

**MINUTES
CITY OF PALMETTO
PLANNING AND ZONING BOARD
FEBRUARY 17, 2011 – 5:30 P.M.**

516 8th Avenue West
Palmetto, FL 34221

www.palmettofl.org
941-723-4570

PLANNING AND ZONING BOARD MEMBERS

ERIC GILBERT, Chair
JAMES PASTOR, Vice Chair
BARBARA JENNINGS

JON MOORE
CHARLIE UGARTE

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.

“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 17th day of February 2011 are truthful?”

ORDER OF BUSINESS:

1. Approval of January 27, 2011 Meeting Minutes Tab 1

Mrs. Jennings moved to approve the January 27, 2011 meeting minutes.
Mr. Ugarte seconded. MOTION CARRIED UNANIMOUSLY.

2. Amendment to P&Z Board Quorum Requirements Tab 2

Ms. Lyn reviewed the staff report stating the current City Ordinance provides for a quorum of 4 members of the Planning and Zoning Board. The City Commission decreased the board's composition from seven to five members in August of 2010 but the quorum requirement was inadvertently left at 4. This amendment will change the quorum requirement from 4 to 3.

Staff recommends approval of the proposed amendment to the Zoning Code to decrease the number of Planning and Zoning members which make up a quorum from 4 to 3 since the Board is now comprised of 5 members.

Staff reminded the Board that there was also another section that was suggested to be deleted. Mr. Ugarte asked staff what their recommendation was. Staff indicated that the Board could require the applicants to be present without penalizing them for their absence.

Staff's recommended the following in the staff report: The applicant or the applicant's representative shall be present at the designated Planning and Zoning Board meeting to answer any questions the Board may have on the petition.

Chair Gilbert opened the public hearing. No one from the public came forward to speak. Chair Gilbert closed the public hearing.

Mrs. Jennings moved to recommend approval to amend the P&Z Board Quorum Requirement and language as recommended by staff. Mr. Ugarte seconded. MOTION CARRIED UNANIMOUSLY.

3. Commercial Apartment

Tab 3

Ms. Lyn gave a summation of the staff report, highlighting the issues and staff recommendation.

The current zoning ordinance does not identify "Commercial Apartment" as a separate use. The City Attorney's Office recommended that the Code be amended to more accurately reflect this use after Conditional Use 2010-05 was approved for a commercial apartment in a commercial building. CU 2010-05 was approved as a multi-family use in a commercial zoning district but the commercial apartment did not meet the definition of multi-family use which is defined as "3 or more units."

Staff indicated that Mr. Rudacille suggested that commercial apartments be considered in the Public (P) and Planned Development (PD) districts as well. Discussion ensued and staff recommended that they be included in the PD district and indicated that uses such as the Women's Club was zoned P. Mr. Barnebey advised that a commercial apartments could conceivably be used for security residential purposes in public buildings.

Staff recommends approval of the proposed amendment to the Zoning Code to insert a definition of Commercial Apartment to Sec. 3.2. Definitions of Terms and to add Commercial Apartment to Sec. 4.2. - Schedule of Permitted and Conditional Uses by District indicating which districts may permit, prohibit or allow them by conditional use permit.

Chair Gilbert opened the public hearing. No one from the public came forward to speak. Chair Gilbert closed the public hearing.

Mr. Ugarte moved to recommend approval to incorporate Commercial Apartments into the zoning code as recommended by staff with amended chart. Mr. Moore seconded. MOTION CARRIED UNANIMOUSLY.

4. ***Continuance from January 27, 2011***

Public Hearing:

Future Plan, LLC. Variance (VAR-2010-04) (900 17th St W) Tab 4

Ms. Lyn updated the Board on the Future Plan, LLC, Variance request continued (initially from December 16, 2010). She stated that the applicant is requesting front set-back variances from the required 20 foot setback for the existing 5600 square foot building and along 8th Avenue West and 17th Street for future expansion of that building.

In the staff report, staff recommended a 20 foot front setback for the existing building along 17th Street and 8th Avenue; and a 20 foot front setback for a proposed addition along 17th Street only. However, as a result of subsequent negotiations, staff supported a 30 foot variance along 8th Avenue to give the applicant some flexibility in the design of their building expansion since there were constraints such as the bank vault in the NW corner of the building and the easement cut-out at the westernmost entrance on 17th Street to allow an expansion of the existing building up to approximately 10,000 sq. ft.

Mr. Ugarte asked why staff feels this site warrants a variance when the 5000 sq. ft. building is a viable structure. He stated that he feels this variance request does not present a hardship. Ms. Lyn stated the site has some inherent issues; the building was built in the 1950's and the Hungry Howies' building was built when the lot was under a single ownership. Hungry Howies' lot was subsequently split off but both entities share parking and drainage. The parcel and conditions are unique and therefore all aspects were taken into consideration.

Chair Gilbert opened the public hearing.

Mr. Jason Henbest, Grime Global, presented and reviewed a power point presentation that covered the following:

- Site Characteristics
- Variance Request
- Purpose of Request
- Variance Criteria
- History

Mr. Henbest covered the special conditions and circumstances that exist which are peculiar to the land, structure and building. They are:

- Site is constrained by 2 thoroughfare roads
- Site is constrained by internal parcel (structure on which was recently expanded)
 - Existing structure already sits within setbacks
 - Existing structure houses a bank vault

The purpose of the variance is to remove the non-conforming tag from the existing structure and allow flexibility for redevelopment of the site.

Mr. Ugarte asked if the applicant considered rezoning to Commercial Core (CC) or Plan Development (PD) to meet the desired objective, as he is not convinced a variance is the way to obtain this goal. The fact that the building is a non-conformity does not justify expanding it. The code states you do not expand non-conformities. Mr. Henbest stated a rezoning was discussed but he was not sure if a planned development was discussed. Ultimately both a rezoning and a variance would accomplish the same objective, but thought the variance met the criteria and was approvable.

Mr. Pastor asked if the applicant considered a 2 story structure. Mr. Henbest stated a 2 story structure was discussed but retail can be difficult to operate in a 2 story building. The prospective tenants or buyers are not interested in a 2 story building.

Mr. Pierre Dubord, Hungry Howies said they are opposing the variance along 8th Avenue and he is concerned about how the proposed structure will affect the parking onsite. Mr. Dubord stated they have a parking agreement that allows both owners to share the parking.

Mr. Ugarte asked if Mr. Dubord was the owner of Hungry Howies, whether he was involved in the land transaction process when the property was split and if there is a written parking agreement. Mr. Dubord stated they had another partner at the time of the land transaction and he was not involved. Mr. Dubord stated there is a written agreement and it is for shared parking, first come first serve where no one has a set number of parking spaces.

Mr. Barnebey stated the applicants will have to comply with parking regardless of what is built there. Parking will be evaluated when construction plans are submitted; parking is not relevant at this time.

Chair Gilbert closed the public hearing and opened for rebuttal.

Mr. Henbest addressed the issues brought forth.

- The parking agreement was originally for a 3000 sq ft restaurant which has now expanded to 4400
- The rights to any additional parking based on the increased impact to the Future Plan property has been hotly debated and contested. There has been efforts to work with Hungry Howies through their attorney on these issues but to no avail
- Hungry Howies submitted a plan to the City that showed 103 parking spaces

Mr. Henbest stated the code does not use the word hardship. There are some questions to what the standard is as compared to what everyone is used to in dealing with a variance. The code talks about special conditions and circumstances and minimal variance that would make possible the reasonable use of the land building or structure.

Mr. Ugarte asked staff of the feasibility of rezoning the property to plan development. Ms. Lyn stated it is feasible.

Chair Gilbert reminded the Board of the responsibility of granting a variance and called for a vote.

Mr. Ugarte moved to deny Variance 2010-04. Mrs. Jennings seconded.

Mr. Henbest requested that the variance be approved for the existing structure. Also, if you so choose, consider approving the City Planner's recommendation of 100 ft linear along the roads in addition to the existing structure.

Mr. Ugarte rescinded his motion. Mrs. Jennings withdrew the second.

Chair Gilbert inquired of counsel if the public hearing and advertisement is to a specific variance, can the Board change what the variance request is for. Mr. Barnebey stated the Board can approve a variance for what you think is reasonable and meets the criteria.

Mr. Ugarte moved to approve Variance 2010-04 within the footprint of the existing building. Mrs. Jennings seconded. MOTION CARRIED UNANIMOUSLY.

5. Manatee School for the Arts AN-PA-GDP/Z-2011-01

Tab 5

Mr. Moore and Mr. Pastor excused themselves from the agenda item due to a conflict of interest.

Ms. Lyn reviewed the staff report stating the request that is before the Board encompasses several actions which includes the following:

- To annex a single family parcel located at 735 15th Avenue Drive E,

- Unit A into the City of Palmetto;
- To change the Plan category of this annexed parcel from a County designation (Res-6) to a City designation (PC);
 - To rezone 2 single family parcels (zoned PD-MU & RSF4.5) and 2 tracts fronting on Haben Blvd. (zoned PD-MU) to PD-MU to incorporate them into a 2 phased GDP for the school;
 - To add a 3-story classroom building, a go-cart track and associated building for the school.

The proposal is a two phase project:

Phase 1 in 2011

- * 42,000 sq. ft. 3-story classroom
- * 5,000 sq. ft. stem cart classroom (associated with go-cart track)
- * Go-cart track

Phase 2 in 2014

- * 47,400 sq. ft. 3-story classroom (remove smaller modular 9,640 sq. ft classroom).

The site plan needs to clearly specify what the proposed uses are. There are concerns regarding the number of student per phase, stacking of the cars, water supply and a traffic study.

Staff is recommending approval of the annexation and small scale plan amendment. However, approval of the rezoning and GDP are subject to the following stipulations:

- 1 Satisfactory responses to the DRC's concerns and comments regarding traffic, transportation concurrency, infrastructure and landscaping issues related to this project;
- 2 Compliance of open space requirements with standards of the City of Palmetto Code of Ordinances;
- 3 Compliance of perimeter setback requirements with standards of the City of Palmetto Code of Ordinances;
- 4 Parking clarifications showing that parking requirements are met;
- 5 Clarification of go-cart use and associated uses and impacts.

Ms. Lyn stated for the record that she is retracting the two attachments that were included in the agenda packet regarding the modular units since those units have been removed. She also retracted staff's objections to keeping a modular building onsite after 2014 indicating that the DRC did not object in the second meeting as they did in the first meeting.

Ms. Jennings stated the go-carts were not shown on the site plan and asked for an explanation of the track and location. Ms. Lyn stated the site plan did not state the go-cart use so staff is unsure of the specific use, but staff understands that it would be limited to student use only. The track

will be in the drop off and pick-up area. Those issues need to be spelled out on the site plan.

Mr. Ugarte questioned the set-back requirement for the 3 story classroom building from residential. Ms. Lyn stated the zoning is a PD, which provides flexibility, but the code requires a 35 foot perimeter setback; in addition there is a height set-back, anything over 35 feet has to be set back 1ft for every 2ft in height.

Chair Gilbert opened the public hearing.

Mr. Jon Moore, Moore 2 Design, representative for Manatee School for the Arts (MSA) introduced Dr. Jones.

Dr. Bill Jones, MSA Principal gave an overview of the school and its history and the programs offered.

Dr. Jones stated they are adding what is called a fun laboratory component, which will allow students to learn how to build and drive go-carts. The go-carts are not high powered; it is strictly for the students' educational use. The cars will be used during school hours. Decibel reading will be taken.

Dr. Jones stated the school is in negotiations with University of South Florida Sarasota-Manatee Campus and Hillsborough Community College and have been assured that these schools will offer business classes in the evening once the building is completed.

Dr. Jones thanked Ms. Lyn for retracting the attachments and removing staff's objections regarding the modular units.

Mr. Ugarte asked if electric go-carts have been considered. Dr. Jones stated they have looked into electric go-carts, however nothing is readily available but there is an interest in developing electric go-carts.

Mr. Moore thanked Ms. Lyn and staff along with the DRC for all the hard work and efforts to move this project ahead as quickly as possible and in addressing the staff report, had the following comments:

- Request the word transportation concurrency be removed from stipulation number #1. They will comply with all requirements except concurrency;
- Stipulation #2 has been removed;
- Removal of stipulation #3, open space requirement. Charter schools must have private and secure grounds, the GDP presented shows adequate open space. The intend of the PD regulations are for residential developments;
- Request approval without stipulation #4, set-back requirement. The GDP 08-07 was approved for a new 2 story building with a 10 ft set-

back from property line. Applicant is requesting approval as submitted

- Removal of stipulation #5 parking requirement will be met through the state requirements

Mr. Ugarte asked why the applicant believes the transportation currency has been met without a traffic study. Mr. Moore stated they engaged an engineer out of Tampa to do a traffic study, the firm looked at all the major intersection around the school, and a schedule was developed of where most of the children will be coming from and how those intersections will be impacted and found no adverse impact to those intersections and because traffic has increased less than 4 percent then the traffic concurrency do not require any specific driveway analyst.

Mrs. Jennings asked if the traffic study factored in the added number of new students and what the proposed growth would reflect, not what the current population is now. Mr. Moore stated that is correct.

Mr. Ugarte stated he can agree with the annexation, plan amendment but has some questions regarding the set-back of the 3 story building and the track. Mr. Ugarte questioned how the set-back to the east is justified and if the neighbor is comfortable with the set-back.

Mr. Andrew Allison, Allison Engineering, read Article 14.6.c.1 of the submitted traffic study to clarify any concerns and stated that due to the limited trips generated the traffic study was not warranted.

Mr. Kennan Kintz stated Dr. Jones has been phenomenal with communication about the school. However, since he is now aware that there is an issue with the allowed setbacks; Mr. Kintz stated that he would like to amend his initial input. If there is a bigger set-back allowed he would like to have one because they do have a pool. In the future if he wants to sell his property no one will want to buy it with a 3 story building sitting right there next to it. If a bigger set-back is allowed he would like to have it because of privacy and future re-sale.

Ms. Patricia Wilson, President of Hammock HOA, brought to the attention of the Board the surrounding neighbors; they are: the Courtney, a senior housing facility on the west side; a nursing home to the north side and the Hammock of Riviera Dunes located on the south border, all residential. Ms. Wilson stated the property owners did not expect to have a go-cart track built at their door step when they bought their property.

When the plans of the school were initially reviewed they saw a new STEM cart classroom; they are of the opinion that a fun lab is not needed, especially if the noise of the go-carts is at the decibel level of a lawn mower or leaf blower; that is not acceptable. In some locations leaf blowers has been banned because of the constant noise factor. Nothing has been discussed about the number of students in the program using the

carts, number of carts and the hours of operation. Clarification is needed on the improvement of the lighting, what kind of impact it will have on the surrounding area, the brightness of the lights and how long they will be lit. If you are adding more students you will need more parking. If the modular unit is relocated and put in front of the residential area, a buffer area will be needed. Also the number of student anticipated to sign up for the evening classes in the new 3 story building and what type of impact on the area it will have.

Gary Parrot, Hammocks, asked who wants to say something bad about higher education, no one. When you say let's do it for the kids and it is urgent, it makes you want to vote right without clearly thinking of all the ramifications of what you are voting for. The big issue is traffic, parking and safety. Mr. Parrot stated he is not against the proposed project or higher education but he has concerns regarding the urgency of the project. He also suggested that there are several vacant buildings around the City that could be used for go-cart education.

An e-mail was read into the record by the recording secretary from Ms. Carlene Johnson. "As new property owners in Palmetto, my husband and I want to fully support the county's education programs. Since our home overlooks the parking lot of the school, our home will be directly impacted by the proposed plans. In fact, our unit (1520) is probably the only one that is owner-occupied directly across from the school.

It appears that our entire neighborhood will have to deal with the inconvenience, noise and possible traffic congestion during this building process. We'll just have to live with it, I suppose.

Since I will not be attending the hearing, I hope that you and others will address our concerns. I will support any proposed buffer that I am sure you and others will address if the opportunity arises. Since there is no space on the Hammocks side of the fence, I hope they will consider a natural buffer of tall trees to help with the noise and especially the lights".

Chair Gilbert closed the public hearing.

Mr. Moore thanked everyone for their concerns and comments stating many of them have been considered. He responded as follows:

- The off-site building idea is a great idea; the issue is the safety of the kids in today's environment.
- The lighting is one of great concern, the study provided is a calculated photo metric study, the fixtures have cut off requirements and no increase foot candle on adjacent property
- In regarding to the STEM cart building, phase 1 will have 3 carts and a classroom. If the program is successful they will add 7 more carts with a total of 10 carts, with a limit of 1 cart on the track at a time

- STEM class will be limited to juniors and senior with a drivers license
- There will be 20 students in the STEM class

Discussion ensued regarding flexibility of the set-backs and the type of fencing to be provided. Dr. Jones stated they are flexible with the set-backs and will work with Mr. Kintz with the type of fence he would like to see installed.

Mr. Ugarte indicated that he understood why the proposed 3-story classroom was placed where it was and asked Mr. Moore if he was willing to move the building 20 feet more from the property line. Dr. Jones indicated that he would be willing to look at other options such as placing the parking next to the neighbor's property.

Dr Jones indicated that lights shown on the lighting plan are not enough for driving go-carts at night. They will only be used in the daytime. Mr. Barnebey noted for the record that the Anderson go-carts do have mufflers and they are not that loud. We will need conditions on time of operation and safety of how the carts are going to work.

There was discussion in regard to the 60 decibels mentioned in the staff report that would be measured from the property line. Mr. Gause mentioned that they are looking into the noise levels associated with the school. Allison stated that the noise level on Haben Boulevard should be considered. There was general agreement that 60 decibels was too low a figure and sometime during the meeting, someone in the audience indicated that Ms. Lyn's voice was measured at 57 decibels.

Mr. Barnebey suggested putting clarification on the stipulations and advised to take motions separately.

Chair Gilbert called for the motions.

Mr. Ugarte moved to recommend approval of AN-2011-01, Annexation of 1.043 acre parcel at 735 15th Ave Dr. E. Mrs. Jennings seconded. MOTION CARRIED UNANIMOUSLY.

Mr. Ugarte moved to recommend approval of PA-2011-01, Small Scale Plan Amendment of 735 15th Ave Dr. E. from county RES-6 to Planned Community. Mrs. Jennings seconded. MOTION CARRIED UNANIMOUSLY.

Mr. Ugarte moved to recommend approval of Rezone Z-2011-01 of the entire property to PD-MU. Mrs. Jennings seconded. MOTION CARRIED UNANIMOUSLY.

Mrs. Jennings moved to recommend approval of GDP-2011-01 with the following stipulations.

- 1) Landscape buffer on the south side of the property (adjacent to the Hammocks) shall meet the PD buffer requirements of the zoning code
- 2) The open space as shown on the site plan shall be determined to be adequate
- 3) The buildings shall meet set-back as shown on the site plan except that all new buildings shall meet the requirements of the zoning code for PD zoning with the exception of the northernmost 3 story building which shall be located at least 36 ft from the perimeter of the property.
- 4) Parking shall be provided as set forth in the state SREF (state Requirements for Education Facilities) standards for schools
- 5) The go-cart track may be utilized during daylight hours, no more than one cart on the track at a time, staff and applicant shall work to establish reasonable noise guidelines.

Mr. Ugarte seconded. MOTION CARRIED UNANIMOUSLY.

6. Old Business

- a. Article VIII, Fences: Discussion of proposed changes –

Ms. Lyn stated that if the Board so desired this agenda item can be brought forward at the next meeting due to the time. Ms. Lyn thanked the members for their comments which have been very helpful.

Mr. Ugarte commented that the LDC is not restricted to 4 ft fences everywhere, it allows 6 ft on sides and back but it is not inclusive of all the zoning districts. All the zoning districts should have the same language. There should be an exception in certain districts such as within the downtown boundaries.

7. New Business

- a. None

8. Adjournment: 9:00 pm