

**CITY OF ANNA MARIA
SPECIAL COMMISSION MEETING
JUNE 29, 2006
6:15 P.M.**

CALL TO ORDER

PLEDGE TO THE FLAG

ROLL CALL: Mayor SueLynn, Commissioner Christine Tollette, Commissioner Dale Woodland, Commission Chair John Quam, Deputy Commission Chair Linda Cramer, Commissioner Duke Miller

Also present: Ed Chiles, Owner, Sandbar Restaurant / WELD, Inc. (Applicant); Ricinda Perry, P.A., counsel for the Applicant; Anna Maria City Planner Alan Garrett, AICP; Building Official Kevin Donohue, City Engineer Tom Wilcox, Baskerville-Donovan, Inc. (BDI); City Attorney Jim Dye, Building Department Administrative Assistant Diane Sacca; Minutes Clerk Sylvie Reichmann

Press: Sun, Islander, Herald

1. PUBLIC HEARING ON FINAL SITE PLAN – WELD d/b/a/ SANDBAR RESTAURANT

Commission Chair John Quam declared the Public Hearing on the Weld, Inc. – Sandbar Restaurant Final Site Plan open and directed Building Department Administrative Assistant Diane Sacca to swear in all those present wishing to speak. He then requested the City Planner to take the floor to present his findings.

City Planner Alan Garrett introduced himself and indicated that he had reviewed the Final Site Plan for the Sandbar Restaurant at 100 Spring Avenue, and found it to be in substantial compliance with the Preliminary Site Plan and the stipulations placed upon it by the Commission on June 29th, 2005.

JQ proceeded to read the report submitted to the City for the Final Site Plan Review conducted by the City Engineer, Tom Wilcox, of Baskerville-Donovan, Inc. (BDI), indicating that the review of the submittal by Building Official Kevin Donohue of the packet from Banks Engineering, Inc. dated April 12, 2006. He included a comment made by the City Engineer relative to the pavers for the pedestrian walkway, recommending an edge restraint around the outside edge of the pavers. *The City Engineer specifically recommended that a stipulation be placed by the Commission in granting its approval, requiring the pavers to be installed according to the manufacturer's guidelines, including proper restraints at all exposed paver edges and reiterated the Fire District's stipulation for a maintenance agreement with the City for the improvement in the right-of-way.* JQ confirmed with JD that the maintenance agreement would be discussed by the Commission at a later time. At the City Attorney's recommendation, Chair Quam requested that the Applicant now take the floor.

Ricinda Perry, counsel for the Applicant, introduced herself, noting that the Final Site Plan had now been reviewed and examined for substantial deviation from the Preliminary Site Plan previously approved by the Commission on June 29th, 2005. She offered copies of the stipulations attached to the Preliminary Site Plan approval to members of the Commission and distributed them. She noted that her clients had now complied with all the stipulations, except #4 and #5, the reason being that a dispute currently existed with the City Attorney. Ms. Perry said that she and her clients were now recommending either of two options: 1) that they do not install the pavers, which were simply intended for beautification of the city, assist in drainage issues, and to delineate where the City rights-of-way are; or 2) that they install the pavers at the Applicants' own cost, without her client assuming the liability in making this improvement to City property. She noted that this decision would be at the discretion of the City Commission, and also that amendments to the maintenance agreement could also be made at this evening's meeting or prior to the next meeting of the Commission, if necessary.

Ricinda Perry summarized by noting that the Final Site Plan had been found by City staff to be in substantial compliance and that the Applicant was in complete agreement with their findings. She said that she would be happy to answer any questions from the Commission, and also requested the opportunity to rebut any testimony made at this evening's meeting.

Public Comment

Judy Adams of 102 Magnolia Avenue acknowledged that she had been sworn, and requested permission to read aloud a letter submitted by the owners of 206 Spring Lane, who had been unable to attend this evening's hearing. This was granted, and the letter indicated concern about increased traffic on Spring Lane, and requested that a fence be erected along the west side of the parking lot. The letter further objected to the location of the drainage retention areas.

Ms. Adams noted that she also owned property adjacent to the Sandbar Restaurant, and stated for the record that she and her husband both objected to the proposed extension of the Sandbar parking lot into Spring Lane by the use of drive isles. There recommendation was for the drive isles to be contained within the walls of the lot, to prevent traffic problems for residents on Spring Lane. Judy Adams stated further that Spring Lane was only a 10 ft. wide alley that should not be used by private companies for traffic circulation. Her statement further requested that the fence on the south side of the parking lot remain in place, and also objected to the proposed swales as possible areas for standing water that provides a breeding ground for mosquitoes.

Robin Wall, of 112 Palmetto Avenue, acknowledged that she had been sworn and submitted her written comments for the record. She indicated her contention that the Final Site Plan did not comply with Anna Maria Code Section 114-261 (c). Ms. Wall indicated her agreement with the Applicant's planner Jan Norsoph's recommendation for a fence around the pavilion. She maintained that the pavilion

sat on one big piece of property, and that the commercially used pavilion must be buffered from the residentially used properties on Magnolia Avenue. Ms. Wall said residents nearby had a problem with sound from frequent weddings and live bands, and recommended a stipulation that sound mitigating buffering be installed, possibly according to a diagram of a suggestion submitted with her comments.

Marie White of 111 Spring Avenue acknowledged that she had been sworn, and said that she and her husband had previously been unaware that there was a traffic increase planned by the Sandbar for Spring Lane. She indicated that Spring Lane and other roads in the vicinity are not roads, but alleyways. She asked where the dumpster would be located on the Final Site Plan. Mrs. White said that if the current location of the dumpster would be landscaped, as it appeared on the plan, this would meet with her approval.

Margaret Jenkins of Chilson Avenue acknowledged that she had been sworn and said that the small wooden deck in the alley in front of the tent area should be removed, as the City required for any other obstruction in an alley. She referred to a letter from the County Administrator, Ernie Padgett to Mayor SueLynn, dated February 3, 2005, a copy of which she submitted for the record.

Diane Canniff acknowledged that she had been sworn, and asked relative to #2 on Page Two, if the City would be liable for anything that would happen, including public injury, on the path. Relative to #3, she asked for clarification of the implications.

Carmen Manelli of 105 Pine Avenue, owner of the two lots being used for parking by the Sandbar Restaurant, approved of the shell being replaced, with its dust problem and drainage problems. She said in the early 1940's her father had a house there that never got flooded, and neither did her son's property adjacent to the shell parking lots, as it does now, in fact, on a frequent basis. Ms. Manelli said she was surprised that the owners had not needed to give permission for the location of the swales along the property.

Mr. Don Loback introduced himself as a senior partner with the firm of Loback and Hanson, P.A., and along with his associate, David Meier, both having been sworn, as counsel for Barbara Nalley, of 110 Spring Avenue. He began by referring to Section 74-355 of the City of Anna Maria land development code and stated that City Commission in making a decision, must comply with all City codes and failure to do so gives any affected party the right to appeal to the courts to overturn that decision. Mr. Loback noted that the City had the testimony of a respected planner, Jan A. Norsoph, AICP, whose curriculum vitae had been supplied for the record, who would prove that the Final Site Plan did not comply with the Code.

Mr. Loback asked Ms. Barbara Nalley of 110 Spring Avenue, to join him on the floor. Ms. Nalley confirmed that she had been sworn and confirmed for Mr. Loback that her property abuts the southeastern border of the Applicant's property that was the subject of this evening's public hearing. Ms. Nalley further confirmed that she had retained both Mr. Loback's firm and that of urban planner Jan Norsoph to speak on her behalf at this hearing and with the City.

Mr. Loback asked Ms. Carmen Manelli of 105 Pine Avenue to take the floor, and confirmed that she and her family owned Lots #9 and #10, consisting part of 'Lot C' on the Final Site Plan, and that she was leasing those properties to the Applicant. She confirmed that one year and nine months remained in the current lease, and that it was extendable with the consent of both parties.

Mr. Loback next called to the stand Michael Caltagirone of 1302 East Busch Blvd., owner of Lot #8, under lease to the Applicant, with ten months remaining on the current lease, which was also extendable with the consent of both parties.

Mr. Loback called Jan A. Norsoph, AICP, of the firm Engelhardt, Hammer & Associates, to the stand, and confirmed with him that Exhibit 'A', his curriculum vitae, was a true and correct document confirmed as previously submitted for the City Commission's review. He next produced Exhibit 'B', Mr. Norsoph's report analyzing the proposed Final Site Plan for compliance with the Codes of the City of Anna Maria, and submitted copies of both documents for the record.

Mr. Norsoph gave a presentation, including illustrations identifying the land identified as sites for the Sandbar Restaurant, as well as the residential areas abutting it. He said the first key point related to Lot 'C' was that this area was only on a two-year lease, and was necessary for the restaurant to comply with parking requirements. He noted that all traffic would be using the alleyway to get to Lot 'C', which would not comply with Code without a variance. Mr. Norsoph noted that he could find no evidence that a variance had been applied for in this regard and that it was not a permitted use. He said the same issue applied to Lots 'F' and 'D' whereby the public would be obliged to use alleyways to get into and around them. Jan Norsoph said that the cooler was a new structure in violation of the 35 ft. setbacks, and that the canopy still violated the 10ft. alleyway setback. He noted that no variances had been applied for, and therefore no hardship had been identified, and the variance criteria had not been addressed. Regarding the pavilion, Mr. Norsoph said that a six-foot wall would be required for buffering purposes. He noted there was no landscaping plan included in the Final Site Plan. Mr. Norsoph indicated he believed that it would be in order to require additional landscaping for buffering adjacent residential properties.

Jan Norsoph concluded that there were a number of outstanding issues relating to the project. He outlined fourteen recommended conditions for approval of the Final Site Plan, including:

- limit delivery services
- enforce noise ordinances
- produce and submit landscape plan
- require Lot 'C' to have a longer lease than two years
- install a solid wall along parking lot 'D' to buffer the Nalleys' property, as it was not possible to see how landscaping could be installed
- relocate the dumpster away from a residential property
- Redesign Lot 'C' so that people do not need to use the alleyway for circulation
- Install a wall around the pavilion
- review the site plan based on the standards of review as stated in the Code, with details provided on how it meets or does not meet those standards of review

Mayor SueLynn asked at 7:10 p.m. how the Commission wished to proceed. **Commission Chair Quam obtained consensus to allow the testimony to continue as necessary to complete the meeting this evening.**

Mr. Loback confirmed with Mr. Norsoph that the large drawings were accurate copies of the Applicant's Final Site Plan, as well as an aerial photograph taken for the Manatee County Property Appraiser. Mr. Norsoph confirmed to Mr. Loback that the illustrations were included in, and were accurate and consistent with the findings of his report. Mr. Loback pointed out relative to Lot 'C', and oral agreement with respect to the use of real property is not enforceable. Mr. Norsoph confirmed to Mr. Loback that the site plan indicated 149 parking spaces met the minimum parking requirement, and that a large portion of these spaces were to be located on the short term leased property designated as Lot 'C'. Relative to sufficient drainage facilities, Mr. Norsoph confirmed that the Code required these and that they were essential to the drainage of Lot 'C'. He confirmed to Mr. Loback that failure for the lease to be renewed by the Applicant would could possibly compromise drainage for parking areas. Relative to a stipulation that all improvements must be done on property owned by the Applicant, Mr. Norsoph agreed with Mr. Loback that in his opinion the lease for Lot 'C' was not of sufficient duration, and therefore the property could be considered not all truly controlled by the developer.

Mr. Norsoph confirmed that he had reviewed the Final Site Plan according to the standards set forth in the Code in Section 74-355 – Final Site Plan Approval. He further confirmed to Mr. Loback that it was his professional opinion that the Final Site Plan must comply with all City Codes. Mr. Norsoph indicated that the compatibility of adjacent uses, as stated in the City of Anna Maria's

Comprehensive Plan, would be violated. He confirmed to Mr. Loback that, based on FS 163.3914, a Final Site Plan must comply with the City's Comprehensive Plan, and further that failure to comply would be independent grounds for legal challenge of its approval.

In conclusion, Mr. Loback said that the Code had been violated, that the Final Site Plan needed to ensure that adequate parking and stormwater management would be available, and to include protection of the public from incompatible use and associated nuisances. He said that the restaurant was an asset to the City, but one which must be controlled to be compatible with the neighborhood. Mr. Loback suggested there was no other legal, politically correct, proper discharge of the Commission's duty than to deny the approval of the Final Site Plan.

Ricinda Perry, counsel for the Applicant, took the floor. She submitted copies of the same report submitted on July 27, 2005, she said that two planners had concurred that there were no issues. Ms. Perry pointed out the Mr. Loback's clients were property owners using a Commercial property for Residential purposes, and were now trying to inflict residential property development on a commercial property, and noted that Weld, Inc.'s property was completed surrounded by Commercial property. Ricinda Perry indicated that the Final Site Plan indeed complied with all the City's codes. Relative to the testimony regarding the leases, she said that the owners of the lots had been consulted with, and addenda had now been added to the leases. She said it would be her client's responsibility in the future, if the lease is concluded, to deal with the consequences, which would be to pull seats from his restaurant to comply with Code.

Mr. Loback confirmed with Ms. Nalley that her property is a residential one, and that it was her intent to remain living there. She confirmed that as a resident of a nearby property, it was important to her that the Final Site Plan include measures to improve neighborhood compatibility and protect neighbors.

City Planner Alan Garrett clarified that he had only recently seen Mr. Norsoph's report, but stated that from a land use perspective, it was his professional opinion that the Final Site Plan complied with the Comprehensive Plan. City Planner Alan Garrett confirmed that he had not yet had the opportunity to see and research the various Code provisions referred to by Mr. Norsoph as being applicable to the Final Site Plan.

City Attorney Jim Dye took the stand and stated that he had not been sworn. The Minutes Clerk swore him in. Mr. Dye said he had not yet come to an agreement with the Applicant relative to City liability and the right-of-way maintenance. He said that in a brief discussion prior to this evening's meeting, the attorney for the property owner noted that the pavers could be withdrawn from the rights-of-way, and in that case, the City would not require a maintenance agreement. The City Attorney said that he needed to ask the Applicant if it intended to maintain the paver brick. He noted that the indemnity provision was an important one, if

perhaps not a necessity, if an improvement to the right-of-way was to be installed and maintained by a private person.

Commissioner Christine Tollette asked, relative to liability and the sidewalk, if the liability would be similar to the one the City has relating to the City Pier, and City Attorney Jim Dye confirmed that it would be similar.

Ed Chiles of 110 Tern Avenue acknowledged that he had been sworn, and spoke on behalf of Weld, Inc. as the Applicant. He said his firm continued to be willing to install the permeable pavers at its own cost and accept liability. Mr. Chiles said that where he had a problem regarded a particular area where Weld, Inc. had agreed to install pavers, at the end of Pine Avenue, which he identified as one of two dedicated beach accesses, with loading and unloading. He said that the permeable pavers were hoped to help with the flooding problem in that area, but indicated that he did not think his firm should accept the liability on these dedicated accesses.

City Attorney Jim Dye retook the floor and explained that the liability had to do with private improvements on a public right-of-way. He noted that the paver brick and other improvements were proposed to be put in by a private property owner. Mr. Dye advised that it would be the better practice to secure an indemnity agreement so that the Applicant would assume liability should a member of the public incur injury on or because of the paver brick. Ed Chiles clarified that he did not have a problem indemnifying the City relative to the paver brick areas not related to the dedicated beach access at Pine Avenue, and pointed the area out on the Final Site Plan. City Attorney Jim Dye confirmed the area which Mr. Chiles wished to exclude from the indemnity agreement consisted of the tip of the platted alleyway that runs down the center of Lot #34, and also that portion that runs from that center alley up close to Pine Avenue, essentially limited to just the new parcel that was dedicated to the City last summer as part of the Preliminary Site Plan.

Commission Chair John Quam confirmed with City Attorney Jim Dye that it would be possible to continue this meeting to a date certain if the Commission were amenable. **There was consensus to continue with the current meeting this evening, to its conclusion.**

There was consensus to keep the pavers installed everywhere by the Applicant as planned, and agree that the City would be liable for the area dedicated to the City last summer as part of the Preliminary Site Plan.

Mayor SueLynn said that all the paver installed would be done by Weld, Inc. Ricinda Perry asked if the Commission would like to bid out the paver project and be reimbursed, or if it wished Weld, Inc. to handle the contracting. Commissioner Duke Miller confirmed Weld, Inc. would be maintaining the excluded area, but

would not indemnify the City. Ricinda Perry confirmed that this was specifically contained in the maintenance agreement.

Commission Chair John Quam asked City Planner Alan Garrett to take the floor, and Commissioner Dale Woodland referred to the minutes of the Preliminary Site Plan approval at the June 29th, 2005 Special Meeting of the City Commission, and asked if there was anything to add to the seven stipulations it contained. Commissioner Woodland mentioned memos and discussions relative to the crushed shell parking lot surface. He said he would like to see something in the stipulations that says the shell and the hard pack would be removed from the parking lots and replaced with Filtermix, or any other City-approved pervious material. Commissioner Woodland indicated from his notes that the three-foot drop screen to mitigate noise on Spring Lane and also the exit onto Spring Lane from Lot 'C' needed to be discussed.

City Attorney Jim Dye clarified that the Commission had the legal authority to place additional stipulations upon the approval of the Final Site Plan at this evening's meeting.

Commissioner Duke Miller confirmed, relative to the drop screen, that this would be a stipulation the Commission could add. Commissioner Dale Woodland said this was also his understanding. **There was consensus to stipulate that a drop screen be added to the pavilion.**

Building Official Kevin Donohue took the floor and was sworn in by the Minutes Clerk. He noted that at previous meeting he had pointed out the need more information relative to the drop screen to drop three foot down from the ceiling. He noted that structurally, the pavilion had free ingress and egress and therefore not governed by the Building Code. In response to a question from Commissioner Christine Tollette asked if the drop screen could be put partially around the pavilion, and Building Official Kevin Donohue responded that if the goal was to provide a sound buffer, he would recommend that some other device be used. Commissioners Tollette and Woodland recommended a more generalized stipulation relative to sound buffering. Building Official Kevin Donohue responded that the problem would be with enforcement of such a non-specific or insufficiently descriptive stipulation. City Attorney Jim Dye noted that noise ordinance enforcement does not need to be in the site plan stipulations, since these violations are separately governed. **There was consensus not to require an additional stipulation relative to noise buffering of the pavilion.**

Commissioner Linda Cramer asked the Nalleys' planner Jan Norsoph for an explanation, regarding the diagram he had presented to the Commission, relative to commercial and residential uses and confirmed with him that for the record, the area surrounding the yellow area outlined is also commercially zoned. The Commissioner confirmed that Mr. Norsoph had presented testimony to the Commission that the Applicant's use abutted existing residential land use.

Commissioner Duke Miller asked City Attorney Jim Dye and City Planner Alan Garrett if the Final Site Plan violated any of the City's codes. The City Planner confirmed that from a land use perspective, the Final Site Plan complied with the City's Code. He clarified that he had confirmed for Mr. Loback that he had not yet had the opportunity to review Mr. Norsoph's report. Mr. Garrett noted that the Code did not contain a definition of a commercial parking lot, and did not prohibit the lease of land for parking use. City Attorney Dye pointed out that the parking lot was not a freestanding enterprise. City Planner Alan Garrett clarified for Commission Miller that the Code contained a provision that parking should be located a certain distance from the door of a commercial establishment. City Planner Alan Garrett said that the alleyway would be used as secondary access and as such complied with Code, something with which the Commissioner and City Attorney Dye both agreed.

Commissioner Duke Miller confirmed that the 'new' cooler was allowed not to comply with the 35 ft. setback requirement because it replaced an existing one. City Planner Alan Garrett confirmed it would be therefore lessening the non-conformity. Commissioner Miller asked the City Planner if the Applicant would be using the street for loading and unloading, and City Planner Alan Garrett responded that the Final Site Plan indicated that the loading and unloading would take place on the parcel of land belonging to Weld, Inc.

City Attorney Jim Dye said, relative to the cooler and making a judgment relative to compliance with the Code, on issue of the cooler, that there were substantial facts and testimony on both sides of the question. City Attorney Jim Dye confirmed that the cooler location would still violate the setback, and said however it would be less of a violation, and that the Commission had the authority to approve of it as such. City Planner Alan Garrett noted that cooler could remain where it is, since it is a grandfathered non-conformity.

Deputy Commission Chair Linda Cramer asked, relative to land use compatibility, if landscaping and buffering would be required between the adjacent uses. City Planner Alan Garrett said the Code was weak on landscaping and buffering, and that the Final Site Plan complied with Code. He noted there was nothing to stop the Commission requiring a stipulation to its approval, based on the compatibility issue, for additional landscaping and buffering to be provided. Commissioner Cramer said that she would like to see the inclusion of such a stipulation. Ricinda Perry confirmed that a separate landscaping plan, as required by Anna Maria Code, had been submitted to the City. City Planner Alan Garrett said that he was not sure that the landscaping plan had been required as part of the Final Site Plan submittal. City Planner Alan Garrett showed on a representation of the Final Site Plan provided by Mr. Loback, where vegetation was planned around the pavilion. Mr. Loback asked where the landscaping buffering the existing residential land uses adjacent to the property was located on the Final Site Plan drawing. City Planner Alan Garrett stated that he would not call a residence in a commercial land use district a 'residential area'. He pointed out on the diagram that the

residential yard bordering the restaurant property was a side yard. The City Planner noted that 'dense' had not been defined, relative to screening, and pointed out once more that he could testify that the drawing being referred to at this evening's meeting was the Final Site Plan.

Mayor SueLynn noted that there was existing vegetation. The Mayor said that she was personally concerned regarding the portion of Spring Lane to be used for vehicular traffic and also the other alleyway on the other side of the Sandbar Restaurant property. She said that she was concerned about safety and the possibility of Spring Lane becoming more heavily used, as a one-way street, than it had been in the past. Mayor SueLynn said, relative to the part of Spring Lane that is west of Lot 'C', that it was misleading for people to look at the 10 ft. that is actually an unused alleyway, believing it to be Spring Lane. She noted that Spring Lane is only 10 ft. wide, and the other 20 ft. goes into the property that Weld, Inc. is already leasing. The Mayor said that an acute right hand turn would be required for vehicles coming down Spring Lane to stay within the alleyway, and further noted that many large trucks are more than ten feet wide.

Mayor SueLynn noted that she had conversations with Ed Chiles regarding the City's alternative to crushed shell, and its pervious nature. She said that if shell were not to be used on Lot 'C', there would not be a need for swales to be installed. The Mayor said she would like to see a fence erected along Spring Lane, and recommended that the area where swales are currently proposed be used instead for vehicular ingress and egress. She pointed out that vehicles could then enter from Spring Avenue as well as exit onto it. Mayor SueLynn said that she did not want to see vehicles using Spring Lane to circulate through the parking lot.

Sandbar Restaurant owner Ed Chiles again took the floor and confirmed that crushed shell would not be used, and said that he and his firm would be willing to work with the City and possibly move swales, if necessary. He suggested using signage to mitigate traffic problems.

Mr. Loback said that his client's planner had recommended a stipulation to require internal circulation, very consistent with the Mayor's recommendation, noting that this was a major safety issue. He further noted there were other permitting agencies, such as the Department of Environmental Protection (DEP) involved. Mr. Loback again recommended a stipulation for a long-term lease on the parking lots, and said if there is a need to correct any problem, the approval of the Final Site Plan should be denied or continued. He said it did not make sense to approve a fundamentally flawed plan, one that violated certain codes, and to trust that the Applicant would make voluntary changes to that approved plan.

Mayor SueLynn said that she would be comfortable with Ed Chiles' word, or with a stipulation by the Commission that vehicular traffic circulation be limited to be internal to the property, specifically Lot 'C', and that Spring Lane not be used for

vehicular circulation. Chair Quam confirmed that City Planner Garrett had been making note of all of the stipulations suggested at this evening's meeting.

Commissioner Linda Cramer noted that the City Planner had indicated that a portion of Spring Lane is City property, and also noted that this was a secondary means of access. She indicated that this was why she had asked, if there was a fence on Lot 'C', whether there was not a direct circulation access from the parking lot. The Commissioner quoted from Section 114-195 Interpretation of District Boundaries, relating to the centerlines of alleys.

Commission Chair John Quam announced that the Public Hearing portion of the meeting was now closed.

MOTION: At 7:25, Commissioner Linda Cramer moved to take a ten-minute recess, seconded by Commissioner Duke Miller.

Vote: All Ayes. Motion carried.

The meeting resumed at 8:59 p.m.

City Planner Alan Garrett took the floor and said a motion for approval had been prepared by City staff, containing six stipulations. He clarified, relative to the fifth stipulation, that the parking lot located on lots #8 through #10, Block 33, referred to 'Lot 'C'. The City Planner indicated that a sixth stipulation had been added for the hard pack and shell to be replaced by Filtermix or other City-approved pervious material. Mr. Garrett said that he would like to emphasize that the southern portion of Spring Lane would be used for circulation, i.e., the portion that connects with his parcel. He pointed out that a motion for denial had also been prepared for the Commissioners that included the option for referral to the Planning & Zoning Board (P&Z).

MOTION: Deputy Commission Chair Linda Cramer read the following motion:

Based upon the testimony, exhibits and evidence received tonight and in conjunction with the approval of the preliminary site plan, and finding that the final site plan complies with the preliminary site plan and the Code of the City of Anna Maria, I recommend approval of the WELD, Inc. final site plan presented this evening with the following stipulations:

- 1) The pavilion shall be for food and beverage consumption and assembly only and there shall be no on-site food preparation.**
- 2) A maintenance agreement between the City and the Applicant regarding improvements in the right-of-way shall be approved for those portions of the right-of-way where the Applicant will install improvements.**

- 3) **The site plan does not approve any improvements not on the Applicant's property or property under the Applicant's control.**
- 4) **The wood deck in the alley northwest of the proposed pavilion shall be removed unless properly permitted.**
- 5) **The parking lots located on Lots 8 to 10, Block 33 shall be designed so cars do not have to back out into Spring Avenue or utilize Spring Lane for circulation.**
- 6) **The parking lots shall have the existing shell and hardpack replaced with a filter mix or City-approved filter mix.**

Commissioner Dale Woodland seconded the motion.

Commissioner Duke Miller said he needed to disclose that he had a discussion, during the break in this evening's meeting, with Judy Adams, and asked if stipulation #5 complied with Code. City Planner Alan Garrett clarified that egress onto Spring Lane did meet with the Code, however the stipulation was to address the concern of the Mayor and others relative to public safety. City Attorney Jim Dye clarified it would not be violating Code to be coming out of a parking lot, but violates Code to back out of a parking space onto Spring Avenue. He suggested just having the circulation stipulation pertain to all of Spring Lane. The City Attorney said that it would be appropriate for the maker of the motion to amend it, otherwise a motion to amend would be required.

Ricinda Perry suggested putting up a sign stating 'not for general traffic circulation'. Ed Chiles said that if he put a barrier at the property line, there would be a new problem. He recommended parking bumpers instead, to delineate the parking spaces along the west side of the property. Mr. Chiles indicated that erecting a barrier to vehicular traffic would cause problems for the Caltagirones, as well as present an obstacle to his dumpster loading and emptying. Deputy Commission Chair Linda Cramer suggested removing stipulation #5.

MOTION: Commissioner Linda Cramer moved to amend her motion, modified with Stipulation #5 to read: "The parking lots located on Lots 8 to 10, Block 33 shall be designed so cars do not have to back out into Spring Avenue or Spring Lane". Commissioner Duke Miller seconded the motion.

Roll call vote: Commissioner Tollette: Aye; Commissioner Woodland: Aye; Commissioner Quam: Aye; Commissioner Cramer: Aye; Commissioner Miller: Aye.

Motion carried unanimously.

AMENDED MOTION: Deputy Commission Chair Linda Cramer moved as follows:

Based upon the testimony, exhibits and evidence received tonight and in conjunction with the approval of the preliminary site plan, and finding that the final site plan complies with the preliminary site plan and the Code of the

City of Anna Maria, I recommend approval of the WELD, Inc. final site plan presented this evening with the following stipulations:

- 1) The pavilion shall be for food and beverage consumption and assembly only and there shall be no on-site food preparation.**
- 2) A maintenance agreement between the City and the Applicant regarding improvements in the right-of-way shall be approved for those portions of the right-of-way where the Applicant will install improvements.**
- 3) The site plan does not approve any improvements not on the Applicant's property or property under the Applicant's control.**
- 4) The wood deck in the alley northwest of the proposed pavilion shall be removed unless properly permitted.**
- 5) The parking lots located on Lots 8 to 10, Block 33 shall be designed so cars do not have to back out into Spring Avenue or Spring Lane.**
- 6) The parking lots shall have the existing shell and hardpack replaced with a filter mix or City-approved pervious material.**

Commissioner Dale Woodland seconded the motion.

**Roll Call Vote: Commissioner Tollette: Aye; Commissioner Woodland: Aye; Commissioner Quam: Aye; Commissioner Cramer: Aye; Commissioner Miller: Aye.
Motion carried unanimously.**

ADJOURNMENT

MOTION: Commissioner Dale Woodland moved to adjourn the meeting, seconded by Commissioner Duke Miller.

Vote: All Ayes. Motion carried.

The meeting adjourned at 9:22 p.m.

Respectfully submitted,

City Clerk

Date