AGENDA
REGULAR MEETING OF THE CITY PLANNING AND ZONING BOARD
THURSDAY, MARCH 21, 2019, AT 1:30 PM
COUNCIL CHAMBERS, CITY HALL, VERO BEACH, FLORIDA

I. PRELIMINARY MATTERS
   Agenda Additions and/or Deletions

II. ELECTION OF OFFICERS

III. APPROVAL OF MINUTES
   Regular Meeting – February 21, 2019

IV. PUBLIC COMMENT

V. PLANNING DEPARTMENT MATTERS
   A. Discussion of Downtown Parking
   B. Discussion of Proposed Temporary Uses

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@ 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, FEBRUARY 21, 2019 - 1:30 PM  
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA 

PRESENT:  Chairman, Lawrence Lauffer; Vice Chairman, John Carroll; Members: Honey Minuse, Steven Lauer and Alternate Member #1, Richard Cahoy  Also Present: Planning and Development Director, Jason Jeffries; Interim City Attorney, Kira Honse and Deputy City Clerk, Sherri Philo 

Excused Absences:  Ken Daige and Robin Pelensky 

I. PRELIMINARY MATTERS 

A) Agenda Additions and/or Deletions 

None 

II. APPROVAL OF MINUTES 

A) Regular Meeting – January 24, 2019 

Mr. Cahoy made a motion to approve the minutes of the January 24, 2019 Planning and Zoning Board meeting. Mrs. Minuse seconded the motion and it passed unanimously. 

III. PUBLIC COMMENT 

Mrs. Susan Grandpierre, member of the Cultural Council Cultural Arts Leadership Team and former Chair of the Cultural Council, said the Leadership Team has been working on the Edgewood neighborhood with the support from the City. The goal of the Cultural Arts Village is to preserve Edgewood’s historical character and to make it possible for artists and other creative professionals to live, work, and sell out of their homes thereby creating an attractive environment to live, visit, and cherish. She said they recently completed an architectural survey of the neighborhood and identified the architectural underpinnings that give Edgewood the character and charm that they hope to preserve. Because the Downtown Arts District is next door it is their hope that what occurs downtown supports their neighbors. She said the Cultural Arts Village Team was very supportive of the City’s Comprehensive Plan update that passed last year, which pays special attention to the importance of neighborhoods and the desire to maintain their integrity and health. She said the Comprehensive Plan addressed land uses and specified much of what can occur with regard to building in the Downtown District. She questioned what attention is being paid to what buildings look like. She said new construction is always welcome, but questioned why the City’s process doesn’t include something that looks at making new buildings harmonious with what is already there. She asked what are the steps to make some type of aesthetic or architectural review of new buildings part of the construction process. She asked what can they do together to preserve Vero Beach’s continued attractiveness. 

Mr. Lauer said that he supports this, but the Board does not have the ability to implement what she is looking for. He said that would have to go before the City Council. 

Dr. Louis Roke (spelling may be incorrect) said it is inconvenient to hold a meeting like this where people have to take off work in order to attend. He said they should have held this meeting at a more appropriate time and they probably would have received more feedback. He said this is an issue that
involves property that he owns on 14th Avenue and he had to cancel appointments in order to attend. He said it a major inconvenience to hold a meeting at this time for someone who works. He said that he has owned his property for over 15 years and looks forward to the Downtown being revitalized. He does have an issue with a four (4) story building being built and how that will impact him.

Ms. Kira Honse, Interim City Attorney, clarified that at this point public comments are generic. She said Dr. Roke has not been sworn in so it does not rise to the level of evidence. She explained to Dr. Roke that the project will be reviewed under a quasi judicial hearing. Any public who wishes to speak on this project will need to be sworn in and it has to be applicable to the Land Development Code regulations that exist now, not what they would like them to be in the future. She explained that he can proceed with his comments, but they would not be weighed on the decision the Board makes today. If he would like for them to, then he needs to wait until they get to the public hearing.

Dr. Roke said that he hopes in the future that these meetings would be held at a more appropriate time so the people who work can attend.

The Chairman closed public comment at 1:40 p.m., with no one else wishing to be heard.

IV. PUBLIC HEARING

[Quasi-judicial]
A) Site Plan Application Submitted by Vero Beach Custom Homes, Inc. for the Construction of an 18,000 Square Feet, Four-story Mixed Use/Commercial and Residential Building Located at 1797 14th Avenue (#SP18-000008).

The Chairman read Site Plan Application #SP18-000008 submitted by Vero Beach Custom Homes, Inc., by title only.

There were no any ex parte communications reported.

The Deputy City Clerk swore in staff and all witnesses present for today’s hearing en masse.

Mr. Jason Jeffries, Planning and Development Director, gave a Power Point presentation on the project (attached to the original minutes). He explained that this is a quasi judicial hearing and staff has reviewed this project based on the review process of Section 64.08, the criteria established for site plan review of Section 64.10, and the criteria in the Downtown Zoning District of Chapter 62, Article X, of the Code of Ordinances. It is his understanding that there might be some issues that are outside of the Code and he would defer those matters to after the quasi judicial hearing when they get to Planning Department Matters on today’s agenda. For the purpose of this quasi judicial hearing they are only to review the project based on the criteria of the Zoning Code. He reported there were some written comments from individuals of the community placed on the dais for the Board members (on file in the City Clerk’s office) and he has had some conversations with people who are concerned about the design of the building. He reminded the Board members that in terms of the site plan review process, the site plan criteria, and the criteria in the Downtown Zoning District, there are no architectural standards for this Zoning District. He said even though they have been provided with the architectural elevations for this project, there are no review standards to which they can review it. 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 (attached to the original minutes).
Mr. Lauffer said because the Board members did not receive the written communications until today they are going to take a few minutes to read them. He reported that there are extra copies for anyone in the audience who wishes to review them.

Mr. Lauer asked what is the policy reason for the reduction in the parking requirements in the Downtown area.

Mr. Jason said it is his understanding that they were done in the 1990’s to incentivize development Downtown. He said now the Downtown is experiencing revitalization and as development is occurring this might be the time where they will want to start looking at ratcheting those allowances back.

Mr. Lauer asked where does the southern boundary of the Downtown area end.

Mr. Jason said this project is located in the south end of the Zoning District.

Mr. Carroll referred to the parking spaces. He said that he is shocked that someone can do this. He said they have nine (9) spaces on site excluding the handicap space and the Code requires at least 12 spaces for the residents. He said this begs the question of where these people are going to park. He said there is nowhere to park long term. He said it is crazy that they continue to approve properties and developments that meet the City’s regulations and then just continue down the same “worm hole.” He said that is just baffling to him. Allowing the developer to use offsite parking to meet the requirements is even more ludicrous. He said if they would at least put 17 spaces on site there would be places for people to park who are going there to shop or for the people who live there. He thinks when they get to the Planning Department Matters the Board needs to take some action and wake up the City Council on how bad the zoning regulations are.

Mr. Lauffer said when he moved here in the late 1990’s there were parking spaces everywhere, which is not the case now. He said the City’s regulations in this case are not properly designed in that the residential usage should accommodate more parking spaces. He said with this project, they have actually underutilized this site in general. He said there could be more density than what they are using.

Mr. Carroll said they could elevate the project and use the first floor for parking. He noted that they don’t have to use the entire first floor for parking.

Mr. Cahoy asked Mr. Jeffries to address the tenant mix as to how that affects the parking and permitting process.

Mr. Jeffries explained that the calculations were based on six (6) residential units, which are 12 parking spaces. The non-residential usage is calculated by the square footage of office versus the retail space.

Mr. Lauffer said the overall project is what the Vision Team wanted; commercial on the first floor with residential and offices above. He said in that way they are in compliance. He said that occurred when times were different and they didn’t anticipate that they were going to need parking.

Mr. Cahoy asked is there a historic district.

Mr. Jeffries answered no. He reported that there was a survey of historic properties that was done in 1990 that identified historic buildings. Most of those buildings mentioned on 14th Avenue are
located north of 19th Street. There has not been a detailed historic study done for the Downtown area in terms of qualifying as a historic district.

Mr. Cahoy referred to the ingress/egress point. He said that street is the entrance to the school and there is a lot of traffic, buses, student, and pedestrian issues and yet the parking lot is accessible from that street.

Mr. Jeffries noted that the Public Works Department has reviewed this and did not make any comments that there were any concerns.

Mr. Cahoy said it may be compliant with the Code, but he is really disappointed that they did not have a neighborhood meeting. He felt there was something wrong with the fact that with this area is partially residential and there was no neighborhood meeting held to get their input.

Mr. Carroll asked Mr. Jeffries for the City reference that allows the individuals in the Downtown District to use off-sight parking as part of their parking requirements.

Mr. Jeffries said there are really two (2) references, but the one that is most directly affecting this is in the Downtown Zoning District is located in Code Section 62.310. He noted that even the parking regulations Citywide have allowances for on-street parking. The only place where it is exempted is the Ocean Drive Overlay District.

Mr. Wesley Mills, of Mills, Short and Associates, who is representing the applicant and is the Engineer of record for this project, recommended to the Board if they are looking at changing the parking requirements in the Downtown District that they look back on past projects that have recently been constructed. He said there are numerous projects that are a huge improvement to the Downtown area. All the projects that his firm has been involved with have taken advantage of the Downtown parking regulations. They just have not made it before the Board for approval because of thresholds they did not trigger. He said there are new restaurants, catering facilities, etc., that have taken advantage of the parking exemptions. He said this project is not unique as far as parking. He said they planned this entrance because they felt they were too close to the intersection. With regard to drainage and the curbing, they worked with the Public Works Department throughout this project.

He reported that there are some drainage issues within this area and the City recently completed some projects to help. This project, along with their parking, enhances the drainage. He is hearing and has read some of the letters where people do not like the architecture of the building. He noted that although the architecture is not 100% at this point, the property owner wanted some kind of assurance that they were going to get site plan approval before refining the architectural drawings. He said that he didn’t see anything specific that he could speak to the property owner to try to incorporate. It was mostly that they didn’t like the building, it is a tall building, etc., and he didn’t think there was much they could do to accommodate that. However, if there are suggestions he would be happy to pass them on to the property owner and if they can incorporate those suggestions into the overall aesthetics of the building they will make every effort to do that.

Mrs. Minuse said that she read the letters they received today and they are very concerned about the architecture, which was her immediate concern when she went through this. She said the City did a Vision Plan and one of the things they looked at was compatibility of buildings within neighborhoods. They also looked at transitions into neighborhoods. She said there is nothing here that suggests compatibility with the district in front of it. One thing they look at in this City is looking to be good neighbors. She felt that anyone who wants to come into an area for residential and for business would want to be good neighbors.
Mr. Mills agreed. He said they do want to be good neighbors. They did not hold a public meeting because they looked at this project as a commercial project rather than a residential subdivision where they would normally have neighborhood meetings. He said that he would be happy to meet with the neighbors to get their suggestions on the architectural side. He noted that at this point it would be difficult to incorporate any site changes, but he would be happy to listen to see if there is anything they could do aesthetically.

Mr. Lauffer said a property owner’s long term affects are like most businesses where they want to prosper and want the area around them to prosper. But, when you build a building that is not in sync with what is around them they limit that possibility. His personal recommendation to the property owner is that they look back to see what is going to be best for the community. He asked why not cooperate and get involved in that kind of a process instead of starting something different that is not going to fit. He suggested that the property owner be as compatible with that as possible. He said as far as the parking situation, the Board is going to have to be more proactive in getting some of this changed in the future. He said so far he does not have any reason to not approve this project. But, if he had his druthers he would not vote in favor of it.

Mr. Cahoy said there was a previous project that came before the Board that was being developed in a tight setting like this and the Board requested the developer’s cooperation to use screening and to water the site during construction in order to control the dust. He asked Mr. Mills if they would consider this.

Mr. Mills said the Department of Environment Protection (DEP) has very strict rules about pollution prevention. There are specifics that you cannot let dust leave the site. He said if there is dust they would be required to water. He said that they are required to put up silk fencing and to have a stone construction entrance so there is no tracking from the trucks going onto the road.

Mr. Cahoy said that he is suggesting something more than silk screening because of the school.

Mr. Mills said that he can discuss this with the property owner, but he cannot make that decision today.

Mr. Carroll referred to Code Section 62.310 that Mr. Jeffries referenced earlier with regard to the parking regulations. He read from Code Section 62.310 (d), “New nonresidential construction or redevelopment that increase floor area is exempt from providing parking for the first 30 spaces that would be required by Chapter 63 of this title.” He said this states new nonresidential, but this project is mixed use, business, and residential so this exemption should not apply to this project.

Mr. Jeffries explained how they calculated the parking requirements for this project.

Mr. Carroll said that he just doesn’t know where people are going to park.

Mr. Mills said they have three (3) or four (4) restaurants in the Downtown area that they probably would never have had if this Code did not exist in its form. He said most of the restaurants that draw people to Downtown have used the parking reduction. He said this Board just didn’t see it because it happened at staff level.

Mr. Carroll said the parking ratios have always been too high in most cases so a reduction of 50% may be realistic, but just to give a 30 space reduction no matter what parking they are suppose to have is ludicrous.
Ms. Honse didn't think anybody disagrees that they need to look at parking. But, the issue before the Board today is an application that has been submitted under the current regulations.

Mr. Lauer said that there is new construction almost directly across the street from this project that looks a lot like this project so this is not the first departure from the architectural standards, if there are any, in the Downtown area. He said what they are encountering with the letters they received is not necessarily that it is a large structure with no parking, but that it is a large structure that is out of character with some parts of the Downtown area. The best he could suggest to the property owner would be to make the building look more in character with the buildings across the street.

Mr. Mills said it was the property owner’s understanding that there are no architectural requirements so it wasn’t a basis of decision for site plan approval. He said the architecture is not necessarily 100% at this point because the property owner wanted to make sure the site plan was possible first. Mr. Mills did not think they were far enough along where the aesthetics of the building can’t change and he will discuss this with the property owner. He said the building footprint and the improvements on site are more challenging to change at this point.

Mrs. Minuse asked can the Board consider architecture separate from the site plan.

Ms. Honse answered no. She explained that there are no architectural requirements.

Mrs. Minuse asked can they approve the site plan with the caveat that the architectural review come back before them.

Ms. Honse answered no. She explained that there is no architectural review for them to come back for.

Mrs. Minuse questioned how can they address this.

Ms. Honse said once they get to Planning Department Matters they can discuss what they have learned from this project and what they need to do to proceed going forward.

The Chairman opened the public hearing at 2:56 p.m.

Mrs. Linda Hillman wanted to bring up Mr. Cahoy’s concerns, which are her concerns, the school. She said the school is an a.m. and p.m. every day scheduled event and this project is right on the corner of the school and on a main street that is very narrow. She said children are crossing this street, there are school buses, crossing guards, and there is a stop sign. This is a very dangerous situation that this Board is going to have to consider. She said there is traffic in the Downtown area and there are parking issues. She knows there is a part of an Ordinance where the Board can refuse this plan if it does endanger people or a neighborhood. She said they need to think about the school and the danger to the children.

Dr. Louis Roke said his property is about two (2) or three (3) houses away from this property. He has owned this property for 15 years and has looked forward to the Downtown being revitalized. He is for progress, but does have some issues with this project. He said if they start building right up to the sidewalk it is going to end up looking like a wall along 14th Avenue. He said that he is for progress, but also fears for the impact on his property. He said that he will ultimately be forced to sell and then the next person will want to repeat the same thing and sooner or later they are going to have a wall of buildings on both sides of 14th Avenue with no pedestrian traffic.
Mrs. Barbara Hoffman, Executive Director of the Cultural Council and the Leadership Chair of the Vero Beach Cultural Arts Village, said they have been working a long time on preserving neighborhoods. She knows that the site plan before the Board is in sync with the Code and she is very happy that Mr. Mills offered to meet with some of the people in the Downtown area. She said that she and the Committee members would be more than happy to meet with Mr. Mills and the property owner to discuss the architecture design of the building to see if they can come up with something that would be more compatible with what they are all trying to accomplish.

The Chairman closed the public hearing at 3:08 p.m., with no one else wishing to be heard.

Mr. Mills said that he will speak with the property owner and with Mrs. Hoffman to see if there is anything they can do on the architecture of the building.

Mr. Lauer asked if the applicant is the owner of the property.

Mr. Mills answered yes.

Mrs. Minuse asked Mr. Mills if he felt the applicant would be amenable to the Board tabling this item to be brought back before them after he speaks with him.

Mr. Mills answered no. He explained that they don’t know what they would change the architecture to. He said they don’t want to delay this because by the time it gets back before this Board and receives all the approvals needed it could end up being another six (6) months.

Mrs. Minuse asked what if they gave a time certain.

Mr. Mills said that he doesn’t know what the architecture has to do with this project.

Mrs. Minuse said compatibility with their neighbors.

Mr. Jeffries said compatibility is not a standard. The project meets the setbacks and the height requirements.

Mrs. Minuse said if they approve the setbacks, then any architectural change they make would have to stay within that frame.

Mr. Jeffries said that is correct.

Mr. Mills said that he would meet with the property owner and they will do what they can, but he is not in a position to table this because of items that are not in the Code as a requirement.

Mr. Jeffries reminded the Board that when reviewing a site they are reviewing that sites impact on traffic, not the adjacent site (referring to the school).

Mr. Lauer said that he feels a little better about this project because he knows the property owner. He said that the property owner is a resident of Vero Beach and has an office on 14th Avenue. He said the property owner is the type of person who is going to be concerned about the impact on the community and if he listens to this hearing he thinks the property owner will do something. He said that he is not thrilled about the way it looks right now, but it is located on the very edge of the Downtown District. Although this is a large building, they are complying with all the rules. He said this is something the Board has to approve, but they just have to hope that the property owner will do
something to satisfy his neighbors.

Mr. Cahoy said it didn’t help that they did not have a neighborhood meeting and appreciates Mr. Mills offer to have a neighborhood meeting that focuses on the architecture. He said that he is not at all satisfied with the safety issues at the intersection of 18th Street and 14th Avenue relative to the school, but having said that he has to rely on the analysis and to the fact that the issue has been reviewed by the City and by the Fire Department. He said that he cannot not vote for this project.

Mr. Lauffer felt the project is compatible with what the Vision Team wanted. He believes they should go back and look at the parking regulations.

Mr. Cahoy suggested that the public make their opinions known to the City Council.

Mr. Lauffer made a motion to grant the application, that the Board finds that the facts presented and reviewed are complete substantial evidence to grant the application with the conditions listed in staff’s report (that the Board recommends approval of the site plan subject to the conditions listed in staff’s report for Site Plan Application #SP18-000008 submitted by Vero Beach Custom Homes, Inc.). Mr. Carroll seconded the motion and it passed 4-1 with Mr. Cahoy voting yes, Mr. Lauer yes, Mrs. Minuse yes, Mr. Carroll no, and Mr. Lauffer yes.

V. PLANNING DEPARTMENT MATTERS

Mr. Jeffries briefly went over the Planning Department’s portion of the Power Point presentation with the Board members (attached to the original minutes).

Mr. Carroll asked if they can make a motion to make a recommendation to the City Council that they immediately eliminate the automatic 30-space reduction and take it on a case by case basis.

Ms. Honse explained that the process is that the Board could ask staff to draft an Ordinance that would remove that 30% for an immediate temporary solution of the parking issue. That Ordinance would then have to go before the City Council to be approved.

Mr. Jeffries said staff will look at the allowances in the Downtown Zoning District and bring a draft Ordinance back before the Board.

Mr. Jeffries said there was a lot of talk during today’s hearing about architectural standards. He said that he could work with the Chairman of the Architectural Review Commission regarding establishing architectural standards if that is something the Board would like him to do.

Mr. Carroll felt it was a good idea to start working on something.

VI. BOARD MEMBERS’ MATTERS

None

VII. ADJOURNMENT

Today’s meeting adjourned at 3:48 p.m.

/sp
Introduction
As requested at the last Planning and Zoning Board meeting, staff has started reviewing the parking requirements in the Downtown Zoning District. Based on research, the parking requirement reduction was adopted as a recommendation from the 1992 Downtown Redevelopment Plan. The following is a synopsis of the existing conditions in downtown identified in the 1992 plan. Staff proposes to review the current parking supply in Downtown and will recommend changes to the parking incentives in Downtown. The analysis will take three to four months.

- Description of Current Conditions in 1992:
  - 1,343 parking spaces – private parking lots
  - 179 parking spaces – public parking lots
  - 315 on-street parking spaces
  - 1,837 parking spaces

- Restrictions:
  - 2 hours – public parking areas

- Parking Requirements for New Developments:
  - Non-residential – no requirements
  - Residential – standard parking requirements

- Goals, Objectives & Policies – Develop Downtown Parking Plan
  - Identify downtown parking (signage & map)
  - Develop parking regulations that encourage joint use of parking lots (shared parking arrangements)
  - Increase on-street parking (introducing angled parking on 14th, 15th, 16th & 17th Avenues)
  - Closely monitor parking demand
    - Analysis performed by staff does not support requirements of additional spaces for most new development at this time
    - Large new developments will be required to provide parking. Under standard city parking requirements, new development would be required to provide 30 spaces or more, one-half the normal must be furnished.
    - Significant increases in activity may result in some deficiencies in the future and warrant the imposition of parking requirements. Parking
space availability will be monitored by staff through both the site-plan and minor change review process and parking studies will be performed at regular intervals to determine if shortfalls exist or are imminent.

- Parking restrictions are not being considered for first year of plan implantation. Removal of “No Parking” or parking time restrictions signs will be removed. Future increases in activity may warrant reintroduction of restrictions.

- Downtown District Ordinances
  - Parking regulations.

Existing nonresidential uses and use changes and improvements which do not increase building area are exempt from parking requirements.

New construction or redevelopment is exempt from providing parking for the first 30 spaces that would be required by the code in other zoning districts. Beyond 30 spaces, parking shall be provided at one-half the rate applicable in other zoning districts.

Off-street parking spaces for residential uses shall be provided as follows:

<table>
<thead>
<tr>
<th>Use</th>
<th>Spaces Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Efficiency (maximum 500 SF)</td>
<td>1 space</td>
</tr>
<tr>
<td>Single-family home</td>
<td>2 spaces</td>
</tr>
<tr>
<td>Duplex</td>
<td>2 spaces/unit</td>
</tr>
<tr>
<td>Multiple-family dwelling</td>
<td></td>
</tr>
<tr>
<td>1 bedroom</td>
<td>1.5 spaces/unit</td>
</tr>
<tr>
<td>2 or more bedrooms</td>
<td>2 spaces/unit</td>
</tr>
</tbody>
</table>

GAL
As identified in the 2019 Planning and Zoning Board Work Plan, planning staff has prepared a draft Temporary Use and Structure section for the land development code. Current practice with zoning code organization is to differentiate between principal uses, accessory uses and structures, and temporary uses and structures in zoning district permitted use tables and have specific standards for these uses when necessary. Several issues have arisen recently that have identified a need for the Vero Beach Land Development Code (LDC) to have a temporary use and structure section.

The LDC currently has standards for issuing Special Event Permits in Sec 64.12. Special event is a type of temporary use. Currently, the LDC does not identify other types of temporary uses or structures.

The attached draft revises Sec 64.12 from specifically addressing Special Event Permits to outline the procedures for issuing a Temporary Use Permit. A new Article III, Temporary Uses and Structures (Sec 64.40 – 64.45) is added to Chapter 64, Development Review and Nonconforming Uses. This article will identify the permitted temporary uses and structures in the residential and non-residential zoning districts. The article provides general standards for all temporary uses and structures and specific standards for certain temporary uses and structures. The use chart delineates what type of temporary uses are permitted in each zoning district, but not all temporary uses will require a permit. The existing criteria for issuing a special event permit has been moved into the new Article III.

Staff is requesting a discussion regarding the proposed temporary use and structure text amendment. Based on the discussion, the proposed text amendment will be revised and brought back to the Planning and Zoning Board through the formal LDC text amendment process.
CHAPTER 64. - DEVELOPMENT REVIEW, AND-NONCONFORMING USES, AND TEMPORARY USES

ARTICLE I. - DEVELOPMENT REVIEW

Sec. 64.01 – 64.11 [No Changes]

Sec. 64.12 Special Events Temporary Use Permit

(a) Applicability. Except as expressly exempted, any temporary use special event shall require a temporary use special event permit from the planning and development department and required building, electrical, plumbing and other permits as appropriate. An application and non-refundable fee shall be submitted to the planning and development department pursuant to section 64.03.

(1) Sec. 64.42, Prohibited Temporary Uses and Structures, lists several temporary uses and structures that are expressly prohibited.

(2) Sec. 64.43, General Standards for All Temporary Uses and Structures, establishes general standards that apply to all allowed temporary uses and structures.

(3) Sec 64.44, Permitted Temporary Uses and Structures, establishes, in the use tables, the zoning districts in which a temporary use or structure is allowed. Abbreviations Used in Temporary Use/Structure District Tables, explains the abbreviations used in the tables showing whether a particular type of temporary use or structure is permitted or prohibited within the various zoning districts.

(4) Section 64.45, Standards for Specific Temporary Uses and Structures, establishes standards that apply to particular types of temporary uses or structures regardless of the zoning district in which they are allowed or the review procedure by which they are approved, unless expressly stated to the contrary. These standards may be modified by other applicable requirements in this Code.

(b) Special event definition. A special event means any occasion, including but not limited to exhibitions, celebrations, festivals, special sales events, shows, and other activities taking place on non-residential private property, that involves on a temporary basis, the occupation of land and/or construction of improvements not identified in an approved site plan or other development approval. Special events shall not include activities to be conducted entirely within public parks or on public right-of-way or vacant property.

(c) Limitation on the total number and length of special events. No property shall have more than a cumulative total of three such events in any calendar year. The total number of days for all special events on the property shall not exceed 30 days in any calendar year, except for Christmas tree sales. Christmas tree sales may commence no earlier than November 16 and end no later than December 30.

(d) Permit conditions. Every special events permit shall have the following conditions and any other conditions that may be required by the planning director or other appropriate authority to address a particular issue related to protecting the public health, safety, or general welfare of the public and the protection of the environment:

a. The activity, display and/or sales areas shall not interfere with the approved vehicular circulation system as specified on the approved site plan for the subject property.

b. The area of activity, display, and/or sales areas shall not occupy more than ten percent of the required on-site parking spaces, except where the special event is conducted outside of normal business hours for the approved uses on the site.

c. Applicable building, electrical, mechanical, and/or health permits shall be obtained for any temporary structures, utilities, and health and sanitation facilities.
d. The maximum hours of operation shall be limited to the period from 7:00 a.m. to 10:00 p.m. daily, except may be as further limited by the planning director to protect the public health, safety, or general welfare, including limiting adverse impacts on adjacent residential uses.

e. Any tent used for an activity, display, or sales shall be approved by the fire marshal for fire resistance.

f. All temporary structures and utilities for the special event shall be removed and the site returned to its original condition by no more than one day after the last day of the event.

(e)(b) Approval criteria. Where a Temporary Use Permit is required by Sec 64.44, Permitted Temporary Uses and Structures, meets Sec. 64.43, General Standards for All Temporary Uses and Structures, and meets applicable standards in Sec. 64.45, Standards for Specific Temporary Uses and Structures. The planning director may approve or conditionally approve the issuance of a special event temporary use permit, unless one of the following circumstances exist:

1. The applicant has made a material misrepresentation in the application.
2. The applicant has not complied with the planning and development department's request for further information.
3. The proposed special event temporary use will substantially disrupt the peace and quiet within any area of the city.
4. The proposed special event temporary use will have a substantial negative impact upon traffic within any area of the city.
5. The proposed special event temporary use will have a material negative impact upon neighboring properties.
6. The proposed special event temporary use will create a safety hazard.

(c) Term of permit. Special event temporary use permits issued pursuant to this section shall be effective from the date of issuance through the date specified in the permit.

(d) Revocation of permit. The planning director for any of the following reasons may revoke a temporary use special event permit:

1. A material false statement contained in the application;
2. Failure to comply with federal, state, or municipal laws and regulations;
3. Failure to comply with the limitations and conditions imposed by the city on the issuance of the special event permit; or
4. Conducting the special event in such a manner as to create a public nuisance.

(e) Appeal of revocation or permit denial. Notwithstanding section 64.04, any appeal of the planning director's decision to revoke or deny a special event temporary use permit shall be to the city manager pursuant to section 2-203 of this Code.
ARTICLE III – TEMPORARY USES AND STRUCTURES

[New Article in Chapter 64]

Sec 64.40. Purpose.

This chapter allows for the establishment of certain temporary uses (including special events) of a limited duration and temporary structures, provided that such uses, structures, and events do not negatively affect adjacent land, are discontinued upon the expiration of a set time period, and do not involve the construction or alteration of any permanent building or structure.

Sec. 64.41. Definitions

The following words and phrases shall have the following definitions when used in this Article:

(a) Farmers' Market. A public market held in a structure or open area where farmers primarily sell produce and other farm products they have grown, gathered, or raised directly to consumers. A farmers' market as a principal use occurs regularly for all or most of the year, whereas a farmers' market as a temporary use occurs occasionally or periodically for only a limited time period during the year.

(b) Garage or Yard Sale. The temporary and occasional use of the garage or yard of a residential dwelling for the casual sale of miscellaneous items of personal property to the general public.

(c) Special event. A special event means any occasion, including but not limited to exhibitions, celebrations, festivals, special sales events, shows, and other activities taking place on non-residential private property, that involves on a temporary basis, the occupation of land and/or construction of improvements not identified in an approved site plan or other development approval. Special events shall not include activities to be conducted entirely within public parks or on public right-of-way or vacant property.

(d) Temporary Construction-Related Structure or Facility. A temporary structure or facility that is associated with new construction—including storage buildings, construction waste and recycling receptacles, temporary sanitation facilities, outdoor storage, and employee parking areas—and located on or adjacent to the construction site.

(e) Temporary Factory-Fabricated Portable Building. A building constructed in a factory that is designed to arrive at a site ready for occupancy (except for minor unpacking and connection to utilities) and to be readily relocated to another site immediately following its use.

(f) Temporary Model Sales Home/Unit. A dwelling, dwelling unit, or other marketable unit of a new development that is used for real estate sales or leasing activities associated with the development pending construction of the development and the initial sales of homes or units in the development.

(g) Temporary Not-for-Profit Carwash. A temporary occasional provision of car washing services to the general public as a fund-raising project by or on behalf of a charity or not-for-profit organization.

(h) Temporary Portable Storage Unit. A transportable unit designed and used primarily for temporary storage of building materials, household goods, personal items, and other materials for use on a limited basis.

(i) Temporary Use. A use established for a temporary period of time with the intent to discontinue such use on the expiration of the time period.
(j) Temporary Use of an Accessory Structure as a Principal Dwelling After a Catastrophe. A temporary use of an accessory structure as a principal dwelling after a catastrophe is the temporary use of an existing structure that is accessory to an existing principal dwelling as the principal dwelling pending repair or reconstruction of the principal dwelling, where the principal dwelling has been damaged or destroyed by a fire, hurricane, or other physical catastrophe.

(k) Temporary Use Permit. A development permit authorizing certain temporary uses that is applied for, reviewed, and decided in accordance with Sec. 64.12, Temporary Use Permit.

Sec. 64.42. Prohibited Temporary Uses and Structures.

The following activities are prohibited in all districts:

(a) Retail sales or display of goods, products, or services within the public right-of-way, except as part of an authorized not-for-profit, special, or City-recognized or authorized event.

(b) Retail sales or display of goods, products, or services from a motor vehicle, trailer, or shipping container.

Sec. 64.43. General Standards for All Temporary Uses and Structures.

Unless otherwise specified in this Code, any temporary use or structure shall:

(a) Obtain a Temporary Use Permit (if required) and any other applicable City, county, or State permits;

(b) Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;

(c) Be compatible with the principal uses taking place on the site;

(d) Not have substantial adverse effects or noise impacts on any adjoining permanent uses or nearby residential neighborhoods;

(e) Not include permanent alterations to the site;

(f) Meet all the setback requirements of the zoning districts;

(g) Comply with temporary signage standards in Chapter 38, Article I, Signs.

(h) Not maintain temporary signs associated with the temporary use or structure after the activity ends;

(i) Not violate the applicable conditions of approval that apply to a site or a use on the site;

(j) Not interfere with the normal operations of any permanent use located on the property; and

(k) Be located on a site containing sufficient land area to allow the temporary use, structure, or special event to occur and accommodate associated pedestrian, parking, traffic movement without disturbing environmentally sensitive lands.

Sec. 64.44. Temporary Use/Structure Table for Residential and Nonresidential Districts.

(a) Abbreviations Used in Temporary Use/Structure District Tables. In the tables designating the zoning districts in which a temporary use or structure is allowed, the following abbreviations apply:

(1) A check "✓" indicates that the use or structure is allowed as a temporary use by right in the corresponding zoning district, subject to compliance with Sec. 64.43, General Standards for All Temporary Uses and Structures, any standards set forth for the specific use or structure, and all other applicable regulations of this Code. No Temporary Use Permit is required.
(2) A "T" indicates that the use or structure is allowable as a temporary use in the corresponding zoning district only on approval of a Temporary Use Permit in accordance with Sec. 64.12. Temporary Use Permit, and subject to compliance with Sec 64.43. General Standards for All Temporary Uses and Structures, any standards set forth for the specific use or structure, and all other applicable regulations of this Code.

(3) A blank cell indicates that the use or structure is prohibited as a temporary use or structure in the corresponding zoning district.

(b) Temporary Use/Structure Table for Residential Districts

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<th>Temporary Use/Structure Type</th>
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<th>R-1AA</th>
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<th>RM-10</th>
<th>RM-10/12</th>
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<th>C-1</th>
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<td>Temporary use of an accessory structure as a principal dwelling after a catastrophe</td>
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</tbody>
</table>

Sec. 64.45. Standards for Specific Temporary Uses and Structures.

(a) Farmers’ Market (as a temporary use). A farmers’ market operating as a temporary use shall:

1. Operate on a continuous basis for no more than five months per year on a single site;
2. Renew all applicable Temporary Use Permits once per calendar year;
3. Be limited to the retail sale of fresh fruits and vegetables, herbs, mushrooms, nuts, honey, raw juices, molasses, dairy products, eggs, poultry, meats, fish, shellfish, fresh-cut or dried flowers, nursery stock, seedlings, plants, and other agriculture, aquaculture, and horticulture products produced by the vendor/producer, including the sale of products made by the vendor/producer from such agriculture, aquaculture, and horticulture products (e.g., baked goods, jams and jellies, juices, cheeses) and incidental sales of crafts or similar home-made products made by the vendor/producer.
4. Provide adequate ingress, egress, and off-street parking areas; and

(b) Garage or Yard Sale. A garage or yard sale is allowed as a temporary use pursuant to the following criteria:

1. Maximum of two garage or yard sales per premises per year.
(2) Maximum time per garage or yard sales shall be two consecutive days.

(3) The individual conducting the garage sale shall provide for control of parking for motor vehicles so as to reasonably prevent unsafe conditions and traffic congestion on the public street or streets adjacent to the premises upon which the sale is being conducted.

(4) Comply with applicable signage standards in Chapter 38, Article I. Signs.

(c) Special events. [Moved from Sec. 64.12] A special event shall comply with the following standards:

(1) Limitation on the total number and length of special events. No property shall have more than a cumulative total of three such events in any calendar year. The total number of days for all special events on the property shall not exceed 30 days in any calendar year, except for Christmas tree sales. Christmas tree sales may commence no earlier than November 16 and end no later than December 30.

(2) Permit conditions. Every special events permit shall have the following conditions and any other conditions that may be required by the planning director or other appropriate authority to address a particular issue related to protecting the public health, safety, or general welfare of the public and the protection of the environment:

- g.a. The activity, display and/or sales areas shall not interfere with the approved vehicular circulation system as specified on the approved site plan for the subject property.

- h.b. The area of activity, display, and/or sales areas shall not occupy more than ten percent of the required on-site parking spaces, except where the special event is conducted outside of normal business hours for the approved uses on the site.

- i.c. Applicable building, electrical, mechanical, and/or health permits shall be obtained for any temporary structures, utilities, and health and sanitation facilities.

- j.d. The maximum hours of operation shall be limited to the period from 7:00 a.m. to 10:00 p.m. daily, except may be as further limited by the planning director to protect the public health, safety, or general welfare, including limiting adverse impacts on adjacent residential uses.

- k.c. Any tent used for an activity, display, or sales shall be approved by the fire marshal for fire resistance.

- l.f. All temporary structures and utilities for the special event shall be removed and the site returned to its original condition by no more than one day after the last day of the event.

(d) Temporary Construction-Related Structure or Facility.

(1) All temporary construction-related structures and facilities shall not be moved onto the project site prior to the issuance of a building permit and shall be removed within 30 days after issuance of the final certificate of occupancy for the constructed development.

(2) A temporary construction-related structure or facility may be placed on a property adjacent to the construction site if site constraints make it infeasible to locate the structures or facilities on the construction site, provided the adjacent site is restored to its previous condition within 60 days after issuance of the final certificate of occupancy of the constructed development.

(3) Parking for employees of the temporary construction-related structure and facility shall be provided.

(4) Construction site fencing may remain in place provided the building permit remains active and has not expired.
(e) Temporary Factory-Fabricated Portable Building. A temporary factory-fabricated transportable building shall comply with the following standards:

(1) The building may be placed on a lot and temporarily used only for the following uses:

a. Temporary on-site expansion of classroom space for an existing school or other education use pending implementation of City-approved plans for the permanent expansion of classroom space or alternative means of meeting growing classroom needs.

b. Temporary on-site expansion of space for an existing community services use, government administrative offices, health care use, place of worship, or other community-serving institutional use (other than education uses) pending implementation of City-approved plans for the permanent expansion of existing facilities.

c. Temporary on-site office space for construction management and security uses during construction of new development in accordance with City-approved plans.

d. A temporary on-site space for real estate sales or leasing activities associated with a new development pending construction of the development.

e. Temporary on-site space for recreational use for a new residential development pending construction of permanent recreational facilities approved by the City as part of the development.

f. A temporary building providing temporary quarters for the occupants of a principal dwelling or nonresidential building damaged or destroyed by a fire, hurricane, or other physical catastrophe while the dwelling or building is being repaired or reconstructed.

(2) Except as otherwise provided in this Code, the temporary building may be located anywhere on the site except within the following areas:

a. Existing required landscaping or perimeter buffer areas;

b. Areas designated as future required landscaping areas, whether or not vegetation currently exists; and

c. Other areas designated on the site for open space, vehicular access, or parking.

(3) Adequate off-street parking for the temporary building use shall be provided in accordance with the minimum standards for number of off-street parking spaces in Chapter 63, Off-Street Parking and Loading Requirements.

(4) All permits required by applicable building, electrical, plumbing, and mechanical Codes shall be obtained before placement of the temporary building.

(5) The temporary building shall be compatible with any existing buildings on the site in terms of exterior color. Bright, luminescent, or neon colors and highly reflective surfaces are prohibited.

(6) The temporary building shall be removed from the site within 30 days after issuance of the final certificate of occupancy for the permanent expansion, new development, permanent recreation facility, permanent facility, or repaired or reconstructed dwelling/building, as appropriate.

(f) Temporary Model Sales Home/Unit. A single model sales home/unit may be located on a new development site and temporarily used for sales or leasing uses associated with the development, subject to the following standards:
(1) A model sales home shall be located on a lot or building site approved as part of the site plan, and a model sales unit shall be located within a building approved as part of the development.

(2) Adequate off-street parking for the real estate sales/leasing use of the model sales home/unit shall be provided, in accordance with the minimum standards for number of off-street parking spaces in Chapter 63, Off-Street Parking and Loading Requirements.

(3) One model home may be constructed for every 20 lots, or one model home for every 15 lots if the model homes are contiguous to each other under construction, up to a maximum of three model homes for a subdivision.

(4) A model sales home/unit may be used for temporary sales/leasing until such time as the last lot in the subdivision is developed.

(5) On termination of the temporary real estate sales/leasing use of a model sales home/unit, the home/unit shall be converted into, or removed and replaced with, a permanent permitted use, and any excess parking shall be removed and landscaped in accordance with Chapter 72, Article II, Landscaping.

(6) No model home may be constructed or occupied prior to preliminary plat approval by the City.

(7) No model home may be converted to a single family unit and occupied until all subdivision improvements are accepted in accordance with Chapter 70, Subdivisions.

(8) Temporary structures such as modular buildings may be allowed as a temporary sales office, only while the model home is being constructed in accordance with this section. There shall be no more than one temporary sales office per subdivision.

(9) City water and wastewater facilities shall be operating and accessible to the public.

(10) A stabilized road access shall be in place.

(11) A model sales home shall not be used for storage of building materials.

(12) If the space for a required garage has been converted to space for purposes other than a garage, the space must be converted back to a residential garage and equipped with a standard garage door prior to the sale and use of the home as a dwelling unit.

(g) Temporary Not-For-Profit Car Wash. Temporary not-for profit car wash services shall comply with the following standards:

(1) The use shall be limited to no more than a total of 14 days per calendar year, per individual site.

(2) The use shall comply with NPDES requirements.

(h) Temporary Portable Storage Unit. Temporary storage in a portable storage unit may be permitted to serve an existing use on the same lot, subject to the following standards:

(1) Number. No more than two units shall be located on a lot.

(2) Size. No unit shall be more than eight feet wide, 16 feet long, or eight feet high.

(3) Duration.

a. No unit shall be placed on a lot in a residential zoning district for more than three consecutive days, or for more than six days within any calendar year.
b. No unit shall be placed on a lot in a nonresidential zoning district for more than 14 consecutive days, or for more than 28 days within any calendar year.

(4) Location.

a. In a residential zoning district, a unit may be placed only in a driveway or, if alley access to the rear of the lot exists, in the rear yard. If no driveway or alley access to the rear of the lot exists, a unit may be placed in the front yard of the lot provided Planning Director determines that such placement does not obstruct the free, convenient, and normal use of the public right-of-way.

b. In a nonresidential district, a unit may be placed only in the rear yard or side yard. In no case may a unit be placed in the front yard, in any front parking lot of a commercial use, or in fire lanes, passenger loading zones, commercial loading areas, or public rights-of-way.

(5) Removal upon Hurricane Warning. Notwithstanding the time limitations established in subparagraph [3] above, all portable storage units shall be removed immediately upon issuance of a hurricane warning by a recognized government agency.


a. The owner and operator of the lot containing a portable storage unit shall ensure that the unit is in good condition, free from evidence of deterioration, weathering, discoloration, rust, ripping, tearing, or other holes or breaks.

b. The unit shall be kept locked when not being loaded or unloaded.

(7) Hazardous Materials Prohibited. The owner and operator of the lot containing a portable storage unit shall ensure that no hazardous material is stored within the unit.

(i) Temporary Use of an Accessory Structure as a Principal Dwelling After a Catastrophe. An existing structure that is accessory to an existing principal dwelling that has been damaged or destroyed by a fire, hurricane, or other physical catastrophe may be temporarily used as the principal dwelling on the lot while the damaged or destroyed principal dwelling is being repaired or reconstructed, provided it meets the following standards:

(1) The building or inhabited part thereof shall meet all applicable building, health, and other regulations for a habitable dwelling.

(2) The building shall comply with any additional standards set forth in a Declaration of Emergency issued by authorized officials in response to the catastrophe.

(3) The building shall be removed or converted to an authorized accessory use within 30 days after issuance of the certificate of occupancy for the permanent principal dwelling. In no case shall the building be used as the principal dwelling for more than four years unless authorized by a longer time period set forth in a Declaration of Emergency issued by authorized officials in response to the catastrophe.