

City of Venice

401 West Venice Avenue
Venice, FL 34285
www.venicegov.com

Meeting Minutes Planning Commission

Monday, September 25, 2017

1:30 PM

Council Chambers

I. Call to Order

A Regular Meeting of the Planning Commission was held this date in Council Chambers at City Hall. Chair Barry Snyder called the meeting to order at 1:35 p.m.

II. Roll Call

Present: 7 - Chair Barry Snyder, Helen Moore, Jerry Towery, Shaun Graser, Tom Murphy, Charles Newsom and Janis Fawn

Also Present

Liaison Councilmember Kit McKeon, Assistant City Attorney Kelly Fernandez, Development Services Director Jeff Shrum, Senior Planner Scott Pickett, Planning Manager Roger Clark, Planner Jim Koenig, Assistant City Clerk Heather Taylor and Recording Secretary Shirley Gibson.

III. Public Hearings

Discussion took place regarding the current agenda petitions being advertised for September 19, 2017, however, due to circumstances regarding Hurricane Irma, the hearings were continued to today's special meeting for the Planning Commission, and time restraints.

05-25SP.2

Eye Associates Site Plan Amendment

Staff: James Koenig, AICP, Planner

Agent: Jeffrey A. Boone, Esq.

Applicant: Florida Practice Management, LLC

Chair Snyder stated this was a quasi-judicial hearing; read a memorandum regarding advertisement and written communication, opened public hearing, confirmed speaker cards completed by all those who will offer testimony, or speak under audience participation.

Ms. Fernandez questioned board members concerning ex parte communications and conflicts of interest. Mr. Towery and Mr. Graser disclosed site visits.

Mr. Koenig, being duly sworn, reviewed the petition to include petition

summary information, background, aerial photograph, surrounding property information, photos of subject and surrounding properties, future land use map, zoning map, project area site plan, compliance with the comprehensive plan and land development code, concurrency review, and staff findings of fact, and responded to board questions regarding parking requirements.

Jeff Boone, Attorney, Boone Law Firm, being duly sworn, spoke to contingency on council approval in change in plans, reduction of square footage, parking allocations, consistency with the comprehensive plan, and compliance with city standards and property zoning and responded to board questions regarding additional retail space.

A motion was made by Ms. Fawn, seconded by Ms. Moore, that based on review of the application materials, the staff report and testimony provided during the public hearing, the Planning Commission, sitting as the local planning agency and land development regulation commission, finds this petition consistent with the Comprehensive Plan, in compliance with the Land Development Code and with the affirmative Findings of Fact in the record, and moves to approve Site and Development Plan Amendment Petition No. 05-25SP.2. contingent upon City Council approval of the concurrent changes in plans petition. The motion carried by the following vote:

Yes: 7 - Chair Snyder, Ms. Moore, Mr. Towery, Mr. Graser, Mr. Murphy, Mr. Newsom and Ms. Fawn

17-04SE

Toscana Isles Directional Sign Special Exception

Staff: Roger Clark, Planning Manager

Agent: Alex Hays

Applicant: Laurel Road Property, LLC

Chair Snyder stated this was a quasi-judicial hearing; read a memorandum regarding advertisement and written communication, opened public hearing, confirmed speaker cards completed by all those who will offer testimony, or speak under audience participation.

Ms. Fernandez questioned board members concerning ex parte communications and conflicts of interest. Ms. Moore, Mr. Snyder, Mr. Towery, and Mr. Graser did site visits, Mr. Newsom did a site visit and has his campaign sign posted on property.

Mr. Clark, being duly sworn, reviewed the petition to include aerial photograph, prior code enforcement, site plan, site photographs, special exception, future land use map, existing zoning map, surrounding property information, comprehensive plan, zoning code consistency, concurrency, summary findings, and responded to board questions regarding the distance from the corner to the entrance, timeframe for the sign, prior code enforcement actions on other signs, other off site sign locations, and prior complaints.

Alexander Hays, LALP Development, LLC., being duly sworn, spoke to the purpose of the sign to direct traffic, sign location on private property, landscaping and fencing around the sign and responded to board questions regarding lighting, how long the sign has been in place and duration, comprehensive plan, and land development code guidelines.

Mr. Shrum, being duly sworn, spoke relative to handling permitting at the administrative level, code of ordinances regarding off-site signs and sign standards, and timeline for how long the sign may be placed.

Mr. Snyder closed the public hearing.

Discussion took place regarding concerns with approving motion, precedent being set, structure of sign, no regulations regarding sign, re-addressing issues, updating codes, time frame, and land development regulations.

Ms. Fernandez spoke to each petition standing on its own merit, although there is the need for a degree of consistency.

Discussion continued regarding additional properties being developed and the need for directional signage, procedure for signage, and modifications and extensions.

A motion was made by Mr. Murphy, seconded by Mr. Towery, that based on review of the application materials, the staff report and testimony provided during the public hearing, the Planning Commission, sitting as the local planning agency and land development regulation commission, finds this petition consistent with the Comprehensive Plan, in compliance with the Land Development Code and with the affirmative Findings of Fact in the record, and moves to approve Special Exception Petition No. 17-04SE for a time limit of two years for this particular sign, after which time the applicant can request an extension from the Planning Commission or install a permanent sign in accordance with the Portofino Master Plan. The motion carried by the following vote:

Yes: 5 - Ms. Moore, Mr. Towery, Mr. Murphy, Mr. Newsom and Ms. Fawn

No: 2 - Chair Snyder and Mr. Graser

17-08SP

1216 E. Venice Ave. Sign Modification Site Plan Amendment
Staff: Scott Pickett, AICP, Senior Planner
Applicant: John & Pasqual Astore

Chair Snyder stated this was a quasi-judicial hearing; read a memorandum regarding advertisement and written communication, opened public hearing, confirmed speaker cards completed by all those who will offer testimony, or speak under audience participation.

Ms. Fernandez questioned board members concerning ex parte communications and conflicts of interest. Ms. Moore, Mr. Snyder, Mr. Newsom and Mr. Graser conducted site visits with no communication.

Mr. Clark, being duly sworn, presented a power point to include review of petition summary, existing non-conforming pylon sign, proposed monument sign, aerial photo of subject and surrounding properties, future land use map, existing zoning, review of consistency with comprehensive plan, compliance with the land development code, concurrency, summary findings, and planning commission action.

Jon Astore, 1216 E. Venice Avenue, being duly sworn, spoke to the existing sign, and prior sign approval.

Mr. Snyder closed the public hearing.

A motion was made by Ms. Moore, seconded by Mr. Newsom, that based on review of the application materials, the staff report and testimony provided during the public hearing, the Planning Commission, sitting as the local planning agency and land development regulation commission, finds this petition consistent with the Comprehensive Plan, in compliance with the Land Development Code and with the affirmative Findings of Fact in the record, and moves to approve Site and Development Plan Petition No. 17-08SP. The motion carried by the following vote:

Yes: 7 - Chair Snyder, Ms. Moore, Mr. Towery, Mr. Graser, Mr. Murphy, Mr. Newsom and Ms. Fawn

17-03VZ

422 Beach Park Boulevard Variance

Staff: Scott Pickett, AICP, Senior Planner

Applicant: Ron & Lise Juneman

Chair Snyder stated this was a quasi-judicial hearing; read a memorandum regarding advertisement and written communication, opened public hearing, confirmed speaker cards completed by all those who will offer testimony, or speak under audience participation.

Ms. Fernandez questioned board members concerning ex parte communications and conflicts of interest. Ms. Fawn, Mr. Moore, Mr. Snyder, Mr. Newsom and Mr. Graser did site visits with no communication.

Mr. Clark, being duly sworn, spoke regarding applicable code standard, variance request, proposed front yard, aerial photo of subject and surrounding properties, future land use, existing zoning, planning commission review and action, expiration of requested variance, summary finding, and answered questions by the board regarding surrounding property, lot coverage percentage, pool structure inclusion in lot coverage, chlorinate dump out water during rainstorms, fencing structure requirements, standards on setbacks for solar elements, and location of

solar panels.

Lise Juneman, 422 Beach Park Blvd, being duly sworn, spoke to the petition to include request to build a pool and solar panels, history of ownership of the property, submission of preliminary pool drawing to planning and zoning, the need for a variance, previous variance requests granted on other city properties, type of fence to be used, displayed photos to show expected design of fencing and landscaping, and solar panels.

Ron Juneman, 422 Beach Park Blvd., being duly sworn, spoke to storm drainage.

Ms. Juneman spoke to the required drainage plan and responded to board questions regarding lighting, placing solar panels on the roof, footage of backyard, drainage issues, allowable lot coverage, variance to concern with six inches to the property line, pool size, fence and hedge opacity.

Discussion took place regarding concern with lot size, setbacks, property line, drainage, approval from engineering department, property improvements, enhancement to community, increased property value and angled fence.

Ronald Ziegler, 430 Beach Park Blvd., being duly sworn, spoke regarding concern of pool size, solar panels, heat pumps, and type of pool.

Wilson Miles, 425 Beach Park Blvd., being duly sworn, spoke regarding scope of project, current proposal, not in favor of variance, safety, scope and design of project, prescindent being set in the neighborhood and no other front yard pools in neighborhood.

Margaret Schreiber, 429 Beach Park Blvd., being duly sworn, spoke regarding surrounding streets, expressed her opposition noting there are no other front or side yard pools in the subdivision and concern with the pool and landscaping design, solar panels and safety.

Pamela Rathmell, 420 Beach Park Blvd., being duly sworn, expressed her support of the variance and commented on the improvements that have been made to the property.

Ms. Juneman spoke to impact of pool size and visibility.

Mr. Juneman spoke to impact on parking.

Discussion took place regarding consideration of a heat pump, and use of a salt generating system.

Mr. Clark spoke to landscaping, and answered questions regarding the visibility triangle, hedges, and set back on fence.

Mr. Shrum, being duly sworn, clarified that the planning department does not make recommendations and responded to questions regarding compatibility in regards to landscaping.

Mr. Snyder closed the public hearing.

A motion was made by Mr. Newsom, seconded by Mr. Murphy, that based on the staff report and the presentation, the Planning Commission, sitting as the local planning agency and land development regulation commission, finds this petition consistent with the Comprehensive Plan, in compliance with the Land Development Code and with the affirmative Findings of Fact in the record, and moves to approve Variance Petition No. 17-03VZ. The motion carried by the following vote:

Yes: 4 - Ms. Moore, Mr. Graser, Mr. Murphy and Mr. Newsom

No: 3 - Chair Snyder, Mr. Towery and Ms. Fawn

17-03SP

McLeod Recycling Yard Site & Development Plan

Staff: Roger Clark, Planning Manager

Agent: Michael Shannon, P.E., Crest Engineering of Sarasota

Applicant: 700 Gene Green, LLC

Chair Snyder stated this was a quasi-judicial hearing; read a memorandum regarding advertisement and written communication, opened public hearing, confirmed speaker cards completed by all those who will offer testimony, or speak under audience participation. One written communication received.

Ms. Fernandez questioned board members concerning ex parte communications and conflicts of interest. Mr. Newsom conducted a site visit with no communications and Mr. Snyder indicated he lives in the Venetian Golf and River Club and pays dues to the association.

Discussion took place regarding a memorandum that was received from Venetian Community Association requesting affected party status, and commissions review of the process for determination.

Erin Kristie, Attorney, Williams Parker Law Firm, being duly sworn, spoke regarding a letter drafted to city regarding affected party status, Renard standards, proximity, aerial photograph, character of neighborhood, comprehensive plan, future land use, zoning notice requirements, and answered questions by the board regarding a wall along the property as a possible buffer.

Jerry Jasper, Venetian Community Association, being duly sworn, clarified the location of the wall, berm elevation, and tree buffers.

Ms. Kristie spoke regarding attempts to reach out to McLeod to resolve the matter behind closed doors and were unsuccessful and answered questions regarding whether McLeod is active and whether a decibel study was conducted.

Devin Parks, Grimes, Goebel, Grimes, Hawkins, Glodfelter & Galvano, PC., being duly sworn, displayed photos of the property line in regards to buffering and questioned Mr. Jasper regarding prior affected party status requests for surrounding projects, application for affected property, and when notification to applicant was made regarding affected property status.

Mr. Parks further spoke regarding addressing affected party status, Renard opinion, addressing issues, site and development application, opinion of Smith v. City of Fort Myers, no legal basis for affected party status, registered neighborhood associations receiving notice, no zoning issues, site and permit application, and answered questions regarding justification for opposing affected party status.

Ms. Fernandez responded to board questions regarding following the Renard standard.

Mr. Parks responded to board questions regarding communication with the community, buffering, and decibel of equipment.

Mr. Shrum, being duly sworn, responded to board questions regarding notification under the zoning code and notifications made to community.

Ms. Kristie, spoke to timing of applying for affected party status, pre-annexation agreement, precedent for providing affected party status in the city, and canopy trees.

Mr. Jasper spoke regarding other companies having buffers, and communication with contractors on previous jobs.

Discussion took place regarding zoning, pre-annexation agreement, and timing of applying.

Mr. Parks spoke regarding zoning decision of the property in 2008, and answered questions regarding a prior temporary use permit.

Ms. Fernandez clarified the factors in determining affected party status as stated in the Renard decision.

Discussion took place regarding proximity issues, and noise ordinances that regulate levels.

Ms. Kristie commented on a continuation to allow for possible further discussion with McLeod.

There was a discussion to continue the petition until a later meeting.

Mr. Parks opposed to continuing the petition.

Meeting went into recess from 5:02 p.m. to 5:07 p.m.

A motion was made by Mr. Towery, seconded by Mr. Murphy, to grant Venetian Community Association's request for affected party status and Site Plan Petition no. 17-03SP. The motion carried by the following vote:

Yes: 7 - Chair Snyder, Ms. Moore, Mr. Towery, Mr. Graser, Mr. Murphy, Mr. Newsom and Ms. Fawn

Mr. Clark, being duly sworn, reviewed the petition to include background information, clarified staff reports being based on the code, continued to review aerial photograph, site plan, property photographs, surrounding property information, comprehensive plan consistency, trees included in landscaping plan in applicant packet, planned industrial development (PID) and land development code consistency, concurrency, and summary findings.

Mr. Shrum clarified usage issues to include temporary use application, staff concerns, zoning, resolution options regarding allowable uses, determination letter, pre-annexation agreement, and idea of courts making a decision.

Mr. Parks questioned staff regarding qualifications to give legal opinion and those in the city entitled to give legal opinions.

Michael Shannon, Crest Engineering, being duly sworn, entered his resume into the record, reviewed the site plan of crushing location, site preparation application in regards to stockpiling and recycle materials, drainage permits, and site prep permit.

Mr. Parks informed the board of the locations where trucks will enter the facility and where the operations will take place, planting shade trees for buffering, drainage, creating a berm, pre-annexation agreement language, definition of subject property, parcel usage, applicable case law of Moore vs. Stephens, and ambiguity.

Mr. Shannon noted the plans are in compliance with the site and

development plan, and responded to questions regarding location for crushing and storing of crushed material, compliance with the city noise ordinance, watering and dust control, and best management practices.

Mr. Parks answered questions regarding legal analysis, and verbiage in the pre-annexation agreement.

Recess was taken from 6:03 p.m. until 6:06 p.m.

Ms. Fernandez spoke to the pre-annexation agreement in regards to ambiguity.

Discussion took place regarding the intent of the 2004 pre-annexation agreement.

Ms. Kristie, spoke to the opposition of the use of the parcel under the PID, applicable standards in the pre-annexation agreement in regards to recycling of concrete, rezone ordinance incorporating the pre-annexation agreement in regards to grandfathering in the concrete recycling yard, intent and history of Venice, and comprehensive plan in regards to adjacent residential areas.

Ms. Jasper spoke to noise issues and landscape buffering.

Discussion took place regarding intent of parties at the time of the pre-annexation agreement.

Mr. Clark and Ms. Fernandez responded to board questions regarding clarification of intent in the files and history.

Mr. Parks questioned Mr. Jasper in regards to experience in concrete production or crushing, basis for providing information on operations to move concrete from one pile to another, professional experience regarding sound and basis for testimony provided regarding noise, personal experience with the pre-annexation agreement and annexation of the property, and review of historical documentation and addressed provision provided for concrete recycling.

Mr. Parks spoke to language in pre-annexation agreement, review of the application and compliance.

Ms. Kristie spoke regarding manufacturing, recycling, and zoning code.

Mr. Shrum clarified that the planning department does not make recommendations to approve, and responded to board questions

regarding compatibility in regards to landscaping, and potential issues.

Ms. Kristie answered questions by the board regarding PID special exception.

Discussion took place regarding PID special exception required for offsite material to be recycled.

Mr. Parks spoke regarding 2004 pre-annexation agreement and rezone application are improperly indexed, will submit email correspondence to the clerk, and responded to board questions regarding not being indexed to prior owner R.G. Green, and title insurance policy.

Mr. Snyder closed the public hearing.

Discussion took place regarding making a decision based on entire testimony presented, appealing decision to City Council, ambiguity in the pre-annexation agreement, legal opinion received, lack of providing incompatibility by affected party, staff review, the ability of parties to work together, concern that a more definitive opinion was not received from legal counsel, code violations, potential of quality of life issues to surrounding property.

Ms. Fernandez spoke regarding legal interpretation.

A motion was made by Mr. Towery, seconded by Mr. Murphy, that based on review of the application materials, the staff report and testimony provided during the public hearing, the Planning Commission, sitting as the local planning agency and land development regulation commission, finds this petition consistent with the Comprehensive Plan, in compliance with the Land Development Code and with the affirmative Findings of Fact in the record, and moves to approve Site and Development Plan Petition No. 17-03SP with the stipulation that the facility will not be in operation during the hours of darkness. The motion failed by the following vote.

Yes: 2 - Mr. Towery and Mr. Murphy

No: 5 - Chair Snyder, Ms. Moore, Mr. Graser, Mr. Newsom and Ms. Fawn

IV. Audience Participation

There was none.

V. Comments by Planning Division

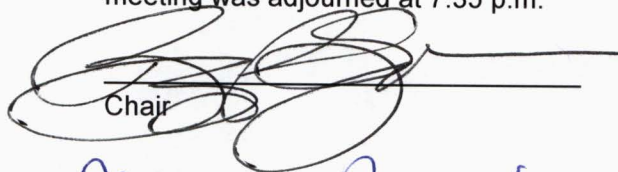
There were none.

VI. Comments by Planning Commission Members

There were none.

VII. Adjournment

There being no further business to come before this Commission, the meeting was adjourned at 7:35 p.m.



Chair



Recording Secretary