

FRUITLAND PLANNING COMMISSION

The Fruitland Planning Commission met at City Hall on Tuesday, March 5, 2019, at 7:00 p.m. with the following members present:

Leland Bonneville, Derek Bland, Jason Pearce and Mike Hammond.

Also present were:

City Council President Darlene Kerr, City Manager John Psota, Code Enforcement Officers Marcus Henderson and Matt Solava, Administrative Assistant Linda Powell and City Solicitor Andrew C. Mitchell Jr.

Guests: *Bob Marvel, Brent Malone, of How Sweet It Is, Chris McCabe, of Coastal Compliance Solutions, LLC, Kevin Adams, Attorney T.J. Maloney and Chris Gilkerson.*

Chairman Bonneville called the meeting to order at 7:00 p.m. and acknowledged receipt of the minutes of the February 5, 2019, calling for additions or corrections. As there were none, **Mr. Bland moved to adopt the minutes as presented; Mr. Somers seconded, and the motion was approved four to zero votes in favor.**

OLD BUSINESS

1. Cedar Commons (Punch List Items...Brown Street Completion)

Chris Gilkerson, of Gillis Gilkerson, came forward to inform the Commission that he has entered into a contract to purchase the remaining duplex lots in the Cedar Commons subdivision, however, finalization of the purchase would be predicated upon the City's willingness to relieve him of the obligation to complete the unimproved portion of N. Brown Street as was required by the public works agreement between the City and the original developer of the subdivision. He stated that the cost to complete N. Brown Street would be about \$200,000 and that that amount was very close, if not equal, to the value of the remaining lots and, therefore, makes the process financially unfeasible.

Discussion then ensued among the commission members, Solicitor Mitchell, City Manager Psota and others (one of which was a resident of the Cedar Commons subdivision) as to the most beneficial way to resolve the issue. It was stated that if that portion of the street (platted as one-way) was paved, it would increase undesired traffic issues. One suggestion offered was to leave the unimproved section of N. Brown Street as is and create a cul-de-sac at the end the improved section of the street within the subdivision. Mr. Gilkerson stated that the street currently wasn't wide enough, however, if more land were obtained, it would be possible.

Finally, it was reiterated to Mr. Gilkerson that the City Council would have the final authority as to whether they would waive the requirement to complete the unimproved section of N. Brown Street and that the Planning Commission could only make a recommendation to the Council to grant the waiver.

Mr. Bland moved to recommend to the City Council that Mr. Gilkerson not be required to pave the unimproved section of N. Brown Street, but to complete all other punch list items and that the Council consider drafting legislation that would abandon

any future requirement to improve that section of the Street; Mr. Hammond seconded, and the motion was approved four to zero votes in favor.

NEW BUSINESS

1. 202 & 302 E. Main Street – Special Exception & Variance Request – Brent Malone

Brent Malone, accompanied by his consultant, Chris McCabe, came forward to present his request for a Special Exception and Variance to reestablish the “mixed use” status and to reestablish the commercial and residential use on the first floor of the structures located at 202 and 302 East Main Street. He provided the Commission with relevant documentation (site surveys, photos and letters of support from area business owners) to support both requests.

He recapped his original assessment, with the aid of Building Inspector Marc Henderson, of the interior and exterior of the structures, stating that the design/framework of each was found to be in such a state that would make it feasibly impossible to restructure each building for only commercial use on the first floor. He stated that upon completion of renovations, each structure would offer professional office space and an apartment on first floor and an apartment on the second floor. Adequate parking spaces would be available for each building as well. He also stated that the apartments would be occupied by his employees as a beneficial convenience to them and his business.

After the discussion of both requests, Mr. Hammond moved to recommend to the Board of Zoning that they grant the Special Exception and Variance to permit the “mixed use” status and to permit the commercial and residential use on the first floor of the structures located at 202 & 302 E. Main Street; Mr. Bland seconded, and the motion was approved four to zero votes in favor.

2. 600 S. Camden Avenue – Special Exception Request – Adams Housing, LLC

Mr. Kevin Adams, accompanied by Attorney T.J. Maloney, came forward to present his request for a special exception to continue the multi-family use of a single-family dwelling located at 600 S. Camden Avenue. Attorney Maloney provided photos of the structure/property as he expounded on the historical development and use of the property by its previous owners and its current status. As this issue was relatively familiar to all in attendance, especially with the in-depth information provided by a staff report, the appeal from both, Mr. Adams and Attorney T.J. Maloney failed to justify noncompliance with the current zoning regulations of that district (R1-AA) or warrant a favorable recommendation for approval of the Special Exception request. The consensus of the Commission was that the only way to possibly resolve the current violation was if the property were rezoned.

Attorney Maloney, in an effort to seek an alternative resolve to the zoning violation at 600 S. Camden Avenue, referenced the January 8, 2019, meeting minutes of the Planning Commission wherein a proposed revision of certain zoning districts, specifically R1-AA were discussed. He offered to stay the proceedings of the Special Exception application if rezoning of that district were a viable option. Mr. Bland stated that the rezoning of certain districts was being considered as part of the City’s comprehensive plan update and that before any changes occurred, the process would involve multiple public hearings and by the authority of the City Council, therefore, any changes would not occur for quite some time. Mr. Adams stated that he did not want to displace any of his tenants based on the uncertainty

of any future zoning changes. In response to Mr. Adams' statement, Code Enforcement Officer Matt Solava informed all that a court order has been given to Adams Housing to abate the zoning violation by March 1st, however, as of the morning of March 5th the tenants were still occupying the entire structure as a multi-family dwelling.

As discussion continued referencing rezoning possibilities, Solicitor Mitchell reminded all that the purpose of the meeting was to determine whether the Applicant had presented adequate testimony to meet the standards for approval of his special exception request. Attorney Maloney then replied that the property had sufficient ingress and egress from a public right-a-way, there had been no complaints lodged about the property, aside from the one mentioned at the meeting that evening, the multi-family use does not adversely affect the neighborhood and that the use was similar with that of the previous owners.

At the conclusion of Attorney Maloney's statements, Chairman Bonneville moved to recommend that the Board of Zoning Appeals not approve the Special Exception to allow the multi-family use of the dwelling at 600 S. Camden Avenue; Mr. Hammond seconded, and the motion was approved 3 votes in favor and one abstention.

3. **Ordinance No. 210 – Special Exception Language**

Solicitor Mitchell stated that Ordinance No. 210 was basically passed because of matters that were coming before the Planning Commission and Board of Zoning Appeals that were not clearly specified as permitted uses in certain zoning districts. Also, due to a recent issue which involved language of that ordinance, he has since questioned its legality. Consequently, he wanted to inform everyone that he would be reviewing the ordinance to see if it should be eliminated and, if so, the matter may come before the Commission in the future for a recommendation to the City Council. However, after hearing Solicitor Mitchell's historical account of the purpose and past instances of special exception requests based on the language of Ordinance No. 210, there was a consensus of the Commission to move forward with the elimination of that legislation.

Mr. Bland moved to recommend to the City Council that the language in Ordinance No. 210 be repealed; Mr. Hammond seconded, and the motion was approved four to zero votes in favor.

General Discussion

None.

With no further business to discuss, **Mr. Bland moved to adjourn, and Mr. Hammond seconded. The motion was approved four to zero votes in favor and the meeting adjourned at 8:15 p.m.**

Submitted by,

Linda J. Powell

Approved May 7, 2019