

TOWN OF LAUDERDALE-BY-THE-SEA

PLANNING AND ZONING REGULAR MEETING MINUTES

Town Commission Meeting Room

Wednesday, December 21, 2011

6:30 P.M.

I. CALL TO ORDER

Chairman Alfred Oldaker called the meeting to order at 6:30 p.m. and requested roll call of the members present. Members also present were Vice Chairman Yann Brandt, Lawrence Wick and first alternate Eric Yankwitt. Also present were Linda Connors, Town Planner, Planning Consultant Cecelia Ward, Bud Bentley, Assistant Town Manager, and Town Attorney James White. Town Clerk June White was present to record the minutes of the meeting.

Ben Freeny was previously excused from the meeting.

II. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

III. APPROVAL OF MINUTES - Planning and Zoning Meeting of October 19, 2011

There were no additions, deletions or changes to the above minutes.

Vice Chairperson Brandt made a motion to accept the minutes of October 19, 2011. The motion was seconded by Mr. Yankwitt and passed 3-1. Mr. Wick voted no.

IV. PUBLIC COMMENTS

There were no public comments.

V. TOWN PLANNER REPORT

Town Planner Linda Connors stated she was available to answer any questions or address any concerns the Board might have. She updated the Board as to her new Town phone extension 640-4213 and her email address lindac@lbts-fl.gov.

In June 2011, the Commission set the Board a number of planning priorities, and Cecelia Ward was working with Town staff to implement those priorities, the first being the architectural standards that were approved at the most recent Planning and Zoning Board meeting, and subsequently went to the Town Commission where it was again approved. Town staff was

currently working with a number of local business owners on doing upgrades to their property. She indicated they were now working on the remaining priorities and had an aggressive agenda to get them adopted and implemented that included public comment. Thus, future agenda items were listed on the tentative schedule formulated to update the Board on what Town staff was doing in this regard. The item on the present agenda dealt with B1-A and B1 zoning; next they would discuss the Town's sign code, then the hotel study at the next Board meetings. Town Planner Connors noted there would be two meetings that included public participation to discuss the sign code, the first on January 5, 2012, at 9:00 a.m. for the sign code, and the other would be at 5:30 p.m. for the hotel study; they would be held in the Town Commission chambers. She would send email reminders to the Board members. She discussed the code changes regarding the appointment of the Planning and Zoning Board, which now directly correlated with the election of the Town Commission. Once the new Commission was established, members of the Commission would appoint new Planning and Zoning Board members. Due to the municipal election occurring on January 31, 2012, the Commission would meet on February 28, 2012 to appoint the Planning and Zoning Board; thus, there would be no Planning and Zoning Board meeting for February. She mentioned the conditional use applications the Board reviewed at its last meeting were approved by the Town Commission. The East Commercial Boulevard Improvements were ongoing and, on January 17, 2012, from 7:00 p.m. to 9:00 p.m., there would be a Special Commission meeting in Jarvis Hall regarding that matter. Planning and Zoning Board members and the public were invited.

Mr. Wick asked if there had been a response to the England Trust letter sent to various members of the Town's administration that stated if one vacated the property for a right of way for roads from the A1A to the beach, that that property would revert to the previous owner by the fact that they gave an easement. If it was subsequently discovered the ownership of the subject property would revert to the England Trust, it seemed a waste of time to engage in further discussion. He hoped this matter would be resolved before January 19, 2012.

VI. NEW BUSINESS

Item #1: Proposed Amendments to Sections 30-261, "B-1-A DISTRICT - BUSINESS" and 30-271, "B-1 DISTRICT - BUSINESS"

Town Planner Connors reiterated Town staff was moving forward with the Commission's previously established priorities, noting one of those priorities was to clean up the Town's Land Development Regulations (LDR). Historically, some changes to the B1 district had been implemented, such as adding conditional uses and mixed uses to the code. However, Town staff examined the code as a whole and gathered information from businesses, found some of the missing things, and endeavored to make the LDR more easily understood by both the Town staff and the community, and to make sure it was defensible. This eliminated many questions that might be due to definitions missing, etc. In November, the Town Commission adopted a notice of intent to make the subject amendments.

Vice Chairperson Brandt observed the print of the maps in the backup were very small and difficult to read and requested staff enlarge the area specific to the item to allow the Board to see precisely where the boundaries were drawn.

Town Planner Connors replied she would work on doing so; there was an outside consultant that did the Town's Planning and Zoning maps.

Vice Chairperson Brandt requested a brief explanation of the difference between the two districts affected by the amendments. Town Planner Connors responded the districts were very similar, believing the B1-A was very small, and the only difference between the B1 district was that the a pier is allowed in the B1 district; and both districts could not be combined into one due to rezoning restrictions contained in the Town's Charter.

Another reason for the proposed amendments was to allow for the implementation of the goals, objectives and policies of the Town's Comprehensive Plan related to future land use and economic redevelopment. She referred to a handout given to the Board at the beginning of the meeting that showed Section 30-181 in which it was noticed that B1-A was not listed in the establishment of zoning districts, so appropriate language was added where it belonged. There were also changes to Sections 30-260 through 30-273, where they added a purpose and intent for both districts, along with several definitions, many of which were not new to the code, but they were brought from different sections of the code and placed under Chapter 30. She noted they covered restaurants, bars, and food stores were incorporated in a definition for alcohol; street, sidewalk, public right of way permittee and affected party all came from the sidewalk section that regulated sidewalk cafes. Town staff wished to place definitions where they needed to be for clarity and that those definitions related to Chapter 30 as well. Town Planner Connors said they added some definitions to make it clear to the public that certain types of similar uses were not allowed; for example, personnel services and labor pool were defined to allow a distinction between the two. Convenience store was defined, including size restrictions for the different definitions; they added definitions for flea market, package store, consignment store, and business and professional employment agency. They inserted a reference to the restrictions in Chapter 3 pertaining to alcoholic beverages; banks were added as a permitted use; and clarifications were made to a clothing store, consignment store, hardware store and a sundries store; with respect to restaurants, they moved the outdoor restaurant from a conditional use, allowing it to be a permitted use similar to sidewalk cafes. She said a distance restriction was added to convenience stores, moving it from a permitted use to a conditional use and, as they were regulated by Florida Statutes, reference was made to some of the same definitions in the state statute that were similar to the Town's code. Modifications were made to the outdoor storage of propane tanks, and the final change limited the size of a permitted use to 10,000 square feet, as there was no limitation on the size at present. She indicated red underlined portions of the handout indicated new language being added, and crossed out portions were eliminated language.

Mr. Wick noticed convenience store was struck out on page 13, so he assumed this had been placed in another section of the code. Town Planner Connors stated convenience store had been changed from a permitted to a conditional use; it could now be found on page 16, number three with convenience, kiosk and convenience stores subject to the requirements in Section 5.

Chairperson Oldaker observed throughout the document, there appeared to be a variety of names for employment agency, personnel agency, staffing agency, wondering if there was a way to streamline the language, as they were used in different areas of the code but meant the same thing. He understood the distinction with regard to labor pool.

Cecelia Ward of JC Consulting commented in reviewing the code, she too questioned the varied definitions for staffing services; however, in her discussions with the Town Attorney's office, she discovered there could be a distinction between the various terms. For example, a business and

professional employment agency could help someone get a job, whereas, a personnel services business might provide temporary staffing. Town staff would revisit the various definitions to determine where the terms could be combined. The intent of the change pertained to labor pool, as they wished the code to be clear it was never intended to allow a day labor or labor pool service.

Mr. Yankwitt wished to be sure when convenience stores were switched to a conditional use, it included grandfather language to allow existing convenience stores to operate. Town Planner Connors answered yes. Ms. Ward added, as to convenience stores, the information contained within the definitions was done based on studying convenience store information, how they usually operated, their typical size, etc.; thus, the language was consistent with industry standards. Currently, under Chapter 3 of the code, the alcoholic beverages section stated businesses that sold intoxicating beverages, including beer and wine, had to be 500 feet away from one another with the exception of food stores and restaurants.

Vice Chairperson Brandt referred to pages nine and ten, and the equivalent on the B1 section, specifically the outdoor cafés, Section C, paragraph six and ten, Section E, paragraph six, stating since the Board presented an opinion on code language that was meant to last, it left it open for very subjective review by the Town Manager or designee. For instance, the color and material of awnings, chairs, tables, etc., and he gave a note of caution, as it came down to a policy decision as to whether the Town Commission thought there should be a color pallet, a material pallet, and this was a section the Commission might wish to review. In Section C, paragraph 11, would there be an appeals fee to appeal a denial by the Town Manager to the Commission; he knew for variances, there was a fee charged to appeal a denial; this too would be a policy decision for the Commission, and he wished it placed in the record for consideration.

Town Planner Connors replied she would look into the matter and relay her findings to the Board; she was unsure if the appeal fee currently in the code pertained specifically to variances or to appeals in general.

Ms. Ward mentioned one of the goals of the proposed amendments was consistency with the sidewalk cafés. Much of the feedback they received from local restaurateurs was, while the code made it possible for them to have sidewalk cafes they had to go through a lengthy review process to have outdoor dining on their own property. Staff's proposed changes was an attempt to be consistent with the thought process of having the same allowances for sidewalk cafés and outdoor dining, and staff would further review the code to ensure it contained no other language that was significantly different from how the sidewalk cafés were reviewed. The Board's comments would be included in the information given to the Commission.

Mr. Wick questioned page 20, mixed use development B and its definition live/work units, wondering if this meant a business owner could live in the same building that housed his/her business.

Ms. Ward answered correct; a live/work unit meant someone could both live and run their business from the same building; it was subject to mixed use provisions regulated by Broward County that had very specific criteria of how one could place living space within the same building of a commercial space, percentages, etc. This was not being changed in the Town's code, as it was written the last time that code provision was brought to the Board; it mirrored the restrictions imposed by the County but added for clarity such a use was allowed.

Mr. Wick noted on page 16 the right was given to the Town Manager to take certain actions, when he too thought it was the Town Commission that directed the Town Manager accordingly. The codes current language in this section seemed to say the Town Manager would give the Commission direction on what should be.

Town Planner Connors pointed out Town staff used the language previously approved for Ordinance 2011-10 for sidewalk cafés; the language being proposed for outdoor dining mirrored the existing language for sidewalk cafés.

Vice Chairperson Brandt mentioned lengthy discussions at past Board meetings on sidewalk cafés, including whether to have the Town Manager making a subjective decision or should such matters come before the Board and the Commission, and it was thought those decisions should be made by the Commission. On the matter of outdoor dining, it was private property, and some of the decision making might need to exclude the government to some extent and allow business owners to make certain decisions they thought best for their business.

Ms. Ward said Town staff would revisit the language, as it appeared the Board was asking for the language pertaining to outdoor dining to be less restrictive rather than similar to that for sidewalk cafés with regard to the criteria of review applied by the Town Manager.

Vice Chairperson Brandt affirmed this to be the case.

Town Planner Connors summarized the Board reviewed the backup documents, and there were two comments: 1) review the personnel service type definitions and see where they could be combined; and 2) look at outdoor dining and the restrictions per the criteria placed on the use and make it less subject to staff review.

Vice Chairperson Brandt indicated he would make a motion to approve the proposed amendments going to the Commission with the Board's guidance regarding labor services and staff's streamlining the definitions, and working on reducing the subjective nature of the review process for outdoor dining, as it was private property and, thus, differed from sidewalk cafés. He believed there were three or four sections pertaining to sidewalk cafés that were mirrored for outdoor dining.

Vice Chairperson Brandt made a motion to pass on the proposed amendments with the guidance to take restrictive use out of the outdoor dining, as set forth by the Planning and Zoning Board, to the Commission. Mr. Yankwitt seconded the motion. The motion passed unanimously.

Town Planner Connors reminded the Board the first reading of the ordinance containing the proposed amendments would go before the Town Commission on January 24, 2012. She would email the Board members a reminder in the event they wished to attend the meeting; as the agenda was posted on the Town's website prior to the meeting, members could review the final draft of the proposed amendments.

VII. OLD BUSINESS

There was no old business.

VIII. BOARD MEMBER COMMENTS

Mr. Yankwitt wished everyone all the best for the holiday season, and asked Town staff when notifying the business community to also contact the Lauderdale-By-The-Sea Chamber of Commerce.

Mr. Wick thanked all those who helped with the Santa's Coming To Town event at which over 250 pictures of children were taken; they each received a toy, cookie, candy and juice, and the event was well received. He thanked those citizens who filled the toy boxes that went to the nondenominational church for children in distress. He wished everyone a happy, holy holiday season and a prosperous New Year.

Vice Chairperson Brandt wished everyone all the best for the holiday season, Happy Hanukah, and a Happy New Year; he hoped everyone would attend the Menorah lighting on December 22.

Chairperson Oldaker wished everyone happy holidays and congratulated Mr. Brandt on the birth of his daughter.

IX. ADJOURNMENT

There being no further business to discuss, the meeting adjourned at 7:05 p.m., December 21, 2011.

ATTEST:

Town Clerk June White, CMC for
Colleen Tyrrell, Board Secretary

Chairman Alfred Oldaker

Date Accepted: _____
