

**PLANNING COMMISSION
MEETING
MAY 26, 2009**

MEMBERS PRESENT: Lynne Matthews, Chairman
John Burrage, Larry Hofmeister, Stanley Kubik,
Heinz Schmidt, Edward Viola, Edward Zapke

MEMBERS ABSENT: Charles Zajicek

OTHERS PRESENT: Teri Tubbs, Zoning Official
Joan LeBeau, Chief Planner
David Hilston, Urban Design Planner
Lisa Hannon, Zoning Coordinator
Jim Stevens, Alternate Commission Member
Erica Raffel, Karen Ford, Bill Folchi, Cyndee Murphy

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting - June 22, 2009
- C. Last Scheduled Meeting - April 27, 2009

APPROVAL OF MINUTES

- A. Meeting of April 27, 2009
 - Mr. Burrage MOVED, Mr. Hofmeister SECONDED approval of the April 27, 2009 minutes. MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS

- Recording Secretary Kelly swore in all participants.
- A. Public Hearings
 - 1. SE-07-09 - A Special Exception request by Erica Raffel, per Section 26-16.8 of the City Code of Ordinances, to allow a motor scooter rental and bicycle rental business to be located in a portion of the building addressed as 306 West Marion Avenue, in the City Center (CC) zoning district
 - Ms. Teri Tubbs, Zoning Official, stated the proposed hours of operation were from 10:00 a.m. to 6:00 p.m. as well as all Gallery Walk event nights. She explained a special exception was necessary because of the scooters as CC zoning district regulations did not allow for automotive rental sales. She confirmed no sales or service would be conducted at this location, and all maintenance would be done off site. She advised the bicycles and scooters would be stored inside overnight and whenever the business was not open; thus, there would be no outside storage associated with this request. She stated the proposed use would help in promoting

other downtown businesses by providing a method of transportation which would be fun for visitors and residents alike. She mentioned the existing fence would be removed; however, no other exterior changes to the structure were proposed. She concluded the request would not adversely affect neighboring properties, was in harmony with the Downtown and Comprehensive Plans, would not discourage development and would not create hazards for vehicular or pedestrian traffic; thus, the Urban Design Division recommended approval of SE-07-09.

- Mr. Burrage asked if vehicles would be entering and exiting on Marion Avenue or via the rear.
- Ms. Erica Raffel, applicant, replied the only entrances/exits were on Marion Avenue. She explained the business was proposed to assist the growing number of visitors to the area's marinas and mooring fields and to enhance the City's Linear Park. She mentioned she would personally determine whether a customer should be rented a bicycle and/or a scooter.
- Mr. Kubik commented favorably on the proposal.
- Mr. Hofmeister expressed approval of the rental of bicycles and scooters, providing the latter were under 50 ccs.
- Ms. Raffel responded the scooters would not be larger than 49.5 ccs.
- Mr. Hofmeister asked if any other allowances would be granted by approval of this special exception, pointing out the applicant had indicated her desire to utilize sandwich display type board signs. He asserted City Code only allowed same for restaurants in the CC zoning district.
- Ms. Tubbs responded signage was not a part of the special exception request, stating any signage which did not comply with City Code would have to be addressed through the variance process. She noted she did not anticipate any problem with regard to littering of signs, adding the CC zoning district was much more liberal toward businesses as to what type of temporary or business promotion signs were allowed.
- Mr. Hofmeister confirmed the applicant would be required to comply with the existing sign code.
- Ms. Raffel offered to withdraw her request for a sandwich board sign.
- Ms. Matthews interjected this special exception request was relative only to the type of business.
- Mr. Hofmeister confirmed the Commission was not being asked to vote on signage this date.
- Ms. Matthews called three times for any one to speak on SE-07-09.

- Mr. Viola MOVED, Mr. Hofmeister SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
- Mr. Burrage MOVED, Mr. Kubik SECONDED to recommend approval of SE-07-09 based on the evidence and testimony presented. MOTION CARRIED UNANIMOUSLY.
- 2. SE-08-09 - A Special Exception request by Karen Ford, property owner, per City Code Section 26-16.8, to operate a business as a licensed massage therapist out of her residence which is a single-family home addressed as 3026 Guadalupe Drive, Punta Gorda, Florida, and is located in the General Single Family-3.5 units per acre (GS-3.5) zoning district.
- Ms. Tubbs displayed an overhead of the subject location, as delineated in the agenda material, stating a special exception was required to allow a home occupation to be located in a single family residence in the GS-3.5 zoning district. She noted the proposed business would be operated solely by the homeowner/applicant, Ms. Karen Ford, adding there would be limited traffic of no more than five clients per day. She confirmed members had been provided with a letter of objection, a copy having been made a part of the agenda material, adding other letters in favor of the request had been submitted as well. She explained all clients would be seen by appointment only, with no more than one client being at the home at the same time. She advised the proposed use was not anticipated to adversely affect the use of neighboring properties, pointing out staff had received three letters of support for this request. She continued the proposed use was not in conflict with applicable district regulations nor with provisions of the Comprehensive and Downtown Plans. She confirmed there would be no change in the exterior of the residence, adding the nature of this type of business should be transparent to the neighborhood. She stated the proposed use would be such that pedestrian and vehicular traffic would not be hazardous nor conflict with the existing and anticipated traffic in the neighborhood and on the streets serving the site. She noted the business would have inspections by the Department of Health to ensure compliance with State regulations. She explained this request was the result of the current economy and a reduction of income to the applicant's household. She concluded with a recommendation for approval, noting the applicant had also requested a waiver of the \$750 application fee, again based on current economic conditions.
- Mr. Viola commented on the above mentioned letters, asking where those individuals resided in relation to the applicant.
- Ms. Tubbs replied two resided on Guadalupe Drive while the third lived on Turtle Dove Boulevard. She displayed the letters on the overhead and read each into the record.

- Mr. Kubik asked if staff had heard from the Punta Gorda Isles (PGI) Board of Directors.
- Ms. Tubbs replied she had not, for or against.
- Mr. Kubik commented while he would like to help the applicant, there may be other issues such as those depicted in the electronic mail provided to members this date. He opined the PGI Board of Directors would want to comment on this request.
- Mr. Viola added he also felt the Commission must hear from them.
- Ms. Matthews noted the electronic mail was written by Ms. Nancy Dauster, past President of the PGI Civic Association (CA); thus, her comments did have merit. She disclosed she spoke with a neighbor of the applicant on Guadalupe Drive who was adamantly opposed to the request but did not wish to go on record so as not to strain relations with their neighbors. She then pointed out Guadalupe Drive would become a major ingress/egress street once construction began on Aqui Esta Drive. She expressed sympathy with the request; however, she opined this would open up a "Pandora's Box" as stated by Ms. Dauster. She concluded she personally did not feel the request should be approved in that a domino effect may result.
- Mr. Zapke asked what type of limited home occupations were currently allowed.
- Ms. Tubbs replied businesses which were totally computer based or realtors who did not utilize their home address but rather operated by telephone or computer only were permitted, adding no supplies could be kept on site nor could any traffic be generated. She explained permitted uses included music, art or similar instruction provided no more than two students received instruction at one time.
- Mr. Zapke stated he felt music lessons and massage therapy would generate the same amount of traffic. He asked if hair styling was allowed.
- Ms. Tubbs replied it was not.
- Mr. Zapke stated it seemed there was no different between hair styling and massage therapy with regard to their effect on the neighborhood. He acknowledged special exceptions did not set precedent; however, it was difficult to adhere to same.
- Mr. Schmidt commented it seemed there would be no impact on the business owner's neighbors whether their occupation was massage therapy or music lessons.
- Mr. Kubik reiterated he felt it would be interesting to hear from the PGI Board of Directors.
- Mr. Hofmeister questioned the length of a typical massage therapy appointment.
- Ms. Ford replied 30, 60 or 90 minutes, stating she would schedule a subsequent appointment 15 minutes after the conclusion of a previous appointment.
- Mr. Hofmeister asserted music was more intense than massage in terms of traffic generation problems.

- Mr. Schmidt commented on Ms. Matthews' earlier disclosure, questioning the neighbor's main concern.
- Ms. Matthews replied they had moved into PGI with the knowledge businesses were not allowed to operate within same. She contended this would set a precedent regardless of what had been stated earlier.
- Mr. Schmidt stated he felt the Commission should base their decision on the impact to the community.
- Mr. Burrage asked Ms. Ford if she would be willing to re-open her business in a commercial area once the economy improved.
- Ms. Ford replied she was primarily a mother, stating her child was her first priority.
- Mr. Burrage suggested perhaps temporary approval could be granted.
- Ms. Tubbs responded conditions and safeguards could be attached to special exception requests.
- Mr. Viola reiterated he believed a decision could not be made without the Civic Association's rendering in that they represented a significant portion of PGI.
- Mr. Hofmeister countered this hearing had been properly advertised.
- Mr. Zapke commented this was a difficult decision for him as he felt very strongly about deed restrictions and purchasers being required to abide by same. He opined the City had allowed a fair amount of exceptions, adding he did not feel music instruction was different from massage therapy.
- Mr. Bill Folchi, PGI CA Board of Directors, announced Board members had exchanged electronic mail messages regarding this application, confirming receipt of the public notice by all 16 members. He noted there was very little discussion among members with regard to this request. He asserted his personal belief was whatever someone did in their own home was their own business provided there was no signage or any other action which could encroach upon their neighbors. He opined Ms. Dauster's correspondence carried the "Pandora's Box" reasoning to an absurd conclusion. He reiterated each Board member had been made aware of this special exception request, adding most chose not to respond at all.
- Ms. Ford stated the main concern expressed to her was relative to traffic, stating she believed same would be minimal. She requested the Commission's favorable consideration, thanking members for their time and offering to answer any questions.
- Ms. Matthews called three times for any one to speak on SE-08-09.
- Mr. Hofmeister MOVED, Mr. Viola SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.

- Mr. Burrage MOVED, Mr. Hofmeister SECONDED to recommend approval of SE-08-09 based on the evidence and testimony presented.
- VOTING AYE: Burrage, Hofmeister, Kubik, Schmidt, Zapke.
- VOTING NAY: Viola, Matthews.
- MOTION CARRIED.

OTHER BUSINESS

A. Business Events - Temporary Signage

- Ms. Tubbs announced current regulations allowed unlimited temporary event signage in the CC zoning district but limited the numbers of days same may be displayed in other zoning districts. She explained much frustration had been expressed by businesses located in the latter zoning districts regarding limitations being placed only in certain areas. She clarified temporary, promotional signs were permitted for a period of 14 days, once per quarter, in the other zoning districts, such signs to be erected no sooner than 5 days preceding the event and removed no later than 1 day following the event. She continued the 14 day limitation could not be combined in order to extend the time temporary promotional signage was allowed. She provided a detailed history of event signage as delineated in Ordinances #560-79, #1092-93, #1326-02, #1405-05, #1460-06 and #1483-07, concluding staff wished to consider amending this particular section of City Code to help promote businesses without creating extreme sign clutter or “permanent” temporary signage.
- Mr. Schmidt stated businesses should be given all possible advantages; thus, he recommended matching the regulations of other zoning districts with those of the CC district. He clarified he was referring to non-residential areas.
- Mr. Hofmeister stated he believed allowing special events 365 days per year was excessive, adding he believed some businesses in the CC zoning district abused the regulations. He spoke in favor of allowing monthly events City wide, asking if special events required a permit.
- Ms. Tubbs replied a no-charge zoning permit was required in order to allow staff to track such events.
- Mr. Hofmeister commented City Code contradicted itself in that one section allowed special events year round while the sign code did not.
- Mr. Schmidt questioned the amount of complaints regarding excessive signage.
- Mr. Hofmeister countered the majority of people were not aware of the requirements of the sign code.
- Mr. Schmidt suggested allowing once per month events City wide.
- Mr. Hofmeister agreed.

- Mr. Viola asked if many requests had been submitted.
 - Ms. Tubbs replied staff had received a letter from a business owner in the Highway Commercial (HC) zoning district objecting to the 14 day per quarter restriction. She explained the difference in regulations was particularly noticeable in the HC district.
 - Ms. Cyndee Murphy, business owner, stated she had experienced the sign code in both the CC and HC zoning districts, adding it was very frustrating to have to pick and choose what special event could be held. She further stated the restrictions against outside storage were not uniformly enforced by the Code Compliance Division. She urged the Commission to relax the regulations to allow businesses to promote themselves.
 - Mr. Zapke stated he believed the Commission had a responsibility to eliminate inequities and liberalize the rules.
 - Mr. Hofmeister reiterated the CC zoning district regulations should be tightened.
 - Mr. Kubik expressed agreement with Mr. Zapke's recommendation.
 - Consensus of the Commission was to recommend the sign code be equitable for business events throughout the commercial zoning districts.
- B. Community Redevelopment Agency (CRA) Project Status Report
- Ms. Matthews confirmed there were no questions regarding CRA projects.
- C. City of Punta Gorda Parks & Recreation Master Plan
- Ms. Joan LeBeau, Chief Planner, directed members to the following link to the City's web page:

www.ci.punta-gorda.fl.us/departments/commdevelopment/Rec&OpenSpaceMastPlan.htm)

She requested members' continued input, stating the first section/introduction of the Master Plan was now available on line. She explained there would be three other main sections followed by some technical appendices. She stated staff hoped to present the final draft of the Master Plan to the Commission in June or July 2009.

- Mr. Kubik asked for a copy of the Master Plan by electronic mail.

MEMBER COMMENTS

- Ms. Matthews asked if a Charlotte County property which was annexed into the City and underwent new ownership was required to adhere to current regulations.
- Mr. David Hilston, Urban Design Manager, clarified Ms. Matthews was referring to a restaurant on U.S. 41, stating prior regulations would apply as the business was a restaurant before being annexed.
- Ms. Matthews pointed out the business also had freestanding signs in front.
- Mr. Hilston responded the Code Compliance Division could cite the owner for that violation.

ADJOURNMENT

- Meeting Adjourned: 2:55 p.m.

Lynne Matthews, Chairman

Mary Kelly, Recording Secretary