



MINUTES
SPECIAL CITY COUNCIL MEETING
MONDAY, AUGUST 13, 2018, 6:00 P.M.
FLETCHER HIGH SCHOOL AUDITORIUM
700 SEAGATE AVENUE
NEPTUNE BEACH, FLORIDA 32266

Pursuant to proper notice a Special City Council Meeting of the City Council of the City of Neptune Beach was held on Monday, August 13, 2018, at 6:00 p.m., at Fletcher High School Auditorium.

Attendance:

IN ATTENDANCE:

Mayor Elaine Brown
 Vice Mayor Scott Wiley
 Councilor Richard Arthur
 Councilor Rory Diamond
 Councilor Fred Jones

STAFF:

City Manager Andrew Hyatt
 City Attorney Patrick Krechowski
 Deputy City Manager Amanda Askew
 Police Chief Richard Pike
 Public Works Director Leon Smith
 Deputy Public Works Director Megan George
 Code Compliance Supervisor Piper Turner
 Code Enforcement Officer Denzel Dehm
 City Clerk Catherine Ponson

**Call to
Order/Pledge**

Mayor Brown called the special meeting to order at 6:00 p.m. Police Chief Richard Pike led the Pledge of Allegiance.

**Disclosure of
Ex-Parte
Communications**

Mayor Brown and each Council Member stated that over the course of the past several months, they had met with both representatives of the applicant and members of the public. They had also received and responded to emails from various concerned citizens regarding the application.

**Swearing in of
Experts**

City Clerk Catherine Ponson asked any persons planning to give expert testimony to stand in. The Clerk read the oath, and each person affirmed, to tell the truth.

**CDB SE 18-02,
Neptune Beach
FL Realty, LLC
500-572 Atlantic
Bld Planned
Unit
Development
(PUD)**

CDB SE18-02 Special exception request of Neptune Beach FL Realty, LLC for the property known as 500 through 572 Atlantic Blvd, (RE# 172395-0100 and 172395-0120). Proposing a special exception for a Planned Unit Development (PUD) on approximately 17 acres of property zoned C-3. Proposing to build up to 175 multi-family residential units and new retail commercial and hotel uses.

Andrew Greene, representing TLM Neptune Beach FL Realty, LLC, the owners of the property, gave a brief history of the proposed project. He stated that they had owned the property since 1983. After the demise of Kmart, a decision was made with Lucky's Market, to look for a tenant that would be exciting and fit the community well. The proposed

development would provide a walkable, mixed-use with a connection to the Beaches Town Center.

Katherine Mosley, Vice-President of Development for TriBridge Residential, the developer of the project, stated that currently the property is a 17-acre, abandoned Kmart site which is zoned C-3. She recapped what could be built today by right in context to what they are proposing. She spoke regarding scenarios that are in the framework of the vested concurrency on the site. Ms. Mosley presented comparable uses that are allowed within the C-3 Zoning District to be able to project future development for the site without the special exception that is requested.

Ms. Mosley stated that there is an opportunity to take a site that is entitled to a great amount of density on one of the main thoroughfares of the City, and create a sense of place. The proposed project has 107,000 square feet of commercial space, 74 boutique hotel rooms, 175 multifamily units and a public parking deck.

Ms. Mosley continued that over the past year, the developer has solicited feedback from stakeholders, homeowners, business owners, and Council Members. It has been a collaborative effort. The application has changed a couple of times, and each change took the community feedback to try to make something that is better for the City of Neptune Beach. She added that in addition to the expansion of the Beaches Town Center and the enhanced pedestrian, there is proposed parking and access to the underutilized Ish Brant Park.

Ms. Mosley explained the project that is proposed today is far less intense than what is allowed by right. She reviewed each of the 8 criteria that are required by the City Code for a special exception. She stated that the project is consistent with the Comprehensive Plan and the project is compatible with the general character of the area. Ms. Mosley remarked that the entire 17-acre parcel would be brought into stormwater compliance, which never existed on the current site. They are preserving and improving the JEA stormwater facilities onsite and removing the heat island effect created by a large amount of impervious surface. The proposal is about 20% reduction in impervious square footage. It is confirmed by the City staff report, that there would be no detrimental effect on traffic. They are providing significant improvements in the pedestrian connectivity using the grid system, addition of sidewalks, landscaping, and lighting, along with the proposed trail. This is an infill site bound on three sides by C-3 properties and to the south, a medium intensity residential use. They are providing transitional use at the residential and all other areas are compatible with the C-3 Zoning District. They are removing the blighting effect of the closed Kmart and opening up the possibility of additional commercial buildings in the nearby region. There is no creation of objectionable noise, light, vibration or other activities inconsistent with the permissible uses. She reminded everyone that this is a C-3 site entitled for a lot of density under those permissible uses and nothing proposed is more intense than that. The proposed plan would not overburden public services and facilities. They would verify that they would be in compliance with all Codes.

Ms. Mosley recapped the issue of density. She stated that the current plan would increase the population by about 245 people, which is a net increase of 3% on arguably the last site to be redeveloped in Neptune Beach. She then reviewed the units by acre per block. She stated that the average units per acre east of Third Street is 11.4. The proposed units per acres is 10.5, which is consistent with the Comprehensive Plan Table A-1 regarding density.

Wyman Duggan, Attorney with Rogers Towers, representing the development team, submitted a binder containing information and original affidavits (**Exhibit 1**, on file). He stated that the binder contains 6 affidavits from experts and a copy of Ms. Mosley's presentation.

He explained that everything needed to make a decision on the basis of competent substantial evidence supported by data and analysis is in the binder.

Mr. Duggan stated that the 8 criteria required for the special exception are outlined and cross-referenced by each affidavit laying out how that criterion is satisfied. He then reviewed each of the 8 criteria and the evidence supporting each of those requirements. He reminded everyone that the applicant is not seeking a variance and there is no identification in the City staff report that there is a nonconformity requiring a variance in the plan of development. There is no other element of the Code that is identified as not being complied with.

Mayor Brown asked anyone opposed to the application to stand and then asked anyone in favor of the application to stand.

Comments from
the Public

Mayor Brown opened the floor for public comments.

Mary Frosio, 1830 Nightfall Drive, Neptune Beach, stated she represented over 3,000 residents of Neptune Beach, Neptune Strong, in opposition to the development. They call themselves Neptune Strong. Ms. Frosio referenced a 2017 Neptune Beach appeals court case in which a judge upheld a Community Development Board decision to deny an applicant's request for development based on competent substantial evidence presented by the citizens of Neptune Beach.

Janis Fleet, 4041 Sunbeam Road, Jacksonville, submitted a report (**Exhibit 2**, on file) to the Council. She stated that in her opinion, based on her professional planning expertise, the proposed application does not meet the requirement of Section 27-160 of the City Code, which is required to prove the special exception.

Jeffrey Buckholz, 3585 Kori Road, Jacksonville, submitted an affidavit to the Council. (**Exhibit 3**, on file). He stated that he has been a traffic engineer for 40 years. He spoke regarding the traffic issue due to the development and that a traffic study should have been conducted in order to make a decision.

Leo Hearn, 1412 Neptune Grove Drive E, Neptune Beach, submitted an affidavit (**Exhibit 4**, on file). He stated he has worked in the occupational and safety profession for 35 years. He expressed his concerns regarding the impact of the proposed development on pedestrian safety.

Carl E. Moody, 2022 Marye Brant Loop S., Neptune Beach, submitted an affidavit (**Exhibit 5**, on file). He stated he is a state-certified general appraiser. He advised that he is refuting the affidavit submitted by the applicant of Courtland C. Eyrick which stated the apartments will not have any adverse impacts on the value of properties in close proximity, including residential properties."

Amy-Terry Bartlett, 1822 Nightfall Drive, Neptune Beach, submitted over 3,000 signatures (**Exhibit 6**, on file) in opposition of the development. She stated that she is a real estate agent and 20-year resident of Neptune Beach. She added that a home adjacent to a three-story apartment would have a negative impact on its value.

Lou Allen Aston, 1523 Summer Sands Drive, Neptune Beach, spoke and submitted a handout (**Exhibit 7**, on file) regarding Section 27-244 (b) which defines the Planned Unit Development (PUD). She stated there is no integration of character or design over the development, as required.

Joseph Emmerich, 711 Cherry Street, Neptune Beach, submitted **Exhibit 8**, on file. He stated the proposed use is not consistent with the Comprehensive Plan because it is not in keeping with the low density residential character of Neptune Beach, which is defined by up to 5 residential units per acre.

Julio Esteban, 140 Sandcastle Way, Neptune Beach, submitted **Exhibit 9**, on file. He stated that the proposed use would not be compatible with the general character of the area, considering the density.

Lauren McPhaul, 123 Cedar Street, Neptune Beach, submitted **Exhibit 10**, on file. She stated that the proposed use would not be compatible with the general character of the area, considering the orientation of existing permissible structures in the area, and location of existing similar uses.

Jeremy Randolph, 1835 Nightfall Drive, Neptune Beach, submitted the transcript of Police Chief Richard Pike's testimony (**Exhibit 11**, on file) from the Community Development Board meeting on July 18, 2018, regarding the crime impact due to the development. He stated had concerns regarding what happens to the apartment complex in the future if it has been sold and the apartments had been rented over time.

Robert Vannoy, 625 Cherry Street, Neptune Beach, submitted letters of opposition to the development (**Exhibit 12**, on file). He stated the letters were from himself and 6 neighbors who live in the subdivision that backs up to the proposed development. He stated that the project would have a material and adverse effect on the quality of their lives and value of their homes.

Katie Alberti, 809 1st Street, Neptune Beach, submitted a handout (**Exhibit 13**, on file) and stated that the proposed use would have a detrimental effect on the future development.

Ric Duncan, 407 McCollum Circle, Neptune Beach, stated that the developer had not taken any feedback from the citizens into consideration in the application.

Josh Messinger, 220 Hopkins Street, Neptune Beach, encouraged the development group and any other developer looking to put roots in Neptune Beach to listen and work with the community.

Mayor Brown announced there would be a 10-minute break.

Mike Blount, 915 Florida Boulevard, Neptune Beach, spoke regarding character, consistency, and precedent. He asked the Council to stay consistent with the spirit of the Comprehensive Plan.

Omar Brown, 2268 Mayport Road, Atlantic Beach, stated that Neptune Beach is defined by its open spaces and the proposed development plan has zero open spaces for the public. He also requested the Council repeal the PUD ordinance.

Debbie Hayman, 404 McCollum Circle, Neptune Beach, spoke regarding Ish Brant Park and the proposed trail. She stated that the park had been designated as a passive park, which is a greenspace meant to be for animals and birds. The park was meant to be left in its natural state. Ms. Hayman added that more people would affect hurricane evacuation.

Bridget Meyer, 219 East Coast Drive, Atlantic Beach, spoke regarding knowing the people who are on the applicant's side.

Mayor Brown closed the public hearing at 7:45 p.m.

Response by Applicant Paul Harden, 501 Riverside Avenue, Jacksonville, representing the owners of the land who are seeking the special exception, stated they have a set of rules to follow which are set by the City Code. He added that the applicant has sought a special exception on a parcel of land that is designated high commercial, C-3, which is the most intense commercial zoning category in the Code. The applicant is not asking for 550,000 square feet of hotel use or a big box store of 350,000 square feet but is requesting 74 hotel rooms, 175 residential units, and some commercial space. Mr. Harden stated that special exceptions have a special place in the zoning code and are presumed to be in the public interest.

Mr. Harden explained that the proposed use is an allowable use in the mixed-use category that is set up in the Zoning Code. He stated that the Council needs to consider what the other existing permissible uses are on the site to see if this is a better or less intense use. The character of the area is to take into consideration what can go there and determine if it is in that character.

Mr. Harden stated as far as the traffic issue is concerned, this site is vested and entitled to 3,998 daily trips. The proposed development has a lesser number of trips than it is currently vested for. He explained that the site is developed out and would not have a detrimental effect on future development.

Mr. Harden concluded that his client's application and the competent substantial evidence presented without rebuttal from a competent substantial source meets the criteria required for a special exception. He encouraged the Council to take into consideration a process where you can have conditions and put limitations on a use rather than test the fates on what is allowed there under the Zoning Code.

Consideration and determination by Council

Made by Diamond, seconded by Wiley

MOTION: TO ACCEPT THE RECOMMENDATION OF THE CDB TO REJECT CDB SE 18-02

Councilor Diamond stated he had carefully reviewed the application and related materials regarding CDB SE 18-02, including but not limited to the application, the July 18, 2018, Community Development Board meeting notes and tapes, and various affidavits of experts and exhibits. Based exclusively on those materials, this evening he had concluded that the Community Development Board appropriately denied CDB SE 18-02 and again based exclusively and solely on those materials would vote to uphold CDB's decision

Councilor Arthur stated it was great to see the community engaged. He asked for civility and respect, no matter what the outcome.

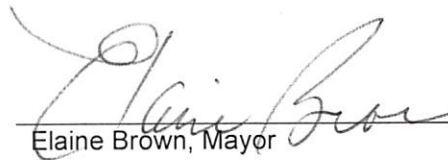
Roll Call Vote:

Ayes: 5 –Arthur, Diamond, Jones, Wiley, and Brown.
Noes: 0

MOTION CARRIED

Adjournment

There being no further business, the Special Council meeting adjourned at 8:10 p.m.


Elaine Brown, Mayor

Attest:


Catherine Ponson, City Clerk



Approved:

9/4/18