

**PLANNING AND ZONING BOARD MINUTES  
THURSDAY, AUGUST 18, 2016 - 1:30 PM  
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

**PRESENT:** Chairman, Lawrence Lauffer; Vice Chairman, Honey Minuse; Member, Norman Wells, Alternate Member #1, Richard Cahoy and Alternate Member #2, Kenneth Daige **Also Present:** Planning and Development Director, Tim McGarry; Planner, Gayle Lafferty; Project Manager, Cheri Fitzgerald; Assistant City Attorney, Peggy Lyon and Deputy City Clerk, Sherri Philo

**Excused Absences:** Don Croteau and Linda Hillman

**I. PRELIMINARY MATTERS**

**A) Agenda Additions and/or Deletions**

None

**II. APPROVAL OF MINUTES**

**A) Regular/Workshop Meeting – August 4, 2016**

**Mrs. Minuse made a motion to approve the minutes of the August 4, 2016 Planning and Zoning Board Regular/Workshop meeting. Mr. Daige seconded the motion and it passed unanimously.**

**III. PUBLIC COMMENT**

None

**IV. PUBLIC HEARINGS**

**[Quasi-Judicial]**

**A. Site Plan Application Submitted by David S. Knight, P.E., to Change the Use of Two Residences (2,955 Square Feet) to Business Professional Office Located at 1991 and 1995 34<sup>th</sup> Avenue (#MA15-000020)**

The Chairman read Site Plan Application #MA15-000020 by title only.

There were no ex parte communications reported.

The Deputy City Clerk swore in staff and those testifying for today's public hearing en masse.

Ms. Gayle Lafferty, Planner, noted that the actual application number is #SP15-000020. She explained that this is an after-the-fact project that came up because of a Code Enforcement complaint. She said the applicant is seeking site plan approval to convert two (2) single-family residences into a business professional office. The complaint they received was that they were manufacturing and shipping. However, it was determined by the Code Enforcement Officer that it was not a facility set up for that. She said the component parts came from China and assembly is done in Sunrise Florida. This site is used as a design center.

Mr. Tim McGarry, Planning and Development Director, explained that there was a violation of the Code because the use wasn't permitted. But because of the information provided by the Code Enforcement Officer it allowed them to enter into a compliance agreement with the applicant.

Mr. Daige asked what the complaint was.

Ms. Lafferty said there was a conversion of two (2) single-family homes and the complainant thought it was being utilized as a manufacturing distribution center. The Code Enforcement Officer spent a lot of time there and it was determined that it was set up as a business professional office.

Ms. Lafferty briefly went over staff's report with the Board members (attached to the original minutes). Based on staff's analysis and findings, staff finds that the proposed site plan application meets the provisions for site plan approval and recommends approval of the site plan subject to conditions listed in staff's report.

Mr. Daige asked are there any plans to remove any of the existing trees.

Ms. Lafferty said they would be removing a few trees necessary for the proposed improvement.

Mr. Daige asked what is the size of the trees.

Ms. Lafferty reported that they would be removing a Pine Tree, a Palm Tree, and two Laurel Oak Trees. She said the Laurel Oak Trees were 22 inches and one is decaying and the other is in the construction zone.

Mr. Daige asked are there any plans to change the height of the buildings.

Ms. Lafferty answered no.

Mrs. Minuse asked is all the egress and ingress on 34<sup>th</sup> Avenue.

Ms. Lafferty answered yes.

Mr. Daige questioned lighting for the new parking lot.

Ms. Lafferty said it would have to meet Code requirements.

Mr. Cahoy asked would the area where the driveways are currently located be improved with landscaping no parking allowed.

Ms. Lafferty said that is correct.

Mr. David Knight, of Knight, McGuire and Associates, Inc., introduced himself and Mrs. Deborah Darnell, property owner, to the Board members. He reported that the driveways would be eliminated and they would have one driveway between the two houses with a parking area in the back. They don't have any proposed lighting for the parking in the back other than the lighting that already exists on the side of the door that enters the back of the building. He reported that they would be putting in a number of hedges and trees. The stormwater would be brought up to the current Code requirements. There will be dry retention in the rear of the property with discharge into the swale on the property. There will be a new curb constructed from State Road 60 to the new driveway so there will be no ability for someone to pull off the edge of the road and park on the side of the road. He

noted that this was not a manufacturing facility, but a design facility. The improvements to the buildings will primarily be doorways, bathrooms, handicapped accessibility, etc., in order to bring the site into compliance.

The Chairman opened the public hearing at 1:48 p.m.

Mrs. Carol Jean Jordan said that she has been sworn in. She reported that she is the person who complained to Code Enforcement. She said there was parking in the front yard, not in the driveways, over long periods of time up until late in the evenings, especially during the holidays. She said that she looked it up and found that it is an import/export business. She said what they have is a neat little barbeque lighter in all different styles that comes prefilled, which is a concern to her because of the butane. She said that she spoke with Mr. Knight earlier today and he made it clear that this was only going to be an office. She questioned where the delivery trucks would go. She asked would the trucks park in the back or pull up in front on the street. She noted that this wasn't a permitted use for a long time and she didn't complain until it became unruly. She said that she didn't want to keep anyone from doing business.

Mrs. Minuse asked is the driveway wide enough for the delivery trucks to turn around.

Ms. Lafferty said it meets Code requirements and has been reviewed by all the applicable departments.

Mrs. Minuse questioned the issue with butane.

Ms. Lafferty said an inspection was done by the Indian River Fire Prevention, as well as every other department that needed to review it.

Mrs. Minuse asked Mrs. Jordan if she was satisfied.

Mrs. Jordan answered yes. She said it was stated that they are not manufacturing on the property so that is okay with her.

The Chairman closed the public hearing at 1:56 p.m., with no one else wishing to be heard.

Mr. Daige asked if he was correct that POI zoning does not permit manufacturing.

Ms. Lafferty said this application is for business professional office approval. She noted that manufacturing would be limited to industrial zoning, not POI zoning.

Mr. Daige asked how the trucks will make their deliveries.

Mr. Knight said they would use the main driveway between the buildings and the entrance to the building would be in the rear.

**Mr. Wells made a motion that the Board approves Site Plan Application #SP15-000020. Mrs. Minuse seconded the motion.**

Mr. Cahoy said prior to this business activity this was a residential occupancy and use. He wanted to go on record that he has a concern with the elimination of residences in favor of office/business growth. He said they have a history of discussion and registering their concerns with old established

neighborhoods that are being uprooted in favor of commercial and/or professional redevelopment. He wanted to make sure that they are aware this is taking place in a residential neighborhood.

Mr. Lauffer said it could be a positive or a negative. In some communities where homes are not cared for and a professional comes in and maintains the building, the neighborhood is better. He said there are some cases where Mr. Cahoy is correct. He said that he would rather have a professional office building in his neighborhood than a rundown house.

**The motion passed 5-0 with Mr. Daige voting yes, Mr. Cahoy yes, Mr. Wells yes, Mrs. Minuse yes, and Mr. Lauffer, yes.**

**[Quasi-Judicial]**

- B) Site Plan Application Submitted by Kimley-Horn and Associates, Inc. for Site Improvements to the Existing Driveway Connections along US 1 and 18<sup>th</sup> Street for 1750 US 1 – Wal-Mart (#SP16-000006)**

**[Quasi-Judicial]**

- C) Site Plan Application Submitted by Kimley-Horn and Associates, Inc. for Site Improvements to the Existing Driveway Connections along US 1 and 18<sup>th</sup> Street for 1780 US 1 – Sonic (#SP16-000007)**

The Chairman explained that items IV- B) and IV- C) would be heard together, but would require two (2) separate votes.

The Chairman read Site Plan Applications #SP16-000006 and #SP16-000007 by title only.

There were no ex parte communications reported.

The Deputy City Clerk swore in staff and those testifying for today's hearings en masse.

Ms. Lafferty briefly went over staff's report with the Board members (attached to the original minutes). She noted that page two on Attachment A shows the number of trees as "x" and it should be "19" and page two of Attachment B under the standard parking shows "31" and it should "19." Based on staff's analysis and findings, staff finds that the proposed site plan applications meet the provisions for site plan approval and recommends approval of the site plans subject to conditions listed in staff's report.

Mr. Cahoy asked why were the entrances from U.S.1 consolidated.

Mr. McGarry said FDOT standards on access points from intersections have changed and this building was vacant for a long time.

Mr. Cahoy asked why did they choose to close access from the side street.

Mr. McGarry said they would need to ask the applicant.

Mr. Daige asked will this site plan, the landscape plan, and what the parking lot will look like when completed be on file in City Hall.

Ms. Lafferty answered yes.

Mrs. Minuse said this is between Wal-Mart and Sonic. She asked what about CVS Pharmacy.

Ms. Lafferty said CVS Pharmacy was not included in this site plan.

Mr. Cahoy referred to the driveway (internal street) on the site between CVS Pharmacy and Wal-Mart. He asked who is responsible for it and why isn't it a part of this site plan.

Mr. McGarry said that access point would not change.

Mr. Cahoy asked is there some sort of a joint driveway agreement between the two (2) parties. He asked why wouldn't the City be concerned about it.

Mr. McGarry said that he would need to ask the applicant.

Mr. Lauffer said it already exists and the site plan shows it existing into the future.

Mr. Daige said if there is a problem in the future that would be between the two site owners.

Mr. McGarry noted that it is on the site plan so they could not close it without the City's approval.

Mr. Cahoy wanted to make sure the Fire Department was okay with it.

Mr. McGarry said they went through the Fire Department and if they had a problem with it they would have brought it up. He noted that it would not be before the Board if they didn't go through all the reviews needed.

Mrs. Minuse questioned the concrete utility pole in the center of the median.

Mr. McGarry said there is a concrete utility pole, which it is in the right-of-way.

Mr. Lauffer said they would be improving the open space, reducing access from U.S.1 from two (2) to one (1), the stormwater management would be more current, and the ingress/egress is an improvement.

Mr. McGarry said that is correct.

Ms. Sara Battles, of Kimley-Horn, explained that currently there are two (2) access points off of 18<sup>th</sup> Street; one (1) that accesses Sonic and one (1) that accesses Wal-Mart. The plan is to shift both access points to the east, which is basically because of the ingress and egress of trucks. In order to get the trucks in and out they had to change the pattern. Therefore, two (2) access points exist and two (2) access points are proposed. The access points are just being shifted. As far as U.S.1 goes, the drive came from the FDOT because the access points between Sonic and Wal-Mart doesn't meet spacing requirements. Because the building has been vacant for over a year, Florida Statutes requires that they get approval for existing access points and they would not approve the current access points. Therefore, Sonic and Wal-Mart entered into an agreement for a shared drive.

Mr. Cahoy questioned the utility pole.

Ms. Battles said FDOT recommended that they relocate it, but it is not a condition for the permit. She said Wal-Mart is going to proceed with relocating it with the City of Vero Beach Electric. She noted that the plan is to relocate it, but it doesn't have to be relocated prior to the store opening.

The Chairman opened and closed the public hearing at 2:33 p.m., with no one wishing to be heard.

**Mrs. Minuse made a motion that the Board approves Site Plan Application #SP16-000006 as recommended by staff. Mr. Wells seconded the motion and it passed 5-0 with Mr. Daige voting yes, Mr. Cahoy yes, Mr. Wells yes, Mrs. Minuse yes, and Mr. Lauffer, yes.**

**Mrs. Minuse made a motion that the Board approves Site Plan Application #SP16-000007 as recommended by staff. Mr. Wells seconded the motion and it passed 5-0 with Mr. Daige voting yes, Mr. Cahoy yes, Mr. Wells yes, Mrs. Minuse yes, and Mr. Lauffer, yes.**

[Quasi-Judicial]

- D) An Ordinance of the City of Vero Beach, Florida, Requested by Raymond Comparetta for WMAK, LLC, Amending the Official Zoning Map by Changing the Zoning District Designation of RM-8, Residential Multifamily Medium Density, to POI, Professional Office and Institutional, for Property Located East of US 1 at Pickerill Lane Containing 6.1 Acres, More or Less, Providing for an Effective Date (#Z16-000003-MAP)**

The Chairman read the proposed Ordinance by title only.

There were no ex parte communications reported.

The Deputy City Clerk swore in staff and those testifying for today's hearing en masse.

Mrs. Cheri Fitzgerald, Project Manager, showed on the doc cam an aerial view of the property and the Location and Zoning Map (attached to the original minutes). She then briefly went over staff's report with the Board members (attached to the original minutes). Based on staff's analysis and findings listed in staff's report and the responses provided in the applicant's justification for the proposed amendment, staff recommends that the Planning and Zoning Board approve submittal of the proposed Ordinance to the City Council for favorable consideration.

Mr. Daige said currently there are not any residents around the property. What is around the property is medical.

Mrs. Fitzgerald said that is correct.

Mr. Lauffer asked is there any negative impact to the property to the south going from RM-8 to POI .

Mrs. Fitzgerald answered no. She said that Mr. McGarry just mentioned to her that he thought the applicant also owned that property.

Mr. David Knight, of Knight, McGuire and Associates, Inc., introduced Mr. Ray Comparetta to the Board members stating that they are presently representing the property owner to answer any questions the Board might have.

Mr. Comparetta thought the nearest house to the property was located about 1,500 feet away. He said this property is surrounded on three (3) sides by medical offices.

Mr. Daige asked because this was a very heavily wooded area is there any type of study required to see if there are endangered species on this property.

Mr. McGarry said that is something that they would look at during site plan approval.

The Chairman opened and closed the public hearing at 3:00 pm., with no one wishing to be heard.

**Mrs. Minuse made a motion to approve the proposed Ordinance to amend the Zoning Map from RM-8 to POI (requested by WMAK Holdings, LLC in Application #Z16-000003-MAP) as recommended by staff. Mr. Wells seconded the motion and it passed 5-0 with Mr. Daige voting yes, Mr. Cahoy yes, Mr. Wells yes, Mrs. Minuse yes, and Mr. Lauffer, yes.**

The Board took a break at 3:04 p.m. and the meeting reconvened at 3:10 p.m.

## **V. WORKSHOP**

### **A) Discussion of Draft Goal, Objectives and Policies (GOPs) for the Housing Element of the Comprehensive Plan (if time permits)**

Mr. McGarry gave a brief overview of the proposed changes to *Chapter 4 - Housing Element Goal, Objectives, and Policies* with the Board members (attached to the original minutes).

\*Please note that discussion took place throughout the presentation.

Mrs. Minuse referred to page 4-1, *Objective 1 – Neighborhood Preservation, Rehabilitation, and Identity*. She suggested that they replace “*have declined*” with “*that are in varying degrees of decline*.” The Board members agreed.

After a brief discussion under Goals the Board members agreed to remove the word “*diversity*.”

Mr. Daige referred to page 4-2. He said that he was not sure if this should be inserted on this page or somewhere else in the Comprehensive Plan, but he would like to have some type of guidelines in place for rental of single resident homes. He felt that a license should be required because they are running a business. He said if they have somewhere in the Comprehensive Plan that a license is required and if they are not operating the business correctly their license to rent would be revoked. He said if someone is renting their property there should be some type of standards. He said the City is having a difficult time bringing in properties that are rundown in that they come before the Code Enforcement Board and then it starts all over again. He said it is the repeat violators that take a lot of time of the City. He said a lot of people don't like to call in Code violations and properties go unchecked. His thinking is to economically save the City money, they could have a license for people who want to own and operate rental units.

Mr. Lauffer said there is no difference between a renter and an owner of a home that is rundown. He said enforcement either works or it doesn't work. He said as a property owner, as soon as the City set that regulation he would set up an LLC for every individual house he owned.

Mr. Daige said what the City has right now is not working.

Mr. Lauffer said they need to enforce the Codes to make those properties come into compliance.

Mr. Daige said they can't. He said the City has been suffering with certain problems in neighborhoods for over 15 years, so what they have is not working. He was not looking for large regulations, but something light to help bring properties into compliance. If someone owns property

and is making money off of people they should provide a safe service. He said this is not about individual land owners.

Mr. McGarry said one issue is that they have what are called “slumlords.” He said there are people who own multiple properties and don’t maintain them. He said staff has been discussing ways to try to enforce it better. He said they could put some language in the Code where they would say the City would “consider” something rather than say the City was “going” to do something.

Mrs. Minuse said there are areas, such as Original Town, where this is a big problem.

Mr. Daige asked the Board to allow him time to work with Mr. McGarry to try to bring something back before them. The Board members agreed.

Mr. Lauffer said that he lived in a neighborhood in Virginia where they had some of the same issues and when the Code Enforcement got after them and started issuing fines the people would fix their property. It didn’t take another government system.

Mrs. Minuse asked could they add something to the regulations to beef up Code Enforcement.

Mr. McGarry said that is an option they could look at. He said staff would work with neighborhoods to do a comprehensive sweep, but they could not go into individual houses.

Mr. Daige said what he heard from Mr. Lauffer was that in an area in Virginia they took care of Code issues with fines. But, here the Code Officers are doing their job and the property owners protest before the Code Enforcement Board. He said the Code Enforcement Board consists of volunteers and they only hear one (1) side of the story. He said the repeat violators are very good in making their case and therefore the Code Enforcement Board lets them go because they are only hearing one (1) side.

Mr. Lauffer suggested that they change the Board.

Mrs. Minuse asked if they could empower Code Enforcement a little more.

Mr. McGarry said they are looking at ways to go after the continuing violators. Another approach would be to replace the Board with a Special Magistrate. He explained that the Special Master is like a judge and they wouldn’t have all the stuff that a citizen board has. He noted that staff supports that approach, but politically it has not been supported in the past.

Mrs. Lyon said this has been discussed twice that she knows of. She noted that the Code Enforcement Ordinance is set up where the City could do either way or both.

Mr. Daige said the Board could make a recommendation down the road for the City to have a Special Master rather than a citizen Board. He said sitting on the Code Enforcement Board is difficult. He noted that the City of Sebastian has a Special Magistrate.

Mr. McGarry said that he would work on some language and bring it back before the Board.

Mr. Lauffer said they need to clean up these properties, but he didn’t think that more rules, regulations, or licenses were the way to go.

The Commission members agreed to take out “*and investigating the need*” from Section 4.5.

Mr. McGarry suggested that they add the language regarding a Special Magistrate under the *Objective 4-6 / Coordination with Indian River County Housing Programs* (page 4-8).

Mr. Lauffer referred to page 4-10, Section 7.2. He questioned if they want to use the word “*encourage*.” The Board members agreed to replace “*encourage*” with “*shall consider*.”

After discussion, the Board members agreed to remove Section 7.3.

**VI. PLANNING DEPARTMENT MATTERS**

None

**VII. BOARD MEMBERS' MATTERS**

None

**VIII. ADJOURNMENT**

Today's meeting adjourned at 4:26 p.m.

/sp