



**AGENDA  
CITY OF LAKE WORTH BEACH  
PLANNING & ZONING BOARD MEETING  
BY TELECONFERENCE  
WEDNESDAY, JULY 15, 2020 -- 6:01 PM**

**ROLL CALL and RECORDING OF ABSENCES:** Present were- Greg Rice, Chairman; Anthony Marotta, Vice Chairman; Mark Humm; Daniel Tanner; Laura Starr, Michael Glaser. Also present were – Alexis Rosenberg and Andrew Meyer – Senior Community Planners; Erin Sita, Asst. Director for Community Sustainability; William Waters, Director for Community Sustainability; Pamala Ryan, Board Attorney; Sherie Coale, Board Secretary.

**PLEDGE OF ALLEGIANCE**

**ADDITIONS / DELETIONS / REORDERING AND APPROVAL OF THE AGENDA**

**APPROVAL OF MINUTES:**

A. June 17, 2020 Meeting Minutes

**Motion:** A. Marotta moves to approve the June 17, 2020 minutes as presented; M. Humm 2<sup>nd</sup>.

**Vote:** Ayes all, unanimous.

**CASES:**

**SWEARING IN OF STAFF AND APPLICANTS –** Board Secretary swore in those wishing to give testimony.

**PROOF OF PUBLICATION:** Included in the meeting packet.

- 1) Palm Beach Post Proof of Publication
- 2) LW Herald Proof of Publication

**WITHDRAWALS / POSTPONEMENTS:** None

**CONSENT:** None

**PUBLIC HEARINGS:**

**BOARD DISCLOSURE:** M. Glaser spoke to property owner Fred Schmidt regarding PZB 20-00500003.

**UNFINISHED BUSINESS:**

**NEW BUSINESS:**

- A. PZB Project Number 20-00500003:** Request by Anne-Christine Carrie of KEITH on behalf of 1900 10th Ave, LLC for consideration of a Major Site Plan, Conditional Use and Variance to construct Vehicle Fueling/Charging Station, Single-Destination Retail, and Restaurant

uses at 1900 10th Avenue North within the Mixed-Use West (MU-W) zoning district. The subject property PCN is 38-43-44-21-02-005-0030.

**Board Attorney:** States there are two affected property owners, one abutting and one adjacent. One of the two (abutting) requested this meeting to be postponed. Board members received copy of communications between the Board Attorney and said owner of abutting property.

**Staff:** A. Meyer presented case findings and analysis and provided an explanation of Mixed-Use West non-residential uses. Explained the existing conditions include a vacant parking lot with virtually no landscaping. The proposed project includes 14 fuel pumps (7 piers), restaurant with seating (Laredo Taco) as well as retail. Based on analysis it is compatible with the surrounding properties and consistent with the Comprehensive Plan and Strategic Plans. Further, it is consistent with LDR Section 23.2-31 (c) qualitative development standards for a Major Site Plan; community appearance criteria LDR Section 23.2-31(l), variance criteria LDR Section 23.2-26(b) and Major Thoroughfare Design Guidelines. The Conditional use is consistent with design and performance standards for vehicle filling station. Staff suggests a TPS letter from PBC Traffic Division. Water and Sewer condition 2.b modified. Planning condition added prohibiting outdoor display of merchandise.

W. Waters clarifies the project does not go to City Commission for approval. This is a decision not a recommendation.

**Applicant's representative:** Brian Seymour-Gunster Law Firm, representing 7-Eleven- the applicant is the property owner, 7-11 is the tenant. In response to a comment in the previously mentioned letter, that a good business owner always reaches out to neighbors. Had the client reached out, they would have gladly reached out to Mr. Baird's client. It is not an opportunity to ask on the day of the meeting to postpone. Noticing was in sufficient time (properly noticed according to statute), this is not a circumstance where they are not willing, just not given the opportunity. It is not a residential area where they would have initiated any reach out. Stand willing to answer and be cross-examined.

**Tenant representative:** Josh Long, AICP planner with the law firm -7-Eleven is a leader and this is a new model store, unique and different from the past. Powerpoint shows 85 truck parking spots and essentially no landscaping, increases the city heat island effect. Property does not have a right angle at corner of Barnett and 10<sup>th</sup>. This is nothing but a parking lot. It is a commercial area typical of 80's and 90's when constructed. The proposed landscaping will dramatically increase the permeability of the site with reduction in lot coverage. Adding a deceleration lane to the westbound (right in) entrance off of 10<sup>th</sup> Ave N. Barnett Drive will be right in (southbound) right out(southbound) only. Dramatic increase to landscaping (43 trees of which 23 will be canopy trees) along 10<sup>th</sup> Ave N. and along Barnett Drive. Presents 2 revisions to color schemes in response to the City request to provide other options, mechanical is shielded. They comply with Major Thoroughfare Design Guidelines and Community Appearance Guidelines are met. In agreement with the revised Conditions as presented in addition to the conditions attached.

**Board attorney:** Gives option to affected parties if they wish to give a presentation at this time. Party 1 decided to wait until after Board questions. Party 2, having requested additional time but not received, has not had time for preparation of a presentation, present to express concerns.

**Board:** M. Glaser states the other side of 10<sup>th</sup> there is a problem with traffic. Would like to hear about traffic impact and how it relates to the school. Questions eastbound and westbound traffic egress and ingress.

**Traffic Engineer- Lisa Bernstein-**The traffic will still come in on Barnett (southbound direction only) but not farther to the north. 3 trips, the volumes taken were based on PBC data which were more current. The counts at the intersection showed no change in level of service due to the project. Intent is most traffic will be off of 10<sup>th</sup>, with sufficient stacking west of the Barnett light. Net new trips are 47 entering and 47 exiting at peak periods 7-9 am and 4-6 pm.. Northbound on Barnett will be a painted island prohibiting left in with the exception of the fuel truck any other movements would be a ticketable offense. Sufficient stacking eastbound on 10<sup>th</sup> Avenue North in a middle lane.

**Board:** G. Rice: -How will the businesses on the east side of Barnett access 7-Eleven?

**Traffic Engineer:** Hopefully they walk, the peak periods of usage for the retail are typically late afternoon rather than morning.

**Staff:** E. Sita states the right in right out of Barnett, was a result of the initial condition by PBC and to take pressure off Barnett; if Board choses they could ask that PBC give full access off of Barnett. Josh Long states the monument sign will be on SE corner, directional signage will be near egress/ingress points. M. Humm wonders if consideration been given to the fact that a Dunkin Donut exists on the south side? L. Starr- asks if consideration has been given to how many other 7-Elevens are within the area?

**Traffic Engineer:** Defines/pinpoints the peak hour as being the hour within the am and pm windows of highest traffic counts.

**Tenant Representative:** Brandon Wolf – 7-Eleven corporate- Various marketing studies show traveler habits, local residents, pedestrian traffic and how to capture a different customer. Do not want to cannibalize the business of nearby existing 7-Eleven's. All real estate transactions occur prior to selection of franchisee. This is a corporate location and for the first four (4) years not available for franchising for at least that four years. Doing well in Texas. Maintenance is by the tenant.

**Board:** G. Rice asks if the corporate would continue to own the property? Yes, lease is 15-year initial term with three- or four-year options. L. Starr- all eating inside? Yes, a few tables and lean bars in approximately 800 square feet. A. Marotta- asks of the City Attorney to explain the ability of Board to hold a quasi-judicial hearing. Pamala Ryan-surprised that Mr. Baird isn't having some quasi-judicial hearings in cities that he represents. Courts, Governor and State has been clear this is acceptable provided the right to be heard is offered. Mr. Baird's client's claim of insufficient notice is another issue. The court system, which is completely judicial non-jury trial has held virtual meetings. The Board Secretary visually verifies those taking oath. If he chooses to appeal, proceed. Does not believe the issue has merit. Comfortable with the Board moving forward. A. Marotta clarifies whether the affected party has been deprived of opportunity to speak, present or cross-examine due to being virtual. P. Ryan- They did not call or contact the city, we were solid on our notice. The letter was received in the late afternoon this day of the hearing, they have the opportunity to speak/testify and cross examine. Being unprepared is not an indicator of insufficient notice. A. Marotta- is the shape of the land and traffic flow sufficient criteria to necessitate the variance? W. Waters - the eight (8) foot variance is the minimum required to meet facilitate the two (2) way traffic flow. A. Marotta- questions if either color scheme would be satisfactory to staff? W. Waters would like to work with the applicant to meet Design Guidelines. as is in the Conditions to which the applicant agrees. A. Marotta- the TPS has to come back as acceptable. G. Rice says we should finally get to choose some colors other than mural colors.

**Staff:** E. Sita: staff advocated for the abundance of landscaping. Mixed-Use allows the most intense commercial uses; east of I-95 is a different zoning district. W. Waters- a great deal of the traffic will come from local residents and school children.

**Public Comment:** None

**Affected Party-** Fred Schmidt: Co-owners of buildings facing Aragon Avenue and Barnett Drive- even though there was compliance with the letter of the notice but shocked that the notice was received after the July 4 weekend. Other projects have gone to City Commission and thought this would too. Traffic is difficult. Conditional use is conditional provided nearby businesses aren't disturbed. Doesn't show well during rush hours so they show to potential tenants during off hours. Seems to be too big for the site. Worried about school children when school re-opens. D. Hiatt- no traffic signal, this is nothing but a giant WAWA on a smaller property. Comparisons to the 7-Eleven at Lantana and Dixie. The FedEx property is busy as is Action Mobility. Believes the parcel (truck rental facility) was accessory to Wayne Akers. Asks if the street is concurrent with PBC standards? Objects to the project. Are alcoholic beverages being sold. **Response:** Brandon Wolf- yes beer and wine.

**Applicant's Representative:** Brian Seymour asks what prompts the comparison to the Lantana/ Federal Highway station. D. Hiatt lives there. There are 6 pumps at Lantana Road with 50% less traffic than 10<sup>th</sup> Avenue and is congested. G. Rice to Mr. Hiatt if there is a school crossing guard? Response- no however parents park/wait on their property for students. D. Tanner questions if a reduction in pumps would significantly reduce the trips?

**Traffic Engineer:** Lisa Bernstein- would have to calculate if there would be a difference. Square footage and numbers of pumps. Josh- 7 pumps=14 fueling stations. Brandon Wolf- 6 pumps in Lantana vs. 7 pumps at this location.

**Staff:** William Waters: Comparison 6 story with 140K square feet, the proposed project is a 4% (proposed design) of what could go there. E. Sita - regardless of who/what goes here, it will be an intensive use encourages the Board to look at compatibility, is it an appropriate use, does staff want to see tax dollars.

**Board:** M. Glaser- regarding the right turn north onto I-95 from 10<sup>th</sup> Avenue North. Has the light been changed? **Response:** The county would be the reviewing party, not FDOT.

**Affected Party-** Paco Gil: owns several properties in the area. Site signs were small and recent. Re-iterates the school children about why they are hanging around. Cars cut through their property, this will only add significant problems, doesn't see it to be a good for the area. D. Hiatt- unhappy with the postmark date of July 2, claiming it wasn't received until 5 days later and if it was a strategic maneuver. In the real world, one can't secure an attorney within that time period.

**Applicant's Representative:** Brian Seymour- Friday mail was delivered, no one reached out to them and they would have spoken with them. The process was met and there was no "strategy" to the noticing.

W. Waters indicates notice was provided 12 days in advance of the required 10 days.

**Board Attorney:** The debate about the noticing is off track. Regardless it would not have been sufficient notice for the affected parties.

**Board:** D. Tanner likes the landscape, no issue with the setback, and although there are traffic concerns, it is not the most intense use of this site. Laura Starr – this is a new model planned for Florida? **Response:** Yes with 500-800 square feet for restaurant with 16 seats. And number of parking spaces? = 32 M. Glaser believes more time should be given for review by neighbors, let

them retain attorneys and postpone. G. Rice: who would bear the cost of re-advertising (it could be postponed) A. Marotta- likes the landscaping, and the proposed project is not even the most intense use but a project by right which has met noticing requirements regardless of whether we like it or not. G. Rice: knows what it's like to enjoy a vacant next-door property then suddenly the highest and best use comes in. That's the unfortunate part of living with familiar comfortable things when they suddenly disappear. We are not use to walking, traffic is South Florida. Has concerns about why there is no school crossing guard at that location. Even though giving more time would be nice and could be done, what would change in a month when its permitted by right, and the maximum buildout could be a six (6) story building. M. Glaser

**Applicant's Representative:** Brian Seymour willing to agree to a condition to work with county and city staff to install school signage as appropriate. M. Glaser asks if flashers would be part of that?

**Traffic Engineer:** Lisa Bernstein- there is a flasher at the beginning of the school zone. The zone has to be determined, the zone is farther north on Barnett not at the intersection of 10<sup>th</sup> Avenue North and Barnett Drive.

**Board:** D. Tanner: Is there any improvement plan for Barnett Drive. 7-Eleven shouldn't be held responsible for a 20-year traffic concurrency deficiency.

**Board Attorney:** Don't go back to bring in additional questions; move forward with evidence presented and deliberate.

**Motion:** A. Marotta moves to approve 20-00500003 with staff recommended conditions, the condition added during staff presentation, the added condition to work with staff and county for additional school signage; D. Tanner 2<sup>nd</sup>.

**Vote:** 4/2 Michael Glazer and Mark Humm dissenting.

**B. PZB / HRPB Project Number 20-03100003:** Consideration of an ordinance to amend Chapter 2 regarding application fees and Chapter 23 "Land Development Regulations" regarding changes to adopt a digital zoning and future land use map, site plan review, pervious and impervious surfaces, outdoor storage, and modifications to development standards and requirements for fence, walls and gates.

**Staff:** E. Sita presents and further defines the proposed changes to the Chapter 2 and 23 of City Code of Ordinances.

**Board:** No questions.

**Motion:** A. Marotta moves to recommend approval of 20-03100003 to City Commission; M. Humm 2<sup>nd</sup>.

**Vote:** Ayes all, unanimous.

**C. PZB / HRPB Project Number 20-00400003:** Consideration of an ordinance to amend Chapter 23 "Land Development Regulations" that includes changes to add new uses and to consolidate and clarify existing uses, including modifications to definitions, use tables, and development standards.

**Staff:** E. Sita- This amendment clarifies existing use definitions; new uses are added brewery, distilleries, money business services and storage-specialty. and use table clean-up of old uses. Deletion of columns because they are regulated in other underlying zoning districts. Planned Developments; FEC overlay; Hotel overlay.

William Waters: There are some projects are awaiting this change in use tables.

**Board:** G. Rice-How was the calculation made regarding what type of use or impact where breweries/distilleries being proposed? **Response:** More stringent regulations would be in the Downtown corridor and relaxed when moving into a more industrial area; Capacity and how many deliveries were criteria/ performance standards used as to when it would become a nuisance. The most intense proposals would be located in IPOC. G. Rice: If the square footages were too tight or too loose it would not be profitability. W. Waters: Followed the state definition of brewery and distillery, the distillery is exactly ½ the size of a brewery. Spirits under Specialty, Beer and Ale under Microbrewery. State does not allow the two (2) types to be combined. Currently a distillery allows tasting on premises, consumption off premises. W. Waters mentions the open container law in effect in Palm Beach County.

M. Glaser states planners have conquered all. Once upon a time a person could walk into a Building Department and get a permit. It is complicated now.

**Motion:** A. Marotta moves to recommend approval to City Commission PZB / HRPB 20-00400003 ; M. Glaser, 2<sup>nd</sup>.

**Vote:** Ayes all, unanimous.

**PLANNING ISSUES:** W. Waters July 28, 1<sup>st</sup> or 2<sup>nd</sup> meeting in August. Board will be busy in the fall. Zoom will continue through the month of August. Planning & Zoning Board meetings will be going back to the first Wednesday in August. Brock Grill is leaving the area for a new job.

**PUBLIC COMMENTS** (3-minute limit) None

**DEPARTMENT REPORTS:** W. Waters Comp Plan changes received by State and will be heard on July 28 by City Commission; the Bohemian will also be heard by City Commission. May receive an invitation for the topping out for the Mid.

**BOARD MEMBER COMMENTS:** None

**ADJOURNMENT: 8:53 PM**