

**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 residentially 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 Sheriff'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.

[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 (#C19-000003-FLUM-MAP)

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 (4acres) 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 SRA1A 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 down stairs.

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 rebuttle 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 than 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 than 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

