

TOWN OF LAUDERDALE-BY-THE SEA
PLANNING AND ZONING BOARD
REGULAR MEETING MINUTES
Jarvis Hall – 4505 Ocean Drive
Wednesday, June 11, 2014
6:00 P.M.

1. CALL TO ORDER

Vice Chairman Patrick Potts called the meeting to order at 6:05 P.M. Members present were Patrick Potts, Yann Brandt, Roseann Minnet, and Charles Clark. Chairman David Channon, first alternate Patrick Murphy and 2nd alternate David Quinones were absent. Also present were Town Attorney Kathy Mehaffey, Town Planner Linda Connors, and Clerk Idalia Gutierrez.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

3. APPROVAL OF MINUTES – Planning and Zoning Meeting of May 21, 2014.

Ms. Minnet made a motion to approve the minutes of April 23, 2014 as presented. The motion was seconded by Mr. Potts. The motion carried by voice vote 4-0.

4. PUBLIC COMMENTS - Acting Chairman Potts opened the meeting for public comments. As there were no members of the public present, the Acting Chairman closed public comments at this time.

5. NEW BUSINESS

Amendments to Chapter 30 – Articles I, II, III, IV and IX

Town Planner Linda Connors explained that the review of Chapter 30 Articles I, II, III, IV and IX continues with this meeting and reminded the Board that at the May 21, 2014 Meeting, they reviewed and approved Articles I, II, III and Division 1 of Article IV. She explained that all the Board's suggested changes in language, correction in references and numbering, etc. were in Exhibit 1. Ms. Connors reviewed the Administrative Adjustment process and on line 1659, corrections to incorporate the Administrative Adjustment process were added and would be discussed. All the changes reflected in Exhibit 1 were displayed on the projector for the Board's examination.

Ms. Connors updated Mr. Brandt, who was not at the May meeting, by pointing out the underlined items is new language, strikeouts is deleted existing language, and the yellow highlighting is what was changed. She answered that DSD stands for Development Services Director.

Town Attorney Kathy Mehaffey informed the Board that the changes on Exhibit 1 were for informational purposes only and no voting was necessary on Exhibit 1.

Town Planner Linda Connors presented the definition of Normal Grade. Ms. Connors stated that currently, the language in the Code for the word Grade comes directly from the Charter regarding how grade would be determined for new structures and there is also Normal Grade in the Code. She further stated that for clarification purposes, “see Grade” was added for the Normal Grade definition which is our comprehensive definition for the term.

Town Planner Linda Connors presented the current definition of Family as one or more persons occupying a dwelling and living as a single housekeeping unit. Ms. Connors read into the record from Exhibit 2 starting on line 324 a more detailed definition of what the Town desires for the Family definition (which was vetted by the courts). Ms. Connors answered Patrick Potts that the revised Family definition allows more flexibility in enforcing single-family residential requirements and is helpful in overcrowding situations. Ms. Mehafeey answered that the word consanguinity means related by blood. Domestic partnerships, children of domestic partnerships, and marriage were discussed and these relationships are protected as a family under the new definition. Mr. Brandt expressed that a domestic partnership has a one person disadvantage under this language. Ms. Mehafeey answered Ms. Minnet that this language survived a Federal lawsuit in the City of Boca Raton and further stated that this language has been used by two or three other cities she has worked with and is being considered by another one.

Mr. Potts made a motion to approve the new language of the definitions for “Family” and “Normal Grade” as presented. The motion was seconded by Mr. Clark. Mr. Brandt asked to amend the motion in order to separate the definitions and vote on them individually. This was accepted by the first and second on the original motion as a friendly amendment and would separate the original motion.

Mr. Potts made a motion to approve the new language of the definition for “Normal Grade” as presented. The motion was seconded by Mr. Clark. The motion carried by voice vote 4-0.

Mr. Potts made a motion to approve the new language of the definition for “Family” as presented. The motion was seconded by Mr. Clark. The motion carried by voice vote 3-1 with Mr. Brandt voting against.

Town Planner Linda Connors presented Exhibit 3 as the continuation of the review of the Code of Ordinances. The exhibit starts from where the Board left off at the May meeting with Article IV Division 2. Ms. Connors explained what was amended in this section. She read into the record the language that was added for existing development expansions and partial redevelopment in Sec. 30-119. The new language will help the Town make good decisions without the applicant going through the huge expense of a site plan application. Mr. Potts asked if line 1740 would impact townhomes. Ms. Connors explained how it would affect the townhome/duplex issue.

Town Planner Linda Connors pointed out the substitution of the “Development Review Committee” with “Department” on line 1816. Ms. Mehafeey explained that the Town has not operated a Development Review Committee in years and that is why starting on line 1816 it was substituted with the word “Department”.

Ms. Connors answered Ms. Minnet referencing line 1838 and informed the Board that photometrics will be discussed with the review in July.

Ms. Connors answered Mr. Brandt that presently the DSD (Development Services Director) is Bud Bentley and the DSD designee is the entire Development Services Department.

Town Planner Linda Connors reviewed the sections on colors and paint schemes (line 1840), retention of samples (line 1847) and renderings (line 1867) and explained the updates.

Town Planner Linda Connors informed the Board of the deletions starting on line 1874 through line 1908 for "Committee review and Board and Commission approval" and stated it was moved to another section for clarity.

Town Planner Linda Connors explained the revisions to "Effective period of final site plan approval" starting on line 1909 and stated this will encourage continuous action on the site plan. She further said it will not be retro-active but is for sites in the future. She further read into the record all the language through line 1942 and explained the site plan timeframe.

Town Planner Linda Connors directed the Board to line 1938 and asked for an acceptable end date. Mr. Potts expressed that the economy is not predictable and it would be hard to define. Ms. Connors said that the State allowed for extensions during the economic downturns. She answered that a developer received an extension through October 2014. Ms. Mehaffey answered that the State just approved a bill, which requires the governor's signature, that would extend for another two years but it is limited to those people who have not already had four years of extensions. Mr. Potts asked if there was an inventory of people or investors who would be impacted besides Minto and others mentioned. Ms. Connors answered in the negative. Mr. Clark asked what Staff felt was reasonable and Ms. Connors answered seven years. Mr. Potts agreed that 5 to 7 years would be reasonable. Ms. Connors clarified that the total amount of years given to someone is to complete a project from site plan approval. Ms. Mehaffey reminded the Board that the language upfront allows the Commission to grant more time and gives the Commission flexibility. Mr. Brandt stated the number should be lower than 5 to 7 years. Ms. Mehaffey explained that the number sought after is for projects with more than one building and/or phase. Mr. Brandt suggested 3 or 4 years and Mr. Potts expressed concern with that timeframe.

Town Planner Linda Connors inquired if the Board was comfortable with the new language giving a certain amount of time to obtain the certificate of occupancy which is consistent with Chapter 6 giving 18 months. Ms. Connors further stated the Commission could grant extra time if the building was larger and there would also be timeframes with multiple buildings. Mr. Potts expressed a reasonable timeframe would be 3 to 4 years. Mr. Clark's believes real estate investors may need to sell partnerships and he did not want to limit investment in the Town by choosing a low number. Ms. Minnet said that she views both sides but agrees with Mr. Brandt about a tighter restriction. She would vote for four years because the Commission has flexibility to add more time. Mr. Clark feels four years is generous. Mr. Potts agrees to four years but does not want to overregulate. Ms. Connors believes four years is aggressive and states the Town Commission has flexibility to add one year. Discussion ensued that upfront, the Town Commission can decide how long a project could take, i.e. ten years.

Town Planner Linda Connors stated that since the majority was comfortable with four years, that figure will be inserted on line 1938. Ms. Mehaffey explained to not build in maximum timeframes that cannot be complied within four years and the interim steps need to allow meeting the final deadline. Discussion ensued about the maximum time for

interim steps with the Board's recommendation to reduce the 12 month and 18 month deadlines by six months each.

Town Planner Linda Connors directed the Board to line 1945 and asked if the Board wants to add a foundation permit to the language. Mr. Potts suggested either a vacant lot or a structure and not a land with just a foundation on it. **After further discussion, the consensus of the Board was to add a foundation permit to the language on line 1945 which states you either get your full permit or we have an empty lot and bring back to the Board.**

Town Planner Linda Connors reviewed the changes on the next few pages where DSD (Development Services Director) replaces DRC (Development Review Committee) then directed the Board to line 2264 on page 59 and stated it was deleted because it was duplicative. Ms. Connors further pointed out that lines 2276 through 2284 were deleted to allow previous material. Ms. Connors stated the changes made were to clarify language and that the Town will look at green space to allow drainage.

Town Planner Linda Connors continued the review process and stopped at line 2824 on page 71. Ms. Connors explained the change in "Modification of approved site plan" and stated this furthers the implication of the Level 1 (formerly "minor") and Level 2 (formerly "major") language. Mr. Brandt expressed concern with the DSD making determinations instead of the Town Manager in the new language for Level 1 and Level 2. Discussion ensued that these decisions are minor in nature. Ms. Mehaffey reminded the Board that any decision made by the DSD is appealable to the Town Commission. Mr. Clark stated that the Town Manager could reverse what the DSD decides. Mr. Brandt further expressed that there is no benefit to this change, especially in Level 2. Ms. Connors answered Ms. Minnet's question as to why the Town Manager or his designee was changed to DSD.

Further discussion proceeded to line 2861 regarding "Appeal" and "Required information" on line 2868 for site plan modification was examined. The Board reviewed "Timeframe" on line 2877 and "Reporting" on line 2888 where the language was clarified.

Town Attorney Kathy Mehaffey provided the Board with a summary of all the changes for Article IV Division 2.

Mr. Potts made a motion to approve Article IV Division 2 as amended by the Board. The motion was seconded by Ms. Minnet. The motion carried by voice vote 4-0.

Town Planner Linda Connors presented Article IV Division 3. Ms. Connors explained all the changes through page 77. Mr. Brandt directed the Board to line 3001 and requested to add language that the Town Manager shall approve the DSD's determination for Level 1 and Level 2. Ms. Connors answered Mr. Potts that in this section it is only specific to conditional uses. Mr. Brandt suggested the Board move forward since there wasn't a consensus for his suggestion of adding the language.

Mr. Potts made a motion to approve Article IV Division 3 as recommended by Staff. The motion was seconded by Mr. Clark. The motion carried by voice vote 3-1 with Mr. Brandt voting against.

Town Planner Linda Connors presented Article IV Division 4. Ms. Connors explained the changes through page 83. Mr. Brandt suggested any setback variance should be Level 2. Ms.

Connors explained Staff's procedure for administrative adjustments for setbacks up to 1 foot. Mr. Brandt stated he was surprised that setbacks were not in the Charter. There was no consensus on this issue.

Mr. Potts made a motion to approve Article IV Division 4 as recommended by Staff. The motion was seconded by Ms. Minnet. The motion carried by voice vote 3-1 with Mr. Brandt voting against.

Town Planner Linda Connors presented Article IV Division 5. Ms. Connors explained the changes through page 90. She informed the Board that the section would be brought back to the Board for updating but the Code was changed for consistency by removing "Development Review Committee" and changing the terminology. Ms. Connors further explained why they have to update requirements in the next few months. Ms. Connors explained the change to line 3331 of the additional two-month extension to the six-month time period.

Ms. Minnet made a motion to approve Article IV Division 5 as recommended by Staff. The motion was seconded by Mr. Potts. The motion carried by voice vote 4-0.

Town Planner Linda Connors presented Article IV Division 6. Ms. Connors explained the changes through page 93. She further stated that line 3500 was moved from Section 30-11 and Section 30-135 was previously reserved. There were no substantive changes to this section.

Ms. Minnet made a motion to approve Article IV Division 6 as recommended by Staff. The motion was seconded by Mr. Clark. The motion carried by voice vote 4-0.

Town Planner Linda Connors presented Article IV Division 7. Ms. Connors explained the changes through page 96. Mr. Brandt suggested to add the language, "*the Town Manager shall review*" to line 3587 and to add the language, "*the Town Manager shall either grant the application or vested rights or...*" to line 3590. Ms. Connors explained that the deletion of the appeal procedures would be reviewed at the next meeting and replaced. Mr. Brandt asked about the Town's lawsuits and what part vested rights play in those lawsuits. Ms. Mehaffey replied that she did not know. Mr. Brandt stated there are legal ramifications where vested rights could be used and that there was a significant amount of property in Town with original owners and original plots. He further stated his concern about the language that was deleted. Ms. Minnet requested to get more information on this matter and bring it back. Ms. Mehaffey replied that she would be glad to research the information Ms. Minnet is requesting. Mr. Potts asked Ms. Mehaffey to define vested rights and why it would trump any code that the Town has. Ms. Mehaffey stated that vested rights do arise and that she has processed vested rights determinations for other municipalities. She provided the Board with examples and further stated that they are site specific and factual determinations. Ms. Mehaffey explained that it is something someone thought they had previously but no longer have due to a Town action. Ms. Minnet requested the Town Manager to be added in the review of this type of procedure and because it is such an open ended issue, additional oversight could be recommended for line 3587 in this application only. Ms. Mehaffey replied that changing it would not affect the rest of the Code as this area is unique.

Mr. Potts made a motion to approve Article IV Division 7 as suggested by Staff and amended by the Board (line 3587). The motion was seconded by Ms. Minnet. The motion carried by voice vote 4-0.

Town Planner Linda Connors concluded the review process scheduled for this meeting and stated that the outstanding articles needing review will be presented at the next meeting. These include Article IV Divisions 8, 9, 10, and 11 and the review of Article IX. Ms. Connors queried the Board members on their attendance for the June 18th meeting. All four members present replied they were able to attend which constitutes a quorum. Mr. Brandt informed the Board he will not be attending the July meeting. Ms. Connors updated the Board on what will be presented to the Board in July and in the next few months.

6. OLD BUSINESS

7. UPDATES/BOARD MEMBER COMMENTS – “Happy Father’s Day”

8. ADJOURNMENT

Mr. Potts made a motion to adjourn. The motion was seconded by Mr. Clark. The motion carried 4-0. The meeting was adjourned at 8:15 P.M.

Vice Chairman Patrick Potts

ATTEST:

Date Accepted: _____

Town Planner Linda Connors
