

Γ	Frank	David Woods	Chris	Duane	Gregg	Dr. Stuart	John	Nicholas Fouraker
	Kruppenbacher	Chairman	Shenefelt	Jackson	Templin	Bernstein	McLeod	Vice Chairman
	City Attorney	District 1	District 2	District 3	District 4	District 5	District 6	District 7

On Tuesday, May 24, 2016 the Belle Isle Planning & Zoning Board met in a regular session at 6:30 pm in the Belle Isle City Hall Council Chambers. Present was Chairman Woods, Vice Chair Fouraker, Board member Shenefelt, Board member Jackson and Board member Templin and. Attorney Callan and Administrative Assistant Judy Hunter were also present. Absent were Attorney Kruppenbacher, City Clerk Yolanda Quiceno, Board member McLeod and Board member Bernstein.

CALL TO ORDER

Chairman Woods called the meeting to order at 6:30 pm and opened with the Pledge of Allegiance.

APPROVAL OF MINUTES

Chairman Woods called for approval of the April 26, 2016 minutes.

Board member Shenefelt moved to approve the minutes as presented. Board member McLeod seconded the motion which passed unanimously.

Public Hearing Case#2016-04-012

Applicant Thirumala Hotel, LLC requests a variance for approval on 2635 McCoy Road, Belle Isle, FL also described as Parcel I.D. # 30-23-30-0000-00-005, from Section 50-73(a) to change the maximum building height for a C1 retail commercial hotel development from 30 feet maximum height to 60 feet maximum height.

Chairman Woods provided an overview, in brief, of the variance process and criteria for approval.

Robert Scott speaking on behalf of the applicant, provided an overview presentation illustrating the non-impact of the visibility of the 48 foot hotel, located on McCoy Road, to the residents of Belle Isle living north of the hotel location. The original site plans submitted show the driveway coming off of Burbank out of the residential area. It has since been removed from the site plan as a result of the community meeting and resident concerns. A new site plan was provided for discussion and file, showing no residential area and no driveway on Burbank. He said the design height of the hotel is 48 feet. There is a dedicated zone between the hotel and the residential neighborhood that will never be built on. He further added that the height of the hotel will not be visible to the neighbors to the north of the property. The dense, dedicated tree line separating the hotel from the Trentwood neighborhood to the north is 68-84ft in height, and cannot be seen during the day or in the evening. The view from Lake Conway is a non-factor because the lake elevation is 9.3 feet lower than the elevation of Trentwood Blvd.

Mr. Scott noted that safety and security is always a key to running a successful hotel operation. His company has a proven record of creating a safe and secure environment for their guests and neighbors. He provided statistics on police department calls-for-service from the Travel Lodge and the Comfort Suites.

Jonathan Huels, Attorney with Lowndes, Drosdick, Doster, Kantor & Reed spoke to more specifics of the project. He noted that the original set of plans proposed a 50 foot vegetated buffer. After further review, they have reduced the height of the building from 60 ft to 48 ft, and removed the proposed access ramp, which will increase the buffer to 110 feet, in addition to the additional distance from the building to the wall. Mr. Huels further spoke to the conditions of the project and said there will be minimal visibility and sight from the road. The project is consistent with surrounding developed properties and will make a reasonable use of the property, enhances the

attractiveness of the architectural design of the City and maintains the purpose and intent of the Land Development Code.

He proposes, as part of the approval, to add a condition that limits the maximum height to 48 ft, consistent with the architectural rendering. During development of Phase 2, restrict and eliminate access on to Burbank Avenue, preserve the northern quarter buffer from 65-84 feet and establish a tree buffer into preservation. In addition, open discussion for conveying the property outright or work with the City on a restrictive covenant and reported on public record.

April Fisher, City Planner said a staff report provided with the agenda was prepared before the applicant submitted their justification for the variance. She stated that her discussion with the applicant was the need to substantiate their request based on proving what the impact is, and the Board's approval of the variance should be based on meeting all four of the criterion.

Chairman Woods opened for public comment.

- Mike Sims residing at 2606 Trentwood spoke in opposition and referred to the dedicated zone presentation
 and the picture of the city map. He pointed out that this project does not meet the minimum reasonable use
 requirement, undue hardship on the neighborhood and intended use of the land. He further noted that the
 line established as the dedicated zone between the hotel and the residential neighborhood is not accurate.
 - o Chairman Woods asked city staff if the line was established by area, offset or if it is an actual platted line.
 - April Fisher stated that she is not sure on how it was established. There is no survey that delineates
 where the line is or a legal description that defines it. It is not common for a property to have a split
 zoning and will need to be researched before moving forward
 - o Jonathan Huels commented that there is a Comp Plan policy that is the genesis for the split and uses. He is not sure who drew the maps but it does speak to the three quarters fronting McCoy Road being commercial and the quarter in the back serving as a residential buffer.
- Bob Harrell residing at 2800 Trentwood spoke in opposition and shared his concerns with the request. He stated that the applicant does not meet any of the four criterions. For the record, Chairman Woods read the four criterions required to meet for approval of a variance:
 - SUBSECTION (D), literal enforcement of the provisions of the zoning ordinances would result in
 unnecessary hardship and that said hardship is created by special conditions and circumstances peculiar
 to the land, structure or building involved, including but not limited to dimensions, topography or soil
 conditions.
 - **SUBSECTION (E),** personal hardship is not being considered as grounds for a variance since the variance will continue to affect the character of the neighborhood after title to the property has passed and that the special conditions and circumstances were not created in order to circumvent the Code or for the purpose of obtaining a variance.
 - **SUBSECTION (F)**, the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
 - **SUBSECTION (G)**, the granting of the variance will be in harmony with the general purpose and intent of the Code, will not be injurious to the neighborhood, will not be detrimental to the public welfare, and will not be contrary to the public interest.

Mr. Harrell said, at best, the applicant may argue and might meet part of subsection d but does not meet the other three. He commented that the applicant knew the rules, height restrictions and the property's history. He agrees that the proposed design is better than the previous submittal; however, it is still not compatible with the neighborhood. The property can be developed as it is today without any variances. The driveway they graciously removed on the east end was not legal on a commercial property to begin with. The green area is a nice buffer and will help the neighbors however; the simulation shows no light coming through at night. Once the trees are cleared to build the hotel the opaque look they demonstrated will disappear.

- Vincent Ganley residing at 2492 Trentwood spoke in opposition. He said he disagrees with the presentation showing that the trees will hide most of the light. He suggested that there is a lot of land for sale down the road toward the Florida Mall.
- Mary Monroe residing at 2500 Trentwood spoke in opposition. She noted that the current traffic going west in the morning backs up terribly and adding this additional traffic will make it worst. As far as the lot line, what does it matter they will not be able to get to the hotel from that section of McCoy Road. The noise that will be heard will create an undue hardship for the current residents.
- Mafu Patel residing at 2601 McCoy Road owner of Quality Inn spoke in opposition. He shared his concerns and stated that none of the criterions have been met for development. He said it would be a nuisance because it will be all on one side of the road and generate too much traffic.
- Aaron Ray residing at 2512 Trentwood asked if a tree survey was performed. The applicant said yes.
 He said originally the land was larger, purchased in the past, built on and sub-parceled out. The City is
 allowing a cycling event and permitting a hardship without restricting the use of the land and providing the
 proper easements that are necessary for access further in the future. Inevitably he does not want to see a
 variance pushed through because it will impact the entire parcel and any sub parcels in the future.
- Jonathan Huels, Attorney with Lowndes, Drosdick, Doster, Kantor & Reed responded to a couple of concerns and stated that they do meet the criteria for a variance. This properties location, where the beach line highway has now been built up to has serious constraints for its intended use as commercial, and it presents an undue hardship. What they have proposed is protective of the public welfare. His client is an owner of the property and what they have proposed is the best of both worlds allowing a beneficial use and protects the neighboring residents. From a land use and traffic perspective a hotel use development is much less intensive than a generic retail establishment. Discussion ensued.

Chairman Woods said one thing that has not been adequately addressed is the minimal variance to accomplish the goal. Mr. Huels said the bare minimum at this time will be 48 feet. Chairman Woods said the pool begs the question of late night noise and if they would be able to accommodate a wall or hours of usage. Mr. Huels said the code provides for a 6 ft masonry wall. The applicant can discuss hours of operation.

- James Lance 3333 Flowertree Road posed a question to the Board. If the applicant is allowed to build with a three story building, why can't the City place a cap on the criteria for the minimum variance on a three story building?
- Tom Ray residing at 2520 Trentwood Blvd said he has been a resident since 1974 and stated that the previous Board's throughout the years enforced the rule concerning zoning height, and asked that the current board continue to protect the resident's property rights.

There being no further public comment, Chairman Woods closed public comment and opened for Board discussion.

Chairman Woods said there is a significant question of one is where is the 25% R1 line on the property. He noted that the Board can approve the variance subject to the clarification of the line. The residents have also called to question the density of the tree buffer, the current traffic problem that will increase with any other development and the noise generated by the hotel.

Chairman Woods called for a motion,

Board member Templin moved the justifying criteria of the Belle Isle Land Development Code, Chapter 42, Article III, Section 42-64(1), having NOT been met; from Sections E, F and G from Section 50-73 to deny the maximum building height for a C1 Retail Commercial hotel development from 30 feet maximum height to 48 feet maximum height on the property described as 2635 McCoy Road, Belle Isle, FL also described as Parcel I.D. #30-23-30-0000-00-005, Orange County, FL.

Board member Shenefelt seconded the motion which passed 4:1 with Board member Fouraker nay.

ADJOURN

There being no further business Chairman Woods called for a motion to adjourn, unanimously approved at 7:30pm.

Yolanda Quiceno CMC-City Clerk