

**PLANNING AND ZONING BOARD MINUTES
THURSDAY, NOVEMBER 3, 2016 - 1:30 PM
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

PRESENT: Chairman, Lawrence Lauffer; Members: Don Croteau, Linda Hillman, Alternate Member #1, Richard Cahoy and Alternate Member #2, Ken Daige **Also Present:** Planning and Development Director, Tim McGarry; Principal Planner, Cheri Fitzgerald; Assistant City Attorney, Kira Honse and Deputy City Clerk, Sherri Philo

Excused Absences: Honey Minuse and Norman Wells

I. PRELIMINARY MATTERS

A. Agenda Additions and/or Deletions

None

II. APPROVAL OF MINUTES

A. Regular/Workshop Meeting –September 15, 2016

Mr. Daige made a motion to approve the minutes of the September 15, 2016 Planning and Zoning Board meeting. Mr. Croteau seconded the motion and it passed unanimously.

III. PUBLIC COMMENT

None

IV. PUBLIC HEARING

[Quasi-judicial]

- A. An Ordinance of the City of Vero Beach, Florida, Requested by TV20, LLC, Amending the Official Zoning Map by Changing the Zoning District Designation of POI, Professional Office and Institutional, to C-1B, General Commercial Trades and Services, for Property Located on the Southeast Corner of 20th Street and 10th Avenue Containing 3.73 Acres, More or Less; Providing for Conflict and Severability; and Providing for an Effective Date.**

The Chairman read the Ordinance amending the Official Zoning Map for the property located on the Southeast corner of 20th Street and 10th Avenue consisting of 3.73 acres, more or less, by title only.

There was no ex parte communication reported.

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

Ms. Cheri Fitzgerald, Principal Planner, went over staff's report with the Board members (attached to the original minutes). Based on the analysis and findings listed in staff's report, staff recommends that the Planning and Zoning Board approve submittal of the draft Ordinance to the City Council for favorable consideration.

Mr. Croteau said it was mentioned that the POI designated property to the east was vacant.

Mrs. Fitzgerald said there is a vacant single-family historic building and an office building on the property.

Mr. Lauffer said there are duplexes located to the south of the property and commercial property further to the west. He asked if they were notified of the proposed change in the zoning designation and if anyone from those properties objected to it.

Mrs. Fitzgerald reported that letters were sent out, the notice was advertised in the newspaper several times, and the property was posted. She said most of the questions they received were from people who wanted to know what the site was going to be developed as, which they were told that was not known because there is not a site plan. She reported that the City received two (2) letters, one (1) from Holloway Homes, LLC and one (1) from Miracle Mile Prime, LLC, who were both in favor of this (letters attached to the original minutes). She reported that there were a few property owners who are located to the south and east of the property who inquired about this change in that in the future they might want a zoning designation change.

Mr. Daige asked if a neighborhood meeting was required.

Mrs. Fitzgerald answered no. She said a neighborhood meeting would be required if this was part of a site plan.

Mr. Daige asked would the zoning allow a commercial unit with living quarters on the second floor.

Mrs. Fitzgerald answered no.

Mr. McGarry thought in the long run the applicant would be looking at mixed-residential, but they were waiting on completion of the Comprehensive Plan.

Mr. Daige asked in this type of zoning, depending on the type of building they put on the property, can they be required to have some type of a buffer to shield the neighborhood.

Mrs. Fitzgerald said landscape buffers are in the current Code, but are mostly reflective of parking, retention areas, etc.

Mr. McGarry noted that there are performance standards when looking at development. If the Planning and Zoning Board feels some type of buffering would be needed they could do that.

Mr. Daige asked in the event that this zoning change moves forward and if a site plan is submitted, does staff have the option to suggest some type of a buffer before it goes before the Planning and Zoning Board.

Mr. McGarry explained that staff works with the applicants and changes could be made before the Board sees the site plans. He said normally as long as it is a reasonable kind of condition; the developers are willing to do it.

Mr. Lauffer said this is a zoning change and the Board is used to dealing with a site plan, which is easier to make a judgment because they could see how it affects the adjacent property owners. With only dealing with a zoning change, they don't have that ability. He felt that the Board members agreed in general that this was a positive move. His concern was that they did not want to negatively

impact those that are in the mixed-use dwelling down the road.

Mr. Daige said in the event that this goes forward, he would like a note included that staff keeps an eye on the possibility of a buffer.

Mr. Scott McGuire, Engineer, introduced himself to the Board members.

Mr. Daige asked if he was the property owner or the engineer.

Mr. McGuire said that he was the Engineer for the property owner.

The Chairman opened and closed the public hearing at 2:00 p.m., with no one wishing to be heard.

Mrs. Hillman made a motion that the Board recommends passing this on to the City Council for acceptance of this zoning change. Mr. Cahoy seconded the motion.

Mr. Daige asked can they include in the motion that a note for staff be included regarding the buffer. He said that he would be in favor of this if that is included.

Ms. Kira Honse, Assistant City Attorney, explained that the Board has to vote for or against the land use change. They cannot put a condition on it. She asked that they also make the finding that they had competent substantial evidence to support their decision. Mr. McGarry added based on staff's report.

The Deputy City Clerk performed the roll call on the motion and it passed 4-1 with Mr. Daige voting no, Mr. Cahoy yes, Mrs. Hillman yes, Mr. Croteau yes, and Mr. Lauffer yes.

[Legislative]

- B. An Ordinance of the City of Vero Beach, Florida, Amending Section 71.14 in the Land Development Regulations of the Code of the City of Vero Beach Relating to Restrictions on Improvement of Certain Designated City Rights-of-Way; Providing for Clarification; Providing for Conflict and Severability; Providing for Codification; and Providing for an Effective Date.**

Mr. Tim McGarry, Planning and Development Director, briefly went over staff's report with the Board members (attached to the original minutes). Staff recommends Planning and Zoning Board approval of the Ordinance amending Section 71.14 in the Land Development Regulations of the Code of the City of Vero Beach relating to restrictions on improvement of certain designated rights-of-way for transmittal to the City Council for favorable action.

Mr. McGarry referred to a letter addressed to the Utilities Commission from Mrs. Mary Lou Hammond, of the Save the Trees Committee, dated October 17, 2016 (on file in the City Clerk's office). He said that the Utilities Commission discussed this Ordinance and recommended that it go before the City Council for approval.

Mr. Lauffer felt that the STEP System was a good thing, but tree canopy is important to the City. He said the Ordinance was put into effect to protect the trees.

Mr. Rob Bolton, Water and Sewer Director, explained that 40 years ago when the Ordinance was written they didn't have directional drilling machines. He noted that the only change in the

Ordinance that he was requesting was the addition of the wording, “*except a septic tank effluent pump “STEP” sewer system installed by directional boring methods.*” The rest were housekeeping changes in order to come into compliance with the update in the City’s land use regulations. He briefly explained to the Board members how the STEP System is installed and how the STEP System works.

Mr. Daige asked Mr. Bolton how long have they been working on the STEP System.

Mr. Bolton said about 20 months.

Mr. Daige said that he has been watching them do these installations and they have been around a lot of trees. He asked what feedback has the City received from the neighbors who have trees.

Mr. Bolton said most of the time everyone is shocked that it was done without disturbing anything. They couldn’t believe that they could go down the road, under driveways, under Oak trees, etc., and not disrupt anything.

Mr. Daige asked in the 20 months they have been doing this have they received any negative feedback where trees have died.

Mr. Bolton answered no.

Mr. Bolton reported that this Ordinance came up because there is a new home going in on West Camino Del Rio and the property owner wants to put in a STEP System, rather than put in a septic system.

Mr. Daige said that Mr. Bolton did the research on this and received the thumbs up from the State. He then referred to a statement from Mrs. Hammond’s letter regarding the EPA researching the effects of septic tanks. He said a lot of the research has been done and to his knowledge, it is not great to have septic tanks close to the Lagoon. He felt that what they were doing was great. He said that he spoke to several people who live on the Island and they are in favor of the STEP System.

At this time, Mr. Bolton showed on the screen photographs of the installation of a STEP System.

The Chairman opened and closed the public hearing at 2:31 p.m., with no one wishing to be heard.

Mrs. Hillman made a motion that the Board approves the draft Ordinance for transmittal to the City Council. Mr. Croteau seconded the motion and it passed 5-0 with Mr. Daige voting yes, Mr. Cahoy yes, Mrs. Hillman yes, Mr. Croteau yes, and Mr. Lauffer yes.

[Legislative]

- C. An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations, Part II of the Code of the City of Vero Beach, Relating to Medical Marijuana Dispensaries; Providing for Conflict and Severability; Providing for an Effective Date.**

Mr. McGarry briefly went over staff’s report with the Board members (attached to the original minutes). Staff recommends Planning and Zoning Board approval of the Ordinance amending the Land Development Regulations, Part II of the Code of the City of Vero Beach relating to medical marijuana dispensaries for transmittal to the City Council for favorable consideration.

Ms. Honse explained that the proposed Constitutional amendment uses different terminology and the proposed changes to this Ordinance will make it more in line with that terminology.

Mr. Daige said that he does have concerns with this issue. He felt that in reading this proposed Ordinance, it seemed like it put the City in a better position to defend if they have to.

The Chairman opened the public hearing at 2:41 p.m.

Mr. Phil Westover (spelling may be incorrect), of the American Real Estate Foundation, said that he was born and raised in Oregon and went to the University of Washington. Both Oregon and Washington started with allowing medical marijuana and now it has developed into recreational marijuana. He said they probably could not stop medical marijuana from coming here, but Indian River County is a very small County. He felt that if a person has any of the diseases mentioned in the Ordinance, they could go to the hospital for medical attention in order to get their medication. He said there are people who get the medical marijuana and then sell it. He felt that this would promote use of marijuana. He said this should be looked at very close because they don't need clinics for this. If this was only available at the hospital, it would only be given to people who have these diseases, not people who just say they have these diseases.

The Chairman closed the public hearing at 2:48 p.m., with no one else wishing to be heard.

Mr. Daige said that he has spent a lot of time researching this and it can get out of hand. He said the State is pushing this and he felt it would be helpful if each of the Board members spoke with the Elected Officials to see if they would get together and send their input to the State Officials to let them know how this is going to affect the City. He understood that this Ordinance was to try to strengthen the City's position. He said the City is trying to get in the position where they won't have grow-houses.

Mr. Croteau made a motion that the Board recommends this draft Ordinance to go before the City Council as reported by staff. Mrs. Hillman seconded the motion and it passed 5-0 with Mr. Daige voting yes, Mr. Cahoy yes, Mrs. Hillman yes, Mr. Croteau yes, and Mr. Lauffer yes.

V. PLANNING DEPARTMENT MATTERS

Mr. McGarry reported that the applicant for the Tradewinds Restaurant was unable to provide enough information to get on the Planning and Zoning Board agenda for November 17th and would like the Board to hold a Special Call meeting to hear his case. Mr. McGarry explained that it takes the City 18 days to advertise and therefore the applicant has requested a special hearing during the week of Thanksgiving.

Mr. Cahoy said that he would be out of town. He said that he would prefer that the Board hear this at their next regular meeting.

After a brief discussion, it was determined that the Board would hear this at their regular meeting on December 1, 2016.

A. Options for Revising Regulations Related to the Requirement for a 20-foot Landscape Buffer 6 Foot High Hedge between Conditional Uses and Single Family Uses with an Intervening Right-of-Way.

Mr. McGarry went over staff's report with the Board members (attached to the original minutes).

Staff favors either Option #1 or Option #2 as they don't believe that the landscape buffer and hedge requirements are needed or contribute to the integration of conditional uses into a neighborhood. He said Option #3 allows this requirement to be applied on a case-by-case basis to go before the Planning and Zoning Board. Staff recommends that the Planning and Zoning Board choose one of the three options with or without revisions for revising regulations related to the requirement for a 20-foot landscape buffer six-foot high hedge between Conditional Uses and Single Family Uses with an intervening right-of-way.

Mr. Daige felt that Option #1 was actually more flexible, which is why staff was favoring it.

Mr. Cahoy said that he likes Option #3.

Mr. Lauffer felt that if someone was putting in a conditional use, the neighbors would let them know if they want a buffer. He said if the neighbors don't want a buffer they still have to have one because it is in the Code. Therefore, if someone has beautiful landscaping people would not be able to see it because of the required buffer. He said they would not be able to give them a waiver.

Mr. Cahoy questioned wouldn't Option #3 give them a waiver.

Mr. McGarry said Option #3 would, but it would kind of be like they would have to prove they were innocent. With this Option they would be guilty until proven innocent and with Option #1 they would be innocent until proven guilty.

Mr. Daige was in favor of Option #1.

The Chairman opened public comment at 3:06 p.m.

Ms. Connie Boiter (spelling may be incorrect), of Oakmont Park, said that she lives across the street from the church that is being built. She said that she spoke with about 25 people in the neighborhood and 100% of them said they would prefer to look at trees and landscaping rather than a wall or a hedge.

Mr. Daige said the way it is currently written in the Ordinance is they have to put up a wall or a hedge. Ms. Boiter said that everyone she spoke with was in favor of looking at landscaping, rather than a wall or hedge. If they chose Option #1, the Board could hear these cases and have the flexibility that they currently don't have.

It was the consensus of the Board to go with Option #1 with Mr. Cahoy noting that he was in favor of Option #3.

B. Provide Update on Revisions to the Comprehensive Plan.

Mr. McGarry reported that staff has been working on the revisions that the Board made to the elements of the Comprehensive Plan. At their next meeting they would be working on the infrastructure element of the Comprehensive Plan.

VI. BOARD MEMBERS' MATTERS

Mr. Cahoy referred to the construction of the ABC Liquor building. He didn't think when the Board approved this that they discussed part of the ingress/egress to the shopping center would be closed. He found this very disruptive.

Mr. McGarry said that is a temporary construction closure.

Mr. Cahoy said this is very disruptive to the traffic in the area.

Mrs. Hillman didn't think the road was still closed.

Mr. McGarry noted for the record that the two (2) letters that Mrs. Fitzgerald referred to under item IV-A) on today's agenda were from property owners and not businesses.

VII. ADJOURNMENT

Today's meeting adjourned at 3:15 p.m.

/sp