

MINUTES
BREVARD PLANNING BOARD
—Special Called Meeting—
January 26, 2010

The Brevard Planning Board held a Special Called Meeting on Tuesday, January 26, 2010, at 7:00 PM in the Council Chambers of City Hall.

Members Present: Karla Atkinson, Chairperson
Rick Lasater, Vice Chairman
Gary Daniel
Seyl Park
Kimsey Jackson
Paul Welch

Members Absent: None

Staff Present: Josh Freeman, Planning Director
Brad L. Burton, acting Board Secretary

Audience: Doug Harris, AIA
Lloyd Fisher

Chairperson Atkinson called the meeting to order. A quorum was present and there was a moment of silent meditation.

Approval of Minutes – There were no previous meetings’ minutes for approval.

New Business - Consideration of Proposed Amendments to the City of Brevard Unified Development Ordinance, Chapters 2, 3 & 19, regarding maximum size of secondary dwellings (TXT-10-013)

As introduced by Joshua Freeman, the goal of this section is to fix inconsistencies in Chapters 2, 3, and 19 of the City of Brevard Unified Development Ordinance regarding the maximum size of secondary dwellings and eliminate the 10’ landscaped buffer requirement when constructing these types of dwelling units.

Kimsey Jackson commented as to the “appropriateness” of the 800 square foot requirement for secondary dwellings, and there was brief discussion as to this point. Chair Atkinson stated that the main concern of the Board tonight as to this section was to eliminate the [clerical] inconsistencies in the Ordinance as to the 750 and 800 square foot design standards for secondary dwelling units, and that the Board would have an option to come back and review this section with greater detail later on.

Motion – Following review and discussion Kimsey Jackson moved that the Board approve the amendment section (TXT-10-013) as written for the sole purpose of removing inconsistencies [of the language of the ordinance] with the understanding that the Board shall reserve the right to come back and review the context of this section.

Second: Paul Welch

The motion was approved unanimously.

New Business - Consideration of Proposed Amendments to the City of Brevard Unified Development Ordinance, Chapter 14, Regarding Nonconformities (TXT-09-386).

This section was introduced by Chair Atkinson, and Josh Freeman gave an overview to the Board and also explained that the evening's discussion was not geared to generate any action on the part of the Board. Freeman passed out handouts to the Board members which provided a breakdown of UDO requirements [in the context of non-conforming sites / situations] concerning site development in simple terms of "what [level of nonconformity or situation] triggers what [level of compliance with requirements of the UDO]."

Freeman discussed that the two key policy issues that are bringing this discussion forward are: 1) the continuous necessity for the City to be able to address nonconformities and bring properties into conformance and 2) the desires and clear direction of those responsible for the creation of the UDO in encouraging redevelopment of existing properties [within the City's corporate limits] instead of creating "[urban] sprawl."

Board member Gary Daniel asked general questions of Freeman concerning the 50% and 25% thresholds for Ordinance compliance as found in the UDO and wanted to know if these requirements were standard in zoning ordinances.

Freeman replied that the 50% requirement threshold is a common standard, but the 25% threshold is not as common. Some discussion followed as to this topic between all. Freeman brought the conversation to a close and introduced Doug Harris as the agent for the applicant Hall Waddell, who brings this matter forward as TXT-09-386.

Harris introduced himself and related to the board his client's concerns respective to redevelopment of the Triangle Stop convenience store on Rosman Highway and how he was "taken aback" by the rigidity of the UDO in his particular circumstance [location of gas canopies, curb cut requirements]. Harris stated that his client's ultimate reaction to the ordinance requirements for his nonconforming situation was: "If I can't do what I want to do, I'll just leave it like it is..." Harris stated that this mindset is shared by other property owners [of potential redevelopment sites] in town.

Harris stated further that [in terms of promoting redevelopment sites] "...as written, the ordinance is running 180 degrees counter to the intent of the UDO," and the thresholds as established in the UDO for noncompliant situations "will cost more money than to move the business out of town." Harris then provided and described photos (that were distributed to the

Board) of buildings currently vacant in the city. Harris did admit that “terrible economics” has “a lot do” with the [vacant building] situation.

Harris continued with the following points (paraphrased for the record):

- There is a fundamental difference between a redevelopment site and a green field site.
- If a green field [project] doesn’t go through, you still have a green field, which is an “OK” situation with most everybody.
- If a building nearing the end of its serviceable life isn’t afforded a chance for redevelopment [it will stay “as is” and], adjoining properties can follow this trend.

Harris, before asking questions of the Board, stated that it was his intention this evening to make the Board aware of ongoing discussion concerning this subject with [Planning] staff. He also stated the following as “things we know” as to address this subject in the context of a text amendment addressing nonconforming sites / situations (paraphrased for the record):

- Things [requirements] are going to be different from [zoning] district to district
- Things [requirements] might also change from “lot to lot.”
- Depending on the applicant, their respective priorities might change as well (used nonconforming curb cuts as an example) and summarized this point by stating that “...sometimes reinvestment in property is not going to offset the cost of losing the curb cut(s)...”
- As to negotiating with City Council to achieve individual goals for redevelopment efforts, the Planned Development process takes too long and the ultimate results are uncertain.
- To achieve impartially while interjecting [site] review subjectivity [in the context of non-conforming sites / situations]...how do we get there?
- Concurs that certain needs of the City cannot be waived [public safety requirements].
- Discussed the possibility of adopting some mode of “overcompensating” in some particular area [of the scale of site work or providing enhanced amenities]
- Goal is to figure out some sort of system to provide more [plan review] flexibility [in the context of non-conforming sites / situations] where “things” can be brought into more conformity—if there are no incentives to redevelop, the ultimate goal of bringing “things” into conformance isn’t going to occur anyway, because developers will not be willing to spend money to achieve [nonconforming] ordinance compliance that could be used to open their businesses.

Josh Freeman offered comments to Mr. Harris’ comments [paraphrased for the record]:

- The UDO has not “killed” all development and redevelopment. Since 2006 when the UDO was adopted, building and zoning permits issued indicates that significant development has occurred—more so in the City of Brevard than Transylvania County.
- In the context of compliance with nonconforming sites / situation, it appears to matter most who the applicant is—Zaxby’s, Walgreens, Wachovia, for example, did not take issue with rectifying nonconformities as they manifested on their particular sites.

- Local investors wanting to invest in the community are those that appear most affected by UDO-mandated compliance with nonconforming sites / situations. Eighty percent of the permits [the planning department] issues have to do with local businesses.

Gary Daniels asks Harris about being more specific as to his applicant's concerns and Mr. Harris goes into detail concerning nonconforming situations present at the Triangle Stop on Rosman highway [if the site was to be totally redeveloped] such as the placement of the gas canopies and curb cuts.

On these points, an in-depth, across the board discussion begins and specific questions as to the site are posed to Harris, which are answered.

Paul Welch offered that "...maybe a gas station is a bad example of why we need more flexibility..." "Maybe an assessment of the project [proposed] and the need for more flexibility [should be] contingent upon site characteristics being employed."

Chair Atkinson asked in general terms, "how much does the conversion of use contribute to the level of UDO compliance?" Josh Freeman replied that it appears that restaurant and gas stations take a lot more requirements than many other redevelopment or upfit endeavors.

Doug Harris gave some examples of how Building Code causes redevelopment efforts to move into a 25% or 50% threshold [of compliance] category and such means might be transferrable in form to the UDO.

Josh Freeman gave a summation and closed by stating that it was important to note that the applicant had submitted an application, staff is tasked to move this applicant forward and staff will assist in the assessment process of trying to find an equitable solution to the concerns of both the City and the applicant in terms of non-conforming sites and situations.

Old Business

None

Other Business

None

There being no further business before the board, a motion was made and seconded to adjourn. Meeting was adjourned at 8:19 PM.

Karla Atkinson, Chair

Brad L. Burton, acting Secretary