

APPROVED
TOWN OF LAUDERDALE-BY-THE SEA
PLANNING AND ZONING BOARD
MEETING MINUTES
Jarvis Hall - 4505 Ocean Drive
Wednesday, November 16, 2016
6:00 P.M.

1. CALL TO ORDER

Chair John Lanata called the meeting to order at 6:00 P.M. Members present were Charles Clark, Roseann Minnet, John Lanata, John Graziano, 1st Alternate Cari McCormack, and 2nd Alternate Paul LaCoursiere. The absent member was David Chanon. Also present were Assistant Town Attorney Kathryn Mehaffey, Development Services Director Linda Connors, and Clerk Jhanelle Campbell.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited. Ms. Connors then welcomed the new board member - 1st Alternate Cari McCormack. Ms. Connors explained that since one regular board member was absent, Ms. McCormack would vote tonight and 2nd Alternate Paul LaCoursiere would participate in discussions but would not vote. Ms. Minnet clarified the five voting members tonight would be Charles Clark, Roseann Minnet, John Lanata, John Graziano, and 1st Alternate Cari McCormack.

3. APPROVAL OF MINUTES

a. Previous Meeting Minutes – October 19, 2016

Ms. Minnet made a motion to approve the minutes of October 19, 2016 as presented. The motion was seconded by Mr. Graziano. The motion carried 5-0.

4. PUBLIC COMMENTS

Diana Kugler testified that she was against amending the Diamonds and Doggies conditional use approval. She does not believe there is sufficient space to safely house larger and additional animals. She thinks it is fine the way it is. On a side note and not part of the request, Ms. Kugler said that something else the board could consider is that if he decides to sell the business and we do not know who the new owner is, the conditional use was given to Dominic Casale and only approved for him.

5. NEW BUSINESS

a. Application 2016-L2CU-01 – Request to amend the Diamonds and Doggies Conditional Use Approval

Ms. Connors stated that on August 16, 2016, Dominic and Dominique Casale, the owners of Diamonds and Doggies located at 111 Commercial Boulevard, submitted an application to

amend the conditions of their approved conditional use which was to allow a pet store in the B-1 zoning district. On June 28, 2011, the Town Commission approved the conditional use development order allowing the sale of dogs at the business located at 111 Commercial Boulevard. The conditional use development order included eighteen conditions related to the maintenance of the dogs on the property and also required that the provisions listed in their application would be met. She read the eighteen conditions basically related to the dogs into the record. She talked about when the Town began to monitor compliance with the conditions that questions arose about the definition of puppy mills. The Town Attorney advised staff to wait until the courts established case law. Once established, the Town could review the condition regarding puppy mills and staff established review procedure for all the conditions. They also received information that there were more dogs on the site and dogs were being moved from one store location to another in advance of the inspections. Staff then had an unscheduled inspection and found out there were 25 dogs on the premises which were ten more than allowed under the conditions of the conditional use permit. During another inspection, staff found that the store was not staffed at 7:00 a.m. The conditional use permit required staff on site at 6:30 a.m. A courtesy notice was sent to the owners notifying them of the violations. Staff met with the business owners and then the owners submitted an application to amend three of the development order conditions. Ms. Connors read into the record number 6 (change weight of dogs from 12 to 20 pounds), number 7 (increase the number of dogs on site from 15 to 25) and number 10 (staffing would commence at 7:30 a.m. – not 6:30 a.m.).

Staff was suggesting amending four additional conditions for clarity. Ms. Connors read the four into the record as she explained number 11 (definition of teacup breed is ambiguous, etc.), number 14 (the dogs and not the breeders were to be AKC registered), number 16 (individual air conditioning needed only for four showcases in the front window) and number 18 (delete this condition regarding jewelry repair). She discussed the conditional use review procedures from Section 30-126 of the Town's code. She spoke about the four criteria for approving a conditional use (1. Land Use Compatibility, 2. Sufficient Site Size, Site Specifications, and Infrastructure to Accommodate the Proposed Use, 3. Compliance with the Comprehensive Plan and Code of Ordinances, and 4. Proper Use of Mitigative Techniques.) and staff's findings. She said that staff recommends that the Planning and Zoning Board review the application, listen to the testimony and make a recommendation to the Town Commission regarding the applicant's request and staff's request to delete and/or amend four additional conditions. Staff also suggests that a condition is added that requires the cages, at a minimum, remain the current size to accommodate the larger dogs. The sleeping area should be redesigned to include nine additional cages to accommodate the additional dogs, if the number of dogs is increased. Ms. Connors asked the owner if he had additional comments.

Mr. Casale explained about the requested changes. He testified that the reason there were extra dogs during the one inspection had to do with a crossover with the storm getting dogs to his vet for storage. He said that he has been in business there for five years. All the window cases do have air conditioning and ventilation. The other cases have air conditioning and exhaust fans for circulation. In the back, there are sixteen sleep rooms and eight in the middle of the store. He spoke about being able to quarantine a dog for a cold, etc. He explained that English and French Bulldogs come in weighing four pounds. The room and back door are soundproofed. He explained that they are open until 11:00 p.m. and that was why he asked for a time change in the morning. He said they do not do jewelry repair in the store. He explained that all breeders are to be registered with the AKC (or other certifications like CKC, APRI, etc.). He said that he has no puppy mill incidents. He has enough crates to house thirty dogs. He answered Ms. Connors that they have provisions for sixteen dogs in an enclosed soundproof

sleep room with air conditioning and ventilation. He further testified that there is room for eight crates in a sound proofed area in the back of the store. Ms. Connors said that this totals twenty-four and not twenty-five. He explained that the very little dogs are doubled up in a crate. So even though there are twenty-four crates, there is room for the requested twenty-five dogs.

Ms. Minnet asked Mr. Casale about what the public speaker inferred that the store is up for sale and Mr. Casale answered that it is not. He explained that a real estate venture would be housed in the store for vacation rentals. Ms. McCormack asked about the request for an increase in size of dog and he explained about the bulldogs. He answered Ms. Connors about special orders for Labradors. Ms. McCormack expressed concern that now there could be twenty-five dogs weighing twenty pounds. There was a question if the conditional use goes with the owner or the business. Ms. Connors said the conditional use goes with the applicant which in this case is the business, Diamonds and Doggies. Ms. Minnet said she was on the Town Commission when the first conditional use was granted. She finds the size of the business is fine for the number of dogs now and does not see why it should be increased from fifteen to twenty-five. She could understand wanting the size of the dog increased. She has concern about the size of the cages for bigger dogs and an additional real estate business housed in the small store. Ms. Minnet asked about staffing time. She asked about USDA certification and Mr. Casale explained. Ms. Connors explained that staff reviews USDA inspections every month. The Chair opened this portion of the meeting for public comments. No one wished to speak but there was a letter from Stuart Dodd, a former commissioner. As he was not in attendance, Ms. Connors read the letter into the record. Concerns were raised in the letter and Mr. Dodd felt that the board should suggest terminating the conditional use. Mr. Casale had an objection to the letter because he felt that if Mr. Dodd wanted to speak, he should have been present tonight. Assistant Town Attorney Kathy Mehaffey explained that this correspondence could be read into the record. Mr. Casale wanted to know if his letter would be read the next time he sent something.

The Chair thanked staff for doing a great job. He feels that Mr. Casale is running a terrific business that is also a tourist attraction. As there are no complaints regarding his business for the past five years, he does not see why the board would not go with staff's recommendations in bringing this into compliance. Mr. Graziano said he has been to the pet shop fifteen or more times. He knows how to take care of animals and has observed that the dogs are all well taken care of in the store. He is in favor of all of staff's recommendations even the expansion in the numbers. He would like a letter from the vet stating that the little puppies could be housed in the same cage. Mr. Clark is in favor of all of staff's recommendations. He feels that fifteen dogs is quite adequate for that size business. He further stated that he never saw anything negative when he went to Diamonds and Doggies. Ms. Connors will go over each change individually and the board will vote on them separately.

Mr. Graziano made a motion to allow the weight of the dogs to go from twelve pounds to twenty pounds. The motion was seconded by Mr. Lanata. The motion carried 5-0.

Mr. Graziano made a motion to increase the number of the dogs on site to go from fifteen to twenty five, if the vet would write a letter to the Town Commission that the small puppies can be in a cage together. The motion was seconded by Mr. Lanata. The motion failed 2-3 (Mr. Clark, Ms. Minnet and Ms. McCormack opposed).

Mr. Clark made a motion to have the premises staffed from 7:30 a.m. (changed from 6:30 a.m.) to 10:00 p.m. each day when animals are present on premises. The motion was seconded by Mr. Graziano. The motion carried 5-0.

Mr. Clark made a motion to delete the condition that only teacup dogs and toy breed dogs will be sold, to delete the requirement that all dogs will be from private, American Kennel Club (AKC) registered breeders, and to delete the condition that all jewelry repairs will be done on premises. The motion was seconded by Mr. Graziano. The motion carried 5-0.

Ms. Connors said that the next motion would amend item #16 to make it more specific that all showcases with the addition of the language "in the front window" will be with the addition of the language "individually" air conditioned and vented. Ms. Connors explained to Mr. Casale that now the code says all the showcases would be individually air conditioned and vented but they are not. Ms. Connors is trying to be specific. Ms. Mehaffey also explained to Mr. Casale that right now each showcase has to be individually air conditioned and vented but not through the main store air conditioning and the language has to be fixed.

Mr. Graziano made a motion to amend item #16 to read "All showcases in the front window will be individually air conditioned and vented". The motion was seconded by Mr. Clark. The motion carried 5-0.

Ms. Connors said that everything passed but the increase in the number of dogs on premises. The board's recommendation would be made to the Town Commission for their 6:30PM meeting on December 13, 2016. Mr. Casale said that he would get the vet's letter regarding the small puppies being together in the same showcase.

b. Payment in Lieu of Parking (PILOP)

Ms. Connors said that staff has been working on payment in lieu of parking regulations. She explained the different types of parking for different types of uses. This limits the flexibility that property owners and business owners have to rent their buildings or come into the Town as a new business. The parking exemption program sunset and staff was trying to come up with alternatives to help people. She explained the different ways the Town was helping with providing parking spaces. She spoke about improving walkability but adding landscaping, lighting, trolleys, etc. This all costs the Town money so they were trying to figure out how property and business owners could also contribute to the parking situation. This is what the PILOP Ordinance 2016-08 is about. Ms. Connors explained that for businesses that would require additional parking, they would be able to pay into a fund. That fund would be reserved to do some improvements but would be restrictive to those types of uses. There has to be a way to provide the services to those people who have paid into payment in lieu of parking. The payment has to be attached to either the property owner or the business owner. It was determined that the payment should go with the land. For example, if a business made payment for parking spaces and they moved, could they sell the parking spaces or take them with them. So it was attached to the property owner and the payment for parking spaces would remain with the property and not the business owner whose portability was a problem. This is limited to non-residential properties in the B-1-A and B-1 zoning district. The participant could not have previously obtained a parking reduction or exemption. She discussed handicap parking spaces. The Town proposed a payment program that could be paid in full or over a period of three years. The fees would not be refundable and there is a late fee of 2%, not to exceed \$500 weekly. The fee would be established by resolution. The Town Commission

could decide the fee at the time of second reading of the ordinance. A suspension clause allows for a one-year suspension of payment if the property is closed or vacant for ninety days or more. She explained how a property owner could withdraw from the program. The use of the funds would be parking related or improvements for walkability. The Chair called for board questions.

Mr. Graziano wanted to know if each applicant would be judged on their own merit. Ms. Connors explained that if the property owner met the criteria, they could apply for the parking exemption. She answered that staff's recommendation for the payment is a set fee payable either 100% upfront or over three years. Ms. Connors said it is an expense for a property owner to provide parking on their site. Now the property owner would have a more leasable area. It also costs the property owner money to construct and maintain parking spaces. Ms. Connors answered the Chair that staff has not established the parameters for the fee. She informed the board members what other municipalities charged per space. The Chair wanted to know if staff looked at Tax Pilots giving tax abatements. He said that start-up costs are extremely high and not a good welcome to new businesses. Ms. Connors said that they did not look into that. Ms. Minnet said that when she was on the Town Commission, they got good businesses into the Town but they gave away a lot of money through the parking exemption program. She does not know if this balanced out properly. She is happy that the program sunsetted. She likes having a fund that would take care of what parking entails. Parking is a luxury now because there is a limited amount of parking in a totally built-out community. She is in favor of a PILOP Program. Chair Lanata is in favor of an assessment but it is the methodology of payment that he is talking about. Ms. Connors said that this program adds value to property by attaching parking spaces to it. Mr. Graziano thought that the upfront fee should be smaller and then an every year fee. It was suggested to maybe tear down the apartment building the Town is buying and build a parking garage. Ms. Minnet asked if the parking studies showed that a parking garage would not pay for itself. Mr. LaCoursiere wanted to know if PILOP would affect the existing Town businesses and was told that it would not. It will only affect the property owners when they re-develop. Ms. Connors wants to know if we want a PILOP Program and are we comfortable with the structure in the ordinance. Mr. Graziano recommended a PILOP Program with an upfront cost that takes into consideration the initial financial impact of the business and then there should be a yearly fee. He feels that there would be pressures on the PILOP Program unless the garage goes up. Ms. McCormack agrees that there should be a slightly reduced initial fee and then a fee for as long as you remain in the program.

Mr. Graziano made a motion to accept the PILOP Program with the recommendation to accept it with consideration for a lesser upfront cost and then an annual fee to be paid by the property owner. During discussion, Ms. Minnet wanted to know if the property owner does not pay do you file a lien? Ms. Connors explained that it would be handled as a code violation. Ms. McCormack wanted to know if it goes with the land could the upkeep be paid for through the business. Ms. Connors said the Town would not get involved with that because it is a pass-through charge anyway. The motion was seconded by Ms. McCormack. The motion carried 4-1 (Ms. Minnet opposed).

6. OLD BUSINESS

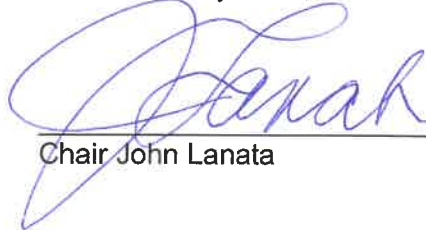
7. UPDATES/BOARD MEMBER COMMENTS

Ms. Connors said that she and Ms. Mehaffey are working on a mixed-use ordinance. She explained that the Town allows mixed use currently west of A1A. This would allow mixed use east of A1A. There would also be a site plan in the January 2017 P&Z meeting. Ms. Connors

asked the board members to e-mail either herself or Jhanelle Campbell their availability for a January 4th or January 11th meeting or during the week of those two dates. This would be for new construction and renovation of 4245 Ocean Drive (Dolphin Inn). Ms. Minnet wishes everyone a Happy Thanksgiving and she wants to remind everyone about Christmas-By-The-Sea on December 7th. Ms. McCormack was welcomed again as the newest member.

8. ADJOURNMENT

As there was no other business to discuss and without objection, the meeting was adjourned at 7:30PM.

 2-14-18
Chair John Lanata

ATTEST:

Date Accepted: 11-14-16

Development Services Director Linda Connors