

PLANNING AND ZONING COMMISSION

There was a meeting of the Indian River County (IRC) Planning and Zoning Commission (P&Z) on Thursday, September 11, 2008 at 7:00 p.m. in the Commission Chambers of the County Administration Building, 1801 27th Street, Vero Beach, Florida. You may hear an audio of the meeting; review the meeting agenda, backup material and the minutes on Indian River County website www.ircgov.com/Boards/PZC/2008.

Present were members: Chairman George Hamner, Member-at-Large; Donna Keys, District 1 Appointee; Gerard Weick, District 2 Appointee; Craig Fletcher, District 3 Appointee; Dr. Richard Baker, Member-at-Large; and Lenora Quimby, non-voting School Board Liaison.

Absent were Greg Smith, District 4 Appointee and George Lawrence, District 5 Appointee (both excused).

Also present was IRC staff: George Glenn, Assistant County Attorney; John McCoy, Senior Planner; Chris Mora, Assistant Director, Public Works; and Reta Smith, Recording Secretary.

Call to Order and Pledge of Allegiance (6:23:17)

Chairman Hamner called the meeting to order and led all in the Pledge of Allegiance. He called a moment of silence to remember the victims of September 11, 2001.

Approval of Minutes (6:24:24)

ON MOTION BY Mr. Fletcher, SECONDED BY Ms. Keys, the members voted unanimously (5-0) to approve the minutes of the meeting of August 14, 2008, as presented.

The secretary administered the testimonial oath to those present who wished to speak at tonight's meeting on any quasi-judicial items.

Public Hearing (6:25:09)

Chairman Hamner read the following into the record:

- A. Imagine Charter School:** Request to modify a condition of the special exception use approval for the Imagine Schools 4th Street facility. Imagine Schools, Owner. Collins, Brown, Caldwell, Barkett, and & Garavaglia, Agent. Located at 6000 4th Street. Zoning Classification: RS-3 Residential Single Family (up to 3units/acre). Land Use Designation: L-2, Low Density Residential (SP-SE-08-11-46/2001090105-62637) **[Quasi-Judicial]**

Mr. John McCoy, IRC Senior Planner, reviewed the information contained in his memorandum dated August 20, 2008, a copy of which is on file in the Commission Office (6:26:06).

Chairman Hamner summarized Phase 2 of the project was coming faster than expected and the applicant wanted to move from 500 to 750 students and add the buildings within the coming year to commensurate with the Phase 1 Certificate of Occupancy (CO). He explained Phase 2 was tied to an eastbound left turn lane on 4th Street at the project entrance, and the issues were with the timing and acquisition of right-of-way for the left turn lane.

Mr. Chris Mora, IRC Assistant Public Works Director (6:32:54), explained how the peak hour traffic calculation was done. He related in this case the traffic would not exceed the County threshold of 35 left turns per hour, and a left turn lane would not be necessary.

Ms. Keys mentioned 66th Avenue would be extended all the way to at least Oslo Road, and there would be east/west traffic on 4th Street coming from 66th Avenue. She asked Mr. Mora if he anticipated how the grid would look in three or four years. Mr. Mora responded even after the paved connection on 66th Avenue was made, a much greater number of cars would be coming from the east than from the west on 4th Street. He added it was in the County's 25 year long-range plan to widen 4th Street, but it was not in the short-term five year capital improvement program

Mr. Brian Goode, Kimley-Horn & Associates, Inc. (6:40:22), distributed maps showing two alternatives for off-site improvements for the project, which are on file in the Commission Office.

Discussion followed.

Mr. Christian Cascone, Director of Development for Imagine Schools (6:44:11), said he had contacted the property owners involved and was told they were not interested in selling any right-of-way.

Discussion ensued.

Attorney Bruce Barkett, Collins, Brown, Caldwell, Barkett & Garavaglia representing the applicant (6:18:41), stated the applicant was willing to put up the \$350,000 it would take to design, permit and construct the turn lane, but did not have the funding for right-of-way acquisition or the cost to culvert the 4th Street canal. He explained when the County got around to widening 4th Street it would have money from the project to build a turn lane, and in the meantime the applicant was willing to have a traffic policeman there morning and night to direct traffic.

Attorney Barkett noted it would be cheaper to fund a traffic policeman for fifty years for the price it would take to culvert the canal, and he maintained it would be safer than a left turn lane. He related it did not matter when monitoring was done because traffic was never going to meet the threshold and he did not see why the applicant should have the burden of paying at least \$600,000 more to culvert the canal when the County was eventually going to do it anyway.

Chairman Hamner had a problem with the County forcing the applicant to purchase a huge amount of right-of-way when he was not sure it was the applicant's responsibility.

Discussion followed.

Dr. Baker stated he had originally voted against this project because there were no bicycle paths to the project from the west.

Mr. Charlie Wilson, 1057 6th Avenue, representing the applicant (6:54:47), suggested alleviating the need for a left hand turn lane by not allowing any left turns. He stated otherwise the applicant could not build Phase 2 and all the children would have to go somewhere else after the fifth grade, which created a hole in the ability of students in the charter school to transition from kindergarten into high school.

Chairman Hamner opened the public hearing at 7:40 p.m.

Mr. Jeff Brewster, 360 Farley's Court (7:01:10), distributed information marked as Exhibit "A", which is on file in the Commission

Office. He related the applicant had agreed to put the turn lane in as part of receiving the special exception and they should be held to the condition. He stated the traffic study the County used to formulate the original traffic plan based on elementary schools was based on busing; however Imagine Schools did not have any busing so the traffic study was irrelevant. Mr. Brewster maintained there was a 438% error in the figures as outlined in Exhibit "A" and did not believe a left turn lane would never be required. He added if it was cost prohibitive to install the left turn lane, the applicant should not put in Phase 2.

Discussion followed about traffic counts done at the applicant's temporary school site at Central Assembly Church.

Mr. Ed Hendrickson, 440 61st Avenue (7:09:14), agreed with Mr. Brewster about the amount of traffic generated by the school. He wanted the applicant to put in the left turn lane and did not believe he should have to pay for it with his tax dollars.

Attorney Barkett (7:11:51) pointed out the applicant was willing to put forward the money for the turn lane and the County would not be paying for it if the applicant's condition was accepted.

Chairman Hamner closed the public hearing at 7:50 p.m.

Discussion ensued about the feasibility of disallowing a left turn into the school.

Mr. Goode (7:17:20) noted there was 800 feet of stacking distance for vehicles on the property from the driveway connection on 4th Street.

7:21:34

ON MOTION BY Dr. Baker not to approve the applicant's request because he was concerned about lack of sidewalks and bike paths.

The motioned died for lack of a second.

Attorney George Glenn, IRC Assistant County Attorney, noted there were only five P&Z members present and under County regulations a simple majority would not suffice as a recommendation; therefore four votes would be necessary in order to move forward.

Mrs. Lenora Quimby, non-voting School Board liaison (7:26:24), opined a lot of people in the community were obviously excited about the project because of the difference in the original projection of the number of students and the actual enrolment figures, and thought it was a good thing for the County.

7:28:28

ON MOTION BY Mr. Fletcher to recommend approval including the recommendations of staff, with no left turns being allowed in the interim.

Mr. Fletcher stressed he made his motion with the understanding there would eventually be a left turn lane built.

Attorney Barkett (7:29:30) said it made no sense to prohibit a left turn lane and make the applicant build it and buy the right-of-way.

The motion died for lack of a second.

Mr. Mora clarified staff's recommendation was for the applicant to have to build a left turn lane within a year and either buy the right-of-way or culvert the canal.

Discussion ensued.

7:34:22

ON MOTION BY Ms. Keys, SECONDED BY Mr. Fletcher, to approve the request according to the staff's recommendation with the applicant paying for the design, permitting, construction and right-of-way acquisition as a reimbursement to the County once the County got the right-of-way; and a no left turn sign be erected and safety officer be present until the left turn lane was constructed.

Attorney Glenn noted IRC staff felt it was possible to construct a left turn lane through right-of-way acquisition or piping; however the applicant's engineer said it was not possible. Mr. Mora acknowledged according to the applicant even if the canal was culverted, they would still have to acquire a portion of right-of-way, and he did not dispute this fact.

After some discussion, Ms. Keys took back her motion and Mr. Fletcher took back his second.

7:37:31

ON MOTION BY Ms. Keys to table this matter to a time certain until staff looked at the applicant's engineering design and came up with an agreement.

The motion died for lack of a second.

Mr. McCoy advised this matter had been advertised for consideration by the Board of County Commissioners (BCC) on September 16, 2008.

Discussion ensued.

7:42:48

ON MOTION BY Mr. Fletcher, SECONDED BY Dr. Baker, the Board voted (2-3) to approve staff's recommendation as presented. Chairman Hamner, Mr. Weick and Ms. Keys in opposition.

Attorney Glenn clarified this meant the applicant had to put in a turn lane before they could issue a Certificate of Occupancy for Phase 2.

Chairman Hamner reiterated the only part of staff's recommendation he had a problem with was trying to make the applicant purchase right-of-way in an area where people did not want to sell. He was hopeful the BCC would consider the vote when the matter was taken to them because the P&Z was at an impasse and he did not think it was fair to the applicant. Ms. Keys wanted the minutes to show she voted against staff's recommendation because she did not think the applicant could get the right-of-way and the County needed to go through the condemnation process to obtain it. Mr. Weick agreed with Chairman Hamner and Ms. Keys and felt the matter should be readdressed after the school was built and when a need for a left turn lane was established.

Commissioners Matters (7:46:00)

Ms. Keys stressed she was very upset with the traffic count issue regarding schools and said we had a problem with Section 520 of the

Institute of Transportation Engineers (ITE) traffic counts. If the usage is changing where people do not use school buses, then we had to revise the numbers to reflect that change. Mr. Mora stated whenever there was a discrepancy over trip generation rates allowed under the County's Land Development Regulations (LDRs), IRC staff had to see exactly what the rates were and perhaps do traffic counts at existing schools and look at how buses were being utilized. He suggested this could be looked at internally to see if there was a better rate to use; however he cautioned the ITE rates were taken over hundreds and hundreds of sites over dozens of years and were averages.

Chairman Hamner noted a workshop on the Transportation Element Preliminary Evaluation and Appraisal Report (EAR) would be held on September 19, 2008 and suggested this issue could be addressed at that time.

Discussion ensued.

Planning Matters (7:50:29)

Mr. McCoy advised in addition to the regular development items at the P&Z meeting of September 25, 2008, IRC staff planned to bring four of the lighter elements of the EAR to the Board.

Attorney's Matters (7:53:28)

None.

The being no further business, the meeting was adjourned at 8:33 p.m.

George Hamner, Chairman

Date

Reta Smith, Recording Secretary

Date