



CITY OF FORT PIERCE

PLANNING BOARD MINUTES

**REGULAR MEETING - TUESDAY, NOVEMBER 10, 2009,
FORT PIERCE CITY HALL, COMMISSION CHAMBERS,
100 NORTH US HIGHWAY 1, FORT PIERCE, FLORIDA.**

Chairman Johnson called the meeting to order.

The Pledge of Allegiance was recited.

Upon Roll Call, those present were: Marcia Baker, Dan Dannahower, Charlie Hayek, Jeremiah Johnson, Robert Poitier, Steve Weaver, Kara Wood, Camille Yates, and Eloise Cumings.

Those absent: Charlie Harris and Colin Lloyd (called in).

Staff Present: Jim Walker, Board Attorney; David Carlin, Assistant Director of Planning; and Diann Ploetz, Planning Specialist.

The next item considered - **#4 – Certification of Alternate Members.**

Chairman Johnson said Ms. Cumings, thank you for sitting in as our alternate member. You have full voting privileges.

The next item considered - **#5 - Minutes of September 9, 2009 and October 13, 2009 meetings.**

Motion made by Mr. Poitier, seconded by Ms. Baker, **to approve the Minutes of September 9, 2009 and October 13, 2009.** Unanimously approved by voice vote.

The next item considered - **#6. Zoning Atlas Map Amendment:**

- a. 2301 Sunrise Blvd** – A request for approval for a change in zoning classification from R-2, Single Family Intermediate Residential, to C-1, Office Commercial, for the property located at 2301 Sunrise Blvd. The property owners are Lee L. Legler, ARVOS LLC, Kathleen Knight, and William Knight.

Mr. Carlin said thank you, Mr. Chairman and members of the board. Tonight, you have before you an application for a rezoning. As you can see from the aerial, the subject property is located at the southwest corner of Virginia and Sunrise at 2301 Sunrise Blvd. The property is currently zoned R-2, Single-Family Intermediate Density. The requested zoning classification is to C-1, Office Commercial. As you can see in the upper right hand corner there is Office Commercial located to the northeast we have R-4, residential density to the east as well, and R-1 to the north and west of Virginia Avenue. Now the applicant is requesting...actually I should point out the land use. The current land use for the area is RL and it has a...as you can see Commercial Office land use just to the northeast and an RM designation to the east. Now the applicant is requesting the change in zoning classification as the current zoning does not legitimize the type of office type uses that are currently on the property and the property owners are concerned that in the event that there is ever any damage to the subject building for whatever reason it could be associated with that it would not be able to be reconstructed. So the applicant is requesting the rezoning pursuant to the code Section 22-128 and after review by staff, we have determined that the requested change is consistent with the surrounding land uses and is also consistent with the Comprehensive Plan and it does satisfy the amendment standards. In addition, public facilities are available to serve this particular development and it is located on Virginia Avenue, as I already indicated, which is an arterial. Now staff does recommend that the planning board forward a recommendation for approval of the rezoning from R-2 to C-1 to the city commission. I will be glad to answer any questions that you may have. And I believe the applicant is here, as well, tonight.

Chairman Johnson said any questions of staff?

Ms. Baker said yes, Mr. Chairman. The current parking on the map that was supplied shows 18 spaces. Upon inspection, there are actually 19 spaces. However, the C-1 zoning with the amount of square footage that's there calls for 22 spaces. Are we permitted or can the staff recommend that the space requirements be waived so that they would not be...so they would be in complete conformity if this is passed?

Mr. Carlin said Mr. Chair, Ms. Baker, to answer that question I want to make sure that we are working, are analyzing that information to the technical level and that really has to do with whether or not that number that was derived to generate the number of parking spaces that exist today, whether that number actually contemplated gross floor area. We've had many circumstances where we have existing buildings come in where back in the day the code may not have been utilized to the benefit by a particular office or retail business establishment. Because what happens here is with gross floor area you can actually deduct out bathrooms, hallways, staircases, elevator shafts, ceiling heights less than 7 feet. So in reality, the number that was used to generate this parking may not, in fact, represent the required amount. It might be acceptable in terms of parking, but there is no change in terms of expansion or modifications to the site as it stands today. So I don't really think that the parking is going to change if there is a discrepancy about what the number of parking spaces are there now, I am not sure, we would have to actually go back and run the numbers to see...get detailed floor plans to show exactly how that number was derived.

Ms. Baker said excuse me, what I am asking is are we permitted to waive any additional requirements whether it is for parking or landscaping that were used that maybe now non-conforming, can we waive any additional restrictions?

Mr. Carlin said Mr. Chair, Ms. Baker, I would defer that to legal interpretation what the board can waive and not waive in terms of certain requirements.

Board Attorney Walker said Mr. Chair, I presume that I am in receipt of a question, although not expressed to me explicitly, I nevertheless accept it in that spirit. Mr. Chair, if it is assumed that there is, in fact, a code requirement that the number of spaces be set aside in the site plan as suggested by staff, if that is in fact a requirement of the code, then the board is not given the latitude of waiving that requirement. That is a function, if appropriate, of the board of adjustments and this board does not, itself, have the ability to waive such a requirement.

Ms. Baker said thank you, Mr. Walker.

Board Attorney Walker said now, I do understand that we are here in connection with approving a rezoning rather than a site plan. That being the case, then I do not believe that it is necessary to actually confront the question of whether or not what we have here before us should be 19 spaces or 18 or 21, it is simply the matter of the rezoning that is here under review tonight. Does that fairly respond to your question?

Ms. Baker said thank you, yes.

Mr. Weaver said Mr. Carlin, I wonder if you have any information on how this non-conformity originated? Was this an annexation? Or what is the basis for how this commercial use was allowed to occur in the residential zoned area in the first place?

Mr. Carlin said I suspect that this has been here for many, many, many years. But, you know, I wasn't privy to going back all the way before the enactment of the city ordinance or 40 years back with the research to see what actually started this whole thing. My understanding, this has been here for a very long time. The applicant may be able to give you a little more information about the history of the property and where it came about. But I can't answer that directly, Mr. Weaver.

Mr. Weaver said thank you.

Chairman Johnson said any other questions? Very good. Anyone here from the public that would like to speak? Well, we had one historical-type question. Do you mind coming forward?

Mr. William Knight said I am one of the owner/building partners at 2301 Sunrise Blvd. As I understand it, the building was built, I believe, in either the late 70's or early 80's, I believe it may have been in the late 70's. I believe at the time, Virginia Avenue was a two-lane road back there behind where the building is now. Now it is obviously a six-lane road. I really don't know, I know there were 2 or 3 dentist there at the time, Dr. Starr was there, I think was

one of the original building owners and I forget the other gentleman's name, but I know John Speck was one of the building owners. So I don't know how many parking lots were required at the time. But I do know that there is not room for any other parking lots with the building as it exists there right now.

Chairman Johnson said anyone have a question for the applicant? No. Well, thank you very much. We appreciate you coming.

Mr. Knight said you bet, thank you.

Chairman Johnson said no one else is here to speak from the public? We will return to the board and entertain a motion for the rezoning.

Motion was made by Mr. Hayek, seconded by Ms. Baker, **to approve the change of zoning from R-2 to C-1.**

Chairman Johnson said we have a motion and a second. Any discussion on the motion?

Those voting in favor of the motion were: Ms. Baker, Ms. Cumings, Mr. Dannahower, Mr. Hayek, Mr. Poitier, Mr. Weaver, Ms. Woods, Ms. Yates, and Chairman Johnson. Those opposed: None.

Chairman Johnson said ok, request is forwarded with recommendation to the city commission. Thank you.

The next item considered - **#7 – Discussion**

a. **Evaluation and Appraisal Report Update** (no backup material)

Chairman Johnson said Erica is not here so what can we talk about.

Mr. Carlin said Mr. Chair and board. Yes, let me see if I can kind of relate to the Evaluation and Appraisal Report to this last scenario that we just...this little application. One of the things that we're going to address are things that both in the Evaluation and Appraisal Report but also with the Land Development Regulations we kind of have 2 simultaneous tracks going on here is to deal with the non-conformities in these situations where you have parking that may not meet, you know, a standard that this business has been here for many, many, many years and the question is well, it is what it is and when you have a rezone application and how do you accommodate all these different things and our code just doesn't do a good enough job in terms of addressing non-conformities. That's because our Comprehensive Plan doesn't necessarily give enough overall guidance to steer how the non-conformities are going to play out in the ordinance. So we are addressing that and there is going to be, I don't want to say radical change, but there is going to be a nice transition to recognize a lot of the different non-conformities. Because the whole city is comprised of non-conformities to some degree, whether it is a lot, a street, all kinds of things, the right of ways are not what they used to be. It creates a challenge when we get businesses that want to come in here and open up and developments, redevelopments, that wants to come in and our code doesn't

necessarily address these situations. That's one of the things that we are going to be going through with both of these, both the Evaluation and Appraisal Report and the code rewrite. But on that note, as far as where we are at in the Evaluation and Appraisal Report, staff is currently addressing each individual element of the Comprehensive Plan. We are going through it assessing the short comings and successes of where its working, where it is not working. We are kind of...the whole point here to give a report. Now we are doing the detailed work of going through and identifying those issues. We are going to compile those issues, staff has been tasked with doing a certain percentage of each element in the Comprehensive Plan and the consultant, Kimley-Horn, has been tasked with doing a certain section and a certain number of sections of the Comprehensive Plan so we have kind of divvied up and that was a cost saving measure that was incorporated into the whole agreement of getting Kimley-Horn on board – we do some work and they do some work. So it is a consortium effort. So we are currently doing that and we are hoping to have our draft, first initial draft, of these assessments and going through where we think there are some changes hopefully within the next week. That is our goal, hopefully before Thanksgiving, we can reach it. Because, as you know, we have a tight deadline in terms of getting a report up to the Department of Community Affairs and that means getting public hearing, as the local planning agency, you have to hear this and then it has to go to commission to be transmitted up to DCA. So when we look at the calendar here, we have to rewind a little bit and basically, at this point, we think we are going to have that transmittal hearing for you in January. We were hoping December, but it just got pushed back a little more than what we'd like due to some contractual elements and the staffing and trying to get things going here with the process. So that's where we are at and you'll be getting that information. Certainly, if you have questions as you go through, you know, the Comprehensive Plan, become more familiar with it, stewards of the document, we hope that you can get us information about where you'd see some of the challenges. And I can just give you an example, I have preliminary information about...height has been a sensitive issue with versus one particular area of the city versus other and how that's going to be addressed and we have some recommendations and how we are going to go through that issue. So a lot of these things that come up before the board on month to month transactions in terms of processing site plans or other applications, you use those examples and those scenarios and you look at the Comprehensive Plan and say "how is that working? Are we getting...is the city getting what it wants out of the Comprehensive Plan? Is the Comprehensive Plan doing a good job in giving direction on how a development moves forward?" That's where we are at. I mean, I would be glad to answer any questions you all have on it in terms of how it is going to work. But it is an on-going process; there are a lot of elements in there. There is like 11 elements in the Comprehensive Plan. The book is this thick. So we are going through it page by page, line by line and we are looking now to see what's working, what's not and so is the consultant. So this is your opportunity, if you have anything that you want to pass along our way while we are doing this to give us feedback on that.

Chairman Johnson said ok, any questions for staff from the board?

Mr. Carlin said again, this is the report. This is just the report. Once the report gets sent up to DCA, DCA is going to look at and say "you know, this is consistent" or "you might want to make some changes here, objections, recommendations"...ORC Report, if you've heard of the Objections, Recommendation and Comments Report. We will go ahead and look at that,

digest it, see what needs to be modified or changed, and then we will go ahead and get that back to them. But if DCA says that the report is good, send it back to us and then we will start actually making changes to the Comprehensive Plan, where we have the amendments. We have approximately 18 months, I think, to do it, but we are going to do it a lot quicker than that because the good news is that the Comprehensive Plan is relatively new. It was update in '06 so we are not too far off the path in terms of having to do an overhaul. But there is new legislation that has come on board, there are some tweaks that we know where the problem areas are. So we are making those changes to make this a really updated document. But it is always an evolving document, it always changes and that necessitates change to the Land Development Regulations. A lot of the stuff that was implemented in 2006 with the Comprehensive Plan rewrite set forth parameters by which the land development code had to integrate a lot of things. Well, we are little bit behind in getting the code updated, because obviously we are in 2009, but we are in the process with the consultant and we are updating the LDRs. So we have two tracks going down and we are kind of exchanging information back and forth to make these documents consistent. But there is always going to be the one's ahead of the other, that's just the way it is for all municipalities so it always an update process, if you will. But the amendments, we are really hoping to get the amendments done by November of next year. We really don't want to drag this out for a long period of time. We think the amendments that are necessary are not going to take a substantial amount of time. And we also are aware of some potential home-ruled democracy-type initiatives that might change the way the comprehensive planning is done within various municipalities within the state. So we are aware of that and we are hoping to do what we can and operate within the confines of time. Hopefully that makes sense; that I didn't confuse you.

Chairman Johnson said I don't think so. No questions? Ok.

The next item considered - **# 3 – Consideration of Absences**

Motion made by Mr. Poitier and seconded by Mr. Hayek, **to approve the absences of Mr. Harris and Mr. Lloyd.** Approved by voice vote by majority of present members. (Mr. Weaver mentioned after the meeting that he abstained from voting.)

Chairman Johnson said Mr. Walker, anything tonight?

Board Attorney Walker said thank you for asking, Mr. Chair.

Chairman Johnson said anything else, Mr. Carlin? The only question I do have is do we have, since Mr. Reilly left, did we ever nominate a vice chair? Thank you for bringing this up, Mr. Hayek. I am not too sure if we did. I know Mr. Hayek is the secretary, but if you would check on that and bring it to us at the next meeting.

Mr. Carlin said I wasn't here at the last meeting.

Chairman Johnson said we didn't change anything at the last meeting or the meeting prior to that. And I am fairly certain that that's about the time frame when they put in their letters. So if we could, bring that for next meeting.

Mr. Hayek said if I might interject, any of you all could jump up and be vice chairman, if you'd like.

Mr. Poitier said that's right.

Chairman Johnson said he is saying he's not wanting to move forward, is that what it is? Just kidding.

There being no further business, the meeting was adjourned at 6:25 p.m.
