

**MINUTES
CITY OF PALMETTO
PLANNING AND ZONING BOARD
SEPTEMBER 15, 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
CHARLIE UGARTE

JON MOORE-Absent
BARBARA JENNINGS

STAFF

Mark Barnebey, City Attorney
Lorraine Lyn, City Planner
Linda Butler, Recording Secretary

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 15th day of September 2011 are truthful?”

ORDER OF BUSINESS:

1. Approval of August 18, 2011 Meeting Minutes

Tab 1

Recording Secretary read Form 8B for Jon Moore and James Pastor into the record. A copy was placed in the Members notebook.

Mr. Ugarte moved to approve the meeting minutes of August 18, 2011. Mrs. Jennings seconded the motion. **MOTION CARRIED UNANIMOUSLY.**

2. Sunnydale Properties, LLC. Conditional Use (CU-2011-03)

Tab 2

Ms. Lyn reviewed the staff report. The purpose of this CU request is to bring the existing farm labor camp into compliance with the City’s zoning requirements.

The City's Zoning ordinance permits small (less than 10 units) and large (more than 10 units) farm labor camps only within the RM-6 zoning district as a Conditional Use.

In 2008, the city reviewed and approved the annexation of the subject property into the City, the plan amendment from County Res-9 to City Res-10 and the rezoning from County GC to City RM-6. The subject property is connected to City water and sewer and has operated as a farm labor camp at this location but without state Department of Health approval.

This Conditional Use proposal for a farm labor camp does not comply with most dimensional requirements since the structures on the subject property were built between 1954 and 1955 (per Property Appraiser's information) in the County. The density of the farm labor camp exceeds the maximum density of 10du/ac of the Plan category and the RM-6 zoning district. The density is currently 13.6 du/ac.

The Code requires screening and buffering when the adjacent use is less intense to minimize adverse impacts on surrounding land uses. In this case, the adjacent use, located to the west, is the same multi-family use.

Staff is recommending approval of the proposed conditional use permit for the following five reasons:

1. The proposed CU is for an existing use that has operated for years in both the County and the City. The applicant is making a good faith effort to comply with City requirements after annexing into the City and connecting to public water and sewer;
2. The proposed use for residential purposes is compatible with surrounding multi-family residential uses in an area zoned for general commercial;
3. The location is suitable for the proposed farm labor camp use which will be permitted and monitored through the State Department of Health for sanitation and health standards if approved.
4. The proposal is consistent with the City's Zoning Ordinance and meets the conditional use standards,
5. The proposal is consistent with the Palmetto 2030 Comprehensive Plan which recognizes a need for such uses.

Ms. Lyn stated the State Department of Health does bi-annual inspection of these types of uses.

Mrs. Jennings asked if the conditional use is approved without putting a buffer requirement as a stipulation at the time of approval, can we go back and require it later. Ms. Lyn stated a buffer requirement has to be imposed at the time of approval or if the project were to expand requiring additional review.

Open to the applicant

Fritz Stauffacher, Safety and Compliance Director presented photos of the units stating that the units are maintained and kept up. Laborers come in twice a year. The site is kept up to

code; they have never had trouble since they have had the site. Mr. Stauffacher stated he works closely with Code Enforcement.

Chair Gilbert asked how the tenants get around. Mr. Stauffacher stated the laborer have vehicles.

Open Public hearing

A letter from Mr. Gary W. Sweetman, Melody Carpenter-Sweetman, Owner, 1811 Bayshore Road was read into the record.

Mr. Whiting Preston, 1509 4th St. Manatee Fruit Company stated he understands what the applicant is saying. Mr. Preston thanked Ms Lyn for the staff report as it was very informative and helped him understand what is being proposed. Mr. Preston stated his concerns. The location is surrounded by county property and he is interested in what the City will do to help protect the neighborhood. The proposed use brings a transient crowd that moves in and out. Although a lot of them are good people, it is important that the City understands the need to enhance the City and the economic needs.

Mr. Ugarte asked Mr. Preston what his recommendations would be for stipulations on the proposed application. Mr. Preston stated he would recommend buffering, the maintenance and upkeep of the property, and he would not like to see or recommend the expansion of the project.

Mr. Edward Stanbrosky, manager of adjacent property, echoed the same concerns that Mr. Preston had, stating that buffering is a big issue. He has only owned the property next door for 4 months.

Chair Gilbert closed public hearing.

Rebuttal

Mr. Stauffacher addressed the letter that was read into the record regarding the Federal Immigration Code, stating these are not H-2A workers, they are documented worker. Also Mr. Stauffacher stated he is not opposed to putting up a buffer, whether its trees or a fence since he's had problems with residents from the adjacent apartment coming across. A manager is always on duty and the units are run just like an apartment complex.

Mr. Barnebey asked the number of units on site. Mr. Stauffacher stated there are 12, with one being a manager unit. There are a maximum of 50 people total that would be living there at any time.

Mr. Barnebey inquired of staff regarding the density. It was noted that the site exceeds density.

Mr. Stauffacher stated density was not an issue when the site was annexed. It was a farm labor camp at the time of annexation and \$120,000 was paid to hook up to the City's utilities and that is not a small price. The site will not expand.

For clarification, Chair Gilbert stated we are trying to make legal what is already there.

Ms. Lyn stated yes in a sense, these units were never permitted before, but a permit is pending from the State. If a conditional use permit is granted, the site will be monitored more closely by the State.

Ms. Jennings asked if there are other farm labor camps permitted in the City. Ms. Lyn stated no, there isn't any conforming to the City's regulations, but there are some in the City that are permitted by the state. None are zoned RM-6, which is the only zoning district that allows farm worker housing with a CU in the city. Sunnydale Properties is putting forth a good faith effort in trying to obtain a conditional use permit and become legal with the City.

Mr. Ugarte stated there are current migrant camps that are in the City limits but just not legal according to the code. This project is trying to become legal and that is commendable. The question is what can make migrant camp compatible to the surrounding area? It always goes back to maintenance. How well can we control that? Can you make maintenance a condition on the particular owner? Mr. Barnebey stated the owner should not matter because the property can be sold at any time. The condition will run with the land unless a time frame is placed on it. The property will be covered by property maintenance code.

Mrs. Jennings moved to recommend approval of Sunnydale Properties, LLC., CU-2011-03 and commended the applicant for the attempt to make this legal and added the following stipulation: a 6ft high opaque fence or decorative wall be installed on the north and west side of the property within 90 days of obtaining approval. Mr. Ugarte seconded. **MOTION CARRIED UNANIMOUSLY.**

3. Waste Services of Florida Inc., (WSI) Annexation, Plan Amendment, Rezone, (AN-PA-Z-2011-05). Tab 3

Ms. Lyn reviewed the staff report. The subject properties consists of two platted lots, located on the south side of Oakwood Avenue between Canal Road and 18th Avenue Drive E in a predominantly industrial area south of 17th Street. These two lots were acquired by the applicant, Waste Services of Florida, Inc. (WSI) for expansion of the existing transfer station for construction and demolition waste and debris. WSI properties consisting of 6.8 acres make up an enclave in the City east of Canal Road.

The subject properties are IH on the County's Plan in which light and heavy manufacturing and research and development uses are permitted. The City's HCI category permits heavy commercial and industrial uses at a maximum FAR of 1.0.

The purpose of these applications is to expand the existing construction and demolition

(C&D) transfer station and concrete crushing facility located at 1312 16th Avenue (Canal Road) that is currently operating in the City. These requests are required to add the subject property to an existing business which will increase the City's tax base in the long run. It is a logical expansion of the City limits in an industrial area for an established use currently in operation.

Staff recommends APPROVAL of the annexation, small scale plan amendment to HCI and rezoning to CHI.

David Smith and Kirk Wills, Applicant, stated they have improved the property tremendously and didn't have anything else to add but will be happy to answer questions.

There were no questions.

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

Chair Gilbert closed public hearing.

Mr. Barnebey noted the annexation, plan amendment and rezone cannot be approved with conditions, they have to be approved or denied.

Mr. Pastor moved to recommend approval of Waste Services of Florida Inc., AN- 2011-05. Mrs. Jennings seconded. **MOTION CARRIED UNANIMOUSLY.**

Mrs. Jennings moved to recommend approval of Waste Services of Florida Inc., PA- 2011-05. Mr. Pastor seconded. **MOTION CARRIED UNANIMOUSLY.**

Mr. Ugarte moved to recommend approval of Waste Services of Florida Inc., Z- 2011-05. Mr. Pastor seconded. **MOTION CARRIED UNANIMOUSLY.**

4. Florida Commercial Laundry Inc. Conditional Use (CU-2011-04) Tab 4

Ms. Lyn reviewed the staff report. Florida Commercial Laundry Equipment, Inc. is a Laundromat located at 1527 8th Avenue W. The Conditional Use (CU) application is for approximately 784 square feet (20% of the building square footage) of prepaid phone time sweepstakes space within the General Commercial (CG) zoning district. In addition to the Laundromat, 5% of the 4,000 square foot building is used for ice cream sales/snack shop and 5% for an office.

Phone-Sweeps, LLC is in the business of selling pre-paid long distance telephone cards within various internet café business center and vendor store-fronts. Phone-Sweeps, LLC operates promotional sweepstakes which by law are licensed and regulated by the Florida Department of Agriculture and Consumer Services.

The proposed use is considered a Recreation and Amusement Service which is permitted only with a CU in the CG and CHI districts. The proposed use will be conducted within an existing building which has done business in the City for years. Besides the proposed use, the City Commission approved a 5 year Conditional Use permit for 870 square foot of video amusements/computer slots/games space within the CHI zoning district at Palm Plaza I located at 1035 Hasko Road on January 24, 2011.

Staff recommends the following:

1. The use shall be limited to selling pre-paid long distance telephone cards only;
2. The use shall occupy a maximum space of 784 sq. ft. which shall be limited to adults only;
3. Hours of operation for this conditional use shall be from 8 am to 8 pm

Mr. Ugarte asked if the hours recommended is 8 am to 8 pm or 8 am to 12 am. Ms. Lyn stated from 8 am to 8 pm. Ms. Lyn read the conditions that are included in the code for recreation and amusement services which included hours of operation from 8 am to 12 am. Mr. Honaker's hours of operation are from 7 am to 10 pm.

Mrs. Jennings asked how the stipulations will be enforced stating there's an issue of putting in stipulations on a conditional use that cannot be enforced. Ms Lyn stated that is a valid concern, but it did not take long for Code Enforcement to discover the unapproved use and close down the business.

Mr. Pastor asked if the added use will increase the required parking. Ms. Lyn stated she used the 1 space per 400 sq. ft. for other commercial uses because there is more than one use, therefore it will meet parking. Mr. Pastor asked what made code enforcement flag them. Ms. Lyn stated the facility had a sign posted which drew the attention of Code Enforcement.

Chair Gilbert asked how the "adult only" condition will be monitored if this is a Laundromat that is self service.

Mr. Pastor asked if this is illegal for a minor. Mr. Barnebey stated not as we understand the operation today according to Lt. Tyler. The police department is not aware of any illegal activity with this type of establishment.

Mr. Barnebey notes that these types of uses have caused problems in other communities which may be the reason the Commissioners placed a 5 year timeframe on a similar use in the City.

Open to the applicant:

Marie McCaughan, PE stated the reason the applicant did not come before the Board is because the use is not a gambling facility. It is a phone card that can be checked right away by the cashier and you do not have to play the games. Ms. McCaughan addressed the following comments and concerns:

- Parking: parking is adequate, there are 16 spaces.
- Sign: a legal sign is already in place, the name on the sign might change.
- Permitted Uses: Ms. McCaughan stated selling pre-paid phone cards is a permitted use in the CG district.
- Hours of Operation: Ms. McCaughan requests the sweepstakes use be open the same hours as the business. Mr. Honaker will only sell the phone cards to adults.

Chair Gilbert asked for clarification, you are selling a pre-paid long distance phone card that happens to have a sweepstakes as a promotion to buying that card. Is there an internet café in the room where the terminals are located? Ms. McCaughan stated, yes to the pre-paid long distance phone card question. And stated the internet café is a permitted use in the general commercial zoning district, it does not fall under the conditional use criteria, it is an allowable use just as an eating establishment, this is like a coffee shop. An internet cafe is a coffee shop with computers that are available to the public

Ms. McCaughan stated this not a gaming site. The internet café is something Mr. Honaker has in mind and would like to offer but is not being done at this time.

Ms. Lyn asked if customers can win cash. The answer is yes.

Chair Gilbert opened the public hearing

Chair Gilbert closed the public hearing

Discussion

Mr. Pastor commented that if the operation is legal we don't have to stipulate a legal age.

Mr. Barnebey asked the connections of the phone cards with the computer terminals.

Ms. Paula Dumas, after being sworn stated the sale of the retail phone time is promoted through a game promotion; the terminals are a revealing system for the game promotion. All the computers are linked together though the internet and are monitored. Everyone has to be 18 years of age if they access the game terminal. There are choices given when you sit at the terminal, sweepstakes or Microsoft Open Office.

Chair Gilbert stated if someone sits down at the terminal can they access the internet. Ms. Dumas said the customer have to buy internet time. The only option offered at this time is long distance pre-paid phone card sweepstakes.

Mrs. Jennings moved to recommend approval of CU-2011-04 with the following stipulations:

1. Limited to selling pre-paid phone time cards sweepstakes only in the 784 sq ft proposed area

2. Hours of operation is from 8 am to 12 am
3. Limited to a 5 year period

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

5. Old Business

A discussion ensued regarding continuity from the P&Z meeting to the City Commission meeting when members reclude themselves from voting on an agenda item due to a conflict of interest. Recently the P&Z had to continue its meeting due to a lack of a quorum on an agenda item where 2 members were advised to abstain from voting. Yet at the last Commission meeting, a Commissioner associated with the same company as a P&Z board member, chaired and voted on that item. Clarification and consistency are needed for future agenda items and a follow up on this issue is requested.

6. New Business

Mr. Ugarte informed the Board of a proposed 5th St. streetscape project. This project is through the CRA, along with Ugarte and Associates, LFK Engineers, Acoustic Studio of Tampa and Applied Science. The project is along 5th Street, from 8th Ave to 10th Ave and the CBI building. The concept is to apply the Downtown Development Guideline and add low impact development. SWFWMD is starting to allow these concepts and hopefully a grant will be obtained. This has been in the working for some years. Mr. Ugarte stated he will try to provide graphics at the next meeting. The CBI building will be torn down and become lots that can be sold. The rear of CBI will be public parking.

Ms. Lyn inquired of the time frame. Mr. Ugarte stated it depends on SWFWMD. The timeline SWFWMD has given to the City is that ground breaking needs to take place by February 15, 2012 and completed by September 30, 2012.

Mrs. Jennings asked if everyone on 5th St. is ok with the project. Mr. Ugarte said no, a neighborhood meeting was held and there were two that opposed.

7. Adjournment 7:25