

INDIAN SHORES

Ph 727.595.4020 Fax 727.596.0050
19305 Gulf Boulevard, Indian Shores, FL 33785
www.myindianshores.com

PLANNING, ZONING AND BUILDING COMMITTEE

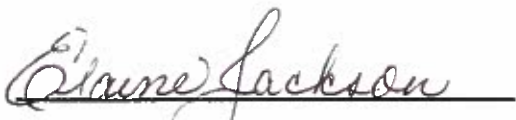
AGENDA – JANUARY 3, 2017

BEGINS 2:00 P.M.

- | ITEM # | AGENDA ITEM |
|---------------|--|
| 1.0 | Approval of Agenda for January 3, 2017. |
| 2.0 | Comments from the public on any Agenda item. |
| 3.0 | Consideration of approving the Minutes of the September 20, 2016 meeting. (Ref.: Pgs. 1- 59) |
| 4.0 | <u>PUBLIC HEARING:</u> |

Review and recommendation to Council relative to Ordinance 2017-01.

ORDINANCE 2017-01: AN ORDINANCE OF THE TOWN OF INDIAN SHORES, FLORIDA, IMPOSING A MORATORIUM ON THE OPERATION OF MEDICAL MARIJUANA TREATMENT CENTERS AND DISPENSARIES FOR TWELVE MONTHS WITHIN THE TOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTIES; PROVIDING FOR CONFLICTS WITH OTHER LAWS; PROVIDING FOR AN EFFECTIVE DATE. (Ref.: Pgs. 6-9)



Elaine Jackson, MMC , Town Clerk

Any person who decides to appeal any decision of the Planning, Zoning and Building Committee with respect to any matter considered at any such meeting will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes that testimony and evidence upon which the appeal is to be based.

Any person with a disability requiring reasonable accommodation in order to participate in this meeting should contact the Town Clerk's Office with your request. Phone 727-595-4020, Fax 727-596-0050.

James J. Lawrence
Mayor

Patrick C. Soranno
Vice Mayor

Mike Hackerson
Councilor

Diantha Schear
Councilor

William F. (Bill) Smith
Councilor

Bonnie Dhonau
Town Administrator

Terry E. Hughes
Chief of Police

Susan L. Scrogham
Director of Finance
and Personnel

Elaine N. Jackson, MMC
Town Clerk

Gregory Yantorno
Building Official

Regina Kardash, Esq.
Town Attorney

INDIAN SHORES

Ph 727.595.4020 Fax 727.596.0050
19305 Gulf Boulevard, Indian Shores, FL 33785
www.myindianshores.com

PLANNING, ZONING AND BUILDING COMMITTEE

MINUTES – SEPTEMBER 20, 2016

The Planning, Zoning and Building Committee convened at 2:07 P.M. Those present were: Vice Mayor Soranno; Councilor Smith; Fred Strahlendorf, Citizen Member; Candiss Rinker, Alternate Citizen Member and Anne Miller, Alternate Citizen Member.

ITEM # AGENDA ITEM

1.0 Approval of Agenda for September 20, 2016.

Motion by Councilor Smith – seconded by Fred Strahlendorf, to approve the Agenda for September 20, 2016. Motion carried 3-0.

2.0 Comments from the public on any Agenda item.

There were no comments.

3.0 Consideration of approving the Minutes of the July 12, 2016 meeting.

Motion by Fred Strahlendorf – seconded by Councilor Smith, to approve the Minutes of the July 12, 2016 meeting. Motion carried 3-0.

4.0 PUBLIC HEARINGS: Quasi-Judicial

Vice Mayor Soranno stated there are two quasi-judicial hearings today and read the general rules and procedures, and stated when there is a quasi-judicial hearing, the two Council members must excuse themselves and the Committee hearing the request will consist of Fred Strahlendorf, Citizen Member as Chairman, and the two Alternate Citizen Members sitting on the Committee today will be Anne Miller and Candiss Rinker.

Oaths were administered by the Town Clerk to those about to testify.

James J. Lawrence Mayor	Patrick C. Soranno Vice Mayor	Michael (Mike) Petruccelli Councilor	Diantha Schear Councilor	William F. (Bill) Smith Councilor
----------------------------	----------------------------------	---	-----------------------------	--------------------------------------

Bonnie Dhonau Town Administrator	Terry E. Hughes Chief of Police	Susan L. Scrogam Director of Finance and Personnel	Elaine N. Jackson, MMC Town Clerk	Gregory Yantorno Building Official	Regina Kardash, Esq. Town Attorney
-------------------------------------	------------------------------------	--	--------------------------------------	---------------------------------------	---------------------------------------

4.1 Consideration of a request for Site Plan review from Joseph and Diane Zdeb, to construct a single family home with 2 floors over parking, located at 19400 Gulf Blvd., Indian Shores, Florida 33785, Parcel number 30-30-15-42804-001-0041.

Bob Brotherton, Engineering Consultant, stated the lot is adequate to support the single family home. Code requires 2 parking spaces, but 3 are being provided under the building. Set backs are 7 ft. on the north side and 8.5 ft. on the south side. All other setbacks, drainage and landscape plans meet Town code requirements. Utilities are already located on the site. Mr. Brotherton recommended approval of the site plan.

Donald Hatch, General Contractor, stated the property was a 4- unit apartment building to be a single family home.

Greg Yantorno, Building Official, also recommended approval of the site plan.

Motion by Candiss Rinker – seconded by **Anne Miller** to recommend Council approve the site plan from Joseph and Diane Zdeb, to construct a single family home with 2 floors over parking located at 19400 Gulf Blvd., Indian Shores, Florida 33785, Parcel number 30-30-15-42804-001-0041. **Motion carried 3-0.**

4.2 Consideration of a request for Site Plan review from Costa Homes, to construct a 6 unit condo, with 3 floors over parking, located at 19503 Gulf Blvd., Indian Shores, Florida 33785, Parcel number 24-30-42912-006-0310.

Bob Brotherton reported the property at 19503 Gulf Blvd. does not have an existing building, and sits south of Dock Way. "AVRA" is zoned for 18 units per buildable acre. This property will have 6 units, 2 on each floor. Code requires 14 parking spaces, and this project provides 15. Utilities are already located on the site, except for water and fire lines, which will require a connection. The seawall is in good condition. Drainage plans meet code requirements through percolation and a retention pond. Mr. Brotherton recommended approval of this site plan.

Greg Yantorno, Building Official, also recommended approval of the site plan.

**Planning, Zoning and Building Committee September 20, 2016
Minutes – Page 3**

Paul Bakkalapulo, President of Costa Homes, Inc., stated it is a beautiful project that worked out nicely and he is excited to get started. He said "AVRA" is a Greek word meaning cool sea breeze.

Councilor Smith questioned the the use of the flat roof design, stating the Town initiated some incentives many years ago, which Council liked so much, they became part of the Town Code, and a gabled or mansard roof was one of the requirements.

Section 110.337 (b) (1) of the Town Code entitled Elements of Design states "Sloped roofs: All new roofs shall be sloped. For buildings two stories plus parking and below, the slope shall be between 3 inches and 6 inches of rise to 12 inches of run. All other buildings shall be sloped between 5 inches and 6 inches of rise to 12 inches of run. Mansard roofs are acceptable provided no portions of the flat roof beyond are visible."

Mr. Yantorno stated the purpose of the Mansard is to hide the flat roof. It may take away from the design, but it must be in compliance with the Code. He also stated there should be 4 different color shades on the building, and a Mansard roof could add another color.

Section 110.337 (b)(7) of the Town Code states "Color: the use of multiple colors shall be present. Not less than 4 colors shall be used on buildings greater than 30 ft. in height or greater. Not less than 2 colors shall be used on buildings less than or equal to 30 feet in height. The contrast shall be clearly different from each other and shall not clash. Multiple colors may be differentiated by walls, trim, window frames, railings, roofs, etc."

Mayor Lawrence stated at the time the incentives were passed, there was a lot of construction and elevations were getting very plain. The Committee worked on developing incentives for better aesthetics, and making the buildings more attractive from any direction. Council made the incentives part of the Code.

**Planning, Zoning and Building Committee September 20, 2016
Minutes – Page 4**

Mr. Bakkalapulo, expressed his concern that the Mansard roof did not complement the design of the building, which is Art Deco, thus the exterior would have to go more toward a Mediterranean look.

Motion by Anne Miller – seconded by **Candiss Rinker**, to recommend Council approve the site plan from Costa Homes, to construct 6 condos, with 3 floors over parking, located at 19503 Gulf Blvd., Indian Shores, Florida 33785, Parcel number 24-30-42912-006-0310, subject to the addition of revisions of the roof design and exterior colors in compliance with Town code. **Motion carried 3-0.**

5.0 Consideration of the status of the Town of Indian Shores Floodplain Management Plan (FMP) and the Pinellas County Local Mitigation Strategy (LMS).

Mr. Brotherton explained that every year we do a report to update our CRS status for our current rating that gives the Town a 20% discount in flood insurance. The Town has a Floodplain Management Plan which is more stringent than the Pinellas County Local Mitigation Strategy. The rating is based on what the Town requires relative to drainage issues and regulatory standards for building, such as requiring a structure to be elevated if costs for improvements, additions, renovations and repairs exceed 50% of the market value, and all new structures must have breakaway walls and hydrostatic vents if the ground level is enclosed, and must be elevated to or above the BFE plus 4 feet.

Mr. Brotherton further reported the Town maintains its MS4 drainage system, which includes routine inspections, removal of debris and maintenance of retention ponds, CDS units, pipes and catch basins and repairs to the system.

Mr. Brotherton stated the Building Department continues to disseminate flood information to the public to increase awareness. The Town is presently classified at a Class 6 community under the National Flood Insurance Program Community Rating System, resulting in a twenty percent discount on flood insurance premiums for property owners in Indian Shores. The Town needs to look at other ways to earn points toward the goal of lowering the classification to a "5".

**Planning, Zoning and Building Committee September 20, 2016
Minutes – Page 5**

Mr. Brotherton further stated the maintenance work on the stormwater infrastructure included normal mowing and tree trimming and inspections of the MS4 System. There were no flooding events other than minor street flooding on Gulf Blvd. FDOT has hired an engineering firm that will be designing the repair of Gulf Blvd. to reduce the street flooding. As of September 1, 2016, a preliminary design has been completed by the FDOT consultant, Protean Design Group.

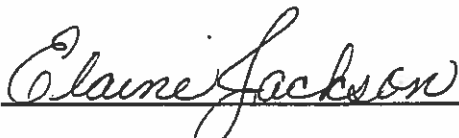
Mr. Brotherton expressed his concern with the maintenance project was they would try to patch it and re-paint the pedestrian and bicycle lanes, making it visible, but sealing off the area to drainage. He said he thought they will need to refurbish and reshape the entire road and install drains.

Ms. Dhonau stated a recent review was conducted with Protean, but a date has not yet been established for letting of the maintenance work. FDOT's fiscal year begins July 1, 2017. No funding has been established for the estimated yet for the estimated \$3 million project, which will extend to Walsingham Road.

Vice Mayor Soranno reported sidewalks were also discussed, but FDOT objected because a study would need to be done. We pushed hard but they said they are 12 years out for capital projects.

Motion by Councilor Smith – seconded by **Fred Strahlendorf** to approve the status report of the Town of Indian Shores Floodplain Management Plan (FMP) and the Pinellas County Local Mitigation Strategy (LMS). **Motion carried 3-0.**

The Planning, Zoning and Building Committee adjourned at 3:05 P.M.



Elaine Jackson, MMC

Town Clerk

ORDINANCE 2017 - 01

AN ORDINANCE OF THE TOWN OF INDIAN SHORES, FLORIDA, IMPOSING A MORATORIUM ON THE OPERATION OF MEDICAL MARIJUANA TREATMENT CENTERS AND DISPENSARIES FOR TWELVE MONTHS WITHIN THE TOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTIES; PROVIDING FOR CONFLICTS WITH OTHER LAWS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, ON November 8, 2016, Florida voters approved an amendment to the Florida Constitution entitled "Use of Marijuana for Debilitating Medical Conditions" ("Amendment 2"); and

WHEREAS, Amendment 2 legalized the medically certified use of marijuana throughout the State of Florida and authorized the cultivation, processing, distribution and sale of marijuana, and related activities, by licensed "Medical Marijuana Treatment Centers;" and

WHEREAS, medical marijuana dispensing facilities and treatment centers are new and unique uses which are not currently addressed under the Indian Shores Code of Ordinances; and

WHEREAS, the Florida Legislature enacted the "Compassionate Medical Cannabis Act of 2014," codified at §381.986, *Florida Statutes*, and amended on March 25, 2016, which currently provides that municipalities may "determine by ordinance the criteria for, the number and location of, and other permitting requirements that do not conflict with state law or department rule for, dispensing facilities of dispensing organizations located within its municipal boundaries." *Id.* at (8)(b); and

WHEREAS, the 2017 Legislature will be drafting legislation to comply with the requirements set forth in Amendment 2 which established Article X, Section 29 of the Florida Constitution, and the state Department of Health has nine months from the effective date to implement administrative rules for treatment centers; and

WHEREAS, Chapter 64-4 "Compassionate Use" of the Florida Administrative Code has been enacted to regulate the Department of Health with regard to the requirements for dispensing organizations, including procedures for application, review, approval, inspection and authorization of dispensing organizations, and then the Department of Health will commence enactment of new regulations for its application and review process in response to the expansion under Amendment 2; and

WHEREAS, the Town Council believes that providing for the appropriate zoning regulations is in the best interest of the citizens and visitors to the Town to ensure their health, safety and welfare; and

WHEREAS, a temporary moratorium on the establishment of medical marijuana dispensaries and treatment center facilities within the Town will allow time to review, study, hold public hearings, and prepare and adopt appropriate provisions in the Indian Shores Town Code to address this use consistent with State Law and the Department of Health regulations which are forthcoming; and

WHEREAS, the Florida Constitution, Art. VIII § 2(b) and *Florida Statutes* § 166.021, provides for municipal home rule power and the charter of the Town of Indian Shores authorizes the Town Council to exercise any power for municipal purposes, except where prohibited by law;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF INDIAN SHORES:

SECTION I

The above recitals are true and correct, and incorporated into the findings of this ordinance as if set forth in full herein. The purpose of this ordinance is to preserve the status quo until such time as the Town can prepare and adopt appropriate zoning regulations for medical marijuana dispensing facilities and treatment centers. It is not the intent of this Ordinance to permanently deny uses permitted by right or special use permits that otherwise comply with State Law and regulations.

SECTION II

The following definitions apply to the terms used in this ordinance:

“Dispensing organization” means an organization approved by the State Department of Health to cultivate, process, transport and dispense low-THC cannabis or medical cannabis pursuant to Section 381.986, *Florida Statutes*, and Florida Department of Health Rules.

“Medical Marijuana Dispensing Facility” means any establishment where low-THC or medical cannabis is permitted to be dispensed by an approved dispensing organization pursuant to Section 381.986, *Florida Statutes*, and Florida Department of Health Rules.

“Medical Marijuana Treatment Center” means an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their caregivers and is registered by the State Department of Health, pursuant to Article X, Section 29 of the Florida Constitution.

SECTION III

A temporary moratorium is hereby imposed on the establishment or operation of Medical Marijuana Treatment Centers and dispensing facilities or organizations within the corporate limits of the Town of Indian Shores, Florida. This moratorium is in place for twelve months following the effective date of this Ordinance, and during that time, the Town shall accept, process or approve any application relating to the operation of a Medical Marijuana Treatment Center or dispensing facilities or organizations. Nothing in the temporary moratorium shall be construed so as to prohibit the medical use of marijuana or low-THC cannabis by a qualifying patient as determined by a licensed Florida physician, pursuant to Article X, Section 29 of the Florida Constitution, or other Florida Law.

SECTION IV

The provisions of this Ordinance are enforceable and punishable under Chapter 2 Administration, Article V Code Enforcement, of the Town of Indian Shores Code of Ordinances.

SECTION V

That if a court of competent jurisdiction finds any provisions of this ordinance to be invalid or unenforceable as a matter of law, the offending portion shall be stricken and all other provisions shall remain in full force and effect.

SECTION VI

In the event of a conflict between the provisions of this Ordinance and adopted State Law under the Florida Constitution, Florida Statutes or Florida Administrative Code, then the provisions of State Law shall prevail.

SECTION VII

That this ordinance shall be in full force and affect immediately upon its passage, in the manner provided by law.

FIRST READING AND PUBLIC HEARING this ____ day of _____, 2017.

SECOND READING, PUBLIC HEARING AND FINAL PASSAGE this ____ day of _____, 2017.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF INDIAN SHORES, FLORIDA, THIS ____ day of _____, 2017.

Patrick C. Soranno
Mayor

ATTEST:

Elaine Jackson
Town Clerk

Approved as to form:

Regina A. Kardash, Esq.
Town Attorney