

CITY OF TREASURE ISLAND, FLORIDA
BOARD OF COMMISSIONERS MEETING MINUTES
July 20, 2010
6:00 PM

The meeting was called to order at 6:00 p.m. by Mayor Minning.

A. PLEDGE OF ALLEGIANCE: Led by Mayor Minning

B. ROLL CALL:

Mayor Bob Minning		Present
Commissioner Phil Collins	District 1	Present
Commissioner Gail Caldwell	District 2	Present
Commissioner Carol Coward	District 3	Present
Commissioner Alan Bildz – Vice Mayor	District 4	Present

C. PROCLAMATIONS, RECOGNITIONS, CERTICATES OF APPRECIATION None

D. PUBLIC COMMENTS:

Former Mayor Mary Maloof spoke regarding the Visioning Committee. She gave an update of the work that has been done, and talked about the survey that they are sending out. Mayor Minning encouraged the public to complete and return the surveys. The goal is to have a 25% return on them.

E. APPROVAL OF MINUTES:

The minutes of the July 6, 2010 meeting and workshop are available for approval. It was moved by Commissioner Coward and seconded by Commissioner Caldwell to approve the minutes as corrected. Upon roll call the vote to approve was unanimous.

F. APPROVAL OF REGULAR AND WORKSHOP AGENDAS

G. CONSENT AGENDA None

H. ITEMS OF BUSINESS:

1. Consideration of Resolution 10-55, Approval of Pinellas County NPDES Interlocal Monitoring Agreement 2010 Amendment

It was moved by Commissioner Bildz and seconded by Commissioner Collins to approve the resolution as read. Upon roll call the vote to approve was unanimous.

2. Consideration of Ordinance 10-06, Case LU-1010-01, Land Use Change for 8701 West Gulf Blvd. - Quasi-judicial hearing (1st Reading and Public Hearing)

Commissioner Bildz asked for clarification as to whether they need a motion to open, and asked that the rules of procedure be announced.

Mayor Minning explained how the meeting would proceed. He asked that anyone wanting to participate in the hearing fill out a card and be sworn in. He asked that

evidence be presented to the City Clerk for it to be entered into the record. He then gave the order in which the hearing would proceed.

Ms. Kiefer gave a reminder that if the need arose they could continue the hearing. She then swore in all witnesses and staff members.

Jack Bodziak was present to present the case for the applicant. He gave a brief history of the property. The request is to rezone in order to continue the use of this area as a parking lot for Caddy's. He referenced the zoning map shown on the screen and pointed out that this property is in an area of commercial properties. There are other businesses in Treasure Island that have offsite parking. This is an appropriate use for the property, and not an unusual use for property in Treasure Island. The size and shape of the lot is not conducive to residential uses. It would not impact environmentally sensitive lands, or put unusual demands on levels of service or utilities. They feel that the use of this property as a parking lot is a logical and reasonable request. He knows there are issues with the property owners surrounding Caddy's. This is a first step in solving some of those issues. Residential zoning will not help the issues with parking – it will make it worse. He asked the Commission to take a rational look at this and consider approving the rezoning request.

Commissioner Bildz asked for clarification regarding the hotel being referred to as a "rough spot". Mr. Bodziak explained that there were a lot of issues with drugs and vagrancy. There were a lot of police calls there. It was torn down to try to eliminate a problem. Commissioner Bildz then asked if Mr. Bodziak was involved when the Planning Board approved a four unit hotel on that lot. Mr. Bodziak answered in the affirmative. Commissioner Bildz asked if they could build a hotel there. Mr. Bodziak stated that it would be a better use to put parking there than to put up a hotel. Commissioner Bildz stated that he disagreed with several of the statements made by Mr. Bodziak in his presentation. Commissioner Bildz asked for clarification regarding the number of parking spots that would be put in. Mr. Bodziak stated that it would be 20. There could be more if it was used for valet parking.

Commissioner Collins stated that many of the comments that he has heard were concerns regarding a parking garage being built there. He asked if there was a plan for that. Mr. Bodziak stated that they were not planning a parking garage. They are asking for ground level parking. A parking garage would only increase the number of spaces by about four with a very high cost. He stated that a ground level parking lot would be far better than a three story condo building with adjoining parking.

Ms. Kiefer asked if Mr. Bodziak was testifying that his client was required by the city to tear down the existing hotel on the property. Mr. Bodziak stated that they were not.

City Planner Lynn Rosetti presented the Commission and the applicant with a package containing e-mails that have been received. It was entered as Exhibit 2 by the City Clerk.

Ms. Rosetti gave a report on the application. She gave a brief history on the past usage of the property, and the zoning history of the property. The city zoning records go back to 1960. At that time the property was zoned commercial. In 1979 the zoning was changed to residential. In 2005 the property owner was granted permission to temporarily use the property for parking. That permission has since expired, but the

owner continues to use the property for parking. Ms. Rosetti gave some details on the lot size and what the codes would allow for a property of that size.

The proposed zoning change would allow the applicant to apply for a special exception for an offsite parking lot. Ms. Rosetti noted that the property is surrounded by many residential properties. She gave an overview of the changes in demand for services that may occur. She stated that the affect on services would be negligible.

Ms. Rosetti stated that the applicant would have to prove that the proposed change would be compatible with the surrounding area. She suggested that the city may want to require a traffic impact study paid for by the applicant. A change in the zoning does not guarantee approval of a project.

Ms. Rosetti then presented a slide presentation of the area.

Commissioner Bildz asked if the LPA approved this but limited it to a parking lot. Ms. Rosetti stated that they had. She has spoken with Steve McCauley, who has a lot of experience with these types of situations. He is putting a package together with information on how to establish specific restrictions on a property. Ms. Kiefer will be doing research on the issue.

Commissioner Bildz asked for clarification as to when the property was zoned C2. Ms. Rosetti stated that in 1961 it was zoned C2 by the City of Treasure Island. There are no records of specific zoning prior to that. Commissioner Bildz asked how many other properties were changed to residential property in 1979. Ms. Rosetti explained that a Comprehensive Plan was developed between 1975 and 1979. In 1979 they decided not to break the land into specific zoning districts, but rather into land use areas.

Commissioner Collins commented that Mr. Bodziak stated that this wasn't an emotional issue. He disagrees. He is a person that is always looking for a compromise. He is opposed to changing the land use to commercial general, but would not be opposed to granting a special exception to allow Mr. Amico to park no more than 20 cars there when needed. That would get 20 cars off the streets.

Mr. Silverboard suggested that they hear all of the testimony before they give their opinions.

Commissioner Caldwell asked if it was true that if a restriction was placed on the property the restriction would only apply to the present owner. Ms. Kiefer stated that generally deed restrictions cannot be placed on a property indefinitely. They would start off with the premise of what is allowed in a commercial general area. After that they could consider whether they can place restrictions on the property. She would have to research that and make recommendations later.

Commissioner Coward asked if they approved this, would it also have to be approved by the Pinellas Planning Council. Ms. Rosetti explained that it would go before the Pinellas Planning Council, then on to the County Commission, then to the state. It is often a six month process.

Mayor Minning opened the hearing to public testimony at 7:08 p.m. He asked speakers to keep their comments relevant to the subject matter, and to restrict their comments to five minutes.

Chris Sierra spoke in opposition to the rezoning of the lot. It is not a question of whether this is going to be a parking lot, but a question of whether to rezone it commercial zoning. Deed restrictions are held by the grantor, and they can be released at any time that the grantor chooses. He stated that he is glad that the hotel is gone, but feels that the residents have not been considered. The non-conforming parking lots that were referenced in Mr. Bodziak's presentation were all in existence before we had zoning regulations in place. The current traffic patterns have not been looked at. More people are coming to the beach because there is more parking. It is a huge encroachment on the neighborhood and is not compatible with the neighborhood.

Leanne Bakos stated that this affects her, as this lot is right in her front yard. She stated that they need that parking lot. She agrees with Commissioner Collins that they could do a special permit. She doesn't want to see commercial property there, but they need the parking. She would like to see a way to compromise and renew the special permit. She tried to obtain a permit to park cars on her property and was told that she could not. Until then she didn't know that it wasn't allowed. She would prefer that it not be rezoned, but wants the parking to continue to be allowed.

Ms. Kiefer swore in Michael Garey. He stated that he agrees with Ms. Bakos. The parking is needed. He felt that it was underhanded for only homeowners 200 feet away to be notified when it is going to affect the entire area. He feels that the area is being monopolized. This is the last of the small islands and they want to stay residential.

Chris Fiser stated that he and his wife are opposed to the zoning change. It is a residential neighborhood and it is not in the Comprehensive Plan. Their quality of life has regressed because of Caddy's. He asked that they not ruin a quiet family neighborhood. He feels that no matter how many spots were there they would still swamp the neighborhood.

Jeff Warner stated that he went to look at the parking lot in question today. He counted 39 spaces. He is not sure where the 20 comes in. Based on the turnover that Ms. Rosetti cited, it would be approximately 240 cars per weekend. That is a lot of people coming into their neighborhood. If they keep putting more parking in it will bring more people. He feels that they are defeating the purpose if they allow this. He commented that they had voted 5-0 against doing this in the past and he hoped that they did so again.

Mr. Chapman from the Battaglia law firm spoke representing some of the residents in the area. He stated that they have to make a logical decision based on the evidence. If this were being decided by a business owner it would be logical. This is located in an RM-15 zone. Parking should not be allowed on this property. The Commission and residents should expect that he will use the property for its best use based on the zoning. The residents are afraid because the footprint of Caddy's has grown and continues to grow. It is the duty of the board to ensure that this business does not interfere with the residents' enjoyment of their property. If the Commission, together with law enforcement, enforces the laws that are currently in place the residents will not have to worry about their ability to enjoy their property. They will not see eye to eye if Caddy's footprint is continued to be allowed to grow.

Commissioner Bildz asked about the items that Mr. Chapman said needed to be discussed before making this decision. He asked what that was from. Mr. Chapman stated that it was based on case law.

Robbie Welborn stated that she is here to speak against the change in the zoning laws. She has fourteen additional statements of opposition to present to them tonight. A lot has been said about the irregularity of this lot. There is hardly a regular lot in Sunset Beach. When you buy on the beach you are never guaranteed that what is going to be next to you will be that the next day. You buy what you buy. There have not been any additional commercial businesses opened there in over ten years. That end of the beach is a residential area. That is what the people who are living there like. They want quiet enjoyment of their beach. That is being undermined. They have crowds on weekends. The behavior is appalling and the residents are disrespected. She is opposed to this change. She asked the Commission not to approve this.

Bob Nicholson stated that he lives across the street from the subject property. This past weekend he had people drinking under his deck, and people throwing beer cans on his lawn. He saw someone getting arrested in a parking lot. That could happen in this parking lot too. He counted 46 cars there on Sunday afternoon. Caddy's closes early and that hasn't been a problem, but if the law changes to allow bars to be open until 3:00 it is possible that they will have people there until that time. He questioned if there was an occupancy requirement for Caddy's, and asked that it be investigated. He feels that this is spot zoning and isn't allowed. His daughter will no longer allow his grandchildren to visit them because of the behavior that she witnessed during spring break. He also feels that the value of their homes would be much less if that is zoned commercial. He would prefer to see residential property there if the owner had to have some income from the property. We need more property for people coming to the beach, so maybe the property should be metered for parking so the city could receive some revenue.

Ms. Kiefer swore in additional witnesses that had not been sworn in previously.

Rick Woods stated that he has lived in the area for many years. He is concerned with what can be done with the property if it is zoned commercial general. The situation there is interfering with the peaceful enjoyment of their properties, and this would further interfere with that.

Tony Amico stated that the property had been zoned commercial, and he didn't understand how it was changed when the property was being used commercially. Regarding deed restrictions, they remain in effect as long as the property is being used for that purpose. The residents are using scare tactics. There is no way that a parking garage could be built on that property. It is only good for condos or a parking lot. He agrees to a lot of restrictions that he doesn't have to agree with to be a good neighbor. He pays for additional police officers. The arrests for under aged drinking are not at Caddy's. There has never been an arrest for under aged drinking at Caddy's. The problems are not coming from Caddy's. When people come to Caddy's they come for the day. They are lucky to get two turns of the parking. He has had residents of Sunset Beach ask him to provide more parking, so he bought property to provide more property. He tries to be a good neighbor. He doesn't have bikini contests, or stay open late. He doesn't do a lot of things that he could do there to try and work with everybody. That parking lot is valet parking only. If someone needs something from their car they are

escorted so that they are not getting alcohol. He has had boats taken away, and two sided parking taken away. He has compromised whenever asked.

Jeff McBride asked if an impact study has been done regarding traffic flow. They have to make a left turn to enter that parking lot, and there is only one way in and out of that lot. They are looking at 20 spaces as opposed to maybe 8 spaces if condos are built there.

Commissioner Bildz asked if they could ask Ms. Rosetti those questions. Mayor Minning answered in the affirmative.

John Burgstiner was sworn in by Ms. Kiefer. He stated that he wanted to offer a "pro" opinion. He is one of the closest residents to Caddy's. It is his observation that the problems are not coming from Caddy's. The weekend parking is a good start in addressing the issue. The property has been used as a parking lot for quite a while. Using the valet system it is under control. It is a common sense situation, and we should do the right thing. It should follow under whatever stipulations have to incur for a CG parking lot. Mr. Amico wants to do ground level parking there, and he feels that it should be approved.

Mr. Bodziak asked to respond to some of the comments made in some of the letters presented. He explained why there were a few hand written envelopes. There were missing stickers and he wanted to be sure that everyone was notified properly. He stated that he has been involved with development since 1968 in the state of Florida. Deed restrictions run with the property and not with the owner. He stated that the issue of a parking garage keeps coming up. They have never intended to put a parking garage there, nor has there been an attempt in the past. He discussed traffic studies and what information they provide. This would provide parking for Caddy's and not generate the need for parking. Regarding the trash issues, it is an issue everywhere and not just in Treasure Island. He respectfully requested that they consider this.

Ms. Kiefer stated that she has found no deficiency in the notice process. She asked Mr. Bodziak to clarify whether he has hired professionals to do the traffic studies that he referenced. She asked for clarification that he is not a traffic engineer. Mr. Bodziak answered in the affirmative and clarified that he is not a traffic engineer.

Dennis Velasco stated that if this is changed to commercial then Mr. Amico would have the resources to buy the adjoining properties, which would give him the opportunity to expand the footprint even larger as he would then own the whole block. He agrees that they should consider banning alcohol on the beach.

Mr. Bodziak stated that they shouldn't be speculating on Mr. Amico's resources.

Mr. Chapman commented on the deed restrictions. He explained that Mr. Amico would not be required to place them on a future owner of the property.

Mr. Bodziak commented that the property could be zoned RM-30, which would allow the use of the property for a parking lot. He stated that he disagreed with Mr. Chapman's explanation of the deed restrictions.

Mayor Minning closed the public hearing at 8:08 p.m.

Commissioner Caldwell stated that she keeps going back to the deed restriction issue. There appear to be two separate issues. The people here tonight have made it very clear regarding the rezoning of the property to commercial use. The second issue is that the parking has been helpful. She has reservations with this.

Ms. Kiefer stated that it is the applicant's burden to prove that the rezoning is appropriate for the property. It is the Commission's duty to make a decision based on the evidence. In order to grant this request, their decision must be substantiated by the evidence presented. She read an excerpt from the statutes. At this time they have an application to rezone this to commercial general. They do not have an application for a parking lot. If they choose to grant this based on the stipulation that this only be used as a parking lot they need to indicate that to her and she will do the research and issue an opinion on that. Contract zoning is not legal. There are tools out there, but she will have to do the research to be prepared to discuss this. They first need to decide if they are willing to grant the rezoning to a commercial general use.

Mr. Amico presented Ms. Kiefer with a note saying that he will withdraw his application and reapply for a change to an RM-30 zone.

Mayor Minning reopened the hearing at 8:16 pm.

Mr. Amico stated that it is not his intent to build anything on that property. He only wants to use it for parking. Parking would be an allowed special use for a property in the RM-30 zone. Ms. Kiefer stated that they are in the process of reviewing the parking codes. At this time we don't know what changes will be made and how it will affect this property. At this time there is no ordinance on the books allowing for stand alone parking lots in a CG zone.

Mr. Amico stated that he is withdrawing his application for the zoning change to CG. Ms. Kiefer stated that she wanted it made clear that there is no representation from her, or staff that insures that his request would be granted, or that he would be given a special exception for the parking lot. Mr. Amico stated that he would wait until the new parking regulations are in place before he reapplies.

Commissioner Collins suggested that they allow Mr. Amico to continue to use the lot for parking. Mr. Silverboard stated that the RM-15 zone does not allow parking as a special exception. The Commission told the Planning and Zoning board that they did not want to allow parking in the RM-15 areas. They will receive recommendations from the Planning Board, and they can do with them what they want.

Commissioner Collins stated that Mr. Amico has been operating under a special exception and should be allowed to continue. Ms. Kiefer clarified that he was operating under an illegal administrative decision, and that is being corrected.

Mr. Amico stated that he withdraws his application.

The public hearing was closed by Mayor Minning at 8:23 p.m.

I. ADJOURNMENT

The meeting was adjourned at 8:23 p.m. by Mayor Minning.