

**PLANNING AND ZONING BOARD MINUTES
THURSDAY, OCTOBER 7, 2021 - 1:30 PM
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

PRESENT: Chairman, Steven Lauer; Vice Chairman, Robin Pelensky; Members: Theodore Perry, Jose Prieto, and Alternate Member #1, Richard Cahoy **Also Present:** Planning and Development Director, Jason Jeffries, Cheri Fitzgerald, Principal Planner; City Attorney, John Turner and Deputy City Clerk, Sherri Philo

Excused Absences: Jeb Bittner and Elliese Shaghnessy

Today's meeting was called to order at 1:30 p.m.

I. PRELIMINARY MATTERS

A. Agenda Additions and/or Deletions

None

II. APPROVAL OF MINUTES

A. Special Call/Workshop Meeting – July 29, 2021

Mrs. Pelensky made a motion to approve the minutes of the July 29, 2021 Planning and Zoning Board Special Call/Workshop meeting. Mr. Prieto seconded the motion and it passed unanimously.

B. Regular Meeting – August 5, 2021

Mr. Prieto made a motion to approve the minutes of the August 5, 2021 Planning and Zoning Board meeting. Mr. Perry seconded the motion and it passed unanimously.

III. PUBLIC COMMENT

None

IV. PUBLIC HEARINGS

[Quasi-Judicial]

A. Site Plan Application Submitted by William Brognano and Toby Lamm for the Construction of a Ten-Unit Multiple-Family Residential Apartment Building Located at 1845-1895 42nd Avenue (#SP21-000001)

The Chairman read Site Plan Application #SP21-000001 submitted by William Brognano and Toby Lamm by title only.

There were no ex parte communications reported.

The Deputy City Clerk swore in staff and all witnesses testifying for today's hearing en masse.

The Chairman noted that all diagrams, photographs and other exhibits must be marked for identification and kept by the City Clerk.

Mrs. Cheri Fitzgerald, Principal Planner, went over staff's report accompanied by a Power Point presentation with the Board members (attached to the original minutes). Staff recommends approval as outlined in staff's report.

Mr. Joseph Schulke, of Schulke, Bittle and Stoddard, who has been sworn in, said that he was present to answer any questions of the Board.

Mr. Cahoy referred to the site where the dumpster would be located. He asked is he correct that part of the dumpster would be in front of the last apartment to the south.

Mr. Schulke answered yes.

The Chairman opened the public hearing at 1:46 p.m.

At this time, the Deputy City Clerk swore in Mr. Navin Wadhvani.

Mr. Navin Wadhvani, who has been sworn in, asked how much space is between the apartments and his backyard. He said in looking at the plan it appears that the dumpster is going to be located right next to his house.

Mrs. Pelensky asked where his house is located.

Mr. Wadhvani said that his house is right next to this site on the south side.

Mrs. Fitzgerald reported that this meets all the setback requirements.

Mr. Lauer asked where would the dumpster be located.

Mr. Schulke estimated that the dumpster would be about 35-feet from the property line so it would probably be about 55-feet from the dumpster to his house. He noted that the dumpster would not be visible from the west, east, or south side because there would be a six (6) foot concrete wall around it and you would only see the gates on the north side. He reported that there would also be landscaping around the dumpster and around the property line.

The Chairman closed the public hearing at 1:50 p.m., with no one else wishing to be heard.

Mr. Prieto made a motion to approve Site Plan Application submitted by William Brognano and Toby Lamm for the construction of a 10-unit multiple-family residential apartment building located at 1845-1895 42nd Avenue, #SP2-000001. Mr. Perry seconded the motion.

Mr. John Turner, City Attorney, added based on competent substantial evidence.

Mr. Prieto responded yes. The motion passed 5-0 with Mr. Cahoy voting yes, Mr. Perry yes, Mr. Prieto yes, Mrs. Pelensky yes, and Mr. Lauer yes.

V. DISCUSSIONS

Mr. Jason Jeffries, Planning and Development Director, reported that each of the following items relate to changes in State Legislation.

A. Mobile Food Vendors (Food Truck) Registration

Mr. Jeffries went over staff's report accompanied by a Power Point presentation with the Board members (attached to the original minutes). He said it is staff's recommendation that they create a separate category for mobile food vendors within the temporary use section of the Code and remove it from being as part of a special event permit requirement. Staff is looking for the Board's feedback on what type of time, placements, constraints, and location that they would like to see for this type of temporary use placed on properties.

Mrs. Pelensky referred to the proposed change, *allow one (1) or two (2) trucks at a time*. She asked what if someone has a really big parking lot. She asked why would they restrict them to having just two (2) trucks.

Mr. Jeffries noted that the size of a parking lot relates to the use of the site. He said there are some large parking lots, such as the Publix parking lot on Miracle Mile, where most of the day it is 60% full so when you introduce a use that is going to create some additional demand the question is are they then creating a parking issue.

Mrs. Pelensky asked what is the rationale to the proposed change, *operate from permanent parking surfaces, not in open space or landscape buffers*.

Mr. Jeffries explained that they don't want food trucks to disrupt the operation of the stormwater.

Mrs. Pelensky questioned a lawn area.

Mr. Jeffries said the City currently has rules in the Code where you cannot park in the front yard.

Mrs. Pelensky said to her they were talking about a truck parking on the grass for a few hours. She did not see why that was a problem.

Mr. Jeffries said it is up to the Board if they want to review this. He noted that Indian River County and Sebastian requires the trucks to be on a hard surface.

The Chairman opened public comments at 2:12 p.m.

Mr. Michael Malone, of Walking Tree Brewery, said their business utilizes food trucks and they have been doing this under a Special Events Permit for some time. He said that he is encouraged that changes are being made, however he does see some issues with what has been proposed. He explained that if it is going to be at the blessing of the property owner, why would they put in more restrictions. He said limiting it to how many times a week you can have a food truck does not seem like something the City should regulate. He said that he does think the City is moving in the right direction.

Mr. Lauer asked what about the proposal to limit the trucks to one (1) or two (2).

Mr. Malone felt that should be based on the area. He said some farm stores have 200 acres so why would they limit them to two (2) trucks. He said that he could see some kind of restriction based on the space you have.

Mr. Lauer asked what about the proposal to limit them to parking surfaces.

Mr. Malone said obviously they don't want the trucks in a retention area. However, they have a grassy area at their location and they have food trucks, which are only there for a few hours. He said

when they have the Food Truck Frenzies at Riverside Park the trucks are located in a grassy field.

Mr. Cahoy asked is the temporary use authorization overly restrictive.

Mr. Malone answered yes. He explained that they are only permitted to have a food truck for 28 days per year. They are also permitted to have two (2) one (1) day events. He said only allowing a food truck for 28 days per year is very restrictive to their business. He said there are tons and tons of food truck vendors in Brevard County, St. Lucie County, and down south. He said Indian River County and the City of Vero Beach does not have a large population of food trucks because they are so restrictive. He felt that loosening this and making it a special use that does require a permit, as the State Statute states, would help those people run their business and it would give an opportunity to someone who wants to open a food truck rather than having a brick and mortar business.

Mrs. Beverly Parris said that she does the marketing for The Source and they were lucky enough to receive a grant to have a food truck. She reported that their food truck is part of a culinary program that they have for the homeless. Part of the program is for them to work with the public so to eliminate that ability for them it is eliminating their possibility of getting a job. She said their truck and other food truck vendors work as partners with businesses where they bring their food truck to help their employees be able to eat at their desk and not have the convenience of not giving up time from their job to go out to eat. She reported that she investigated this and found that Florida is a fan of food trucks and there are only a few cities who are in the same situation that Vero Beach is in. She said that she recently received notifications from two (2) different newspapers who want to profile the food trucks on the Treasure Coast in order to help them earn a living. She felt that if an owner of a business wants to have a food truck and they have the space then they should be allowed to do this. She hoped that the Board would look favorably in changing the zoning.

Mr. Anthony Zorbaugh, Executive Director of The Source, said their food trucks are used for job training for individuals in the community. He said they have some really good partners who have hired their students from their food truck. He reported that they launched their second food truck several months ago and would be launching their third truck in 2022. However, because of the zoning restrictions in Vero Beach they are hardly here. They are in Port St. Lucie and Brevard County. They would love to be here in this community every day, but there are too many restrictions.

Mr. John Turner, City Attorney, said the Board is not used to having a lot of public discussion. He said it is refreshing and the people have a right to speak. However, he requested that they try to limit their remarks to three (3) minutes so they all can be heard. He said that he knows this is important and they are compassionate about it. However, that is a rule they have with the City Council as part of their public presentation. He said that he did not want to have the Board seem like they were restricting people from what they want to say and how they want to address the Board. But, the reason he is stating this is because they want to try to get everyone up to the dais and that the Board takes care of their business within a reasonable period of time.

Mrs. Pelensky asked Mr. Zorbaugh how many days do they operate per month in the City of Vero Beach.

Mr. Zorbaugh said they could operate every day, but what shut them down was that there was a business who had several food trucks there on several different days and someone from the City cited them for not having a Special Event Permit so that business shut the food trucks down. He said they don't want to go anywhere that they are not wanted so they go to Brevard County and to St. Lucie County.

Mr. Prieto asked is anyone present for today's meeting that is opposed to the food trucks. He asked is there any restaurant owners who feel that if there is a food truck available it will take away their business.

Mrs. Linda Moore, owner of the Kilted Mermaid, said restaurant owners are not scared of food trucks at all. She said having a food truck once or twice a week does not make any sense. She said there is no upside to this. She is a restaurant owner and is all for food trucks.

Mr. Prieto asked what was the thinking of allowing food trucks once or twice a week.

Mr. Jeffries said it is because it is a temporary use. He said if the Board doesn't have an issue with allowing food trucks on a site every day staff would do some research on it. He reported that he did speak with someone, and the conversation didn't really go anywhere, and they wanted to take a lot and turn it into something like a beer garden where food trucks would be there every day.

Mr. Perry said that he went to a food truck bizarre in Naples, Florida, which was a permanent structure with about eight (8) food trucks with sidewalks down the middle and restrooms between them.

Mr. Lauer said that he did not see a problem with having the trucks being on a site every day, but he does not think that they should be there all night. Based on what he heard from the public today, that would not be a problem. He didn't think the parking lot size would be a huge problem in Vero Beach because there are not a lot of huge parking lots. He said they could put some type of restriction that requires a certain amount of parking spaces in order to have a truck.

Mr. Perry said that he doesn't want to limit the hours of food trucks because they might be serving breakfast, lunch, and dinner. He would rather see it to where they have to vacate the property for at least one (1) hour per day.

Mr. Jeffries suggested that they link the time permitted to be on a site to the noise ordinance hours. The Board members agreed.

Mr. Cahoy said that he would like to see the subject of restrooms addressed in future discussions.

Mr. Turner said that would have to be addressed for public health and safety purposes.

B. Home Based Business

Mr. Jeffries went over staff's report accompanied by a Power Point presentation (attached to the original minutes).

Mrs. Honey Minuse, Councilmember, said there is great passion throughout Florida about the Legislature mandating them to have home based businesses. She said that she addressed the Legislative Delegation about this in that this disrupts the pattern of living in residential neighborhoods. She said that it was her hope that they could repeal the Bill, but Senator Debbie Mayfield explained that it was very difficult to repeal a Bill. She reported that State Representative Erin Grall is working with the Florida League of Cities to see what she can do. Hopefully Representative Grall would sponsor a Bill for them. She reported that the Florida League of Cities sees this as a huge issue.

Mr. Lauer said the City has parking regulations where only the people permitted to park in a residential space are the people who live there. Now they would have two (2) employees and

customers. He asked is there a way they could change the parking regulations.

Mr. Jeffries said they can't require more parking than what is required for any other residents, which is two (2) parking spaces per unit.

Mrs. Minuse said so now they would have customers driving around a neighborhood waiting for a parking space.

Mr. Ken Daige said that he has a home based business and there are rules that they follow. He said this is going to have a severe adverse effect on his neighborhood and on other neighborhoods. Any use is permitted on the property. He said this has to be changed. He is not afraid of Tallahassee and they can change this if they have enough people behind them.

C. Public Right of Way Ordinance Revision

Mr. Jeffries went over staff's report accompanied by a Power Point presentation with the Board members (attached to the original minutes).

D. Micro-mobility Device Regulation

Mr. Jeffries went over staff's report accompanied by a Power Point presentation with the Board members (attached to the original minutes).

VI. PLANNING DEPARTMENT MATTERS

Mr. Jeffries reported that their next meeting would be held on Thursday, November 4, 2021 at 1:30 p.m.

VII. BOARD MEMBERS' MATTERS

None

VIII. ADJOURNMENT

Today's meeting adjourned at 3:22 p.m.

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