

**VILLAGE OF PALM SPRINGS
MINUTES OF MEETING
LAND DEVELOPMENT BOARD
FEBRUARY 9, 2016
6:30 PM**

CALL TO ORDER

The meeting held in the Council Chambers at Village Hall was called to order by Chairman Wong at 6:30 p.m.

ROLL CALL

Members present: Chairman Ronald Wong, Vice Chairman Johnnie Tieche, Richard Hughes, Dawn Cox and Peter Braun

Staff in attendance: Director of Land Development Kim Glas-Castro, Land Development Planner Iramis Cabrera, Village Attorney Brian Shutt and Interim Village Clerk Jane Worth

Absent: Ralph Lashells and James Mandigo

Director Glas-Castro clarified that Ralph Lashells, Peter Braun and James Mandigo's terms had expired and they would be on the agenda at the next Council Meeting for consideration of approval.

ADDITIONS, DELETIONS OR MODIFICATIONS TO THE AGENDA

Director Glas-Castro stated approval for the minutes would be on the next agenda in March. She would also have something under New Business at the end of the meeting that she would like to discuss.

ORDER OF BUSINESS

PUBLIC HEARINGS

REGULAR AGENDA

NOTE: CLERK TO ASCERTAIN IF THERE ARE ANY *EX PARTE* COMMUNICATIONS TO BE DISCLOSED DURING QUASI JUDICIAL DISCUSSIONS. CLERK TO SWEAR WITNESSES FOR TESTIMONY

There were no ex parte communications disclosed. Interim Clerk Worth swore in Director Glas-Castro, Attorney Brian Shutt, Planner Iramis Cabrera, Damien Brink, Charles Ward, Hector Cabrera to give testimony.

1. **Resolution No. 2016-15** - Approval for the Preliminary Plat of Kingswood Academy, submitted by Damian Brink, agent for the owner, which will unify three (3), located at 4136 S. Congress Avenue.

Director Glas-Castro stated this was a Preliminary Plat for the daycare. The Site Plan/Special Exception for the daycare was previously approved. The main objective of the Preliminary Plat is that it unifies three parcels into a single tract of land. The Village Surveyor has reviewed the preliminary plat and recommends approval. There are no comments from Staff.

Mr. Damien Brink, with John Schmidt and Associates was present to represent the applicant if the Board had any questions.

Chairman Wong asked the public or the Board for any additional comments. Hearing none, a motion to recommend approval, was made by Mr. Hughes and seconded by Ms. Cox. Motion carried 4 – 0.

2. **Resolution No. 2016-16** - An application submitted by Hector Cabrera, owner for Cabrera Subdivision, requesting a Site Plan approval (SPR16-02) for construction of seven single family homes, as part of a Residential Planned Development, on individual lots already platted located at 3386 Kirk Road.

Planner Cabrera stated the properties were voluntarily annexed into the Village in 2005. In 2008 the Village Council approved a cluster development, to divide the lots into seven (7) and construct seven (7) individual homes. The lots were subdivided and the plat recorded with 40 ft. right of way which was dedicated to Palm Springs as a local road. The expiration day of the Site Plan was 2011 and it was never executed. Staff considers this application as a reactivation of the old site that was approved in 2008 since the plats were already recorded. Staff supports recommendation and approves of the Site Plan.

Mr. Hector Cabrera, owner of the Cabrera Subdivision was present for any questions.

The Board had the following concerns:

- 1) Were there going to be sidewalks?

Mr. Cabrera stated there was not any room for sidewalks and it would be a dead end street.

- 2) The “T” at the end of the street was extremely restrictive, how would first responders turn around?

Mr. Cabrera stated the fire department approved that prior and reapproved it again. He stated each house had four (4) parking spaces. There should not be parking at the end of the road, but he had no control over that.

- 3) There was a picture provided of a driveway and it would take up too much of the impervious area. Mr. Cabrera stated the picture was for the house in general, the

driveways would be straight.

- 4) What was previously approved, is it the same that has been submitted today? Director Glas-Castro stated it was nearly identical to what was previously platted. Technically it is a new Site Plan, they were asking for similar waivers as to what was granted previously and yes, the Village's philosophy had changed. The only new item they were asking for was the Village to waive the Homeowner's Association.
- 5) Did the drainage meet the required requirements? Director Glas-Castro stated it had been approved by a Village Engineer
- 6) Who would maintain the fence at the end of the road? Mr. Cabrera stated it would be the responsibility of the Village as it would be a Village road when everything was complete. The Board suggested a concrete wall.

There was a lengthy discussion on street lights with some of the following comments:

Lighting for the streets – the Board could recommend if they deemed necessary, which was addressed in Condition #16. Mr. Cabrera stated if it was required he would put lighting in as individual residential sized poles in the yards and a street light at the entrance. If the homeowner did not want it on, they had the right to turn them off. The Village would be responsible for the electric but FP&L would be responsible for the pole. It was agreed that at least two (2) lights minimum and/or at the determination of the Village.

Landscaping for the fence, who would maintain the fence, and a perimeter buffer was also discussed. The Board still felt a concrete wall was the best. Director Glas-Castro stated it would have to be discussed again with the Public Service Director.

Director Glas-Castro stated the Village would not maintain a wood fence at the "T" turn around, there would have to be another solution. Mr. Cabrera suggested the owners at the corner lots to maintain the fence? Director Glas-Castro stated the Board could condition it and it would have to be included in the sales contract of those particular lots, which the Village would have to see the contract also. Due to the code requirements, there had to be landscaping on the west side of the fence as a screen mechanism. Director Glas-Castro stated there would have to be changes made prior to the Council approval.

Mr. Charles Ward, owner of 3368 Kirk Road, was extremely concerned with the fences that would be facing his property. He lived to the north of the proposed development. He was also concerned with the drainage system, as a new duplex was just built to the north of his property and now there are water issues. If there was a bad rain, his driveway would be under water. If there were a concrete wall installed between his home and the new homes, he would be more than happy to paint the wall or clean it in the manner to which it should be taken care of as he takes pride in his home surroundings. Also, the concrete wall would be a buffer for the water retention. He was also concerned with the electric, would there be another pole at the end of the development to install the electric. It was stated the electric

would be installed underground, which made him more at ease. His main concern was the fence and the height of the houses and water running in to his property.

Director Glas-Castro stated the elevation of Mr. Ward's property ranged from 18.4 – 19.0, the project will have a berm of 18.6, and there was a swale area that dropped off to 17.5, it drops a foot to create a swale, and the water runs to the west into a catch basin. The front half runs to the road, and the back half runs to the rear of the house. Everything would run to the west to the catch basin and exfiltration trench. Mr. Ward felt if there were a three (3) foot high berm that would keep water off his property, if there were a four (4) inch swale, that wouldn't keep any water off his property. Another concern of Mr. Ward's was the 15 ft. setback. He would lose so much privacy, if there was a 6 ft. wall that would be better. Director Glas-Castro stated there would be a 6 ft. fence on the swale. Mr. Ward stated there were too many concerns for him to maintain his privacy. Maybe if there were a Homeowner's Association, they would address problems, and Mr. Ward would feel more comfortable.

Director Glas-Castro stated hearing this discussion, and looking at the drainage plans, she felt there needed to be a loose Homeowner's Association to take over the common elements, including the drainage, common fences and the street lights. Mr. Cabrera felt the Homeowner's Association was a disaster, as seven (7) homes were not a real community. Attorney Shutt stated a deed restriction could be put into the sale of the home. As far as enforcement, if they decide not to, it won't be so much a code issue, it would be a civil matter. Unless there is an HOA to enforce and get things done, that would be the alternative.

Chairman Wong asked the public or the Board for any additional comments. Hearing none, a motion to recommend approval, was made by Ms. Cox and seconded by Mr. Hughes, subject to the addition of street lights with the direction of Public Services for location, also the fence at the end of the road in the "T" area that the material be installed in accordance with the direction of the Public Services Director and all other conditions included in the recommended Staff report. Motion carried 4 – 0.

3. **Ordinance No. 2016-01** – Amendment to Chapter 1 "General Provisions", Section 1-2, "Definitions and Rules of Construction"; amending Chapter 10, "Buildings and Building Regulations", Article I, "In General", Section 10-5, "Occupancy Limitations"; and amending Chapter 34, "Land Development", Article VI, "Land Use", Division 7, "Supplemental District Regulations", Subdivision I, "In General", Section 34-888, "Conformance With Definition Required; Use Of Property For Conventions, Seminars, Etc." to clarify the definition of family and its application.

Director Glas-Castro informed the Board this amendment was a housekeeping matter, for clarification as to what constituted a family and to have no grey area.

Chairman Wong asked the public or the Board for any additional comments. Hearing none, a motion to recommend approval, was made by Ms. Cox and seconded by Mr. Tieche. Motion carried 4 – 0.

4. **Ordinance 2016-02** – Amendment to Chapter 34 “Land Development”, Article IV “Signs”, Division 1 “Generally”, Section 34-262 “Prohibited Signs”; amending Division 2 “Permits”, Section 34-291 “Required; Exemptions”; amending Division 3 “Specifications”, by deleting Section 34-324 “Temporary Signs And Banners” and enacting a new Section 34-324 “Temporary Signs” to modify its Sign Code in order to comply with the recent Supreme Court Decision.

Attorney Shutt stated in June 2015 the US Supreme Court made 99.9% of the municipal codes unconstitutional as for as the way temporary signs were dealt with. Signage could not be regulated on content that would be violation of the First Amendment. There had to be a way to treat all signs the same, whether it be a garage sale sign, real estate sign, or a directional sign. There would only be one sign as a “Temporary Sign”. This particular ordinance meets the Supreme Court standard. Attorney Shutt continued to explain the intricacies of the new amendment to the sign ordinance.

The Board concluded that the new amendment took away the specificity that the Village had incorporated and that temporary signs did not need a permit for that type of sign.

Chairman Wong asked the public or the Board for any additional comments. Hearing none, a motion to recommend approval, was made by Mr. Tieche and seconded by Ms. Cox. Motion carried 4 – 0.

5. **Ordinance 2016-03** – Amendment to Chapter 10 “Buildings and Building Regulations”, Article I “In General”, Section 10-28, “Reasonable Accommodation Procedures”, to delete the requirement to provide copies of leases and to provide for an expiration date of the reasonable accommodation approval.

Director Glas-Castro stated this was also a housekeeping matter. Recommendations of eliminations of copies of leases, which all type of rental facilities would be treated the same. The intent of the provision that is being deleted will accommodate the code provisions for landlord/tenant regulations or guidelines that will apply to all rental properties within the Village.

There was a continued discussion in length regarding reasonable accommodation procedures between the Board, Director Glas-Castro, and Attorney Shutt.

Chairman Wong asked the public or the Board for any additional comments. Hearing none, a motion to recommend approval, was made by Ms. Cox and seconded by Mr. Tieche. Motion carried 4 – 0.

5. Discussion - Consideration of Miller Road Stormwater Improvement Project for the County’s Local Mitigation Strategy (LMS) Project.

Director Glas-Castro stated that Staff was bringing this item forward to follow through with the requirements of the grant program which called for a Public Meeting and Statement

of Public Support, for a Capital Improvement Project. Staff was preparing to bring this project forward to the County to be placed on the PPL – Prioritized Project List, of the local mitigation strategy program. Those on the list are eligible for the grant monies, when the monies are available. These monies normally do not come available unless there is a natural disaster. One of the projects identified, for the March cycle, would be the stormwater Miller Road Improvement. It was to be funded through the stormwater utility assessment, but it was deferred, so Staff could better research the collection of those fees, so there was no money for the Miller Road Improvement, for this fiscal year. She stated that 2nd Avenue North is at a higher elevation than Miller Road and constantly floods. Even during a typical rain storm it pools in that area of Miller Road. It floods into the adjacent properties and one of the properties is a daycare that has capability for 153 children. The street is otherwise residential, with tri-plexes, duplexes and single family homes further to the north. The parents and residences of the area are affected by the flooding. The price for improvement would be approximately \$60,000.00. Staff feels this would be a good candidate for being considered for prioritization on the Counties list, as there are a large number of people being affected by this.

Director Glas-Castro stated there were a number of back up materials included in the Boards packages, along with letters from homeowners for support. The Board asked if the Village maintained the road. Director Glas-Castro stated many residents feel it is a private road, but the Village has helped to maintain the road, and since public monies have been used to maintain it, it's a quasi-public road. The Village acknowledges there is a drainage problem, and feel we could be part of the solution. It was also mentioned from the information in the Board's packages about the possibility of draining the water into the lake. There was a question if the lake was lower than Miller Road with the water back flowing into the road. Director Glas-Castro stated that was part of the design challenge.

Gary Ready, 3118 Meadow Road, stated that only 50% of the homes were occupied, many of the places are vacant homes or some places were under construction.

Director Glas-Castro asked for an indication of support for the project so that it could be included as part of the record. The Board asked if this would set a precedence for every domain that would be a financial liability. Director Glas-Castro stated it was a Village Capital Improvement but there were no monies available at the time. The Village would be responsible for the design and construction of the project. She also said it would be either Federal or State grant monies.

Chairman Wong asked the public or the Board for any additional comments. Hearing none, a motion for support of the grant and project, was made by Mr. Hughes and seconded by Mr. Tieche. Motion carried 5 – 0.

OTHER BUSINESS

New Business – Director Glas-Castro stated there have been some business owners that have approached the Village on potential development projects. Both case structured as flex units, there would be retail upfront, and a storage work area in the back. One business

was a contractor with their home office in the front and storage of equipment in the back. Not to be compared to a contractor's storage unit with equipment being fenced in behind the building. In their building, they would lease to other offices/businesses' that had a similar need for office/storage space.

Per Code, flex units were only permissible in light industrial district. In other communities, flex units are permitted in commercial general. The business would be the majority of the space, with only 30% being storage. Director Glas-Castro wanted the Boards opinion on whether this type of flex unit that could be permissible in the commercial general district or should they be differed to the light industrial district.

The Board did not see a problem with the commercial general district. However, if the owner wanted to put a huge building on a property, they would not adhere to the parking. If the parking were at industrial rate, there would not be enough parking. The use could possibly be limited. If parking was provided and limited 50% or 30% to warehouse, that's the owners business.

Mr. John Reynolds referred to the old trailer park on Davis Road, across from where the old drive-in movie theater. He asked what were parking requirements for retail verses commercial. Chairman Wong gave him the figures. Mr. Reynolds stated they would be limited to 25,000 sq. ft. It was discussed regarding the buffers factored in, it would need 125 spaces, and the building would not fit. The current owner was approached years ago to annex into the Village, it's still in the County. If there were some drawings that were presented to the Village, could a variance be requested? Director Glas-Castro stated there needed to be design concepts presented. The Board wanted to remind Mr. Reynolds, that there needed to be a hardship or a justification for a variance to be granted. This needed to be submitted to Land Development.

ADJOURNMENT

Hearing no other business, Chairman Wong adjourned the meeting at 8:34 p.m.

**NEXT LAND DEVELOPMENT BOARD MEETING
MARCH 8, 2016 AT 6:30 P.M.**

Respectfully submitted,

Deputy Clerk

Approved by Board _____
(Date)
