

City of Belle Isle
Planning & Zoning Board Regular Session Minutes
August 22, 2017 – 6:30pm

Frank Kruppenbacher City Attorney	David Woods Vice Chairman District 1	Chris Shenefelt District 2	Steve Jervis District 3	Gregg Templin District 4	Rainey Lane District 5	Russell Cheezum District 6	Nicholas Fouraker Chairman District 7
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On Tuesday, August 22, 2017 the Belle Isle Planning & Zoning Board met in a regular session at 6:30pm in the Belle Isle City Hall Council Chambers. Present was Chairman Fouraker, Vice Chairman Woods, Board member Templin, Board member Jervis, Board member Cheezum, Board member Shenefelt, City Planner April Fisher and City Clerk Yolanda Quiceno. Absent were Board member Lane, City Manager Bob Francis and City Attorney.

CALL TO ORDER

Vice Chairman Woods called the meeting to order at 6:35pm and opened with the Pledge of Allegiance.

Vice Chairman Woods welcomed our newly appointed Board member Russell Cheezum. He further reported that Board member Lane will not be in attendance and has been excused from this evening's meeting.

APPROVAL OF MINUTES

- Approval of Planning & Zoning minutes for July 25, 2017

Board member Templin moved to approve the minutes as presented.

Board member Shenefelt seconded the motion, which passed unanimously.

PUBLIC HEARING CASE #2017-07-023:

Proposed Development Site Plan. Pursuant to Belle Isle Code Sec. 54-79 (f) (4), the Board shall review and take action on the proposed site plan, submitted by Thirumala Property's, LLC c/o American Civil Engineering, Co. for a proposed commercial development at 2635 McCoy Road, Belle Isle FL 32809, also known as Parcel #30-23-30-0000-00-005.

Chairman Fouraker opened the Public Hearing and called for the applicant presentation.

John Herbert from American Civil Engineers with offices at 207 N Ross Moss Road-Suite 211, Winter Springs, FL 32908 spoke on behalf of the applicant on the proposed airport parking facility on McCoy Road. He said the plan calls for a typical airport parking design with 540 cars on site. Part of the design to the North is to transition 25% of the R-1-A property to commercial.

Vice Chairman Woods said he is confused from the site plan as to how the residential area, being converted into essentially a big hole in the ground, offers itself as buffer between the residences and the parking lot. Mr. Herbert said the buffer is between 60ft in width on the east side and 150ft from the west and the retention pond will be three feet deep. There will be an

eight foot masonry wall along the full length of the north property line with a 15 foot masking buffer that would act as a sound barrier. Mr. Herbert further added that there will be a 5ft wide hedge buffer on the west side.

April Fisher, City Planner, clarified, from looking at the code, adjacent to public rights-of-way the landscape area of at least 5 feet wide along a republic street right of way is required. Of course with the site plan application you can consider the relationship of the application as far as any performance standards with respect to how it conforms to the neighborhood. The Board can request additional landscaping and buffering as criteria for the site plan and how it fits into the neighborhood.

Board member Templin asked for clarification on code requirements for placing a commercial business on residential property. April Fisher said the code is silent with respect to seeing a retention pond as a use. It will be prohibited if part of the commercial business was taking place on the residential portion. But because you find buffering and retention, even in residential districts with development, it is inferred that you may have that on a residential district. There is nothing in the code that would preclude that. Taking a look at the history of the site, and understanding that the residential portion was designated to serve as a buffer from the commercially properties; it would meet the intent of buffering from the residential community. She further noted that the staff was not able to find record of when the 25% was designated for the residential zoning designation. The City was able to find a copy of a future land use element map that shows the entire property as being commercial. She deferred to the applicant to explain how that 25% was designated.

John Herbert provided a copy of an earlier version of the Comp Plan that speaks to the McCoy/Trentwood site. He read the section of the Comp Plan as follows:

This property is located north of McCoy Road, west of Burbank Avenue, and south of Trentwood Boulevard. The property is heavily wooded. The existing land use map classifies the property as vacant and undeveloped. The allowable land use noted on the map indicates the northern quarter is designated as low density residential, and the southern three/quarters is designated commercial. The site has limited access. The site can be accessed from Burbank Avenue and Flowertree Road, two local residential streets, and via the driveway to the Econolodge. The low density residential designation, on only the north quarter, is not appropriate due the lack of access to that section of the property. Lack of access is also a problem if the property was designate medium or high density residential. A commercial land use classification for the entire property would not allow for a smooth land use transition from most intense to least intense uses. The future land use map provide for commercial land use accessing McCoy Road and single family medium density residential (5.5 to 7.5 units per acre) for the remainder which would access Burbank Avenue.

April Fisher said Section 54-32 states one of the most important functions of the low density residential land use is to preserve existing and future neighborhoods from encroachment of non residential uses and the stress of overdevelopment on the City's roads, parks and other services. Evaluating the application and applying that section as a buffer would be less intrusive to the adjacent residential neighborhood. With respect to the Comprehensive Plan it gets updated through time and the

City does not have the history of those changes; however, currently the official zoning map does show that northern portion of the site with a residential zoning designation.

John Herbert said as part of the design they did not develop on the 25% and have added a retention pond which is allowed on a R1A zoning.

Vice Chair Woods said one of the major issues that may arise from the existing neighborhood is the noise from this site and the Beachline. At this time it is mitigated by the density of approximately 200 trees. The new site plan reduces the existing trees by more than half and the newly planted trees will be approximately 12ft tall and will take a much longer time before it gets to the current tree density. It was argued during the build out of the Billboard that the trees were going to be hiding the lights from the residents. In addition he further noted that the parking lot acts very much like a lake, in being a smooth flat surface that reflects sound well.

There being no further comment from the applicant, Chairman Fouraker opened for public comment.

1. Michael Sims residing at 2606 Trentwood Blvd said the land was not 25% of what you see today. The land is about half the size of what it used to be and the line that defines the residential portion was never moved as reflected in the City's zoning map. He provided a petition with over 30 signatures opposing the development of the commercial parking. He stated that the proposed plan submitted is flawed and should be further researched by the City. He spoke of commercial runoff onto a residential pond and said the proposal violates the two most important requirements for approval (1) the intended use of the land; and (2) cannot cause undue harm to nearby residents.

April Fisher clarified that the code does not prohibit the handling of commercial storm water/runoff onto parcels that may have a different zoning category; it will only be the commercial use itself that would be prohibited on a residential property. There are no setback requirements for retention ponds however; following the site plan process they will have to go through an engineering review and must meet St. Johns Water Management requirements. With respect to the use of the airport parking, the applicant has a legal right to the use allowed in a C1 zoning commercial district. As part of the site plan approval review, the Board can request changes in terms of its design; however the City does not have a legal authority to deny a use that is listed as a permitted use in the zoning code. Discussion ensued on previous zoning applications and the encroachment of the 25% of the proposed application. April Fisher stated that the applicant has provided signed and sealed plans with a breakdown of the property. If the Board does not feel that they have sufficient information to evaluate what is really the residential portion versus the commercial portion they can request the applicant to provide the information or have the City staff research further.

Chairman Fouraker stated that he would like a legal determination from our Council and an external review. The Board does not have enough information and it is self evident that

there is a lot of grey area. He proposed for the Board to motion for a continuation to allow the City staff to research further. Discussion ensued. Chairman Fouraker asked the applicant if they have any further information that they would be able to present regarding the legal description of the property. The applicant said they do not have a title search or any other document to present.

2. Bob Harrell residing at 2800 Trentwood Blvd shared his concern with the “silent” commercial zoning use in the code and the zoning line of the residential property. He further added that the applicant should be required to leave at least 75% of the existing tree buffer at Burbank, along the south side of Trentwood. Discussion ensued.
3. Randall Smith, Attorney for the applicant residing at 533 Versailles Drive, Maitland FL 32751 said it would be most helpful, if the application is to be continued, that the Board provide clarification of the open issues to move the application forward.
4. Jill Neal residing at 2508 Trentwood shared her concerns on the challenges with the power lines on the easement at the adjacent property, the birds and wildlife living in the existing tree buffer and the added traffic that will create a bigger bottleneck on via Flora and McCoy.
5. Tom Ray residing at 2512 Trentwood Blvd. shared his concerns on the variance and the proposed 8ft commercial wall to be erected on residential property. He further shared his frustration with the build out of the existing Bill board and the restrictions that were not followed by the contractor.
6. Linda Sims residing at 2606 Trentwood Blvd said the first four houses on Trentwood Blvd own 14ft of property beyond their residential fence and the proposed plans do not show that detail.
7. Mafel Patel hotel owner of Comfort Suites located at 2601 McCoy Road shared his concern with the capacity of the traffic on a one way road leading towards McCoy Road. Secondly, the buffering wall towards the east side will obstruct the view of his hotel on the west side. Discussion ensued. Mr. Patel said their proposed plan will cause a traffic issue with his guests coming in and out of the property specifically on peak hours.
8. Kim Smith residing at 2504 Trentwood Blvd. spoke in opposition and shared her concerns with current traffic and the proposed request.
9. Paul Brock residing at 1936 McCoy Rd. spoke on behalf of the applicant and stated that the project is comprised of a number of investors and have had various meetings with the community. He erred on the side of caution and was not told that he was required to have any information on the 25% residential portion of the property. He asked for clarification on a meaningful way to address these issues and move forward with the project. The applicant has followed the code and has not broken any laws.

There being no further comment Chairman Fouraker closed public comment and opened for Board discussion.

Board member Templin made the motion to table the request to allow the applicant and the City to find further information on the original survey and zoning.

Board member Shenefelt seconded the motion and called for clarification on the open issues.

April Fisher further stated, with respect to the wildlife, that this board is not in the position to address wildlife. However the applicant will have to follow environmental permitting requirements with the State before submitting for the building permit. With respect to a traffic study, it is anticipated that the traffic impact has already been accounted for due to the property already being designated as a commercial property. The applicant was asked to provide a traffic count which has been included on the site plan. Discussion ensued on roadway capacity and land use restrictions. The applicant will be required, in their due diligence, to produce any documents in their possession or research the legal description for the residential zoned properly. It will become a legal discussion if the City cannot determine which portions are legally zoned.

Vice Chairman Woods asked for a legal determination on retention for a commercial property on residential property due to the fact that it is not clear in the code.

Chairman Fouraker further called for legal clarification on the egress of the two neighboring properties and asked for the applicant to provide a cross access agreement with the site plan. He further recommended that the applicant meet with the community out of the public forum.

After Board discussion, April Fisher stated the following conditions of continuance,

1. Staff is to research City records for the determination of legal zoning of the residential and commercial portions.
2. The Applicant is to provide a legal cross access agreement created with the property owner to the west.
3. Request a legal opinion from the City Attorney with respect to determining the legal zoning of all portions of the property.
4. Request from the applicant to produce the legal documents they have that verify, by legal description, what is commercial and residential property.
5. A legal determination whether the applicant can have commercial retention on residentially zoned property.
6. The applicant is to identify all utility easements on the subject property.

April Fisher said the Board may consider a motion that would continue this item with the specific requested conditions with the site plan to be considered.

After discussion, no action was taken on the motion made by Board member Templin to table the request.

Vice Chairman Woods made the motion to continue this process until the Applicant and the City have accomplished the following,

- 1. The Staff research the legal zoning of the property in question which will also include the extense of zoning.**
- 2. The Applicant is to produce a cross access agreement with the property owner to the west.**
- 3. For the City Attorney to determine the legality of the zoning of all portions of the property; and of the use of the residential property for retention for a commercial property.**
- 4. For the applicant to produce the legal documents same as number 3.**
- 5. The Applicant should produce a boundary survey showing the existing easement and infrastructure of the property.**
- 6. The Applicant o provide backup material on their traffic analysis**

Board member Templin seconded the motion which was unanimously passed

Ordinance 17-10

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA; AMENDING THE BELLE ISLE CODE OF ORDINANCES CONCERNING AIRPORT ZONING REGULATIONS; BY AMENDING PART II, CODE OF ORDINANCES; BY AMENDING SUBPART B, LAND DEVELOPMENT CODE; BY AMENDING CHAPTER 44, COMMUNICATION TOWERS, TO CREATE ARTICLE V. AIRPORT ZONING REGULATIONS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Chairman Fouraker read Ordinance 17-10 by title.

Being that there was no one present from the public to comment, Chairman Fouraker opened for Board discussion.

April Fisher, City Planner said this ordinance will put into effect a requirement that the State Legislature passed down to local government and the Airports in 2016. They are seeking for local government to provide the determination whenever a structure may impact the airport based on its height.

April Fisher clarified for the record Attorney Kruppenbacher did not serve in the capacity as legal counsel for this legal document. There is no conflict from him being on the Greater Orlando Aviation Authority Board and City Counsel. The Inter-Local Agreement has been approved by City Council and this is the

second step required to incorporate into our City Code. The agreement will provide a check and balance between the local government and the airports in protecting the airspace.

Vice Chairman Woods noted some scriveners' error in items 37(b) and 38(a).

Board member Templin motioned to recommend approval of Ordinance 17-10 for airport regulations to City Council.

Board member Jervis seconded the motion, which passed unanimously.

OTHER BUSINESS

Board member Templin asked if the code could be changed to not allow commercial retention ponds on residential properties. April Fisher said it is a legal question and this current situation should be rare. She further added that it would be beneficial to have the City's Engineer involved in the discussion. The Board briefly discussed split zonings and the Comprehensive Plan.

The Board addressed the public comment on the build out of the Billboard and made a formal request for the City Clerk to have the Code Enforcement division reconcile if the recommendation of the Board were conformed to the building process of the Billboard.

ADJOURNED

There being no further business Chairman Fouraker called for a motion to adjourn, unanimously approved at 8:15pm.

Yolanda Quiceno

City Clerk, CMC