

**Planning and Zoning Commission
Regular Meeting
July 16, 2003**

The Planning and Zoning Commission (P&Z) of the City of Titusville, Florida met in regular session in the Council Chamber of City Hall, located at 555 South Washington Avenue on Wednesday, July 16, 2003 at 7:00 p.m.

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Chairman George Fayson called the meeting to order at 7:00 p.m. Present were Vice Chairman Crowell, Secretary Thomas Taylor, Members Lorene Shafer, John Beasley, Fred Banks, and Keith Cox, and Alternate Member Paul Secor. Also present were Planning Administrator Keith Cunningham, Senior Planner Randy Woodruff, and Planner Don Land.

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The first item of business was the approval of the minutes for the June 4, 2003 regular meeting. Member Banks moved to approve the minutes with any necessary corrections. Secretary Taylor seconded the motion. The motion carried unanimously.

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Chairman Fayson reviewed the quasi-judicial procedures verifying that all persons wishing to speak have signed an oath card; that all agenda items have been properly advertised; and member's comments if they have visited sites; or spoken to any members of the public regarding an item to be reviewed.

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Consent Items:

Horse Permit for Robert J. Malone - The applicant seeks a permit to allow two horses at 1901 Tropic Street. Randy Woodruff gave an overview of the request. Vice Chairman Crowell asked if there was a requirement for a permit to enable the applicant to proceed. Randy Woodruff told P&Z that under the current code of ordinances the request would need to be reviewed by City Council. Discussion followed.

Member Cox made a motion for approval of consent agenda item number one. Member Shafer seconded the motion. There was a unanimous voice vote.

New Business:

Conditional Use Permit #12-2003, Clifford Grimes, with permission of Olivia Murray - The applicant is requesting a Conditional Use Permit for a church within the Neighborhood Commercial (NC) zoning designation. Located at 1219 South Street. Randy Woodruff gave an overview of the request. Member Cox asked for clarification of the property location. Randy Woodruff informed P&Z of the location. Discussion followed.

Vice Chairman Crowell made a motion for approval of CUP #12-2003. Member Beasley seconded the motion.

Member Banks – yes

Vice Chairman Crowell – yes
Member Cox – yes
Member Shafer – yes
Secretary Taylor – yes
Chairman Fayson – yes
Member Beasley – yes

SSA #8-2003 and SSA #9-2003 Land Use Change and Rezoning, Townee Realty, Inc., with permission from Susan Pearson Trustee - The applicant is requesting annexation of 8.104 acres of the subject property with a Shoreline Mixed Use Land Use and Shoreline Mixed Use (SMU) zoning. The site is presently zoned Light Industrial (IU) with a Community Commercial Land Use in Brevard County. In addition, the applicant is requesting to change land use and rezone the remaining 1.8 acres of the site (which is already in the city limits) from Light Industrial Services and Warehousing (M-1) to the Shoreline Mixed Use (SMU) zoning and land use designation. Located on the east side of U.S. Highway One approximately 1,178 feet south of the northern terminus of Riveredge Drive. Randy Woodruff gave an overview of the request with a history of the property relating to previous request and reported to P&Z that a revised staff report was handed-out for review. Chairman Fayson clarified for P&Z the request from staff to table SSA #8-2003, SAA #9-2003, CUP #13-2003 and AIP #3-2003. Vice Chairman Crowell questioned if this would be a moratorium on construction on Riveredge Drive. Randy Woodruff told P&Z that to a degree that statement was correct. Discussion followed. Staff requested to hear all items from public present relating to the one project together. Attorney Severs told P&Z that would be acceptable. Discussion followed. Member Cox suggested having the applicant speak first to state the plans for the project and then that may answer some questions for the public that has requested to speak.

John Evans, 1702 South Washington - In favor. Told P&Z that Mr. Kohn Bennett of Townee Realty was available to make a presentation on the project. Mr. Evans stated that he was opposed to tabling these items. Requested that items be reviewed under the current ordinances and if council amends the ordinances in the future. Stated applicant has the right to be heard now.

Kohn Bennett, 4080 Old Settlement Road, Merritt Island – In favor. Told P&Z that he represents Townee Realty. Gave an overview of Townee Realty to P&Z. Reported to P&Z that this project will entail three (3) six (6) story buildings in which first floor is parking and remaining floors are residences. Each building would have 30 residential units and each unit would have one of the parking spaces on the first floor with two outside parking as well. There would be access on US Highway One and Riveredge Drive; this is a unique property and is appropriate for SMU. Density is around eleven, height would be 60 feet. Entrance on Riveredge is on the south end. The project would be a gated community at both access points. Concurred with Mr. Evans that request should be heard and not tabled. Staff has done a very good job on the reports, in every section referenced in the codes this project complies and then staff recommendation is to table. Staff was present when council did not table this item; they wanted to see staff's report and P&Z recommendations. Member Cox asked if there was a need for both entrances and exits that would flow on Riveredge Drive; previous projects main access was to be off US Highway One, would this be a problem for your project. Mr. Bennett stated it would detract from marketing sales, businesses on that road might object that residences cannot access easily. Discussion followed. Mr. Bennett stated he was not in a position to commit to not having access on Riveredge Drive. Discussion followed.

Loys Ward, 1707 South Washington Avenue – In favor. Mr. Ward stated he had reviewed staff report and analysis, stated the applicant does meet all criteria in the comprehensive plan. The

annexation request is Industrial Use in the county. Industrial Use is not the best use for this vacant property; this project is better suited for the area. Presented P&Z with some data relating to zoning, land use and permitted uses for the area. Discussion followed.

George Louis, 5424 Riveredge Drive – In favor. Told P&Z that he leases out a business which is currently a bar and he also resides there since 1958. Gave P&Z a history of the property and past-proposed projects. Stated residents on Riveredge Drive have cost Mr. Louis money by speaking against the past projects.

Roger Molitor, 5401 Riveredge Drive – In favor. Told P&Z that he owns the building that houses the restaurant *New York New York*. Stated it is hard to please everyone, but would be good for the neighborhood. Presented P&Z with a map he drew showing the different interest for zoning for the area. Request P&Z listen to citizens that are currently residents in the City of Titusville. Most residents want multi-family or commercial not industrial in the Riveredge Drive area. Stated that the difference visually between 50 feet and 60 feet is minimal. Stated Townee Realty does a tremendous job with their projects. Requested item be voted upon and not tabled.

Patricia L. Mooney, 5425 Riveredge Drive – Against. Thanked P&Z for allowing residents to speak, but it was unfair that applicant stated their case and that Mr. Evans will be giving a rebuttal. Chairman Fayson told Ms. Mooney that is the procedures that P&Z must follow. Ms. Mooney told P&Z there were many statements that were untrue. Referenced that Mr. Ward and Mr. Molitor's comments and maps were unfair. It is not too much to ask that Council wait on this item and allow staff to further research this area. Unfair that Mr. Evans stated he had to wait two weeks. Requested item be tabled.

Rose Easley, 5101 Riveredge Drive – Against. Supplied P&Z with a petition from neighbors stating that they would not like to have any buildings higher than 3-stories. Concerned those entrances are used as a marketing tool. Stated that if this is approved she could see more high rise building being put in the area and does not want that to happen. Would like to see smaller properties single-family homes.

Ron Caswell, 5705 Riveredge Drive – Against. Concerned about potential traffic in the area with any development. Asked P&Z to keep an even balance for the neighborhood.

Laura Ward, 5317 Riveredge Drive – Against. Stated that her attorney was not present due to schedule conflicts, and thought these items would be tabled. Staff is recommending tabling because City Council, over a period of some months, has come to the realization that they do have to carve a separate neighborhood classification zoning criteria for Riveredge Drive because it is not US 1 and invariably people try to have you view that neighborhood as US One all the way to the river; it is not a local street. Now, I recognize that the street was misclassified for a while on the city's traffic circulation maps and their comp plan. I am sorry that happened but we know it is a local street now and it has been reclassified. Moreover, your LDR's, which are part of your comprehensive plan, do not permit the kind of intense development on a local street that Shoreline Mixed Use land use and zoning designation permits. So, City Council realizes that and let's get something straight, the reason they didn't vote for a table last week was because there were three of them there and one of them had to abstain from the vote so they couldn't take any action on anything. My guess would have been a table if they have one more council member. They know that they are close to coming to some agreement on how they want this neighborhood, which is so special, to be treated. And the applicant of course knows that that is coming and recognizes that they are probably going to end up with a 35-foot height restriction because that is what is consistent with your comp plan for local streets. So they are trying to rush this through to

get something out of you guys that way they can go in and say oh we got this you know done. Well, so much for that, I just get excited about it. You should not be making a determination about this tonight for many reasons, one of which is the staff recommendation that comes from a directive from City Council, they are trying to tell you to wait until they can make a determination, so you will know what to do. I mean additionally you are supposed to make your determination based on facts and evidence presented. I showed up last week to get a copy of the staff report on this property to be provided to our attorney for comment and review. We expend legal money and time to review a staff report that we now find out is not the staff report that you are looking at. If you just got it today, how could you possibly have reviewed it sufficiently to base a decision on? The original staff report that we were provided was full of problems. It had not addressed, the site data detail and had failed to mention that the preponderance of the uses of the surrounding area. This is a Riveredge Drive project, they can talk about US One all they want. The engineer contrived a back door out of the project unto US One. That is what it is about, it is a Riveredge Drive project and the staff report or the area impact plan neither takes into account that the preponderance of uses currently on Riveredge Drive are residential. There is Roger Molitor who is a residential developer, by the way, so we can get an idea of what might happen to that property soon, has a lease on a restaurant that is operating there until such time that Roger has decided what to do with the property in a residential fashion. There is a bar still in operation, Mr. Louis' that was already, as you know, the subject of an offer for sale for condominium construction or residential construction. There is a girl's halfway house on the property on the street that will not be there, this is a transitioning neighborhood and it is transitioning from what it used to be when it was US One. That is not the case any more. It is dead-ended. It is a local street it is not US One, it is transitioning to residential uses. A lot of your realtors up there, Towne Realty can build high-rise condominiums anywhere north of us and if rumor is correct they are running around optioning up stuff all over the place to build condominiums. We do not care, we are not asking for single-family homes on our street; Rose has shown you all sorts of alternative construction on there. You know that there is a market for property on the water that would be small lot patio, zero lot line, some of what Rose has shown you is the kind of subdivision you see on similar streets in other parts of the county where they have interrupted waterfront and small lot subdivision on one side, she showed you Coquina Bay, they are half a million dollars. A small lot and a big house, do not you have clients that want to buy something besides a high-rise Condominium unit in this Towne. In addition, we are the only place down there where this can occur and I think City Council realizes that. And I think that they are going to end up creating a special area for Riveredge Drive because it was incorrect for it to be lumped in on the Shoreline Mixed Use Future Land Use deal. We explained that the future land use lacks language the zoning lacks language to say where this kind of development should occur and it clearly cannot occur on a local street. We are hoping that council will come back with a recommendation for residential uses on the street because that is the way it is transitioning before your very eyes. The density would be up to them, but it must be something that your LDR's will permit. They are looking at six units to an acre, that would permit patio homes zero lot line small subdivision. The thing that is the biggest problem for this applicant is that they are probably also going for a 35-foot height restriction because that is what your LDR's say is appropriate for local streets. All your LDR's spell it out really clearly. You know you cannot put over 35-feet even in R-3. So to us it is simple, we as a matter record, I've got some objections that I want put into the record. We object to the staff report site details failed to mention a preponderances of uses in a surrounding area; the property being annexed is residential, staff reports fails to analyze the impact on any road except US One. The project is being developed on US One Chapter 27 article 3 section here it isn't in the writing on the LDR's call for a provision of level of service on all roads that wasn't contained in the staff report; there is no statement of environmental impact; Section D of the staff report relating to comprehensive plan compliance does not recognize the LDR's of the city direct development of the intensity of the SMU onto arterials, Section D of the staff report appears to be

cut and pasted at one time, they had in that staff report that they recommend medical hospital zoning. I mean I don't know how you could possibly have that report to be reviewing before you come in here and all of a sudden you are handed a different report that we never had any opportunity to even look at. The copies of the owners authorization for rezoning application provided to the homeowners does not appear to have a notarized signature required by 47One02(b)(2); public notices are unclear as to what procedures are to take place on the properties; this public notice situation has been unclear all along; also the only publication date of Conditional Use Permit application notice is July 15th which does not comply with 47117(d) that requires notice to be published not less than 10 days prior to the hearing. City notice of public hearing mailed to residences in notification zone does not reference a zoning assignment to property being annexed on the west side of Riveredge Drive. We also have to give you this, and it is one other objection that we have, we object to the predetermination of zoning to be received by the applicant as referenced in the minutes of the special council meeting held August 28, 2001 as a joint meeting with City Council, Planning Department and P&Z board see attached excerpt from those minutes, I will give you that. That was a special meeting between council, planning staff and the P&Z board some of you members attended some of you didn't and that was the meeting that was held to "implement the cities annexation plan in 2001" about May 2001 the city went into the mode of annexing properties, they determined that they were going to annex a lot of properties and that was perceived as being a very good thing, everybody was very enthusiastic about it and as a follow up to that there was a special meeting and at that meeting the minutes reflect: also discussed was a way to entice a property owner to voluntary annex by negotiating the Cities proposed zoning with the property owners needs prior to annexation. The City currently meets with the property owner to assure agreement with the zoning classification before annexation. The tape of the meeting back-up what you see reflected in the minutes, we are concerned that that meeting may have resulted in circumventing some of the quasi judicial procedures required, such as a public hearing. There are other affected parties, we know that you get enthusiastic and want to help with the annexations, it seems like a good idea to get everything annexed. We think that is best for you to table this so you can discuss it with Dwight see how that might affect potential vested rights situation and tabling would be the thing for your to do. It will not hurt this applicant. He has plenty of other projects in Titusville to be working on for the next week and City Council will be able to then make a determination for our neighborhood. We have not been before you all in a very long time, almost a year. Nevertheless, we have been with City Council for a while now, and they understand what the problem is. The problem is that it is now US One and they need to define what they want to see there. Then they come back to you. Thank you.

Member Beasley asked Ms. Ward if she was hiring a lawyer to represent her legal position. Ms. Ward told P&Z that next week they would have legal representation.

John Evans, 1702 South Washington Avenue – Rebuttal. Represents the applicant, read from page 5 of the staff report, stated Titusville is an amazing place and with the last two years growth has finally begun. To this date, there has only four multi-family projects built in this Towne. Titusville is not overburdened with new projects; this Towne is not becoming Cocoa or Miami Beach. This project will not block the riverfront, and will increase the public's view of the river by cleaning up the property and making a beautiful project. There will be no traffic problems; major access will be at the curb cut. People will not spend \$200 to \$300 thousand and not be able to access their properties from Riveredge Drive the road that they will live on. There are some nice houses down on Riveredge, most of the properties however, have windows boarded up or falling down have couches on the porches or even have porches falling off. This is not a neighborhood, there is not character. Stated his client wants to build high-end condominiums and raise the value dramatically for the property owners. The residents have stated that they do not

like it because they will have to drive by the tall building but have not given you any facts that this project will hurt their neighborhood. Discussion followed. Asked P&Z to render a decision and not table.

Member Cox asked if all items relating to Riveredge Drive would be voted upon as one item or individually. Chairman Fayson told P&Z that it was his understanding the all items would be addressed as one.

Member Cox made a motion to approve SSA #8-2003, SSA #9-2003, CUP #13-2003, and AIP #3-2003 with staff recommendations subject to access across the commercial property right across from the median cut on US Highway One. Member Shafer seconded the motion. Discussion followed. Chairman Fayson asked Member Cox if his motion included the fact that staff was recommending tabling these items. Member Cox stated that he did not want to table, he wanted these items approved and forwarded to Council. Member Shafer concurred.

Vice Chairman Crowell – yes

Secretary Taylor – yes

Chairman Fayson – yes

Member Shafer – yes

Member Banks – no

Member Cox - yes

Member Beasley - no

Conditional Use Permit #13-2003, Townee Realty, Inc., with permission from Susan Pearson, the owner - The applicant is requesting a Conditional Use Permit to allow additional building height for a proposed mid-rise condominium project in the Shoreline Mixed Use (SMU) zoning designation. Located on the east side of U.S. Highway One approximately 1,178 feet south of the northern terminus of Riveredge Drive.

Area Impact Plan #3-2003, Canaveral Engineering Group on behalf of Townee Realty - The applicant is requesting an Area Impact Plan review in order to proceed with a mid-rise multi-family housing project on the east side of U.S. Highway One approximately 1,178 feet south of the northern terminus of Riveredge Drive.

Airport Ordinance #27-2003 – The City of Titusville and Airport Authority entered into an annexation agreement and other agreements at the time Space Coast Regional Airport was annexed into the City limits. As a part of the agreement, the City agreed to update its existing Airport Zoning Ordinance. The attached is an update of that airport zoning regulations. Randy Woodruff stated he would defer this item to City Attorney Dwight Severs. Mr. Severs informed P&Z that pursuant to the authorization by City Council he was involved in drafting a proposed ordinance. The City entered into an agreement with the Airport Authority and as part of their annexation the City agreed to address and update it's airport zoning regulations in accordance with Chapter 333 of Florida Statutes and Federal Regulations stating it is necessary for cities and counties to adopt certain regulations. Discussion followed. Mr. Severs stated that the City of Titusville has no desire or intention whatsoever to try to require the Enchanted Forest to cut it's trees and do not want to be forced into that position. Discussion followed.

Martha S. Pessaro, 1280 Marshall Court, Merritt Island – Against. Informed P&Z that she is the president of the Friends of the Enchanted Forest. Told P&Z that she also attended the TEC meeting and reviewed this document. TEC was going to ask for a special meeting to discuss the comments made. Stated that there are still some concerns with the ordinance with the Friends of the Enchanted Forest. Requested that P&Z table the item. Discussion followed.

Member Shafer made a motion for approval of Airport Ordinance #27-2003. Member Banks seconded the motion.

Chairman Fayson – yes
Vice Chairman Crowell – yes
Member Cox – yes
Member Shafer – yes
Member Banks – yes
Secretary Taylor – yes
Member Beasley – yes

Discussion followed.

Reports:

City Staff - Reported to P&Z that the two points of access for Park Avenue Villas were researched and the site visited. Informed P&Z of the security entrance and exit procedures as obtained from the leasing agent. Discussion followed. Reported that Chrome Electric has permits for storage and are in compliance. Discussion followed.

Member Cox – Asked Mr. Severs to elude to P&Z the process for code violations. Mr. Severs reported to P&Z the process from complaint to code board hearings with timeframes for each action.

Chairman Fayson – Asked staff about several concerns with code violations and buildings that are disserted and dilapidated. Mr. Severs told P&Z of some of the actions that have been taken on the various properties. Discussion followed.

Member Shafer - Complemented staff and the City Attorney on hard work done to make the City of Titusville a better place. Stated she gets very upset when the public does not appreciate the efforts.

Member Beasley – Asked about concurrency review for the SMU zoning district. Discussion followed.

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Adjournment:

The meeting adjourned 9:45 p. m.