

Local Planning Agency
Thursday, December 13, 2012
8:30 A.M.
Bonita Springs City Hall
9101 Bonita Beach Road
Bonita Springs, Florida 34135
MINUTES

I. CALL TO ORDER.

Chairman Don Colapietro called the meeting to order at 8:36 A.M.

II. ROLL CALL.

8:37:56 AM Christine Ross, with the Bonita Springs Chamber of Commerce and the Bonita Springs Estero Economic Development Council, asked that the Board be cautious in their deliberations regarding mobile food vendors, and to think about the impact this would have on Hungry Hound Dawgs, who has already gone through quite a bit to establish his facility, and spent quite a bit of money to make it a semi-permanent opportunity. She asked that they try to find a way to grandfather him in if they move forward with the Ordinance.

8:38:47 AM Attorney Charles Basinait stated that along with himself, also in attendance were Rick Price and Phil Pugh, who were present to comment on the Mobile Vendor Ordinance when addressed.

8:39:18 AM Kristie Sopher stated her husband is also a mobile food vendor and will be impacted by this Ordinance. She also asked that he be grandfathered in as well.

III. REVIEW THE FOLLOWING ORDINANCE FOR CONSISTENCY WITH THE CITY OF BONITA SPRINGS COMPREHENSIVE PLAN:

- A. **MISC LDC, CHAPTER 4:** AN ORDINANCE OF THE CITY OF BONITA SPRINGS; AMENDING CERTAIN SECTIONS OF THE ZONING ORDINANCE; AMENDING DIVISION 2, CITY COUNCIL BY AMENDING 4-81, CITY COUNCIL'S POWER TO APPOINT LOCAL PLANNING AGENCY; REVISING SEC. 4-83, FUNCTIONS AND AUTHORITY OF CITY COUNCIL FOR ADMINISTRATIVE APPEALS; AMENDING SEC. 4-145, POWERS AND DUTIES OF THE ZONING BOARD; AMENDING SEC. 4-152, ZONING BOARD STANDARD FOR REVIEW TO REMOVE ADMINISTRATIVE APPEALS; AMENDING SEC. 4-203, ADDITIONAL REQUIREMENTS FOR APPLICATIONS REQUIRING PUBLIC HEARING; CREATING SEC. 4-204, SUBMITTAL REQUIREMENTS FOR ADMINISTRATIVE ACTION APPLICATIONS; AMENDING SEC. 4-653, THE TABLE OF USE REGULATIONS FOR AGRICULTURAL DISTRICTS TO ALLOW LIMITED HORTICULTURAL WASTE TRANSFER SITES BY SPECIAL EXCEPTION IN AG-2; AMENDING SEC. 4-1322, ENCLOSURE OF FACILITIES, TO INCLUDE PET DAY

CARES; AMENDING, SEC. 4-1352, TO REVISE THE SETBACKS, LANDSCAPING AND OTHER CONDITIONS FOR DISPLAY, SALE, RENTAL OR STORAGE FACILITIES FOR MOTOR VEHICLES, BOATS, RECREATIONAL VEHICLES, TRAILERS, MOBILE HOMES OR EQUIPMENT; CREATING SEC. 4-1353, TO ESTABLISH STANDARDS FOR CONVENIENCE FOOD AND BEVERAGE STORES, AUTOMOTIVE SERVICE STATIONS, FAST FOOD RESTAURANTS, AND CAR WASHES; CREATING SEC. 4-1773 TO ESTABLISH STANDARDS FOR HOME OCCUPATION WITH OUTSIDE HELP; REVISING 4-1381 IN DIVISION 20. JUNK, SCRAP OR SALVAGE YARDS; DUMPS, SANITARY LANDFILLS; TO ALLOW LIMITED HORTICULTURAL WASTE TRANSFER SITES BY SPECIAL EXCEPTION IN AG-2 DISTRICTS; AMENDING SEC. 4-2018 JOINT USE OF PARKING LOTS, SEC. 4-2019 OTHER USE OF PARKING LOTS AND SEC. 4-2020 REQUIRED SPACES; AMENDING SEC. 4-2191, MEASUREMENT; PERMITTED ENCROACHMENTS; AMENDING TO REMOVE REFERENCES TO OUTDOOR RANGES TO SEC. 4-2472 REQUIRED APPROVALS AND SEC. 4-2474 SETBACKS; CREATING 4-3105 TO CLARIFY THAT USE PERMITS ARE REQUIRED; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION, INCLUSION IN CODE, SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

8:40:11 AM City Attorney Vance furnished a brief overview of revisions made by City Council subsequent to the Board's last meeting.

8:42:47 AM In response to Board Member Fred Forbes, City Attorney Vance referenced her November 19th memorandum to the Local Planning Agency (in Clerk's file) addressing the legal reasons as to why they do not want administrative appeals applied to third parties. There are also some practical reasons as well. Board Member Forbes agreed that they would not want to give the surrounding property owners the right to appeal. He would suggest, however, a requirement that the City provide notification to surrounding property owners within 300 feet for requests for administrative approvals involving a use or zoning variance, and that the administrative approval would not be granted or dealt with until 14 days after notification. City Attorney Vance suggested the inclusion of language to Section 4-204 to state "Submittal Requirements for Administrative Action applications" to state "no administrative approval will be final until 14 days after notice is provided." Discussion ensued.

8:57:56 AM Board Member Sam Vincent asked if there was a way to list those items that can be approved by the Zoning Director, to which John Dulmer, Community Development, suggested Staff prepare a list. City Attorney Vance stated there's a section that lists those items that the Director cannot address, i.e., not do things that create external impacts, or things to reduce the amount of open space and buffers. Mr. Dulmer added that Chapter 4 lists tables that lists all the uses that are permitted in the different types of zoning districts, along with the process for approval. Staff also assists applicants in the process.

9:01:12 AM Board Member Forbes made a motion that the surrounding property owners within 300 feet, excluding streets and rights-of-way, be notified regarding applications for administrative approval. He wants to make sure that no decision is made for at least 14 days after notification. It would simply allow them the right to lobby their City

Council Member. Discussion followed, with Mr. Dulmer explaining that the intent of having uses or certain permits go through the administrative approval process as opposed to public hearing, is because their impact is either negligible, or if there is no impact, it's actually a benefit. If the concern is that the uses under administrative approval would have a negative impact on adjacent property owners, then they probably shouldn't be recommended that they be approved administratively. It would defeat the purpose of having an administrative process.

Addressing the proposal relating to joint parking, Mr. Dulmer stated that the existing amount of parking required is a little high, and is to the point where they're unnecessary. It's one of the reasons Staff is looking to reduce the number of required parking spaces, and to allow the joint use of spaces administratively. Overall, if they want to handle applications administratively they should be thinking that there is not going to be an impact, but rather a benefit to the community.

9:06:27 AM Discussion followed on joint/shared parking via administrative approval, with Mr. Dulmer explaining that addressing the issue, providing the parking through a shared agreement, and allowing that business to open is something that Staff did not see as having a negative impact on the community. Board Member Forbes stated that he felt strongly that the surrounding property owners should be notified. City Attorney Vance referred to page 19, and suggested adding a Section 8 to state "the applicant must notify adjacent property owners within 300 feet of the application pending. The Community Development Director may not make an administrative approval until 14 days from date of notice sent by regular mail." Ms. Genson suggested first defining the uses to see which uses they want this to apply to. Mr. Dulmer suggested posting instead of mail notification. Board consensus for posting notification instead of mailings.

9:16:25 AM Board Member Sims referred to pages 27 and 28, convenience stores with or without gas pumps, specifically to item (1) prohibiting flat roof canopies, which he sees as a substantial revision. He also provided the example of Shell gas stations and a concern regarding item (e) which prohibits accent banding. Ms. Crespo explained at the December 5th, 2012 City Council meeting Staff did indicate that these items would be removed based on comments made at the November LPA meeting by Christine Ross with the Bonita Springs Chamber. She further explained that item (g), Landscaping, was also removed for automobile display rental. Staff was also looking to strike item (g)(1) b. for the undulating berm. Overall, they are striking b, the berm, page 28 item (c) for the canopy, and (e) for the accent banding.

9:22:02 AM Board Member Sims next addressed a concern with the lack of loading/unloading areas, and discussion ensued. He questioned whether this was something they needed to address for new construction. Mr. Dulmer responded that there are standards in place. Staff does work with applicants on the location of these areas so that they are in a usable location. Staff can, however, revise the standards as to type, size and

location. Board Member Sims next addressed a concern with solid waste trucks, which have been getting larger, with less and less space for them to operate in. Mr. Dulmer stated that the Board will be seeing some of those regulations in the future, which will be associated with the Old 41 area, which will also address other uses and access.

9:30:00 AM City Attorney Vance clarified revisions, to change 4-204 to add that the applicant has to post signs of administrative approval of certain intense uses. Community Development will come up with those uses for Council, who will choose from that list so as not to require the 14 days for every use. Modifying 4-1352 to remove the berm, and 4-1353 to delete canopies and accent banding.

9:30:38 AM Board Member Sims entered a motion to accept as revised; Board Member Bob Mills seconded; and the motion carried unanimously.

B. MOBILE FOOD VENDORS: A RESOLUTION DECLARING THE INTENTION OF THE CITY COUNCIL OF THE CITY OF BONITA SPRINGS TO CONSIDER ADOPTION OF AN ORDINANCE AMENDING THE BONITA SPRINGS LAND DEVELOPMENT CODE, CHAPTER 4 (ZONING), RELATING TO MOBILE FOOD VENDORS; CREATING SECTIONS WITHIN THE ZONING ORDINANCE TO REGULATE MOBILE FOOD VENDORS WITHIN THE MUNICIPAL BOUNDARIES OF BONITA SPRINGS; PROVIDING THAT FROM THE DATE OF ADOPTION OF THIS RESOLUTION AND DURING THE PENDENCY OF THE CONSIDERATION OF SUCH ORDINANCE BY THE CITY, THE CITY WILL NOT PROCESS OR APPROVE APPLICATIONS FOR MOBILE FOOD VENDORS; DIRECTING THE CITY CLERK TO PUBLISH A NOTICE OF INTENTION TO ADOPT SUCH ORDINANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

9:33:11 AM Alexis Crespo, with Waldrop Engineering, furnished a PowerPoint presentation to address the Ordinance. There will be a limit of five permits City-wide, which will be re-evaluated based on economic conditions. In response to Board Member Sims, Ms. Crespo explained that the permit for the preparation of food is furnished by the State, and is part of the City's application process.

9:43:30 AM Jennifer Duffala Hagen, Community Development, stated Staff works with the Fire District on all applications with respect to safety, the use of gas to prepare foods, etc.

9:44:45 AM In response to Board Member Sam Vincent, Ms. Crespo explained that mobile vendors would be prohibited on vacant lots and in the Old 41 Downtown Overlay. She next addressed items required, including restrooms, refuse collection, etc. Rex feels discouraging rather than encouraging and that it should be made as simple as possible to operate. He feels that the requirement of a restroom is stiff. Board Member Vincent stated he felt that the requirement of restroom facilities would fall on the City.

9:54:45 AM Ms. Crespo next addressed requirements relating to insurance, and the requirement for letters of no objection from abutting property owners.

10:00:02 AM Chairman Colapietro feels the Old Downtown area would be the ideal location for mobile vendors. He does have a concern with the three day requirement.

PUBLIC COMMENT:

10:07:24 AM Phil Pugh stated his tenant Rick Price has the cart across from the fire station (Hungry Hound Dawgs) that's open from 11:00 A.M. to 5:00 P.M. He has tried evenings, but that was not financially successful.

10:08:14 AM Board Member Henry Bird stated he didn't understand why mobile vendors would be prohibited in the Old Downtown area.

10:09:42 AM Board Member Sims stated he felt the 2,500-foot separation was a bit excessive, and was something he would strike. He feels this is a use that has to be where the people are, and that the only place this would work would be in the Old 41 area. He feels this needs further review.

PUBLIC COMMENTS:

10:22:22 AM Mike Bodi, a former food vendor and owner of a mobile food unit, stated these units are not inexpensive. By the time he was done with his unit and permitting they spent over \$100,000. He stated Old 41 would have been a perfect location for his unit. They want to be where there is activity. The Immokalee Casino has a food vendor rally every month.

10:24:57 AM Phil Pugh, owner of property on which the current hot dog stand (Hungry Hound Dawgs) is located, stated he purchased the Amerigas property a few years ago, and met someone who was interested in developing a restaurant, which didn't happen. A year ago a food vendor approached him to place a unit there, and so he got interested and went to New York City and Nashville, and saw the trend for mobile vendors. Mr. Price has a new cart that is immaculate. The point is this Ordinance would eliminate that use. It also has regulations that are too restrictive. These vendors don't make that much money, and so this proposal would put them out of business. He read a letter from people who visited his unit who told him how great it was. The main concern he has regards water retention, setbacks and parking. He supports food carts.

10:33:57 AM Attorney Charles Basinait asked that the Board read this regulation very carefully, as he sees it as being very restrictive and prohibits mobile food vendors in the area of the Old 41 area. It also limits the number of vendors to five. He feels it makes the most sense to

have them in the Old 41 area which is pedestrian friendly. His preference would be that this ordinance not be adopted, however, if it is, he would suggest some significant revisions, and ask that his client be grandfathered in.

10:38:27 AM Rick Price, the owner of Hungry Hound Dawgs on Old 41 stated that people come to his business from all different residential areas.

10:39:49 AM Kristie Sopher stated that food trucks encourage people to come to this area. There are people who look for these trucks. She also questions the 500 foot restriction from schools and churches.

10:40:44 AM Chairman Colapietro feels this needs to be revised, and that grandfathering should be immediate.

10:42:08 AM Board Member Sims stated he totally rejects this ordinance as presented. It needs to be revised to allow these uses in the Old 41 area. It also needs provisions relating to the number of units that would be allowed. There is a need to start from ground zero with a different approach.

10:43:53 AM Mr. Basinait suggested a grandfathering provision or amortization process that deals with the site and not the tenant. Board Member Vincent addressed the need for architectural considerations as well.

10:48:17 AM City Attorney Vance to work with Staff on a different approach.

C. PODS: AN ORDINANCE AMENDING AND RESTATING THE BONITA SPRINGS PROPERTY MAINTENANCE CODE; ORDINANCE NO. 03-04, AS PREVIOUSLY AMENDED; AMENDING SECTION TWO, PURPOSE TO ADD TERM LANDOWNER; AMENDING SECTION FOUR: EXTERIOR STORAGE, ACCESSORY STRUCTURES AND FENCES TO INCLUDE REGISTRATION FOR TEMPORARY STORAGE (PODS) UNITS ON RESIDENTIAL PROPERTY; AMENDING SECTION SIX, NUISANCES APPLICABLE TO RESIDENTIAL PROPERTY; AMENDING SECTION SEVEN, VACANT LOT MAINTENANCE; AMENDING SECTION NINE, NUISANCE VEGETATION AND REQUIREMENTS FOR LANDSCAPING, BUFFERS AND NATIVE VEGETATION; AMENDING SECTION TWELVE, OUTDOOR SINGLE AND TWO FAMILY RESIDENTIAL LIGHTING STANDARDS TO PROVIDE FOR STREETLIGHT SHIELDING; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, INCLUSION IN CODE, SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

11:03:45 AM City Attorney Vance introduced this Ordinance, and furnished an overview of revisions made to date. It also addresses streetlights.

11:10:42 AM In response to Board Member Bob Mills regarding the height of numbers for street addresses, Staff to get with the Fire District to see if the numbers reflected were still what was required and bring back.

11:19:16 AM Board Member Sims entered a motion finding the Ordinance to be consistent with the Comprehensive Plan; Board Member Fred Forbes seconded; and the motion carried unanimously.

- D. **COLOR PALETTE:** AN AMENDMENT TO THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 4 (ZONING); AMENDING THE OLD U.S. 41 REDEVELOPMENT OVERLAY DISTRICT TO REQUIRE A COLOR PALETTE WITHIN THE OLD U.S. 41 REDEVELOPMENT URBAN CORE; AMENDING SECTIONS 4-1152 THROUGH 4-1156; PURPOSE AND INTENT; OVERVIEW OF THE REDEVELOPMENT OVERLAY DISTRICT; STANDARDS FOR BOTH WITHIN AND OUTSIDE THE OLD U.S. 41 REDEVELOPMENT URBAN CORE THAT COMPRISE THE OLD U.S. 41 REDEVELOPMENT OVERLAY DISTRICT; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, INCLUSION IN CODE AND AN EFFECTIVE DATE.

11:20:02 AM City Attorney Vance began by addressing revisions made by City Council.

11:23:48 AM Board Member Sims stated he feels that the colors proposed were great for residential, noting that his commercial building would not be in compliance. He feels there is a need for a broader palette for commercial. He suggested allowing one color step in either direction and not limit accessory colors.

11:29:04 AM Mr. Dulmer stated that the intent is for colors that will not be offensive.

11:32:29 AM Board Member Vincent furnished the background and City Council discussion held.

11:36:13 AM Chairman Colapietro stated he didn't know if it would work for Old 41. He agreed with Board Member Sims in that the colors were good for residential uses.

11:37:54 AM Board Member Sims expressed a concern in that the palette didn't reflect yellow. His concern regards two businesses near his that are yellow. He feels it would be limiting landowners.

11:41:13 AM Board Member Sims agreed with Board Member Vincent in that something needed to be done, noting that they are trying to do something for the worst case scenario, however, they are also penalizing everyone else.

11:46:59 AM Board Member Vincent addressed the need for a relief mechanism, and Mr. Dulmer suggested language to allow a process that will allow people to deviate.

11:52:55 AM Mr. Dulmer stated it appears the Board had two issues with colors, 1) if it's similar but not identical, which is addressed in the current language, and 2) different colors that are not close to, or

similar to those in the adopted palette. This would be a separate provision.

11:55:03 AM City Attorney Vance addressed the revision. Staff would add to Section b on page 11 the wording "any other change in palette colors may be approved by City Council on a case by case basis."

11:59:03 AM Board Member Vincent motioned that the Ordinance be revised as discussed.

12:01:41 PM City Attorney Vance explained that the Ordinance will come again before the Board in January as revised. Board consensus to defer the Ordinance, with the City Attorney to inform Council of the LPA discussion.

IV. PUBLIC COMMENTS:

12:02:53 PM Conrad Schultz thanked LPA for their efforts they made all summer.

IV. NEXT MEETING. January 10, 2013

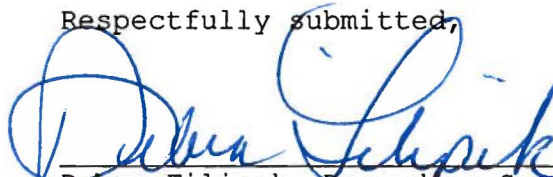
V. APPROVAL OF MINUTES: 11/08/12

Board Member Mills motioned approval of the minutes; Board Member Henry Bird seconded; and the motion carried unanimously.

VII. ADJOURNMENT.

There being no further items to discuss, the meeting adjourned at 12:03 P.M.

Respectfully submitted,

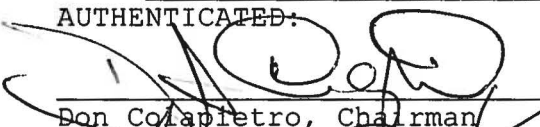

Debra Filipek, Recording Secretary

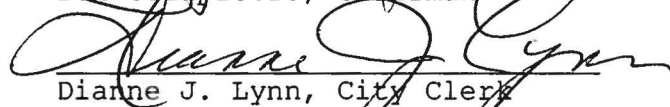
APPROVED:

LOCAL PLANNING AGENCY:

Date: _____

AUTHENTICATED:


Don Colapietro, Chairman


Dianne J. Lynn, City Clerk