

**CITY OF ANNA MARIA
PLANNING & ZONING BOARD
REGULAR MEETING AT ANNA MARIA COMMISSION CHAMBERS
10005 GULF DRIVE – ANNA MARIA, FL
TUESDAY, JANUARY 20, 2009
6:30 P.M.**

CALL TO ORDER

Planning and Zoning Chair Doug Copeland called the meeting to order at 6:30 p.m.

PLEDGE TO THE FLAG

ROLL CALL: Boardmembers Margaret Jenkins, Sandra Mattick, Mike Yetter, Chair Doug Copeland, Frank Pytel, Randall Stover, and Jim Conoly.

Staff present: City Clerk Alice Baird, City Planner Alan Garrett, Building Official Bob Welch, Mayor Fran Barford, City Commissioner Jo Ann Mattick, City Commissioner Christine Tollette, City Commissioner Dale Woodland, and Minutes Clerk Stacey Johnston.

Press: Sun and Islander.

1. Public Hearing – Continued From January 6, 2009 -

To Consider an Ordinance of the City of Anna Maria, Florida, Amending Chapter 114, of the Code of Ordinances of the City of Anna Maria, Amending the Residential/Office/Retail Zone District; Providing for Findings of Fact; Providing for Amendment to Sections 114-281, by Amending Use Regulations, 114-282, by Amending Lot, Yard, Bulk and Parking Regulations; Providing for Repeal of Ordinances in Conflict; Providing for Severability; and Providing for an Effective Date.

City Planner Garrett explained the difference between the two proposed Ordinances A & B. He stated that two items still needed to be discussed:

--Relating to the occupancy of the upper story residential unit in a mixed-use development and including the limitation that it must be rented for a minimum period of seven consecutive days or longer, and

--Discuss - swimming pools as an accessory use to both single family detached and the upper story residential. Only one swimming pool per lot containing a residential unit and whether or not it should be restricted to only residential use.

Planner Garrett informed that the City's codes would need to be changed within one year from the actual acceptance of the EAR Amendment by the State – by April or May 2009. The R-1 and R-2 District changes would be addressed next.

In response to *Chair Copeland's* question, Planner Garrett agreed that Section 114-282 (5) should read:

Off-street parking – See Section 90. All off-street parking shall comply with the city's ordinances and the laws of the state and regulations of all applicable government agencies.

Boardmember Mattick asked for a legal opinion relating to a letter received from Attorney Jeremy Anderson of Lobeck & Hanson indicating that her vote at the January 6, 2009 meeting would be inappropriate due to a conflict of interest.

City Attorney Dye advised that a person having an ownership in the ROR would not preclude anyone from voting. The Ordinance being considered is a broad far-reaching Ordinance that is not focused on any individual property so there would be no conflict just due to a Boardmember owning property within that district.

Boardmember Mattick publicly disclosed that she owned the property and business (Pine Avenue General Store) at 307 Pine Ave. and that she lived in the back of the building.

Boardmember Stover publicly disclosed he owned the office building and warehouse at 425 Pine Ave. and informed it was currently under contract for sale. In answer to City Attorney Dye's question, Boardmember Stover acknowledged that there was no contingency in the contract for sale that either causes the property to close or not to close based on the Ordinance to be considered.

Chair Copeland officially opened the Public Hearing.
City Clerk Baird swore-in all persons wishing to speak.

Public Comment

Mark Alonzo, 406 N. Shore Dr., said he was in agreement with the progress on Pine Ave. and gave the developers credit for the project.

Mr. Alonzo said he serves as a handyman at the Pine Cottage who also has swimming pools. The swimming pools are very nice and there are no problems.

Chair Copeland announced that all correspondence received by the City relating to the Public Hearing and issues concerned has been made part of the public record.

Sally Eaton, 316 Spring Ave., read a prepared statement. She informed that she and her husband's property backs up to the Pine Ave. Restoration (PAR) project. It was their opinion that the developers intention all along was to deceive them relating to the real use intended for the properties. Ms. Eaton said she spoke to Micheal Coleman the previous December and he informed her he never expected to have to abide by the owner or tenant occupancy restriction.

Ms. Eaton informed that PAR owns twenty properties and all have the potential of being promoted as vacation rentals. She stated that a contract has already been awarded and promotion is underway to rent the PAR properties even though it is against the existing law.

Ms. Eaton stated that if it was not the intention and vision of the Board that Pine Ave. appear as concentrated transient rentals operated like motel businesses, then she encouraged the Board to retain the current owner/occupancy requirement in the ROR.

Edward Pedota, 318 Spring Ave., presented a letter to be included in the public record and said he agreed with everything stated by Sally Eaton.

Robin Wall, 112 Palmetto Ave., asked that:

--Packaged sales and outdoor flea markets not be removed from the prohibited uses in the ROR.

--The maximum lot coverage should be reduced from 40% down to 35%.

--The current language relating to the owner/occupant restriction should be retained. Explanation followed relating to confirmations she received from the DCA.

--Felt that the City should postpone changing the requirements for residential use for one year to give time to develop some architectural design standards. After that time the minimum requirements could be changed.

Harry Stoltzfus, 411 Poinsettia Rd., asked that the ROR language relating to the owner/occupant provision remain the same.

Tom Turner, 850 N. Shore Dr., provided a background of his property ownership and City Board participation in Anna Maria.

Mr. Turner felt that there should only be one owner for upper and lower units in the ROR and that allowing two owners would move the properties more into a commercial aspect.

Mr. Turner said the PAR project appears to have a deck/porch connecting the two properties together. It was his opinion that either the deck/porch should be removed or there should be other considerations made.

Mr. Turner stated the majority of letters received relating to the PAR project were in opposition and felt that the City should leave the ROR structures under one controlled ownership. It would be up to the owner whether or not they chose to rent the property.

Heather Bales, 315 Spring Ave., said she checked with the Anna Maria Chamber of Commerce to see what was being stated on the Web as the reason for coming to Anna Maria. The description included that Anna Maria had a private Island feel. She said she was opposed to the proposed changes to the LDR. She also voiced concern about Anna Maria being described as the Wedding Capital of FL and felt the wedding industry on the Island would increase the transient short-term visitors to the Island and create an atmosphere contrary to its current laid back peaceful atmosphere. She questioned if promoting Anna Maria as the Wedding Capital of FL was the correct route to take.

She felt that the proposed changes will harm the Island and asked that the P&Z vote no to the proposed changes to the owner/occupancy provision and vote no to allowing swimming pools as an accessory.

Charlie Daniels, 725 Holly Rd., objected to allowing separate ownerships of the upper and lower levels in the ROR and for allowing swimming pools.

Bob Barlow, 212 Oak Ave., read a prepared letter sent to The Island Sun and The Islander Editors from he and his wife Marcia. It was noted in the letter that as a result of Ad Hoc committee meetings, public meetings, etc., the City Commission approved deleting the language that required the business owner to own and/or occupy the residence. It was the Barlow's opinion that the development of Pine Ave. is consistent with the City rules, shows a respect for Anna Maria history, and provides a positive vision for the future including restoration of the City's historically significant structures. Mr. Barlow pointed out that 3-story structures of up to 37-feet on a 50-foot wide existing platted lot could have been built instead.

Mr. and Mrs. Barlow are in support of the PAR development project.

Larry Albert, 711 Gladiolus, felt the PAR project was a very good project. However, he disagreed with allowing multiple ownerships.

City Commissioner **Christine Tollette**, 505 Magnolia, stated that the problem discussed at length at the numerous Comp Plan workshops was that Anna Maria would not have a viable business district. It was felt that current businesses and the commercial district would be lost if something was not done to maintain it. However, the comment to maintain and protect the single-family residential character has been used by parties interested in acting against the business community.

Ms. Tollette discussed the results of the residential homes being built when the Marina property was sold. She did not feel that the residential properties fit well in the business/commercial district.

Ms. Tollette said it was agreed that no undue burden should be placed on any owner to not have the same opportunity and rights to rent out their home and/or business the same as anyone else. Explanation followed.

Janet Aubrey, 410 Spring Ave., said her property abuts the PAR project and that she was in agreement with the presentations made by Bob Barlow and Christine Tollette. Ms. Aubrey stated that she would prefer having local owners and stewards developing the property on Pine Ave. rather than an out-of-town developer who had no interest in the historical values of the community.

Ms. Aubrey encouraged the Board to proceed on the track that has been developed for years and move forward. It was her opinion that those persons in opposition should have been involved prior to this late date.

Jill Morris, 307 Spring Ave., said she had visited Anna Maria for twenty years and became a full-time property owner two years ago. She commented that turning back the time and having Anna Maria be just like it was in the 1960's was not a reality.

Ms. Morris said her family had been previous renters of property in Anna Maria. She did not object to removing the language of owner/occupied in the ROR and felt it was economically unreasonable for anyone able to afford a property to also be able to live and also run a business out of the property.

Carol Ann Magill, 403 Spring Ave., said she was in support of the comments made by Sally Eaton and was opposed to taking action for removing the owner/occupied language. She said once the language were to be removed, it would not only let the PAR project continue as they want to but would also be open to any developer or investor that comes to the City of Anna Maria.

She stated that developers and investors feel that “More is Never Enough” and that the Board should look closely at the impact.

Ms. Magill voiced opposition to the vehicles having to back out onto Pine Ave. and that the public would have no safe way to walk around on Pine Ave.

Leslie Vanderburg, 107 Tarpon, said she was opposed to the changes in the LDR.

Nicky Hunt, 202 Lakeview Dr., informed that she was originally from the UK where it was very overdeveloped. Ms. Hunt said her biggest concern in the ROR District was that the 5,000 sq. foot lots would be allowed all three uses and felt the impact would be enormous about how the ROR District will look.

Ms. Hunt stated that much larger structures would be allowed on 5,000 sq. foot lots in the ROR than in the Residential District. Comments followed.

Ms. Hunt felt that what the P&Z were currently proposing allows density that is not allowed anywhere else in the City and would be opening Pine Ave., Gulf Dr., and North Bay Blvd., to a wall of mansions – inches apart. She informed that the P&Z had previously questioned if every lot in the ROR should be a mix of commercial and residential. The consensus was it should not be. It was her opinion that the proposed changes are totally against the Comprehensive Plan.

Norm Camp, 506 Spring Ave., said he had e-mailed his comments to the Board. Mr. Camp said he was opposed to the changes and felt the owner occupied language should remain unchanged. He encouraged the Board to follow the desires of the Anna Maria residents and not as to what was best for the developers.

Wayne Seawalt, 9805 Gulf Dr., said change is always hard but is inevitable. He reminded that Micheal Coleman was a member of the community who was in the process of building something beautiful for the area. He felt the project is good for Anna Maria and was concerned about any developer coming in from the outside. It was his opinion that all action taken prior to the PAR development should continue and that action should not be delayed, as the Anna Maria Elementary School and Community Center were that cost millions of extra dollars.

City Attorney Dye commented relating to discussions that evening being focused around a specific project. He reminded that the Board was not considering a particular project but that they would be considering a piece of legislation that would effect all the properties in the ROR.

David Teitelbaum, Island Real Estate, said the PAR properties on Pine Ave. were not being sold as an investment. He said that the comment about being a congregating area for weddings was inappropriate and not correct. He stated that if large 4,000 sq. foot, five to six bedroom homes are built, a party of twenty to forty would be more than happy to rent that type of facility.

Mr. Teitelbaum said the retail vision for the community was very important.

Jane E, Ginny and Jane E's, 9807 Gulf Dr., supports the developers and what their vision is for Anna Maria and Pine Ave. She said as "Mom and Pop" businesses in Anna Maria, it was important to support new business in the community and to appreciate the vision on Pine Ave.

Jane Coleman, 311 Pine Ave., felt it was important that a community has a main street cohesive for businesses and residences and that the City Ordinances need to make it possible. She encouraged everyone to carefully consider what he or she would like Pine Ave. to be.

Attorney Ricinda Perry, 113 3rd St. S., Bradenton Beach, said the City has a very well thought out process and had spent a lot of time on the Comprehensive Plan. Though not everyone will be happy she stated it was critical to support the business community and asked that the P&Z Board follow through with adopting the Ordinance that evening as submitted.

Carol Norwood, 724 Holly Rd., announced that the Anna Maria Island Historical Society was a non-profit, non-political agency. She informed that no director, officer, or Boardmember is permitted to promote any commercial venture such as the Pine Ave. Restoration project, any City issue, or any political candidate on behalf of the society.

Ms. Norwood said during her fifty years in Anna Maria she had written one historical book about Anna Maria and was almost to complete the second. She informed that during her research she found that there are two historical roads on the Island – Bridge Street in Bradenton Beach and Pine Ave., in Anna Maria. She stated that the beach cottages on Pine must be preserved – Examples include the Betsy Hills' property, Gagney property, and Barbara Sato property.

Mr. Norwood felt that Pine Ave. should be designated as a Historical District and the Board should take that into consideration prior to the destruction of any beach cottages and replacing them with large structures and short-term rentals. She urged the Board to enforce the LDC relating to residential units being occupied by either the owner or the tenant.

Micheal Coleman, 311 Pine Ave., felt there was a lot of confusion. He said he had reached out over and over to have a dialog with persons who had concerns relating to the PAR project. However, he had very little response so therefore, there was a lot of false information in the community.

Mr. Coleman explained that the Ad Hoc Committee members had addressed the problem of what to do with Pine Ave. The Committee agreed that if something were not addressed soon there would be no business district. Mr. Coleman presented pictures of two three-story homes that could have been built on the two lots where the two two-story buildings were currently being built on Pine Ave. by the PAR developers.

According to Mr. Coleman, one of the Ad Hoc Committee members informed that everyone on Pine Ave. objected to the owner/occupancy requirement. As a result, that language was deleted from the Comprehensive Plan. Once the City Commission and P&Z decided to adopt the Ordinance consistent with the Comprehensive Plan, PAR submitted the site plans for approval and the PAR project got started.

Mr. Coleman informed that in the past twenty years, under the old Ordinance and owner/occupied restrictions, not one mixed-use building was constructed. He said if the idea was to promote mixed-use development on Pine Ave., then the answer was to remove the owner/occupancy restrictions. He pointed out that once that restriction was removed, a mixed-use development project began.

John Cagnino, 9807 Gulf Dr., said the residential units throughout the community would be no different than those proposed on Pine Ave. If the units on Pine Ave. were prohibited from being rented, then the rights of the Pine Ave. property owners would be less than those of the residential property owners. He did not feel a single-family residential property owner should have greater rights than property owners on Pine Ave.

Mr. Cagnino did not understand why Anna Maria being the Wedding Capital of FL was brought up under the current circumstance. He indicated it was up to the person paying for the advertising if they wished to advertise it as the Wedding Capital of FL.

Mr. Cagnino gave an example of what might occur in a possible death situation if the owner/occupied restriction was not lifted. He was concerned about future litigation to determine how a property owner could use their property. Mr. Cagnino further discussed the possibility of undivided ownership situations.

Bob Stewart, 315 Iris, was opposed to any change to the ROR.

Jack Egan, 711 N. Shore Dr., was also opposed to any change in the LDR's.

Mr. Egan spoke in response to the earlier comments relating to the delays involved with the building of the Anna Maria Elementary School and Community Center. Mr. Egan informed that the reason the development of the Community

Center was delayed was that additional funds needed to be raised in order to complete the project.

As former President of the AMI Elementary School PTA and Board of Directors of the middle school, Mr. Egan informed that the elementary school costs were more than originally proposed by the Board of Education. Explanation followed.

Mr. Egan addressed the issue of whether or not a P&Z Boardmember should abstain from voting. He stated that though not an immediate issue, it could be considered a conflict of interest in the future.

Terry Schaefer, 311 Iris, did not feel the issue was the good guys versus the bad guys but instead was democracy at work.

Mr. Schaefer was concerned that the proposed changes would be detrimental to the long-term stability of the City. He urged the Board to maintain the owner/occupied requirement of the residential section. It was his opinion that the developers knew the perimeters of the existing code and sold their presentation to the City and community with the proposition of an owner/occupied project.

Mr. Schaefer said he would prefer residing next to an owner/occupied dwelling where the owner would be more cognizant of its condition and of its influence in the neighborhood.

Mr. Schaefer voiced opposition to placing a hotel/motel or guesthouse at Pine Ave. and N. Bay Blvd.

Mr. Schaefer felt a street lined with the homes and businesses as is being proposed would disrupt the mutual accord enjoyed by the residents.

Attorney Jeremy Anderson, Lobeck & Hanson, addressed the Board on behalf of his clients Mr. and Mrs. Nally, 110 Spring Ave., Mr. White, 110 Spring Ave., and Mr. and Mrs. Manali, 105 Pine Ave.

Attorney Anderson addressed what he referred to as the misconception that the owner/occupancy language must be amended and stated it was not consistent with the Comprehensive Plan. He stated that the law states only those amendments that are inconsistent must be amended and that section was not inconsistent. It was his opinion that if the language were removed then an actual change would be created.

Attorney Anderson referenced the language quoted relating to the goals as presented by Commissioner Tollette earlier. He stated that there is additional language that states – and minimizing the threat to the health, safety, and developer of proposed hazards and nuisances.

It was Attorney Anderson's opinion that if the owner/occupied language is removed, he foresees short-term rentals, wedding parties, large groups, and etc.

taking place. He felt the Board would be supporting the developers and not the residential community.

According to Attorney Anderson, the PAR development was currently being illegally advertised by separating the upper and lower units for sale. He stated it was a violation of statute and the following day he would be filing paperwork to be sent to the FL Real Estate Commission indicating the false advertising - which is punishable by a fine of \$10,000.

Michael Brinson, 317 Tarpon St., owner of Anna Maria Island Accommodations, stated he was in support of the PAR project. He informed that his company currently rent over two hundred properties on a weekly basis on the Island and have no problems with parties being held.

Mr. Brinson said he did not want to see Anna Maria become a community similar to St. Pete Beach.

Hearing no further public comments, Chair Copeland officially closed the public portion of the hearing.

P&Z Board Discussion

Boardmember Conoly stated that many of the persons who had spoke that evening did so because it affected their lives, where they live, and their neighborhood. He felt that many of those speaking in favor of the PAR project had a monetary reason for being there and have money to be made on their mind.

Boardmember Stover said discussion had occurred over the past five years about what to do to allow the current lifestyle to be enjoyed in Anna Maria for years to come. It was decided that a "Main Street" be developed to allow for shops. He then discussed the importance for the business owners to get a return on their investment.

Boardmember Pytel explained that the Comp Plan was changed to allow business owners more flexibility. He said at the time of the change, however, he had not considered the issue of rentals and different owners of the properties, transient nature, wedding parties, etc. and felt it could change the character of the City. It was Boardmember Pytel's opinion that if changed, the neighbors would be negatively impacted.

Boardmember Pytel also expressed his opposition to allowing the swimming pools.

Boardmember Yetter agreed with comments made by Commissioner Stover.

Boardmember Yetter said he was not sure changing the code language to require a minimum weekly rental would solve the issue of partygoers coming to the Island. He was opposed to that specific language. He felt if a problem

occurs then it should be addressed in all zoned districts. Boardmember Yetter questioned the legality of singling out the ROR District in that matter.

Attorney Dye advised that the City had the authority to tailor regulations to the zoning district in order to create the governmental purpose.

Boardmember Mattick said the issue was not about the PAR project but was about the rights of the property owners on Pine Ave.

Boardmember Mattick questioned if the minimum rental time period and swimming pool restrictions would be restricted to only those properties also having businesses. Feeling it was an incentive to the businesses, she felt the rental requirements should be equal throughout the City and was in favor of having the ability to rent out the upstairs.

Boardmember Jenkins said she agreed there should be one property owner, however, not restrict the rental of the upstairs unit – except for limiting it to one-week minimum rentals.

Chair Copeland discussed the original intent for removing the owner/occupied section. Chair Copeland asked Attorney Dye for clarification relating to the current code requirements.

Attorney Dye stated that the Board should keep in mind that they are trying to regulate the use of the land and not the ownership of the structure – and consider if it would make a difference in the use of the land if the ownership were to change.

Chair Copeland addressed the proposed section of the Ordinance relating to coverage and bulk. He made reference to the two new structures being built on Pine Ave. Though the PAR project buildings are not as large as what would be allowed on the property, Chair Copeland was concerned that a future developer may build to the maximum limits.

Lengthy discussion followed relating to the proposed Ordinance. Clarification was made as far as the owner/occupied section of the Ordinance, how the current Code reads as opposed to the removing of the language, what the benefit of the property being owner/occupied would have on the City, and addressing the use of the land versus its ownership. The issue of allowing swimming pools for use by residential only was also discussed in detail.

Based on a straw vote of the Board, the following issues were addressed.

- It was the consensus of the Board to add back in the first sentence of Section 114-282 (5) relating to Off-street parking.
- On a straw vote of 5 to 2, it was the consensus that Sec. 114-281. e. The residential unit must be rented for periods of seven consecutive days or

longer would remain in the proposed Ordinance. Boardmembers Yetter and Mattick felt that section should be stricken.

- On a straw vote of 6 to 1, it was the consensus that Sec. 114-281. e. would be stricken and the section would stand alone to state that all structures either residential or mixed-use in the ROR District must be rented for periods of seven consecutive days or longer. Boardmember Mattick was not in favor of that new language.
- On a straw vote of 4 to 3, it was the consensus that Sec. 114-281. (3) a. such unit is occupied by the owner or tenant of the associated retail, service or office use be stricken. Boardmembers Conoly, Jenkins, and Pytel were opposed to the language being removed.
- On a straw vote of 4 to 3, it was the consensus that swimming pools would not be eliminated in the ROR District. Boardmembers Conoly, Pytel, and Jenkins were in favor of eliminating the swimming pools as an accessory use to single family dwellings.
- On a straw vote of 4 to 3, it was agreed that Sec. 114-282 (c) (3) read as follows: Swimming pools as an accessory use to single family dwellings. There shall be only one swimming pool per lot containing a residential unit and for use by the residential unit only. Boardmembers Stover, Copeland, Yetter, and Mattick voted in favor of the language addition.
- It was the unanimous consensus of the Board that packaged sales be removed from the Prohibited uses.

After discussion, the following action was taken:

MOTION: Boardmember Mattick moved and Boardmember Yetter seconded the motion that Ordinance Version A be approved with the following changes:

- Remove that the residential unit must be rented for a period of seven consecutive days or longer and move to its own subsection that would relate to both the single-family detached and the upper story residential unit.
- Add wording relating to the swimming pools that it shall be for the residential use only.
- That the first sentence of Section 114-282 (5) relating to Off-street parking be added back into the Ordinance.

Discussion

Boardmember Conoly stated he would be voting against the Ordinance. He did not like the allowance of the swimming pools nor did he approve of the multiple ownership issue.

Boardmember Pytel said he would be voting against the Ordinance and felt there were many concerned neighbors. He suggested that the Board should consider how the concerns of the neighbors could be placed into law and yet allow the business district and residences to be more content.

Boardmember Pytel suggested there might be additional solutions that would give more flexibility and did not feel that the Board should be rushing to approve the Ordinance.

Chair Copeland informed he would vote against the Ordinance due to his concern relating to the minimum dimensions and lot coverage. It was his opinion that more restrictions should be established relating to the size of the structures allowed in the ROR.

ACTION: The motion failed on a vote of 4 to 3.
Roll call vote –
Boardmember Mattick – Yes
Boardmember Yetter – Yes
Boardmember Conoly – No
Boardmember Jenkins – No
Boardmember Pytel - No
Boardmember Stover – Yes
Chair Copeland - No

Planner Garrett recommended that a motion be crafted in the form of an approval.

Boardmember Conoly suggested that the Board’s denial of the Ordinance be forwarded to the City Commission. The P&Z Board would readdress the Ordinance if sent back to them by the City Commission.

Chair Copeland said he felt comfortable with submitting a recommendation for denial and announced that the City Commission would be considering the Ordinance at their meeting to be held at 7:00 p.m., Thursday, February 12, 2009.

2. **Discussion Regarding Meeting Dates for 2009.**
No discussion.
3. **New Business – None.**
4. **Old Business – None.**

Adjournment.

The meeting was adjourned at 9:00 p.m. on motion made by Boardmember Conoly and seconded by Boardmember Pytel. Motion carried – All Aye.

The next regular meeting is scheduled for Tuesday, February 3, 2009, 6:30 p.m.

Alice Baird, CMC, City Clerk

MINUTES APPROVED: _____