



PLANNING SERVICES

THE UPSIDE of FLORIDA

## MINUTES OF THE PLANNING BOARD

June 12, 2018

**MEMBERS PRESENT:** Chairman Paul Ritz, Nathan Monk, Kurt Larson, Jared Moore, Danny Grundhoefer, Victor Jordan

**MEMBERS ABSENT:** Nina Campbell

**STAFF PRESENT:** Brandi Deese, Assistant Planning Services Administrator, Leslie Statler, Planner, William Weeks, Building Official, Helen Gibson, CRA Administrator, Victoria D'Angelo, Assistant CRA Administrator, Ryan Novota, Transportation Engineer

**OTHERS PRESENT:** Don Kraher, Council Executive, Austin Tenpenny, Steven Shelley, Fred Gunther, Ashley Patterson, Steven Sebold, Christian Wagley, Mike Kilmer, Rivka Kilmer, Marcie Whitaker, Kevin Wade, C. Marcel Davis, Fran Jones, Diane P. Robson, Ryan Wiggins, Jonathan Wiggins, Kacee Bidnick, Glib Kazak, David Peaden, J. Scott Sallis, Beverly Perry, Troy Stepherson, Doug Baldwin, Randy Wilkerson, James L. Gulley

### AGENDA:

- Quorum/Call to Order
- Approval of Meeting Minutes from May 8, 2018
- New Business:
  1. Consider Right-of-Way Vacation Request – North 18<sup>th</sup> Avenue Between Moreno & Mallory
  2. Consider Amendment to LDC – CRA Urban Design Standard Overlay
- Adjournment

### Call to Order / Quorum Present

Chairman Ritz called the meeting to order at 2:01 pm with a quorum present.

### Approval of Meeting Minutes

Mr. Larson made a motion to approve the May 8, 2018 minutes, seconded by Mr. Moore, and it carried unanimously.

### New Business

#### Consider Right-of-Way Vacation Request – North 18th Avenue between Moreno & Mallory

Jonathon and Ryan Wiggins, in conjunction with Michael Callaghan and Galen Nase, are requesting approval for the vacation of approximately 34 feet of the western right-of-way of the 1600 Block of North 18<sup>th</sup> Avenue. This request would bring the property line to the back of the layback curb on the western side of 18<sup>th</sup> Avenue.

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Mr. and Mrs. Wiggins have indicated the reason for their request is to be able to construct a garage and small attached guest house. Mr. Callaghan and Mr. Nase have indicated their reason for the request is to acquire the land where their semi-circular driveway is located. This request has been routed through the various City departments and utility providers and those comments are attached; any comments received after the packets were mailed were sent email and hard copies provided to the Board.

Chairman Ritz explained the right-of-way vacation as giving away a piece of public property over to the property owner; if approved, the City of Pensacola gives the property to the property owner with no fees involved. He then called the applicants to speak.

Ms. Wiggins thanked the Board for their consideration and was eager to answer any questions. Mr. Monk asked if the applicant had any issue with the proposal with the reduction and relocation of the sidewalk to the front. Ms. Wiggins advised they had no problem with the 24' but with that sidewalk not leading anywhere, they would pay for the replacement of the sidewalk if the City ever decided to replace it.

Mr. Wagley pointed out it was great to see neighbors improving their properties, but the public's interests should also be respected and protected. He wanted to make sure the existing sidewalk was replaced at the applicant's expense and in a manner for full public access, leaving the 5' planting strip. He pointed out this location was also one block from the city park and wanted to make sure we stay consistent with what happens on other projects with the relocation of sidewalks which is necessary to protect the interest of the public.

Mr. Wiggins advised they were agreeable to the 24' feet as opposed to the full setback. With regard to the sidewalk, if you drive the entirety of 18<sup>th</sup> Street, almost two miles, there are two blocks with houses with sidewalks which connect east and west arteries. To suggest the removal of this sidewalk at this time would make anything less accessible or less safe was not common sense to him. He pointed out 18<sup>th</sup> Street is a very safe road where they see strollers, bikers and walkers using this street. Mr. Jordan explained to the applicant that if the sidewalk was replaced, it would be fully ADA compliant and wanted that understood.

Chairman Ritz explained the vacation all the way to the back of the curb is a bit much and the Board had not granted that in the past, and where would you place the sidewalk, easements, and the City would have no place to operate for utility repairs, etc. He appreciated sidewalks and connectivity which did not force the public to walk in the street.

**Mr. Larson made a motion to approve with 5' from the street for plantings, 5' sidewalk built to City of Pensacola standards as well as current ADA requirements, with the balance to be vacated to the owners, with the provision the sidewalk be put in immediately to replace the one taken out. The motion was seconded by Mr. Jordan.**

Mr. Jordan was concerned the sidewalk would not be replaced in a reasonable time. Chairman Ritz explained that once the property was given to the owners, they could do as they pleased, but they were giving them 24' of property at East Hill rate. Mr. Grundhoefer was concerned with setting a precedent. He offered the Board could go 10' to that street and vacate it, and people could get more property. He felt the Board was setting a dangerous precedent. Mr. Moore agreed that it seemed the right-of-way on 18<sup>th</sup> was larger than the standard right-of-way. Mr. Monk felt the location of the sidewalk to the house was awkward. The concern from others was making sure the sidewalk stayed.

Mr. Novota stated the roadway was mostly in the center of the right-of-way, and the likelihood of the city expanding or relocating the roadway was slim. Chairman Ritz explained that should the vacation be granted, as part of the approval the sidewalk would continue all the way out to the asphalt. Ms. Wiggins explained if they build a structure and then tore up the sidewalk, they would be replacing it twice. Mr. Grundhoefer pointed out his concern was maintaining a 60' right-of-way on 18<sup>th</sup> Street; his hope was that when other residents applied, the City would also get a sidewalk, with sidewalks on both sides of 18<sup>th</sup> Street. He did not support giving 24' of the City's right-of-way to homeowners. Chairman Ritz asked if the motion were amended to include verbiage toward maintaining minimum right-of-way, would that be supported. Mr. Grundhoefer explained that would send a signal that they were trying to maintain 60' right-of-ways in East Hill, and they were not changing that character.

Mr. Monk clarified that Mr. Grundhoefer wanted to make part of the requirement that with any future vacation, the property owner that received the property would pay for the sidewalk; Mr. Grundhoefer agreed he wanted to enforce this. Chairman Ritz restated the motion that the Board approved the vacation of 24.5' of the right-of-way, always maintaining a 60' right-of-way for city streets. Mr. Grundhoefer stated with a 24' street, they would be granting an additional 18' (18+18+24=60) from the curb to the property line. This would put the emphasis on maintaining the street right-of-way, not necessarily giving each landowner their particular request based on whatever they think their need is. **Chairman Ritz stated the motion would then be vacating the appropriate amount of property while maintaining a 60' right-of-way; the amendment was accepted by Mr. Larson. Chairman Ritz explained this would set the idea that the right-of-way is a number which is set – the vacation occurs to whatever the appropriate distance is if the road is left or right of center. The motion was accepted by Mr. Jordan with the additional information on the sidewalk.**

Mr. Monk asked if the current 18' would be enough for the applicants to accomplish their goal. Mr. Wiggins asked how the Board arrived at the 60' number. Chairman Ritz explained he had never seen a right-of-way in East Hill narrower than 60' and if we begin to get less than 60' we would not have enough room to put in the appropriate size roadway, planting space and sidewalk on each side. So the 60' becomes the "magical number" for the minimum spacing for roadways, sidewalks and plantings. Regarding enough space to accomplish their goal, Ms. Wiggins stated it would not, but they would make it work. Mr. Monk pointed out they were trying to make the neighborhoods more walkable. Chairman Ritz advised there were more requests for vacation of right-of-ways in East Hill than any other location. East Hill is a desirable neighborhood and is easily walked. Mr. Grundhoefer pointed out the Board was considering all citizens and not just the applicants. Chairman Ritz emphasized that this decision would proceed to City Council for their approval. Mr. Grundhoefer wanted the motion to state the applicants must build a sidewalk. Mr. Jordan asked Mr. Novota, Transportation Engineer, about the cost of the ramp, and Mr. Novota advised the cost would be around \$1,500.00 to \$1,800.00 plus the sidewalk itself. **Ms. Deese confirmed the original motion was for approval for 5' landscape strip, 5' sidewalk, sidewalk to be constructed immediately, sidewalk will be built to the road and to City of Pensacola and ADA standards, amended to maintain the 60' right-of-way. Chairman Ritz clarified the vacation was dependent on where the right-of-way falls. Mr. Larson changed the time for replacement to 90 days, and it was accepted, and the motion carried unanimously.**

#### **Consider Amendment to LDC – CRA Urban Design Standard Overlay**

Ms. Gibson, CRA Administrator, presented to the Board, and advised that for the past six months the CRA had been presenting a proposal for an overlay district which would be form-based standards which would apply to the neighborhoods within the CRA areas and not within any type of review district. She indicated these neighborhoods have not had any protection from incompatible uses relative to their traditional character. Because some of them have been blighted neighborhoods, there has been deterioration and demolition. What is being proposed will not restrict future demolition but will help to govern what is rebuilt. The proposal is a very light form of design review and a streamlined review which will be handled administratively by staff. Applicants interested in building can refer to a checklist to meet the requirements in this standard. She pointed out they had extensive community input with public informational sessions. Ms. Gibson then turned the presentation over to Marina Khoury of DPZ CoDesign who gave an overview of any changes to the guidelines; these were provided to the Board. Chairman Ritz then asked for audience input.

Mr. Gunther wanted to confirm that the vertically proportionate window requirement was removed, and Ms. Khoury stated that had been removed but would remain only on the frontages. Mr. Gunther informed the Board he had purchased the former YMCA property on Palafox, and they have three potential buyers and had confirmed in pre-development meetings with Brandi Deese and other departments in 2016 and 2017 that all their plans were allowed under the LDC.

They then moved forward and closed in January 2017. They have paid architects for design, laid underground utilities and essentially planned a new development. In moving forward, no exception had been granted, and he asked that those who have been working with the City should be grandfathered in and not be required to adhere to the new requirements after designing around the current codes.

Concerning trees, he further explained they had pushed their houses to the street with urban design, and properties on Palafox from their property to the bay have no trees on private property. Mr. Grundhoefer offered this document would be going to City Council and felt all those with projects might rush in before the new guidelines were approved; he did not feel this was appropriate. Mr. Monk stated this was a difficult situation to be in as we move toward the form-based code, and this is a long-term developmental plan finally proceeding to the end. Ms. Gibson advised she did distribute a list of all comments received but did not know if they addressed every single comment on every project. She advised there were seven or eight concerns addressed by Mr. Gunther, and they were able to adjust this overlay so that six or seven were addressed. A site like this one was constrained, but he could place trees within the block. Mr. Monk asked if there could be a date certain for previous applications. Chairman Ritz explained this could be discussed during deliberations. Mr. Gunther further stated that long vertical windows were unfair to be imposed over such a large portion of the city.

Mr. Kazak who develops single residence housing in downtown Pensacola stated he had plans for larger developments on Government and A Street which met the current requirements, however, the new codes might require significant changes. He wanted to make sure they were safe with their investment and possibly exempted partially from the new regulations.

Mr. Wagley was excited to see the Board working through the process. He explained the trend toward form-based standards is growing all over America, and the existing codes were never going to give people the type of community they want – one that is walkable, bikeable and reveals the character of the older neighborhoods. He stated DPZ's work in capturing the existing character was completely accurate. He explained vertical windows were actually defining character from the homes built prior to the 1940s. He referenced the Florida Greenbook, with garages preferred in the rear and side on corner lots. He wanted staff to address the grandfathering possibly and using the easy checklist that would facilitate the process. He also pointed out no specific styles were restricted and encouraged the Board to approve this change which would be a huge historic step for this community.

Mr. Kilmer thanked the CRA and the Board for considering this change and Mr. Wagley for keeping the community informed.

Mr. Sallis spoke for the local chapter of AIA. He indicated the city has needed this document for a long time. The concern was that it be modified. (1) The section of applicability should be modified to allow for a date set for when the overlay applies, and developments after that would comply. (2) With residential building entries, the cost of elevating a house really is the cost of building a good product and making a great city. (3) Roof pitch is too restrictive over such a large area and should be removed from the document. (4) Windows and glazing should be removed because it is too restrictive for such a large section of the city and does not allow for contemporary architecture. Otherwise, the AIA supported the documents with these changes.

Ms. Khoury advised regarding applicability, the majority of cities state if you have a building permit in hand, you are grandfathered in; if you do not, you must comply with the new rules. The new document has in many cases made it easier to develop, and the reason for the document was to preserve the existing character.

Mr. Peaden appreciated the process but the key thing pertained to the applicants who have already begun the process and need to be protected in terms of what they have invested. Setting a date would be one way to address this, since most of these people have been in the process for a while.

Ms. Perry explained form-based code works in her neighborhood since there is no ARB, and the form-based code is a good middle ground giving parameters for a good framework where builders can respect the existing character while maintaining creativity.

Ms. Gibson responded to Mr. Monk's assertion about the influx of outside builders/developers.

She explained she had seen over the past 20 years a loss of historic vernacular and what has replaced those structures has looked nothing like the neighbors and has not added to the value of the neighborhood – many times by local builders. Mr. Monk stated in the East Hill area there have been massive demolitions of houses he knew could have been renovated.

Mr. Jordan addressed page 31 of the presentation dealing with a bicycle locked at 56 cm and explained that would only accommodate a child size bike. Ms. Khoury stated it could be converted to 22" – 26" to be consistent.

Mr. Grundhoefer was supportive of the document and suggested the window verticality requirement needed to state "should" instead of "shall" and agreed we should not stifle design because we feel a vertical window is more appropriate for a particular design. He explained some of the structures in Aragon Court comply with the ARB standards but are very contemporary. Ms. Khoury stated they may want to put in a clause to reassess the requirements in six months to see if they are working. Chairman Ritz offered his historical house has square windows. Mr. Grundhoefer advised the roof pitch was no problem since there was a caveat to have flat or low-pitched roofs. However, columns with capitals and bases was dictating architectural styles and pushed it beyond a form-based standard to an architectural standard. On page 37 regarding planting columnar trees, Pensacola is not known for Cedar or Poplar column type trees. Ms. Khoury advised this could be removed. Mr. Grundhoefer also asked if on Page 35 the single-family and two-family buildings were exempt. Ms. Khoury indicated this red lined language should probably be stricken out.

Chairman Ritz explained that with the document being placed on the Board agenda today, it was emphasized there needs to be a particular time set which starts this process and definitive language for what defines this process which has already started by someone. The building permit in hand means that someone has submitted plans for permitting, but Mr. Gunther has been working on a particular project for some number of years, and the larger projects tend to take longer lead times. So under our applicability, we do not have that really good timeline which defines projects discussed with Planning as of July 4, 2018 will be under a certain code. From a developer's standpoint, the Board needs to pick some legitimate time so that is not so far down the road that anyone can come in and say they thought about a project in 2017 and they should come under the old Code.

Ms. Khoury asked how the Code has been amended, and Chairman Ritz indicated historically, there has never been a change this drastic and in such a short period of time. He explained the Florida Building Code and the grace period when it is amended. Mr. Grundhoefer explained a date could be set after Council adoption. Ms. Gibson stated they had responded by saying 45 days from Council approval. Mr. Grundhoefer felt the document should be enforced at the date it is adopted. Ms. Gibson explained normally an ordinance is in force 5 days from Council approval. Chairman Ritz explained the Board is an advisory board, and the Council can choose to do what they want to do after the fact.

**Mr. Jordan made a motion to approve and support the CRA Guidelines with these stipulations: (1) that the language for the vertical windows and the columns be "should" instead of "shall"; (2) change the columnar tree language; (3) clarify this landscape paragraph which she said they would strike; (4) under applicability, to state it is enforced 5 days after City Council approval. The motion was seconded by Mr. Larson.** Mr. Monk advised that changing "shall" to "should" meant it was not enforceable. Chairman Ritz advised if someone wanted to do something else, they would be allowed to.

Mr. Monk did not see the point of going through the process to get to “if you would please.” Chairman Ritz pointed out in the case of the windows, there was evidence offered internal to the Board as well in the Contemporary House book and the public has stated that “shall” on that particular item of verticality of the windows was detrimental to design creativity. Mr. Monk offered so many people want to live downtown but cannot because of varying reasons, but this Code will encompass the whole city. Chairman Ritz offered a citizen could always request a variance.

Ms. Deese clarified that the LDC stated only a few reasons where you could qualify for a variance, and variances to these overlay guideline standards would not be permitted.

Regarding the windows, Ms. Khoury stated in the homes that did not look good, the vast majority of them are because the windows were not vertical or square, and cautioned not to look at what you were preventing, but rather look at what you were allowing. Chairman Ritz clarified a person could not request a variance if the language became “shall” and Ms. Deese agreed. Mr. Monk restated he did not want to limit creativity but wanted history preserved.

Ms. D’Angelo clarified the document text in blue was not actually in the document sent to the Board and were proposed modifications. Ms. Gibson advised the presentation showed the modifications. Chairman Ritz explained the document supplied to the Board and for public inspection was not the same one in the presentation.

Mr. Monk questioned the styles of homes to be built in the CRA neighborhoods and if we were not dictating style, he was not sure how helpful the document was if it did not dictate building in a certain number of styles. Chairman Ritz explained the form-based code was not dictating a particular building style. **Mr. Grundhoefer had perused the blue text and added to Mr. Jordan’s motion the June 12<sup>th</sup> guidelines were presented to the Board. Ms. Deese read the motion to approve with stipulations (1) to remove the window language shall and amend to should, (2) revise the tree language, (3) clarify the landscape paragraph and she (4) clarified it should be 5 business days for enforcement, and (5) the addition of the bike modification from 22” to 26”.**

Mr. Weeks asked the Board if an architect could get professional plans within 5 days, and Chairman Ritz explained it could not be done in 5 days. Mr. Grundhoefer pointed out the process needed to begin somewhere. Mr. Weeks suggested adopting it like the Florida Building Code and cautioned on being careful with the applicable date. Mr. Monk was concerned with applicants who had already submitted their work. Mr. Grundhoefer pointed out Ms. Gibson had notified the public, and if the applicants wanted to submit their plans, they should submit them now in advance of the Council’s approval. Ms. Gibson verified the document would go through two readings at the Council meeting, and Ms. D’Angelo advised the document was currently scheduled for September 13, 2018 for the final reading.

Chairman Ritz explained if there were two readings, there would be two opportunities for citizen input to the Council who is the ultimate deciding body. **Mr. Grundhoefer amended Mr. Jordan’s motion to enforce the Code when the Council approves it, but was reminded of the 5 business days and left his motion as is. The motion then carried unanimously.**

It was determined the first reading to Council would be August 9, 2018.

**Open Forum** – None

**Adjournment** – With no further business, Chairman Ritz adjourned the meeting at 4:36 pm.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Brandi C. Deese". The signature is stylized with a large, sweeping initial "B" and a long horizontal line extending to the right.

Brandi C. Deese  
Secretary to the Board