

**CITY OF ANNA MARIA
PLANNING & ZONING BOARD MEETING
MEETING HELD AT ANNA MARIA COUNCIL CHAMBERS
10005 GULF DRIVE – ANNA MARIA, FL
TUESDAY, FEBRUARY 23, 2010
6:30 P.M.**

CALL TO ORDER

Vice-Chair Frank Pytel called the Meeting to order at 6:30 p.m.

PLEDGE TO THE FLAG

ROLL CALL: Boardmembers Margaret Jenkins, Sandra Mattick, Mike Yetter, Frank Pytel, Randall Stover, Bob Barlow, and Jim Conoly.

Staff Present: City Clerk Alice Baird, City Attorney Jim Dye, Building Official Bob Welch, City Planner Alan Garrett, and Minutes Clerk Stacey Johnston.

Press: Sun and Islander.

Election of Officers

P&Z Board Chair

Vice-Chair Pytel asked for nominations for position of P&Z Board Chair.

Boardmember Mattick nominated Randall Stover.

MOTION: Hearing no further nominations, Boardmember Mattick moved that Randall Stover be elected to serve as P&Z Board Chair for the upcoming year. Boardmember Barlow seconded the motion.
On Roll Call Vote, the motion carried unanimously.

Newly elected Chair Stover presided over the remainder of the meeting.

P&Z Board Vice-Chair

Chair Stover asked for nominations for the position of P&Z Board Vice-Chair.

MOTION: Boardmember Barlow moved that Sandy Mattick be elected to serve as P&Z Board Vice-chair for the upcoming year. Boardmember Jenkins seconded the motion.
**See action below.

MOTION: Boardmember Conoly moved that Frank Pytel be elected to serve as P&Z Board Vice-Chair for the upcoming year. Boardmember Stover seconded the motion. No action taken – Boardmember Mattick selected in prior vote.

****ACTION:** Roll Call Vote for Sandy Mattick – Approved on vote of 5 to 2 with Boardmembers Conoly and Stover voting No.

New Business

- 1. Discussion regarding Major Majority Regarding the Comprehensive Plan and the Land Development Regulations.**
No discussion.

2. Discussion Regarding Chapter 90, Internal Traffic Circulation, Access and Storage.

Chair Stover thanked the Board for selecting him as Chair. He then introduced a proposed 2030 Traffic & Parking Plan for the Pine Ave. Corridor. Chair Stover noted there had been a lot of distention in the community relating to the ROR parking issue and he wanted to present a compromise. The proposal would not satisfy everyone but he felt the suggestions would help the City progress.

Chair Stover suggested that the parking language in the code be separated for the Commercial and ROR Districts. He further suggested:

- Re-implementation of a revised #29 element to deal with traffic circulation in Commercial and ROR zones.
- Element #90 revised to eliminate ROR criteria-residential only.
- Regulate bicycle traffic on the street to only those that can keep with the traffic (15 to 25 m.p.h.)
- Regulate sidewalks to only pedestrians and slow bicycles and tricycles walked in the presence of pedestrians.
- No motorized vehicles (Segways, etc.), multi-wheeled cycles or skate boards, scooters or rollerblades.
- Strict policing of single-lane two-direction traffic with no crossing of double line except at intersections.

Boardmember Mattick agreed that a Master Plan was needed and was in agreement with Chair Stover's proposal; however, felt there may be need for additional changes. She pointed out that the biggest issue for the Parking Safety Committee related to backing out over the sidewalk.

Chair Stover suggested that the Gulf Corridor also be included. He would like a property owner to know what they can do with a property. He hoped that the City could come up with a good plan – yet not have to take months to do so.

Boardmember Pytel suggested that an explanation of the regulations, specific dimensions, etc. be placed in writing.

Chair Stover informed that Gene Aubry volunteered his time to draw the sketch presented that evening. The sketch included showing where all buildings were located along Pine Ave. The proposal includes a proposed park and a location for the City equipment to be parked. Chair Stover explained that angled parking at 30-degrees could be substituted for a loading zone or handicap spot.

Boardmember Barlow felt Chair Stover's proposal had a lot of merit and suggested that the P&Z Board discuss the details after it had been presented to the City Commission for their consideration.

MOTION: Boardmember Mattick moved that the proposal submitted by Chair Stover be presented at the City Commission/P&Z Board Joint Work Session to be held March 4, 2010. Boardmember Barlow seconded the motion.

Boardmember Pytel stated that the proposal was a good start, however, he still would like details placed in writing.

Boardmember Mattick suggested that Planner Garrett review the proposal to ensure it meets the code requirements.

City Planner Garrett informed that the Commission asked that all alternatives be reviewed - including removing all current Codes. Chair Stover's proposal would also be reviewed.

Chair Stover felt that each P&Z Boardmember needs to take on more responsibilities and homework – and that they are committed to serve the P&Z Board first. After Boardmember Pytel asked that details be placed in writing, Chair Stover asked Boardmember Pytel to come up with a list of items.

Boardmember Pytel agreed and asked if he could work with other P&Z Boardmembers in doing so.

City Attorney Dye pointed out he could work with other P&Z Boardmembers so long as it was in a noticed Workshop and that minutes were taken.

ACTION: Motion carried – All Aye.

Boardmember Mattick informed she had met with Planner Garrett earlier that day relating to the parking regulations, etc. She felt it would be simple to put in writing what the regulations would be – Commercial lots versus Residential, etc. She gave the example of a mixed use property strictly commercial and later becoming a residential.

ACTION: At the suggestion of *Chair Stover*, it was the consensus of the P&Z Board that each Boardmember write a paragraph to a page of their recommendations relating to the parking issue.

P&Z Board Duties Discussed

Chair Stover asked that each Boardmember review the Code requirements of the Planning & Zoning Board. He referenced Code Sec. 2-25 and pointed out that the P&Z Board serves as the Local Planning Agency for the City.

Public Hearing:

A continued Public Hearing from January 19, 2010 to Consider a Revised Site Plan for 216 Pine Avenue, Lots 1 and 2, Block 46, Anna Maria Beach, Third Addition, in an ROR Zone District.

City Clerk Baird swore in all persons wishing to speak.

Boardmember Pytel informed that at the last P&Z Board meeting, the applicant was given the opportunity to revise the Site Plan and to address eight issues discussed by the Board.

Applicant Presentation

Micheal Coleman, applicant for PAR, addressed the Board. He asked that they be allowed to respond appropriately to any comments made after hearing Public Comment that evening.

Changes to the Site Plan included:

- Separating the building into two buildings that are consistent with the coverage and setback requirements.

- The plan was being submitted with more detail than any other plan they had submitted previously including 315-317 Pine Ave., 401-403 Pine Ave., and 503 Pine Ave. which were all submitted according to the current Code regulations.

Planner Garrett acknowledged that the completed Site Plan application had been reviewed by City staff. A summary as the plan relates to the Codes in the ROR District had been included in the P&Z Board's packet materials. The two structures have been separated and did comply with the setback requirements. He informed that the Site Plan did comply with the elements necessary for a site Plan.

Planner Garrett informed that staff had worked with the Applicant relating to the following:

- To maintain the visibility triangle.
- Work out the appropriate locations for both the retail and the residential recycling and garbage.
- Determine the location for the handicap space.
- Compliance with the requirements of 5-ft. landscape buffer area.
- Privacy fence within the buffered area. Applicant has chosen to place the fence closer to the subject parcel; therefore, the residential behind will have the landscaping and then the fence.

P&Z Board review of the revised Site Plan followed. Issues discussed included:

- Drainage requirements. *Mr. Coleman* explained in detail.
- Referring to the residential spaces as "apartments" that require only one parking space per "apartment." *Mr. Coleman* informed that City Attorney Dye had indicated that an apartment was one residential unit that was part of a larger structure. He felt that the project qualified for that definition in the Code and that the Code language should be adhered to. Noting that the City Code has no definition for an "apartment", the dictionary was referenced.
- *Mr. Coleman* agreed to stipulate to and embrace any future parking changes approved by the City Commission – not only for the currently proposed projects but also would retrofit the existing projects.
- In answer to *Boardmember Mattick's* question whether or not the building could straddle the lot; *Planner Garrett* informed there shall be no more than one residential unit per lot/structure. Explanation followed.
- Density concern as addressed by *Boardmember Pytel*.
- LDR requirement for sidewalks on both sides of Pine Ave. *Planner Garrett* explained that it would normally be the responsibility of the developer to install the sidewalks. The sidewalk on the proposed Site Plan is on City property; therefore, the City will govern the design and inspections. The City's Public Works Department is responsible for the maintenance of the sidewalks and the City is responsible for liability requirements.
- Pool equipment to be placed in the space between the two buildings.
- Electric panels will be part of the Building Permit process, however, are proposed for placement in the back of the buildings. The County requires one meter for the commercial space and one for the residential.
- *Boardmember Conoly* made reference to the Site Plan in respect to the parking and the driving over the sidewalks.

Mr. Coleman asked *Boardmember Conoly* to show him where in the Code it states that it was not allowed to drive across a sidewalk. He stated that the Statute previously presented by City Commissioner Stoltzfus did not refer to driving across a sidewalk – rather, it referred to it not being legal to drive down a sidewalk. He pointed out that driving across and backing out over a sidewalk is required for all residential properties.

- It was noted that the loading zone placement would require the trucks to back into the intersection on N. Shore Dr. and Pine Ave.
- *Planner Garrett* stated there was no Code language prohibition for parking along a side street. As long as not zoned strictly residential, parking is allowed on the parcel and there is no prohibition as to which street is accessed or coming from.
- *Planner Garrett* explained that the ROR reaches to the centerline of the two alleys on the south side of Pine Ave and portions of the north side of Pine Ave.

Boardmember Conoly asked the Building Official, City Planner, and City Attorney if the Site Plan complied with all Codes and Ordinances.

Planner Garrett said, from a planning perspective, that it does comply.

Building Official Welch stated that from what he has seen, the Site Plan did seem to be consistent with every other development on Pine Ave. In lieu of any Code changes, it would deem to be in compliance with the Ordinances. He would, however, like to hear from a Traffic Engineer prior to making a final approval in regard to the trucks having to back out of the loading zone space.

City Attorney Dye said he did not agree that the Site Plan was in compliance and asked for a recess to discuss his concerns with City Planner Garrett and with the applicant's developer.

Chair Stover called for a 5-minute recess to reconvene at 7:28 p.m. to allow time for City Attorney Dye to meet with the City Planner and the applicant's developer.

Chair Stover reconvened the meeting at 7:28 p.m.

City Attorney Dye explained that discussion was held during the recess relating to how the parking spaces were calculated. After reviewing the Code, he pointed out that apartments were listed in the City's Code under commercial uses (along with hotel and motels) and not under residential uses. The proposed Site Plan is a residential use and the correct parking space calculation would be two parking spaces per residential unit.

After conferring with the applicant, City Attorney Dye informed that the applicant had verified there would be enough parking on the site to allow for two parking spaces per residential unit – along with all required parking for the commercial uses. As a result, he stated he had no objection to the proposed Site Plan.

City Planner Garrett recommended that the two signed parking spaces, per residential unit, (total of four) be added to the motion as a stipulation.

City Attorney Dye advised that the residential units on the Site Plan should be designated as residential and not as commercial. He pointed out that the Code had no definition for an apartment. Explanation followed.

Mr. Coleman agreed with City Attorney Dye and had no objection to the four parking spaces being signed and designated as residential only.

Boardmember Pytel announced that Boardmember Jenkins had spoke to him during the 5-minute recess and was questioning how the vehicles would be getting in and out of the parking spaces. He apologized for discussing the issue with her during the break in the event that their discussions may have been a violation of the Sunshine Law.

Boardmember Jenkins also apologized. She explained that the discussion included her suggestion that two strips of parallel parking could be placed in front of the building, entering from one side on N. Shore Dr., and then exiting on Pine Ave.

Lynn Townsend-Barnett, Architect for the applicant, 1922 53 Ave E, Bradenton, addressed the Board. Ms. Townsend explained the drainage installed for the project. She explained that they had met and exceeded all State and City codes.

A turning template was applied to each of the parking spaces to make sure they would function safely and efficiently. She confirmed that if the Board requested, the loading space could be relocated. However, from a safety standpoint, it could maneuver safely where currently placed on the Site Plan.

Attorney Racinda Perry, Attorney for PAR, addressed *Boardmember Pytel's* question relating to density and stated that there were over 150 meetings in Anna Maria pursuant to the adoption of the Comprehensive Plan in 2007 and that consultant Tony Arrant had worked with the City towards that goal.

Ms. Perry said she concurred with City Attorney Dye that there was no density issue with respect to this or any project in the ROR District. She pointed out that the Comp Plan refers to gross acreage. She explained that the gross acreage refers to the entire ROR District. The gross acreage is determined by adding up all the properties in the ROR District, add up the acreage, and add up the number of units in the District which will determine if the ratio complies. She informed that there were currently 3.63 units per gross acre in the ROR. The Comprehensive Plan allows up to six units per gross acre.

Boardmember Pytel asked for clarification as to where in the Comp Plan that gross acreage was listed as the entire zoning district.

Attorney Perry responded by directing the Board and reading the language on page twelve of the Comp Plan – Commercial Land Use Category.

Boardmember Pytel also read language on page twelve of the Comp Plan and gave his interpretation. He brought attention to the “Note” on that page.

Attorney Perry pointed out that what Boardmember Pytel was referring to was under the Residential Land Use Category and not the Commercial Land Use Category. She stated that the “Note” could not apply to the Commercial Land Use Category.

Discussion followed as to what Boardmember Pytel felt was the intent and desire. He stated that the P&Z Board had never discussed the density issue as reflecting the entire district.

Boardmember Mattick stated that all currently platted lots are grandfathered in and are buildable.

City Attorney Dye stated that his interpretation on how to calculate the gross acreage as far as residential density is the total gross area acreage divided by the developed tract. He said he did not see it as a calculation based on the zoning category - but as a calculation based upon the original development of the land – from where the original 5,000 sq. ft lots came from. The calculation is determined by taking the raw land, plus the number of lots that would be created on that raw land, to determine the density. After that, they are grandfathered in.

City Attorney Dye explained that the bigger lot size counts during re-development if the plat were to be vacated and started all over by going back to raw acreage. The existing lots, however, have protection as being grandfathered. He stated that if looking at it on a lot-by-lot basis as being the City's policy – at 6 units per acre – it would also count in the

Residential zoned districts of the City and any 50-ft lot in the residential district could not be built on either.

Boardmember Pytel asked how the owner of two lots together would have the opportunity to redevelopment it. He then referred to page 3 of the Comp Plan relating to preserving the unique and existing single-family residential character in the City...and to encourage property owners to build less than the maximum size on the lot.

Boardmember Pytel stated that the Comp Plan, in his interpretation, requires that lots be 3,500 sq. ft. He felt there was a conflict between the LDR's and the Comp Plan and therefore the Comp Plan prevails.

Boardmember Mattick stated that the applicant had addressed Boardmember Pytel's concerns about building to the maximum allowed. She noted that the building was at 33.5% versus the allowed 60% and the building height was only 27-ft, rather than the allowed 35-ft. She pointed out that even if the Code language is changed by the City Commission, the 216 Pine Ave. Site Plan must be based on the current Ordinances.

Discussion followed. Boardmember Pytel felt that the City Commission should be the final authority for the 216 Pine Ave. Site Plan. He suggested that the P&Z Board deny the Site Plan application. The applicant would then appeal the decision to the City Commission for their review.

Attorney Perry informed that the City Commission and Mayor have given authority to the City Attorney to issue a legal opinion on the ROR density issue. She advised that there is a written legal opinion advising that the applicant is not violating the density requirements as set forth in the City's Comprehensive Plan. Attorney Perry then asked the City Planner and Building Official if the Site Plan complied with the Comp Plan in addition to the LDR's.

- *Planner Garrett* stated that based on the relevant policies, objectives, and goals he did feel that the Site Plan complied with the Comp Plan in addition to the LDR's. He noted that in the ROR District, only existing platted lots of record are vested. However, any newly platted residential lots must be 7,500 sq. ft.
- *Building Official Welch* concurred with Planner Garrett that the Site Plan does comply and is consistent with the Comp Plan. He stated that at one time, the regulations in the ROR only allowed for retail/office use on the 5,000 sq. ft. lots. He pointed out that when policies are written, they can be written very objectively. He advised that action should be taken as close as possible to those decisions made in the past.

Boardmember Pytel noted that he was absent during some of the meetings over the past summer when the LDR's were brought into compliance with the Comp Plan.

Attorney Perry informed that she, nor the City Attorney, could give an opinion as to whether or not the Site Plan was in compliance with the LDR's and Comp Plan. She asked that the applicant's expert, Lynn Townsend-Barnett, be asked to give her opinion. She then officially entered into the record an analysis prepared by Lynn Townsend-Barnett on behalf of Pine Ave. that goes through all the criteria set forth in the Site Plan application. Attorney Perry then presented the analysis to City Clerk Baird.

Lynn Townsend-Barnett stated she did prepare a Site Plan analysis for 216 Pine Ave. and found that it was consistent with both the Land Development Regulations as well as the Comp Plan of Anna Maria.

Attorney Perry commented on Boardmember Pytel's request to deny the Site Plan so it would be considered by the City Commission. She informed that doing so would be inappropriate and explained that an analysis must be made by the P&Z board under the Site Plan Code requirements - Sec. 74-354 (h). Not doing so would violate the applicant's due process rights. She asked that a decision be made by the P&Z Board that evening.

Mr. Coleman readdressed the Board and discussed the issues he felt were not subject to interpretation. He pointed out that the ROR designation states that this category shall be used as a means of encouraging mixed-use development....The LDR's shall be changed consistent with that occurrence. However, the LDR's were not changed to correspond with the 1989 Comp Plan. Therefore, the City is still operating under the LDR's prior to the adoption of the 1989 Comp Plan. Mr. Coleman stated that minutes will show there was a desire to stop residential development on Pine Ave. and turn it into a mixed-use business district. He indicated that PAR was following the objectives exactly as called out.

City Attorney Dye advised that the P&Z Board would need to make a decision on the Site Plan that evening. He did not believe the P&Z Board could deny the Site Plan for the purpose of forwarding it to the City Commission for final approval. He noted if there was a decision in approving the project, the decision could be challenged by the substantially affected person, stating that the decision was inconsistent with the Comp Plan – going through the DCA and eventually the court system if necessary. There also is a precedent that if a plan is approved wrongfully, yet the owner builds pending the outcome of the future proceeding, the owner may be required to remove what has been built.

Public Comment

Tom Turner, N. Shore Dr. referred to the 216 Pine Ave construction plans.

- Pointed out where dimensions on page 4 and page 5 of the construction plans were different on the plans. He addressed the 20-ft. setback on N. Shore Dr. with curb bumpers in front. It was his opinion that a person could get out their vehicle and walk either way along the building without going back out into the street. He felt that only parallel parking should be placed on that side of the building.
- Did not feel that the swimming pool equipment should be placed between the buildings – in the right-of-way.
- Felt there should be a sidewalk going into the stairway on the larger lot.
- Should be a sidewalk in front of parking on Pine Ave.
- Suggested the Applicant re-work the Site Plan.

Larry Albert, 711 Gladiolus, referred to the ROR and felt that off-street parking should comply with the City Ordinances and laws of the State. Front yards must be marked for automobile parking. He noted that cars could park straight-in to the sidewalk and that each parking space must be a minimum of 10-ft. in width. Prior PAR Site Plans were based on this Code language. However, that section of Code now refers to Chapter 90. He did not feel that the Construction Plans were in compliance with the Code and questioned where the driveway was located. He was in agreement with Chair Stover's proposal - with some minor changes.

Robin Wall, 112 Palmetto Ave., read a prepared statement on behalf of herself and her husband Peter Wall. Ms. Wall informed that her home lays approximately 50-ft from one of the small 5,500 sq. ft lots in the ROR. She stated that when traffic increases every year and the Trolley passes by every twenty minutes, there is no room to pull over. She

and her husband would like the main commercial streets to be safe and the sidewalks walkable.

Ms. Wall recommended that the 216 Site Plan be continued to a later date until the following issues were resolved:

- ROR density. Explanation following relating to a petition that has been filed with the DCA by residents from Lakeview Dr.
- Ongoing discussion by the City Commission regarding the City's Code - Chapter 90 - as it relates to the safe and efficient parking and traffic circulation.
- Allow additional time for the applicant to correct glaring errors so that the Site Plan will be compliant with City Codes.
- Felt the Site Plan was not in compliance with Chapter 90-2 (b) 2 (2) *Curb cuts*.
- The Site Plan does not include any required driveway openings as required by Code.
- Felt that the Site Plan showing a parking area with parking spaces lined up at the edge of the public sidewalk across the entire frontage of the parcel was not keeping its maneuvering located solely on the subject property - nor was providing safe or convenient circulation in accordance with commonly accepted traffic practices.
- That the two residential units must provide for two parking spaces each for a total of four.
- That 7-ft side-yard setbacks should be mandated.
- Noted that the Site Plan proposed was on smaller lots that are only 110-ft deep with small setbacks of only 29-ft versus the larger setbacks of 35-ft.
- Asked that if the Site Plan is not continued by the P&Z Board, that be denied.

Jan Norsoph, Planner, Engelhardt, Hammer & Associates, Inc. stated there was no Comp Plan vesting development rights. His interpretation of the Comp Plan is that it does not vest the 5,000 sq. ft lots – only provides a standard. He then discussed the definition of density.

Planner Norsoph felt if the P&Z Board's interpretations were different than the City staff's then that's what they should base their decision on. He stated that the project was not in compliance with the Comp Plan.

Discussion then continued by Planner Norsoph relating to parking and maneuvering. He noted there was no definition in the LDC.

Planner Norsoph recommended that the Site Plan be denied or continued pending determination of the parking issue by the City Commission.

Micheal Selby, 812 N. Shore, said he would like Pine Ave. to be a nice walking district down to the City Pier. He suggested that the buildings be moved closer to the street with the parking in the rear. He was opposed to having to look at the rear of a vehicle when walking.

Mr. Selby asked if the property were being developed as two separate lots, would each lot have to have a handicap space.

Building Official Welch confirmed that two spaces would be required.

Building Official Welch responded to Mr. Selby's question relating to the definition of a driveway. He explained that the current definition is for a residential definition that leads

to a garage or carport. Without an appropriate definition, the use of dictionary is required.

Attorney Jeremy Anderson, representing his clients at 110 Spring Ave, addressed the density issue by reading Comp Plan Policy 1.2.1. and 1.3.4. His interpretation of the Policies followed. He stated that if the City wanted the percentages as indicated in Policy 1.3.4 to apply to the total gross acre, then it should have been written into the language.

Attorney Anderson then referred to Sec. 90-2 (b) 2 - curb cuts, one-way driveways, and two-way driveways. He questioned if the parking area was a driveway, a curb cut, or what type access it was. He asked what the basis was for allowing vehicular parking.

Building Official Welch responded stating there was a problem with the current definitions of driveways, access ways, etc. He pointed out that the P&Z Board had begun review the previous October, however, not been able to complete their review. Therefore, the definitions are based on his opinion based on his readings and past development experience.

Attorney Anderson referred to Sec. 90-3 (m) and questioned where the circulation was on the lot. He did not feel that type parking was safe and quoted the FL Pedestrian Design Handbook prepared by FDOT.

Attorney Anderson was opposed to the developments being approved all the way down Pine Ave. and continuing to back out over sidewalks.

Tom Aposporos, Crescent Dr., complimented Chair Stover on proposing the 2030 Traffic and Parking Plan for the Pine Ave. Corridor. Mr. Aposporos felt that Chair Stover's plan would serve Mr. Selby's concern about walking on Pine Ave. and being able to see the buildings.

It was Mr. Aposporos' opinion that the PAR development was very attractive, is a credit to the City of Anna Maria, and very much consistent with the City's character.

He urged the adoption of the 216 Site Plan with the understanding that the Applicant would stipulate to a change to the plan, after the fact, in the event an Ordinance is adopted at a later date.

Chair Stover confirmed for Mr. Aposporos that his proposal was only a concept.

Chair Stover called for a ten-minute break to reconvene at 9:10 p.m.

Chair Stover reconvened the meeting at 9:10 p.m.

Applicant Rebuttal

Lynn Townsend-Barnett addressed and apologized for the sq. footage error pointed out by Tom Turner on the Construction Plans. She further noted that the Fire Lane between the buildings will be reviewed for compliance by the Building Official and Fire Marshal during the Building Permit process.

Ms. Townsend-Barnett referred to Chapter 90 when reviewing and approving plans. Detailed explanation followed. She pointed out as set out in Chapter 90, more than ten parking spaces in a row would constitute meeting a minimum 20-ft driveway.

Ms. Townsend-Barnett stated that Chair Stover's concept plan was a very good and exciting plan for the future.

Attorney Valerie Fernandez, representing PAR, informed that the P&Z Board had a very important role as the final authority to either approve or deny a Site Plan. She explained that their decisions must be based on confident substantial evidence. She informed that the City had confirmed that the Site Plan was compliant with the LDC and Site Plan requirements. Only expert opinions are to be considered and not the presentations presented by non-experts.

Applicant Micheal Coleman informed that the process begin in July 2007 after he met with every P&Z Boardmember separately. Broad support was received from the P&Z Board. The Comp Plan language was changed and a substantial investment has been made by PAR to proceed with their plans. Site Plan applications have been submitted based on the current laws in the City.

Mr. Coleman explained that Sec. 90-3 (m) states that all parking shall be on site with no maneuvering in the right-of-way. He noted that all proposed parking has been located on-site.

City Attorney Dye polled the P&Z Board as to whether or not they had met privately with Mr. Coleman, or any other individual, about the project.

Mr. Coleman informed that his meetings were prior to 2007 after he spoke to City Attorney Dye and confirmed he could meet with each Boardmember so long as he met with them individually and did not relay conversations with the other Boardmembers.

Each Boardmember indicated they had not met with Mr. Coleman or any other individual relating to 216 Pine Ave.

Planning & Zoning Board Discussion

Explanation followed by City Attorney Dye relating to expert testimony versus lay testimony and that opinion testimony should be discounted unless there's a factual basis to it.

Discussion followed relating to the code language regarding straight-in parking. It was noted that both Pine Ave. and Gulf Dr. were referred to as collector roads.

Boardmember Mattick pointed out that the first PAR Site Plan was proposed with parking in the rear; however, the neighbors were opposed.

Boardmember Barlow asked if the Site Plan complied with the intent of the Comp Plan and LDC as currently adopted by the City Commission. He felt if the City Attorney, City Planner, and Building Official all agree that the Site Plan complies, the P&Z Board must evaluate it based on the law.

Boardmember Pytel disagreed and felt that the Site Plan conflicted with the LDR's and Comp Plan. He said he would like to see more cooperation between the City staff, City Commission, and P&Z Board to see that Anna Maria fulfills the village they hope for.

Discussion followed relating to the proposed motion and inclusion of stipulations to be included.

Boardmember Pytel was opposed to the motion on the floor without it addressing the density issue. *Boardmember Mattick* did not agree to include it in her motion.

In response to *Chair Stover's* concern relating to the sidewalk placement, **Lynn Townsend-Barnett** acknowledged that the Applicant agreed to relocate the loading

space and handicap space, with 5-ft access to the west side of the property, make provision for a sidewalk connection from the sidewalk as proposed on Pine Ave. all the way up to the shops, and to construct a sidewalk on N. Shore Dr. similar to that on Pine Ave.

Boardmember Pytel said he had a problem with approving the Site Plan without addressing the density issue. He felt that the City Commission should have an opportunity to review the Site Plan.

City Attorney Dye provided a suggested stipulation based on the property being a unified site.

Attorney Fernandez suggested a Unity of Title. *City Attorney Dye* had no objection to Unity of Title, however, suggested that his stipulation still be included as a stipulation. Discussion followed.

Boardmember Mattick agreed to amend her motion to include Chair Stover and City Attorney Dye's additional recommended stipulations. After discussion, the final motion was as approved:

MOTION: Boardmember Mattick moved and Boardmember Barlow seconded the motion to approve the Revised Site Plan for 216 Pine Avenue, Lots 1 and 2, Block 46, Anna Maria Beach, Third Addition, in an ROR, in an ROR Zone District as submitted with the following stipulations:

- That the upper units be designated as residential rather than as apartments.
- That appropriate signage for four residential parking spaces is designated.
- Allow the applicant to modify parking in accordance with any future parking plans as long as applicant and City are in agreement.
- Loading zone and handicap parking is moved to the west side of the parcel.
- Add sidewalk on N. Shore behind the parking space in the City right-of-way.
- A walkway from the corner of N. Shore and Pine Ave in front of parking space.
- The site shall be operated and managed as a unified site. If the site should cease to be operated or managed as a unified site, each lot will then be subject to additional review and amendment to ensure continued compliance with City Codes.

ACTION: On Roll Call vote, the Motion was approved on a 4 to 3 vote.
Boardmember Mattick – Aye
Boardmember Barlow – Aye
Boardmember Jenkins – No
Boardmember Yetter – Aye
Boardmember Pytel – No
Boardmember Conoly – No
Chair Stover - Aye

Old Business

1. Consider approval of the January 19, 2010 P&Z Board Meeting Minutes.

MOTION: Boardmember Mattick moved that the January 19, 2010 P&Z Board Meeting Minutes be approved as written. Boardmember Jenkins seconded the motion. Motion carried – All Aye.

Adjournment.

On motion made by Chair Stover and seconded by Boardmember Mattick the meeting was adjourned at 9:49 p.m.

Alice Baird, CMC, City Clerk

MINUTES APPROVED: _____