

# DRAFT



## CITY OF FORT PIERCE PLANNING BOARD

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### Planning Board Minutes

OF THE REGULAR MEETING OF THE FORT PIERCE CITY PLANNING BOARD HELD ON TUESDAY, **SEPTEMBER 17, 2019**, 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: **Jovona Parker; Michael Broderick; Gloria Johnson-Scott; Patricia Diaz; Bob Burdge; Frank Creyaufmiller, Chairman**

Absent: **Tim O'Connell**

Staff Present: **Peter Sweeney, City Attorney**  
**Jennifer Hofmeister, Planning Director**  
**Rebeca Guerra, Assistant Planning Director**  
**Ed Roseberry, Deputy Building Official**  
**Brandon Creagan, Planner**  
**Vennis Gilmore, Planner**  
**Alicia Rosenthal, Executive Assistant**

4. **CONSIDERATION OF ABSENCES**

Mr. O'Connell was excused.

5. **APPROVAL OF MINUTES**

- a. Minutes from the August 13, 2019 meeting

**Motion was made by Michael Broderick, and seconded by Gloria Johnson-Scott to approve the minutes from the August 13, 2019 meeting.**

**AYE: Gloria Johnson-Scott, Patricia Diaz, Bob Burdge, Jovona Parker, Michael Broderick, Chairman Frank Creyaufmiller**

Passed

## 6. NEW BUSINESS

Chairman Creyaufmiller welcomed the new Planning Director, Jennifer Hofmeister, and thanked Rebeca Guerra for her hardwork as the Interim Planning Director. The chairman also introduced the new Planning Board member, Patricia Diaz.

### a. Conditional Use - Danaluk Vacation Rental - 715 S. Ocean Drive, Unit D

This item was moved to 6d.

Mr. Gilmore gave an overview of the application and answered questions from the Board on the transient nature of the application, handicap parking on site, fire sprinklers for entire building, homeowners association aware of changes to the common element and resolved code enforcement issues.

Michelle Longarzo, applicant, explained that the building is on one water meter and their unit, from original certificate of occupancy, was a transient daily rental, therefore the building should be grandfathered in, to having to sprinkle the entire building. Ms. Longarzo stated she has had several meetings with various departments to resolve all the issues. Ms. Longarzo said the homeowner association (HOA) documents state the residence is a single family and there is no way to change one out of 13 units to a commercial space when they are all residential units.

Chairman Creyaufmiller explained that even with City Commission approval the building and fire requirements will still need to be performed.

Ms. Longarzo stated they will be doing very few rentals per month because they intend to do respite vacations for childhood cancer. Ms. Longarzo said the funding from the rentals will promote the childhood cancer vacation program.

Mr. Broderick asked Ms. Longarzo if the HOA has approved the change of use, modifying the common element and reallocation of parking to include a handicap spot. Mr. Broderick said he would feel more comfortable if the condominium association was in agreement to all the things that need to be addressed to complete this project. Mr. Brodericks suggested that the application could be deferred to tie up some loose ends.

Ms. Longarzo said she believes the departments are not working together cohesively. Mr. Broderick stated if you came in for a standard conditional use approval for a short term rental of 31 days or more you do not have to deal with fire sprinklers, handicap parking, and modification of the common elements.

Ms. Longarzo said Mr. Danaluk has the right to use his properties as he shows fit and the by laws of the HOA says the unit can be used for guest. Ms. Longarzo noted that the by laws are so old there is not a provision for rentals or money transactions. Ms. Longarzo stated that if it remains residential, as it should, they would not have to deal with all the hurdles.

Mr. Broderick said the Department of Business and Professional Regulation is the state agency that is requiring sprinklers.

Ms. Parker disclosed she had a brief conversation with Ms. Longarzo to review the information on August 26, 2019, and she was also copied on correspondence between Ms. Longarzo, the City Manager, Nick Mimms and Commissioner Sessions regarding this matter.

Ed Roseberry, Deputy Building Official, stated this is a great project in a not so proper place.

Mr. Roseberry noted that both he and the Building Official, Paul Thomas, have done extensive research on the project. Mr. Roseberry explained there are some state laws in the building code that are required once it becomes transient lodging less than 30 days. Mr. Roseberry went on to say that the building codes determine the occupancy and the fire department bases their decision off the occupancy.

Mr. Sweeney explained to the Board that there is a very clear provision in the condo documents that references a 75% vote is needed if there is going to be modifications of an individual owner and this is outside the purview of the Planning Board.

Mr. Burdge asked Ms. Longarzo if she is okay with the eight conditions. Ms. Longarzo stated she has issues with the installation of the sidewalk because of the inconsistency with the way the sidewalk is laid out.

Ms. Hofmeister stated that a publicly funded project can create a continuous sidewalk, but in many cases individual property owners are required to add the sidewalk when they upgrade their property and that helps link the sidewalk connection. Ms. Hofmeister clarified that if there is a change in use or an expansion, the sidewalk is required.

Mr. Burdge said he remembered years ago the code instituted that if someone owned the property for a certain period, they were not required to put sidewalks in.

Ms. Longarzo stated she is willing to comply with the maximum number of occupants required for her dwelling rental.

Mr. Sweeney stated he did some research relating to when the specific subsection of the ordinance relating to the sidewalks went into effect. Mr. Sweeney explained that the ordinance has been in effect since 1981 and was amended twice in 1987 and 2012. Mr. Sweeney said it is analogous to bring buildings up to current standards when there is a change to the active building code and if you don't change anything you can keep the building the way it is.

Gus Fort, HOA President, answered questions from the Board on the number of units in the condo association, and if the association voted to modify the HOA documents. Mr. Fort said the condo documents mention nothing about rentals and some neighbors are for it and some neighbors are against it.

Nicholas Danaluk, owner, said the sidewalk makes no sense. Mr. Danaluk explained that even though they can by-pass some regulations, the reason they are not applying for a short term rental of 31 days or more is because they need the flexibility to have a weekend or weekly rental to continue to support their foundation of bringing in childhood cancer families. Mr. Danaluk stated as far as the sprinklers go, the building is on one water line and the chance of getting 100% approval from the association would be zero.

Ms. Parker states the purpose of the Conditional Use process in City Code Section 22-74 is to look at whether there is competent substantial evidence that would indicate an adverse impact to the comfort of other residents. Ms. Parker said she has difficulty with making homeowners pay an assessment that they are clearly in opposition of. Ms. Parker highlighted that the property was purchased for the purpose of the 503C organization, which means the owner purchased the property contingent on the by-laws and the owner knew what he was buying. Ms. Parker highlighted that In order for there to be code compliance there is going to be some adverse effect to the other owners.

Mr. Broderick stated there has not been a vote to modify the associations governing documents and there has not been universal approval of this type of use within the building for all 11 unit owners. Mr. Broderick suggested the applicant defer the decision to clarify and cleanup some

of the issues.

Chairman Creyaufmiller clarified to the applicant that children would be counted as occupants in a 650 square foot unit.

Chairman Creyaufmiller explained to the applicant that if they defer and solve some issues that have been raised, the chance of the board sending a motion of approval forward to the City Commission is much greater. Chairman Creyaufmiller said if the Board sends a motion of disapproval to the City Commission, it will require a 4/5 vote to override the vote in order to approve the application.

Mr. Broderick applauded the proposition but believes it is in the wrong spot. Mr. Broderick asked staff if the applicant was approved for a Conditional Use with 31 days or more rental period, would they be allowed in the future to come back and revisit the transient Conditional Use once the other issues were resolved.

**Motion was made by Bob Burdge, and seconded by Gloria Johnson-Scott to recommend APPROVAL with the following eight conditions:**

- 1. The property manager for the vacation rental shall be available at all times to resolve complaints or violations of city code. Said manager shall reside in St. Lucie County and shall be registered with the City of Fort Pierce.**
- 2. Guide booklets (available from Code Enforcement) shall be provided to renters regarding local rules and public service resources, to minimize conflicts.**
- 3. The applicant shall file for and obtain the Florida Department of Business and Professional Regulation, St. Lucie County, and City of Fort Pierce Business Tax Licenses within thirty (30) days of Conditional Use approval.**
- 4. There shall be a limitation of no more than two vehicles at the site.**
- 5. The City of Fort Pierce Business Tax License number shall be included on all advertising.**
- 6. The maximum occupancy of the home shall ensure compliance with City Code Section 8.5-43. - Required space in dwelling units, based upon the size of each unit.**
- 7. Installation of one handicap space per City Code Section 22-60 Off-Street Parking and Loading (if not already present).**
- 8. Per City Code Section 22-62 Sidewalks. b) Applicability: In order to provide continual access for pedestrians, sidewalks and sidewalk linkages the property owner or permit applicant shall provide within 31 days of Conditional Use approval, a permit for the installation of a sidewalk along their property line that abuts Hernando Street.**

**AYE: Bob Burdge, Gloria Johnson-Scott, Chairman Frank Creyaufmiller**

**NAY: Patricia Diaz, Jovona Parker, Michael Broderick**

Failed

Mr. Broderick suggested a motion to approve the Conditional Use for a rental period of 31 days or greater based on the standard conditions that apply. Mr. Broderick explained this would allow the applicant to utilize the unit for the rental period and garner rental income, in hopes of resolving the laundry list of other issues. Mr. Broderick said once they have made progress on those issues they can bring it back to the Planning Board.

Mr. Sweeney said the Board has the ability to make an advisory recommendation and since the application was for less than 31 days he suggested that the Board ask the applicant if they are willing to accept the change. Mr. Sweeney also explained that property owners within 500 feet will be contacted and if more than 20% of the unit owners say no, it won't matter what the Board says because it will trigger a 4/5 vote for approval. Mr. Sweeney stated the applicant will have to have 4/5 of the City Commissioners vote in favor of the application even if it has a full

recommendation of approval with all the conditions.

Mr. Sweeney said there is a separate process for a Conditional Use application for 30 or more day rentals and procedurally it is very difficult and may cause due process issues to add this as a condition. Mr. Sweeney stated the decision needs to be evaluated based on the current application. Mr. Sweeney noted that since there was not an odd number of Board members at the meeting, a deferral to the next Planning Board meeting, with a full panel, would provide an outcome one way or another.

**Motion was made by Jovona Parker, and seconded by Michael Broderick to disapprove the proposed Conditional Use.**

**AYE: Jovona Parker, Michael Broderick, Gloria Johnson-Scott, Patricia Diaz**

**NAY: Bob Burdge, Chairman Frank Creyaufmiller**

Passed

**b. Conditional Use and Design Review - Surfside Equities, LLC - 1814 Surfside Drive**

Mr. Creagan gave an overview of the application and answered questions from the Board regarding a possible dune crossover.

Chris Urban, Braden and Braden Architects, stated the owner has not expressed any interest in a dune crossover.

**Motion was made by Bob Burdge, and seconded by Jovona Parker to approve the Conditional Use with New Construction and Design Review seaward of the Coastal Construction Control Line with the following condition:**

**Prior to construction activities the applicant shall obtain approval from the Florida Department of Environmental Protection for construction activities seaward of the Coastal Construction Control Line.**

**AYE: Bob Burdge, Jovona Parker, Michael Broderick, Gloria Johnson-Scott, Patricia Diaz, Chairman Frank Creyaufmiller**

Passed

**c. Conditional Use and Design Review - Supina/Twoey Residence - 1912 Surfside Drive**

Mr. Creagan gave an overview of the application.

Mike Menard, Architectonic, stated the increased height is to allow for RV parking in the garage bay and to allow for the great room to have vaulted ceilings that go up roughly 12 feet high to take full advantage of the ocean view. Mr. Menard stated the landscape and lighting plan will be provided at the time of building permit.

Mr. Burdge suggested staff address a dune crossover on buildings that are east of the Coastal Construction Line and could have an impact on the dune line.

Ms. Hofmeister suggested considering recommendation of a dune crossover when the applicant initially comes in.

**Motion was made by Gloria Johnson-Scott, and seconded by Michael Broderick to approve the Conditional Use with New Construction and Design Review, seaward of the Coastal Construction Control Line with the following conditions:**

- 1. A landscape plan that demonstrates compliance with City Code 22-186 shall be submitted with the building permit.**
- 2. A lighting plan or photometric survey that demonstrates compliance with City Code 5-375 shall be submitted with the building permit.**
- 3. Prior to construction activities the applicant shall obtain approval from the Florida Department of Environmental Protection for construction activities seaward of the Coastal Construction Control Line.**

**AYE: Michael Broderick, Gloria Johnson-Scott, Patricia Diaz, Bob Burdge, Jovona Parker, Chairman Frank Creyaufmiller**

Passed

**d. Text Amendment - Chapter 22 - Board of Adjustment**

Ms. Guerra said the Historic Preservation Board is staying the way it is today with no changes. Ms. Guerra explained that the Board of Adjustment will remain a Quasi-Judicial Board and the changes to the Board of Adjustment will be that the Board will be composed of five members, appointed by the mayor and by each City Commissioner, with no alternates, and the terms will be tied to the mayor or commissioner, who appointed the Board member. Ms. Guerra stated that appeals to the Board decisions will go to the City Commission. Ms. Guerra said the final change is a cleanup of the Planning Department's name and the Planning Director's title.

Chairman Creyaufmiller suggested a minor change be made on page 6.

Mr. Broderick asked about the timeline on appeals, appointments being made by City Commissioners and if any modifications are being made to the alternates on the Historic Preservation Board.

Michelle Longarzo, resident, expressed concerns with appeals not going to the court.

Mr. Sweeney stated, with the restructure, a decision made by the Board of Adjustment would be appealable directly to the City Commission and if there was an issue with the ruling from the City Commission, it could be appealable to the circuit court as a 2nd level appeal.

**Motion was made by Bob Burdge, and seconded by Michael Broderick to approve the text amendment with removal of the word "the" from "of the this section" on page 6.**

**AYE: Gloria Johnson-Scott, Patricia Diaz, Bob Burdge, Jovona Parker, Michael Broderick, Chairman Frank Creyaufmiller**

Passed

**7. ELECTION OF CHAIR AND VICE-CHAIR**

**Motion was made by Gloria Johnson-Scott, and seconded by Michael Broderick to re-elect Mr. Creyaufmiller as Chairman.**

**AYE: Patricia Diaz, Bob Burdge, Jovona Parker, Michael Broderick, Gloria Johnson-Scott, Chairman Frank Creyaufmiller**

Passed

**Motion was made by Gloria Johnson-Scott, and seconded by Jovona Parker to elect Mr. Broderick as Vice-Chair.**

**AYE: Bob Burdge, Jovona Parker, Michael Broderick, Gloria Johnson-Scott, Patricia Diaz, Chairman Frank Creyaufmiller**

Passed

**8. COMMENTS FROM THE PUBLIC**

Any person who wishes to comment on any subject may be heard at this time. Please limit your comments to three (3) minutes or less, as directed by the Chair, as this section of the Agenda is limited to thirty minutes. The Planning Board will not be able to take any official actions under Comments from the Public. Speakers will address the Board and the Public with respect. Inappropriate language will not be tolerated.

**9. BOARD COMMENTS**

Mr. Broderick asked the status of the EAR submission to the state. Mr. Creagan said the state has until October 21, 2019 to give formal responses, and from that point, changes can be made to the document and then forwarded to the City Commission for final approval. Mr. Creagan noted that the city received the receipt notice from the state, so the city is allowed to start adopting Comprehensive Plan changes. Mr. Creagan stated the consultant will be providing the finalized document.

Chairman Creyaufmiller said the Board has come a long way in the past year and it is showing up at the Commissioners level. Chairman Creyaufmiller thanked the Planning department for providing detailed information in the packets.

**10. ADJOURNMENT**