



# AGENDA ITEM REQUEST FORM

**Development Services**

**Jeff Bowman**

Department Submitting Request

Department Director *[Signature]*

**REGULAR**  
**COMMISSION MTG**

**Meeting Dates - 7:00 PM**

- Jan 25, 2011
- Feb 22, 2011
- Mar 22, 2011

**DEADLINE TO**  
**Town Clerk**

- Jan 14 (5:00 pm)
- Feb 11 (5:00 pm)
- Mar 11 (5:00 pm)

\*Subject to Change

**ROUNDTABLE**  
**MEETING**

**Meeting Dates - 7:00 PM**

- Jan 11, 2011
- Feb 8, 2011
- Mar 8, 2011

**DEADLINE TO**  
**Town Clerk**

- Dec 30 (5:00 pm)
- Jan 28 (5:00 pm)
- Feb 25 (5:00 pm)

- |                                       |   |                                       |  |
|---------------------------------------|---|---------------------------------------|--|
| <input type="checkbox"/> Presentation | <input type="checkbox"/> Reports        | <input type="checkbox"/> Consent      | <input type="checkbox"/> Ordinance               |
| <input type="checkbox"/> Resolution   | <input type="checkbox"/> Quasi Judicial | <input type="checkbox"/> Old Business | <input checked="" type="checkbox"/> New Business |

**SUBJECT TITLE: Resolution 2011-01, Notice of Intent (Exhibit "A"), addressing proposed Amendments to the Land Development Code Regarding Conditional Uses, Development Review Procedures, Generator Regulations, Notice of Intent (NOI) Process, Regulations of Walls and Fences, Architectural Standards and Review Criteria, and Wine Bars.**

**EXPLANATION:** All proposed development regulations are subject to the Notice of Intent procedures of Section 531 of the Town Code. Following review by the Commission at its January 11, 2011 Roundtable meeting, Staff has prepared a Notice of Intent (NOI) and adopting Resolution addressing: 1) Conditional Uses; 2) Development Review Procedures; 3) Generator Regulations; 4) Notice of Intent Process; 5) Regulations of Walls and Fences; 6) Architectural Standards and Review Criteria; and 7) Wine Bar uses. These subjects are intentionally stated in a general manner, based on past experiences where a more precise statement of the proposed changes in NOIs prevented us from addressing additional needed revisions to the Code that emerged through the ordinance drafting, Commission review and public hearing process.

At this time, the specific changes being contemplated to these regulations include the following, and any inter-related sections of the Land Development Code:

**1. Amend Section 30-261 and 30-271 to include Conditional Uses within the Business Districts.**

**Explanation:** While amending the Code to expand uses within the Business Districts (Ordinance 2010-15), and through additional research and analysis, several uses have been identified for possible inclusion in the Business Districts as "Conditional Uses." "Conditional Uses" were outside the scope of the Permitted Business Uses Notice of Intent which governed Ordinance 2010-15, and staff was directed to bring back the changes at a later time under a new Notice of Intent.

**2. Amend Chapter 30, Unified Land Development Code to address Conditional Use procedures, and possibly to revise other development review procedures.**

**Explanation:** There is no uniform approach to Conditional Use approvals and the concept is described in different ways in different parts of the Code. Staff and the Town Attorney recommend creating conditional use procedures in one section of the code that would apply to all conditional use approvals, with clear processes and criteria. This will eliminate redundancy and provide clarity. The scope of the change may include synthesizing conditional use procedures referenced in various sections of Chapter 30 (i.e. passive recreational rooftops, sidewalk cafés, and drive-through), and ideally providing one set of procedures in a



centralized location. (Staff and the Town Attorney intend to examine whether variations on the process and criteria for different uses would be advisable.) If changes are recommended, they would be proposed as part of this NOI with conflicts in the existing Code highlighted for policy guidance by the Commission.

3. **Amend Section 30-313 to increase the allowable size of fuel storage tanks for generators within the Multi-family and Business Districts.**

**Explanation:** The current code limits the size of generator fuel tanks to 250 gallons. Florida Statute 553.509 requires multi-family dwellings 75 ft or taller and containing a public elevator to provide an alternate power source for emergency lighting, fire alarms and elevator service over a five day period following a natural disaster. Staff has received information indicating that a 250 gallon tank is not sufficient for large multi-family or commercial buildings to be able to meet the requirements of the statute. Therefore, the Town's code needs to be amended to reflect the statutory requirements for larger buildings. Review will include staff evaluation for potential revisions to the buffering or aesthetic requirements for such tanks.

4. **Amend Article IX, Notice of Intent of Land Development Regulations, Section 30-531.**

**Explanation:** The Notice of Intent (NOI) section provides an administrative procedure for notifying the public and the development community when the Town undertakes changes in the land development regulations. This ordinance was adopted in 2000, and requires the Town to pass a resolution stating the Town's intent to propose amendments to land development regulations, which is customarily opened for public comment. The Code also requires that a public hearing be held on the resolution at the Town Commission meeting following its adoption, that the Town post the Notice of Intent at Town Hall and at Development Services, and that the Town then create, review, and adopt an ordinance within the prescribed time frames of the NOI. If there are additional recommendations beyond the scope of the NOI, then the Code requires a new NOI be drafted and the process repeated. If the timeframe for adoption is delayed or accelerated beyond the prescribed timeframe, then the NOI must be amended by the Town Commission.

Enacting a change to a land development regulation subject to this process can add two (2) months to the three (3) months it otherwise takes to follow minimum statutory procedures. Amending or repealing the land development regulations pursuant to state statute involves a minimum of a public hearing before and recommendation by the Planning and Zoning Board and two readings of an Ordinance by the Town Commission, at least one of which must involve a public hearing. Thus, the statutory process allows the public the opportunity to learn about the change and provide their input at three (3) public meetings. The NOI process allows for public input at an earlier point in the process than does the statutory procedure but, at this stage, the proposed change is normally not well-defined.

This item was discussed at the December 14<sup>th</sup> Commission meeting and the Town Commission directed that Staff and the Town Attorney look at options for modifying the NOI procedure. Because the NOI procedure is itself a land development regulation, this change is being taken through the NOI process. Revising or repealing the NOI procedures would provide greater flexibility in the timing of the adoption process and also allow the Town Commission or Planning and Zoning Board to table or continue discussion of an ordinance to another meeting or to a workshop, before it is passed, without violating or needing to modify the Notice of Intent. The Town could also consider altering the scope of the process, so that less significant changes are exempted from the process or can move through it more quickly.



5. **Amend Section 30-313 regarding fencing and cement or concrete walls.**

**Explanation:** The Code's requirements pertaining to concrete walls were discussed at the December 7<sup>th</sup> Commission meeting, with direction to send the subject to the Planning and Zoning Board to consider the types of finishes and decorative features that could enhance the attractiveness of such walls. Additionally, this section of the Code requires that all fences have the finished side facing out. If a property owner's neighbor has an existing fence or hedge along their property, it is not possible to erect an abutting fence with the finished side out. This issue also needs to be addressed.

The Commission also raised the issue of required wall and fence heights for further examination. Addressing the Commission's request for a history of actions addressing fences and walls, Attachment B provides the prior Ordinance sections (Ordinance No. 2009-10) addressing Fences and Walls, the minutes from the Commission Meetings of January 13, 2009 (Workshop), April 14, 2009, and July 28, 2009 where fences and walls were discussed by the Commission, the December 7, 2010 Commission item addressing the matter and a November 25, 2010 email addressing the issue. Below is a summary of the section of 2009-10 related to fences and walls and the related discussions at each meeting:

1. January 13, 2009: Commission reviewed proposed Ordinance No. 2009-10 and discussed the applicability of the Florida Building Code to assure that fences would be properly constructed. The Commission also discussed chain link fences and hedge height.
2. April 14, 2009: The Commission conducted first reading and discussed several aspects of Ordinance 2009-10 but did not address fences and walls.
3. July 28, 2009: The Commission adopted Ordinance 2009-10 after discussion. Discussion did not include any issue related to walls and fences.
4. Ordinance 2009-10, addressed, in part, fences and walls. The ordinance did not revise the 25% open air circulation language of (4)b. However the Ordinance revisions did:
  - a. Require that fences and walls comply with the Florida Building Code;
  - b. Delete a provision allowing solid fences and walls without air circulation up to four feet in height on RS-5, RD-10 and RM-25 zoned properties.
  - c. Require that concrete and cement walls be stuccoed, finished, and painted;
  - d. Require a 30 foot clear site triangle be provided at the corner of residential properties.
5. November 25, 2010: An e-mail was sent to the Commission by staff outlining El Dorado Club's desire to continue/extend their existing wall and the conflict with the Town's Code of Ordinances.
6. December 27, 2010: Agenda item submitted to repeal Section 30-313 (4) (b). Agenda item was to address a permitting issue with an existing concrete wall at the El Dorado Club (1470 S Ocean Blvd). The Commission provided direction to send the item to the Planning and Zoning Board.

6. **Amend Section 30-9 and Section 30-124 (15) Architectural Standards and Review Criteria.**

**Explanation:** The Town's Master Plan contains many recommendations regarding architectural design elements that are not referenced in the LDR's and, in some cases, are contradictory to what is contained in the LDR's. In addition, there are provisions in the Code for an Architectural Review Board which does not exist. Over the next several months, the Town is bringing in a series of speakers to talk to us, our residents and business owners about design considerations and, from that process, it is expected that a desire to rewrite the architectural standards and review criteria will emerge. We believe it advisable to have an NOI in place that authorizes us to proceed with such a review while the public interest is engaged. The intent of the NOI would be to revise and better define the Town's architectural design standards, and the manner in which they are reviewed and applied.



7. **Amend Section 30-261 and Section 30-271 to provide for Wine Bars within the Business Districts.**

**Explanation:** At its January 11, 2011 Roundtable, the Commission directed staff to evaluate the impacts and feasibility of providing for wine bar uses within either of the Business Districts. The intent of this NOI is to provide the opportunity for staff to research the feasibility, optimal regulatory framework, and impacts of providing for these uses in some way within the Business Districts and provide for input from the community and Planning and Zoning Board. Staff will also evaluate whether changes to the alcoholic beverage regulations in Chapter 3 are needed related to any proposed changes (not a land development regulation).

The proposed enactment period is lengthy, so that ample time is provided for public input and the Town is not constrained by short time limits for adoption. The enactment periods have been written so that the revisions can be adopted anytime within the time periods described and that multiple ordinances on a general topic can be brought forward for adoption.

**RECOMMENDATION: Approval of Resolution 2011-01. If approved the public hearing for the NOI will be scheduled for the February 22, 2011 Commission meeting.**

- EXHIBITS:**
- A. Notice of Intent
  - B. History of Recent Code Changes for Fence and Wall Regulations
    - a. Ordinance 2009-10 in part.
    - b. Minutes January 13, 2009 Workshop
    - c. Minutes April 14, 2009
    - d. Minutes July 28, 2009
    - e. December 7, 2010 Commission materials
    - f. November 25, 2010 email

Reviewed by Town Attorney  
 Yes     No

Town Manager Initials CA

RESOLUTION NO. 2011-01

1           **A RESOLUTION OF THE TOWN COMMISSION OF THE**  
2           **TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA**  
3           **PROVIDING FOR ISSUANCE OF A NOTICE OF INTENT**  
4           **CONCERNING PENDING LAND DEVELOPMENT**  
5           **REGULATIONS**  
6

7           **WHEREAS**, Section 30-531 of the Code of Ordinances of the Town of Lauderdale-By-  
8 The-Sea (the "Code") provides for a procedure for the public and the development community to  
9 be notified of changes to the Town's land development regulations through the issuance of a  
10 notice of intent of pending land development regulations; and

11           **WHEREAS**, pursuant to Section 30-531(b) of the Code, the Town Commission shall  
12 authorize the investigation, study, development, drafting and consideration of all proposed  
13 amendments to the Town's land development regulations, and related comprehensive plan  
14 amendments; and

15           **WHEREAS**, the Town Commission, in the process of revising the permitted uses in  
16 business districts in Ordinance 2010-15, identified uses for possible inclusion in the business  
17 districts as "Conditional Uses" which require issuance of a notice of intent pursuant to Section  
18 30-531(h) of the Code; and

19           **WHEREAS**, there is a need to provide a uniform approach to Conditional Use  
20 procedures and possibly to revise other development review procedures as needed; and

21           **WHEREAS**, an evaluation of the size of fuel storage tanks for generators within the  
22 Multi-family and Business Districts should be conducted to ensure the ability of facilities to  
23 comply with Florida Statutes; and

24           **WHEREAS**, the Town Commission has directed that the Notice of Intent procedures be  
25 reviewed to provide notice to the public while streamlining the Land Development Code

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26 amendment process and providing flexibility in the adoption process to accommodate research  
27 and public input; and

28         **WHEREAS**, the Town Commission has directed a review of regulations addressing  
29 Walls and Fences; and

30         **WHEREAS**, the Town is working with Town residents and businesses and design  
31 professionals to develop a vision for the future of the Town; and

32         **WHEREAS**, revision of the architectural standards and review criteria to address this  
33 vision and achieve consistency between the Town’s Master Plan and Land Development  
34 Regulations is being considered; and

35         **WHEREAS**, the Town Commission desires to study the potential for, and impacts of,  
36 providing for wine bar uses in certain zoning districts; and

37         **WHEREAS**, Section 30-531(f) of the Code provides for posted written notice of the  
38 pending amendments; and

39         **WHEREAS**, pursuant to Section 30-531(d) of the Code, the Town Commission shall  
40 hold a public hearing at the next Commission meeting following issuance of a notice of intent,  
41 and by majority vote shall either approve or disapprove the further processing of the proposed  
42 amendments.

43         **NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF**  
44 **THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA:**

45         **SECTION 1. Authorization.** Pursuant to Section 30-531 of the Code of Ordinances,  
46  
47 the Town Commission authorizes the investigation, study, development, drafting and  
48 consideration of the proposed comprehensive plan amendments, as described in the Notice of  
49 Intent of Pending Comprehensive Plan Amendments attached hereto as Exhibit “A.”

50           **SECTION 2. Effective date of notice.** The Town Commission hereby finds that the  
51 effective date of the Notice of Intent of Pending Land Development Regulations shall be January  
52 25, 2011.

53           **SECTION 3. Public hearing.** The Town Commission shall hold a public hearing  
54 concerning the Notice of Intent of Pending Land Development Regulations on February 22,  
55 2011, and approve or disapprove of the further processing of the proposed regulations.

56           **SECTION 4. Effective date of resolution.** This Resolution shall become effective  
57 immediately upon passage and adoption.

58           **PASSED AND ADOPTED** this \_\_\_\_\_ of \_\_\_\_\_, 2011.

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MAYOR ROSEANN MINNET

ATTEST:

\_\_\_\_\_  
June White, Town Clerk

Approved as to form:  
  
\_\_\_\_\_  
Susan L. Trevarthen, Town Attorney

**Exhibit "A"**

**Notice of Intent of Pending Land Development Regulations**  
**Effective January 25, 2011**

**1. Statement of Purpose:** In accordance with Section 30-531 of the Code of Ordinances, the Town hereby issues this **Notice of Intent** to notify the public of proposed changes to the land development regulations of Chapter 30 of the Code of Ordinances ("Code"). Upon Town Commission approval of the further processing of the proposed regulations, the amendments will be scheduled for hearing and adoption by ordinance.

**2. Description of Proposed Amendments to Chapter 30 "Unified Land Development Regulations" of the Code of Ordinances:**

- a. Amending Section 30-261 and Section 30-271 to include Conditional Uses within the Business Districts.
- b. Amending Chapter 30 to address Conditional Use procedures and possibly to revise other development review procedures as needed.
- c. Amending Section 30-313 to increase the allowable size of fuel storage tanks for generators within the Multi-family and Business Districts and address additional regulations related to generators.
- d. Amending Article IX, Notice of Intent of Land Development Regulations, Section 30-531 to streamline the Land Development Code amendment process and provide flexibility in the adoption process.
- e. Amending Section 30-313 regarding fencing and cement or concrete walls.
- f. Amending Section 30-9 and Section 30-124 (15) Architectural Standards and Review Criteria.
- g. Amending Section 30-261 and Section 30-271 to provide for wine bars within the Business Districts.
- h. Amending any code sections relating to the above referenced issues and sections as necessary to address the subject matter.

**3. Projected Time Frame for Adoption of Regulations and Plan Amendments:**

- |   |   |
|---|---|
| a. Public Hearing and Town Commission Approval to Proceed with Proposed Amendments: | <u>February 22, 2011</u>                |
| b. Planning and Zoning Board Meetings:  | <u>February, 2011 – September, 2011</u> |
| c. Adoption of Ordinances   | <u>February, 2011 – September, 2011</u> |

**4. Application of Pending Regulations:**

The proposed regulations shall become effective and applicable to development within the Town following second reading and adoption by ordinance.

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**Requested Back-up From The Round Table  
Meeting on January 11, 2011**

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## **Ordinance 2009-10**

**(Staff only included the section related to fences and walls)**

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AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY THE SEA, FLORIDA, AMENDING CHAPTER 30 "UNIFIED LAND DEVELOPMENT REGULATIONS," ARTICLE I "IN GENERAL," SECTION 30-21 "NON-CONFORMING USES AND STRUCTURES" TO AMEND REQUIREMENTS FOR CONTINUATION OF NON-CONFORMING USES AND STRUCTURES; AMENDING ARTICLE IV "SITE PLAN PROCEDURES AND REQUIREMENTS," SECTION 30-123 "APPLICATION FOR FINAL SITE PLAN APPROVAL" TO CLARIFY THE REQUIREMENTS FOR AN APPROVED SITE PLAN TO REMAIN EFFECTIVE; AMENDING ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-211 "RS-5 DISTRICT—RESIDENCE" TO AMEND ROOF OVERHANG SETBACK REQUIREMENTS IN THE RS-5 DISTRICT; AMENDING ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-261 "B-1-A DISTRICT-BUSINESS" IN ORDER TO PROVIDE THAT BEAUTY SCHOOLS AND HAIR SALONS ARE PERMITTED USES IN THE B-1-A DISTRICT; AMENDING ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-271 "B-1 DISTRICT- BUSINESS" IN ORDER TO PROVIDE THAT COOKING SCHOOLS, CATERING BUSINESSES, MOTORIZED SCOOTER OR MOPED SALES AND RENTALS, AND BEAUTY SCHOOLS AND HAIR SALONS ARE PERMITTED USES IN THE B-1 DISTRICT; AMENDING ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-313 "GENERAL PROVISIONS" IN ORDER TO AMEND THE REQUIREMENTS FOR FENCES, WALLS, AND HEDGES AND TO PROVIDE DEVELOPMENT STANDARDS FOR DRIVEWAYS, SWALES, AND GENERATORS; FURTHER AMENDING ARTICLE VIII "SIGN REGULATIONS," SECTION 30-507 "DEFINITIONS AND RESTRICTIONS BY SIGN TYPE," TO AMEND THE DEFINITIONS OF "SIGN," "INFORMATIONAL, DIRECTIONAL OR TRAFFIC CONTROL SIGN," AND "REAL ESTATE SIGN"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

**ORDINANCE 2009-10**

47           **WHEREAS**, the Town Commission recognizes that changes to the adopted Code  
48 of Ordinances are periodically necessary in order to ensure that the Town's land  
49 development regulations are current and consistent with the Town's planning and  
50 regulatory needs; and

51           **WHEREAS**, the Section 30-21 of the Code of Ordinances addresses the  
52 requirements for continuance of a legal non-conforming use or structure; and

53           **WHEREAS**, the Town Commission desires to clarify the requirements for  
54 continuation of a legal non-conforming use or structure within the Town in accordance  
55 with sound planning principles; and

56           **WHEREAS**, Section 30-123 of the Code of Ordinances requires a property owner  
57 who has obtained site plan approval to secure a building permit within a specified period of  
58 time; and

59           **WHEREAS**, the Code of Ordinances does not currently describe the scope of the  
60 building permit that is required to be secured; and

61           **WHEREAS**, the Town Commission has determined that the Code of Ordinances  
62 should expressly require that a building permit for an above-ground principle structure shall  
63 be obtained within a specified period of time in order to keep a site plan active; and

64           **WHEREAS**, Section 30-211(c) of the Code of Ordinances imposes setback  
65 requirements in the RS-5 residential zoning district; and

66           **WHEREAS**, the Town Commission has determined that roof overhangs in the RS-5  
67 district can be allowed to partially encroach in the setback areas, while maintaining the  
68 integrity of the setback area; and

**ORDINANCE 2009-10**

69           **WHEREAS**, the Town Commission has determined that one of the two identical  
70 provisions regarding rear setbacks within Section 30-211(c) of the Code of Ordinances ,  
71 should be eliminated; and

72           **WHEREAS**, the Town Commission has determined that it is in the best interest of  
73 the Town to amend Section 30-261 of the Code of Ordinances to provide that beauty  
74 schools and hair salons shall be permitted uses within the B-1-A Business district; and

75           **WHEREAS**, the Town Commission has determined that it is in the best interest of  
76 the Town to amend Section 30-271 of the Code of Ordinances to provide that cooking  
77 schools, catering businesses, motorized scooter sales or moped sales and rentals, beauty  
78 schools and hair salons shall be permitted uses within the B-1 Business district; and

79           **WHEREAS**, the Town Commission has determined that regulations regarding  
80 swale plantings and maintenance within the RS-4, RS-5 and RD-10 zoning districts should  
81 be adopted to ensure that the swales fulfill their functions of facilitating storm water  
82 drainage, safe pedestrian and vehicular travel, and aesthetic benefits; and

83           **WHEREAS**, the Town Commission has determined that regulations regarding  
84 driveways in the RS-4, RS-5, and RD-10 zoning district should be provided to prohibit  
85 gravel driveways within these districts, and that driveways in these districts shall be  
86 constructed of non-asphalt pavement such as concrete, pavers, stamped concrete, and brick  
87 or other material as approved by the Town Commission; and

88           **WHEREAS**, the Town Commission has determined that appropriate setbacks for  
89 mechanical and plumbing equipment should be adopted for all zoning districts within the  
90 Town; and

**ORDINANCE 2009-10**

91           **WHEREAS**, the Town Commission recognizes that regulations of standby  
92 generators and accessory fuel tanks are necessary in order to maintain the health, safety, and  
93 aesthetic appeal of the community, while ensuring that such generators and storage tanks are  
94 available to serve residents' emergency needs; and

95           **WHEREAS**, the Town Commission has determined that amendments to certain  
96 sign-related definitions are necessary in order to update and clarify the Town's sign  
97 regulations; and

98           **WHEREAS**, the Planning and Zoning Board, sitting as the Local Planning  
99 Agency, has reviewed this Ordinance at a duly noticed hearing on March 18, 2009, and  
100 recommended its approval; and

101           **WHEREAS**, the Town Commission has reviewed this Ordinance at a duly  
102 noticed hearing and determined that it is consistent with the City's comprehensive plan;  
103 and

104           **WHEREAS**, the Town Commission hereby finds and declares that adoption of  
105 this Ordinance is necessary, appropriate, and advances the public interest.

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107 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**  
108 **TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, THAT:**

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110           **SECTION 1.** The preceding "Whereas" clauses are ratified and incorporated as  
111 the legislative intent of this Ordinance.

112           **SECTION 2.** Article I "In General," Section 30-21 "Non-conforming uses and  
113 structures," is amended to read as follows:

ORDINANCE 2009-10

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These general provisions, ~~whether specifically alluded to in any of the above districts or not,~~ shall govern the zoning of all districts development within the corporate limits of the Town, as follows:

\* \* \* \* \*

(4) *Height [and location] of fences, walls, hedges.*

~~a. The maximum height of any fence or wall that is constructed with louvered panels, wire or other composition of materials that permit air circulation is shall be six (6) feet in residential zoning districts, except where the fence or wall abuts property with business zoning, in which case the maximum height is eight feet. A fence or wall permits air circulation when the type of material utilized for construction is positioned so as to maintain a minimum of three quarters of an inch between horizontally or vertically positioned panels or boards. The panels or boards shall not exceed six inches in width, irrespective of whether or not a shadow box design is utilized. All fences and walls shall comply with the Florida Building Code.~~

b. Cement or concrete walls are prohibited except when the design and construction provides for not less than 25 percent of the area of said wall to be constructed with decorative brick and provide openings to permit air circulation. All concrete and cement walls shall be stuccoed, finished, and painted.

~~e. Solid fences or walls which do not permit through air circulation shall not to exceed a height of four feet in RS-5, RD-10 and RM-25 zoned property.~~

~~e. c.~~ No fences or walls shall be constructed within 25 feet of the front property line or within ~~ten feet of any public right-of-way~~ thirty feet (30') clear site triangle at the corner of the property on residential lots.

~~f. d.~~ The height of fences, walls, hedges or plantings of whatever composition shall be measured from the natural contour of the ground adjoining lots.

~~g. e.~~ Hedges. A hedge is defined as any grouping of plants or bushes placed so close together so as to obscure visibility. All hedges shall be planted and maintained by property owners within the property lines and shall not encroach into the adjacent properties or right-of-way (ROW). The height of a hedge shall be maintained not to exceed twelve (12) feet in all zoning districts.

~~h. f.~~ No walls, fences, hedges or plantings shall be planted or maintained to a height exceeding thirty (30) inches above the crown of the roadway within sight visibility

ORDINANCE 2009-10

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triangles: within twenty-five (25) feet of the intersection of the front and side street property lines, within ten (10) feet of any driveway, within ten (10) feet from the intersection point of the edge of a driveway and alley or street, and within fifteen (15) feet from the intersection point of the extended property lines at an alley and a street.

i. Chain link fences shall be completely hidden from view when viewed from any portion of the right-of-way in RS-5, RD-10 and RM-25 zoned property.

~~j.~~ g. Chain link fences are prohibited in any business zoning district.

~~k.~~ h. Fences finished on only one side shall be placed to have the finished side facing out.

~~l.~~ i. Barbed wire, electrified or razor wire fences, and fences or walls topped with barbed, electric or razor wire are prohibited and shall not be erected or maintained on any property.

~~m.~~ j. Privacy fences and/or walls separating porches, patios, and pools along zero lot lines may be built to height not to exceed eight feet subject to building setbacks requirements of the Residential Zoning District where fence/walls are erected.

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(23.5) ~~Except as specifically permitted for below, paving or construction of the swale area of the public right-of-way in the RS-4, RS-5 and RD-10 zoning districts is prohibited.~~ shall comply with the following:

a. For the purpose of these regulations, the term "swale" is defined as: the land area between the paved roadway surface and the road right-of-way line.

b. ~~The swale area shall be reconstructed, constructed and graded by the Town in a manner that enhances retention of drainage within the swale area.~~ All grassed areas and other permeable areas within the public right-of-way shall be graded so that they are lower than the adjacent public street and driveway pavement. Following construction or reconstruction of the swale area, the property owner adjacent to the swale shall be responsible for maintaining the swale in good condition, regularly watered and mowed.

c. Swale areas shall be maintained in with grass, by either sodding or seeding ground cover or Xeriscape landscaping. All ground cover or Xeriscape landscaping shall not encroach into the paved roadway or public sidewalk.

ORDINANCE 2009-10

934 **SECTION 12. Adoption.** This Ordinance shall take effect upon adoption on second  
935 reading.

936 Passed on the first reading, this 14 day of April, 2009

937 Passed on the second reading, this 28 day of July, 2009

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*Roseann Minnet*  
\_\_\_\_\_  
Mayor Roseann Minnet

	First Reading	Second Reading
947 Mayor Minnet	<u>Aye</u>	<u>Aye</u>
948 Vice-Mayor McIntee	<u>Aye</u>	<u>Aye</u>
949 Commissioner Clotey	<u>Aye</u>	<u>Aye</u>
950 Commissioner Silverstone	<u>Aye</u>	<u>Aye</u>
951 Commissioner Dodd	<u>Aye</u>	<u>Aye</u>

952

953 Attest:

954 *Jane White*  
955 Town Clerk, Jane White

956 (CORPORATE SEAL)

957

958 Approved as to form:

959 *Susan L. Trevarthen*  
960 Susan L. Trevarthen, Town Attorney

## Commission Minutes

(Commission requested minutes referring to cement walls and fences from 2 years ago. Attached are the January 13, 2009, April 14, 2009, and July 28, 2009 Commission meetings pertaining to Ordinance 2009-10)

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would be required to follow. Vice Mayor McIntee stated the swale was town property and reasonable time would be allowed for compliance.

Cristi Furth pointed out that the swales along Bougainvillea Drive, Poinciana Street and the eastern side of Seagrape Drive was paved over by the previous Town Administration and not the people that live there.

Vice Mayor McIntee refined his motion to apply to swale areas in residential sections and not in business sections. Commissioner Dodd seconded the motion. All voted in favor.

**Section 30-313(4) - Fences** – The word “ten” was recognized as a scrivener’s error to be corrected to “twelve”. The Commission discussed Broward County Building Code compliance as assurance that the fence would be constructed properly to meet wind and State regulation to protect lives and property. Discussion followed regarding the elimination of chain link fencing with Commissioner Dodd recommending a 2 foot chain link fence for animals. He made a motion to that effect and then removed it as the portion of chain link fencing in this Section applied to the business zoning district. The Commission discussed hedge height for privacy. Vice Mayor McIntee pointed out that anything higher than 12 feet could cause trouble with cable and power lines. Attorney Abbott pointed out that hedge height requests could be brought before the Commission as a variance. The Ordinance stayed as presented.

**Section 6-72 through 6-75 – ROW** – The word “municipal” was changed to “development” and the word “permit” fee was changed to “review” fee. Commissioner Silverstone made a motion to accept the changes as presented. Vice Mayor McIntee seconded the motion. All voted in favor.

**Section 30-211 (c) (4) - Roof Overhangs** – The Commission discussed distance for roof overhangs and side setbacks. Commissioner Dodd made a motion to leave at 5 feet. Vice Mayor McIntee seconded the motion. All voted in favor.

Joey Leechman believed the Commission should be generous with the overhang or at least 3 feet.

**Section 30-123 – Numbering Error** – Development Service Director Bowman stated that in Section 30-123 (a) (4) was eliminated as it duplicated Section 30-123 (a) (3) – He added that Section 30-123 (a) (4) was added to incorporate Ordinance 2005-04. He explained that when code was unified the language was left out. Commissioner Dodd made a motion to go back to the language in Ordinance 2005-04.

~~April 14, 2009~~

Commissioner Dodd confirmed that an Ordinance change would follow. Manager Colon added that the Ordinance amending Section 10-32 would be on the next agenda. She thanked Mr. Hall for his assistance in this matter.

9. APPROVAL OF MINUTES

There were no corrections, additions, or deletions.

Vice Mayor McIntee made a motion to approve all minutes as submitted. Commissioner Dodd seconded the motion. In a roll call vote, the motion carried 5 - 0.

- a. March 10, 2009 Regular Minutes
- b. March 11, 2009 continued from March 10, 2009 Regular Minutes
- c. March 24, 2009 Regular Minutes
- d. March 25, 2009 continued from March 24, 2009 Regular Minutes
- e. April 2, 2009 Conference Minutes

Mayor Minnet recessed the meeting at 8:55 p.m. and reconvened the meeting at 9:05 p.m.

10. ORDINANCES

1. Ordinances 1st Reading - "Public Comments"

- a. Ordinance 2009-10:AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE SEA, FLORIDA, AMENDING CHAPTER 30 "UNIFIED LAND DEVELOPMENT REGULATIONS," ARTICLE I "IN GENERAL," SECTION 30-21 "NON-CONFORMING USES AND STRUCTURES" TO AMEND REQUIREMENTS FOR CONTINUATION OF NON-CONFORMING USES AND STRUCTURES; AMENDING ARTICLE IV "SITE PLAN PROCEDURES AND REQUIREMENTS," SECTION 30-123 "APPLICATION FOR FINAL SITE PLAN APPROVAL" TO CLARIFY THE REQUIREMENTS FOR AN APPROVED SITE PLAN TO REMAIN EFFECTIVE; AMENDING ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-211"RS-5 DISTRICT—RESIDENCE" TO AMEND ROOF OVERHANG SETBACK REQUIREMENTS IN THE RS-5 DISTRICT; AMENDING ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-271 "B-1 DISTRICT- BUSINESS" IN ORDER TO PROVIDE THAT COOKING SCHOOLS, CATERING BUSINESSES, MOTORIZED SCOOTER OR MOPED SALES AND RENTALS ARE PERMITTED USES IN THE B-1 DISTRICT; AMENDING ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-313 "GENERAL PROVISIONS" IN ORDER TO AMEND THE REQUIREMENTS FOR FENCES, WALLS, AND HEDGES AND TO PROVIDE DEVELOPMENT STANDARDS FOR DRIVEWAYS, SWALES, AND GENERATORS; FURTHER AMENDING ARTICLE VIII "SIGN REGULATIONS," SECTION 30-507 "DEFINITIONS AND

RESTRICTIONS BY SIGN TYPE," TO AMEND THE DEFINITIONS OF "SIGN,"  
"INFORMATIONAL, DIRECTIONAL OR TRAFFIC CONTROL SIGN," AND "REAL  
ESTATE SIGN"; PROVIDING FOR SEVERABILITY; PROVIDING FOR  
CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Attorney Trevarthen read Ordinance 2008-10 by title.

Mayor Minnet opened the meeting for public comments.  
Barbara Cole was concerned she would not be able to re-build her house after a catastrophe.

Diane Boutin was thankful for the hard work behind the Ordinance. Was concerned with new south Florida building code criteria that would make her resize and get rid of her pool.

Lawrence Wick thanked everyone for making it easier for the Planning and Zoning Board.

With no one else wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Commissioner Dodd wanted to know what the next stage was to implement the recommendations of the Planning and Zoning Board.

Attorney James White explained that the Commission could incorporate changes between 1st and 2nd reading.

Commissioner Dodd made a motion to include the recommendations by the Planning and Zoning Board into Ordinance 2009-10. Commissioner Clotney seconded the motion.

In a roll call vote, the motion carried 5 - 0.

Commissioner Dodd asked whether the Town would be open to a Burt J. Harris claim should a structure be damaged more than 50%. He believed current code restricted the height to 33 feet.

Attorney White stated that current Charter had built provisions that dealt with non-confirming structures in relation to height.

Attorney White did not see anything that would lay claim to a Burt J. Harris claim.

Commissioner Dodd said the Commission discussed zero scape plantings and permeable materials for driveways, and acceptable plant species, and yet there was nothing in the ordinance that addressed those issues. He believed the code should encourage the use of permeable material.

Commissioner Clotney said she remembered the Commission agreed to using the market value vs. assessed value and that did not make it into the document either.

Town Commission Regular Meeting Minutes

April 14, 2009

Mayor Minnet said it was all in there. She asked Attorney White to clarify that the purpose of two readings was to look at the amendments, review them, listen to residents, and the Commission could make changes even on second reading. Attorney White replied in the affirmative.

Vice Mayor McIntee made a motion to approve Ordinance 2009-10 as amended on first reading to include Planning and Zoning Board recommendations. Commissioner Clotey seconded the motion. In a roll call vote, the motion carried 5 - 0.

- b. Ordinance 2009-13: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, GRANTING AN EXCLUSIVE RIGHT, PRIVILEGE AND FRANCHISE TO CHOICE ENVIRONMENTAL SYSTEMS INC. TO OPERATE THE ONLY SOLID WASTE AND RECYCLABLE COLLECTION SYSTEM IN THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA; PROVIDING FOR THE TERMS, CONDITIONS, AND STANDARDS FOR SAID FRANCHISE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE

Attorney Trevarthen read Ordinance 2009-13 by title.

Mayor Minnet opened the meeting to public comments.

Diane Boutin wanted to know if the document stipulated that Choice Environmental Systems was the only provider of choice with a construction dumpster for major debris. With no one else wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Vice Mayor McIntee made a motion to approve Ordinance 2009-13 on first reading. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 4 - 0. Mayor Minnet recused.

Manager Colon clarified that the bid document and the agreement stated that construction dumpsters would be provided by Choice.

- c. Ordinance 2009-14: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 13 "NOISE" OF THE CODE OF ORDINANCES TO PROVIDE FOR AMENDED NOISE REGULATIONS; AMENDING CHAPTER 17 "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES," ARTICLE VIII "SPECIAL EVENTS" TO AMEND THE REGULATIONS OF SPECIAL EVENT PERMITS TO PROVIDE GROUNDS FOR DENIAL OF A SPECIAL EVENT PERMIT FOR VIOLATION OF NOISE AND OTHER TOWN STANDARDS; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE

Attorney Trevarthen read Ordinance 2009-14 by title.

Mayor Minnet opened the meeting for public comments.

Lawrence Wick believed there was an Ordinance that allowed music until 10:00 p.m.

the Commission because Lauderdale By-The-Sea needed to comply with those City Ordinances and was also a requirement of the Comprehensive Plan. Mayor Minnet opened the meeting for public comments. With no one wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Commissioner Silverstone made a motion to approve on 1st reading. Commissioner Clotley seconded the motion.

Commissioner Dodd thanked Municipal Services for the Florida friendly landscaping and cutting down on water usage by 1/3rd. He asked why there was no penalty in the Ordinance. Attorney Trevarthen stated that the ordinance mirrored the City of Ft. Lauderdale Code and the City of Pompano Beach Code. Commissioner Dodd asked whether there were penalties in place if the ordinance was not obeyed. Assistant Town Manager Olinzock said there was an Ordinance in place that currently enforced water conservations and had not been a major issue with Code Enforcement.

Commissioner Silverstone was not comfortable and wanted to include penalties. Attorney Trevarthen stated that it could be placed and pointed out that there was a current ordinance in place for compliance. Commissioner Silverstone wanted to show the existing code in the ordinance. Attorney Trevarthen said she would add it.

The motion carried 5-0.

2. Ordinances 2nd Reading - "PUBLIC HEARING"

- a. Ordinance 2009-10: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY THE SEA, FLORIDA, AMENDING CHAPTER 30 "UNIFIED LAND DEVELOPMENT REGULATIONS," ARTICLE I "IN GENERAL," SECTION 30-21 "NON-CONFORMING USES AND STRUCTURES" TO AMEND REQUIREMENTS FOR CONTINUATION OF NON-CONFORMING USES AND STRUCTURES; AMENDING ARTICLE IV "SITE PLAN PROCEDURES AND REQUIREMENTS," SECTION 30-123 "APPLICATION FOR FINAL SITE PLAN APPROVAL" TO CLARIFY THE REQUIREMENTS FOR AN APPROVED SITE PLAN TO REMAIN EFFECTIVE; AMENDING ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-211 "RS-5 DISTRICT—RESIDENCE" TO AMEND ROOF OVERHANG SETBACK REQUIREMENTS IN THE RS-5 DISTRICT; AMENDING ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-261 "B-1-A DISTRICT-BUSINESS" IN ORDER TO PROVIDE THAT BEAUTY SCHOOLS AND HAIR SALONS ARE PERMITTED USES IN THE B-1-A DISTRICT; AMENDING ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-271 "B-1 DISTRICT- BUSINESS" IN ORDER TO PROVIDE THAT COOKING SCHOOLS, CATERING BUSINESSES, MOTORIZED SCOOTER OR MOPED SALES AND RENTALS, AND BEAUTY SCHOOLS AND HAIR SALONS ARE PERMITTED USES IN THE B-1 DISTRICT; AMENDING ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-313 "GENERAL PROVISIONS" IN ORDER TO AMEND THE REQUIREMENTS FOR FENCES.

WALLS, AND HEDGES AND TO PROVIDE DEVELOPMENT STANDARDS FOR DRIVEWAYS, SWALES, AND GENERATORS; FURTHER AMENDING ARTICLE VIII "SIGN REGULATIONS," SECTION 30-507 "DEFINITIONS AND RESTRICTIONS BY SIGN TYPE," TO AMEND THE DEFINITIONS OF "SIGN," "INFORMATIONAL, DIRECTIONAL OR TRAFFIC CONTROL SIGN," AND "REAL ESTATE SIGN"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE Approved 1st reading April 14, 2009

Attorney Trevarthen read Ordinance 2009-10 by title.

Attorney Trevarthen pointed out that on page 8 between lines 247 & line 322 the language should have been underlined in the packet as it was a new addition. Mayor Minnet opened the meeting for public comments.

Attorney James White reviewed the changes to the ordinance since the last reading, beginning on lines 241 through 322, that showed new language that provided the ability for a residential property owner that was non-conforming with regards to height, setbacks and density to rebuild. He added that on page 15, lines 576 through 578, provided that zero scape plantings were allowed to be planted in the swale area. Attorney White explained further that on page 16, lines 590 through 599, provided that any plantings or removals of landscape materials within the swale area by the abutting property owner, would be required to obtain a permit as well as a hold harmless agreement.

Barbara Cole wanted to know what was required to rebuild to existing structure.

With no one else wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Commissioner Dodd asked for clarification that a non-conforming building would be allowed to build back to the same footprint even though they may need to go higher. He also questioned the issue of responsibility for watering the grass and maintaining the grass between sidewalk and roadway. Commissioner Dodd believed that if the responsibility was that of the homeowner then the homeowner should have the right to put in zeros cape rather than grass.

Attorney White stated that the language allowed for non-conforming residential properties that were non-conforming to height, density or setbacks, to be re-built and had to comply with the conditions listed on top of on page 8 (a) and (b). He added that that language was the same language that currently existed in the Charter. Attorney White explained that current code required the abutting property owner to maintain the swale area. He said the Commission requested to allow zero scape plantings or materials to be allowed in the swale to avoid daily watering. Attorney White said language on the bottom of page 15, at line 576, allowed zero scape plantings or materials in the swale area. He added that on page 16 line 586, the sentence before

the requirement for a permit stated that in those instances where an abutting property owner planted trees or other landscaping materials within the swale area, they would be responsible for damage caused by the roots of that material.

Commissioner Clotey believed the issue of the Town putting in the trees on Seagrape and installing irrigation was unfortunate but she did not believe the Town could afford to do the same in every swale in Town.

Vice Mayor McIntee made a motion to approve Ordinance 2009-10 on second reading. Commissioner Silverstone seconded the motion. The motion carried 5-0.

- b. Ordinance 2009-12: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 17 "STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES," ARTICLE VI "SIDEWALK CAFÉS," SECTION 17-89 "REQUIREMENTS OF A SIDEWALK CAFÉ PERMIT;" PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE Approved 1st reading July 14, 2009

Attorney Trevarthen read Ordinance 2009-12 by title.

Attorney Trevarthen pointed out that the word "removable" was removed. She added that the word "removable" should have been struck through.

Mayor Minnet questioned whether sidewalk cafe applied to anyone's sidewalk whether it was a private building on private land or public. Attorney White said there was no distinction in the Code between a public or privately owned sidewalk.

Mayor Minnet opened the meeting for public comments. With no one wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Commissioner Clotey made a motion to adopt Ordinance 2009-12 on second reading. Commissioner Dodd seconded the motion. The motion carried 5-0.

- c. Ordinance 2009-14: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 13 "NOISE" OF THE CODE OF ORDINANCES TO PROVIDE FOR AMENDED NOISE REGULATIONS; AMENDING CHAPTER 17 "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES," ARTICLE VIII "SPECIAL EVENTS" TO AMEND THE REGULATIONS OF SPECIAL EVENT PERMITS TO PROVIDE GROUNDS FOR DENIAL OF A SPECIAL EVENT PERMIT FOR VIOLATION OF NOISE AND OTHER TOWN STANDARDS; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE Approved 1st reading April 14, 2009 Deferred at the June 9, 2009 Commission meeting by Vice Mayor McIntee

Attorney Trevarthen read Ordinance 2009-14 by title. Mayor Minnet opened the meeting for public comments.

E-mail Sent to all Commissioners on November 25, 2010

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Attachments can contain viruses that may harm your computer. Attachments may not display correctly.

**Bud Bentley****To...****Cc...****Bcc...****Subject:** FW: El Dorado Club - fence issue / with attachment**Attachments:**  [El Dorado fence.pdf\(241KB\)](#)**From:** Bud Bentley**Sent:** Thu 11/25/2010 4:28 PM**To:** Com Birute Ann Clottey; Stuart Dodd; Com Scot Sasser; Chris Vincent; Connie Hoffmann; Roseann Minnet**Cc:** Jeff Bowman**Subject:** El Dorado Club - fence issue

Commission:

In March 2010, the El Dorado Club filed for a building permit to extend their current concrete block wall on the south property line to the east about 210 feet. The first 110 feet would be the same profile as the existing 6 ft. wall and the 100 feet closest to the east (the beach) would have a 2 ft. of concrete block topped with 4 ft. of aluminum square tube vertical pickets. A copy of the drawing showing the fence is attached.

The permit was turned down because our Code (section 30-131.(4).d requires that concrete walls have at least 25% of their area constructed with decorative brick and provide openings to permit air circulation. All concrete and cement walls shall be stuccoed, finished and painted.

The existing concrete block wall on the south property line of the El Dorado Club has been there for a long, long time. The condo to the north of the El Dorado Club was constructed in the last 6 years or so, and they constructed a solid concrete clock wall. They were able to build a solid wall because they were permitted prior to being brought under the Town's Code.

The Town staff has interpreted the Code to mean that at least 25% of each section of the wall must permit air circulation. The proposed wall with the aluminum pickets is open and allows air circulation for 32% of the total wall area, but it does so in the last 48% of the wall. Even if we rethink how we interpret the Code, we don't see an alternative to the Code language that the 25% "opening" has to be decorative brick.

Jeff and I met with representatives of the El Dorado Club on November 22, 2010 to review the proposed wall and explain the code.

Please note that if the wall was of another material, it could be solid as there are only air circulation requirements for concrete or cement walls.

You may be contacted by representatives of the El Dorado Club asking that a member of the Commission sponsor a request to amend the Code to remove the special requirements for concrete or cement walls.

# **Commission Agenda Item from December 7, 2010**

**(With Back-up and minutes)**

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Item No. 15a

# AGENDA ITEM REQUEST FORM

## Commission

Department Submitting Request

## Chris Vincent

Dept Head's Signature

### REG COMMISSION Meeting Dates 7:00PM

### DEADLINE TO Town Clerk

### ROUNDTABLE Meeting Dates 7:00PM

### DEADLINE TO Town Clerk

- Oct 12, 2010
- Nov 9, 2010\*
- Dec 7, 2010
- Jan 11, 2011
- Feb 8, 2011
- Mar 8, 2011

- Oct 1 (5:00 pm)
- Oct 29 (5:00 pm)
- Dec 3 (5:00 pm)
- Dec 31 (5:00 pm)
- Jan 28 (5:00 pm)
- Feb 25 (5:00 pm)

- Oct 26, 2010
- Nov 23, 2010\*
- Dec 28, 2010\*
- Jan 25, 2011
- Feb 22, 2011
- Mar 22, 2011

- Oct 15 (5:00 pm)
- Nov 12 (5:00 pm)
- Dec 17 (5:00 pm)
- Jan 14 (5:00 pm)
- Feb 11 (5:00 pm)
- Mar 11 (5:00 pm)

\*Subject to Change

- Presentation       Reports       Consent       Ordinance
- Resolution       Quasi Judicial       Old Business       New Business

**SUBJECT TITLE:** Repeal Muni-Code Sec. 30-313 General Provision, (4), item b.

**EXPLANATION:** Cement or concrete walls are prohibited except when the design and construction provides for not less than 25% of the area of said wall to be constructed with decorative brick and provide openings to permit air circulation. All concrete and cement walls be stuccoed, finished, and painted.

**RECOMMENDATION:**

**EXHIBITS:**

**FISCAL IMPACT AND APPROPRIATION OF FUNDS:**

- Amount \$ \_\_\_\_\_       Acct # \_\_\_\_\_
- Transfer of funds required       From Acct # \_\_\_\_\_

Reviewed by Town Attorney  
 Yes       No

Town Manager Initials CV

**Nekisha Smith**

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**From:** Chris Vincent  
**To:** Nekisha Smith  
**Cc:**  
**Subject:** Agenda Item Request  
**Attachments:**

**Sent:** Tue 11/30/2010 5:47 PM

Hi Nekisha,  
Thanks for your help with this.  
Please add the following item to the next commission meeting agenda.

**Dec 7, 2010**  
**New business:**

**Subject Title:** Repeal Muni-code Sec. 30-313 General Provisions, (4), Item b.

**Explanation:** Cement or concrete walls are prohibited except when the design and construction provides for not less than 25 percent of the area of said wall to be constructed with decorative brick and provide openings to permit air circulation. All concrete and cement walls shall be stuccoed, finished, and painted.

Thank You,  
Commissioner Vincent

tion or removal of same. Approval shall not be given for construction of two or more buildings of any type or kind from the same or identical set of plans and/or specifications.

- (2) *Drainage facilities.* All improved property, whether new construction or renovation or repair of present property, must provide adequate drainage facilities and drainage fields and all well and drainage locations must be shown on a site plan and must be approved by the Building Inspection and Health Departments.
- (3) *Use of buildings.* No building or structure shall be erected on any lot for any purpose or use other than as applicable in said district. No permit shall be granted, nor shall any building or structure be moved into the corporate limits of the Town, and no building or structure shall be moved from one location within the Town to another location within the Town. However, application may be made to the Planning and Zoning Board of the Town to seek its recommendation to permit building or structure to be moved; and should the Planning and Zoning Board make a special finding that said building or structure will conform to the existing Town plan, and in harmony with the existing neighboring structures, such recommendation shall be submitted to the Town Commission for final action of rejection or approval. In any event, should permission be granted by the Town Commission, said building or structure shall, nevertheless, conform to all the provisions of the Town building code.
- (4) *Height [and location] of fences, walls, hedges.*
  - a. The maximum height of any fence or wall shall be six feet , except where the fence or wall abuts property with business zoning, in which case the maximum height is eight feet. All fences and walls shall comply with the Florida Building Code.
  - b. Cement or concrete walls are prohibited except when the design and construction provides for not less than 25 percent of the area of said wall to be constructed with decorative brick and provide openings to permit air circulation. All concrete and cement walls shall be stuccoed, finished, and painted.
  - c. No fences or walls shall be constructed within 25 feet of the front property line or within 30 feet clear site triangle at the corner of the property on residential lots.
  - d. The height of fences, walls, hedges or plantings of whatever composition shall be measured from the natural contour of the ground adjoining lots.
  - e. Hedges. A hedge is defined as any grouping of plants or bushes placed so close together so as to obscure visibility. All hedges shall be planted and maintained by property owners within the property lines and shall not encroach into the adjacent properties or right-of-way (ROW). The height of a hedge shall be maintained not to exceed 12 feet in all zoning districts.
  - f. No walls, fences, hedges or plantings shall be planted or maintained to a height exceeding 30 inches above the crown of the roadway within sight visibility triangles: within 25 feet of the intersection of the front and side street property

- lines, within ten feet of any driveway, within ten feet from the intersection point of the edge of a driveway and alley or street, and within 15 feet from the intersection point of the extended property lines at an alley and a street.
- g. Chain link fences shall be completely hidden from view when viewed from any portion of the right-of-way in RS-5, RD-10 and RM-25 zoned property.
  - h. Chain link fences are prohibited in any business zoning district.
  - i. Fences finished on only one side shall be placed to have the finished side facing out.
  - j. Barbed wire, electrified or razor wire fences, and fences or walls topped with barbed, electric or razor wire are prohibited and shall not be erected or maintained on any property.
  - k. Privacy fences and/or walls separating porches, patios, and pools along zero lot lines may be built to height not to exceed eight feet subject to building setbacks requirements of the residential zoning district where fence/walls are erected.
- (5) *Hardship*. Setbacks on property which evidence indicates that adherence to established zoning regulations would create hardships to owner for valid and particular reasons may be modified upon appeal to the Board of Adjustment.
- (6) *Off-street parking*. Off-street parking areas for apartments, hotels, and multi-family units shall be provided and shown on the plot plan, with a minimum of nine feet by 18 feet for each parking space, to accommodate cars in the following proportional ratios:
- a. Two automobile parking spaces for each condominium, apartment or rental apartment.
  - b. One and one-half parking spaces for each hotel and motel room plus additional parking for any accessory uses at the current Code requirements.
  - c. All off-street parking areas shall be provided with a pavement having an asphaltic or portland cement binder, and shall be so graded and drained as to dispose of all surface water accumulated within the parking space.
  - d. All automobile parking spaces shall be clearly marked or designated with independent ingress and egress for each parking space provided.
  - e. Each parking space shall be directly accessible from a street or alley or from an adequate aisle or driveway leading to the street or alley. Access aisles and driveways shall be of sufficient size to permit convenient maneuvering of cars and each space shall be accessible without driving over or through any other space.
  - f. Ground floor area when used for parking pursuant to RM-25 construction shall be enclosed. Such enclosure shall be composed of decorative block, screening or other substance. All other sections of the parking ordinance shall be adhered to.
- (7) *Parking, El Mar Drive*. It shall be unlawful to use the central park area of El Mar Drive for parking purposes, unless so designated by a sign and ordinance.

**DRAFT Minutes from the December 7, 2010 Commission meeting**

**15. NEW BUSINESS**

- a. Repeal Muni-Code Sec. 30-313 General Provision, (4), item b (Commissioner Chris Vincent)**

Commissioner Vincent said he placed this on the agenda to address a permitting issue that was rejected at the El Dorado Club regarding an existing concrete wall. He stated that back in 2007 staff requested that Section 20-313 line 4 paragraph (a) be stricken from the Code due to the fact that fencing that did not require the design to allow 25% open air circulation, and also met the South Florida Building Code, was allowed. Commissioner Vincent said that at that time the Commission objected. He suggested submitting this to the Planning and Zoning Board for their review and recommendation.

Development Services Director Bowman said it was a policy decision for the Commission to make. He added that staff could prepare it for the next Notice of Intent (NOI), which will be before the Commission for discussion at the next Roundtable meeting. Director Bowman stated that the code revision began in 2009 and this was discussed as part of the code changes.

Commissioner Vincent wanted "all concrete and cement walls to be stuccoed, finished and painted" removed also. He believed that the owners that erect the wall should have other finishing options.

Vice Mayor Dodd asked whether there was a requirement for decorative finishing's or openings under Florida Code. Director Bowman said he was not aware of any. Vice Mayor Dodd asked that should that section of code be removed would the Town be subject to eight (8) foot high solid concrete walls for businesses and six (6) feet high solid block walls for residents. Director Bowman said it would. Vice Mayor Dodd thought there should be tighter regulations as to open air circulation in order to make the walls more decorative, and to avoid someone building a fortress around their property. He was against removing the code as it stood.

Mayor Minnet asked whether the Commission wanted to send this item to the Roundtable for discussion or to the Planning and Zoning Board.

There was Commission consensus to send this item to the Planning and Zoning Board.

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