

**PLANNING COMMISSION
MEETING
OCTOBER 28, 2019**

MEMBERS PRESENT: Joseph Comeaux, Acting Chairman
Keith Frohlich, Donna Peterman,
Roger Peterson, Paul Sacilotto,
Susan Hill, Edward Weiner

MEMBERS ABSENT: Bradford Gamblin, Harvey Goldberg

OTHERS PRESENT: City Attorney David Levin
Lisa Hannon, Zoning Official
Joan LeBeau, Urban Design Manager
Mitchell Austin, Chief Planner
Bob Fritz, Jason Green, Mark Draper,
Craig Ivey, Sheila Jaeger, Thomas Lengauer,
Christine Sutherland, Darcy Hall, Keith Towles,
Reinhard Schumann

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting
- 1. November 25, 2019

CITIZENS COMMENTS ON AGENDA ITEMS ONLY

- None.

APPROVAL OF MINUTES

- A. September 23, 2019
- Mr. Weiner MOVED, Mr. Peterson SECONDED approval of the September 23, 2019, minutes. MOTION CARRIED UNANIMOUSLY.

PUBLIC HEARINGS

- Recording Secretary Pues swore in all participants.
- A. A resolution of the city council of the city of Punta Gorda, Florida, accepting the plan Punta Gorda 2019 citywide master plan; and providing an effective date.
- Mr. Mitchell Austin, Chief Planner, drew attention to the final draft of the Punta Gorda 2019 Citywide Master Plan (Plan) denoted in the agenda material, noting staff had worked with Dover, Kohl & Partners to incorporate changes to the Plan based on the feedback received from citizens. He concluded staff recommended the Commission endorse the acceptance of the Plan to City Council as a guiding document for future implementations of strategies and actions by the City.
- Mr. Bob Fritz acknowledged commercial development was desired to offset residential tax rates, opining the Plan would not improve the overall balance between residential

and nonresidential taxes. He then stated the Plan did not account for the parking issues dense residential areas cause, adding City Council should accept the Plan with contingencies related to same.

- Mr. Comeaux called three times for public comment.
 - Ms. Peterman MOVED, Mr. Weiner SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
 - Mr. Sacilotto questioned whether Charlotte County had proposed construction of a large parking garage near the Charlotte Harbor Event & Conference Center.
 - Mr. Austin stated Charlotte County had considered the parking garage as part of the 1% sales tax reauthorization, noting projects were being explored based on prioritization.
 - Mr. Sacilotto agreed with Mr. Fritz's comment regarding the parking concerns, adding that same should be improved, particularly in the downtown area.
 - Discussion ensued regarding the Plan, with members confirming same did not alter the adopted City Comprehensive Plan or land development regulations, rather serve as guidance to implement visions.
 - Mr. Sacilotto MOVED, Ms. Hill SECONDED to recommend acceptance of the Citywide Master Plan by the City Council. MOTION CARRIED UNANIMOUSLY.
- B. ZA-02-19 - An Ordinance of the City of Punta Gorda, amending Punta Gorda Code Chapter 26, "Land Development Regulations", Article 3, Regulating Districts, Section 3.18 Waterfront Overlay District, adding a new Subsection (d) Fishermen's Village Phase 1, providing for permitted uses, permitted accessory uses, development standards and harborwalk regulations; amending Article 8, Standards of General Applicability, Section 8.19, Waterfront Property; providing for conflict and severability and providing an effective date.

Address: 1200 West Retta Esplanade, Punta Gorda, FL

Short Legal: PUG 000 0000 DOCK

Parcel Id: 412212126001

- Ms. Lisa Hannon, Zoning Official, announced staff had received additional information regarding an ongoing litigation between Smugglers Enterprises, Inc. and ATA Fishville, LLC/Fisherman's Village. She stated after review, staff had removed any reference pertaining to the restriction of vehicle access on the Harborwalk as same could be in conflict with a temporary injunction granted by the 20th Judicial Circuit Court of Charlotte County. She announced the primary purpose of the requested amendment was to allow the current buildings to be brought into conformance with City Code. She then read into the record the request summary and findings from the staff report, as delineated in the agenda material, concluding staff recommended approval of ZA-02-19.

- Mr. Jason Green, applicant's agent, voiced agreement with staff's findings, providing a brief history of Fishermen's Village. He opined it was an employment center as well as a cultural, social and economic hub of Punta Gorda, pointing out the buildings were nonconforming with current City Code which could result in various issues and safety hazards without the changes. He stated the effort was to match the Land Development Regulations (LDRs) with the existing development pattern, adding same provided mixed-use and walkability. He stated another goal was protection of the Harborwalk. He briefly reviewed the Strengths, Weaknesses, Opportunities and Threats (SWOT) analysis of Fishermen's Village conducted by Dover, Kohl & Partners during the Master Plan process. He stated substantial funds were being invested to upgrade and renew Fishermen's Village, adding it was difficult to move forward with investment when there was a lack of predictability. He stated a redesign of the LDRs would provide some predictability in order to move forward and avoid encountering hurdles with every upgrade required to modernize the buildings. He stated the proposed amendment was applicable to the pier and related only to the area that served the existing buildings and structures, noting same was labeled "Phase 1". He stated the proposed text amendment was related to Punta Gorda Code Chapter 26.3.18, adding same would allow Phase 1 to have development standards which recognized the existing development pattern, the uniqueness of Fishermen's Village and the historic significance of the structures. He stated the proposed language would help create a safe urban environment and tourist attraction, adding public safety was also a critical component. He stated many improvements had already been made for public safety, adding same were a part of a bigger picture of the development which could not be completed unless the amendment was adopted. He requested a recommendation for approval of the request.
- Mr. Weiner questioned whether retail and housing should be added as permitted uses.
- Mr. Green responded same were included.
- Ms. Hannon explained the text amendment would eliminate the need for special exceptions and variances in the future.
- A brief discussion took place regarding the possibility of a Phase 2.
- Messrs. Peterson and Comeaux and Mmes. Smith and Peterman disclosed they had spoken to representatives of Fishermen's Village and/or City residents regarding the amendment.
- Mr. Mark Draper, Smuggler's Enterprise attorney, distributed documentation regarding a lawsuit filed by Smuggler's Enterprise against Fishermen's Village, as delineated in the agenda material, requesting the amendment be tabled until the lawsuit was resolved. He drew members' attention to page 5 of the documentation, reading same into the record.

He explained there were currently injunctions in place against Fishermen's Village, asserting the driveway had been closed to restrict access to Smugglers' restaurants. He opined Fishermen's Village was attempting to use legislation to enable them to change the lease parameters, voicing concern regarding proposed language related to the Harborwalk being maintained for public pedestrian use. He stated if the Commission chose not to table to request, he asked that subsection (d)(4) of the proposed language in the ordinance be struck. He voiced concern regarding the language in subsection (d)(2) related to pharmacies as a permitted use as well as subsection (d)(3) a. and b. which reduced setbacks, noting Smugglers required access for food service deliveries. He reiterated his request that the amendment be tabled until conclusion of the court case.

- Discussion ensued regarding the status of Smugglers' court case.
- City Attorney David Levin advised members to withhold comments regarding litigation between Smugglers and Fishermen's Village. He explained the applicant originally requested a Planned Development to address the need for improvements to the property, adding staff had requested the applicant to amend the application so it could be addressed as an amendment to the existing Waterfront Overlay District recognizing the unique character of Fishermen's Village. He stated the applicant supplemented the application with respect to those items necessary for continued and future operation of the physical setting; however, the motivation for the request was not relevant. He stated staff's position was whether or not the changes requested were appropriate for the particular development, adding the Commission did not have the authority to table the matter, nor was it prudent to do so as the City could benefit from resolving some of the nonconformities. He advised the Commission to consider the matter strictly on the merits of the request for a text amendment, concluding there was no language that needed to be stricken and there was no reason for the request not to move forward.
- Mr. Draper argued there was no need for much of the proposed language just for the purpose of bringing the buildings into conformity. He requested those members who had discussed the matter with representatives of Fishermen's Village recuse themselves from voting.
- City Attorney Levin explained this was not a quasi-judicial proceeding; however, ex-parte communication did not disqualify a voting member from participation provided the communication was disclosed during the hearing. He pointed out Smugglers had the same opportunity to contact members of the Commission and City Council individually. He then clarified there was a desire on the part of the applicant to obtain the opportunity to expand the existing facilities.

- Mr. Bob Fritz voiced concern regarding the ability to relocate the Harborwalk.
- Mr. Craig Ivey asserted there was predictability as the owner of Fishermen’s Village had made major investments. He opined the property owner should have to request approval of individual expansions and new uses, opining a discussion was needed regarding parking.
- Ms. Sheila Jaeger voiced concern any business which desired a zero setback on the waterfront could reroute the Harborwalk, adding same should be protected.
- Mr. Thomas Lengauer questioned the extent of expansion, voicing concern regarding the availability of parking.
- City Attorney Levin drew members’ attention to subsection (4)(e) which related to the Harborwalk and made reference to the purchase agreement between the City and Fishermen’s Village which was to ensure there would be ingress and egress for pedestrians as part of the Harborwalk, adding same could not be eliminated nor could it be minimized to the extent that it no longer served the purpose for which the City intended. He stated the City had the ability to enforce its rights through the agreement.
- Ms. Christine Sutherland stated she was told there would be two decks that would extend 17 feet over the water, questioning where the decks would be located.
- Mr. Comeaux replied he did not have access to the plans; however, there would continue to be open access and a Harborwalk on the southwest side of the pier.
- Mr. Austin reiterated this was a text amendment, adding the property owner had not submitted an application for a specific development or building permit. He explained any building permit received would be evaluated by staff to ensure same was compliant with the City’s LDRs. He clarified the text amendment allowed a zero waterfront setback instead of 25 feet as well as a building height of 50 feet above base flood elevation, which was consistent with adjacent multi-family developments.
- Ms. Darcy Hall opined the owners of Fishermen’s Village were difficult to work with.
- Mr. Green acknowledged the Harborwalk was an important component to the property, asserting the uses were appropriate for this type of development and were consistent with the Comprehensive Plan. He stated Fishermen’s Village had agreed to removal of certain language due to some potential conflicts; however, relationships between owners and lessees were not relevant to this request.
- Mr. Comeaux called three times for public comment.
- Mr. Peterson MOVED, Ms. Peterman SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
- Ms. Hill MOVED, Mr. Weiner SECONDED to find ZA-02-19 was consistent with the Comprehensive Plan and to recommend approval based on the evidence and testimony

presented contingent upon the removal of subsections (4)(b) and (4)(d). MOTION CARRIED UNANIMOUSLY.

QUASI- JUDICIAL PUBLIC HEARINGS

- A. SE-03-19 – A Special Exception request by Keith B. Towles, as authorized agent for John M. Jamieson, III, applicant and property owner, pursuant to Chapter 26, Section 16.8, Punta Gorda Code, to allow a third driveway to be constructed for a new single-family residence, which is permitted by Special Exception pursuant to Chapter 26, Article 10, Section 10.3(h)(10), Punta Gorda Code, for a parcel located in the General Single-family 3.5 units per acre (GS 3.5) zoning district.

LEGAL: Punta Gorda Isles Section 012, Block 0130, Lot 16

ADDRESS: 3401 & 3405 St. Croix Court, Punta Gorda FL

CHARLOTTE COUNTY PARCEL ID: 412214359007

- Ms. Lisa Hannon, Zoning Official, entered the staff report denoted in the agenda material into the record by reference. She reviewed the criteria which must be met in order for a special exception to be approved, as well as staff's findings and conclusions, advising staff recommended approval of SE-03-19 contingent upon proper permitting for the line and grade inspections prior to construction and final inspection.
- Mr. Keith Towles, authorized agent, clarified the two driveways which made the circular driveway were reduced from 16 feet in width to 12 feet.
- Mr. Reinhard Schumann questioned where the property's mailbox would be placed.
- Ms. Hannon replied the property owner and United States Postal Service would determine same, noting the City did not regulate the location of mailboxes.
- Mr. Towles stated the mailbox was currently on the right side of the main driveway.
- Mr. Comeaux called three times for public comment on SE-03-19.
- Ms. Peterman MOVED, Mr. Frohlich SECONDED to close the public hearing.
- Ms. Peterman MOVED, Ms. Hill SECONDED to find SE-03-19 consistent with the Comprehensive Plan and to recommend approval of this request with staff's conditions, based on the evidence and testimony presented. MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS

- A. Climate Adaptation Plan Update and Living Shoreline Element
- Ms. Joan LeBeau, Urban Design Manager, drew members' attention to the Vulnerability Study and Climate Adaption Plan (CAP), as delineated in the agenda material. She provided a brief history of the development of the CAP, noting the City's 2040 Comprehensive Plan required same be updated every ten years. She stated the City had received a grant from the Florida Department of Environmental Protection for the CAP update, explaining the grant's timeframe had required the CAP update be presented

directly to City Council. She explained the Planning Commission would have an opportunity to comment on strategies as they were implemented.

- Mr. Comeaux suggested enforcement in areas such as fertilizer applications and lawn mowing by commercial landscaping services be addressed.
- Ms. Hannon explained one complaint had been received since the fertilizer ordinance was adopted, providing a brief explanation of actions staff and residents could take to address improper disposal of grass clippings.

COMMITTEE/BOARD COMMENTS

- Ms. Peterman suggested staff inform citizens of the Commissions' role in the decision making process.
- Ms. Hannon responded staff could consult with the Legal Department regarding possible wording.

CITIZENS' COMMENTS

- None.

ADJOURNMENT

- Meeting Adjourned: 4:20 p.m.

Joseph Comeaux, Acting Chairman

Leah Pues, Recording Secretary