

**PUNTA GORDA ISLES
CANAL ADVISORY COMMITTEE
MEETING
SEPTEMBER 19, 2011**

MEMBERS PRESENT: Bill Dixon, Chairman
Nancy Dauster, Thomas McAlear, David McBride,
Charles Thomas, James Thompson

MEMBERS ABSENT: James Hoffman

OTHERS PRESENT: Randy Brodersen, Canal Maintenance Supervisor
Steve Padgett, Senior Project Manager
Teri Tubbs, Zoning Official
Dennis Murphy, Growth Management Director
Ron Parr, Michael Haymans, Paul Popper, Stan Dull,
John Dauster, Joyce Thompson

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting
- 1. October 17, 2011

APPROVAL OF MINUTES

- A. Meeting of August 15, 2011
- Ms. Dauster MOVED, Mr. McAlear SECONDED approval of the August 15, 2011 minutes.
MOTION CARRIED UNANIMOUSLY.

REPORTS

- A. Permits Authorized by City Staff – August 2011
- Mr. Randy Brodersen, Canal Maintenance Supervisor, reported 14 permits were issued in August 2011, noting same were detailed in the Committee’s agenda material.
- B. Budget Utilization Report – August 2011
- C. Seawall and Seawall Cap Replacement Status Report – August 2011
- Mr. Brodersen drew members’ attention to the Budget Utilization and Seawall and Seawall Cap Replacement Status Reports, as delineated in the agenda material, offering to answer any questions regarding same.
- Ms. Dauster commented on Item B, observing seawall replacement and seawall cap replacement were 128% and 103%, respectively, indicating same were over budget. She questioned the source of those extra funds, pointing out one more month remained in the current fiscal year.
- Mr. Brodersen explained lineal footage would increase much more than expected if seawalls were replaced at vacant lots due to the cost saving involved in same.

- Ms. Dauster then commented on Item C, noting two jobs cost approximately \$6,000; however, one site was 90 feet while the other was 132 feet. She clarified the difference in cost was due to one site being a vacant lot.
 - Mr. Thompson requested clarification of “Amended Budget,” as delineated in the Budget Utilization Report.
 - Mr. Brodersen explained staff sometimes re-allocated funds if necessary.
 - Mr. Thompson confirmed funds remained in the Canal Maintenance Assessment District’s (CMAD’s) budget.
- D. Mangrove Trimming
- Mr. Brodersen confirmed \$13,000 was currently available for mangrove trimming, stating work was ongoing in the perimeter canal at this time; however, the contractor, Ecosystem Technologies, Inc. (ETI), was experiencing some difficulty in transporting the wood chipper.
- E. Patrol Update – Bill Dixon
- Mr. Dixon reported the Police Department issued 21 warnings, investigated 5 incidents, conducted 33 boat inspections and spent 136 hours on the water. He announced the Volunteers in Policing (VIPs) spent 93 hours on the water and covered 252 miles of canal.

QUASI-JUDICIAL PUBLIC HEARINGS

- Mr. Dixon reviewed quasi-judicial hearing procedures and the criteria detailed in Chapter 6 of the City Code, explaining all criteria must be met before approval was granted.
 - Recording Secretary Kelly swore in all participants.
- A. CCSP-02-11: Petition for special permit under the provisions of Section 6-6(j) of the Punta Gorda Code of Ordinances to install one (1) 4' x 27' angled concrete finger dock and one (1) four post boat lift at Lot 15, Block 148, Section 12, A/K/A 5000 Useppa Court, Punta Gorda, FL 33950.
- Owner/Petitioner: Douglas Knipe.
- Mr. Steve Padgett, Senior Project Manager, displayed an overhead depicting the proposed configuration, as delineated in the agenda material, noting CCSP-02-11 had been previously presented to the Committee on August 15, 2011. He explained the marine contractor, Mr. Ron Parr, had requested the Committee’s reconsideration of their decision and allow the applicant to present an alternative configuration. He confirmed the applicant had resubmitted his request, adding the proposal was detailed in the agenda material. He advised the subject property had an existing 5’x28’ concrete dock, approximately 54 feet of seawall and a canal width of approximately

100 feet. He noted three of the pilings, a portion of the lift and the dock would be outside the forty-five degree area; thus, staff did not recommend favorable consideration. He mentioned this public hearing would be held before City Council on October 19, 2011.

- Mr. Ron Parr, applicant's marine contractor, described the original approach outlined at the Committee's previous meeting. He noted the boat lift was standard, similar to that seen in any corner lot with 40 to 50 feet of seawall, adding the finger dock was proposed as a smaller version of what had been presented the previous month. He pointed out the reason for shifting the proposal to the center of the property line was to allow for a boat to be moored at the adjacent property.
 - Mr. McBride confirmed a dock existed at the adjacent property, Lot 14.
 - Mr. Dixon called three times for anyone to speak on CCSP-02-11.
 - Ms. Dauster MOVED, Mr. Thomas SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
 - Mr. Thomas commented favorably on the changes.
 - Mr. Thompson disclosed he had visited the site, expressing surprise nearby property owners were not in attendance.
 - Mr. McBride MOVED, Ms. Dauster SECONDED to recommend approval of CCSP-02-11.
 - VOTING AYE: Dauster, McAlear, McBride, Thomas, Thompson.
 - VOTING NAY: Dixon.
 - MOTION CARRIED.
 - Mr. Dixon stated his opposition was based on Criteria (d).
- B. V-02-11: Request for a variance to the Land Development Regulations pursuant to Chapter 26, Section 16.10, Punta Gorda Code to demolish an existing single-family structure and allow an existing non-conforming accessory pool, deck, and portion of deck stemwall to remain on the property with a waterward setback of 6.31 feet at its closest point instead of 20 feet as required per Section 26-3.13(d), Punta Gorda Code; and to allow an existing boundary wall, ranging from 3.6 feet to 6.9 feet in height, to remain on the property which is prohibited per Section 26-3.13(m), Punta Gorda Code; and to allow said boundary wall to remain on the property with a streetyard setback of 10.13 feet at its closest point and a waterward setback of 0.0 foot instead of 25 feet as required per Section 26-3.4(g)(3), Punta Gorda Code; and to allow an existing 18.2 foot by 9.0 foot concrete slab and pool equipment located outside of the boundary wall, which is 1.5 feet in height, to remain on the property with a front yard setback of 0.0 foot instead of a 25 foot setback as required per Section 26-3.4(g)(2), Punta Gorda Code; and to allow a 16 foot by 6 foot concrete slab located outside of the boundary

wall with a frontyard setback of 3.0 feet instead of 25 feet as required per Section 26-3.4(g)(2), Punta Gorda Code; and to allow an existing garbage hide wall and underlying concrete slab located in the front yard to remain on the property which is prohibited per Section 26-8.14(i), Punta Gorda Code; and to allow said garbage hide wall which is 5.4 feet in height above grade and encroaches up to 5.7 feet into the right-of-way which is prohibited without obtaining a building permit per Chapter 20, Section 20-1 Punta Gorda Code; and to allow an existing 19.5 foot wide paver driveway, parking pad, and apron to remain on the property instead of 16 feet wide as allowed by Section 26-10.3(h)(6) and Chapter 20, Section 20-7(b), Punta Gorda Code; all of which are accessory structures required to be removed from the property upon demolition of the primary residential structure pursuant to Section 26-17.4, Punta Gorda Code.

LEGAL: A portion of Lot 16, Block 90, being the Westerly 10 feet and parallel to the Westerly boundary of said Lot 16, Block 90 and Lot 17, Block 90 of Punta Gorda Isles Section 10 Replat as recorded in Plat Book 8, Page 23, of the Public Records of Charlotte County Florida; and a portion of Lot 21, Block 90, Punta Gorda Isles Section 10 Replat as recorded in Plat 8, Page 23, of the Public Records of Charlotte County Florida.

Long Legal description on File in the City Hall Annex, Urban Design Division, 126 Harvey Street, Punta Gorda, Florida.

A/K/A: 2100 Jamaica Way, Punta Gorda, Florida.

- Ms. Teri Tubbs, Zoning Official, announced a few years earlier, this Committee as well as the Burnt Store Isles Canal Advisory Committee (BSICAC) had determined structures located closer than six feet from the seawall created problems. She displayed several photographs of the subject location, as delineated in the agenda material, and entered her entire staff report into the record by reference. She advised records indicated the majority of seawall panels on the Charlotte Harbor side of the property, where the pool was located, were installed in 1971; thus, due to the seawalls' age, they would likely need replacement in the near future. She stated the applicant had advised the home was damaged beyond repair since Hurricane Charley in 2004. She then reviewed Criteria (1) through (8) and staff's detailed findings relative to each. She displayed an aerial photograph of the property, pointing out same showed the age of seawall panels around the property. She concluded based on the intent of the ordinance and literal interpretation of a variance hardship, staff found the request did not meet the criteria necessary for approval and thus recommended denial of V-02-11.

- Mr. Thompson asked Mr. Brodersen to comment on the condition of the 1971 seawalls, noting same had been determined as part of the recent Geographic Information System (GIS) survey.
- Mr. Brodersen replied the seawalls were not in bad condition, adding the seawall caps had been replaced on the Harbor side fairly recently.
- Mr. Thompson confirmed replacing the seawalls at this property would cause damage to and/or removal of various items on the property. He clarified the cost of same would be the owner's responsibility.
- Mr. Thomas expressed surprise at the length of time the house had remained since Hurricane Charley.
- Mr. McBride asked if all of the accessory structures were compliant at the time of their construction.
- Ms. Tubbs replied they pre-dated current City Code, confirming all were conforming at the time of construction.
- Mr. McAlear stated it appeared a portion of the fence had been bolted into the seawall cap, which in turn weakened same.
- Ms. Tubbs explained that portion of the seawall cap had not been replaced.
- Ms. Dauster asked if any other houses existed in Punta Gorda Isles (PGI) which required demolition due to damage from Hurricane Charley.
- Ms. Tubbs replied none of which she was aware.
- Mr. Michael Haymans, applicant's attorney, stated negotiations between the applicant and insurance company had taken almost five years, acknowledging the home had not been condemned. He confirmed international marketing attempts had been made but had since been pulled back. He explained the owner wished to preserve the property's existing value while preserving some flexibility for a future owner. He mentioned this property had originally been owned by Mr. Al Johns, former president of Punta Gorda Isles, Inc. He asserted the existing, oversized pool alone represented an expensive, valuable asset. He submitted wasting hundreds of thousands of dollars represented a hardship which was not shared by other property owners. He concluded he did not believe denial of the variance application made economic sense.
- Mr. Thomas requested clarification of the boundary wall.
- Ms. Tubbs explained City Code prohibited same in the Special Residential Overlay (SRO) zoning district.
- Mr. Thomas stated it appeared the pool deck needed to be replaced.
- Mr. Haymans agreed some repairs were necessary; however, the City requested elimination of all accessory structures, including the pool.

- Mr. Thomas asked if the pool was being maintained.
- Mr. Paul Popper, applicant, replied affirmatively, explaining it was 20 yards long, approximately 12 to 15 yards wide, 10 to 12 feet deep in the deepest sections, and a spa had been added in 2000.
- Mr. McAlear commented the seawalls at this property were 40 years old, noting seawalls typically lasted approximately 50 years.
- Mr. Popper commented there had been a six foot sidewalk immediately adjacent to the seawall, stating same had been removed in the 1990s. He announced the seawall's deadmen and tiebacks were replaced at that time. He clarified the sidewalk had not been replaced.
- Ms. Dauster stated a number of residents had been required to completely raze their properties, including all accessory structures, following Hurricane Charley, adding all were rebuilt in compliance with the law.
- Mr. Haymans reiterated City Code did not prohibit the accessory structures at the time they were built. He urged the Committee to vote in favor of maintaining such valuable assets.
- Mr. McAlear asserted the applicant was seeking a privilege to maintain a boundary wall, which no other property owner in the SRO zoning district was allowed.
- Mr. Haymans countered the boundary wall had been allowed by City Code at the time of construction.
- Mr. McBride stated he did not feel any of the applicant's arguments relative to the property's original ownership or historical value had any appropriate context in this discussion.
- Mr. Haymans commented he sensed some resentment with regard to the amount of time which had elapsed since Hurricane Charley; however, he stated he could personally attest to the difficulties faced by the applicant since that time.
- Mr. Stan Dull, 2215 Palm Tree Drive, expressed concern with regard to the precedent setting nature of variances in general and the appearance of the subject property in particular if the accessory structures were allowed to remain in place after demolition of the home.
- Mr. Dixon called three times for anyone to speak on V-02-11.
- Ms. Dauster MOVED, Mr. McAlear SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
- Mr. McBride stated he found this situation difficult in that certain elements of the request seemed reasonable at face value; however, taken in its entirety, the request seemed to be more than what he would normally feel was the minimum standard. He

commented he would personally prefer to have the property completely vacant upon purchase.

- Mr. Thomas concurred.
- Mr. McAlear stated his main concern was relative to the seawall, adding he believed the pool would be a liability to the CMAD.
- Ms. Dauster expressed similar concerns with regarding to the seawall's integrity.
- Ms. Dauster MOVED, Mr. McAlear SECONDED to recommend denial of V-02-11.
- VOTING AYE: Dauster, McAlear, McBride, Thompson, Dixon.
- VOTING NAY: Thomas.
- MOTION CARRIED.
- Mr. McBride stated his vote was based on the application's failure to comply with Criteria (5).
- Mr. Dixon announced his vote was based on failure to meet Criteria (2).
- Mr. Thompson explained he did not feel the application met Criteria (2) and (5).
- Mr. McAlear noted he did not feel Criteria (2) nor (4) had been met.
- Ms. Dauster concluded she did not believe Criteria (2) through (5) had been met.

UNFINISHED BUSINESS

- Mr. McBride questioned the status of the anchoring ordinance.
- Mr. John Dauster stated he understood the City Attorney's opinion allowed enforcement of State Statute and City Code by the VIPs.
- Mr. Dixon requested an update of this issue at the Committee's next meeting.

COMMITTEE/BOARD COMMENTS

- Mr. Dennis Murphy, Growth Management Director, asked members to begin thinking of alternative ways to access the community's seawalls, explaining PGI would be built out in full at some point.

CITIZENS COMMENTS

- Ms. Joyce Thompson commended the Committee on their decision relative to V-02-11.
- Mr. McAlear then stated Ponce de Leon Inlet was very dark in the evenings, suggesting lights be placed on Markers 9 and 10.
- Mr. Dixon stated he believed permission must first be sought.
- Mr. McAlear mentioned appropriately colored, reflective tape was wrapped around Charlotte County's day markers, stating he wished to see something similar on Punta Gorda's day markers as well.
- Mr. Brodersen advised he would look into the particulars of doing so.

ADJOURNMENT

- Meeting Adjourned: 3:12 p.m.

Bill Dixon, Chairman

Mary Kelly, Recording Secretary