AGENDA
REGULAR MEETING OF THE CITY PLANNING AND ZONING BOARD
THURSDAY, AUGUST 15, 2019, AT 1:30 PM
COUNCIL CHAMBERS, CITY HALL, VERO BEACH, FLORIDA

I. PRELIMINARY MATTERS

Agenda Additions and/or Deletions

II. APPROVAL OF MINUTES

A. Regular Meeting – July 18, 2019
B. Regular Meeting – August 1, 2019

III. PUBLIC COMMENT

IV. PUBLIC HEARING

[Legislative]
An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations to Amend Chapter 62, Article III, Commercial Districts, Section 62.45 to Add Animal Boarding as an Accessory use to a Permitted Veterinary Services in the C-1 Zoning District; Providing for Codification; Providing for Conflict and Severability; and Providing for an Effective Date (#Z19-000014-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(6) 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, JULY 18, 2019 - 1:30 PM
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

PRESENT: Chairman, John Carroll (arrived at 1:35 p.m.) Members: Honey Minuse, Robin Pelensky, Jose Prieto and Alternate Member #1, Richard Cahoy Also Present: Principal Planner, Cheri Fitzgerald; Planning and Development Director, Jason Jeffries, City Attorney, John Turner and Deputy City Clerk, Sherri Philo

Excused Absence: Steven Lauer

Mrs. Minuse called today’s meeting to order at 1:00 p.m.

The Deputy City Clerk noted that the Board would need to appoint a Temporary Chairman in the absence of the Chairman and Vice Chairman.

Mr. Cahoy made a motion to appoint Mrs. Honey Minuse as their Temporary Chairman. Mr. Prieto seconded the motion and it passed unanimously.

I. PRELIMINARY MATTERS

A) Agenda Additions and/or Deletions

None

II. APPROVAL OF MINUTES

A) Regular Meeting – June 20, 2019

Mr. Cahoy made a motion to approve the minutes of the June 20, 2019 Planning and Zoning Board minutes. Mr. Prieto seconded the motion and it passed unanimously.

III. PUBLIC COMMENT

None

IV. PUBLIC HEARING

[Quasi-judicial]
A) An Ordinance of the City of Vero Beach, Florida, Amending the Official Zoning Map by Changing the Zoning District Designation from ALI-1, Airport Light Industrial – 1 to ALI-A1, Airport Light Industrial – A1, for Property Located at the Northeast Corner of 43rd Avenue and Airport West Drive, Containing 2.61 Acres More or Less; Providing for an Effective Date (#Z19-000009-MAP)

The Chairman read the Ordinance by title only.

There were no ex parte communications reported.

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

1 07/18/19 P&Z
Mr. Jason Jeffries, Planning and Development Director, briefly went over staff’s report with the Board members accompanied by a Power Point presentation (both attached to the original minutes). Based on the analysis and findings in staff’s report, the staff recommends that the Planning and Zoning Board recommend approval by the City Council of the draft Ordinance amending the Zoning Map designation from ALI-1 to ALI-A1 (plus/minus 2.61 acres) for the subject property.

*Please note that Mr. John Carroll arrived at today’s meeting during Mr. Jeffries’ presentation (1:35 p.m.).

The Chairman opened and closed the public hearing at 1:44 p.m., with no one wishing to be heard.

Mrs. Minuse said what she did not see addressed was the Federal Aviation Administration (FAA) being involved in situations with expansions close to the runways.

Mr. Jeffries explained that is more of a site plan issue and they will discuss it under the next item on today’s agenda. He noted that the FAA is definitely involved when it comes to review of projects at the Airport.

Mr. Cahoy asked what is located to the east. He asked is it another hangar.

Mr. Jeffries said directly to the east is Corporate Air and they are looking to expand to the west onto this property. He explained that Corporate Air approached the City to lease the property, but the zoning did not allow their expansion so the City is facilitating that by applying for this zoning map change.

**Mr. Prieto made a motion to grant the application. Mrs. Pelensky seconded the motion and it passed 5-0 with Mr. Cahoy voting yes, Mr. Carroll yes, Mrs. Pelensky yes, Mr. Prieto yes and Mrs. Minuse yes.**

[Quasi-judicial]

B) Site Plan Application Submitted by MBV Engineering, Inc., for the Construction of Two 11,872 Square Feet Storage Hangars Located at 3450 Airport West Drive (#SP19-000004)

The Chairman read Site Plan application #SP29-000004 submitted by MBV Engineering, Inc., by title only.

There were no ex parte communications reported.

The Deputy City Clerk swore in all witnesses present for this hearing en masse.

Mr. Jeffries briefly went over staff’s report with the Board members accompanied by a Power Point presentation (both attached to the original minutes). Based on staff’s analysis and findings, staff finds that the proposed site plan application meets the provisions for site plan approval and recommends approval of the site plan subject to conditions listed in staff’s report.

Mrs. Minuse asked will the tarmac that was put in when it was supposed to be an aircraft
hangar have to be removed.

Mr. Jeffries answered no. He reported that the Board approved an aircraft hangar in 2015, but they didn’t construct it. Instead, they did a minor site plan amendment for a tarmac rather than a hangar, which staff approved.

Mr. Ryan McLean, of MBV Engineering Inc., applicant, welcomed any questions of the Board.

The Chairman opened and closed the public hearing at 2:01 p.m., with no one wishing to be heard.

Mr. Carroll made a motion to approve Site Plan Application #SP19-000004 with the conditions listed by staff. Mr. Prieto seconded the motion and it passed 5-0 with Mr, Cahoy voting yes, Mr. Carroll yes, Mrs. Pelensky yes, Mr. Prieto yes and Mrs. Minuse yes.

[Legislative]

C) An Ordinance of the City of Vero Beach, Florida, Requested by Elizabeth and Matilde Sorensen, Amending the Comprehensive Plan Future Land Use Map by Changing the Future Land Use Designation from RL, Residential Low (Up to 6 Units/Acre) to RM, Residential Medium (Up to 10 Units/Acre) for Property Located at 705 Azalea Lane, Containing 0.27 Acres More or Less, Providing for an Effective Date (#C19-000002-FLUM-MAP)

The Chairman read the Ordinance by title only.

Mrs. Cheri Fitzgerald, Principal Planner, briefly went over staff’s report accompanied by a Power Point presentation with the Board members (both attached to the original minutes). She noted that this Ordinance does go along with the next item on today’s agenda. Based on the analysis and findings, staff recommends that the Planning and Zoning Board recommend approval for submission to the City Council of the Ordinance amending the Future Land Use Map designation for the subject property (plus/minus 0.27 acres) from RL, Residential Low to RM, Residential Medium.

Mrs. Minuse asked is this the time to ask what the permitted uses are under the RM Zoning or would they discuss that under the site plan.

Mrs. Fitzgerald said that would be under the next item on today’s agenda. She explained that this is for the Future Land Use and the Comprehensive Plan and the Future Land Use does give a table that outlines zoning districts that are compatible with each land use category. She said that criteria is included in staff’s report. She said Professional Office Institutional (POI) is a compatible zoning district and that is the next item on today’s agenda. She noted that this item and the following item are somewhat tied together.

Mrs. Minuse said that she noticed in one (1) of the letters the Board received today that there were rumors about what is going to happen and she wanted to clarify when the Board could discuss that.

Mr. Carroll said they are not going to be able to access this property from A1A so they will
end up with additional traffic on Azalea Lane. He said the only way to get out from Azalea Lane or Bougainvillea Lane during season is to go to Cardinal Drive and go to Beachland Boulevard or to Flamevine Lane. He said this is something the Board needs to consider.

Mr. Cahoy questioned, wouldn't that be a zoning issue.

Mr. Carroll said as soon as they change the designation to more density they are going to have applicants. He just thinks this is something the Board needs to consider.

Mr. Cahoy said RM is residential.

Mrs. Fitzgerald said it is Residential Medium.

Mrs. Minuse said there are other uses besides residential.

Mrs. Fitzgerald said compatible zoning would be POI and several other zoning districts. She noted that the next item on today’s agenda is to consider the change to POI.

Mr. Prieto asked is it feasible to build an office on .27 acres.

Mr. Jeffries answered no.

Mr. Cahoy said if these two (2) issues weren’t tied together and the Board was only asked to address the land use change, they would not be privy to the other information at this point. He questioned how they would treat this if that were the case. He said that is the issue.

Mr. Barry Siegel, Attorney representing the applicant, said there is a traffic analysis in their application that the traffic study was completed and the use would have minimum impact. If it came down to an issue of accessing A1A or accessing the property, that would be something that the site plan review would address. He said there is going to be almost no traffic impact, especially given the size of this property. He felt the important thing to focus on is what staff has done. He said the reality is that this property is going to celebrate its 60th birthday and a lot has changed around it. It cannot affectively be used as a residence. He said the exhaust from vehicles waiting at the traffic light on A1A and Beachland Boulevard travels onto this property and it cannot be used as a residential property, especially one consistent with what they think of on central beach. For that reason, it makes sense to let this property have a better use. He said it can be done in a manner where it doesn’t affect other properties in any negative manner. He asked the Board to follow staff’s recommendations.

Mr. Joe Schulke, of Schulke, Bittle, and Stoddard, said they did prepare a quick traffic analysis for the land use application and the zoning application and in those two (2) scenarios they assumed Multi-Family as an increase versus Single-Family and they could only get two (2) units on the property based on the density so they could see there would not be much traffic generation. He said as an office, the general rule of thumb is to assume 10,000 square feet per acre, which equates to 2,700 square feet and he felt they would be lucky to get 2,000 square feet because they would have to have parking, landscape buffers, etc. He said that he did use 2,700 square feet for his analysis and the increase in average daily trips would be 22 and the increase in peak hour trips would be two (2). His opinion is that they are dealing with a dilapidated single-family home. He questioned who in their right mind would invest money to put a nice home on that corner where it is. So, what they are looking at is are they
going to be stuck with this home forever or can they do something that will increase taxes for the City, provide more parking, if required, and have a better development plan for the City.

Mr. Carroll said that’s all well and good, but as a person who owns property on central beach and as a Board member, they have to look at what is currently on Azalea Lane and there is a very nice house on two (2) lots that is about midblock. He said that he could see this whole area going “brown” (Residential High), which is fine if that is what the City wants; to start eliminating Single Family Residential in that area east of A1A.

Mr. Siegel said that they noticed there were some letters placed on the dais for the Board members. He asked that he reserve a few minutes to respond (letters attached to the original minutes).

At this time, Mr. Carroll read the letters into the record.

Mr. Prieto asked where are the addresses of the people who submitted the letters in relation to this property.

Mr. Jeffries said one appears to be one (1) house in from Eagle Drive so it is to the east of this site.

Mrs. Minuse said they are all within the same block.

The Chairman opened the public hearing at 2:34 p.m.

Mr. Michael Calvit said that he has an office at 650 and 652 Azalea Lane, which is on the other side of A1A. He said that he is all for progress, but once the camel gets his nose under the tent all bets are off because now they have set a precedent. He said central beach is charming and people live there. He is very familiar with the traffic on Azalea Lane and if they rezone or increase the density on this property they are going to increase traffic. He said about 15 people come into his office parking lot every day. He said that his office is zoned POI and if the Board does this they are going to have a lot more traffic than what was suggested today. He cautioned the Board that they have to balance progress with the reason people live here.

Mr. Reagan Turner said that he lives across the street from this site and is concerned about anything that could lower his property value. He said that he just purchased his home a year ago and is against anything that could lower the value of his property.

Mr. Bill Baird said that he is present representing his cousin who lives on Azalea Lane. His cousin is totally against this because of property values and because of traffic. Mr. Baird said it is a narrow street to begin with and if there is more traffic than there is now it is going to be unsafe. He said there is a lot of pedestrian traffic that occurs there and he felt that having any more traffic there would be detrimental.

Mr. Warren Dill, Attorney representing Ms. Kathleen Mconvey (spelling may be incorrect), who owns the home immediately next to this site on the east side. He said that he can see this project gives the Board pause by the questions they are asking and the things they are looking into, as this project should. He said that his client is opposed to both applications. He understands that the Board has to vote on them separately, but they need to consider them together because one cannot go without the other. Therefore, his conversation is blended.
He is going to talk about the land use and about the zoning at one time because there is no other way to review these applications. He said they cannot consider them in a vacuum. He explained once they grant the Comprehensive Plan amendment they are stuck with the other. He said Azalea Lane is a very cute residential street. He said that he drove around this property a few times before coming to today’s meeting and he was impressed with the residential character of it. He said there are children who live there and play on that street. Staff is doing their job and they wrote an excellent staff report to support both applications. But, he is concerned that what the Board is seeing is staff’s vision for this area in the future and this application fits nicely within that vision. Staff discusses transition and having commercial on Beachland Boulevard, a parking lot 200 feet away across the street to the west of A1A, and a very low key office building further south on the west side. He said they are in transition because of the items that he just stated and he disagrees with that. He said that he considers the area to be Azalea Lane and not A1A or Beachland Boulevard. The people who live on Azalea have very little to do with the inconveniences on Beachland Boulevard. He said their properties do back up if they are on the north side of Azalea, but those properties are heavily landscaped and if you drive their street their backyard uses are heavily landscaped and the uses on Beachland Boulevard are not noisy uses. All the parking is in the front of those buildings and the bank has underground parking. He said they cannot look at this area as this broad concept that is being ushered down that road. The area is the road they are discussing, Azalea Lane. It is not Azalea freeway, but Azalea Lane. What he found interesting in staff’s report was that staff would not support this application on the south side of Azalea Lane. Staff will support it on the north, but they will not support it on the south. He would submit that the south side of Azalea Lane is just as prone to be changed as staff states the north side is. He believes that what staff would like to do would be to draw a line down the center of Azalea Lane and everything on the north would be zoned RM, but just on the other side of the street it is not proposed to be RM. He said so what do you do. You move the offensive commercial uses off of Beachland Boulevard and put them in the front yard of the people on the south side of Azalea Lane and they will have to look at them and there is no way to buffer it unless they heavily landscape their front yards from these commercial uses. He said if this goes with the RM zoning on the north side, POI is a permitted zoning district. Once they approve the RM Zoning they are going to approve POI or the City Attorney is going to be busy. He said a couple uses in POI is business and professional offices, banks, places of worship, daycare centers, cosmetology salons and barber shops, nursing homes, adult congregate living, health and fitness clubs, etc. They are in the City’s zoning permitted uses within the POI. He said Azalea Lane is a narrow two-way road and is a local street. He said commercial creep; this application is just the first. There will be more commercial applications to go to the RM classification and then to POI. As stated earlier, once the camel gets his nose under the tent you can’t tell the people immediately next door to the east that it is okay for their neighbor, but not for them. He said that he represents a homeowner of the home immediately to the east of this site and there is another very nice home immediately to that and immediately to the east of that property are three (3) vacant lots that has a for sale sign on them. He questioned what do they think is going to be told to the buyers. They are going to be shown a zoning map and a land use map with RM and POI zoning. He said POI zoning is not compatible with Azalea Lane. If the Board read everything in their backup information they would have seen that Mr. Siegel represented the applicant and put forth an excellent application. He said that Mr. Siegel was concerned about one (1) issue, which was spot zoning and so he addressed it. Mr. Dill said that a lot of Courts in Florida have looked into spot zoning and he is going to read to the Board a few things that the Courts have said about spot zoning. He read, “Spot zoning is the name given to the piecemeal rezoning of small parcels of land to a greater density or use leading to disharmony within the surrounding area.” He questioned does that sound like
what they are discussing today. He continued to read, “Spot zoning is usually thought of as
giving preferential treatment to one (1) parcel at the expense of zoning scheme as a whole.
The term is generally applied to the rezoning of only one (1) or fewer lots.” He said today
they are talking about one (1) lot and to him it looks like spot zoning. He questioned what is
Azalea Lane going to be, POI or single-family. He said it is not going to support both in the
long run. The Board’s decision is to determine what they think would be best. He said a
Comprehensive Plan is a broad based document that when you go through it you can always
find something to support your argument, but there is always something in there against your
argument, which it needs to be. He read the goal of the City’s Comprehensive Plan, Vero
Beach is quality of life, individual identity, and small town character typically by low rise
and low density scale development will be maintained and continued in the following manner...
He said then they have seven (7) items, which he read item two (2), “In the following manner that respects the community character and quality of life of the community...” He said they are talking about the character of Azalea Lane and the quality of
life of the people that live on that street. He continued to read, “and that maintains and
enhances the City’s distinct overall low density, residential character, and diversity of
residential neighborhoods.” To him, that is not supportive of what they are hearing today.
He said there are three (3) things in the Comprehensive Plan; they have goals, objectives, and
policies. He said as you go down the list they get more specific. He read under Objective
One (1) for future land use it states, “The City should manage future development and
redevelopment to maintain and enhance the unique small town character of the community
and provide for an efficient distribution and compatible pattern of land use.” He said these
uses are not compatible. He read Policy 1.4, Residential Low (RL), noting that is what the
property has now, “Residential Low shall be applied to areas that are suitable for detached
low density single family dwelling units on lots based on existing development patterns.” He
noted that this property is currently what the property is now, RL. He said it also has
Residential Medium (RM), which that states, “RM land use designation shall be applied to
areas of the City that are suitable for single family, duplex, and multi-family residential uses
with moderate densities that are in a transition between single family detached and more
intensive uses.” He said they are not in a transition on Azalea Lane.

Mr. Turner thanked Mr. Dill and asked him to wrap up his presentation noting that the Board
has other matters to consider.

Mr. Dill said there are five (5) things the Board has to find in order for an application to be
approved that is stated in Policy 1.17. He read, item d), “Compatibility with surrounding
areas in the terms of existing land use composition.” He said staff has a vision of Azalea
Lane that he doesn’t think the residents have. He said his client does not want this and the
future of his client and the future of the residents of Azalea Lane is in the Board’s hands.

Mrs. Jennifer Kudla said every house on the block has been represented here.

Mrs. Pelensky asked how many lots are vacant.

Mrs. Kudla said on the north side there is the property in question and then there are two (2)
homes and then there are three (3) vacant lots. She said they are beautiful nice lots and when
they purchased their home they heard that there would be single family homes built there,
which is when they decided to purchase their home.

Ms. Kathy Johnston said that she lives on Bougainville Lane and agrees with everything that
has been said. She said that Azalea Lane is a nice residential street and this is not acceptable.
She said that she walks on A1A and there are a lot of homes on the corner that front A1A. She asked are all those properties subject to becoming POI. She said this is not a good idea and that she is against this.

The Chairman closed the public hearing at 3:00 p.m., with no one else wishing to be heard.

Mr. Siegel said his clients appreciate what was said today. He said that they heard the list of things that could be done, such as a congregate adult facility, and with this size of this property these things would not be allowed. He said change is always tough and difficult, but in this case the circumstances do merit this small minor change on this end of the block where it is basically an extension of A1A. He said staff has looked at the Code and they are the ones who are experienced and have the knowledge to understand, appreciate, and apply the Code and what the factors are that should be looked at. He encouraged the Board to follow what staff is advising them.

Mrs. Minuse said with the next item on the agenda they have backup material that says that they stated a 10-foot wide easement along the east side of the property will be acquired as part of future redevelopment of the site. This is why she was interested in what was directly east of the property and it is a private residence. She feels this is important for her to take into consideration. She said it is affecting her thinking and she is not sure that it should be considered as far as the Future Land Use Map is concerned.

Mr. Turner explained that with this type of a proceeding the Board is not held to the same standard as they are in a quasi-judicial proceedings. He said the standard in the Legislative proceeding, such as this one, is a fairly debatable standard. He said there are reasonable arguments are both sides, is there reasonable evidence in the record to support their decision, how they want to view that record and the evidence. He said the Board’s decision is expected not to be arbitrary or capricious. It must be based upon the record. If they see that in the record that would either assist them in making a reasonable decision then they are entitled to consider that. If it is not reasonable, if it is not something that has been considered or presented in the circumstances surrounding these proceedings then no, they should not. He thinks under this circumstance it has been presented and is going to be part of the package, then yes, that is something they could use as a decision or a basis in making their recommendation.

Mr. Carroll believed that the compatibility issue stands out where he thinks this application should be denied. He said when talking about compatibility in a neighborhood, you have to look at the neighborhood. He said once they approve this then there will be compatibility, but right now they are talking about a neighborhood that is fully single family residential across the street, up and down the street, and immediately adjacent. He said this is not compatible. He said once they start this it is going to go “south.”

Mrs. Pelensky said that she sees this as a residential street. She said that she has a little background in planning and ideally if you are a property owner and looking for a way to make some money down the road then this entire street north and south would be a great transition area. But, if she owned a lot on that street right now she would not want to be a part of that transition. She would say no to this.

Mr. Cahoy said his problem is twofold. He said whatever they do with this lot will affect what the seller and/or buyer of those three (3) vacant lots will have to consider, which he sees as a threat. Also in looking at the zoning map, this is just the beginning of changing A1A.
and he would hate to see that happen.

Mr. Prieto said it was stated earlier that if the Board approves the RM-10 then they would have to go to POI.

Mr. Jeffries said that he doesn’t know if they necessarily have to go with POI, but it does belong in the relationship with RM. He noted that there is other criteria they have to look at so that is not an absolute, it is just that it is compatible. He pointed out that staff has not made any statement that Residential High is compatible or justified for this piece of property. He said this is Residential Medium that is justified as a transitional use of this property. He wanted to clarify that staff does not have a “vision.” He said there is a Vision Plan that was adopted by the City and their role as staff is to provide the Board the professional analysis in terms of the request for the Board to consider. He said nowhere is it justified for the “creep” of high intensity uses going through the neighborhood. It is in the Vision Plan to protect the neighborhoods. He said this has been done on the block immediately to the north.

Mrs. Minuse said that she is very impressed that the neighbors have come out and have spoken to the fact that they want to continue the quiet enjoyment of their homes. She said this matters a lot. She said it bothers her that there is an easement that would be provided at some point in the future for the development of this site. She said that she is having a lot of difficulty with this.

Mr. Carroll made a motion that the Board disagrees with staff’s recommendation because of the compatibility issue extending across a 200-foot right-of-way that the compatibility is single family residential adjacent and across the street and the commercial buffer on the north so he would motion that the Board denies the application (to recommend denial to the City Council). Mrs. Pelensky seconded the motion and it passed 5-0 with Mr. Cahoy voting yes, Mr. Carroll yes, Mrs. Pelensky yes, Mr. Prieto yes and Mrs. Minuse yes.

The Board took a ten-minute break at 3:19 p.m. and Mrs. Pelensky excused herself from the meeting.

The meeting reconvened at 3:29 p.m.

[Quasi-judicial]

D) An Ordinance of the City of Vero Beach, Florida, Requested by Elizabeth and Matilde Sorensen, Amending the Official Zoning Map by Changing the Zoning District Designation from R-1, Single-Family Residential District to POI, Professional, Office and Institutional District for Property Located at 705 Azalea Lane, Containing 0.27 Acres, More or Less, Providing for an Effective Date (#Z19-000003-MAP)

Mrs. Minuse asked because this relates to the item they just heard, would they continue with this hearing or table it.

Mr. Jeffries said the request of the applicant is to table this item until the City Council hears the future land use matter.

Mr. Siegel agreed.
Mr. Jeffries reported that the future land use item would be going before the City Council for first reading on August 20, 2019 and the public hearing would be on September 3, 2019.

[Legislative]

E) An Ordinance of the City of Vero Beach, Florida, Amending Chapter 60 (Appendix. Definitions) of the Land Development Regulations to Revise or Add the Definitions of Amusement Game or Machine, Commercial Amusement, Simulated Gambling Establishment, Simulated Gaming Device, Vending Machine and Video Arcades; Providing for Codification; Providing for Conflict and Severability; and Providing for an Effective Date (#Z19-000010-TXT)

The Chairman read the Ordinance by title only.

Mr. Jeffries briefly went over staff’s report accompanied by a Power Point presentation (both attached to the original minutes). Staff recommends the Planning and Zoning Board approve the Ordinance for transmittal to the City Council for favorable consideration.

The Chairman opened and closed the public hearing at 3:44 p.m., with no one wishing to be heard.

Mr. Cahoy made a motion that Chapter 60 be amended relating to the definitions for commercial amusements, video arcades and simulated gaming establishments. Mr. Carroll seconded the motion and it passed 4-0 with Mr. Cahoy voting yes, Mr. Carroll yes, Mr. Prieto yes and Mrs. Minuse yes.

[Legislative]

F) An Ordinance of the City of Vero Beach, Florida, Amending Chapter 60, Section 60.06 (Only Specified Uses Allowed; Interpretation) of the Land Development Regulations; Updating the Reference Materials for Land Use Interpretation; Providing for Codification; Providing for Conflict and Severability; and Providing for an Effective Date (Z19-000011-TXT)

The Chairman read the Ordinance by title only.

Mr. Jeffries briefly went over staff’s report accompanied by a Power Point presentation (both attached to the original minutes). Staff recommends Planning and Zoning Board approval of the Ordinance for transmittal to the City Council for favorable consideration.

The Chairman opened and closed the public hearing at 3:49 p.m., with no one wishing to be heard.

Mr. Cahoy made a motion to approve the Ordinance amending Chapter 60, Section 60.06 as specified. Mr. Prieto seconded the motion and it passed 4-0 with Mr. Cahoy voting yes, Mr. Carroll yes, Mr. Prieto yes and Mrs. Minuse yes.

V. DISCUSSION OF REVISIONS TO THE SIGN CODE

Mr. Jeffries said that not much has changed on the revisions to the Sign Code since their last meeting. He said their next step is for staff to allow Mr. Turner the opportunity to review the information and then staff will bring it back before the Board.
VI. PLANNING DEPARTMENT MATTERS

Mr. Jeffries reported that the Board will be holding both scheduled meetings in August, which will be August 1, 2019 and August 15, 2019.

VII. BOARD MEMBERS’ MATTERS

None

VIII. ADJOURNMENT

Today’s meeting adjourned at 4:08 p.m.

/sp
PLANNING AND ZONING BOARD MINUTES
THURSDAY, AUGUST 1, 2019, AT 1:30 PM
COUNCIL CHAMBERS, CITY HALL, VERO BEACH, FLORIDA

PRESENT: Vice Chairman Steve Lauer Members: Honey Minuse, Robin Pelensky, Jose Prieto (arrived at 1:37), and Alternate Member #1 Richard Cahoy Also Present: Principal Planner, Cheri Fitzgerald; Planning and Development Director, Jason Jeffries, City Attorney, John Turner and City Clerk, Tammy Bursick

Unexcused Absence: Mr. John Carroll

I. PRELIMINARY MATTERS

A) Agenda Additions and/or Deletions

Mrs. Minuse asked why the minutes were not included with the agenda package. She was told that the minutes would be put on the next agenda for approval.

At this time the Clerk performed the roll call.

There were no changes made to the agenda.

II. PUBLIC COMMENT

There were no public comments made.

III. PUBLIC HEARING

[Legislative]

A. An Ordinance of the City of Vero Beach, Florida; Requested by Florida Institute of Technology to Annex Property Located at 805 46th Place East, Containing 4.0 Acres More or Less, Pursuant to the Voluntary Annexation Provisions of Section 171.044 Florida Statutes; Providing for an Effective Date (#AX19-000002)

The Chairman read the Ordinance by title only.

Mrs. Cheri Fitzgerald, Principal Planner, reported to the Board that the City received a voluntary annexation application petitioning the City Council to annex a parcel located at 805 46th Place East (east of north SR A1A). The subject parcel is contiguous to the City limits to the south. The applicant is Florida Institute of Technology (FIT) and the existing zoning is County, RS-3, Single Family Residential and the proposed zoning is City, C-1A, Tourist Oriented Services Commercial. In general, the reasons the applicant is seeking the annexation as stated in the application is: the proximity of the subject property to the City limits (adjacent on the south side); the property is now an enclave surrounded by two municipalities (Indian River Shores to the north and west, and the City to the south, benefits of the service of the City police; a voice in the City’s development and governing; and redevelopment of the parcel under City regulations is preferred.
Mrs. Fitzgerald explained that the applicant seeks a City Comprehensive Plan Future Land Use Map designation of C, Commercial and C-1A, Tourist Oriented Commercial Services Zoning District. She said as stated in the application, development of the subject property is consistent with the adjacent properties in the City limits and Indian River Shores will be more favorable to the productive use of the property. The finances were looked at with the annexation and the costs of revenue would handle any services provided by the City. The proposed annexation does meet the Florida Statute requirements. The benefits include having the entire portion of the property zoned C-1A. Staff recommends that the Planning and Zoning Board recommend approval for submission to the City Council of the Ordinance annexing the property located at 805 46th Place East, Vero Beach, Florida.

Mr. Jose Prieto arrived for the meeting at 1:37 p.m.

Mrs. Pelensky asked what happens to the tracking station.

Mrs. Fitzgerald said that it would remain as County property.

Mr. Lauer asked where does the boundary for the County end and Indian River Shores begin.

Mrs. Fitzgerald showed on the map provided in the Board's backup material where the County ends and where Indian River Shores begins.

Mr. Cahoy said so there is no longer a tracking station.

Mrs. Fitzgerald explained it is just a Park named after a tracking station.

Mr. Cahoy said the site that they are talking about to the south is vacant property.

Mrs. Fitzgerald explained that there is currently several buildings that FIT has on the property, but they are not being used. She said that they previously were used for research and development.

Mr. Lauer asked for the presentation by the applicant.

Mr. Barry Segal, Esquire, attorney for the applicant requested to speak. He said that his client is in the process of purchasing this property. He said that the property would not be developed by FIT. They have determined years ago that this property is no longer required for its current use and they have been trying to sell it for some time. Within the last few months they have abandoned all of their uses of the property. It was an old Air Force base property that was used for tracking submarines during World War II and it was given to FIT by the United States Government and used as a research facility. He said at this point it is somewhat of an eyesore. It is located right behind 7-Eleven and CVS Pharmacy. It is an old laboratory that has not been kept up. This property is contiguous to the City of Vero Beach. The property south to this property is zoned C1A. It is at this time a large vacant piece of land and from that property going south all the way down to Jaycee Park it is designated commercial. He said across the street there is residually high designated property once you get in front of 7-Eleven. All that is commercial property. He said they are basically looking at offices, one condominium, the Village Market and then down to the Bethel Creek House where it is mostly commercial. His applicant believes that this property needs to be in the City of Vero Beach. The current market value for the property is shown in their backup
material. He cannot disclose what the purchase price for this piece of property is, but said it is higher than what the property is assessed for at this time. He said right now there are no taxes collected for this property, even to the County. So getting this property back on the tax rolls will bring additional revenue into the City. His applicant has spoken to the Police Chief about providing services to this piece of property and the Police Department is excited to police this property. Right now they even provide coverage to that area when the Sherriff’s Department cannot get there in time. His client is planning on using this for residential and will want to be in the City of Vero Beach and participate in government. The residents will travel through Vero Beach to get to this property and utilize City businesses along the way. Mr. Segal felt that staff did an excellent job addressing all of the issues associated with the annexation without getting into the zoning and future land use issues. He feels that his client has more than satisfied all of the requirements that shows that this property should be annexed into the City of Vero Beach. He requested that the Board make a recommendation to the City Council that they enact this Ordinance. He said that Mr. Joe Schulke, Project Engineer for this property, was at today’s meeting if the Board had any questions.

Mr. Cahoy commented that Mr. Segal made a great argument for incorporation within the City of Vero Beach. He asked what is the argument for not pursuing this through the Town of Indian River Shores. He thought that CVS was also located in the Town of Indian River Shores.

Mr. Segal said that the CVS and the 7-Eleven were both located in the Town of Indian River Shores. He said when you think of the use of this property that you are primarily going to associate it with all of the City amenities that come south of this property. The residents will be using the Parks and different venues that would require them to participate in the City of Vero Beach. In terms of the Police Department, both Indian River Shores and the City of Vero Beach have excellent Police services, but his client feels that the City of Vero Beach provides better law enforcement. He said most important the Planning and Development Department in the City of Vero Beach is far more evolved than Indian River Shores. It is a much better process that will lead to a much better product.

Mr. Cahoy did not think that was much of an argument for not pursuing this through the Town of Indian River Shores. He felt that the contiguous boundaries make it viable to go that route. He wanted to know why the Town of Indian River Shores was not considered.

Mr. Segal explained it was not that the Town of Indian River Shores was not considered, it was just that the City of Vero Beach won the contest. This property will develop much better in the City of Vero Beach then it will in the Town of Indian River Shores.

Mrs. Pelensky asked Mr. Segal if they tried to annex into Indian River Shores. Mr. Segal answered no.

Mr. Lauer (Chair of today’s meeting) asked for any public comments.

Councilwoman Laura Moss asked that with regard to Indian River Shores, do they have a density restriction that might affect what is being proposed for a future use of this property.

Mr. Segal said not that he was aware of. He said directly north of CVS another project has been approved that would be similar or possibly more dense than what is here.

Councilwoman Moss asked if there is any other legal paperwork that establishes ownership
other than the Quit Claim Deed dated 1980. She asked are there other existing legal documents.

Mr. Segal said the only other thing is that there are certain restrictions with the Quit Claim Deed that the United States Government placed on the property, which has since been released. He said as purchaser of the property his clients have received title insurance commitment showing how the title is held currently and it is vested with FIT.

Councilwoman Moss asked if those documents were a matter of public record.

Mr. Segal explained that the title commitment is not. He said it would be just the Deed and once there is a release of restrictions from the United States Department of Education it will be a matter of public record.

Councilwoman Moss questioned if that document exists at this time.

Mr. Segal said that it is presently going through the different channels to be signed and then it will be recorded.

Councilwoman Moss said so then it will be available to the City Attorney.

Mr. Segal answered yes. He would be happy to share with Mr. Turner a copy of the title insurance commitment from Gray Robinson.

Councilwoman Moss asked Mr. Segal if he had knowledge of the history of this in terms of the United States Government taking this property.

Mr. Segal explained that he was not sure how the United States Government initially received title for this property. He said if Councilwoman Moss was concerned about a question to the title of the property there is the marketable record title act, which would give them a look back period.

Councilwoman Moss asked if this property was originally part of the City before it was seized by the Government.

Mr. Segal did not have any knowledge of this. Councilwoman Moss said it would be interesting to find out. Mr. Segal stated that he has reviewed the title work on the property before his client put down a considerable amount of money. Councilwoman Moss said maybe it already is a part of the City. Mr. Segal said that would be nice, but he did not think that was the case.

Councilwoman Moss said this goes back to World War II so it probably was part of the City. She said for the Planning and Zoning Board’s information that based on the Indian River County Tax Collector records, the current assessed value of this property is around $2.5 million and based on that the annual projected ad valorem tax revenue to the City of Vero Beach will be $6,427 in its entirety. That is the expected tax revenue at this time.

Mr. Segal explained if his client goes through with the purchase and the property gets reassessed on January 1st the 2020 taxes will reflect the new purchase price and his client starts construction that year and then in January 2021, the taxes will be reassessed with the retail units. He said the only change in services will be the Police Department having to turn
the corner and the Police Chief does not see that as being an issue at all.

Councilwoman Moss agreed that the City of Vero Beach has a wonderful Police Department, but Indian River Shores does also.

The public comment portion of the meeting was closed at 2:00 p.m., with no one else wishing to be heard.

Mrs. Minuse said that she does not see a problem with this. She said it seems to be beneficial both ways. They are already providing services there with law enforcement, water and sewer, etc., and it would be a financial benefit to the City.

**Mrs. Minuse made a motion to accept staff’s recommendations for the voluntary annexation of this property located at 805 46th Place East containing four (4) acres more or less. Mrs. Pelensky seconded the motion and it passed 5-0 with Mr. Cahoy voting yes, Mr. Prieto yes, Mrs. Pelensky yes, Mrs. Minuse yes and Mr. Lauer yes.**

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**[Legislative]**

**B. An Ordinance of the City of Vero Beach, Florida Amending the Comprehensive Plan Future Land Use Map by Changing the Future Land Use Designation of Annexed Land from Indian River County Designation L-1, Low-Density Residential-1 to City of Vero Beach Designation C, Commercial for the Property Located at 805 46th Place East, Containing 4.0 Acres More or Less; Providing for an Effective Date**

Mr. Lauer read the Ordinance by title only.

Mrs. Fitzgerald reported that this draft Ordinance is a companion to the other Ordinance that was just heard. The parcel is contiguous to the current City of Vero Beach City limit boundary line to the south. The subject property is partially developed with university research and development facilities. Existing commercial development is adjacent to the west of the subject parcel (CVS Pharmacy and 7-Eleven convenience store). The property to the south is in the City and is currently vacant or undeveloped. To the north is the Indian River Tracking Station Park. To the east is the Atlantic Ocean. The parcel is currently designated L1, Low Density Residential on the County’s Future Land Use Map. The land use designation allows residential uses and public Parks on the property. The proposed City future land use is C, Commercial. The adjacent future land use map designations are to the north L1, Low Density Residential (Indian River County) to the south C, Commercial (City of Vero Beach); and to the west CL., Limited Commercial (Indian River Shores). Staff finds that the requested amendment is justified in order to comply with Florida Statutes, which requires the City to adopt a Comprehensive Plan amendment that designates a future land use designation and corresponding zoning for the annexed area. Staff finds that the request to amend the Future Land Use Map is consistent with Policy 1.10 as it is adjacent to existing urban uses and has roadway access to SR A1A and that the provision of public facilities and services and the level of service and concurrency requirements should be met with the potential development of the property. The environmental impacts will be subject to environmental regulations as part of any future development of the parcel. The C, Commercial land use designation is compatible with the surrounding areas in terms of existing land use map designations and uses and the amendment meets the requirements for amendment of the Comprehensive Plan pursuant to Chapter 163, Florida Statutes. It would
be staff’s recommendation that the Planning and Zoning Board recommends approval for submission to City Council that an Ordinance amending the Future Land Use Map designation for the annexed property (4 acres) to C, Commercial.

Mrs. Minuse asked if the City owned the property to the south. Mrs. Fitzgerald said that the City does and referred to the map in their backup material that shows where Jaycee Park is located.

Mrs. Minuse commented that being an enclave it is so limited as to what can be done.

Mrs. Pelensky asked if the only access will be 46th Place between CVS and 7-Eleven. She asked could there be potentially a traffic light in that area.

Mr. Jason Jefferies, Planning and Development Director, said he does not believe so. He said that a traffic study has been done and it does not warrant a traffic light.

Mrs. Fitzgerald added that this was part of the hypothetical shopping center development as stated in the traffic report where there may be a need to put in an intersection and make some improvements along State Road A1A. She said if the City receives an application for site plan review it will be very specific to the rules and regulations and it would be brought to the Planning and Zoning Board.

Mrs. Minuse commented that with their next case they will be looking at the zoning map and discuss traffic impact, but not under this particular Ordinance. Mrs. Fitzgerald said that it can be discussed under both cases/Ordinances because they are related to each other.

Mr. Jeffries said that levels of service is something that they definitely want to look at as far as designating land use.

Mr. Lauer asked if there was any residential zoning that was contiguous to this parcel.

Mrs. Fitzgerald explained that there is to the north, which is the tracking station, which is technically low density residential. She thinks that was due to the Park use.

Mr. Cahoy asked to the south of the site, how is that developed currently and what is the use of that property to the south of this site.

Mrs. Fitzgerald said that it was vacant property. The next available property to the south would be multi-family.

Mr. Cahoy asked if he was correct that the development or expansion of the intersection and potential stop light would be triggered by a retail development versus a multi-family development.

Mrs. Fitzgerald explained that the applicant looked at the worse case scenario, which would be a shopping center. She said if the shopping center would be developed the worse case scenario is that there would be some intersection improvements. She said at this point they do not know what would be developed there, but they have to look at it when recommending changes to the land use. She said once there is a land development project then a real specific traffic report would be done and it would show the exact trip generation and distribution and all the impacts and from there it can be determined if an intersection is
needed. She said that this is generally just looking at the “big picture.”

Mr. Cahoy agreed that when looking at the big picture that they should not lose site of the fact that this is oceanside front property. He then asked if the existing property has been tested for any type of contamination. He noted that the site was adjacent to a gas station.

Mrs. Fitzgerald did not have that information. She said it is something that will be reviewed during the site plan application process.

Mr. Cahoy wanted it on the record that issue will be discussed at the appropriate time.

At this time there was a one (1) minute break that was taken so that the City Attorney could confer with the City Clerk.

Mrs. Tammy Bursick, City Clerk, made it clear for the record that when an alternate member has been seated at the commencement of the meeting due to the absence of a regular voting member the alternate member shall not be removed during the meeting, but shall instead sit in the place of the regular voting member for the duration of the meeting (Section 2-106 City Code procedures).

Mr. Barry Segal, Attorney, stated in addressing Mr. Cahoy’s concerns there is testing of the property that is taking place now. He said more of it has to do with the history of the property. He said that 7-Eleven just replaced all of their gas pumps and there is no concern with contamination from the 7-Eleven on to this property. He said that was one of the first things that he looked at when this process started. It will be documented as they continue through the process on this piece of property. He listed all the developments that are existing that lead up to this property.

Mrs. Minuse commented that historically the public has not been in favor of having a store like a Publix on the barrier island. She asked if this zoning would allow this to happen.

Mr. Jeffries explained that they are doing the future land use designation, which is commercial. He said that they could further restrict when they get to the zoning. He said with the zoning the request is for a C-1A, Tourist Oriented Commercial District, which is one of their more restricted commercial districts. He said when it comes to commercial land use designation that this is the only commercial land use designation that they have in the City.

Mr. Segal added that the worst scenario they probably would be looking at is adding a right turn lane near CVS.

Public comments was opened at 2:23 p.m.

Councilwoman Laura Moss asked what is the nearest oceanside commercial development south of this property. She was thinking Sexton Plaza or Jaycee Park. She said that the City has very little commercial development right on the ocean.

Mr. Segal said the only other thing that he can think of is the City’s property with Seaside Grill. He said that is not to say that they don’t have land use designated property that is commercial. He said there is a reason why there is not any commercial development on the ocean and that is because it is not economically viable. He said even if they wanted to put a
Publix in it would probably be smaller than the Beach Market.

Councilwoman Moss wanted to know what specifically is in mind for this and if there is a specific development in mind. She said otherwise it seems to her that eventually they would be opening Pandora’s box here.

Mr. Segal explained the plan from his client is just to have multi-family on the ocean.

Councilwoman Moss eluded to the documents that show that there is a problem already on A1A with traffic and also with the neighborhoods just south of this area. She said there is a new Committee that has been organized and is trying to address this problem. She said the traffic issues on A1A are very real and being felt by neighborhoods directly south of the area. She asked if there has been any traffic studies done.

Mr. Segal explained that there was a traffic study that was done and it has been supplied to staff.

The public comment section was closed at 2:26 p.m., with no one else wishing to be heard.

Mr. Cahoy pointed out the development of a potential grocery store such as Publix, while this particular site may not justify a grocery store, would not be as big as the Beach Market, but by adjoining this site to the contiguous property to the south it would provide a very large site for such a commercial development.

Mrs. Minuse made a motion to approve staff’s recommendation to change the Future Land Use Map for this annexed land to City designation C-Commercial for the property located at 805 46th Place East. Mr. Prieto seconded the motion and it passed 5-0 with Mr. Cahoy voting yes, Mr. Prieto yes, Mrs. Pelensky yes, Mrs. Minuse yes, and Mr. Lauer yes.

[Quasi-judicial]

C. An Ordinance of the City of Vero Beach, Florida Amending the Official Zoning Map by Changing the Zoning District Designation of Annexed Land from Indian River County Designation RS-3, Single-Family Residential District to City of Vero Beach Designation C-1A, Tourist Oriented Commercial District, for the Property Located at 805 46th Place East, Containing 4.0 Acres More or Less; Providing for an Effective Date (#Z19-000008-MAP)

The Vice Chairman read the Ordinance by title only and explained he would be following the guidelines in holding a Quasi-judicial hearing.

There were no ex parte communications reported from the members on the Planning and Zoning Board.

The City Clerk swore in staff and all witnesses present for this hearing en masse.

Any exhibits marked for identification will be kept by the City Clerk.

Mrs. Fitzgerald reported that the City received a Zoning Map Amendment application as part of an application to annex land into the City limits. The request is to zone the
parcel C-1A, Tourist Oriented Services District. The applicant is Florida Institute of Technology. The property is located at 805 46th Place East and is 4.0 acres and the existing zoning is County, RS-3 with the proposed zoning to be City, C-1A. The parcel is contiguous to the current City of Vero Beach City limit boundary line to the south. The property is partially developed with university research and development facilities. Existing commercial development is adjacent to the west of the parcel (CVS and 7-Eleven). The property to the south is in the City and is currently vacant or undeveloped. The parcel is currently designated L1, Low Density Residential on the County’s Future Land Use Map. The proposed City future land use is C, Commercial. The adjacent zoning districts are to the north, RS-3, Single Family Residential, to the south, C-1A, Tourist Oriented Services and to the west C-1A and C-2A, Commercial Districts (Indian River Shores). Since the property is an annexed parcel the City’s annexation policies and procedures are reviewed. In this case, the proposed zoning district is not comparable with the existing County designation. Staff finds the amendment is justified in order to comply with rules governing annexed property. The subject property is located in an accessible location. It has roadway access to SR A1A by way of 46th Place East. The property is located within an existing urban area and is adjacent to the ocean to the east and existing established commercial/retail uses to the west. The property is suitable for multiple-family residential and hotel/motel uses that support seasonal residents. Staff finds that the proposed zoning designation is consistent with the Land Development Regulations and zoning standards and criteria. Staff finds the C-1 zoning district designation to be compatible with the surrounding zoning map designations. The amendment is consistent with the concurrency requirements of the Comprehensive Plan and Land Development Regulations. The applicant prepared a Traffic Impact Analysis for the potential hypothetical development of the property to include a shopping center. The analysis indicated a potential for intersection improvements along the SR A1A corridor to maintain level of service standards should the property be proposed for development as a shopping center. Staff finds the provision of public facilities and services and the level of service and concurrency requirements should be met with the potential development of the property. Based on the analysis and findings, staff recommends that the Planning and Zoning Board recommend approval for submission to City Council that the Ordinance amending the Zoning District Map for the annexed property to C-1A, Tourist Oriented Services be approved.

Mrs. Minuse asked Mr. Jeffries to give an example of what the restrictive sales and services is referring to.

Mr. Jeffries read what they are. He said this excludes stores with warehousing and stores with drive up facilities. He said that shops along Ocean Drive are considered restrictive sales and services.

Mrs. Minuse said that she sees the popularity today with mixed use. She said residential upstairs with services downstairs.

There were no additional questions of staff. Mrs. Fitzgerald marked into evidence the staff report (all backup material). This was marked as Exhibit A.

Mr. Barry Segal, Attorney, stated that there is not much left to say that the Board has not already heard. He said that all of the standards have been met for his client to receive this zoning within the land use designation. As evidence he will rely on the staff report, which includes his application.
Mrs. Minuse has expressed her concern about traffic and in looking at the Kimley-Horn report and the conclusion that they had where they recommended that certain things will have to occur. She asked if that could be part of what they were requiring as a motion to approve this.

Mr. Jeffries explained that would all be a part of site plan process.

Public comments were opened at 2:41 p.m., with no one wishing to be heard.

There was no rebuttles or closing arguments to take place.

Mrs. Minuse referred to items D) and E) on their agenda. She was told that these applications were withdrawn on behalf of the applicant.

Mr. Cahoy expressed his concern about the projections that Kimley-Horn made relative to the intersection and signalization as they pointed out. He was told that would be addressed within the site plan approval.

Mrs. Pelensky commented that since the property to the south has already been zoned commercial and undeveloped the only way that it could ever change to residential designation would be another rezoning, which probably would never happen. She said with this small parcel to the north in comparison to that to the south and designating it to commercial will not make a whole lot of difference if the southern parcel gets developed.

Mr. Jeffries understood Mrs. Pelensky to be saying that the parcel to the south is larger so it will have a bigger impact. He agreed that would be like downzoning and there would be some property issues there.

Mrs. Pelensky felt that what they were looking at is that something eventually will happen to cause a larger impact on their traffic pattern then what they have now. She wondered if there was any way that changes could be made in the future so they don’t allow any higher zoning usage to that vacant parcel.

Mr. Jeffries said that there would be a lot of cautions about making it any more intense then what is already allowed in C-1A zoning. He said that C-1A is about the most intense that they will get on this corridor.

Mrs. Minuse made a motion to accept staff’s recommendation by amending the official zoning map for this parcel from the County’s designation of RS-3 Single Residential to the City’s designation of C-1A, Tourist Oriented Commercial District for this property at 805 46th Place East. The motion is made based on comprehensive substantial evidence according to their Codes. Mrs. Pelensky seconded the motion and it passed 5-0 with Mr. Cahoy voting yes, Mr. Prieto yes, Mrs. Pelensky yes, Mrs. Minuse yes, and Mr. Lauer yes.

[Legislative]
D. An Ordinance of the City of Vero Beach, Florida, Amending Chapter 60 (Appendix. Definitions) of the Land Development Regulations to Add the Definitions of Beach Club and Club, Private; Amending Section 62.35 (Permitted Uses) of the Land Development Regulations to Add Beach
Club as a Permitted Use in the C-1A Zoning District; Providing for Codification; Providing for Conflict and Severability; and Providing for an Effective Date (#Z19-000012-TXT)

This application has been withdrawn by the applicant.

[Legislative]

E. An Ordinance of the City of Vero Beach, Florida, Amending Sections 60.15 (Building Height Measurements) and 62.38 (Development Guidelines) of the Land Development Regulations to Add an Exception for Rooftop Decks, Patios, and Pools for the Embellishment Measurement in the C-1A Zoning District; Providing for Codification; Providing for Conflict and Severability; and Providing for an Effective Date (#Z19-000013-TXT)

This application has been withdrawn by the applicant.

IV. PLANNING DEPARTMENT MATTERS

Mr. Jeffries announced that the Planning and Zoning Board would be meeting on August 15th.

V. BOARD MEMBERS’ MATTERS

Mrs. Minuse asked if there were any quasi-judicial hearings coming up.

Mr. Jeffries said yes. That the Planning and Zoning Board would be looking at the affordable housing project on Royal Palm Boulevard.

VI. ADJOURNMENT

Mr. Prieto made a motion to adjourn today’s meeting at 2:50 p.m. Mrs. Minuse seconded the motion and it passed unanimously.

/tb
DEPARTMENTAL CORRESPONDENCE

TO: Chairman John Carroll, Jr and Planning and Zoning Board Members

FROM: Jason H. Jeffries, AICP
Director of Planning and Development

DATE: August 7, 2019

SUBJECT: Public Hearing on an Ordinance to Amend Section 62.45, to Add Animal Boarding as an Accessory Use in C-1 Zoning District

OVERVIEW

Dr. Mike Geraghty (applicant) is proposing a text amendment to Chapter 62 (Nonresidential Districts), Article III (Commercial Districts), Section 62.45, Accessory Buildings and Structures, to add animal boarding as an accessory use to a permitted veterinary use in the C-1, commercial zoning district. The applicant is proposing conditions on the animal boarding accessory use to mitigate any impact on residential uses adjacent to the C-1, commercial zoning district.

BACKGROUND

Accessory use is a structure or use that is customarily associated with and is appropriately incidental and subordinate to an allowable principal use or structure and located on the same lot. Whether the accessory use takes form of a garage or shed on a residential property, or a vending machine or sidewalk cafe on a commercial property, the City’s land development code (LDC) should reasonably permit accessory uses to appropriate primary uses while also ensuring that the use regulations protect public safety and the character of the area.

The LDC currently allows animal boarding in the M, industrial zoning district. The veterinary service use is permitted in the C-1, C-1B, and M zoning districts. The LDC requires all aspects of the veterinary service use to be conducted indoors. Animal boarding is not permitted at veterinary service establishments, unless the use is located in the M, industrial zoning district.

The applicant is proposing to allow veterinary services to have animal boarding as an accessory use in the C-1, commercial zoning district. The purpose of the C-1, commercial district is to provide adequate space in appropriate and highly accessible locations suitable for accommodating various levels of commercial development. The C-1, commercial zoning district permits large-scale retail sales and service, office, hotels, self-storage, vehicular sales and service, and wholesale uses. The C-1, commercial zoning district is primarily located along the US 1 corridor in the City, where automobile-oriented retail commercial uses are located. There are other areas of the City, such as 14th Avenue near 16th Street and various locations on A1A, that are zoned C-1. The proposed text amendment includes specific standards and criteria to...
ensure the proposed animal boarding is located in the US 1 corridor and through buffering requirements will not impact adjacent residential uses.

SUMMARY OF PROPOSED CODE

The following is the proposed criteria for the animal boarding use to be permitted as an accessory use in the C-1, commercial zoning district:

**Animal boarding.** A permitted veterinary service may have animal boarding as an accessory use, subject to the following standards:

a. Shall only be located in the C-1 zoning district on a lot adjacent to US #1 (SR 5).

b. The site shall be a minimum of one acre.

c. The animal boarding use shall not be located closer than 200 feet from a residential district.

d. Those parts of shelter structures in which animals are received or reclaimed/adopted, boarded (e.g., cages, pens, kennels), treated (e.g., treatment rooms, recovery rooms), or euthanized (e.g., euthanasia and dead-animal storage rooms) shall be fully enclosed and sufficiently insulated so no unreasonable noise or odor can be detected off the premises.

e. If abutting a residential use either a fifty-foot (50') landscaped buffer or a six-foot (6') high brick or finished masonry wall with a 5’ landscaped buffer shall be provided.

f. No nighttime operation, except for emergencies only.

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.** The applicant prepared a justification statement for the text amendment. In summary, the justification is stated as follows: the proposed text amendment will serve the public by providing animal boarding in locations along the US 1 corridor and allow animal boarding at approved veterinary clinics will provide a safe and healthy environment for animal boarding.

The staff finds the text amendment in the attached proposed ordinance 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 text amendment to be consistent with the following objective and policies of the Land Use Element of the City’s Comprehensive Plan:

**Land Use Objective 1. Future Land Use and Zoning Designations.** The City should manage future development and redevelopment to maintain and enhance the unique, small town character of the community and provide for an efficient distribution and compatible pattern of land uses to protect the City’s manmade and natural resources.

**Policy 1.10** The Commercial (C) Land Use designation shall be applied to those areas that are suitable for small to medium scale urban development and intensities. Those areas shall be limited to lands located near existing urban uses, or near the center of several neighborhoods, or areas in transition from residential uses to nonresidential uses. These uses shall be further limited to high access locations such as the intersections of arterial and collector streets or adjacent to arterial or collector streets. This land use category shall or may allow a broad mixture of residential, mixed residential, marinas, institutional, and nonresidential uses and supportive community services depending upon whether the use is listed as a permitted use or conditional use in the applicable underlying zoning district.

**Land Use Objective 3. Land Development Regulations and Administration.** The City should administer and maintain its Land Development Regulations in a manner consistent with the goals, objectives, and policies of this and other elements of the Comprehensive Plan and should revise these regulations as needed and appropriate to: 1) improve their readability, clarity, conciseness, and ease of administration; 2) create incentives and standards promoting mixed use, infill, and pedestrian/bicycle connected development in older residential neighborhoods and commercial areas; 3) reduce incompatibility between adjacent uses and maintain community character; and 4) promote diverse and distinctive commercial and neighborhood areas with a sense of place.

**Policy 3.1** The City’s adopted Land Development Regulations should meet and exceed the requirements of Section 163.3202 (2)(a) through (h) F.S. and shall constitute the City’s minimum requirements for land development. Additionally, the Land Development Regulations should contain or be amended, as appropriate, to include standards, procedures, and requirements for:

(a) governing the type, character and density of land use; bulk, height and placement of buildings; open space; conservation and protection of natural resources; landscaping and tree protection; stormwater management; protection of historic resources; mitigation of off-site impacts of development; variances and waivers; and the elimination or reduction in frequency of non-conforming uses and structures;
(b) Ensuring compliance with level of service standards for amendments to the Future Land Use Map and Zoning Map and the approval of development permits;

(c) Processing and reviewing applications for development approval including specific review thresholds, and for major projects requiring a quasi-judicial hearing by the Planning and Zoning Board, requirements for the posting of property, and notification to property owners in proximity to a proposed project;

(d) Processing and reviewing development applications that may impact historic and archaeological resources and environmentally sensitive areas; and

(e) Permitting development within special flood hazard zones pursuant to the City’s flood regulations and the National Flood Insurance Program.

Policy 3.2 The City should regulate the use and development of land through its Land Development Regulations in a reasonable and transparent manner, that respects private property rights, serves the public interest, and provides for due process and adequate public involvement in the development permitting process.

Land Use Objective 11. U.S. Highway 1 Corridor. The City should endeavor to improve the overall appearance, character, mix of uses, property maintenance, and development quality in the U.S. Highway 1 Corridor.

The proposed text amendment to allow animal boarding as an accessory use will govern the location and character of the animal boarding in the C-1, commercial zoning district, consistent with Policy 1.10 and will ensure the animal boarding at veterinary service uses are compatible with surrounding development, consistent with Policy 3.1. The proposed text amendment provides reasonable criteria for the location of animal boarding at veterinary service uses in the C-1, commercial zoning district, along the US 1 corridor, consistent with Policy 3.2. The listed criteria for animal boarding as an accessory use in the C-1, commercial zoning district will provide a transparent expectation for the establishment of animal boarding at veterinary service uses in the C-1, commercial zoning district. The location of animal boarding use in the US 1 corridor is compatible with the mix of automobile-oriented uses in the corridor and is consistent with Land Use Objective 11 for the future development of the US 1 corridor.

Consistency with Land Development Regulations. The staff finds the proposed text amendment to be consistent with adopted City land development regulations for the C-1, commercial zoning district.

RECOMMENDATION

The staff recommends the Planning and Zoning Board approval of the attached draft ordinance for transmittal to the City Council for favorable consideration.
ORDINANCE NO. 2019 - ___

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS TO AMEND CHAPTER 62, ARTICLE III, COMMERCIAL DISTRICTS, SECTION 62.45 TO ADD ANIMAL BOARDING AS AN ACCESSORY USE TO A PERMITTED VETERINARY SERVICES IN THE C-1 ZONING DISTRICT; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, a business owner has requested the City of Vero Beach to add animal boarding as an accessory use to veterinary service use in the C-1, commercial zoning district; and

WHEREAS, the commercial zoning districts are to provide adequate space in appropriate and highly accessible locations suitable for accommodating various levels of commercial development; and

WHEREAS, the City’s Comprehensive Plan, Land Use Element, Objective 3, requires the City to administer and maintain its land development regulations in a manner consistent with the goals, objectives, and policies of the Comprehensive Plan. The regulations should facilitate infill development in commercial areas and reduce incompatibility between adjacent uses and maintain community character; and

WHEREAS, it is the policy of the City of Vero Beach to amend, where appropriate, the land development regulations to include standards for the character and type of land uses within the City; and

WHEREAS, the Florida Growth Policy Act requires the local municipality to regulate the use of land and ensure the compatibility of adjacent uses; and

WHEREAS, there is compelling local interest to ensure the operating characteristics of any animal boarding use does not adversely impact public health, safety and general welfare of the community in which the animal boarding use is located; and

WHEREAS, it is appropriate to allow the animal use boarding use as an accessory use to a permitted veterinary service use in the C-1, commercial zoning district, with appropriate conditions relating to spacing and buffering from adjacent residential uses; and

WHEREAS, the Planning and Zoning Board, serving as the local planning agency under Florida Statute 163.3174, after a public hearing held on August 15, 2019, finds that the Code amendments provided in this Ordinance are consistent with relevant goals, objectives and policies contained within the City’s Comprehensive Plan; and

CODING: Words striken are deletions; words underlined are additions.
WHEREAS, notice was given as required by law that the text of the Land Development Regulations of the City of Vero Beach, Florida, be amended to add animal boarding as an accessory use to veterinary service use in the C-1, commercial zoning district; and

WHEREAS, advertisements were placed in a newspaper of general circulation and provided the public with at least ten (10) days advance notice of this Ordinance's public hearings to be held by the Planning and Zoning Board and the City Council of the City of Vero Beach ("City Council") in the City Council Chambers, located on the first floor of City Hall in the City of Vero Beach; and

WHEREAS, public hearings were held pursuant to the notices described above at which hearings the parties in interest and all others had an opportunity to be and were, in fact, heard; and

WHEREAS, the City Council, after providing legal notice and holding a public hearing, finds that the Code amendments provided in this Ordinance serve a municipal purpose and promote and protect the public health, safety, and welfare to add the accessory use in the C-1, commercial zoning district.

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

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, Section 62.45. - Accessory buildings and structures.

Section 62.45 of the Land Development Regulations is hereby amended to read as follows:

Sec. 62.45. – Accessory uses, buildings and structures.

(a) Timing of construction and use:

(1) No accessory building shall be constructed upon a lot until the construction of a main building has been completed and no accessory building shall be used unless the main building is in use.

(2) Walls, fences, and docks may be constructed prior to the construction of the principal use; provided, however, that any docks constructed shall be limited to two boats being moored at such dock and such boats shall be owned and registered or documented in the name of the owner of record of the property until such time as a principal use is constructed.

(b) Encroachment of side or rear yards. An accessory building may be located within a side or rear yard if the following conditions are observed:

(1) Any accessory structure closer than ten feet to the main building shall be constructed to be part of the main building and shall observe all yards required for the main building.
Any accessory structure located ten feet or more from a main building may be constructed
within five feet of any interior side or rear lot line.

Whenever a lot line is also a street line, the required yard for accessory buildings shall
be the same as for main buildings.

Accessory buildings built within a rear yard shall not occupy more than 30 percent of the
required rear yard nor more than 50 percent of the floor area of the main building.

Screened enclosures may be erected no closer than seven and one-half feet from the side
or rear property line, except that no enclosure shall be allowed on any easement.

(c) Standards for Specific Accessory Uses and Structures.

(1) Animal boarding. A permitted veterinary service may have animal boarding as an
accessory use, subject to the following standards:

a. Shall only be located in the C-1 zoning district on a lot adjacent to US #1 (SR 5).

b. The site shall be a minimum of one acre.

c. The animal boarding use shall not be located closer than 200 feet from a residential
district.

d. Those parts of shelter structures in which animals are received or reclaimed/adopted,
boarded (e.g., cages, pens, kennels), treated (e.g., treatment rooms, recovery rooms),
or euthanized (e.g., euthanasia and dead-animal storage rooms) shall be fully
enclosed and sufficiently insulated so no unreasonable noise or odor can be detected
off the premises.

e. If abutting a residential use either a fifty-foot (50') landscaped buffer or a six-foot
(6') high brick or finished masonry wall with a 5' landscaped buffer shall be
provided.

f. No nighttime operation, except for emergencies only.

Section 3 – Codification.

The provisions of this Ordinance shall be codified in the Code of Ordinances 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 the 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 by title for the first time on the ___ day of ____________
2019, and was advertised on the ___ day of ____________ 2019, for a public hearing to
be held on the ___ day of ____________ 2019, at the conclusion of which hearing it was
moved for adoption by Councilmember __________________, seconded by Councilmember
____________________, and adopted by the following vote of the City Council:

Mayor Val Zudans
Vice Mayor Anthony W. Young
Councilmember Laura Moss
Councilmember Harry Howle III
Councilmember Robert Bracket

ATTEST:

CITY OF VERO BEACH, FLORIDA

Tammy K. Bursick
City Clerk
Val Zudans
Mayor

ADMINISTRATIVE REVIEW
(For Internal Use Only—Sec. 2-77 COVB Code)

Approved as to form and Approved as conforming to
legal sufficiency: municipal policy:

John Turner
City Attorney
Monte K. Falls
City Manager

Approved as to technical requirements:

Jason H. Jeffries, AICP
Planning and Development Director

CODING: Words striken are deletions; words underlined are additions.
TO: Director, Planning and Development Department

1. The undersigned hereby petitions the City of Vero Beach for a change of the Zoning Ordinance and that the necessary hearings by the Planning and Zoning Board and the City Council be called to consider a change as summarized below:

   Add Animal Boarding as an accessory use inside Veterinary Clinics as a Conditional Use in the C-1 Zoning Districts.

2. Applicant Name: Dr. Mike Geraghty
   Mailing Address: 4001 Oak Hammock Lane
                   Fort Pierce, FL 34981
   Telephone #: (772) 240-0934 Fax #: 

On a separate sheet(s), provide justification for the proposed change.

Applicant’s Signature  
Date  

Application Fee:* Change in Permitted Uses $2,160 + $900 adv. fees
All Other Text Changes $1,620

* See attached fee schedule for additional advertising and administrative costs.
Standards for Specific Accessory Uses and Structures.

(1) Animal Boarding. A permitted veterinary service may have animal boarding as an accessory use, subject to the following standards:
   a. Shall only be located in the C-1 zoning district on a lot adjacent to US#1 9SR 5)
   b. The site shall be a minimum of one acre.
   c. The animal boarding use shall not be located closer than 200 feet from a residential district.
   d. Those parts of shelter structures in which animals are received or reclaimed/adopted, boarded (e.g., cages, pens, kennels), treated (e.g., treatment rooms, recovery rooms), or euthanized (e.g., euthanasia and dead-animal storage rooms) shall be fully enclosed and sufficiently insulated so no unreasonable noise or odor can be detected off the premises.
   e. If abutting a residential use either a fifty-foot (50') landscaped buffer or a six-foot (6') high brick or finished masonry wall with a 5' landscaped buffer shall be provided.
   f. No nighttime operation, except for emergencies only.
ZONING TEXT AMENDMENT JUSTIFICATIONS

**Justification 2:**
Describe why the text amendment is needed and public purpose is served by the amendment.

The proposed text amendment would serve the public by providing animal boarding to a location in the southern portion of the City of Vero Beach’s US 1 Corridor that is not available to the public today. The animal boarding would only occur inside an approved veterinary clinic within the C-1 zoning designation. Animal boarding at approved veterinary clinics will provide for a safe and healthy care environment for animals while their owners are away under medical circumstances, business, or vacation. In addition, allowing this use and an accessory to an approved veterinary clinic provides a peace of mind to the owners knowing their pet is being boarded and cared for at an actual clinic with 24-hour on-site staff.

**Justification 3 – Compliance with Comprehensive Plan Sections and Bulk Regulations:**
Describe how the text amendment is consistent with relative goals, objectives and policies of the Comprehensive Plan and internally consistent with the purposes, permitted uses, bulk regulations, and other standards of the zoning ordinance that are not the subject of the proposed amendment.

The text amendment can be identified most closely with the below two sections of the City’s Comprehensive Plan. These sections are found in *Chapter 2 - Land Use Element Goal, Objectives and Policies*, and were analyzed below in relation to the proposed text amendment’s conformance to said sections.

**Section 1.10- Commercial Land Use Designation:**
This section focuses on the commercial land use designation within the City of Vero Beach. Pursuant to the comprehensive plan, commercial land-use districts may allow for a broad mixture of residential, mix residential, institutional and non-residential uses that are supportive to the community with their services they offer. Allowing for animal boarding as an accessory use inside an approved veterinary clinic within the commercial zoning serves the public by providing for a safe and proper environment for an owner to board their pet. This is consistent with intent and policies outlined in Section 1.10.

**Section 11- US Highway 1 Corridor:**
This section focuses on the US 1 Highway corridor and developments within and adjacent to this area. The US 1 Corridor policy is to ensure the developments within this area are appropriate for the zoning classification and that the proper site development elements such as vehicle access, pedestrian access, buffers and overall use type of a parcel conforms to the overall appearance, and intent of the US 1 Corridor. The text amendment allowing the animal boarding as an accessory use inside an approved veterinary clinic within this zoning will remain consistent with the above-mentioned policies and objectives. Any parcel proposing said use type within this corridor must provide for the proper buffering, setbacks, vehicular parking and access, pedestrian access, and building appearance as required by code. Projects will have to obtain prior approval from the applicable City departments which will ensure any project proposing this use type will comply with the aforementioned bulk land development regulations, as well as the applicable Comprehensive Plan policies.