

PLANNING SERVICES

**MINUTES OF THE PLANNING BOARD**

**May 14, 2019**

**MEMBERS PRESENT:** Vice Chair Kurt Larson, Nathan Monk, Danny Grundhoefer, Laurie Murphy, Ryan Wiggins

**MEMBERS ABSENT:** Chairman Paul Ritz, Nina Campbell,

**STAFF PRESENT:** Brandi Deese, Assistant Planning Services Administrator, Leslie Statler, Planner, Keith Wilkins, Assistant City Administrator, Brian Cooper, Parks and Recreation, Chris Johnston, Network Engineer, Councilman Terhaar, Councilwoman Myers

**OTHERS PRESENT:** Michael Bodenhausen, George Williams, Tony Terhaar, Michael Carro, Donald Redhead, Kelley Martinez

**AGENDA:**

- Quorum/Call to Order
- Approval of Meeting Minutes from April 9, 2019.
- **New Business:**
  1. **Vacation of Right-of-Way – 400 Block of 11<sup>th</sup> Avenue (Between LaRua and Belmont Streets)**
  2. **Amendment to Land Development Code Section 12-2-11 Airport Land Use District**
  3. **Amendment to Conditional Use Permit – 501 S. Palafox Street (Al Fresco)**
  4. **Aesthetic Review – 501 S. Palafox Street (Al Fresco)**
- Open Forum
- Adjournment

**Call to Order / Quorum Present**

Vice Chairman Larson called the meeting to order at 2:01 pm with a quorum present and explained the Board procedures to the audience.

**Approval of Meeting Minutes**

Ms. Wiggins stated during open forum the first sentence was incorrect stating she was addressing saving some of the buildings downtown from demolition. Ms. Wiggins states her concerns actually were how many people have come before us concerned about demolition in East Hill and other areas. Ms. Wiggins would like corrections made to better represent what the discussion was about. Ms. Deese asked what would some suggestions be specifically and explained that the minutes are created directly from the recording. Ms. Wiggins also stated on the second page second sentence that East Hill is not considered a historic community. Ms. Deese ensured Ms. Wiggins that staff would review the recording and modify as much as possible.

Ms. Deese suggested that since modifications will be made, the approval for the April 9, 2019 minutes would be brought back next month for approval.

### **New Business**

#### **Vacation of Right-of-Way – 400 Block of 11th Avenue (Between LaRua and Belmont Streets)**

Anthony L. Terhaar Enterprises, LLC is requesting the approval of a 10-foot portion of the 400 Block of 11<sup>th</sup> Avenue between LaRua and Belmont Streets. The applicant has indicated the reason for the request is to attain the highest and best use of the property and to preserve and increase the property values in this area of East Hill. If granted, the additional 10 feet will allow the applicant to construct two single family attached structures instead of one single family detached structure. This request is consistent with a previous vacation of 11<sup>th</sup> Avenue to the North and will make the easterly property lines consistent within the southern-most two blocks of 11<sup>th</sup> Avenue.

This request has been routed through the various City departments and utility providers and those comments are attached for your review. Staff has been made aware that utilities are present within this right-of-way area and a full width easement will be included in the ordinance proposed to City Council.

Mr. Monk asked for clarity on the portion of right-of-way to be vacated. Ms. Deese stated only the yellow portion is the ten-foot portion to be vacated and if approved the ten-foot portion would become private property. Mr. Terhaar appeared before the Board and explained that since the same type of vacation took place on a piece of property above from LaRua to Belmont in order to increase the value of the property he wanted to also increase the value of his land. Mr. Terhaar also states his neighbor Mr. Phelps who owns the property to the North is in support. Ms. Murphy asked about the future use for the other property owned by Mr. Phelps. Mr. Terhaar stated he did not know; only that Mr. Phelps has owned the property for a while. Ms. Murphy also asked about AT&T's easement and if the ability to keep the driveway would still allow for AT&T to access their lines. Mr. Terhaar responded it was his understanding that AT&T would be satisfied as long as they had full access. Mr. Monk stated he did not see any problems with approving the request. **Mr. Monk motions to approve. Ms. Murphy seconds the motion. The motion carried unanimously.**

#### **Amendment to Land Development Code Section 12-2-11 Airport Land Use District**

Staff is requesting to amend Land Development Code Section 12-2-11 Airport Land Use District in order to modify the list of permitted uses specifically for the Airport Transition Zone (ATZ-1). The proposed amendment would be to modify the list of permitted uses to include Recreational Facilities – Not-For-Profit. The ATZ-1 zoning district is a small district that surrounds the Airport Restricted Zoning District (ARZ), which is all City owned property. The ATZ-1 has a limited list of permitted uses and this would expand the list in order for the new YMCA to be constructed at 2130 Summit Boulevard. The ATZ-1 zoning district is a separate district (non-cumulative) and this amendment would not directly impact other districts.

Ms. Laurie Murphy states the ATZ-1 already contains other facilities such as daycares, office use and residential use. Ms. Murphy states in her opinion it would depend on the size of the facility exactly what type of traffic, storm water infrastructure and the actual plan. Ms. Murphy states she does not have enough information to feel confident to agree to a recreational facility. Mr. Larson clarifies that at this point all the Board is deciding on is if they are going to allow recreation facilities, yes or no. Ms. Deese concurs and further states the Board needs to focus on the question presented, which is recreational facilities not-for-profit, is that a reasonable use within the AZT-1? Ms. Deese also states the Board is only looking at a text amendment, not a conditional use permit. Mr. Monk states his concern is he would have rather seen this as a conditional use so the Board would have more oversight. Mr. Monk also states that until he received calls with concerns, he did not feel this was a big deal.

Ms. Deese explained that the Board has the ability to approve, deny or approve with modifications. Mr. Larson asked for a representative from the City to discuss further. Mr. Keith Wilkins, Assistant City

Administrator appears before the Board and states the Mayor is in support of the project and agrees with Planning Staff that the issues with site plans or traffic is not in the purview of the Planning Board and he is here to convey the Mayor's support of the project. Mr. Wilkins also agrees with staff that the question is whether to approve, deny or approve with conditions. Mr. Wilkins again states how the operations between the City and YMCA and how they administer programs is an issue between them and not within the purview of Planning Board. Mr. Wilkins states Brian Cooper, Director of Parks and Recreation may be able to address questions more specifically. Mr. Cooper appears before the Board and explains that the Parks and Recreation Department are in a process of a Land Swap deal and this is a complicated process and City Council will have to approve the land swap. Currently Parks and Recreation are collaborating with the YMCA to reduce duplication of services. Mr. Cooper stated they want to do what is best for the community. Mr. Monk's concern again was possible privatization of government programs in which anyone who has access could in theory be denied. Mr. Cooper states the intent is not to stop offering services but to stop duplicating services in that area. Ms. Murphy asked how does an approval for something conditional work? Ms. Deese explained the Conditional Use Permit process and added that it would cause delays in this project which has specific deadlines. Upon question, Ms. Deese stated a conditional use is very specific to that project and not at all cookie cutter. After further discussion, **Ms. Wiggins motions to approve. Mr. Grundhoefer seconded the motion.** Mr. Monk states he will approve but still has concerns with known controversy and feels it would have been nice to better plan this out. **The motion carried unanimously.**

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

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

Scott Sallis, on behalf of Michael Carro, is requesting an amendment to the existing Conditional Use Permit for Mobile Restaurant Unit Development at 501 S. Palafox, also known as "Al Fresco". The proposed modification includes constructing a single story, slab on grade, metal building framed roof structure over a series of kitchens and retail kiosks. The retail kiosks will also be portable and secured in a manner similar to the existing air stream kitchens. The original Conditional Use Permit gained approval through a Land Development Code amendment that created Mobile Restaurant Unit Developments as an accessory use to the primary use of a restaurant. The details of the original approval are attached for your review. If the amendment to the Conditional Use Permit is granted, the applicant also seeks aesthetic approval of the improvements to the property.

Ms. Deese explained this is a discussion item only since based on when the application was received; notifications could not be mailed out. The request will come back to the Board in June. Ms. Deese also advised the Board could give aesthetic approval since notices were not required for that agenda item. Mr. Scott Sallis addressed the Board and stated the individual owners of the airstreams over the years have realized the weather and the winter make it difficult to turn a profit in keeping the project going strong. Mr. Sallis stated that Michael Carro and his team came to him and asked for help in covering the airstreams. Mr. Sallis explained he is asking for two things, aesthetic approval and amending the conditional use permit to allow retail, which is not part of the original conditional use permit. Mr. Sallis explained his clients are proposing to remove the airstreams and replace them with shipping containers and putting kitchens within the containers. Mr. Grundhoefer questioned if the shipping containers would be flood proof and not the kiosks? Mr. Sallis responds stating the original design was to use the flood proof construction model for a more permanent kitchen but they removed that design. Mr. Larson asked how many kitchens would there be? Mr. Sallis explained that he does not know but they will use the two units, could be four or could be more than four. Mr. Grundhoefer states he understands the kitchens will be flexible depending on whether tenants succeed or do not succeed. Ms. Murphy asked about grease traps. Mr. Sallis stated grease trap requirements would go through the building department and comply. Mr. Grundhoefer asked about the plaza which is required within the original conditional use and whether it would be kept in the new concept versus covering the whole space. Mr. Sallis states within the ordinance

it is required to have an open plaza. Mr. Grundhoefer stated that in many old cities they use an old warehouse look and feel. He feels Mr. Sallis may be missing an opportunity to create that feel on the corner. Mr. Monk stated he genuinely loves Al Fresco and was concerned about how the new proposal would look. He also stated the only thing that maybe an aesthetic issue for him is that the slant of the metal roof could be a distraction other than that he likes the concept. Mr. Carro addressed the opening on the corner and did not know if that is in the code. Mr. Sallis referenced the paver area is the 40 or 45 percent was required to be pavers. He also stated the reason for the openness was to maintain some of the palm trees. Mr. Grundhoefer supports the concept but feels it falls short of the details in the overhang. He further stated there is no brickwork or columns or ironwork and needs to feel like it is a part of the historic fabric of downtown. Mr. Monk stated he likes the idea that Al Fresco sticks out. Ms. Wiggins also agreed and stated it gives the downtown a bit of a funky feel.

Mr. Larson stated we like the concept but since this is a discussion item, you will need to come back with everything spelled out and convince us that you have met or exceeded all the requirements of the current ordinance. Mr. Larson further stated they wanted to know how the units would be removed? Mr. Monk wanted to know how soon would we see this happen once approved? Mr. Sallis defers to Mr. Carro. Mr. Carro states currently he is renewing short-term leases through end of October but his goal is to break ground in November and be open by March.

Ms. Wiggins wanted to know what does it do to block the wind in the winter? Mr. Carro responded he wanted have some type of screening and potentially the retail mobile units would act as a block. He further stated in addition to screening they could suspend heaters.

Mr. Sallis stated he hoped to secure a vote to send this to City Council in supporting retail as a part of the conditional use and a vote to support preliminary aesthetic review. Ms. Deese clarified the Board could approve a full final aesthetic review if Board feels comfortable with that – However the item will come back to this Board for approval on the conditional use permit next month. Mr. Monk recommended holding off and vote on both items next month. Mr. Grundhoefer agreed. Mr. Sallis wanted to clarify what the Board would be looking for more ornamental detail that looks like this was a building that adapted Al Fresco. Mr. Grundhoefer suggested exploring the idea of the building as a whole instead of chopping off the corner. **Mr. Monk motioned to postpone the item until next month, Ms. Murphy seconded.** Mr.

Larson asked for any discussion. Ms. Deese clarifies the code language for Planning Board of 45 days and explains they have 45 days unless there is another time period specified. She further stated the Board could specify a longer period. After further discussion Ms. Deese advises there are three options; set a longer period of time in the event quorum is not met, deny the item or the applicant could withdraw. Mr. Monk stated he does not want to deny the item. **After further discussion, the motion to postpone and extend the time line to within two Planning Board meetings (63 days) passed unanimously.**

**Open Forum** – Mr. Grundhoefer thanks Brandi and states she has been an asset to this Board and the City.

**Adjournment** – With no further business, Vice Chairman Larson adjourned the meeting at 3:03 pm.

Respectfully Submitted,



Brandi C. Deese  
Secretary to the Board