

**PLANNING COMMISSION
MEETING
SEPTEMBER 27, 2010**

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

OTHERS PRESENT: Teri Tubbs, Zoning Official
David Hilston, Urban Design Manager
Ray Rose

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting
- 1. October 25, 2010

APPROVAL OF MINUTES

- A. Meeting of August 23, 2010
 - Ms. Matthews noted a correction to page 3.
 - Mr. Burrage MOVED, Mr. Zapke SECONDED approval of the August 23, 2010 minutes as amended. MOTION CARRIED UNANIMOUSLY.

PUBLIC HEARINGS

- Recording Secretary Kelly swore in all participants.
- A. ZA-12-10 - An Ordinance of the City of Punta Gorda, Florida, Repealing Ordinance #1610-09; and amending Chapter 26, Article 11, "Sign Standards", Code of Ordinances, City of Punta Gorda, Florida; amending Chapter 26, Article 11, Section 11.3, "Permitted Signs", Code of Ordinances, City of Punta Gorda, Florida, adding a new Subsection 11.3(r), relating to portable signs; providing permit requirements for portable signs; providing for portable signs within commercially zoned districts; providing standards for the location, design, use and maintenance of portable signs; providing for the discontinuance and removal of nonconforming portable signs; amending Chapter 26, Article 11, Section 11.4, "CC Signage", Subsection 11.4(e)(5), Code of Ordinances, City of Punta Gorda, Florida, deleting references to portable signs, deleting the sunset provision and allowing the installation of a wall mounted menu sign; providing for conflict and severability; and providing an effective date (continued from August 23, 2010).
 - Ms. Teri Tubbs, Zoning Official, announced the Commission had continued ZA-12-10 to allow staff to meet with the Punta Gorda Chamber of Commerce (PGCC) as well as with area business owners, confirming this meeting was held on September 2, 2010. She

recalled the Commission had expressed concerns relative to the liability insurance requirement, prompting staff to check with the City's Risk Manager to determine the amount necessary to ensure proper coverage for the City in the event someone was injured or property was damaged due to a sign approved to be located in the City's right-of-way (ROW). She reported the Risk Manager advised a \$100,000 liability rider, naming the City as additional insured along with a hold harmless agreement, would be sufficient. She noted the proposed ordinance called for a \$300,000 rider; thus, staff recommended approval of ZA-12-10 with a reduction to \$100,000. She mentioned no concerns were raised by the PGCC or other representatives who attended the above mentioned meeting.

- Mr. Zapke disclosed he attended the September 2, 2010 meeting.
 - Mr. Schindler commented on the liability rider, confirming same applied only to signs in a City ROW.
 - Ms. Matthews called three times for anyone to speak on ZA-12-10.
 - Mr. Zapke MOVED, Mr. Zajicek SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
 - Mr. Burrage MOVED, Mr. Zajicek SECONDED to find ZA-12-10 consistent with the City's Comprehensive Plan and to recommend approval of same as amended based upon the evidence and testimony presented. MOTION CARRIED UNANIMOUSLY.
- B. ZA-16-10 - An Ordinance of the City of Punta Gorda, Florida, Amending page 1 of 43, Chapter 26 of the City Code of Ordinances, known as the Land Development Regulations, Article 3, Regulating Districts, Section 3.13, SRO, Special Residential Overlay District, Subsection (s), Real Estate Signs; and amending Article 11, Sign Standards, Section 11.3, Permitted Signs, Subsection (l), Directional Real Estate Signs, extending the provisions for off-premise open house signs on developed private property; providing for conflict and severability; and providing an effective date.
- Ms. Tubbs stated on November 5, 2008, City Council adopted an ordinance allowing off-premise, open house signs on private property in an effort to assist the real estate market during poor economic times, adding the ordinance also provided for a sunset date of November 5, 2010. She continued as economic conditions had not changed significantly over the past two years, City Council was recommending the sunset provision be extended for an additional two years to November 2012. She recommended approval of ZA-16-10, offering to answer any questions.
 - Mr. Zapke questioned the number, if any, of problems, complaints and/or violations regarding this type of sign. He noted he had no objections to this proposal.

- Ms. Tubbs responded she understood some signs had not been placed on private property but still in the ROW. She stated Code Compliance Officers and Volunteers in Policing (VIPs) had found such signs in the ROW on Sundays, adding the signs were removed and realtors notified of the prohibition against same.
 - Mr. Zapke asked if certain realtors violated the prohibition on an ongoing basis.
 - Ms. Tubbs replied she was not aware of any specific realtors or locations.
 - Mr. Zapke questioned the amount of complaints from the public.
 - Ms. Tubbs replied she had received none.
 - Ms. Matthews commented she had observed virtually no signs on a recent Sunday, noting same was very unusual as compared to the past.
 - Ms. Tubbs opined assistance provided by the VIPs had helped alleviate the problem.
 - Ms. Matthews called three times for anyone to speak on ZA-16-10.
 - Mr. Zajicek MOVED, Mr. Zapke SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
 - Mr. Zajicek MOVED, Mr. Loughman SECONDED to find ZA-16-10 consistent with the City's Comprehensive Plan and to recommend approval of same based upon the evidence and testimony presented. MOTION CARRIED UNANIMOUSLY.
- C. ZA-17-10 - An Ordinance of the City of Punta Gorda, Florida, Amending Chapter 26, Code of Ordinances, City of Punta Gorda, Florida, known as the Land Development Regulations; amending Article 19, Section 19.3, "Definitions", to provide a new definition for the term "restaurant" and renumbering accordingly; amending Article 3, Regulating Districts, Section 3.9, CC, City Center District, Section 3.9(c), Uses Permitted with Conditions; adding Subsections (12), (13), (14) and (15), to include permanent non-seating public food service establishments, convenience stores with limited food service, convenience stores with significant food service and food outlets with limited food services, thereby allowing certain restaurants to be located within 200 feet from a Neighborhood Residential Zoning District boundary; amending Article 4, "Uses Permitted with Conditions", adding new Sections 4.35, 4.36, 4.37 and 4.38, to provide conditions for permanent non-seating public food service establishments, convenience stores with limited food service, convenience stores with significant food service and food outlets with limited food services to be located within 200 feet from a Neighborhood Residential zoning district boundary; providing for conflict and severability; and providing an effective date.
- Ms. Tubbs recalled the Commission reviewed this issue on May 24, 2010, as a discussion item, at which time staff received input and comments regarding same. She continued staff brought those comments to City Council who agreed with the

Commission's recommendations. She displayed an overhead, as delineated in the agenda material, depicting the area affected by the above described 200 foot buffer zone. She then reviewed the proposed ordinance amendments as follows: (1) clarification of definitions for various types of restaurants; (2) allow subject facilities as uses permitted with conditions in the City Center (CC) zoning district; (3) specify what was permitted for each food outlet location; (4) allow limited restaurant uses to be located within 200 feet of the Neighborhood Residential (NR) zoning district. She recommended approval of ZA-17-10, offering to address any further comments or concerns of the Commission.

- Mr. Burrage questioned the effect of the "doggie dining" ordinance on this proposal.
- Ms. Tubbs replied the "doggie dining" ordinance required restaurants to apply for same.
- Mr. Zajicek observed the ordinance referenced tables and chairs, asking if picnic tables would be allowed such as that utilized at an ice cream store on McKenzie Street. He explained the ordinance limited seating to no more than eight people; however, one picnic table alone would allow for eight people.
- Ms. Tubbs commented the ice cream store on McKenzie Street was located in a different zoning district, stating each location would be considered individually to ensure compliance. She reiterated seating was restricted to no more than eight people, adding a forty-eight inch clear pathway must be maintained per the Fire Department. She confirmed she would pass on the Commission's concerns to City Council.
- Ms. Matthews suggested the ordinance be written so as to require permitting through the Urban Design Division to ensure compliance with City Code. She commented on the store on West Marion Avenue across from City Hall, expressing disfavor with its outside appearance. She pointed out all of the chairs were mismatched. She reiterated each request must be considered on its own merits.
- Mr. Zapke suggested requiring seating and numbers of tables to be appropriate to the area's size and approved by the Urban Design Division.
- Mr. Burrage and Ms. Matthews concurred.
- Mr. Zapke asked who was responsible for enforcement of restrictions on consumption of alcoholic beverages.
- Ms. Tubbs replied both the proprietor and the consumer if the alcoholic beverage was purchased at the store and consumed on site.
- Mr. Zapke asked if signage was allowed prohibiting on-site consumption.
- Ms. Tubbs replied she typically saw same at the entrance/exit to remind customers.

- Mr. Zapke then noted some sections of the ordinance referenced types of food, i.e., hot dogs, sausages, etc., asserting he believed same was far too specific.
- Ms. Tubbs explained the ordinance was drafted by the City Attorney, stating he may have pulled some verbiage from State Statute. She reiterated she would advise City Council of members' comments and recommendations.
- Ms. Matthews noted "residential" was misspelled twice in the public hearing notice.
- Mr. Zajicek commented on alcoholic beverages, asking who was responsible in the event an establishment did not sell such beverages but a consumer brought same onto the property.
- Ms. Tubbs responded owners were ultimately responsible for activity on their property.
- Ms. Matthews asked if signs prohibiting on-site consumption of alcohol were allowed.
- Ms. Tubbs replied affirmatively.
- Mr. Schindler asked how staff would address the concerns regarding allowed numbers of tables and/or chairs.
- Ms. Tubbs replied she would raise the issue at the October 6, 2010 City Council Meeting and include the Commission's recommendations.
- Mr. Thomas commented it seemed staff was in agreement with members' feelings, stating he believed the ordinance was poorly written; thus, he recommended a continuance to allow time for the ordinance to be re-written.
- Ms. Matthews called three times for anyone to speak on ZA-17-10.
- Mr. Burrage MOVED, Mr. Zapke SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
- Mr. Zapke spoke in favor of a continuance as did Messrs. Zajicek and Burrage. He expressed hope the City Attorney would be apprised of the Commission's comments and recommendations before the ordinance was re-written.
- Ms. Tubbs noted "restaurant" was not currently defined in City Code. She explained there were multiple different levels and degrees of food service for which the City Attorney wished to provide definitions, some of which required designation of food type. She offered to clarify the allowed number and type of seating to ensure same were appropriate for each location's size, adding she could recommend trash receptacles be a specific size to ensure uniformity throughout the City.
- Mr. Zapke MOVED, Mr. Loughman SECONDED to continue ZA-17-10 to October 25, 2010, based upon comments made this date.
- Mr. Zajicek further recommended a location be specified for the proposed tables.
- MOTION CARRIED UNANIMOUSLY.

- Mr. Loughman recalled the Commission recently voted on an ordinance which would allow restaurants in a residential neighborhood
- Ms. Tubbs explained the intent of that ordinance was to allow restaurants in general in the Trabue Woods area, stating same was done upon residents' requests for that type of development.
- Mr. Loughman clarified ZA-17-10 would not affect the Trabue Woods area.

UNFINISHED BUSINESS

- Mr. Thomas drew members' attention to page 6 of the August 23, 2010 Minutes, stating a question arose as to why it was legal for the Police Department to park a vehicle on a vacant lot on Ryan Boulevard.
- Ms. Matthews confirmed the vehicle remained at that location.
- Ms. Tubbs announced a Code Compliance Officer was assigned to check that location each time she was in the area; however, she had not yet seen the vehicle parked during the day.
- Mr. Ray Rose interjected the vehicle on Ryan Boulevard was assigned to a Police Sergeant who resided on that street, adding the vehicle was moved each night to comply with City Code.
- Ms. Tubbs clarified City Code prohibited parking on a vacant lot only between the hours of 1:00 a.m. and 5:00 a.m.

STAFF COMMENTS

- A. Community Redevelopment Agency (CRA) Project Status Report
 - Mr. Zapke questioned the status of the Wayfinding System, stating he had understood same was done many years earlier.
 - Mr. David Hilston, Urban Design Manager, replied shipments of material were en route at this time. He expressed hope the contractor would begin installation the following week.
 - Ms. Matthews commented on the two new "Welcome to Punta Gorda" signs at the foot of the U.S. 41 Bridge, stating the font was quite small and difficult to read.

ADJOURNMENT

- Meeting Adjourned: 2:39 p.m.

Lynne Matthews, Chairman

Mary Kelly, Recording Secretary