

**CITY OF ANNA MARIA
CITY COMMISSION SPECIAL MEETING
MEETING HELD AT ANNA MARIA COUNCIL CHAMBERS
10005 GULF DRIVE – ANNA MARIA, FL
THURSDAY, JANUARY 21, 2010
11:00 A.M.**

CALL TO ORDER

Chair Quam called the Special Meeting to order at 11:04 a.m.

PLEDGE TO THE FLAG

ROLL CALL: Mayor Fran Barford, Commissioner Jo Ann Mattick, Commissioner Dale Woodland, Chair John Quam, Commissioner Chuck Webb, and Commissioner Harry Stoltzfus.

Staff Present: City Clerk Alice Baird, City Attorney Jim Dye, Building Official Bob Welch, and Code Enforcement Officer Gerry Rathvon.

Press: Sun and Islander.

Chair Quam announced that Commissioner Stoltzfus had called the Special Meeting and asked that he state its purpose.

Commissioner Stoltzfus stated that the problems the City has to face in the next few months in regard to the development of Pine Ave. needed dealt with in an expedited fashion. Though he did not feel it was an emergency, he did feel there was a need for immediate action. He felt that refinements and definitions in the Code were required. He stated there had been a series of code language changes that were not even close to what the original intent of the Comprehensive Plan was. It was his opinion those changes needed to be addressed. Noting that the Commission only has two meetings per month, Commissioner Stoltzfus further suggested that an expedited time line be implemented.

Commissioner Stoltzfus then referenced the recent P&Z Board meeting and felt the City had narrowly dodged a bullet when they voted 4 to 3 that the newest 216 Pine Ave. Site Plan be continued.

Mayor Barford read a prepared statement in order to make it very clear what the City of Anna Maria's position was regarding administrative abilities. She stated that the City supports and were encouraged to clarify the language and definitions in the Code. The staff is committed to administering the codes and ordinances that the elected officials legislate as law - and felt that had been accomplished.

Mayor Barford stated she had met with Commissioner Stoltzfus the previous Tuesday and agreed that many of the codes and ordinances did need to be clarified and that the staff was willing to work with the elected officials on the changes.

Mayor Barford reminded the Commissioners that Anna Maria has a very small staff and as a result it is troublesome to stop in mid-week and interrupt their work for the purpose of having a special meeting on such short notice for the following day. It was Mayor Barford's opinion that the issues to be discussed on the Special Meeting agenda did not appear to be emergency issues and she asked that the Commission determine as to whether or not such meetings were warranted in the future.

Commissioner Stoltzfus replied he would not accept an explanation from the Administration relating to staff interrupting the Codes. He stated that for at least the last three years, City Planner Garrett had been writing the Codes for the City.

Commissioner Stoltzfus stated he could go through each of the last six development sites on Pine Ave. and show the mistakes that Planner Garrett had made. He said the Commission could go through at least twenty provisions, as presented by Planner Garrett.

Chair Quam asked that no personal attacks be made. *Commissioner Stoltzfus* felt he was not attacking Planner Garrett personally only that he did not represent the City well.

Commissioner Stoltzfus asked to call for Planner Garrett's resignation. He felt that due to the number of mistakes made, the City should get better counsel.

Commissioner Webb said he had serious concern that the Special Meeting called that day met the requirements of the Sunshine Law. He referred to the short notice and time of the day the Special Meeting was held. He informed that the Attorney General's Opinion in regard to the Sunshine Law states that more notice must be given as the topic being discussed becomes more important. He further felt it was rude and inconsiderate towards the City Commissioners that only 24-hours notice was scheduled – and that it was scheduled in the middle of a workday.

MOTION: Commissioner Webb moved that the Special Meeting be adjourned - that any issue that Commissioner Stoltzfus would like to bring up should be brought up at a regularly scheduled Commission meeting. The motion was seconded by Commissioner Mattick. On Roll Call Vote, the motion failed 3 to 2 with Commissioner's Webb and Mattick voting Aye and Commissioner's Woodland and Stoltzfus and Chair Quam voting No.

Commissioner Webb stated that the last time he saw Special Meetings of this type occur they were used as a tactic and weapon by one Commissioner. He pointed out that Commissioners are only required to attend regularly scheduled Commission meetings and due to his appointments that day he would be leaving and felt that the meeting was basically a waste of time. Commissioner Webb was noted leaving at 11:11 a.m.

Commissioner Stoltzfus responded he did not feel it was a waste of his time. It was his opinion that the issues were important and felt there were a number of mistakes made at the administrative level. He stated that the meeting notices were legally given.

1. **Comp Plan Consistency in the Land Development Regulations.**
2. **Driveways, Curt Cuts, and Safety.**
3. **Future Land Use Element Policy 1.2.1.**
4. **Site Plan Review by City Commission.**

Commissioner Stoltzfus addressed the Parking regulations. Language from the Federal Highway Administration Pedestrian and Bicycle Safety website was read by Commissioner Stoltzfus. He noted that approximately 15% of pedestrians 65 and older die after being hit by a motor vehicle. Language followed relating to walking in the back of vehicles and walking behind vehicles that are backing out.

The American Association of State Highway and Transportation Officials was referenced and the State of Florida's guide, adopted for its driveway definition, was read. He stated that by the definition stated, every backed out property site on Pine Ave. would be defined as a driveway.

Commissioner Stoltzfus then referred to State Code language – driving upon sidewalk or bicycle path - received from Sergeant Turner stating that no person shall drive any vehicle, other than by human power, upon a bicycle path, sidewalk, or sidewalk area, except upon a permanent or temporary dully authorized driveway. He stated that recommendations from the Florida's guidelines for making driveways safer are to decrease the amount of driveways. The Florida's standards from width and spacing states that if driveway crossings are too wide or too frequent, the pedestrians face

substantial discomfort and risk. It was his opinion that five adjacent driveways were frequent.

Commissioner Stoltzfus did not feel any additional Site Plans should be allowed that have five or nine driveways per lot. Goal 1, and Objectives 1.4, 1.45, 1.5 and 1.53 were read by Commissioner Stoltzfus. He stated that Land Development Regulations protecting the pedestrians and bicyclists must be implemented.

Chair Quam informed that the Parking Safety Committee was in the process of reviewing the current and future parking hazards and they would be providing recommendations. Chair Quam asked City Attorney Dye to respond to the comment on halting the approval of all future Site Plans until the Codes were in compliance.

City Attorney Dye advised that an Ordinance would need passed. The Ordinance as it currently exists allow for the processing of Site Plans.

Chair Quam acknowledged that the Commission could decide to have more than two meetings per month.

Commissioner Woodland voiced concern and questioned if the City was following the existing codes. He noted that Commissioner Stoltzfus had written a memo that PAR's Attorney had responded to. Commissioner Woodland referenced the memo relating to Chapter 90 – All off-street parking areas shall be located on the subject property, not use public rights-of-way, shall have vehicular access to a public street, and shall be designed to provide safe and convenient circulation in accordance with common traffic engineering practices. The Attorney response was then read by Commissioner Woodland noting that the regulations for off-street parking were established in 1996 and had not been revised since that date. Commissioner Woodland questioned the relevance of that statement.

City Attorney Dye noted that a major codification of the existing Ordinances occurred in 1996. He reminded that he would be interrupting someone else's letter. He felt, however, that the letter had indicated that backing out has been okay and an accepted practice in the City since 1996. Therefore, since it has been accepted there was a question as to what has changed that now makes the language unacceptable.

Commissioner Woodland questioned if the City was not following the Code in the past and now wishes to begin follow it – would some type of justification be required. He said he never remembers any issues involving backing maneuvers being discussed as a violation.

City Attorney Dye explained that all Site Plans since 1996 had received administrative, advisor, and elected officials review approvals. He said, however, in his experience, parking, lot design, driveway, etc. takes up pages of regulations. Examples followed. He suggested that clarification be added to the existing language.

Commissioner Woodland said he would be opposed to revisiting any of the Site Plans approved in the past. He only wants to make sure the City interprets the Codes as they currently exist.

City Attorney Dye explained that those who interpret the Code will often look at past practice. He pointed out that since 1996 it had never been a violation to back out of a driveway. He stated that though he had written one e-mail, he had not been asked for any comment.

City Attorney Dye said there were ways to state that areas for maneuvering shall be solely on the subject property. However, there were no definitions for what the term areas of maneuvering means. Therefore, there may an argument that backing in and out of a driveway must not be an area of maneuvering since it had been allowed since 1996 or before. He said if the Commission did not agree with that fact, then an Ordinance change should be pursued and an area of maneuvering should be defined.

Chair Quam questioned how many ROR structures had been affected since 1996. He pointed out that due to the influx of construction and Site Plan approval on Pine Ave. recently, the issue has come to light.

City Attorney Dye reminded that the ROR may be bringing the issue to the forefront; that the regulation applies to all districts and not just the ROR.

Commissioner Stoltzfus stated that the residential area only has one driveway with only one or two access points. The ROR has additional access points to the public right-of-way. Also, Anna Maria has not adopted a Comp Plan where the meaning or intent is suppose to be transferred and written as code in the LDR - and there is a line in the LDR stating that the City is required to regulate access points.

Commissioner Stoltzfus said he wished Planner Garrett was in attendance in order to defend himself.

Mayor Barford pointed out that Commissioner Stoltzfus was previously asked by staff if Planner Garrett should be in attendance and he had said he would not need to be.

Commissioner Stoltzfus felt it was time the City followed the language and begin declining access points as driveways and enforce the driveway language as stated in the Comp Plan.

Chair Quam reminded that the Commission agreed at their last meeting to review Chapter 90 at the February Work Session.

Building Official Bob Welch informed that the Comp Plan policy of 1.4.5 – traffic circulation – was also in the old Comprehensive Plan. Therefore, the language has been in existence since 1989. He stated that once Chapter 90 is reviewed, the maneuvering issue will be addressed.

Building Official Welch stated that in the past, the C-1 and ROR Districts had language that was unclear. The C-1 District required that there be access across the entire frontage of the property – unobstructed access – and a sidewalk adjacent to the building. After the language was written for the ROR language, it stated there shall be unobstructed access across the front of the building and that parking is head-on into the sidewalk. That language has since been removed and now Chapter 90 is referred to for the residential district. However, it has not been changed for the commercial district. The driveways and internal circulation will need to be reviewed in Chapter 90.

Chair Quam referred to Comp Plan Policy 1.3.4 that states the City shall provide crosswalks and sidewalks on the roadways.

City Attorney Dye stated that the old regulation of requiring a sidewalk in front of a building did not necessarily refer to a public sidewalk – that it could be a private sidewalk from the parking lot to the building itself. He agreed that a public sidewalk could not be installed on private property without the property owner's permission.

The sidewalk regulations were then read by *Commissioner Stoltzfus*. He stated that any Site Plan asking to have the sidewalk moved would require a variance – and in doing so a hardship must be found.

Building Official Welch agreed, however, did not believe that when requiring the sidewalk is adjacent to the building it was the intent and did not feel that it referred to a public sidewalk. He believed there were two instances of a sidewalk – the public sidewalk and then one that was referred to as a sidewalk that was adjacent to the building. At that time, that was the area that determined where the parking would be. Now, however, there is not that guidance since there is not that element.

Commissioner Stoltzfus discussed the regulation in place at the time 315 Pine Ave. was approved, and how it required all parking be head into the sidewalk. He said there was no difference in that and the Site Plan configuration proposed for 216 Pine Ave.

Chair Quam stated that Section 90-3 has not been applied in the past and questioned if it should be ignored now.

City Attorney Dye informed that the regulations should be applied as they currently exist.

It was *Commissioner Stoltzfus*' opinion that policy changes needed to be made prior to the 216 Pine Ave. Site Plan going before P&Z Board again for their consideration.

Chair Quam pointed out that at least three meetings would be required to make any changes to Chapter 90. Rather than address only one issue in Chapter 90, he felt it was best for the City to review the entire Chapter and approve it as a whole.

Commissioner Mattick stated there were many ambiguities between the LDR's and the Comp Plan and that it too premature to make a decision today on *Commissioner Stoltzfus*' concerns. She felt the City should proceed with having the Safety Committee and the P&Z review all the necessary changes. She said she would not be in favor of making any changes now.

Commissioner Woodland asked if any code changes would even apply to 216 Pine Ave.

City Attorney Dye explained how the State regulation "Zoning in Progress" may apply in regard to the 216 Pine Ave. Site Plan. He said determination would need to be made as to whether or not the change is an issue that was under discussion already so that the applicant was on notice that there may be changes in the regulations coming forth. If there was official Commission movement towards making the specific changes prior to the application being filed, then the changes enacted may apply to the Site Plan under review at the time. He stated that it must be clear that any proposed changes have started.

Commissioner Woodland referred to the lots on the north side of Pine Ave. He further pointed out that the P&Z and City Commission were scheduled to meet in February to review Chapter 90. He suggested *Commissioner Stoltzfus*' comments be discussed at that meeting. *Commissioner Woodland* did not feel there was an emergency to make changes at this time.

City Attorney Dye confirmed for *Chair Quam* that the current Section 90-3 would apply to all new Site Plan applications at this time.

Commissioner Stoltzfus said he did not consider the Ordinance changes as an emergency, only that if discussions did not continue prior to 216 Pine Ave. going before P&Z, it would be approved incorrectly.

City Attorney Dye said if the Commission has a question as to whether or not Section 90-3 is not correctly interpreted, then it would become a policy discussion before the Commission. He pointed out that any building permit that would be pulled would reflect whatever was approved in the Site Plan.

Commissioner Stoltzfus felt that the 216 Pine Ave. Site Plan should come before the Commission for approval. He noted that discussion was held at the City Commission/P&Z Workshop that all Site Plans with impact would go before the Commission for final approval. It was his opinion that the Commission would only need to review those Site Plans in the ROR since those would have the most impact.

City Attorney Dye confirmed that 216 Pine Ave. would still be approved by the P&Z Board even if the Code were to change.

Commissioner Stoltzfus then suggested that the LDR's be amended regarding driveways – to make sure there are not nine driveways on one lot.

Commissioner Stoltzfus said he had previously reviewed Section 90-3 with Building Official Welch and City Planner Garrett who had interpreted the language differently than he. Explanation followed.

Commissioner Woodland said he was confident that the Special Meeting has indicated the Commission's desire to pursue the Ordinance changes.

Commissioner Stoltzfus said he was concerned about the consistency in the LDR's and referred to the set-back language in Chapter 114-282. He stated that 216 Pine Ave. was originally submitted as a single building with a common roof. After reviewing the language relating to two adjoining structures, he felt that 315 and 317 Pine Ave. were not compliant.

Commissioner Mattick called for a Point of Order. She stated that the Commission did not have an obligation to revisit decisions made on previous Site Plans. The Site Plan has been accepted, the buildings have been built, and Commissioner Mattick felt it was a waste of time to review it.

City Attorney Dye further advised that it would not be appropriate to discuss any issues that the Commission may be taking action on in the future. He suggested the Commission delay discussion (referring to the 216 Pine Ave. Site Plan) until it was clear whether or not the Commission might be taking any future action.

Commissioner Stoltzfus withdrew his comments regarding 216 Pine Ave. and asked that the language itself relating to adjoining roof and eliminating setbacks be discussed. He then referred to the language as stated in the old Code. He stated that either a building could be joined with one roof - or they were considered as separate structures and the setbacks between them must be adhered to.

Public Comment

Attorney Racinda Perry said she had previously asked if the interpretation - the very issue discussed by the Commission now - had applied in regard to a specific Site Plan.

Attorney Perry, presenting PAR, said her client was informed that there was no violation and no problem with their interpretation. She pointed out that for over 50 years there had been no problem and that they would be in compliance, and therefore be able to continue backing out into Pine Ave. Attorney Perry stated that if the City in midstream changes the interpretation it would cause an undue burden on her client who would be forced to seek court interference to address the issue. She stated she had never had a problem in the past with the Anna Maria City Commission relating to the interpretation of the Ordinances. She stated that even though one might not enjoy the project, they should be fair minded and she did not feel it was fair minded to bring up new codes that would be burdensome on her client in the middle of project.

Attorney Perry stated that in 2003, Section 90 was addressed and was found to be in compliance. She stated that her client has done everything they can to satisfy the City including neighborhood meetings – even though they were not required by Code – and have met with each Commissioner individually in regard to any of their concerns.

Attorney Perry stated that Commissioner Stoltzfus spoke at the P&Z Board meeting as a Commissioner earlier that week relating to each of that day Special Meeting agenda items. By bringing the same issues up again now before the City Commission, Attorney Perry felt that her client was being targeted. She asked that each Commissioner find the ability to look at her clients past practices and to work together to solve the concerns - and not end up in court spending a lot of money.

Tom Turner, 815 N. Shore, said he chaired the P&Z Board in the 1990's and explained how the ROR codes read at that time. He said to his knowledge the codes had not been changed. He stated that when the PAR projects were first presented, Planner Garrett had suggested splitting the lot and allowing for multiple owners. Mr. Turner did not feel that was the concept of the ROR district.

Mr. Turner referred to the 216 Pine Ave. Site Plan and said that the setbacks were not in compliance. A new Site Plan will be proposed showing two separate buildings. He felt that parallel parking should be addressed at 216 Pine Ave. with one access in and one access out. Explanation followed. He said he hoped to have an opportunity to serve on the P&Z Board in the future.

Robin Wall, 112 Palmetto Ave., stated that more of the ROR District will be developed and that it was important that the best parking option for the City should be determined.

Ms. Wall stated that the ROR Code was changed in 2008 and that prior to that date, the ROR language indicated how vehicles were to park. That language was then stricken. Parking for the ROR is now referenced in Chapter 90. She referred to Sections 90-2 and 90-3 relating to driveway openings.

Ms. Wall then questioned the separation distance between the PAR buildings.

Jim Conoly, N. Shore Ave., felt Attorney Perry had made a personal attack on Commissioner Stoltzfus by referring to him that evening as "Commissioner what's his name up there".

Robert Hunt, 303 Pine Ave., informed that the previous Site Plan, as referenced by Attorney Perry, referred to his property. He said to his knowledge the parking was not specifically discussed – only the three-story aspect for the building.

Micheal Coleman, Pine Ave. informed that the 303 Pine Ave. Site Plan was specifically discussed by the City's consultant, Friedman. He stated that the consultant specifically

discussed the issues in Section 90-3 which was submitted as part of the Site Plan process on that property. The Site Plan was reviewed by the City Attorney, Building Official, and the P&Z Board and was found to be in compliance.

In response to Ms. Wall's question relating to the setbacks, Mr. Coleman stated that in the pre-hearings for 315 and 317 Pine Ave, Ms. Wall had requested the separation of the buildings be at least 3-ft. However, the buildings were separated by 6-ft.

Mr. Coleman said PAR had done everything to be compliant and submissive. They had sought ways to do less than allowed and would continue to do so. He said he hoped as a City they could move forward so not to cost the City a great deal of money.

Public and Press Comment on agenda items – None.

Adjournment

On motion made by Chair Quam and seconded by Commissioner Stoltzfus, the meeting was adjourned at 12:25 p.m.

Alice Baird, CMC, City Clerk

MINUTES APPROVED: _____