

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 12, 2021

To: Mayor & Town Council
Via: Kirk Blouin, Town Manager
From: Wayne Bergman, Director of Planning, Zoning & Building
CC: James Murphy, Paul Castro, Bradley Falco, Laura Groves van Onna,
Kelly Churney, & Craig Hauschild
Re: FEMA / Fill / Drainage Matters
Date: May 4, 2021

GENERAL INFORMATION

The issues of filling a lot, meeting FEMA regulations, the Florida Building Code minimum floor elevations, and site drainage are complex and interconnected items. To summarize some of the issues, we have an antiquated zoning code that over the last few decades has been modified with a patchwork of text amendments, each one generally adopted to deal with a specific problem. The existing zoning code and Town drainage regulations require, and incentivize, lot grades to be raised when a building floor elevation is raised. Once a new building is constructed, it must comply with FEMA and the Florida Building Code (FBC). The same compliance requirements are triggered when an existing home is renovated and the value of the renovation exceeds 50% of the building's appraised / assessed value. Therefore, all new construction and substantial renovations, for the most part, must comply with the FEMA minimum floor elevations and with the FBC.

Staff believes that the existing mandatory requirement to add fill to a lot when new construction occurs can be a problem. The additional fill many times adversely affects stormwater drainage, especially to lower lying properties. The visibility of newer homes being elevated much higher than the existing, older homes on the street, coupled with the requirement to also raise the grade of the lots creates a "jigsaw" "hodge podge" streetscape that can damage the character of neighborhoods.

One of the major reasons for the use of large amounts of fill on residential projects stems from the Town Zoning Code that mandates the placement of fill to be within 8" of the finished floor elevation. This code requirement should be amended to allow an owner to elevate a house without forcing them to fill the lot or even raise the grade. This code section is 134-898, Lot Grade Topography & Drainage – RB Districts.

BACKGROUND

Josh Martin began the effort to provide code reform to the Town in 2018. While the exact outcome of the code reform effort was not known at that time, Mr. Martin's path was to provide a work plan that was to review existing problems and to provide possible solutions. He recommended using outside firms to facilitate and to provide the planning and design expertise

throughout the code reform process. The work plan included research, community outreach through listening and education workshops, developing and then implementing a new zoning code. One of the major components of the code reform process involved a review of FEMA regulations, local fill and drainage regulations, building floor elevations, and a resiliency / vulnerability analysis.

In August of 2019, staff members Paul Castro and John Lindgren, both professional planners, made a presentation to the Town Council on how the neighborhoods of the Town are forever changing. Their research and presentation focused on two significant issues – the changing grades of residential lots and the unabated demolition of older buildings. The presentation examined how the Town could possibly address neighborhood change by dealing with the lot grade changes and demolition issues. Some of the proposed solutions included: reducing / limiting the amount of fill placed on residential lots; allowing the use of steps, terraces and landings within the required building setbacks with exceptions for lot coverage; and allowing garages below the minimum flood elevation without counting in building height requirements.

In February of last year, staff was asked to provide Town Council a list of the top ten problems with the current zoning code. The Town Council, knowing that full code reform efforts had stalled for that moment, made this request to staff. In March, 2020, staff delivered to the Town Council a memorandum that included the top eleven items, identified by staff as the biggest zoning code issues of the day. This presentation included expected costs to use planning consultants to work on each item. At the meeting, the Town Council directed staff to pursue what they deemed the most important task on the list - the FEMA / fill / drainage matter and to update the Council periodically on the progress.

The Town Council reviewed this issue and requested PZB staff to review this matter with expert assistance and to provide possible solutions to the FEMA / fill / drainage problems. The Town engaged the planning staff at Calvin Giardano & Associates to assist with the review of the FEMA and lot fill issues and to help design possible corrections. The Planning & Zoning Commission (PZC) reviewed this matter at three of its 2020 monthly meetings. Staff presented the PZC recommendations to the Town Council at their October 14, 2020 meeting. Staff also presented the issues and possible solutions to the development community during two of their department workshops held in November of 2020 and February of 2021. These two workshops reached over 100 area land use attorneys, architects, landscape designers, civil engineers, contractors and realtors.

OPTIONS TO BE CONSIDERED

The overall goal in this review is to limit the amount of fill that can be added to a lot. In listening to the comments made by Commissioners and Council members over the past year and a half, staff knows that there is an interest to place some reasonable limits on fill in the future, although the placement of fill is not viewed as a problem by everyone. In fact, staff willingly acknowledges the many of the benefits of partially filling a lot, such as elevating parking areas, minimizing or eliminating stairs, and providing clean fill for new stormwater management systems.

Staff basically came up with two potential options for limiting the amount of fill added to any lot.

OPTION A - The first option is based on a maximum amount of fill per different ranges of highest Crown of Road (COR). If the highest COR is 0' to 3', then 30" of fill can be added; if the highest COR is 3' to 5', then 24" of fill can be added; and if the highest COR is 5' to 7', then 18" of fill can be added.

This is a very prescriptive solution, and may not work in every situation on the Island, especially at very high elevations, such as the Hi-Mount Road area or along parts of the the coastal dune.

OPTION B - We then came up with a simple calculation that could determine the maximum amount of fill that could be used anywhere on the Island, which is more equitable, reasonable, can be used on any lot, and would accomplish the goals of reducing fill levels and providing adequate stormwater management. The calculation which we consider Option B is:

- Take the crown of road ("COR") measurement in front of the subject property.
- Take the minimum lowest finished floor elevation ("FFE"). Subtract the lower number from the higher number. COR – FFE or FFE – COR.
- Half of the product obtained above can be fill, the other half can be only elevated building.

$$\frac{(COR - FFE)}{2} = \text{Max Fill} \quad \text{OR} \quad \frac{(FFE - COR)}{2} = \text{Max Fill}$$

Example:

COR = 3' NAVD.

FFE = 7' NAVD.

7 (FFE) – 3 (COR) = 4.

4 / 2 = 2. Therefore, on this example 2 feet of fill could be added, by right. The additional elevation required would be accomplished by elevating the building on its stem walls.

Another example:

COR = 1.

FFE = 7' NAVD.

7 (FFE) – 1 (COR) = 6.

6 / 2 = 3. Therefore, 3 feet of fill could be added to this property, by right. The additional elevation required would be accomplished by elevating the building on its stem walls.

We reviewed this possible solution over several different areas of the Island and even contemplated some extreme situations. Wild shifts between the COR and the FFE, especially on CCCL (ocean) properties, could be mitigated by using the calculation, along with a maximum

amount of possible fill. Staff felt that using the calculation, along with a maximum prescriptive amount of fill that could be used, would resolve any unexpected anomalies. Code could be written to state that the maximum level of fill could be:

"The product of the calculation [above], not to exceed 36" of fill."

This would be the fill that would be allowed by right. Then we could have a simple waiver process to allow an owner to request more fill than is permitted by right. We could develop a set of threshold standards that an owner would demonstrate that they meet, then with proper approval another foot (12") of fill could be added to the lot. This waiver process could be handled by the Town Council, since they already review and approved special exceptions and variances.

Possible standards for the waiver process could be:

"The Town Council may approve a waiver above the maximum amount of fill described in Sec. _____. The maximum height of fill granted through the waiver shall not exceed 48 inches of total fill measured from the highest crown of road abutting the property. The following criteria shall be met to be considered for a waiver:

- 1. The applicant shall provide plans to demonstrate the following:*
 - A. Fill will be placed in a manner that will not result in additional stormwater runoff onto adjacent property or public rights-of-way; and*
 - B. Fill will be placed in a manner that will not result in significant soil erosion.*
- 2. Any waiver to provide an increase of fill approved by this section shall meet the following criteria:*
 - A. Will not cause substantial injury to the value of any other property in the neighborhood where it is to be located; and*
 - B. Will be compatible with adjoining development and the intended purpose of the district in which it is to be located; and*
 - C. Will be consistent with all relevant elements of the Town's comprehensive plan; and*
 - D. Will not result in substantial impacts on any other property in the neighborhood where it is to be located.*

If the request for fill exceeds 48 inches above the highest crown of the road abutting the property, the applicant may pursue a variance, subject to Chapter 134, Division 4, Special Exceptions, Variances, and Dimensional Waiver of the Code of Ordinances."

Another thought are possible incentives to owners who choose to not raise their lot, but only raise their home. If an owner chooses to raise only the building, or use only a minimal amount of fill, or to terrace their lot where the existing grade is maintained along the property lines, maybe the Town could offer some zoning relief, such as decreased yard setbacks or different lot coverages.

Recently, after all of this study and review of the possible ways to mitigate the fill matter, staff looked at the method in which a similar community handled the issue. The City of Miami Beach has many of the same FEMA / fill challenges as Palm Beach, being a coastal barrier island with very low ground elevations in many areas. James Murphy worked in Miami Beach for many

years and provided us with the code and calculations that Miami Beach uses to set the fill levels of lots. This city determines the “grade” and “FEMA flood elevation”, two known values at all properties, and then determines what they term “adjusted grade” based upon these two known values. Although the terminology is a bit different, the Miami Beach process matches the Option B calculation.

POLICY QUESTIONS / REQUESTS OF THE TOWN COUNCIL

Do either Option A or Option B appear to be good options to limit the amount of fill?

In reviewing Option B, do you think that regardless of the maximum fill level determined by the calculation, that there should be a maximum fill amount, set at three feet?

Would you like an ordinance drafted to implement either Option A or Option B?

Do you want to incentivize raising the floor elevation of buildings by not using fill (or very limited amounts of fill)?

Do you favor the waiver process described above to allow owners the option of obtaining up to one additional foot of fill?

Do you agree that any fill beyond 48” should be a zoning variance request?

Attached: PZC Memo, dated July 1, 2020
 PZC Memo, dated August 13, 2020
 Partial Town Council Minutes, October 14, 2020

TOWN OF PALM BEACH

Information for P&Z Meeting on: July 21, 2020

To: Planning & Zoning Commissioners

From: Wayne Bergman, Acting Director of Planning, Zoning & Building

CC: Paul Castro, Bradley Falco, Kelly Churney

Re: FEMA / Fill / Drainage Matters

Date: July 1, 2020

GENERAL INFORMATION

There is no doubt that new construction is occurring throughout the Town. As you drive down any Town road you will probably encounter a new construction project, sometimes several on the same street. It is common to witness the “Palm Beach” way of building – demo the old buildings and structures, clear the lot, throw up a screening fence and gates, add gravel out front for the contractor parking, and then begin building side and rear walls along the property lines. Why build these walls, you may ask? The reason is so that the entire lot can be filled. These are retaining walls, designed to support newly placed levels of fill. Cubic yard after cubic yard of new fill!

The issues of filling a lot, meeting FEMA and Florida Building Code minimum floor elevations, and site drainage are complex and interconnected items. Although last month’s Planning & Zoning Commission meeting focused primarily on specific zoning code requirements and the impacts of various amounts of fill placed on a lot, staff would like to provide a more comprehensive background and overview of this issue.

First, we have an antiquated zoning code that over the last few decades has been modified with a patchwork of text amendments, each one generally adopted to deal with a specific problem. The existing zoning code and Town drainage regulations require, and incentivize, lot grades to be raised when a building floor elevation is forced to be raised. Once a new building is constructed, it must comply with FEMA and the Florida Building Code (FBC). The same compliance requirements are triggered when an existing home is renovated and the value of the renovation exceeds 50% of the building’s appraised / assessed value. Therefore, all new construction and substantial renovations, for the most part, must comply with the FEMA minimum floor elevations and with the FBC.

Staff believes that the existing mandatory requirement to add fill to a lot when new construction occurs can be a problem. The additional fill many times adversely affects stormwater drainage, especially to lower lying properties. The visibility of newer homes being elevated much higher than the existing, older homes on the street, coupled with the requirement to also raise the grade of the lots creates a “jigsaw” “hodge podge” streetscape that can damage the character of certain neighborhoods.

The Town Council has reviewed this issue and has requested PZB staff to review this matter with expert assistance and to provide possible solutions to the FEMA / fill / drainage problems.

BACKGROUND

As you know, the former PZB Director, Josh Martin, began the effort to provide code reform to the Town. While the exact outcome of the code reform effort was not known, his path was to provide a work plan that was to review existing problems and to provide possible solutions. He recommended using the firms of CNU (Congress for the New Urbanism) and DPZ CoDesign to facilitate and to provide the planning and design expertise throughout the code reform process. The work plan included research, community outreach through listening and education workshops, developing and then implementing a new zoning code. One of the major components of the code reform process involved a review of FEMA regulations, local fill and drainage regulations, building floor elevations, and a resiliency / vulnerability analysis. Even though Mr. Martin left the Town’s employ earlier this year, the Town Council and staff is moving forward on this aspect of the code reform program.

In August of last year, staff members Paul Castro and John Lindgren, both professional planners, made a presentation to the Town Council on how the neighborhoods of the Town are forever changing. Their research and presentation focused on two significant issues – the changing grades of residential lots and the unabated demolition of older buildings. The presentation examined how the Town could possibly address neighborhood change by dealing with the lot grade changes and demolition issues. Some of the proposed solutions included: reducing / limiting the amount of fill placed on residential lots; allowing the use of steps, terraces and landings within the required building setbacks with exceptions for lot coverage; and allowing garages below the minimum flood elevation without counting in building height requirements.

In February of this year, staff was asked to provide Town Council a list of the top ten problems with the current zoning code. The Town Council, knowing that full code reform efforts had stalled for the moment, made this request of staff. In March, 2020, staff delivered to the Town Council a memorandum that included the top eleven items, identified by staff as the biggest zoning code issues of the day. This presentation included expected costs to use planning consultants to work on each item. At the meeting, the Town Council directed staff to pursue what they deemed the most important task on the list - the FEMA / fill / drainage matter and to update the Council periodically on the progress.

We requested and received at least three quotes from planning firms and awarded the project to Calvin Giardano & Assoc. They have been working with us on this matter for the last three months.

ISSUES TO BE ADDRESSED

Our thoughts for discussion:

- At our last meeting, we focused on the code requirement that mandates the placement of fill to be within 8" of the finished floor elevation. This code requirement should be amended to allow an owner to elevate a house without forcing them to fill the lot or even raise the grade. This code section is 134-898, Lot Grade Topography & Drainage – RB Districts.
- The Town regulations allow an unlimited amount of fill. Our thought was to set a limit on the amount of fill that could be added to a lot (18", 24" and 30" were presented). If an owner needed to add more than the maximum limit than what we would ultimately establish, that owner could pursue a waiver or variance process to receive approval for additional fill. Staff feels that it is important to limit the maximum amount of fill.
- Encourage the use of added fill to be placed only under the footprint of a home (stem wall to stem wall), or under the center of a lot and then terraced down to the existing grade at the property lines.
- Community education and/or incentives to encourage development that can minimize the use of fill, even though filled lots do accomplish the following: meeting current FEMA and FBC minimum floor elevations, minimizing steps into the building, and allowing simple stormwater drainage systems placed in the clean, added fill. Education / incentives must point owners to minimize fill in an effort to prevent adverse impacts – to low lying neighboring properties, to maintain existing natural stormwater flows between properties (such as swales), and to limit any increase to the number of elevated properties that contribute to the jagged, irregular look of the streetscape that can damage the character of the neighborhood.
- Review and propose code incentives to allow terraces, landings and steps to be constructed within yard setbacks when buildings are elevated / built at a higher elevation to meet FEMA and the FBC, without the use of added fill. By allowing these structures to be located in the setbacks, the entire building envelope area is preserved for the building.
- Assess the Town's 2" requirement for stormwater retention. While this is a great benefit to the Town and does help with flooding, is it necessary in all residential situations? Maybe the Town can treat very small lots differently by exempting the lot owners from the 2" retention requirement, possibly allowing those owners to pay into a Town drainage fund to be used for future stormwater system upgrades in their area of the Town.
- Lastly, review entire code to determine other code sections that may need to be updated to avoid conflicts.

TOWN OF PALM BEACH

Information for P&Z Meeting on: August 18, 2020

To: Planning & Zoning Commissioners
From: Wayne Bergman, Director of Planning, Zoning & Building
CC: Paul Castro, Bradley Falco, Laura Groves van Onna, Kelly Churney
Re: FEMA / Fill / Drainage Matters
Date: August 13, 2020

GENERAL INFORMATION

The existing zoning code and Town drainage regulations require lot grades to be raised when a building floor elevation is raised. Once a new building is constructed, it must comply with FEMA and the Florida Building Code (FBC). The same compliance requirements are triggered when an existing home is renovated and the value of the renovation exceeds 50% of the building's appraised / assessed value. Therefore, all new construction and substantial renovations, for the most part, must comply with the FEMA minimum floor elevations and with the FBC.

Staff believes that the existing mandatory requirement to add fill to a lot when new construction occurs can be a problem. The additional fill many times adversely affects stormwater drainage, especially to lower lying properties. The visibility of newer homes being elevated much higher than the existing, older homes on the street, coupled with the requirement to also raise the grade of the lots creates a "jigsaw" "hodge podge" streetscape that can damage the character of certain neighborhoods.

The Town Council has reviewed this issue and has requested PZB staff to review this matter with expert assistance and to provide possible solutions to the FEMA / fill / drainage problems. The Planning & Zoning Commission (PZC) has reviewed this issue at its last two meetings.

BACKGROUND

Last month I spent some time reviewing how this FEMA / fill issue was identified and discussed within the Town community. I reference my July 1, 2020 memorandum on this subject, attached hereto.

ISSUES TO BE CONSIDERED

In reviewing the comments made by Commissioners at the last two Planning & Zoning Commission meetings, we see that there is some interest among the Commissioners to place some reasonable limits on fill in the future, although the placement of fill is not viewed as a problem by everyone. In fact, staff willingly acknowledges the many of the benefits of partially filling a lot. We also see that placing an exact amount of fill as a maximum, based either on

zoning district or area of the Town, is not a complete solution and may have unintended consequences on other areas of the Town.

More specifically, at the last meeting we were considering the follow option (Option A) which is based on a maximum amount of fill per different ranges of highest COR – 0’ to 3’ highest COR = 30”; 3’ to 5’ highest COR = 24”; 5’ to 7’ highest COR = 18”.

It was in the analysis of these many issues when staff determined a possible solution. We came up with a simple calculation that could determine the maximum amount of fill that could be used anywhere on the Island, which is equitable, reasonable, can be used on any lot, and would accomplish the goals of reducing fill levels and providing adequate stormwater management. The calculation which we consider Option B is:

- Take the crown of road (“COR”) measurement in front of the subject property.
- Take the minimum lowest finished floor elevation (“FFE”). Subtract the lower number from the higher number. COR – FFE or FFE – COR.
- Half of the product obtained above can be fill, the other half can be only elevated building.

$$\frac{(COR - FFE)}{2} = \text{Max Fill} \quad \text{OR} \quad \frac{(FFE - COR)}{2} = \text{Max Fill}$$

Example:

COR = 3’ NAVD.

FFE = 7’ NAVD.

7 (FFE) – 3 (COR) = 4.

4 / 2 = 2. Therefore, on this example 2 feet of fill could be added, by right. The additional elevation required would be accomplished by elevating the building on its stem walls.

Another example:

COR = 0.

FFE = 7’ NAVD.

7 (FFE) – 0 (COR) = 7.

7 / 2 = 3.5. Therefore, 3.5 feet of fill could be added to this property, by right. The additional elevation required would be accomplished by elevating the building on its stem walls.

We reviewed this possible solution over several different areas of the Island and even contemplated some extreme situations. Wild shifts between the COR and the FFE, especially on CCCL (ocean) properties, could be mitigated by using the calculation, along with a maximum amount of possible fill. Staff felt that using the calculation, along with a maximum prescriptive amount of fill be right, would resolve any anomalies. Code could be written to state that the maximum level of fill could be:

"The product of the calculation [above], not to exceed 36" of fill."

This would be the fill that would be allowed by right. Then we could have a simple waiver process to allow an owner to request more fill than is permitted by right. We could develop a set of low threshold standards that an owner would demonstrate that they meet, then another foot (12") of fill could be added to the lot. This waiver process could be handled by the Town Council, since they already review and approved special exceptions and variances.

Possible standards for the waiver process could be:

"The Town Council may approve a waiver above the maximum amount of fill described in Sec. _____. The maximum height of fill granted through the waiver shall not exceed 48 inches of total fill measured from the highest crown of road abutting the property. The following criteria shall be met to be considered for a waiver:

- 1. The applicant shall provide plans to demonstrate the following:*
 - A. Fill will be placed in a manner that will not result in additional stormwater runoff onto adjacent property or public rights-of-way; and*
 - B. Fill will be placed in a manner that will not result in significant soil erosion.*
- 2. Any waiver to provide an increase of fill approved by this section shall meet the following criteria:*
 - A. Will not cause substantial injury to the value of any other property in the neighborhood where it is to be located; and*
 - B. Will be compatible with adjoining development and the intended purpose of the district in which it is to be located; and*
 - C. Will be consistent with all relevant elements of the Town's comprehensive plan; and*
 - D. Will not result in substantial noise, dust, glare, or odor impacts on any other property in the neighborhood where it is to be located.*

If the request for fill exceeds 48 inches above the highest crown of the road abutting the property, the applicant may pursue a variance, subject to Chapter 134, Division 4, Special Exceptions, Variances, and Dimensional Waiver of the Code of Ordinances."

A final thought for this meeting are possible incentives to owners that choose to not raise their lot, but only raise their home. If an owner chooses to raise only the building, or use only a minimal amount of fill, or to terrace their lot where the existing grade is maintained along the property lines, could the Town offer decreased yard setbacks or different lot coverages, increased CCR, etc?

SUMMARY

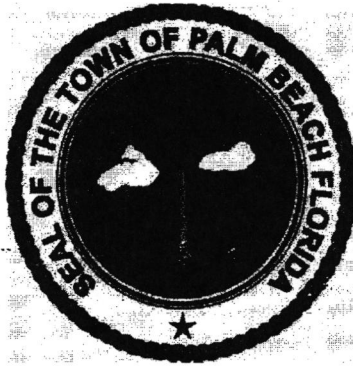
So, in summary, based upon our past meetings, the feedback for the Commission, and the goal of providing reasonable limits on the addition of fill to properties, we have the following choices:

1. Should we set prescriptive limits on the amount of fill for lots based upon the crown of road (COR), such as setting limits of 18", 24", or 30", as we discussed at our first meeting (Option A)?

OR

Should we propose a calculation that determines the maximum fill based on the COR and the FFE for each lot in any location (Option B)?

2. Should we allow a specific level of fill to be the maximum permitted by right under the zoning code, such as 36"?
3. Should we propose a waiver process to allow an owner with a unique situation and hardship to request an additional amount for fill, say up to another foot (12"), maxing out at 48"?
4. Should we determine that any fill, in excess of a certain amount, say 48", will require a zoning variance?
5. Should we review for possible amendment the Town's 2" requirement for stormwater retention and propose changes to this arbitrary requirement? While this is a benefit to the Town and does help with flooding, is it necessary in all residential situations? This stormwater regulation does not match any nationally recognized storm event, so providing this requirement does not help the Town in its Community Rating System (CRS rating). Staff believes that this requirement should be converted to a nationally recognized storm event, such as the multi-year 24 hour storm event. This review, and any proposed change, should come from the Town Engineers and Public Works Department.



TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on October 14, 2020

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order October 14, 2020 at 9:41 a.m. On roll call, all of the elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Administrative Specialist Churney gave the invocation. Council President Zeidman led the Pledge of Allegiance.

III. COMMENTS OF MAYOR GAIL L. CONIGLIO

None

IV. COMMENTS OF TOWN COUNCIL MEMBERS

Council Member Crampton reminded staff that the previous day Council had received assurance they would be provided with the unresolved issues regarding South Lake Drive marina park, and he would like an update on what would come before Council in the future.

Council President Zeidman commented regarding 800 South County Road that she had been on the prevailing side of the motion, and therefore would open the item and revisit the vote, for the following reasons: Council had been unaware and unprepared for discussion; no one who testified was sworn in; Counsel for Ms. DesRuisseaux was called to produce evidence in a late fashion. She stated this was basically an issue of notice, and in her opinion notice is the responsibility of the person receiving the notice. She pointed out that staff gave proper notice, and all procedures were followed by staff and professionals for the Town. There had been two actions in yesterday's motion (1) Whether two parties could come together and come up with a compromise, and (2) If they could not compromise, Town Council would revisit the entire situation, which was over reach. Council President Zeidman stated this was not the issue of Town

Section 134-895(1): A chimney with a height of 13.56 feet in lieu of the 8.8 foot maximum allowed; 2) Section 134-8893(11): A lot coverage of 33% in lieu of the 30% maximum allowed for a two story residence in the R-B Zoning District; 3) Section 134-1: The proposed sub-basement is under the confines of the building above it and also below the lowest grade of the public street (Hi Mount Road) in front of the lot, however, it is not completely underground. A variance is being requested to allow a proposed sub-basement where a portion is not completely underground as there is a substantial change of grade from Hi Mount Road to Lake Trail. 4) Section 134-1670(c): A height of the retaining wall along the north property line to be 11.03 at its maximum height in lieu of the 7 foot maximum allowed. 5) Section 134-1670(c): A retaining wall at the northwest corner of the house, in the side yard within 10 feet of the property line that is at 14 feet in height in lieu of the 10 foot maximum from adjacent grade. [Applicant's Representative: Maura Ziska Esq] Request for Deferral to the November 13, 2020 Meeting per Letter Dated September 29, 2020 from Maura Ziska.

Deferred to November 13, 2020 Town Council meeting

VIII. ORDINANCES

A. First Reading

1. **ORDINANCE 11-2020** An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Of Palm Beach's Comprehensive Plan By Amending The Infrastructure Element, As Well As The 10-Year Water Supply Facility Work Plan; Providing For Incorporation Of Recitals; Providing For Severability; Providing For Repeal Of Ordinances In Conflict Hereof; Providing For Codification; Providing An Effective Date.

Attorney Randolph stated that the LPA recommended approving Ordinance 11-2020. Attorney Randolph read Ordinance 11-2020 into the record on first reading by title only.

Motion made by Council Member Crampton and seconded by Council Member Moore to approve Ordinance 11-2020 on first reading by title only. Motion carried unanimously.

IX. ANY OTHER MATTERS

- A. Planning and Zoning Commission Record and Report: Proposed Modifications and Changes to Chapter 134 Zoning, Regarding Lot Fill, Mechanical Equipment and Off-Site Supplemental Parking.

Zoning Manager Castro introduced the item regarding lot fill.

Robert Collins, Calvin Giordano & Associates, addressed the issues regarding fill on residential lots and the impact to the neighborhood and

relationship to the street. He discussed the options presented to the Planning and Zoning Commission as well as showed examples of different methods to handle the reduced amounts of fill. He showed the Commission two different ways to calculate the maximum allowable fill.

Sarah Sinatra, Calvin Giordano & Associates, discussed the waiver process for fill requirements which would require Town Council approval. She commented on the potential to reduce amounts of fill by terracing.

Mr. Castro explained that changes would need to be made to the current code to allow terracing and other options. Code changes would provide for availability to do these things without penalizing the property owner or the architect. He asked for direction from Town Council.

Council Member Crampton inquired how this would work when presenting it to the Commissions. Mr. Castro responded criteria would be worked out by staff ahead of the variance presentations. He described the difference between the two approaches. Staff preferred choice B.

Council President Pro Tem Lindsay suggested a special workshop to promote understanding.

Mayor Coniglio wanted the policy to be simple and consistent, and include the waiver option, and suggested including the architects and construction professionals in discussions.

Council Member Araskog preferred choice B. She asked if landscape requirements would be changed. Mr. Castro responded that was not yet known. He answered her question regarding water retention and fill, and agreed stairs could be problematic.

Consensus of Council was that staff was heading in the right direction.

Council President Zeidman called for public comment.

Jorge Sanchez, 239 Southland Road and President of SMI Landscaping, thought this solution added to the patchwork done on the code and thought the architects should design the home to compliment the land. He thought the issue warranted a lot of study.

Amanda Skier, Preservation Foundation of Palm Beach, spoke about the issue and thought it was important for the Town character. She was in favor of the workshop idea. She added that the Preservation Foundation would support the item in wherever they could.

Mr. Castro introduced the item regarding mechanical equipment.

Sections of the code regarding equipment were re-written for simplification and recommended by the Planning and Zoning Commission. He explained how this would affect other code provisions.

Council Member Araskog confirmed with Mr. Castro this would not be retroactive, and asked about screening. Mr. Castro responded.

Council Member Crampton thought the code was improved and much easier to navigate. Zoning Manager Castro explained the options if a neighbor tore down the wall screening pool equipment. Council Member Crampton favored the option where if your neighbor tore down his wall and caused a situation, you would have to replace the wall.

Mayor Coniglio agreed with Council Member Crampton with the wall. She wanted to confirm that cumulatively, the collective amount of equipment would meet the decibel level requirement.

Council Member Moore asked if the location of pool equipment was grandfathered, Zoning Manager Castro indicated it was, and that also applied to A/C.

Mr. Castro discussed the issue of generators.

Council Member Araskog thought a size limitation should be placed on generators for certain sized lots.

Council Member Crampton inquired about the 60 kW requirement. Mr. Castro responded.

Consensus of Council was for staff to proceed with drafting an ordinance on mechanical equipment changes.

Mr. Castro discussed the issue of shared parking. He reported the Planning and Zoning Commission favored allowing off-site supplemental parking only within underground parking structures, limited to 33% of the inventory of each specific parking lot and sunset in 3 years unless Council decided to change or extend it

Council Member Araskog expressed concern for Royal Palm Way and thought the discussion should take place when more residents were in Town and should include a sunset clause.

Council Member Crampton thought the Town had a parking management problem and was in favor of allowing parties to come up with a partnership on their own, and bring the agreement to the Town. He was also in favor of a sunset clause.

Council President Pro Tem Lindsay favored proceeding, but cautioned to think about lots near the marina.

Mayor Coniglio asked whether the town got involved in these agreements. Mr. Castro responded.

Discussion ensued.

Council Member Moore inquired if this had been tried on a lot on Peruvian Avenue.

Council President Zeidman stated that the parking committee needed to

be updated as they would be working on this issue.

Council President Pro Tem Lindsay would like to use 440 and 450 Royal Palm Way as the test case for the marina.

Jay Boodheshwar, Deputy Town Manager, provided the reason as to why the issue was being brought forward to the council.

Council Member Araskog cautioned to be careful about allowing parking close to residents at night.

Council Member Moore commented to be careful with effects on residents but if someone bought a house next to a parking lot they should expect it to be used.

Please note: A short break was taken on 5:20 p.m. The meeting resumed at 5:49 p.m.

B. Possible Additional Landmark Incentives

Laura Groves van Onna, Historic Preservation Planner, presented potential Landmark incentives and exemptions for Landmarks properties.

Attorney Randolph discussed alternative development standards which would relieve someone from having to have to file for a variance.

Council Member Crampton commented he would fully support the request.

Council Member Araskog inquired if Town Council would want ORS to review the items. There was not a consensus to send to ORS. Council Member Araskog believed further study was important to avoid unintended consequences.

Mayor Coniglio asked Attorney Randolph if the incentives outlined would create a legal hardship as long as notice was provided. Attorney Randolph explained how the incentives could be expanded by staff.

Consensus was staff should work on this and bring it back to the Town Council.

Public Comments

Amanda Skier, Preservation Foundation of Palm Beach, thanked Wayne Bergman and Laura Groves van Onna for working with them on this issue.