

**CITY OF ANNA MARIA
PLANNING & ZONING BOARD MEETING
MEETING HELD AT ANNA MARIA COUNCIL CHAMBERS
10005 GULF DRIVE – ANNA MARIA, FL
TUESDAY, APRIL 20, 2010
6:30 P.M.**

CALL TO ORDER

Chair Stover called the Meeting to order at 6:30 p.m.

PLEDGE TO THE FLAG

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

ABSENT: Boardmember Margaret Jenkins.

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

Also Present: Mayor Fran Barford. Court Reporter not paid by City.

Press: Sun and Islander.

Chair Stover announced that the moratorium Ordinance being considered by the P&Z Board that evening would not include determining an effective date.

Chair Stover also announced that the 308 Pine Avenue Site Plan consideration would be reviewed by the Board based on the codes in place at this time.

- a. *Chair Stover* suggested that public comment that evening be taken after each agenda item for a maximum of three minutes per speaker. He asked that the same comments not be repeated. The applicant presentation for the 308 Pine Ave. Site Plan would be limited to fifteen minutes.

ACTION: It was the unanimous consensus of the P&Z Boardmembers that *Chair Stover's* recommendation be applied for the meeting.

1. **Public Hearing – Ordinance 10-709 – An Ordinance of the City of Anna Maria, Florida Imposing a Temporary Moratorium Upon the Acceptance, Review, and Approval of Applications for Site Plans for Projects Within the Residential/Office/Retail, Pending Review and Amendment on Parking and Related Regulations Within the ROR Zoning District.**
City Clerk Baird read the Ordinance by title.

Boardmember Pytel felt that a limited 3-month moratorium was reasonable and appropriate for the following reasons:

- He felt that the interpretation and definition of critical safety in the ROR and the City vision issues in the ROR needed to be addressed so that they are understood by the City Commission, City Staff, and townspeople. He noted that the regulations today are being interpreted differently by different people. Clear regulations are needed.
- Determination as to what a driveway, curb cut, and access way is needs to be addressed – and how they are related and how they differ.
- Determine what the proper and intended use of the right-of-way is.
- Address if the loading zones were being used appropriately.
- Determine the proper size of a parking space – 10-ft x 20-ft or 9-ft x 19-ft.
- Conclude if there is a safer parking system than the one that allows backing out over busy sidewalks to access a busy main thoroughfare.

Boardmember Pytel felt that the listed issues required careful study and that a moratorium would provide an opportunity for all sides to air their ideas. He noted that the issue had been discussed for over five months with little progress. He stated that a moratorium would provide a deadline to conclude discussion and revise fuzzy codes.

Boardmember Mattick voiced her opposition to a moratorium stating that there would be no way a final determination could be made in three months. She felt a professional should be brought in to look at the issue from a fresh point of view. Boardmember Mattick noted that even if the moratorium was approved, it would not include the Site Plans currently in the pipeline and at this time there is only one additional Site Plan for consideration.

She stated that the current Site Plan applicant has agreed to work with the City and comply with any new regulations if at all possible. She made reference to the possibility of Sunshine violations on the Board and on the City Commission. She said if proved to be in violation, approving a moratorium would be a total waste of their time.

Boardmember Yetter said he was strongly opposed to the proposed moratorium and felt it was wrong on a lot of different levels. He noted that the City Commission had voted on the moratorium approximately one month earlier and that a lot had transpired since that time. He felt that "agendas had been exposed" and he did not believe that the City could afford to move forward with the moratorium due to the financial risks involved.

Boardmember Yetter recommended that the P&Z Board recommend to the City Commission that they not move forward on a moratorium.

Boardmember Barlow said he did not support the moratorium as presented - feeling it would only slow down the growth on Pine Ave. He stated that a moratorium would be expensive, and that it was wrong to target certain developments on Pine Ave. when in fact the moratorium was instigated by City Commissioner Harry Stoltzfus. It was Boardmember Barlow's opinion the suggestion of a moratorium was a personal vendetta against PAR (Pine Avenue Restoration).

Boardmember Conoly felt that the City Commission, City, and P&Z Board had been doing "a lot of foot dragging in the last five months". It was his opinion that the regulations needed to be addressed and that it was unfair and unreasonable to delay the property owners. He stated that a moratorium would be unable to change anything unless the City leaders were to approve new regulations. He did not feel a moratorium was needed.

Chair Stover felt that the current Code regulations were too vague and that something should stop in order to review the laws so that everyone can understand them. He was unsure, however, if a moratorium would solve the issue.

Chair Stover officially opened the Public Hearing for the purpose of hearing public comment. City Clerk Baird swore-in all persons wishing to speak.

Public Comment

Attorney Jeremy Anderson, representing Mr. and Mrs. Nally at 110 Spring Ave, said they were in favor of a moratorium. He stated that the City was currently facing pending litigation and Comp Plan challenges. If the City were to continue approving projects not consistent with the Comp Plan, it would be even more costly to the taxpayers. He suggested that the LDR's be approved in the proper manner and that a moratorium be approved to insure that projects down the road - not yet submitted - would comply with the Comp Plan.

Hearing no further public comment, Chair Stover officially closed the public comment portion of the Public Hearing.

MOTION: Boardmember Yetter moved that the P&Z Board recommended to the City Commission that they not move forward with Ordinance No. 10-709 and the proposed moratorium. Boardmember Barlow seconded the motion.

Boardmember Pytel said he was concerned that the issue had become very political. He stated that the composition of the former City Commission was a lot more responsive to development on Pine Ave. The current Commission, however, saw a different vision for the City and may have misinterpreted the Codes and Comp Plan.

Boardmember Pytel said he felt it was inappropriate for the P&Z Board to take sides with one group or the other relating to issues and felt that each member should look at the future and not take sides. He stated that enemies were being made and no progress occurring. He felt that a moratorium should be approved to allow discussions to be held in the Sunshine.

Boardmember Barlow asked to respond to Boardmember Pytel's comments. He said the issue was about right or wrong and had nothing to do with politics.

Chair Stover said he supported the idea of the P&Z taking politics out of the issue and noted that the P&Z Board was formed for the purpose of making recommendations on the planning and zoning for the City. He said he had always been more interested in what will happen to the City in five to twenty years. He was also in agreement for a person to stand up and say what they believe in.

Chair Stover said he was very disappointed that for the last six months the City Commission had basically addressed one topic.

Boardmember Mattick noted that the former City Commission that Boardmember Pytel referred to were the ones who spent the year modifying the Comp Plan and approving it – and that they would have a better understanding and intent than would the current Commission.

ACTION: On a roll call vote of 4 to 2 with Boardmembers Pytel and Chair Stover voting No the motion carried to recommend the City Commission not move forward with Ordinance 10-709 and a moratorium.

2. A Public Hearing to Consider a Site Plan for 308 Pine Avenue, Lots 6 and 7, Block 45, Anna Maria Beach, Third Addition, in an ROR Zone District.

Applicant Michael Coleman, representing Pine Avenue Restoration (PAR), addressed the P&Z Board relating to the Site Plan for 308 Pine Ave – a double lot currently housing the “Sears House” that will be removed and relocated for restoration purposes. He informed that the same Codes and Ordinances applied to each of the previous Site Plans had been applied. He informed that coverage had been reduced significantly from what's allowed – from 60% allowed down to the requested 30% range. Cisterns are being placed on the properties which will catch at least one roof full of water. Mr. Coleman said they are very proud of the project and explained the assets of the project.

City Clerk Baird officially swore-in all persons wishing to speak.

Lynn Townsend-Barnett, Engineer for the project, informed that the request was for the maximum building coverage of 40% and maximum lot coverage of 5,515 sq. ft. The parking will meet all the adopted LDC's.

Ms. Barnett noted that in preparing the preliminary Site Plan she had not included all the details required for obtaining a building permit or details required for a Final Site Plan once permits had been obtained from all required agencies. The Preliminary Site Plan was intended to approve the nature, intent, and character of the surrounding developments.

The Site Plan is consistent with, and has been reviewed by the State, for all drainage regulations and requirements. The parking standards are consistent with the commonly accepted traffic patterns within the City and State and are consistent with all other Site Plan approvals on Pine Ave. - as well as the ROR District. Ms. Barnett provided the parking examples including the Boardwalk parking, the Community Center, and the 303 Pine Ave Hunt project approved in 2004. All water quality, storm water storage, buffers, landscaping requirement, etc. have been met.

An updated version of the Site Plan drawing (page 4 of 8) dated March 8, 2010 was presented to the Board by the City. *City Attorney Dye* and *City Planner Garrett* clarified that the March 8, 2010 was the most recent updated drawing and had been reviewed by the City. The March 8, 2010 drawing included the tandem parking spaces on both ends of the property, along with shifting and relocating the loading and handicap spaces.

Mr. Coleman informed he had witnessed two citizens reviewing the original Site Plan file in the Council Chambers the previous day. He recommended that any file provided to the public be a copied file and not the original.

Planner Garrett confirmed that the Site Plan met the City's visioning plan, City adopted Comp Plan, and LDR's as currently written. Explanation followed by Planner Garrett and Ms. Barnett as to what the building coverage calculations were based upon and how the number of parking spaces were determined.

Planner Garrett noted that the balconies were not included in the building coverage. He pointed out that no business should be conducted on a porch, or no outside display on the porch.

Chair Stover said it was unfortunate the Codes could be interpreted so differently by different people. He hoped that the City can quickly clarify the language in the Codes. He said he hoped that the P&Z Board could guide a compromise towards that goal.

Planner Garrett informed that the proposed Site Plan will have residential units above each of the two structures. Two tandem spaces will be located on each side of the parcel. In front of each of the two tandem spaces a path will lead back to each residential unit.

Chair Stover asked if the decking had been eliminated for the swimming pools. *Planner Garrett* explained.

Boardmember Pytel addressed his concerns relating to density and intensity and how he felt it should be calculated in order to be consistent with the Comp Plan. Boardmember Pytel stated that the lots were approximately 52-ft x 110-ft totaling 5,700 sq. ft. Comp

Plan Policy 1.2.1 states that in ROR residential there is a limit of 6 units per gross acre. The Comp Plan Future Land Use states in the Residential section that gross density is defined as the number of housing units divided by total gross acreage of the development tract.

Boardmember Pytel then referred to the General Provision definition of Density in the LDR defining density as the total dwelling units divided by area of the total parcel lot area. He stated that gross acreage being defined as a zoning district did not appear anywhere in the Comp Plan or LDR.

He stated that the Comp Plan and LDR address the situation, where prior to FEMA regulations which required building residence on stilts, that a 5,000 sq. ft cottage lot met intensity and density requirements. However, with the FEMA stilt residential building regulations, 7,500 sq. ft lots were determined to be needed to meet the desired intensity and density requirements in the City.

Boardmember Pytel informed that the Comp Plan and LDRs address the reality that about half of the platted lots in Anna Maria were approximately 5,000 sq. ft and the other half of the lots are 7,500 sq. ft. He said that regulations avoid making 5,000 sq. ft lots nonconforming with all the maintenance and rebuilding issues that non-conformance brings – and at the same time, the regulations specify a 6 unit limit or 7,500 sq. ft density requirement.

Boardmember Pytel stated that the adjoining lots together on Pine are over 10,000 sq. ft and therefore meet the desired 6 unit maximum with only one residential unit on the parcel and not two residential units. Boardmember Pytel informed that the current home on the property would be removed and then there would be two homes and would be building from that base.

Lynn Townsend-Barnett responded noting there is an interpretation discrepancy on gross acreage and how it's calculated. She informed that the gross acreage city-wide was approximately 365 acres, with approximately 1,560 existing residential units yielding a density of 4.28 units per acre city-wide on all residential units.

Ms. Barnett stated that at build out there are only approximately 140 vacant lots. If all lots were built out, the maximum residential units would be brought to 1,700 – and 4.66 units per acre. She said without getting into what the lot size is, the City would be consistent, even with the maximum build out of all the lots, with the Comp Plan and LDR's and would also be able to demonstrate compliance with the DCA.

The Residential/ROR district is 14.2 acres with 34 existing units – yielding an existing density currently within the ROR at 2.39 units per acre. Taking all vacant lots – the total residential units to have a maximum potential totals 46 units – yielding a maximum potential density of 3.23 - would be able to demonstrate compliance with DCA.

Ms. Barnett explained that the City would need to have 2,184 residential units city-wide – or 85 units within the ROR – in order to max out to the potential that the Comp Plan and LDR's allow for. However, there is not enough land or lots available in the City to do so. She said currently there are 1,619 lots within the City and of those 658 of them are less than 7,500 sq. ft. She did not feel that the intent of the City was to calculate density as indicated by Boardmember Pytel.

Boardmember Pytel noted that the City did not have a definition for a total zoning district as a base for determining the density. He said he was only going by the language in the Comp Plan. He noted that the City is trying to incent where possible to build on 7,500

sq. ft lots. However, the proposed Site Plan has two lots together which come up with 7,500 sq. ft - but not individually. He said this would be an opportunity to meet the 7,500 sq. ft requirements.

Ms. Barnett said if the density issue was a valid concern, the Codes could be amended and the 6 units per acre reduced down. However, balancing that idea – without causing a taking on an individual's residence - would be difficult.

Applicant Micheal Coleman pointed that the City is currently awaiting a DCA interpretation relating to the language in the Policy to encourage mixed-use development.

Examples followed by Mr. Coleman based on Boardmember Pytel's calculation method, which he stated would be cause for a more intense residence. He stated that the entire City would be affected if that interruption of calculation was put into force. He stated that the method could not be used just for the purpose of a targeting device.

Discussion followed. *Boardmember Mattick* noted that during the Comp Plan review it was purposely stated that all currently platted 5,000 sq. ft lots would be conforming. She pointed out that the proposed cottage like buildings were being kept small. However, if allowed to be joined, it would result in a massive residence and commercial space below with no area in-between.

Public Comment

Attorney Jeremy Anderson spoke in representation of his clients Mr. and Mrs. Nally, 110 Spring Ave. Attorney Anderson said in order to build on a 5,000 sq. ft would require the City Commission to amend the Comp Plan to allow for it.

Attorney Anderson referred to Ms. Barnett's "pooling method" of calculation that would allow the first persons to develop being the ones who would use all the density in the area. He stated that DCA has questioned how the pooling method works and where it is explained in the Comp Plan.

Attorney Anderson quoted from the Comp Plan language relating to all new development and redevelopment and how they shall be developed. He then referred to the proposed building dimensions on the new plan, versus the sq. footage on the older plan – each building being 1 ½ -ft wider and 7.2-ft deeper for a total of 343-ft larger. He noted that an additional 343-ft would require additional parking spaces. Therefore, Attorney Anderson recommended that the Site Plan be denied.

Planner Garrett responded stating that during his review of the Site Plan he will find that the building footprint exceeds the sq. footage. However, the applicant is reminded that the sq. footage shown on the plan will be the maximum area for the retail or the office. The sq. footage (that is always required to be indicated on the Site Plan), is what the City will bind the Site Plan to when going through for the Building Permit. It is up to the applicant at the time they request the Building Permit as to how they choose to reduce the building footprint in order to comply with the 1,198 sq. feet of the retail or office component on the first level.

Attorney Racinda Perry, legal counsel for the applicant, stated that in answer to Boardmembers Barlow and Yetter, City Planner Garrett had testified that evening, and also provided a written staff report, that the Site Plan was in compliance with the City's visioning statement, Comp Plan, and LDC. In addition, Ms. Townsend-Barnett, a Florida licensed Engineer, has also testified that the Site Plan is in compliance.

Attorney Perry pointed out that the only testimony heard that evening indicating that the Site Plan was not in compliance was from Attorney Jeremy Anderson who is not a certified licensed Engineer or Planner. She informed that the law applies to that type testimony and neither she nor Attorney Anderson could testify to that compliance. She noted that City Attorney Dye had indicated earlier that evening that he was unable as an Attorney to comment on the planning aspect of the Site Plan. She said therefore the testimony indicates that the Site Plan is in compliance and should be approved.

Tom Turner, 815 N. Shore Dr, referred to the dimensions of the project stating there was an approximate 190-ft discrepancy from the upper and lower levels. He said the most recent sketch did not show the impervious area around the pool. He also asked for clarification relating to the type of material under the 16-ft x 18-ft covered deck. He felt the applicant was pushing the envelope as far as the impervious area for the drainage.

Mr. Turner then referred to the parking and stated there would only be three parking spaces for the retail customers. He also asked where the entry was to the retail and noted there was no landscaping indicated.

Larry Albert, 711 Gladiolus, asked where the tandem parking was indicated in the Code. He made referenced to Code Sec. 90-3 – relating to the access to the street to be unobstructed. He felt that the parking situation would cause for an obstruction.

Hearing no further public comment, Chair Stover officially closed the public comment portion of the Public Hearing.

P&Z Board Continued Discussion

City Planner Garrett explained that the City has not prohibited tandem parking for residential uses. In addition, the Community Center was allowed tandem parking restricted to the employees or volunteers. He informed that if tandem parking is no longer allowed, it would affect everyone's driveways in the City. Planner Garrett verified that the residential parking spaces are required to be signed as such.

Applicant Micheal Coleman responded to Chair Stover's question, stating that PAR is interested in the best outcome for PAR and for the City. He stated that just about any plan that preserves property rights while enhancing traffic and safety will retroactively be adopted not only with the proposed plans but also with the existing buildings.

Mr. Coleman informed that at the Joint City Commission/P&Z Board meeting in August 2008, it was unanimously approved that tandem parking should be adopted.

Lynn Townsend-Barnett addressed the question relating to the impervious area around the pool. She clarified that the area would be a pervious sand/shell mix around the pool, under the balcony, along the sides of the property, and in the parking spots. The only impervious surface is noted on their Site Plan legend on sheet 4 and is proposed as paver bricks.

Mr. Coleman explained the pavers will only be placed where required for the handicap parking. He said every time a paver, sod, or concrete are added on the Island, it degrades the quality of the water that goes into the large bodies of water.

Ms. Barnett informed that the landscaping was provided, was reviewed, and was provided as part of the proposed Construction Plans.

City Attorney Dye recommended that the developer agreeing to the reconfiguring of sidewalks, parking, etc. in the future would need to be part of the approval document in order for it to be binding.

- MOTION:** Boardmember Barlow moved and Boardmember Mattick seconded the motion to approve the Site Plan for 308 Pine Avenue, Lots 6 and 7, Block 45, Anna Maria Beach, Third Addition, to include the following stipulations:
- The parking spaces for the residential units shall be signed for residential use only.
 - The retail trash receptacles shall be within a completely enclosed structure.
 - The site shall be operated or 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.
 - The Site Plan may be modified to accommodate any future parking plan.

Boardmember Pytel said he was concerned about the language in the Comp Plan that defines density as 6 residential units per gross acre. He did not feel it was compliant with the general definitions in the LDR's.

Boardmember Pytel did not feel there was a conflict between the Comp Plan and LDR's – which they try to maintain a balancing act so that half of the lots are not nonconforming. However, there is a desire in the Comp Plan that states that the desired density is 6 units per gross acre – being 7,500 sq. ft. He did not feel that the density requirements would be met if two residential units are built – one on each lot. Discussion followed.

Attorney Perry asked for clarification relating to the stipulation that the Site Plan may be modified to accommodate any future parking plan. She stated that the applicant would agree to make the changes administratively through the City rather than having to go through the Public Hearing processes.

Boardmember Barlow said it was the intent that it be handled administratively, however, *City Attorney Dye* explained that the current Code would govern what could or could not be handled administratively.

ACTION: On roll call vote, the motion carried on a vote of 5 to 1 with Boardmember Pytel voting No.

New Business

- Workshop on Chapter 70 Definitions
- Safety Issues for Individual Motorized Vehicles and Bicycles
- Loading Zones in the ROR District.

Old Business

- Continuation of Definitions

It was agreed that the agenda items listed under New and Old Business would be discussed at the P&Z Board's next Work Session to be held Tuesday, May 11, 2010, 6:30 p.m.

Adjournment.

The meeting was adjourned by Chair Stover at 8:00 p.m.

Alice Baird, CMC, City Clerk

MINUTES APPROVED: _____