

MINUTES
REGULAR MEETING – PLANNING BOARD
August 28, 2014

Minutes for the Regular Planning Board Meeting for the City of Daytona Beach, Florida, held on Thursday, August 28, 2014 at 6:00 p.m., in the Commission Chambers, City Hall, 301 South Ridgewood Avenue, Daytona Beach, Florida.

Board Members Present:

Robert Hoitsma, Chair
Tony Barhoo
Tim Davis
Pat Drago
Ned Harper
Jeff Hurt
Larry Moore
James Neal
Cathy Washington

Staff Members Present:

Richard Walton, Planning Director
Dennis Mrozek, Principal Planner
Rose Askew, Planner
Carrie Avallone, Assistant City Attorney
Marianne Pulaski, Planning Technician

1. **Call to Order**

Chairman Hoitsma called the meeting to order at 6:00 p.m.

2. **Roll Call**

Ms. Drago called the roll and noted members present as stated above.

3. **Approval of the Minutes** - Approval of the Minutes –
June 26, 2014 and July 24, 2014

a. Minutes of June 26, 2014 meeting

Mr. Moore stated on Page 9, Item 7, the motion reads the Board voted unanimously (7-2). The word unanimously should be removed.

Board Action:

A motion was made by Mr. Moore, seconded by Mr. Hurt, to approve the minutes of the June 26, 2014 Planning Board Meeting, as corrected. The motion was approved unanimously (9-0).

b. Minutes of July 24, 2014 meeting

Board Action:

A motion was made by Mr. Hurt, seconded by Mr. Barhoo, to approve the minutes of the July 24, 2014 Planning Board Meeting. The motion was approved unanimously (9-0).

4. **Residential Planned Unit Development Amendment – Grand Isle RPUD, Time Extension, DEV2014-068 (Quasi-Judicial Hearing)**

Dennis Mrozek, Senior Planner, presented the staff report which is included in the packet. Mr. Mrozek stated the request is to extend the agreement by three years or until May 17, 2017.

Applicant Presentation:

Joe Hopkins, The Performance Group, stated permits from the State and Federal government are in hand and he has been able to maintain the permits through the extensions that have been granted.

Mr. Harper asked if the project has been affected since the agreement expired on May 17, 2014.

Mr. Hopkins said no since the permits are in hand.

Public Comments:

There were no public comments.

Board Motion:

A motion was made by Ms. Washington, seconded by Mr. Moore, to approve Residential Planned Unit Development Amendment – Grand Isle RPUD, Time Extension, DEV2014-068, in accordance with the staff report as presented.

Board Action:

The motion carried unanimously (9-0).

5. **Land Development Code Text Amendment – Permitting Electronic Message Center Signs for Places of Assembly, DEV2014-063 (Quasi-Judicial Hearing)**

Mr. Mrozek presented the staff report which is included in the packet. Mr. Mrozek stated approval has been given for other electronic message boards throughout the city, such as the Daytona Auto Mall and Embry Riddle, and most recently the Volusia Mall.

Mr. Moore asked if staff is working on a Sign Code amendment for billboards.

Mr. Mrozek stated yes but this is not considered a billboard.

Ms. Drago asked how many seats are proposed for the assembly site that will be considered later in the meeting.

Mr. Mrozek stated 500 seats are proposed. Mr. Mrozek stated the request is to amend the text to allow for electronic message boards on sites larger than 100 acres at any site city-wide, not just this site. Mr. Mrozek stated the off-site sign request has been removed from the next item that will be presented.

Applicant Presentation:

Rob Merrell, Cobb & Cole, 149 S. Ridgewood presented Item #5 and #6 as they are connected.

Board Motion:

A motion was made by Mr. Hurt, seconded by Mr. Harper, to approve Land Development Code Text Amendment – Permitting Electronic Message Center Signs for Places of Assembly, DEV2014-063, including the language as proposed by Carrie Avallone, Assistant City Attorney under (b) 1 to add: or places of assembly with permanent buildings capable of accommodating at least 500 seats, on sites exceeding 100 acres located adjacent to interstate highways. Motion to include ability to tweak the language.

Board Action:

The motion carried 6-3 (Ms. Drago, Mr. Barhoo, and Mr. Moore voted no).

6. **Rezoning, Planned Master Development – First Baptist Church of Daytona Beach PMD, DEV2014-064 (Quasi-Judicial Hearing)**

Staff Presentation:

Mr. Mrozek presented the staff report which is included in the packet. Mr. Mrozek stated 8 code waivers are requested but noted the applicant has removed the request for offsite advertising.

Mr. Harper asked the height of the signs at the Daytona Kennel Club.

Mr. Mrozek stated the kennel club is 10 feet but it is not on the interstate. Mr. Mrozek stated larger signs are permitted as high as 80 feet along the interstate. Mr. Mrozek stated the sign at the Daytona Auto Mall is 52 feet high.

Mr. Moore stated he is not opposed to the church project but expressed concern over the size of the proposed sign and asked if others would be able to request signs of similar size. Mr. Moore stated he feels approvals of amendments to the Sign Code may eventually negate the existing code.

Mr. Mrozek stated other churches along the interstate that meet the criteria would be able to request a similar sign.

Mr. Barhoo asked what the distance is in order to be considered adjacent to the interstate.

Mr. Mrozek stated adjacent is defined as touching the property and across a right of way is also considered adjacent.

Ms. Drago stated she is concerned about the size of the proposed sign and the image the sign will present to those traveling along the interstate. Ms. Drago stated she is also concerned about waivers to established design standards. Ms. Drago asked if the site could be expanded in the future.

Mr. Mrozek stated anything above 20,000 sq. ft. would be required to be presented to the Planning Board for approval.

Mr. Harper asked for the definition of places of assembly.

Mr. Walton stated the code outlines an indoor place of assembly but the new Land Development Code has a different definition and does not state indoor.

Applicant Presentation:

Rob Merrell, Cobb & Cole, 149 S. Ridgewood, stated the project was approved about 10 years ago and what is being requested is approval of the PMD zoning.

Mr. Merrell stated a phased development of the site is proposed. Mr. Merrell stated this phase of the property has 2/3 of a mile frontage along the interstate.

Charles Dietrich, Shanks Architects, 5151 Beltline Road, Dallas Texas, stated his firm is the architect for the project and discussed the Powerpoint presentation for the project. Mr. Dietrich stated the project will provide a gateway project to the city.

Mr. Harper stated he is concerned about the definition of “places of assembly” and the signage. Mr. Harper stated he does not have a problem with this project but is concerned about future projects that may request places of assembly.

Mr. Merrell stated he would be happy to change the wording from places of assembly to churches or house of worship.

Ms. Avallone stated churches are not defined because the city does not want to appear to be regulating a site because it is specifically a church so that it why it is grouped with places of assembly.

Mr. Moore stated he is concerned about the number of permanent seats and feels a precedent may be set.

Mr. Barhoo stated he is concerned about the number of permanent seats and feels the number should be lowered from 1,000 to 500.

Mr. Moore asked if Item 3 of the waivers could be eliminated and the sign code adhered to.

Mr. Merrell stated the proposed sign would be similar to what the Board approved for Bethune-Cookman, Embry Riddle, and the Daytona Beach Kennel Club. Mr. Merrell stated probably the city will eventually change the code to permit this signage.

Mr. Merrell suggested changing the language to read “places of assembly with permanent buildings capable of housing 500 seats/people.”

Ms. Avallone suggested adding Mr. Merrell’s proposed language to the staff report on Page 2, B-1.

Public Comments:

Weegie Kuendig, 718 N. Wild Olive, stated she is opposed to waivers being granted to standards that are in place. Ms. Kuendig stated she did not see a public benefit. Ms. Kuendig stated the public benefit is not defined yet exceptions are granted to anyone when requested. Ms. Kuendig stated the regulations were put in place to prohibit electronic message centers yet they continually are approved.

Ms. Kuendig stated she is opposed to the Board granting the extension that was granted in Item 4.

Board Motion:

A motion was made by Mr. Hurt, seconded by Mr. Harper, to approve Rezoning, Planned Master Development – First Baptist Church of Daytona Beach PMD, DEV2014-064, as presented with the exception of offsite signage.

Board Action:

The motion carried 8-1 (Ms. Drago voted no).

7. **Preliminary Plat Approval – Daytona Automall IV, DEV2014-090 (Quasi-Judicial Hearing)**

Staff Presentation:

Mr. Mrozek presented the staff report which is included as part of the packet. Mr. Mrozek stated this is a preliminary plat for Daytona Automall IV, located at 1050 N. Tomoka Farms Road to include lots 13, 14, and 15.

Applicant Presentation:

Parker Mynchenberg, Parker Mynchenberg and Associates, 1729 Ridgewood Avenue, stated that he has designed many of the dealerships at the Automall and this plat is what is left.

Board Comments:

There were no Board Comments.

Public Comments:

There were no public comments.

Board Motion:

Mrs. Drago made a motion, seconded by Mr. Hurt, to approve the Preliminary Plat for Daytona Automall IV, DEV2014-090, in accordance with the staff report as presented.

Board Action:

The motion was approved unanimously (9-0).

8. **Site Plan Approval – BMW Dealership, Daytona Automall IV, DEV2014-092 (Quasi-Judicial Hearing)**

Mr. Mrozek presented the staff report which is included as part of the packet. Mr. Mrozek stated this is a site plan approval to allow for a BMW dealership.

Applicant Presentation:

Parker Mynchenberg, Parker Mynchenberg and Associates, 1729 Ridgewood Avenue, stated this property will be to the south of the existing site.

Public Comments:

There were no public comments.

Board Motion:

A motion was made by Ms. Washington, seconded by Mr. Hurt, to approve Site Plan Approval – BMW Dealership, Daytona Automall IV, DEV2014-092, in accordance with the staff report as presented.

Board Action:

The motion was approved unanimously (9-0).

9. **Site Plan Approval – Nissan Dealership, Daytona Automall IV, DEV2014-093 (Quasi-Judicial Hearing)**

Mr. Mrozek presented the staff report which is included as part of the packet. Mr. Mrozek stated this is a site plan approval to allow for a Nissan dealership.

Applicant Presentation:

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

Public Comments:

There were no public comments.

Board Motion:

A motion was made by Mr. Barhoo, seconded by Mr. Neal, to approve Site Plan Approval – Nissan Dealership, Daytona Automall IV, DEV2014-093, subject to the conditions as presented the staff report.

Board Action:

The motion was approved unanimously (9-0).

10. **Rezoning, Residential Planned Unit Development – ERAU Chanute RPUD, DEV2014-082 (Quasi-Judicial Hearing)**

Mr. Mrozek presented the staff report which is included as part of the packet.

Applicant Presentation:

Rob Merrell, Cobb & Cole, 149 S. Ridgewood, stated this project was built in 1976 and the property will be used for student housing.

Public Comments:

Richard Tallale, 105 Pine Cone Court, stated there are only two exits from Pine Lake, one at this site. Mr. Tallale stated he is concerned about traffic and congestion and a left turn cannot be made from this site since it is one way. Mr. Tallale stated there is not a stop sign at this location.

Mr. Merrell stated Clyde Morris will be widened to accommodate 6 lanes and feels the traffic impact from this site will be minimal.

Board Motion:

A motion was made by Mr. Hurt, seconded by Mr. Neal, to approve Rezoning, Residential Planned Unit Development – ERAU Chanute RPUD, DEV2014-082, as presented in the staff report.

Board Action:

The motion carried unanimously (9-0).

11. **Residential Planned Unit Development Amendment – Overlook RPUD, Time Extension, DEV2014-077 (Quasi-Judicial Hearing)**

Mr. Mrozek presented the staff report which is included as part of the packet.

Applicant Presentation:

Jim Morris, 750 Oak Heights Court, Port Orange, Florida, stated the City Commission decision approving the PUD was challenged in court; and in July of 2014, the Circuit Court upheld the City Commission's decision. Mr. Morris stated the challenger has filed an appeal with the Fifth District Court of Appeal. Mr. Morris stated the basis for asking for the extension is because the project has

not been able to move forward due to the appeals. Mr. Morris stated the public park must be constructed prior to the marina construction. Mr. Morris stated the park will provide over 200 public parking spaces and will provide improvement to the area under the bridge.

Public Comments:

Jane West, 201 Owens Avenue, St. Augustine, Florida, stated she represents Shamrock Inc. which owns the parcel of property adjacent to the Overlook property. Ms. West provided handouts to each of the Board members. Ms. West stated the PUD states on Page 7 that one extension may be granted to the PUD agreement. Ms. West stated her client does not have an issue with the construction of the park. Ms. West stated her client takes issue with the matter of riparian rights. Ms. West stated the developer purchased 8 acres of submerged land from FDOT and there is no access to the parcel. Ms. West stated this has been confirmed by the City's attorney in an email dated June 7, 2010. Ms. West asked that the Board postpone a decision on this item, abide by the development agreement, or deny the extension

John McGuinness, 625 N. Halifax, stated he is president of the Cobblestone Condominium and is speaking on behalf of the residents. Mr. McGuinness stated the residents have quality of life issues, including loss of view, loss of riparian rights, noise from the proposed marina, pollution, and impact to the marine life. Mr. McGuinness stated one of the policy issues not previously discussed was the ability to combine parcels into a PUD, i.e., the 8 acres under water and the Diplomat PUD. Mr. McGuinness stated there were discrepancies on the boundary lines on the maps submitted when the project was discussed in 2012. Mr. McGuinness stated there was no discussion of rezoning the 8 acres that are under water.

Mr. Morris stated the issues discussed by Ms. West were part of the Circuit Court discussion and is not the decision before the Board this evening. Mr. Morris stated the other issues presented have been discussed at the Planning Board, City Commission, and Circuit Court. Mr. Morris stated the riparian issue will not be resolved by the Planning Board or City Commission but will be resolved by permitting agencies.

Mr. Moore asked if any of the changes to the Land Development Code regarding submerged lands will affect this item.

Mr. Walton stated the revised LDC has not been adopted but the draft states an individual has rights to the property they own.

Board Motion:

A motion was made by Mr. Hurt, seconded by Mr. Harper, to approve Residential Planned Unit Development Amendment – Overlook RPUD, Time Extension, DEV2014-077, as presented in the staff report.

Board Action:

The motion carried unanimously (9-0).

Ms. Colleen Rerko, court reporter, from SRC was present to create a record of this agenda item.

Continued Items:

12. **Rezoning, Residential Planned Unit Development – Becks Homestead RPUD, DEV2014-032 (Quasi-Judicial Hearing)**

Rose Askew, Planner, presented the staff report which is included in the packet.

Applicant Presentation:

Jim Morris, 750 Oak Heights Court, Port Orange, Florida, stated the Becks family has purchased four single-family lots on the river. Mr. Morris stated the code only allows for one structure on a lot. Mr. Morris stated the Becks' propose to build 2 homes where 4 could have been permitted.

Mr. Walton stated the staff report notes there is a maximum size of 3,000 sq. ft. for the residences.

Mr. Morris stated the report should state a minimum size of 3,000 sq. ft., not maximum.

Public Comments:

There were no public comments.

Board Motion:

A motion was made by Ms. Drago, seconded by Mr. Moore, to approve Rezoning, Residential Planned Unit Development Rezoning – Becks Homestead RPUD, DEV2014-032, as presented in the staff report.

Board Action:

The motion carried unanimously (9-0).

13. **Semipublic Use Permit – Daytona Playhouse, DEV2014-037 (Quasi Judicial Hearing)**

Mr. Mrozek presented the staff report which is included as part of the packet. Mr. Mrozek stated there are plans to expand to the rear of the building and make improvements to the front of the building.

Applicant Presentation:

Pete Zahn, 244 S. Palmetto, Daytona Beach, Florida, stated the proposed sign will project to the west and will be visible from both north and south. Mr. Zahn stated a meeting was held with the neighborhood regarding the proposed project and the only questions asked by the residents were about signage. Mr. Zahn provided exhibits of the proposed signage.

Public Comments:

There were no public comments.

Board Motion:

A motion was made by Mr. Barhoo, seconded by Ms. Washington, to approve Semipublic Use Permit – Daytona Playhouse, DEV2014-037, as presented in the staff report.

Board Action:

The motion carried unanimously (9-0).

14. **Other Business**

- a. Downtown/Balough Road Redevelopment Area Board Report

Ms. Washington stated the Board met on July 1 and received an update on downtown improvements projects.

- b. Midtown Redevelopment Area Board Report

Mr. Barhoo stated the Midtown Redevelopment Area Board met on August 12 and discussed Residence Hall for BCU. The request was approved but parking was a main concern.

- c. Main Street/South Atlantic Redevelopment Area Board Report

The Main Street Board did not meet in July.

d. Public Comments

There were no public comments.

e. Staff Comments

Discussion – Land Development Code Rewrite – Mr. Walton stated a special meeting of the Planning Board will be held on September 18 to vote on the Land Development Code.

f. Board Comments:

Mr. Hurt stated when a recommendation is made by staff with stipulations, it has always been assumed that staff comments are included with the motion. Mr. Hurt asked if that is correct.

Ms. Avallone stated when the motion is made, it is assumed that is as presented by staff.

Mr. Hurt stated in accordance with the City Charter Review, there will be an item on the ballot in November to reduce the Planning Board members to 7. Mr. Hurt asked if it is approved, how will members be down-sized.

Mr. Walton stated he was not involved in the Charter Review discussion but the intent is to have one representative for each zone and one representative for the Mayor.

Ms. Drago stated she will be unable to attend the special meeting on September 18. Ms. Drago stated her comments will be that she would like to see areas be easier to redevelop and minimize non-conforming uses. She stated she will provide her comments to Mr. Walton so they can be shared with the Board.

Mr. Moore stated that a couple of months ago, the Chairman discussed variances. At that time, the chairman stated an individual can purchase a piece of property and understand the rules associated with the purchase but invariably something the property owner will build what they want and then approach the Planning Board and City Commission to approve the changes. Mr. Moore stated if rules are in place, they should be followed. Mr. Moore stated that perhaps the Planning staff should be forceful in enforcing the rules.

Mr. Mrozek stated an applicant has a right to proceed with an item to the Planning Board and City Commission.

Adjournment: The August 28, 2014 Planning Board meeting adjourned at 8:35 p.m.

A handwritten signature in blue ink, reading "Robert Hoitsma", written over a horizontal line.

Robert Hoitsma, Chair

ATTEST:

A handwritten signature in blue ink, reading "Pat Drago", written over a horizontal line.

Pat Drago
Secretary