

## PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, April 11, 2011**, at **3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

Board members present were: Laurilee Thompson, Henry Minneboo, Chair; Aneta Ott, Vice-Chair; Peter Aydelotte; Clyde Thodey; Jerry Jagrowski; John Stone; Tony Masone; and Robert LaMarr.

Staff members present were: Cindy Fox, Planning, Zoning & Enforcement Manager; Morris Richardson, Asst. County Attorney; George Ritchie, Planner II; and Candy Hanselman, Zoning Support Manager.

The Chair, Henry Minneboo, called the meeting to order at 3:00 p.m.

Henry Minneboo – This is the Planning & Zoning Board meeting, which makes recommendations to the Board of County Commissioners. And everything heard here today will be in front of the Board on May the 5<sup>th</sup>, back in this room, at 5:00 p.m. So those of you all that have issues here today, that'll be your final stop for approval. Each applicant today will be given 15 minutes to give their presentation, and each person talking for or against will be given five, if you need that.

There were seven regular members, and two alternates present. All members present voted throughout the meeting.

Motion by Aneta Ott, seconded by Jerry Jagrowski, to approve the minutes from the P&Z meeting on March 7, 2011. The vote was unanimous to approve the minutes, as submitted.

The agenda was heard in the following order: 5, 4, 1, 2, 3. These minutes are in agenda order.

### DISTRICT 3

**V.B.1. (Z1104301) – HARBORVIEW MOTEL AND EFFICIENCIES, INC.** – (Margaret LaFlamme) requests a CUP for Alcoholic Beverages (beer and wine only) for On-Premises Consumption in a TU-1 zoning classification, in conjunction with a restaurant only, on 0.43 acre. Located on the west side of U.S. 1, approx. 760 ft. south of Daytona Blvd. (8820 Hwy. 1, Micco)

**P&Z Recommendation: Thodey/Jagrowski – Approved. Vote was unanimous.**

Henry Minneboo – State your name and address for the record, please, sir.

Robert LaFlamme – Robert Joseph LaFlamme, 406 Avocado Drive, Barefoot Bay, Florida. My mother is not able to make this hearing today due to a hip replacement. But I have the power of attorney right here. And Mr. Fay also signed for us to speak on his behalf for Harborview.

Henry Minneboo – Did you all look at that?

Cindy Fox – We just need the forms to be...

Henry Minneboo – We okay?

Cindy Fox – Yeah.

Henry Minneboo – If it's okay with them, it's generally okay with us. So we're moving pretty good here. O.K., sir.

Robert LaFlamme – We're looking to open a small tavern right off of U.S. 1, right next to the Harborview (unintelligible) Hotel. The traffic flow shouldn't be a problem. We have three entrances. And we run along 13<sup>th</sup> Avenue, also, which is connected to our parking area. I know the board said they'd like us to have the front striped, so I have a quote right here for a gentleman to strip the front parking for us. And as far as talking to Mr. Fay, as the hotel, he will – we're meeting with him Thursday to amend some parts in our lease. So it will be to add some parking for the motel for that. Entertainment won't be an issue, as far as noise levels. All the equipment's gonna handle the order – I got two (unintelligible) systems, no problem to handle that. Dumpsters, we have emptied twice a week. The septic and drain field can handle the occupancy. Right now, we're going through water testing, (unintelligible) our water to abide by EPA standards for the bacterial counts. That should be back in two weeks. And that'll be sent up to (unintelligible) at DPBR.

Henry Minneboo – You're on a well there?

Robert LaFlamme – Yes, artesian well. And we're going through the proper testing right now, because it is vacant for six months. So C&M Water is doing a testing on that right now. We'll have the report back in two weeks, and we'll send it to Mr. – to the EBP, and then it'll be sent to (unintelligible) for DPBR. The parking area in the rear, we just had plowed back to give us another 20 spots. We're gonna have that marked with concrete barriers. And it looks like we're gonna have about 35 spots in back, plus the 10 in front. It will be 45, and we need 20 spots required, I guess, for a 60-seat restaurant. So we should meet that requirement. And I think that's it, guys.

Henry Minneboo – I just got one question. How close are you to the people we just approved (Sebastian Inlet Marina)?

Robert LaFlamme – I could hit them with a rock.

Henry Minneboo – O.K. So we can't let you have a CUP. O.K., that's a little humor.

Robert LaFlamme – They're on the river side. We're on the other side.

Henry Minneboo – You guys are gonna have fun. Is there anybody on the board would like – question for this gentleman?

Clyde Thodey – How many employees you gonna have?

Robert LaFlamme – It looks like we're gonna have three full-time, and probably four part-time.

Clyde Thodey – And we're only gonna have 20 spaces?

Robert LaFlamme – Plus the ones in the rear, 35 in the rear that we just made room for.

Clyde Thodey – So we're gonna have plenty of room for those employees...

Robert LaFlamme – Yes.

Clyde Thodey - ...to park back there?

Robert LaFlamme – Yes.

Clyde Thodey – O.K.

Henry Minneboo – Peter.

Peter Aydelotte – The only question I have is under the Section 62-191 (c) (2) (f), the screening and buffering. And you have, “Due to the air-conditioning, doors will be closed. There are no screens.” I’m just wondering, is there any screening? ‘Cause we’re talking about different types of screening. I’m going to staff on this. Is there any screening or buffering that would be required on this, other than...

Cindy Fox – It’s an existing site, so there isn’t anything for a CUP that would be required.

Peter Aydelotte – I was just wondering. O.K., thank you.

Henry Minneboo – Anybody else? (no response) Seeing none, I go out to the audience. Is there anybody in the audience like to speak for, or against, this? (no response) Seeing nobody, I bring it back to the board.

Clyde Thodey – Motion to approve.

Henry Minneboo – Motion by Peter “sic” (should be Clyde Thodey), and seconded by Jerry (Mr. Jagrowski’s second was made without a microphone; therefore, it is not audible on the record), to approve.

Henry Minneboo called the question, and the board recommended approval of the request. The vote was unanimous.

Aneta Ott – It sounded like Peter, but it was...

Clyde Thodey – We got a correction, Mr. Chair.

Henry Minneboo – O.K., thank you.

#### **DISTRICT 4**

**V.B.2. (Z1104401) – DAVID E. & KAREN S. MUMME** – request a change from RR-1, with the stipulation of a minimum 1,500-square-foot living area, to AU, retaining the stipulation, on 3.28 acres. Located on the south side of Lake Washington Rd., approx. 810 ft. west of Turtlemound Rd. (3975 Lake Washington Rd., Melbourne)

**P&Z Recommendation: Ott/Thompson – Approved. Vote was unanimous.**

David Mumme – I don’t have much to add. I’m David Mumme, 3975 Lake Washington...

Henry Minneboo – O.K. Give us your full name for the record.

David Mumme – David E. Mumme, 3975 Lake Washington Road.

Henry Minneboo – O.K. Thank you. You want to just maybe share with us why you’d like to do this?

David Mumme - Well, currently, we’re RR-1, which allows horses. And we do have horses, and a barn, on the property. We’ve lived there for 11 years. And my neighbor just to the west just had his approved in December, just a few months ago, for AU. And they’re gonna have horses. And I don’t believe they’re planning to build a house. So, at any rate, we would like to raise horses and fowl, without the restrictions that RR-1 imposes.

Henry Minneboo – You're west of 95, and west of the transmission line.

David Mumme – We are east of east of 95.

Henry Minneboo – On the east side. O.K.

David Mumme – We are just west of Turtle mound.

Henry Minneboo – O.K., I know where you're at.

David Mumme – And, actually, there's an entire string of the properties up to mine are currently AU.

Henry Minneboo – Any questions? Jerry.

Jerry Jagrowski – Yes, sir. How many horses do you plan? And you said – you talked about fowl. Could you elaborate, please?

David Mumme – Chickens. Just chickens. But as for a number, probably never more than a dozen, or more, I would say. And then the horses, I anticipate never more than a dozen horses.

Henry Minneboo – Any other questions? (no response) Seeing none, I go out to the audience. There anybody in the audience like to speak for, or against, this item? (no response) Seeing none, I bring it back to the board.

Aneta Ott – I make a motion for approval.

Henry Minneboo – Motion by Aneta, and seconded by Laurilee (Ms. Thompson's second was made without a microphone; therefore, it is not audible on the record), to approve.

Henry Minneboo called the question, and the board recommended approval of the request. The vote was unanimous.

Henry Minneboo – You know the 5<sup>th</sup>?

David Mumme – Yes, sir.

Henry Minneboo – O.K. Back in this room.

David Mumme – Yes, sir.

Henry Minneboo – It won't be as smooth. Smooth day today.

## **DISTRICT 1**

**V.B.3. (Z1104101) – MATTHEW T. & CHRISTINA D. MARKS** – request a change from GU to AU on 1.95 acres. Located on the southwest corner of Date Palm St. & Florida Palm Ave. (5580 Florida Palm Ave., Canaveral Groves)

**P&Z Recommendation: Ott/LaMarr – Approved. Vote was unanimous.**

Matthew Marks – Good afternoon. My name is Matthew T. Marks, 5580 Florida Palm Avenue.

Henry Minneboo – O.K., go ahead, sir.

Matthew Marks – Basically, we moved out there less than a year – it'll be a year here in just a couple months. And my daughter's been wanting a horse. My family has property around us. A couple streets over, they have horses, as well. Then I found out, you know, it's illegal, basically, to have a horse in my yard if I'm not zoned for agricultural. So we're wanting to be rezoned for that purpose. My daughter turns five on May 5<sup>th</sup>, and it'd be pretty nice if that happened.

Henry Minneboo – You got horses on both sides, probably, huh?

Matthew Marks – Yes, all around us. Yeah, all...

Henry Minneboo – O.K. Is there any questions? (no response) Seeing none, I go out to the audience. Is there anybody like to speak for, or against, this? (no response) Seeing none, I bring it back to the board.

Aneta Ott – I make a motion for approval.

Henry Minneboo – Motion by Aneta.

Robert LaMarr – Second.

Henry Minneboo – And seconded by Rob.

Henry Minneboo called the question, and the board recommended approval of the request. The vote was unanimous.

**THE FOLLOWING ITEM WAS TABLED FROM THE P&Z MTG. ON 2/7/11:**

**DISTRICT 3**

**V.B.4 (Z1101301) – SEBASTIAN INLET MARINA, LLC** – (Clifford Repperger, Esq.) – requests a CUP for Alcoholic Beverages for On-Premises Consumption in a BU-2 zoning classification, in conjunction with a restaurant only, on 2.85 acres. Located on the east side of U.S. 1, immediately opposite of the easterly terminus of Daytona Blvd. (8685 Hwy. 1, Micco)

**P&Z Recommendation: Masone/Aydelotte – Approved. Vote was unanimous.**

Cliff Repperger – Good afternoon, Mr. Chair, members of the board. My name is Cliff Repperger. My business address is 1795 West Nasa Boulevard. I'm an attorney with the law firm of Gray/Robinson, and we represent the applicant, Sebastian Inlet Marina, LLC. The application that you have before you today is a CUP for alcohol associated with a planned development for a restaurant of 150 seats in an established marina facility. The property is located on the east side of U.S. 1, almost immediately opposite of the east terminus of Daytona Boulevard. The site is approximately 8.25 acres, and it currently operates as a marina, with a ship store. And the planned restaurant will be located over the ship store, on the second floor, in the existing building. The property is zoned BU-2. And the proposal is consistent with the future land use designation and would maintain all acceptable levels of surface with regard to traffic on U.S. 1. The surrounding property is, to the north and west, BU-1. To the south is RU-2-4. The proposal is consistent with the characterization of

mixed uses in Micco, and the site is already developed as a commercial use in its zoning classification. The marina use currently has 256 wet and dry slips, and that site plan was approved in 2007. Your staff report mentions the parking on-site. The marina parking ordinance was recently amended by the Brevard County Board of County Commissioners. When figuring in the alternative transportation spaces with regard to the slips, the site does meet, and the restaurant does meet, required parking under the new ordinance. All of the criteria, as outlined in 62-1901 (c) (1) and (c) (2) are met. And I can go through those, with regard to the application, if the board wants. With regard to (c) (1) (a), impact, noise, odor, traffic, the site's big enough to accommodate this proposed use without any nuisance to any surrounding properties. With regard to compatibility, again, the area has mixed uses, and the site is already primarily developed as a commercial marina site. And, again, we've addressed the parking with the recent Code change. With regard to property values, obviously, under (c) (1), the property values, we think, will be increased for surrounding properties, if anything, with regard to this proposed use. Under (c) (2) (a), access is already adequately developed. With regard to (c) (2) (b), noise and glare, the site will meet all performance standards in the Code. We'll have state-of-art equipment, with regard to the restaurant use, to reduce any emissions or odors. With regard to the potable water and wastewater under (c) (2) (e), again, the site was developed in 2007, and the applicant spent significant dollars at that time in installing a 12-inch well, and in meeting the infrastructure for sprinkling and fire suppression requirements at that time. This proposed use does not exceed that infrastructure capacity. And there has been recent acquisition of the water plant, the San Sebastian Water Plant, that's currently serving the site for its current water needs. With regard to screening and buffering under (c) (2) (f), the landscaping plan is as it is for the 2007 site plan approved - (c) (2) (g) for signage, again, we'll meet all performance standards. For (c) (2) (h), the hours are planned to be 11:00 a.m. to 10:00 p.m., consistent with similar uses. And there's no - under (c) (2) (i) and (c) (j), there's no changes as far as the height. And because we're in an existing building, we're not planning any additional construction beyond what's currently on the site plan. And with that, I'll just open it up to questions.

Henry Minneboo – Is there any questions? Jerry.

Jerry Jagrowski – Yes, got a question. Is there gonna be any problem going from the parking onto U.S. 1 in any way?

Cliff Repperger – It doesn't create a problem now, and we're not changing our existing parking layout. So we don't expect that that's going to present any additional problem in terms of ingress and egress.

Henry Minneboo – Any other questions?

Peter Aydelotte – These 12 slips, are they utilized when you're launching the boats that are in dry storage? Is that what that's for?

Cliff Repperger – They're non-leased slips that can be utilized for anyone visiting the facility.

Peter Aydelotte – O.K. So if somebody – I have a boat, dry storage. I call up and say, "O.K., I want the boat ready." Is it put in one of those slips, or is their another area that is used?

Cliff Repperger – Those will be held open. So those slips would be held open...

Peter Aydelotte – They're always held open?

Cliff Repperger – Correct.

Peter Aydelotte – O.K. And, see, one problem I have with this is that you're saying that the parking spot's not gonna be utilized when the restaurant's open, let alone you're gonna sit there and use the non-leased slips as parking spaces, when you're saying the hours of operation, well, that's not gonna be there. So we're totaling these slips as parking spots. And I have a problem with that concept that you're using them but, at the same time, your argument right here, you say the existing marina has approximately 12 non-leased slips. It goes on, "Per the applicant's suggestion that since the facility has multiple uses, the visitor may enjoy more than one use during the visit," and that, "The applicant represents that the peak demand for the restaurant is expected to occur during the evening, while the marina is a daytime use." So here, you know, in one second, you're saying, "O.K., we're gonna count these slips as parking spots." But now you're saying, "Well, the marina is basically a daytime use, so that's not applicable as far as the regular other parking spots."

Cliff Repperger – We are keeping those spaces open.

Peter Aydelotte – I understand that's what you're saying.

Cliff Repperger – O.K.

Peter Aydelotte – I understand that's what you're saying. But do you follow me with the argument that you're saying the marina's a daytime operation, but then you're counting the slips, even though they're open, but they're really not being utilized? And you're counting that as alternative parking. Isn't that what you're doing? Is that correct, or not?

Cliff Repperger – We are holding them open for alternative method parking.

Peter Aydelotte – O.K. But, if it's at nighttime, when you're saying it's a daytime activity, using the marina - the restaurant's open at night. So you're including that for those evening hours. Basically, all I'm saying is there is a definite lack of parking.

Cliff Repperger – Well, there isn't, because the marina use closes after 5:00. And so I don't believe that – I may be incorrect here, but I don't believe we even need the alternative method parking after 5:00 p.m., after the marina closes.

Cindy Fox – Maybe I can – let me put a different angle on it here. What the staff report brings out is that you may have someone who uses the marina during the day, and they stay and use the restaurant at night; therefore, the – you know, the parking of the boat in the slip may take away the need for an actual parking/driving spot. We are allowed, under the current code, to count a certain portion of wet slips as alternative mode transportation so that if someone comes by boat, then that serves the need of – you don't need that extra parking spot. And then the marina and the restaurant use can kind of coexist together, because you have the daytime use, and then it might bleed over into the nighttime use.

Peter Aydelotte – I understand that perfectly. What I'm saying is, without counting those 12 slips, then we can't discuss it. Those have to be considered alternative parking. Are those slips actually gonna be available at the night? If I come in...

Cliff Repperger – They will be available at night. But...

Peter Aydelotte – But is the marina open or closed after 5:00? If it's closed after 5:00, are the slips available?

Cliff Repperger – The docks are always available. The slips will be available.

Peter Aydelotte – O.K. Thank you.

Cliff Repperger – But after 5:00 p.m., just to clarify, I believe, if the parking calculations are right, that we only need 52 spaces, once the marina closes. So we have that. Physically, we have 52 spaces, anyway. So, after 5:00 p.m., it doesn't matter, because we do have that many spaces on site.

Peter Aydelotte – O.K.

Henry Minneboo – Anybody else on the board? (no response) Seeing none, I bring it out to the audience. Is there anybody out in the audience would like to speak for, or against, this item? (no response) Seeing none, I bring it back to the board.

Tony Masone – Mr. Chairman.

Henry Minneboo – Yes, sir.

Tony Masone – I'd like to make a motion to approve.

Henry Minneboo – Motion to approve. Is there a second?

Peter Aydelotte – I'll second it.

Henry Minneboo called the question, and the board recommended approval of the request. The vote was unanimous.

**THE FOLLOWING ITEM WAS TABLED FROM P&Z MTGS. ON 1/10/11, 2/7/11 & 3/7/11:**

**DISTRICT 2**

**V.B.5. (Z1101202) – NICHOLAS M. & LAURA J. STIPANOVICH, CO-TRUSTEES** – (Clifford Repperger, Esq.) – request an Amendment to an existing BDP in a BU-2 zoning classification on 1.48 acres, +/- . Located on the southeast corner of Tangerine Ave. & N. Tropical Trail. (140 Tropical Trail, Merritt Island)

**P&Z Recommendation: Ott/Jagrowski – Tabled to the P&Z mtg. on 5/9/11. Vote was unanimous.**

Cindy Fox – This item has been requested to be tabled, by the applicants, to the P&Z meeting on May 9<sup>th</sup>. If I could get a motion for that, please?

Henry Minneboo – Is there a motion on the item?

Aneta Ott – So moved.

Henry Minneboo – Motion by Aneta.

Clyde Thodey – Can we discuss that?

Aneta Ott – We need a second, and then we can discuss it.

Henry Minneboo – Is there a second? Seconded by Jerry (Mr. Jagrowski's second was made without a microphone; therefore, it is not audible on the record). Discussion?

Clyde Thodey – If I'm not mistaken, we've tabled this thing three or four times now. Why are we gonna continue tabling it?

Henry Minneboo – Well, 'cause we sent it back to the MIRA Board, and the MIRA Board tabled it. So, they've tabled it twice, so that's had an impact on us even getting an opportunity to review it.

Clyde Thodey – O.K., just wanted to know. Thank you.

Henry Minneboo - When MIRA gets through with it, then we'll have an opportunity to review it. O.K.?

Cindy Fox – That's right.

Henry Minneboo – Did I do a good job? The Chairman did a good job answering that one, didn't I?

Cindy Fox – Thank you, very much.

Henry Minneboo – That's a fluke.

Cindy Fox – We need to finish that motion out.

Henry Minneboo called the question, and the board tabled the item until May 9, 2011. The vote was unanimous.

The meeting was adjourned at 3:26 p.m.