

**MINUTES  
CITY OF PALMETTO  
PLANNING AND ZONING BOARD  
JANUARY 27, 2011 – 6:30 P.M.**

***Continued from January 20, 2011***

516 8<sup>th</sup> Avenue West  
Palmetto, FL 34221

[www.palmettofl.org](http://www.palmettofl.org)  
941-723-4570

PLANNING AND ZONING BOARD MEMBERS

BARBARA JENNINGS  
JON MOORE  
CHARLIE UGARTE

ERIC GILBERT  
JAMES PASTOR

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*Anyone wishing to speak before the Planning and Zoning Board must sign in prior to the meeting, stating name, address and topic to address. All comments will be limited to two minutes.*

**Presentation of Tree Board Award: Geoff Seger**

Mr. Seger presented a flag, plaque and bags to the Tree Board and thanked them for becoming the Tree Board.

**Swearing in of all persons speaking to the Board:**

**“Do you swear or affirm that the evidence or factual representations that you are about to give or present to the Planning and Zoning Board on this 27th day of January 2011 are truthful?”**

**ORDER OF BUSINESS:**

**Swearing in of New Member James Pastor**

**1. Election of 2011 Officers**

Tab 1

a. Election of Chair

- Chair Jennings nominated Mr. Moore, Mr. Moore declined.
- Mr. Moore nominated Mr. Gilbert. Mr. Gilbert accepted the nomination. Mr. Ugarte seconded. **MOTION CARRIED UNANIMOUSLY.**

The gavel was passed to Chair Gilbert

b. Election of Vice-Chair

- Mr. Ugarte nominated Mr. Pastor, Mr. Pastor accepted. Mrs. Jennings seconded. **MOTION CARRIED UNANIMOUSLY.**

2. Approval of December 16, 2010 Meeting Minutes

Tab 2

Chair Gilbert called for a motion to ratify and re-affirm the meeting minutes of November 18<sup>th</sup>, 2010.

- Mr. Ugarte moved to ratify and re-affirm the meeting minutes of November 18<sup>th</sup>, 2010. Mr. Moore seconded. **MOTION CARRIED UNANIMOUSLY.**

Chair Gilbert called for a motion to approve the meeting minutes of December 16, 2010.

- Mrs. Jennings moved to approve the meeting minutes of December 16, 2010. Mr. Ugarte seconded. **MOTION CARRIED UNANIMOUSLY.**

Chair Gilbert called for a motion to approve the meeting minutes of January 20, 2011 meeting minutes.

- Mr. Moore moved to approve the January 20, 2011 meeting minutes. Mrs. Jennings seconded. **MOTION CARRIED UNANIMOUSLY.**

3. ***Continuance Public Hearing:***

**Future Plan, LLC. Variance (VAR-2010-04) (900 17<sup>th</sup> St W)**

Tab 3

Chair Gilbert opened the public hearing.

Mr. Jason Henbest, Grimes Goebel, updated the board on the status of the variance and requested a continuance until February.

Mark Caraher, Hungry Howies voiced concerns regarding the continuance of the variance, stating it is unfair to Hungry Howies to keep coming back to hearings when they have a business to run.

Mr. Barnebey stated both parties are working together, it is best that the applicant and the other party work out the issues so when it comes forward in February it will be ready for action.

Chair Gilbert closed the public hearing.

Action request: Mrs. Jennings moved to continue Future Plan, LLC., VAR-2010-04 public hearing until Feb 17, 2011 5:30 Commission Chambers. Mr. Ugarte seconded. **Motion Carried Unanimously.**

4. **Continuance Blanton Variance (VAR-2011-01) (249 Aloha Dr.)** Tab 4

Ms. Lyn reviewed the staff report, highlighting a correction, stating the notification only identified one side for a set-back and not both, therefore action can only be taken on the setback listed on the Notice.

Mr. Ugarte asked if there is an existing carport and storage unit. Ms. Lyn stated there is an existing carport and metal shed. However the shed is a standalone unit that is not attached and does not meet the Park's requirement. Per the Park requirements, storage units must be attached to the carport with a common roof.

Mr. Barnebey stated the Board cannot consider Tropic Isles rules in the decision for granting or not granting the Variance because the City does not enforce the Park rules.

Chair Gilbert inquired why a variance is needed to replace what is already there; an existing shed and carport that's 5' 4" from the adjacent mobile home. Ms. Lyn stated the mobile home is an older model and the applicant wants to extend the existing non-conformity. The first 26 feet of the carport is non-conforming and the applicant wants to extend the carport to 56 feet, thereby extending the non-conformity.

Mr. Barnebey asked if the Building Official has any problem with the 4 ft 8 in variance. Ms. Lyn stated no.

Mr. Ugarte stated for clarification that Tropic Isle regulations do not require a home owner to have a utility shed, but if they choose to have one it must be attached to the carport.

Opened the public hearing

Mr. Randy Blanton, applicant, stated Ms. Lyn did a great job in explaining the request. The Building Official wants this carport and shed built out of a fire rated one hour walled room. Tropic Isle is a co-op and no one owns their lots just a percentage. There are only imaginary lot lines. You are not required to have a storage or utility shed, but you cannot keep anything outside. You must park your car under the carport and because the carport is only 20ft long, a storage unit cannot be built properly under the carport.

Chair Gilbert closed the public hearing.

Action request: Mrs. Jennings moved to accept staff recommendation and approve the request for Variance-2011-01 recognizing a 4 foot 8 inches side yard to the north side of the property. Mr. Pastor seconded.

Mr. Barnebey questioned the property line. How far will the setback be from the lot-line? Ms. Lyn stated that since there is no lot line it will have to be measured from the mobile home.

Mr. Barnebey questioned Mr. Blanton regarding the co-op; you own a share or percentage, and you have an agreement of where you can put your unit. Mr. Blanton stated that is correct, they have an imaginary lot line. Mr. Barnebey stated he is ok with the motion but is not sure a variance is needed. There may not be a setback issue because there is no lot line to set back from.

Mr. Ugarte stated that if a variance is granted the minimum should be granted. He questioned whether a smaller shed can be built. Mr. Ugarte stated he did not think this case requires a variance.

Mr. Barnebey suggested granting the variance to the extent necessary; a variance is not needed based on the information provided.

Chair Gilbert asked if the motion wanted to be amended before a vote is taken.

Mrs. Jennings withdrew the motion, Mr. Pastor withdrew the second.

Mr. Ugarte moved to notify the Building Official that a variance is not needed unless the Planning Director feels that a 4 ft 8 variance is required. The motion died for a lack of a second.

Chair Gilbert stated that the purpose of a variance is when you have ordinances in place and the ordinance has created a hardship, it is the applicant's responsibility to prove the hardship. A self induced hardship is not a reason to grant a variance. If a variance is not needed it is embarrassing if one is granted; however, if it is needed it is debatable as to how much is self imposed.

Chair Gilbert entertained a motion if needed and to instruct staff that a variance may not be necessary.

Mrs. Jennings moved to approve the Blanton Variance-2011-01. Mr. Ugarte seconded. **MOTION CARRIED UNANIMOUSLY.**

**5. Continuance Amending Alcoholic Beverage Code**

Tab 5

Ms. Lyn reviewed the staff report and recommended changes, stating the way the alcohol code was written the sale and consumption of alcohol was identified and permitted by location. Staff has looked at the current code and recommends deleting Section 4.2, and 4.3, Selling Where Prohibited and Consumption prohibited in certain areas. Staff is proposing changing the code to permit the sale and consumption of alcohol by zoning district.

Ms. Lyn also reported that the code states no intoxicating beverages shall be sold within three hundred feet (300) of an established church, school and proposed adding or child care center.

Mr. Ugarte stated that daycare centers were just added to the downtown area which may create some conflicts. He would like to see child care center removed.

Mr. Barnebey stated it is likely the code change will create some non-conformities that did not exist previously. The proposed code will require some formatting changes that will take place before the code is brought back and staff will have to set-up and create new a permitting process.

Mrs. Jennings requested moving forward to expedite the process that would allow Morning Breeze to obtain an alcohol license with removing the streets and craft the remainder of the code at a later date.

Open the Public hearing

Mr. Brad Buckley, resident, petitioned the Board to make a decision tonight that will allow Morning Breeze to move forward in obtaining their alcohol license now.

Tony Supharat, Morning Breeze, commented on the new and improved areas in the City and that other areas have benefited from the recent change of alcohol sales on Sundays. Mr. Supharat stated he would greatly appreciate any efforts to speed up the process to allow his business to sell and consume alcohol on premises.

Chair Gilbert closed public hearing.

Mr. Barnebey stated that if the Board wants to take action on one location on 10<sup>th</sup> Street and 28<sup>th</sup> Avenue they can modify section 4.2 b, which will allow the sale and consumption of alcohol. The other is a matter of formatting issue. Mr. Barnebey stated this item will not come back to this Board unless otherwise directed by the Commission.

Action request: Mrs. Jennings moved to recommend to the City Commission to modify Section 4.2 b., or delete the language regarding the location, either way:

*“No alcoholic beverages shall be sold in any establishment within two hundred (200) feet of Tenth Street, west of Fourteenth Avenue within the city, except there shall be no prohibition against the sale of beer and wine for consumption off the premises between Twenty eight Avenue and Thirty first Avenue”.*

**And add that location under (c) modifying number 14,**

*(14) “it shall be unlawful for any person or the agent to sell or offer for sale, any intoxicating liquor, except beer or wine, at any place in the city except the following”: Along Tenth Street west, but only within a radius of one thousand (1000) feet from the center of the bridge at Government Cut”.*

Mr. Ugarte seconded. **MOTION CARRIED UNANIMOUSLY.**

Chair Gilbert entertained a motion to continue modifying the Alcoholic Code as proposed by Staff.

Mr. Barnebey stated a motion is not needed but discussion should continue regarding the applicability of uses/locations under Section 4.2 compared to conditional or permitted uses within zoning districts. It would be better to tie these uses to a zoning category.

Mr. Ugarte requested staff to present to the Commission the P&Z position and how the decision was reached.

**6. CRA Commercial Redevelopment Incentive Package**

Mr. Burton reviewed the CRA Commercial Redevelopment Incentive package stating these incentives use current documents such as the Downtown Development Guidelines and City Comprehensive Plan as their backbone. They promote removing nonconforming uses, demolition of derelict structures, protection of historic structures, a consistent design theme, stormwater pretreatment (less pollutants into the Manatee River), crime prevention, code enforcement violation reduction, direct positive influence on real property tax base, new construction and local vendor preference. Mr. Burton also received questions and comments.

Discussion ensued.

Mr. Barnebey stated this is an informational item; no action is required.

7. Old Business

- a. Ms. Lyn informed the Board that the Budick Conditional Use for a commercial apartment went before the City Commission and was approved. Because the definition of multi-family in the Code is three or more units, the City Attorney's office recommends an amendment to the zoning code to clarify commercial apartment as a use. This item will be coming before you as a public hearing.

Mr. Barnebey stated the question is whether or not a commercial apartment by itself is a permitted use.

8. New Business

- a. Ms. Lyn informed the Board that she was seeking input on a possible amendment to Article VII Fence Code stating the maximum height of a fence is 4 feet; anything 6 feet or higher has to go before the City Commission for a special fence permit. The proposed revisions to Article VII will be brought back for discussion at the February 17, 2011 meeting to determine if an amendment to the code is needed.

9. Adjournment 8:50