

**PLANNING COMMISSION
MEETING
OCTOBER 26, 2009**

MEMBERS PRESENT: Lynne Matthews, Chairman
John Burrage, Heinz Schmidt, Jim Stevens
Edward Viola, Charles Zajicek, Edward Zapke

MEMBERS ABSENT: Larry Hofmeister

OTHERS PRESENT: Teri Tubbs, Zoning Official
Joan LeBeau, Chief Planner
David Hilston, Urban Design Manager
Dennis Murphy, Growth Management Director
Lisa Hannon, Zoning Coordinator
Karen Ford, Stan Kubik

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting - November 23, 2009
 - Mr. Zajicek announced he would be out of town on November 23, 2009.
- C. Last Scheduled Meeting - September 28, 2009

APPROVAL OF MINUTES

- A. Meeting of September 28, 2009
 - Mr. Burrage MOVED, Mr. Viola SECONDED approval of the September 28, 2009 minutes. MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS

- Recording Secretary Kelly swore in all participants.
- A. Public Hearings
 - 1. ZA-15-09 - An Ordinance of the City of Punta Gorda, Florida, Amending Chapter 10, 'Solid Waste, Yard Waste, Public Nuisances,' Article I, Subsection 10-2 and Subsection 10-2.1, reducing the amount of time provided for correcting a violation of this section; amending Subsection 10-2.2, chronic negligence, penalty; adding a new Subsection 10.2.5, providing for appeals; amending Section 10-2.4, 'City's Mandatory Lot Mowing Program;' amending Subsection 10-2.4.(k), providing a provision to allow the City Manager the discretion to deny a request for exemption from the City's Mandatory Lot Mowing Program to any person who has previously had said exemption revoked for failure to routinely mow and maintain their property; providing for severability; providing for conflicts; and providing an effective date.

- Ms. Teri Tubbs, Zoning Official, announced this amendment was being proposed due to the number of foreclosed and/or undeveloped properties in the City, specifically those which were not eligible to be part of the Mandatory Lot Mowing Program (MLMP). She explained a process was necessary to address the issue of grass and/or weeds over 12 inches in height. She clarified the proposed amendment would reduce the time frame the City must allow prior to taking action to remedy a particular situation.
- Mr. Zajicek suggested the time period be changed to ten business days.
- Ms. Tubbs replied this was intended for foreclosed properties, adding the blight was usually fairly severe as such properties were not being maintained in any way. She noted the amendment put property owners on notice that upon failure to respond, the City would continue to maintain the property without further notice. She continued a provision was also being added to deny an application for exemption from the MLMP for any property owner who previously had an exemption to have same revoked for failure to routinely mow and maintain their property. She mentioned a method of appeal through the Code Enforcement Board was also provided. She concluded the above described amendments were intended to increase the effectiveness of the MLMP and to provide staff with additional tools to utilize in enforcing these regulations. She recommended approval of ZA-15-09, offering to answer any questions.
- Mr. Zajicek suggested making the time period seven business days, pointing out same would end up being ten days.
- Ms. Tubbs responded she would check the legality of same with the City Attorney.
- Ms. Matthews questioned a typical time frame for delinquent properties, i.e., the amount of time from the day a letter was mailed to the time some action was taken on a certain property.
- Ms. Tubbs replied she would need to research same to determine the average time.
- Mr. Zapke expressed full support of this amendment, adding he also supported Mr. Zajicek's recommendation for business days.
- Mr. Burrage concurred.
- Mr. Stevens asked why a notice of appeal must be in writing.
- Ms. Tubbs replied written notice was standard.
- Ms. Matthews called three times for any one to speak on ZA-15-09.
- Mr. Burrage MOVED, Mr. Zajicek SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
- Mr. Stevens commented the ordinance was particular to grass, which was irrelevant to business days. He pointed out grass grew on other than business days.

- Mr. Zapke MOVED, Mr. Zajicek SECONDED to recommend approval of ZA-15-09 based upon the evidence and testimony presented with a change to 10 business days.
 - VOTING AYE: Burrage, Schmidt, Viola, Zajicek, Zapke, Matthews.
 - VOTING NAY: Stevens.
 - MOTION CARRIED.
2. ZA-16-09 - An Ordinance of the City of Punta Gorda, Florida, Amending Chapter 26 of the City Code of Ordinances known as the Land Development Regulations, Article 17, Non-conformities, amending Subsection 17.5, Signs, removing Subsection (d), Multi-use Complex Signs and renumbering subsequent subsections accordingly; providing for conflict and severability; and providing an effective date.
- Ms. Tubbs stated the current Land Development Regulations (LDRs) required all non-conforming, detached sign structures for multi-use complexes to be removed or altered to be in conformity with the requirements of City Code by April 20, 2010. She noted current LDRs allowed single tenant properties to keep such non-conforming signage until the sign was destroyed, the property had a change of use or the property changed ownership. She explained removal of this provision from City Code would prevent a hardship for multi-use complex properties. She concluded with a recommendation for approval from the Urban Design Division, offering to answer any questions of the Commission.
 - Mr. Zapke commented favorably on the intent of ZA-16-09.
 - Ms. Matthews called three times for any one to speak on ZA-16-09.
 - Mr. Zajicek MOVED, Mr. Viola SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
 - Mr. Burrage MOVED, Mr. Stevens SECONDED to recommend approval of ZA-16-09 based upon the evidence and testimony presented. MOTION CARRIED UNANIMOUSLY.

OTHER BUSINESS

- A. Discussion and Recommendations - Home Occupations, Uses Permitted in Residential Zoning Districts
- Ms. Tubbs announced City Council was seeking comments from residents prior to drafting any ordinance regarding special exception criteria for home occupation requests which exceeded the limitations denoted in Section 4.22 of the City Code and in the Commission's agenda material. She requested members consider the following during their deliberations: existing permitted uses and recommended changes; conditions to be applied; limiting types of uses or businesses; limiting the number of vehicle round trips per day; limiting hours of operation; conditions and safeguards. She advised the regulations relative to this subject were written in a manner to ensure

maintenance of the residential character of neighborhoods. She drew members' attention to a draft re-write of Section 16.8, Application for Special Exception, as delineated in the agenda material, providing a brief review of same. She pointed out Section 16.8(l)(1-17) detailed approval criteria, stating a recommendation was being made, based on citizen input, wherein no special exception for a home occupation would be approved unless all criteria was met.

- Mr. Zapke commented on a conflict in that band instrument instruction was prohibited in one section but music lessons were allowed in another.
- Ms. Tubbs responded only piano lessons were currently allowed, stating it was felt brass instruments would be much louder and more detrimental to a neighborhood.
- Ms. Matthews commented she would not be in favor of saxophone or tuba lessons being provided in a residential neighborhood.
- Ms. Karen Ford suggested making a distinction between percussion, brass and woodwind instruments.
- Mr. Schmidt stated only noise levels should be considered.
- Mr. Zapke asked if piano lessons could be allowed while requiring all other musical instrument based requests to obtain a special exception.
- Ms. Tubbs responded Section 16.8(l)(11) listed several uses which could not be considered, reading same into the record.
- Mr. Stevens asked how fortune telling would be policed.
- Ms. Tubbs replied it would be complaint based.
- Ms. Matthews requested clarification of "food processing."
- Ms. Tubbs cited examples such as catering or selling canned items.
- Mr. Stan Kubik suggested denoting exclusions at the end of the section.
- Mr. Burrage expressed concern with regard to musical instruments being played in the lanai area of a home.
- Ms. Matthews opined same would be more of a Code Compliance Division issue, stating she believed the existing Code was sufficient.
- Consensus of the Commission was to make no changes.
- Mr. Zapke then expressed concern regarding the monitoring of group homes.
- Ms. Tubbs responded the Fair Housing Act required the allowance of group homes in any residentially zoned districts; however, she would need to research the issue further.
- Mr. Zajicek asked if the home occupation issue had been presented to area homeowner associations.
- Ms. Tubbs replied affirmatively, stating no comments had been received.

- Mr. Zajicek requested a copy of the Commission's agenda material be sent to each homeowner's association.
- B. Discussion - Above Ground Swimming Pools in the Special Residential Overlay (SRO) District
 - Ms. Tubbs stated there was currently no prohibition of above ground swimming pools and/or spas within the SRO District. She reminded members this zoning district was established in order to provide aesthetic control and to prevent visual blight and clutter, adding City Council was seeking comments of SRO District residents prior to possibly drafting an ordinance to address same. She pointed out some possible proposed language, as delineated in the agenda material, as well as feedback received thus far.
 - Mr. Schmidt noted "kiddie pools" were allowed for a period of time not to exceed six months but without a permit, asking how same would be enforced.
 - Ms. Tubbs replied it would be complaint driven.
 - Mr. Schmidt questioned the intent of this change.
 - Ms. Tubbs replied staff felt large, above ground pools may not be acceptable in the SRO district.
 - Discussion ensued with regard to the various styles of children's' pools.
 - Ms. Ford noted she personally utilized a wading pool for her young child but did so on their lanai.
 - Consensus of the Commission was to prohibit above ground pools other than that which could be placed within an enclosed lanai.
- C. Community Redevelopment Agency (CRA) Project Status Report
 - No discussion.
- D. Punta Gorda's Climate Adaptation Plan
 - Ms. Joan LeBeau, Chief Planner, announced the subject plan was presented to City Council in December 2008, at which time they approved a study to be done in conjunction with City staff and the National Estuary Program (NEP). She noted public workshops had been held, adding the report was complete and would be presented to City Council on November 18, 2009. She concluded the report was available on line on the NEP's web site.
- E. City of Punta Gorda Parks & Recreation Master Plan
 - Ms. LeBeau announced completion of the final draft of the subject plan, noting same was available on the City's web site for review and comment through November 6, 2009. She advised the plan would be formally presented to the Commission on November 23, 2009, and considered for adoption by City Council at their December 2,

2009, meeting. She expressed appreciation to everyone who had participated in the drafting of the plan, stating copies were available in the Urban Design Division.

F. 2010 Census Count

- Mr. David Hilston, Urban Design Manager, urged members to spread the word about the importance of the upcoming Census.
- Mr. Burrage noted a presentation on the Census was made to City Council recently, expressing surprise no questions had been raised; however, many questions were put forth at a meeting of the South County Coalition (SCC), adding much information was exchanged.
- Ms. Matthews asked if a workshop could be scheduled for any interested parties.
- Mr. Hilston replied he would research same and report back to members.
- Mr. Zapke commented on the lack of checks and balances in the Census count.
- Mr. Dennis Murphy, Growth Management Director, expressed surprise in that the last Census involved verification of a valid address.
- Mr. Burrage confirmed the representative who made the presentation did stress the importance of participating in the Census.

MEMBER COMMENTS

- Mr. Zajicek questioned the status of the banners previously in place on the U.S. 41 Bridge.
- Mr. Murphy replied the banners fell under Charlotte County's jurisdiction.

ADJOURNMENT

- Meeting Adjourned: 2:47 p.m.

Lynne Matthews, Chairman

Mary Kelly, Recording Secretary