

TOWN OF PALM BEACH

Information for Local Planning Agency and Town Council Meeting on:
August 11, 2021

To: Local Planning Agency and Mayor and Town Council

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

Re: Proposed Ordinance Limiting Fill on the Development of Property.
Ordinance No. 19-2021

Date: July 29, 2021

STAFF RECOMMENDATION

Staff recommends that the Local Planning Agency recommend and Town Council approve attached Ordinance No. 19-2021 on first reading.

BACKGROUND

As previously stated, 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 storm water 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).

The Town Council reviewed this issue and requested PZB staff review this matter with expert assistance and 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 on May 12, 2021. Direction was provided for 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.

The proposed Ordinance (Ordinance No. 19-2021) was provided to the Woods Hole Group to review to ensure that there were no inconsistencies related to their recommendations as part of the new “Level-Up Palm Beach – A Coastal Resilience Implementation Plan”. Proposed Ordinance No. 19-2021 reflects changes that were made as a direct result of their input, including referencing Chapter 18 in the recommended changes to height definitions; using the lowest “habitable” floor rather than the lowest finished floor in the fill calculations; and eliminating the requirement of a maximum of 3 feet of fill that would hinder the average fill calculation on the much lower streets. The proposed Ordinance also provides for flexibility related to the minimum landings, ramps, terraces, steps and porches necessary to enter the buildings when limiting fill on properties. Lastly, the proposed Ordinance provides for the Option B formula for limiting fill base on the average of the distance between the highest crown of road in front of the lot and the lowest habitable floor of the building. The proposed Ordinance is attached in add/delete format for your consideration.

TOWN ATTORNEY REVIEW

Ordinance No. 19-2021 has been approved by Town Attorney John C. Randolph for legal form and sufficiency.

cc: Kirk Blouin, Town Manager
Jay Boodheshwar, Deputy Town Manager
James Murphy, Asst. Director of Planning, Zoning and Building
John C. Randolph, Town Attorney
Paul Castro, Zoning Manager