

MINUTES
BREVARD PLANNING BOARD – SPECIAL CALLED MEETING
FEBRUARY 16, 2016

Brevard Planning Board met for a regular meeting, Tuesday, February 16, 2016, at 7:00 PM in Council Chambers of City Hall.

Members Present: Kimsey Jackson, Chair
Demi Loftis, Vice Chair
Frank Porter
Katie Thompson
Jimmy Perkins
Chris Strassner
Keenan Smith

Staff Present: Daniel Cobb, Planning Director
Janice H. Pinson, Board Secretary

I. Welcome and Introduction of Planning Board Members -

At 7:00 PM Chair, Kimsey Jackson, called the meeting to order and there was a moment of silent reflection. Board members and staff introduced themselves.

II. Approval of Minutes –

a. January 26, 2016, Frank Porter moved to approve as amended, seconded by Jimmy Perkins, unanimously approved.

III. New Business – None.

IV. Old Business –

a. Annual Review Sign Chapter 12.9.J

D. Loftis stated that the sign ordinance needs a more comprehensive look, that she feels that we are trying to beautify Brevard and keep it a quaint place to live and that the sign ordinance seems to have exceptions. Further noting that our main business is tourism. She voiced her concerns about flashing signage and the request for bigger signs. She commented on the nice wayfinding signs that the City installed and that she feels this is a more correct path for Brevard.

K. Jackson stated that he shared D. Loftis' concerns but that flashing signs were approved by Council a couple of years ago and that he also shares her concerns about Brevard's appearance with continuing to add flashing signs to the main corridor. He stated that he has lived in places without all of the flashing signage and that businesses still thrive without them.

J. Perkins stated that he too shares the same concerns and that it was approved by Council several years ago and then proceeded to name several locations with flashing signage and read a portion of the staff report: "The City's comprehensive plan which was adopted in November of 2015 states that Brevard will continue to strive to be an outstanding place to live, work, and play while building upon its distinctive small-town charm and remain a livable community for everyone."

J. Perkins stated that his thoughts are that the flashing signs are unnecessary and that everyone will feel that they need one just to compete. That he agrees with D. Loftis that a more comprehensive look at the whole chapter on signs is in order.

K. Jackson asked if D. Cobb had comments.

D. Cobb directed the board to page 14 and 15 of his staff report for clarification. He stated that electronic display signs are allowed and from a zoning administrator standpoint an electronic and a flashing sign are different and maybe that needs to be more clearly defined in the ordinance. He explained the distinction between electronic and flashing signage.

D. Cobb stated that he felt that bringing this section of the ordinance before the board would initiate them to want to take a more comprehensive look at the chapter. He informed the board that he asked Mike Egan, Land Use Attorney, to look over Chapter 12 due to legal regulatory concerns. He further agreed that the chapter needs to be approached more comprehensively.

F. Porter asked if Staff would come back with recommendations on how to clean up the chapter. He further stated that he would assume due to the discrepancies in the chapter that Staff would be making some revisions.

D. Cobb stated that it was up to the board as to whether or not they wanted to allow decorative flags, banners and moving devices.

D. Loftis stated they should be prohibited.

J. Perkins stated that he is not a fan of these types of signs, especially when they are used as a permanent sign for a business. He further stated that he feels they are a special event temporary type sign that should have a time limitation.

K. Thompson stated that she felt the criteria should also include our comprehensive plan values so that things could be addressed that do not fit with those values, and so that we can pay closer attention to those items as well.

D. Cobb stated that from an administrator standpoint we can regulate signage but it is up to the board and council to decide what to regulate and allow based on their vision of community character.

D. Loftis asked D. Cobb the process for regulating illegal signage. D. Cobb explained that signs are picked up and held at the office for a couple of weeks and if there is a phone number available we will call and tell them we picked up their sign and the reason why. He

explained the sign outreach program that the Planning Department administered and how well he felt the outcome brought noncompliant businesses into compliance. He further explained the notice of violation process.

K. Smith asked D. Cobb if during the comprehensive review of chapter 12.6 and 12.9, he would be cleaning up the conflicts, discrepancies and redundancies between the two (2) chapters.

D. Cobb stated that they would look at the chapters from a purely technical standpoint and try to find all of the discrepancies, redundancies, and add missing definitions and contradicting language. We will not be recommended many changes because that needs to come from the board.

K. Jackson asked if the board had any further questions or comments, there were none. The matter was tabled until the March meeting.

b. Short Term Rentals

K. Jackson asked D. Cobb to present information to the board.

D. Cobb presented his staff report, going over the recommended amendments to the UDO for Short Term Rentals, staff report and presentation are attached hereto and labeled, "Exhibit A". His presentation included the answers to board questions presented to him at the last meeting. He explained the special use permit application process in detail.

C. Strassner voiced concerns about requiring a special use permit as it relates to the waiting period for the applicant to appear before the Board of Adjustment.

F. Porter voiced the same concerns and asked if there was some process in government that could be set up to fast track the special use permit process for the existing operating properties.

D. Cobb stated that there is no way to fast track at the local government level, but that the rules of procedure for the Board of Adjustment could be amended to allow them to hear more than 3 cases per meeting and they could also call special meetings.

K. Thompson stated she wanted to have a discussion as to why D. Cobb was holding so strongly in the two (2) districts to the special use permit rather than permitted with standards. Stating that her main concern has been density and that she would like to see a different way to approach density rather than the 300 to 500 feet proximity. She suggested the use of a percentage of census tract. Further saying that she would like to see the permitted with standards used for all areas.

D. Cobb stated that there is no other way to limit density other than a separation requirement. Legal counsel has advised that it would not be advisable to cap the number of units and the permitting process would not protect density, the only solution would be to have buffering requirements. He further explained that staff cannot make the determination as to whether or not a use is compatible, this would be a function of the

board of adjustment and is the reason that staff has held on to the special use permit process for the general residential districts.

K. Thompson asked if there would be a way to use a trigger based on census tract, that when density went over a certain percentage that a special use permit would be required.

K. Smith stated that he has looked at the situation from all sides involved and feels that the special use permit would be a fairly inexpensive and easy process for starting a new business and provides protection for the character of the neighborhood. He explained that he feels there is a need for this use in our community but feels there is weight to using the special use permit for providing protection.

D. Loftis stated that it seemed the special use permit would make enforcement easier.

J. Perkins stated his thinking to be a lot like K. Smith's because the special use permit gives the ability to evaluate on an individual basis. He further stated that he is real sensitive to what the Waterford Place folks have been going thorough and could see where people see that money is being made and everyone wanting to do the same and jeopardizing the integrity of neighborhoods. Stating that there is an advantage to the special use permit in that you do not have to renew it annually.

F. Porter asked what would happen if someone had to wait for two (2) years to get a special use permit, would they be allowed to continue to operate as usual.

D. Cobb explained that his opinion is that if someone had applied and the docket is full and this person had already been operating, there would be no reason to tell them to stop operating. Their continuing to operate would be a decision that they would have to make, knowing that the board of adjustment might not approve their special use permit.

D. Cobb requested the chance to answer K. Thompson's question regarding density. He referred to the existing density requirements in Chapter 2 of the UDO and stated that there could be amended language to trigger a special use permit based on density and used the following example: 2 bedroom short term rentals could be permitted with standards but 3 bedrooms or more would require a special use permit.

Elda Brown, Maple Street, short term rental owner, asked if there is a complaint against a short term rental owner that is in the district that is permitted with standards and they apply for their annual permit, they could be denied the right to continue to operate. Therefore, she feels there is a process in place to handle through the permitting process.

D. Cobb explained that if the short term rental owner had complaints against them, staff would have to make the decision as to whether or not to approve the renewal of their permit. If the permit is denied, applicant would have the right to appeal to the board of adjustment.

K. Jackson stated that he had a problem with requiring a special use permit because of the waiting period for people to come before the board of adjustment.

F. Porter had the same concerns and further stated his concerns about the business community having to wait because of the back log of cases to be heard.

D. Cobb stated that cases would be heard on a first come, first served basis and that it is not uncommon for a schedule to be set up for compliance to be met, and that Council could set up a schedule.

K. Smith voiced that he feels the special use permit, as opposed to permitted with standards would force people to think upfront about what they are doing. That there would be more community eye and a holistic view of what is happening upfront and would possibly alleviate problems that might otherwise arise. If all is good, then you would not have to go through the process again.

K. Jackson voiced his concerns about host absent.

D. Cobb stated the permitting process would require a local contact as part of the application.

D. Loftis stated she was confused about recommended parking requirements, that what was on the board was not what she read in the recommendations. She further voiced that she was in favor of parking in the rear, buffering and lighting requirements.

D. Cobb stated that the parking and buffering requirements were Mr. Christie's request and voiced concerns about the commercial feel this would bring to the properties if required, especially if the parking areas were paved. He stated that the lighting requirements make perfect sense, but that staff is recommending parking in the front be allowed but that it is up to the board.

K. Thompson questioned parking standards. She offered advice on revisions as follows: Appendix A: per room or suite should be changed from room to bedroom and to also make a definition for operational bedroom in the ordinance.

J. Perkins voiced his opinion that he did not see why the board of adjustment could not deal with hearing these applications for special use permits, because he felt most of them would be a rubber stamp process and would only take a few minutes to hear. Further stating that if the case took longer to hear, would only be further proof of the need of the special use permit process.

D. Cobb explained that the board of adjustment could approve the applications with additional standard requirements, such as, parking and buffering requirements.

F. Porter asked how to move this forward and next steps.

D. Cobb stated they could recommend approval, make changes and you can view changes at the March meeting.

Elda Brown requested to be allowed to present public comment. She stated that she was first opposed to the special use permit process, but after further discussion she has a different opinion now. That she feels there is no evidence to prove the best method and

that what better way to handle but to issue the one (1) year permits and start the clock. She further has a problem with the notification process of the special use permit because it will raise red flags from neighbors who might otherwise have no reason to be concerned because nothing different is happening at a property than would normally happen there. She gave a history of their operation and the relationships they have formed and stated that most of their renters have a connection with the community.

The board discussed Chief Phil Harris' memo as to potential problems with short term rentals.

J. Perkins stated the problem is not theoretical and that someone was sitting in the audience that has had a problem in their neighborhood and have tried to address it with their covenants, only to be threatened with legal action and that he viewed this as a real problem. He further stated that communities all across the country are struggling with short term rentals and further that as many people have spoken in opposition as in favor of short term rentals.

Mr. Christie, Waterford Place, spoke in favor of the special use permit stating that it is functionally the only way to regulate density, and that he has confidence that the board and council can make sure that the process is expedited. He further urged the board to ask staff to prepare language for review at their next meeting and to include his recommendations for parking and lighting.

K. Thompson asked why the special use permit process was not being recommended for properties zoned neighborhood mixed use (NMX).

D. Cobb explained that NMX does not allow single family dwellings and is a more commercial district and expected to have a higher density and the special use permit process is being recommended for general residential in order to protect the tranquility of the neighborhoods.

D. Cobb read Phil Harris' memo to the board to identify the existing complaints and possible concerns. Memo is attached hereto and labeled "Exhibit B".

D. Loftis made a motion to adopt staff recommendations with the addition of the parking for home stay be located in the back with landscaping and noting that it include the current lighting standards, J. Perkins clarified that this would include the requirement of the special use permit and then seconded the motion.

There was discussion about lighting requirements.

D. Cobb read Mr. Christie's recommended language as follows: "For homestays in GR districts, parking shall be at the rear of the lot and screened with vegetation from adjacent properties and from the street." "Exterior lighting shall be residential in nature and shall not be directed towards adjacent properties."

D. Cobb stated that the buffer requirement would need to be better defined and recommended a Type A buffer as defined in the current standards.

There was further discussion about what parking standards to require.

D. Loftis stated that her intention was to keep parking out of the front yard.

D. Loftis amended her motion to request that staff bring text back to the board at the next meeting regarding staff's recommendations for special use permits and to include language about parking and lighting, seconded by J. Perkins. The board voted all in favor except F. Porter voted against, the motion carried.

K. Thompson recommended that staff bring another draft before the board at their next meeting to incorporate the current discussion.

C. Strassner made a motion to amend the use matrix to include that a special use permit be required for homestays in general residential, seconded by K. Smith and F. Porter voted against, all other votes were in favor, the motion carried.

Motion to direct staff to bring back additional language for review including parking and lighting standards, motion carried unanimously.

K. Thompson asked about the notification process, questioning if 200 feet was enough.

D. Cobb explained that the public is notified by advertising, the property is posted and that adjoining property owners within 200 feet is the standard that has been used which is a little greater than statue requirements. He further explained that making that notification area larger could be questionable as to who would have standing in the case.

She further questioned the application not requiring proof of insurance coverage.

D. Cobb explained that unless the City could prove a benefit to the public in requiring proof of coverage, they would have no legal authority to make this requirement.

F. Porter asked if a permit fee had been established for permitted with standards.

D. Cobb recommended \$50.00 and it was requested that he include this in his draft language.

K. Thompson asked if a limit could be set on the special use permit, so that it would not follow the property.

D. Cobb stated he did not know if the board had the authority to put a sunset on a special use permit, but that he would find out.

The board discussed this further and came to the conclusion that if a property owner had complaints, and was not managing the use properly that they would end up before the board anyway.

K. Thompson requested that the language be cleaned up to clearly define present in the house instead of resides in the house for homestays and to use the word bedroom instead of room.

J. Perkins stated that he felt like there was again great conversation and that the board's eyes had been opened to a lot of things.

VI. Adjourn –

There being no further business, J. Perkins moved to adjourn, seconded by K. Thompson unanimously carried, meeting adjourned at 9:08 PM.

Richard K. Jackson, Chair

Janice H. Pinson, Board Secretary