

**MINUTES
PLANNING AND ZONING BOARD MEETING
March 28, 2023 5:30PM**

The City of Lake Wales Planning and Zoning Board held a meeting on March 28, 2023 at 5:30 p.m. in the Commission Chambers at City Hall, 201 W. Central Ave. Lake Wales Florida.

ATTENDANCE

Planning Board Members (Shaded area indicates absence):

Chairman Christopher Lutton	Vice-Chair Kyra Love	Eugene Fultz	Casey McKibben	Eric Rio	Courtney McCrystal	Larry Bossarte
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City Staff:

Dept. of Planning and Development
Autumn Cochella – Interim Director of Development Services
Jasmine Khammany – Senior Planner
Ivo Cardentey – Planning Technician
Christina Adams – Assistant Planner, Recording Secretary
Tom Cloud – Consulting Attorney

1. CALL TO ORDER – Mr. Lutton called the meeting to order at 5:30 p.m.
2. ROLL CALL – Mr. Bossarte and Mr. McKibben were absent and excused. A quorum was present.
3. APPROVAL OF MINUTES
Meeting–February 28, 2023
Mr. Fultz made a motion to approve the minutes and Ms. Love seconded the motion. The minutes were approved unanimously by voice vote.
4. COMMUNICATIONS AND PETITIONS – Mr. Lutton opened up the Meeting to communications and petitions. He stated the procedures for public comments and clarified that the ADS Plastic Plant was not an item on this meeting’s agenda and would not be discussed by the Board.

Becky Wynkoop, who lives inside of City limits, stated she wanted to speak on the pipe plant. She stated she supports the plant but is against the location being so close to residential. She stated she asked the company about the traffic impact and was told that the route is currently being used now and there would be no difference. She stated that was not a sufficient answer. Ms. Wynkoop stated her concerns about the impact on residents once the plastic is heated. She stated it should remain as low industrial but allow them to have outdoor storage. She stated that City Codes represent our standards and every time a variance is granted it lowers those standards and said it’s just not a good fit at that site.

Paul Rourke, who lives inside of City limits, stated he moved to Lake Wales because he thought he had found ‘Mayberry’ and at the last City Commission meeting he heard other residents sharing their same experience. He stated in his previous city, ‘Davie’, a casino was opened and bad crowds came which changed the character of the city and he is interested in the plant but doesn’t

want a casino in his backyard. He stated he wanted Lake Wales to maintain its charm and he hates when the traffic gets bad. He mentioned he saw two dead baby Sandhill cranes on his way to the meeting and he loves the wildlife and people in Lake Wales.

Cathy Blocker, who lives outside of City limits, stated she owns property near the proposed plastic plant and is wondering if she is wasting her time attempting to attend meetings and voice her concerns. She stated that nobody will want to move to the residentially zoned properties surrounding the plant. She stated that she already hears the trains daily and is concerned how much noise the plant would make. She stated she understands the plant is good for bringing jobs but that it's dangerous for the people who live nearby in communities such as Whispering Ridge. She stated that the plant would deteriorate residents from having a healthy life and would risk their lives by catching cancer from the fumes or the pellets going into the water.

Cassandra Richards, who lives outside of City limits, stated she understands that the meetings and public hearings related to the ADS plant are just a formality and that minds are already made up, but she plans to seek council for a class action if something should go wrong. She stated that the communities needed to come together and monitor their health and that the community should not be at an inconvenience for greed. She stated that this project would most likely be an ongoing situation similar to Florida Natural as they pushed people out of their homes to expand. She stated that the motive 'by any means necessary' is self-destructive and the tax payers would be paying to clean up any mess.

Juanita Zwaryczuk, who lives inside City limits, stated that residents have been talking about the plant and have heard that Commissioners visited one of the ADS sites and didn't smell anything. Her concern was that there have not been studies provided to the public verifying if it is safe or not. She stated that Commissioners and Board members have a vested interest in this project and there needs to be studies from independent sources provided to the public relating to traffic, air quality, and water quality. She stated that people are worried and scared and they need information.

Bruce Francis, who lives outside of City limits, stated he attended the Lake Wales Envisioned Symposium and has been to several Commission meetings. He believes the City is in a schizophrenic state as we are paying companies to study Lake Wales but are continuing to make changes before the studies are complete. He stated that Lake Wales is unique and when you have something unique you have something to sell and if it gets ruined then the value is gone. He stated that Lake Wales has a naturalist tourist attraction and has pillars for building a knowledge based economy not a manufacturing economy. He stated with five universities within fifty miles, Lake Wales has the opportunity to produce innovators and critical thinkers.

Robert Connors, who lives outside of City limits, asked the Board if the second agenda item is the consideration of a change to City ordinance which will change who makes the decision for this sort of zoning change. Mr. Lutton responded no that the second item regarded a correction of an ordinance that was codified incorrectly. Mr. Connors responded that Mr. Lutton's answer was a yes and that the item was changed, changed back, and is changing again so that the final decision from zoning change of light industrial to heavy industrial will allow staff to make the decision of approval.

Christine Link, who lives outside of City limits, stated her concern was for the Highland Park Manor residents who have been here for multiple generations. She stated she was unable to find a MOD sheet for the plant but found one for another company that does similar manufacturing and stated a few of the warnings such as may form combustible dust, dust may form explosive mixtures in

the air, dust may irritate skin eyes and throat. She stated that she is concerned nobody has brought this up and that people who have visited the plant have only said its fine.

Catherine Price, who lives inside of City limits, stated that the public attending the meeting needed to have the agenda items contextualized. She stated that this meeting was about the pipe plant and that there was a two sentence memo that came before the Board in March that removed the Special Exception Use Permit from light to heavy industrial and it was supposed to be changed. She stated that it does affect the pipe plant and if the Special Exception Use Permit requirement is changed then the item would not go before the Board and staff will be making decisions with no public disclosure. She stated that there were three meetings scheduled and canceled due to improper public notice. She stated she and a friend had been studying the Permitted Use Chart and that there have been a lot of changes made since October and the community is totally confused. She stated if the Board supports the ordinance it will mean staff makes the decision and the community will get no information and no public comment on the process. She finished with stating again that this is about the pipe plant.

Edward Pijuan, who lives outside of City limits, stated he attended a City Commission meeting where the Mayor and Vice Mayor educated the audience. He stated it was said that the residents owe the Hunt Brothers and heard that they were hurting but everybody is hurting currently. He stated the plant may provide jobs but we need to pay attention to education. With multiple residential project approvals we are needing trade workers. He stated the plant may be automated so who knows how many jobs it could actually provide. He stated the attorney for the plant did not do due diligence to research health risks and now a plastic plant will be added to a residential area when plastic is already everywhere.

Mary Beth Salisbury, who lives outside of City limits, stated that she moved to Lake Wales five years ago and did her due diligence and saw that the property surrounding hers had a land use and zoning of agriculture. She stated she made sure she was living on a lake and saw only residential and agriculture around her. She stated that she reviewed the proposed ordinance and found some inconsistencies as there was a whole new column for DMU as well as three different categories. She stated that this was not an ordinance proposing one thing to be changed and she is very against staff making the determination. She stated if the Special Exception Use Permit process is not a big deal then it should continue and if one plant gets approved then all of that road will become manufacturing.

Catherine Lemar, who lives outside of City limits, stated that twice a week trucks with plastic pallets will be driving through the heart of Lake Wales and passed the downtown that the City is paying a fortune to redesign. She stated there will be large trucks moving between 4 A.M. and 5 P.M. and traffic that already exists during school pick up and drop off times will be worse. She stated that oranges aren't in season 24 hours a day but the trucks can still be seen. She stated that Council says the ADS plant could bring over a hundred jobs to the area but there is nothing written about this and whether those would be part time or full time jobs.

Donna Rourke, who lives inside of City limits, thanked the Board for their patience and for listening to the concerns of residents. She stated that she feels like this is a David and Goliath situation and people are praying for the right thing to happen. She stated that plastic can't be produced without fumes that are toxic, it's impossible. She stated she hopes that Lake Wales doesn't get destroyed because of greed and this toxic plant and she is praying the City doesn't install a heavy industrial plant.

Susan Latiere, who lives outside of City limits, stated that she did a google search on train derailments and factory hazard issues in the recent years. She stated that this is research that can and should be readily done by everybody and if the residents haven't received data then there is no reason to trust what is being said. She stated that these events aren't rare or unusual and she believes they may be terrorist based.

Donna Giles, who lives inside of City limits, stated she is a teacher at Lake Wales High School and encourages everyone to do their due diligence and find researchers they can trust. She stated that perhaps this clerical error was a Godsend to correct the actual mistake that was made back in March. She stated that a plastic pipe plant won't destroy Lake Wales but bad ordinances and planning will.

Mr. Lutton stated that the majority of everybody is in agreement with the thoughts provided and with no further movement, he closed the public hearing.

NEW BUSINESS

5. 555 Burns Ave. – Major Site Plan

Review Staff report by Jasmine Khammany
Begin Report:

PROJECT:	Major Site Plan for 555 Burns Avenue
APPLICANT:	David Norris Engineering, <i>agent</i>
APPROVAL:	Site Plan Approval with Conditions
PUBLIC HEARING:	Not Required

Ms. Khammany presented the staff report and advised that the applicant and staff were available for questions.

Mr. Lutton stated to the applicant that the City has had an issue in the past with temporary buildings not being temporary and that he would like to research other jurisdictions that keep a bond on file for removal of buildings as he thinks the City should look into updating the Code and adding that as a requirement. Mr. Lutton asked what their plans are for expansion after the 5 years would be up. Sara Ramnarine, with David Norris Engineering, stated that they do have plans for expansion and it is noted on the Site Plan. Mr. Lutton stated he wanted to ensure the temporary buildings weren't being placed where the future expansion is proposed. He stated it may be good to prepare their landscape plan as an overlay to the final master plan so that they are not planting trees that may need to be removed in five years. He also stated that they would need fire alarms in the temporary buildings. Ms. Kaneishia Latson, owner, stated that the school has a fire system through Capo and they would ensure that they do whatever is needed and she is learning the system as she goes through the process. The Board had no further questions for the applicant.

Ms. Love asked staff what the timeframe was for the temporary buildings at the Bok North project. Ms. Cochella stated that project received a three year approval as that is what worked best with their school system. She stated that a master plan needed to be provided as an assurance that the buildings won't be permanent and that staff recommended five years to give them time to expand or come back before the Board to ask for an extension. Ms. Love asked how to word a motion to include that a bond would be needed and Ms. Cochella informed her that we could not ask for a bond without it being included in the Land Development Regulations.

Ms. Love stated her concern about the temporary buildings becoming permanent and stated she was not comfortable with granting an approval for five years. Ms. Love stated she would prefer to approve for three years giving them time to plan and they can come back to the Board to ask for an extension if needed. Mr. Rio asked if the Board could grant the approval for three years and then require them to come back with a plan if they want to ask for an extension.

Ms. Love made a motion to approve with conditions as amended in discussion to allow the temporary structures for three years with an extension request subject to major site plan approval and construction plan submittal for an additional two years. Mr. Fultz seconded the motion.

Mr. Lutton asked for roll call vote.

Chairman Christopher Lutton Yes	Vice-Chair Kyra Love Yes	Eugene Fultz Yes	Casey McKibben N/A	Eric Rio Yes	Courtney McCrystal Yes	Larry Bossarte N/A
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The item was passed unanimously.

6. Amendment to Chapter 23, Zoning, Land Use, and Development Regulations

Review Staff report by Autumn Cochella
Begin Report:

APPLICANT: City Staff
APPROVAL: Amendment to Table 23-421 Permitted Uses and Special Exception Uses in Standard Zoning Districts
PUBLIC HEARING: Requirements have been met.

Ms. Cochella introduced Merle Bishop and Tom Cloud to the Board and presented the staff report. Mr. Bishop explained that he was hired as an expert consultant and explained his impressive background. He explained the timeline of when the ordinances and changes occurred that led to the scrivener's error.

Ms. Love asked why it mattered if the use was permitted by right or by the Special Exception Use Process and Ms. Cochella explained that it was an inconsistency that was corrected by an ordinance in March of 2022. She explained that the issue was just that an incorrect table that wasn't correctly codified in E-Laws was pulled and used for another ordinance which was an issue as that is not what was advertised for that ordinance change.

Ms. Love asked the difference between the I-1 and I-2 zoning districts and why one was classified as infill. Ms. Cochella clarified that the I-2 industrial infill district lends itself to the built environment and what is existing. For example she pointed out an area near the downtown adjacent to the railroad which was considered infill. She stated that all zoning changes or recommendations have three public hearings. One with the Planning and Zoning Board and two with the City Commission and the specific property the residents were speaking about was assigned I-1 industrial zoning back in 2008 and went through the process of three public hearings. Ms. Love asked about the surrounding residential zoning and Ms. Cochella stated they were aware of the surrounding zoning. Mr. Bishop explained the process of annexation and assignment of land use and zoning designations and Ms. Love stated she thought the I-2 zoning districts needed to be looked at.

Mr. Bishop explained that properties designated I-1 industrial were larger and removing the requirement of Special Exception Use Process was consistent with the City's Comprehensive Plan policies and it was more logical to make those changes associated with the I-1 zoning rather than I-2.

Ms. Love asked if the note about outdoor storage made that use approvable by the Board or City staff and Ms. Cochella responded that it depended on if the site plan was considered minor or major. Ms. Love asked if allowing outdoor storage was the only difference between light and heavy industrial and Ms. Cochella stated that was not the only difference. Mr. Bishop explained that the note related to outdoor storage applies to more than one zoning district and is there to state that additional consideration should be taken in addition to minimum standards being met.

Mr. Lutton asked Mr. Cloud, consulting attorney, to explain the letters that were submitted to the Board from Shepard, Smith, Kohlmyer, & Hand Law Office.

Mr. Cloud informed the Board that tonight's item was a policy issue not related to a specific project. He stated the item proposed was to fix an error that occurred inadvertently. He stated that the arguments submitted in the letters relate to intergovernmental elements setting a policy for future parcels. He stated there was no applicant before the Board tonight because this item is specifically about City policy and code not a project. He stated even if it was appropriate to consider the property related to the ADS proposed project, which it is not, that property went through the process in 2008 and that's when intergovernmental issues should have been raised. He stated during that time the Central Florida Regional Planning Council and the Department of Community Affairs were the local reviewers and that would have been one of the easiest times for Florida to file challenges against land use proposals. He stated that the surrounding residential also went through the same process and review at that same time with ample opportunity to raise a concern about any intergovernmental issues. He stated that he reviewed the documents from 2007 and 2008 and any changes to the zoning or land use now could actually put the City in trouble.

Mr. Lutton thanked Mr. Cloud and stated that he remembered when the land use was approved and because of the property's proximity to the railroad track it seemed ideal to have industrial zoning.

Mr. Lutton opened the floor for the public hearing.

Juanita Zwaryczuk, who lives inside City limits, said she was reading a letter from Charlene Bennett, who lives inside City limits, since she was unable to attend the meeting. She stated that the Special Exception Use Permit provides some degree of transparency for the citizens. She pleaded with the Board to not "correct" this item and stated the Board has never chosen to allow heavy industrial near residential and the people that live nearby do not want it there. She stated that a vote to "correct" would be saying it's okay for something like this to happen automatically without the say of this Board and that she hopes votes are not influenced by those who made visits to the ADS site in Sebring. She stated there were claims that this plant create no odor but when she, Charlene Bennett, made an unannounced visit and not only was there odor but there was also noise.

Blair Updike, who lives outside of City limits, stated that the ongoing conversation is that this is a change to policy not for a specific site, but this specific site is what brought up this policy change. She stated she read all the minutes and watched the meeting videos and looking back at the March 2022 ordinance, Mark Bennett read one paragraph about opening up heavy industrial with

light industrial and the Board was without resources to make an educated decision. She states that if she was a Board member she would have trusted staff without a second thought but this policy change appears to have come forward because of a specific site. She stated that Mark explained that Ellis Hunt had plans for this site and then gave no further information. She stated that the Board was scheduled to have a meeting that was canceled due to not being properly advertised, then the item was pushed back to a later date, and then it was changed to correcting a "typo". She stated that the Special Exception Use Permit process was being started and the City should have continued and completed it that way which would help make it clear to the community that the Board felt it was appropriate. She stated she would like to think the real mistake was made in March 2022. She stated by making this use permitted by right it would be making a change to all areas zoned I-1 allowing hazardous uses and this should be evidence of why things aren't left to staff alone.

Edward Pijuan, who lives outside of City limits, stated this should be left open and transparent to the public through sunshine law and it's one thing to go from light industrial uses to heavy industrial uses and the studies completed were from twelve years ago and the City's population and growth are much different now.

Jim Salisbury, who lives outside of City limits, stated he wanted to know the process of a Special Exception Use Permit and wanted to know why anyone wouldn't be willing to go through that process. He stated if the plant is approved and they wanted to have an onsite person living there that would require approval through the Special Exception Use Permit process. He stated he didn't want the process eliminated for staff to decide whether or not something can be permitted.

Andrew Hand, who lives outside of City limits, stated it was very clear that the City intended to change this by right in 2022 and an inadvertent change happened later that year. He stated that the City has a second chance to decide what is best for citizens. He stated that the process of Special Exception Use Permit doesn't mean there won't be an eventual approval it just gives the public the opportunity to engage. He stated that it would be extra discretion for the Board and is a process that provides extra protection for the City and the public.

Catherine Price, who lives inside of City limits, stated she heard several things from Mr. Cloud and Mr. Bishop that were confusing. She stated that the public found out on a Monday that on a Thursday there would be a hearing about a final decision relating to this plant and after that it would be a done deal. When the January meeting was canceled, citizens started researching and discovered members of the EDC knew about this proposed project in August of 2021. She stated her research showed this change was initiated by a two sentence memo and now the Board has an opportunity to fix that. She stated that residents feel that this change was designed for the ADS proposed project and she was told by Skip Alford at the chamber of commerce that an industrial corridor is wanted from the plant's proposed location to highway 27. She stated that the citizens keep hearing that the ADS project only needs heavy industrial designation for its outdoor storage but she believes hazardous material is involved. She stated that she doesn't understand what makes something a minor site plan rather than a major site plan. She stated that staff is saying the only change on the permitted use table is the S and P under heavy industrial use in I-1 zoning but there's actually different problems including new zoning categories being added.

Catherine Lemar, who lives outside of City limits, stated that 2007 was 2007 and 2023 is 2023 and a lot has changed since then. She stated the Board can fix this policy by erasing an error or they could fix this policy by retaining it and looking at the underlying issues. She stated that this is not an impediment it's a positive and this is a very significant moment for the Board.

Mary Beth Salisbury, who lives outside of City limits, stated she wanted to end with a question. If the Board removes the Special Exception use Permit process for this item then why keep it for a caretaker on premises, a kennel, nursing home, auto service station, and many other items.

Cynthia Kipp, who lives inside of City limits, asked if this company is willing to invest in equipment and training that people would need to put out fires from this material because it is her understanding that City firefighters don't have the training to put it out.

Kay Renier, who lives outside of City limits, stated she is against the plan for safety concerns. She said she was speaking on behalf of her love for Lake Wales whose logo is the Crown Jewel on the Ridge and that will no longer be the truth. She stated that Highway 27 and Scenic Highway 17 are going to turn into death traps and she currently avoids Highway 27 because of how bad it is and stated that downtown is going to be beautiful with the implementation of the Lake Wales Connected plan but people won't be able to get there because of traffic.

With no further movement Mr. Lutton closed the public hearing.

Mr. Rio stated he wanted to keep this error and Ms. Love stated she understands the error needs to be cleared but she feels the issue is the definition between heavy and light industrial. She stated outdoor storage shouldn't be a factor and that's where the change should be made.

Mr. Lutton asked the Board for a motion and Ms. Love stated the changes she wanted to see couldn't be made today and she wanted the item to be worked on more. Mr. Lutton stated he needed a motion to approve the amendment or not and Ms. Love asked if no motion was made what are the next steps. Mr. Lutton stated the motion would die but alternatives can be presented.

Ms. Love made a motion to keep the Special Exception Use Permit in the I-1 zoning district for manufacturing heavy and look to fix the error elsewhere. Ms. Cochella stated she would defer to Mr. Cloud as there's a specific scrivener's error that is defined in the ordinance and wants to make sure the motion addresses what is necessary. Mr. Cloud clarified that the item before the Board is to recommend approval or denial to City Commission the ordinance as defined.

Ms. Love made a motion to recommend denial to City Commission and keep the Special Exception Use Permit under manufacturing heavy within the I-1 zoning and Mr. Rio seconded the motion.

Mr. Lutton asked for a roll call vote.

Chairman Christopher Lutton No	Vice-Chair Kyra Love Yes	Eugene Fultz Yes	Casey McKibben N/A	Eric Rio Yes	Courtney McCrystal Yes	Larry Bossarte N/A
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The item was recommended to City Commission as a denial.

Other Business:

There was no other business.

The meeting adjourned at 8:06 PM


Attest: Recording Secretary


Chair: Christopher Lutton

