



Planning and Zoning Board

**MINUTES**

June 14, 2023

**1. CALL TO ORDER**

Vice-Chairman Brothers called the meeting to order with the Pledge of Allegiance at 6:33 p.m.

**2. PLEDGE OF ALLEGIANCE**

**3. ROLL CALL**

Present: Vice Chair Rob Brothers  
Board Member Jim Liesenfelt  
Board Member Vernon Anderson  
Board Member Paul Bernkopf

Absent: Chair Chris Jaudon  
Board Member Anna Kapnoula  
Board Member Jennifer Spagnoli

Staff present: Planning Director Christy Fischer  
Planner Cyndi Snay  
City Attorney John Cary

Clerk's Note: This happened later in the meeting but has been put here for continuity.

Moved by Board Member Bernkopf, seconded by Board Member Liesenfelt to excuse Chairman Jaudon, Board Member Kapnoula, and Board Member Spagnoli. Motion passed 4-0.

**4. MINUTES**

Planning and Zoning Board Meeting of April 12, 2023

Moved by Board Member Bernkopf and seconded by Board Member Anderson to approve the minutes as written. Motion passed 4-0.

**5. PUBLIC HEARING(S) –**

- a. **Small Scale Comprehensive Plan Map Amendment – Racetrac service station – John Rodes Boulevard and Ellis Road (SSA-2023-02) – and**
- b. **Rezoning – Racetrac service station – John Rodes Boulevard and Ellis Road (REZ-2023-03) –**

Planning Director Fischer began presenting her staff report and indicated that she would be discussing the two requests together and asked Attorney Cary to explain the Quasi-Judicial hearing.

Attorney Cary explained Quasi-Judicial hearing procedures. He asked if any board members had anything to disclose and if so now was the time. Board Member Liesenfelt stated that he passed by the site daily.

Planning Director Fischer then proceeded with her presentation by discussing the property and the compatibility/surrounding zoning. She spoke very briefly about the differences between Industrial land use and commercial land use and the M-1 and C-1 zoning district's lot and structure requirements. She stated that the project has split jurisdictional boundaries with the north portion in the City of Melbourne and the southern portion in the City of West Melbourne. She stated that the City of Melbourne heavy commercial is a compilation from other districts with an accumulation of uses while the City of West Melbourne industrial is singular and separates industrial uses from other districts.

Planning Director Fischer provided a brief history of the establishment of the designated industrial area. She discussed the inconsistency of the proposal with the Comprehensive Plan's Goals, Objectives, and Policies, and the amount of land already available for commercial uses as double what is available for industrial uses in the City

She further indicated that introducing a new zoning district at the corner of Ellis Road and John Rodes Boulevard would not be in character or consistent with the Comprehensive Plan. There are locations on the west side of the interchange that can accommodate the gas station and convenience store.

She said that staff was recommending the denial of the small-scale future land use map amendment and the denial of the rezoning of the subject property. She stated the Planning and Zoning board can decide to either recommend denial or approval to City Council about the small-scale map amendment and rezoning of the subject property and then gave Vice-Chair Brothers the opportunity to open the Public Hearing.

Vice-Chair Brothers asked if there were any questions for Staff. Board Member Bernkopf indicated he had one question for staff. Board Member Bernkopf questioned whether or not these applications were creating an island of zoning, and similar to another rezoning that came before the board and was not permitted. Director Fischer asked if Mr. Bernkopf was referring to the Coastal Lane project and the rezoning to industrial was due to a unique set of circumstances. The City Attorney indicated he thought Mr. Bernkopf was asking if this petition constituted spot zoning. Director Fischer responded yes in a Planner's perspective this would be considered spot zoning. Staff tries not to do this unless there is some overriding reason for the zoning.

The City Attorney explained the difference between what a planner considers spot zoning and what a court would consider legal spot zoning. From a legal perspective, the zoning must be noxious to surrounding uses for it to be considered spot zoning.

Vice-Chair Brothers asked if staff feels that the use is bad for the area. Planning Director Fischer affirmed the proposed use was in a poor location. She further stated that other areas on the west side of the interchange are located in the Gateway Interchange zoning district

that allows for the gas station and convenience store. Prior to the interchange, there were no gas stations interested in this corner, now with the interchange there is interest. The interchange is the driving force for this request. Staff did not change the zoning in the corridor because the Ellis Road study was not prepared when the community redevelopment area was created. Once the study is completed and the widening of Ellis Road is underway then staff will review the entire area to determine if a new zoning district or overlay zone will be needed or if there are any modifications to the existing zoning districts to accommodate the area changes. She indicated that there are only two areas located in the City designated for industrial uses.

Vice-Chair Brothers opened the public hearing.

The applicant's legal representative, Tom Sullivan, working for GrayRobinson, PA spoke about the RaceTrac project, indicating that they disagreed with the staff recommendation and presented their proposal. Mr. Sullivan indicated that the design team believes the project is consistent and complementary to the area. Mr. Sullivan pointed out the northern portion of the project, which is located in the City of Melbourne, that the proposed use is allowed as a permitted use.

Mr. Sullivan described the surrounding area uses. Mr. Sullivan indicated that change is necessary when there is a change in circumstances, and that the proposed rezoning and comprehensive plan map amendment is a measured change that may not lead to changes of surrounding zoning and future land use designations. However, the construction of the interchange may require a review of the surrounding areas and changes in zoning.

Mr. Sullivan indicated that an interlocal agreement for design would be needed between the City of Melbourne and the City of West Melbourne. Mr. Sullivan again stated that the proposed use is allowed in the City of Melbourne. Mr. Sullivan provided an overview of M-1 uses allowed within the City of Melbourne.

Mr. Sullivan provided an example of a site plan approved in 2010. Planning Director Fischer stated the site plan was not approved in the City, it was only proposed. Mr. Sullivan indicated that the site is challenging concerning getting water, sewer, and the fill that will be required. Mr. Sullivan further stated that the use would be a transitional use to the industrial.

Mr. Sullivan had the Civil Engineer, Kirt Anderson, described the proposed site layout, and clarified that the 2010 site plan was only approved for stormwater by the St. Johns River Water Management District. Mr. Anderson stated that one of the key obstacles/concerns is traffic. As a result, the site design was changed by removing the out-parcel. A second egress point was added to John Rodes to provide a separation of passenger vehicle movement and truck vehicle movement.

Mr. Kirt Anderson requested that Michael Mullin, RaceTrac Corporate Representative address the Board. Mr. Mullin presented the architectural elevations to the Board and discussed corporate charitable organizations.

Board Member Vernon Anderson requested clarification on the traffic impacts for the proposed use of both Ellis Road and John Rodes Boulevard and how they plan to handle the issues. Mr. Kirt Anderson stated that one way they mitigated traffic impact by eliminating a proposed out-parcel. Mr. Kirt Anderson also indicated that the traffic impact study was not complete.

Vice-Chair questioned whether or not the parcel would be annexed into either jurisdictional boundary. Mr. Sullivan indicated that they were not looking to conduct an annexation as they would be required to de-annex from the jurisdictional back into the County and then undergo an annexation into the other jurisdiction. Mr. Sullivan indicated that all of the building was going to be in the City of West Melbourne.

Vice Chair Brothers inquired as to why they didn't look at the existing parcels that are already zoned for the proposed use. Mr. Sullivan stated that a review team determined the location and made the decision on this site. He further requested that the Board not take that issue under advisement.

Vice-chair Brothers stated that the John Rodes/Ellis Road intersection is the worst in the County and would like to know whether or not there are any preliminary traffic conclusions for the area. Mr. Sullivan indicated the use would capture pass-by trips from these roads and not primarily a destination use.

The following business owner spoke about his concern:

Bryan Russell, 700 S John Rodes Boulevard, West Melbourne, FL 32904

Mr. Russell stated he is the owner of the John Rodes Business Park and owns 60% of the business condominiums and these businesses employ over 200 people. His issue with the development request is with the traffic and compatibility with the surrounding area. He asked whether they would have to 3-lane the John Rodes Blvd. intersection similar to how the City of Melbourne was going to require him to add turn lanes if he continued building on his property.

The applicant's representative, Tom Sullivan, addressed the business owner's concerns. Mr. Sullivan indicated that the 3.6 acres were not going to take away from industrial lands. As to traffic, he recognizes that the issues are existing. Planning Director Fischer confirmed that if additional turn lanes on John Rodes Boulevard are needed as a result of this proposed development, that this would be identified during the site plan process.

Vice-Chair Brothers closed the public hearing and opened up the opportunity for the board to ask any questions of staff or the developer.

Agenda Item 5a. Moved by Board Member Liesenfelt, seconded by Board Member Bernkopf to recommend denial to the City Council of the small-scale land use map amendment. Motion passed 4-0.

Agenda Item 5b. Moved by Board Member Bernkopf, seconded by Board Member Anderson to recommend denial to City Council on the rezoning. Motion passed, 4-0.

**c. Code Amendment to the Land Development Regulations – Signs – Chapter 72, (include the newer zoning districts) – (LDR-2023-04)**

Planner Cynthia Snay presented the staff-initiated amendment to Chapter 72, Signs to provide for sign requirements for the C-NH, C-W, IB, and GTWY-I zoning districts. Ms. Snay indicated four sections of the code were being made: Section 72.10 – Temporary signs with permits required, Section 72-14 – Permanent onsite signs, Section 72-15 – Off-site digital signs, and Section 72-18, Sign regulation summary chart.

Vice-Chair Brothers opened the floor for questions from the Board for staff.

Board member Liesenfelt asked staff if the only thing being done was to designate sign requirements for the three zoning districts. Ms. Snay confirmed the amendments were only to incorporate the zoning districts into the sign code.

Vice-Chair Brothers opened the public meeting by asking if anyone would like to speak on this agenda item. Seeing no one the public hearing was closed.

Moved by Board Member Bernkopf, seconded by Board Member Liesenfelt to recommend approval of the staff-initiated amendment to Chapter 72, Signs establishing sign requirements for the C-NH, C-W, IB, and GTWY-I zoning districts. Motion passed 4-0.

**d. Code Amendment to the Land Development Regulations – Administration – Chapter 66, – (LDR-2023-05)**

Planner Cynthia Snay presented the staff-initiated amendment to delete Chapter 66, in its entirety, and create Chapter 64, Administration. Ms. Snay indicated that the primary reason for recommending deleting Chapter 66 is: the chapter is disjointed due to numerous changes being done since its creation in 1997, and it is easier for the online code company to delete a chapter than to revise an entire chapter.

Ms. Snay further discussed the primary changes made to Chapter 64, Administration. which differs from Chapter 66 by: alphabetized by sections; to provide an intent statement for the Administration chapter; to provide an intent statement for the Land Development Regulations; to provide for an organization of city boards; to eliminate the requirement for a City Council supermajority vote on rezonings; to create easy-to-read and understand tables.

Vice-Chair Brothers opened the floor to the Board to ask questions of staff.

Board member Liesenfelt asked the City Attorney if the advertising needed additional review. Attorney Cary responded that staff discussed this prior to bringing the code amendment to the board. Planning Director Fischer responded that the City Clerk also reviewed. Ms. Snay stated that staff added the language as allowed by the Florida Statutes to respond to statutory advertising requirement changes.

Vice-chair Brothers opened the hearing for public comments, but seeing no one the public hearing portion was closed.

Moved by Board Member Anderson, seconded by Board Member Liesenfelt to recommend approval of the staff-initiated amendment to delete Chapter 66, in its entirety and create Chapter 64, Administration. Motion passed 4-0.

**6. PLANNING DIRECTOR UPDATES**

Planning Director Fischer updated the board on the proposed Ellis Road widening status provided at a joint meeting with the surrounding municipalities, county, and TPO representatives. She also advised that there will be a future resurfacing project for I-95. She advised there would be a meeting for next month.

**7. BOARD MEMBER REPORTS**

No Board Member Reports.

**8. ADJOURN**

Vice-chair Brothers adjourned the meeting at 7:48 p.m.