PZ010312

CITY OF PORT ST. LUCIE
PLANNING AND ZONING BOARD MEETING MINUTES
JANUARY 3, 2012

A Regular Meeting of the PLANNING AND ZONING BOARD of the City of Port St. Lucie was called to order by Chair Parks at 1:30 p.m., on January 3, 2012, at Port St. Lucie City Hall, 121 SW Port St. Lucie Boulevard, Port St. Lucie, Florida.

CALL TO ORDER

ROLL CALL

Members Present: Susan E. Parks, Chair
Charles Rooksberry, Vice Chair
Brian Battle, Alternate
Bryan Gardner
William Blazak, Secretary
Ken Martin
Ernie Ojito

Others Present: Mayor JoAnn M. Faiella
Councilwoman Shannon M. Martin
Pam E. Booker, Senior Assistant City Attorney
Daniel Holbrook, Planning and Zoning Director
Anne Cox, Assistant Planning And Zoning Director
John Finizio, Planner
Thresiamma Kuruvilla, Planner
Carol M. Heintz, Deputy Clerk Supervisor

PLEDGE OF ALLEGIANCE

Vice Chair Rooksberry led the assembly in the Pledge of Allegiance.

APPROVAL OF MINUTES - DECEMBER 6, 2011

There being no corrections, the minutes were unanimously approved.

6. CONSENT AGENDA

A. P11-072 LAKE FOREST @ SLW - STREET TREE PLANTING PLAN

Chair Parks said, "This item will be opened for Public Hearing. Ms. Cox stated, "We did receive some additional letters regarding this item that have been placed before you on the dais. This item was tabled by the Board at the meeting of September 6, 2011, in order to give the homeowners association time to meet with the residents, so they could present the proposed plan to them. The meeting was held on December 15, and staff has attached a copy of the sign-in sheet from that meeting. The Site Plan Review Committee had previously reviewed the plan, and staff recommends approval of the proposed plan."

SABINE MARCKS, Landscape Design Associates, representing the applicant, noted, "We held the meeting on December 15 as requested, and had a great turnout. Overall, the consensus was that, after all of the information was presented, the community at large approved of the proposed plan. (**Clerk's Note:** Ms. Marcks received some additional letters and presented them to the clerk for distribution). These letters are also showing support of the Board in replacing the oak trees, since they are starting to cause considerable damage on many properties." Mr. Battle commented, "I notice that you have seven trees that are close to the sight triangle. Can we move them back a little?" Ms. Marcks replied, "Sure. I made sure that they were outside the triangle, but we will move them as far as we can." Mr. Gardner pointed out, "I was in attendance at that meeting, and it was my consensus as a third party that people didn't dispute the fact of what needed to be done. It was more of the fashion that it be done. Basically, it was political issues. Has there been any dialog between the homeowners in general and the HOA Board to help smooth that out?" Ms. Marcks replied, "We have added a note to the plan saying that the Board will inform the City every year of what is planned to be done that year, in the beginning of their fiscal year. Other than that, I'm not aware of how the Board is going to handle that within the HOA, because that's an internal matter. The members of the Board are present. We have done everything we need to do as far as presenting it to the City and adding notes to the effect that the City will be informed of what is planned to be done in each fiscal year."

Secretary Blazak asked, "Is the replanting being coordinated with Utilities, so we don't have any conflicts?" Ms. Marcks replied, "The biggest problem we have is the utilities. We will no longer place trees on top of water lines as they are now. The idea is to clean up this mess, so it will be coordinated. However, it's St. Lucie West Utilities, and not the City of Port St. Lucie Utilities."

Chair Parks opened the Public Hearing, and remarked, "The applicant or agent for the applicant must be present. If no

representative is present for the application, it may be tabled to the following month's meeting. Anyone wishing to speak on any item may approach the podium after the issue has been opened for the public to comment. Each person wishing to speak may do so for not more than three minutes. Please state your name when you come to the podium. You may speak only once for each agenda item. Your comments and concerns are very welcome. However, we must maintain order and provide time for everyone."

STEVEN FRASIER said, "I live at 305 SW North Shore Boulevard in the HOA of St. Lucie West. I find it ironic that the Keep Port St. Lucie Beautiful people are passing out trees on an annual basis, and we're asking this Board to destroy 689 oak trees. I don't think you're aware of that. Secondly, Ms. Marcks indicated to this Board that all of the planting areas around the community are five feet. In the north end of the community they are eight feet, which would allow for those oak trees to remain in place. I thought it was great that you required the homeowner association to meet with the community. When less than 10% of the community shows up, for lack of passing out a letter indicating what they were planning to do, that is interesting. (**CLERK'S NOTE:** Mr. Frasier submitted a copy of the posting of the meeting). I think a proper notice of posting, especially in a small community like that, is that they send out a letter indicating that there is a communitywide plan to remove the oak trees and replant them with other items. That wasn't done. I think less than 10% of the community showed up, and probably 40% of the people who were there were co-owners of the homes. I don't think they adequately addressed the issue with the entire community. For the north end group, I will host a meeting at our next Board meeting on January 26, to at least have some input on the type of trees that they want in that section. The crape myrtle is totally unacceptable for that area. Four months out of the year they look like sticks, and it's not a good thing for the community."

Mr. Frasier continued, "I think that's the kind of interaction we need to have with our Board of Directors. I realize that it's all internal politics, and I understand that. The other thing is that I don't think we did an environmental study on the type of wildlife that's there. There are scrub jays using the preserve, and squirrels that are nesting in the trees. There is an issue with destroying 689 oak trees and the associated wildlife with it. Those are just some of the minor things that I wanted to bring to the Planning and Zoning Board. I believe Ms. Marcks misrepresented the five-foot planting areas, and I would like you to reconsider that to avoid removal of the oak trees in the north end of the community."

There being no further comments, Chair Parks closed the Public Hearing. Ms. Marcks stated, "I would like to respond to some of those remarks. I understand that the removal of the oak trees is a big undertaking and a controversial issue. However, the trees were simply put in the wrong place. It's not something that the Board or I have taken lightly. If they didn't have to spend this money, everyone would be happier. It's true that I made a mistake measuring the north end. There is not quite eight feet, and I just checked that today. Dr. Gillman of the University of Florida is considered to be one of the leading researchers when it comes to urban forest matters. After the hurricanes of 2004, everyone had to take a step back and look at street trees differently. It was proven that what was done wasn't right, and it doesn't work in the long run. The general consensus with street trees is that if you don't have ten feet don't even try, because the trees get so big that the canopy mass can't be supported in a windstorm by the root mass, especially for an oak tree. With an oak tree the rule is that the root volume equals the canopy volume of a tree. Oak trees get very wide, very spreading canopies, and, therefore, their roots also like to be very wide and spreading to support the weight of the canopy and hold it in the ground. Where is this tree going to go? They don't go deep. You can't make them go deep, because there's nothing for them down there. I understand it's a very difficult issue, and no one is taking this lightly. As a professional, I can't recommend to the Board that these trees will be fine there, because they won't. The other problem that you have, particularly at the North Shore end, is that most of the oak trees in that strip are not live oaks. They're laurel oaks, and they grow faster, get huge trunks, and also have very dense, closed canopies. They don't get the wide spreading canopy. They're what we call a 'lollipop tree.'"

Ms. Marcks continued, "They will always look that way. You can prune it, but you will prune a laurel oak double the amount than what you would prune a live oak. A laurel oak is the worst choice of oak trees that you can put in this particular space. Yes, we have a wider planting strip, but I still believe that it doesn't support live oaks, and especially laurel oaks. On top of that, these trees are sitting on the irrigation reuse lines. Once one of these trees fall over, you're taking the entire line with it. It's a bad situation that, at this moment, doesn't look quite so terribly bad, but I'm convinced that in 10, 15, or 20 years it's really going to be a very serious problem. If we don't act now, we're just deferring this problem to the next generation, and the impact is going to be worse, because the trees will be even bigger, and the visual and emotional impact will be bigger. The Board is very courageous in what they're trying to do. Unfortunately, this was something that was given

to them, inherited by the developer, and it just doesn't work." Chair Parks asked, "Is it my understanding that you're mitigating some of those trees and you're replanting them? Why can't those trees be reused?" Ms. Marcks replied, "Because they're sitting on top of the reuse line. The only way you can relocate a large tree is with a tree spade, and the tree spade is 72" wide. By the time you get in there, you're tearing up the line, the curb, and the sidewalk. The trees won't be removed. They will be cut and the stump ground. Once you start tearing out the roots. . . ." Chair Parks asked, "Wouldn't the roots of that tree also deteriorate at some point, and a depression of the land mass there?" Ms. Marcks replied, "Sure, but that's easily fixed with more topsoil and resodding. The only trees that we're mitigating for the trees that were supposed to be in the three-foot strips, which really don't support any trees at the very end by Rocky Bayou. Three feet is just not enough for anything other than maybe a low shrub. Those trees are being placed around the community inside the open space areas to create a more park-like setting that the entire community can enjoy."

Chair Parks asked, "Are those trees being dug up?" Ms. Marcks replied, "No. Those trees on Rocky Bayou are not worth digging up. They're just being replaced outside of the Rocky Bayou right-of-way." Chair Parks asked, "With the same type of tree?" Ms. Marcks replied, "With live oaks, because those will be placed in open space areas that have enough room for them to grow." Mr. Martin said, "The gentleman said that there was about 10% that showed up for that meeting. Can you speak to what the typical showing is for a meeting like that?" Ms. Marcks replied, "No, because I've never been to a meeting like that. I can tell you that the clubhouse was at capacity." Mr. Martin stated, "I would like to know if typically 60% show up for a meeting, and we had 10% here." Ms. Marcks stated, "I don't believe so, but I have members of the Board present."

JACK MINENNA, Lake Forest St. Lucie West, commented, "I'm President of the HOA." Mr. Martin asked, "Is 10% typical for a showing in the month of December?" Mr. Minenna replied, "That was a large showing. On typical Board meetings, we might have 15 to 20 people." Mr. Martin asked, "What percentagewise?" Mr. Minenna replied, "There are 689 homes, 120 people, about 2%." Mr. Martin pointed out, "So 10% was a pretty strong showing." Mr. Minenna remarked, "It probably was our strongest showing, other than the annual meeting which is held in February for the elections." Mr. Martin asked, "Are you saying that there's going to be another meeting in February where you will have more than 10% of the property owners show up?" Mr. Minenna replied, "That's at the meeting in February when we hold our elections

for the Board of Directors." Mr. Martin asked, "On the POA, what is the proper notification requirement for your HOA?" Mr. Minenna replied, "We notified them of the meeting that was held in December for the tree plan the same way we would make notification of any Board meeting. There are two kiosks at each gate that you can see as you're leaving the community at the north and south entrances. It was posted in the kiosk at the clubhouse, which people pass every day, and it was also put into the monthly newsletter." Mr. Martin said, "So it wasn't just that one single notification." Mr. Minenna stated, "The newsletter is available in print copy and also online." Mr. Martin asked, "Is there any form of written notification? The gentleman suggested a letter." Mr. Minenna replied, "We're not required to send out letters for meeting notification." Mr. Martin asked, "For this meeting coming in February where you're going to have a majority of the property owners at that meeting, is that meeting posted any differently?" Mr. Minenna replied, "Because there are elections, notice of that meeting has to be mailed 14 days in advance. However, that's a meeting of the residents, not of the Board of Directors, and they can't take any action at that meeting."

Mr. Martin asked, "Would you have more than 10% of the homeowners showing up?" Mr. Minenna replied, "Yes, usually." Chair Parks asked, "Is it my understanding that they do not have to be at that homeowners meeting, and that they can vote by proxy?" Mr. Minenna replied in the affirmative. Mr. Gardner said, "I walked away from the meeting thinking that the majority of people are in support of what needs to be done. As a third party, I agree with Ms. Marcks that there's an issue that definitely needs to be resolved. The one thing I walked away with that night was the internal politics, and that's ultimately what this is. There was concern from many of the residents as far as the cost, how it was going to be handled, if there was going to be a schedule of expenses over a certain number of years, and so forth. I think there was a lot of concern whether people were going to get burdened with the cost of this. Has there been any communication or attempt to address these issues?" Mr. Minenna replied, "Once we do get final approval, we will take the map, figure out the finances, and it will be done as we've been saying all along. It will be in a phase situation, whether it's three, four, or five years. Each section will be mapped out with cost, and at the beginning of each year we will let Ms. Cox know what's being done that year as far as which phase is going and notify her upon completion. We did mention this that night. Once we get the plan broken down into phases it will be mailed with the costs, and where the money is coming from."

Mr. Martin said, "You just stated that there's going to be a mailing when you talk about the budget, so there is a different notification process to inform them of something after the fact, but then you're not notifying everyone individually about making this decision." Mr. Minenna stated, "Our plan has always been that it would not be a normal budgetary item. We have income coming in from other places other than the quarterly assessments. It would be from those funds that we would do this. We will not be burdening the homeowners with an assessment." Mr. Martin noted, "With all due respect, I'm talking about notification purposes. You're going to notify all of the property owners via letter about the decision that you've made when very few people have been formally notified via a mailing? You're not going to mail the people to make the decision. You're going to mail the people when you tell them how much money it's going to cost them." Mr. Minenna commented, "The plan will be done. The decisions in the HOA are being made by the Board of Directors. We presented the plan to the community, which we feel was warmly accepted by the majority of the people. We have the preliminary figures now, but when we have the all of it in black and white, we will explain everything in a letter with the cost, the procedure, and the timetable of implementing the plan."

Mr. Martin pointed out, "You just referenced a majority. With 689 homeowners, 10% doesn't sound to me like there's a majority." Mr. Minenna remarked, "I also know that there are people who support the plan that didn't come to the meeting." Mr. Martin asked, "Would you have any objection to a formal notification to all 689 homeowners, and then take that up in your February ballot?" Mr. Minenna replied, "I believe that went out in August of what the intent was." Mr. Martin asked, "Did you mail it to all 689 homeowners?" Mr. Minenna replied, "I was away on vacation." Mr. Martin asked, "Would you object to that?" Ms. Booker said, "I think we're going well beyond what we are to consider here from this Board. I let this go a little further than normal, because of the questions that were raised by one of the residents. These are internal issues with their HOA. It's not for this Board to consider how they run their HOA, how they manage it, or any of these other questions that have been raised. The one issue we asked them to address, they did. They held a meeting with their residents and discussed this plan in detail. They have done what we have asked them to. The rest of the issues with notification is in their bylaws, and that's up to them to resolve those issues. It's not for us to settle the issues. The politics they're having with their residents is not the City's issue. With all due respect, those questions and problems aren't for the City to resolve here."

Chair Parks stated, "As a Board member and as Chair, I wholeheartedly agree with Ms. Booker. It's an HOA matter, not necessarily a City of Port St. Lucie problem, and it's going far beyond the scope of what we came here to vote on today. There has to be an understanding and consensus that your community has coming forward for the best of your community, and that's what I look at. I do live in an HOA, so I do know the rules and regulations." Secretary Blazak noted, "Ms. Marcks stated earlier that the Board was going to take this by the horns and solve the problem. Can I assume you meant the HOA Board?" Ms. Marcks replied in the affirmative. Secretary Blazak asked, "Are these private streets platted to. . . ?" Mr. Minenna replied in the affirmative. Secretary Blazak remarked, "So it's your expense and not the City's expense." Mr. Gardner **moved** to recommend approval of P11-072, Lake Forest at St. Lucie West. Vice Chair Rooksberry **seconded** the motion, which **passed** by roll call vote, with Secretary Blazak, Chair Parks, Vice Chair Rooksberry, Mr. Battle, Mr. Gardner, and Mr. Ojito voting in favor, and Mr. Martin voting against.

7. PUBLIC HEARINGS

A. P11-159 WENDY'S RESTAURANT @ GATLIN PLAZA - SPECIAL EXCEPTION USE

Ms. Kuruvilla said, "This project is a Special Exception Use application for a drive-thru restaurant, and the applicant is Gary Bogo of Wendy's International, Inc. The owner is BDG Port St. Lucie LLC, and the property is located at 2200 SW Gatlin Boulevard at the southeast corner of Gatlin Boulevard and I-95. The legal description is Tract A, Gatlin Plaza, and the size of the project is 91.07 acres, with this parcel being only 1.29 acres. The existing zoning is Gatlin Plaza PUD, and the proposed location is at the southeast corner of Gatlin Plaza and is vacant. There are Home Depot, Kohls, and future retail sites in the subject property. The applicant has requested the approval of a single lane drive-thru facility for Wendy's restaurant in the Gatlin Plaza PUD. All permitted uses in the CG (General Commercial) zoning district is permitted within the Gatlin Plaza PUD. The drive-thru service is a permitted Special Exception Use in a CG zoning district as per Section 158.124(C)(14) of the Zoning Code. Exhibit A is the Conceptual Site Plan. The main access is from Gatlin Boulevard. Close access to the outparcel has been provided throughout the project to increase business. Staff feels that the proposed commercial development provides adequate ingress and egress. The applicant has applied for a Minor Site Plan Amendment for Wendy's Restaurant, P11-160. The area of the restaurant is 3,408 square feet. The Site Plan shows one parking space per 75 square feet for a free-standing

restaurant, and it meets the City's Code. The Site Plan also shows bike racks. The proposed use of the subject property is consistent with the surrounding uses, which consists mostly of commercial buildings. The access to this restaurant is from an internal roadway as shown in the Conceptual Site Plan. Additionally, vehicular and pedestrian access is provided through the existing parking drive isles that connect the Wendy's restaurant to the remainder of the stores within the Gatlin Plaza. The close proximity to I-95 and Gatlin Boulevard enhances the convenience. The subject property is not adjacent to a residential area, and the proposed use is consistent with the surrounding commercial properties, and will not constitute a nuisance or hazard to the adjacent compatible uses. A notice was sent to all neighbors within a 300-foot radius, and the Site Plan Review Committee unanimously recommended approval of this project on December 14, 2011. The Planning and Zoning Department staff finds the request to be consistent with special exception criteria as stipulated in Section 158.260 of the Zoning Code, and recommends approval."

Chair Parks opened the Public Hearing. There being no comments, Chair Parks closed the Public Hearing. Secretary Blazak said, "I think it's important to note that this is starting the New Year off right with positive things. Wendy's is going to take advantage of what our City Council took by the horns in December, and came up with a refund on the road impact fees. Hopefully, this will send a message to other businesses and more jobs will come in here. In this case, Wendy's will receive about $30,000 plus back on an active project, on top of creating jobs. Congratulations, and thank you to our City Council for doing that. I see that Mayor Faiella and Councilwoman Martin are here today, so thank you for attending and supporting us all the time." Vice Chair Rooksberry **moved** to recommend approval of P11-159. Mr. Battle **seconded** the motion, which **passed** by roll call vote, with Chair Parks, Vice Chair Rooksberry, Mr. Battle, Mr. Garner, Mr. Ojito, and Mr. Martin voting in favor, and Secretary Blazak abstaining. (**Clerk's Note:** A voting conflict form is attached to the minutes).

B. P11-166 STEWART J. AND SUZANNE M. LANG - SPECIAL EXCEPTION

Chair Parks said, "Since the applicants are not present, it is our policy to table this to the next meeting. Is that correct?" Mr. Holbrook replied, "That's correct. You can entertain the presentation if you wish, and then table it until February or we can just entertain a table." Vice Chair Rooksberry **moved** to table P11-166. Secretary Blazak **seconded** the motion, which **passed unanimously** by roll call vote.

8. DISCUSSION ITEMS/NEW BUSINESS

A. DETERMINATION OF EXCUSED ABSENCES

Chair Parks said, "All of our members were in attendance at the meeting of December 6, 2011."

B. BOARD VACANCIES

Mr. Holbrook said, "This is to let you know that the vacancy this Board has had for over a half year was put on hold until the redistricting map had been approved, which was approved last December. We have two applicants that have been provided in this packet. One of them has been interviewed in the past and the other one hasn't. We are looking forward to bringing this to you in February. This is for your information at this point, and in February we will be asking the Board to make a recommendation, so that it can go on to City Council. One of the interviews was done some time ago, so if it's the Board's pleasure, we can request that individual come back, or you can take the interview that was done at that time. Minutes were provided in the backup material." Chair Parks stated, "My opinion is that it has been six months and perhaps there are some updates on the applicant who did make his presentation already. If he chooses to come back, it would be nice to hear from him again. In the event that he is not available, but still wants to participate, we do have the backup material we can read."

C. COMPREHENSIVE PLAN UPDATE

Mr. Holbrook noted, "City staff and our consultant conducted two workshops this fall, and tentatively we are looking at having that update at this meeting. Due to waiting on the release of population projections from the state, we're not ready to do that yet. Most likely we will have a special meeting either at the end of this month or sometime in February. That date is to be determined. If anyone wants to follow this topic along, information is available on our website. Once a date is confirmed, we will post that on the City's website.

D. SOUTHERN GROVE DRI

Mr. Holbrook commented, "This was also tentatively advertised for today's meeting. The applicant requested that it be postponed until February."

9. OLD BUSINESS

There was nothing scheduled for this item.

ADJOURN

There being no further business, the meeting adjourned at 2:10 p.m.

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William Blazak, Secretary

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Carol M. Heintz, Deputy Clerk Supervisor