

MINUTES OF THE CITY PLANNING BOARD MEETING
September 14, 2010
3:00 p.m.

MEMBERS PRESENT: Derek Cosson, Paul Ritz, Jeannie Rhoden, Clay Roesch, Cynthia Williams

MEMBERS ABSENT: Ashton Hayward, Bob Moulton

STAFF PRESENT:	Sherry Morris	Community Development Administrator
	Thaddeus Cohen	Community Development Director
	Helen Gibson	Community Development
	Melody Tillman	Community Development
	Ryan Winterberg-Lipp	Community Development
	Becky Bray	Community Redevelopment Agency
	David Hill	Engineering
	Rusty Wells	City Attorney
	Susan Woolf	Assistant City Attorney

OTHERS PRESENT:	Bert Calhoun	Evla Booker
	Sandra McCreary	Roderick Bennett
	Alan McDuff	Frankie C. McIntosh
	Billy Reeves	Wyvette McCovery
	Charles Williams	Wayne O'Hara
	Cheryl Dickens	Pat Travis
	Don C. Paedae	Margaret Sheridan
	Linda Fillingim	Robert Fillingim
	Kirby Smith	Dwight Colston
	Tyron Vanderhall	Wilhemina Ladd Gadson
	John D. Porter, Jr.	Denise D. Myers
	Annie Mosley	Clara James
	Aaron Long III	Melvin Leader
	Gloria M. Kyle	Corine Harris
	Cameron Clark	Robert Porter
	Willie A. Lawrence	Davon McMillan
	Robert Bell	Virginia S. Williams
	Deborah Plessy	Ruth F. Green
	Vincent S. Green	Beverly J. Perry

AGENDA

1. Quorum/Call to Order/Prior Minutes.
2. Request for License to Use Right of Way- 505 North 12th Avenue.
3. **PUBLIC HEARING-** EAR-Based Amendments to Comprehensive Plan.
 - ❖ Chapter 1-Land Use and Future Land Use Map (FLUM).
 - ❖ Chapter 6- Conservation.
 - ❖ Chapter 12- Economic Development.
4. New Business.
5. Old Business.

ITEM 1 – Quorum/Call to Order/Prior Minutes.

Mr. Ritz called the meeting to order at approximately 3:06 p.m. Mr. Ritz confirmed that the Planning Board had a quorum.

Mr. Ritz stated the board would be approving the minutes from the August 10, 2009 Planning Board meeting. Mr. Roesch made a motion to approve the August 10, 2009 Planning Board minutes as written. The motion was seconded by Mr. Cosson and carried unanimously.

ITEM 2 – Request to Expand License to Use Area-505 North 12th Avenue

Ms. Morris explained the City had received a request for a license to use a portion of the 12th Avenue right of way to allow for the construction of a parking pad at 505 North 12th Avenue. She stated that the property owner had previously had access to a shared driveway that was entirely on the adjacent property. When the adjacent property was sold and the shared driveway was removed, the applicant applied for a curb cut permit to install a parking pad on 505 North 12th Avenue. She stated that a historic retaining wall on the property limited the location of parking. Ms. Morris stated that when it was discovered that a License to Use was required, the curb cut permit was revoked until the License process was completed.

Mr. Ritz stated that he had seen the construction progress at 505 N. 12th Avenue, and had noticed the pause. He stated that such License to Use requests were fairly common.

Mr. Cosson stated that there seemed to be adequate on-street parking available. He mentioned that the letter from the applicant stated that other properties in the neighborhood had similar parking pads. Mr. Cosson asked if granting License to Use requests to allow for parking pads was a common practice.

Ms. Morris stated that there were a number of License to Use agreements for parking pads in the area. She said that there would be adequate on-street parking in the area, but that approval of the request would not be inconsistent with Board actions in the past. Ms. Morris stated that since there was a previously shared driveway, the curb cut permit was issued. She stated that the property was not in a design review district.

Mr. Ritz stated that he had seen instances in East Hill where a shared driveway was constructed as a result of a particular relationship between neighbors. With the passing of time and ownership, he said that a property owner may no longer have access to the shared driveway.

Ms. Williams stated that the East Hill Neighborhood Association had expressed concern over such parking pads. Where on-street parking is not available, residents may drive into a yard and park in the right of way. She stated that she did not want to see a proliferation of parking in yards or a rash of parking pad installations since they could be unattractive.

[3:12 p.m. Ms. Rhoden arrives]

Ms. Morris stated that the City had generally encouraged property owners to not install parking areas in the right of way. The unique situation at 505 North 12th Avenue with the previously shared driveway allowed for the curb cut permit.

Mr. Ritz stated that his neighbor parks continually in the right of way. With the resulting lack of vegetation, heavy rains create sediment runoff. Ms. Williams stated that she appreciated that the property owner had undergone the process instead of parking in the yard.

Ms. Morris stated that in the past, the City Council had discussed the City's ability to restrict parking in the right of way as many individuals do pull into their yards. She said that the City currently does not have such a policy.

Mr. Ritz stated that a nearby property owner near the intersection of La Rua Street and 15th Avenue had applied for a License to Use to allow for a circular driveway, setting a precedent.

Mr. Cosson stated that his objection would be from an aesthetic standpoint. He said he preferred parking in a garage or on-street as opposed to a parking pad, but that an aesthetic opposition might not warrant a denial.

Ms. Williams asked if the property owner had other options for parking. She stated that such limiting factors, such as the retaining wall, and unique situations, like the shared driveway, should be taken into consideration when reviewing License to Use applications.

Mr. Cosson asked if there was a visibility concern at the corner property. Ms. Morris replied that the Engineering Department reviewed the curb cut permit for visibility restrictions, and did not find any cause for concern.

Mr. Roesch stated that there was nothing that prevented the applicant from installing a full driveway and potentially creating more of an impact. He said that objections would generally be from an aesthetic perspective, but more visual impact was possible through a traditional driveway that would not require a License to Use.

Mr. John D. Porter, Jr, 505 North 12th Avenue, addressed the Board. He stated that he had the Board's same concerns when deciding where to locate new parking. The historic wall, built at the same time as the house, would have had to be cut to allow for a driveway. He stated that the parking pad was located as far away from the corner stop sign as possible, almost at the property line. Where he currently parked on-street caused more of a disruption to motorists who had to approach the corner and swerve around the parked vehicles. He stated that motorists often did not see the stop sign when the vehicles were parked on the street. Mr. Porter stated that two weeks after the loss of the shared driveway, his car was hit and vandalized with eggs while parked on-street. While off-street parking may not have prevented the vandalism, he stated that the vehicle could have been more secure if parked off-street.

Mr. Cosson made a motion to approve the License to Use request. Ms. Williams seconded the motion, and it carried unanimously.

*** INSERTED ITEM – PRESENTATION on Proposed Amendment 4 to the Florida State Constitution ***

Mr. Ritz stated that though there was not a particular agenda item, the Board had requested a legal briefing on the proposed Amendment 4 to the Florida State Constitution and its significance to local comprehensive planning. The Board was specifically interested in how Amendment 4 would affect the updates to the Future Land Use Map and elements of the Comprehensive plan. Mr. Ritz asked Mr. Wells to approach the podium to address the issue.

Mr. Wells addressed the Board and audience. He mentioned the recent article in the Business section of the Pensacola News Journal regarding Amendment 4. He also supplied the full text of the amendment, informing the Board and Audience that only the 75-word summary would appear on the ballot.

Mr. Wells stated that he had recently been to the Florida Municipal Attorney's Association annual convention where he was briefed on current issues. The presentation on Amendment 4 was given by the current City Attorney and former Mayor of St. Petersburg Beach, the first community to adopt such regulations. The beach community of 10,000 mostly seasonal or retired residents adopted similar regulations where all changes to the land use map must be brought to public referendum. The speakers stated that the referendum requirement had paralyzed development, redevelopment, and neighborhood improvement, making daily government business very expensive and resulting in litigation several times.

Mr. Wells stated that there was no clear-cut answer regarding how Amendment 4 would affect subsequent Future Land Use Map amendments. He mentioned a letter Ms. Woolf received from the Florida Association of Counties that stated that a potential referendum would be added to the end of the Future Land Use Map amendment process. After approval from the Planning Board, City Council, and Department of Community Affairs, the amendment would need to pass in a public referendum before adoption, either in a general election or in an expensive special election. Mr. Wells asked Ms. Woolf to address the Board with any additions.

Ms. Woolf stated that the referendum language stated that it would take effect immediately upon voter approval. According to the letter from the Florida Association of Counties, the state legislature would then have to amend sections of chapter 163 of the Florida statutes to reflect the change. Such changes could not occur immediately, so local Planning Boards and other agencies would have to interpret the changes in a "limbo" period of uncertainty until Chapter 163 could be amended.

Ms. Woolf confirmed that after approval at the state and local levels, the proposed Future Land Use Map amendment would then be subject to a voter referendum. If the proposed amendment fails at any step along the way, it would not be subject to referendum. She stated that given approval at all levels, an amendment could be voted on during a regularly-scheduled election, not necessarily a special election. However, for example, if a regular election was not scheduled for a year-and-a-half after the

local and state approvals were granted, the requestor would have to wait until the general election or schedule a special election.

Ms. Woolf stated that the Mayor of St. Petersburg Beach pointed out that the materials local planning boards must review are very lengthy. The average voter would not have the time, resources, or expertise to review the numerous and extensive documents associated with such amendments.

Mr. Roesch stated that the gridlock effects would begin day-one of Amendment 4's approval. Mr. Roesch asked if subsequent zoning updates would be affected by Amendment 4. Ms. Woolf replied that the resulting uncertainty and lack of clarity on certain terms in the Amendment 4 language could affect subsequent changes. For example, Amendment 4 states that all changes to "local comprehensive land use plans" would require voter approval, but what specific changes those include are unclear.

Ms. Morris stated that the December date for transmittal of all Comprehensive Plan and Future Land Use Map amendments to the Department of Community Affairs would require that the entire package be subject to voter referendum. The zoning map amendments would then be a local issue, and not subject to the referendum.

Mr. Cohen stated that after approval from the Department of Community Affairs and adoption by the City Council, the amendments would then be subject to voter referendum. They could not be enacted until the referendum, and the previous Future Land Use Map would still be in effect.

Mr. Roesch asked if the multi-year long Evaluation and Appraisal Report based amendments would be subject to the referendum. Mr. Cohen responded that all changes to the Comprehensive Plan would be subject. He stated that all changes that affect the Future Land Use Map or its designation would be subject to referendum. It was unknown if the Department of Community Affairs would suspend updates until the issue was resolved.

ITEM 3 – PUBLIC HEARING – EAR-Based Amendments to the Comprehensive Plan (Chapter 1- Land Use and Future Land Use Map; Chapter 6- Conservation; Chapter 12- Economic Development)

Ms. Morris stated that the Board would be examining several proposed Evaluation and Appraisal Report-based updates to the City's Comprehensive Plan and Future Land Use Map.

She explained that there were not many recommendations from the Evaluation and Appraisal Report to the Future Land Use Element, but there were several additional recommendations that were introduced. She mentioned that those recommendations regarding the Future Land Use Element of the Comprehensive plan and Future Land Use Map were in the staff report given to the Board.

Ms. Morris pointed out that the text descriptions for the Commercial and Industrial future land use districts were expanded. She stated that the Commercial future land use district was clarified to continue to allow for light industrial uses like fabrication, assembly, and warehousing uses. The Industrial future land use district was also clarified to distinguish between a heavy commercial or light industrial use and an industrial, heavy manufacturing use. It is intended that such heavy industrial uses

will be concentrated in certain areas of the City instead of the current haphazard development pattern. The Industrial district was clarified by adding language to describe the specific uses that it would include—those that would typically be of the size, scale, and intensity to create negative effects for neighboring property owners.

Ms. Morris informed the Board that they were also supplied with an update to the proposed Future Land Use Element amendment that slightly tweaked the language regarding the provision of electrical service. The update made the language more consistent with the state statute and less ambiguous regarding the siting of utility stations.

Mr. Ritz stated that a workshop was held two weeks prior regarding updates to the City's Future Land Use Map. Much of the discussion had previously been at the Board level, and the public hearing being held at that time was an opportunity for the public to discuss the changes.

Mr. Cosson asked if the Board would be approving all the updates to the entire Future Land Use Map, changes that had been the subject of discussion for the past nine to seven months. Ms. Morris responded that the Planning Board would make a recommendation to forward the proposed changes to City Council for approval. If the Planning Board wanted to make a recommendation that differed from the staff recommendation, both versions could be sent to City Council for consideration.

Mr. Cosson stated that several months prior, the Planning Board decided to make a specific alteration to the staff-recommended Future Land Use Map changes. Mr. Cosson asked if there were any other differences from the previously presented Future Land Use Map amendments. Ms. Morris responded that there were no other Board-requested or applicant-requested changes, but that there were several updates based upon a neighborhood meeting that was held the previous night. Several areas in the Eastside Neighborhood were to remain Residential Neighborhood Commercial based upon the neighborhood meeting.

Ms. Morris stated that updates to the Land Development Code would follow to tweak approved uses. Such updates would remove certain uses that were not compatible with their zoning districts or would create some conditional uses.

Ms. Gibson stated that many of the Future Land Use Map updates were proposed to implement the neighborhood plans that had been approved and adopted by the Planning Board and City Council over the previous six years. The Comprehensive Plan would then be consistent with those neighborhood plans. The Eastside neighborhood Future Land Use Map updates, she explained, would reflect the primarily residential character of the neighborhood and match existing development patterns. The existing future land use category for the neighborhood was Residential Neighborhood Commercial. In order to allow for some Residential Neighborhood Commercial development, some of the areas were preserved with the condition that the permitted uses would be amended to remove the neighborhood incompatible uses.

Mr. Ritz stated that the Future Land Use Map amendments were part of a larger conversation about the City's long term development. These updates, he said, would move Pensacola in a positive direction

in the future and were not being undertaken on a whim. The updated map reflected a logical approach to locating various uses and protecting neighborhoods.

Ms. Morris stated that each Board member was given a list of potential non-conforming uses that would be created by the Future Land Use Map amendments. The list included 28 total non-conformities, three of which were staff-generated, and 25 were a result of the approved neighborhood plan recommendations. Ms. Morris stated that all non-conformities would be allowed to continue and change hands, and would not have to close operation.

Mr. Cohen stated that the 28 resulting non-conformities countered a common belief that the proposed changes would have sweeping effects. The small number of affected properties were indicative of the scale of the changes.

Mr. Roesch stated that he had asked Ms. Morris for a list of potential non-conformities. Of the 1954 total parcels in the proposed Future Land Use Map change areas, only 28 non-conformities would be created. Of those 28, seven were vacant. Mr. Roesch stated that the proposed changes would not have a widespread effect.

Ms. Morris stated that those non-conformities could still exist, and would not be forced to close. The proposed updates would reflect logical future growth patterns on a broad scale. Non-conformities were limited, but a few instances could not be avoided.

Mr. Roesch stated that an earlier conversation with Lamar Advertising brought up the issue of billboards in the Future Land Use Map change areas. Ms. Morris replied that she did not think that there were any billboards in the proposed change areas.

Mr. Ritz stated that proposed changes were a combination of logical growth patterns while taking into consideration how properties were actually used. He said that many properties were not necessarily being used as their Future Land Use designations would indicate, so the proposed changes were formulated following considerable research.

Ms. Morris stated that the Board members were given a letter from the Rockford Industrial Group, a property owner in an area proposed to change from Industrial to Commercial future land use. She stated that she did not believe that their properties would be considered non-conforming with the proposed change since they were not considered industrial land uses.

Annie Mosley, 1100 West Intendencia Street, approached the Board. She stated that her house was the only piece of residential property on her block, the rest being commercial. She asked for clarification on the proposed change for her property.

Ms. Morris explained the concept behind the Future Land Use Map and the updates. She stated that Ms. Mosley's property was proposed to change from a Commercial category to a Medium Density Residential category to reflect the existing uses.

Mr. Robert Fillingim, 1900 West Jackson, stated that his neighborhood was largely residential and he did not have an issue with the proposed change. He stated that he had concerns regarding infill housing being built on small lots with high density and very little yard space. He said that he wanted existing older homes to be replaced by other single family dwellings and provide greater yard space.

Mr. Ritz stated that zoning regulations would not be changed at that time, but that densities were something to consider in the future.

Ms. Wilhemina Gadson, 2315 North Tarragona Street, asked if she would be required to obtain extra building permits with the proposed change for a home-based business. She also asked if it was possible to install speed bumps since speeding is prevalent on her street.

Mr. Ritz and Ms. Morris responded that the Public Works Department does not install traditional speed bumps, but can use alternative traffic calming measures. Ms. Morris stated that the City had a permit process for home-based business, and that the proposed changes would not affect her home daycare.

Mr. Don Paedae, 5104 North W Street, asked if the list of potential non-conformities included all of the properties. He also asked if the Board was considering changes to the Future Land Use Map, and not zoning designations. Ms. Morris replied that he was correct.

Mr. Tyrone Vanderhall, 908 North 6th Avenue, asked about the City's plans for citizens who live in poverty. He inquired where affordable housing would be located in the future to prevent gentrification. Mr. Ritz responded that the proposed changes in his neighborhood would protect the residential property owners and encourage residential development.

Mr. Roesch responded that Mr. Vanderhall had a valid concern about poverty and affordable housing. He stated that those greater concerns were beyond the Board's control. Ms. Rhoden stated that the City's neighborhood association program offered protection for neighborhoods.

Mr. Beverly Perry, 622 West Belmont Street, inquired about the specific change for her property and if it was taken from the Belmont-DeVilliers Neighborhood Revitalization Plan. Ms. Gibson responded that the Future Land Use changes for the neighborhood were drawn specifically from the adopted neighborhood plan. Ms. Winterberg-Lipp stated that the proposed change for Ms. Perry's property would update her area to a Medium Density Residential category to protect existing property owners and encourage more residential development.

Mr. Wayne O'Hara, 504 West Intendencia Street, stated that he owned several properties that were zoned industrially and proposed to update to commercial. He said he supported the changes, but asked when the specific zoning updates would be enacted, and if he would have the opportunity to give input in the process.

Mr. Ritz responded that if Amendment 4 passed, the process could be delayed. Ms. Morris stated that if Amendment 4 did not pass, the Future Land Use Map amendments would be adopted in early 2011, and subsequent rezonings would happen over the course of several years. There would be several public hearings and additional notifications throughout the rezonings. Ms. Morris stated that the

rezonings would probably begin in the areas with approved neighborhood plans and in the Community Redevelopment Area.

Mr. Cosson asked for clarification on the rezoning process. He asked if a public hearing at both Planning Board and City Council would take place with two readings of the proposed Ordinance. Ms. Morris responded in the affirmative.

Mr. O'Hara asked what zoning he would operate under before the zoning was updated. He also inquired about the specific commercial zoning designation he would be granted. Ms. Morris replied that until the zoning map was amended, the existing zoning would be applicable. She stated that intense commercial uses would most likely update to a C-3 zoning, while retail or restaurant uses might be designated as C-1.

Mr. O'Hara asked what category a contractor's business would fit into. Ms. Morris replied that a C-3 district would be most appropriate.

Mr. Roesch said that given an increase in property values, Mr. O'Hara might be inclined to relocate his business and capture the profit.

Ms. Deborah Plessy, 1202 West Zarragossa Street, stated that she was in the process of planning a restaurant for her property. She said her zoning was currently C-3, but that the Future Land Use category was proposed to update to Medium Density Residential. She wanted to know how she could be affected by the proposed change. Ms. Morris stated that she could continue to develop the property under her existing zoning until the area was rezoned, and would not be precluded from pulling the permits for her business.

Ms. Williams made a motion that the Board approve the proposed updates to the Future Land Use Element of the Comprehensive Plan and the Future Land Use Map. Ms. Rhoden seconded the motion, and it carried unanimously.

Ms. Morris stated that the Board would begin the second public hearing to review the changes to Chapter 6 of the City's Comprehensive Plan, the Conservation Element. She stated that staff added a sustainability component to the element, so the new title would be the "Conservation and Sustainability" Element. The Evaluation and Appraisal Report-based amendments were included, as well as green building and sustainable development policies.

Mr. Ritz said he was pleased to see sustainability added to the element, but asked if developers had expressed concern about increases in cost. Ms. Morris replied that staff consulted with American Institute of Architecture members about the language, and they did not express concern over the additions.

Mr. Roesch made a motion to approve the amendments to the Conservation Element of the Comprehensive Plan. Ms. Williams seconded the motion, and it carried unanimously.

Ms. Morris introduced the Economic Development Element, a new Element to the Comprehensive Plan. The Evaluation and Appraisal Report recommended that the City create the new language.

Ms. Williams stated that she was pleased to see mention of coordination with other entities in the area. Ms. Ritz said that it solidified the direction where Pensacola would like to go in the future so that there would be a basis to review future development.

Mr. Roesch stated that the Comprehensive Plan could serve as a basis to future updates to the Land Development Code.

Ms. Williams made a motion to approve the Economic Development Element of the Comprehensive Plan. Ms. Rhoden seconded the motion, and it carried unanimously, closing the public hearings.

ITEM 6 – New Business

Ms. Morris informed the Board that the Comprehensive Plan update process was nearing completion. The Transportation and Capital Improvements Schedule would be brought to the Board in October

ITEM 7 – Old Business

There being no Old Business, the Board adjourned at approximately 4:56 p.m.