

**PLANNING COMMISSION  
MEETING  
MARCH 28, 2011**

**MEMBERS PRESENT:** Edward Zapke, Chairman  
John Burrage, Massey Loughman, Lynne Matthews,  
Bill Schindler, Charles Thomas, Charles Zajicek

**OTHERS PRESENT:** Joan LeBeau, Chief Planner  
Mitchell Austin, Urban Design Planner  
Teri Tubbs, Zoning Official  
Dennis Murphy, Growth Management Director  
David Hilston, Urban Design Manager  
Lisa Hannon, Zoning Coordinator  
Ann Young, Peggy Keene, William Quednau,  
Louis Desguin, Ray Rose, Rob Mumfort

**CALL TO ORDER/ANNOUNCEMENTS**

- A. Roll Call
- B. Next Scheduled Meeting
  - 1. April 25, 2011
  - Mr. Zajicek announced he would not be present for the Commission's next meeting.

**APPROVAL OF MINUTES**

- A. February 28, 2011
  - Mr. Burrage MOVED, Mr. Loughman SECONDED approval of the February 28, 2011 minutes. MOTION CARRIED UNANIMOUSLY.

**PUBLIC HEARINGS**

- Recording Secretary Stewart swore in all participants.
- A. A Resolution of the City Council of the City of Punta Gorda, Florida, Adopting the Evaluation and Appraisal Report for the City of Punta Gorda Comprehensive Plan 2025; stating the intent of the City Council to amend the Comprehensive Plan based upon recommendations contained in the Report; and approving transmittal of the Report to the Department of Community Affairs in accordance with Section 163.3191, Florida Statutes.
  - Ms. Joan LeBeau, Chief Planner, stated the Evaluation & Appraisal Report (EAR) represented an evaluation of the past seven years as well as implementation of the existing Comprehensive Plan (Plan), which was adopted in 2008. She explained the EAR's purpose was to provide a summary analysis of the successes and failures of the Plan, to identify major issues of concern and to identify proposed changes to amend and update the Plan. She noted the EAR was evaluated through the collaboration of staff, State agencies, other units of government and the general public. She stated

many issues were identified during the evaluation process, some of which were new and some of which were being addressed in existing policies. She noted the primary issues identified dealt with some aspect of future growth and focused on conflicts between adjacent land uses, demands upon roads and other infrastructure needs as well as energy and climate adaptation planning strategies. She confirmed as the City continued to grow, those strategies would assist in developing a sustainable community which protects its natural and historical resources via a fiscally responsible approach. She announced the EAR would be presented to City Council for two readings on April 20, 2011, and May 4, 2011, confirming any changes recommended this date would be incorporated into that presentation. She mentioned if the Department of Community Affairs (DCA) found the EAR to not be sufficient, it would be re-presented to the Commission for re-adoption to include any necessary changes. She then briefly reviewed each section of the EAR, concluding with a recommendation for approval and for its transmittal to DCA.

- Mr. Burrage asked if fluoridation of the water was no longer being considered as part of the Plan.
- Ms. LeBeau replied she would determine same through the Utilities Department.
- Mr. Loughman questioned if annexation was covered in the EAR.
- Ms. LeBeau replied affirmatively.
- Mr. Loughman commented on the congestion at various U.S. 41 crossings, asking if reduction in speed limits and/or crosswalks were being considered.
- Mr. Mitchell Austin, Urban Design Planner, replied the EAR included a great deal of discussion on mobility plans, specifically to be more bicycle and pedestrian friendly.
- Mr. Zapke commented the EAR seemed to be an internal evaluation and upgrade. He clarified the Plan was adopted in December 2008, adding many aspects were dependent upon the economy and many other loose variables. He asked if this review process was anticipated to be done every two to three years.
- Ms. LeBeau replied the document was flexible and was evaluated constantly internally but formally every seven years. She noted the City was granted extensions after Hurricane Charley in August 2004, adding the last review was a complete rewrite.
- Mr. Zapke called three times for anyone to speak on the proposed resolution.
- Mr. Burrage MOVED, Ms. Matthews SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
- Mr. Burrage MOVED, Mr. Zajicek SECONDED to recommend approval of the Evaluation & Appraisal Report and to advertise the transmittal and adoption public hearings before City Council for April 20, 2011, and May 4, 2011. MOTION CARRIED UNANIMOUSLY.

- Ms. Matthews MOVED, Mr. Zajicek SECONDED approval of the resolution. MOTION CARRIED UNANIMOUSLY.
- B. ZA-04-11 – An Ordinance of the City of Punta Gorda, Florida, Amending Chapter 26, Punta Gorda Code, known as the Land Development Regulations, Article 3, Regulating Districts, Section 3.6, Manufactured Home District; amending Subsection 3.6(a), adding park, office and maintenance facilities as permitted principal uses; amending Subsection 3.6(b), Permitted Accessory Uses and Structures, adding community rooms and clarifying equipment storage areas; amending Subsection 3.6(e), General Requirements, providing for street design; amending Subsection 3.6(f), providing maximum density; adding Subsection 3.6(g)(h)(i), providing regulations and development standards for recreational vehicle parks; providing for conflict and severability; and providing an effective date.
- Ms. Teri Tubbs, Zoning Official, announced the current Land Development Regulations (LDRs) were adopted in April 2005, explaining provisions for recreational vehicle (RV) parks were omitted, which created a situation in which there were no regulations to which staff could refer. She stated the proposed amendment essentially re-adopted the regulations which had had been in place prior to April 2005. She concluded with a recommendation for approval, offering to answer any questions.
- Ms. Matthews noted Section 26-3.6(h) listed prohibited uses and structures, adding 2 manufactured or mobile parks were depicted in the map provided in the agenda material. She stated some residents resided within same on a permanent basis; however, the ordinance proposed the prohibition of year round occupation.
- Ms. Tubbs responded Section 26-3.6(h) fell under uses for RV parks. She clarified State regulations required RVs to be removable within a 24 hour period upon notice of a pending storm. She confirmed the provision did not apply to either the Buttonwood or Emerald Lake communities.
- Mr. Zajicek then requested clarification of “group home,” as depicted in Section 26-3.6(c).
- Ms. Tubbs replied group homes were regulated by the State and were required to be permitted in any zoning district which allowed residences. She continued a group home would be comprised of five or less unrelated individuals and must be registered with the State.
- Mr. Zapke clarified this regulation would not create any non-conformities.
- Mr. Zajicek commented on Section 26-3.6(g)(2), asking if camping tents were allowed anywhere in the City.
- Ms. Tubbs replied only in an RV park, specifically a camping site.
- Mr. Zapke called three times for anyone to speak on ZA-04-11.

- Mr. Burrage MOVED, Mr. Zajicek SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
- Mr. Zajicek MOVED, Ms. Matthews SECONDED to find ZA-04-11 consistent with the City's Comprehensive Plan and to recommend approval of same based upon the evidence and testimony presented. MOTION CARRIED UNANIMOUSLY.

#### NEW BUSINESS

- A. Discussion regarding Invasive Species on Developed Single-family Properties
- Ms. Tubbs reminded members the Commission had discussed this issue in the past, stating staff had been directed to create specific criteria to consider when a request to retain a prohibited plant or tree was made for developed, single-family property. She pointed out several considerations for the Commission's review, as delineated in the agenda material, noting discussions were held with the LDR Review Committee where comments were made to maintain trees which had been established for several years on developed properties. She recommended continuing to require the removal of Brazilian Pepper plants, Melaleucas and Australian Pines from developed and vacant, undeveloped property in an effort to maintain some control.
  - Mr. Burrage asked if the City was prepared to take action prior to receiving the Commission's recommendation.
  - Ms. Tubbs replied staff would wait for recommendations from the Commission and City Council.
  - Mr. Zajicek asked when the list of invasive species was last updated.
  - Ms. Tubbs replied 1996, stating the updated list contained much fewer species than previously. She noted the 1996 ordinance contained a provision which allowed homeowners to sign a hold harmless.
  - Mr. Burrage clarified any dispute between neighbors would constitute a civil issue.
  - Ms. Matthews expressed concern with the City having no control over situations where one neighbor's tree was dropping debris on an adjacent property.
  - Ms. Tubbs replied that was the case currently; however, that action had been placed on hold.
  - Ms. Matthews opined some situations should continue to be controlled by the Code Compliance Division if a complaint was filed.
  - Mr. Burrage concurred.
  - Mr. Zapke spoke in agreement with staff's recommendation for continued prohibition of the three species identified. He asked if the ordinance provided for the City to be held harmless.
  - Ms. Tubbs replied affirmatively.

- Mr. Zajicek drew members' attention to the Florida Exotic Pest Plant Council's (FEPPC) 2009 List of Invasive Plant Species, as delineated in the agenda material, asking if same would be included in the ordinance.
- Ms. Tubbs replied Ms. LeBeau was currently working on a total update to the landscaping code, stating she had not contemplated including the list.
- Ms. LeBeau added some of the listed plants would not be found in the area.
- Ms. Matthews expressed hope Banyan Trees would not be prohibited due to their historic nature and their contribution to the City's ambience.
- Mr. Zajicek suggested grandfathering trees which had been in place for ten or more years.
- Ms. Matthews agreed, acknowledging the property owner should agree to sign a hold harmless agreement with the City.
- Mr. Schindler commented some trees which were now prohibited had not been illegal in the past, stating he would support some type of grandfathering. He opined a provision for a hold harmless as discussed earlier was necessary. He further recommended the grandfathering provision be changed to ten years.
- Ms. Matthews agreed, noting the age of a home would determine the age of trees in many cases.
- Mr. Thomas asked how Charlotte County dealt with this issue.
- Ms. Tubbs replied the issue was not pursued on single family properties; however, she believed removal was required during development. She mentioned a number of other municipalities also did not actively pursue removal on single family home properties.
- Ms. Ann Young, 750 Trabue Avenue, stated a Java Plum tree had existed on her property for many years. She spoke in favor of grandfathering older trees with the exception of the three species identified by staff.
- Ms. Peggy Keene, 715 West Marion Avenue, stated she also had a Java Plum tree on her property. She agreed invasive species should be removed when land was being developed; however, she urged the City not to place such an onerous burden on homeowners.
- Mr. William Quednau stated he owned a lot at 805 Marion Avenue on which 2 Java Plum trees were existing and did not harm anyone. He noted the Code Compliance Division had requested removal of the trees; however, he pointed out prohibited trees existed in a number of locations on City property.
- Mr. Louis Desguin applauded the direction in which the Commission was heading. He commented favorably on the beautiful, historic Banyan trees in Punta Gorda.

- Ms. Matthews confirmed those speaking today would be willing to sign a hold harmless.
- B. Discussion regarding Overnight Parking in City Parks
- Ms. Tubbs stated the Commission had briefly discussed this issue at their previous meeting, reminding members there were currently no provisions in the City Code which prohibited overnight parking in City Parks other than Ponce de Leon Park, which was locked at dusk. She announced staff had been directed to move forward with an amendment to Chapter 23, Parking, which prohibited overnight vehicle parking except in Lashley Park due to the Marina and restaurant located within same or in situations associated with an event. She reported a general consensus of citizen discussions had indicated there was no need for overnight parking.
  - Ms. Matthews clarified there would be no overnight parking allowed in either of the two Nature Park parking lots, expressing agreement with same.
  - Mr. Schindler commented the issue could become a problem if there were no rules.
  - Mr. Zapke suggested perhaps signage could be posted prohibiting parking from 7:00 p.m. to 7:00 a.m.
  - Ms. Tubbs responded she believed a specific ordinance would be required so as to be enforceable.
  - Ms. Matthews noted there may be a problem with guests of residents near the Nature Park parking within same until 1:00 a.m., for example. She suggested a 1:00 a.m. to 5:00 a.m. prohibition as was currently the case in all the Special Residential Districts (SROs).
  - Consensus of the Commission was agreement with same.
- C. Discussion regarding Regulations and Enforcement of Overnight Parking in the Special Residential Overlay District
- Ms. Tubbs announced several different areas of City Code addressed parking in the SRO district, stating Section 26-3.13(g) prohibited the parking of commercial vehicles unless within an enclosed garage. She reported there had been more and more instances of requests for a parking permit for utility trailers but later receiving a complaint regarding same actually being an equipment hauler. She acknowledged the aftermath of Hurricane Charley allowed for looser enforcement; however, she reiterated the City was now receiving complaints. She cited as an example a request to allow a painter's truck to be parked for four weeks during a specific job at a local condominium association, which was denied.
  - Mr. Burrage questioned the number of complaints.
  - Ms. Tubbs replied she had received several.

- Ms. Matthews questioned a resident's recourse if having their driveway resealed.
- Ms. Tubbs replied same would be covered under Section 26-3.13(j), Parking on Vacant Land or Right-of-way (ROW).
- Mr. Zajicek opined a neighbor would allow such a resident to park in their driveway, stating he had done so himself.
- Mr. Loughman noted crews parked trucks and trailers on vacant lots for weeks at a time when working on seawalls.
- Ms. Tubbs replied such a situation was technically a violation.
- Mr. Burrage opined crews should utilize the permitting system.
- Ms. Matthews stated she was not in favor of allowing commercial vehicles to be parked overnight.
- Mr. Thomas asked what defined a commercial vehicle.
- Ms. Tubbs replied its primary purpose.
- Mr. Zapke spoke in opposition to changing the rules.
- Consensus was agreement with same.
- Ms. Matthews asked if the City advised contractors of such rules at the time a building permit was issued.
- Ms. Tubbs replied with uncertainty.
- Ms. Matthews recommended same be provided in writing.
- Ms. Tubbs then commented on Section 26-3.13(i), stating same was specific to vehicles other than those for human habitation. She noted requests had been submitted to allow overnight parking of vehicles such as utility trailers in the ROW, asking if the Commission felt such vehicles should be defined. She continued repeated violations may also need to be addressed, adding the Department of Highway Safety & Motor Vehicles (DHSMC) was now being informed of unpaid citations. She mentioned citizens had recommended permits be issued in such cases only when all past citations were paid.
- Ms. Matthews clarified there was no charge for the permit.
- Mr. Zapke questioned the duration of the permit.
- Ms. Tubbs replied a permit allowed overnight parking for up to seven days in a thirty day period, adding it could be consecutive.
- Mr. Zapke asked if RVs were allowed to be parked overnight in the ROW.
- Ms. Tubbs replied they were not.
- Mr. Zapke clarified this section dealt strictly with personal vehicles.
- Mr. Loughman spoke in favor of the recommendation to allow a permit to be issued only in instances with no unpaid citations.

- Ms. Matthews commented on Section 26-3.13(g), stating there had been no discussion of situations where someone was moving into or out of a home. She explained it may take two to three days to load or unload a moving truck.
- Ms. Tubbs replied there was no provision for same, stating the Police Department was typically notified in such instances; however, she agreed it would be good to have a specific provision.
- Ms. Matthews commented on the difficulty of keeping residents informed of such Code requirements, asserting a warning rather than a citation should be issued in such cases.
- Ms. Tubbs agreed. She noted Code Compliance Officers always did a courtesy stop so as to inform residents who may not be aware of certain Code requirements or prohibitions. She then commented on Section 26-3.13(l), Storage of Vehicles and Watercraft, stating there had been few violations of same; however, the issue of RV parking had been prevalent. She announced RVs were currently required to be parked in a driveway; however, City Council had received numerous e-mails indicating residents' inability to do so and requesting permission to be allowed to park along the ROW overnight.
- Ms. Matthews spoke in opposition to allowing overnight parking of RVs in ROWs, explaining same presented a safety issue as a fire truck, for example, would be unable to pass in the event two RVs were parked across a ROW from each other. She further stated RV parking in the ROW could damage sewer lines and sprinkler systems.
- Mr. Zajicek pointed out some RVers complained the vehicles were too heavy for their driveways; however, such vehicles would most likely damage the ROW.
- Ms. Matthews stated she would not purchase a boat which was too large to fit behind her home, adding RVs represented the same principle.
- Mr. Zapke added RVs parked in the ROW presented serious line of sight issues. He asserted he was adamantly opposed to allowing RVs to park in the ROW or for extended periods of time in driveways.
- Mr. Schindler countered the community contained a significant number of RVers, expressing understanding of the problems they faced. He opined allowing RVers one night to load and then depart the next day was reasonable. He pointed out some driveways were steep, adding heavy vehicles could damage brick driveways.
- Mr. Thomas countered residents with such large vehicles should keep same in mind when purchasing a home with a short driveway.
- Mr. Ray Rose commented most RVers would park partially off the ROW and leave only two wheels on the pavement as they did not wish to destroy their lawn; however, the

problem was a few locations would work while others would not due to mailboxes or fire hydrants, for example.

- Mr. Dennis Murphy, Growth Management Director, noted parking in the ROW was the only option for many RVers due to the size of most ROWs and their associated setbacks.
- D. Discussion regarding Various Plants and Structures that have been Placed in the City ROW in Violation of City Code
- Ms. Tubbs stated in 1977, City Council adopted an ordinance prohibiting permanent structures in ROWs; however, certain items such as large rocks, paver blocks, mailboxes, etc., had been observed, noting the Commission's agenda material contained several photographs of same. She advised lack of drainage was just one concern. She noted the LDR Review Committee indicated they did not wish to create a situation where everything had to be removed from the ROW in that residents were attempting to beautify the area.
  - Mr. Zapke stated he did not believe residents should be required to remove something which had been in place for many years. He opined if an installation was not dangerous, the homeowner could sign a hold harmless agreement.
  - Mr. Zajicek spoke in favor of allowing some plantings other than sod provided same did not create a blind spot or hazard or impede drainage.
  - Mr. Thomas concurred.
  - Ms. Matthews countered same would be subjective. She opined allowing boulders or a bed of stones should be prohibited, acknowledging the difficulty of setting parameters.
  - Mr. Zapke commented corner lot owners sometimes placed rocks around same to prevent vehicles from driving on their lawn.
  - Ms. Tubbs explained allowing certain items could present a liability issue.
  - Mr. Rob Mumfort stated he had a block mailbox in the ROW; however, it had been designed to break away. He expressed understanding of the rules but stated he noticed other properties with similar items in the ROW.
  - Mr. Schindler suggested such installations require no-charge permitting.
  - Ms. Tubbs replied an engineering ROW permit was required for any change in topographical feature of the ROW; thus, all of the installations being discussed had not been permitted. She clarified an engineering ROW permit entailed a fee.
  - Mr. Zajicek reiterated he felt some plantings other than sod should be allowed provided same did not create a blind spot or hazard or impede drainage.
  - Mr. Loughman opined safety was the most important issue.

- Ms. Tubbs mentioned this Code prohibition had been strictly enforced until Hurricane Charley.

**STAFF COMMENTS**

- A. Community Redevelopment Agency (CRA) Project Status Report
  - Mr. Zapke asked if the Olympia Avenue streetscape project was moving forward.
  - Ms. Tubbs replied she would research same after the first City Council Meeting in April 2011.

**ADJOURNMENT**

- Meeting Adjourned: 3:44 p.m.

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Edward Zapke, Chairman

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Sheri Stewart, Deputy City Clerk