AGENDA
REGULAR MEETING OF THE CITY PLANNING AND ZONING BOARD
THURSDAY, APRIL 21, 2016, AT 1:30 PM
COUNCIL CHAMBERS, CITY HALL, VERO BEACH, FLORIDA

I. PRELIMINARY MATTERS

Agenda Additions and/or Deletions

II. APPROVAL OF MINUTES

Regular Meeting – March 17, 2016

III. PUBLIC COMMENT

IV. PUBLIC HEARING

[Legislative]

A. An Ordinance of the City of Vero Beach, Florida, Amending Various Provisions of Part III, Land Development Regulations, in the Code of the City of Vero Beach, Related to Permitted Uses in Certain Nonresidential Zoning Districts; Providing for Codification; Providing for Conflict and Severability; Providing for an Effective Date (#Z16-000001-TXT).

[Legislative]

B. An Ordinance of the City of Vero Beach, Florida, Amending Chapter 62, Article IV, M Industrial District, of Part III, Land Development Regulations, in the Code of the City of Vero Beach, Related to Permissible Floor Area for Accessory Recreational Uses; Providing for Codification; Providing for Conflict and Severability; Providing for an Effective Date (#Z16-000002-TXT).

V. PLANNING DEPARTMENT MATTERS

VI. BOARD MEMBERS' MATTERS

VII. ADJOURNMENT

ANY PERSON AGGRIEVED BY A DECISION OF THE PLANNING AND ZONING BOARD RELATIVE TO SITE PLAN APPROVAL MAY WITHIN TEN DAYS AND IN ACCORDANCE WITH SECTION 64.08(j) FILE AN APPEAL WITH THE PLANNING DIRECTOR OF THE CITY OF VERO BEACH. ANYONE WHO MAY WISH TO APPEAL ANY DECISION THAT MAY BE MADE AT THIS HEARING WOULD NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE THAT INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL WILL BE BASED.

ANYONE IN NEED OF SPECIAL ACCOMMODATIONS FOR THIS MEETING MAY CONTACT THE CITY'S AMERICANS WITH DISABILITIES ACT (ADA) COORDINATOR AT 978-4920 AT LEAST 48 HOURS IN ADVANCE OF THE MEETING.

PUBLIC INVITED TO ATTEND

PLANNING AND ZONING BOARD MINUTES
THURSDAY, MARCH 17, 2016 - 1:30 PM
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

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

I. PRELIMINARY MATTERS

A) Agenda Additions and/or Deletions

None

II. APPROVAL OF MINUTES

A) Regular Meeting – March 3, 2016

Mrs. Hillman made a motion to approve the minutes of the March 3, 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) Site Plan Application Submitted by 1745 SR 60, LLC, to Construct a 14,115 Square Foot Four Story Commercial Building at 1745 20th Street (#SP15-000021).

The Chairman read Site Plan Application #SP15-000021 for the property located at 1745 20th Street by title only.

There was no ex parte communication reported.

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

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

Mrs. Minuse asked is the alley in the back being used for vehicular traffic.

Mrs. Fitzgerald answered yes.

Mr. Minuse asked is there two-way traffic. Mrs. Fitzgerald answered yes.

Mrs. Minuse asked are there any plans to change it.

Mrs. Fitzgerald said not to her knowledge.

Mrs. Hillman asked for clarification on page two (2) of the Project Description and Fact Sheet for Proposed Commercial Building where it states, "*Parking is required to be located in the rear of building. The first 30 spaces are exempt and the remainder of the required parking is reduced by 50%.*"

Mrs. Fitzgerald explained that is a unique allowance in the Code for the Downtown Zoning District. The first 30 spaces are exempt and after that they are allowed to decrease it by half.

Mr. Croteau said they would need 30 less spaces than they would in another part of the City.

Mrs. Fitzgerald said that is correct.

Mr. Tim McGarry, Planning and Development Director, explained that they would calculate how much parking is required minus 30 spaces and whatever is left they divide it by two.

Mrs. Minuse referred to the elevation and asked how they came up with the correct height. She explained that she was not coming up with the same calculation.

Mr. McGarry reported that it is almost 50 feet to the base of the parapets.

Mrs. Minuse how does that comply with the Code.

Mr. McGarry explained that the Code allows 50 feet plus embellishments and the parapets are the embellishments.

Mr. Daige asked what is the total height of the building

Mrs. Fitzgerald answered 57 feet.

Mr. Daige asked if in the future they want to change the top floor to apartments, would that be permitted in this zoning.

Mrs. Fitzgerald answered yes, but they would have to apply for that change.

Mrs. Minuse said two renderings were submitted that show a difference in the windows at the front of the building. She asked were the windows aesthetic.

Mrs. Fitzgerald answered yes.

Mr. Joe Schulke, of Schulke, Bittle and Stoddard, submitted into the record additional renderings of the proposed building (attached to the original minutes). He reported that the alley in the back functions as a two-way, but is wide enough for one-way. He said they did widen the area behind their property. He reported that the height of the building to the roof top is approximately 49 feet, 10 inches and six-feet eight inches to the top of the parapet.

Mr. Lauffer asked will there be parking in the alley.

Mr. Schulke said they have parking on their site that has access by the alley.

Mr. Daige asked Mr. Schulke to explain the stormwater management on the site.

Mr. Schulke said they would have chambers that consist of multiple pipes under the driveway and all the water would remain on site.

Mr. Daige asked would the air-conditioner units be located on the roof or on the first floor.

Mr. Schulke said there would be eight (8) air-conditioner units on the west side of the building that would be enclosed by a fence and shrubs. He said some air-conditioners might eventually be placed on the roof noting that they would not be seen because of the parapets.

Mr. Daige said some existing commercial buildings located downtown have air-conditioners that whine.

Mr. Schulke said that has not been discussed. He was certain that they would have rules requiring maintenance of the units.

Mrs. Hillman referred to the renderings of the front of the building. She felt that Alternate A was more appealing to the downtown area and would fit in better with the Courthouse and the other buildings in the area.

The Chairman opened and closed the public hearing at 2:09 p.m., with no one wishing to be heard.

Mr. Croteau made a motion that the Board approves Site Plan Application #SP15-000021 with conditions listed by staff. Mrs. Minuse seconded the motion and it passed 5-0 with Mr. Wells voting yes, Mrs. Hillman yes, Mr. Croteau yes, Mrs. Minuse yes and Mr. Lauffer yes.

[Quasi-Judicial]

B) Site Plan Application Submitted by Lee Heaton to Construct a 1,820 Square Foot Outdoor Tiki Bar at 3500 Ocean Drive – Vero Beach Hotel and Spa (#SP15-000013).

The Chairman read Site Plan Application #SP15-000013 for the property located at 3500 Ocean Drive by title only.

There was no ex parte communication reported.

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

Mr. McGarry went over staff's report with the Board members (attached to the original minutes). Based on staff's analysis and findings, the 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.

Mrs. Minuse referred to condition 5 of staff's report where it states *"The applicant shall meet with the Planning and Development Department to discuss appropriate options for accommodating parking of employees within 60 calendar days of the termination of the GoLine."* She said it reads like the "GoLine" was shutting down. She suggested that they change it to state *"should the GoLine Shuttle be terminated."*

Mr. Croteau felt condition five (5) was weak because it doesn't commit if there is any change. He felt that it should be a requirement that they agree to a plan if something happens with the shuttle.

Mr. McGarry noted that this is over and above the Code. He felt that this would be a discussion where they could look at alternatives.

Mr. Daige said a fee is involved with valet parking even if it is free because it is appropriate to tip. He said people will try to park somewhere else because they don't want to pay even if it is just to tip.

Mrs. Minuse referred to the site plan where it references that beach vegetation does not exist and they would be doing a dune crossover. She asked how does this work with the turtle Ordinance.

Mr. McGarry did not think they were going to do the dune crossover.

Mrs. Minuse noted that the lighting on the tiki bar would not shine down on the beach.

Mr. McGarry said that is correct.

Mr. Lauffer said they have met all the criteria for the lighting.

Mr. McGarry said that is correct.

Mrs. Peggy Lyon, Assistant City Attorney, noted that the City has a very strict turtle Ordinance that was approved by the State.

Mr. Cahoy questioned street access to the new tiki bar.

Mr. McGarry said access to the tiki bar was not changing. They would have to go through the hotel to get to the tiki bar.

Mr. Cahoy asked what kind of controls will be in place during the construction phase.

Mr. McGarry said the applicant would need to answer that question.

Mr. Lauffer asked is there any existing vegetation between the two properties on the south side. He asked can the people living in the condominium to the south currently see the table umbrellas that cover the dining area outside.

Mr. McGarry answered yes.

Mr. Croteau said the tiki bar would be much taller than the table umbrellas.

Mr. George Heaton, owner of the Vero Beach Hotel and Spa, said that he has been sworn in. He said there is currently dining in the area and they are just covering it. He said the area is primarily for hotel guests, although there are people who walk in. He said they do require valet parking on site 24/7 and no one is allowed to park their own vehicle. He said they did assist in the funding on the GoLine shuttle because they realize there is a parking problem on the beach and they are happy to continue to help assist in funding the shuttle. He said they have never had a noise complaint from a neighbor that he is aware of. The only complaint they ever had was by one of their guests. He noted that there is currently a bar in this area. They are not doing anything new. They are just covering it.

He said there is a small hedge there, but their neighbors can see on the property. They have proposed putting in a taller thicker hedge.

Mr. Cahoy referred to the traffic and parking problems along Ocean Drive. He asked will the construction vehicles be parking in the spaces along Ocean Drive.

Mr. Heaton said they have not discussed where the vehicles will be parking at this point. He clarified that they would not be building a tiki bar with a grass hut. It would be an open air building consisting of beams and a roof. The construction is very simple and it will take place during the off season.

Mrs. Minuse said they would not have music after 10:00 p.m. She asked how long do they keep the swimming pool open and do they provide music poolside.

Mr. Heaton said they have music playing during the day. He noted that sometimes they have live music, which is small like a steel drummer or something to that effect.

Mr. Duncan Clements, Manager of the Vero Beach Hotel and Spa, said the pool bar closes between 10:00 p.m. and 11:00 p.m., depending on the patrons who are there. He said they have many rooms that overlook the pool area so they are very cognizant of noise and make sure it is kept to a minimum. He said they close the swimming pool around 5:00 p.m. or 6:00 p.m. He noted that they don't prohibit guests from having a quiet swim, but they don't want the pool in use later in the evening.

Mr. Croteau asked would they be building a new dune crossover or rebuilding the existing one.

Mr. Heaton said an additional crossover was part of the Department of Environmental Protection (DEP) permit. But, they do not anticipate building one.

Mrs. Hillman asked is the proposed tiki bar an addition to the bar that already exists.

Mr. Heaton said it would replace the existing bar. He noted that they would also be covering the existing dining area.

Mr. Daige asked what will they be doing to handle the stormwater. He asked do they have the capacity to handle it on site.

Mr. McGarry explained that the impervious surface area is not changing.

Mr. Daige asked what month would construction take place.

Mr. Heaton said it has not been determined, but it would be some time in the summer months.

The Chairman opened the public hearing at 2:52 p.m.

Mr. Irv Roberts, President of the Board of Directors of the Reef Ocean Resort, said that he has been sworn in. He said the Reef Ocean Resort is a 60 unit condominium that has 3,060 owners. He noted that they are not transient, but owners. He said that he is present today representing the property owners. Since the announcement of the hearing they received 420 objections to this project. He reported that he also received 51 objections from residents of Village Spires this morning. He said they have several objections to this project, with the first being the noise. He noted that this project

includes an additional 20 seats. He said there are 72 seats in the bar area and an additional 46 seats within 150 feet of the Reef Ocean Resort. He said as bar activity increases, so does the noise level. If they add band music it becomes a significant issue. The bands play during the day and seldom in the evening. Now they are looking at letting them play until 10:00 p.m. Noise is a big concern to them and it doesn't appear that the planned landscaping would reduce the sound that will be coming from the complex. Their second issue is parking. He said in order to protect the parking of Bobby's Restaurant (they are their landlord) and their own parking, they hired two (2) parking attendants at a cost of $30,000 each year. Every day there are three (3) or four (4) angry customers who want to park in their lot in order to attend an activity at the hotel. Their third issue is with drainage. He said they are going to cover the sand with stone pavers and they are very concerned about the rainwater coming from the pavers and from the roof running onto their property. Another issue is the fact that a walk-in freezer is going to be added, which has a large condenser that would sit along the setback line. They respectfully request that the application be rejected.

Mr. Wells said they heard from 420 of their 3,060 residents, which is less than 15%.

Mr. Roberts said they just heard about this on March 4th.

Mr. Lauffer said hotel management doesn't want to disturb their guests, which he felt was a benefit to the Reef Ocean Resort. He felt they both wanted the same thing, which is an appropriate result for both the timeshare residents and the guests of the hotel.

Mr. Roberts clarified that they have owners, not transients that come and go.

The Deputy City Clerk swore in Mr. Matt Mitts, Assistant City Engineer.

Mr. Mitts said that he reviewed the drainage elements of this plan. He explained in drainage reviews they look to see where the runoff is going. The other thing they look at is water quality. He reported that they looked at the impervious area they currently have on the site and then they looked at what they would be increasing it by, which fell under the City's threshold of 1,500 square feet. This means that the net impervious area they are adding did not trip a requirement for them to have more retention. He reported that the runoff would work as it presently works.

Mr. Lauffer said then the runoff would not go to the Resort's property.

Mr. Mitts said that is correct.

Mr. Daige asked where are they placing the walk-in freezer.

Mr. Roberts said it would be to the east along the property line. He reported that the pool equipment is sitting in the setback area.

Mr. Lauffer asked where on the plans does it show the walk in freezer.

Mr. McGarry explained that the freezer was not part of this application.

Mr. Jack Barrian (spelling may be incorrect) said that he has been sworn in. He said that he is the Treasurer for the Reef Ocean Resort. He reported almost 300 people own time in Building 100 and he was concerned about the money because the people who own in this building are not going to be happy.

Ms. Beverly Myers said that she has been sworn in. She briefly went over a prepared statement that she submitted into the record (attached to the original minutes). She said the people, the turtles, and the environment does not need this.

The Deputy City Clerk swore in Mr. John Anderson. Mr. Anderson said that his family owns five (5) units at the Reef Ocean Resort and they discussed purchasing another unit today. The reason he brought this up was because the statement that only 15% of the residents responded was erroneous (they submitted one (1) form of being opposed to the project for five (5) units that are owned by himself, his wife, and their sons).

Mrs. Hillman asked Mr. Anderson if he was referring to owning six (6) units or six (6) months.

Mr. Anderson said they own six (6) weeks that they use as a family. They submitted one (1) form, not six (6) forms.

The Deputy City Clerk swore in Mr. Charles Hankle (spelling may be incorrect).

Mr. Hankle said that he owns week 23 and 24 in Building 100. This tiki bar is going to be 25 feet from his window. He did not think it was fair. He questioned why they can't move the tiki bar to the other side of the property.

The Deputy City Clerk swore in Ms. Theresa Williams.

Ms. Williams said that she owns two (2) weeks and she enjoys going to sleep listening to the ocean. She said they don't build a bandstand if they are not going to have a band. She felt that her vacation has been spoiled just by thinking about this.

Mr. Croteau said the hotel currently has seating in the area. He asked has there been a problem.

Ms. Williams answered no. She said the lights have been a continuing problem for the turtles. If they have a bandstand she would have a problem because she likes the quiet and wants to relax.

Mr. Croteau said there are no plans to have a bandstand.

The Deputy City Clerk swore in Ms. Barbara Jafrita (spelling may be incorrect).

Ms. Jafrita said that she was not against development, but she does understand their concerns. She said not only does light disturb the turtles, but noise does as well. She said the parking situation is impossible.

Ms. Dorene Pinkerton said that she has been sworn in. She said that she has been in Vero Beach since 1974 and they purchased their unit in 1979 or 1980. They are upstairs in the 300 building above Bobby's Restaurant. She said that she does not want to hear music, whether it is a band or not. She did not think that shrubbery was going to be a sound barrier from the types of plants that can grow on the beach. She echoed everyone who has spoken today.

Mr. David Cederhome said that he has been sworn in. He reported that he lives in the Moorings and has been in Vero Beach for more than 20 years. He said that his sons came home to attend a wedding and after the wedding they went to the bar at the hotel. They called him to pick them up at around 10:00 p.m. or 11:00 p.m. and there were still about 40 or 50 people there, most of whom were drinking. There was no supervision as to how much alcohol was being served to them.

Ms. Elli McElroy said that she has been sworn in. She reported that she lives in Village Spires and enjoys going to the Cobalt Restaurant and to the hotel. She felt that the hotel has always been conscientious about being a good neighbor. She said that she was concerned about the tiki bar, particularly for the residents of the Reef Ocean Resort. She felt that there was a compromise possible, which is to put the tiki bar near the current building and still use their expanded space for dining.

Mr. Lauffer explained that they, as a Board, cannot try to influence anyone unless they are in violation of one of the rules. Currently, the hotel is in compliance and they have the right to locate the tiki bar where they want it to be.

The Deputy City Clerk swore in Mr. Frank Cole (spelling may be incorrect).

Mr. Cole said that he and his wife own five (5) weeks. The problem that he has heard today is twofold. They keep discussing dining and if it is just dining then why are they moving the bar further towards the ocean. They already have a bar that is covered. If they are interested in having a cover for dining, that is fine. He said that he has not heard what time they close. He asked do they close at 10:00 p.m. when the music stops or do they stay open until 2:00 a.m. Opening an additional bar area is going to bring more people, which will cause more parking problems. He asked the Board to think about the outcome for the following years before they make their decision.

Mr. Rick Muller said that he has been sworn in. He said that he has been a resident of Vero Beach since he was 24 years old. He said over the past few years it seems like things are changing. He said a band has been playing every day and every evening just down the street from them and a few years ago that didn't happen. He reported that he has three generations who own seven (7) weeks at the Reef Ocean Resort. He asked the Board to consider what Vero Beach has always been and known as and what has been done to keep it from becoming a "Daytona Beach." He said that it is starting to go into that direction. He said that he lives in northern Ohio and comes a long way to be here. He said that he has been coming here for 32 years.

The Deputy City Clerk swore in Ms. Debbie Heathan (spelling may be incorrect),

Ms. Heathan said that she is the Manager of the Reef Ocean Resort and she does get noise complaints on the bar that is currently there. She liked that they typically close around 10:00 p.m. She asked will the new tiki bar close at 10:00 p.m. She asked will the bar be shut down at 10:00 p.m. or will there be people 25 feet from her 100 building talking until 2:00 a.m. She said there might not be music after 10:00 p.m., but there are a lot of voices heard until 2:00 a.m. She said bars are permitted to stay open until 2:00 a.m. She asked will this be one of them. She said at 8:00 a.m. parking on both sides of the strip are filled by employees of the Vero Beach Hotel and Spa. She asked are they going to be terminated. She said the shuttle stops at 6:00 p.m. and there are about 300 employees in the afternoon/evening shift who have to park somewhere so they are parking along the street.

Mrs. Hillman asked Ms. Heathan if she has ever received any complaints about Bobby's Restaurant being open until 2:00 a.m.

Ms. Heathan said Bobby's closes at 1:00 a.m. and they don't allow their customers on the outside patio after midnight.

Mrs. Hillman said that she has been there when people have been on the patio past midnight.

Ms. Heaton said her Security Guard is there to insure that if there are people on the patio that they keep the noise down.

Mr. Heaton said that he doesn't know where their afternoon/evening employees park. They are not permitted to park on site and if they are parking on the street they could be ticketed because they are only allowed to park there for a certain amount of time. They do not permit their employees to leave in order to move their vehicles from one space to another.

Ms. Heathan asked how long the bar will be open.

Mr. Heaton said they are allowed to stay open as late at Bobby's is allowed to be open, but they don't. They close around 10:00 p.m. and he didn't think this would be any different. This is a facility for their guests, although they do have outside people come to the bar. He said they do not have bands and if they do it is during the day and it is not a five (5) piece band. He said they do have music playing from their speakers by the pool every day.

Mr. McGarry asked would you be willing to close the tiki bar at 10:00 p.m.

Mr. Heaton answered no. He said there haven't been any complaints that he is aware of. He said there was an issue with the turtles and they put up screening to stop them from crawling onto their property.

Ms. Heathan said they could stay open until 2:00 a.m.

Mr. Heaton said that is correct.

Ms. Heathan said their employees are recommended to take the shuttle, which stops at 6:00 p.m. She said nothing is being done about the employees who are parking on the street.

Mr. Heaton said their employees are not required to take the shuttle, but they are not permitted to park on site. He clarified that Vero Beach Hotel and Spa is a condo/hotel. There are owners who are allowed to use the units 45 days a year. He said that they love Vero Beach and are heavily invested in Vero Beach. They don't want this community to turn into a "South Beach." He said there is an existing bar that has been there since 2007. There will not be a bandstand and there will not be a band playing on a daily basis. He said they don't want complaints from their guests so they are not going to have bands/noise disturbing them. That is why the beach bar closes early. He said they cannot control where people park, but they do provide free valet parking. He noted that the lighting under the bar was approved by the DEP and would not be facing the beach area.

Mrs. Minuse asked if she was correct that there were no major changes except putting a roof over the bar and dining tables.

Mr. Heaton said it would be shifted a little, but the business already exists. He said they do have a band that plays on some weekends, but it is a steel drum type of band. They do have music playing daily by the pool, which they wouldn't have if they were receiving complaints.

Mr. Croteau said the difference in what is currently there and what is being proposed is an additional 22 seats.

The Board took a break at 4:15 p.m. and the meeting reconvened at 4:21 p.m.

Mr. David Cedarhome said that he heard the comment that this is an existing facility and they were merely putting a roof on. He asked what is their projected change in revenue as a result of this and what percentage of additional traffic are they projecting.

Mr. Lauffer asked Mrs. Lyon if these were fair questions to be asking the applicant.

Mrs. Lyon said it is up to the applicant if he wants to respond.

Mr. Heaton said they are not expecting a large increase in revenue or in traffic. He said it is just a better amenity for their hotel guests.

Ms. Beverly Myers said that she knows this is a done deal because the project is within Code and it is going to pass. She said being within the Code doesn't make it right. She said the Code needs to be revised. She said what they are doing by repositioning the facilities is taking the impact away from their guests and putting it on the residents of the Reef Ocean Resort.

Mr. Roberts clarified that they were not putting a roof over what is currently there. The concern is the concentration of 72 seats at the bar and another 46 seats within 150 feet of the line. The noise problem is a "concentration" problem that is going to come from the bar.

Mr. McGarry said staff has not heard any testimony that was substantial competent evidence. There are concerns, but staff finds this meets the Code and should be approved.

Mr. Daige asked can the tiki bar be moved.

Mr. Lauffer noted that they would have to change the entire site plan.

The Chairman closed the public hearing at 4:31 p.m., with no one else wishing to be heard.

Mr. Croteau asked did staff discuss an alternate location for the tiki bar.

Mr. McGarry said staff raised some concerns about it, but there were other constraints that the Vero Beach Hotel and Spa would have if they moved it.

Mrs. Hillman asked is it possible to put a wall on the side of the tiki bar that abuts the Reef Ocean Resort.

Mr. Heaton said that is not something they would do because it is an open air facility. He said they would be happy to look into some type of sound screening.

Mrs. Minuse thanked everyone for coming to today's hearing and voicing their concerns. She felt that their concerns have been addressed, noting that parking is a problem on the barrier island and the City has been working on it.

Mr. Cahoy referred to condition five (5) of staff's report where it states, *"The applicant shall meet with the Planning and Development Department to discuss appropriate options for accommodating parking of employees within 60 calendar days of the termination of the GoLine."* He felt this condition was open-ended, had no teeth, and should be taken out.

Mr. Wells made a motion that the Board approves Site Plan Application #SP15-000013 with conditions listed by staff. Mrs. Minuse seconded the motion and it passed 5-0 with Mr. Wells voting yes, Mrs. Hillman yes, Mr. Croteau yes, Mrs. Minuse yes and Mr. Lauffer yes.

V. PLANNING DEPARTMENT MATTERS

None

VI. BOARD MEMBERS' MATTERS

Mr. James O'Connor reported that the City is in the process of changing the three-hour parking to two-hour parking on the beachside at the request of the Vero Beach Retailer's Association and the Oceanside Business Association.

VII. ADJOURNMENT

Today's meeting adjourned at 4:48 p.m.

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DEPARTMENTAL CORRESPONDENCE

TO: Chairman Larry Lauffer and Planning and Zoning Board Members

FROM: Timothy J. McGarry, AICP
Director of Planning and Development

DATE: April 14, 2016

SUBJECT: **Public Hearing on Proposed Amendments to the Land Development Regulations Providing for a Regulatory Framework Related to the Permitting of Microbreweries**

Overview

The staff has prepared the attached draft Ordinance amending the Land Development Regulations to establish the regulatory framework related to the permitting of establishments, called *microbreweries,* that produce beer and other malt liquors on-site in conjunction with a restaurant/bar or tasting room. The draft Ordinance defines a microbrewery as a use and identifies the specific commercial zoning districts where microbreweries would be permitted.

Background

Prior to the RFP process for the selection of a buyer of the historic Old Diesel Power Plant and site, the staff had made the determination that the City's Land Development Regulations would need to be amended to allow a microbrewery in the Downtown zoning district. The problem is that the on-site production of beer and malt liquor is considered an industrial use, which is not permitted outside the City's industrial zoning districts. The approval of the sale of the Old Diesel Power Plant property to develop and operate a microbrewery on the site necessitated the staff to initiate the preparation of draft regulations to address this permitting issue.

In practice, the Planning and Development Department has approved small scale on-site beer production in commercial districts where such production is accessory to and in conjunction with a restaurant as a principal use. However, the volume of on-site beer production and sale of beer to wholesalers for distribution associated with a microbrewery would make beer production, which is a manufacturing or industrial use, the primary use.

Prior to preparing the draft regulations, the staff reviewed ordinances enacted by other localities related to microbreweries. In addition, the staff relied upon a publication prepared by the American Planning Association entitled *Practice Microbreweries*, dated March 2014. This document identified issues related to the permitting of small-scale alcohol production and standards or criteria used by localities throughout the nation in regulating such facilities.

Summary and Commentary on Proposed Ordinance

The following is a summary of the significant components of the proposed regulations and the rationale for each as appropriate:

1. Chapter 60, Appendix. Definitions.

After a review of the City's regulations, it was determined that it was only necessary to amend the Code to address microbreweries and not brewpubs or traditional breweries. Brewpubs (such as the Orchid Isle Brewery), which are typically associated with a restaurant component, are limited to producing no more than 5,000 barrels per year and prohibited from sale to distributors under the Florida licensing. As such, brewpubs can be and are addressed as a restaurant under the City's existing zoning regulations.

A traditional brewery, which is not limited in the amount of on-site beer production and may or may not have a restaurant component, is addressed as a manufacturing or industrial use under the City's zoning regulations. This use is allowed in industrial zoning districts.

It was further determined that it would not be necessary to list microbreweries as a permitted use in any industrial zoning district that allows both restaurants and light industrial uses. Therefore, although microbreweries are not proposed as a permitted use in the, M (Industrial) and ALI-1 zoning districts, this use would still be permitted in those districts. [It should be noted that such uses would not be limited by the restrictions or requirements placed on microbreweries (see following discussion.]

A definition for *microbrewery* is proposed in the Appendix. This definition is based on the on-site production limit of 15,000 barrels per year, which corresponds to state licensing and brewing industry nomenclature. The requirements on the minimum amount of floor area devoted for public use (restaurant/bar or tasting area) and the maximum limit on the percent of floor area to be used for the brewing function ensure that a *microbrewery* will have a commercial component.

The definition prohibits outdoor storage and lists other types of storage that are prohibitive for aesthetic and public health reasons. This language supplements the general restrictions in Section 64.10 (c)(4) that requires all activities to be completely within enclosed buildings, except where exceptions are provided in that code section.

2. Sections 62.35, 62.100, and 62.301.

Microbreweries are proposed as a permitted use in the C-1, C-1B, ALI-MC, and DTW zoning districts. It was the staff's opinion that this type of use has more in common with the more intensive commercial uses in these districts than the commercial districts with uses of less intensity. More specifically, the C-1A zoning district was excluded due to the floor size limitations on general retail and service uses. The B-1 zoning district was

also excluded due to types of commercial uses not permitted in that district and location of most of these districts in proximity to residential zoning districts.

3.Section 62.(c)(4).

Various beer pre-production elements or structures associated with a microbrewery, such as grain silos, fermentation tanks, and brite or conditioning tanks, are often times installed outside of the building occupied by the use. These structures serve both as a function in beer production and as attractive design features for the project. This provision would allow a microbrewery to install such structures outside the principal building with Planning and Zoning Board (major site plan) or Planning Director (minor site plan) approval.

Staff Review and Analysis

The staff reviewed the proposed text amendments to the Land Development Regulations based on the standards outlined in Section 65.22(i)(1) and (3) of the City of Vero Beach Code. The staff's analysis and findings are as follows:

Justification for the Amendment. As stated in the Background section, a microbrewery is not a permitted use in any commercial district as this type of use is considered primarily a manufacturing or industrial use. Therefore, the lack of any regulations to allow microbreweries within commercial districts is a major handicap for economic development where such a use can be an important catalyst in enlivening commercial and mixed use districts.

Most importantly, unless the City's Land Development Regulations are amended to at least allow microbreweries in the Downtown zoning district, the sale of the Old Diesel Power Plant may not be successfully concluded. The staff believes that the proposed use of this historic building for a microbrewery will have a positive impact on both the Downtown and the proposed Cultural Arts Village.

Therefore, the staff finds the proposed text amendments to be justified and warranted pursuant to Section 65.22(i)(1) based upon the above facts.

Consistency with the Comprehensive Plan. The staff finds the proposed text amendments to be consistent with the one relevant objective and policy of the Land Use Element of the Comprehensive Plan as discussed below:

- **Land Use Objective 3**. *The City shall establish and maintain land use/development regulations that will reduce and prevent land uses that are inconsistent with community character and incompatible with adjacent development.*

  The Comprehensive Plan provides little or no guidance on the proposed text amendment; however, Objective 3 does call for establishing and maintaining land use/development regulations that protect the community character and are

compatible with adjacent development. As discussed in the previous section, the microbrewery use is compatible with other types of uses found in the C-1, C-1B, DTW, and ALI-MC zoning districts.

- **Land Use Policy 7.3:** *The City shall reinforce downtown as a mixed-use office, employment and governmental center as well as a unique cultural, arts, entertainment and residential enclave, with shopping and dining opportunities that support the district and its surrounding neighborhoods.*

  Allowing microbreweries as a permitted use in the Downtown zoning district will have a positive impact on the vitality and continued enhancement of the downtown as a mixed use district. A microbrewery will help draw both locals and out-of-town visitors to the downtown and to the proposed Cultural Arts Village.

Consistency with Land Development Regulations. The microbrewery use is compatible with other types of uses permitted in the four commercial zoning districts where it is proposed as a permitted use. Any microbrewery use will be subject to the specific development and performance site plan standards as any other use. Off-street parking and loading requirements for this use will be handled by addressing each use component, so no additional new parking requirements are need to be enacted as part of this amendment process.

Recommendation

The staff recommends Planning and Zoning Board approval of the attached draft Ordinance for transmittal to the City Council for favorable consideration.

TJM/tf
Attachments

ORDINANCE NO. 2016-__

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, AMENDING VARIOUS PROVISIONS OF PART III, LAND DEVELOPMENT REGULATIONS, IN THE CODE OF THE CITY OF VERO BEACH, RELATED TO PERMITTED USES IN CERTAIN NONRESIDENTIAL ZONING DISTRICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the existing Land Development Regulations, Part III, of the Code of the City of Vero Beach do not define or list microbreweries as a permitted use in any of the City's commercial zoning districts, and

WHEREAS, small scale, on-site craft beer production in conjunction with pubs, restaurants, and tasting areas has provided an economic stimulus for many localities by satisfying a demand for locally brewed beer and enlivening commercial and mixed use districts that may otherwise clear out after retail and business hours; and

WHEREAS, beer production is considered as an industrial use generally limited to industrial zoning districts, except where such use is determined to be as an accessory to a restaurant or bar; and

WHEREAS, a microbrewery is unique in that it is a combination of two uses, manufacturing and restaurant, which due to the volume of beer production on-site and retail carry-out sales and sales to distributors make the beer production function the primary use rather than an accessory use under the City's existing regulations, and

WHEREAS, the lack the inclusion of the microbrewery use as an allowable use in the City's commercial districts hampers the ability to attract small-scale and artisan beer production establishments to appropriate commercial areas of the City by creating uncertainties for businesses making location decisions; and

WHEREAS, the inclusion of a microbrewery as a permitted use in appropriate commercial zoning districts will provide more certainty to prospective business owners and investors; and

WHEREAS, the City Council of the City of Vero Beach ("City Council") finds it is desirable to attract investment in small-scale craft microbreweries as an important component for economic development and to facilitate the approval of such facilities in appropriate locations; and

WHEREAS, the City Council finds that adoption of the amendments provided for in this Ordinance serves a municipal purpose, is in the best interest of the public, and is consistent with the standards provided in subsections 65.22(i)(1) and (3) of the Code of the City of Vero Beach,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA:

Section 1. Adoption of "Whereas" Clauses.

The foregoing "Whereas" clauses are hereby adopted and incorporated herein as forming the legislative findings, purpose and intent of this Ordinance.

Section 2. Amendment of Chapter 60, Appendix. Definitions.

The Code of the City of Vero Beach, Chapter 60, Appendix, Definitions, is hereby amended to add the following definition:

Microbrewery: A retail and restaurant establishment for the brewing of beer or other malt liquors that produces less than 15,000 barrels per year. At least 3,500 square feet of floor area shall be maintained for public use as a restaurant/bar, including tasting area. No more than 75 percent of the floor area shall be used for the brewery function, including, but not limited to, the brew house, boiling and water treatment areas, bottling and kegging lines, malt milling and storage, fermentation tanks, conditioning tanks and serving tanks. No outdoor storage shall be allowed including portable storage units, cargo containers, and tractor trailers.

Section 3. Amendment of Chapter 62, Article III, Commercial Districts, Section 62.35. Permitted Uses.

Section 62.35 of the Code of the City of Vero Beach is hereby amended to add the following uses as follows:

Sec. 62.35. Permitted uses.

In these districts a building or premises may be used only for the following purposes:

	Zoning Districts			
Uses	*C-1A*	*C-1B*	*B-1*	*C-1*
Microbreweries		P		P

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

Section 4. Amendment of Chapter 62, Article VII, Airport Master Plan Land Use Zones, Section 62.100,

Section 62.100 of the Code of the City of Vero Beach is hereby amended to add the following use:

Sec. 62.100. Development guidelines.

			Zoning Districts		
Permitted uses:	*ALI-A1*	*ALI-A2*	*ALI-1*	*ALI-MC*	*AR-MHP*
Microbreweries				X	

Section 5. Amendment of Chapter 62, Article X, Downtown District, Section 62.301,

Section 62.301 of the Code of the City of Vero Beach is hereby amended to add the following uses:

Sec. 62.301. Permitted uses.

In this District, the following uses are permitted:

(30) Microbreweries

Section 6. Amendment of Chapter 64, Article I, Development Review, Section 64.10 (c)(4).

Section 64.10(c)(4) of the Code of the City of Vero Beach is hereby amended to add new paragraph f as follows:

Sec. 64.10. Site plan review standards and conditions.

(c) *Development standards.*

(4) All manufacturing or processing, services, and businesses shall be conducted completely within enclosed buildings, except as follows:

g. Fermentation tanks, brite or conditioning tanks, and grain silos associated with a microbrewery may be installed on premises outside the microbrewery building if approved by the planning and zoning board or planning director.

Section 7. Codification.

The provisions of this Ordinance shall be codified in the Code of the City of Vero Beach, Florida.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

Section 8. Conflict and Severability.

In the event any provision of this Ordinance conflicts with any other provision of this Code or any other ordinance or resolution of the City of Vero Beach on the subject matter of this Ordinance, the more strict provision shall apply and supersede. If any provision of this Ordinance is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this Ordinance, which shall be deemed separate, distinct, and independent provisions enforceable to the fullest extent possible.

Section 9. Effective Date.

This Ordinance shall become effective upon final adoption by the City Council.

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This Ordinance was read for the first time on the _____ day of _____, 2016, and was advertised on the __ day of _____, 2016, as being scheduled for a public hearing to be held on the _____ day of _____, 2016, and was also advertised on the _____ day of _____, 2016, as being scheduled for a second public hearing to be held on the _____ day of _____, 2016, at the conclusion of which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote:

Mayor Jay Kramer	_____
Vice Mayor Randolph B. Old	_____
Councilmember Pilar E. Turner	_____
Councilmember Richard G. Winger	_____
Councilmember Harry Howle III	_____

ATTEST:

_____
Tammy K. Vock
City Clerk

CITY OF VERO BEACH, FLORIDA

_____
Jay Kramer
Mayor

[SEAL]

Approved as to form and legal sufficiency:

_____

Wayne R. Coment
City Attorney

Approved as conforming to municipal policy:

_____

James R. O'Connor
City Manager

Approved as to technical requirements:

_____

Timothy J. McGarry. AICP
Director, Planning & Development

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

DEPARTMENTAL CORRESPONDENCE

TO: Chairman Larry Lauffer and Planning and Zoning Board Members

FROM: Timothy J. McGarry, AICP
Director of Planning and Development

DATE: April 12, 2016

SUBJECT: **Public Hearing on Proposed Amendment to Chapter 62, Article IV, M Industrial Zoning District Related to Permissible Floor Area for Accessory Recreational Uses**

Overview

In response to a request by the Youth Sailing Foundation of Indian River County, Inc., the City Council directed staff to prepare an ordinance amending the Code to allow this organization to add additional floor area at the City Wastewater Treatment Plant. The attached draft Ordinance amends Section 62.48(f) by eliminating the restriction on the expansion of floor area outside of existing buildings on the site.

Background

In 2012, the City enacted text amendments to both the Comprehensive Plan and Land Development Regulations to allowable accessory recreation uses compatible and in co-location with a city-owned utility in the Industrial zoning district. This allowed the Youth Sailing Foundation to enter into a lease agreement with the City of Vero Beach to operate a youth sailing program at the City's wastewater treatment plant.

Subsequently, the youth sailing program has been an overwhelming success. The success of the program has required the hiring or future hiring of additional contract staff to operate the program. Additional office space is needed to accommodate additional staff and office equipment outside the 3,700 square foot of floor area occupied by the organization in an existing building. With no other available floor area, the Youth Sailing Foundation would like to add an office trailer on site to provide approximately 400 square feet of office space.

Unfortunately, existing Section 62.48(f)(2) does not allow any expansion outside of existing buildings. To address this barrier, the staff has drafted an amendment to Section 62.48(f)(2) that eliminates this restriction. The maximum amount of floor area on the site that may be occupied and used for recreation uses is still 7,500 square feet.

Staff Review and Analysis

The staff reviewed the proposed text amendment to the Land Development Regulations based on the standards outlined in Section 65.22(i)(1) and (3) of the Vero Beach Code. The staff's analysis and findings are as follows:

Justification for the Amendment. The proposed text amendment is needed to allow the expansion of floor area for accessory recreational uses co-located with a City utility in the Industrial zoning district. Without this amendment, the Youth Sailing Foundation will be unable to provide for the additional floor area needed for staff and office equipment. The staff finds the proposed text amendments to be justified and warranted pursuant to Section 65.22(i)(1) based upon the above facts.

Consistency with the Comprehensive Plan. The staff finds the proposed text amendment to be consistent with the one provision in Table 1.8 of the Future Land Use Element:

- **Table 1.8, Land Use Classifications, Land Use Element.** *Governmental facilities, including administrative buildings, cultural facilities operations and service facilities, and correctional institutions. Also, public and private educational facilities, hospitals, and transportation terminals, including small-scale recreational activities compatible with and subordinate to an existing governmental utility.*

  The proposed text amendment is consistent with this statement. The amendment allows for additional floor area outside existing buildings, but still limits the total floor area of accessory recreational uses to 7,500 square feet.

Consistency with Land Development Regulations. The proposed amendment does not materially change Section 62.48 (f). It still limits the amount of total floor area that may be used and occupied for accessory recreational uses. It provides more flexibility in meeting the needs for such uses, which is restricted by the amount of floor area available in existing buildings. Therefore, the staff finds the proposed text amendment is consistent with the Land Development Regulations due to the aforementioned reasons.

Recommendation

Based on the findings above, the staff recommends Planning and Zoning Board approval of the attached draft Ordinance for transmittal to the City Council for favorable action.

TJM/tf
Attachment

ORDINANCE NO. 2016-__

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, AMENDING CHAPTER 62, ARTICLE IV, M INDUSTRIAL DISTRICT, OF PART III, LAND DEVELOPMENT REGULATIONS, IN THE CODE OF THE CITY OF VERO BEACH, RELATED TO PERMISSIBLE FLOOR AREA FOR ACCESSORY RECREATIONAL USES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, at the request of the Youth Sailing Foundation of Indian River County, Inc., the City enacted amendments to Section 62.48(f) in Ordinance 2-2012 to allow accessory recreation uses compatible and in co-location with a city-owned utility in the Industrial zoning district; and

WHEREAS, this amendment allowed the Youth Sailing Foundation to enter into a lease agreement with the City of Vero Beach at the City's wastewater treatment plant to operate its not-for-profit youth sailing program; and

WHEREAS, Ordinance 2-2012, limited total floor area of accessory recreational uses to 7,500 square feet within existing buildings; and

WHEREAS, the Youth Sailing Program has been an overwhelming success drawing increased participation from among the youth in Indian River County; and

WHEREAS, the success of the program has required the hiring or future hiring of additional contract staff to operate the program; and

WHEREAS, additional office space is needed to accommodate additional staff and office equipment, but usable space in existing buildings is lacking and additional new floor area outside existing buildings at the wastewater treatment plant is the only viable option; and

WHEREAS, the elimination on the restriction limiting floor area to only existing buildings would provide the flexibility needed to accommodate the needs of the Youth Sailing Program, which is a significant community asset; and

WHEREAS, the City Council finds that adoption of the amendment provided for in this Ordinance serves a municipal purpose, is in the best interest of the public, and is consistent with the standards provided in subsections 65.22(i)(1) and (3) of the Code of the City of Vero Beach,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA:

Section 1. Adoption of "Whereas" Clauses.

The foregoing "Whereas" clauses are hereby adopted and incorporated herein as forming the legislative findings, purpose and intent of this Ordinance.

Section 2. Amendment of Chapter 62, Article IV, M, Industrial District, Sec. 62.48(f). Permitted Uses,

Section 62.48(f) of the Code of the City of Vero Beach is hereby amended to read as follows:

Sec. 62.48. Permitted uses.

(f) Recreational uses compatible and in co-location with a city utility subject to the limitation that the ~~following provisions:~~ total floor area of all buildings occupied by each individual use shall be less than 7,500 square feet.

~~(1) The total floor area of all buildings occupied by each individual use shall less than 7,500 square feet.~~

~~(2) The uses shall only occupy existing buildings; the footprint or floor area of said buildings shall not be expanded to accommodate such uses.~~

Section 3. Codification.

The provisions of this Ordinance shall be codified in the Code of the City of Vero Beach, Florida.

Section 4. Conflict and Severability.

In the event any provision of this Ordinance conflicts with any other provision of this Code or any other ordinance or resolution of the City of Vero Beach on the subject matter of this Ordinance, the more strict provision shall apply and supersede. If any provision of this Ordinance is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this Ordinance, which shall be deemed separate, distinct, and independent provisions enforceable to the fullest extent possible.

Section 5. Effective Date.

This Ordinance shall become effective upon final adoption by the City Council.

****

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

This Ordinance was read for the first time on the _____ day of _____, 2016, and was advertised on the __ day of _____, 2016, as being scheduled for a public hearing to be held on the ____ day of _____, 2016, at the conclusion of which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote:

Mayor Jay Kramer	_____
Vice Mayor Randolph B. Old	_____
Councilmember Pilar E. Turner	_____
Councilmember Richard G. Winger	_____
Councilmember Harry Howle III	_____

ATTEST:

_____
Tammy K. Vock
City Clerk

[SEAL]

Approved as to form and legal sufficiency:

_____
Wayne R. Coment
City Attorney

Approved as to technical requirements:

_____
Timothy J. McGarry. AICP
Director, Planning & Development

CITY OF VERO BEACH, FLORIDA

_____
Jay Kramer
Mayor

Approved as conforming to municipal policy:

_____
James R. O'Connor
City Manager

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