

**CITY OF ANNA MARIA
PLANNING & ZONING BOARD
REGULAR MEETING HELD AT ANNA MARIA COMMISSION CHAMBERS
10005 GULF DRIVE – ANNA MARIA, FL
TUESDAY, JUNE 3, 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, and Jim Conoly.

Staff present: City Clerk Alice Baird, City Planner Alan Garrett, Building Official Bob Welch, Mayor Fran Barford, City Commission Chair John Quam, City Commissioner Dale Woodland, and Minutes Clerk Stacey Johnston.

Press: Sun and Islander

1. **Review of Amended Site Plan Approval for a Restaurant Located Within the Commercial-1 District Located at 100 Spring Avenue - Sandbar Restaurant - Lots 1, 2, 8, 9 and the Southeastern half of Lots 11 and 12 of Block 33 Along with Lots 2, 4, 5, 6, 7, 8, 9, 13, 15, 16, 17 and 18 of Block 34, Anna Maria Beach Subdivision as Submitted by Weld, Inc.**
City Clerk Baird administered the oath to all wishing to speak.

Planner Alan Garrett reviewed in detail the following requested changes proposed for the Amended Final Site Plan:

- 1) *Reflect the dumpster/fence area and relocation of the ice machine and cooler.*
The existing dumpster is located within the Spring Ave. right-of-way and is not being proposed to be altered. A permit was issued in June 1989 for a compactor and fence at that location. The cooler and ice machine, currently bordering the right-of-way will be relocated on the property. The relocation area does not meet the front-yard setback, however, since considered as non-conforming, a non-conforming use can be relocated provided it is a lesser degree of non-conformity.
- 2) *Parking Lot "C" reflects ingress/egress from Spring Avenue only and deletes the Spring Land access points.*
In order to have a better retention pond and stormwater facility, an administrative approval allowed the reconfiguration. Explanation followed. Doing so deletes six parking spaces, however additional parking exists with the inclusion of Lot "F" and "I" closer to Gulf Drive. The overall site plan still complies with the required parking.
- 3) *Site Plan increases the tree planting and landscaping area within Lot "D" adjacent to the restroom building.*
The additional landscaping helps better define the pedestrian path and minimizes the vehicular access crossing the pedestrian path.
- 4) *Parking Lot "D" reflects the circulation for the easternmost parking row entering from Spring Avenue.*
Previous and proposed circulation patterns were explained.

- 5) *The Site Plan reflects the Public Pedestrian Access Path made with 250 filter mix.*

Delete the paver brick along the pedestrian path and replace with the filter mix in order to maintain the natural beauty of the area, accent the natural plantings, help deal with stormwater, etc.

- 6) *The Site Plan reflects Site #2 on Lot "G" which will consist of a 17-foot roll out awning as well as a 5-foot roll out awning.*

Install awnings to allow for sixty guests under the awning area. The City does not regulate awnings as far as setbacks go and it would be no different than those placed on a home. As long as the awning was attached to a building and not free supported it would not need to comply with the setbacks but would have to comply with the parking requirements, which is provided throughout the different lots on the property.

In answer to *Boardmember Pytel's* question, *Planner Garrett* confirmed that the dumpster had not moved and that the Board had been provided a copy of the original permit. He said he was unsure why the dumpster was originally allowed to be permitted on the City right-of-way. If permitted there today, a right-of-way use permit would also be required since it is the City's property. He pointed out that a loading zone exists and is in compliance. (10-feet wide, 25-feet long, and a vertical clearance of 15-feet. It would require 55-feet in length if full length tractor trailer trucks must be accommodated)

Planner Garrett informed there is stipulation currently exists that there shall be no vending or unloading of trucks or vehicles in the Pine Ave. and Spring St. right-of-way.

Boardmember Yetter asked what the intended use was for the vacated cooler and ice machine area and felt another non-conforming area would be created at a lesser degree.

Planner Garrett explained that the cooler is being relocated further off the right-of-way. Only the dumpsters and compactors require full screening. He suggested that full screening might need to be added as a stipulation.

Boardmember Mattick asked if the dumpster was approved in the original site plan.

Planner Garrett informed that it was noted in the minutes that the dumpster was to be relocated and Mr. Chiles would make attempts to try and relocate it.

Boardmember Stover asked for clarification on where the C-1 and ROR changes are.

Planner Garrett pointed out that the surrounding properties from the restaurant to Gulf Dr. are also zoned C-1. A few parcels have been re-designated along Pine Ave. to ROR but they are not currently zoned ROR. Explanation followed.

Applicant **Ed Chiles**, 113 Pine Ave., representing Weld, Inc., said Mike Miller had suggested the filter mix for the purpose of looking more natural and percolating better.

Mr. Chiles stated that the original site plan included the dumpster. He said once completed, if a change could be made for the placement of the dumpster once the back area was cleaned out, they would be happy to do so if the logistics are appropriate.

Mr. Chiles thanked the P&Z for working with them and informed it had been a pleasure working with the City on the new site plan process provisions. He said they were delighted to have the new restrooms, new landscaping, covered decks, and the new wedding pavilion. He informed they had solved a drainage situation on the property at no cost to the City.

Planner Garrett informed that the dumpster was not indicated on the site plan at the current existing location.

He further informed that an additional dumpster exists back by the Nally's house that is used only for the collection of cardboard.

Discussion followed relating to the proposed parking lot changes. Mr. Chiles pointed out the parking lots are existing lots and not new ones. They have just now been added in the site plan and either meet or exceed the City's parking requirements. It was noted that .25 parking spaces are required for every employee. He stated that the City has very stringent parking requirements and there is a lot of parking on their property that either does not get used or is used by those going to the Beach.

Mr. Chiles provided a history of the tent, pavilion, Special Event Permits, and requirements of the City. He explained the purpose for the proposed awnings and informed there would not be DJ's or Bands under the awnings nor would there be DJ's or Bands performing at the same time in two areas. If a DJ or Band were performing at one location, the second location would only be allowed cassette box type equipment.

In response to *Boardmember Mattick*, Mr. Chiles confirmed he would agree to look into a new location for the dumpster by first getting the area cleaned out, then getting together with both the City and Waste Management. He pointed out that the dumpster had been located at its same location since 1989 with no problems.

Boardmember Stover did not think it was a good idea that those persons walking to the Beach should have to walk by the restaurant's dumpster.

Boardmember Mattick asked if enclosing the dumpster on all four sides would be a problem.

Mr. Chiles said it would not be a problem that a sliding gate will be utilized. The dumpster is closed on three of the four sides now.

Chair Copeland asked for clarification relating to the filter mix.

Mr. Chiles responded that Mike Miller had suggested the filter mix, along with members of the EEEEC. He said after looking at other sites that have the filter mix and recognizing its aesthetics and ability to percolate, he spoke to the City and decided to replace the pavers with the filter mix.

Public Comments

Chair Copeland officially opened the Public Hearing for the purpose of hearing any public comments. He asked that each person wishing to speak limit his or her comments to three minutes or less.

Joe White, 111 Spring Ave., commented on the proposed site plan to reflect the dumpster/fence area and relocation of the ice machine and cooler. Mr. White suggested the ideal place for the dumpster would be where the cardboard dumpster is presently located. Explanation followed by Mr. White.

Marie White, 111 Spring Ave., presented the Board with pictures of dumpsters she had taken of other Anna Maria commercial districts. Ms. White said she was speaking on behalf of the thousands of innocent beach goers.

Ms. White felt that Mr. Chiles has had ample time to move the dumpster to another location on the property. She referenced the previous site plans dated July 6 and April 5, 2006 and pointed out that the dumpster is not shown in the right-of-way. It was her opinion that the City should place the public's interest ahead of Waste Management.

She stated that there is only vegetation shown in the City's right-of-way on every Sandbar site plan submitted to the P&Z Board and City Commission since 2004. It was her opinion that the dumpster on the property is a public nuisance to anyone using the Beach access on Spring Ave., along with also being a safety hazard to pedestrians walking to the Beach. She said she had seen dangerous liquids leaking out into the road and had seen the Sandbar pouring poisons on the road to kill flies that were trying to get to the leaking fluids.

Ms. White pointed out that the original permit was issued nineteen years ago and there is no comparison to the Sandbar then and now. The City's Code on June 5, 1989 did not address the City right-of-way pursuant to dumpsters. She stated it did, however, address nuisances and presented a copy to the Commission for their review.

Ms. White encouraged the Commission to deny the provision for the Sandbar to keep the dumpster at its present location.

Attorney Jeremy Anderson, Lobeck & Hanson, spoke on behalf of Fred and Barbara Nally, 110 Spring Ave.

Dumpster - Attorney Anderson said he had reviewed the current dumpster location. He referenced the existing grate where the ice cooler is presently located. Attorney Anderson then read language from a Florida Supreme Court case that states a building permit could be rescinded even though construction may have commenced.

He stated that now with the new site plan, additional properties have been added and it would now serve as an opportunity to re-look at it again in an attempt to relocate the dumpster at another location - and specifically limiting it to the southwest corner of Lot "C".

Attorney Anderson then discussed section 114-241 of the City's Code that prohibits any commercial business or business activity being conducted in the right-of-way.

It was Attorney Anderson's opinion that the present dumpster location looks like a "rats nest." He suggested either the dumpsters be moved or screened.

Propane Tank - Attorney Anderson said there was a big propane tank on the property that he felt was shifted over about ten-feet on the site plan and was located on the right-of-way and needed to be moved.

Brick Pavers - Attorney Anderson said the Code requires that whenever a change to a site plan is being requested, the City must first approve the request. He read former Commissioner Cramer's discussion at Special Meeting relating to the maintenance of the walkway as indicated on the site plan. According to the minutes of that date, it was the consensus of the City Commission that pavers are kept.

Attorney Anderson stated that pavers are not completely sealed and if they weren't a good way to reduce the water flow at the time, Mr. Chile's Attorney Ricinda Perry wouldn't have stated in the minutes they were intended for beautification and assisting with drainage.

According to Attorney Anderson there are currently two big ruts that have been created in the filter mix where vehicles have turned in the parking lot. He said it was not good for a handicapped person and felt the brick pavers should stay on the site plan

Awnings - Attorney Anderson felt there should be a stipulation on the site plan that amplified music is not allowed under the awning.

Outdoor dining deck - He said the deck does not currently meet the setback requirements and was told if the handrails were removed which hadn't been removed for several months, that it would not be considered a structure. He stated there are several thousand square feet of decking connected to the decking that supports the covered pavilion. In his opinion since it is attached it is therefore a structure under the City's code. He felt that the encroaching deck would need to be removed.

Robin Wall, 112 Palmetto Ave., suggested the following:

- The dumpster should be relocated in one of the other parking lots.
- The dedicated public pedestrian access should be better defined with clear signage directing the public to and from the beach.
- It should be stipulated that no sound systems are allowed under the newly proposed awnings.
- Ms. Wall discussed the future land use map and the importance of bringing in business uses that will work and be harmonious with the residential uses in the ROR. She felt that in order for residential and business uses to coexist better, the City must start denying uses that are guaranteed to cause incompatible situations such as the amplified uses at the Sandbar so close to residential – the pavilion already being an intense use.
- Ms. Wall read Section 74 – 350 Purpose, (a) and (h) Standards for review.
- Ms. Wall asked that the Board deny the request for the awning with a compromise to approve with conditions that there be no amplified sound system including microphone PA's, acoustic guitar, etc.

Michael Coleman, Pine Ave., said this situation was a great example of how things are written and are in place and have no purpose and possibly cause a negative effect. He gave the example of the lots at Bay and N. Shore, whereas, a portion of those lots were allocated as parking for the Post Office - yet it never happened.

Mr. Coleman said on any given holiday or weekend, the Sandbar parking lots are full of persons going to the beaches and having no intention of going to the restaurant. The parking is required of the restaurant yet only a fraction is used as intended for the restaurant.

Mr. Coleman informed that his family rented apartments in that area for ten years and knew when they rented them that there was a restaurant on the beach. He said it never occurred to them to suggest to the restaurant what color their building should be painted, whether they should have decks or sidewalks, or whether they should have music.

Commissioner Dale Woodland, 134 Hammock Rd., addressed the following items:

- Requested the P&Z Board require that Planner Garrett provide an update relating to the February 6, 2008 final site plan compliance letter and those items not in compliance.
- Said he was in favor of brick pavers. He felt though they are not as permeable as the filter mix, they would much better define the public access.
- Commissioner Woodland did not feel it was appropriate to address the request on the awnings at this hearing since it was not on the original site plan. He did not consider it as an amendment to the original site

plan, rather a new request that should be addressed accordingly with Public Hearings.

Ronnie Young, 110 Pine Ave., commented on the following issues:

- He said when he purchased his home the Sandbar provided nice music. Later, a tent was erected that included clapping and cheering and DJ's - and it was no longer nice for him to sit outside in the evening. Mr. Young said he was in attendance during consideration of the original site plan and was informed that an in-house DJ would control the noise. However, once the tents were erected additional DJ's were involved which caused the sound to be turned up in order to compete with the others.
- Mr. Young asked that the P&Z Board deny and address the awning request, feeling since being next to residential the use was too intense.
- Mr. Young presented photos taken during a wedding event that included the loading and unloading of limousines, buses, caterers, flowers, etc.
- He further asked how on the plan – parking Lot “G” could be a parking lot when it had an awning.
- It was Mr. Young's opinion that the brick pavers should remain in order to define the beach path.
- Mr. Young asked that Site #2 – awnings – not be addressed since it was not in the original site plan. He said if someone were to be hired to DJ on Friday and Saturday nights, he would like to know whom he or she were and what their phone number is because he would be recording the sound with a decibel meter.

Mike Miller, 107 Maple Ave., presented the Board with pictures of the previous and the current status of the Sandbar parking area. He also provided a projection of the future growth of the area.

Mr. Miller said he had felt he could help solve the defining of the walkway to the beach, along with buffering the sound from the pavilion and the deck. He pointed out where massive trees would be in the parking lots – evidentially 70-feet across by 40-feet high.

Mr. Miller did not feel there was any gain to retain the brick pavers. He said he had been fighting with the City for over twenty years to stop paving Anna Maria. He stated that the 250 filter mix is a fantastic product and pointed out how successful it had been at the Historical Park. He acknowledged there were some ruts, however, they are still in the process of developing the lot.

Mr. Miller then presented a picture of the walkway for the Board's review.

Chair Copeland officially closed the Public Hearing for any further public comment.

Commission Discussion

Boardmember Conoly asked what Mr. Miller's position was with the City and how he had the authorization to make changes.

Chair Copeland re-opened the Public Hearing for the purpose of hearing Mr. Chiles' response.

Ed Chiles stated that Mr. Miller had proposed the filter mix change to him. Agreeing with Mr. Miller, he then met with the City's Mayor and Planner who felt it would be an acceptable change and would fall within the City's administrative process.

Boardmember Conoly discussed the additional parking requirement for the Post Office and stated that at one time their patrons and patrons of the shopping center used the lot across from the Post Office. He said there is documentation relating to that requirement somewhere in the City records, however, has not been available as a result of records requests.

Boardmember Conoly agreed with all comments made by Commissioner Woodland. He felt the February 6, 2008 letter reflected poorly on the Code Enforcement operation and suggested that Planner Garrett be asked to respond.

Planner Garrett responded to *Boardmember Mattick's* comments and confirmed that the State only requires that the City amend their LDR's to be consistent with the Comprehensive Plan. He stated it was not a requirement to rezone every partial. She pointed out that the pavilion and its use with amplified music was already a commercial use and already exists there on the lots.

Boardmember Mattick asked Planner Garrett if he felt it was appropriate to adopt the amended site plan with the new awning request.

Planner Garrett stated that when the City adopted the new procedures for site plan, the authority for any site plan or amended site plan rests with the P&Z Board and they do have the authority to review and make applications. If the applicant is not satisfied with the recommendation they have thirty days to file a letter with the City and then request that he or she be reviewed by the City Commission.

Planner Garrett responded to the February 2008 letter authored by he and Code Enforcement Officer Gerry Rathvon. He said the letter required that specific items either be brought into compliance or that an amended site plan be filed for review by the P&Z Board at a Public Hearing.

Discussion followed by the Commission relating to the awnings, the propane tank and dumpster, better defining of the Beach walkway and its maintenance, use of the filter mix versus the pavers, and whether or not to stipulate that the Pavilion area and Site # 2 shall only have one DJ or band at one given time.

Boardmember Pytel suggested that a date should be determined as to when both the propane tank and dumpster should be removed.

Planner Garrett stated that there was a need to correct and better define the propane tank, however, he and Public Works Director McKay did not feel it was in the right-of-way.

All six requested changes to the Amended Final Site Plan were discussed individually. It was agreed that no Boardmember had any objections to requested changes, items # 2, 3, or 4.

It was the consensus of the Board that the dumpster should be moved and that the applicant should bring back alternatives. The Board also expressed their preference for the filter mix.

It was agreed by the majority of the Board that the awning should be a separate issue from the amended site plan. However, *Boardmember Mattick* disagreed and suggested it be approved with the stipulation relating to the amplified music. *Boardmember Jenkins*, on the other hand, felt it should not be approved.

Chair Copeland reopened the Public Hearing for the purpose of hearing comments from applicant *Ed Chiles*.

Ed Chiles agreed to follow through with looking into the relocation of the dumpster. He said if he were forced to move it there are locations where it can be relocated. It could also be moved where the present cardboard dumpster is located, though he said it may not be agreeable with the Nally's. He said he would like the opportunity to work with the City and Waste Management to determine an appropriate site.

Mr. Chiles suggested allowing him ninety days. After discussion, he agreed to bring back an alternative at the August 5, 2008 meeting.

Chair Copeland closed the Public Hearing and the following motion was made:

MOTION: Boardmember Mattick moved to continue review of the Alternative Site Plan as submitted by Weld, Inc. for the Sandbar located at 100 Spring Ave. until Tuesday, August 5, 2008, 7:00 p.m. and that applicant provide additional information relating to the Dumpster and Site #2. Boardmember Stover seconded the motion.

Planner Garrett informed he would work with the applicant in regard to the propane tank.

Boardmember Stover asked that the applicant consider dealing with the area of the beach path where it comes over the vehicular area in order to make it easier for the handicap.

ACTION: On roll call vote, the motion carried unanimously.

--- **Next Meeting Date**

Chair Copeland informed that both the City Clerk and Minutes Clerk would be attending the annual City Clerk's Conference during the regular P&Z July meeting date. It was the consensus of the Commission that the next meeting be moved to the following week and held on Tuesday, July 8, 2008, 7:00 p.m.

2. Approve Minutes of May 6, 2008.

Boardmember Pytel asked that the following (underlined) language be added to his comments on page 6: "*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.

MOTION: On motion made by Boardmember Conoly and seconded by Boardmember Pytel, the May 6, 2008 minutes were approved as amended. Motion carried – All Aye.

**4. Old Business – None.
New Business –**

Chair Copeland informed that the Site Plan for one of the Pine Ave. Restoration Projects might be discussed at the July meeting.

5. Adjournment.

On motion made by Boardmember Conoly and seconded by Boardmember Pytel the meeting was adjourned at 9:06 p.m. Motion carried – All Aye.

The next regular meeting is scheduled for Tuesday, July 8, 2008, 7:00 p.m.

Alice Baird, CMC, City Clerk

MINUTES APPROVED: _____