

MINUTES  
REGULAR MEETING – PLANNING BOARD

May 24, 2012

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Minutes for the Regular Planning Board for The City of Daytona Beach, Florida, held on Thursday, May 24, 2012, at 6:00 p.m., in the Commission Chambers, City Hall, 301 South Ridgewood Avenue, Daytona Beach, Florida.

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Board members Present were as follows:

Jeff Hurt  
Tracey Remark  
John McGuinness  
Louis Moore  
James Neal  
Kevin Fishback  
Cathy Washington  
Shirley Benjamin  
Matthew Bohon

Absent Members:

Bob Hoitsma  
Janet LeSage

Staff members present:

Dennis Mrozek, Senior Planner  
Thomas Weitnauer, Principal Planner  
Carrie Lathan, Assistant City Attorney  
Rose Askew, Planning Technician

1. **Call to Order**

Louis Moore, Chair called the meeting to order at 6:00 pm.

2. **Roll Call**

Ms. Washington called the roll and noted members present as listed above.

3. **Approval of the Minutes:** April 26, 2012

**Board Motion**

It was moved by Mr. Hurt to approve the April 26, 2012 Planning Board Meeting Minutes. Seconded by Ms. Washington.

**Board Action**

The motion was approved 9-to-0.

4. **Planned Commercial Development Amendment, Substantial Modification – Daytona Beverage, DEV2012-034 (Quasi-Judicial Hearing)**

A request by Mark S. Dowst, P.E., on behalf of Kevin Bowler, Managing Member, Daytona Beverage LLC, to approve a Substantial Modification to the approved Daytona Beverage Planned Commercial Development (PCD), for 9.78± acres of land located at 2275 Mason Avenue, Daytona Beach. The modification is to increase the allowable building area from 97,180 square feet to 105,000 square feet.

**Staff Presentation**

Dennis Mrozek, Senior Planner gave a PowerPoint presentation that included the request as written above, general location, future land use, zoning, brief history of the PCD, criteria for substantial modification and details of the proposed modifications. He stated the Planning Board was the final action for a substantial modification, staff recommends approval and a majority vote of Planning Board members present and voting was required for approval.

**Applicant Presentation**

Mark Dowst, 536 North Halifax, Daytona Beach gave a brief explanation of the reason for the substantial modification and stated he was available to answer any questions the Board may have.

**Citizen Comments**

No citizen comments.

**Board Comments**

No Board comments.

**Board Motion**

It was moved by Mr. Hurt to approve Planned Commercial Development Amendment, Substantial Modification – Daytona Beverage, DEV2012-034. Seconded by Mrs. Remark.

**Board Action**

The motion was approved 9-to-0.

5. **Preliminary Plat - Gateway Business Center I, DEV2012-017 (Quasi-Judicial Hearing)**

A request by Parker Mynchenberg and Associates, Inc., on behalf of Bruce Teeters, Senior Vice-President, Consolidated-Tomoka Land Company, to approve a preliminary plat for 10.75± acres of land, located on Mason Avenue, east of Williamson Boulevard, to construct 146,080± square feet of office/warehouse/industrial uses, including 20,000 square feet of office, with associated parking, truck loading, sidewalks, landscaping, signage and infrastructure improvements.

**Staff Presentation**

Dennis Mrozek, Senior Planner gave a PowerPoint presentation that included the request as written, general location, future land use, current and proposed zoning, details of the preliminary plat and the LDC's purpose for a preliminary plat. He stated no waivers were being requested, staff recommends approval and a majority vote of Planning Board members present and voting was required to recommend approval to the City Commission.

**Applicant Presentation**

Parker Mynchenberg, 1729 Ridgewood Avenue, Daytona Beach stated he was available to answer any questions the Board may have.

**Citizen Comments**

No citizen comments.

**Board Comments**

No Board comments.

**Board Motion**

It was moved by Mrs. Remark to approve Preliminary Plat - Gateway Business Center I, DEV2012-017. Seconded by Ms. Washington.

**Board Action**

The motion was approved 9-to-0.

6. **Rezoning, Planned Commercial Development – Gateway Business Center I, DEV2012-016 (Quasi-Judicial Hearing)**

A request by Parker Mynchenberg and Associates, Inc., on behalf of Bruce Teeters, Senior Vice-President, Consolidated-Tomoka Land Company, to rezone 10.75± acres of land, located on Mason Avenue, west of Williamson Boulevard, from R-2A to Planned Commercial Development (PCD), to construct 146,080± square feet of office/warehouse/industrial uses, including 20,000 square feet of office, with associated parking, truck loading, sidewalks, landscaping, signage and infrastructure improvements.

**Staff Presentation**

Dennis Mrozek, Senior Planner gave a PowerPoint presentation that included the request as written above, the general site location, future land use, current and proposed zoning and project details including signage. He stated the request was moving forward concurrent to the preliminary plat, staff recommends approval and an affirmative vote of six was required to recommend approval to the City Commission.

**Applicant Presentation**

Parker Mynchenberg, 1729 Ridgewood Avenue, Daytona Beach stated he was available to answer any questions the Board may have.

**Citizen Comments**

No citizen comments.

**Board Comments**

No Board comments.

**Board Motion**

It was moved by Mr. Hurt to approve Rezoning, Planned Commercial Development – Gateway Business Center I, DEV2012-016. Seconded by Mr. Neal.

**Board Action**

The motion was approved 9-to-0.

7. **Rezoning, Residential Planned Unit Development – Renaissance Place, DEV2011-010 (Quasi-Judicial Hearing)**

A request by Robert A. Merrell, III, Esq. on behalf of Mark Papak, President, 400 Beach Street Acquisition, LLC, to rezone 3.02± acres of the current Beach Street Condos Residential Planned Unit Development (RPUD), located at Mullally and Daytona Streets, to the Renaissance Place RPUD, for the construction of a 29,200 square foot assisted living facility with associated parking, utilities and stormwater facilities. *(Request to Continue to the June 28, 2012 Planning Board Meeting).*

**Staff Presentation**

No staff presentation.

**Citizen Comments**

No citizen comments

**Board Comments**

Mr. Moore stated staff was requesting to continue items seven and eight to the June 28, 2012 Planning Board Meeting.

**Board Motion**

It was moved by Mrs. Remark and seconded by Ms. Washington to continue Rezoning, Residential Planned Unit Development – Renaissance Place, DEV2011-010 to the June 28, 2012 Planning Board Meeting.

**Board Action**

The motion was approved 9-to-0.

Mr. Moore asked Jason Jeffries to give a brief explanation for the request for continuance.

8. **Rezoning to RDD3 from Residential Planned Unit Development – Beach Street Condos, DEV2011-099 (Quasi-Judicial Hearing)**

A request by Robert A. Merrell, III, Esq. on behalf of Mark Papak, President 400 Beach Street Acquisition, LLC, to rezone 7.29± acres of land located at 300 North Beach Street from Residential Planned Unit Development (RPUD) to RDD-3, to make the zoning consistent with surrounding properties for redevelopment of the site. *(Request to Continue to the June 28, 2012 Planning Board Meeting).*

**Staff Presentation**

Jason Jeffries, Redevelopment Project Manager stated the applicant and staff were requesting to continue items seven and eight due to some issues that needed to be resolved regarding an LDC text amendment that would compliment both requests.

**Citizen Comments**

No citizen comments.

**Board Comments**

No Board comments.

**Board Motion**

It was moved by Mr. Hurt and seconded by Mr. Neal to continue Rezoning to RDD3 from Residential Planned Unit Development – Beach Street Condos, DEV2011-099 to the June 28, 2012 Planning Board Meeting.

**Board Action**

The motion was approved 9-to-0.

9. **Land Development Code Text Amendment – Permitting Hotels in RDD-1 and RDD-2 Zoning Districts, DEV2012-044**

A request by the Development and Administrative Services Department, Redevelopment Division, to amend the Land Development Code (LDC), Article 12 (Redevelopment Areas and Districts), Section 3 (Redevelopment Districts Use Schedules), to allow hotels as a permitted use in the RDD-1 and RDD-2 zoning districts.

**Staff Presentation**

Jason Jeffries, Redevelopment Project Manager gave a PowerPoint presentation that included the request as written above, the general location and purpose for the amendment. He stated that each Board member should have received maps in their packet that further described the zoning districts. He stated recently new developers purchased what was previously called the Beach Street Courtyard Project and the new owner plans to build a boutique hotel with a restaurant on the ground floor, where it was originally planned to be a residential condominium project on the upper floors and a restaurant and other retail on the ground floor. He stated over the past year Bob Gibbs with the Gibbs Planning Group had performed a market study for the Downtown Redevelopment Area and had made several presentations to the Downtown Redevelopment Board and Community Redevelopment Area Board. In those presentations and conversations with staff, Mr. Gibbs stated there was a demand for hotels in the downtown area and that it was common for cities like Daytona Beach to have business or boutique hotels.

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Mr. Moore stated he found it interesting that there were a couple of comments from the Downtown Ballough Road Redevelopment Area Board regarding height that might be allowed if a building was torn down and about daily and weekly rates for rentals.

Mr. Jeffries stated because it would be a hotel it would essentially allow short-term rentals.

### **Citizen Comments**

No citizen comments.

### **Board Comments**

No Board comments.

### **Board Motion**

It was moved by Mr. Hurt to approve Land Development Code Text Amendment – Permitting Hotels in RDD-1 and RDD-2 Zoning Districts, DEV2012-044. Seconded by Mr. McGuinness.

### **Board Action**

The motion was approved 9-to-0.

## 10. **Land Development Code Text Amendment – Internet Cafés, DEV2012-023**

A request by the Development and Administrative Services Department, Planning Division, to amend Article 1 (Purpose, Administration and Enforcement), Section 4.3 (District regulations and uses permitted) of the Land Development Code (LDC), to prohibit internet cafes, sweepstakes redemption centers, establishments using slot machines or slot machine like equipment, and other similar indoor entertainment and amusement activities throughout the City. *(Continued from the April 26, 2012 Planning Board Meeting)*

### **Staff/Applicant Presentation**

Dennis Mrozek, Senior Planner gave a PowerPoint presentation that included the request as written above and locations that staff had identified in the City that had active business licenses. He stated currently Internet Cafés were being classified as games of skill, which was the closest definition that could be found in the LDC, and that currently the State had failed to regulate, define or prohibit Internet Cafés. He stated currently the City had a moratorium in place prohibiting the establishment of any new Internet Cafés and that the moratorium would expire on June 4, 2012. Mr. Mrozek stated the proposed text amendment would define Internet sweepstakes and would allow Internet Cafés as a permitted use in the M5 zoning district. He stated staff recommends approval and an affirmative vote of six was required to recommend approval to the City Commission.

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Mr. Hurt asked if Internet sweepstakes would still be classified as games of skill.

Mr. Mrozek replied no it would be pulled out of that category and would have its own definition.

Ms. Washington asked if the businesses Mr. Mrozek identified as being delinquent were active.

Mr. Mrozek replied the last time he checked the businesses had delinquent licenses but they could come back and reapply for the use. He stated a business license was a little bit different because it was an administrative item. If the use stays inactive for three or six months then staff would have to look at not reinstating the use. He stated delinquent status does not restrict their ability to reapply for the license as long as it is within the three or six month period.

Ms. Washington asked how long the businesses had been delinquent.

Mr. Mrozek replied he did not have the exact numbers, but he could get the information and provide it to the City Commission at their next meeting.

Mr. Moore stated he was surprised that a business could go that long without having a valid business license.

Ms. Lathan stated the term business license was a little misleading. She stated it used to be called an occupational license, but Florida Statutes were amended to call it a Florida tax, which is not a license to operate; it is a payment of a tax.

Mr. Mrozek stated the late payment does not take away the business owner's rights. They have the opportunity to pay the tax.

Mrs. Remark asked if the proposed amendment would serve the same purpose as the amendment for adult entertainment. She asked how someone could renew a business tax for a use that was not permitted.

Mr. Mrozek replied staff would have to research how the business owner got the original license and whether or not the business would be allowed to continue operation.

Mrs. Remark asked if any new Internet Cafés would be allowed with this amendment.

Mr. Mrozek replied no and that adoption of the proposed LDC amendment would stop all new applications except the ones in the M5 zoning district.

Mr. Fishback stated he was concerned that all of the undesirable uses seemed to be placed in the M5 zoning district and there did not appear to be very much continuity in the district.

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Mr. Mrozek stated yes there was a wide array of uses in the M5 zoning district and when staff looked for a zoning district to place this type of use, one of the considerations was an area where it would not be nuisance to the surrounding areas and that there were not any adjacent residential uses in the area.

**Citizen Comments**

No citizen comments.

**Board Comments**

No additional Board comments.

**Board Motion**

It was moved by Mrs. Remark to approve Land Development Code Text Amendment – Internet Cafés, DEV2012-023, seconded by Mr. McGuinness.

**Board Action**

The motion was approved 9-to-0.

11. **Small Scale Comprehensive Plan Amendment – Family Dollar (Mason Avenue), DEV2012-012**

A request by Jeffrey J. Lamberson, Twin Rivers Capital, LLC on behalf of First Coast Energy, LLP, Karen Gaynair and Bettie Cade Norwood, to approve a Small Scale Comprehensive Plan Amendment (SSCPA) changing the Future Land Use designation from Level 1 Residential to Retail for a 0.29± acre parcel of land located at 800 Derbyshire Road and 815 Essex Drive. *(Continued from the April 26, 2012 Planning Board Meeting)*

**Staff Presentation**

Tom Weitnauer, Principal Planner gave a PowerPoint presentation that included the request as written above, details of the small scale amendment and proposed restrictions on the site. He stated at the April Planning Board Meeting the Board was concerned that a neighborhood meeting had not been held. He stated the applicant held a meeting with neighbors on May 7<sup>th</sup> and that each Board member should have received a summary of the meeting. He stated staff recommends approval of the small scale comprehensive plan amendment.

**Applicant Presentation**

Dwight Durant, 300 Interchange Drive, Daytona Beach gave a brief summary of the neighborhood meeting. He stated he believed all of the residents' questions were answered satisfactorily and to his knowledge there were no objections to the project.

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Mr. Moore stated he along with Mr. Fishback and Ms. Askew attended the neighborhood meeting, and he felt Mr. Durant's summary was accurate.

Mrs. Remark stated she was not quite sure how to get her concerns addressed since most of the residents' concerns were things that had to be addressed in the site plan and since the project was less than 20,000 square feet, Planning Board approval was not required. She asked if the project would come back as a Planned Development. She stated she hopes Family Dollar is a lot more sensitive to residents' concerns than they have been at other locations.

Mr. Durant stated they worked with staff on the site plan. He stated the site is very restrictive and that they were trying to incorporate the residents' comments in the final site plan.

Ms. Washington stated she appreciated the applicant meeting with the residents. She asked where the wall would be placed in relation to the abutting single-family property.

Mr. Durant replied approximately five to six feet from the property line and there would be a 10 foot buffer. He stated the adjacent property owner would actually have a wider lot.

Mr. Moore asked if Family Dollar would maintain both sides of the wall.

Mr. Durant replied yes they would.

### **Board Motion**

It was moved by Mr. Hurt to approve Small Scale Comprehensive Plan Amendment – Family Dollar (Mason Avenue), DEV2012-012. Seconded by Ms. Washington.

Mr. McGuinness called for discussion.

### **Board Comments**

Mr. McGuinness stated he feels the site plan should not be included with the discussion for this request and asked that it be stricken. He stated relating to the proposed small scale amendment, his issue was neighborhood preservation. He stated the request was to change from the highest residential land use and zoning categories to the highest intensity retail land use. He stated this had happened in several other neighborhoods throughout the City and he was very concerned with neighborhood encroachment. He stated Surfside Village was the worst case having several small pieces of the residential areas taken away and even though this was a small amount of land, in principal it is exactly the same thing, expansion of a higher use into a residential neighborhood. He stated last month the Tarragona project that was brought before the Board was very similar and the Board appeared to be more concerned with protecting the neighborhood than in this case and he feels the Board owes the residents in the Derbyshire neighborhood the same care and concern.

Mr. Bohon asked Mr. McGuinness if he attended the neighborhood meeting because he was curious about his statement regarding him speaking on behalf of the residents.

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Mr. McGuinness replied his statement was in reference to if he were a resident in the Derbyshire neighborhood.

Mr. Bohon stated he understood Mr. McGuinness' point but if he did not attend the meeting he could only speculate what the residents wanted and that he asked residents in the surrounding neighborhood how they felt about the project and they told him they were in favor of project.

Mr. Moore stated the resident whose property was directly adjacent to the site attended the neighborhood meeting and appeared to be satisfied with the outcome.

Mr. McGuinness stated he was talking about neighborhood preservation which had nothing to do with what goes on the property.

Mr. Bohon stated he felt sometimes it benefits the neighborhood as a whole to take out a little piece and he also feels this project would help preserve the neighborhood.

Mr. McGuinness stated if you look at other neighborhoods where this has been done, that was not always the case.

Mr. Fishback asked if both lots purchased had houses on them.

Mr. Durant replied yes.

Mr. Fishback asked if the homes were occupied.

Mr. Durant asked Joe Boyd with Twin Rivers Capital to respond to that question.

Pat Heard, 822 Vernon Street, Daytona Beach stated the house on Derbyshire Road behind the old service station was vacant but she was not sure about the one on Essex Road. She stated she felt the Family Dollar Store would be an improvement to the neighborhood.

Joe Boyd, 125 (G) Waspo Creek Drive, Charleston, South Carolina replied he was not involved with that aspect of the project, but he was pretty sure both houses were vacant at the time of purchase.

Mr. Fishback stated the reason for his questions was because he would not be in favor of people being forced out of their homes.

Mrs. Remark stated she felt with the restrictions the applicant was placing on the BA zoning it would strengthen the area in terms of protecting the neighborhood. She stated normally she would agree with Mr. McGuinness regarding neighborhood encroachment and preservation but she feels this is very forwarding thinking and will help the neighborhood. She does agree the site plan should not have been addressed with this request but it was the only way the Board could express their concerns because the final site plan would not come back to the Board for review.

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Mr. Moore stated he understood Mr. McGuinness' point and he was absolutely correct with the two areas he pointed out, but in this particular case he does not look at it as degradation of the area and the business would become a part of the neighborhood's success.

Mr. Durant stated in an effort to help Mr. McGuinness feel a little bit more comfortable with the project, Twin Rivers was actually the second entity to look at the project. He stated a little over a year ago, prior to Twin Rivers there was another company that tried to develop the site and the homes were vacant then. He stated the land use and zoning were project specific so precedent was not being set.

### **Citizen Comments**

John Nicholson, 413 North Grandview Avenue, Daytona Beach spoke in favor of the request.

### **Board Action**

The motion was approved 8-to-1.

## 12. **Rezoning – Family Dollar (Mason Avenue), DEV2012-013 (Quasi-Judicial Hearing)**

A request by Jeffrey J. Lamberson, Twin Rivers Capital, LLC on behalf of First Coast Energy, LLP, Karen Gaynair and Bettie Cade Norwood, to approve an application to rezone 0.29± acres of land located at 800 Derbyshire Road and 815 Essex Drive from Single Family Residential (R-1a) to Business Automotive (BA), for the construction of a 8,050 square foot retail building with associated parking, utilities and stormwater facilities. *(Continued from the April 26, 2012 Planning Board Meeting)*

### **Staff Presentation**

Dennis Mrozek, Senior Planner gave a PowerPoint presentation that included the request as written above, details on the 8,050 square foot retail building and associated parking, site location, current land use and current and proposed zoning. He summarized the limitations being put on the proposed zoning and stated the lighting plan would be reviewed by staff with the final site plan. He stated staff recommends approval of the rezoning request contingent upon the approval of the associated small scale comprehensive plan amendment and an affirmative vote of six was required by the Planning Board to recommend approval to the City Commission.

### **Applicant Presentation**

No applicant presentation.

### **Citizen Comments**

No citizen comments.

**Board Comments**

No Board comments.

**Board Motion**

It was moved by Mr. Hurt to approve Rezoning – Family Dollar (Mason Avenue), DEV2012-013. Seconded by Mrs. Remark.

**Board Action**

The motion was approved 8-to-1.

13. **Land Development Code Text Amendment – Prohibited Uses in the Midtown Redevelopment Area, DEV2012-018**

A request by the Development and Administrative Services Department, Redevelopment Division, to amend the Land Development Code (LDC), Article 12 (Redevelopment Areas and Districts, to prohibit carwashes, vehicular service (light and heavy), sales and rental of vehicles (light, heavy and recreational) and auto supply stores in the Midtown Redevelopment Area. *(Continued from the April 26, 2012 Planning Board Meeting)*

**Staff Presentation**

Charles Bryant, Redevelopment Project Manager read the request as written and stated the Redevelopment Division was presenting the request on behalf of Midtown Redevelopment Area Board. He asked the Midtown Redevelopment Area Board members that were present to stand and be recognized. He read the current list of prohibited uses in the Midtown Redevelopment Area, the purpose for the prohibited uses and gave a brief summary of the actions that lead up to the proposed request. He stated at the February 15, 2012 Community Redevelopment Agency (CRA) Meeting, the City Commission approved a motion to forward the Midtown Master Plan to the CRA for review and approval. He stated the master plan established a vision and development guidelines for the Midtown area and although it does not specifically address prohibition of certain uses, it does suggest that redevelopment of certain uses along the International Speedway (ISB) corridor be redeveloped as higher density mixed-use developments as opposed to the current auto related uses. Mr. Bryant stated the City's Comprehensive Plan discourages auto related uses on West ISB in the Midtown Redevelopment Area and he read the Comprehensive Plan, Future Land Use Element, Neighborhood H, Issue d, Policy 1 as written in the staff report, and also the Redevelopment Element, Goal 1, Policy 1.1.9, and the definition of mixed-use. Mr. Bryant stated at the April Planning Board Meeting, staff requested to continue this request because the Midtown Redevelopment Area Board added auto supply stores to the proposed list of prohibited uses. He stated currently there were eight active business licenses operating carwashes as accessory uses within the Midtown Redevelopment Area, of which three licenses were delinquent and one that has been closed over 90 days, but has been approved to reopen. He stated staff and the Midtown Redevelopment Area Board recommends approval of the amendment request and an affirmative vote of six was required to recommend approval to the City Commission.

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Mrs. Remark stated Stans Transmissions should be on the list for auto supply stores. She stated on page two of the staff report, the Future Land Use Neighborhood Policy list is from Neighborhood M not H and it did not apply to the Midtown Redevelopment Area.

### **Citizen Comments**

Jim Morris 420 South Nova Road, Daytona Beach requested the Board allow all of the speakers in favor of the request to speak first.

Mr. Moore agreed.

Hemis Ivey, Jr., 314 South Franklin Street, Daytona Beach, Chair of the Midtown Redevelopment Area Board gave a summary on the Midtown Master Plan and asked all of the Midtown Redevelopment Area Board members that were present to stand and be acknowledged. He stated the reason the Midtown Board was requesting the proposed amendment was because they felt the uses were a detriment to redevelopment of the Midtown area. He thanked Mr. Bryant for all his hard work and asked the Planning Board to support the Midtown Board's request.

Mr. Moore called Irving Matthews to speak.

Mr. Morris stated he believed there were other speakers in favor of the request that should speak first. He stated he did not want to have to jump back and forth between speakers for and against the request.

Mr. Moore stated due to the amount of speakers on this request the time clock would be used. He stated the Board would allow Mr. Morris a little extra time like the Board had done with Mr. Ivey.

Mr. Morris stated he just wanted to be in succinct when he spoke so he could answer the issues that were brought before the Board in support of his case.

He stated he would allow each speaker two minutes to speak.

Mr. Morris stated he felt it would be very tough to get very much said in two minutes.

Mr. Moore stated he was following the direction of the City Commission.

Mrs. Remark stated she disagreed with the City Commission's decision to only allow two minutes for speakers and she agreed with Mr. Morris. She stated she felt three minutes would be fair.

Mr. Moore agreed to allow speakers three minutes.

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Martin Toole, 640 Marion Street, Daytona Beach, Midtown Redevelopment Area Board member, spoke in support of the request. He spoke on the preservation of neighborhoods and the Midtown Board's efforts to make Midtown aesthetically pleasing. He stated having been a resident for over 50 years he believes the only way to make a difference in the City is to change the status quo. He stated he understands it will ruffle feathers but it needs to be done. He asked the Board to support the Midtown Redevelopment Area Board's efforts to improve the Midtown area.

Denise McMillan-Cato, 929 Loomis Avenue, Daytona Beach, Midtown Redevelopment Area Board member spoke in support of the request. She stated for the past three years the Midtown Board had been meeting to develop the Midtown Master Plan and only one of the gentlemen scheduled to speak in opposition of the request had attended any of the meetings. She asked the Board to support the Midtown Board's request.

Jim Morris, 420 South Nova Road, Daytona Beach, spoke in opposition of the request. He stated he was speaking on behalf of Irvin Matthews, owner of Daytona Lincoln Mercury. He stated Mr. Matthews' property would be directly affected if this amendment was approved and asked the Board to take a look at the list of properties that would become nonconforming if the amendment was approved (Exhibit B, Pages 8-10). He stated all of those property owners would be affected by this amendment and their property values would be deteriorated. He stated none of the implementation strategies in the Midtown Master Plan, Section 4.11 included prohibition as one of the strategies and when you read through the Master Plan policies and the LDC, you will find that encouragement of the reuse of properties is proposed and with that, there should be compliance with landscaping codes and other provisions to improvement the aesthetics of the property. Mr. Morris stated he does not believe that redevelopment should be attained through prohibition. He stated he does believe the Midtown Redevelopment Board is genuine in their desire to improve the neighborhood and community and he hopes they are successful but he feels they must be objective in how they proceed. He stated he feels approving this request would not be a step in improving the neighborhood, but instead would freeze time. He stated there were legal ramifications to the proposed impact the amendment would have on his client's property and he does not feel this is the right path to take. Mr. Morris yielded the floor to Mr. Matthews.

Mr. Moore stated there would be a time limit placed on the remaining speakers.

Mrs. Remark asked Mr. Morris if Mr. Dannehower, the perspective buyer of Lincoln Mercury site was aware that the property would become nonconforming if this amendment was approved.

Mr. Morris stated he did not represent Mr. Dannehower and he did not have an answer to that question.

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Irving Matthews, 2823 South Atlantic Avenue, Daytona Beach Shores, owner Daytona Lincoln Mercury and Quincy's Restaurant properties spoke in opposition of the request. He stated in 2008 when the Lincoln Mercury Dealership closed he met with the Mayor and some City representatives to try to implement a swop of his property for the U-Haul property located on ISB so Bethune-Cookman University could utilize the property. The swop never came to fruition and he began trying to sell the property. He stated he has been paying property taxes, maintenance and security for the site since 2008 when it closed. He now has a contract for sale of the property and feels it would not be fare to approve an amendment that could jeopardize his ability to sell it. He stated he feels this project was an excellent opportunity to do something positive with the property.

Clark Gardner, 120 South Palmetto, Daytona Beach, Prudential Commercial Real Estate spoke in opposition of the request. He stated he would be happy to serve as a commercial real estate broker for the Midtown area with no compensation.

David Cobb, 1321 Edgewater, Drive, Orlando spoke in opposition of the request.

John Nicholson, 413 North Grandview Avenue spoke in opposition of the request. He asked if the amendment was to prohibit auto supply stores in only a narrow portion or all of Midtown.

Dr. Irma Jamison, 435 South Dr. Martin Luther King, Jr. Boulevard, Daytona Beach Midtown Redevelopment Area Board member spoke in support of the request. She stated she was pleased and surprised to hear about all of the new ideas for the Midtown area. She stated she was also puzzled as to why none of the ideas had been brought to the Midtown Redevelopment Area Board and felt if the Board had some knowledge about the ideas some of the problems could have been worked out before it got to this point.

Mrs. Remark stated at the Midtown Board's March meeting, Mrs. Jamison voted in opposition to prohibit auto supply stores being included as part of the amendment.

Mrs. Jamison replied yes she did, but she had her reasons for the no vote. She stated she supports the Midtown Board's recommendation because in a democratic society, the majority rules.

### **Board Comments**

Mr. Hurt stated his understanding was the Midtown Board's major concern was convenience stores, then carwashes were added and now it has escalated. He stated sometimes when issues escalate, things get thrown in that should not be.

Mr. Moore stated he reviewed the Midtown Master Plan, and he understands the Midtown Board's intent but it could take from 10 to 50 years to accomplish what is in the plan and a lot could happen in the mean time.

**05-24-12 Planning Board Meeting**

Ms. Washington stated the amendment request was not to get rid of any businesses. The request was to prohibit any new businesses of this type to be permitted. She stated there had been discussions on the purchase of U-Haul for years and that Bethune-Cookman University has attempted to purchase it on several occasions, but the price kept escalating. She asked if the City was going to maneuver a swap with U-Haul, where was the breakdown that prevented the swap from taking place. She stated she had an issue with the fact that a Request for Proposal was sent out and only one response was received. Ms. Washington stated being a lifelong resident in the City of Daytona Beach, and living in the Midtown area, she could attest to the fact that auto dealerships did not last very long and the property is then left stagnant. She recommended the Toyota Dealership move to the Daytona Auto Mall. She stated she understands the strife the Midtown Board has gone through to get to this point and she feels the Planning Board should support their request.

Ms. Benjamin stated with Auto Zone on the corner of MMB and Nova Road and NAPA around the corner on ISB, she does not see the need for a third auto parts store in the area.

Ms. Washington stated because she lives in the area she strongly opposes having another auto parts store or auto dealership in the Midtown neighborhood. She stated Midtown has been looked upon as the black hole for the City of Daytona Beach and for the past three years the Midtown Board has worked very hard to change that vision. She stated so much has been done to rectify problems on the beachside and even on Beach Street, but from MLK westward to Nova Road, everyone puts on horse blinders and she feels it is time to listen to the citizens in that area.

Mrs. Remark stated she feels the Midtown Master Plan is being treated as if it has been adopted and it has not. She stated she does not feel the plan is working in harmony with the City's Vision Plan, Comprehensive Plan or LDC and she did not see anything in the plan that suggests prohibition of uses as a way to achieve the plan's objectives. She stated she feels the proposed amendment would further harm the Midtown area. She referenced specific areas in the Midtown Master Plan that were in conflict with the LDC Re-write. Mrs. Remark stated her understanding of the CRA's acceptance of the plan and sending it back to the Board was to further clarify what parts work, what parts need tweaking and what parts need to be taken out. She stated zoning is recognized by law as a police power and not something that suggest taking away someone's development rights by changing the zoning. She stated she feels that approving this amendment will keep Midtown in their current situation even longer.

Mr. Fishback asked if this amendment was the same as the one prohibiting convenience stores.

Mrs. Remark replied not quite.

Mr. Fishback asked what affect the amendment had that prohibited convenience stores.

Mr. Morris replied he was not speaking on convenience stores which were operating businesses. He stated they could continue to operate but they cannot change or be replaced if they are destroyed. He stated a property that is currently not open for business, such as Daytona Lincoln Mercury would not be allowed to open if this prohibition is approved.

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Mrs. Remark stated she did not see any information in her packet to support the request.

Ms. Washington stated the Midtown Board was not requesting anything be done to existing businesses.

Mrs. Remark replied but something would be done to them.

Ms. Washington replied if they cease to be in business for 90 days.

Mr. Bohon stated there were so many uncertainties associated with the amendment request that he did not see how the Board could approve it. He stated there was no way he could support the request. He recommended the Midtown Board go back and put together a better request because there were just too many holes in what was presented tonight.

Mr. Ivey stated he really appreciated the great debate the Board was having because it tells him the Midtown Board was doing their job. He stated recently the Tarragona project came to the Planning Board and was denied. He stated when the Downtown Redevelopment Area Board submits prohibition of uses or any likes or dislikes for their community the Planning Board supports their request. He stated he does not feel the Board ever questions requests from other redevelopment boards and Midtown needs this amendment in place to help make a change. Mr. Ivey stated Midtown's current condition is because it has been the dumping grounds for the City and he does not feel the Planning Board is trying to help change that. He stated to Mrs. Remark that she did not attend one meeting held for the Midtown Master Plan but she along with other Board members were trying to tear apart the changes the Midtown Board were trying to make. He stated the proposed prohibited use list was vital to the redevelopment of Midtown and he is bothered when people come and make accusations but never have any recommendations for improvement. He stated he does not feel Midtown will ever improve if the attitudes of various City boards do not change. Mr. Ivey stated the Midtown Master Plan will assist in marketing the Midtown area the way the rest of the City is being marketed and another auto dealership will not help with that marketing strategy.

There was discussion between Board members and Mr. Ivey regarding whether or not the floor was open for public speaking.

Mr. Moore closed the floor to public comments and stated he did not feel there was a need for additional questions or comments.

**Board Motion**

It was moved by Mr. Hurt to approve Land Development Code Text Amendment – Prohibited Uses in the Midtown Redevelopment Area, DEV2012-018. Seconded by Mrs. Remark.

Mr. Hurt asked for clarification on the vote.

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Ms. Lathan replied a yes vote would mean you were in favor of prohibiting the uses; a no vote would mean you were not in favor of prohibiting the uses.

Mrs. Remark asked how many votes were needed to recommend approval to the City Commission. She stated she needed to know because she did not want the same thing to happen as in the past.

Ms. Lathan replied six yes votes were required to recommend approval to the City Commission.

Mr. McGuinness asked for clarification.

Ms. Lathan stated the request would move forward to the City Commission in either instance. If six of the Board members vote yes, it would move forward with a recommendation for approval from the Board. If six votes were not received, the request would move forward with a recommendation for denial from the Planning Board.

**Board Action**

The motion failed 4-to-5 by roll-call-vote, with the breakdown as follows:

Mr. Hurt	No
Mrs. Remark	No
Mr. McGuinness	No
Mr. Bohon	No
Mr. Moore	No
Ms. Washington	Yes
Ms. Benjamin	Yes
Mr. Fishback	Yes
Mr. Neal	Yes
Ms. LeSage	Absent

14. **Other Business**

A. **Downtown/Balough Road Redevelopment Area Board Report**

Ms. Washington reported the Board met on May 1, 2012 at 12:00 PM in City Commission Chambers. She stated the Board received their monthly report from the Police Department/ Code Enforcement and recommended approval of a LDC Text Amendment to allow hotels in the Downtown area.

B. **Midtown Redevelopment Area Board Report**

No report.

C. **Main Street/South Atlantic Redevelopment Area Board Report**

No report.

D. **Public Comments**

No report.

E. **Staff Comments**

Mr. Mrozek stated at the April Planning Board Meeting there was a discussion on tree removal, associated penalties, when a clearing permit would be required, restoration requirements tree replacement requirements. He stated at the end of the discussion staff asked the Board for direction to take. He stated the Board's directive was toward educating the public on requirements for tree removal on private and public property. He stated staff recommends giving the information to the Beautification Tree Advisory Board to review and provide recommendations on the current requirements. He stated staff would then bring their recommendations back to the Planning Board.

Mr. Weitnauer stated Clarion and Associates have been working on the Module three draft of the LDC Re-write. He stated today he spoke with a Clarion representative and was told the City should receive the revised Module three (with staff's recommended changes) sometime in June. He stated staff will review the revisions and make a determination how close the revisions match staff's recommended revisions. He stated staff should receive the EZone form based code within the next two weeks. He thanked Mr. Fishback for volunteering his time and talent serving on the Planning Board. He also congratulated Ms. Askew on receiving her Bachelor of Science Degree.

F. **Board Member Comments**

Mr. Moore stated tonight was Mr. Fishback's last meeting serving on the Board. He thanked him for his service and informed everyone that there was a small reception being held after the meeting in honor of Mr. Fishback's service to the City.

Mr. Fishback thanked the Board members for their tutelage. He stated it was a very positive experience for him and he really appreciates everyone's help. He stated you never know what life will bring you and he is looking forward to what is to come.

**Adjournment**

There being no further actions to come before the board, the meeting was adjourned at 8:57 pm.

  
\_\_\_\_\_  
LOUIS MOORE  
Chair

ATTEST:  
  
\_\_\_\_\_  
CATHY WASHINGTON  
Secretary