



**MINUTES
CITY OF LAKE WORTH BEACH
PLANNING & ZONING BOARD MEETING
VIRTUAL MEETING
WEDNESDAY, MAY 20, 2020 -- 6:01 PM**

ROLL CALL and RECORDING OF ABSENCES: Present were: Greg Rice, Chairman; Anthony Marotta, Vice-Chair; Mark Humm; Laura Starr; Michael Glaser; Daniel Tanner; Brock Grill.

Also present: Alexis Rosenberg, Senior Community Planner; Andrew Meyer, Senior Community Planner; Erin Sita, Assistant Director for Community Sustainability; William Waters, Director for Community Sustainability; Pamala Ryan, Board Attorney; Sherie Coale, Board Secretary.

PLEDGE OF ALLEGIANCE: To resume in the future with a live quorum.

ADDITIONS / DELETIONS / RECORDING AND APPROVAL OF THE AGENDA: None

APPROVAL OF MINUTES:

A. March 4, 2020 Regular Meeting Minutes

Motion: M. Humm moved approval of the March 4 meeting minutes as presented. A. Marotta 2nd.

Vote: Ayes all, unanimous.

CASES:

SWEARING IN OF STAFF AND APPLICANTS

Board Secretary administered oath to those wishing to give testimony and identified through live video.

PROOF OF PUBLICATION

1) Proof of Publication- Included in meeting packet

WITHDRAWALS / POSTPONEMENTS : None

CONSENT: None

PUBLIC HEARINGS:

BOARD DISCLOSURE: A. Marotta; M. Glaser- no disclosures. B. Grill received an email but nothing was discussed; D. Tanner received an email from the representatives of the vet clinic; L. Starr also received two emails and did not respond; M. Humm received emails from the applicant for the vet clinic and phone calls regarding the Comp Plan; G. Rice received an email regarding the vet clinic, his dog is a patient of the practice, he also received calls/emails regarding the Comp Plan.

UNFINISHED BUSINESS: None

NEW BUSINESS:

- A. PZB Project Number 20-00500004: Request by Juanique Chadinha Branca of Gentle Pet Crossing, LLC, for consideration of a Conditional Use Permit for a 1,800 square-foot low-intensity funeral home/crematory use at 409 South Dixie Highway, Bays 1 & 2. The project is located within the Mixed Use – Dixie Highway (MU-DH) zoning district. The subject property's PCN is 38-43-44-21-15-149-0210.

Staff: A. Meyer provided case analysis, findings and reviewed proposed Conditions of Approval for Board consideration. Any expansion to the proposed use would be required to come before the Board as a Conditional Use. Concerns are regarding chemical storage and impact to the city sewer system. Parking meets and exceeds code with 15 total spaces required and 18 provided. Existing landscaping would need to be addressed and brought closer to conformance with the Major Thoroughfare Design Guidelines.

Applicant: Selected Lake Worth Beach since there are currently no existing pet afterlife care funeral homes in Palm Beach. Process is referred to as aquamation and requires 1/10th of energy required for a flame cremation process. The alkaline hydrolysis (95% water 5% alkali) process takes about 20 hours. The remaining parts are bones, microchips and other implants. This process is utilized by medical schools and nearly 2,000 vets. The build out and opening costs are approximately \$230,000.00

Board: L. Starr- Inquires who is performing euthanasia and if it is performed on the premises.

Applicant Response: The intent is to contract with local mobile veterinarians. It is something that can be done in the home. The applicants state there would be at most two (2) vets that would be utilized.

Staff: A vet would need to apply for a business license if operating from the same location. If advertising for euthanasia, Board review would be required.

Questions from Board members about state regulations to which staff replies only regulations found pertain to human remains. Applicant confirms there are no licensure requirements.

Board: B. Grill asks for clarification that there is no intent to convert to fire cremation. Believes the chemicals in use are dangerous and inquires as to how they will be handled/stored. **Applicant response:** One cycle requires 40 lbs., only 1 or 2 cycles would occur for the first few months. The process is the solution (salt) is added to the machine and then water added. Mask and goggles are utilized, there is an eyewash station and a fume hood.

Staff: The building code has a limit on quantity of stored materials and there would be a need to apply for a hazardous material permit. The use & occupancy inspection occurs every three years. The City follows State Regulations.

Staff: Brian Shields-Director of Water Utilities Department- there are concerns with the high reactivity of the PH. An Industrial Pretreatment Permit (IPP) is required from West Palm Beach, also an Interceptor box for checks performed by West Palm Beach.

Board: G. Rice states that once ordered, the chemicals can arrive very quickly to the site. Home Depot has more readily available chemicals than a pest control firm has in its storage room. B. Grill asks if there are ventilation system improvements planned, G. Rice also has concerns regarding ventilation. L. Starr asks how long the process takes, who is processing, and if insurance is required for this type of business, can number of employees be limited in the area of the processing? **Applicant response:** The process takes about 18-20 hours and remains are

returned 2-3 days after that. There is a firewall floor to ceiling at the processing location. The machine was invented by a woman chemist, there are currently 7-10 machines operating in Florida.

Board: M. Glaser asks about the pulverizer and if there is a limit on pet size. **Applicant response:** The pulverizer turns bones to ash; one cycle can process approximately 400 pounds, any combination of small, medium or large.

Staff: Suggestion of a continuance if additional information is requested regarding noise from pulverizer to fully vet the conditional use criteria. Board may also add conditions over and above code requirements for building ventilation and storage. Board members consider the possibility of an independent engineer to evaluate the systems with the cost to be borne by the applicant. As no plans have been submitted to the Building division, Palm Beach County Fire Dept. does not yet have anything to evaluate.

Board: L. Starr asks about the storage capacity for deceased animals. **Applicant response:** a regular sized chest freezer as typically they are already frozen upon delivery and refrigerator.

Motion: D. Tanner moves to approve PZB 20-00500004 with staff recommended Conditions of Approval and based upon competent substantial evidence pursuant to the City of Lake Worth Beach Land Development Regulations, and adding a condition requiring any additional costs for HVAC engineering specialties to be borne by the applicant; A. Marotta 2nd.

Board: M. Glaser reads condition #1 from Utilities, Water & Sewer and would like the condition to read "shall receive, not shall apply".

Brian Shields: Clarifies if the amounts are determined to be miniscule the permit would not be required.

Public Comment: None

Vote: 4/3 motion passes; L. Starr, M. Glaser and B. Grill dissenting.

B. A request by Scheron Bryant and Myrda Bryant of Lake Osborne Funeral Home Services, LLC, for consideration of a Conditional Use Permit for a medium-intensity funeral home use at 1612 South Dixie Highway and 1604 South Dixie Highway.

Staff: A. Rosenberg presents case findings and analysis. Currently plans include chapel, offices and welcome foyer with embalming to occur in the future. At this time the embalming will occur off-site. The human remains will be transported from this site to the embalming facility or crematory as needed. Services will primarily occur between 6:00 and 8:00 pm.. The structure is not in compliance with the Major Thoroughfare Design Guidelines. At some point there was additional glazing on the building.

Applicant: Scheron Bryant has no additional comments to add to the presentation.

Public Comment: Staff received a letter from the owner of 1621 S. Federal Hwy, Wilma Gancarz, who is against approving a funeral home so close to her property as it will damage any future resale value.

Board: B. Grill asks if there will be embalming and chemicals used and appropriate venting.

Staff: Similar to last item with Utility water/sewer review requirements. The applicant would apply for an IPP prior to building permit review.

Applicant response: Formaldehyde is utilized to preserve the tissue. The State of Florida regulates the funeral industry and professionals. The applicant currently works in facility in Pompano Beach and has for 3.5 years and is venturing out with his own business. Interned for

one year and the balance of the time as licensed funeral embalmer and director for 2.5 years. Mr. Scheron Bryant is the licensee, his partner Myrda Bryant is a city resident. G. Rice states parking is also an issue. **Applicant response:** The neighboring business closes at 5 p.m. and Mr. Bryant would seek a cross-access agreement. **Board:** A. Marotta would like assurances of a cross-access agreement. D. Tanner wants to know how can compliance with improved appearance could be guaranteed. **Staff:** E. Sita states some previous unpermitted changes to the structure can be undone. The original building had as much as 75-80 % glazing of which a great percent could be restored, possibly up to 30 %. D. Tanner asks applicant if he is aware of the cost of bringing the structure up to code. G. Rice asks if crematory is planned. **Applicant response:** no crematory.

Motion: A. Marotta moves to approve PZB 20-00500001 with staff recommended Conditions of Approval based upon data analysis in staff report including addition of condition of requiring an executed parking agreement prior to issuance of an occupancy permit; M. Glaser 2nd.

Vote: Ayes all, unanimous.

C. A request by John Banting of PBB Construction, LLC on behalf of Daniel Aquino and Angel Arroyo of AM Lucerne Holdings, LLC for consideration of a zoning use interpretation as to whether a veterinary clinic is permitted in the Downtown (DT) zoning district.

Staff: E. Sita presents the case findings and analysis. The question before the Board is to interpret if the use is allowed in the district. Explains inclusionary uses, and the use table regarding principal, accessory or conditional use. If it doesn't say you can do it, then you can't do it. The Use table is further divided into High Intensity, Medium Intensity and Low Intensity. A broad use, such as Single Destination Commercial. Within the Downtown district, the intent is to provide for the expansion of office and commercial uses including higher density residential and pedestrian area. Additionally the Rules of Construction (governing process) Sec. 23.1-8 states regarding any conflict in limitations, restrictions or standards the more restrictive provisions shall apply.

Board: L. Starr asks why a vet practice was not envisioned in the DT district. **Staff response:** Vet clinic is more of an auto-centric use rather than a pedestrian use.

Applicant: Ele Zachariades of Dunay Miskel Backman. The previous pharmacy included a drive-through with automotive use. The intent is to enclose the drive through while staying below 2,500 square feet. There will be no pet boarding, only related to medical necessity. The Single Destination Commercial is within the low intensity use. The use table is silent in the low intensity use for a veterinarian clinic but does include the single destination commercial uses. The definition for single destination commercial uses includes the terminology 'substantially similar or related.' A vet establishment is specifically listed in Single Destination Commercial use. States although the inclusionary code means if it is not listed you can't do it, this specifically states through the definition Single Destination Commercial low intensity it can be done.

Board: A. Marotta asks why the plain language does not apply.

Staff: W. Waters re-iterates that all uses of the same type do not have the same intensity. Approximately 3 years ago a use table change was made to allow medical offices in the downtown zoning (DT) district west of Dixie Highway. Medical offices were equated to vet clinics due to being of similar nature (with no regard to the different type of clientele) and never intended to be included in Single Destination Commercial. If they were intended to be included in Single Destination Commercial, why are they called out separately in the use table? The vet clinic would fall off the use table if it were intended to be included within the Single Destination Commercial. Additionally the medium intensity use category of 7,500 sq. ft. or less, includes uses 2,500 square

feet or less. The fact that it is not mentioned in low intensity indicates it is of medium intensity and requires a conditional use review however it is not allowed in Downtown (DT) as the permitted use table provides.

Board: B. Grill applauds staff for bringing this to Board. Staff and Board have repeatedly talked about improving code. How did the developer get this far along in the process without knowing this before, due diligence? There are many properties in the City that would have been better suited. **Applicant response:** E. Zachariades defers to the property owner. Low intensity is meant to encapsulate anything under 2,500 square feet. **Applicant:** Has a business to the west of City hall, he spoke with M. Stivers and received positive feedback. Is heavily involved in real estate, and owns several parcels in City and elsewhere. He liked the site, and were at building permit issuance. Goal is to improve the City. Has owned the existing business for 16 years. Clients who are residents and walk or ride bicycles to the business. To improve walkability, many types of businesses are a required.

Board: B. Grill finds it odd after being in the City for 30 years that he is not aware of the process. He seems to be “wed” to the clinic and site despite so many other sites available throughout the City. D. Tanner asks if he has supporting documentation indicating he approached Planning & Zoning. **Applicant response:** Mr. Arroyo mentions the Building permits were ready to be released and were a result the “greenlight” or understanding to engage architects from M. Stivers.

Applicant Contractor: John Banting states he met with Mark Stivers, the Development Director and A. Rosenberg and was directed to submit a staff level approval and was subsequently determined should undergo additional review. They submitted for building permits, plans were submitted to the Building Division, building comments have been addressed. Claims M. Stivers indicated it would be a Single Destination Commercial use.

Board: D. Tanner asks whether there is a business license for the clinic. L. Starr what was the first date you were advised you could not do this and how many total meetings were held? **Applicant response:** He was advised in February or March and collectively approximately eight meetings.

Staff: William Waters: In meetings with Mr. Arroyo, prior to the purchase of the property, was advised the use was not allowed. Mr. Stivers was present, did not agree and advised he would work with Mr. Arroyo on his own.

Board Attorney: Cautionary advice to the Board with the two trains of thought. Attorney’s opinion that code allows it, staffs opinion is code does not allow it. The other being that M. Stivers told us to do it; there are no emails or zoning verification letters, do not follow this track. A zoning verification is still an opinion. Focus on the issue of whether code allows this. **Board:** L. Starr asks who is to be relied upon if you cannot rely upon the word of a development official? **Board attorney** states it is not relevant, rely on the Code, staff does not believe M. Stivers had the final word. One should rely on written documentation and even a letter is not a guarantee. **Board:** A. Marotta will this be setting a precedent? **W. Waters:** based upon tonight’s decision, a change may need to be made to code in the event of staff changes. D. Tanner questions whether it could be a conditional use. **Board Attorney:** If Board determines it is a permitted use under 2,500 square feet, there is nothing to stop another entity from coming in the following day for the same use.

Applicant Attorney: Believes perhaps a mistake was made with the use table, but the Single Destination Commercial use includes a vet clinic and the Single Destination Commercial at low intensity is permitted. Questions what uses were anticipated. Perhaps a text amendment is appropriate in the future.

Board: B. Grill-Regardless of whether M. Stivers made a mistake or not, the spirit of the code is in the table which omits the veterinarian use. Feels for the applicant but not entirely. L. Starr asks how much money has been invested? Applicant response: Between 800K and 850K with an additional amount totaling up to \$1.5. **Board Attorney:** asks how that amount was spent before receiving the permits. **Applicant response:** 750K for the building and the balance on plans.

Motion: M. Glaser moves to approve PZB 20-02100002, the interpretation of the code allowing a veterinary clinic to operate as permitted by right within the downtown (DT) zoning district with the project remanded to staff to include relevant conditions; D. Tanner 2nd.

Vote: 6/1 B. Grill dissenting. The plans are supported by data and analysis

- D. City-initiated request to amend the Future Land Use Map of Lake Worth Beach through a large scale map amendment from the Future Land Use (FLU) designations of Mixed Use East and Mixed Use West to the Transit Oriented Development FLU designation on property generally located on the north side of the Lake Worth Road corridor from between Boutwell Road and North A Street and more fully described in Exhibit A of the attached ordinance.

Staff: E. Sita explains the location of the projected changes. This is a recommendation to the City Commission. The subject sites are located around the I-95 corridor. The proposed amendments are consistent with and supported by the Comprehensive Plan, City Strategic Plan and data and analysis. The analysis would reveal existing infrastructure will support the requested map changes. This is a result of market conditions for economic development of the area.

Board: G. Rice asks about the map amendment. **Staff:** Mixed use east and Mixed use west to Transit Oriented Development. B. Grill asks if there is an expansion planned for the train station, more bus stops? E. Sita clarifies that T-O-D has a higher density and that type of development is appropriate for the area, near to the train station. W. Waters mentions the Envision brochure showing how TOD development can occur in the area; clarifies there is interest in redevelopment in the area and it makes sense to do it on the north side of Lake Worth Rd not just the south side. B. Grill believes it to be a good idea as Florida in general is lacking in density.

Public Comment: None.

Motion: B. Grill moves to recommend approval to the City Commission for the Proposed amendments to the Future Land Use Map ; M. Glaser 2nd.

Vote: Ayes all, unanimous.

- E. City-initiated request to amend the Future Land Use Element of the Lake Worth Beach Comprehensive Plan relating to the Mixed Use East, Transit Oriented Development, and Downtown Mixed Use Future Land Use (FLU) designations, including modifications to the FLU development requirements, limitations, and general location descriptions.

Staff: E. Sita-This text amendment has 5 components.

Item #1- Policy 1.1.1.1 - The most controversial, is the allowable density in a zoning district. Staff is proposing to change the Mixed Use Federal Highway zoning district density from 20-30 dwelling units per acre. The change would be consistent with the base density of the Future Land Use designation. Further examination of the existing development shows it to not currently meeting code, densities range from 22-53 units per acre. Motels, most likely constructed under a commercial zoning, functioning as permanent living units. They do not comply with landscaping, parking, trash and are non-conforming and can never be brought to conformity in the current configuration.

Types of developments, already constructed, with increased density are The Mid and The One. A slide with superimposed condo units and existing townhouses reflecting that the larger existing townhomes on South Federal are comparable in scale and mass with a higher density development. Condos and townhomes are currently permitted in the district, the height will not be increased and can be up to four (4) stories.

Item #2 & #3 - Policy 1.1.1.8- Transit Oriented Development (TOD) increasing from 50-60 units per acre; and Policy 1.1.1.1- TOD East and TOD W zoning districts.

Item #4- Policy 1.1.2.10- Future Land Use designation locations-Location criteria for the previous amendment adding the description to the plan.

Item #5- Policy 1.1.1.7 - Remove redundant language.

Public Comment: Board Secretary read into the record the identical comment received from residents of which were numerous (@ 30). Following were individual comments regarding concerns with proposed density changes along South Federal Highway (@ 10). All comments with the exception of one were against the proposed changes to the density in South Federal Hwy..

Staff shares that the corridor for Mixed-Use East goes north to approximately College Park and south from 3rd Ave S to the southern municipal limit and one lot deep.

Question about how Historic Resources Preservation Board separated the items for voting.

Motion: B. Grill moves to recommend approval of the proposed Comprehensive Plan Amendments, excluding item one Policy 1.1.1.1 (Table 1) for further discussion; A. Marotta 2nd.

Vote: Ayes all, unanimous.

Board: A. Marotta poses a question as to whether there are any entities expressing interest in the South Federal area, including any tax exempt organization applications. **Staff:** E. Sita states even though there is no application from the Lord's Place, they would not be affected by the change. W. Waters mentions an application is expected for a nine (9) unit apartment place.

Board: L. Starr asks about what the height restriction would be. **Staff response:** 3 stories and 35 feet; it can go to 4 stories and 45 feet in a Planned Development. L. Starr asks about a property in the vicinity of 18th Ave N.. It was originally planned for 47 feet or four (4) floors. B. Grill expresses confidence in the fact that the density issue was brought forward to the Board in an effort to improve the city corridor. L. Starr agrees in the vote of confidence but the increase in density will not matter if Code Compliance doesn't make their best effort. **Staff response:** W. Waters states in a concerted effort with City attorney they have sought every tool possible to remedy the situation. Also bringing non-conforming properties to greater conformance an aligning as closely as possible with the Major Thoroughfare Design Guidelines. L. Starr suggests a paint code for commercial properties. G. Rice is not sure that will work given property rights, the Board already sits in approval/disapproval of murals and few if any have any training in art.

Motion: A. Marotta moves to not recommend approval (recommend denial of) approval of Policy 1.1.1.1; M. Humm 2nd.

Vote: 4/3 motion carries to not recommend approval of Policy 1.1.1.1.

- F. Consideration of an ordinance to amend Chapter 23 "Land Development Regulations" that includes changes to parking, electric charging stations, general housekeeping items, and modifications to development standards and requirements for single-destination retail and comprehensive plan consistency.

Staff: W. Waters reviews the changes to the Land Development Regulations as directed by City Commission during a March 5, 2020 workshop. Included are:

- Parking changes-to simplify review of requirements, allow for additional flexibility in requirements, and ease of conveying requirements to applicants; the payment in lieu fee is also increased, and
- Electric vehicle charging stations-increasing availability and establishing standards and requirements for new developments, and
- General housekeeping items updating internal references from “zoning administrator” to “development review official-DRO”, definitions clarified, redundant and conflicting provisions deleted including out-of-date definitions, and
- Modification to development standards for Administrative Uses (AUP) and Conditional Uses (CUP) and providing for a higher level of performance standards for both types of review, and
- Updated requirements for single-destination retail development review standards including consolidating Convenience Store into that use, adding performance and development standards to address curb appeal and nuisance issues, and
- Changes to the location description of districts for clarity and consistency with the City Comprehensive and Strategic Plan.

Public Comment: None

Motion: M. Humm moves to recommend approval of changes to Chapter 23, LDR’S, to City Commission; A. Marotta 2nd.

Vote: Ayes all, unanimous.

PLANNING ISSUES: None

PUBLIC COMMENTS (3 minute limit) None

DEPARTMENT REPORTS: None

BOARD MEMBER COMMENTS: None

ADJOURNMENT: 10:45 PM