

TOWN OF PALM BEACH

REVISED MEMORANDUM

Information for Town Council Meeting on: June 9, 2021

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

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

Re: FEMA / Fill – Status and Suggestions - REVISED

Date: June 7, 2021

GENERAL INFORMATION

The issues of filling a lot, meeting FEMA regulations, the Florida Building Code minimum floor elevations, and site drainage regulations 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 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. These codes can be found in the Lot Grade Topography & Drainage sections - 134-797 (R-A district); 134-847 (R-AA district); and 134-898 (R-B district).

BACKGROUND

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 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.

The matter and options were presented to the Town Council last month. Direction was provided to staff to draft the required code changes necessary to implement Option B (FEMA floor elevation minus Crown of Road elevation, divided by 2). The Town Council also provided direction on a number of questions relating to the fill matter and how the zoning code was to be amended.

Last week PZB staff was advised of the preliminary recommendations that will be provided by the Woods Hole Group as part of the new “Level-Up Palm Beach – A Coastal Resilience Implementation Plan”. PZB staff will need to work closely with Public Works staff to make sure that the code amendments do not conflict with, and fully support, the Woods Hole implementation plan. We are also asking if Woods Hole may be able to review and advise PZB staff on the fill matter, and provide suggestions to improve the program.

UPDATE

Staff is working on a review of the zoning code to identify text changes that will be needed to implement Option B to set limits on the amount of fill that can be added to a lot. Care needs to be taken to permit encroachments of terraces, steps and landings in yard setbacks. We also need to verify any fill limitations does not conflict with the Woods Hole Plan. This review could take a couple of months to complete.

We have reviewed various options for the Town Council to consider at this time, including “waiving” the current code provisions, declaring a Zoning In Progress of the matter of fill, or adopting an emergency ordinance to cap the fill limits while the complete ordinance is being drafted. None of these options are a good solution, and all of these options can result in unintended consequences, meaning additional variances or noncompliant development projects. Staff hopes that Public Works and Woods Hole can join us to review the work done to date and to provide a fill solution that is best for the residents of the Town.

WRB