



**Town of Ponce Inlet  
Planning Board  
Regular Meeting Minutes  
June 28, 2022**

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1    **1.    CALL TO ORDER AND PLEDGE OF ALLEGIANCE:** Pursuant to proper notice,  
2 Chairman Cannon called the meeting to order at 5:30 p.m. in the Council Chambers, located at  
3 4300 S. Atlantic Avenue, Ponce Inlet, FL, and led attendees in the Pledge of Allegiance.

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5    **2.    ROLL CALL AND DETERMINATION OF QUORUM:**

6  
7    Board members present:

8           Mr. Mauldin, Seat #1  
9           Mr. Kaszuba, Seat #2  
10          Mr. White, Seat #3; Vice-Chairman  
11          Mr. Cannon, Seat #4; Chairman  
12          Mr. Carney, Seat #5

13  
14    A quorum was established with five members present; there were no absences. Chairman Cannon  
15 announced that Les Thompson (former Seat #5) had resigned from the Board.

16  
17    Staff present:

18           Mr. Disher, Director, Planning & Development Department  
19           Chief Glazier, Ponce Inlet Police Department  
20           Ms. Hunt, Assistant Deputy Clerk  
21           Mr. Mendenhall, Principal Planner  
22           Attorney Smith, Town Attorney

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24    **3.    ADOPTION OF AGENDA:** Chairman Cannon asked if there were any changes; there  
25 were none.

26  
27    Chairman Cannon moved to adopt the agenda as presented; seconded by Mr. Kaszuba. The motion  
28 PASSED 5-0, consensus.

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30    **4.    APPROVAL OF MINUTES:**

31       **A.    May 24, 2022 Regular meeting** - Chairman Cannon asked if there were any  
32 changes; there were none.

33  
34    Chairman Cannon moved to approve the May 24, 2022 meeting minutes as presented; seconded  
35 by Mr. Mauldin. The motion PASSED 5-0, consensus.

36  
37    **5.    REPORT OF STAFF:**

38       **A.    Administrative Variance Applications** - Mr. Mendenhall stated there were no  
39 Administrative Variance applications to report; he announced that the Traffic Study project has  
40 been awarded by the Town Council to Lassiter Transportation Group, Inc. (LTG) and will begin  
41 in a couple of weeks; he stated that an application for the Marine Science Center Commissary

42 building will be coming before the Board at its July meeting, and the proposed Food Truck  
43 ordinance and the Vulnerability Study Comprehensive Plan updates should be ready for that  
44 meeting as well (depending on the workload).  
45

46 **B. Other Updates and/or Reports** - Mr. Disher referenced the upcoming Traffic  
47 Study and noted that the existing study was completed in 2008, so this will provide updated counts  
48 to enable the Town to update its Comprehensive Plan accordingly; he stated that LTG will be  
49 placing traffic counting “tubes” in the roadways to count vehicular traffic and installing cameras  
50 at other locations to document the number of pedestrians and cyclists; he emphasized that this is  
51 for data collection only, not to identify specific persons. He reported that there have been no  
52 applications for the Senior Planner position as of today’s date. The Governor signed [Senate Bill](#)  
53 [4D](#), Building Safety regulations in response to the Surfside condo collapse, which applies to condo  
54 buildings three stories and higher. Staff is working with the Town Attorney on a letter that the  
55 Town will send to properties affected. Vice-Chairman White offered the Board’s assistance to get  
56 this information out to the public. The Governor has vetoed [Senate Bill 620](#), which allowed  
57 businesses to sue its local government for loss of revenue caused by certain local regulations.  
58

59 **6. CORRESPONDENCE/DISCLOSURE OF EX-PARTE COMMUNICATION:** None.  
60

61 **7. HEARING OF CASES:**

62 **A. Special Exception #SE12-2022**

63 **Address: 4600 South Atlantic Avenue, Fisherman’s Harbour**

64 **Purpose: To allow a Farmer’s Market in a B-1 General Retail zoning district**  
65 **per Section 3.30 of the LUDC.** Mr. Mendenhall provided a presentation explaining the applicant’s  
66 request to hold a Farmer’s Market at Fisherman’s Harbour. He noted that the Farmer’s Market will  
67 operate within the Fisherman’s Harbour Common Area (on the northwest side of the 7-Eleven).  
68 The applicant has provided sufficient parking locations and satisfactorily addressed staff’s  
69 concerns. There are no outstanding issues, and the application meets the criteria for the special  
70 exception use in the B-1 Zoning District. He noted that staff recommends “approval” subject to  
71 nine conditions: 1) The Farmer’s Market is limited to a maximum of 15 vendors. Any proposed  
72 increase in the number of vendors shall be reviewed as a new special exception application; 2) The  
73 Farmer’s Market is limited to operate only on Sunday between 7 am and 9 pm.; 3) The Farmer’s  
74 Market shall not set up any associated temporary structures, signs, trash cans, or vendors prior to  
75 7 am on Sunday; 4) The Farmer’s Market shall remove any associated temporary structures, signs,  
76 or trash cans from the site by 9 pm every Sunday; 5) The Farmer’s Market is limited to two  
77 sandwich or A-frame signs, one for each street frontage; 6) The Farmer’s Market may only operate  
78 within non-required parking spaces. If the site is developed so that there are less than 32 non-  
79 required spaces available, the Farmer’s Market must reduce the number of vendors accordingly or  
80 cease operation on this site: 7) Any proposed relocation of the Farmer’s Market elsewhere in the  
81 Town shall be reviewed as a new special exception application: 8) All vendors shall maintain a  
82 valid business tax receipt through either the Town or County, whichever is applicable, that will be  
83 provided upon request; and 9) The Farmer’s Market and any associated vendors shall comply with  
84 all standards of the Ponce Inlet LUDC and Code of Ordinances, along with all other applicable  
85 local, state, and federal regulations.

86 Mr. Kaszuba stated his support of Farmer’s Markets but expressed concerns with increased noise,  
87 traffic, and parking issues, as well as the potential for food trucks and on-site food preparation.  
88 Mr. Mendenhall informed the Board that the [Code](#) defines a Farmer’s Market as “the temporary

89 or occasional outdoor retail sale of farm produce or seafood from vehicles or temporary stands,  
90 typically located within a parking lot or an approved location in the public right-of-way closed  
91 to vehicular traffic for that purpose”. It is typically designed to sell fruits and vegetables, and  
92 home-baked goods; nothing pre-packaged; a food truck would need its own separate parking and  
93 is subject to separate requirements. Mr. Kaszuba asked if a food truck can be on the property at  
94 the same time the Farmer’s Market is operating; Mr. Mendenhall stated yes, but a food truck is a  
95 separate use, and it cannot interfere with the location or parking for the Farmer’s Market.  
96 Boardmembers discussed the hours of operation, noting that several local Farmer’s Markets close  
97 around 2:00 p.m. Mr. Disher stated that the hours of operation are allowed per the Code, and that  
98 the Town is not dictating the hours. Vice-Chairman White asked if there is any liability to the  
99 Town by approving the application? Attorney Smith stated no, the liability is on the property  
100 owner, which is Fisherman’s Harbour Condominium Association. The board then discussed  
101 overflow parking, trash, and the use of volunteers to assist with each Market day (deferred to  
102 applicant). Attorney Smith clarified that this activity *is allowed as part of the special exception*  
103 *use*. He further noted that the applicant is considered a “lessee”; the approval could include both  
104 parties (Fisherman’s Harbour Condominium Association and Nicole Carr), since any code  
105 enforcement actions would involve both the applicant and the property owner. There was a brief  
106 discussion about “public nuisance” and restrooms; Attorney Smith noted that “any violation of the  
107 Code *is a violation*”.

108  
109 Chairman Cannon invited the applicant to address the board. Nicole Carr, 41 Jana Drive  
110 (applicant), stated her desire to operate a Farmer’s Market in Town and confirmed that she has  
111 received permission from the Fisherman’s Harbour Condominium President, Michael  
112 O’Shaughnessy, to operate one at this location. She concurred with staff that all issues have been  
113 addressed and added that food trucks are not part of the Farmer’s Market; stated the approved  
114 vendors will sell fresh vegetables and fruits, cottage industry honey, plants, and flowers and she  
115 will have a contract with each vendor to ensure there are no pre-packaged products being sold. She  
116 stated the hours of 7 am to 9 pm are what is allowed by the Code, but she does not plan to be open  
117 for that duration. Attorney Smith stated an additional condition could be added to state that the  
118 “sale of foods prepared on-site is prohibited” to address concerns surrounding food trucks / food  
119 vendors. He further clarified that the Town could not require the vendors to carry liability insurance  
120 – this is a land use hearing and that would be outside the Board’s purview; similarly, the agreement  
121 to use the space is a contract between the property owner(s) and Ms. Carr and does not involve the  
122 Town. After a brief discussion regarding the hours of operation, Attorney Smith stated that the  
123 Town could not set the hours of operation outside of what is allowed by Code unless it can factually  
124 justify why it is setting specific hours; it can merely state, as an example, “for a maximum of XX  
125 number of hours between 7:00 a.m. and 9:00 p.m.” Ms. Carr stated she was amenable to a  
126 maximum of six hours per event; and the hours of operation may be adjusted based on business  
127 activity. Attorney Smith reiterated the owner authorization is permission to allow Ms. Carr to use  
128 the property *as if she was the owner*; any Code violations would be brought against the property  
129 owner(s). Ms. Carr stated she has made arrangements for vendors and the public to use the  
130 restrooms at Mr. O’Shaughnessy’s business, and the 7-Eleven restrooms are already used by the  
131 public. The board suggested the following changes to the conditions: Condition #2 (underlined  
132 language was added): *The Farmer’s Market is limited to operate for a maximum of six consecutive*  
133 *hours only on Sunday, between 7 a.m. and 9 p.m.*; and added Condition #10: *On-site preparation*  
134 *of food is prohibited.*

136 Chairman Cannon opened public comment – Jair Kessler, 81 Buschman Drive stated she is  
137 assisting Ms. Carr with the Farmer’s Market and they will be in a better position to develop a  
138 routine schedule once the Market is up and running. Chairman Cannon closed public comment.  
139

140 A five-minute break was taken while Board members completed their Quasi-Judicial worksheets.  
141

142 Mr. Mauldin moved to approve the Special Exception application #SE12-2022 for the operation  
143 of a Farmer’s Market at 4600 South Atlantic Avenue with the nine conditions outlined in the staff  
144 report, with the addition of a tenth condition, and the additional language in condition #2 as noted  
145 above; seconded by Vice-Chairman White. The motion PASSED 5-0, with the following vote: Mr.  
146 Mauldin - yes; Mr. Kaszuba - yes; Vice-Chairman White - yes; Chairman Cannon – yes; Mr.  
147 Carney - yes.  
148

149 **8. BUSINESS ITEMS/PUBLIC HEARINGS:**

150 **A. Discussion – Discussion of Sightseeing Boats and Disappearing Island**  
151 **concerns** (requested by Boardmember Kaszuba) - Mr. Kaszuba explained his concerns about  
152 permitting a Tiki Boat to operate last month knowing that Disappearing Island is a haven for  
153 alcohol and parties. Chief Glazier reviewed the statistics of incidents in the waterway and on  
154 Disappearing Island (as reported at the March Town Council meeting) and that Coast Guard Ponce  
155 and the Volusia County Sheriff’s Department patrol the area but do not look for violations of the  
156 Town’s codes (such as the disturbance of native habitat, unleashed/unlicensed pets, etc.) He noted  
157 that the Town has no way to enforce any of its regulations because it has no way to access those  
158 areas. Mr. Carney stated essentially the Board’s hands are tied if the criteria is met. Attorney Smith  
159 stated that Quasi-Judicial hearings are *fact finding* and weighing the facts is the Board’s job in the  
160 Quasi-Judicial (like a judge) sense. Mr. Disher added that this Board functions as two Boards: 1)  
161 Quasi-Judicial (QJ) - where they act as Judges; and 2) as the Local Planning Agency (LPA), which  
162 is separate and has different duties and responsibilities. Chairman Cannon opened public comment,  
163 hearing none, he closed public participation. There was no action taken on this item; it was for  
164 discussion and clarification only.  
165

166 **9. PUBLIC PARTICIPATION:** Chairman Cannon opened public participation - hearing  
167 none, he closed public participation.  
168

169 **10. BOARD DISCUSSION:** None.  
170

171 **11. ADJOURNMENT:** The meeting was adjourned at 7:50 p.m.  
172

173 Prepared and submitted by,  
174

175 Peg Hunt

176 Peg Hunt  
177 Assistant Deputy Clerk  
178

179 Attachment(s):

180 1. QJ Worksheets: #SE12-2022