

MINUTES  
REGULAR MEETING – PLANNING BOARD  
August 27, 2015

Minutes for the Regular Planning Board Meeting for the City of Daytona Beach, Florida, held on Thursday, August 27, 2015 at 6:00 p.m. in the Commission Chambers, City Hall, 301 South Ridgewood Avenue, Daytona Beach, Florida.

Board Members Present:

Cathy Washington, Chair  
Tony Barhoo  
Pat Drago  
Jeff Hurt  
James Neal

Board Members Absent:

Robert Hoitsma, Vice Chair

Staff Members Present:

Richard Walton, Planning Director  
Dennis Mrozek, Principal Planner  
Ben Gross, Assistant City Attorney  
Marianne Pulaski, Planning Technician  
Charles Merenda, Development Review Engineer  
Becky Groom, Board Secretary  
Reed Berger, Redevelopment Director

1. **Call to Order**

Ms. Washington 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** - June 25, 2015

**Board Action:**

A motion was made by Mr. Hurt, seconded by Mr. Neal, to approve the minutes of the June 25, 2015 Planning Board Meeting. The motion was approved unanimously (5-0).

4. **Small Scale Comprehensive Plan Amendment – Sam’s Club, DEV2014-116**

**Staff Presentation:**

Rich Walton, Planning Director, presented the staff report which is included as part of the packet. Mr. Walton stated the request is to change the land use and will result in a decrease in trip generation and the demand on available water and sewer services.

**Applicant’s Presentation:**

Karl Sanders, 200 W. Forsyth Street, Jacksonville, Florida, stated the request is to unify the land uses. Mr. Sanders stated the project will have 50 foot setbacks and there will be no billboards on the site.

**Public Comments:**

There were no public comments.

**Board Motion:**

A motion was made by Mr. Hurt, seconded by Mr. Barhoo, to approve Small Scale Comprehensive Plan Amendment, Sam’s Club, DEV2014-116, in accordance with the staff report as presented.

**Board Action:**

The motion carried unanimously (5-0).

5. **Rezoning, Second Amendment to Planned Development Agreement – Bellaria Intracoastal, DEV2015-044**

**Staff Presentation:**

Dennis Mrozek, Principal Planner, presented the staff report which is included as part of the packet. Mr. Mrozek stated the request is to extend the expiration date for five years until November 9, 2020. He stated the project is intended for a 10 story development.

**Applicant’s Presentation:**

Colleen Miles, Land Development Resource Group, spoke representing the applicant. Ms. Miles stated there is an existing development agreement with the City and nothing is changing. Ms. Miles stated the developer has had interest in the property but more time is needed to conduct feasibility and due diligence.

Paul Holub, 675 N. Beach Street, stated he has owned the property for 12 years. Mr. Holub stated he met numerous times with the neighborhood and changed the plans to include items as a result of those meetings as requested by the neighborhood, including the addition of privacy walls, increased landscaping, and architectural embellishments. Mr. Holub stated he has received his first inquiry from a development group on this property and stated additional time is needed. Mr. Holub provided a letter of support from the property owner to the north. Mr. Holub stated a neighborhood meeting was held where plans for the project were presented. Mr. Holub stated he told the attendees that he would be willing to schedule a second meeting with the neighborhood. Mr. Holub stated he would be willing to meet with the neighborhood residents if this item is approved prior to the City Commission meeting. Mr. Holub stated he would be willing to provide a location for the meeting and will have the meeting recorded by a court reporter.

**Public Comments:**

Anita Gallentine, 836 N. Grandview, stated the neighborhood was never officially notified of the meeting with Mr. Holub. Ms. Gallentine stated the lot has not been maintained and she has called Code Enforcement several times to have the lot mowed and trash removed. Ms. Gallentine stated since the original request for this project was presented, the Land Development Code has changed and the project cannot be built at the height that was granted 10 years ago. Ms. Gallentine stated she does not feel Mr. Holub should be granted grandfathered clauses from 10 years ago. Ms. Gallentine stated she is not in support of granting the extension and feels Mr. Holub should reapply under the new rules.

Tracy Remark, 815 N. Oleander, stated Mr. Holub only notified residents within 300 feet of the property of the meeting he scheduled regarding the project. She stated there is a requirement in the Land Development Code to notify the neighborhood of any meetings, which Mr. Holub did not do. Ms. Remark stated the developer applied after the window of opportunity expired that was provided by the City for any developer to apply under the old Land Development Code or the new one. Ms. Remark stated to grant an extension will not mean that this project will be the same as previously presented since the new Land Development Code will have to be met. Ms. Remark stated she feels to approve this request is wrong and feels the application should be tabled so concerns expressed by the neighborhood can be addressed.

Kenneth Strickland, 1208 N. Halifax, stated height restrictions are in place for other jurisdictions, such as in Hilton Head where there is a 5 story height limit. Mr. Strickland stated he does not feel the extension should be granted and suggested that perhaps a couple of estate homes could be placed on the site instead of a multi-story development. Mr. Strickland stated he believes if this extension is granted, then additional requests for waivers will be requested by the applicant.

David Dunn, 747 N. Halifax, stated he resides at the property immediately south of this project. He stated he opposes the project since it does not meet the new Land Development Code, specifically the neighborhood compatibility standards since it does not have the required distance from his home. He stated if developed as presented, there would be a 10 story unit less than 100 feet from his house. He asked the Board to not grant the extension.

Mr. Holub stated the request is only for an extension and there are no requested changes to the existing building. He stated he feels the only thing that should be addressed is the extension. He stated after talking with the development group, the unit size and overall size of the building will probably be smaller but that will be a site plan application which will not require a public hearing. Mr. Holub stated he offers to meet with the neighborhood to discuss the project and will see that all residents of the area are notified by mail. Mr. Holub stated when he is notified of problems on the property, they are addressed immediately and the lot is mowed on a regular basis and trash has been removed from homeless camps at the site. Mr. Holub stated he will meet with the neighborhood but the application is only for an extension.

**Board Comments:**

Ms. Drago stated she is sympathetic to the neighborhood. Ms. Drago asked if the item is tabled, could the applicant meet with the neighborhood and still keep the City Commission schedule as presented. She stated she would like to table this item until the next Planning Board meeting to provide an opportunity for the neighborhood to meet with Mr. Holub.

Ms. Miles stated if the item is tabled, the requirements for City Commission meeting notification will not be met and the development agreement will expire.

Mr. Walton stated first reading of an item does not require public notification.

Mr. Gross stated public notification is required for second reading.

Mr. Mrozek asked Mr. Gross and Mr. Walton since there is an application on file with the city, can staff continue to address this project beyond the expiration date and still have a valid development order.

Mr. Walton stated that has happened on several occasions since the application was submitted prior to the expiration date.

Mr. Gross stated he would not like to provide an answer that might deny the applicant of his development rights and stated he would be hesitant to say he agrees with Mr. Walton's comments. He stated the city could find that the development rights may lapse at the existing expiration date.

Ms. Drago asked Mr. Gross if what he is saying is that if this item is tabled, the development rights could be at risk.

Mr. Gross stated he thinks so. He stated the item could be approved this evening with the requirement that a neighborhood meeting be held. Mr. Gross stated the new Land Development Code requires that a neighborhood meeting be held but staff has yet to implement that section of the Code. He stated the new code requires that neighborhoods be registered with the city and a fee be paid in order to be registered and that process has not been developed by staff.

Mr. Hurt stated development orders are frequently extended since developers have money invested in the projects.

Mr. Barhoo stated he feels there should be a stipulation in the motion that a neighborhood meeting is required.

Ms. Washington stated development orders have been extended for years and she remembers a specific project being extended for 20 years. She stated this request is only for a time extension and the neighborhood meeting can be addressed in a motion.

Ms. Drago asked if the neighborhood is notified when a development order is about to expire.

Mr. Walton stated individual property owners are not notified.

Mr. Hurt stated if the request is denied, the project would be reviewed under a new set of rules and all the money the developer has spent on design, etc., would be gone.

Mr. Barhoo asked if there is a time limit on the number of extensions that can be granted.

Mr. Walton stated the City Commission stated they would like to review extensions on a case by case basis.

**Board Action:**

A motion was made by Mr. Hurt, seconded by Mr. Neal, to approve Rezoning, Second Amendment to Planned Development Agreement – Bellaria Intracoastal, DEV2015-044, to extend the expiration date of the PD Agreement for an additional five years, or until November 9, 2020, as presented in the staff report, with the stipulation that a meeting be held with adjacent residents prior to this item being presented to the City Commission and that the meeting be documented by a court reporter. The motion carried (4-1 with Ms. Drago voting no).

6. **Rezoning, Planned Development – General – Speedway Centre West, DEV2015-039**

**Staff Presentation:**

Dennis Mrozek, Principal Planner, presented the staff report which is included as part of the packet. Mr. Mrozek stated the project is to the west of Tusawilla Park. Mr. Mrozek stated a complete listing of proposed uses is included in the staff report. Mr. Mrozek stated the waiver requests are to allow vehicle access onto the street to the south and a reduction in the landscape buffer from 40 feet to 25 feet along ISB. Mr. Mrozek noted the landscape material will be the same as required but the number of materials used will be in a space 15 feet narrower. Mr. Mrozek stated the developer is requesting to be relieved of stormwater requirements and is also requesting that the wall be replaced with an opaque fence.

**Applicant's Presentation:**

Jim Morris, 750 Oak Heights Court, Port Orange, Florida, spoke representing the applicant, Paul Holub. Mr. Morris stated he held a neighborhood meeting and a few people attended, including Ted Doran who has an office across the street. Mr. Morris stated gas sales and convenience stores have been removed as possible projects. Mr. Morris stated he met with the neighborhood and have addressed neighborhood concerns related to the uses. Mr. Morris stated the 40 foot buffer is a requirement of the new Land Development Code. He stated in order to provide marketability of the property, he is requesting that the buffer be reduced to 25 feet and the same number of plants be placed in the buffer area as would be required in a 40 foot buffer. Mr. Morris stated the city's standards require stormwater management be in place for developments larger than 1 acre and is requesting a waiver from that requirement. Mr. Morris stated the proposed fence will be opaque.

Paul Holub, the applicant, stated he envisions the property being used by national tenants who have entered into long-term leases. Mr. Holub stated a bank cannot be built on the site due to a covenant placed on the property by the previous owner.

**Public Comments:**

Ted Doran, 1020 W. International Speedway Blvd., stated he is looking for the property to be developed with something that is consistent with his development which is across the street from this property. He stated he believed the subject property was to be Office Transitional. Mr. Doran stated he would be in favor of a Stonewood's type restaurant on the site. He stated he is concerned that the area could be developed with a fast food restaurant with a drive-thru. He stated there

is no basis for the LDC waivers and the requests are economically driven. Mr. Doran stated he does not feel the waivers should be granted since a specific project has not been proposed. Mr. Doran stated the architectural design standards have been removed from the proposal.

Mr. Morris stated he has not been unable to reach an amicable solution with Mr. Doran on the proposed uses for the property and stated tonight is the first time he has heard Mr. Doran state what he might consider acceptable. Mr. Morris stated a list of proposed uses was submitted simply because he ran out of time. Mr. Morris stated the statement regarding the architectural standards being removed is not correct. Mr. Morris stated the Land Development Code will control that standard. Mr. Morris stated no other development in the vicinity have a 40 foot buffer in place. Mr. Morris stated traffic leaving the property will have to make a right hand turn since there is a median across the highway.

Charles Merenda, the City's Development Review Engineer, stated the existing site is not in compliance with City or State requirements for stormwater and it is a non-conforming site. He stated to waive the requirement would burden the stormwater system, namely the Nova Canal. He stated this is the time to eliminate the non-conforming site.

Mr. Walton stated staff's recommendation states that staff does not agree with granting the stormwater waiver.

Mr. Merenda stated there are a number of projects planned for underground storage so it is possible to have the site meet the City's requirements and have the project as proposed. Mr. Merenda stated the city has not heard from the St. Johns Water Management District as to whether they would waive their requirements for stormwater at this site. Mr. Merenda stated the City's requirements deals with the quantity of water going into the system and St. Johns deals with the quality of water going into the system and they do have exemptions in place. He stated the city's system is already burdened in that area and staff wants to lessen the burden by eliminating non-conforming systems.

Mr. Holub stated there will be a reduction in the system since a larger buffer will exist with landscaped islands. He stated a site this size with underground stormwater storage would be about \$350,000 and the site will not be developed if the waiver is not granted.

**Board Motion:**

A motion was made by Mr. Hurt, seconded by Mr. Neal, to approve Rezoning, Planned Development-General – Speedway Centre West, DEV2015-039, as presented in the staff report including the requirements by staff that stormwater requirements be met.

**Board Action:**

The motion carried unanimously (5-0)

7. **Comprehensive Sign Plan – News Journal – DEV2014-157**

**Staff Presentation:**

Ms. Mrozek presented the staff report which is included as part of the packet. Mr. Mrozek noted the property is surrounded by Holly Hill. Mr. Mrozek stated staff recommends the sign at the corner of Nova and Sixth be removed prior to permitting. Mr. Mrozek noted the proposed EMC sign will be located approximately 300 feet from residential property in Holly Hill and will be 11 feet high with multiple colors.

**Applicant's Presentation:**

Jim Morris, 750 Oak Heights Court, Port Orange, Florida, spoke representing the applicant. Mr. Morris stated the applicant is agreeable to removing the existing sign at the corner of Nova and Sixth Street. Mr. Morris stated there will be no offsite advertising on the EMC sign. Mr. Morris stated he proposes to match Daytona Beach's sign standards if Holly Hill will permit that since Holly Hill surrounds the News Journal property. He stated he does not believe the sign will be visible by any residential structure.

**Public Comments:**

There were no public comments.

**Board Motion:**

A motion was made by Mr. Hurt, seconded by Mr. Barhoo, to approve Comprehensive Sign Plan – News Journal, DEV2014-157, as presented in the staff report, including removal of the existing monument sign at the corner of Nova Road and Sixth Street.

**Board Action:**

The motion carried unanimously (5-0).

8. **Land Development Code Text Amendment – Article 3.4.Q Sign Permit and 6.10 Signage, DEV2015-087**

**Staff Presentation:**

Mr. Walton presented the staff report which is included as part of the packet that deals with a text amendment to the Land Development Code regarding signage. Mr. Walton stated based on a recent Supreme Court ruling in *Reed v. Town of Gilbert*, most cities' sign codes would be ruled illegal. Mr. Walton stated sign content must be based on content neutrality. Mr. Walton stated these items are presented at this time for discussion and require no action from the Planning Board at this time.

Mr. Hurt asked if the Sign Code will have to be rewritten.

Mr. Walton said yes.

**Public Comments:**

There were no public comments.

9. **Presentation of Land Development Code Text Amendments – DEV2015-094**

Mr. Walton presented the staff report which is included as part of the packet regarding glitches in the new Land Development Code. Mr. Walton stated these items are presented at this time for discussion and require no action from the Planning Board at this time.

10. **Other Business**

a. Downtown/Ballough Road Redevelopment Area Board Report

Ms. Washington stated the Downtown/Ballough Road Redevelopment Area Board did not meet in August.

b. Midtown Redevelopment Area Board Report

Mr. Barhoo stated he was unable to attend the Midtown Redevelopment Area Board August meeting.

c. Beachside Redevelopment Area Board Report

Mr. Harper was not in attendance to provide a report.

d. Public Comments

There were no public comments.

e. Staff Comments

Mr. Walton stated he will process the request to fill the current vacancy on the Board.

f. Board Comments:

Mr. Walton stated Ms. Avallone is not in attendance due to the impending birth of her second child.

**Adjournment**

The meeting adjourned at 8:14 p.m.



Cathy Washington, Chair

ATTEST:



for Pat Drago  
Secretary