

PLANNING & ZONING BOARD

**THURSDAY,
MAY 25, 2023**

6:00 P.M.



City of Indian Rocks Beach

1507 Bay Palm Boulevard, Indian Rocks Beach, Florida 33785
www.indian-rocks-beach.com

Administrative
727/595-2517
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Library
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AGENDA

CITY OF INDIAN ROCKS PLANNING & ZONING BOARD THURSDAY, MAY 25, 2023 @ 6:00 P.M. CITY COMMISSION CHAMBERS

1507 BAY PALM BOULEVARD, INDIAN ROCKS BEACH, FLORIDA 33785

1. CALL TO ORDER.
 2. ROLL CALL.
 3. APPROVAL OF MINUTES: February 9, 2023
 4. DISCUSSION OF Code Section 110-264(b), Maximum floor area ratio; calculation for mixed-use density/intensity.
 5. ADJOURNMENT SINE DIE.
- LOCAL PLANNING AGENCY**
6. ROLL CALL.
 7. APPROVAL OF MINUTES:
 8. **ORDINANCE NO. 2023-03.** An ordinance of the City of Indian Rocks Beach, Florida, amending Article III – “District Designation and Regulations”, Section 110-131 – “Establishment of Zoning Districts”, Subsection 5- “High Density Commercial Tourist Zoning District – CT”, Subsection f “Setback Requirements”, in the city’s land development code; making related findings; providing for codification, severability, and for an effective date.
 9. OTHER BUSINESS.
 10. ADJOURNMENT.
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APPEAL: If a person decides to appeal any decision made with respect to any matter discussed at such meeting or hearing, will need a record of the proceedings and for such purposes, they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based, per s. 286.0105, F.S. Verbatim transcripts are not furnished by the City of Indian Rocks Beach and should one be desired, arrangements should be made in advance by the interested party (i.e. court reporter).

In accordance with the Americans with Disability Act and s. 286.26, F.S., any person with a disability requiring reasonable accommodation in order to participate in this meeting should contact the City Clerk’s office with your request telephone 727/595-2517 or doreilly@ircity.com no later than seven (7) business days prior to the proceeding for assistance.

POSTED: May 19, 2023

AGENDA ITEM NO. 1

CALL TO ORDER

AGENDA ITEM NO. 2

ROLL CALL

AGENDA ITEM NO. 3

APPROVAL OF MINUTES

**MINUTES — FEBRUARY 9, 2023
CITY OF INDIAN ROCKS BEACH
PLANNING AND ZONING BOARD**

The Regular Meeting of the Indian Rocks Beach Planning and Zoning Board was held on **THURSDAY, FEBRUARY 9, 2023**, at 6:00 p.m., in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

1. **CALL TO ORDER.** Chair McFall called the meeting to order at 6:00 p.m.

2. **ROLL CALL:**

PRESENT: Acting Chair Rick McFall, Board Member Richard Antepencko, Board Member Adrienne Dausen, Board Member Scott Holmes, Board Member Peter Sawchyn, Board Member Herb Sylvester, Board Member Myra Warman, and 1st Alternate Board Member Dave Mott.

OTHERS PRESENT: City Attorney Randy Mora, B.C.S., Planning Consultant Hetty C. Harmon, AICP, and City Clerk Deanne B. O'Reilly, MMC.

VACANT POSITION: 2nd Alternate Board Member.

3. **APPROVAL OF MINUTES:** None

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

[Beginning of Staff Report]

BACKGROUND:

At the request of the city commission, it is requested that the planning and zoning board ("P&Z") review and provide advice concerning Section 110- 131(5)(f)(4)(ii), regulating side setbacks in the commercial tourist ("CT") district. The Commission has requested that the P & Z discuss this section with staff to determine if this section should be amended. At the end of discussion, the P&Z will forward a recommendation to the city commission.

Enclosed with this memorandum is a document summarizing the setback requirements in each of the city's zoning districts.

STAFF RECOMMENDATION:

Section 110-131(5)(f)(4)(ii) should be amended to more clearly establish the side yard setbacks in the CT District. The setback requirement for CT should be the same as the setbacks applicable in the RM-2 District.

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 (7) 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 (10) feet per side.

Section 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.

City staff has interpreted and implemented this language as follows:

- 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 feet

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
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	35 ft

		one side	
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]

Planning Consultant Harmon stated the city commission has requested that the planning and zoning board review and provide advice concerning Code Section 110-131(5)(f)(4)(ii), regulating side yard setbacks in the CT — commercial tourist zoning district. The city commission would like the planning and zoning board to discuss this section to determine if it should be amended.

Planning Consultant Harmon stated that the staff has been interpreting this section for buildings over 30 feet in the CT zoning district by taking 12% of the building width and then stepping the building in.

Planning Consultant Harmon stated if the planning and zoning board makes any recommended amendments that, the planning and zoning board consider recommending that the side setback requirements for the CT zoning district be compatible with the RM-2 district side setbacks, which have a total side setback of 20 feet with a minimum of 10 feet per side.

Member Antepencko asked what the current language is.

City Attorney Mora stated the current language is set forth as follows: *"Also, for every two feet in height above 30 feet from grade, one foot shall be added to each minimum side yard."*

City Attorney Mora stated the staff's recommendation is to amend the language to harmonize it with the RM-2 zoning district's side setback requirements, as reflected in the staff report.

City Attorney Mora stated this came to the planning and zoning board because some citizen feedback to the city commission wanted this provision revisited. In hearing that inquiry and request, the city commission suggested that it would be best to start at this board.

City Attorney Mora stated the planning and zoning board is charged to keep it the same, amend it, and if so, what is this board's advice on that code section as it relates to heights and setbacks?

Member Sawchyn asked what the definition of the RM-2 zoning district is.

Planning Consultant Harmon responded residential-medium. There are areas throughout the city along Gulf Boulevard, Bay Boulevard, and along 1st Street.

Member Warman asked if the staff is requesting to change the language to be more similar or change the side setbacks to be more similar to the RM-2 zoning district.

City Attorney Mora responded affirmatively.

Member Warman asked if the staff was discussing the language or the requirements.

City Attorney Mora stated the language would affect the requirements as they are implemented. The current setback is: *"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."*

City Attorney Mora stated the language change as proposed here would have it be: *"For buildings that do not exceed 25 feet in height this is the setback and for buildings that do exceed 25 feet this is the setback"* . . . eliminating that calculus, eliminating that step grading.

City Attorney Mora stated the way that the code section is being administered for that language over 30 feet, for every 2 feet, it starts to create a tiered wedding cake setback. Staff recommends that the CT and RM-2 zoning districts' side setbacks be in harmony, so any building of 25 feet in height would have a minimum side setback of 10 feet.

Member Warman asked if the commercial structures would get fatter sooner and boxier.

City Attorney Mora stated they could. That is more of a subject element. They would not be required to tier inwards gradually.

Member Holmes stated that part of the problem is with how the city code was written. This code section has been in here for a long time, and the city staff's interpretation has changed. He has experience with it being an architect. Years ago, it was interpreted as the whole setback would step back, and now it is interpreted as stair-step setbacks, like the Empire State Building. He stated the reason for stair-step setbacks is to prevent the canyon effect. It started in New York City. This code section can be interpreted both ways.

Member Holmes stated the code section is unclear, and he does not know if the new language clearly addresses that.

City Attorney Mora stated Member Holmes had accurately identified the narrow issue being presented, which was how the code section is written, and it can have multiple interpretations. Could this be a problem for the city, and does this language need to be changed for clarity? He stated the city commission wanted to hear what the planning and zoning board had to say about that language.

Member Holmes corrected himself and stated the new language does address that because there is no ambiguity. However, the staff's interpretation still has ambiguity since it only says it will go back for every 2 feet. So, does that start at the base or at 30 feet in the air?

City Attorney Mora stated it starts at 30 feet in the air.

Chair McFall asked if the city can define setbacks as a rule as to what the city considers setbacks.

City Attorney Mora said that is a term of art. The setback is how far away the structure is from the property line.

Chair McFall stated there is a legal definition in the city code; is that not correct?

City Attorney Mora responded affirmatively and stated he paraphrased the definition of a setback, but that is functionally it—the minimum distance of the structure from the property line.

Chair McFall stated a setback is a setback, so it does not change with the height.

City Attorney Mora stated a setback could change with the height if written that way.

Chair McFall stated he does not understand how the side setback requirement can change from what it used to be.

Chair McFall stated if the board recommends the RM-2 zoning district's side setbacks for the CT zoning district, that means density as well because there is a considerable difference in density between the two zoning districts. He stated that is why the setbacks are different to avoid the canyon effect.

Planning Consultant Harmon stated the units per acre would stay the same.

Member Warman asked if there was a height restriction in IRB.

Planning Consultant Harmon stated the maximum height in the CT and RM-2 zoning districts are 46 feet and the maximum height in the single-family zoning district is 35 feet.

Member Mott stated the code section could be clarified by adding the words "at grade" at the end of the following paragraph: *"Also, for every two feet in height above 30 feet from grade, one foot shall be added to each minimum side yard, at grade."*

Chair McFall stated the city could not utilize one setback on the ground floor, eliminate the setback on the second floor, and then have another setback on the third floor. He would think that the definition of setbacks always meant in the past that it was from the ground level. Would that not be true?

City Attorney Mora stated that it is not an absolute truth. The city can have different setbacks at varying heights, and that is precisely what is being administered presently. A city code can be written that way. As Member Holmes explained, that is not uncommon, especially in urban areas with a density of taller structures.

City Attorney Mora stated that if the board wishes for setbacks to be absolute, then make that recommendation to the city commission. If the board prefers the current construct but wishes it to be written differently, then make that recommendation.

Planning Consultant Harmon stated she has never seen the term 12% of the building width and has been running into problems with that terminology. The 12% of the building width is not cut and dry. She stated city codes usually refer to lot widths and are more straightforward.

Member Sawchyn stated he needed a bit more clarification. He clarified that this code section deals with how far a building structure must be from the side yard.

Planning Consultant responded affirmatively.

Member Antepencko stated he also thought that the code section was confusing because once it says above grade, it is very understandable. But then it starts mentioning above pilings, and there is no mention of the height of the pilings. He thinks this code section needs to be clarified and that it would benefit the staff and the developers.

Member Antepencko stated he could not understand why a single setback, front, rear, or side, would make a difference. He is unsure he understands what people are having problems with — the 15-foot total side yard setback with a minimum of 7.5 feet on each side.

City Attorney Mora stated to the extent there has been an identified problem, challenge, or issue it is the issue that Member Holmes determined by saying that the code section is capable of multiple interpretations.

Member Holmes stated the buildings are set back because more sunlight is coming in as they get higher. In New York City, when the buildings were going straight up, it was getting dark at the bottom of the streets. So, New York City implemented a code to get more sunlight to the bottom of the streets. He stated that is essentially what the city's code section does. As the building goes up, it steps back, bringing more light between the buildings. He stated where the CT zoning district is, right on the beach, that is probably more important because when the sunrise comes up, it allows the sun to come through the buildings, and that was perhaps the intent when it was originally written.

Member Sawchyn stated the city of Indian Rocks Beach could not be compared to New York and the Empire State Building.

Member Holmes stated he understood that, but that is where the original idea came from.

Member Warman stated that she asked about the height because the staff talked about the third story over the pilings being smaller than the rest of the building. She said she thinks this is an aesthetic question, too, like how the buildings will look — big squares on top of pilings or wedding cakes on top of pilings.

Chair McFall opened the public comment session.

Kelley Cisarik, 448 Harbor Drive South, stated the city has some sound building practices in place, like its maximum heights and minimum setback requirements. These were designed to keep the city from being overbuilt, and they go back to the mid-1980s. She has watched the city's rules be chipped away for the last decade. First, the city's planned unit development ordinance was amended. She thinks this new recommendation for side setbacks in the CT zoning district is another change contributing to over-development.

Ms. Cisarik stated in this recommendation, the side setbacks are decreased. She would not want to see 46-foot-tall buildings closer together. It is too much overcrowding. 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.

Ms. Cisarik stated it is an unnecessary and an undesirable giveaway to developers because it increases the density and intensity an the already crowded part of the commercial tourist area of IRB. She hopes the board recommends keeping the more restrictive straight-line side yard setback in place and not interpreting the code section like New York City, The Empire State Building, or some other urban center. She asked the board if clarifying language could be added to ensure it is not re-interpreted with weird steps to give the developer more density and intensity.

R.B. Johnson, 1206 Beach Trail, stated the basic language for side yard setbacks for the CT zoning district has been in the city code for decades. He said in 2003 or 2004, a new

form of development started in IRB, and they were condominiums — three floors over parking built on narrow lots in the CT zoning district.

Mr. Johnson provided a brief history of Code Section 110-131(5)(f.)(i.)(ii.) and numerous examples of condominium buildings that have been built.

Mr. Johnson asked the city commission to review this code section because the residents do not want to see tall buildings going up on narrow lots with tiny side yard setbacks. They need decent size side yard setbacks the higher up the buildings go, just like the wider buildings do. There needs to be some change in the language so the setbacks can be increased and not have narrow setbacks. The narrow setbacks can cause too much shading over the neighbors' properties, can increase the venturi effect with winds, is terrible for drainage, and is bad for several reasons. There needs to be a decent side yard setback when a building gets up to that height.

Mr. Johnson stated the language was tweaked in December 2004 and reversed the order of some of the language so that it would no longer be interpreted where it could no longer be a tiny side yard setback. For example, if there was a building where the 12% got below the 15 feet total side setback, then as the building got taller, the 1 foot per every 2 feet was added to the minimum. That would increase the total setback and not make it such a tiny side yard setback. That was what was done and was put in the city code, and it has been there for all these years.

Mr. Johnson stated that a couple of years ago, he saw a condo going up behind the 2300 Gulf Boulevard Plaza with a curious shape. It went up two floors over parking without a very large side setback, and then it jumped back up on the third floor. He wondered why it was doing that. Nothing in the city code says a developer has to step back their side yard setbacks on the third floor.

Mr. Johnson stated the city does not need this code section misinterpreted or creatively interpreted by the staff. It needs to be interpreted the way it was written and in the way the plain English meaning of it is is that the developer increases the side setbacks when the building goes taller from the ground not up in the air. If that code section needs to be tweaked this and put some clarifying language in there, he asked the board to do that.

Mr. Johnson asked the board to add language to clarify that code section and not recommend the side setbacks in the RM-2 zoning district for the CT zoning district. The RM-2 zoning district has half the density and seldom has 3-story buildings where 3-story buildings over parking are permitted.

Mr. Johnson stated developers hardly ever build 3-story buildings in the RM-2 zoning district because it is half the density. But, it is done all the time in the CT zoning district. The CT zoning district has greater density and more incentive to go taller, and the city would want larger side setbacks because developers want to go taller to cram more units on the

sites. The CT zoning district needs to be protected. The perfect protection is just clarifying the existing language and returning to the interpretation it was meant to be and what the language says.

John Pfanstiehl, 448 Harbor Drive South, stated he had been a technical writer and had read that code section repeatedly. The language is crystal clear. There is nothing about wedding cakes. The staff's interpretation is more like an invention. He is sure that developers love it. After all, they make a lot more money because they get more square footage. The city code is very clear. There is no way to interpret it to mean something different.

Mr. Pfanstiehl stated the residents do not want increased widths or heights, and this is a giveaway for what reason he does not know. He disagrees with harmonizing the CT zoning district's setbacks to the RM-2 zoning district because one is twice as dense as the other.

Chair McFall closed the public comment session.

Member Dauses stated she disagrees with changing the side setbacks of the CT zoning district to that of the RM-2 zoning district because the developers should be able to have some creativity. However, staff needs to figure out not a ratio by calculations but become straightforward with this regarding dimensions.

Member Dauses stated it would help if there were visual interpretations of the city code. She said she does not want all the buildings to look like temples. The way the city code is being interpreted right now, that is what is being built.

Member Dauses stated she does not feel that future land development should be penalized while the city tries correcting the language.

Member Mott stated the public stated when buildings get taller, the side setbacks should increase so the rain has enough ground to absorb the runoff water.

Chair McFall stated the key here is the definition of setbacks. Property lines are not in the air but are across the ground. A person buys land, not the air. Based on that, he thinks the language as it reads now is very clear. If the city needs to clarify the definition of setbacks, then maybe that is the board's direction.

Chair McFall gave several reasons/examples why the city does not want wider buildings as it gets taller. When work is being done on these condos, the center land of Gulf Boulevard or the beach accesses are used to access the buildings, which is a considerable inconvenience to the residents here both in traffic as well as pedestrians, beach-goers, and parking spaces.

Chair McFall stated the city developed a PUD ordinance several years ago that allowed the developers to barter back and forth in exchange for architectural improvements to the properties. The bottom line is if the city gives a developer a square foot, they are going to take it. Why? Because money dictates that they will.

Chair McFall stated to avoid Indian Rocks Beach from looking like any other coastal city up and down the Gulf coast, the city has to have city codes to prevent the canyon effect on Gulf Boulevard, unlike Clearwater Beach, the Redingtons to the south, or Indian Shores. There is no sunlight or view of the gulf. Indian Rocks Beach is unique because there is no canyon effect on Gulf Boulevard and a view of the gulf from Gulf Boulevard.

Chair McFall stated that the city code is correct, but setbacks must be defined to make the interpretation straightforward.

City Attorney Mora clarified what is being asked of the planning and zoning board and what is within the powers and duties of members of the planning and zoning board. The planning and zoning board had been asked to look at the land development code and determine whether the language in the land development code should be changed. To the extent the board feels that the language as written is clear or should be interpreted in a way that is not within the board's charge. The board does not render official interpretations. So, if there is an interpretation that the board prefers and would like to see adhered to, he recommends an amendment. He can finesse language for the board, or the board should at least give a policy direction. Staff needs a policy direction for that code section, not an interpretation from the board.

City Attorney Mora stated that the code section is capable of multiple interpretations, and the city staff and its residents are functionally telling the board that this code section can and has been interpreted in more than one way.

City Attorney Mora stated he does not think the definition of setbacks is necessarily the issue as much as it clarifies how the board would like the side setback administered because setbacks is a well-established term. The how of it and the language in that regard may be better suited to reach the board's desired goal.

Chair McFall stated he would agree, but he is looking at definitions. According to the city code, setback lines mean the distance from property lines. They are not in the air; they are not on the ground.

City Attorney Mora stated that was correct. He noted the point of contention is Code Section 110-131(5)(f)(4)(i)(ii). Also, for every two feet in height above 30 feet from grade, one foot shall be added to each minimum side yard.

City Attorney Mora stated one way to read it is implicit and understood that it is absolute, but that is not how it is written. It is written, "*Also, for every two feet in height above 30 feet*

from grade, one foot shall be added to each minimum side yard," with an independent clause in the middle. With that, it can be interpreted that the additional setback applies to those every two feet in height above 30 feet from grade.

City Attorney Mora stated if the board likes everything about this except that, then make it clear that the board wishes for it to be absolute and not graduated.

Member Dauses asked if the board could propose a ratio per floor because she has seen that in different cities.

Member Holmes stated that the board is trying to avoid wedding cake-type structures. He can see how that code section can be interpreted either way. He thinks making something clear says this does not allow a developer to step it back at 30 feet or any height above.

Member Holmes stated that the following language in Code Section 110-131(5)(f.) (ii.) is also confusing: *"For buildings that exceed 25 feet 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,"* because the width of the building cannot be determined without knowing the setbacks.

Member Holmes suggested that the staff and the city commission review this code section as it is confusing and does not make sense.

Member Dauses asked if staff could demonstrate both interpretations of that code section so members could visually see and understand what the staff is talking about, i.e., the Empire State Building (stair-stepping) and bring the setbacks in from grade/ground level to the roof.

Member Sawchyn stated it would have been helpful if staff included visuals in the staff report.

City Attorney Mora stated Member Holmes held up the page horizontally and then added a perpendicular page vertically in the center of it to show a narrowing second layer.

Planning Consultant Harmon stated drainage plans are reviewed for buildings with three or more units in the CT zoning district.

Member Dauses asked if the city can be as specific regarding the first floor since it has to have this much of a ratio from the side setbacks and so much for each floor after that.

Chair McFall, Member Mott, and Member Warman stated they like the grade to the roof language.

Member Antepencko asked why the staff would want to harmonize the two different zoning districts' side setbacks when both districts work. He is not in favor of that.

City Attorney Mora stated staff provided a parallel example from another zoning district. He said it is about the uniform format, with no percentage calculus ratio. It is just absolute. Here is the number, and the developer knows this percentage. The staff's approach was to resolve the perceived lack of clarity and more clearly address the consistency of the city code. It was for parallelism.

Member Dauses stated that clarifying that code section will allow some positive creativity from a design standpoint. It gives architects more flexibility to come in by having a more straightforward interpretation of that code section. That will allow more expression in the design.

MOTION MADE BY MEMBER SYLVESTER, SECONDED BY MEMBER ANTEPENKO, TO RECOMMEND TO THE CITY COMMISSION TO CLARIFY CODE SECTION 110-131(5)(f)(i)(ii.) BY ADDING WORDS TO THE EFFECT "FROM GRADE TO ROOF" AT THE END OF THE FOLLOWING PARAGRAPH: "ALSO, FOR EVERY TWO FEET IN HEIGHT ABOVE 30 FEET FROM GRADE, ONE FOOT SHALL BE ADDED TO EACH MINIMUM SIDE YARD".

ROLL CALL VOTE:

AYES: ANTEPENKO, DAUSES, HOLMES, SAWCHYN, SYLVESTER, WARMAN, AND McFALL.

NAYS: NONE

MOTION CARRIED UNANIMOUS TO RECOMMEND TO THE CITY COMMISSION TO CLARIFY CODE SECTION 110-131(5)(f)(i)(ii.).

5. OTHER BUSINESS.

CONSENSUS OF THE PLANNING AND ZONING BOARD FOR THE CITY COMMISSION TO REFER TO THE PLANNING AND ZONING FOR REVIEW AND RECOMMENDATION CODE SECTION 110-131(5)(f)(ii.) "FOR BUILDINGS THAT EXCEED 25 FEET 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," AS IT IS VERY CONFUSING BECAUSE THE WIDTH OF THE BUILDING CANNOT BE DETERMINED WITHOUT KNOWING THE SETBACKS.

6. ADJOURNMENT.

MOTION MADE BY MEMBER SAWCHYN, SECONDED BY MEMBER SYLVESTER, TO ADJOURN THE MEETING AT 7:05 P.M. UNANIMOUS APPROVAL BY ACCLAMATION.

Date Approved

Rick McFall, Acting Chairperson

/DOR

AGENDA ITEM NO. 4

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

INDIAN ROCKS PLANNING & ZONING BOARD STAFF MEMO

MEETING OF: May 25, 2023 **AGENDA Item:** 4

ORIGINATED BY: Hetty C. Harmon, AICP, City Planner

AUTHORIZED BY: Brently Gregg Mims, City Manager 

SUBJECT: Section Sec. 110-264 (b). - Maximum floor area ratio; calculation for mixed use density/intensity.

BACKGROUND:

The Land Development 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. The City Commission has requested that the Land Planning Agency discuss this section with staff to determine if this section should be amended. At the end of discussion, the LPA will forward a recommendation to the Commission.

LAND DEVELOPMENT CODE SEC.110-264:

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

(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.

Sec. 110-264 (b)- to build a mixed-use development you are required to allocate the lot square footage for the different uses. For example; if you own a 7200 sf lot in the Professional Office district you need to allocate 5808 sf for the single family/duplex and the remaining land of 1392 sf is the land available 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 sf x .40 FAR would allow for 556.8 sf of commercial space.

EXAMPLE:

Lot: 60ft x 120ft = 7200sf

Square Footage Required:

Single Family/Duplex = 5808 sf

Remaining sf = 1392 sf

Office -1392sf x .40 FAR = 556.8 sf

OPTIONS FOR DISCUSSION:

- Increase the FAR to .5 and it would be Consistent with the County Wide Rules
 - Create a Planned Redevelopment District (PRD) – County Wide Rules Sec. 2.3.3.17
 - Mixed Use Density/Intensity Bonus. County Wide Rules Sec 4.2.3.6
- 1. Change the FAR to .5 - would be Consistent with the County Wide Rules**
 - a. Amend the Land Development Code
 - b. Amend the Comprehensive Plan -Future Land Use Element
 - 2. Create a Planned Redevelopment District (PRD) – County Wide Rules Sec. 2.3.3.17**
 - a. Plan would need to be developed and adopted. The plan would address:
 - This category is generally appropriate to locations in close, walkable, or bikeable proximity to Activity Centers and Multimodal Corridors
 - Would allow a FAR of up to 2.0
 - The minimum size of a Planned Redevelopment District shall be ten acres in size, except as follows:
 - If geographic constraints of the jurisdiction prevent the minimum size from being achieved.
 - Comprehensive Plan and Land Development Code would need to be amended.
 - 3. Mixed Use Density/Intensity Bonus. County Wide Rules Sec 4.2.3.6**
 - a. A local government may authorize a waiver to the proportionate density/intensity allocation requirement of Section 4.2.3.3(5) as an incentive to encourage vertically integrated, transit supportive mixed-use development. This bonus may permit the full allocation of residential density and nonresidential intensity to be used, as provided for in the local government plan and/or land development regulations, for developments containing a mix of residential and nonresidential land uses within the same building. No Countywide Plan Map amendment is required to employ this density/intensity bonus, but amendments are subject to the consistency review procedures outlined in Section 3.3.1.
 - This would allow a .4 FAR for commercial based on total square footage
 - Amend Land Development Code.

AGENDA ITEM NO. 5

ADJOURNMENT SINE DIE

LOCAL PLANNING AGENCY

AGENDA ITEM NO. 6

ROLL CALL

AGENDA ITEM NO. 7

APPROVAL OF MINUTES

AGENDA ITEM NO. 8

**ORDINANCE NO. 2023-03
CT SIDE YARD SETBACKS**

INDIAN ROCKS LOCAL PLANNING AGENCY STAFF MEMO

MEETING OF: May 25, 2023 **AGENDA Item:** 8

ORIGINATED BY: Hetty C. Harmon, AICP, City Planner

AUTHORIZED BY: Brently Gregg Mims, City Manager 

SUBJECT: **Sec 110-131(5)(f)(4)(ii) – CT Side Yard Setbacks Discussion**

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 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. On April 11, 2023 the City Commission discussed and recommended that the language be clarified.

Please see attached draft amendment drafted by Randy Mora, City Attorney establishing the uniformity of the side setbacks in the CT District.

Ordinance 2023-03

AN ORDINANCE OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA, AMENDING ARTICLE III – “DISTRICT DESIGNATION AND REGULATIONS”, SECTION 110-131 – “ESTABLISHMENT OF ZONING DISTRICTS”, SUBSECTION 5- “HIGH DENSITY COMMERCIAL TOURIST ZONING DISTRICT – CT”, SUBSECTION F “SETBACK REQUIREMENTS”, IN THE CITY’S LAND DEVELOPMENT CODE; MAKING RELATED FINDINGS; PROVIDING FOR CODIFICATION, SEVERABILITY, AND FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission desires to amend the language in Section 110-131 (5) to clarify the language to ensure consistent administration in a manner that conforms to previous interpretations, and without intention to impose more restrictive land development regulations;

WHEREAS, the City Commission and the Planning and Zoning Board have each separately workshopped this issue and directed City staff to prepare an ordinance amending the land development regulations governing side setback requirements in the City’s High density commercial tourist zoning district (the “CT” District) to clarify the uniform side setback limitations for buildings exceeding a specified elevation;

WHEREAS, the City Commission finds that it is therefore in the interest of the City’s residents and visitors to adopt the regulatory provisions set forth in this Ordinance.

NOW, THEREFORE BE IT ORDAINED by the City Commission of the City of Indian Rocks Beach, Florida, that:

SECTION 1. Section 110-131 (5) (f) of the City’s Land Development Code shall be revised as follows:

- (5) *High density commercial tourist zoning district—CT.*
 - a. *Definition; purpose and intent.* The CT, [commercial tourist] district provides for various commercial tourist facilities of high density and related to both the natural assets of the city as well as the ability to provide the necessary public facilities and utilities. The CT commercial tourist district correlates with the resort facilities high (RFH) category of the countywide plan. Any use which is not specifically identified as a permitted use, accessory use or special exception use is a prohibited use. Temporary lodging use of dwellings is permitted.
 - b. *Permitted uses.* The permitted uses in the CT, high density commercial tourist district are as follows:
 - 1. Dwelling, single-family detached.
 - 2. Dwelling, two-family attached.
 - 3. Dwelling, multifamily attached.
 - 4. Hotels, motels, motor lodges.

5. Planned unit development.
 6. Churches, synagogues and other houses of worship.
 7. Bed and breakfast establishments in accordance with section 110-592.
 8. Temporary lodging uses.
- c. *Accessory uses.* The accessory uses in the CT, commercial tourist district are as follows:
1. Private garages.
 2. Swimming pools and cabanas.
 3. Other accessory uses customarily incidental to permitted or approved special exception uses.
- d. *Special exception uses.* Upon application for a special exception to the board of adjustment and city commission and favorable action thereon, the following uses may be permitted in the CT, commercial tourist district:
1. Public land and buildings.
 2. Essential services.
 3. Publicly-owned or operated parks or recreation area.
 4. Parking lots.
- e. *Minimum building site area requirements.* The minimum building site area requirements in the CT, commercial tourist district are as follows:
1. Lot size:
 - i. Single-family: 5,808 square feet.
 - ii. Two-family, duplex: 5,808 square feet.
 - iii. Multifamily: The minimum lot size for multifamily is 5,808 square feet for the first four units and 1,452 square feet for each additional unit.
 2. Minimum width: 50 feet.
 3. Minimum depth: 100 feet.
 4. Density: The maximum density is 30 units per acre for both permanent dwelling units and temporary lodging.
 5. Minimum unit size: One-story single-family dwellings shall have a minimum of 1,000 square feet of living area, exclusive of garage, carport or open spaces. Two-story single-family dwellings shall have a minimum of 1,500 square feet of living area, exclusive of garage, carport or open spaces. Duplexes, regardless of the number of floors, shall have a minimum of 850 square feet of living area, exclusive of garage, carport and open spaces. Multifamily shall have a minimum of 750 square feet of living area, exclusive of garage, carport or open spaces.
 6. Residential equivalent use shall not exceed three beds per dwelling unit with 30 dwelling units per acre.

- f. *Setback requirements.* The following minimum setbacks shall apply in the CT district:
1. Front yard setback in CT zoning is measured from the center line of the seawall. No structure or building shall be placed seaward or within 35 feet of the existing seawall, and all new seawall construction and/or seawall repair or replacement shall be permitted by the state department of environmental protection and the city. Further, all new seawall construction and/or repair shall maintain the existing seawall alignment as determined and approved by the city manager or designee and the state department of environmental protection. No city building permit shall be issued for development or redevelopment seaward of the coastal construction control line without approval from the state department of environmental protection where such approval is required by that agency.
 2. Rear yard for hotel, motel, motor lodge and multifamily:
 - i. Lots with an alley on the rear shall be setback 15 feet.
 - ii. Lots with no alley on the rear shall be setback 15 feet.
 3. Rear yard for single-family and duplex:
 - i. Lots with an alley on the rear shall be setback five feet.
 - ii. Lots with no alley on the rear shall be setback ten feet.
 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.~~
 - a. 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.
 - b. For every two feet in height above 30 feet from grade, one foot shall be added to each minimum side yard setback. This limitation shall be uniformly established, interpreted, and applied to an entire vertical building or other permissible structure, from the ground level to its highest elevation.
 - c. 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.

5. Minimum rear setback on a north/south street: 20 feet.
 6. All lots with a front, side or rear yard on Gulf Boulevard shall have a minimum of 25 feet from Gulf Boulevard.
 7. Special provision: All lots in Blocks 3 and 4, Indian Rocks Subdivision shall have a minimum setback of 15 feet from Gulf Boulevard. Generally, this area is found south of Central Avenue.
 8. Beach Trail: For purposes of this Code, Beach Trail is considered an alley.
- g. *Maximum building height.* The maximum height of pilings is ten feet. The maximum height of a building above pilings is 36 feet.
 - h. *Maximum floor area ratio.* The maximum floor area ratio in the CT—commercial tourist district is 0.50 for hotels, motels, motor lodges and non-residential uses. There is no maximum floor area ratio for single-family, duplex, or multifamily in the CT district.
 - i. *Impervious surface ratio (ISR).* The impervious surface ratio in the CT zone for hotel, motel, multifamily structures and non-residential uses is 0.70. There is no impervious surface ratio for single-family and duplex in the CT district.
 - j. *Construction on substandard lots.* A single-family home may be constructed on a lot of record existing on May 11, 1981, as a permitted use in accordance with section 110-211.

SECTION 2. For purposes of codification of any existing section of the City of Indian Rocks Beach's Code herein amended, words **underlined** represent additions to original text, words **stricken** are deletions from the original text, and words neither underlined nor stricken remain unchanged.

SECTION 3. If any section, subsection, sentence, clause, provision or word of this Ordinance is held unconstitutional or otherwise legally invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the Board of Commissioners would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

SECTION 4. The Codifier shall codify the substantive amendments to the City of Indian Rocks Beach's Code contained in Section 1 of this Ordinance as provided for therein, and shall not codify the exordial clauses nor any other sections not designated for codification.

SECTION 5. Pursuant to Florida Statutes § 166.041 (4), this Ordinance shall take effect immediately upon adoption.

ADOPTED ON FIRST READING on the ____ day of _____, 2023, by the City Commission of the City of Indian Rocks Beach, Florida.

ADOPTED ON SECOND AND FINAL READING on the ____ day of _____, 2023, by City Commission of the City of Indian Rocks Beach, Florida.

Joanne Moston "Cookie" Kennedy
Mayor-Commissioner

Deanne B. O'Reilly
City Clerk

AGENDA ITEM NO. 9

OTHER BUSINESS

AGENDA ITEM NO. 10

ADJOURNMENT