PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY
Monday, February 1, 2010
Community Center-509 Ocean Avenue
7:00 pm

MINUTES

I. CALL TO ORDER

Present were:

Chairman David Campbell
Member Susan Dieterle
Member James Flanagan
Member Coleen Doyle
Member Steven Schwartz

Town Attorney Paul Gougelman
Town Manager Jim Bursick
Town Planner Dennis Ragsdale
Interim Town Clerk Rhonda Danielle
Jennifer Howland

A roll call was taken of members and all were present.

II. APPROVAL OF MINUTES- January 4, 2010

Moved by Member Schwartz; seconded by Member Dieterle to approve January 4, 2010 minutes as is. Question called; motion carried, 5-0.

III. PUBLIC HEARINGS

None

V. NEW BUSINESS

1. Appointment of Chairperson for 2010

Moved by Member Dieterle; Seconded by Member Schwartz to name David Campbell to be the Planning and Zoning Board Chairperson for 2010. Question called; motion carried, 5-0.

2. Discussion and possible action regarding a site plan for Sand on the Beach.

Chairman Campbell summarizes 7A-51 from the Code of Ordinances.

Chairman Campbell continues by asking Djon Pepaj or his representative for comment.

Cliff Repperger, an attorney from the Law Firm of Grey Robinson of 1795 W. Nasa Blvd., representing Djon Pepaj and Sand on the Beach, requests site plan approval pursuant to 7A-51. States the board needs to consider the issue because of the proposed modifications of existing use. Further States that criteria had been met.

Criteria includes the site plan showing modifications of existing use of property. Repperger further reviews the modifications, explains how parking requirements and code requirements are met. Lastly, Repperger notes that the site plan has very little impact on Planning and Zoning Board issues. Repperger opens the floor for questions.

Chairman Campbell states that the P&Z Board has no authority over usage. It is a special exception that needs to go to the BOA.

Repperger states that Sand on the Beach has a pending application with the BOA.

Chairman Campbell opens the floor for comments.

Town Attorney Gougelman states that he would like to make sure everyone had the correct documents for Sand on the Beach. He goes on to list the documents:

1. One page summary by AAL Land Surveying Services, filed 12-17-2008, Updated 12-3-2009, received by Town of Melbourne Beach on 1-18-2010. It is a sealed survey, Job number 24264.
2. Building Elevation by MAI Engineering and Construction, undated, sealed as of 1-18-2010, Sands Restaurant, project number 07-099.
3. Two page plan prepared by MAI Engineering and Construction, Project number 07-099, 1-27-2010, A101, A102, sealed by engineer Daniel Benzel. It is a building plan for first floor, A,B, C, and second floor plan.

Everyone has current documents.

Member Schwartz clarifies changes in usage and seating and asks if there is a net change in the number of seats.

Repperger says yes and reviews the net change.

Chairman Campbell states that drawing A101, top corner, lists the tabulated seats.

Repperger states that it is in the parking tabulation. He further explains the alternating usage of the restaurant and banquet room.

Chairman Campbell notes the issue at hand is the criteria for the BOA, not P&Z.

Member Schwartz then asks if Chairman Campbell can outline the scope of what is required of the P&Z board.

Chairman Campbell answers with the building official's review, setbacks, and heights. Chairman Campbell further explains that the existing site plan is not pertinent to P&Z because it is a previously approved site by the BOA. He also notes that there is nothing added to the property and no increase in landscaping. He also notes that the site plan includes dimensions of sign location, off street parking, and

loading provisions. There are no changes to the external appearance of the buildings. Chairman Campbell summarizes that the building is existing and there are no changes or deletions being made. Chairman Campbell states that he is unsure P&Z board's role is supposed to be.

Town Attorney Gougelman interjects by explaining the P&Z Board's role:

The special exception development order that was originally approved and issued by the BOA for Sand on the Beach indicated that if there was any significant expansion of use (1% or more), that the applicant needed to go through the entire permitting process again. The process includes a site plan, P&Z approval, Commission approval, and BOA special exceptions approval.

Chairman Campbell wishes that he would have known this prior to the meeting.

Chairman Campbell began review the site plan from a height standpoint and noted that there are no height dimensions. He went on to state that he assumed that the existing site had already been approved, but understood the importance of following the site plan review process as stated in the ordinance.

Member Schwartz asked how to go through the procedure.

Chairman Campbell stated that there were no dimensions

Town Attorney Gougelman stated that the dimensions are the same as the original order.

Member Dieterle and Town Attorney Gougelman agreed.

Chairman Campbell stated that there was added height, but no change in footprint of the building. He asked the building official for his perspective.

Building Official Forbes answered by stating that his review was based on the fact that the building was an existing structure, there were no changes to exterior and height, and that it was previously approved.

Chairman Campbell agreed.

Member Schwartz asked if they should accept the prior approval as adequate or do they start from scratch.

Chairman Campbell answered that they can't start from scratch with the documentation. It doesn't alleviate any heights.

Member Schwartz stated that is the problem here.

Chairman Campbell stated that is does delineate setbacks.

Member Dieterle asked if they can use existing building plans and asked Chairman Campbell if they could look at them.

Chairman Campbell said yes.

Town Attorney Gougelman stated that there needs to be more staff work done next time.

Chairman Campbell agreed.

Chairman Campbell asked Building Official Forbes to get the plans so they could look at height.

Building Official Forbes left to get plans.

Chairman Campbell began to review setbacks and concluded that the setbacks were adequate.

Member Dieterle asked if there were any variances.

Chairman Campbell asked if she meant for the locations of the building.

Town Manager Bursick stated that he was not aware of any.

Town Attorney Gougelman stated that the question is whether they are non-conforming.

Chairman Campbell the front and the two buildings were non-conforming. He continued from a setback perspective and stated that the distance between the buildings was alright and that they were not being altered to increase non-conformities. He stated that this was acceptable. Chairman Campbell continued by reviewing landscaping.

Building Official Tom Forbes showed existing plans to the board.

Chairman Campbell summarized that the existing building is non-conforming and the set backs and height were acceptable. He finished by stating that the remaining issues were for the BOA exception.

Town Attorney Gougelman agreed that was basically it.

Town Attorney Gougelman stated that the question is whether it is in compliance with the code.

Member Schwartz clarified that the P&Z board's piece pertained to non-conformity, setbacks, and height.

Chairman Campbell stated for the record that the Police Chief and Fire Marshall found the site plan as acceptable.

Moved by Member Schwartz; seconded by Member Dieterle to approve the existing building as non-conforming, and of acceptable height and setbacks. Question called; motion carried, 5-0.

3. Discussion regarding the following elements:

A. Conservation Element (New - Transmitted to P&Z 1/10/2010)

Planner Ragsdale started by explaining that the Conservation element was originally combined with the coastal management element, but that the State required them to be separate from one another.

Chairman Campbell questioned the number of vacant lots being 192, the 6 zoned for multi family uses and 46.5 being the acres. He stated they should be 18, 3, and 7.41, respectively.

Planner Ragsdale stated that it had been changed. He continued to say that he had made changes throughout the element prior to the meeting and had already taken the 192 out.

Member Schwartz mentioned that the section needed a separate sub title rather than "Element."

Planner Ragsdale stated that the final version will be patterned the same throughout.

Member Schwartz noted that on the second page that the word "expect" should be "except."

Schwartz also noted that on page 3, second paragraph, the "ha" needed to say "has."

Chairman Campbell stated that something should be after the word "predominately" in the last paragraph of the third page.

Planner Ragsdale will find out what it should say and fix it.

Chairman Campbell stated that there is no Turtle Society in Melbourne Beach, as stated in paragraph 3 on page 4.

Planner Ragsdale said he will remove it.

Chairman Campbell, in reference to the lists on page 6 and 7 asked whether the Eastern Brown Pelican is truly a threatened species, as well as a few other birds on the list.

Planner Ragsdale stated that he will probably check on all of the species on the list and make changes as necessary.

Chairman Campbell, in reference to the last paragraph on the eighth page, asked if sewer is effluent in Melbourne Beach.

Planner Ragsdale stated that "sewer effluent" should probably be "storm sewer," but said he will check on it.

Planner Ragsdale continued by stating that sewer is not effluent in only Melbourne Beach, but in the whole lagoon, therefore, there is nothing that can be done about it by the town. He continued to say that there probably isn't any effluent dumping in the lagoon because of regulations. He finished by stating he will modify that section.

Member Schwartz thought that "½," in the last paragraph on the ninth page should be written out.

Chairman Campbell interjected by stating that it should read "1/2 inch."

Planner Ragsdale stated that he will look into that section since requirements may have changed since it was written.

Planner Ragsdale continued to state that this will be detailed in infrastructure also and will make sure that both elements match.

Chairman Campbell asked that the numbers 1.6 and 7.41, in paragraph on page 10, be checked.

Member Flanagan noted that in the same paragraph that the "½ inch" be changed, if needed.

Planner Ragsdale stated that air quality needs to be covered because of a checkbox. He added that there is no impact or ability to monitor or change air quality and that it was up to the State and Federal government.

Chairman Campbell questioned whether there was 1.59 miles of beaches in Melbourne Beach, as stated on page 16.

Planner Ragsdale said he will look into it.

Chairman Campbell stated that the date 1990 on page 17 needed to be changed.

Planner Ragsdale replied by stating he will be changing all of the dates. He continued so say that he has already made some changes.

Chairman Campbell questioned policy 3.1 on the nineteenth page. He wondered if the protection of the Indian River Lagoon had already been done.

Planner Ragsdale stated that he would change the word “strengthen” to “Continue to enforce.”

Member Schwartz wanted to add to Objective 4.0 on the twentieth page, “endangered species, both plants and animals, such as or including …” in between the words “Protect” and “the sea turtle.”

Member Schwartz also wanted to add to policy 4.4 on page 21 a statement about providing for enforcement by local or intergovernmental cooperation.

Planner Ragsdale states that the State encourages all jurisdictions to have its own manatee zones, canals, and channels so they could be enforced and that all comprehensive plans have language like this.

Member Schwartz states that he would like to add an objective that provides for waste and storm water management.

Chairman Campbell stated that it shouldn’t be in the conservation element.

Planner Ragsdale stated that they could incorporate something about storm water into this element since the State wouldn’t have an issue with it.

Chairman Campbell stated that he didn’t believe it was needed since it is better to put in the absolute minimum required.

Planner Ragsdale agreed that it is good practice to not add too much so that you aren’t subjected to State oversight.

Member Dieterle asked what objective 7.1 on page 22 meant.

Planner Ragsdale answered by stating that infrastructure services, such as water, sewer, etc. is required to be provided by the town for new houses.

Chairman Campbell questioned whether Policy 8.1 on page 22 was needed.

Planner Ragsdale stated that it needed to stay since reduction of green house gasses, conservation of water are a hot buttons for the State.

Chairman Campbell asked what Policy 10.3 on page 23 meant.

Planner Ragsdale answered by stating that it means that the Town should use the appropriate mix of land uses so that vehicle trips are reduced. He continued by stating that the State is looking for green house reduction strategies. He finished by stating that the wording may have to change a little bit so that the Town isn't held accountable for things they don't want to be.

Chairman Campbell agrees.

B. Recreation Element (New - Transmitted to P&Z 1/10/2010)

Planner Ragsdale stated that one major change is the removal of the level of service for shuffleboard court. He also stated that it doesn't mean the Town can't have one. He further states that he has added playgrounds on page seven.

Planner Ragsdale states that the tables on page three are the tables for the current plan.

Chairman Campbell states that one had been added since.

Planner Ragsdale states that he will juggle the statistics to remove a river access and add a park to basically change a river access to the park category.

Planner Ragsdale added that for the recreation element, the statute changes significantly, but there are still levels of services standards for recreation. He went on to say that he didn't make many changes except that he updated and added facilities. The standards are the same.

Member Schwartz asks if anything should be said about developing the little parks.

Planner Ragsdale states that you can develop the parks at anytime without putting them in the plan. If you do add them, then you have to develop them. The only advantage to adding it now is for when you go for a grant.

Planner Ragsdale further states that there is a lot of input in meetings and everything is ranked. Parks are the lowest rank.

Member Schwartz states that it depends on who shows up.

Planner Ragsdale states that there is a lot of participation.

Schwartz contends that many parks need upgrading.

Chairman Campbell answers by stating that you can upgrade parks at anytime, so you can just leave them out of this section.

Member Schwartz asks if a general objective can be added that mentions adding more trees or improving neighborhoods.

Planner Ragsdale states that he could add a general policy about trees and parks and improvements that will not tie you down, but will still be useful if you go for a grant.

Chairman Campbell agrees.

Chairman Campbell there is anything else to be fixed.

Member Flanagan points out a typo “it is it is” on page 4.

Chairman Campbell asks what “4/2=2” on page 7 means.

After some discussion, Planner Ragsdale states that the numbers mean that the facility is not in the Town’s jurisdiction, so the Town can only claim half of the level of service.

Chairman Campbell asks Planner Ragsdale to add footnotes about unclear numbers.

Planner Ragsdale said he will find the language for the 4/2=2 and put it in.

Member Flanagan notes that there are no racquetball courts as listed in Table 9 on page 7.

Planner Ragsdale stated he will remove from the table.

Chairman Campbell asked if the number of facilities is what is needed or what we have.

Planner Ragsdale answered stating it is the number needed. He also stated that additional population will not trip additional needs for the planning period.

Member Flanagan asked if Loggerhead Park should be added as a park.

Planner Ragsdale stated that he will fix the chart.

Chairman Campbell stated that the date page 8, the last paragraph should be 2020, not 2030.

Planner Ragsdale stated that it was a typo and he will fix.

Planner Ragsdale then went on to state that a base map is done and that he brought the future land use map. He also stated that he will bring in the map in layers over the next few meetings and that the maps will be in color and labeled.

Chairman Campbell stated that Policy 2.1 and 2.2 on page 9 should be restated since he believed that they would be impossible to accomplish.

Planner Ragsdale answered by stating that if road isn't adequate then it can't be done. He further stated that there was a similar policy in the transportation element. He further explained that it is listed here since it is a hot spot for the State since it covers alternate modes of transportation and bike access.

C. Infrastructure (New)

Planner Ragsdale starts by stating that this element has been changed since last time.

Chairman Campbell states that the numbers on pages two and three do not match as they should.

Planner Ragsdale said he will check all numbers.

Member Flanagan, in reference to the last paragraph on page 3, asked if there was already a formal agreement.

Chairman Campbell asked Planner Ragsdale to check on the formal agreement.

Planner Ragsdale stated he would.

Schwartz asked if they should include any language about recycling.

Planner Ragsdale stated that he will look into it. He further stated that the Town is not in control of recycling unless it has a separate collector. He also asked if something should be added to the franchise agreement in regards to that. He finished by stating that he would add verbiage that would not tie the Town down any further.

Chairman Campbell referenced policy 3.2 on page 14 and stated that it was a good policy until last meeting because, due to new site plans, it may now affect residential properties.

Planner Ragsdale stated that some other policies may have to change because of it.

Chairman Campbell stated that some wording will have to be put in it to make it include only commercial and multi-family residences.

Planner Ragsdale stated that he will add language to make it consistent.

Chairman Campbell asked what 4.1 on page 15 meant.

Planner Ragsdale answered that it means that the treatment requirements are more complex. Phosphorous leveling is now a big thing to the State. Local government is

forced to it. Planner Ragsdale finished by stating that he will soften the language up a bit.

Chairman Campbell asked if ISO 4 was correct in Policy 6.1 on page 16.

Planner Ragsdale stated that the number is a function of the pipe size and the pressure. Planner Ragsdale further stated that he will check the map.

Chairman Campbell pointed out that the water usage and supply numbers in the same section do not match.

Planner Ragsdale stated that he is working on a 10 year water supply plan and that Policy 6.1 needs to be added. He stated that he needs to work with the City of Melbourne on that and will transfer the numbers.

Chairman Campbell stated that the date is incorrect in 7.0 on page seven.

Member Schwartz suggested that Objective 9.0 should state that Policy 9.1 is the standard associated to it.

Planner Ragsdale agreed.

D. Future Land Use Element (Revised)

Planner Ragsdale stated that he had made changes to some dates and wording.

Member Schwartz pointed out that the word “provide” should be “provided.”

Planner Ragsdale explained that the potable water means that you can’t give less water pressure to one area of the system than other places in the system.

Member Schwartz questioned the use of the word “urban” on page 11.

Planner Ragsdale explained that it is language that has to be included and that it means that the area in question is urbanized in that there are houses on every block. He continued to state that the idea is to not let the State say you have to accommodate additional population that want to come here by annexation. The language is added so that the State doesn’t say you have to grow in population. In conclusion he states that the county’s already programmed that land for urban densities.

Chairman Campbell noted that the word “includinge” on page 11 should be “including.”

Planner Ragsdale stated that it has already been changed.

Chairman Campbell asked what the numbers on the right column on meant.

Planner Ragsdale explained that they were floor ratio, not density.

Member Schwartz suggested that Planner Ragsdale put in the units with each number to make them clear.

Member Schwartz noted that on page 15, Policy 1.1 there should be a period after "elsewhere" and that "adopt" should be capitalized.

Planner Ragsdale stated that Policy 1.1 is a policy where you keep out what is not needed.

Chairman Campbell asked why Policy 1.3 is in the comprehensive plan.

Planner Ragsdale answered that it didn't have to be, but he thought the Commission wanted it in there.

Member Dieterle pointed out that she thought they wanted to talk about it.

Planner Ragsdale stated that they could keep it in there, but he would have to address it in Land Development also, although they could list in land development without listing it here.

Everyone agreed that it should be taken out.

Member Schwartz thought the wording in Policy 6.2 on page 17b should state, "Monitor land development options in adjoining jurisdictions and elsewhere that are designed to reduce green house grasses. Implement those options determined to be appropriate for the Town."

Chairman Campbell and Member Dieterle agreed.

Chairman Campbell asked if Policy 8.1 on page 17 was an existing policy.

Planner Ragsdale answered by stating that it is there in case the Town needs to review analyze, and amend as necessary for building code issues, engineers, flood zone issues, compaction method, and standards rating.

Chairman Campbell asked if this is done anyway, or is it a hot button for the State.

Planner Ragsdale answered that the State wants you to talk about when soil is not suitable, etc.

Member Schwartz stated that there are many instances in which the word "ensure" was capitalized when it didn't need to.

Planner Ragsdale said he will fix the issue.

Member Schwartz asked if there should be anything said about cell towers or windmills.

Planner Ragsdale answered that cell towers have their own required law and are not to be included at all.

Chairman Campbell and Planner Ragsdale agreed.

E. Transportation Element (Revised)

Member Schwartz suggested the addition of "ecologically friendly transportation systems such as" should be added after "emphasis on" into the first sentence of the "Purpose" section.

Planner Ragsdale added that the language there is from the State, but that he could add it. He further stated that the State does not emphasize ecological concerns, but that they are heavy on promoting public transportation.

Planner Ragsdale stated that he had made a change on the description of where traffic counts were, from the apex to south city.

Member Flanagan was confused about the wording in Objective 1.0 on page 9.

Chairman Campbell and Member Schwartz agreed that it didn't read clearly.

Planner Ragsdale understands why it doesn't sound right and will change it.

Chairman Campbell asked whether the Town issued curb cut permits, in reference to Policy 4.2 on page 11.

Planner Ragsdale answered that the Town should control connections to your right of way so that someone couldn't pave their whole frontage.

Chairman Campbell asked where it should be listed in the Comprehensive Plan.

Planner Ragsdale answered that he will look to see if there is a required checklist for that subject and if there is not he will take it out.

F. Housing Element (Revised)

Planner Ragsdale stated that there were not many changes last time.

G. Intergovernmental Coordination Element (Revised)

None.

VI. OLD BUSINESS

None

VII. ITEMS TO BE ADDED TO THE AGENDA FOR FUTURE MEETINGS

Definitions for the Comprehensive Plan – suggestions and changes
Map of town with borders, labels, and color
Coastal Management Element (New)
Capital Improvements Element (New)
First Draft of the complete Comprehensive Plan

VIII. ADJOURNMENT

Motion made to adjourn by Member Dieterle. Motion seconded by Member Schwartz. Question called; motion carried 5-0.

Meeting adjourned at 9:10 pm.

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Jennifer Howland

David Campbell
Chairman