

**PLANNING COMMISSION
MEETING
MAY 23, 2011**

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

OTHERS PRESENT: Joan LeBeau, Chief Planner
Teri Tubbs, Zoning Official
David Hilston, Urban Design Manager
Lisa Hannon, Zoning Coordinator
Barbara McCann, Diana Gomez, Juanita Washington,
Jacqueline Williams, Randy Dunn, Beres Powell

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting
- 1. June 27, 2011

APPROVAL OF MINUTES

- A. Meeting of April 25, 2011
 - Mr. Burrage MOVED, Mr. Loughman SECONDED approval of the April 25, 2011 minutes.
MOTION CARRIED UNANIMOUSLY.

PUBLIC HEARINGS

- Recording Secretary Kelly swore in all participants.
- A. ZA-06-11 - An Ordinance of the City of Punta Gorda, Florida, Amending Chapter 26, Punta Gorda Code, known as the Land Development Regulations, Article 12, Landscaping Standards, amending Section 26-12.10, Prohibited Plants; providing certain exceptions to removal requirement for existing developed single-family property; providing requirement for hold harmless agreements; providing maintenance requirements for retained prohibited species; providing exceptions for certain Banyan and Ficus trees; providing modification to the list of prohibited plants and trees; providing for conflict and severability; and providing an effective date.
- Ms. Joan LeBeau, Chief Planner, announced the topic of prohibited plant species had been discussed at length, adding recommendations had been made which would not severely impact property owners but would still limit the ecological threat of such species. She explained the proposed ordinance would allow prohibited trees/plants, with the exception of Brazilian Peppers, Australian Pines and Melaleuca, to remain on single family properties constructed prior to April 1, 2001; however, any property owner who chose to retain a prohibited tree would be required to sign an agreement

holding the City harmless for any damage to public or private property. She advised the agreement would be recorded in the official public records of Charlotte County and would run with the land, thus binding any future property owners. She noted property owners would be required to maintain such plants/trees in a manner prohibiting seeds, pods, berries or fruit from falling onto adjacent properties, adding owners must also ensure plant/tree roots did not damage neighboring properties. She continued such maintenance would reduce the threat of ecological damage and spread of the species to other areas. She advised any complaint arising from a prohibited plant would be a civil matter between the two parties, reiterating the City would be held harmless. She pointed out any Banyan or Ficus tree which had been established prior to adoption of the proposed ordinance, regardless of the age of such tree/plant, would be permitted to be retained on any developed or public properties provided a hold harmless agreement was executed. She stated staff would monitor encroachment of all invasive species into the native wetlands which may create a serious, ecological threat and would place any invasive species on a list of required removals. She concluded staff recommended approval of ZA-06-11, offering to answer any questions.

- Mr. Burrage confirmed the City would continue to update the list of prohibited trees over future years as certain species became more invasive.
- Mr. Thomas asked if ZA-06-11 applied solely to single family residential property as opposed to multi-family/condominiums.
- Ms. LeBeau replied any new development would be prohibited from planting any of the species listed.
- Ms. Teri Tubbs, Zoning Official, added multi-family and other commercial developments were bound by a pre-approved landscape plan, which must be maintained in perpetuity and could not include any prohibited species.
- Mr. Thomas clarified existing species, other than the three mentioned above, would be required to be removed or the property owner must sign a hold harmless agreement and record same.
- Ms. Tubbs agreed, stating enforcement would primarily be complaint based.
- Ms. Matthews requested clarification of the enforcement process.
- Ms. Tubbs replied a complaint was typically submitted to the Code Compliance Division, after which a Code Compliance Officer would inspect the property and attempt to speak with the owner or leave a Courtesy Notice.
- Ms. Matthews asked if the Code Compliance Officer would be responsible for providing the property owner with a hold harmless agreement.

- Ms. Tubbs replied she would check with the City Attorney regarding the actual form itself.
- Mr. Zajicek clarified Code Compliance Officers would not be specifically searching for prohibited species.
- Mr. Thomas stated the hold harmless agreement, once recorded, would come to light during a title search.
- Ms. Barbara McCann stated she had resided in her home since the 1980s and had a number of Carrotwood trees, which were prohibited but had previously been allowed. She confirmed she would be able to maintain those trees contingent upon execution of a hold harmless agreement provided the ordinance was adopted.
- Ms. LeBeau mentioned the Carrotwood had been a relatively new species in 1989.
- Mr. Zapke called three times for anyone to speak on ZA-06-11.
- Mr. Burrage MOVED, Mr. Zajicek SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
- Mr. Burrage MOVED, Ms. Matthews SECONDED to find ZA-06-11 consistent with the City's Comprehensive Plan and to recommend approval of same based upon the evidence and testimony presented. MOTION CARRIED UNANIMOUSLY.

QUASI-JUDICIAL PUBLIC HEARINGS

- A. SE-03-11 – A Special Exception request by Beres Powell, P.E., agent for Jacqueline M. Williams, pursuant to Chapter 26, Section 26-16.8, of the Punta Gorda Code to allow a pre-school/daycare facility to be located at 223-227 Dr. Martin Luther King Jr. Boulevard (MLK), in the City Center (CC) zoning district, as such use requires Special Exception approval pursuant to Chapter 26, Section 26-3.9(f)(11).
- Ms. Tubbs displayed an overhead depicting an aerial view of the subject location, as delineated in the agenda material, stating this was a request to allow a pre-school/daycare facility within the existing structure at 223 MLK. She mentioned the facility would accommodate up to 60 students, ages 18 months to 5 years. She then displayed an overhead of Sheet 2 of the project's plans, as delineated in the agenda material, pointing out the property's usable space totaled 2,100 square feet. She explained that figure was based on including the addition and subtraction of any unusable space for child care, i.e., bathrooms, closets, kitchenette. She confirmed there would be no food preparation on site but rather only pre-packaged foods would be served. She stated the required outdoor play area was depicted on the conceptual plan, adding a building permit must be in place; however, playground equipment did not require a permit. She advised this request for a Special Exception was allowed by reasonable implication as schools and educational facilities were permitted within the

CC zoning district; however, pre-school/daycare facilities were not listed as being permitted. She mentioned the applicant indicated this would be more of an educational facility as opposed to strictly daycare. She recommended approval of SE-03-11 based on the following: (1) there would be no adverse effect of the use of neighboring properties; (2) compliance with applicable provisions of downtown plans as well as the Comprehensive Plan; (3) the proposed use would not hinder or discourage the development and use of adjacent or nearby land and/or buildings; (5) pedestrian and vehicular traffic generated would not be hazardous or conflict with existing and anticipated traffic in the neighborhood and on streets which served the site. She clarified this was an existing, older structure, adding the plans provided in the agenda material were strictly conceptual. She explained the Commission was being asked only to consider the proposed use as opposed to any proposed property configuration. She concluded the Development Review Committee (DRC) had recommended approval, adding staff had received no letters of objection regarding this request.

- Mr. Zapke confirmed any proposed construction was not up for discussion this date.
- Ms. Matthews referenced the overhead, asking where an addition would be located if the applicant chose to build same.
- Ms. Tubbs pointed out various locations on the overhead, stating zero lot line setbacks would be allowed on the subject property.
- Ms. Matthews disclosed she had driven by the subject location, expressing concern with regard to the location's close proximity to Marion Avenue and the potential detriment to children's safety and security.
- Ms. Tubbs responded the entire play area must be entirely fenced.
- Mr. Burrage asked why pre-school/daycare facilities were not listed as permitted by Special Exception.
- Ms. Tubbs replied it was difficult to list all possible uses when drafting the City Code. She explained the Special Exception process allowed for additional review, which the community may desire.
- Ms. Diana Gomez stated she was the Storybook II Director, explaining same was a child care center located around the block from the subject location. She commented the number of child care facilities in Punta Gorda had grown significantly over the past several years, particularly in and around the subject area. She clarified there did not seem to be a need for another such facility, adding she had confirmed same with other daycare facilities. She pointed out the difficulty of keeping people employed due to this and other problems.

- Ms. Matthews questioned the number of children at Ms. Gomez' facility.
- Ms. Gomez replied 68 out of a possible 99, noting the majority were only after school charges.
- Ms. Matthews asked if the majority of those children were from individual families as opposed to siblings.
- Ms. Gomez replied primarily individual families.
- Ms. Juanita Washington, True Holiness Childcare, announced her facility was located on the same street as the proposed facility. She expressed concerns similar to those stated by Ms. Gomez as True Holiness was licensed for 60 but was down to 40. She clarified she also did not see the need for another such facility at the proposed location.
- Ms. Jacqueline Williams, applicant, announced her plan to become the owner and director of the facility. She explained their mission would be somewhat different in that the intent was an instructional based setting which included the best practices and research in the area of education for young children. She advised there was a need in Charlotte County by professional people as to where their children were placed, which would be the primary focus of this project.
- Mr. Randy Dunn stated he was a nearby business owner, adding the question before the Commission was not based on competition but rather the applicant's right. He noted Ms. Williams held a Ph.D. in child development and was looking to utilize her education to develop a child care process for pre-schoolers up to five years of age. He concluded the proposal was not actually for a day care facility, recommending approval of the request. He then submitted a copy of a letter from Ashley, Brown & Company into the record, indicating their support of the request.
- Mr. Beres Powell, applicant's engineer, expressed sympathy with the concerns presented this date; however, he opined the proposed use would fill a specific need in the community.
- Ms. Washington emphasized True Holiness Childcare provided a 24 hour service and was gold seal accredited.
- Mr. Zapke called three times for anyone to speak on SE-03-11.
- Mr. Zajicek MOVED, Mr. Burrage SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
- Ms. Matthews stated her only concern was related to the criteria which addressed traffic impact, adding she believed 140 daily trips, as stated in the agenda material, was not minimal. She explained she had personally observed a significant amount of

traffic in the subject area, including on MLK, thus the basis for her concerns for children's safety.

- Mr. Zajicek disclosed he had driven through the subject area, stating he did not believe traffic would be a problem.
- Mr. Thomas commented the unfilled land development opportunities in the subject area could eventually have a significant impact on traffic; however, he applauded someone starting a new business in the current economy.
- Mr. Zajicek MOVED, Mr. Burrage SECONDED to find SE-03-11 consistent with the City's Comprehensive Plan and to recommend approval of same based upon the evidence and testimony presented. MOTION CARRIED UNANIMOUSLY.

STAFF COMMENTS

- A. Community Redevelopment Agency (CRA) Project Status Report
- No discussion.

COMMITTEE/BOARD COMMENTS

- Ms. Matthews noted a correction to the agenda template, requesting same be corrected.

ADJOURNMENT

- Meeting Adjourned: 2:39 a.m.

Edward Zapke, Chairman

Mary Kelly, Recording Secretary