked if the city could legally shut down pools at 10:00 p.m.

City Attorney Mora stated he is unfamiliar with an ordinance restricting using a pool after "X" hours at a vacation rental in a specific zoning district or town-wide. Can the city do it? The city can always do it. Are there risks? Yes, there are always risks. Is that an ordinary or customary regulation? No, it is not.

City Attorney Mora stated the broader question of how the city will do it, and likely, it will be primarily a noise issue from a deputy's perspective. As Commissioner McCall said, it is a one, two-punch. The noise brought the deputies there, and then they found that they were in the pool, which is all the more reason to persuade the group back into the domicile. For example, the other element of this is what if they are not in the pool but in the backyard sitting on the lawn furniture next to it. Is that the same issue? That is up to the city commission to decide what they are regulating. The backyard is a little different than a pool structure at a hotel, and the hotel does not permit their guests to be on a balcony.

Commissioner Houseberg asked Captain Leiner how many sound violations does the sheriff's office write in a month.

Captain Leiner stated he does not have that information with him; however, he would be more than happy to provide that information to the city manager. He does not think that there are that many.

City Attorney Mora stated that is a different question than how often the deputies have arrived at a property and informed somebody that they were being too loud. They lowered the music, even temporarily, but no violation was issued. They were issued a warning but not quite a violation. That question is more complicated than it might suggest. The violations tend to be sustained incidents. The idea of most code enforcement is compliance. The goal is to achieve compliance. The challenge that cities see with noise violations is that there is often a warning element. Code enforcement officers do not usually go out immediately and issue fines and citations.

Commissioner Vaughan stated Indian Rocks Beach is a small community. Many residents went directly to the STR owner, so no complaint record exists. He said in the next few months, the city will also be in a discovery mode to see how this ordinance plays out.

Commissioner Vaughan stated he would like the city commission to consider reinstating the pool hours in this ordinance.

Commissioner McCall agreed with Commissioner Vaughan.

Commissioner McCall stated that if the city provides the information, there will be very little non-compliance. But what can the city expect if the city does not ask for it and

educate? If the city does not educate the tourist or guests of the city, which the city loves, one of his goals when the city commission started this process, was to educate both the STR owner about expectations and the tourists and guests that keep coming to the city renewing every week. It is challenging to educate a new set of residents every week. In his mind, if it is in the ordinance, it is on the plaque, then the city can expect some reasonable part of acceptance by the guests. He stated that the sheriff's office can work on that for those who do not.

Commissioner Bond asked if the city would do that does it run afoul of any preemption that is being planned. But at the same time, Captain Leiner says enforcing noisy people in the pool would be challenging after 10:00 p.m.

Captain Leiner stated the sheriff's office has no problem enforcing a violation of the noise ordinance or a violation of the short-term rental as it references the noise ordinance. The sheriff's office will not enforce somebody in the pool after 10:00 p.m.

City Attorney Mora stated the city is not preempted by F.S. 509.032 on regulating whether people are present in the pool. That said, however, there may be other legal claims.

Commissioner Vaughan stated the goal of the ordinance is compliance. Suppose this language is reinstated that pools close at 10:00 p.m. The city is doing exactly what its boutique hotels do on the west side of Gulf Boulevard. The city will be doing what hotels have been doing for years and communicating it to short-term vacation rentals. Short-term rental owners can clearly communicate in their advertisements. So everybody knows that pools close at 10:00 p.m. in Indian Rocks Beach.

Commissioner Vaughan stated he agreed with Captain Leiner. He does not want the deputies to go out and be the pool police. Suppose there is noise from the backyard, and they are in the pool. In that case, the deputy will address the noise, code enforcement will get the report, and the STR owner will get fined for having the pool open after 10:00 p.m. through the city's code enforcement officer the next day.

Commissioner Vaughan stated communication is the key. The city has already made allowances for the resident owners to operate in their pools. He does not think they will be noisy because they live there full-time.

City Attorney Mora stated code compliance complaints could not be anonymous, barring some heightened standard that the city is unlikely to see in an ordinary context. For code enforcement officers to issue a notice of violation, they have to observe the violation.

Commissioner Houseberg stated it is not a swimming pool or hot tub problem. She does not think that is the source of the problem. She believes that noise is the problem. She

stated if the city had the right equipment to measure the sound or if the city could determine it was a sound violation, then that is what the city wants to manage. She does not want to stop a couple from having a glass of wine in the hot tub at 10:30 at night. She is not interested in stopping them from doing that on their vacation if they are not making noise. The city has to find a way to be reasonable. She stated if the city commission looks at this ordinance again next year and what the city commission put in place did not work at all, then the city will go to another level. But what the city is trying to manage here is noise.

Vice Mayor-Commissioner Bond said that limiting visitors will reduce the noise. Will the city have any issues with visitor limitations?

Vice Mayor-Commissioner Bond clarified with Captain Leiner that the pool hours would largely go unenforced unless it were noisy.

Captain Leiner stated they would enforce the noise ordinance.

Commissioner McCall stated with everything he had heard from Captain Leiner, he would be a no on the issue.

Commissioner McCall stated the city needs to be proactive and asked how the city can be proactive. He does not want everyone to be calling the sheriff's office every week. That is not a great existence if a person lives here.

Mayor-Commissioner Kennedy stated the sheriff would have a specific time to educate the deputies about this ordinance.

Commissioner McCall asked how the city educates its guests besides the posted placard in the vacation rental. But when it comes to noise, will the placard state the quiet time hours? How will the city proactively educate every guest who rents a vacation rental each week?

City Manager Mims stated the posting requirements, depending on what version of the ordinance is adopted, will have those provisions in there. Staff is reviewing decorative signage that would go into all the streets off Gulf Boulevard, reminding people that they are entering a neighborhood.

Commissioner Vaughan referred the city commission to Section 18-214(a): *"No Advertising Gatherings. No vacation rental may be advertised as an event venue for gatherings likely or intended to draw attendance in excess of the permissible occupancy and parking restrictions on the property such as weddings, corporate retreats, or film*

productions." He inquired if there is an option for the city commission to put something regarding quiet time hours starting at 10:00 p.m. in the community.

City Attorney Mora stated that language already exists in the required postings. However, it can be added to the required postings since it is his job to get work product that reflects the city commission's discussion. He is getting the impression that the consensus direction is not to restrict the hours of the water features, whether that be pool, spa, Jacuzzi, or hot tub, as it relates to the operation by short-term rentals.

THERE WAS NO CONSENSUS BY THE CITY COMMISSION TO REINSTATE THE WATER FEATURES (POOLS AND HOT TUBS) HOURS, WITH COMMISSIONER VAUGHAN OBJECTING.

City Manager Mims stated the quiet hours is also covered under Section 18-217(a) Required Postings At Unit Entrance, (d) Noise Disturbances. *"Notice of the need for respect for the peace and quiet of neighborhood residents, especially between the quiet hours of 10 p.m. and 7 a.m., established in this article."*

CONSENSUS OF THE CITY COMMISSION TO ADD STRICT QUIET HOURS BEGIN AT 10:00 P.M. AND END AT 7:00 A.M. IN THE ADVERTISEMENT REQUIREMENT.

OCCUPANCY

Vice Mayor-Commissioner Bond stated he is not opposed to limiting occupancy to 10 and asked if the city commission would grandfather in occupancy of 12 for the first two years.

City Attorney Mora stated in its current form within the districts that the ordinance applies to, not the CT zoning district, it will initially be 12 throttled down after one year to 10. When speaking about the Bert Harris Act, this is where the city commission received the most correspondence in the last week or so on a person's backed expectations in their properties.

Commissioner Vaughan asked where is the bedroom status coming from.

City Attorney Mora stated if the occupancy is # bedrooms times 2 plus 2 with a maximum of 10 and occupancy is directly linked to bedrooms, how is the city getting the number of bedrooms? In the ordinance, as it exists, that is secured through the inspection process, and also part in parcel to that inspection process is the disclosure of the interior plans.

Commissioner Vaughan stated he is okay with leaving it where it is. However, in the Flagler County Ordinance, under vesting, there is the following sentence: *"For those owners that desire a higher vesting occupancy and/or different vesting schedule, the*

owner of the property may make an application for consideration of an alternative vesting benefit." He asked if that language would help the city defend against Bert Harris's claims.

City Attorney Mora replied yes and stated any opportunity for somebody to be given due process to avail themselves of their asserted property rights is better than no process.

Commissioner McCall stated he would like to increase the vesting period to two years, and he is okay with the # of bedrooms times 2 plus 2 with a maximum occupancy of 10.

Commissioner Vaughan stated he is okay with # of bedrooms times 2 plus 2 with a maximum occupancy of 10.

Commissioner Bond stated he is okay with # of bedrooms times 2 plus 2 with a maximum occupancy of 10. However, he would like to extend the vesting period beyond one year.

Commissioner Houseberg stated the # of bedrooms times 2 plus 2 with a maximum occupancy of 10 is suitable. She said the city is trying to regulate party houses, and in 2020, Airbnb temporarily banned party houses for up to 16 people. Still, since then, they have indefinitely banned party houses on Airbnb. She asked if the city would put anything in the ordinance banning party houses.

Commissioner Houseberg stated she is okay with extending the vesting period to two years.

THE CONSENSUS OF THE CITY COMMISSION IS TO INCREASE THE VESTING PERIOD FOR TWO YEARS FOR THE OCCUPANCY RESTRICTION UP TO 12 OCCUPANTS FOR THE TWO YEAR PERIOD AND THEN THROTTLED IT DOWN TO 10 AFTER TWO YEAR PERIOD, WITH MAYOR-COMMISSIONER KENNEDY AND COMMISSIONER VAUGHAN DISSENTING.

PARTY HOUSES

Commissioner Houseberg stated the ordinance does not address party houses and that the city wants to ban party houses.

City Attorney Mora stated he does not know if the city can aptly define a party house in a way that is not vague enough to capture an amorphous series of events. If a party house is defined by the volume of citations and notices of violations adjudicated to be violations, this ordinance covers that. If a party house is defined by its occupancy, the city commission just spoke to that. If a party house is defined by noise, the city has provisions that speak to that. He stated he is very cautious of using what is otherwise a colloquial phrase in a legal way.

Commissioner Houseberg stated she was interested in defining party houses because Airbnb did not. Airbnb said they would not support party houses on their platform, yet the city still has them.

Commissioner Vaughan asked if Airbnb has a definition for a party house. He also stated that the city had not set a maximum occupancy during the daytime for vacation rentals.

City Manager Mims stated the only way other cities enforce this is through advertisements of vacation rentals because they have contracts with host compliance companies, which is where the city is headed. It is in their ordinances, but it is strictly enforced through reviewing advertisements online by the host compliance companies.

City Attorney Mora stated that Airbnb is not a governmental entity, which means they are not subject to the same constitutional challenges to its policy.

City Attorney Mora stated Airbnb's definition of a party house or community disturbance policy: *"It is important to those who use Airbnb are respectful of local communities. That respect includes trying to avoid disturbing neighbors with disruptive parties, events, noise, or other disruptive behaviors and actions. This policy covers our ban on disruptive gatherings and other community disturbances during listing stays or experiences. Parties and events: Disruptive gatherings are prohibited regardless of size. What we don't allow? Disruptive gatherings. Open-invite gatherings. Disturbances to the surrounding community such as excessive noise, excessive visitors, excessive trash, smoking nuisances, parking nuisances, trespassing, vandalism, and advertising listings as party or event-friendly. Unauthorized Party Intervention: We are committed to safe and responsible travel, and reducing the number of unauthorized parties at Airbnb listings has long been a priority. To help us achieve this, we take action, and may block certain reservations that we determine to be higher risk for unauthorized parties."*

CT ZONING DISTRICT

Commissioner McCall stated this ordinance is about a business operating inside the city just like every other business that operates in the city. Any business owner here has to comply with the city code. He does not care if it is a restaurant, a bar, or anything. He feels what the city commission is talking about and what the city commission is enacting is in good faith with these businesses. When he started this path six-plus months ago, his objective was to address safety, the well-being of the community, and the education for the city's residents and guests coming here that are the life and blood of the city's businesses.

Commissioner McCall stated he does not care what side of Gulf Boulevard a person lives on. If the city's true goal is safety and the well-being of the city, and education, why does it matter which side of the street a short-term vacation rental is on? Transient housing is transient housing no matter where it lands. He was opposed to this in the beginning. He has gotten a little more information since then. One of his concerns with the CT zoning district, he thought there was much more commercial business on that side of the street — he had no data. Now he has data. According to Forward Pinellas, 98% of the living units on the west side of Gulf Boulevard are residential. He does not see a difference between the folks living there. What should the noise and safety expectations be? What should their occupancy be with a bit of variation, and the educational requirements and posting, as the city commission has talked about, not any different for someone staying on the west side of Gulf Boulevard than the east side of Gulf Boulevard? When it comes to cleaning up on the beach, the turtles, being stewards of the beach and waters, are more closely impacted than anyone. Even though there are some commercial interests on that side, he does not feel that the city commission should distinguish between the east and west sides of Gulf Boulevard. The city needs to provide a level playing field.

Vice Mayor-Commissioner Bond stated he is alright about rolling back the CT zoning district into the ordinance. His question is how would that affect individual condo units that rent; do they go through the same scrutiny and registration process?

City Manager Mims stated that if the CT zoning district is placed back into the ordinance when city staff does the paperwork needed to implement this, there will be differences in the posting. This is a policy decision by the city commission, but from a professional standpoint, a vacation rental is a vacation rental.

City Manager Mims stated that adding the CT zoning district to the ordinance will affect the city staff. He said if the city commission goes with a city-wide approach, there will be a lot of paperwork, tracking, and receiving of the information, going through it, and making sure that all the information is there. He stated at a minimum; the city would need an additional clerk person to be involved in that process.

Fire Chief Davidson stated the fire district is working on an ordinance requiring annual inspections for all vacation rentals within the jurisdiction of Indian Rocks Beach under the Florida Fire Prevention Code for life safety issues.

Commissioner Vaughan stated he has no problem putting the CT zoning district back into the ordinance.

THE CONSENSUS OF THE CITY COMMISSION IS THAT THE ORDINANCE ALSO APPLIES TO STRUCTURES USED AS VACATION RENTALS WITHIN THE CT - COMMERCIAL TOURIST ZONING DISTRICT. SECTION 18-20, SCOPE.

PARKING — SEC. 18-218

Vice Mayor-Commissioner Bond stated he was weary of people overbuilding parking. Anything with six bedrooms probably has space on the lot for six parking spaces, and it seems like a minimum requirement to him.

Commissioner Vaughan stated the minimum parking for vacation rentals should be one space per bedroom.

Commissioner McCall stated the city requires one parking space per bedroom for bed and breakfasts, which are considered transient housing.

City Manager Mims stated in the CT zoning district, the city commission would need to tweak the parking language for condominiums and multi-family dwelling units.

Commissioner McCall stated in the original draft, there was an exemption for condominiums.

City Attorney Mora stated the previous draft language was as follows: "This provision shall not be construed to require the modification of any existing parking infrastructure of any condominium property in the city's CT zoning district, where the condominium property contains units lawfully operating as short term vacation rentals. In such instances, the unit owner shall ensure any designated parking spot or allocation made for the subject unit remains vacant and accessible for its guest. Such spot or allocation shall be described and identified in the parking plan submitted with the rental registration."

City Manager Mora stated SB 714 allows municipalities to regulate parking as part of short-term rentals. However, a city can only do so in a manner identical to how a municipality regulates it for all other residential properties. That is one way this may change depending on what the legislature does or does not do.

City Attorney Mora stated another issue on the parking element is that the city would have to make provisions for parking enforcement, which is a requirement of the owner that they have the parking spaces. That is not a requirement that somebody park in those parking spaces. The challenges the enforcement personnel may face when a car is on the street will be determining what car belongs to what house. Parking is going to be an administrative enforcement level concern that the city commission is talking about is the requirement of what is provided, not necessarily of how it is used.

THE CONSENSUS OF THE CITY COMMISSION WAS ONE PARKING SPACE FOR EVERY BEDROOM FOR VACATION RENTALS.

EXTRA GUESTS DURING THE DAY

Commissioner Vaughan stated he wanted closure on extra guests during the day at vacation rentals before the sleep hours.

City Attorney Mora stated there had been a narrative characterization discussion around this issue. The city code, either under temporary use or special use permits, states that a gathering of more than 49 people requires a permit. This permit is ordinarily used toward weddings on the beach and larger gatherings with limited exceptions.

City Attorney Mora stated enforcement would be challenging. It can be regulated, but it would be hard to enforce.

Commissioner Vaughan clarified that some communities regulate extra guests during the day.

City Attorney Mora stated the extent that he is aware of any community that regulates occupancy. He is unaware, except for extreme instances of actual prosecutions of occupancy violations, unless it is documented or the owner admits to it.

Commissioner Vaughan asked how other cities enforce occupancy.

City Manager Mims stated occupancy is usually enforced through a host compliance company that reviews advertisements on the internet, which is forwarded to the city for further investigation.

Mayor-Commissioner Kennedy opened the public comments.

John Pfanstiehl, 448 Harbor Drive South, stated on maximum occupancy that the current wording specifies overnight occupancy. He suggested that the word "overnight" be deleted from maximum occupancy. He asked if it is a vacation rental, did these visitors come for a vacation, or did they come to party. He stated the significant thing is the number of people coming in. In the Harbor Drive neighborhood, there are over 30 short-term rentals, so approximately 11,000 strangers drive up and down going through that neighborhood every year—eleven thousand instead of the 70 residents that they displaced.

Sec. 18-27. Minimum safety and operational requirements and limitations.

(b) Noise and Quiet Hours Limitations

- (4) *Amplified Sound Restriction.* Using or operating for any purpose any amplified sound between the hours of 10:00 p.m. and 7:00 a.m. of any day, not in a completely enclosed permanent structure is prohibited if it produces or reproduces sound in such a manner as to annoy, disturb, injure or endanger the comfort, repose, health, peace, or safety of a reasonable person of normal sensibilities or is in excess of the decibel levels set forth in section 18-217 (b)(3). This provision shall not apply to amplified sound for which a permit pursuant to subsection 26-33(b) has been issued by the city.

Mr. Pfanstiehl stated on outside amplified sound, if the city commission strikes this language from the ordinance, "if it produces or reproduces sound in such a manner as to annoy, disturb, injure or endanger the comfort, repose, health, peace, or safety of a reasonable person of normal sensibilities or is in excess of the decibel levels set forth in section 18-217(b)(3)." It would mean that they could not have outside amplified music, which gets rid of many problems and is so easy to identify.

Eric Phillips, Trinity, Florida, inquired if a PE stamp would be required on the exterior drawing plans requirement or could the STR owner submit a hand-drawn plan that would suffice with the inspections and the fact that the inside of their house was posted all over the internet.

Beth McMullin, 481 Harbor Drive South, stated she lives toward the end of Harbor Drive South cul-de-sac, where several large houses have been converted to short-term rentals. Understand that she has lived in this neighborhood for 31 years. She makes this point so the city commission can recognize that this transition is compatible with what is occurring elsewhere in the city. Even IRB streets filled with predominately smaller homes have the potential to be torn down and rebuilt in this short-term rental atmosphere to accommodate much larger square footage. At the end of this cul-de-sac, with this in mind and this deep market investor thirst for residential homes in IRB, she believes it is only a matter of time before smaller homes in and around IRB are torn down and rebuilt to increase occupancy and offer a competitive edge for their short-term rentals.

Ms. McMullin said she vehemently disagrees with any tax dollars used for a call center for short-term rentals. Short-term owners should monitor their properties, not at the city's expense.

Adrianna Dauses, 2008 Gulf Boulevard, the Gulf Breeze Inn, stated she is confused about why the CT zoning district was put back into the ordinance. The reason is that the motels/hotels must follow very different rules, regulations, and life safety standards that residential short-term vacation rentals do not have to follow. There are no complaints about the hotels/motels within the CT zoning district because of all the rules. The short-term rentals in the residential areas do not realize how many rules and regulations the hotels/motels in the CT zoning district must follow.

Gary Huggins, 814 Beach Trail, stated he just became a little triggered when he heard the CT zoning district was coming back into this residential mess that is going on.

Mr. Huggins stated he understands the problem with short-term rentals in neighborhoods. However, people that started and built a commercial business in a commercial-tourist zone should be able to continue operating as a commercial business and should not be included in the ordinance.

Diana Lincoln, 333-6th Avenue, stated she is an owner-occupied short-term rental requesting strict rules from the city commission. She has operated her short-term rental under the original premise of Airbnb, which was sharing their house and meeting their guest. Indian Rocks Beach has become investors buying homes in residential neighborhoods that sleep 20 for post-bachelor parties and 24-hour time as a short-term rental owner and resident. She attended many of these meetings and listened to both sides of the story. So, she requested the sheriff's reports to talk about the facts on her street. There are about ten short-term rentals on 6th Avenue. In 2022, the sheriff's office responded to two large short-term rentals on 6th Avenue. There were 14 sheriff's office responses: One overdose, eight noise, three parking, and two golf cart-related issues. Four of the noise reports were after 2:00 a.m. and in the pool. IRB short-term rentals need pool-restricted times. She, as an owner-occupied short-term rental owner, has a pool limit of 10:00 p.m. to 7:00 a.m. in accordance with the city's noise ordinance. She also requested the same data from the sheriff's office on these two properties for the last ten years when they were owner-occupied, and there were zero-incident reports. These sheriff's office incident reports were sent to the code enforcement officer.

Ms. Lincoln stated a short-term rental guest staying on her street was driving under the influence and hit a utility pole, causing outages for over eight hours on her road. She requested similar reports for these incidents on 6th Avenue for the last 30 years—zero incidents of a similar fashion.

Patti Katz, 124-13th Avenue, responded to the statement of taxation without representation made by someone earlier. She stated a person could vote where their home of record is, and if their home of record is not where their business is, they do not have voting rights in that community.

Ms. Katz stated the cards are stacked against the residents, and if the state changes the law, the residents will have to live with it.

Eddie Bie, 497-20th Avenue, stated every restaurant and business has a placard with the maximum occupancy based on square footage. Why is there no maximum occupancy in a home that is a business? He thinks the city commission needs to address maximum occupancy because 49 people in a house during the daytime is unacceptable.

Mr. Bie stated the city commission should use what works. There are many ordinances out there that have been tested by the Bert Harris Act. Yes, the city is going to get some pushback. But if the city commission looks at some of the other communities that have enacted ordinances, 2015 through 2018, that used certain sunset laws, the impact and the number of lawsuits or settlements have significantly been reduced by the length of time that the cities allowed them to sunset.

R.B. Johnson, 1206 Beach Trail, appreciates the city commission rolling the CT zoning district back into the ordinances. He said the condos and motels are not the problem on the west side of Gulf Boulevard. The vacation rentals, like the large house next to him, with no rules or limitations on behavior, are the issue—those residences.

Mr. Johnson spoke on quiet hours and the posting of quiet hours. He would suggest something to address: "This includes, but is not limited to, excess noise emanating from pools, hot tubs, lawns, decks, and residential structures."

Luke Lirot, Esquire, 2240 Belleair Road, Suite 190, Clearwater, stated he represents several short-term rental owners. He said it is a lot easier to challenge an ordinance than enact one.

Attorney Lirot stated he went through the entirety of this ordinance, and he has several different concerns, a lot of them dealing with the enforcement, definition, and things of that nature.

Attorney Lirot stated his clients only have two things they are concerned with. Again, not to belittle the Bert Harris Act or talk about investment-backed expectations, but one of the issues they observed that the city commission should consider is the limitation of a cap of 10, even with a grandfather clause to phase back from 12 to 10. When there is a large

house with that many bedrooms, it is okay to have limits of 2 per bedroom. Still, his clients would prefer a maximum occupancy of 12 to accommodate the larger structures, which is an investment-backed expectation in building that structure.

Attorney Lirot stated the other issue that came up was the noise ordinance. He said the problems are primarily a noise issue. He noted a 60 dB is a normal conversation, a vacuum cleaner is 75 dB, and a household fridge is 55 dB.

Attorney Lirot recommended the city commission review the Pinellas County residential decibel limits: 72 dB from 7 a.m. to 11:00 p.m. and 55 dB from 11:00 p.m. to 7:00 a.m.

Kelley Cisarik, 448 Harbor Drive South, stated she is not terribly concerned about Bert Harris-styled lawsuits because many vacation rentals have illegally added bedrooms. She said the city has very few legal bedrooms over homes with more than 5 bedrooms.

Ms. Cisarik stated she agreed with removing the word OVERNIGHT maximum occupancy. Maximum occupancy should be the same 24 hours a day. It is easy to use the city's placard system on the home's exterior to see the maximum occupancy.

Ms. Cisarik stated vacation rentals should not be allowed to have outside amplified music at any time, and it is pretty easy to enforce.

Darlene Kavanaugh, 450 Harbor Drive South, stated she spoke to the FWC Officer last month and recently found out that jet ski rentals require permits. FWC has difficulty finding out from the vacation rental owners what watercrafts are being rented and what are not. She stated that as part of the rental, many watercrafts are included, but many do not have the proper permits and licenses.

Ms. Kavanaugh stated parking is another issue and suggested no on-street parking or limiting parking to 2 hours.

Jean Scott, 420 Harbor Drive South, asked if the city has hours for the beach.

City Manager Mims stated the beach is open 24 hours, 7 days a week, and said the sheriff's office would handle any issues on the beach about noise.

Mayor-Commissioner Kennedy closed the public hearing.

City Manager Mims stated a speaker asked about Section 18-206 requirements—the renderings for the inside/outside of the home. There is no requirement for that to be drawn by an architect or engineer. That would be handled by city staff if the city did not receive a quality, sufficient drawing for city staff to determine what it needed to determine the

number of bedrooms. The short-term vacation owner would need to submit another drawing.

City Attorney Mora recapped the city commission's consensuses as follows:

- *Water Features.* There will be no time (hours) restrictions for water features, i.e., pools, spas, Jacuzzi, hot tubs, or other similar things.
- *Respectful of Noise.* Add language similar to that governing being respectful of noise in the advertisement requirements and language referenced there is the language that appears in the required posting.
- *Occupancy:* Leave the restrictions as they stand but extend the two-year vesting period. For two years, anybody who can establish that they were a lawful rental before the adoption of this ordinance will have an occupancy of up to 12 guests.
- *CT zoning district:* Re-establishing the CT zoning district as within the zone regulation for this ordinance. By consensus, the CT zoning district is brought back into the scope of this ordinance. In a previous draft, the CT zoning district had a higher maximum occupancy of 12. If the city commission wishes to make that absent any direction. In that case, he will likely, to the extent that there were CT zoning district provisions, revert drafting to those absent directions to the contrary.
- *Party Houses:* There was no consensus to move forward in any specific way.
- *Parking:* The consensus was to create one parking space per bedroom. Noting the likely need to tweak, alter, and amend that as it relates to the CT zoning districts there.

MOTION MADE BY COMMISSIONER MCCALL, SECOND BY COMMISSIONER HOUSEBERG, TO APPROVE ORDINANCE NO. 2023-02, ON FIRST READING, AS AMENDED, ESTABLISHING A COMPREHENSIVE REGULATORY SCHEME REGARDING THE MARKETING AND OPERATION OF SHORT-TERM RENTALS WITHIN THE CITY; CREATING A NEW ARTICLE V, "VACATION RENTAL REGULATIONS," WITHIN CHAPTER 18 - "BUSINESSES"; ESTABLISHING A COMPREHENSIVE ORDINANCE REGULATING THE REGISTRATION, INSPECTION, SAFETY, AND OPERATION OF VACATION RENTALS WITHIN SPECIFIED ZONING DISTRICTS IN THE CITY OF INDIAN ROCKS BEACH; CREATING RELATED DEFINITIONS; MAKING RELATED FINDINGS; PROVIDING FOR CODIFICATION.

ROLL CALL VOTE:

AYES: HOUSEBERG, McCALL, KENNEDY

NAYS: VAUGHAN

ABSENT BOND

MOTION APPROVED BY A VOTE OF 3 TO 1, WITH COMMISSIONER VAUGHAN CASTING THE DISSENTING VOTE.

MINUTES - Regular City Commission Meeting

Tuesday, April 11, 2023

13 23 40

8A. DISCUSSION OF side yard setbacks in the CT zoning district.
[Code Sec. 110-131(5)(f)(4)(ii)]

[Beginning of Staff Report]

STAFF RECOMMENDATION: Code Section 110-131(5)(f)(4)(ii) should be amended to clearly define the side yard setbacks in the CT zoning district. The setback requirement for CT should be the same as the RM-2 setbacks.

PLANNING AND ZONING BOARD RECOMMENDATION

Section 110-131(5)(f)(4)(ii) should be amended to ensure its explicit terms establish absolute setbacks which would be applicable in the same manner from the grade to the roof of the building, and not in a manner where the setback increases as the elevation of the structure increases.

BACKGROUND:

The City of Indian Rocks Beach City Commission requested that Code Section 110-131(5)(f)(4)(ii), regulating side yard setbacks, be forwarded to the Planning and Zoning Board for review. The City Commission requested that the P & Z Board discuss this section with staff to determine if this section should be amended. The Planning and Zoning Board met on February 9, 2023 to discuss this section.

City staff recommends that Code Section 110-131(5)(f)(4)(ii) be amended to more clearly define the side yard setbacks in the CT zoning district. The setback requirement for CT should be the same as the RM-2 setbacks.

RM-2 SETBACKS

- i. For buildings that do not exceed 25 feet in height above pilings: Total side setback of 15 feet with a minimum of seven feet on either side.
- ii. For buildings that exceed 25 feet in height feet above pilings: Total side setback of 20 feet with a minimum of ten per side.

Sec. 110-131(5)f. Setbacks for CT district.

4. Side yard:

- i. For buildings that do not exceed 25 feet in height above pilings: The side yard setback is a total of 15 [feet] with a minimum of seven [feet] on one side.
- ii. For buildings that exceed 25 feet in height above pilings: The side yard setback shall be a minimum of 12 percent of the building width on each side

and the side yard shall be at least seven feet one side and 15 feet total on both sides.

Also, for every two feet in height above 30 feet from grade, one foot shall be added to each minimum side yard.

If the property is a corner lot abutting Gulf Boulevard and the structure fronts the beach access, the side setback shall be a minimum of 25 feet on Gulf Boulevard and the other side setback shall be the minimum as calculated based on height and width of the building.

The staff is interpreting this regulation as:

- i. For buildings that do not exceed 25 feet in height above pilings: The side yard setback is a total of 15 feet with a minimum of seven feet on one side.
- ii. For buildings that exceed 25 feet in height above pilings: The side yard setback shall be a minimum of 12 percent of the building width on each side and the side yard shall be at least seven feet one side and 15 feet total on both sides.

Also, when the building height exceeds 30 feet from grade or 20 feet above the 10 feet pilings the building will be setback an additional 1 ft for every two feet or portion thereof of the additional building height to each minimum side yard. The additional required setback will begin at 30 ft.

Below are examples of the required side yard setbacks for different building heights and lot sizes as required in the Land Development Regulations, staff interpretation of the side yard setbacks and the proposed side yard setbacks for buildings over 35 feet utilizing the RM-2 side yard setbacks.

LAND DEVELOPMENT REGULATIONS AND STAFF INTERPRETATION

120 ft Wide Lot			
LDR Code			
Lot Width	Building Height	Side Yard Setbacks	Building Width
120 ft	35 ft	15 ft min of 7ft on one side	105 ft
120 ft	46 ft	17.84 per side	82 ft
Staff Interpretation			

Lot Width	Building Height	Side Yard Setbacks	Building Width
120 ft	35 ft	15 ft min of 7ft on one side	105 ft
120 ft	46 ft	11.24 per side on ground At 30ft add 8 ft each side	96 ft

50 ft Wide Lot			
LDR Code			
Lot Width	Building Height	Side Yard Setbacks	Building Width
50 ft	35 ft	15 ft min of 7ft on one side	35 ft
50 ft	46 ft	11.24 per side	27 ft
Staff Interpretation			
Lot Width	Building Height	Side Yard Setbacks	Building Width

	Height		
50 ft	35 ft	15 ft min of 7ft on one side	35 ft
50 ft	46 ft	15 ft min of 7ft on one side on ground At 30ft add 8 ft each side	35 ft

PROPOSED LAND DEVELOPMENT REGULATIONS WITH RM-2 SETBACKS

50 ft Wide Lot			
Proposed			
Lot Width	Building Height	Side Yard Setbacks	Building Width
50 ft	35 ft	15 ft min of 7ft on one side	35 ft
50 ft	46 ft	10 ft per side	30 ft
120 ft Wide Lot			
Proposed			
Lot Width	Building Height	Side Yard Setbacks	Building Width

120 ft	35 ft	15 ft min of 7ft on one side	105 ft
120 ft	46 ft	10 ft per side	100 ft

[End of Staff Report]

MOTION MADE BY COMMISSIONER HOUSEBERG, SECONDED BY COMMISSIONER VAUGHAN TO EXTEND THE LENGTH OF THE MEETING UNTIL 10:00 P.M. UNANIMOUS APPROVAL BY ACCLAMATION.

Planning Consultant Harmon stated the city commission discussed side yard setbacks in the CT zoning district after receiving an inquiry from a resident about how city staff was interpreting this code section. The resident stated that the way city staff was interpreting that section was not how it was intended to be interpreted. The city commission then forwarded this section to the planning and zoning board for review and recommendation.

Planning Consultant Harmon stated the planning and zoning board recommended that the section be amended to ensure that there be explicit terms to establish absolute setbacks, which would be applicable in the same manner from the grade to the roof of the building and not in the manner where the building was stepped-back. City staff was interpreting the code by taking the setback at grade, and then if the building went up to 35 feet or taller, it would step back the building at the 30 feet level.

Planning Consultant Harmon stated the side yard setback is also based on the width of the building, and that is where it got confusing for buildings over 30 feet. City staff would

take 12% of the building width at the grade, and then at 30 feet, the building would have to step in approximately 8 feet and then go up to 46 feet from there.

Planning Consultant Harmon stated the city code intended to take the side yard setback at grade, plus anything above the 30-foot would be taken at grade too. She explained the setback would be 12 percent of the building width plus another 8 feet on each side to get the actual setback but the wording was confusing.

Planning Consultant Harmon stated that the planning and zoning board said the side setbacks should be taken at the grade, not step back the building at 30 feet. However, the language must be clearly spelled out in the city code.

City Attorney Mora stated the language the planning consultant refers to is Code Section 110-131(5)(f.), Setbacks for CT zoning district.

4. Side yard:

- ii. For buildings that exceed 25 feet in height above pilings: The side yard setback shall be a minimum of 12 percent of the building width on each side and the side yard shall be at least 7 feet on one side and 15 feet total on both sides.**

Also, for every 2 feet in height above 30 feet from grade, one foot shall be added to each minimum side yard.

City Attorney Mora stated the objecting residents who raised this concern said that the absolute setback, floor to ceiling, should come in. That is one way to interpret that section.

City Attorney Mora stated another way to interpret that is for every 2 feet add, for every 2 feet add, and that leads more to a tiered or wedding cake building. He stated that is not an uncommon feature to see in cities with higher skylines as it allows for more sunlight to come through.

City Attorney Mora stated that both interpretations align with the language and the ordinary operation of the land use code. But in either case, the way it is being administered is the tiered approach. If that is not what the city commission wants, it can amend the language, or if that is what it wants, it can make the wording more clearer.

Commissioner Vaughan asked if anyone knew the original language's intent and wondered if anybody was around to tell the city commission what the intent was.

City Attorney Mora stated under public comment, there may be some residents who speak to what their description of the intent of the ordinance was. As a matter of law, the canons of statutory construction reverting back to the legislative intent is an argument of last resort where the city starts with the plain meaning of the terms. The plain meanings of the terms are capable of either interpretation, which means interpretation is viable. The intent may inform which direction the city commission wishes to go, but it will not bind the administration's interpretation today.

Commissioner Vaughan stated should the city commission make changes, the intent would be a valid question.

Mayor-Commissioner Kennedy opened the public comment.

Rick McFall, Chairperson of the Planning and Zoning Board, stated this issue came up as a question mark because there had been a notice in interpreting this section of the

code. The planning and zoning board looked at it from a concept of why was the change, which was explained to the board by the city attorney. It boils down to, in his opinion, a change in interpretation regarding a setback. The definition of a setback in the city code is pretty much a one-liner that says the distances from property lines measured from each property line, which a person would assume that it goes from Earth to space.

Mr. McFall stated that city staff also recommended an interpretation by changing the ordinance to where the RM-2 and the CT zoning districts had the same side yard setbacks. The planning and zoning board discussed that they did not think that was a good idea. The primary reason was a big difference in density requirements between the RM-2 and the CT zoning districts. There is also the issue of green space and drainage. The way the ordinance reads and from the past, the original intent was to discourage height in the city.

Mr. McFall stated green space also translates to more space for cars to park in an overflow situation. The higher the building, the more cars on that property.

Mr. McFall stated some hazards come to mind, primarily hurricanes or extreme events in the winter when the storms come through. That would pertain to Venturi effect of wind because when there are narrow passages for a given amount of wind go, it accelerates.

Mr. McFall stated the board concluded that there was nothing wrong with the ordinance as written. If the language needs to be clarified to ensure it is clear, then that is what must be done.

In the staff's recommendation, **Kelly Cisarik, 448 Harbor Drive South**, stated that the side setbacks are decreased. She would not want to see 46-foot-tall buildings closer together. She is always concerned about drainage; if buildings are allowed to be wider, there is less ground to absorb the rain. Beach Trail does not drain well, so the smaller side yards

worsen it. She stated the city code needs clarifying language that the side yard setbacks go from the ground (at grade) and cannot just be stepped in like a wedding cake. That might work for some urban centers, like New York City, but she thinks it would not work for Indian Rocks Beach.

Don House, 2104 Beach Trail, stated when it comes to the CT zoning district, he thinks there is a lot right next door to him, and the developer is getting ready to build. The developer can only build 12 units on that lot. The city should work with the developers so that the condominiums do not look like shoe boxes piled on each other so long as they do not exceed the density and intensity.

John Pfanstiehl, 448 Harbor Drive South, asked if the city commission has seen any wedding cake-shaped buildings in the last 30 years in Indian Rocks Beach. No, because that was never the intent. The city code reads if the building is taller, then the building has to be narrow so that the buildings would not be so close together.

Mr. Pfanstiehl stated the city staff recommendation that the side yard setback requirement for the CT zoning district should be the same as RM-2. There is no need for that. It is a pure giveaway to developers. It increases crowding. The CT zoning district has twice the density of the RM-2 zoning district.

R.B. Johnson, 1205 Beach Trail, stated that most of the larger buildings this ordinance would affect on the west side of Gulf Boulevard are condominiums, which have been built in the city since the 1970s. For over 40 years, no one saw these buildings subjected to setback requirements, i.e., pulling in the upper floor when the building got 30 feet above grade. It has only been in the last few years that this interpretation has come about, and that was what grabbed his attention when he started seeing buildings that had somewhat of an odd shape.

Mr. Johnson stated he agreed with what the planning and zoning board said: the current setback requirements for the CT zoning district are fine. All that is needed is clarifying language to ensure that section of the code cannot interpret differently than the plain English meaning of terms—no more stepping back at 30 feet above grade. The extra setback is just added at grade. The purpose of the side yard setbacks for the CT zoning district is to address the width of the building. The taller the building, the more the developer pulls in the side yard setback. The setback starts at the ground — at grade.

Mayor-Commissioner Kennedy closed the public comment session.

THE CONSENSUS OF THE CITY COMMISSION FOR THE CITY ATTORNEY TO PREPARE LANGUAGE TO CLARIFY CODE SEC. 110-131(5)(f)(4)(iii) AS RECOMMENDED BY THE PLANNING AND ZONING BOARD SUCH THAT AS A BUILDING GETS TALLER THE COMPLETE UNIFORM SETBACK IS MOVE IN.

8B. DISCUSSION OF Code Section 110-264(b), Maximum floor area ratio; calculation for mixed use density/intensity.

[Beginning of Staff Report]

BACKGROUND:

Recently Code Section 110-264 (b), Maximum floor area ratio; calculation for mixed use density/intensity, has been discussed with property owners who are located in the Professional Office district. Property owners want to build a mixed use development including residential use over commercial office space and are finding that the allowable square footage for the commercial office space would be very limited if they want to add a single family or duplex above.

Section 110-264 (b) requires that if you want to build a mixed use development the lot square footage would have to be allocated for the different uses. For example, if a person owns a 7200 square foot lot in the Professional Office zoning district, a person would need to allocate 5808 square feet for the single family/duplex and the remaining land of 1392 square feet is the land available to allocate for commercial use. The commercial square footage allowed is based on the FAR (Floor Area Ratio), in the P-1 zoning district, the FAR is .40 or 40% of the land available. The remaining land available is 1392 square feet x .40 FAR would allow for 556.8 square feet of commercial space.

EXAMPLE:

Lot: 60 ft x 120 ft = 7200 square footage

Square Footage Required:

Single Family/Duplex = 5808 square footage

Remaining square footage = 1392 square footage

Office -1392sf x .40 FAR = 556.8 square footage

Sec. 110-264. Maximum floor area ratio; calculation for mixed use density/intensity.

(a) For nonresidential projects, the maximum gross building square footage shall be the sum of the nonresidential project acreage multiplied by the maximum floor area ratio permitted by the applicable land use classification. For example, a floor area ratio of 0.50

applied to a 10,000-square-foot lot would permit a single-story building of 5,000 square feet or a building of any number of floors whose cumulative square footage does not exceed 5,000 square feet.

(b) In applying floor area ratios, all residential land uses which fall within a lot's boundaries shall be excluded. Such cases of mixed use shall not exceed, in combination, the respective number of units per acre and the building square footage permitted when allocated in their respective proportion to the total lot area. Also, only those lands specifically within a project's boundaries may be used for calculating the maximum permitted building square footage.

[End of Staff Report]

Planning Consultant Harmon stated that several Professional Office zoning district property owners asked about mixed uses.

Planning Consultant Harmon explained how the city calculates mixed use per the city code.

Section 110-264(b) requires that if you want to build a mixed-use development the lot square footage would have to be allocated for the different uses. For example, for a 7200 square footage lot in the Professional Office zoning district, 5808 square footage is allocated for the single-family/duplex and the remaining land of 1392 square footage is the land available to allocate for commercial use. The commercial square footage allowed is based on the FAR (Floor Area Ratio), in the P-1 district the FAR is .40 or 40% of the land available. The remaining land available is 1392 square footage x .40 FAR would allow for 556.8 square footage of commercial space.

Planning Consultant Harmon stated the property owners are questioning why they cannot put the office area on the first floor. She has looked at some other communities and Forward Pinellas. She stated they follow what IRB's code says, except that Forward Pinellas's floor area ratio (FAR) is .50 versus .40, and the same with Dunedin. Certain areas in different communities have special mixed-use districts, but they are large areas usually for redevelopment purposes, and they allow a much higher FAR.

City Manager Mims stated that if the city used the Dunedin ordinance or the Forward Pinellas countywide rules, the two individuals the planning consultant had talked with and what they are trying to do, even those ordinances would not allow that.

City Attorney Mora stated it is his job to advise the city commission since it is ideally the democratic organic progress for an individual to say that the city commission should look into this. He just wanted to ensure that the city commission understands that as it is talking about amending its land development code, whether within a district or citywide. The city commission is not doing to a specific property. The city commission is doing so in a way that may change that zoning district.

Mayor-Commissioner Kennedy asked the planning consultant if she would suggest it because of the few property owners that have come forward. What would she suggest?

Planning Consultant Harmon stated that when she met with the two property owners, they would develop the property together and build four units with some commercial underneath. At that time, it came close because they would put garages in the back with commercial in the front. That seemed to work, but when they went to develop the lots separately, the city code limited the office square footage to 556 square footage.

Planning Consultant Harmon stated the city has to follow the countywide rules, which would be hard to amend.

Mayor-Commissioner Kennedy asked if there are buildings on these properties, with Planning Consultant Harmon responding there are one-story commercial buildings now.

Mayor-Commissioner Kennedy asked if the buildings were not going to be demolished and the developer just added onto the existing buildings, would that help with this ratio?

Planning Consultant Harmon responded no, and explained the city would still need to look at the big picture.

City Manager Mims stated the city is in a flood zone, and any improvements over 50%, FEMA regulations would kick in—the bottom line issue with the small lot.

City Manager Mims stated the chances of the City receiving approval from Pinellas County for an amendment to go to the level described in emails is about zero.

Commissioner McCall asked Planning Consultant Harmon if Forward Pinellas' FAR is the same as the city's and how Dunedin is doing it.

Planning Consultant Harmon responded yes. She stated that Dunedin has a special district and she would have to speak with Dunedin.

City Manager Mims stated if the city set up a special district and adopted what Dunedin had, that would not solve their problem.

Commissioner McCall stated the city has been talking about mixed-use forever.

Mayor-Commissioner Kennedy stated the city came into this problem when the developers built the townhomes, a mixed-use area. She is just repeating what was said. Some developers said they would do a mixed-use project, but that never happened. She does not know what the reason is. The point of her bringing this to the table is she believes mixed-use is feasible, but when the city has properties like this in that area, what does the city do — establish a special district? She stated that the site was supposed to be mixed-use, so how does the city get it to that standard? Her other question is whether some variance situation could be involved in this or not.

Commissioner McCall stated he does not understand why Forward Pinellas is cutting the FAR back to 40%.

Planning Consultant Harmon stated the city code was written with the .40, and Forward Pinellas is .50.

Commissioner McCall asked why is the city and Forward Pinellas limiting the office space.

Commissioner Vaughan stated the planning consultant noted the city had to follow the countywide rules (Forward Pinellas).

Planning Consultant replied affirmatively.

Commissioner Vaughan stated that the city commission does not conform to the countywide rules.

Planning Consultant Harmon replied negatively.

City Attorney Mora stated the city code could be more strict.

Mayor-Commissioner Kennedy asked if Forward Pinellas has any waiver program or anything like that.

Planning Consultant Harmon stated she has not talked to Forward Pinellas about that. She noted that the city must establish a special district to get a higher FAR. She briefly looked through everybody's office districts that allowed mixed-use development. Most were similarly written to Indian Rocks Beach. She did not talk with Forward Pinellas about the city's next step.

City Manager Mims stated he would not spend staff time pursuing various options until the city commission discussed them. If the consensus of the city commission is that it would like a more detailed look, the planning consultant would have discussions with Forward Pinellas and other communities, and staff can bring back realistic things that the city can and cannot do. The city commission has already heard expressions of concern about density and other items here tonight. The fact of the matter is if someone accumulates land, someone can build a mixed-use development and have enough square footage.

City Manager Mims stated that if it is the city commission's consensus that it would like to look into the future, more work must be done. The city has already found that the Dunedin and Forward Pinellas models do not work. The city would have to look at the special district in-depth.

MOTION MADE BY COMMISSIONER VAUGHAN, SECONDED BY COMMISSIONER HOUSEBERG, TO EXTEND THE MEETING FOR TEN MORE MINUTES. UNANIMOUS APPROVAL BY ACCLAMATION.

Mayor-Commissioner Kennedy stated that the rest of the parcels that are being discussed are all subject to this same problem.

Planning Consultant Harmon stated the Professional Office zoning district is all written like that.

Mayor-Commissioner Kennedy opened the public comment session.

Bert Valery, 2113 Gulf Boulevard, stated he is a 43-year-old resident and has had his insurance agency in Indian Rocks Beach since 1980. He said he purchased the building at 2113 Gulf Boulevard, and it is 75 years old and is falling apart. He has to put all sorts of money into it. So, he decided to demolish the building and develop a mixed-use project. He distributed a floor plan to the city commission of what a mixed-use project would look like under the city code. He stated that mixed-use was recommended in the USF Study

in 2009 and the Forward Pinellas Study in 2020. He was surprised that the building code has not yet been modified as recommended in these reports. One of the problems the city is having right now is that in 2008 the city was trying to stop a developer from building block buildings up and down Gulf Boulevard — they were ugly. The city just wanted to stop it, so it put in strict zoning regulations both on the east and west sides of Gulf Boulevard, and it was done to stop this developer. He stated nothing had been modified since then. Both reports told the city that as the zoning stands now, rather than encourage mixed-use, the city discourages mixed-use, and the city should first revise its building code. He stated he is so disappointed that nothing has happened that A2K and the city have wasted their money.

Mr. Valery stated both reports recommended that three zoning districts be formed and set the city code specifically for those three zoning districts: The Triangle, the Middle Section, and the Upper Section of Gulf Boulevard; that did not get done. The city commission will have to go in and revise the city code, but it will not work unless the city can establish those three separate zoning districts.

Mr. Valery stated he has been in contact with Whit Blanton, Executive Director of Forward Pinellas, for the last two weeks. Mr. Blanton wrote the Forward Pinellas Report. He stated both reports say that the city would not be able to do mixed-use unless the zoning code is revised. He thought that this had been done. He finds out now that nothing has been done. He is just disappointed with it.

Mr. Valery referred to his handout and stated that the first page shows his lot, 60' X 120', which is the standard size on Gulf Boulevard in Indian Rocks Beach. He noted the reports also advise that these lots were originally platted as residential units/lots.

Mr. Valery stated the 60' X 120' lot ends with a 45' X 75' building after setbacks. He has no problem with that.

Mr. Valery referred the city commission to page two of the handouts and stated the city commission is looking at three stories. The two stories on the left are residential units, showing that the entire square footage can be used for the residential units. But what is the city trying to do there, what are the reports trying to encourage the city to do, and what is the city trying to do? The city is trying to promote mixed-use, which is the ground level.

Mr. Valery stated according to the city code, he would have 273 square feet of business space on the ground level. It is just ridiculous. What developer is going to do that?

Mr. Valery stated developers are trying to do mixed-use. Still, the city commission is frustrating the situation by not modifying the city code to allow mixed-use, which starts with implementing the three zoning districts.

Mr. Valery stated it is okay if the developer wants to build a condo, which is precisely what is happening now. Suppose the city commission looks at the new construction on Gulf Boulevard. The lots are his size, and the developers are building residential condominiums, which will be short-term vacation rentals. Instead of the city commission encouraging mixed-use, it is encouraging just the opposite.

Mr. Valery asked that the city commission forward the FAR issue for mixed use to the planning and zoning board for review.

Mayor-Commissioner Kennedy closed the public comment session.

City Manager Mims stated it is up to the city commission to review this topic.

THE CONSENSUS OF THE CITY COMMISSION TO FORWARD TO THE PLANNING AND ZONING BOARD THE CODE SECTION 110-264(B), MAXIMUM FLOOR AREA RATIO; CALCULATION FOR MIXED USE DENSITY/INTENSITY FOR DISCUSSION AND RECOMMENDATION.

9. OTHER BUSINESS. None

10. ADJOURNMENT.

MOTION MADE BY COMMISSIONER HOUSEBERG, SECONDED BY VICE-MAYOR-COMMISSIONER BOND, TO ADJOURN THE MEETING AT 10:16 P.M. UNANIMOUS APPROVAL BY ACCLAMATION.

June 13, 2023
Date Approved
/lak