

MINUTES

REGULAR MEETING – PLANNING BOARD

September 27, 2012

Minutes for the Regular Planning Board for The City of Daytona Beach, Florida, held on Thursday, September 27, 2012, at 6:00 p.m., in the Commission Chambers, City Hall, 301 South Ridgewood Avenue, Daytona Beach, Florida.

Board members Present were as follows:

Jeff Hurt
Tracey Remark
John McGuinness
Matthew Bohon
Louis Moore
Cathy Washington
Bob Hoitsma
Tim Davis
Shirley Benjamin
James Neal
Janet LeSage (*out at 7:20*)

Staff members present:

Richard Walton, Planning Director
Thomas Weitnauer, Principal Planner
Ben Gross, 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.

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3. **Approval of the Minutes:** August 23, 2012

Board Motion

It was moved by Mr. Hurt to approve the August 23, 2012 Planning Board Meeting Minutes. Seconded by Mrs. Remark.

Board Action

The motion was approved 11-to-0.

Richard Walton, Planning Director stated that Mr. Mrozek was not present and that he would be giving the presentations tonight.

4. **Preliminary Plat – Eagle Marsh South, DEV2012-073, (Quasi-Judicial Hearing)**

A request by Steven R. Buswell, P.E., on behalf of William Handler with GHO Holdings Corporation, for approval of a preliminary plat for 4.32± acres of land located at 241 Catriona Drive.

Staff Presentation

Richard Walton, Planning Director gave a presentation that included the request as written above and stated the applicant was increasing the lot sizes, which would decrease the number of lots from 36 to 29. He stated staff had reviewed the request and was recommending approval. He stated he was available to answer any questions the Board may have.

Applicant Presentation

Steven Buswell, Parker Mychenberg and Associates, 1729 Ridgewood Avenue, Daytona Beach stated the request was to revise the existing 40 foot lots to 50 feet to satisfy market demand and he was available to answer any questions the Board may have.

Citizen Comments

No comments.

Board Comments

No comments.

Board Motion

It was moved by Mrs. Remark to approve Preliminary Plat – Eagle Marsh South, DEV2012-073. Seconded by Mr. McGuinness.

Board Action

The motion was approved 11-to-0.

5. **Small Scale Comprehensive Plan Amendment, Walker Avenue, DEV2012-063**

A request by James S. Morris, PA, on behalf of Gaynor Dore with Ritchey Properties, LLC to approve a Small Scale Comprehensive Plan Amendment, changing the Future Land Use Map designation from Level 1 Residential to Retail for .59± acres of land; and adding a new issue and policy to Neighborhood G of the Future Land Use Element in the Comprehensive Plan that restricts permissible land uses. The property is generally located on the west side of Walker Avenue between North Street and Bryant Street.

Staff Presentation

Thomas Weitnauer, Principal Planner gave a PowerPoint presentation that included the request as written above and stated Richey Properties was interested in consolidating three residential lots that abut their automotive dealership and enclosing them to become part of the dealership. He stated a neighborhood meeting was held on Tuesday and that the applicant would give a report during his presentation. He stated staff reviewed the impact analysis and although when you go from residential to retail, typically it would increase the demand on water, sewer and traffic, but due to the restrictions being placed on the property with the proposed neighborhood policy, this request would actually reduce the demand. He stated usually when processing a small scale amendment staff tries to describe the location specifically to address the parcel and the policy in the staff report restricts access to the parcel. He stated staff was recommending approval of the Future Land Use Map amendment and the addition of the proposed new issue and policy to Neighborhood G of the Future Land Use Element.

Applicant Presentation

James Morris, 750 Oak Heights Court, Port Orange stated a neighborhood meeting was held Tuesday on Richey Properties and that approximately 15 to 20 residents attended. He stated there were questions and concerns from the neighbors but no objections. He stated there was discussion on a couple of houses on the northern end of Walker street where people would like to be able to park, but presently parking was not allowed. He stated he told the residents to write a letter to the Police Chief and the City's Public Works Traffic Division to request parking on the street. Mr. Morris stated another neighbor asked if they would put viburnum plants in front of the masonry screening wall and his client agreed to the request. He stated he did not believe that needed to be included in the amendment but he would like it to be a part of the record that his client agreed to the neighbor's request. He stated there were also questions asked regarding trees on the property and he would address those questions when he spoke on the rezoning item.

Mrs. Remark stated Mr. Morris stated the language did not need to be included as part of the amendment, but on page nine of the staff report the comprehensive plan policy that is being included as part of the amendment reads "the property shall be enclosed with a screening fence." She stated they could change the language from "fence" to "wall".

Mr. Morris replied you certainly could because they would be putting up a wall. He stated he was fine with replacing the word "fence" with "wall".

Citizen Comments

No citizen comments.

Board Comments

Mr. McGuinness stated he had the same concern he always has when the Board allows rezoning of commercial property that directly abuts residential property and when small scale amendments are done with new neighborhood policies directly connected with three parts of land because he feels they constantly dilute the neighborhood policies. He stated he knows Mr. Morris said there were not any objections from the neighbors and perhaps the wall will look better than three residential properties across the street, but once the property is gone and the wall and trees are up, there is no going back; it will always be commercial. He stated now there will be another strip of residential property that used to be adjacent to other residential properties across the street and directly across from commercial property gone. He stated his objection was more of a theoretical objection on the City's entire policy of residential properties abutting commercial properties because he felt like it was spot future land use and zoning and he had a strong opposition to it.

- Mr. Morris stated in this instance he did not feel Mr. McGuinness' theoretical objection reflected the reality of this situation because between the Toyota Dealership and the Chevrolet Dealership, roughly 70 percent of the frontage on the west side of Walker Street, were already commercial. He stated the real situation was that there were outparcels that the two dealerships were respectively purchasing and enclosing and were consistent with the commercial band along Nova Road. He stated a question the neighbors asked was whether there would be access from the properties to Walker Street and the proposed policy is explicit that it will not be allowed. Mr. Morris stated the object of the no access policy was to preserve the integrity of the neighborhood and not permit access to occur. He stated when you look at the predominate land use you will find that on the west side of the street it is commercial and the neighbors were cognizant of that and he believed that had an impact on their opinions. He stated if it were simply three lots of 200 feet of frontage then Mr. McGuinness' argument would have merit and he does understand it was a theoretical application, but neighborhood policies were designed to allow neighborhood issues to be specifically addressed at specific pieces of properties to avoid potential conflicts. He stated his request was for BA zoning because the rest of the car dealership was already zoned BA and it reflected the current condition, which in this case, the predominate use on that side of the street is commercial not residential. He stated he felt it should be looked at on a case-by-case basis.

Mrs. LeSage stated she appreciated Mr. McGuinness' comments because it had come up in other parts of the City, but on the other hand she did not see anyone building a brand new house on the lots and she thought the car dealerships had been good neighbors. She stated she goes through that neighborhood pretty often because it is not very far from her office and she had not seen trash on the property or the road around the property, the landscaping was always

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nice and she agreed that it was not the ideal situation, but it was a good alternative to just leaving the property the way it currently is.

Mr. Hurt stated he agreed with Mrs. LeSage that this request was squaring up the commercial site that is currently there and in his opinion it does not really encroach into a neighborhood.

Mrs. Remark stated having driven through the neighborhood, the wall between the two dealerships, the wall on Walker Street goes back along the sides and runs along the back of what is currently residential and then down the side again. She stated she would not build a house there and the wall was already there, this would just move it out onto Walker Street. She stated she did think the wall behind the Toyota Dealership was better landscaped than the wall behind the Richey property. She stated she understood at the time wall behind the Richey property was done based on the LDC requirement but she felt what was done by the Toyota Dealership owner was a good compromise with the neighbors because the viburnum would actually make it all green and she appreciated that being done.

Ms. Washington stated she waited to hear the response from the residents on this issue because she had family that lived on that street that had been bought out little-by-little. She stated she knew the current situation and her vote was going to be no because she felt it was encroaching into the neighborhood and yes it was making the other side of the street all BA. She stated if the residents are ok with the request, she has no other option but to support it. She stated she was making these statements to the Board because it appeared that more and more of these types of requests were being approved in the Midtown area and she feels it is her duty to speak up about it because the properties were being purchased from the owner who had little to no options. Ms. Washington stated it was almost as if there would not be any homes left in the neighborhood.

Mr. Moore stated he believed most of the Board members were waiting to hear the response from the neighbors. He thanked Mr. McGuinness for his consciousness regarding neighborhoods and stated he was surprised to hear that there were 15 to 20 residents in attendance, which was very encouraging.

Ms. Benjamin stated perhaps the 15 to 20 people showed up to the meeting because Mayor Richey already owned the property that backs up to Walker Street. She stated residents know this and so they just went along with what was proposed. She stated she agrees with Mr. McGuinness that all of the residential neighborhoods are being rezoned to commercial but because Mr. Richey owned the property she would support the request. She stated at some point the trend must be stopped because if it is a residential area, it should remain a residential area.

Board Motion

It was moved by Mr. Hurt, and seconded by Mr. Bohon to approve Small Scale Comprehensive Plan Amendment, Walker Avenue, DEV2012-063 with the condition that the language in item three be changed from "fence" to "wall".

Board Action

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The motion was approved 10-to-1, with Mr. McGuinness as the opposing vote.

6. **Rezoning – Business Automotive, Walker Avenue, DEV2012-065, (Quasi-Judicial Hearing)**

A request by James S. Morris, PA, on behalf of Gaynor Dore with Ritchey Properties, LLC, to rezone .59 ± acres of land generally located on the west side of Walker Avenue between North and Bryant Street, from R-1b (Single-family) to BA (Business Automotive), to allow consolidation of the property into the adjacent Jon Hall Chevrolet Auto Dealership fronting Nova Road.

Staff Presentation

Richard Walton, Planning Director read the request as written above and stated this request was on the exact same property discussed for the small scale land use amendment. He stated the rezoning request would simply bring the back portion of the property into compliance with the front portion of the property and the neighborhood policy would restrict the property to access only from the front of the property and incorporate all into one property. He stated this was the most logical extension of the Comprehensive Plan change that was just approved.

Applicant Presentation

James Morris, 750 Oak Heights Court, Port Orange stated he would first answer the question asked during the discussion in the previous request regarding the oak trees. He stated there were three oak trees on the property and the only construction anticipated by Mr. Richey was to build the wall as discussed. He stated the oak trees appeared to be healthy but they could not say that for sure but Mr. Richey had no plans to do anything to them and there were not any plans for any kind of construction on the property, including paving. He stated from the standpoint of Mr. McGuinness' theoretical objection to the changes, he understood his concerns, but when you take into consideration the specifics of the neighborhood, the way the dealerships buffer it from Nova Road, and the changes that have occurred on Nova Road, commercial frontage is a natural outcome. He stated sometimes not having a neighbor is a good thing. Mr. Morris stated the reason they had such a good turnout for the neighborhood meeting was because they sent notices to all residents within 500 feet of the property. He stated from the standpoint of the zoning request for BA, it was that way because the remainder of the Richey property was zoned BA. He stated the Dannehower property was a mixture of zoning uses but he had discussed with City staff the option of making of the zoning consistent. He asked the Board to support the request.

Mrs. Remark asked Mr. Walton if permits would be required for any type of construction done on the site.

Mr. Walton replied yes. He stated they would be required to submit a final site plan relative to the trees and the City Commission would have to approve the removal of the trees.

Mrs. Remark asked if staff would be responsible for reviewing any plans for paving to make

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sure they did not pave over the root system of the trees.

Mr. Walton replied the LDC required that as part of the final site plan review and approval. He stated staff would not be allowed to condition things as part of the zoning that were beyond code requirements. He stated the applicant would be required to follow the code which was what would be reviewed at TRT.

Citizen Comments

No citizen comments.

Board Comments

Mr. McGuinness stated for the record he would like to reiterate his comments from the previous request. He reminded the Board that the neighborhood was now reduced to only three residential lots on that side of the street, which now makes the residential lots push into the commercial zoning.

Board Motion

It was moved by Mr. Hurt to approve Rezoning – Business Automotive, Walker Avenue, DEV2012-065. Seconded by Neal.

Board Action

The motion was approved 10-to-1, with Mr. McGuinness as the opposing vote.

7. Right-of-Way Vacation, Dannehower Vacation (Bryant Street), DEV2012-090, (Quasi-Judicial Hearing)

A request by James S. Morris, PA, on behalf of Gibb Dannehower, Daytona BR-GD, Inc., to vacate a 23.9 foot wide Right-of-Way located on the western end of Bryant Street, west of Walker Avenue.

Staff Presentation

Richard Walton, Planning Director gave a presentation that included the request as written above and stated the vacation was for a relatively small piece of property on Bryant Street and the properties to the north and south currently had one owner. He stated the Utilities Department had reviewed the proposed request and determined that the water and sewer lines located within the rights-of-ways were not required for public use and therefore were not needed. He stated staff had received letters of no objection to the vacation request from FPL, TECO (gas), Bright House Network and AT&T and the City's Property Evaluation and Review Team (PERT) has reviewed the vacation request and found no objections. He stated staff was recommending approval.

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Applicant Presentation

James Morris, 750 Oak Heights Court, Port Orange stated the request was discussed at a neighborhood meeting and what he wanted to know from the neighbors was whether or not the road ever connected to Nova Road. He stated his understanding from the neighbors was the road never connected to Nova Road. He stated the right-of-way dead ends into the Dannehower property and does not serve any public access purpose, which is the standard that must be evaluated when determining approval for a vacation.

Mr. McGuinness asked staff if the property would be split between the two adjacent properties.

Mr. Gross replied the City does not determine where the vacated right-of-way goes. Where the road is in respect to the surrounding properties was determined by law. He stated if the road was in the middle of other platted properties then it could be split. He asked Mr. Morris if the road was in the middle of the platted property.

Mr. Morris replied what Mr. Gross was referring to was plat lines, but in this instance it was the same property owners on both sides, so it would go to Mr. Dannehower's ownership. He stated the inherent concept of vacation of rights-of-way and allowing the property owner to take control is that the property owner has the inherent right from the original subdivision when the road was dedicated by the original property owner because it was given for a specific purpose. He stated if it is not used for that specific purpose it should go to the heirs of the person that subdivided, which in this case would be the people that purchased the property over time. He stated when all of the adjacent property owners are in the same plat, it is split down the middle, but if it all on one platted piece of property it would go to one side, but it depends on the case.

Mr. McGuinness stated his concern was if it gets split by the plat line, there was different zoning on both sides of the property. He asked if the zoning would go with the split.

Mr. Morris replied the zoning generally follows property lines, and he thought it would be a zoning interpretation. He stated he did not know enough about where the property line was to adequately answer the question. He stated if Mr. McGuinness was asking if the Board should expect the owner request the property to be included in his dealership; the answer was yes.

Mr. Hurt stated this would square up and define the commercial property, which makes it clearer what part is commercial.

Citizen Comments

No citizen comments.

Board Comments

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No additional Board comments.

Board Motion

It was moved by Mrs. Remark to approve Right-of-Way Vacation, Dannehower Vacation (Bryant Street), DEV2012-090. Seconded by Mr. Bohon.

Board Action

The motion was approved 11-to-0.

8. **Rezoning – Planned Commercial Development, Restaurant District @ Volusia Mall, DEV2012-095, (Quasi-Judicial Hearing)**

A request by Robert A. Merrell, III, Esq., on behalf of Consolidated Inns of Daytona Beach, Inc./Volusia Mall LLC, to rezone 4.6± acres of land located at 1794 West International Speedway Boulevard (ISB), generally located on the northeast corner of ISB and Bill France Boulevard from T-4 (Tourist) to PCD (Planned Commercial Development), establishing the Restaurant District at Volusia Mall.

Staff Presentation

Richard Walton, Planning Director gave a presentation that included the request as written above and stated the applicant was requesting to take a portion of the Volusia Mall, Ramada Inn Hotel and Uno's Pizzeria and create a PCD. He stated the staff report identified proposed uses for the site and the applicant provided elevations and drawings for the proposed project. He stated the staff report identified concerns regarding the project not meeting the requirements for a PCD. He stated one of the criteria for a PCD was it must have a unified design, architecture, etc. and that the proposed project had different designs and colors each of the three properties. Additionally, the applicant was requesting several waivers, including a request to waive the City's newly adopted architectural design standards that were drafted with a lot of detail to clarify to architects what the City's requirements were. Mr. Walton stated the City's architect, Tom Weitnauer worked with other applicants to meet the design guidelines and as a result the City has seen better quality development. He stated staff recommends that the Board not grant the request to waive the approved architectural design standards that are listed on page nine of the staff report and asked the Board to look at the next item on the agenda that meets all of the requirements for architecture, materials, etc. and the PCD's design was uniform, which is what had been done in the past. He stated the proposed project does not have any real measurable standards and staff would suggest approval of the request, but without the waiver of the approved architectural design standards, which can be handled through the Technical Review Team at final site plan approval.

Mrs. Remark asked Mr. Walton to repeat the last part of his recommendation.

Mr. Walton replied the compliance of the architectural design standards could be done as part of the final site plan.

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Mr. Moore asked if the architectural design standards had been reviewed.

Mr. Walton replied the applicant was requesting that the design standards (Article 18, Section 4.3) be waived and that the applicant had written their own design standards that did not tie their colors or materials into the entire PCD to make it uniform. He stated essentially, the purpose and intent of the architectural design standards were for developers to bring a unified design plan so staff would not be required to spend time working with every applicant to make their design plan uniform. Mr. Walton stated additionally, the standards in Article 18 were intended more for large developments where as the purpose for a PCD is for the applicant to establish design standards and impose them before they come forward with an application, which is not what this applicant is doing, instead they are asking for waivers.

Applicant Presentation

Robert Merrell with Cobb Cole Law Firm, 150 Magnolia Avenue, Daytona Beach distributed pictures of the current hotel and restaurant on the site along with 3D renderings and a landscape plan of the proposed project (Attachment A). He introduced Jamey Flegal with CBL and Associates, and John Keen with Darden Restaurants. He stated he would try to address the concerns that Mr. Walton spoke about, but he would probably have to ask some questions for clarity on some of them. He stated he believed the 3D renderings distributed tonight addressed the points Mr. Walton spoke about but he would go through each one to clarify their differences from the 3D renderings Board members received in their packet. Mr. Merrell stated he believed the changes were not substantial and the intent tonight was for the revised 3D renderings distributed to Board members, that were generated based on conversations with staff be made part of the record and actual exhibits to the PCD. He stated as Mr. Walton stated the project was going through a parallel site plan approval process. Mr. Merrell went through each rendering and gave a brief description of the proposed intent and the configuration of the site plan. He stated some of the issues were a result of the configuration of the site and the way his client was proposing to bring it forward. He stated that both the Bahama Breeze and Olive Garden Restaurants were positioned up on the road, which is considered an urban edge type of design as opposed to the suburban design, which usually places the parking lots at the front of the lot and the buildings in back and that the substitute for the suburban design was a substantial amount of landscaping between the two buildings with pedestrian opportunities along ISB, between both buildings and all the way around the project back to the Volusia Mall. Mr. Merrell stated the project was designed to be seamless with the mall, hence Jamey Flegal's presence tonight and that he felt it promoted the type of smart growth development that had been discussed for quite a while. He stated the site plan for the third building had not been developed and that they would come back once it had been. Mr. Merrell stated one of the things to notice was both Bahama Breeze and Olive Garden Restaurants had parking shielded from the road so people driving by would see the architecture of the buildings and that the driveways currently on ISB were being removed and routed around to the rear of the site. Additionally, the Sunoco Gas Station on ISB was not a part of the project and would continue to operate. He stated the two restaurants faced each other with outdoor seating areas and the intent was to create an atmosphere of pedestrian

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activity between the restaurants that was inviting to people driving down ISB. Mr. Merrell discussed in detail the Bahama Breeze architecture features that he felt brought forward the Bahamas tropical look and stated the colors were actually more muted than they appeared on the renderings. He stated he spoke with Mr. Mrozek about the staff report, but unfortunately Mr. Mrozek was not present so there would have to be some extrapolation because Mr. Walton was presenting. He read the last sentence in staff's recommendation that reads as follows, "*However, staff recommends the project be amended to comply with all recently instituted LDC design standards and not waiver or vary from these requirements*" and stated he believed when Mr. Walton was talking about uniformity, he was referencing the second bullet on the requested waiver list on page nine of the staff report but in his discussions with Mr. Mrozek and Mr. Weitnauer about the last sentence of staff's recommendation, he got the impression that the statement was geared toward achieving a resolution about Article 18, Section 4.3 of the LDC. He stated his perspective is Article 18, Section 4.3 is a great piece of legislation, but sometimes you have to look at things in practice to determine whether or not it really works. He stated the original plan for the Bahama Breeze Restaurant did not have the porch wrapping all the way around to the east elevation, which is one of the changes presented in the renderings presented tonight and his interpretation was that the change brought compliance to Article 18, Section 4.3. He stated an additional change that was not present in the renderings presented tonight, but had been discussed with Mr. Weitnauer, and submitted for technical review was the windows with Bahama shutters on page two. Mr. Merrell stated he believed the rendering of the closed shutters on page three met the requirements in Article 18, Section 4.3 because he understood the language to mean either windows or fake windows. He stated and he and his client felt the closed shutters had fake windows behind them that you could not see because the shutters were closed. Staff did not agree, so they agreed to change page three to what is presented on page two, but the windows will not be real because the kitchen is behind the fake windows.

Mrs. Remark asked if he was saying it would be changed to reflect the windows with or without the shutters.

Mr. Merrell replied with the open Bahama shutters.

Mr. Merrell stated architectural renderings do not always have all of the necessary landscape components in them. The purpose is so the architecture of the building will stand out, which is how the renderings are presented for this project. He stated the west elevation of the Bahama Breeze wall is pretty bland but it was intended to be that way and the reason for that is because when the buildings were positioned to face each other to create the courtyard affect in the middle, the wall becomes the back where the kitchen and dumpster are located. He stated staff's perspective was the wall did not meet the architectural design guidelines, so the easiest way to bring the wall into compliance was to add landscaping with the hope that the Board would approve the request with the requirement that they bring back a satisfactory landscape plan to staff resolving all issues related to the wall. He stated Mr. Walton discussed consistency in compatibility but he was not quite clear on what he saying.

Mr. Walton stated it was spelled out clearly on page two of the staff report for item number nine, which reads Article 14, Section 11 of the Land Development Code states the purpose of a

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PMD *"is to permit large scale mixed use developments with integrated design elements, efficient use of land, flexible design, promote creativity, provide greater environmental sensitivity ..."* which is what was done at the Pavilion and is what is typically done with a PCD. He stated staff encourages the Board to consider requiring those guidelines for this project.

Mr. Merrell stated when he spoke with Mr. Mrozek he was not lead to believe this would be an issue included with staff's recommendation not to approve that part of the waiver request. He stated he believes compatibility of the development is pretty subjective and certainly the two buildings had different architecture, but they absolutely tie together through the shared courtyard and entrances. He stated compatibility was not necessarily about looking alike, it could mean whether they look good together and that he had not spent very much time making changes in that regard because the only way to make them the same would be to change one or the other dramatically, which is not what they want to do. He stated what you see is what you get and that was what he would like to make part of the record and part of the recommendation to the City Commission.

Mr. Moore stated he was confused because normally these types of changes were already done before the project was brought before the Board and it sounded to him like the applicant was trying to have the Board make decisions that should have been made by staff prior to the request being presented tonight. He stated there were not any architects on the Board and asking them to make those types of decisions really concerned him.

Mr. Merrell stated there were only three changes and he believed they were intuitive, which did not require architectural training, but there was a member of the City's staff present that had architectural training.

Mrs. Remark stated the aerial map included in the Board packet looked like there was not a landscape buffer on Bill France Boulevard.

Mr. Walton replied there probably was not and he believed that was taken before the standards were put in place.

Mrs. Remark asked if her information was correct that across the street at Volusia Point the landscape buffer was going down to 10 feet or a possible urban edge.

Mr. Hoitsma replied yes the Board discussed that at the last meeting.

Mrs. Remark asked if the plan was to get rid of all existing vegetation.

Mr. Merrell replied the plan was to do something very similar to what was done east of the mall. He asked Mrs. Remark if she noticed how much better it looked from the road.

Mrs. Remark stated she disagreed and did not think it looked better.

Mr. Merrell stated they had a lot of old pine trees that were not maintained and the plan was to

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replant them with much nicer vegetation.

Mrs. Remark stated so all of the natural vegetation would be gone; the site would be totally regraded.

Mr. Merrell replied he was told by Mr. Momberger that none of the natural vegetation was worth preserving and that they would be replacing it with much nicer vegetation.

Mrs. Remark asked how tall the wall was.

Mr. Merrell replied nine feet tall.

Mrs. Remark stated other than the Sable Palms it looked like everything else was approximately five feet tall.

Mr. Merrell stated he thought the intent was to not completely block the wall so that it encroached up into the view of the building and he believed it would give the effect of not having a sheer wall if you cover a good portion of it.

Mrs. Remark stated she felt it would look better with trellises coming off the top.

Mr. Merrell stated the thought that was a good idea and he and Mr. Momberger had exchanged some pictures like that, but he stated he hoped the Board would allow staff to determine what plants would work best. He stated he had a discussion with Mr. Weitnauer who pointed out that crape myrtles look naked in the winter.

Mrs. Remark stated what if the Board punted to staff the authority to determine a combination of landscaping and columns to give the wall some faux depth. She referenced the Seabreeze Lofts as an example and stated there were ways to revise the wall that would give it some faux depth to break it up.

Mr. Merrell stated there were also ways they could screen the wall completely so you could not see it at all, but they were trying to reach something between the two. He stated Mr. Moore made a good point when he made the statement regarding it causing a problem for the Board to try to negotiate every type of plant and that this was the only waiver he was asking the Board for some leniency on because he believed it could be worked out with TRT.

Mrs. Remark stated she believed that was why Mr. Moore stated he felt the Planning Board meeting was a difficult place to do this.

Mr. Hurt stated the Board also had to consider a safety issue on the back of the building because the screen created a hideout.

Mrs. Remark stated that was why she said there were ways to do it so the wall would be broken up and because you would be able to see it from ISB and Bill France Boulevard.

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Mr. Moore stated it sounded like the project should be continued for a month to allow the applicant and staff to work out the problems. He stated when projects come before the Board; these types of issues should already be resolved.

Mr. Merrell stated or not. He stated the next agenda item did not have any of these issues addressed, in fact, they were not even mentioned and so that statement was not always true.

Mrs. Remark stated the rendering of the east elevation of Olive Garden that could be seen from the Mall was the most uninviting side of the architecture. She stated she loves the fact that it is stone and was a very elegant looking building, but everything except the wall had windows or doors that opened.

Mr. Merrell stated this wall was like the wall on the other building; it was the side with the kitchen. He stated there was a lot of articulation and that they had gone to great lengths to make it look nice, but whether it was attractive for people to walk towards, he felt they would probably walk to the other side because there was not an entrance into the building and there never will be. He stated Article 18 addressed architecture on a thoroughfare and the wall faced the mall.

Mr. McGuinness asked if any consideration was given to retaining the scenic thoroughfare setback of 50 feet and retaining the setback on ISB.

Mr. Merrell replied they were trying to bring the urban design concept forward and these types of buildings fit on the road. He stated they felt the site worked better with the urban edge concept, hiding the parking in the back, creating an active area along the boulevard, with sidewalks that create more pedestrian opportunities throughout the project. He stated yes it could be done, but it would not be the same project, it would be a more suburban type layout.

Mr. McGuinness stated his only concern was going west on ISB by the Volusia Mall there were 50 foot setbacks and then you come up to the two proposed restaurants that have the urban design with 10 foot setbacks. He stated he would be looking for a way to turn into the site.

Mr. Merrell stated Mrs. Remark asked that question and one of the answers is signage. He stated they were committed to adding something to the signage that would make it clear where to enter the site. He stated from a transportation impact perspective, they eliminated a very large curb cut on ISB, which was very positive, but they may have created some confusion and they would try to correct that through signage at the entrance and rear. He stated he came before the Board a couple of months ago with a very large project that had the urban edge concept and that is where they borrowed the concept from for this project.

Mr. McGuinness stated it occurred to him that since they would be working with a blank slate, they could have bigger setbacks even if they were just landscaping. He stated he just wanted to know if it was considered or if they only looked at the urban edge concept.

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Mr. Hurt stated this was a unique situation with a unique piece of property and the LDC was not a one process fits all documents, which was why there was a process in place for LDC waivers. He stated the applicant for this project had built thousands of restaurants and employed some of the most highly recognized architects, landscapers and designers. He stated he did not believe they would build something that was not compatible with the surrounding community and that this project gave the City the opportunity to get two new restaurants sitting up on the road with a courtyard area and parking in the rear. Additionally when Olive Garden moves over to the new site, another restaurant would open on the old site. He stated he was fine with the proposed changes to the windows and the porch and was very pleased to see the project move forward.

Mr. Moore stated he was not disagreeing with Mr. Hurt's comments, it was the fact that all of the changes were being done at the meeting tonight rather than prior to the meeting.

Mr. Hurt stated he understood the reason for the request coming to the Board in this manner was because of staff's interpretation of the LDC to the letter and the applicant did not feel the project could be built to follow the LDC to the letter. He stated usually it was easy to follow the LDC because requests are usually for one building, but this project had two buildings with completely different concepts. He stated City staff did exactly what they were supposed to do, but in this particular case, that concept would not work and because of the project's uniqueness the request had to come before the Board to resolve the issues. He stated he was perfectly comfortable allowing the applicant to decide what it would take for their businesses to be successful if they build in the City and he was comfortable with the requested waivers.

Mr. Merrell stated the Board meeting was the arena where the discussions should take place when applicants and staff could not come to an agreement and he believed they had made the necessary changes to comply with the LDC. He apologized for taking up so much of the Board's time but felt it was important that all issues be resolved.

Mrs. Remark stated she agreed with a lot of what Mr. Hurt said because normally she would look at compatibility in a PCD, but she saw these as out parcels because it had two different restaurant styles and markets. She stated she was not really sure how to get compatibility between Tuscan and the Bahamas except for good food in both restaurants, but she definitely agreed with the urban edge design. She stated if the project were to receive approval to move forward for City Commission review, it must reflect the porch footprint in the site plan as part of the PCD, the window changes, and the referral back to staff for the west wall elevation, articulation and landscaping. She stated she could not agree to the third parcel having the vehicular service (light and heavy) use and she agreed with staff completely that it should be removed.

Mr. Merrell stated he spoke with his client and they agreed to remove the vehicular service (light and heavy) use from the proposed use list.

Mr. McGuinness stated that was his last objection also, but he was still holding out for the 50

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foot setback. He stated he agreed with Mr. Hurt that it was a unique situation and somehow in the record all of the agreements needed to be included in the motion.

Mrs. Remark stated she could do that.

Citizen Comments

John Nicholson, 413 North Grandview Avenue, Daytona Beach stated he supported the project but he was concerned with the garish color of the Bahama Breeze Restaurant, but if you go to the Bahamas that was what you would see. He stated secondly, he did have a problem with the wall because it was next to the Sunoco Gas Station so he is fine with the 9 foot wall, and third quite frequently he travels to Miami what he has seen there was the urban edge design. He stated he did not see any negatives to the project and hoped the Board will vote 11-to-0.

Board Comments

Mrs. Remark stated to Mr. Nicholson that the applicant brought a color palate and it was quite different from what the computer generated. She stated the color was not garish at all in fact it was much more muted and that the proposed Clarion code allowed for flexibility to bring buildings closer to the street so the view is not a wall of cars.

Board Motion

It was moved by Mrs. Remark, seconded by Mr. Hurt to approve Rezoning – Planned Commercial Development, Restaurant District @ Volusia Mall, DEV2012-095 with the following additions:

1. Attachment A - Site Plan will reflect the porch footprint in the site plan with the PCD.
2. Bahama Breeze will reflect the window change on the south elevation for the faux windows with Bahama shutters.
3. West elevation of Bahama Breeze Restaurant must meet staff approval for articulation of landscaping, however they do that with the wall.
4. Vehicular service (light and heavy) use will be removed from the list of proposed uses for the site.

Board Action

The motion was approved 11-to-0.

9. Rezoning – Planned Master Development, Halifax Hospital Medical Center, DEV2012-031, (Quasi-Judicial Hearing)

A request by Robert A. Merrell, III, Esq., on behalf of Michael S. Morgan with Halifax Hospital Medical Center (HHMC), to rezone 77.5± acres of land, generally located on the west side of Clyde Morris Boulevard, north of West International Speedway Boulevard (ISB) and directly across from Halifax Hospital Medical Center, from HM (Hospital/Medical) to PMD

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(Planned Master Development), for construction of a mixed-use development that includes a variety of uses intended to complement the surrounding area.

Staff Presentation

Richard Walton, Planning Director gave a brief presentation that included the request as written above and stated recently a comprehensive plan amendment was approved on this piece of property to allow for a number of mixed-uses. He stated this request is for a planned development to incorporate those percentages and allowance for uses approved in the comprehensive plan amendment. He stated the design standard proposal for this request meets the LDC requirements for a planned development with a unified design and page three of the staff report. He stated staff recommends approval.

Applicant Presentation

Robert Merrell with Cobb Cole Law Firm, 150 Magnolia Avenue, Daytona Beach stated he believed this request was pretty straight forward where the zoning is being brought into compliance with the Comprehensive Plan. He stated he felt this property had the potential to be developed in a way that would be very beneficial to the City. He stated the PMD was basically the same structure that accompanied the comprehensive plan amendment with a series of different types of uses that all correspondence in terms of their ceiling for development with their impacts. Mr. Merrell stated the project was in the planning stage and hopefully he would be able to bring some site plans in the coming months.

Mr. Hoitsma asked about the off-site signs.

Mr. Merrell asked the Board to look at the aerial map that followed the staff report. He stated there was an access easement that crossed property that was not owned by the hospital and their hope was to bring forward signage in that area. He stated they were going to try to work out something with the property owner that would satisfy the City Attorney's office like acquisition of the property or easement or license rights. He stated the reason why the off premises sign terminology was brought forward was because it was intended to prohibit billboards that advertise things that are not related to the property the sign sits on. He stated the sign was essentially for directional purposes.

Citizen Comments

John Nicholson, 413 North Grandview Avenue, Daytona Beach spoke in support of the request. He stated the City had lost its downtown area because this was the area where development was being centered.

Board Comments

No Board comments.

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Board Motion

It was moved by Mr. Hurt to approve Rezoning – Planned Master Development, Halifax Hospital Medical Center, DEV2012-031. Seconded by Ms. Washington.

Board Action

The motion was approved 11-to-0.

Ms. Askew stated in each Board member's folder tonight was an amended agenda. The change was made to agenda item number three, correcting the date for the approval of the minutes from September 27, 2012 to August 23, 2012. She stated additionally in each Board member's folder were attachments to the August 23, 2012 Planning Board Meeting Minutes that should have been included with their packet. The documents were distributed at the meeting during the discussion for the Rezoning for Overlook (Item No. 8).

10. **Other Business**

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

Ms. Washington stated the Board met on Tuesday, September 11, 2012 at 12:00 PM in City Commission Chambers. She stated the Board approved a conditional use for 223 Magnolia Avenue; they had a lengthy discussion on parking on Beach Street. She stated the complaints surrounded the employees taking up all of the parking spaces so there were not any available for customers. She stated the Board discussed several options to resolve the issue, one being putting in parking meters.

Mr. Hurt stated all he hears are complaints about lack of customers and now they want to charge them for parking.

Mr. Moore stated if the business owners are allowing their employees to take up all of their parking that was problem business owner had to resolve.

Ms. Washington stated she did not feel the Board came to a clear resolution but they were going to try the parking meters for 90 days.

Mr. Hoitsma stated it seemed to him, if the business owners did not want their employees to park in a specific area it was their responsibility to tell the employees. He stated that is not an issue that should be resolved by installing parking meters.

Mrs. Remark stated her supervisor made it clear to her where she was and was not allowed to park and she had a problem with the business owners wanting the City to tell their employees where they could park.

Ms. Washington stated she believed meters would be a deterrent to customers.

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Mr. Neal stated the public frown on any type of cost that will limit their ability to enjoy themselves.

Ms. Washington stated she agreed with Mrs. Remark's statement that it was not the responsibility of the City. She stated the Board also received redevelopment project updates.

B. Midtown Redevelopment Area Board Report

Ms. Benjamin stated the Board met on Tuesday, September 11, 2012 at 6:00 PM in City Commission Chambers. She stated the Board received their monthly report from Code Enforcement they voted on the BCU Larry R. Handfield Athletic Center Training Practice Field, but the vote did not count due to lack of a quorum, because Mr. McGee, who was a landscape architect, was out sick. She stated the vote was taken at the request of Parker Mynchenberg because he wanted to get a feel for how many Board members were in support of the project. She stated the vote was approved unanimously. She stated the project will be placed on the agenda for October. She stated there was discussion on Town and Grown, the poor maintenance of magnolia trees on Magnolia Avenue and the Light Up Christmas in Midtown Project.

C. Main Street/South Atlantic Redevelopment Area Board Report

Mrs. Remark stated the Board met on Wednesday, September 12, 2012 at 6:00 PM in City Commission Chambers and that their primary discussion was in regards to parking. She stated there appeared to be some resolution in sight. She stated the Board had been working with the County to open up the Ocean Center's parking lots to allow more public parking in the area. There was a cost and people were paying with credit cards for safety purposes. Mrs. Remark stated Dan Webster was working diligently with the County Council and the City to resolve the issue. She stated based on the success of this solution to the parking problem, the Board would start to review some of the onsite parking requirements for Main Street. She stated the Board had discussion on the E-Zone draft and decided to table the discussion until the October meeting when they would be able to view some modeling of what the new guidelines would do. Mrs. Remark reported that the Board gave comments on a conceptual site plan for Daytona Beach Resort Hotel and Condos located east of North Atlantic Avenue on both sides of Oakridge Boulevard.

D. Public Comments

John Nicholson, 413 North Grandview Avenue stated he wanted to remind the Board that it was time to revisit the discussion on Floor Area Ration (FAR), submerged lands and parking.

E. Staff Comments

Mr. Walton stated he had been attending ISB Planning Committee that has been discussing long-term alternatives and options for moving motorists up and down ISB. He stated within the next couple of weeks, the committee would be coming forward with a survey to get input relative to using mass transit and alternative means for getting back and forth. He stated the survey would probably have a link attached and he would get it to the Board as soon as he receives the information. He stated the committee would like to get the Board's comments on the different means for travel on ISB. He stated for any Board members that would like to

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participate, but do not want to do it online, he would get a printed copy and have them inserted.

F. Board Member Comments

Ms. Benjamin informed the Board that she would be submitting her letter of resignation at the November Planning Board Meeting.

Mr. Hurt asked if it was anything he said that caused her to resign.

Ms. Benjamin replied no but it was based on comments from someone else.

Mrs. Remark stated due to other commitments she would be resigning as the Planning Board's liaison to the Main Street-South Atlantic Redevelopment Board. She stated as of January 2013 she would be taking on duties of another board for a Christian Retreat organization she volunteers with that will take up quite a bit of time. She stated anyone on the Planning Board that is interested can volunteer.

Mr. Hurt stated he was really excited about all of the new projects coming forward.

Mr. Moore stated it was a very encouraging sign. He welcomed Mr. Gross, Assistant City Attorney.

Mr. Walton stated Ms. Askew wanted to make sure the Board approved the amended agenda.

Board Motion

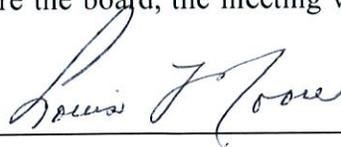
It was moved by Mr. Hurt to approved the September 27, 2012 Amended Agenda. Seconded by Mrs. Remark.

Board Action

The motion was approved 10-to-0.

Adjournment

There being no further actions to come before the board, the meeting was adjourned at 7:51 PM.



LOUIS MOORE
Chair

ATTEST:



CATHY WASHINGTON
Secretary

Restaurant District at Volusia Mall



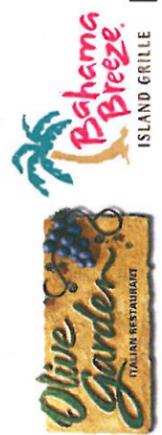
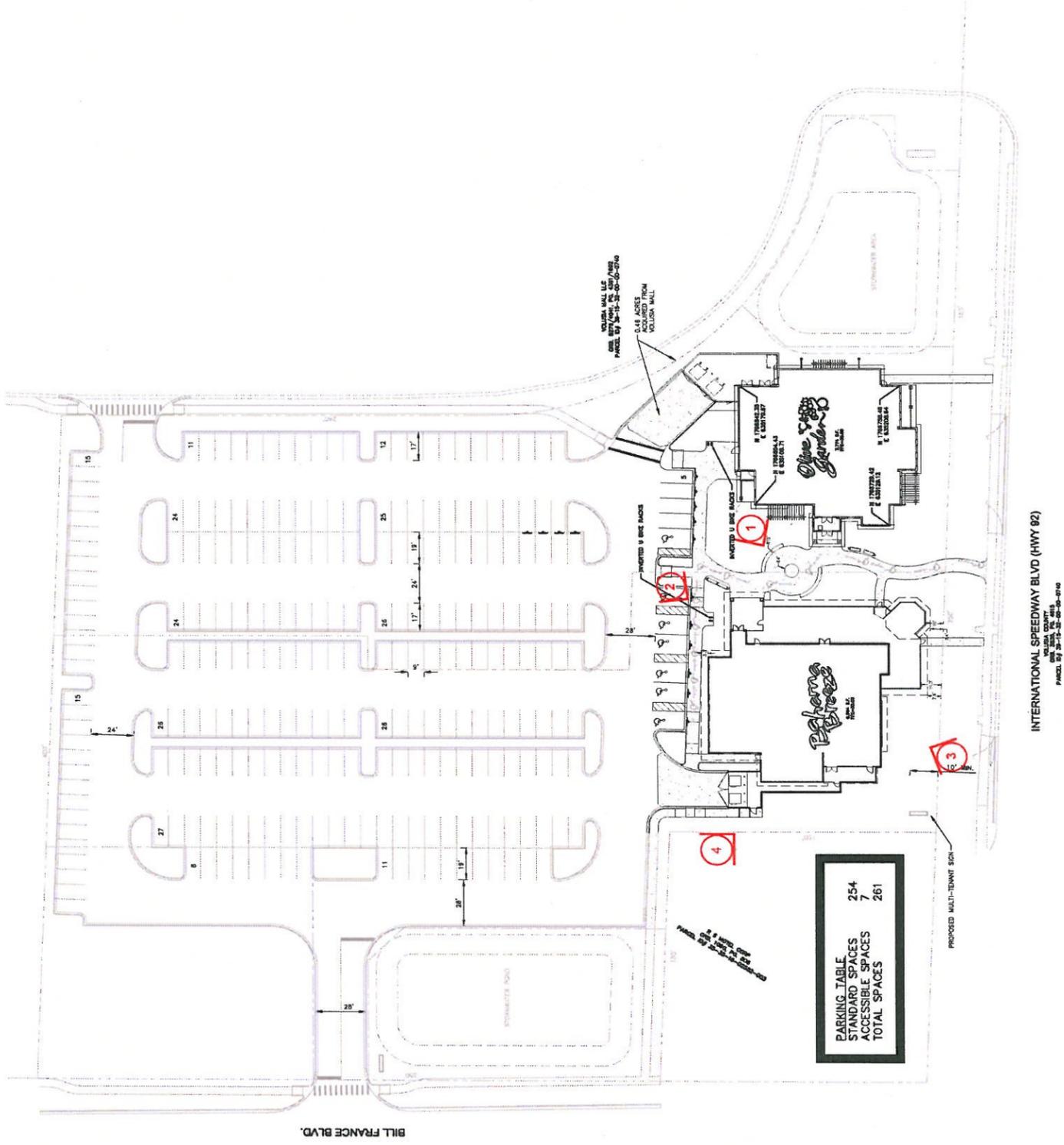




Restaurant District at Volusia Mall

Daytona Beach, FL





Daytona Beach, Florida

INTERNATIONAL SPEEDWAY BLVD (HWY 92)
 PARCEL: 201-201-00-00-010



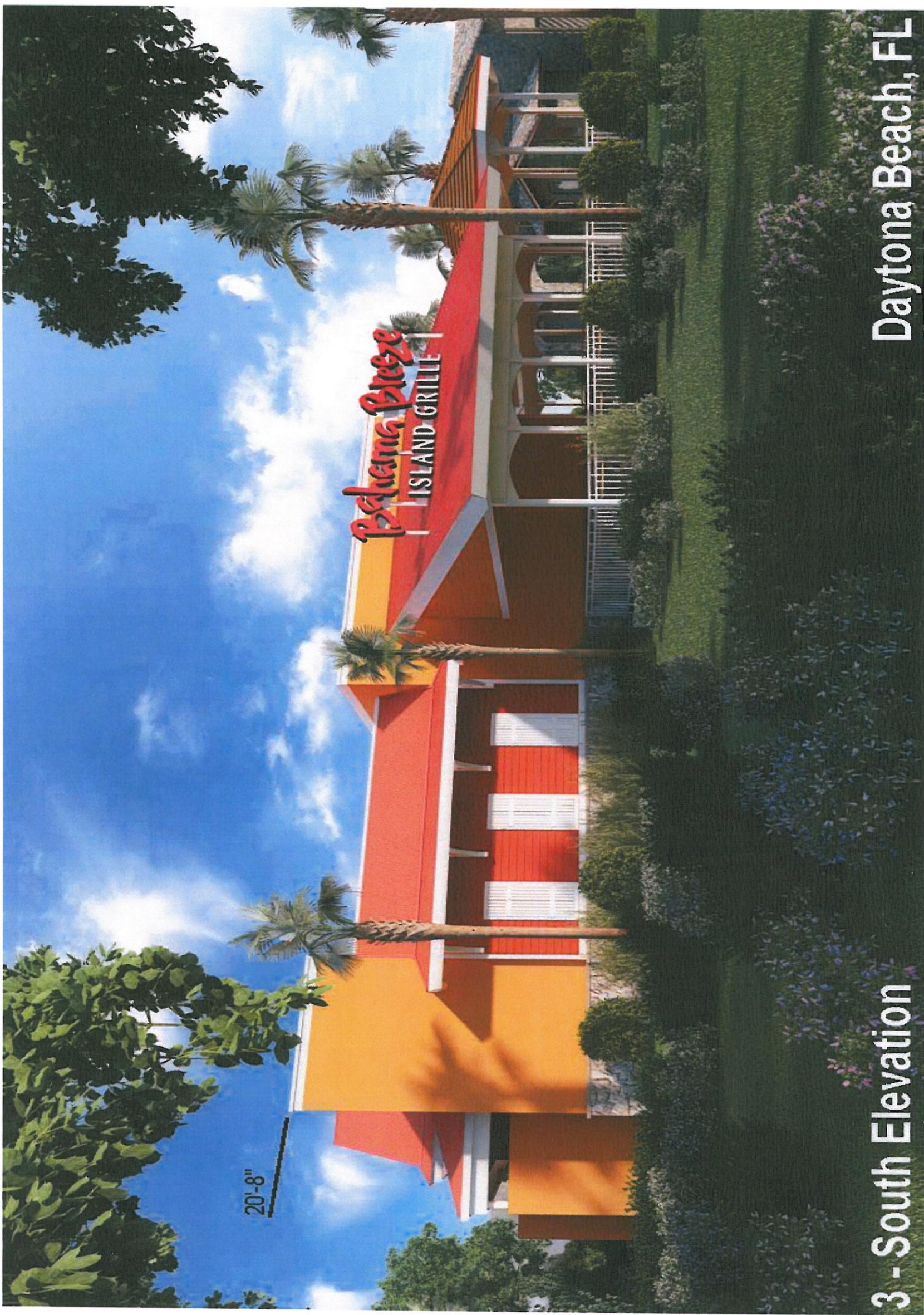
Daytona Beach, FL

1 - East (front) Elevation



Daytona Beach, FL

2 - North Elevation



3 - South Elevation

Daytona Beach, FL



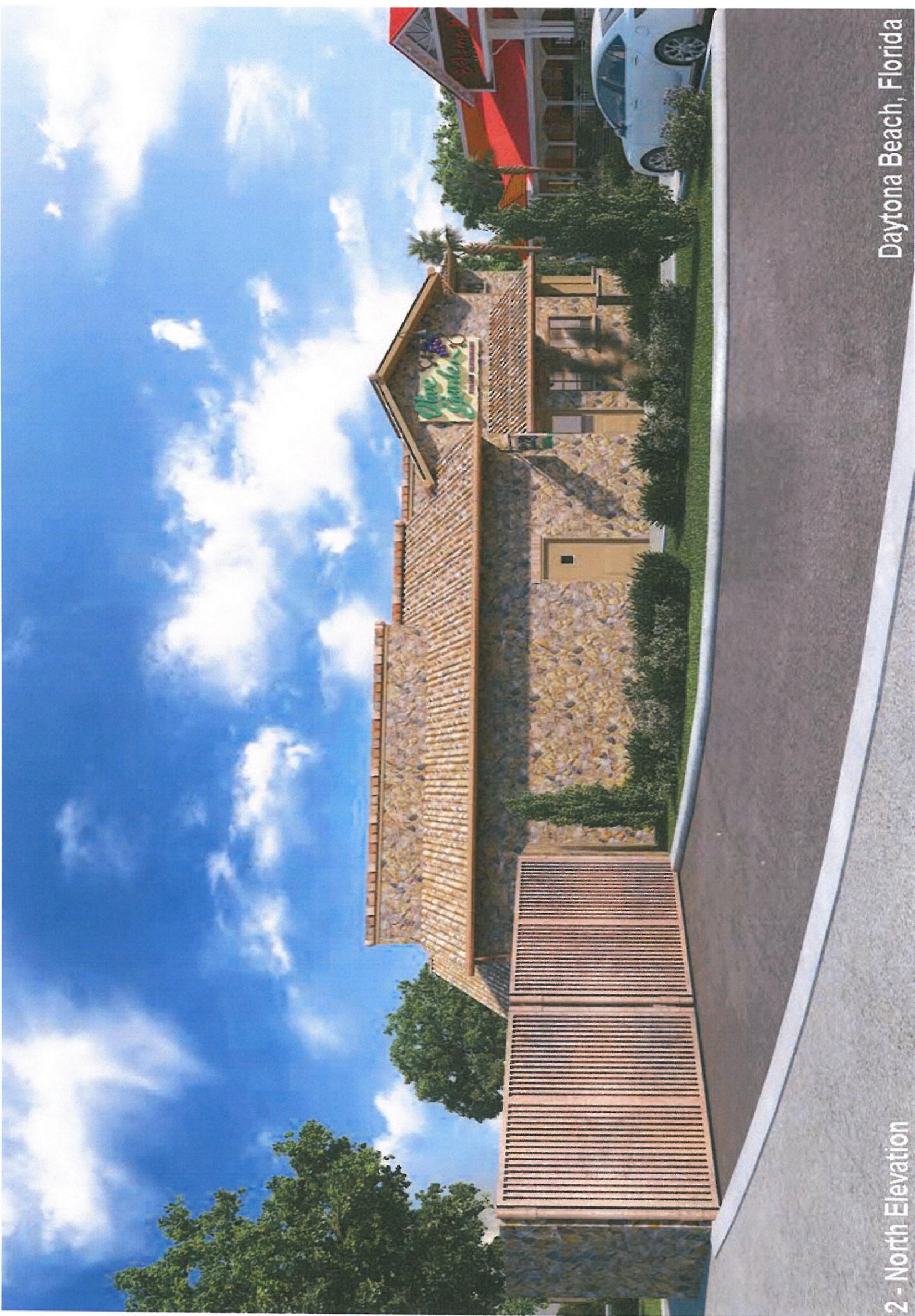
4 - West (Rear) Elevation

Daytona Beach, FL



Daytona Beach, Florida

1- West Elevation



Daytona Beach, Florida

2 - North Elevation



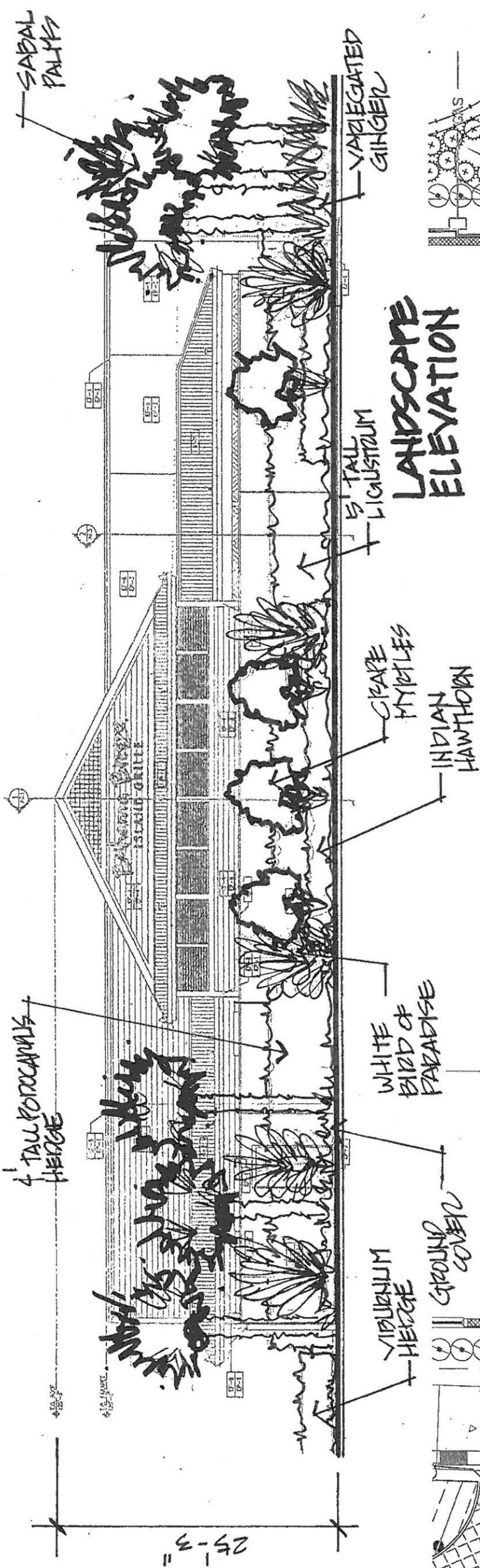
3 - East Elevation

Daytona Beach, Florida

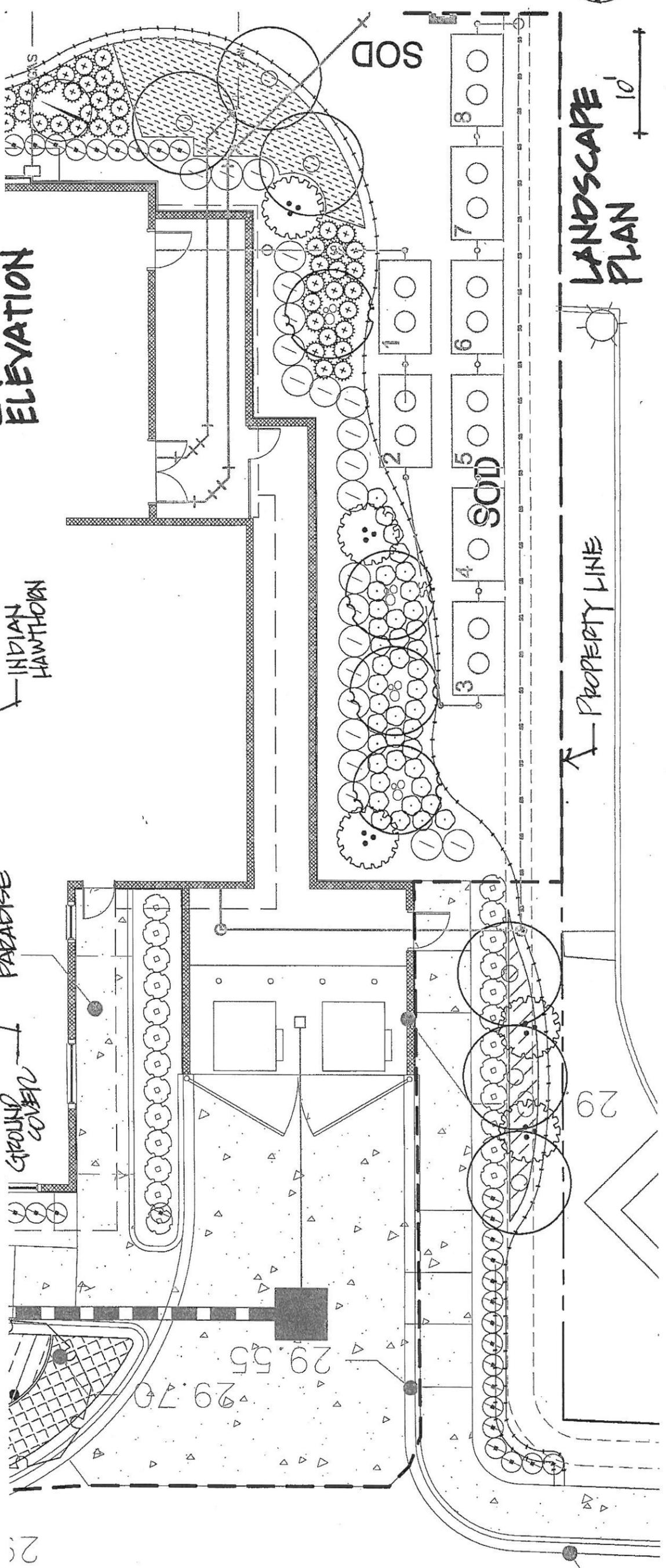


Daytona Beach, Florida

4 - South Elevation



LANDSCAPE ELEVATION



LANDSCAPE PLAN



PROPERTY LINE

10'

29

29.70
29.55

29