

**MINUTES
CITY OF PALMETTO
PLANNING AND ZONING BOARD
October 17th, 2013 – 5:30 P.M.**

516 8th Avenue West
Palmetto, FL 34221

www.palmettofl.org
941-723-4570

PLANNING AND ZONING BOARD MEMBERS

Board Members Present

ERIC GILBERT, Chair
CHARLIE UGARTE
JON MOORE
LARRY DENYES
RANDY IABONI

ALSO IN ATTENDANCE:

LORRAINE LYN, CITY PLANNER
CHAR PATTERSON, PLANNING TECH
SCOTT RUDACILLE, ASST. CITY ATTORNEY

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.

ORDER OF BUSINESS:

1. **Approval of September 19th, 2013 Meeting Minutes** Tab 1

Motion by Mr. Ugarte to approve the September 19th, 2013 minutes as presented. Mr. Moore seconded. **MOTION CARRIED UNANIMOUSLY.**

2. **Ordinance 2013-13** Tab 2

CONTINUED FROM 09/19/2013

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; APPROVING A CONCEPTUAL/GENERAL DEVELOPMENT PLAN FOR 100-ROOM, 3,000 SQUARE FEET OF RETAIL/OFFICE, AND 4 RESIDENTIAL DWELLING UNITS, ON +/- 2.37-ACRE PARCEL LOCATED AT 120 RIVIERA DUNES WAY, PALMETTO, FLORIDA; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE. (GDP 2013-01, Armed Forces Bank, N.A., PID#2581600639)

Mr. Rudacille explained that staff recommended a continuance of the hearing in order to have time to look further into some outstanding issues which remain with this project. However, the applicant asked that project not be held up any longer and that the hearing take place today.

Mr. Ugarte said that he did not want to continue the hearing and reminded the Board that someone at the last meeting asked how long this item would be continued. He asked whether there was an accounting of the remaining development credits or entitlements for the DRI.

Mr. Rudacille explained that was one of the issues under review. The City had hired a professional planner with DRI expertise to review the DRI's remaining entitlements to determine the total credits on the various parcels.

Mr. Moore asked if staff had anything to add to the discussion. Ms. Lyn reminded the Board that they had asked the applicant to have the submittal in by October 1st, but the final site plan was revised several times and finally submitted on October 10th. The applicant nevertheless, was very determined to proceed.

There was some discussion among Board members on whether or not to continue the hearing. Mr. Gilbert said they did not have the information needed to make a decision tonight. Mr. Ugarte suggested that the hearing be opened up and a decision on continuance be made after the hearing.

Applicant Jim Herston explained that they have worked hard to meet the City's requirements and that the site plan has been revised over and over again until that staff has recommended approval of the project. Mr. Herston explained that Ms. Lyn has done an excellent job on summarizing the remaining entitlements of the DRI.

Ms. Lyn made a presentation indicating that this GDP request was for a 100 room hotel and 4 condo units above the hotel on Parcel 11B within the Riviera Dunes DRI. She indicated that the record keeping on the DRI over the last ten years has been less than clear. From the staff report she went through all the GDP approvals over the years and pointed out previous approvals on the subject parcel; first for retail in the BelMare GDP in 2004 and a banquet center in the Harborside GDP in 2007 which replaced the 2004 approval. She indicated that the DRI development order allows land uses to be traded off using the equivalency matrix which equated 312 sq. ft. to one hotel room. Although the applicant was requesting deviations, BelMare was granted the most deviations including an increase in height from 13 to 15 stories.

She indicated that staff is withdrawing the concern of the 24' ingress/egress connection to BelMare's property. Because the hotel is proposing a total of 115 parking spaces including 7 parallel, overflow spaces along the 60' access west of the round-about, the project would still meet parking if 7 spaces were lost in the final alignment of the 24' ingress/egress into BelMare's parcel.

She explained the pros and cons of the proposal from the staff report and raised the question of compatibility between the proposed hotel at 7 stories next to a 15 story condo building. She said that staff is recommending approval of the GDP with 2 conditions; one of which will require the hotel parcel to meet the subdivision Code.

Mr. laboni asked about parking for the assembly/meeting room. Ms. Lyn indicated that one space is required per hotel room and the parking requirements for a hotel do not mention parking for a meeting room, only a restaurant. Mr. laboni stated that he also had issues with setbacks.

Discussion ensued regarding the trade-off mechanism using the land use matrix where you can trade hotel for retail and vice versa from one parcel to the next. Map H or the master development plan contains uses and square footage for each parcel. Parcels are owned by several different parties and when parcels were broken off, bought by banks, etc., it makes entitlements harder to track. Mr. Rudacille concurred and further explained the land use matrix or equivalency table.

Mr. laboni asked whether the banquet hall is going to be for guest only or opened for outside use. Mr. Herston said that meeting rooms in a hotel are usually open to public events. He indicated that the ITE trips generated by hotels figures in other uses such as accessory retail, restaurants and meeting room uses so other uses have been taken into account. Mr. laboni questioned whether there was enough parking to support the banquet hall. Mr. Herston said retail was removed from the proposal in order to meet parking requirements.

Mr. Ugarte commented on blocking the views of BelMare's tenants and that their expectation was for the subject property to be developed as a low rise instead of a high rise. He asked whether there was any way to pull the hotel back to the west

Mr. Herston explained that they tried to pull the building to the south, after dealing with setbacks, landscaping, etc. placed the lower end of the building to the north so that BelMare's residents' view is looking at a deck and pool instead of a roof and equipment.

CHAIRMAN GILBERT OPENED THE PUBLIC HEARING:

Mr. Bob Hoonhout with Barnes Walker representing Mr. Sedillo said his client owns Parcels 14, 10B and 12A-D, most of the land close to US41 including the Parcel designated for 125 hotel rooms, east of the subject property. He said that the issue at hand is, where should the hotel be? He said that rights for the proposed hotel were taken from other surrounding parcels and that Mr. Sedillo bought the hotel rights of the properties. In the DRI, a hotel is not a permissible use on the applicant's lot because that lot is not even zoned for and does not permit a hotel. This proposal is taking entitlements from other investors.

Mr. Bill Horton covered his portion of the power point (ATTACHED) presentation. He indicated that the emphasis had been on the analyses and not the practicality of a hotel on Parcel 11B. He said each piece should be harmonious and compatible with the community as a whole.

Mr. Caleb Grimes, land use attorney with Grimes Goebel spoke next. He explained that a DRI is a master planned community containing limitations on uses and densities etc. based on mitigation requirements, traffic studies, effects on the environment etc. to avoid piecemeal developments. Anyone who comes in and buys in that development knows what they will be getting in the future. Mr. Grimes indicated that the master plan has one spot for a hotel and that hotel is on Parcel 12A. Parcel 11B was part of BelMare to be used for specialty retail and residential homes. He said nothing he had reviewed shows the hotel on any site except Parcel 12A. The development order says "the developer" can do exchanges within the DRI, but once the property has been sold, there is no right for this developer to exchange entitlements. They have a piece of property for specialty retail or residential.

There is an existing easement that serves BelMare lands. The proposed site plan moves the easement and brings it west of where it exists today. If the site plan is approved this way, it will interfere with other site plans.

He expounded on Palmetto Code Sec. 28-78 and how additional parking is required for public or private assembly uses (1 space per 3 seats).

Mr. Mike Shrink, BelMare resident spoke to the power point presentation. He indicated that he was speaking on behalf of several residents in opposition of the project. He said there are better placements for a hotel and that residents opposed the project to protect their investments. To date, site plans submittals have been inconsistent and late. The proposed hotel would not only affect resale's and rentals in the area but would devalue and depress property values. Mr. Shrink also spoke to additional traffic congestion, security & privacy concerns and noise & lighting.

Ms. Deborah Sperry, BelMare condo owner spoke to the power point in opposition of the proposed project. She explained that there are 6 different parcels where a hotel could be built. She said the City and convention center needs a hotel but this is the wrong site.

Mr. Robert Collins, 130 Riviera Dunes Way, spoke in opposition to the proposed hotel project. He said the footprint and height of the hotel changed with each submittal, and that some of Mr. Harry Walia's past projects had either not been finished or were denied. He suggested that the Board consider the developer's past record.

Mr. Colby Gaulien, President of Riviera Dunes Master Association spoke in opposition of the project. He said he sent the developer a letter requesting a copy of the plans for review. They did not receive the plans or a phone call regarding the proposed project. He said he is in favor of a hotel but it is just wrong to put it in this place.

Mr. Gino Sedillo, resident of BelMare and owner of most of the commercial parcels said his vision for his properties is to be in keeping with existing development and feel of the area as a whole. Future development should benefit all residents and should not be to the detriment of the community. If outsiders like Mr. Walia want to put a hotel on the site for very selfish reasons, they should look at the larger picture, i.e. the entire community and not just a single parcel.

Mr. Michael Becks, resident of BelMare said he was very impressed with the way the Board ran the last meeting. He reminded the Board that they directed the applicant to come back within two weeks and to turn in their project by October 1st, 2013 yet after several amendments, the plans were not submitted until October 10th.

Mr. Greg Owens, Vice Chairman of Riviera Dunes Marina introduced Mr. Tom Sibbald who spoke about maintenance issues regarding the cross access easement and private street which they would share with the hotel site.

Mr. Hugh McGuire, representing the marina said that when the City requested the 4-lane boulevard between the hotel and marina parcels, they became involved and should require a maintenance agreement with the developer for the upkeep of the boulevard. He said Sec. 26-16 of the Code which speaks to private streets; require a maintenance agreement with the developer.

Ms. Ann Buchanan spoke in opposition of the proposed project. She asked the Board to look at the boarder perspective, to promote convention goers to come and stay before and after their conference, and urged the Board to use their governing powers and recreate a master development plan for the area.

CHAIRMAN GILBERT CLOSED THE PUBLIC HEARING.

Mr. Denyes said he is a resident of BelMare and he has been told by the Ethics Committee that he could discuss the project but he could not vote on the project. The developer does not own the property but he is in the process of buying it. Mr. Denyes said he was surprised that staff recommended for the project. He suggested that the Board do the developer a favor and take a vote to proceed forward.

Mr. Iaboni opined that when they bought in the possibility of a hotel being built next to BelMare, he did not think it would not block the entire views. However, there are not enough facts to make any kind of decision as we need to see everything and look into legal issues before a decision is made.

Mr. Ugarte said that the overall picture has come clear and he does not support the project. He does not have a issue with a hotel or the height, but he has concerns about construction on the easement, and that BelMare's residents relied on the original project's intent to have a low scale development on Parcel 11B.

Mr. Moore's concerns were directed more towards the legal aspects of the project, and although he would like to rely on counsel, he could not support approval of this project this evening.

Mr. Gilbert said there are definitely pieces of the puzzle missing, e.g. how the entitlements are traded back and forth, to make an informed decision tonight and if we had all the information, is it

something we would go ahead and approve? He said that there was a room full of people, and the right choice needs to be made legally for the City.

Mr. Iaboni moved to recommend denial of Ordinance 2013-13. Mr. Ugarte seconded. **MOTION CARRIED UNANIMOUSLY.**

Chairman Gilbert asked Mr. Herston for his comments.

Mr. Herston said he should have been granted a courtesy rebuttal and that he was thankful for the opportunity.

Mr. Gilbert reminded him that this was a recommending Board and the City Commission would make the final decision.

3. **DAP-2013-02 Alternative Proposal to the Downtown Core Design Code** Tab 3

This is a request by Alexander Berne for an Alternative Proposal to the Downtown Core Design Code (DCDC) for the Olympia Theater located 512 10th Avenue West, in the Downtown Midtown District.

Ms. Lyn explained that this is the City's first such request since the adoption of the DCDC earlier this year and the reason for the submission of a Superior Alternative Proposal is because the proposed elevations drawings deviate from the Downtown Core Design Code as follows:

1. Windows that are appropriately sized for the scale and style of the building on which they are located.
2. Windows along all streets.
3. Doors appropriately sized for the scale of the build façade on which they are located.

She outlined the different aspects of the project:

Positive Aspects:

1. Renovation of an existing building;
2. Residential mixed use in the downtown area;
3. Original windows on W side of building will remain.

Negative Aspects:

1. No doors along 10th Avenue main point of entry is a door on the south side of building;
2. Windows on the second floor along 10th Avenue;
3. Single window on the north side of building.

Mitigating Measures

1. Unique use of an existing building which must be balanced with the building's compatibility with the downtown area's streetscape.

She explained that the proposed use of the building as a private residence and recording studio is unique in that it does not offer a service or product directly to the public. However, the use is consistent with the Future Land Use Plan and zoning code.

It is staff's recommendation that since the location of the building is a given, streetscape and appearance of the area should help define a sense of space and place and the applicant's alternative proposal should be accepted and she recommends approval of the alternative proposal.

Mr. Bob Greene, attorney for applicant Alexander Berne said the applicant is spending a lot of money in the City. Over the past year, Mr. Berne has met with the CRA Director, Mr. Jeff Burton and Mayor Bryant and several City representatives and was under the impression that the mixed use of the recording studio and living quarters would be an accepted and welcome use in the downtown.

Mr. laboni asked if the studio was going to be used by the public and could the control area of the recording studio be switched to the west side of the building so that it would face 10th Avenue W. Mr. Berne replied that the studio would be used primarily by himself that he functions as the orchestra; he plays all the instruments. He would use the facility himself 99 % of the time but sometimes, he would use a small orchestra like the Sarasota Orchestra to collaborate recordings. He said that they were too far into the design phase of the project to change the orientation of the control room on the west side of the building.

Mr. Gilbert suggested that he could display instruments in a window on 10th Avenue and Mr. Berne explained that he did not want people to know that it was a recording studio and private residence and he did not want to advertise that it is a recording studio.

Mr. laboni said that the frontage would not be conducive with the downtown core design, Discussion ensued about the safety of the downtown area. Mr. Berne indicated that there is practically no pedestrian activity, that the homeless appeared to be sleeping on the sidewalk and that the Olympia Theater faced a motel. Mr. Ugarte questioned his statements saying that his office is located in the downtown and it is not a high crime area.

Discussion continued regarding pedestrian traffic, window placement, security, CPTED Report, the alternative plan not meeting the DCDC, the absence of doors and windows on 10th Street W, etc.

Mr. Berne said that he was assured that his plan would be okay after speaking with Mr. Burton and the Mayor several times over the past year and that he was upset that he just found out not much more than a week earlier that he would have to present his Superior/Alternative proposal to the Planning and Zoning Board.

Mr. Burton, CRA Director said the theater was built in 1916 which predates the Tampa Theater. He reminded the Board that the issue at hand is the Downtown Code and the absence of windows on the first floor. The Olympia Theatre is not designated a historic building; the building has been changed many times over the years and walls were structurally rebuilt, etc. He said that projects do not always fit into the guidelines making it necessary for exemptions. All factors must be considered; e.g. prohibiting metal siding in the downtown, exceptional design, removal slum and blight.

Mr. Greene explained that the exception to the DCDC is the windows and the doors, that this is an existing structure. He is not building a new building; he is reconstructing an old building. This is not a restaurant, where windows would satisfy a design theory.

Mr. Berne explained his idea of turning the building into a vertical garden, keeping the windows on the upper level, and designing a beautiful building. Hopefully, this will bring more artists to the area; will be a hub for bringing art and culture to the area, encouraging pedestrian activity. He asked wasn't it better to have some type of development versus no development especially on a building such as this.

Mr. Burton referred the Board to page 67 of the DCDC on Inappropriate Materials and Colors: Use of tinted, reflective or mirrored glass and /or blackened out window. Page 79 indicates that each project should be reviewed individually; although it would be ideal if every project could meet all aspects of these guidelines, that may not be possible due to a site's physical constraints or other considerations, the preservation of historic buildings, finding pictorial evidence of this

building being historic, replacing the upper windows, the need to move a girder if the front doors has to be replaced. The project will be getting CRA monies and with the improvement, it will be removing blight from the downtown core. The City finally they got someone to invest in a building that no one else wanted. He added that the CRA had plans to built their offices on 5th Street W, adjacent to this site.

Action request: Motion to approve, approve with modifications or deny the request by Alexander Berne for DAP-2013-02.

Mr. Iaboni moved to approve Mr. Berne's Vertical Garden concept as an **Alternative Proposal to the Downtown Core Design Code (DAP-2013-02)**. Mr. Moore seconded. Mr. Denyes voted yes, Mr. Gilbert voted yes, Mr. Ugarte voted nay. **MOTION CARRIED**

4. Old Business:

Proposed (DCOMC) Boundary Changes - Presenter Jeff Burton, CRA Director Tab 4

Mr. Burton explained that the City of Palmetto CRA was awarded a \$25,000 Department of Economic Opportunity grant to study, plan and align City policies to better (re)develop the Downtown Commercial Core. With this they will be reviewing the downtown boundaries, parking and sign Ordinance, storm water and downtown incentives making planning more economical.

5. New Business:

6. Adjournment 8:50 p.m.