

**CITY OF ANNA MARIA
PLANNING & ZONING BOARD
REGULAR MEETING AT ANNA MARIA COMMISSION CHAMBERS
10005 GULF DRIVE – ANNA MARIA, FL
TUESDAY, JUNE 16, 2009
6:30 P.M.**

CALL TO ORDER

Planning and Zoning 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, Vice-Chair Frank Pytel, Randall Stover, and Jim Conoly.

Absent w/excuse: Chair Doug Copeland (illness).

Staff present: City Planner Alan Garrett, Building Official Bob Welch, and Minutes Clerk Stacey Johnston.

Press: Sun and Islander.

PUBLIC HEARINGS

1. **Public Hearing – Ordinance No. 09-702 - Amending Chapter 114 of the Code of Ordinances of the City of Anna Maria, Amending Nonconforming Uses and Structures; Amendments to Section 114-133, Amending Nonconforming Uses, and Section 114-134, Amending Nonconforming Structures.**

Planner Garrett referred to Ordinance No. 09-702 noting that the Ordinance language mirrors the P&Z past work session discussions. He addressed the following changes to the proposed Ordinance:

- Section Two (Nonconforming uses) (a) (2) relating to density - has been removed. Planner Garrett said he had never seen an Ordinance where nonconforming use is tied to density.
- The proposed Ordinance now reflects allowing nonconforming uses to be re-roofed.
- Language proposed by City Attorney Dye has been added to the section relating to *Conversion* under nonconforming uses. The new guidelines will allow review of a conversion in the event one occurs in the future for verifying it is a consistent use, less traffic congestion, less hours of operation, etc.
- Corrects language under nonconforming uses that have been damaged to reflect the City of Anna Maria Flood Damage Prevention regulations and remove the Federal Emergency Management Agency.
- Any voluntary action (removal of roof and walls) would be cause for loss of the nonconformity.

Building Official Welch explained the limits of the 50% market value rule in the Flood Prevention Ordinance. He explained that nonconforming structures and nonconforming uses tied to “Acts of God” have certain limitations. If 50% has been destroyed, then all other codes must be conformed to except for Chapter 114 – setbacks and height.

In response to *Boardmember Stover's* question relating to the section numbering in the Ordinance, Planner *Garrett* stated that the proposed Ordinance section numbers are based on the current Code format. Boardmember Stover explained how he felt the sections should be separated and renumbered.

Planner Garrett verified that Ordinance 09-702 includes all changes as discussed by the P&Z Board and City Commission.

Boardmember Stover suggested revised language for the last sentence of Section Two (h) (1).

Discussion followed as a result of *Boardmember Stover's* concern of how the fair market value is determined. (Ref: Section Two (h) (3) – Fair market value shall be determined by an independent MAI appraiser, or, lacking that, the value as shown on the most recent tax assessment rolls). His concern was that the tax appraiser shows only 15% of the total value, which he felt would cause a huge discrepancy.

Building Official Welch explained that the fair market value determination referred back to the Flood Prevention Ordinance in place for the National Flood Insurance Program. Any nonconforming structure or use damaged to more than 50% of its fair market value can be rebuilt as long as it is built up in the air. Damage less than 50% can be rebuilt as it was on the ground. However, if not rebuilt within one year of the damage, the exception is lost.

He further stated that based on the damage (hurricane, for example), the total destruction percentage will be determined. Upon a certain point percentage, the President will be asked to declare a Federal Emergency. Once declared, appraisers trained by the Federal Emergency Management Agency (FEMA) would generate estimates used by FEMA.

In the event of fire damage, etc. a homeowner has the option of having the total loss determined by a certified appraiser to determine the total value. However, lacking an independent appraisal, the value would then be determined by the most recent tax assessment rolls. It was noted that the building and land are assessed separately on the tax assessment rolls. Discussion followed.

Boardmember Mattick asked for clarification relating to *Nonconforming structures that are also nonconforming uses*. Planner *Garrett* confirmed that "or density" should be removed and the section should read as follows:

- (b) *Nonconforming structures that are also nonconforming uses.* Nonconforming structures which are also nonconforming with respect to use ~~or density~~ as provided under section 114-133 shall be governed by the provisions of section 114-133.

Discussion followed relating to removing the density language under Section 114-133, Nonconforming uses. Planner *Garrett* said he was unsure of the

original intent for the language; however, the language has been very problematic for the City on almost a daily basis.

Public Hearing

Vice-Chair Pytel officially declared the Public Hearing open.

On behalf of City Clerk Alice Baird, Certified Municipal Clerk Stacey Johnston officially administered the oath to all persons wishing to speak.

Tom Turner, N. Shore Dr., asked if the lots less than 7,500 sq. feet would be addressed in a separate document.

Planner Garrett clarified that all platted lots in the City has been grandfathered.

Micheal Coleman, Pine Ave., felt it was critical to find a way to provide incentives that would allow the current small structures to remain rather than being replaced by large structures.

Hearing no further public comment, Vice-Chair Pytel officially closed the Public Hearing.

P&Z Board Discussion

Boardmember Stover re-addressed his concerns on how, based on the proposed language, the market value would be determined. He stated that the City requires an appraisal in order to rebuild a home, however, the language did not specify whose responsibility it was to pay for the appraisal.

Boardmember Mattick suggested that the language "Fair market value shall be determined..." be changed to "Fair market value may be determined..."

Vice-Chair Pytel pointed out that the City Attorney had reviewed and was comfortable with the Ordinance as written.

Building Official Welch said that on a daily basis the City receives plans for renovations to Pre-FIRM houses. It is the owner's obligation to provide the value. He pointed out that the Flood Prevention Ordinance does not state, "shall be determined", only that there are two methods for determining the value. Specific forms are used. He felt stating "shall" would allow the owner options.

MOTION: Boardmember Mattick moved to approve Ordinance 09-702 with the removal of "or density" on Page 3, Section 3, subsection (b). Boardmember Yetter seconded the motion.

ACTION: The final vote resulted in 3 voting in favor and 3 opposed, based on the following Roll Call Vote:
Boardmember Mattick – Yes
Boardmember Yetter – Yes
Boardmember Conoly – No
Boardmember Jenkins – Yes
Boardmember Stover – No
Vice-Chair Pytel – No

Vice-Chair Pytel stated he voted No due to wanting the City Commission to review the language on how the market value is determined.

Boardmember Conoly felt that all Ordinances the P&Z Board present to the Commission should include specific language as recommended by the Board. The City Commission would then have the option to approve or disapprove of the P&Z Board's recommendation.

After discussion, the P&Z Board agreed that the City Planner present the P&Z recommendation to the City Commission as follows:

That the P&Z Board is in agreement with the language in Ordinance 09-702 with the exception of how the fair market value is determined. The P&Z Board feel there should be a definitive system on how the fair market value is established and whose responsibility it is to pay for the appraisal should be specified in the Ordinance language.

Building Official Welch informed that there are only two methods in the State of Florida to determine the fair market value of a home – either by a Certified Appraiser or by the Tax Appraiser/Tax Assessment Roll.

2. Public Hearing – Ordinance No. 09-701 - Amending Chapter 114 of the Code of Ordinances of the City of Anna Maria, Amending Notice of Planning and Zoning Board Hearing; Amendments to Section 114-76, by Amending Notice of Planning and Zoning Board Hearing.

Planner Garrett explained that the section dealing with the Notice of a Planning and Zoning Board Hearing requires that every applicant applying for a site plan review, rezoning, etc. must mail out letters using the certified mail, return receipt requested method. However, from past experience many of the letters are returned as unclaimed. Once returned unclaimed, a first class letter is then mailed to the property owner, which affects the 30-day notice requirement.

Ordinance No. 09-701 recommends that a certificate of mailing concept is required, rather than the certified mail, return receipt requested method. The certificate of mailing method would involve obtaining the list of property owners provided by the Property Appraiser's office, addressing the letters and presenting them at the Post Office in the exact order as on the list, being certified by the postal worker and then the Post Office stamping the list as certified. All letters

are then mailed by first class postage. *Planner Garrett* confirmed that the applicant is responsible for paying for the mailing.

Planner Garrett informed that there is a City Code provision that allows for continuation of the hearing in the event there are certain problems with the notification process. He pointed out, however, that the City Commission hearings do not require the stringent mail notice required of the hearings heard by the P&Z Board.

Public Comment

Vice-Chair Pytel officially opened the Public Hearing.

Micheal Coleman, Pine Ave., informed that the Anna Maria Post Office originally recommended the certificate of mailing method. He stated that a certified mail, return receipt requested letter would cost nearly \$5.00 per letter - versus only the cost of a first class stamp for the certificate of mailing method. He agreed with the certificate of mailing process, feeling it was the best method to ensure everyone has a fair opportunity to be noticed.

Robin Wall, 112 Palmetto Ave., said as a property owner she would prefer having the extra layer of protection to ensure the proper notice was given.

Ms. Wall referred to a recommendation previously suggested by Attorney Jeremy Anderson on behalf of his clients whereas the City Clerk would be responsible to catch any discrepancies and then mail out another letter by first class mail. Ms. Wall presented a copy of Attorney Anderson's letter to each P&Z Boardmember and then recited a portion of his letter. She said she objected to the mailing method being changed.

Micheal Coleman, Pine Ave., responded to Ms. Wall's comments and Attorney Anderson's recommendation. He explained that the letters are addressed with labels provided by the Property Appraiser; therefore, there will be no mistakes with the addressing process.

Tom Turner, N. Shore Ave., said he was very familiar with the certificate of mailing process. He felt it was the appropriate method and recommended adopting the Ordinance as drafted.

Hearing no further public comments, Vice-Chair Pytel officially closed the public Hearing.

P&Z Board Discussion

Planner Garrett informed that the listing and certificate of mailing is placed in the City's master file and is open for public review.

Boardmember Yetter pointed out that Section Two (3) 2 has the word "the" listed twice.

MOTION: Boardmember Yetter moved to approve Ordinance No. 09-702 with the amendment of striking a “the” from Section Two, subsection (3) 2. Boardmember Conoly seconded the motion. On Roll Call Vote, the motion carried unanimously.

DISCUSSION ITEMS

1. Super Majority

Planner Garrett explained that by ballot vote, the super majority vote was approved only when voting on any amendment to the Future Land Use Element of the Comprehensive Plan. He pointed out that the Future Land Use Map is a part of the Future Land Use Element. Planner Garrett used the example that changing a designation on the Future Land Use Map would require a Super Majority approval. Amendments to the LDR, and any rezoning consistent with the Future Land Use Map, would only require a simple majority vote.

Vice-Chair Pytel asked for clarification relating to the proposal to build a hotel on Pine Ave.

Planner Garrett informed that discussions never got to the point to determine whether it would apply to the ROR or C-1 District. Explanation followed.

Vice-Chair Pytel voiced concern and felt that the super majority language should be included in the Comprehensive Plan and also in the LDR’s consistent with the Comprehensive Plan.

Planner Garrett suggested that language could be added in the future that when dealing with rezoning or text amendment changes to the Comprehensive Plan, that a Super Majority is required if changing the Future Land Use Element including the Future Land Use Map. He pointed out that the super majority language would be listed in the City’s Charter and would not be listed in the Comprehensive Plan itself.

2. P&Z Meeting Dates

Planner Garrett suggested that the P&Z Board’s regular meeting dates be changed from the first Tuesday of each month to the third Tuesday of each month. The change would allow the P&Z Board to review any City Commission recommendations made at the City Commission’s work session and then be forwarded on to the City Commission for final approval at their regular meetings later than month.

It was the unanimous consensus of the Board that their regular board meetings are held the third Tuesday of each month and that the first Tuesday of each month would serve as a backup work session date if needed.

Web mail / email accounts

The Boardmembers each informed they were having trouble with the new email system. The Director of Finance will be informed.

3. Consider approval of Regular P&Z Board Meeting Minutes held May 19, 2009.

Boardmember Stover pointed out that the spelling of his first name was incorrect in the Roll Call section of the minutes.

**MOTION: Boardmember Conoly moved that the Regular P&Z Board Meeting Minutes held May 19, 2009 be approved as corrected. Boardmember Mattick seconded the motion.
Motion carried – All Aye.**

4. Adjournment.

Boardmember Conoly moved that the meeting be adjourned at 7:46 p.m. Boardmember Jenkins seconded the motion.

The next meeting is scheduled for Tuesday, July 21, 2009, 6:30 p.m.

Alice Baird, CMC, City Clerk

MINUTES APPROVED: _____