**Town of Melbourne Beach**

**MINUTES**

**PLANNING & ZONING BOARD MEETING**

**TUESDAY February 2, 2021 @ 7:00pm**

**COMMUNITY CENTER – 509 OCEAN AVENUE**

**Board Members:**

Chair David Campbell

Member Kurt Belsten

Member April Evans

Member Douglas Hilmes

Member Daniel Gonzalez

**Staff Members:**

Town Manager Elizabeth Mascaro

Town Attorney Cliff Repperger

Town Planner Corey O’Gorman

Town Clerk Jennifer Torres

1. **CALL TO ORDER**

Chairman Campbell called the meeting to order at 7:00 p.m.

1. **ROLL CALL**

Town Clerk Torres conducted the roll call:

Present:

Chairman David Campbell

Vice Chairman Kurt Belsten

Member Douglas Hilmes

Member April Evans

Member Daniel Gonzalez

Staff Present:

Town Manager Elizabeth Mascaro

Town Clerk Jennifer Torres

Town Attorney Cliff Repperger

Town Planner Corey O’Gorman

1. **APPROVAL OF MINUTES –** January 5, 2021

**Vice Chairman Belsten moved to approve the minutes from the January 5, 2021 Planning & Zoning Meeting; Member Evans seconded; Motion carried 5-0.**

1. **PRESENTATIONS**
2. **PUBLIC HEARINGS**

For the benefit of those in attendance and as a refresher for the Board, Chairman Campbell went over the process of a rezoning application, explaining that regardless of the outcome of the Board’s vote, it is only a recommendation and the issue will go before the Town Commission where it must pass by 80-percent vote of the vote.

He went on to say that at tonight’s meeting the Planning & Zoning Board will hear an application for rezoning from a single-family to residential business that would allow a small multi-family building. The Chairman said they would take public comment and review and consider two Ordinances and a Binding Development Agreement.

* 1. Application for Land Use Plan Amendment/Rezoning for 500 1st Avenue, Melbourne Beach

1. Ordinance 2021-01; Future Land Use Amendment
2. Ordinance 2021-02; Rezoning
3. Binding Development Agreement

Town Attorney Repperger read Ordinance 2021-01:

AN ORDINANCE OF THE TOWN OF MELBOURNE BEACH, BREVARD COUNTY, FLORIDA, AMENDING THE FUTURE LAND USE MAP OF THE TOWN OF MELBOURNE BEACH COMPREHENSIVE PLAN ADOPTED PURSUANT TO SECTION 2A-1 OF THE LAND DEVELOPMENT CODE TO CHANGE THE FUTURE LAND USE DESIGNATION ON A .41 ACRE PARCEL OF LAND DESCRIBED AS LOTS 11 AND 12, BLOCK 1, PLAT OF WILCOX MELBOURE BEACH, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 58, PUBLIC RECORDS OF BREVARD COUNTY FLORIDA, AS MORE FULLY DESCRIBED HEREIN, FROM SINGLE FAMILY TO RESIDENTIAL/BUSINESS;PROVIDING A SERVERABILITY CLAUSE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN ADOPTION SCHEDULE.

Town Attorney Repperger read Ordinance 2021-02:

AN ORDINANCE OF THE TOWN OF MELBOURNE BEACH, BREVARD COUNTY, FLORIDA, AMENDING THE OFFICAL ZONING MAP OF THE TOWN OF MELBOURNE BEACH ADOPTED PURSUANT TO SECTION 7A-15 OF THE LAND DEVELOPMENT CODE TO CHANGE THE ZONING ON A .41 ACRE PARCEL OF LAND DESCRIBED AS LOTS 11 AND 12, BLOCK 1, PLAT OF WILCOX MELBOURE BEACH, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 58, PUBLIC RECORDS OF BREVARD COUNTY FLORIDA, AS MORE FULLY DESCRIBED HEREIN, FROM 3RS (SINGLE-FAMILY) TO 8B (RESIDENTIAL BUSINESS ZONE) WITH A PROPOSED BINDING DEVELOPMENT AGREEMENT RESTRICTING THE USE OF THE PROPERTY TO NO MORE THAN FOUR (4) MULTIFAMILY RESIDENCES WITH NO ALLOWABLE COMMERCIAL USES; PROVIDING A SERVERABILITY CLAUSE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN ADOPTION SCHEDULE

Chairman Campbell opened the item up for discussion. He began by saying that the Town’s comprehensive plan discourages changing the zoning from residential to commercial.

Town Planner Corey O’Gorman, who wrote the staff report, said that since 8B is a mixed-use district, residential uses are allowed by right and commercial uses are allowed by special exception.

Member Gonzalez said he did not like the term “not to exceed 30 years…” on page 5 of the Binding Development Agreement.

Town Attorney Repperger said it is just a legal mechanism to indicate how the agreement continues on.

Member Evans said she had concerns related to the goals of the comprehensive plan and density. She worried that approval may open the door for more development.

Chairman Campbell said this rezoning changes the compatibility with the other corners.

Member Evans said that residents want to maintain the residential, single-family environment in Town.

Member Hilmes said he is also concerned about sprawl. In regard to the Binding Development Agreement, he thought they came up with it for situations like the Osceola Building where the building got down-zoned and they wanted their previous zoning reinstated. In this case, he said, this property has always been zoned single-family residential.

Town Attorney Repperger asked the Board to stay focused because the Osceola Building isn’t at issue here. He went on to explain the uses they had on the Osceola property were phased out of the zoning classification they were now in and that was a totally different issue than what we are dealing with here tonight. He added that the applicant has voluntarily restricted the uses.

Member Hilmes said he was concerned about the overall density related to the number of people who would be living in that building, adding that the number of cars there could exceed 16.

Member Gonzalez asked what restrictions are in place that would prohibit someone from running a commercial business from the property.

Town Attorney Repperger said the BDA restricts that.

Chairman Campbell said the renter is not bound by the BDA. Town Attorney Repperger assured that they are.

***Richard Kofflin (Applicant)***

***501 First Avenue***

Mr. Kofflin handed out some information to the Board members and proceeded to explain that he is proposing a residential project and having lived in the area for almost 30 years, he wants it to look good. With the development the Town has done over the years, currently his backyard abuts Town commercial property including a maintenance shop, a shipping container, and a Town truck that is parked on the side yard.

His thought was to transition from the commercial property his property abuts and make it residential. He said the neighbors he has spoken to are very happy with his plans and he intends to something in a Key West style. He assured the Board he didn’t want to do any commercial development and after looking at various options, this seemed like the best option for the Town because it’s a nice, reasonable way to transition.

Member Hilmes asked how many vehicles would be parked there and Mr. Kofflin verified that it would be 8-cars.

***Tim Scannell***

***1003 Pine Street***

Mr. Scannell was not in favor of recommending the rezoning for 501 First Avenue. He said he received a letter in the mail a few weeks ago and was surprised there was an application for a zoning change. He expected the community would stay residential. Mr. Scannell said he went to Town Hall to look at the plans and it mentions four properties on a small parcel of land and he doesn’t see any reason for that density. With 16 people living there he feels it would be a circus. He also said there is a drainage problem and storm water will be displaced on the street.

***Kate Wilborn***

***502 2nd***

Ms. Wilborn was not in favor of recommending the rezoning for 501 First Avenue. She said the displaced water comes to her property and to her neighbors. She said she has come to Town Hall and to meetings begging for relief from this situation. She does not agree with any increased density and feel that this is a town of people. As Brevard’s oldest beach community, she said we need to preserve it and keep it small and quaint.

***Judy Ward***

***410 1st Avenue***

Ms. Ward was not in favor of recommending the rezoning for 501 First Avenue. Her biggest concern is the impact it will have on children. Every day she sees children riding on their bikes and she is concerned about additional traffic for kids going to school.

***Kim Atkinson-Cowles***

***214 Surf Road***

Ms. Atkinson-Cowles asked if there was any way the property could become a vacation rental home.

***Judy Baker***

***419 1st Avenue***

Ms. Baker was not in favor of recommending the rezoning for 501 First Avenue. She believes the Board needs to keep Melbourne Beach the way it is because if you allow this property at 500 1st to become a business, then what is to stop anyone else down the road from doing the same thing. Her other concerns included kids on bikes, people walking, strollers and drainage issues.

***Alex Dunham***

***1105 Pine***

Ms. Dunham said she has three kids and lives two houses down from the property. She is pro-construction but all she would like is for the Board to make their decision based on what’s really best for the community and for the kids. If the rezoning won’t have a big impact, then she felt it should go forward because she is all for people being able to do what they want to do. But if not – why jeopardize the town.

***Richard Kofflin (Applicant)***

***501 First Avenue***

Mr. Kofflin addressed some of the public comments related to his rezoning request. In regard to the size, he said that everyone knows the value of the property and if he were to tear it down and rebuild, it would probably include a large, 3-car garage, maybe even an RV garage. But what he is proposing now will be a reasonable size.

As for drainage, he said they did cut through the curb near his property and now the water floods his yard, so in essence he said he is not creating the problem, he is solving it and won’t drop an ounce of water on the streets. He went on to say that in his drainage plan, he plans to reroute that water to a place it can be properly absorbed. He emphasized that he is trying to be a good neighbor and to remain reasonable.

With no further public comments, the issue went back to the Board.

Town Attorney Repperger asked the Board members to please state their reasoning after the votes are tallied.

**Vice Chairman Belsten moved to recommend denial of Ordinance 2021-01; Member Evans seconded; Motion carried 5-0.**

**Member Gonzalez moved to recommend denial of Ordinance 2021-02; Member Evans seconded; Motion carried 5-0.**

**Member Hilmes moved to recommend denial of the Binding Development Agreement; Member Evans seconded; Motion carried 5-0.**

Member Hilmes stated his reasoning for voting to deny included the increase in density, decrease in drainage, safety issues, the potential for future short term rentals and spread into the neighborhood. Vice Chairman Belsten agreed and added that he also had concerns related to lot coverage. Chairman Campbell said he feels approval of this application could destroy the single-family residential character of the Town. Member Evans and Member Gonzalez agreed. Town Attorney Repperger said the Board’s recommendations for denial will go to Town Commission.

**NEW BUSINESS**

1. Site Plan Review for 511 Magnolia Avenue, Melbourne Beach

**Member Gonzalez moved to approve the site plan for 511 Magnolia Avenue; Vice Chairman Belsten seconded; Motion carried 5-0.**

1. Site Plan Review for 508 Hibiscus Trail, Melbourne Beach

**Member Evans moved to approve the site plan for 508 Hibiscus Trail; Member Hilmes seconded; Motion carried 5-0.**

**7. OLD BUSINESS**

1. **PUBLIC COMMENT**
2. **REPORTS: TOWN MANAGER AND TOWN ATTORNEY**
3. **ITEMS TO BE ADDED TO THE AGENDA FOR FUTURE MEETINGS**

In a previous meeting the idea of discussing pool setbacks was brought up – however, Member Hilmes found that the issue is already addressed and setbacks are clearly stated in the code. There is no need to discuss the issue further.

1. **ADJOURNMENT**

**Vice Chairman Belsten moved to adjourn; Member Evans seconded; Motion carried 5-0.**

Meeting adjourned at 8:14 p.m.