



PLANNING & ZONING ADVISORY BOARD

Minutes of February 7, 2011

Meeting Called to order at 7:03 p.m.

1. **ROLL CALL**

P&Z Board Members

MEMBERS	2/7/11	1/18/11	1/3/11	12/20/10	12/6/10	11/1/10	8/16/10	6/21/10	5/17/10	4/5/10	3/15/10	
Marianne McCoy	P	A	C A N C E L L E D	P	P	P	P	P	P	A	P	
Diane Sori	P	P		P	A	P	P	P	A	P	P	
Vacant												
Michelle Keirnan, V/Chair	P	P		P	A	P	P	P	P	P	P	
Craig Konhauzer	P	P		P	P	P	P	P	P	P	P	
Mark Aronson, Chair	P	P		P	P	P	P	P	P	P	P	
Ben Schulman	P	P		A	P	A	A	P	P	P	A	
Vacant												
John Valenti	P	P		P	P	P	P	P	P	P	A	P
Bart Roper	P	P		P	P	P	A	P	P	P	P	P

* Reappointed ** Resigned *** New appointment

STAFF PRESENT: *Matt Wood, Director*
Trevor Markley, Senior Planner
Ro Woodward, Administrative Coordinator
Jeanette Wofford, City Arborist

APPLICANTS:

Chaim Gidaldi, Stirling Town Center
Matthew Wealcatch, Esq., Stirling Town Center
Hope Calhoun, Esq., Ruden McClosky, La Costa Monterra
Jimmy Wright, CCDEVCO, La Costa Monterra

2. **P&Z BOARD - MINUTES - WAIVE/APPROVE – January 18, 2011 MOTION TO WAIVE READING OF MINUTES OF 1/18/11:** Motion to waive the reading of the minutes made by Ms. Sori and seconded by Ms. Mc Coy. All ayes on voice vote. **APPROVE:** Motion to approve made by Ms. Sori and seconded by Mr. Roper. There were all ayes on voice vote. Motion was approved.

3. **CORRESPONDENCE**
 None

4. **NEW BUSINESS:**

A. ***PUBLIC HEARING – STIRLING TOWN CENTER VARIANCE PETITION # V 10-1-10 (PARKING RATIO) – LOCATED AT 8637 – 8735 STIRLING ROAD**

Mr. Wood explained that this is a B-1, Planned Neighborhood Business District and this item is a Variance petition for parking considerations at Stirling Town Center. The center received site plan approval as a retail center with a required parking ratio of one space per 200 square feet which for the 53,821 square foot center requires 269 parking spaces. A retail center would be a center limited to establishments that are classified as retail. The owner/developer at the time of site planning chose to voluntarily restrict the center as retail rather than a general shopping center because approval as a shopping center would require additional parking. The owner/developer did so with the acknowledgement that it would affect the type of tenant that would be permitted. A shopping center is a more general center than a retail center whereby a shopping center also

provides for having service establishments including restaurants. As a shopping center the 53,821 square foot center would require one space per 150 square feet which would equate to 359 parking spaces. The center currently has 277 standard parking spaces plus seven handicapped spaces for a total of 284 parking spaces.

Through the years since the center was constructed and as the ownership of the center has changed, the City has worked with the center owners on various aspects including the tenant mix in order to help the center be vibrant and successful.

The applicants state the variance is justified because the center is a "hub" and the voluntary restriction by the previous owner is injurious to the current owner and the community. They state that not only will a more general mix of tenants remove the economic hardship on the owner but also allow for a greater service to the community including the developing Monterra project across the street from the center.

The variance requests deviation from City Code section 25-4 to retain the parking ratio requirement of one space per 200 square feet as would be for retail but to be allowed classification as a shopping center. In this manner the amount of required parking for 53,281 square foot center would remain as 269 parking spaces. Since the center currently has 284 spaces, approval of the variance in this manner would mean if it needed to remove some spaces it could do so such as to add an additional dumpster or other similar project as long as 269 spaces remained. However, the variance would apply to the 53,281 square foot size of the center as it is currently approved. If additional bay space were proposed to be added to the center, the addition would be subject to the applicable parking ratio at that time.

In order to at least partially specify what would be considered a mix of tenants for the shopping center classification, the applicants' request includes that they would not exceed 60% of food service establishments for the center and that they are currently below that threshold.

Mr. Wood commented that Staff has determined that the application meets all the submittal requirements for review and processing of a variance petition.

Mr. Wood remarked that Staff acknowledges the hardship of the current economy on owners of all centers including this one. Staff agrees a more general mix of tenants should assist in the success of the center and that it would be beneficial to providing desired businesses in the community.

Mr. Wood concluded that the Planning and Zoning Board is requested to discuss the petition and make a recommendation. Board input will be forwarded to the City Commission for action.

Mr. Konhauzer arrived at 7:07 p.m.

Mr. Matthew Wealcatch introduced himself as the representative for the petitioner and is available to answer any questions.

Mr. Aronson opened the Public Hearing at 7:09 p.m. and seeing no one to speak, closed the Public Hearing at 7:09 p.m.

Ms. Sori commented that the petitioner mentioned a national brand store would want to open and that they could create up to a 12,000 square foot unit and wanted to know if they have had any inquiries into that from someone who might want that.

Mr. Chaim Gidaldi introduced himself as one of the owners of the shopping center, and responded they have in the past, but their problem in the hardship they are requesting is that it is a small town and Engle Homes left a vacant place in their shopping center. It is a corner part and they need to get someone bigger in it. He commented they have made a request in the past, but were denied. At some point the way the statute says now it is food. For example, someone wanted to make a bakery, a cheese factory, and they couldn't even apply for it because they knew that code would not allow that. This is the hardship they are requesting.

MOTION: TO APPROVE STIRLING TOWN CENTER VARIANCE PETITION # V 10-1-10 (PARKING RATIO) – LOCATED AT 8637 – 8735 STIRLING ROAD. MOTION MADE BY MR. KONHAUZER AND SECONDED BY MS. SORI FOR DISCUSSION.

Mr. Roper commented that what they were doing was totally giving in. This particular center was established with the parking guidelines that it has now because it's the way it was setup. What you are asking for is to decrease the number of parking spaces so you can change the makeup of the center. He remarked that basically what they are doing is the same thing that every shopping center in Cooper City would like to do. He remarked that every center in Cooper City has got vacancies and it is not just them. He would ask what the City is going to do for the rest of the centers. He commented that he has a problem with going from 359 to 284 parking spaces just to go ahead and give them this classification. He said that we have the code for a reason.

Mr. Konhauzer explained that he is there every day at this center. He remarked that he has never seen a situation that he had an issue parking. He said that he gets there between 1:00 p.m. and 4:00 p.m. and has never had a parking issue. He commented that he understands the hardship with the parking. He explained that he would personally like to help businesses at this point.

Ms. McCoy commented that she was around when this site plan first came in and these things are hashed out for a reason. She said that she doesn't see changing the parking density in this center. Obviously, they would be having other owners come in and wanting the same situation to be remedied.

Mr. Wealcatch responded that two of the current tenants which happen to be food service businesses have asked for more space, and that space would have pushed them over the limit. He remarked that one is the bagel store, which is doing very well and the other one is Beef O'Brady's who has been there a long time has asked for more space. That is where this variance has stemmed from. The center owner is also aware of the parking requirements in the original site plan. That is one of the reasons they put forth at their own volition the cap on the food service. They are not going to say they are going to be 100% food service and they are recognizing that isn't a good thing either. That is why they put the cap in their application saying that they are putting a cap on it of 60% and that was submitted as part of their application.

Mr. Gidaldi commented that the two differences is they didn't want to change the rules and regulations, but when somebody in the center wants to grow to the next store and then another store in the center wants to expand that was why they wanted to change this. The worst thing that could happen to him as an owner, is that if they are going to have a center that is not going to have enough parking, because people will simply stop coming, and they are not going to let that happen, and are trying to do the right thing for the center and for the city.

Mr. Roper remarked that he was in the retail business for 35 years and has a place in his heart for them. He wants every business to do as much business that they possibly can, but his point that he was making and he has nothing against the applicant, but we established a code as a guideline to not only protect the applicant but also to protect the people of Cooper City.

Mr. Aronson remarked that this center is presently a B-1 zoning designation, which is a retail center and they are looking to go to B-2, which is a shopping center.

Mr. Wood responded that B-1 is neighborhood center and they are not asking to change the zoning, they are just asking to change the parking ratio that would apply.

Mr. Aronson asked if there were many centers in Cooper City that designated retail shopping centers. He commented that many of their shopping centers were a sea of asphalt because there is so much parking required that is never used. He remarked that especially with the economy the way it is and he has been in that center and never had a problem with parking.

Mr. Wood responded that there are other centers that are designated for general shopping and not limited to retail as this center currently is. Some of the larger centers do enjoy the more relaxed parking ratio of 1 to 200, which they are asking for. There are already centers that are typically larger that are already at that ratio.

Mr. Aronson then wanted to know that without the variance what % of the center could be leased for food service businesses.

Mr. Wood responded that would be zero.

Mr. Aronson remarked there are already food services there.

Mr. Wood remarked those food services were there from the beginning and Staff has worked with the owner of the center to not put businesses out of business. We have to acknowledge the code and up until this point the previous owners were happy with that tenant mix. This new owner has some additional space they would like to lease to restaurant type uses which would require the additional parking.

Mr. Konhauzer reiterated that they were looking to expand existing restaurants and not expand.

Mr. Gidaldi responded there are 2 existing tenant spaces who requested to expand. One of the tenants wants to expand so they can open for more hours and right now they are closing at 3:00 p.m. and in order to do so and be open in the evening.

Mr. Konhauzer commented the other reason he was asking was that to allow other restaurants in neighboring centers to have outdoor seating, which would expand the amount of people and that would affect the amount of people parking. He asked how many more tables the deli would be allowed.

Mr. Aronson remarked that as much as he was concerned that our centers have enough parking equally many of our shopping centers are a sea of asphalt and was willing to grant a variance especially in this economy.

Mr. Konhauzer commented that allowing as much as 20 additional tables to an outdoor seating....

Mr. Markley interjected that so everyone does understand that the regulations on outdoor seating do provide in code that if they do not exceed 10% of the original restaurant then that outdoor seating does not have parking implications. If any restaurant did exceed the 10% then they would also have to deal with parking.

Ms. McCoy reiterated the history of the center and that the pharmacy came first. It was one parcel originally. In the past they have been gracious enough to change some of what can go into the category when the supermarket came in and they also changed to allow the liquor in there. She commented there is limited space there and to bring in another tenant that would bring in a large number of cars. Where else were they going to go except for the adjacent site (Walgreen's)? She didn't believe the company that owns that particular site have a cross use agreement on that parking or is that parking included.

Mr. Gidaldi responded that there is a cross use parking agreement.

Ms. McCoy wanted to know if that cross parking easement was included in that number of spaces.

Mr. Markley responded that the number of parking spaces in the Staff Report is specifically under the ownership of Stirling Town Center, but there is a cross parking agreement.

Mr. Gidaldi interjected that there is additional parking that was not counted in this application.

Ms. McCoy remarked then they do have additional parking with the cross use agreement with the Walgreens. She understands that they didn't count it, but wants them to decrease the amount of required parking in their center when they actually have a cross use agreement with the building next door to use those parking spaces.

Mr. Wealcatch commented that they can't count that parking because of the tenant approval. He reiterated that they have put a cap of 60% and right now they are close to 48% or 50% now and was not that they were going to open ten more restaurants, they were trying to accommodate the current tenants to give them the opportunity to build their businesses. If they don't they will end up with vacant space and those restaurants will end up somewhere else.

Mr. Valenti commented that he frequents Beef O'Brady's a lot and they use the Walgreens parking. Because of the way that Walgreen's is situated that part of the parking lot is never used because it is too far away from the door. It is actually closer to Beef O'Brady's. He didn't see parking as an issue at all. He remarked that he did agree with Mr. Roper in that people have worked very hard to put all of these ordinances in code and then we just change them any time somebody comes before them and he said that he does have a problem with that.

Mr. Schulman commented that he would love to see every shopping center in Cooper City successful. He noticed in the Staff Report there were 15 additional spaces and wasn't sure they would allow them, if we can agree to move forward and permit them this change with the parking variance, was there a way they could make the owner commit to keeping those 15 spaces and not removing those 15 spaces and that may be a form of compromise that may help. He then remarked that there are 269 spaces are what they are looking to reduce. At present they have 284 spaces, and they actually have the right to then remove 15 more spaces and he doesn't want to see those spaces removed.

Mr. Wealcatch responded they did not want to take away from any spaces that were already there.

Mr. Roper asked what would keep them from enlarging Beef O'Brady's by removing another parking space.

Mr. Markley explained that by the arrangements with the previous owner they are already at their max of food service establishments.

Mr. Roper then wanted to know why they couldn't just ask for a variance just as far as Beef O'Brady's is concerned.

Mr. Wealcatch responded that it is not just for the Beef O'Brady's and it is the bagel store also.

Mr. Konhauzer commented that there is a need for an expansion to allow more restaurants in Cooper City.

Ms. McCoy remarked that they also have the need to monitor the code and follow the code and to just come in with a variance and agreed with Mr. Roper and if you want to come in with variance then come in with a tenant.

Ms. Sori stated that this was contradictory because you have the tenant there who wants to expand, which helps the City bring in more taxes because they are expanding. They don't have to go through the process with a new tenant and everything that they want. We have an established tenant and she said that she didn't have a problem with them expanding their business.

Mr. Konhauzer mentioned that he also thought there were rules made for good reason and he respected what Ms. McCoy's points, but times have changes and things change and positions change. You have to go with what is more functional for our community.

MOTION: AMENDED TO APPROVE SUBJECT TO THE APPLICANT MAINTAINING THE CURRENT 284 PARKING SPACES - STIRLING TOWN CENTER VARIANCE PETITION # V 10-1-10 (PARKING RATIO) – LOCATED AT 8637 – 8735 STIRLING ROAD. MOTION MADE BY MR. KONHAUZER AND SECONDED BY MS. SORI FOR DISCUSSION.

Mr. Roper wanted to know why they couldn't enlarge just Beef O'Brady's and ask for a variance just for Beef O'Brady's and not change the whole status as far as the shopping center is concerned. Once we change the status of the shopping center that's it and there is no going back.

Mr. Aronson asked Mr. Roper if he was saying just for Beef O'Brady's and Bagels for You because that is the other tenant.

Mr. Roper remarked that if they want to come in for a variance then come in for a variance.

Ms. McCoy commented that she agreed with Mr. Roper and if they want to come in for a variance on it they could address it at that time. By putting this through they can put anybody in there, but there is a limited amount of parking there. They won't be able to change that after the fact.

Mr. Wood reminded the Board that they are voluntarily limiting food service to no more than 60% of the center.

Mr. Aronson mentioned they are almost at 50% now and this variance will allow them to go to 60% so this is a nominal increase in square footage in the center.

Mr. Konhauzer commented that there are currently no parking issues now.

MOTION: AMENDED TO APPROVE SUBJECT TO THE APPLICANT MUST MAINTAIN THE CURRENT 284 PARKING SPACES - STIRLING TOWN CENTER VARIANCE PETITION # V 10-1-10 (PARKING RATIO) – LOCATED AT 8637 – 8735 STIRLING ROAD. MOTION MADE BY MR.

KONHAUZER AND SECONDED BY MS. SORI. On roll call vote there were five aye votes and three no votes made by Mr. Roper, Mr. Valenti and Ms. McCoy. Motion was approved.

Mr. Gidaldi remarked that he wanted to take the opportunity even with those who said no, that he would show you that what we said is what we meant.

B. *PUBLIC HEARING – LA COSTA AT MONTERRA EASEMENT ABANDONMENT PETITION # AB 12-1-10 – LOCATED SOUTH OF MONTERRA BOULEVARD, WEST OF TARAMEA AVENUE, NORTH OF SHERIDAN STREET AND EAST OF THE FPL EASEMENT

Mr. Wood explained that this item is a utility easement abandonment petition submitted by the owners/developers of the Monterra development. The request to abandon or vacate 5' of the recorded 10' utility easement in favor of a newly dedicated 5' easement, including the area of the adjacent sidewalk, would effectuate a 5' shift of the easement to comply with the latest approved Site Plan. The request would apply to lots throughout the La Costa neighborhood in Monterra (Pod 2C); specifically lots 39-154. The recorded easement was consistent with the previously approved Site Plan. The current Site Plan utilizes side loaded garages to a greater extent which then have a smaller front setback than the previously approved Site Plan. The current Site Plan was approved with the utility easement to be shifted by 5'. Altering the utility easement according to the current Site Plan frees up 5' of depth along the front lot lines of the affected lots, thereby allowing each lot to have 5' more landscape planting area to be unencumbered by the easement.

Mr. Wood commented that the Development Review Committee recommends approval of the request based on the following findings of fact:

1. The health, safety and general welfare of the community and the Monterra Community Development District will not be adversely affected.
2. The abandonment will not adversely affect property values or living conditions in the neighborhood.
3. The provision of utility service for the adjacent or affected properties will not be adversely affected. The newly dedicated utility easement will provide legal access to existing and future utility services and facilities.

Mr. Wood concluded that all applicable utility companies have reviewed the abandonment petition and have no objection to the request.

Mr. Hope Calhoun pointed out on the display map where the easement was being modified in La Costa. She then pointed out the units that would be affected and that it would be just a few units. She referred to a layout showing the existing condition of the unit which shows the easement and the sidewalk and the 5 feet that is going to be vacated so they are shifting it from where it was in the front of the house and moving down into the right-of-way so you would be left with the same 10 feet just moved 5 feet forward. She explained that this is really a cleanup item. The utilities will be put in the new 5 foot utility area. She asked they approve it consistent with the Staff Report.

Mr. Aronson opened the Public Hearing at 7:35 p.m. and seeing no one to speak he closed the Public Hearing at 7:35 p.m.

MOTION: TO APPROVE SUBJECT TO DRC COMMENTS - LA COSTA AT MONTERRA EASEMENT ABANDONMENT PETITION # AB 12-1-10 – LOCATED SOUTH OF MONTERRA BOULEVARD, WEST OF TARAMEA AVENUE, NORTH OF SHERIDAN STREET AND EAST OF

THE FPL EASEMENT. MOTION MADE BY MR. ROPER AND SECONDED BY MS. MCCOY. There were all eyes on roll call vote. Motion was approved.

C. DISCUSSION FOR POSSIBLE CHANGES TO AMEND CHAPTER 24, SECTION 65 OF THE MUNICIPAL CODE OF ORDINANCES RELATIVE TO SITE PLAN AND SITE PLAN AMENDMENT ADVERTISING

During a review of petition notification requirements, the City Attorney brought to the City's attention provisions requiring advertizing for site plans and has opined that the requirement would also apply for site plan amendments. Subsequently site plans and site plan amendments have been processed with the required advertizing which has added additional time and expense to the processing in order to do the advertizing.

Such advertizing is typical for processes which deviate from Code such as a variance or for a rezoning, but not for petitions which adhere to requirements and are a matter of exercising permitted rights according to regulation. There is no state requirement to have such advertizing and other cities do not require advertizing for site plans or site plan amendments which meet code standards.

Therefore, the attached Code change proposes to eliminate such advertizing requirements. The change also proposes to remove the specific timeframe listed in City Code in order to allow for greater flexibility in petition processing. Lastly, the proposed change also removes reference to the Community Appearance Board process since that board has been dissolved.

Mr. Wood concluded that the Planning and Zoning Board is requested to discuss and comment on the proposed Code revision. The Board's recommendation will be forwarded to the City Commission for action.

Mr. Aronson commented that this proposal does away with the advertising requirement on certain petition where there are no variances requested. This is trying to simplify the process and the applicant still has to come before this Board and the Commission, but there is no advertisement requirement.

MOTION: TO FAVORABLY RECOMMEND APPROVAL AS PROPOSED THE CHANGES TO AMEND CHAPTER 24, SECTION 65 OF THE MUNICIPAL CODE OF ORDINANCES RELATIVE TO SITE PLAN AND SITE PLAN AMENDMENT ADVERTISING. MOTION MADE BY MR. ROPER AND SECONDED BY MR. KONHAUZER. There were all eyes on voice vote. Motion was approved.

5. OLD BUSINESS:

None.

6. GROWTH MANAGEMENT DIRECTOR'S REPORT:

Mr. Wood commented that Mr. Sands has officially resigned from the Board.

Mr. Aronson remarked that they have two vacancies to be filled and asked if the Commission was going to appoint anyone.

Mr. Wood responded that one of the vacancies is intended to be recommended to be filled at the next Commission meeting.

Mr. Wood commented that the next regularly scheduled P&Z Board meeting falls on a City holiday, which is 2/21 the City will be closed.

Mr. Markley mentioned the next regularly meeting scheduled after the holiday would be Monday, March 7th, 2011 and there are potential petitions to come forward at that time.

7. BOARD MEMBERS' CONCERNS:

Ms. Sori mentioned with regard to what they heard tonight she agreed with those Board members who voted no and there are certain codes and would like to follow the codes, however, times have changed and those codes were written a long time ago. She thought that it was time to go over them. The economy is so bad we need to do everything we can to help the businesses that are here. Maybe they need to re-write certain parts of those codes so they won't run into this problem every time.

Mr. Wood responded that they will be bringing forth some code changes and the one that was on the agenda tonight is an example of trying to stream line the process and be more business friendly in terms of helping them to get through the process quicker without the advertising. As things become apparent to Staff then yes they will be addressing code changes.

Mr. Aronson commented that parking, signage and setbacks are always issues and hard to deal with in a real world situation.

Mr. Roper explained that they looked at code a while ago and thought that the last time they discussed code with this Board it was decided that rather than go in and change every nit-pick thing that was what the variance system was for. When people come in with a variance and they can justify their variance and the Board approves it and then moves on rather than change everything in the code.

Mr. Aronson commented that tonight this was a situation that could have called out for it and didn't think whether or not they were over reaching and will see what happens with the Commission.

Mr. Schulman added that he thought in favor of this particular one, and thought it was dangerous to give variances because of the economy today stinks and five years from now the economy could be great and business should be doing well, but then we would be here saying that we don't need these changes, but need these changes just to spur in advance the economy. He didn't know if necessarily that was the best way and that a variance was the best answer.

Mr. Konhauzer remarked that when looking at the parking requirements maybe some of the parking codes could be out of date and didn't think the shopping centers were hurting for spaces.

Mr. Schulman mentioned the CVS is now open.

Mr. Markey cautioned that many corporate drug stores have taken a policy to close in-line locations.

Mr. Aronson commented that the Walgreen's in the Embassy Lakes Shopping Center also closed now that their lease closed out.

Mr. Konhauzer thought that maybe they wanted to own their own property.

Mr. Aronson responded they generally do not own their own property.

Ms. McCoy commented the drug store have a policy that they want their stores free standing on major intersections and CVS and Walgreen's have the same policy.

Ms. Sori remarked they are doing it all across the country and pulling out of the strip shopping centers because there is no access to a drive-in and they want the visibility.

Mr. Schulman mentioned that at this point they are becoming somewhat of a grocery store and don't want to compete with the Publix stores in the same shopping centers.

8. ADJOURNMENT:

The Meeting adjourned at 7:48 p.m.