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CITY OF FORT PIERCE PLANNING BOARD

Planning Board Minutes

OF THE REGULAR MEETING OF THE FORT PIERCE CITY PLANNING BOARD HELD ON TUESDAY, **SEPTEMBER 13, 2016** IN FORT PIERCE CITY HALL, COMMISSION CHAMBERS, 100 NORTH US HIGHWAY 1, FORT PIERCE, FLORIDA.

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL**

Present: **John George; Marcia Baker; Brian Paul; Charles Hayek; Frank Creyaufmiller; Mike Dahan; Tim O'Connell; Robert Poitier; Eloise Cumings; Steve Weaver; Al Bernetti; Bob Burdge, Chairman**

Staff Present: **Jim Messer, City Attorney**
Rebecca Grohall, AICP, Director
Kori Benton, Senior Planner
Maria Lewicka, AICP, Historic Preservation Planner
Alicia Rosenthal, Administrative Assistant

4. **CONSIDERATION OF ABSENCES**

All members were present.

5. **CERTIFICATION OF ALTERNATE MEMBER VOTING STATUS**

No alternate members were needed.

6. **APPROVAL OF MINUTES**

- a. Minutes from the August 9, 2016 meeting.

Motion was made by John George, and seconded by Charles Hayek to approve the minutes from the August 9, 2016 meeting.

AYE: Charles Hayek, Frank Creyaufmiller, Mike Dahan, Tim O'Connell, Robert Poitier, Eloise Cumings, John George, Marcia Baker, Brian Paul, Chairman Bob Burdge

Passed

7. NEW BUSINESS

a. Waiver of Distance - Wood Fyah Bar & Grill - 2164 N US Hwy 1

Ms. Lewicka gave an overview of the Waiver of Distance application and answered questions from the Board. No one spoke for or against the application.

Motion was made by John George, and seconded by Marcia Baker to forward a recommendation to the City Commission for approval of the requested Waiver of Distance with the following condition:

The applicant provides a site lighting assessment to ensure the site lighting meets the minimum average of two (2) footcandles, as required by City Code, and upgrade the lighting if necessary, prior to release of the alcohol license;

AYE: Marcia Baker, Brian Paul, Charles Hayek, Frank Creyaufmiller, Mike Dahan, Tim O'Connell, Robert Poitier, Eloise Cumings, John George, Chairman Bob Burdge

Passed

b. Planned Development (PD) - Mayfair at Lawnwood - 1801 Nebraska Avenue

Motion was made by Frank Creyaufmiller, and seconded by John George to lift the item from the table.

AYE: Frank Creyaufmiller, Mike Dahan, Tim O'Connell, Robert Poitier, Eloise Cumings, John George, Marcia Baker, Brian Paul, Charles Hayek, Chairman Bob Burdge

Passed

Mr. Benton stated the item is back before the Board for consideration. Mr. Benton said since the Planning Board meeting in June, the applicant, Mr. Richard Wohlfarth, representing the owner, and the legal team for the Villages of Lawnwood, Ross, Earle, Bonan and Ensor met on August 24, 2016 to discuss drainage and the discussion points that staff noted.

Mr. Benton gave an overview of the project and answered questions from the Board regarding the density on the northern and middle section of the project.

Richard Wohlfarth, from the IBI Group, addressed the Boards concerns from the June 14, 2016 meeting and answered questions from the Board. Mr. Wohlfarth provided some updates pertaining to drainage, recreational business, density, buffers, as well as agreements in place between the Villages of Lawnwood Homeowners Association and Mayfair at Lawnwood for flowage, drainage easement and cost sharing.

David Earle, Attorney from Ross Earle Bonan & Ensor, P.A., and Villages of Lawnwood Ft. Pierce Homeowners Association representative, stated the key points of the meeting with Mr. Wohlfarth on August 24, 2016 were drainage, density and the legality of the agreements.

Mr. Earle stated he is not comfortable with the validity of the easement agreements since they were created for a specific purpose and that purpose has gone away. Mr. Earle also stated there is no agreement in place with the current applicant regarding a modification to allow rental housing with an agreement for contribution.

Mr. Earle voiced his concerns about the phasing of the development. He stated if the first part of the development was not successful, the amenities and buffering wall may not get built.

Mr. Earle spoke about his clients concerns with the excessive transition in density from 5-7 units per acre in the Villages of Longwood to 17 units per acre in Mayfair at Lawnwood. Mr. Earle stated the 17 units per acre is the practical density if you cut off the southern two acres for an Adult Congregate Living Facility, in which 223 units will be packed into less than 15.66 total acres.

Mr. Earle expounded on the residents fear of flooding, based on the drainage being operated on a 30 year old plan and a 30 year old conceptual permit and the floor elevation coming in at a foot higher than Villages of Lawnwood.

Debra Ross, Attorney with Ross Earle Bonan & Ensor, P.A., provided information on the 2012 draft litigation between the City of Fort Pierce and Ocean Bank, the property owner of Mayfair at Lawnwood. Ms. Ross stated that Ocean Bank filed suit against the City of Fort Pierce because the bank wanted to remove the Development Order condition that any development on that property had to be owner occupied. The 2005 Development Order called for owner occupied housing because that was the quid pro quo that was agreed upon between Villages of Lawnwood and Ocean Bank.

Ms. Ross stated at that time there were concerns about density, traffic, drainage, noise and lights and what was most important to the residences of the Villages of Lawnwood was to ensure it was a compatible type of community. Ms. Ross agreed with Ms. Bakers statement that the agreements were entered into based on the commitments from Mayfair at Lawnwood that the development would be compatible with the Villages of Lawnwood, owner occupied condos or units and where people would have a vested interest in the property.

Mr. Earle answered questions from the Board.

Fred Ebner, Michael Cahill and Karen Kelly, residences of the Villages of Lawnwood, spoke against the project.

Mr. Wohlfarth said he feels that the attorney from his company and Mr. Earle can work things out. Mr. Wohlfarth addressed the Board and the residences concerns regarding agreements, sidewalks, density, buffers, building elevation and leases. Mr. Wohlfarth stated that before the Certificate of Occupancy is given on the first building on the north parcel, the buffer will be in and the first amenity building will be built along with an office. Mr. Wohlfarth stated there is no market for condominiums on the property due to building cost.

Mr. Benton showed a plan from 1982 for the same property with 260 rental units. Mr. Benton stated the property is conceptualized as having 264 two-story structures.

Board discussion ensued.

Mr. Creyaufmiller, Mr. Dahan, Mr. O'Connell, Ms. Baker, Mr. George and Chairman Burdge had concerns with the project moving forward due to density and unhappy citizens.

Motion was made by Frank Creyaufmiller, and seconded by Robert Poitier to forward a recommendation of approval, as a Planned Development, Medium Density Residential area with a maximum density of 12 units per acre plus 2 bonus units per acre as provided in Code 22-72 of the City Code of Ordinances. The north parcel, 5.24 acres would be built out with 73.6 units, the middle parcel of 7.76 acres would be built out in 108.64 dwelling units of a total of 184 dwelling units on the 13 acre parcel and with the following

conditions:

- 1) The property owner and/or applicant secures the necessary authorization and/or easements to complete the proposed off-site sidewalk connections;**
- 2) The development of the southern parcel as a forty (40) unit ACLF/Memory Care facility is subject to the review and approval of a design review application pursuant to City Code Section 22-59. - Design subject to consideration by the Planning Board and City Commission.**
- 3) An agreement between the Villages of Lawnwood and Mayfair of Lawnwood concerning drainage and that consideration and agreement would need to be cast per South Florida Water Management and the Codes of the City of Fort Pierce.**

AYE: Charles Hayek, Frank Creyaufmiller, Mike Dahan, Robert Poitier, Eloise Cumings

NAY: Brian Paul, Tim O'Connell, John George, Marcia Baker, Chairman Bob Burdge

Failed

Chairman Burdge asked Mr. Messer if he understood the motion made by Mr. Creyaufmiller regarding the density. Mr Messer stated he is not in the position to comment on the technical aspects of density and he would defer to the Planning staff. Mr. Messer expounded that the Board cannot alter the density requirements of the Land Development Code and as long as this has not been done then he is comfortable with the motion.

Mr. Benton stated that the reduced density bonus allowances are within the city code and the density bonus is being applied for the overall development.

Mr. Messer said the applicant has the opportunity to disagree with the Planning Board's recommendation and the City Commission has the ultimate authority to make there own recommendations or approval, if any is given.

Ms. Messer stated the only person or person(s) that is going to determine what if any agreements are in existence and valid will be a judge. Mr. Messer said he thinks the maker of the motion is saying the item goes forward contingent upon the South Florida Water Management District analysis and granting a permit.

Ms. Baker felt the original motion was confusing the issue and the density was being micromanaged.

Motion was made by Marcia Baker, and seconded by John George to deny the application.

AYE: Frank Creyaufmiller, Mike Dahan, Tim O'Connell, Robert Poitier, Eloise Cumings, John George, Marcia Baker, Chairman Bob Burdge

NAY: Charles Hayek, Brian Paul

Passed

Mr. Messer suggested that the record reflect any specific reason or reasons for the disapproval, so the City Commission will understand why the Planning Board did not approve the project.

Ms. Baker voiced the reason she opposed the application was because it is going before the City Commission and they need to make a clear cut decision based on the minutes, motions

made and the information that was produced.

Chairman Burdge stated the Planning Board recommended denial of the project and because the Planning Board has denied the project as presented, the City Commission will need 4 members to vote in favor of the project to overturn the denial. Chairman Burdge also stated that property owners within 500 feet will receive a letter to respond back to the City Commission with there feelings on the project.

8. BOARD COMMENTS

9. ADJOURNMENT