

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

**PRESENT:** Vice Chairman, Robin Pelensky; Member, Jeb Bittner, Alternate Member #1, Richard Cahoy and Alternate Member #2, Elliese Shaghnessy **Also Present:** Planning and Development Director, Jason Jeffries; City Attorney, John Turner and Deputy City Clerk, Sherri Philo

**Excused Absences:** Jose Prieto, Theodore Perry, and Steven Lauer

Today's meeting was called to order at 1:31 p.m.

**I. PRELIMINARY MATTERS**

**A. Agenda Additions and/or Deletions**

None

**II. APPROVAL OF MINUTES**

**A. Regular Meeting – June 17, 2021**

**Mr. Bittner made a motion to approve the minutes of the June 17, 2021 Planning and Zoning Board meeting. Mr. Cahoy seconded the motion and it passed unanimously.**

**III. PUBLIC COMMENT**

None

**IV. PUBLIC HEARING**

**[Legislative]**

- A. An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by Amending Chapter 61, Article I, Single-Family Residential Districts, to Allow Construction of Private Rear Alley Driveways with Common Access Easements; Amending Chapter 70, Section 70.03, Definitions, to Add a Definition of Alley, Private; Providing for Codification; Providing for Conflict and Severability; Providing for Correction of Scrivener's Errors; and Providing for an Effective Date (#Z21-000008-TXT)**

The Vice Chairman read the Ordinance by title only.

Mr. Jason Jeffries, Planning and Development Director, went over staff's report accompanied by a Power Point presentation (attached to the original minutes). Staff recommends approval of the text amendment.

Mr. Robert McNally, Owner of Palm Coast Development, stated that he is a resident of Vero Beach and his company has done a lot of noteworthy projects, such as the Humiston Park improvements, the Silver Palm Townhouses, the Quail Valley Lodge, the Quail Valley Fitness Center, and the Quail Valley Tennis Center, etc. He said they acquired this property a few months ago (765, 775, and 785 Azalea Lane) because there were three (3) pieces of property right next to each other, which would give them the opportunity to do something that is very special as an enclave. He said there are a lot

of Oak Trees mostly at the forward part of Azalea Lane that has a beautiful canopy over the sidewalk and he felt that it would be nice to be able to approach the project from behind off of Eagle Drive. He then showed the Board members photographs of the property, a tree survey, and a site plan showing a silhouette of the proposed homes (on file in the City Clerk's office). He stated that they did a tree survey and traced where all the trees were along Azalea Lane and took photographs along the sidewalk and it was his preference not to clear it and leave it as it is. He said there is a lot of traffic and parking along Azalea Lane so he felt it would be better if people were not backing onto Azalea Lane from their driveway. Also, because Eagle Drive is not that active in that area he felt it would be a better adaptation to have access to the property from Eagle Drive. He proposed that this was a good idea because of the traffic on Azalea Lane and because of the aesthetics of the site.

Mr. Cahoy said there is a project on Bougainvillea Lane and Azalea Lane that has a similar design and he didn't know if that was considered a private alley, but it was a common driveway. He assumed that this was similar. He asked does that eliminate the need for a driveway agreement between the parties.

Mr. McNally reported that there would be a joint agreement between the property owners to maintain the driveway.

Mr. Bittner reported that he owns the home to the left of the far left lot of this property. He said that he does like the design. He asked if there was residential behind them instead of the AT&T building, would it be appropriate to put in the text amendment with some type of screening.

Mr. McNally said that will be severely well screened.

Mr. Jeffries suggested if the Board were to approve this, they could approve it subject to adding a provision about screening. He said that he could work with the City Attorney to come up with the appropriate language prior to bringing it before the City Council. He said this is something that should be considered as a criteria.

Mr. Bittner asked would there be something in the agreement or in the text amendment that would prohibit storage of vehicles on the driveway.

Mr. McNally answered yes. He showed on the silhouette of the proposed homes where the garage entry and the area for additional parking would be located.

Mr. Bittner asked would there be a prohibition against parking on the travel-way.

Mr. McNally answered yes.

Mr. Bittner asked if you have rear entry, is parking allowed on the grass.

Mr. Jeffries reported that parking is allowed on the grass in the right-of-ways in the City as long as there is not a curb.

Mrs. Pelensky said it was outstanding that they were saving the trees.

Mr. Jeffries said that is another justification for this text amendment. He explained as the City is putting a priority on tree protection you have to allow for alternative design methods.

Mr. Bittner said they are promoting the residential character of this street as they move forward and this is an example of a text amendment to do that.

Mr. Jeffries noted that this text amendment is Citywide to all residential zoning districts and not just this one (1) street.

The Vice Chairman opened the public hearing at 2:01 p.m.

Mr. Cahoy commented that Eagle Drive is very special and a unique public road and he hopes this will not change the character of Eagle Drive by redeveloping properties that are on Eagle Drive.

The Vice Chairman closed the public hearing at 2:02 p.m., with no one from the public wishing to be heard.

**Mr. Bittner made a motion to recommend approval by the City Council the Ordinance of the City of Vero Beach, Florida, amending the Land Development Regulations by amending Chapter 61, Article I, Single-Family Residential Districts, to allow construction of private rear alley driveways with common access easements, amending Chapter 70, Section 70.03, Definitions, providing for conflict and severability, providing for correction of scrivener's errors, and providing for an effective date, as well as an amendment to the language that would add the requirement for screening as determined by the Planning and Development Director. Mr. Cahoy seconded and it passed 4-0 with Ms. Shaghnessy voting yes, Mr. Cahoy yes, Mr. Bittner yes, and Mrs. Pelensky yes.**

## **V. DISCUSSION REGARDING SUSTAINABLE INCENTIVE ORDINANCE**

Mr. Jeffries reported that this item was set for a public hearing before the City Council on June 15, 2021, and the applicant requested that the City Council continue the public hearing to their August 17, 2021, meeting in order to provide time for additional changes or improvements to the Ordinance based on further discussions with the Planning and Zoning Board. He then gave a Power Point presentation (attached to the original minutes). He reported that they have three (3) Planning and Zoning Board meetings between today and the August 17, 2021, City Council meeting. He stated that today they want to hear the areas the Board feels need improvements to be made and from there he could work with the applicant and do some additional research. He reported that he has had some conversations with some Green Building experts and the City actually has someone living here who works for the Green Building Council. He reported that they are willing to come before the Board and give a presentation, which he could probably schedule for their next meeting.

Mr. Barry Segal, Attorney representing Mr. Ryan Jones and Mrs. Sara Jones, applicants, reported that they listened to the Board's comments and questions from when this was previously before them and it generated a lot of changes to the program. One (1) thing they looked at is to make changes on how are they going to verify this is something that is kept up because once you build the house with the Floor Area Ratio (FAR) change you can't take that back. An example is one (1) of the issues the Board had was the cisterns. That was one (1) of the programs that could be installed that could lead to an incentive. The Board was worried that the cisterns could be put in, but not maintained and the City was not going to inspect them. What they did do was take a lot of the other incentive inducing practices and codified them in a way where they would have to go on their site plan. He said anyone who goes into this program would have to have a site plan. Therefore, if you don't keep up with the requirements of the site plan then that would be a site plan violation, which gives the City an easy and inexpensive way to enforce this because it would become a code enforcement issue. Another issue the Board had was with the trees so they made sure if there is a reduction in the open space requirement that it doesn't affect the City's tree requirements. They also added a sunset provision of three (3) years where Mr. Jeffries would report back to the City Council.

Mr. Bittner said one (1) thing that he has a general problem with is they are talking about the green benefits, specifically energy conservation and what they are using to incentivize those green benefits is a reduction in open space and an increase impervious area; things that are contrary to conservation. He said that most of these items in the program are happening anyway with new construction. He said that he is all for the things listed in the tables, but what he has a problem with is the giveaway of a decrease in open space and an increase in building footprint. Those things are not a benefit to the environment. He said they might be able to set up where a building permit could be waived if these things are followed.

Mr. Segal said that he didn't think anyone left their meeting thinking that the Board wasn't for the green initiatives. If anything, what they took away from that meeting was that there was a little bit of skepticism as to how they were going to make this work and that is where they targeted a lot of these changes. He said this is a simple basic program to give some incentives. He is not saying that this has to stay in place like it is for eternity. What he is saying is this is something to start with and to let it grow into a better program. Just because it is an Ordinance doesn't mean that they can change and improve it. He felt that they do want to take advantage of having two (2) or three (3) meetings on this because the comments they received from the Board the last time this was in front of them made this a better Ordinance.

Mr. Bittner asked what is the benefit of open space reduction to the environment. He said one (1) of their proposals is that 50% or more of the electric use would come from green energy. He asked who is going to audit Florida Power and Light's (FPL's) electric bill on a monthly basis.

Mr. Segal suggested that they take some of the more variant or subjective things out. He said they need to find a way that they are going to make sure that if they are giving someone this incentive that it lasts forever and they need a way that they can go in and enforce it.

Mr. Bittner said compliance enforcement down the road is a complicated mousetrap. He said they could have a building fee set up that would cost so much per square foot and if they check the boxes that could be waived. His point is that he doesn't think they are going to catch it, even though the City has all these systems and policies.

Mrs. Pelensky said it was mentioned that someone from the Florida Green Building Council lives in the City of Vero Beach.

Mr. Jeffries said that she works for the United States Green Building Council (USGBC).

Mrs. Pelensky said they have a limited number of Board members present today and she would strongly suggest that they invite her or someone representing the USGBC to attend one (1) of their meetings.

Mr. Jeffries believed that the (USGBC) is open to attend their next Board meeting.

Mrs. Pelensky stated that the American Society of Landscape Architects has a wonderful program called the Sustainable Sites Initiative that addresses the land and the impact on the land more than the architecture so she felt it would be a nice blend to look at both of them. She felt it would be good to get some professionals to speak with them so they can make some recommendations to the City Council. She then referred to the example of other Florida entities and municipalities extending incentives (on file in the City Clerk's office). She said most all of them are incentives from another organization and not the municipality.

Mr. Segal said that he didn't think that was what the City wanted. He thought that the City wanted to

take the lead and give some initiative for this. He would hate to see a great opportunity be passed up because they are worried about the skepticism of the people who would later break the law by not abiding by their site plan; by running the risk of not being caught. He said they can't kill an opportunity because they are afraid of how people may later break the law.

Mrs. Pelensky said that is why she feels it is important to get some professionals to come before the Board who can explain how that would work. She said they could increase the percentage of native plant material or the tree requirement. She felt they needed to get more specific on the land than they do on the actual building.

Mr. Segal said that was something that was added to the program. He said there is a really big push for native vegetation in that it is great for the environment, it is great for the water, and it is great for the land use.

Mrs. Pelensky asked what are they looking at to present to the City Council.

Mr. Jeffries said the commitment to the City Council was to bring this back before the Board so they could work on improving the Ordinance. He said at their next meeting they would bring someone from the USGBC to give a presentation.

Mr. Bittner said there is some skepticism on his part and he has seen these programs implemented and they are not always as successful as it sounds at this initial stage. He said before their next discussion he would like to know what is required of the City by the State. He also would like to understand what the City's ability is to have a green impact fee. He thinks this is a good thing to do and that they need to look at more than just Mr. Segal's client, but to drive it for all new construction and that would be a combination of a green building code and a green impact fee as one (1) of the discussion points that the Board has and the City Council has rather than just taking what was presented by an applicant who wants to build a house.

Mrs. Pelensky felt it should not be just for new development. She felt that it was very important to include renovations.

Mr. Segal said it would be across the board and not just for new construction.

Mrs. Pelensky recommended that the Board members read through the information prior to their next meeting and to try to do some research on it.

Mr. Cahoy asked is there any kind of incentive to reduce the ground floor FAR in favor of increasing the height and floors above the ground floor.

Mr. Jeffries said they could include that in this program.

Mrs. Pelensky suggested that they look at cities, such as Sanibel and Long Boat Key that are on the barrier islands.

Mr. Cahoy suggested that they treat their next meeting as a workshop and have people in attendance who have experience on both sides of the issue.

## **VI. PLANNING DEPARTMENT MATTERS**

Mr. Jeffries reported that their next regular meeting was scheduled for July 15<sup>th</sup>, but has been cancelled because of the City Council Budget Hearings. He asked the Board if they could reschedule

that meeting to July 22<sup>nd</sup>. After discussion, the Board members agreed to hold a Special Call/Workshop meeting on Thursday, July 29, 2021, at 1:30 p.m. and that they would still hold their regular meeting on Thursday, August 5, 2021, at 1:30 p.m.

**VII. BOARD MEMBERS' MATTERS**

None

**VIII. ADJOURNMENT**

Today's meeting adjourned at 3:19 p.m.

/sp