

**PLANNING AND ZONING BOARD MINUTES
THURSDAY, NOVEMBER 5, 2020 - 1:30 PM
COUNCIL CHAMBERS, CITY HALL, VERO BEACH, FLORIDA**

PRESENT: Chairman, Steven Lauer; Members: Jeb Bittner, Robin Pelensky, Alternate Member #1, Richard Cahoy and Alternate Member #2, Elliese Shaghnessy **Also Present:** Principal Planner, Cheri Fitzgerald; Planning and Development Director, Jason Jeffries; City Attorney, John Turner and Deputy City Clerk, Sherri Philo

Excused Absence: Jose Prieto

Today's meeting was called to order at 1:32 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 – October 15, 2020

Mrs. Pelensky made a motion to approve the minutes of the October 15, 2020 Planning and Zoning Board meeting. Mr. Bittner seconded the motion and it passed unanimously.

III. PUBLIC COMMENT

None

IV. PUBLIC HEARINGS

[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-10, Multiple Family Residential, for the Property Located at 1845, 1867, and 1895 42nd Avenue, Containing 1.037 Acres More or Less; Providing for an Effective Date.**

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 today's hearing en masse.

Mr. Lauer reported that all diagrams, photographs, and other exhibits referred to during the testimony that they would like the Board to consider must be marked for identification and kept by the City Clerk.

Mrs. Cheri Fitzgerald, Principal Planner, went over staff's report accompanied by a Power Point presentation with the Board members (attached to the original minutes). Based on the

analysis and findings in the staff report, the recommendation of staff is approval to the City Council of the Ordinance, which changes the subject property from POI to RM-10 for the property located at 1845, 1867, and 1895 42nd Avenue.

Mr. Joseph Schulke, of Schulke, Bittle, Stoddard, who has been sworn in, said that he is present for today's hearing representing the applicant. He said the rezoning proposal is consistent with the land use of RM and is consistent with the adjacent uses of the neighborhood. He reported that the aerial that was submitted in their application identifies single family and multifamily homes to the north, south, and east. He said that they did a traffic concurrency analysis and there was a decrease in traffic in almost all cases with the exception of peak hours, but in total trips it was actually less. With regards to water and sewer, a letter was sent to the Water and Sewer Department and they confirmed that there is adequate capacity. He said they submitted a concurrency application to the school and they confirmed that there is adequate capacity. He felt that POI zoning was an antiquated zoning district, especially with Covid because people are now working from home. He felt that there will be less and less need for office space.

The Chairman opened the public hearing 1:49 p.m.

The Deputy City Clerk swore in Mr. Jerry Amico.

Mr. Jerry Amico said that he owns the office building located at 1946 43rd Avenue. He said if they put in a rental unit they will be lowering the value of his property. He asked that the Board not accept this change.

Mr. Lauer questioned the locating of his property.

Mr. Amico explained that Young's Market is located on the corner, then there is a Seven-Eleven, then Ume Grill, and then his building.

Mr. Bittner said a 10-unit building was discussed. He asked at this stage are they discussing the type of product.

Mr. Jason Jeffries, Planning and Development Director, explained that they are currently looking at zoning. He reported that the Future Land Use designation is currently Residential-Medium, which already entitles a property owner a certain amount of density. He said this property is currently zoned POI and they are actually in a sense downzoning to a multi-family district.

Mr. Lauer asked Mr. Amico why he thinks this would reduce the value of his building.

Mr. Amico asked is the idea that this would be a low cost subsidized building or a higher level condominiums.

Mr. Jeffries explained that the City cannot regulate the type of ownership of a property. He said multi-family could be apartments or it could be owner occupied.

Mr. Amico said if it is low cost subsidized housing that will lower the value of every building in the vicinity.

Mr. Schulke pointed to the property location on the aerial map noting that Mr. Amico's property is not in view (aerial attached to the original minutes). He said that his property is not even close to this property. He said this property is surrounded by single-family residential and apartments. He said that he cannot tell the Board what the property owner is going to do yet, but regardless it allows for multi-family, town homes, etc., so they are consistent with the zoning. He said they would be building something that is consistent with the neighborhood.

Mr. Amico said that he understands it is quite a procedure to get rezoning. It is expensive and time consuming. He said that he is confused as to why someone would go through this whole process and is not able to say what they are planning to do. He requested that the Board ask the applicant what their plans are for the property.

Mr. Jeffries noted that this is a rezoning hearing on what any use on the property could be, not just to a particular development on the property. That would come with the site plan process.

Mrs. Pelensky felt that staff laid it out clearly that this meets the requirements. She referred to the slide in the Power Point presentation that showed the comparison of permitted uses in POI and RM-10. She said it seems like POI is more incompatible with what is there.

Mr. Lauer said that he didn't understand the argument about decreasing the value of the property. He said they are in the same neighborhood, but he doesn't see how the zoning change would adversely affect Mr. Amico's property. He said it would seem that this would enhance his value because there would be less competition. He noted that they are seeing a tremendous decrease in the demand for commercial rentals. He said that he can understand why the applicant wants this change based on where the property is located and what the surrounding areas are being used for.

Mr. Bittner made a motion that based on competent substantial evidence and the testimony given today, that the Board approves the Ordinance of the City Council of the City of Vero Beach amending the Official Zoning Map by changing the zoning district designation of property from POI, Professional Office Institutional to RM-10, Multiple Family Residential, for the property located at 1845, 1867, and 1895 42nd Avenue, containing 1.037 acres more or less, providing for an effective date. Mrs. Pelensky seconded the motion and it passed 5-0 with Ms. Shaghnessy voting yes, Mr. Cahoy yes, Mrs. Pelensky yes, Mr. Bittner yes and Mr. Lauer yes.

[Legislative]

- B. An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by Amending Chapter 64, Article I, Section 64.10, Site Plan Review Standards And Conditions, To Add Outdoor Facilities For Broadcast Studios As An Allowed Outdoor Business Activity In The Ali-1, Airport Light Industrial Zoning District; Providing For Codification; Providing For Conflict And Severability; And Providing For An Effective Date.**

The Chairman read the Ordinance by title only.

Mr. Jeffries reported that the applicant, Mr. Tim Girard, of Girard Manufacturing, is requesting to add facilities for broadcast studios and to allow outdoor activity. He explained that several months ago the Board heard a text amendment to allow this use in the zoning

district and what this Ordinance is doing is to allow some activities outdoors. The City's Code is very strict in that under Section 64.10 (c) it requires that all manufacturing and business activity be conducted entirely indoors and only provides very specific exemptions, which are, *outdoor dining, outdoor retail displays, outside storage of commercial vehicles and equipment, outdoor repair or servicing of vehicles, watercraft, or equipment, outdoor display of vehicles, equipment, or watercraft for sale or rent, commercial nurseries, and microbrewery equipment.* He explained that the applicant has requested to allow a broadcast studio production to occur only in the Airport Light Industrial (ALI -1) Zoning District. He then went over staff's report accompanied by a Power Point presentation with the Board members (attached to the original minutes). Staff recommends approval of the text amendment (Ordinance).

Mrs. Pelensky asked is this for a new building.

Mr. Jeffries said this is the old Transmission and Distribution (T&D) facility and there is an old storage yard in the back that they want to use for the outdoor production facility. He said the use itself is occurring on the second floor of the old office building, which the City Council has already approved that text amendment, which allows that use in the zoning district. He noted they also have received Code Compliance approval from City staff for that use on the second floor of the building.

Mr. Bittner said that he is not familiar with this type of a use (entertainment). He asked will it apply to the entire Airport Zone.

Mr. Jeffries explained that anything zoned ALI-1 broadcast studio, they could have this outdoor facility, but any requests for it would still have to go through the standard site planning review process.

Mr. Bittner asked are there any residential or outdoor dining areas adjacent to this site.

Mr. Jeffries said that he would need to research that. He said this area is east of 43rd Avenue on Airport West Drive and there are some areas on the south side of the Airport that are zoned ALI-1.

Mr. Bittner asked could this happen next to a restaurant where people could be dining outside.

Mr. Jeffries said if the use is disruptive with outside impacts that would be a reason for the Planning and Development Director to rescind the permit.

Mr. Cahoy said the first text amendment occurred very recently. He asked how is it that this additional concept surfaced now.

Mr. Jeffries said initially it was about having a broadcast studio indoors and at that time he was not aware they were planning this outdoor use.

Mr. Cahoy asked is there anything else in this district that has similar outdoor activities (live music).

Mr. Jeffries questioned in terms of creating that type of noise.

Mr. Cahoy said not just because of noise, but because of traffic, parking, security, etc.

Mr. Jeffries said there are uses in that district that allows certain aspects of their business to be outdoors.

Mr. Jeffries went back to the question regarding the uses adjacent to the ALI-1 Zoning District. He reported that 43rd Avenue is the boundary of Airport West Drive and there is residential west of that, which is the old Dodger Pines site. He noted that even though it is residential, it is residential that is located close to an industrial area.

Mr. Bittner asked Mr. Girard what outdoor use he envisioned with this text amendment.

Mr. Tim Girard, applicant, reported that this is a television network that has a show called “Story Teller,” which musicians can come in and talk about their songs, do a small recording inside, and then go outside and simulate a live performance. He noted that there would not be a lot of people in attendance. He said the show is supposed to be 26-weeks and is to start in January and end sometime around March.

Mr. Bittner asked how many people do they think will be in attendance.

Mr. Girard said there would probably be less than 1,000 people on site. He said most of the time there would be smaller groups with maybe 10 to 20 people, mostly production.

Mrs. Pelensky questioned so these events would be open to the public by invitation.

Mr. Girard said yes, by invitation and there would be a commercial aspect to it.

Mrs. Pelensky said hours of operation was mentioned in the text amendment. She asked is that somehow designated.

Mr. Jeffries said that would be done through the permitting process. He explained that by having this language it gives the Planning Director the authority to set the limits.

Ms. Rebecca Grohall, of MPV Engineering, reported that this would be permitted after they submit a Code Compliance plan, which will show how they will meet the Code. She said they would not be using this site for concerts for the public, but to do the recording for the associated television entertainment.

Mr. Cahoy felt that the text was too vague and open ended. He said that he doesn't think this is an appropriate use for this district and he does not support it.

Mr. Lauer asked is it because of something in particular.

Mr. Cahoy said that he is concerned with the outdoor entertainment event to the extent that there was testimony that there would be a maximum of 1,000 people.

Mr. Jeffries noted that they would have to have sufficient parking for that number of people on site and this site does not provide for that amount of parking.

The Chairman opened and closed the public hearing at 2:47 p.m., with no one wishing to be heard.

Mrs. Pelensky made a motion that the Board approves staff's recommendation based

on competent substantial evidence.

Mr. Jeffries noted that this is a text amendment and the Board is making a recommendation to the City Council.

Mr. John Turner, City Attorney, said the motion would be to recommend approval of the text amendment to the City Council.

Mrs. Pelensky agreed that is her motion (that the Board recommends approval of the text amendment to the City Council). Mr. Bittner seconded the motion and it passed 4-1 with Ms. Shaghnessy voting yes, Mr. Cahoy no, Mrs. Pelensky yes, Mr. Bittner yes, and Mr. Lauer yes.

V. DISCUSSION OF SITE PLAN REVIEW REQUIREMENTS FOR PROJECTS ADJACENT FDOT ROADWAYS

Mr. Jeffries briefly went over staff's correspondence regarding site plan review requirements for projects adjacent to Florida Department of Transportation (FDOT) roadways accompanied by a Power Point presentation with the Board members (attached to the original minutes).

VI. PLANNING DEPARTMENT MATTERS

Mr. Jeffries reported that the November 19, 2020, Planning and Zoning meeting has been cancelled.

VII. BOARD MEMBERS' MATTERS

Mr. Lauer said that Mrs. Honey Minuse has resigned from the Board in order to serve on the City Council. He said that he would like the Board to honor her somehow for her 10-years of service on the Board. The Board members agreed.

Mr. Lauer said that he would like to present her with something at a City Council meeting.

Mr. Cahoy suggested giving her a proclamation.

Ms. Sherri Philo, Deputy City Clerk, said that she would speak with the City Clerk about the possibility of the Board presenting Mrs. Minuse with a certificate.

VIII. ADJOURNMENT

Today's meeting adjourned at 3:01 p.m.

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