

PLANNING AND ZONING COMMISSION

There was a meeting of the Indian River County (IRC) Planning and Zoning Commission (P&Z) on Thursday, September 10, 2009 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/2009.

Present were members: Chairman **George Hamner**, Member-at-Large; **Jens Tripson**, District 3 Appointee; **Pilar Turner**, District 5 Appointee; **Dr. David Cox**, Member-at-Large and **Carol Johnson**, non-voting School Board Liaison.

Absent were **Donna Keys**, District 1 Appointee; **Sam Zimmerman**, District 2 Appointee; and **Greg Smith**, District 4 Appointee (all excused).

Also present was IRC staff: George Glenn, Assistant County Attorney; Bob Keating, Community Development Director; Stan Boling, Planning Director; Roland DeBlois, Environmental and Code Enforcement Chief; John McCoy, Senior Planner; and Reta Smith, Recording Secretary.

Call to Order and Pledge of Allegiance (6:19:53)

Chairman Hamner called the meeting to order and led all in the Pledge of Allegiance.

Approval of Minutes (6:20:28)

ON MOTION BY Mr. Tripson, SECONDED BY Dr. Cox, the members voted unanimously (4-0) to approve the minutes of the meeting of July 23, 2009, as presented.

Public Hearings (6:20:51)

Chairman Hamner read the following into the record:

- A. Church of God by Faith:** Request for special exception use approval for an expansion to an existing place of worship facility. Church of God by Faith, Owner. MBV Engineering, Inc., Agent. The subject property is located at 8580 58th Avenue, on the east side of 58th Avenue approximately 500' north of CR510 (85th Street). Zoning Classification: RM-6, Residential Multi-Family (up to 6 units/acre). Land Use Designation: M-1, Medium Density (up to 8 units/acre). (SP-MI-09-02-08 / 2008110065-64286) **[Quasi-Judicial]**

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

Mr. John McCoy, IRC Senior Planner (6:21:40), reviewed the information contained in his memorandum dated August 19, 2009, a copy of which is on file in the County Commission Office.

Chairman Hamner observed the plan called for parking to go on the north side of the site, which would project into the County's Wabasso Scrub Conservation Area (conservation area). He noted this would require the applicant to deal with U.S. Fish and Wildlife Service (USFWS) regulations, and wondered if there was any way to ease the burden as far as parking was concerned so it would not impact the conservation area.

Mr. McCoy responded church members were presently parking where the footprint of the new building would be, and they would need the extra parking area.

Chairman Hamner opened the public hearing at 7:12 p.m.

Ms. Joyce Cranfield (6:32:07) stated she was speaking on behalf of Ms. Catherine Ealy, owner of the land adjacent to the church on the east side, and wanted to know if the proposed change would affect Ms. Ealy's property in any way. Chairman Hamner assured Ms. Cranfield this would not in any way alter her property's current use and there would be additional buffering around the church site. Mr. McCoy added the new building would actually be located further from the east property line than the existing building.

Chairman Hamner closed the public hearing at 7:16 p.m.

Mr. Roland DeBlois, IRC Environmental and Code Enforcement Chief (6:36:34) explained another project had been proposed in this same area and he was optimistic USFWS would work with Johns Island Golf Club staff to absorb the mitigation for parking on the subject site with the other project.

6:37:42

ON MOTION BY Ms. Turner, SECONDED BY Dr. Cox, the members voted unanimously (4-0) to approve staff's recommendation.

Chairman Hamner read the following into the record:

B. Consideration of Proposed Amendment to the County Noise and Vibration Control Ordinance to Address Emergency Power Generators: Land Development Regulations Chapter 974 [Legislative]

Mr. DeBlois (6:39:11), reviewed the information contained in his memorandum dated August 25, 2009, a copy of which is on file in the County Commission Office.

Chairman Hamner opened the public hearing at 7:26 p.m., and since no one wished to speak the public hearing was closed.

6:44:51

ON MOTION BY Dr. Cox, SECONDED BY Mr. Tripson, the members voted unanimously (4-0) to approve staff's recommendation.

Chairman Hamner read the following into the record:

C. Consideration of Proposed Amendments to Provide for Permanent Exceptions to Certain LDRs for Individual Development Projects: Land Development Regulations Chapter 902 [Legislative]

Mr. Stan Boling, IRC Planning Director (6:45:23), reviewed the information contained in his memorandum dated August 27, 2009, a copy of which is on file in the County Commission Office.

Mr. Tripson observed if the County's minimum requirement was for a 12 foot tree and an 11 foot, six inch tree was planted, the tree was not going to grow in the 90 days. He wondered if the alternative under the exemption would be for the applicant to take the tree out or if they would be allowed to just leave it, adding if that was the case he had several concerns, including changing Corridor requirements.

Ms. Turner stated she was struggling for the need for a permanent exception and thought some of the issues could be handled with a variance. Mr. Boling explained a classic variance was for a smaller oddly shaped parcel that was grandfathered in and buildable and based on the site characteristics itself, versus something that was actually design-based and allowed innovation on a small scale.

Mr. Bob Keating, IRC Community Development Director (6:59:42), pointed out this permanent exception was different because the temporary suspension always came at the end of the project at the Certificate of Occupancy (CO), and he anticipated the permanent exception would come during site plan approval at the beginning of the project. He did not think it would involve an 11 foot six inch tree

when there was a 12 foot requirement; however what it might mean was perhaps not as many trees but fewer trees of better species. Mr. Keating agreed this issue was difficult because of the qualitative aspect involved, and the concept was the design that came out would at least be functionally equivalent and hopefully superior.

Discussion followed.

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

Mr. Gene Waddell, 8155 25th Street, Vero Beach (7:08:26), related during the State Road 60 Corridor meetings one of the questions was how to allow architects to be architects and still have nothing but big boxes out there. He felt trade-offs were already being used and was not sure it was necessary to permanently change the Land Development Regulations (LDRs) to accommodate applicants. Mr. Waddell thought there were already enough opportunities in place to allow a lot of flexibility and still be within the general guidelines of what we wanted as a community.

Mr. Brian Carmen, Indian River Neighborhood Association (7:12:52), stated the County already had in place provisions for variances that included public hearings, finding of facts, etc. He maintained the current proposal did not allow for those things to occur and did not provide notice. He opined the process should go through the P&Z and should not be done in a ten-day window without finding of facts, public hearing or provision of notice. He pointed out the proposal to allow the permanent exemptions allowed an appeal only by the applicant and did not allow an appeal by interested parties or abutting properties. Mr. Carmen opined the ordinance as it was written was inconsistent with existing County procedures and there were existing alternatives that did not hamstring the homeowner or the business person, and they should be done with due process consistent with County law.

Mr. Joseph Paladin, President of Black Swan Consulting (7:16:46), noted through the years the County had gone through a great deal of work to write the LDRs and ordinances to keep them to a very high standard. He did not think it should be easier to change an ordinance than it was to make one, and said the temporary change should not be made permanent without going through the process.

Mr. Charles Wilson (7:18:33) related the exemption had originally been initiated as a way to assist business and spoke in favor of the adoption of the proposed amendment.

Discussion ensued.

Chairman Hamner closed the public hearing at 8:15 p.m.

Dr. Cox (7:35:04) said while he was pleased to see staff grapple with the idea of superior or functionally equivalent alternative designs, he had a fundamental problem with subjective and narrative criteria as opposed to numeric and objective ones. He believed we had enough flexibility existing in our review processes to provide for alternative designs and felt if it was not broke it was not necessary to fix it.

Chairman Hamner (7:40:49) asked Mr. Keating if there was any way to put the permanent exception at the end of the process rather than the beginning. Mr. Keating responded it could come at the end as well as the beginning and the way it was structured was to be functionally equivalent or superior, and you would not want to limit your options.

7:46:41

**ON MOTION BY Mr. Tripson, SECONDED BY Dr. Cox,
to recommend the Board of County Commissioners
not approve the proposed ordinance.**

After considerable discussion, Dr. Cox (7:51:14) withdrew his second and Mr. Tripson (7:51:31) withdrew his motion.

7:51:47

**ON MOTION BY Dr. Cox, SECONDED by Mr. Tripson,
to approve staff's recommendation. Chairman
Hamner, Dr. Cox, Mr. Tripson and Ms. Turner opposed.**

Dr. Cox felt the avenue staff was trying to explore warranted further exploration but did not think it could be done under this ordinance. He thought the issue of notices and whether or not it was consistent with County law needed to be examined.

Chairman Hamner stated he would like to see the permanent exception at a different part in the process, which self-defeated a big part of the ordinance. He thought this could usurp the whole system as it sits because it occurred in the beginning and started a whole new process completely different than coming toward the end of the process as special exceptions to allow people to get a CO without hang ups, and using common sense.

Ms. Turner related she did not think this was a way to stimulate business because there were enough avenues within the existing system to handle any exceptions.

Mr. Tripson felt the existing process was fine as it was.

Commissioners Matters (7:56:46)

None.

Planning Matters (7:56:47)

Mr. Boling gave an update of recent action taken by the Board of County Commissioners.

Attorney's Matters (7:57:34)

None.

There being no further business, the meeting was adjourned at 8:40 p.m.

George Hamner, Chairman

Date

Reta Smith, Recording Secretary

Date