

PLANNING SERVICES

**MINUTES OF THE PLANNING BOARD**

**October 8, 2019**

**MEMBERS PRESENT:** Chairman Paul Ritz, Danny Grundhoefer, Ryan Wiggins, Charletha Powell, Eladies Sampson

**MEMBERS ABSENT:** Kurt Larson, Laurie Murphy

**STAFF PRESENT:** Cynthia Cannon, Assistant Planning Services Administrator, Sherry Morris, Planning Services Administrator, Heather Lindsay, Assistant City Attorney, Leslie Statler, Senior Planner, Michael Ziarnek, Transportation Planner-Complete Streets, Gregg Harding, Historic Preservation Planner, Brad Hinote, Engineering, Lawrence Powell, Neighborhoods Administrator, Councilwoman Myers, Councilwoman Hill, Mayor Robinson

**OTHERS PRESENT:** Andrew Rothfeder, P. Cantavespre, April Skipper, William J. Dunaway, Buddy Page, George Williams, George Biggs, Amir Fooladi, Fred Gunther

**AGENDA:**

- Quorum/Call to Order
- Approval of Meeting Minutes from September 10, 2019.
- **New Business:**
  1. **Consider Amendment to LDC Section 12-2-12 Creating WRD-1**
  2. **Consider Rezoning and Future Land Use Map Amendment for 14 W. Jordan Street**
  3. **Consider Preliminary Approval for 500 E. Gregory Street**
- Open Forum
- Adjournment

**Call to Order / Quorum Present**

Chairman Ritz called the meeting to order at 2:00pm with a quorum present and explained the procedures of the Board meeting.

**Approval of Meeting Minutes**

Ms. Sampson made a motion to approve the September 10, 2019 minutes, seconded by Ms. Powell, and it carried unanimously.

**New Business**

**Consider Amendment to LDC Section 12-2-12 Creating WRD-1**

Staff received a request to modify the Redevelopment Land Use District WRD by establishing a subcategory which would become the WRD-1. The proposed WRD-1 would be a standalone section with the intent of optimizing the future development of the City's Community Maritime Park (CMP) parcels. The overall park parcel was master planned for stormwater and open space during the final plat approval process in April

2013. Subsequently, lots 1 and 2 received Planning Board approval for development in 2013. Ms. Cannon advised future development on the CMP parcels within the proposed WRD-1 district would continue to be submitted to the Planning Board for aesthetic review. She advised the applicant and their consultant were available online to give a presentation to the Board.

Mr. Rothfeder, President of Studer Properties, presented to the Board and stated his firm had been asked to submit a master plan for the remaining parcels at the Maritime Park that was cohesive and worked with the 19 acre site across the street. He stated one of the first steps was to hire a market research firm which could confirm the demand for commercial and retail space in the downtown area; they subsequently hired Jeff Speck and Associates along with DPZ CoDESIGN. This process began nine months ago culminating with a week-long charrette involving public input. DPZ then presented the master plan, with the question being whether or not it would fit into the current zoning on the Maritime Park site. He represented to the Board that Ms. Khoury along with DPZ had worked with City staff to address an appropriate solution. He indicated the Studers had invested approximately one half million dollars into this project. He also stated there was a question being asked by a third party law firm about this rezoning, specifically about the purpose of the rezoning which would be addressed later by Mr. Dunaway.

Ms. Khoury then addressed the Board and asserted she had worked with the Planning staff. Her presentation consisted of 20 slides which focused on the Maritime Park parcel, and Mr. Speck was online to answer any questions. They were not aware of the rich history on this site and as such studied previous plans to evaluate lessons learned. The market study was completed before they conducted the charrette. The study demonstrated that there was an opportunity to extend the downtown to the waterfront. Ms. Khoury pointed out that Southtowne was an example of the desire for downtown living and that their study looked at the program for the market over a 15 year timeframe. The 19 acre site could accommodate 1,825 residential units, with the majority designated for rental units and approximately thirty percent designated as condos. She stated that the encouraging fact was that waterfront units could be affordable to people making \$30,000 and up and commercial and retail ranging anywhere from 80,000 to 200,000 sq. ft. and up. She pointed out the charrette was very positive, and residents were excited about what was being proposed. They proposed recreating the blocks with three linear greenways, the Maritime parcel with the parking completely lined, connections to Bruce Beach, and a boardwalk over the stormwater pond creating more of an environment.

WRD zoning permits 60 dwelling units per acre, and the proposed WRD-1 did not change this; the change was from height measured in feet to stories, to have generous floor to ceiling heights and certain commercial uses (still 60 units per acres – 60 sq. ft. to 6 stories). One of the biggest purposes was to change the intent or purpose of the district. They agreed WRD was archaic in the way it was written, and they tried to encourage waterfront activities. They learned the WRD was created as an antidote to the Port Royal gated development. The change does not affect the metrics but encourages development in a better way. They decided not to change things everyone was objecting to; the uses, density and parking remained the same. The height was changed from feet to stories.

The changes included permitting A-frame signage, festival signage and to prohibit illuminated signage. The landscaping would be appropriate for downtown with shrubs and trees. The lot coverage was changed from 75 (seventy-five) percent to 95 (ninety-five) percent on a parcel. The height would be measured in stories, and held to the height criteria outlined in the CRA Urban Overlay design standards.

Previous developers found that the current CMP plan did not ensure that a future developer would adhere to the same development standards. This needed to be addressed in order to develop a stable environment.

Ms. Wiggins addressed item (5) Regulations and why there was a strikethrough on (a) 1. from “maximum” and replaced with “enhance.” Ms. Khoury explained maximum was too subjective of an opinion and that the bay walk had been enhanced since there were buildings up against it. She continued to state that as you

move toward the beach, it was a more active waterfront and that "maximizing" intends to imply a final condition which is hard to judge and that "enhancement" is easier in considering enhancement or optimizing; it is an attempt to provide a more objective way to judge if a building is behaving with the waterfront.

Chairman Ritz pointed out there were several areas dedicated to openness where buildings will not be constructed. Ms. Powell had a problem with blocking the view and felt both "maximum" and "enhance" were both subjective. Chairman Ritz stated even if the document was not changed, projects taking place here come before the Board where there would be a judgment call on what was being presented. It relies on the Board as a body listening to constituents or the developer themselves for process to determine the final consensus. Ms. Wiggins did not feel the WRD needed the change. She also asked why (5) (b) 4. and 5. were a strikethrough. Ms. Khoury stated there was no historic parcel connected to this district. Ms. Powell asked if whatever language the Board agreed to would apply to anyone who wanted to rezone, using this same language and would not just be for Maritime Park. Ms. Khoury stated it might be easier to unstrike this portion. Ms. Lindsay explained when modifying language to a code, the issue is you are setting a precedent for future use and contemplation, so any change you make, you should always be contemplating the long term impact and what incentives are you providing to future changes to the Code. Chairman Ritz explained if someone asked to be included in WRD-1, they would come before the Board to make the decision to incorporate them. Ms. Cannon confirmed they would go through the rezoning process which would be reviewed through the Planning Board. Ms. Powell asked if it was in the Code and the Board had agreed to it, and they are complying with everything in WRD-1, what would be the way the Board could say they could not be allowed in the district when they were complying. Ms. Lindsay advised that was actually what the outside legal opinion was concerned with - if you set the precedent, then you have to anticipate it will be used to expand in the future. The Board would have to decide the legitimate goals so there would be an argument against expansion if that was truly what they wanted to do. Chairman Ritz explained there was some latitude for the Board to determine if the applications were appropriate or not. There is an ebb and flow to a city, and we are not trying to be static but are trying to move forward with the appropriate ideas. Ms. Wiggins asked if there was a need for WRD-1 and could exceptions be made as they applied to these parcels as opposed to changing Code. Ms. Lindsay advised there were other options which Ms. Morris had discussed with DPZ. Ms. Wiggins clarified she was referring to a variance instead of a Code change. Mr. Grundhoefer asked why the changes could not be included the WRD, and Ms. Cannon stated that if that was the proposed amendment then all parcels in the WRD district would be subject to the increased lot coverage and change in height requirements as opposed to just the CMP parcels. She explained the applicants were proposing to raise the design standards and encourage future developments to go through the new CRA Urban Overlay District for consistency and cohesiveness in development with the former ECUA parcel and that the WRD-1 was proposed as an effort to create a strategic development approach to the CMP parcels. Mayor Robinson explained they started looking at how to create something based on what we see new happening in models that would allow us to have these features we would see in our normal historic waterfront. If we had been thinking that way today, we probably would not have built the governmental buildings the way we did. Things changed dramatically in 50 years, and the overall intent was simply if we can create what we want to create, why not create a district which would allow that. The choice was to amend WRD and start over.

Ms. Cannon clarified that the Gregory Stewart memo was emailed to the Board and uploaded to the online agenda center upon receipt. Ms. Lindsay stated the memo addressed some things which the Board might consider so the correct articulations could be made. Mr. Dunaway of Clark Partington was asked to address the memo which was provided as comments to Mr. Wells, Deputy City Attorney. The scope of the review was quite broad, and Mr. Stewart concluded that he was unable to determine whether there was a public purpose and a deliberative process for this planning, and he raised the question of what is the purpose of

this. The Board had heard that this project came because the group came to the City asking how they should best implement this plan – how should they best put it into action. The idea was to follow the pattern they did in the Gateway Redevelopment District with the creation of earlier sections in the Aragon area. He emphasized that Mr. Stewart's memo was absolutely correct to note that all the changes to the LDC must be legally consistent with the Comprehensive Plan. He advised the fundamental land development document for these parcels and others was the Community redevelopment Plan of 2010, which directly addresses this issue on page 33 where the Plan identifies a number of areas within the Urban Core Redevelopment area that should be considered for policy amendments to the City of Pensacola Comprehensive Plan and Land Development Code. It further states the CRA should investigate the existing land use categories and zoning districts to determine if the creation of new policies and new zoning districts should be considered to support the recommendations of and to carry out the redevelopment plan. Mr. Stewart concluded in his memo that he "was unable to identify whether such a public purpose is served and therefore, it appears that there is a potential legal issue that the new WRD-1 classification is arbitrary and capricious and constitutes spot zoning from this rezoning."

Mr. Dunaway advised that staff, Mr. Rothfeder and Ms. Khoury, along with actions from this Board and the City Council, can supply that information which he believed Mr. Stewart did not have. He further advised that the 2010 CRA plan on page 3 "establishes the framework for transformative policies and investments in the CRA." Within that context, the plan provides policy, programmatic and fiscal direction for the CRA as Pensacola reshapes its urban landscape and waterfront. The purpose of the plan is to define the strategic framework, concepts, themes, goals and objectives for the future of Pensacola's urban core. He explained that because a zoning section exists in the Code, does not necessarily mean that other parcels get to take advantage of that. All parcels within the City are zoned with their own zoning, and there is a process where zoning can be changed, only if it is consistent with the Comprehensive Plan and other comprehensive documents. The reason for not using a variance was because they require statutory criteria, specifically that the problem was not self-created. Changing the zoning was the appropriate process for this development and was a step forward in the ultimate goal of fulfilling the public purpose and vision by the decades of public planning for this CMP site.

Ms. Wiggins asked who had hired the outside attorney for this legal opinion, and Ms. Lindsay advised that Legal had asked for that opinion to do their due diligence for the sake of transparency because they anticipated the public could have questions, and they wanted to make sure the Board had answers.

Mr. Gunther stated that he was under the impression that DPZ was hired by the developer, and Chairman Ritz confirmed that. Mr. Gunther explained if the CRA had hired DPZ to make changes in zoning, that would make sense, but this was not the case here. He was opposed to a higher lot coverage ratio and more height along the water. He did not blame the developer for asking, but it did allow for taller and wider buildings. The citizens had spent millions on site development to maximize the connection to the water, but when you build a wider building, it creates a wall effect along the water. He explained that when planning is done right, the shorter buildings are along the water.

Ms. Wiggins stated this was also her concern with removing the term "maximize" from the document. Chairman Ritz advised he appreciated the work by DPZ and as a designer, he preferred the 6 stories language to 60 feet. Open spaces are not a reason for people to go there, but if you place something there, it connects people to the water. To correct some statements, Ms. Khoury explained they were not adding additional height, and most of the buildings would be 4 and 5 stories. Also, the reason for writing the WRD-1 was that the WRD was archaic, and they wanted it to reflect what the CRA encouraged, and they also heard from the community that they wanted to see more redevelopment.

Mr. Speck added it was important to make a distinction between rural beach development, as in Santa Rosa Beach, and urban beach developments like Portofino and Venice. Those are examples of other urban

waterfronts as they are models where spaces are well shaped by buildings, and he further explained that too many spaces between buildings actually cause you to not feel comfortable in public places.

Ms. Powell asked if the WRD was archaic, why not just modify the WRD. Chairman Ritz explained the applicant did not want to speak for the other WRD property owners; they were just considering the properties they control. Ms. Powell pointed out (c) of the landscaping guidelines that the "shoreline vistas" were more than just a view. The ability to see would be constricted by the buildings. Chairman Ritz advised the building code would regulate the height of the buildings. Ms. Cannon explained per the CRA overlay district, the heights for the ground story floor were beginning at 16', 20' and 24' and the maximum aboveground story heights were 14' so with the highest at 24' ground floor and 14' for the other stories, the potential would be a 94' building height. Ms. Khoury added that 24' on the ground floor was for retail only. Ms. Wiggins was concerned with parking becoming unaffordable, citing Southtowne as the most expensive parking lot and believed parking would also become restricted and expensive. Ms. Morris advised that parking requirements in the CRA were greatly reduced based on land use in 2013 by Council and the Planning Board, and any future development would have to address the off-street parking, but there were other methods in the Code which allow for off-site parking through shared use agreements to provide flexibility. These future developments would be required to handle and address the required off-street parking to support the developments, and that would come before this Board when the developments apply for permitting. She also stated they had changed how we measure building height as the first habitable floor and tried to incentivize parking underneath instead of surface parking.

Mr. Grundhoefer addressed 5. (b) regarding CRA Overlay standards being "encouraged." Ms. Morris further explained the CRA Overlay is applicable to any district within the three CRAs in the downtown area not within a review district, anything not subjected to additional review beyond standard permitting. While this property is within the CRA Overlay boundary, it does not fall under the Overlay since it is protected by the WRD. They referred to the CRA Overlay guidelines and encouraged them, and the Board could recommend as part of their oversight some components of the CRA Overlay for the applicants to consider.

Regarding parking, Mr. Rothfeder stated currently as it is developed, it could be arranged with parking garages, and the market would determine what gets developed there. He stated the goals of this development were to connect the commercial core with the west side, to take this underutilized land and develop it in a way that accomplishes the goals of attracting and retaining our talent, and produces a wide array of housing that meets the market's demand and allows units which permit people to live in the project earning \$30,000 a year. He asked Ms. Khoury if there was anything that would be different if they had asked this development be done for them, the CRA, or a public entity, and Ms. Khoury indicated there would not. They were opening views to the waterfront and keeping with the character of the area, and for anyone else, it would still be very similar to this. She advised Mr. Studer did not direct any of this, but that the market study and prior plans, along with Civicon speakers, all supported the ideas presented.

Ms. Cannon explained the motion of the Board would be to "recommend" to the City Council. Ms. Morris advised this item would be presented at the Council's November 14<sup>th</sup> meeting. Mr. Grundhoefer suggested not striking the historic language, and he had no problem with the 60 feet versus the six (6) story language and was also not concerned with the 95 (ninety-five) percent lot coverage because of who the developer is.

**Mr. Grundhoefer made a motion to approve a recommendation to the Council. Chairman Ritz clarified the historic language of (5) (b) 4. and 5. was to remain.**

Ms. Powell was not confident if they kept the 95% going forward that it would not impact other things. **Ms. Wiggins wanted to remove "enhance" retain "maximum" and "maximize" in (5) (a) 1. and Mr. Grundhoefer accepted. Ms. Wiggins seconded the motion, and it carried unanimously.**

**Consider Rezoning and Future Land Use Map Amendment for 14 W. Jordan Street**

Millwood Terrace, Inc. is requesting a Zoning Map and Future Land Use Map (FLUM) Amendment for the property located at 14 W. Jordan Street and identified by parcel number 00-05-00-9010-001-124. The property currently has split zoning with C-2 on the southeastern portion and R-2 on the western portion; the Future Land Use Map (FLUM) is consistent with Commercial and Office designations. The applicants are proposing to amend the zoning district to C-1 Commercial zoning district and the FLUM to Commercial.

Mr. Page presented to the Board and stated the purpose was to have all the buildings zoned consistently. He said they originally thought to pursue R-2 to be consistent along Palafox Street, but staff recommended the C-1 category because it was less intense than C-2. Currently, the line separating the C-2 from R-2 runs through several of the buildings by several feet. He explained they had met with Councilwoman Cannada-Wynn onsite since she represents that district. Chairman Ritz was favorable with the C-1 classification transitioning into the neighborhood, noting his home is also in a C-1 designation. Mr. Page explained the existing uses were physicians' offices with the right corner being a pharmacy.

Mr. Gunther advised he owned the building to the north of the property and was concerned with street parking and any plans to reduce the existing parking. Chairman Ritz pointed out the Board could not make decisions on what might be. Mr. Page explained there were no plans to make any adjustments in development but more an opportunity to make sure the financing entities were satisfied that all of the buildings could be used under one category. **Ms. Wiggins made a motion for approval, seconded by Ms. Sampson.** Mr. Grundhoefer asked about the parcels, and Mr. Page further explained the survey showed the zoning line currently splits the pharmacy space. **The motion then carried unanimously.**

#### **Consider Preliminary Approval for 500 E. Gregory Street**

George Williams, AIA, Goodwyn Mills Cawood, is requesting *preliminary* approval for site improvements for a new (replacement) building for the adult entertainment business "Sammy's" located in the Gateway Review District (GRD). The new building will substantially increase the conformity of the project to the Land Development Code by improving parking, open space, landscaping and overall site design. Chairman Ritz noted this was the first consideration which was formerly within the Gateway Review Board purview.

Mr. Williams, a representative of Goodwyn Mills Cawood, presented to the Board and stated this project had been ongoing for well over a year. After evaluating the existing building and what was necessary to bring it up to Code, it became clear that would be quite expensive. They stepped back to consider a new building in lieu of the existing building, since there were certain criteria financial and otherwise that prohibited them from closing the existing building, demolishing it, and building a new one. They tried to be creative in locating a new building onsite, realizing there were certain criteria to be met in the Gateway District, and the new building could not be larger than the existing building. The basic request involved the location of the new building, and aesthetics would return to the Board. He pointed out the parking spaces to the west were leased from the City and were included in the car count. The variance for the rear of the building would go away. He pointed out the GRD district requires 25% pervious land area, and currently they have 24.5% of pervious surface in the redevelopment plan which was still a tremendous enhancement. Additionally, the parking requires one space for each 75 sq. ft. with a total parking requirement of 74 spaces; the plan presents 70 parking spaces, and they are 3 spaces deficient based on the City's criteria. He explained this plan would require an FDOT review since they were relocating a driveway on Gregory Street which was less than the standard.

Regarding the Gateway guidelines, Ms. Cannon referred the Board to Sec. 12-2-81 (C) for the contents of the preliminary plan which asks for general information at this point. She explained when the applicant returned, the Board would be looking at another list of requirements for the final phase. Chairman Ritz noted the layout reminded him of Publix with parking on the less intent street, and the building closer to the busier street giving it more edge. He pointed out the applicant had met the preliminary requirements, and he could support the project. **Ms. Wiggins made a motion to approve, seconded by Ms. Sampson.** Mr.

Grundhoefer questioned stormwater, and Mr. Williams stated they had engaged Rebol Battle since the site has 4,300 sq. ft. of pervious surface, and they were doubling that number. He indicated they would comply with whatever the stormwater requirements of the City might be and would return with the aesthetics. **The motion then carried unanimously.**

**Open Forum** – Chairman Ritz explained there had been a request to change the time of the October 24<sup>th</sup> Tree Ordinance workshop to 3pm-5pm to accommodate Council members who wanted to participate. Ms. Wiggins was concerned with the changed time that the public would not have a chance to weigh in after working hours. Ms. Cannon suggested there could be a second workshop not scheduled on a Council meeting night, and Ms. Wiggins appreciated that the public would then have a chance to participate. Chairman Ritz pointed out that it will likely take more than one workshop since this was very far reaching for many constituents. Ms. Cannon advised she would look for future dates on non-Council nights going forward to January and would present those at the November meeting of the Board and notify by email as well.

**Adjournment** – With no further business, Chairman Ritz adjourned the meeting at 3:48 pm.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Cynthia Cannon".

Cynthia Cannon  
Secretary to the Board