



PLANNING SERVICES

THE UPSIDE of FLORIDA

MINUTES OF THE PLANNING BOARD

October 23, 2018

MEMBERS PRESENT: Chairman Paul Ritz, Nathan Monk, Danny Grundhoefer, Jared Moore

MEMBERS ABSENT: Kurt Larson, Nina Campbell

STAFF PRESENT: Brandi Deese, Assistant Planning Services Administrator, Leslie Statler, Planner,

OTHERS PRESENT: Don Kraher, Council Executive, Lou Courtney, Susan Agnew, Michael Courtney, Aaron Arabski, Diane Mack, Amber Hoverson, Stephen M. Hayes, Barbara Chapman, Laura Hall, Dottie Dubuisson, Christian Wagley,

AGENDA:

- Quorum/Call to Order
- Approval of Meeting Minutes from September 18, 2018.
- New Business:
 1. Consider Request for Conditional Use Permit Approval at 805 E. Gadsden Street.
 2. Consider Amendment to Land Development Code Section 12-12-4 Vacation of Streets, Alleys.
- Adjournment

Call to Order / Quorum Present

Chairman Ritz called the meeting to order at 2:08 pm with a quorum present and covered Board procedural instructions for the audience. At this time, Mr. Monk made a statement to the Board and the audience. Mr. Monk referenced the September 2018 meeting with a contentious item.

Mr. Monk indicated he foolishly thought the Board would be making a somewhat ceremonious vote and handing the item off to Council and felt a little shocked and upset to find that was not the case. His reaction was very reactionary, and he should not have responded in the way that he did to some of the people who came forward to speak, and as such, he apologized for that. He stated he could not apologize for his opinions since they were based in what he believed to be a good movement for the community, and he stood by that, but he could have conducted himself a little bit differently in the way in which he had responded to it; he did apologize for that.

Chairman Ritz offered that each of the Board members may or may not have been guilty during that same meeting or any other contentious items; emotions do come into play and Board members must try to remember even though they are human too, always be civil. He advised Mr. Monk was not the first person to apologize as a Board member and would probably not be the last.

EVERYTHING THAT'S GREAT ABOUT FLORIDA IS BETTER IN PENSACOLA.

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Approval of Meeting Minutes

Mr. Grundhoefer made a motion to approve the September 18, 2018 minutes, seconded by Mr. Monk, and it carried unanimously.

New Business

Consider Request for Conditional Use Permit Approval at 805 E. Gadsden Street

The City has received a request from Dr. Laura Hall of East Hill Animal Hospital and Pet Resort for a modification to her existing Conditional Use Permit at 805 E. Gadsden Street. On September 13, 2018 City Council adopted Ordinance # 11-18 which added the use of pet resorts and permitted outside exercise areas if supervised and limited to five (5) or fewer animals. The adoption of this ordinance requires that Dr. Hall modify her existing Conditional Use Permit to bring her property into compliance. In June of 2018, Dr. Laura Hall proposed a modification to the Land Development Code that would permit this use by right and not require Conditional Use Permit approval. However, after two public hearings and input from the neighborhood, City Council voted to grant the addition of the pet resort and outside areas with supervision and limited to five (5) or fewer animals as a Conditional Use only. Ms. Deese stated one last comment which was received referenced the (5) or fewer animals per yard which Dr. Hall indicated in her application. However, based on the language in the ordinance, (5) or fewer animals would be tied to the Conditional Use Permit and she would not be permitted to create multiple "yards".

Chairman Ritz explained after much discussion, they now knew what the Council had adopted, and the agenda item was back before the Board. He then called the applicant to speak.

Dr. Hall stated after the last Board meeting they had compromised what they were already doing by saying supervised and a limit of (5) dogs. She had the original request submitted to the Board in 2008 illustrating the yards. She explained this issue had gone from a parking to a barking to a zoning issue, and she had tried to compromise all along the way. Basically today's meeting was to ensure she had gone through the legislative process, with the last vote in Council to be 6-0 in favor of the application; her 805 E. Gadsden meets that ordinance. She also furnished letters from the neighbors supporting her proposal and was asking the Board to interpret and apply the Conditional Use so she could get back to business as usual.

Chairman Ritz pointed out the Council adopted the ordinance for supervised and limited to five (5) or fewer animals with supervision and asked what the previous Conditional Use provided. Ms. Deese explained the previous Conditional Use did not allow any outside exercise areas. Mr. Monk asked for clarification, and Dr. Hall stated the issue was the definition of outdoor exercise areas; she had not been boarding dogs outside. She did agree to the supervision and limit of (5). She began her business in 2006, added the hospital in 2010, and had no complaints. Mr. Monk advised he lives in the 600 block and had never heard the dogs. Dr. Hall explained staff members had parked on the street, and Code Enforcement advised the complainant it was completely legal. Then the issue became barking and Code Enforcement was called to answer questions regarding exercise areas. It was recommended that the language be changed, and now 805 E. Gadsden complies with that change.

Mr. Moore confirmed with staff that the original Conditional Use Language in the Code was amended, so by passing this, the Board was just updating the language of the Conditional Use Dr. Hall had, and Ms. Deese agreed.

Ms. Agnew advised from the beginning, the neighborhood had a very purposeful wording that no vet hospitals or clinics be allowed, and in 2006, Dr. Hall brought in a pet shop and then the pet hospital. The neighborhood was not thrilled about it, and it was stated in the beginning that her boarding outside exercise areas were not exterior. That became the crux of this problem. There are vets who operate without exterior places. It might be wonderful to have, but not in a neighborhood with immediate neighbors who will feel the effects of that. After lengthy discussions, she is now allowed (5) dogs on the entire lot, not fenced in areas.

If you get (5) dogs in each fenced area, you could have as many dogs as you wanted outside which affects the neighborhood. She explained zoning was set for a reason; the immediate neighbors who have written letters do not live in the neighborhood. There is also a strong probability that these two properties which are not being worked on might possibly be sold to her which would allow more areas for more dogs. She stressed she had no problem with Dr. Hall as a business owner but had issues with her expanding her business in a neighborhood with immediate neighbors where it would not enhance the neighborhood. It would put pressure on neighbors to deal with issues they did not originally want to deal with and did not originally agree to when Dr. Hall came in. She asked the Board to let the Conditional Use with (5) dogs stand but not let it become more than it should since the neighborhood would be affected. Mr. Grundhoefer asked about her being comfortable with the (5) dogs, and she stated she did not like it and had originally wanted the dogs on the interior as it was originally stated, but she agreed the language should be (5) dogs or fewer per lot. Ms. Deese explained this would expand the use from what is currently permitted; it would allow (5) animals per Conditional Use Permit. Mr. Grundhoefer stated the language of outside exercise areas could be interpreted that you could fence off different areas. Ms. Deese explained it was very clear in the Code under Conditional Use – only per Conditional Use (5) animals or less.

Ms. Hoverson, President of the Old East Hill Neighborhood Association, was agreeable with the Conditional Use for (5) animals per permit and felt it was a good compromise, but did oppose more dogs than the (5) as stated in the application. Since 805 E. Gadsden was deeded as one lot, it should have one exercise area and asked for clarification on exercise areas. Chairman Ritz clarified that the facility, if this was approved as a Conditional Use, would be allowed (5) dogs outside; if there were multiple fenced in areas, one dog could be placed in each area with (5) dogs the maximum, and anything above would be a violation. He explained when the Board votes, the audience will typically understand why the Board voted as it did. Generally, as you hear the deliberations, you understand what caused that decision to be made.

Mr. Arabski explained his home touched the veterinarian property. He felt confident in spending \$250,000 on restoring his home because it was in a preservation district, knowing zoning was in effect that would not allow a ridiculous number of dogs next door. Those conditions included whatever the Conditional Use Permit that facility had. When there was a hearing to change the property to C-3, it was disruptive to his family. It was very accommodating to adjust the Conditional Use Permit to allow (5) dogs outside, but he did not want to attend more hearings to protect his home investment. He asked for (5) dogs outside the property, not two pens of (5) each, not another hearing, and not another interpretation. Chairman Ritz clarified there was only one Conditional Use Permit for her facility with only (5) dogs allowed with this permit; if Dr. Hall took up the entire block, it would still be one Conditional Use Permit with (5) dogs. Mr. Arabski also pointed out the neighbors who wrote letters not opposing own homes which are abandoned and felt it was deceitful to say all the neighbors were agreeable. Chairman Ritz stated it was duly noted that he and other speakers had mentioned that these property owners were not living in their premises.

Mr. Monk advised there was no way to guarantee that the issue would not return to the Board. Depending on how other neighbors may respond to this issue in the future or if there was an expansion, etc., it could very well end up back before the Board, but it would not be because of anything from the Board since it only responds to items brought before it. He pointed out the Board does not create legislation; they show up before the Board.

Ms. Dubuisson explained she was at the Council meeting and pointed out Council's action changed the ordinance so it was possible for the Board to give them the Conditional Use; they returned it to the Planning Board so it would assess its impact on the community and what the neighborhood wanted. She heard about the neighborhood being accommodating but also heard about expansion.

While she respected what Dr. Hall had created, her saying she had compromised in coming to this point was the opposite of what she expected her to say since she had been in violation. What she needed to be recognizing was that the neighborhood compromised to allow her to be in compliance by making this accommodation, and she should make every effort to make their accommodations of value to them.

Dr. Hall explained she was very sensitive to words like “deceitful” and “in violation” since that was not the case. She presented a site plan from 2008 and stated she was not asking for anything new and was not doing anything different from five years ago. She pointed out the City allowed her facility with these fences shown on the site plan, and it was all a confusing interpretation of outdoor exercise areas. She stated she was protecting the animals entrusted to her. Now at this point to expand her property, she would have to go through this process again. This decision was 805 E. Gadsden just being in compliance with the new ordinance.

Mr. Monk asked if this was how she operated the whole time, and Dr. Hall advised she always had dogs going outside supervised, but there may be been more than (5). Mr. Monk asked either previously or with the current changes, was the intention for the dogs to be inside or outside during the night. Dr. Hall said they would be outside only during business hours; they go outside with a staff member, and she was comfortable with the changes proposed. Chairman Ritz indicated he might be concerned if he heard dogs at night. He restated the agenda item was to allow (5) dogs per Conditional Use Permit and believed he heard a consensus that this would be acceptable, with the (5) dogs maximum being supervised during the time they are outside.

Mr. Moore stated after sitting through multiple Council meetings and discussions, he felt this was a victory with everyone using their best rhetoric. **Mr. Moore then made a motion to approve the Conditional Use, seconded by Mr. Monk.** Mr. Grundhoefer indicated his firm had done work with Dr. Hall in the past, but they were not presently under contract, and his firm would not benefit from the item’s approval or denial. Staff confirmed there was not a voting conflict for Mr. Grundhoefer on this proposal based on the information given. Chairman Ritz explained this item would return to Council in a quasi-judicial format at the November 2018 meeting. **Without any further discussion on the item, the motion carried unanimously.** Chairman Ritz clarified it was approval for a (5) dog maximum per Conditional Use Permit.

Consider Amendment to Land Development Code Section 12-12-4 Vacation of Streets, Alleys

On September 13, 2018, City Council referred to this Board for review and recommendation an Amendment to Land Development Code Section 12-12-4 Vacation of Streets, Alleys. This proposed amendment would require that any vacation shall leave no less than 10 feet of right of way from the existing back-of-curb. The City Council memorandum enclosed within this agenda item indicated the reason for this amendment was due to safety concerns as well as best practices in the furtherance of creating a more walkable and safe community.

Mr. Wagley supported this measure which would put this existing staff policy into the code. Placing this in the Code would ensure the 10 feet of right of way to accommodate for its many uses. Occasionally, there are sidewalks placed up against the street, but only when the right of way is already constrained. This would be a good step for a more walkable community. Chairman Ritz agreed walking on a sidewalk right up against a street would make him uneasy because of high speed traffic and appreciated placing this in a Code form to allow for the vegetative strip as a buffer.

Mr. Grundhoefer stated the language missed an opportunity to add the portion about if it was an existing sidewalk, it should be maintained or if eliminated, it must be rebuilt. He appreciated the ADA language “so that the work does not result in a lesser level of accessibility.” He suggested it was common sense that if someone was granted additional city property, they would either maintain a sidewalk or rebuild a sidewalk.

However, in a previous case, Council had stated a particular sidewalk did not connect to other sidewalks, therefore, some of them felt it was not necessary. Mr. Monk stated if applicants knew this would be required, they would know it was an expense ahead of making that type of request which would eliminate a lot of confusion moving forward. Ms. Deese explained the Council member sponsoring this item was open to suggestions from the Board and it would be returning to Council as a recommendation. She clarified the Board's aesthetic review on locations such as the Blue Wahoo Stadium, was a final determination by this Board. With right of way vacations, Conditional Uses or rezonings the Board was a recommending body to the Council. Chairman Ritz clarified this recommendation would be citywide.

Mr. Grundhoefer then made a motion to recommend approval of proposed language with the addition that right of way vacations do not result in a lesser level of accessibility, an existing sidewalk must be maintained or rebuilt by an owner granted such a vacation. The motion was seconded by Mr. Moore and carried unanimously.

Open Forum – Dottie Dubuisson asked that the Board study the makeup of the Board, observing that no one on the Board lived on the west side of Palafox for representation. She requested they ask Council when they were making appointments to consider broadening the scope of the geographical representation as well as the ethnicity and gender.

Adjournment – With no further business, Chairman Ritz adjourned the meeting at 3:05 pm.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'BCD', with a large, sweeping flourish at the end.

Brandi C. Deese
Secretary to the Board