MINUTES OF THE PLANNING BOARD
July 9, 2019

MEMBERS PRESENT: Chairman Paul Ritz, Kurt Larson, Nathan Monk, Danny Grundhoefer, Laurie Murphy

MEMBERS ABSENT: Ryan Wiggins, Nina Campbell

STAFF PRESENT: Leslie Statler, Planner, Greg Harding, Historic Preservation Planner, Heather Lindsay, Assistant City Attorney, Jonathan Bilby, Building Official

OTHERS PRESENT: Councilwoman Sherri Myers, Diane Mack, Sarah O'Neill, John Connell, Dottie Dubuisson, Renee Foret, Sam Lundy, John & Jonathan Connell, Steve Geci, Barbara Mayall, Michael Carro, Don Redhead, Tia Queyquep, Ann Hill, Ron Helms, Justin Beck

AGENDA:

- Quorum/Call to Order
- Approval of Meeting Minutes from May 14, 2019.
- **New Business:**
    1. **Preliminary Plat Review – "Whispering Creek" subdivision**
    2. **Rezoning Request – 3200 BLK Seville Drive**
    3. **Amendment to Conditional Use Permit – 501 S. Palafox Street (Al Fresco)**
    4. **Aesthetic Review – 501 S. Palafox Street (Al Fresco)**
    5. **Review of Gateway Review Board**
    6. **LDC Amendment – Ice Machines**
    7. **Comprehensive Plan Amendment – Density Transfer**
- Open Forum
- Adjournment

Call to Order / Quorum Present

Chairman Ritz called the meeting to order at 2:02 pm with a quorum present and explained the Board procedures to the audience.

Approval of Meeting Minutes

Ms. Murphy made a motion to approve the May 14, 2019 minutes, seconded by Mr. Larson, and it carried unanimously.

New Business

Preliminary Plat Review – "Whispering Creek" subdivision

Chairman Ritz reviewed some of the comments received regarding this project and asked Mr. Geci to address the Board. Mr. Geci advised there were no real issues with the corrections to be made. In the previous phase of the subdivision, they constructed a stormwater pond which would also handle new

property, and there would be no new stormwater pond added. Water and sewer are available. Deeded access is being provided through the Target shopping center. He has some questions to staff regarding the comments asking for everything to be on one sheet. He also stated there will be two parking spaces per lot, and in most cases three or four.

Ms. Murphy stated she was an active member of the restoration crew for Carpenters Creek located behind the property and noted this plat was heavily forested, and she had several concerns since this property would empty into Carpenters Creek. She asked if they planned to raise the property up since at one point there was a 10' grade difference. She pointed out the stormwater pond for the Whispers subdivision had not worked well and asked how the runoff would be handled for the new development after clearcutting all the trees. Mr. Geci stated there was a tremendous slope from north to south, so they would cut one end and fill the other with retaining walls at each end to grade it out, and it would be difficult to save any trees. Once the site was developed with the inlets and pipes to control it all, there wouldn't be any flow down the bank. He explained currently there was sheet flow into the pond which had caused problems over time. Ms. Murphy pointed out the water did not flow toward the stormwater pond; Mr. Geci advised none of the water would flow onto the adjacent property.

Chairman Ritz clarified that the agenda item was the preliminary plat review which normally did not cover sheet flow, and Mr. Geci's answers were acceptable at this point since the Board had certain criteria for preliminary plat review. While important for the City of Pensacola, in the rules for preliminary review, it might not be an item on which you could accept or reject the plat. Mr. Geci advised they would address all the details with construction plans reviewed by the City and water management district. Ms. Murphy pointed out there were no Conifer trees listed on the tree list; Chairman Ritz explained the City had a list of protected trees, and the trees not listed were not protected. Mr. Geci advised the tree survey was prepared in accordance with the City ordinance, and they would comply with it.

Mr. Monk advised his concern with preliminary reviews involved a lot of steps he would want to know had been taken before any review. Once something was stamped and approved, it became very difficult to stop it down the line. He pointed out there was probably someone living on the property, there were runoff issues, tree issues and community issues. Whenever he was told the issues would be handled down the line, sometimes they never were, and there should be a fix to this portion of the process. Chairman Ritz explained that someone living on the property was a legal issue and not a part of the Board's decision making process. Mr. Geci pointed out this was a preliminary plat and discussed the steps up to the preliminary plat. Beyond this stage, there were construction plans, permits from the City and the utility authority; this stage was not designed to address all the details. Mr. Monk felt the Board had the obligation to ask these questions. Chairman Ritz explained that they needed to balance the questions they asked with what was required by the agenda item as a preliminary plat. Mr. Grundhoefer asked about the development, and Mr. Geci stated it was single-family detached. Ms. Murphy asked how long it would take to develop the 20 homes, and Mr. Connell advised they would begin immediately with construction as soon as the roads were finished. He explained the reason for not going through the Whispers was because they left a parcel which connected to this property which was intended to have an extension of the Whispers in the next phase; through the course of engineering and legalities, that parcel was thrown into the homeowners' association instead of being retained by the developer as owners. He also stated there were two holding ponds in the Whispers, and those holding ponds were to be maintained by the City. He explained no water would flow into the Target parking lot or the existing Whispers location. The new phase would be compatible to the Whispers subdivision. He also pointed out the homeless situation is all over the City of Pensacola and not just in this area. He clarified that they would adhere to any City ordinance or requirement concerning this project.

Ms. O'Neill wanted to know how many protected trees were being removed; she was also concerned with the homeless and the wildlife in this location. She was also concerned that the project was being pushed

through quickly. Chairman Ritz explained according to the LDC, private property owners can clear cut trees by right, and protected trees have been allowed to be removed from residential property. He emphasized the Board was trying to stay with the agenda item, and discussions brought forth deal with other legislative issues which might be addressed by the City Council in a different forum. He clarified the preliminary plat deals with a proper drawing showing the delineation of the properties, roadways, setbacks and other particular features.

Ms. Mack asked if the number of parcels was included in the preliminary plat and was this the maximum of parcels allowed. Ms. Statler advised this was not the maximum the developer could build since this parcel was zoned C-2 with a very dense allowance. Chairman Ritz explained that cumulative zoning means we are allowed to use this zoning and other zoning designations below it such as C-1, and the R designations to determine what can be built there. Ms. Mack suggested since the developer had already seen the value of having fewer lots in the allowed area, given the current real estate market, there was an opportunity to have fewer lots, noting how much retaining trees adds to the value of each parcel and each developed single family home. Regarding climate change, the most effective thing we could do and the least expensive way would be to re-forest the planet.

Mr. Grundhoefer asked if there was another option rather than building retaining walls as a possibility for not building up a site and clear cutting. Mr. Geci stated they had looked at condominiums but decided on the less dense subdivision. Because of the slope of the site, to have building pads that were level, they were limited; they were cutting the north end and filling the south end and then leveling it out.

Ms. Dubuisson cautioned the Board, the developer and the City to stop and look at the ripple effect of every change that this particular development would cause. She pointed out our Mayor emphasized neighborhoods, and the neighbors have made known they do not wish for this activity at the current rate currently being discussed. She explained everything she was hearing was about reversing the natural order and trying to countermand the normal drainage of the property. It was noted the City had acquired responsibility for a privately developed stormwater pond serving the first development. She did not know how they could have anticipated the second development would be covered if they did not even know how many buildings were going in the new development. She suggested the Board table the item until all the questions raised by staff and the public could be addressed. She advised when the Board could slow the process down to answer any questions, she encouraged them to do so.

Councilwoman Meyers addressed the Board with a great concern for this project, and that the existing stormwater pond was the worst she had seen in the City of Pensacola. She explained the erosion was not coming from the land the developer wanted to clear cut but coming straight down the street through the Whispers and eroding it to the point you cannot drive into the pond to maintain it. She stated she had many conversations with Derrik Owens about the maintenance of the pond, and the pond was not sufficient for the Whispers and definitely would not be adequate for any additional impervious surfacing. She pointed out the City had spent a lot of resources trying to rehabilitate this pond. She stated Carpenters Creek was not a whispering creek but has been viewed as a conveyer of stormwater and was not designed for that much stormwater from impervious surfacing. She observed there was tremendous bank erosion along that creek because it was not designed to take on all that water from impervious surfaces. The new development would contribute to not only the demise of the stormwater pond, but would put more water into the creek, resulting in more erosion. She suggested using more pervious surfacing so the water would not enter the stormwater pond. She urged the Board not to approve the item until it had all the facts.

Mr. Monk made a motion to table the item, seconded by Ms. Murphy. Mr. Grundhoefer suggested the motion include information on what the Board was looking for. He also thought the Board needed more comfort that the stormwater system and the pond could take this development, and if not, return with a less impervious development and keeping the more natural terrain, something the Board could see was a positive statement. Mr. Monk and Ms. Murphy accepted this amendment. Chairman Ritz clarified the

added information of addressing stormwater during the tabling time. Mr. Monk also understood the motion to include lot size and the possibility of reducing the effect on the environment; Ms. Murphy added green stormwater structure with bio swales and other options available to give the Board more information and more items to look at to make a better decision. Mr. Monk agreed, and the motion carried unanimously.

Rezoning Request – 3200 BLK Seville Drive

Ms. Statler explained the zoning change would not change the uses permitted, but would simply change the minimum lot size and the front and rear setbacks which would be consistent with the properties to the north.

Mr. Beck presented to the Board and advised the current zoning prevented them from building anything on the property, and it was the only parcel on Bayou Texar with that zoning. He stated they had no intention of selling this lot at this time, and the rezoning would allow them to place a pool house on it. **Mr. Larson made a motion to approve as presented, seconded by Mr. Monk, and it carried unanimously.**

Amendment to Conditional Use Permit – 501 S. Palafox Street (Al Fresco)

Mr. Sallis presented to the Board and stated he was addressing the ordinance and as a developer and wanted to go through the proper procedures. Mr. Carro had met with the Mayor to talk about the retail for this project which was not currently in the ordinance. Mr. Sallis explained they wanted the Board's support for retail in this development and to obtain approval of the aesthetics. He explained the developer was working with them to create a cover for the airstreams to shelter them from weather events so they could have successful businesses year round. He stated the idea was to have an old building which looked like Al Fresco was added later; he hoped the current rendering had the bones of a warehouse which housed the outdoor retail market. He stated Mr. Bilby informed him there still might be issues because of the flood design manuals for the City. He confirmed the property was clearly in a flood zone, and to build, they would have to comply with flood management. They would need to completely elevate the site and build it up to around 4.5' with a 40' ramp and steps, which was a cost not worth pursuing. The other method was to use FEMA standards for flood proof construction - a wall around the development to withhold water for several hours - which was not a sensible effort in construction. He explained they wanted to leave the airstreams as they are; the documents provided illustrated mobile restaurant units made from shipping containers, but they were no longer going to pursue that. They preferred to leave the airstreams where they were, moving one of the airstreams to allow an open flow underneath the proposed covering. They would be anchored in the same method of a mobile home, but this was no longer acceptable according to Mr. Bilby. He asked that they be allowed to keep the airstreams as they are but move one of them and anchor it in the similar method the others have been in the past and construct the overhead structure.

Chairman Ritz stated in the intervening years of the original airstream decision, he had heard both pros and cons especially as it related to what is considered a prominent corner in Pensacola. He explained the bank across the street had to build up because of the flood zone. He personally had received more negative comments than positive on the airstreams. He did like the current aesthetic presentation because it fit in the "building that has been there" mentality. He referred to the conditional use permit issue and the aesthetic review as being two separate agenda items.

Mr. Grundhoefer confirmed moving the one airstream was the main issue. Mr. Sallis explained the Board was first tasked to allow retail as a part of the ordinance and discussed the methods of anchoring; they were hoping to use the helical design for the mobile units. Mr. Grundhoefer appreciated the new design and stated he would support it and thought retail was appropriate in this situation. Mr. Bilby explained the flood ordinance gave two conditions in new construction to either to elevate 3' or to anchor to resist flood loads and to flood proof. He was not sure why the existing airstreams were allowed the way there were, but the

existing ordinance would not allow them to be placed in that manner. Recreational vehicles are covered but only up to 180 days before they must be removed. He loved this concept and explained the helical anchors were fine but they would need to flood proof up to that 3' elevation above base flood elevation along with the anchor. They could flood proof each individual shipping container, anchor them, and the development would go through with no problem. He clarified the basic flood regulations were out of the National Flood Insurance Program adopted by Pensacola. Mr. Monk felt Al Fresco helped to develop downtown to what it currently is and wanted to find a way to be safe and to find an answer.

Chairman Ritz advised with the conditional use, he did not have a problem with retail, and this project brings life and a higher people count through more hours of the day. Ms. Statler explained this conditional use had changed today, and staff had just been made aware of it at the same time the Board was made aware. In discussions with Legal and the Planning Director, it was not something that could be voted on today. She advised the site plan had changed, and basically the conditional use packet that would move forward was not what was in front of the Board. Mr. Sallis voiced his frustration since there is now not a change to the site plan. Chairman Ritz clarified that the current packet was not advertised and the site plan would be different from the one the citizens of Pensacola had seen. Mr. Grundhoefer felt the conditional use didn't have to do with the way the site was configured. Ms. Statler further explained the conditional use itself is site specific and deals with the orientation of the structures on the site, and the aesthetics would be considered under Item 4. Mr. Monk asked if the Board could not approve the language of the containers themselves but the option for retail, and Ms. Statler stated that was acceptable. Chairman Ritz pointed out with other business owners having high stakes in the game, public notice needed to be considered. Mr. Sallis stated their May submittal was not in time for the Board's consideration and was then delayed, and they missed June because of the proper advertising. Mr. Carro stated they did not miss June, and the Board had expected to see them in June; the City did not perform the proper notification, even as they were making the changes the Board requested. Mr. Sallis explained the flood comments were received in the last week regarding the current submittal and was the reason for the changes to keep what they currently have and cover it.

Ms. Statler clarified the application deadline for conditional use is 30 days and not 21; when this project was initially submitted for May, staff did not have a full, complete packet 30 days prior to the meeting. Staff agreed to let it come forward as a discussion item. This item was submitted in a timely manner with the conditional use application with all specifications and met the deadline for this meeting. The procedures for a conditional use are different and based on a development plan submitted with the application. The reason the Board could not vote on this was because the development plan submitted with the application had changed; it doesn't matter if it was a minor or a major change. Relative to the flood proofing, there was a Development Review meeting attended by Mr. Carro where that requirement was fully discussed several months ago.

Chairman Ritz pointed out he had no problem with retail, but the language in the conditional use application had changed and was in line with the advice of Legal and staff. He was hesitant to tell one applicant they have to provide above and beyond for their one item and then with a little bit more of a cavalier attitude allow a change that someone may complain to City Council that they didn't see. Ms. Statler advised the Board should postpone to a date certain and staff would expect revisions to present to the Board in August. She stated the 30-day deadline would be this Friday, with the actual Planning Board deadline on July 23 for the August 13 meeting. Mr. Sallis stated they would submit plans by this Friday showing the existing airstreams remaining, with the anchoring details worked out with Mr. Bilby for the building code requirements. Ms. Statler advised the Board could proceed with the review of the aesthetic and provide comments on design to allow them to move forward. Chairman Ritz offered the Board should table until the August meeting.

Mr. Larson made a motion to table Item 3, seconded by Ms. Murphy, and it carried unanimously.

Aesthetic Review – 501 S. Palafox Street (Al Fresco)

Mr. Sallis appreciated the support of the Board and appreciated staff working with them on the very specific and detailed conditional use ordinance, and the current design was intentional to create the plaza called for in the ordinance. Mr. Carro stated he had four to six tenants who are affected by the weather. Since he cannot charge additional rent, he could prevent turnover in giving them more hours and more days in which to operate. He was also more pleased with the wood design.

Ms. Mack stated the most charming feature of Al Fresco is that it is open air and open light. She would like to see the light coming through perhaps through a green roof. Mr. Carro did not disagree; however, the entrance would be open air with four palm trees, and at least three sides would be open air with natural light. Mr. Sallis stated there were two cupolas on the roof to allow for good airflow and light which were designed to create interest in the structure. Chairman Ritz agreed this was a better approach for the roof, and Mr. Monk also liked the design which gives reprieve in the hot and cold temperatures. Adding the retail was important since he felt it would become a hub of activity. Ms. Murphy understood the importance of tenant turnover and thought the design was a great idea to help retain the businesses there. Mr. Larson stated it reminded him of the old warehouse district and appreciated the effort in design changes. Mr. Grundhoefer asked if approved, would the design go to Council before the conditional use, and Ms. Statler explained it would not. **Mr. Grundhoefer made a motion to approve the aesthetic design, seconded by Mr. Larson, and it carried unanimously.**

Review of Gateway Review Board (to eliminate the Gateway Review Board)

Chairman Ritz explained if approved, this would place slightly more work on the Planning Board for items in the Gateway Review Board purview. Ms. Statler explained signage is now handled through an abbreviated review process and would not be reviewed by the Board unless the chairman determined it should be. Mr. Grundhoefer asked why this Board and not the ARB. Ms. Statler clarified that ARB covers the historic areas, and Planning Board does have purview over aesthetics. The Gateway Redevelopment District is under the same section as the Waterfront Redevelopment District, which is under the Planning Board purview. Mr. Larson stated with the new bridge and waterfront development, there would be some changes which will demand review. **Mr. Larson made a motion to approve because its well within the scope of what the City has asked us to do, seconded by Mr. Monk, and it carried unanimously.**

LDC Amendment – Ice Machines

Chairman Ritz advised the issue was with the aesthetics and appearance of the vending machines. Ms. Dubuisson pointed out this was not only a vending machine issue but a traffic-originating and noise issue and has an impact on everything around it not only in aesthetics but in an access point of view – not just how it looks but how it functions. Mr. Grundhoefer clarified what they are tasked with is not whether you can put these ugly boxes in a parking lot; it has to do with can we change it to make it uglier. Mr. Monk agreed this was a bad idea, and the few he did see around town were unattractive and problematic in a lot of ways and did not see any reason to vote for this. Ms. Murphy noted the request was included screening rooftop mechanical equipment with lattice and allowing advertising on the sides. Mr. Grundhoefer asked who sponsored the item, and Ms. Statler stated it was a request presented to the Mayor's office. **Mr. Larson made a motion to deny, seconded by Mr. Monk, and it carried unanimously.**

Comprehensive Plan Amendment – Density Transfer

Ms. Statler advised that like density bonuses, density transfers will be required to be approved by the Planning Board and not at a staff level. The review process was not as technical as for the platting process where you have a staff review with comments issued. Chairman Ritz offered that the language presented

was far less restrictive than with some items with a checklist. Ms. Statler explained if this was approved for the Comprehensive Plan, they would come back and draft the conditions and procedures to obtain the transfer. Ms. Murphy asked how long the units stayed affordable. Chairman Ritz advised with the language not written, that was to be determined. Mr. Monk stated most affordable housing was done through granting, and almost all of them have a 30-year retention period; if it was set at 20 or 30 years, it would meet the national standard. Chairman Ritz pointed out there are legal requirements if a developer chooses to go affordable, depending on which funding sources are followed. If we, as the Board, believe the City should develop rules and regulations for density transfers, we would vote they should; the language would then be crafted and approved. If the Board did not think the City should pursue density transfers, the language would not be developed. Ms. Murphy had a problem with gentrification of neighborhoods. Ms. Statler explained this was step one to get this into the Comprehensive Plan in order to move forward. Step two would be to return to the Board to get the language into the LDC; staff would draft the language, and the Board would make modifications. Chairman Ritz stated the Board had conducted workshops outside of the Board's meetings to work on the specific language. Ms. Murphy agreed public input would be beneficial. Chairman Ritz explained the language could be drafted, but it was controlled by the Florida legislature. Ms. Murphy asked if the City received financial incentives for these bonuses or transfers, and Chairman Ritz advised that would be illegal. Ms. Murphy wanted to know what the incentive was, and Ms. Statler stated there had been some discussions in general regarding the fact that if someone had common ownership of a property, they could transfer density from one lot they were not going to develop to a maximum density onto to their other lot which would have more density. Other municipalities have both bonuses and density transfers, but Pensacola does not. She pointed out we deal with developers who come in and have a vision of what they want to do, and sometimes the zoning district does not allow for the density they need, so something like this could help those developers in that they would not have to go through a rezoning which might be contentious. She clarified they were not changing the land use but allowing for more density with the understanding there was a tradeoff. The language has been drafted as and/or – redevelopment and/or affordable housing. She explained there might be an environmental issue where the property is deemed wasteland, but they have density, and another piece of property might be suitable for more development with something with more density. **Ms. Murphy made a motion to approve, seconded by Mr. Grundhoefer, and it carried unanimously.**

Open Forum – Ms. Dubuisson thanked the Board for their service and encouraged them to be conscious of every step taken to move something farther and the end game; the good reasoning the Board had may not be present in the later steps.

Mr. Monk advised he had rescinded his application to serve on the Board because of time restraints. He would not be able to attend at the rate necessary. He felt the Board had accomplished a lot and he had enjoyed the process; however, this was the right decision for him. The Board appreciated his service and wished him well.

The Board then commended Ms. Statler on her assistance in the meeting. It was noted Ms. Campbell had resigned, and the Board would need another Planning Board member sitting on the ARB.

Adjournment – With no further business, Chairman Ritz adjourned the meeting at 4:19 pm.

Respectfully Submitted,

Leslie Statler
Secretary to the Board