



**MINUTES  
CITY OF LAKE WORTH BEACH  
PLANNING AND ZONING BOARD REGULAR MEETING  
CITY HALL COMMISSION CHAMBER  
WEDNESDAY, AUGUST 04, 2021 -- 6:00 PM**

**ROLL CALL and RECORDING OF ABSENCES:** Present were Greg Rice, Chairman; Anthony Marotta, Vice-Chair; Laura Starr; Juan Contin; Mark Humm; Edmond LeBlanc; Zade ShamsiBasha. Also present were: Debora Slaski, Principal Planner; Erin Sita, Asst. Director for Community Sustainability; Elizabeth Lenihan, Board Attorney; Sherie Coale, Board Secretary.

**PLEDGE OF ALLEGIANCE** – Led by Chairman

**ADDITIONS / DELETIONS / REORDERING AND APPROVAL OF THE AGENDA**

**Motion:** M. Humm moves to approve the agenda; A. Marotta 2<sup>nd</sup>.

**Vote:** Ayes all, unanimous.

**NEW MEMBER OATH OF OFFICE:** Board Secretary administered Oath of Office to new Board Member Zade ShamsiBasha.

**APPROVAL OF MINUTES:**

A. July 7, 2021 Meeting Minutes

**Motion:** A. Marotta moves to approve the July minutes as presented; M. Humm 2<sup>nd</sup>.

**Vote:** Ayes all, unanimous

**CASES:**

**SWEARING IN OF STAFF AND APPLICANTS** Board Secretary administered oath to those wishing to give testimony.

**PROOF OF PUBLICATION**

- 1) Burckle Place 111  
Palm Beach Modern Auction

**WITHDRAWALS / POSTPONEMENTS** - None

**CONSENT** None

**PUBLIC HEARINGS:**

**BOARD DISCLOSURE:** None

**UNFINISHED BUSINESS:** None

**NEW BUSINESS:**

- A.** PZB Project Number 20-00500004: Request by Rico Baca of 5908 Georgia, LLC for consideration of a Conditional Use Permit to allow an auction house less than 7,500 sf at 1209, 1215, and 1217 North Dixie Highway within the Mixed Use – Dixie Highway (MU-DH) zoning district (PCNs: 38-43-44-21-15-378-0140; 38-43-44-21-15-378-0130; and 38-43-44-21-15-378-0110).

**Staff:** Asst. Director for Community Sustainability presents case findings and analysis. This approval is for the Conditional Use approval only, the Site Plan will come back at a later date. The site includes a single-family home, a commercial building and parking lot. Explains the staff report structure which is: the request, summary and background information, history of project, land development requirements, special summary information highlighting areas for a specific project.

**Applicant:** Rico Baca, along with Wade Terwilliger and Carrie Rose are in agreement with the Conditions of Approval. Explains the online auction process.

**Board:** G. Rice What type of auction? **Response:** 20<sup>th</sup> Century Decorative art and design furniture. Average lot is \$2,500 – \$3,500. Typically there are three (3) major auctions (held on Saturdays) per year and 2-3 smaller boutique events throughout the year. What is the average size audience? **Response:** 50-75 is preferable although the pandemic has made that problematic. Currently posting items online. Participation can be live on the phone, absentee or online. Intent is to move from West Palm Beach to Lake Worth Beach with the purchase of this property. They do compete with Sotheby's and Christie's Auction Houses however are considered a general auction house. Bid calls, which are a slower pace, allow time to get the hand up. Designed to create time between one bid and the next bid. L. Starr- will this property be built out or will they just be moving in the way it is? **Staff response:** The house will be utilized as a retail space. The commercial space will be the utilized as the auction house. **Applicant:** the architect's job is to blend the façades of the two buildings; it needs to look great because the ability to attract the clientele is dependent upon that feel/look. L. Starr asks if there will be outdoor storage of oversized items? **Response:** Not storage, possibly an installation or display. If the clientele does not feel comfortable and safe in the area, there is no way to get them to attend. There are a total of seven employees. The large events are catered and a massage therapist is brought in half way through the auction. **Board:** J. Contin hopes they are ready for the rigorous P&Z review with the Site Plan. Lake Worth Beach has become synonymous with tough regulations especially with regards to height and parking requirements.

**Staff** confirms they are aware of the major Thoroughfare Design Guidelines, architect began making revisions after the pre-application meeting. The intent is to bring the existing non-conforming structure more into compliance. Car parking service/valet along with a shared parking agreement should be included with the Site Plan submittal.

**Motion:** A. Marotta moves to approve PZB 21-00500004 with staff recommended conditions for a Conditional Use Permit to allow an auction house use less than 7500 square feet at 1209,1215, and 1217 North Dixie Hwy adding a condition that a parking plan be submitted with the Site Plan which shall include a shared parking agreement. The application meets the conditional use criteria based on the data and analysis in the staff report. L. Starr 2<sup>nd</sup>.

**Roll call vote:** G. Rice-Yea, A. Marotta-Yea; M. Humm-Yea; J. Contin-Yea; Z. ShamsiBasha-Yea; E. LeBlanc- Yea; L. Starr-Yea; Ayes all, unanimous.

- B.** **PZB Project Number 20-01400036:** A request by Cotleur & Hearing, a land development firm, on behalf of The Lord's Place, Inc. for consideration of a Residential Urban Planned Development, Major Site Plan, Conditional Use Permit, and Right of Way Abandonment

to allow the construction of a seven-unit, multi-family residence at 825 South Federal Highway, 827 South Federal Highway, and a portion of 9th Avenue South, within the Mixed Use – Federal Highway (MU-FH) zoning district commonly known as “Burckle Place III.”

**Staff:** E. Sita gives background of original Board hearing in March 2021. The applicant has revised the project based upon previous comments and concerns. There is an affected party, the same affected party as the first Board Hearing. There has also been a challenge to the affected party status by the attorney for the applicant.

**Board Attorney:** Elizabeth Lenihan, P&Z Board Attorney clarifies the procedure for affected parties requesting a continuance. Under City Code affected parties are automatically granted a continuance if so requested. A differentiation is made between interested parties versus affected parties. Interested parties are persons within the 400-foot radius, Affected parties, also within the 400 foot radius, have an even greater interest.

**Board:** A. Marotta clarifies that step one is to hear each of the parties prior to making a decision regarding the continuance.

**Staff:** That is the intent.

**Affected Party:** Portia Culley, 902 S. Federal Highway- Does not see any reason to speak, should not have to “pitch” as to why she is an affected party. States she meets the criteria and the Board should make the decision or ask the applicant attorney to speak.

**Board:** G. Rice inquires as to what makes an affected party. **Board Attorney:** Must state why they are more affected than others within the interested person radius. It is established she is 150 feet from the project. G. Rice asks if there are any other aggrieving issues aside from proximity. That needs to be on the record.

**Affected Party:** Property values are the primary concern should she want to sell her property, that the applicant’s proposal is not following the Major Thoroughfare guidelines, the construction of the project as presented would depreciate her property.

**Board:** Is there an appraisal indicating that? **Response:** No. **Board:** It is unknown at this point, but based upon the assumption that it will affect the value.

**Affected Party:** It is up to the Board, the applicant proposes the use of the R-O-W and the guidelines are not being followed. There has not been sufficient time to get with the neighbors to determine the impact. Board would be approving or disapproving the project without much neighborhood input.

**Applicant Attorney:** David Milledge, Cotleur Hearing- The affected party cannot point to a single criteria of the Code which is not being met. Furthermore City professional staff (planners and engineers) have concluded the proposed project meets Code and will not negatively affect property values. Cites precedence of Martin County Conservation vs Martin County - an affected party must demonstrate they are negatively affected and that the mere speculation of future adverse impacts is insufficient. Please deny the request to be considered an affected party.

**Board Discussion:** A. Marotta recalls the recent remanding of another project back to the Board due to not granting affected party the proper opportunity.

J. Contin- does it meet all thoroughfare guidelines? **Staff:** Currently the discussion is not about the project, only Ms. Culley’s position as an affected party. J. Contin states that the staff report indicates the project moves closer to meeting Major Thoroughfare Design guidelines, not that it meets them. Mr. Milledge is incorrect in that it meets the Guidelines thus lending credibility to Ms. Culley’s concern and proximity. Secondly, the last meeting

produced many interested person's. Z. ShamsiBasha requests clarification of whether the Major Thoroughfare Guidelines were met or not because the staff report is not clear.

**Staff:** The determining body of whether the Guidelines are met or not is the Board. Staff has given a recommendation through the staff report. With regard to the status of the affected party and regarding the continuance, determine she is an affected party or not. If Board determines she is not an affected party, Board would still have an opportunity continue the item in order to give more time to review; or if the Board decides Ms. Culley is an affected party, that determination would automatically grant a continuance. **Board:** E LeBlanc questions how much time does a continuance give? **Staff and Board Attorney:** One continuance of no more than 31 days or not later than September 1, 2021. **Board:** Some members reviewed the plans on the link, others did not review.

**Staff:** The plans are not published on the website due to ADA compliance, but included in the link to the Board members. Any member of the public with interest may contact staff which will provide the full packet (including plans) link, it is all public information.

**Board:** A. Marotta confirms the previous plans differ from the current plans, there has been a revision. Makes a comparison of a David & Goliath situation, a layperson and practiced attorney. If the project is good enough to stand on it's merits, there would be no harm in allowing a 30-day continuance. L Starr asks for the length of time that Ms. Culley has lived at her current address? **Response:** 15 years. L. Starr recollects seeing a letter asking Board to deny a variance request for a smaller living space, is that the reason for not liking the plans? **Response from Ms. Culley:** The issue that most rankled her is that the project would like to (again) take the R-O-W **Staff:** A waiver was requested, as this is a PUD this will be covered when the project is heard.

**Applicant Attorney:** Clarifies what the benefits are to being an "affected party" such as the ability to ask for a continuance, the ability to cross-examine, call witnesses, give presentations, question applicant and staff and allow the party to appeal. The result of a continuance would not result in a typical 2-party interaction between Board, staff and applicant. The applicant, if it appeased the Board and in order to provide the Board additional time to review the plans would concede to a continuance. States that Ms. Culley lives 150 feet (property line to property line) from the project. Lastly, the statement was made that the project met code 100%. Distinguish between Code and Major Thoroughfare Design Guidelines. L. Starr questions how is it compliant if a variance is requested? The PUD code allows for the relaxation of certain code, therefore it de-facto meets code.

**Board:** J. Contin requests clarity on whether the Design Guidelines are met. **Applicant Attorney:** The Design Guidelines references the spirit of the Code, which has been met.

**Board:** J. Contin wants the building to go up but wants it done correctly and the neighborhood hasn't had sufficient time to review. It was previously requested that the Major Thoroughfare Design Guidelines be met.

**Applicant Attorney:** The affected party determination is infringing upon the applicant's property rights, that is why there is an objection to the affected party status. **Board:** A Board member is unsure of whether an affected party can provide a compelling 10-minute presentation against the project. Questions if Ms. Culley would opt to step back as an affected party since the applicant has offered to continue until September, is that her main purpose? **Staff:** The decision needs to be made if Ms. Culley is an affected party, if she is not determined not to be affected party, Board could still make a determination to continue hearing the proposal until September. There is only one continuance for an affected party, it will not be advertised again.

**Motion:** A. Marotta moves to treat Portia Culley as an affected party; L. Starr and J. Contin 2<sup>nd</sup>.

**Board:** Z. ShamsiBasha- has not heard an argument that she is aggrieved in any way aside from proximity, that other similarly situated homeowners are not. Has concerns about the case law citations mentioned by Mr. Milledge. Understands the City has handled other cases with deference. His concern is that the decision could be overturned in the future. She has only mentioned one of two items that would elevate her to an affected party. **Staff:** If it were decided she was not an affected party it would be a change in policy. Additional information / summary information from the Board would be wanted to determine future guidance providing consistency on how affected parties should be treated in the future. **Board:** J. Contin- Recalls the previous reason (precedent) was that the person did not have time to secure an attorney. **Staff:** The recommendation is to be consistent. **Board:** No one is saying that a continuance should not be granted but only that there is no 2<sup>nd</sup> prong of proof of elevated status.

**Roll Call Vote:** J. Contin – yea; Z. ShamsiBasha - nay; E. LeBlanc – yea; L. Starr – yea; M. Humm – yea; A. Marotta -yea; G. Rice - yea. Motion carries 6/1. Z. ShamsiBasha dissenting.

**Motion:** A. Marotta moves to continue item to a date certain of September 1, 2021; Z. ShamsiBasha 2<sup>nd</sup>.

**Vote:** Ayes all, unanimous.

**PLANNING ISSUES:** A. Marotta welcomes both new Board Members.

**PUBLIC COMMENTS** (3 minute limit) None

**DEPARTMENT REPORTS:** Invitations to Zoom will be through Outlook going forward in an effort to make the portal for the public comment more user friendly and accessible.

**BOARD MEMBER COMMENTS:**

**ADJOURNMENT: 7:52 PM**