

CARNEY STANTON P.L.

Attorneys At Law

135 S.E. 5TH AVENUE, SUITE 202
DELRAY BEACH, FLORIDA 33483

TEL: (561) 278-5565

FAX: (561) 330-8233

EMAIL: tfc@carneystanton.com

April 20, 2018:

Mr. Timothy Stillings,
Director, Planning and Zoning
City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, FL 33444

In Re: Proposed Text Amendment /
Section 4.3.4 (j) (2), Land Development Regulations

Dear Mr. Stillings:

This office represents Mr. Thomas Prakas.

In furtherance of our several meetings and discussions, please accept this as a formal request for the consideration of a very necessary text amendment to amend Section 4.3.4 (j) (2) ("Height") of Delray's Land Development Regulations in order to comply with and harmonize them with Federal Emergency Management Agency ("FEMA") and Coastal Construction Control Line ("CCCL") regulations. The text amendment concerns only those FEMA Zones designated "VE" which have created an undue hardship for properties east of A-1-A and south of Linton Boulevard. The specific issue concerns the starting point for measuring allowable height which must be changed to conform to FEMA's and CCCL's regulations, to avoid Delray's flood rating system be negatively impacted—a result which no one wishes.

Under Delray's existing LDRs, the "unintended consequence", therefore, of utilizing the "crown of the road" in this limited area (the height and point of measurement being established in 1991) is that approximately 16' of the 35' (1/2) has been taken away from any habitable use. Additionally, it may require a property owner to lower existing grades EVEN IF THE EXISTING GRADE OF A LOT IS HIGHER OR EQUAL TO THE HEIGHT OF AN ADJACENT DUNE.as a result of which flood hazards are increased rather than decreased.These properties east of A-1-A have been encouraged to build up the dune areas and berms so, as a result, they are significantly more elevated than the road, making the "crown of the road" for these properties a less appropriate "point zero" from which height is measured. In discussions

with various parties, including coastal engineers, the preferred way of measuring the height of structures in areas such as this is to use the higher of the "highest point of the unaltered dune", the allowable habitable finished floor by FEMA flood maps (lowest horizontal structural member plus two feet), or the allowable habitable finished floor by CCCL regulations (lowest horizontal structural member plus two feet), as the point from which height is measured.

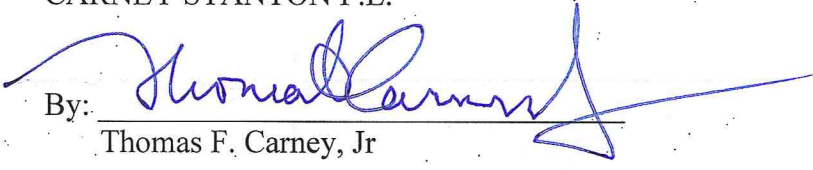
I have attached proposed Text Amendment which will ensure that the properties east of A-1-A and south of Linton Boulevard can be developed in a fashion consistent with the new FEMA and Florida Building Code requirements while remaining consistent with the original intent of the 35' height limitations set forth in the LDR's.

We are looking forward to working with you in this matter. Please let me know what additional information you need from our side. Mr. Randall Stofft (our architect), Mr. Darwin C. Stubbs, P.E., of ISIMINGER & STUBBS ENGINEERING, INC. (our coastal engineers), and I are standing-by for any questions as we would like to have this matter taken up by the Planning and Zoning Board and the City Commission as soon as possible.

Respectfully,

CARNEY STANTON P.L.

By:


Thomas F. Carney, Jr

PROPOSED TEXT AMENDMENT TO LDR SEC. 4.3.4 (J) (2)

Sec. 4.3.4. - Base district development standards.

(J) *Height.*

(1) ***Defined.*** The vertical distance from grade to the highest finished roof surface of a flat roof or to the mean level between tie beams and ridge for gable, hip, or gambrel roofs. The height set forth in the matrix is the maximum height for all structures within the respective zone district except as provided for in Subsection 4.3.4(J)(3) and (4) and for the CBD zoning district as provided for in Subsection 4.4.13(D)(1)(a). [Ord. No. 03-15 2/24/15] [Amd. Ord. 2-06 1/17/06]

(2) *Basis for measurement.*

(a) For buildings adjoining one street, the grade is established from the mean elevation of the crown of the street along the lot frontage; ***provided, however, in order to comply with the intent of Federal Emergency Management Agency Regulations, for buildings to be constructed within a flood zone designated by the Federal Emergency management Agency (FEMA) as "VE", and is situated seaward (or partially seaward) of the Coastal Construction Control Line (1997), in determining the maximum height, the basis for measurement shall be the higher of the following:***

(i) ***Allowable lowest horizontal structural member of the lowest floor by Section 1612, Florida Building Code plus two feet; or***

(ii) ***Allowable lowest horizontal structural member of the lowest floor by Section 3109, Florida Building Code plus two feet; or***

(iii) ***Highest point of the unaltered Dune.***

(b) For buildings adjoining more than one street, the grade is established as the average of the mean elevation of the crown of the adjoining streets.

(c) When applied to single family detached dwelling units, less than three stories, within residentially zoned districts, the grade is established as the mean elevation of the finished surface of the ground adjacent to the exterior walls of the building. Under no circumstance shall the grade be higher in elevation than the highest point of the unaltered dune or the crown of the street. [Amd. Ord. 43-91 6/11/91]

(d) Within the CBD zoning district, building height is also measured by stories. See Section 4.4.13(D)(1)(a). [Ord. No. 03-15 2/24/15]