

**CITY OF ANNA MARIA
PLANNING & ZONING BOARD
REGULAR MEETING HELD AT ANNA MARIA COMMISSION CHAMBERS
10005 GULF DRIVE – ANNA MARIA, FL
TUESDAY, MAY 6, 2008
7:00 P.M.**

CALL TO ORDER

Planning and Zoning Chair Doug Copeland called the meeting to order at 7:00 p.m.

PLEDGE TO THE FLAG

ROLL CALL: Boardmembers Margaret Jenkins, Sandra Mattick, Mike Yetter, Chair Doug Copeland, Frank Pytel, Randall Stover (7:05 p.m.), and Jim Conoly.

Staff present: City Clerk Alice Baird, City Planner Alan Garrett, City Commission Chair John Quam, and Minutes Clerk Stacey Johnston.

-- Chair Copeland added the approval of the March 4, 2008 Minutes to the Agenda. (See Item # 3.a.)

1. Review of Final Site Plan Approval for a Mixed-Use Project Located Within the Residential/Office/Retail (ROR) Zone District Located at 315/317 Pine Avenue; Lots 17 and 18, Block 18, Anna Maria Beach, Together with 10 Feet Adjacent to the Northeast Vacated Street as Submitted by Micheal Coleman for Pine Street Restoration, LLC.

City Planner Garrett explained that the application was for a site plan in the ROR District encompassing two lots at 315 and 317 Pine Ave. Two separate proposals (A and B) have been submitted. He noted that Plan A, if considered, would require some modifications to the existing code.

City Planner Garrett then explained what was shown on Plan B stating that the proposed structures do comply with the lot area, the setbacks, parking, bicycle, and loading area requirements for the City. He noted there was a six-foot setback between the two structures and that the applicant had agreed to use the side-yard setback provisions for one of the structures and it meets the building fire code setback for the remaining structure - therefore making it two separate structures so there would be no question as to how many residential units you can have with each structure.

The loading area is consistent with the County's Ordinances, however, he felt since located at the transitional point of the ROR District and Residential District that screening should be required. Planner Garrett said he had recommended the stipulation of a six-foot fence that would start at the property line along Crescent Drive and continue 35-feet in order to encompass the 25-foot length of the loading area and also allow an additional 10-feet for the actual loading/unloading of the truck.

In answer to *Boardmember Pytel's* questions, Planner Garrett explained that because there's the provision of the additional side-yard setback only in the ROR

District – and it is unclear if the end result is one or two structures and no Ordinance existing that makes it clear - the applicant agreed to the separation.

Boardmember Conoly asked for clarification on the following:

- *Is a 12' X 25' loading zone sufficient for four businesses? He did not feel it would be adequate.*
- *Plan B - Parking limitations of 4 units with 1 employee each.*
Planner Garrett explained that the Code states that only one parking space per each 8,000 sq. foot structure is required. If the Board felt that was unreasonable, the Code will need to be amended.
- *Have the plans been calculated into the new drainage plan?*
Planner Garrett informed that the drainage aspect, along with the building plan, would be discussed at the final site plan and included in the engineering drawings. Only drainage flows are required at this stage.
- *Need for clarification on who retains the ownership of the building such as the common areas.*
According to Planner Garrett, the ownership would be no different than if one parcel. If two separate owners, a private deed restriction would be required as far as the maintenance of the property.
- *Will the buildings be classified as duplexes or condominiums?*
Planner Garrett stated it would not be a duplex. A duplex is two structures on one lot – the proposal is two lots with separate residential structures on each of the separate lots, therefore, determined as single-family. The term for condominiums reflects a type of ownership and the City does not regulate ownership in the Code.
- *Is there a plan for the 32-foot maximum building height?*

Boardmember Pytel asked about the 10-foot vacation. Planner Garrett informed it is complete and has been filed with the County.

Boardmember Yetter questioned if the Code regulates the number of businesses allowed or the number of employees per square foot. Planner Garrett informed it did not.

Boardmember Jenkins asked about Plan B showing one residential unit over two businesses and asked if it should only be one business. She also asked about the owner being required to live in the residential unit.

Planner Garrett explained there is no limit to the number of businesses. In regard to the owner or tenant being required to live at the location, it was noted that language had been removed from the Comp Plan and would need to be removed from the Ordinance to officially change it.

Boardmember Stover voiced concern about having three addresses on each parcel.

Planner Garrett informed there is no restriction to the number of addresses per parcel.

Micheal Coleman, applicant representing Pine Ave Restoration LLC said when they first began the project they had determined some adjustments would need to be approved. Having to give up a third level of occupancy for the project, they felt having some adjustments to the Code being approved was only fair. However, they later realized even if they were granted certain adjustments they would be unable to utilize them because of parking and setback requirements.

Mr. Coleman referenced Plan B, which was consistent with the City Codes and the residential units have been separated. He said they are requesting approval of Plan B.

Mr. Coleman stated that as far as ownership, taxes, etc. they would do whatever is required.

Boardmember Conoly asked about the 32-foot height request. The design element (window) on the top would be a non-habitable / non-use area.

Mr. Coleman said when putting the plans together they did not want to be limited to the roof pitch, etc. He said he would agree to a 27 or 29-foot height cap, however, the look they are after may no longer be there.

Discussion followed relating to the loading zone being at the back of the property. Mr. Coleman explained that the goal is to remove the loading/unloading off of Pine Ave. The loading zone would be accessed by taking a right on Crescent to the back of the property, right to the loading zone. A curb cut would be required.

Mr. Coleman agreed with *Boardmember Stover's* suggestion to placing shell on the 10-foot next to the alley. It would allow for two trucks to be there at the same time.

Planner Garrett suggested considering Plan B with stipulations that would take effect upon issuance of the building permit. He explained the avenues for administrative approvals at the time of final site plan.

Boardmember Stover asked about the size discrepancy of the lower level area versus the upper area.

Mr. Coleman said they are trying to avoid the "big box attitude" along Pine Ave. Details followed.

In answer to *Boardmember Pytel's* inquiry relating to the vegetation, Mr. Coleman informed that of the approximate 40 trees currently on the lot, they

would only take down what had to be removed. Additional trees and a minimum number of plants and bushes would be planted later.

Boardmember Conoly again asked about the height maximum being applied for.

Mr. Coleman informed they were applying for 32-feet to be approved on the lots. He pointed out that as separate structures, 37-feet is allowed by Code.

Chair Copeland officially opened the Public Hearing for Public Comment

Attorney Jeremy Anderson, Lobeck & Hanson, representing Fred and Barbara Nally who live at 110 Spring Ave., addressed the Commission. Stating that the Code specifically states that the site plan includes all project identifiers be included, he asked where the dumpsters would be located. He felt it was a big issue to be considered since there will be four businesses and two residential units.

Tom Turner, N. Shore Dr., felt the height limitation should be a standard 27-feet.

Robin Wall, 112 Palmetto Ave., agreed with accepting Plan B since it would comply with the Comp Plan.

Ms. Wall did not feel Plan B could be approved with a 29-foot setback and would need to be 35-feet since the Code requires it.

Ms. Wall suggested the Commission stipulate requiring vegetation be placed along the fencing in the back alley.

John Quam, 616 Rose St., said he was speaking on behalf of himself and resident Mr. Richard Freeman. Pointing out that the site plan application area did flood, he felt the stormwater management plan should be discussed that evening. He asked if the land would be elevated and whether or not the right-of-way on Crescent would remain as a swale. He was concerned that the stormwater currently remaining at Crescent and Pine Ave. would shift to Mr. Freeman's property.

Sally Eden, property owner of 316 Spring Ave. said their property backed up to 315 Pine Ave. They want to insure the drainage issues are addressed and that their property did not suffer. She further voiced concern relating to the issue of dumpsters, particularly if a restaurant is opened. It was noted that the property at 316 Spring Ave. was a rental property and any foul odors or visual distractions could impact the renting of the property. She asked that fencing be placed the entire length of the back of the property.

Edward Pedota, 318 Spring Ave., said he and his neighbors at 316 Spring have major drainage problems due to being geographically the lowest point. Though there is a drainage plan for Crescent, he did not feel it would address his location.

Mr. Pedota made reference to the swale planned between Spring and the alley (back of 315 Pine Ave. and 318 Spring Ave.) and felt it would cause a parking problem.

Mr. Pedota asked how, if any, a 29-foot front-yard setback would change the footprint of the planned development.

Mr. Pedota also suggested the fence be placed the entire length of the back property and suggested softening the view with some type of vegetation. He asked what type of dumpsters would be used, and suggested that rather than cutting down the trees that needed to be removed, that they be moved to a different location in the City.

Marie White, 111 Spring Ave., said she, too, had a concern regarding the dumpsters and where they would be placed. She suggested the dumpster be fenced on all four sides.

Ms. White stated additional parking would be required if there would be a restaurant having seating and more than one employee.

Micheal Coleman felt it was reasonable to fence the entire length of the property in order to separate the homes behind and that trees are planted as a buffer.

Mr. Coleman said he would place the dumpster on the site plan and that it should have been on the original plan. He said he would refer to the Planner for the best location to place the dumpster.

Mr. Coleman further informed they did not plan to elevate the lot. He also said he probably would not take advantage of the setback change even if it were allowed, though even if they did, it would not change the footprint.

He said he did not foresee a restaurant being established there due to the parking requirements.

Edward Pedota, 318 Spring Ave., said he saw on the drawing that crushed shell would be used. He asked if filter mix would allow for better drainage.

Mr. Coleman said that crushed shell had been referenced but they would more than likely be using the filter mix.

Hearing no further public comment, Chair Copeland officially closed the Public Hearing

Planner Garrett suggested that only Plan B be considered with any stipulations suggested by the Board. He informed that the trash dispenser is required to be shown on the plans. Since one was not shown he had reviewed the plans as if there would not be one - and it would be dealt with the same as the basic trash removal to the curb in the back. He said he could work with Mr. Coleman to

locate a place for the dumpster, if the Board agreed. The Code lends to locating the dumpster at the rear of the structure.

Relating to the stormwater issue, Planner Garrett informed that drainage flows had been indicated on the plans; however, if the Board felt it needed to be addressed further they could do so at this time.

Boardmember Yetter voiced concern as to whether or not a trash truck could get in the alleyway to pick up the trash with a fence along the back.

Planner Garrett said the alley would not be acceptable for the trash truck that they would have to utilize the loading zone. He would have to review whether a dumpster could be located in conjunction with the loading zone.

Boardmember Mattick said her business did not have a dumpster and she did not feel one would be needed for the proposed project. *Boardmember Stover* agreed. He felt if a modification was placed it would not limit Mr. Coleman's project much at all.

Planner Garrett stated if Plan B were approved without any type modification, then a dumpster would not be allowed.

In answer to Boardmember Stover's question, Planner Garrett informed that the back alley had been platted as an alleyway; however, it functions as a drainage ditch. He said it could not be combined with the loading zone or extended with the property and that the loading would have to be on the owner's property and not the City's property.

During discussion, Mr. Coleman officially withdrew Plan A for consideration

After consideration and lengthy discussion, the following action was taken:

MOTION: Boardmember Mattick moved to recommend approval of the Final Site Plan – Plan B – for a Mixed-Use Project Located Within the Residential/Office/Retail (ROR) Zone District Located at 315/317 Pine Ave., with the following stipulations:

- 1) **A 6-foot fence shall be installed along the entire alleyway,**
- 2) **The easternmost four parking spaces shall be signed for residential use only, and**
- 3) **That the Final Site Plan will be amended deleting i.e. crushed shell.**

Boardmember Yetter seconded the motion.

When specifying the stipulations, *Boardmember Mattick* asked if the dumpster issue would need to be included.

Planner Garrett answered that the dumpster was not being approved.

Upon Boardmember Mattick making her motion, *Boardmember Pytel* said he wanted to maintain a 35-foot setback instead of a 29-foot setback and suggested stipulating that filter mix be utilized for the parking area.

Boardmember Mattick said she did not want to place any conditions on the applicant that would not be imposed on anyone else and that the Code requirements be followed.

Planner Garrett pointed out that the motion did not address the stormwater - that it did address that no modifications had been given so the applicant must comply with the 35-foot front-yard setbacks.

ACTION: On Roll Call vote of the Board, the motion passed unanimously.

2. Ordinance 08-687 – Ordinance Amending Sections 114-281 and 114-282 Amending Regulations Within the ROR District Relating to Residential Dwelling Units and Amending Setback Requirements for Adjoining Structures.

Chair Copeland informed that City Attorney Dye had drafted Ordinance 08-687. Two minor typographical corrections were explained.

Chair Copeland asked that the Board address the following section of the Ordinance. He pointed out that the Comp Plan had been approved eliminating the language not requiring the owner or tenant to live in the unit. Separate tenants would be allowed.

Section Two. Limitations on Dwelling Units.

(3) a. Such unit is occupied by the owner or tenant of the associated retail, service or office use;

Boardmember Pytel said he had a problem with the entire Ordinance and asked how to differentiate between Single-Family versus Multi-Family. *Planner Garrett* explained.

Planner Garrett said if provision a. were removed it would allow the units to become separate ownerships. However, it would open other possibilities of the type of businesses that could go there. Examples followed.

Lengthy discussion and examples followed. *Boardmember Stover* said he had concerns relating to the owner's property rights and how they would be taxed.

Boardmember Mattick said this issue was addressed during the Comp Plan review. She felt it should be eliminated from the Ordinance and felt that someone could get around the current language.

Boardmember Pytel said he believed the entire Ordinance, based on the zero lot line, was inappropriate. Discussion followed relating to the intention of lot/structure language.

Public Comment

Robin Wall, 112 Palmetto Ave., said she absolutely felt Policy 1.3.5 meant one residential unit per structure to allow for the single-family characteristic of the City. She said the City had gone from a “mom-and-pop over a store” to other things in the ROR.

Ms. Wall said the City could not limit people to build to the 37-foot height limitation but did not want to see 5 units at 37-feet along Pine Ave.

She said until the Comp Plan is amended that clarifies what is really meant in ROR for two lots and two floors, the Ordinance should not be considered – that it would be getting around the Comp Plan. She stated that the Code is intended to be consistent with the Comp Plan.

Ms. Wall said she had asked seven individuals in the City if they wanted to see a separation between the buildings and each of them said they would in order to keep with the character of the City.

Micheal Coleman, 311 Pine Ave., said Consultant Tony Arrant was clear that there was never an intent for the language to be interpreted as it had been by some. Mr. Arrant had offered an opportunity to fix it until such time the City could amend the Comp Plan. Mr. Arrant had suggested either 1) Proceeding now with the long and expensive process to amend the Comp Plan, or 2) Amend the language by drafting an Ordinance to address it.

Attorney Jeremy Anderson, Lobeck & Hanson, representing Fred and Barbara Nally who live at 110 Spring Ave. said there was a fundamental flaw in the proposed Ordinance. Attorney Anderson explained his background of previously working with the DCA and the same agency that addresses the Comp Plans.

According to Attorney Anderson, in order to adopt the proposed Ordinance the City must first amend and adopt the amended Comprehensive Plan. If not, it will open the City up to his clients, or any other person effected, for challenging it.

Attorney Anderson read and presented the Board with a copy of State Statute 163.3194. He said after adopting or amending the Comp Plan, the City must then look at the LDR's and amend those that are inconsistent. It was his opinion that the proposed Ordinance was inconsistent with the Comp Plan.

Attorney Anderson said the inconsistency involved Policy 1.3.4 that states that Residential uses shall be single-family dwellings. He pointed out that the proposed Ordinance wants to place two adjoining structures, sharing a single roof with continuous frontage. He felt adjoining two structures would be defined in the City's Code as a two-family unit or duplex being defined as a "building containing two dwelling units." He said the definition did not state a "building on a single lot or parcel containing two units" – but says "a building containing two units."

He pointed out that the definition of "Building" means "any structure, temporary or permanent, having a roof supported by columns or walls." The City's Code says when the Code provides something in singular it should also be read in plural. Therefore, it was his opinion that in looking at the definition of "Building" it would also mean "any structure(s), temporary or permanent, having a roof supported by columns or walls."

He said the proposed Ordinance amendment refers to two structures under one roof – one building. Therefore, it was his opinion it would be inconsistent with the Comprehensive Plan. To adopt the Ordinance would open up the opportunity for the City to be challenged by other persons.

Tom Turner, N. Shore Dr., suggested sending the Ordinance back to the City Attorney for re-writing the Ordinance to reflect the two structures under one roof.

Planner Garrett informed he provided the language and City Attorney Dye drafted the Ordinance. The Ordinance was presented and approved for First Reading by the City Commission. He did not feel City Attorney Dye would propose an Ordinance inconsistent with the Comp Plan.

MOTION: Boardmember Stover moved to recommend disapproval of Ordinance 08-687 – due to concerns with Section Two. (3) and Section Three generally. Boardmember Pytel seconded the motion.

Roll Call Vote –

Boardmember Conoly – Aye

Boardmember Stover – Aye

Boardmember Pytel – Aye

Chair Copeland – No

Boardmember Yetter – Aye

Boardmember Mattick – No

Boardmember Jenkins – Aye

ACTION: On a Roll Call Vote of 5 in favor and 2 opposed, the denial of Ordinance 08-687 was recommended.

3.

a. Approve Minutes of March 4, 2008.

It was noted on page 6, Item 3, last sentence – “advise” should be changed to “advance”.

MOTION: On motion made by Boardmember Conoly and seconded by Boardmember Mattick, the March 4, 2008 minutes were approved as corrected. Motion carried – All Aye.

b. Approve Minutes of April 1, 2008.

Boardmember Mattick asked that Page 3 be changed to read: “*Boardmember Mattick* suggested that there be incentives for ~~increasing~~ decreasing from a ~~two-~~ three- story structure to a ~~three-~~ two- story.”

Boardmember Yetter pointed out on Page 4 that the correct spelling should be “percolation”.

MOTION: On motion made by Boardmember Mattick and seconded by Boardmember Conoly, the April 1, 2008 minutes were approved as corrected. Motion carried – All Aye.

4. Old/New Business.

New Business

Boardmember Conoly said he had been hearing citizen concern that there had been a lot more events such as the wedding business expansion, big flea markets, Friday night music by the Chamber, drive-by barbecue stands, etc. He said he hoped the City was not getting into a mode of holding events that would be bringing more people to the City.

5. Adjournment.

On motion made by Boardmember Mattick and seconded by Boardmember Jenkins the meeting was adjourned at 9:04 p.m. Motion carried – All Aye.

The next regular meeting is scheduled for Tuesday, June 3, 2008, 7:00 p.m.

Alice Baird, CMC, City Clerk

MINUTES APPROVED: _____