

**PLANNING AND ZONING BOARD MINUTES
THURSDAY, AUGUST 5, 2021 - 1:30 PM
COUNCIL CHAMBERS, CITY HALL, VERO BEACH, FLORIDA**

PRESENT: Chairman, Steven Lauer; Members: Jose Prieto, Jeb Bittner and Alternate Member #1, Richard Cahoy **Also Present:** Planning and Development Director, Jason Jeffries; Assistant City Attorney, Jenny Flanigan and Deputy City Clerk, Sherri Philo

Excused Absences: Robin Pelensky, Theodore Perry and Elliese Shaghnessy

I. PRELIMINARY MATTERS

A. Agenda Additions and/or Deletions

Mr. Jason Jeffries, Planning and Development Director, referred to item 4-C) on today's agenda. He reported that the applicant requested a continuance (letter from Mr. Barry Segal attached to the original minutes).

Mr. Lauer said they will deal with that as the last hearing. He asked is that correct.

Mr. Jeffries said it is actually the third of the four (4) hearings on today's agenda.

II. APPROVAL OF MINUTES

A. Regular Meeting – July 1, 2021

Mr. Bittner made a motion to approve the minutes of the July 1, 2021 Planning and Zoning Board meeting. Mr. Prieto seconded the motion and it passed unanimously.

III. PUBLIC COMMENT

None

IV. PUBLIC HEARINGS

[Legislative]

- A. An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by Amending Chapter 62, Article X, Downtown District, to Add Craft Distilleries to the List of Permitted Uses with Use Conditions in the DTW, Downtown Zoning Districts; Providing for Codification; Providing for Conflict and Severability; Providing for Correction of Scrivener's Errors; and Providing for an Effective Date (#Z21-000010-TXT)**

The 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 with the Board members (attached to the original minutes). Staff recommends approval of this text amendment. He reported that there are applicants present for today's hearing in person and via GoToMeeting.

Mr. Bill Eggers, Applicant, was present via GoToMeeting. He said that he is an owner of a new

restaurant and their plan is to share the space with the 21st Amendment Distillery. They are requesting that microbreweries with the distribution of alcohol be permitted in the downtown area.

Mr. Jeffrey Palleschi, Applicant, said that he is the owner of 21st Amendment Distillery. He reported that this would be a craft distillery that would produce spirits with the focus on retail sales. They would provide educational tours so people could see the process of how the spirits are made and be able to taste their products. They also would be able to stay if they wanted to sit and have a drink. They also will have a separate retail store to sell their products.

Mr. Bittner asked how does the liquor control, the sale of food, etc., work in a situation like this.

Mr. Palleschi explained that there is a State and Federal license for distilleries, which they will have both. He said distilleries are not required to have food. However, having a restaurant right next door would be very convenient and if this is approved they plan on doing some things together.

Mr. Jeffries explained that what they are proposing here is to have the combination of retail and a restaurant to be compatible with the zoning district.

The Chairman opened and closed the public hearing at 1:46 p.m., with no one wishing to be heard.

Mr. Prieto said that he looks at this as an attraction for the downtown area.

Mr. Prieto made a motion to approve the Ordinance. Mr. Bittner seconded the motion and it passed 4-0 with Mr. Cahoy voting yes, Mr. Bittner yes, Mr. Prieto yes, and Mr. Lauer yes.

[Legislative]

- B. An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by Amending Chapter 62, Article XIII, Section 62.504 Site and Building Development Standards, to Add Open Space Standards in the Cardinal Drive / Ocean Drive Commercial Overlay District; Providing for Codification; Providing for Conflict and Severability; Providing for Correction of Scrivener's Errors; and Providing for an Effective Date (#Z21-000011-TXT)**

The Chairman read the Ordinance by title only.

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

Mr. Lauer asked for an example on how this would work. He asked how it would promote pedestrian oriented development.

Mr. Jeffries felt that by having more outdoor seating and outdoor cafes it promotes more of a pedestrian environment.

Mr. Cahoy said some years ago Mulligan's added a similar outdoor seating arrangement and one (1) of the main issues they had was parking. The way he looks at this is that it is a way for a developer and/or business to increase dining room seating. He asked how does that dovetail into the parking.

Mr. Jeffries said if it is a covered area additional parking would be required.

Mr. Cahoy asked where is there the opportunity to provide additional parking to accommodate

something like this.

Mr. Jeffries said if someone was to redevelop a site they have to provide additional parking so if there is not enough space for a parking lot on the ground then they would have to provide a parking garage.

Mr. Derick Arden said that he is present for today's meeting on behalf of building owners and tenants in the central beach area. He said they are not looking to make any changes to the parking regulations or anything like that. It is just simply so that a restaurant would be permitted to add some seating.

Mr. Lauer asked what would this permit that is not currently permitted under the Code.

Mr. Arden said if you had some green space you could take up some of that green space by expanding an existing sidewalk or walkway to add seats.

Mr. Lauer said if they had an office building on Ocean Drive that had a landscaped area in front of the building, this would allow them to take that landscaped area and put in a terrace and that would count as open space.

Mr. Arden explained that they would only be reducing the open space by a certain percentage. They are not wiping out the open space requirement, but reducing it.

Mr. Lauer referred to staff's report and read in part from Chapter 62, Article XII, Section 62.504 (k) – Open Space, “...shall include terraces, patios, areas under arcades, and boardwalks, as well as landscaped areas.” He said there is no percentage listed that he could see. He said let's say that the requirement is 20% and you are meeting the requirement by having a landscaped area as your open space, you could take all of that 20% and turn it into a terrace for outside dining and there wouldn't be any parking requirements unless it was under cover. He asked is that correct.

Mr. Jeffries answered yes.

Mr. Bittner said in using the Chairman's example, as he understands it you could count that terrace as open space.

Mr. Jeffries said that is how it applies to the downtown area, but not in the Cardinal Drive / Ocean Drive Overlay District. This Ordinance would now allow that.

Mr. Prieto said at the end of the day this would be similar to what is allowed downtown.

Mr. Jeffries said that is correct.

The Chairman opened and closed the public hearing at 2:16 p.m., with no one wishing to be heard.

Mr. Prieto made a motion to approve the Ordinance. Mr. Bittner seconded the motion and it passed 3-1 with Mr. Cahoy voting yes, Mr. Bittner yes, Mr. Prieto yes, and Mr. Lauer no.

[Legislative]

C. An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by Adding Sustainable Development Incentives by Creating Chapter 79, Development Incentives, Article II, Sustainable Development Incentives; Providing for Codification; Providing for Conflict

**and Severability; Providing for Correction of Scrivener's Errors; and
Providing for an Effective Date (#Z21-000005-TXT)**

The Chairman said there is a request that this item be tabled. He then read the Ordinance by title only. He asked if there was anyone present today here to discuss this item other than Mr. Segal. There was one (1) person present in the audience regarding this item.

Mr. Barry Segal, Attorney on behalf of the applicants, said they were alerted that several members of the Board were not going to be present. He said that the City Council sent this matter back to the Planning and Zoning Board and his concerns were that without the other members of the Board being present that it would not get the full treatment that is needed to send it back to the City Council. He just wants to make sure that it gets the full benefit of the Board, which is the reason for asking that they continue this.

Mr. Lauer asked the gentleman in the audience if he would be prejudiced by the Board tabling this hearing.

Mr. Mike Johannsen answered no, not as long as they receive notice on when it will be heard. He said there were several people in the audience for this item, but when it was announced that it was tabled they left so he doesn't think they would have the community involvement that would normally be involved except for him.

Mr. Lauer asked does the Board have to vote on this.

Mr. Jeffries said they would have to vote to continue this hearing to a date specific.

Mr. Bittner asked do they have a date certain.

Mr. Jeffries thought the request was to continue the hearing to their next meeting, which would be August 19, 2021.

Mr. Bittner and Mr. Prieto said they would not be available to attend the August 19, 2021, meeting.

Mr. Jeffries said they could move it to their September 2, 2021, meeting.

Mr. Bittner said if the intent is to have a full Board present then they should postpone this to a date where they would have the full Board in attendance.

Mr. Segal said that he would hate to kick this down the road too far.

Mr. Bittner said they could have the hearing today.

Mr. Segal said they could hold the hearing today. He said that he is concerned about Mr. Johannsen's comments that there were people who may not have spoken in favor of their application, but at the same time he would have concerns that they left for the wrong reason.

Mr. Cahoy said they have a public comment in the form of additional exhibits, which are representing the public's interest and they expect them to have this meeting today. He said that he is one (1) of the alternate members that Mr. Segal addressed in his letter, however he has served on this Board for eight (8) years and an involved participant as the record will show. He thinks that this hearing should move forward.

Mr. Lauer said as he looked around in the audience, the people who left were present regarding the microbrewery (item 4-A) on today's agenda) and not for this hearing and that was the owners of property that was subject for development. That is the reason they left. He is fine with going forward with this hearing today. He said they definitely did not make a decision to table this matter. They clearly announced that this was going to be discussed when it came up (when they got to this item on the agenda).

Mr. Segal said that he would withdraw their request for a continuance.

At this time, Mr. Jeffries went over staff's report accompanied by a Power Point presentation with the Board members (attached to the original minutes). Staff recommends approval.

Mr. Segal thanked the Board for all the work they put into this matter. He said this is an excellent Ordinance and it needs to go through. He said this is an important first step and he didn't think the Board should look at this as a final step in the City's energy efficiency program. He said this does not have to be perfect, it does not have to be a long shot right down the middle, and it does not have to be free of loopholes because they would never get anywhere if they were waiting to pass legislation based on strictly that standard. He said they removed or changed a lot of things that the Board was concerned about. The standards have become tougher and the practices have become more updated. He said they removed a lot of the concerns the Board had with expanding the Floor Area Ratio (FAR) limiting how it is going to apply. He said they are not talking about overtaking neighborhoods with larger structures. He said setbacks and the FAR is still intact. He said this is an excellent first step. They think that the Board's recommendation to the City Council would be an excellent move to allow the City to move forward as a green community and to establish excellent practices demonstrating the need for energy efficiency. He said let's not be 10-years down the road from now asking why didn't we do this when we had the chance. This is not the end of the process. It is just the beginning. They are asking the Board to recommend to the City Council that they take this first step.

The Chairman opened the public hearing at 2:37 p.m.

Mr. Mike Johannsen, Chairman of the Board of Directors of the Indian River Neighborhood Association (IRNA), said they have looked into this issue and couldn't agree more that they need to go forward with energy efficiency and doing better for their green spaces. Having said that, their review of the issue is that they were having a hard time finding the "pony." It doesn't seem to be in the public's interest as far as they could tell. He said the IRNA has about 2,000 members and the Clean Water Coalition (CWS) has joined them even though they were not present today. He said that they want to go on record that they oppose this. He reported that they did send a letter to the City Council to that affect.

At this time, the Chairman read into the record an email from Ms. Vicky Gould (attached to the original minutes)

Mr. Ken Daige read a prepared speech (attached to the original minutes). He said that his hope is that they do not move forward with this.

The Chairman then read into the record an email from Mrs. Rosemary White and a letter from the CWC (both attached to the original minutes).

The Chairman closed the public hearing at 2:53 p.m., with no one else wishing to be heard.

Mr. Segal said a lot of the comments that he just heard speaks to the original provisions of the

Ordinance when it was first brought before the Board. A lot of the changes that have been made address these issues. He said they made it clear that this would not alter the requirements on what is currently required for trees. In fact it is going to encourage and incentivize using Florida friendly native landscaping. It is not going to affect open space in that in the Residential District where un-air conditioned space would be allowed to be considered or utilized as closed space and not take into consideration FAR so they would not really be expanding the blueprint. He felt that staff and the Board has done a great job in making this an Ordinance that would serve the City well. He said everyone loves to sit at home and talk about how they want to do things to protect our environment and promote energy efficiency, but as soon as they hear certain buzz words they tighten up and automatically turn to a “no.” He said they can’t let that happen here. This is a very well thought out affective Ordinance and it is a first step. He said don’t stop this process now. This is an excellent opportunity to allow the City Council to move forward with the Board’s recommendation to take a step forward. He said the Ordinance addresses all the concerns that they heard today. He thinks that they have an excellent product that they can move forward on.

Mr. Jeffries wanted to be clear that this would not lower the amount of pervious area in that it is still restricted at a minimum of 25% on a single family residential lot. It doesn’t affect tree preservation or water retention. He said just because a building is slightly larger, density and intensity of development are two (2) different things.

Mr. Lauer said that staff did an excellent job in dealing with the Board’s comments and concerns and moving this into a place that it was not when it first came before the Board. He said that he hears and understands the comments of those in opposition of this. He said that he will go back to what Mr. Bittner said a few weeks ago, which is that this is something that should be market driven rather than driven by legislature. He said if someone wants to build green they should build green rather than receiving incentives to do it.

Mr. Cahoy felt that the conversation they have been having was a great start, but it should be taken to the County level. He appreciates Mr. Daige’s input because what happens in the City happens all over the City, including on the beachside. He said they have to pay attention to all communities. He agreed with Mr. Lauer in that a developer could offer whatever green incentives that he wishes in order to be competitive. He agrees that this should be a market driven issue. He said that he is against any increase in footprint and the loss of trees.

Mr. Bittner thanked Mr. Jeffries and the applicant for the work they did to get the Ordinance to this point and recognize the discussions they have had up to this point. He said there are other benefits to energy conscious practices than getting a concession through this proposed text amendment. There are long term cost savings to the owner that uses green building practices. He said the industry is doing this by itself on its own without credits and giveaways. An example is that there is hardly a house built today that doesn’t have high efficiency appliances. He said that he does not believe this is the vehicle that should cause a change to the FAR rules and open space rules. He felt that this should be done as part of the Comprehensive Plan process with more public input, not be driven by a private individual. He said that he is not in favor of proposing this to be approved by the City Council.

Mr. Prieto said that he was all for incentivizing green building practices, but FAR is a non-starter.

The Chairman asked the Board members if anyone was going to propose this Ordinance. He said hearing no motion they lack the ability to move forward.

Mr. Bittner asked is it better not to bring it up or to bring it up and vote no.

Ms. Jenny Flanigan, Assistant City Attorney, recommended that they make a motion to approve or deny the Ordinance.

Mr. Bittner made a motion to deny the requested change (Ordinance). Mr. Prieto seconded the motion and it passed 4-0 with Mr. Cahoy voting yes, Mr. Bittner yes, Mr. Prieto yes and Mr. Cahoy yes.

[Legislative]

- D. An Ordinance of the City of Vero Beach, Florida, Restructuring and Amending Chapter 60, Adding Article I Heading to be Entitled “General Provisions”; Deleting Section 60.11 Regarding Noncompliance; Adding Article II, to be Entitled “Enforcement Provisions of Land Development Regulations”; Providing for Codification; Providing for Conflict and Severability; Providing for Correction of Scrivener’s Errors; and Providing for an Effective Date (#Z21-000012-TXT)**

The Chairman read the Ordinance by title only.

Mr. Jeffries went over staff’s report accompanied by a Power Point presentation with the Board members (attached to the original minutes). Staff recommends approval of the text amendment.

The Chairman opened and closed the public hearing at 3:14 p.m., with no one wishing to be heard.

Mr. Prieto made a motion to approve the Ordinance. Mr. Cahoy seconded the motion and it passed 4-0 with Mr. Cahoy voting yes, Mr. Bittner yes, Mr. Prieto yes and Mr. Lauer yes.

V. PLANNING DEPARTMENT MATTERS

Mr. Jeffries reported that they would not have an August 19, 2021 meeting.

VI. BOARD MEMBERS’ MATTERS

None

VII. ADJOURNMENT

Today’s meeting adjourned at 3:21 p.m.

/sp