

(12:35)

D. APPROVAL OF THE MINUTES:

Approval of the minutes of the meeting on March 28th, 2018.

MOTION was made by Jerry Mills and seconded by Richard Klosiewicz to approve the meeting minutes of March 28th, 2017. All voted in favor of the motion.

(14:45)

E. INDIVIDUALS TESTIFYING PLACED UNDER OATH

City staff and members of the public testifying before the Board at the meeting were placed under oath by Luis Bencosme, Zoning Technician and Notary Public in the State of Florida.

F. TEXT AMENDMENTS

(14:18)

1. COMMUNITY RESIDENCES FOR PEOPLE WITH DISABILITIES

Ms. Jennifer Gomez, Assistant Development Services Director, presented herself to the Board. She explained that this presentation is a follow-up to the February presentation by her and Mr. Dan Lauber and is the actual text amendments to the code. She stated that on March 13, 2018 the City Commission adopted Resolution 2018-99, accepting a study entitled “Pompano Beach, Florida: Principles to Guide Zoning for Community Residences for People with Disabilities” dated February 2018, (hereinafter, “the Study”). She explained that the review of the locations of community residences in the City of Pompano Beach conducted as a part of this study found that there is existing clustering of community residences on blocks and/or concentrations in neighborhoods that have created or are creating de facto social service districts in the City. She stated that the amendments propose to require all community residences to obtain licensing in order to protect people in recovery with the same protections as those afforded to people with other disabilities; to assure they receive the support they need, including that those in recovery can attain long-term sobriety; to establish between small and large community residences and locate them in appropriate zoning districts; to enable community residences to achieve normalization and community integration by preventing existing clustering from expanding and prohibiting new clustering to form. She stated that the guiding principles to make the “reasonable accommodation” that the Fair Housing Act requires, zoning protections must be fact-based and be intended to achieve a legitimate government interest; actually achieve that interest; and constitute the least drastic means necessary to achieve this interest. She highlighted that the current zoning code definition of “family” as three unrelated individuals.

Ms. Gomez presented a chart summarizing the new uses proposed by the amendment, pointing out that they are “Family Community Residence”, “Transitional Community Residence”, and “Recovery Community”. She listed several bullet points describing each use, including how it operates, and where they can be located. She described the process

by which it will be determined if operators of these facilities comply with the new regulation and stated that existing operations will have one year to be certified.

Dr. Mills asked if there are any existing facilities that will need to seek Special Exceptions and if they will be grandfathered in.

Ms. Gomez responded that there are and that distance requirements would be grandfathered in but the use must be certified.

Mr. Klosiewicz asked if this is more in the interest of community members than it is the government.

Ms. Gomez confirmed that the intent is to enhance communities by this text amendment and that the Fair Housing Act specifies how regulations like this must be approached.

Mr. Klosiewicz asked what criteria was used for determining the distance requirements.

Ms. Gomez responded that 660 feet is approximately one city block and so was the basis for the required separation. The “recovery community” use is more intensive and so has a larger distance separation requirement.

Ms. Rhonda Eaton commented how these homes have been a significant problem and expressed concern to the harm they do to those using the facilities. She asked how these new regulations will be enforced.

Ms. Gomez responded that the City has a general list of where the operations are and that the City’s code enforcement office will handle enforcement. She noted that they are hopeful that an additional code enforcement officer position will be approved to help in this regard.

Ms. Jocelyn Jackson asked what type of thing qualifies as “disability”.

Ms. Gomez responded that if someone is qualified as being disabled they would be able to take advantage of these regulations.

Ms. Jackson asked what areas of the City are zoned to have this type of use.

Ms. Gomez responded that the regulations are City-wide and the specific zoning districts are listed in the backup.

Ms. Jackson noted that District 4 has an accumulation of these facilities and asked what the limit per district will be.

Ms. Gomez responded that the goal of this ordinance is to reduce clustering of these facilities. She stated that this would implemented City-wide and not necessarily by district.

Ms. Jackson asked how the clustering will be prevented.

Ms. Gomez responded that there are distance requirements as well as certification requirements. If applicants can't satisfy these requirements, they would have recourse through the Special Exception process.

Ms. Jackson asked how existing homes will be shut down.

Ms. Gomez responded that they will have until May 1, 2019 to become compliant. The City will contact them to explain how the compliance process will work and at that point they can decide to go through the process or leave the City.

Ms. Jackson asked if citations will be issued if they are not in compliance.

Ms. Gomez responded that such cases will be evaluated and Code Enforcement will be involved to investigate non-compliance.

Mr. Daniel Lauber (address) added that before an operator wants to open in a new location they must fill out an application form so that staff could evaluate its compliance. If they are found to be uncertified, the City can force them to vacate their operation. He explained that existing uses cannot be made to vacate right away, and also stated that giving some time will allow staff to handle the amount of applications that will be submitted. This will also protect occupants from being kicked out and made homeless suddenly.

Mr. Klosiewicz asked which board will review the Special Exception requests.

Ms. Gomez stated that the Zoning Board of Appeals will review these applications and noted that they would have extra standards to consider.

Ms. Kovac asked about the certification process.

Ms. Gomez stated that the Florida Association of Recovery Residences (FARR) is the certifying body and that certification will be made mandatory in the City for drug and alcohol recovery centers. She explained that the operators will have several days to complete this certification, which is at the state level. If the certification is revoked for any reason, they must vacate the premises.

Ms. Eaton asked if FARR inspects the properties regularly.

Mr. Lauber stated that the state chose FARR to manage the certification process as opposed to establishing its own agency. He explained that FARR will issue a provisional certification to an applicant if they meet certain requirements. After three months they will inspect the home and interview both current and former residents and staff. They do deny certifications if they are not satisfied with the operation of a facility. He noted one aspect in that it is important for homes to charge rent since it is part of the normalization process. He trusts that FARR has a high level of sophistication and dedication to this

process. He stated that there is an annual renewal certification and inspection and that these zoning requirements and mandatory certification should eliminate the illegal operators within 8 or 9 months.

Ms. Eaton asked if having one sober home per block might be excessive. She asked if a larger distance requirement was considered.

Ms. Lauber stated that there have been over 50 studies done on this issue and that it is hard to justify separating the uses more than a block because as long as they are not clustered more than one or two per block and are regulated, they generate no adverse impact. He stated that the reason for the 1200 ft. separation requirement for “recovery community” is because they aggregate much larger numbers of people. He pointed out that individuals in these homes interacting with non-disabled persons is beneficial to their recovery.

Ms. Jackson asked if City staff went to present these text amendments to community groups.

Ms. Gomez stated that the study was presented to this Board, the City Commission, and is available online, but that staff did not go to specific community groups.

Ms. Jackson asked when outreach efforts will be done.

Ms. Gomez responded that if it is passed by City Commission then outreach efforts will begin regarding implementation.

Ms. Jackson stated that she thinks that it is problematic that this issue hasn’t been presented directly to community groups.

Mr. Lauber stated that the City has to follow the same procedure for these amendments as if does for other amendments or it could be violating the Fair Housing Act. He stated that residents have an opportunity to provide input at the City Commission and Planning and Zoning Board meetings and that the information is openly available to the public.

Mr. Stacer asked if there is a 24-hour local phone number contact that gets recorded for each home.

Ms. Gomez confirm that they would.

Mr. Stacer asked if the City will require a minimum of four parking space per 4 residents.

Ms. Gomez stated that the current draft is that the City will require 2 on-site parking spaces per dwelling unit plus potentially more off-site. She stated that the City doesn’t want to require too many on-site parking spaces and turn front yards into parking lots.

Mr. Stacer said that it is possible to have 5 people in a single-family home. He asked if the city would require 5 parking spaces.

Ms. Gomez stated that it should be 2 per dwelling units plus off-site parking for those with vehicles. She noted that there is a small typo in the draft that will be corrected to make this more clear.

Mr. Lauber commented that most disabled people in these homes generally do not drive but that those in recovery are who generally have vehicles. The amendment tries to accommodate for this.

Mr. Stacer that this will be fine as long as there is an enforcement mechanism.

MOTION was made by Rhonda Eaton and seconded by Richard Klosiewicz to recommend approval of the proposed text amendments.

Discussion:

Ms. Eaton stated that she feels that this ordinance will be very good for the City since there is a need to assist neighborhoods while also permitting this important use.

Dr. Mills asked if there is a problem in requiring all new applicants to follow the ordinance exactly as it is written.

Ms. Gomez stated that the City will expect that all new applicants will comply with the new ordinance.

Dr. Mills suggested amending the motion to require that all new applicants must follow the exact requirements of the ordinance. He stated that he doesn't want to pass this if applicants can just request a Special Exception.

Mr. Stacer commented that this, however, is akin to people asking for variances from code requirements.

Mr. Lauber stated that it would be a blatant violation of the Fair Housing Act if the City did not allow for the possibility of a Special Exception. He stated that two homes in a block that won't interfere with each other will not cause a problem regarding normalization, but that additional homes within the same block would start causing an issue.

Mr. Stacer asked James Saunders, Assistant City Attorney, if he sees a potential issue with the Fair Housing Act.

Mr. Saunders concurred with Mr. Lauber's advice. He stated that the Fair Housing Act would consider such a restriction against Special Exceptions discriminatory. He stated that all processes must be consistent like any other action.

Ms. Jackson asked Mr. Saunders if what the Board is doing tonight is to make sure that the City does not discriminate.