

**PLANNING AND ZONING BOARD MINUTES
THURSDAY, SEPTEMBER 3, 2020 - 1:30 PM
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

PRESENT: Vice Chairman, Honey Minuse; Members: Jose Prieto, Jeb Bittner, and Alternate Member #1, Richard Cahoy **Also Present:** Planning and Development Director, Jason Jeffries; Principal Planner, Cheri Fitzgerald, City Attorney, John Turner and Deputy City Clerk, Sherri Philo

Excused Absences: Steven Lauer and Robin Pelensky

Today's meeting was called to order at 1:30 p.m., and the Deputy City Clerk performed the roll call.

I. PRELIMINARY MATTERS

A) Agenda Additions and/or Deletions

None

II. APPROVAL OF MINUTES

A) Regular Meeting – August 20, 2020

Mr. Prieto made a motion to approve the minutes of the August 20, 2020 Planning and Zoning Board meeting. Mr. Bittner seconded the motion and it passed unanimously.

III. PUBLIC COMMENT

None

IV. PUBLIC HEARING

[Quasi-judicial]

A. An Ordinance of the City Council of the City of Vero Beach, Florida, Amending the Official Zoning Map by Changing the Zoning District Designation of Property from POI, Professional Office Institutional To RM-13, Multiple Family Residential, for the Property Located at 915 East Causeway Boulevard, Containing 0.34 of an Acre More or Less; Providing for an Effective Date

The Vice Chairman read the Ordinance by title only.

There were no ex parte communications reported.

Mrs. Minuse said that she does not have any ex parte communication, but she was serving on the Board in 2014, when this property was previously addressed.

The Deputy City Clerk swore in staff present for today's hearing en masse.

Mrs. Cheri Fitzgerald, Principal Planner, went over staff's report accompanied by a Power Point presentation with the Board (attached to the original minutes). Based on the analysis and findings, staff recommends that the Planning and Zoning Board recommends approval for submission to the City Council of the Ordinance amending the Zoning District Map from

POI to RM-13 for the property located at 915 East Causeway Boulevard.

Mr. Bruce Barkett, Attorney for the Applicant, said that he is present to answer any questions of the Board.

The Board did not have any questions.

The Vice Chairman opened the public hearing at 1:44 p.m.

The Deputy City Clerk swore in Mrs. April Milicevic.

Mrs. April Milicevic, who has been sworn in, asked if they change this to residential, would that change the impact of the development of the property. She said there are 15 or 16 mature Live Oak Trees on the property and she doesn't know how they could put a multi-residential facility on the property without taking some of those trees down.

Mrs. Minuse explained that at this point the Board is looking at rezoning so that a site plan could be developed and those issues would come up during the site planning process, which will also come before the Board.

Mrs. Milicevic questioned that there are certain building restrictions for taking out Live Oak Trees.

Mr. Jason Jeffries, Planning and Development Director, explained that any site plan would have to comply with the City's Tree Protection Ordinance. He noted that everyone has the right to develop their property, but under the Tree Protection Ordinance, there are certain mitigation requirements that have to be followed when removing trees.

The Vice Chairman closed the public hearing at 1:46 p.m., with no one else wishing to be heard.

Mr. Prieto made a motion to approve the Ordinance of the City Council of the City of Vero Beach to amend the Official Zoning Map by changing the zoning district designation of property from POI, Professional Office Institutional to RM-13, Multiple Family Residential based on competent substantial evidence. Mr. Bittner seconded the motion and it passed 4-0 with Mr. Cahoy voting yes, Mr. Bittner yes, Mr. Prieto yes, and Mrs. Minuse yes.

[Quasi-judicial]

- B. Minor Subdivision Application Submitted by Masteller, Moler & Taylor, Inc, for a Proposed Subdivision of Existing Residential Lots 1, 2, & 3, Block 2, Riomar Subdivision Plat No. 2, which is Considered a Single Residential Lot under Unity of Title, to be Subdivided into Two Residential Lots A & B Located at 995 Painted Bunting Lane (#SD20-000003)**

The Vice Chairman read the Minor Subdivision Application submitted by Masteller, Moler and Taylor, Inc. by title only.

There were no ex parte communications reported.

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

Mr. Jeffries reported that he distributed to the Board an email in support of this application from Mr. Richard Muzzy (attached to the original minutes).

Mr. Jeffries went over staff's report accompanied by a Power Point presentation with the Board (attached to the original minutes). Based on staff's analysis and findings, staff finds that the proposed subdivision plat application meets the criteria for plat approval and recommends approval of the plat subject to the demolition of the accessory structure.

Mr. Cahoy asked is there a timeframe for the removal of the accessory structure.

Mr. Jeffries said that he would not sign off on the plat until the demolition of the structure occurs.

Mrs. Minuse said so any motion the Board makes for approval would include demolishing the accessory building.

Mr. Jeffries said that would be staff's recommendation so it would be in compliance with the platting criteria.

Mr. Bill Stewart, Attorney for the Applicant, gave a brief overview of the history of the property. He stated that the main building was built in the 1920's and they had a garage attached. The house was relocated to fit on the first lot and the garage was left in place and was converted to a small guesthouse/cottage. He said that he does not know how long it would take to get someone to remove the cottage or what is involved. He hoped that that the Board would not hold up filing the plat and that they would give them a time limit for demolition of the building.

Mrs. Minuse asked Mr. Turner for his comments.

Mr. John Turner, City Attorney, said that he is not familiar with what Mr. Stewart is referring to on the requirement on removing the building, but he would go along with staff's recommendation.

Mrs. Minuse said they are not putting a timeline on the demolition; they are just stating that it will happen.

Mr. Turner said that is correct unless they want a timeline.

Mr. Stewart said they would prefer 50-days, but anything is better than holding up the plat because the current owners would like to sell the property and it cannot be marketed until the plat is filed.

Mr. Jeffries said if he understands the request, they want to file the plat before demolition of the building.

Mr. Stewart said that is correct.

Mr. Jeffries said that he would have concerns because he doesn't think they could file something until it is in compliance with the Code.

Mr. Stewart said that he doesn't see where holding up the recording of the plat is going to

accomplish much.

Mr. Prieto said speaking from demolition experience, demolition permits are not difficult to get. They are very straight forward and you should be able to apply for it and receive it quickly.

Mr. Stewart said the people involved do not live in Florida. They are the children of the deceased and they are going to have to come to Florida from New Jersey, California, and North Carolina and remove whatever treasures they have in the building. He said with COVID-19, he was not sure when they could all come to Florida.

Mr. Bittner thought what they were asking the City to do is to record a plat that is not in compliance. He said although there are personal reasons, they would be setting a precedent in that they would be asking the City to record something that is not in compliance.

Mr. Stewart said their main request is to get the plat approved. If the Board doesn't think their representation that they are going to remove the building in a reasonable amount of time is adequate then that is that.

The Vice Chairman opened the public hearing at 2:12 p.m.

The Deputy City Clerk swore in Mrs. Charlotte Terry (spelling may be incorrect).

Mrs. Charlotte Terry, who has been sworn in, said that she is the Realtor representing the family of this property. She said it might not take long to get a demolition permit, but in her experience in doing demolition it is realistically almost impossible to get it done in a month.

The Vice Chairman closed the public hearing at 2:13 p.m., with no one else wishing to be heard.

Mrs. Minuse said that she would like to resolve the issue about when the demolition should occur.

Mr. Turner was not sure what the problem is. He said they have requested to re-subdivide three (3) lots into two (2) lots and they have to comply with the present subdivision requirements and rules.

Mr. Jeffries explained that by separating the properties, the assessory building is on a separate lot that does not meet the minimum size standards for a house in the zoning district so they would be creating a nonconforming structure.

Mr. Cahoy said the building could also be removed. He said it doesn't have to be demolished.

Mr. Jeffries said that is correct. He said they could move the building and conform on Lot A. It just has to be removed from the resulting Lot B.

Mr. Bittner asked is this required to go before the City Council.

Mr. Jeffries said the City Council only approves plats when they involve the dedication of a public right-of-way. This is what is considered a minor subdivision, which requires Planning and Zoning Board approval.

Mr. Bittner agreed with Mr. Jeffries in that they would not want to set a precedent by creating an illegal lot that is from the minute it is signed and recorded is out of compliance with the City's Land Use regulations. But, he also thinks if this Board is the only body to approve this, they could make a motion to approve the subdivision with the condition that the Planning and Development Director would not sign the plat and it could not be recorded until it is in compliance, which in this case is the removal of the structure. That way the property owners would have their approval of the subdivision as evidence.

Mrs. Minuse said so they are not saying demolition, but removal.

Mr. Bittner said they could just say in compliance with the land use regulations, which is removal of the structure.

Mr. Jeffries said they could say removal or in compliance. He said that he did use the word "demolish," but they could remove the structure or relocate it to Lot A.

Mr. Cahoy questioned so what they are suggesting is that the Board approves the new plat, but that Mr. Jeffries would not execute the plat until they are in compliance. He said that is exactly what this states, with the exception of the word "demolished." He said they haven't changed this.

Mr. Prieto said that is correct. He said Mr. Jeffries' presentation basically said that.

Mr. Prieto made a motion to approve the Minor Subdivision Application submitted by Masteller, Moler and Taylor, Inc., for a proposed subdivision of existing residential Lots 1, 2, and 3, Block 2 Riomar Subdivision Plat Number 2, which is considered a single residential lot under Unity of Title, to be subdivided into two (2) residential Lots A and B located at 995 Painted Bunting Lane.

Mrs. Minuse added to the motion, subject to removal of the assessor's structure.

Mr. Prieto said that is correct adding to the motion, based on the conditions that Mr. Jeffries outlined. Mr. Bittner seconded the motion.

Mr. Cahoy wanted to make sure they are clear that this would not be signed off by the Planning and Development Director until removal of the structure has occurred.

Mr. Jeffries said based on the motion that is correct.

The motion passed 4-0 with Mr. Cahoy voting yes, Mr. Bittner yes, Mr. Prieto yes, and Mrs. Minuse yes.

V. PLANNING DEPARTMENT MATTERS

Mr. Jeffries reported that their next meeting will be held on September 17, 2020.

Mr. Jeffries reported that he placed on the dais before the Board members an updated copy of the zoning map and land use map (on file in the City Clerk's office).

VI. BOARD MEMBERS' MATTERS

None

VII. ADJOURNMENT

Today's meeting adjourned at 2:27 p.m.

/sp