

REPORT OF THE PLANNING AND DEVELOPMENT DEPARTMENT

The Planning and Development Department hereby forwards to the Planning Commission, Land Use and Zoning Committee, and City Council its comments and recommendations on:

ORDINANCE 2014-147

AN ORDINANCE AMENDING CHAPTER 656 (ZONING CODE), ORDINANCE CODE; CREATING NEW SUBPART Q (BLACK HAMMOCK ISLAND OVERLAY), SECTION 656.399.50 (BLACK HAMMOCK ISLAND OVERLAY), ORDINANCE CODE, ADOPTING A BLACK HAMMOCK ISLAND ZONING OVERLAY CONCERNING THE HEIGHT OF FRONT YARD FENCES ON BLACK HAMMOCK ISLAND, IN THE GENERALLY THE AREA WEST OF THE ATLANTIC OCEAN, SOUTH OF NASSAU COUNTY LINE, EAST OF CEDAR POINT ROAD; PROVIDING FOR ADOPTION OF OVERLAY MAP AND PUBLICATION OF APPROVED MAP AND ORDINANCE; PROVIDING AN EFFECTIVE DATE.

I. GENERAL INFORMATION

This bill amends Chapter 656, Ordinance Code, Part 3, Schedule of District Regulations to create new Subpart Q: Black Hammock Island Overlay, Section 656.399.50 adopting a Black Hammock Island Zoning Overlay concerning the height of front yard fences on Black Hammock Island; providing for adoption of overlay map and publication of approved map and ordinance.

II. EVALUATION

A. The need and justification for the change.

Black Hammock Island is located in the northeastern corner of Duval County. The only vehicular access is Sawpit Road via Cedar Point Road. Prior to the adoption of the current Zoning Code in 1991, almost all of the properties on the island were zoned Open Rural (OR), a zoning district without restrictions on fence heights. Since the adoption of the current Zoning Code, there are now numerous zoning districts on the island including Agriculture (AGR), Residential Rural-Acre (RR-Acre), Conservation (CSV), and Planned Unit Development (PUD). The bulk of the residentially developed properties are zoned RR-Acre.

The RR-Acre district is classified as a residential zoning district. Pursuant to Section 656.402 of the Zoning Code, fence heights in residential districts are limited to a maximum height of four feet in a required front yard setback except under certain circumstances involving corner lots adjacent to collector roads. All roads on the island are local roadways, so all properties on the island zoned RR-Acre are limited to four-foot tall fences in the front yard setback.

Dozens of properties on the island contain fences taller than four feet in the required front yard setback. In the RR-Acre district, these fences are zoning violations, and many properties have been cited accordingly. Fences over four feet tall which existed prior to 1991 are legal non-conforming fences, but it is difficult to document the age of a fence since most did not require building permits or other City approvals. Further, non-conforming fences cannot be

replaced with new fencing over four feet in height without creating a zoning violation.

The standard remedies for fence height violations are to either reduce the height of the fence to four feet, move the fence away from the property line to a point out of the front yard setback (25 feet in RR-Acre), or to obtain an Administrative Deviation.

This legislation would allow fences in residential districts on Black Hammock Island to be up to six feet in height in the required front yard setback provided the fence is not more than 50% opaque.

B. Summary of Bill.

This bill would create a zoning overlay allowing all residentially-zoned properties on Black Hammock Island to have fences up to six feet tall and not more than 50% opaque located in the required front yard setback.

C. The relationship of the proposed amendment to the Comprehensive Plan and the work of the Department with appropriate consideration as to whether the proposed amendment will further the purposes of the Zoning Code and Comprehensive Plan.

This bill could be inconsistent with Future Land Use Element Policy 1.1.8 which states that all future development and redevelopment meets or exceeds the requirements of all Land Development Regulations, including, but not limited to zoning, subdivision of land, landscape and tree protection regulations, and signage. This bill would have the effect of relaxing a fence height standard applicable to all other residentially-zoned properties in the City. This bill could also set a precedent for similar legislation to address zoning issues around the City. Lastly, it is the opinion of the Planning and Development Department that there are adequate existing remedies to address the fence height violations on Black Hammock Island.

D. Consistency with the Comprehensive Plan.

The Comprehensive Plan is essentially silent with regard to this topic, but as previously stated, this bill could be inconsistent with FLUE Policy 1.1.8.

III. RECOMMENDATIONS

The Planning and Development Department recommends that Ordinance 2014-147 be **DENIED.**

1 Introduced by Council Member Holt:
2



3
4 2014-147.tif

ORDINANCE 2014-147

5 AN ORDINANCE AMENDING CHAPTER 656 (ZONING
6 CODE), *ORDINANCE CODE*; CREATING NEW SUBPART Q
7 (BLACK HAMMOCK ISLAND OVERLAY), SECTION
8 656.399.50 (BLACK HAMMOCK ISLAND OVERLAY),
9 *ORDINANCE CODE*, ADOPTING A BLACK HAMMOCK
10 ISLAND ZONING OVERLAY CONCERNING THE HEIGHT OF
11 FRONT YARD FENCES ON BLACK HAMMOCK ISLAND, IN
12 THE GENERALLY THE AREA WEST OF THE ATLANTIC
13 OCEAN, SOUTH OF NASSAU COUNTY LINE, EAST OF
14 CEDAR POINT ROAD; PROVIDING FOR ADOPTION OF
15 OVERLAY MAP AND PUBLICATION OF APPROVED MAP
16 AND ORDINANCE; PROVIDING AN EFFECTIVE DATE.
17

18 **WHEREAS**, Black Hammock Island, with its rich and unique
19 history dating back several hundred years, was essentially vacant
20 and undisturbed until the 1970s when a few families began to
21 inhabit the island drawn to its rural character, aesthetic appeal,
22 and quality of life for Black Hammock Island residents; and

23 **WHEREAS**, until the early 1990s Black Hammock Island was zoned
24 Open Rural, which allowed for farming, cattle raising, limited
25 residential on low density lots and other rural uses; and

26 **WHEREAS**, in 1991, the City, through the state mandated
27 comprehensive planning process set forth in Chapter 163, Florida
28 Statutes, adopted the 1990 Comprehensive Plan and approved
29 corresponding, complimentary zoning districts in the Zoning Code
30 which amended the Open Rural zoning district to the zoning district
31 now known as Rural Residential Acre; and

1 **WHEREAS**, due to the rural and rustic nature of Black Hammock
2 Island, which is in great contrast to the urban and suburban
3 residential zoning districts in the greater Jacksonville area,
4 residents have constructed fences in and along their front yard
5 boundaries for safety and security; and

6 **WHEREAS**, there was no restriction on the height of front yard
7 fences in the Open Rural zoning district when many of the fences
8 were constructed, but currently the Rural Residential Acre zoning
9 district is limited by the provisions of Section 656.402 of the
10 Zoning Code; and

11 **WHEREAS**, the Council recognizes the unique character and
12 history of Black Hammock Island and finds that front yard fences up
13 to six (6) feet in height and not more than 50% opacity are
14 appropriate within the limited confines of Black Hammock Island and
15 desire to create an overlay to acknowledge the local character and
16 historical integrity of the area without having an adverse impact
17 on the quality of life and aesthetic appeal of the area; now
18 therefore

19 **BE IT ORDAINED** by the Council of the City of Jacksonville:

20 **Section 1. Findings Adopted.** The Council hereby adopts
21 the above findings and incorporates them herein by reference.

22 **Section 2. Creating a new Section 656.399.50 (Black**
23 **Hammock Island Overlay), Chapter 656 (Zoning Code), Ordinance Code.**

24 A new Section 656.399.50 (Black Hammock Island Overlay),
25 Chapter 656 (Zoning Code), Subpart Q, *Ordinance Code*, is hereby
26 created to read as follows:

27 **CHAPTER 656. ZONING CODE**

28 * * *

29 **SUBPART Q. BLACK HAMMOCK ISLAND OVERLAY**

30 * * *

31 **Sec. 656.399.50. Black Hammock Island Overlay.** The Council

1 finds that permitting fences greater than four (4) feet of height
2 in the required front yard of residentially zoned districts on
3 Black Hammock Island is appropriate and justified based on the
4 local character and historical integrity of the area subject to
5 certain limitations enumerated below. The maximum height of a fence
6 located within the required front yard in the Black Hammock Island
7 Overlay is six (6) feet in height provided that the fence is not
8 more than 50 percent opaque. The Black Hammock Island Overlay area
9 is visually depicted in **Exhibit 1** and generally described as the
10 area west of the Atlantic Ocean, South of the Nassau County line,
11 and east of Cedar Point Road. This provision shall specifically
12 supersede any other provisions in Chapter 656.

13 **Section 3. Adopting Overlay Map and providing for**
14 **publication.** The Council hereby adopts the Black Hammock Island
15 Overlay as depicted in **Exhibit 1 attached hereto** and directs the
16 Planning and Development Department to publish the Black Hammock
17 Island Overlay map on the City of Jacksonville Website with a copy
18 of this Ordinance, as enacted.

19 **Section 4. Effective Date.** This ordinance shall become
20 effective upon signature by the Mayor or upon becoming effective
21 without the Mayor's signature.

22
23 Form Approved:

24
25 /s/ Paige Hobbs Johnston

26 Office of General Counsel

27 Legislation Prepared By: Paige Hobbs Johnston

28 G:\SHARED\LEGIS.CC\2014\Ord\Holt Black Hammock Overlay.doc

**CITY COUNCIL RESEARCH DIVISION
LEGISLATIVE SUMMARY**



JEFFREY R. CLEMENTS
Chief of Research
(904) 630-1377

117 West Duval Street
City Hall, Suite 425
Jacksonville, FL 32202
FAX (904) 630-3403

Bill Type and Number: Ordinance 2014-0147

Sponsor(s): Council Member Holt

Date of Introduction: February 25, 2014

Committee(s) of Reference: LUZ

Date of Analysis: February 20, 2014

Type of Action: Ordinance Code Amendment

Bill Summary: This bill amends Chapter 656, Ordinance Code, Part 3, Schedule of District Regulations to create new Subpart Q: Black Hammock Island Overlay, Section 656.399.50 adopting a Black Hammock Island Zoning Overlay concerning the height of front yard fences on Black Hammock Island in the generally area west of the Atlantic Ocean, South of Nassau County Line, east of Cedar Point Road; providing for adoption of overlay map and publication of approved map and ordinance.

Background Information: The Black Hammock Island remained rich, unique and essentially undisturbed for several hundred years until the 1970s when families began to inhabit the island. In 1991, the City, through a state mandated comprehensive planning process set forth in Chapter 163, Florida Statute, adopted the 1990 Comprehensive Plan and approved corresponding, complimentary zoning districts in the Zoning Code which amends the Open Rural zoning district to the current zoning district known as Rural Residential Rural. Many residents constructed fences in and along their front yard boundaries for safety and security. Construction of these fences was done when the zoning district was Open Rural that did not have a height restriction.

The front yard fence dimensions are up to six (6) feet in height and not more than 50% opacity which meet the limited confines of Black Hammock which maintains the local character and historical integrity of the area without compromising the quality of life and aesthetic appeal of the area.

Impact Area: Ordinance Code, Planning and Zoning

Fiscal Impact: Undetermined

Analyst: Mitchell