

MINUTES  
REGULAR MEETING – PLANNING BOARD

March 24, 2022

Minutes of the Regular Meeting of the Planning Board of the City of Daytona Beach, Florida, held on Thursday, March 24, 2022, at 6:00 p.m., in the Commission Chambers, City Hall, 301 South Ridgewood Avenue, Daytona Beach, Florida.

1. **Call to Order**
2. **Roll Call.**

Tony Barhoo (Chair)	Present
Helen Humphreys	Present
Michael McLean (Vice Chair)	Present
James Newman	Present
Tony Servance	Present
Milverton Robinson	Present
Cathy Washington (Secretary)	Present

Also Present:

Ben Gross, Deputy City Attorney  
Dennis Mrozek, Planning Director  
Steven Bapp, Senior Planner  
Hannah Ward, Planner  
Shannon Ruane, Planner  
Paula Long, Planner  
Rose Askew, Planning Coordinator  
Vanessa Trimble, Planning Technician  
Gina Fountain, Recording Secretary

3. **Approval of Minutes**

Approval of the Minutes of the February 24, 2022, Regular Board Meeting held at City Hall, 301 South Ridgewood Avenue, Daytona Beach, Florida.

**Board Action**

It was moved by Mr. McLean to approve the minutes as corrected, second by Mr. Barhoo. The motion was passed 7-to-0 with the breakdown as follows:

Tony Barhoo (Chair)	Yea
Michael McLean (Vice Chair)	Yea

Helen Humphreys	Yea
James Newman	Yea
Tony Servance	Yea
Milverton Robinson	Yea
Cathy Washington (Secretary)	Yea

## **New Items**

### **4. Victory Temple – Special Use Permit – DEV2019-171 (Quasi- Judicial Hearing)**

A request by RT Hillery, on behalf of Victory Temple of God, to approve a Special Use Permit to allow a church to be developed on the site. The property is located at 1047 Madison Avenue.

#### **Staff Presentation:**

Paula Long, Planner, presented the staff report which was included as part of the packet. She stated the site is partially developed and not in operation. She stated the site currently holds a Future Land Use (FLU) of the Level 1-Residential (L1-R) and surrounded by the same. She stated a waiver has been requested to reduce the required landscape buffering from the required 5 feet due to an existing building located on the western portion of the site. She stated that the setback measurement in this location is 1.9 feet minimum distance and 3 feet maximum distance. She stated staff recommends approval of the special use permit to allow a place of worship use in the Single Family Residential-5 (SFR-5) zoning designation. She stated this item is tentatively scheduled for the May 4, 2022, City Commission meeting.

Ms. Humphreys asked if the City has limitations on the number of churches.

Mr. Ben Gross, Deputy City Attorney, stated that would be a violation of the Religious Land Use Institutions and Persons Act (RLUIPA). Mr. Gross stated that places of worship must be treated in the same manner as other places of assembly without discrimination.

#### **Applicant Presentation:**

RT Hillery, 1047 Madison Avenue, stated that he had no further information to add but was there to answer any questions.

Mr. Barhoo asked if he is going to develop all the buildings or just one that will be the main sanctuary.

Mr. Hillery stated will start with one and make a little circle all the way around at the main sanctuary.

#### **Citizens Comments:**

No comments

**Board Action:**

It was moved by Mr. McLean to approve the request per staff recommendations. Ms. Humphreys seconded the motion in accordance with the staff report as presented. The motion passed 7-0 with the breakdown as follows:

Tony Barhoo (Chair)	Yea
Michael McLean (Vice Chair)	Yea
Helen Humphreys	Yea
Tony Servance	Yea
James Newman	Yea
Milverton Robinson	Yea
Cathy Washington	Yea

5. **Caliber Car Wash PD – Planned Development-General (PD-G) Rezoning – DEV2021-116 (Quasi-Judicial Hearing)**

A request by Dan Brown, Caliber Car Wash, on behalf of Seminole Land Holdings, Inc. (property owner), to rezone 1.2± acres of property located at 1111 Beville Rd., from the Wal-Mart/Sam’s Club Planned Commercial Development (PCD) Agreement to a new Planned Development (PD) to allow for the redevelopment of the former Sam’s Club gas station into a car wash.

**Staff Presentation:**

Hannah Ward, Planner, presented the staff report which was included as part of the packet. She stated this is a request to redevelop the former Sam’s Club gas station into a car wash. She stated that a waiver request was submitted for several areas: increase maximum permitted parking from 125% to 150%, eliminate required 3’ wall plane change every 30’, modify required 3’ roof plane every 30’ to one (1) roof plane for entire building, and allow glazing to satisfy window coverage requirements to accommodate the development.

**Board Comment:**

Mr. Barhoo asked if the Sam’s Club parcel would be subdivided.

**Applicant:**

Tom Sullivan, Attorney, Gray Robinson Law Firm, 301 E. Pine Street Orlando, Florida, on behalf of Caliber Car Wash, stated the parcel is under contract pending approval of the rezoning.

**Citizens Comments:**

No comments

**Board Action:**

It was moved by Ms. Washington to approve the request per staff recommendations. Mr. Newman seconded the motion in accordance with the staff report as presented. The motion passed 7-0 with the breakdown as follows:

Tony Barhoo (Chair)	Yea
Michael McLean (Vice Chair)	Yea
Helen Humphreys	Yea
Tony Servance	Yea
James Newman	Yea
Milverton Robinson	Yea
Cathy Washington	Yea

**6. Minor Certificate of Appropriateness – Land Development Code (LDC) Text Amendment DEV2021-158 Legislative Hearing**

A request by the Development and Administrative Services Department, Planning Division, to amend Articles 3 – Review Procedures, Section 3.4.J.b.ii.a – Minor Certificates of Appropriateness, to amend staff authorities to approve such certificates.

**Staff Presentation:**

Steven Bapp, Senior Planner, presented the staff report which was included as part of the packet. He stated a request by the Development and Administrative Services Department and Planning Division, amendment of Article 3- Review Procedures, Section 3.4.J.b.ii.a – Minor Certificates of Appropriateness. He stated on January 18, 2022, Historic Preservation Board approved DEV2021-158, amendments to the Land Development Code (LDC) removing one (1) word from Section 3.4.J.b.ii.a as such: Installation of a **canvas** or canopy to Installation of **awning** or canopy. He stated that recommended change would prevent applications in a historic district paying a \$150 fee to the board and having a wait time of 4-8 weeks for the approval.

**Citizens Comments:**

No comments

**Board Action:**

It was moved by Mr. Robinson to approve the request per staff recommendations. Mr. Newman seconded the motion in accordance with the staff report as presented. The motion passed 7-0 with the breakdown as follows:

Tony Barhoo (Chair)	Yea
Michael McLean (Vice Chair)	Yea
Helen Humphreys	Yea
Tony Servance	Yea
James Newman	Yea
Milverton Robinson	Yea
Cathy Washington	Yea

7. **Flood Ordinance – Land Development Code (LDC) Text Amendment DEV2022-031 (Legislative Hearing)**

A request by the City of Daytona Beach Utilities Department to amend Land Development Code Articles 6 (Development Standards), 9 (Construction Codes), 11 (Definitions and Interpretation), and Appendix A (Application Submittal Requirements) in order to maintain the floodplain management regulations of the existing code so the City can retain its standing in the Community Rating System (CRS) of the National Flood Insurance Program (NFIP) while providing consistency with the current edition of the Florida Building Code.

**Staff Presentation:**

Shannon Ruane, Planner, presented the staff report which was included as part of the packet. She stated a request by the City of Daytona Beach Utilities Department to amend Land Development Cord Articles 6 (Development Standards), 9 (Construction Codes), 11 (Definitions and Interpretation) and Appendix A (Application Submittal Requirements) to maintain the floodplain management regulations Community Rating System (CRS) of the National Flood Insurance Program (NFIP) standing. She stated the amendment provides consistency with current edition of Florida Building Code. She stated the Land Development Code (LDC) requires amendments to remain consistency with the State Floodplain Management Office prerequisite guidance to qualify as a National Flood Insurance Program (NFIP) Community Rating System (CRS) Class 8 community and Model Ordinance language in Federal Emergency Management Agency (FEMA) Policy #104-008-03. She stated recommendations made for approval of the proposed text amendment to amend Articles 6 (Development Standards), 9 (Construction Codes), 11 (Definitions and Interpretation), and Appendix A (Application Submittal Requirements) of LDC and amend sections regarding flood ordinances to ensure the City retains Class 6 rating in the CRS for flood insurance premium reduction and discount.

Ben Gross, Deputy City Attorney, stated the LDC provisions on Floodplain Management are thoroughly scrubbed in detail by the Florida Department of Emergency Management in accordance with FEMA requirements.

Don Keen, Utilities Engineering Manager, stated that the flood zone lines change the flood zone maps (firm maps) every five years. He stated once revised homeowners or property owners can challenge the revision of Floodplain after discovering home in flood zone.

Justin Barton, Utilities Engineer, stated yearly the GIS database identifies homes that are in a flood zone and a letter is mailed to the homeowner or property owner, which outline information to gather flooding and GIS map information. He stated additional resources such as flood insurance information are inserted in monthly utility bills.

**Applicant:**

None

**Citizens Comments:**

No comments

**Board Action:**

It was moved by Mr. McLean to approve the request per staff recommendations. Ms. Washington seconded the motion in accordance with the staff report as presented. The motion passed 7-0 with the breakdown as follows:

Tony Barhoo (Chair)	Yea
Michael McLean (Vice Chair)	Yea
Helen Humphreys	Yea
Tony Servance	Yea
James Newman	Yea
Milverton Robinson	Yea
Cathy Washington	Yea

**8. Addressing Platting – Land Development Code (LDC) Text Amendment DEV2022-043 (Legislative Hearing)**

A request by the Development and Administrative Services Department, Planning Division, to amend Article 3 (Review Procedures), Section 3.4.K (Subdivision Plat) and Article 7 (Subdivision and Infrastructure), Section 7.2 (Required Infrastructure) of the Land Development Code, to modify and add additional procedures and standards to improve clarity of the final plat process and public improvements for subdivisions.

## **Staff Presentation**

Rose Askew, Planning Coordinator, presented the staff report which was included as part of the packet. She stated a request by the Development and Administrative Services Department, Planning Division, to amend Article 3 (Review Procedures), Section 3.4.K (Subdivision Plat), and Article 7 (Subdivision and Infrastructure), Section 7.2 (Required Infrastructure) of the Land Development Code (LDC), to modify and add additional procedures and standards to improve clarity of the final plat process and public improvements for subdivisions.

Ben Gross, Deputy City Attorney, stated Commissioner Cantu mentioned concerns about sidewalks and residential subdivisions not being completed during several commission meetings. He stated after reviewing two different sections of the LDC regarding plats there were different interpretations. He stated that one section does not distinguish between plats and other types of developments, which notes sidewalk construction can be administratively delayed with a performance bond. He stated another section indicates that a plat that requires recording must be signed by the City under state law. He stated that there was a lot of rewording of the existing provisions to read more chronologically to avoid confusion. He stated that staff recommended the manager should be authorized to approve a contract for plat recording with final approval by City Commission. He stated the contracts must be signed by City Attorney and countersigned by City Clerk.

He stated that at the bottom of page 2 in Attachment A, roman numerical (iii) indicates that the City Manager is authorized to approve the contract for plat recording, so long as, the specific deadline for completion of sidewalk improvements shall not extend beyond the earlier of 4 years from the date of plat recordation or the date on which the certificate of occupancy is issued for the lot. He stated that as of all other public infrastructure, the deadline won't extend beyond two years, however, the City Manager can initially authorize a contract for one year then extend up to two- and four-year periods.

He stated that the house of a homeowner must be on a roadway that connects to the public road system to obtain a certificate of occupancy and the same rules apply for private subdivisions and must be in the hands of their Homeowner Association.

### **Applicant:**

None

### **Citizens Comments:**

No comments

**Board Action:**

It was moved by Mr. McLean to approve the request per staff recommendations. Mr. Servance seconded the motion in accordance with the staff report as presented. The motion passed 7-0 with the breakdown as follows:

Tony Barhoo (Chair)	Yea
Michael McLean (Vice Chair)	Yea
Helen Humphreys	Yea
Tony Servance	Yea
James Newman	Yea
Milverton Robinson	Yea
Cathy Washington	Yea

**9. Utilities Pre-Treatment – Land Development Code (LDC) Text Amendment DEV2022-044 (Legislative Hearing)**

A request by the Development and Administrative Services Department, Planning Division on behalf of the City’s Utilities Department, to amend Article 7 (Subdivision and Infrastructure), Section 7.2 (Required Infrastructure) and Article 11 (Definition and Interpretations), Section 11.5 (Definitions) of the Land Development Code, to incorporate regulations applicable to dental and pharmaceutical dischargers in accordance with applicable Federal and State environmental laws and regulations.

**Staff Presentation**

Rose Askew, Planning Coordinator, presented the staff report which was included as part of the packet. She stated a request by the Development and Administrative Services Department, Planning Division on behalf of the City Utilities Department, to amend Article 7 (Subdivision and Infrastructure), Section 7.2 (Required Infrastructure) and Article 11 (Definition and Interpretations), Section 11.5 (Definitions) of the Land Development Code, to incorporate regulations applicable to dental and Pharmaceutical discharges in accordance with applicable Federal and State environmental laws and regulations. She stated that Article 7, section 7.2.P regulates the discharge of pollutants into the city wastewater treatment system, which requires certain types of users to obtain permits and take other steps to limit prohibit discharges of certain types of pollutants into the system. She stated the amendment is required due to changes in Chapter 62-625 of the Florida Administrative Code and amending Article 11, section 11.5, to add definitions that would coincide with the new regulations to be added to the Land Development Code.

Ben Gross, Deputy City Attorney, stated the City has a requirement to adopt pretreatment codes to provide for the pretreatment of waste before they enter our own public wastewater treatment system per Federal Laws. He stated there is a requirement to have a very specific sets of regulations that are guided by federal law and then dictated by the State. He stated the State Environmental Agency has no strict terms of how the regulations are adopted. He

stated that himself and Robin Cook, Regulatory Compliance Manager, had to draft the required regulations code format, even though, there was some general ability on a case-by-case basis to impose regulations concerning dental discharges.

Robin Cook, Regulatory Compliance Manager, stated the City Utilities Department had the legal authority to implement the industrial pretreatment program of the Land Development Code (LDC), but the vague language did not specifically outline the dental amalgam and the pharmaceutical users' local limits. She stated there were other provisions that mentioned these certain things are prohibited or anything that could damage our system, we could have the authority to regulate. She stated the legislative process of the EPA now requires adding the language that addresses the dental amalgam users and the pharmaceutical addition was a suggestion by DEP. She stated a report had to be provided to EPA regarding contact was made to dentists in the area based on a provided list, because of the increase of mercury in the water. She stated mercury is a recyclable metal that can be properly collected, treated appropriately, and disposed of in a safe manner by certified and licensed haulers. She stated the required permits must provide their manifest or a receipt the disposal had been done.

**Applicant:**

None

**Citizens Comments:**

No comments

**Board Action:**

It was moved by Mr. Robinson to approve the request per staff recommendations. Mr. McLean seconded the motion in accordance with the staff report as presented. The motion passed 7-0 with the breakdown as follows:

Tony Barhoo (Chair)	Yea
Michael McLean (Vice Chair)	Yea
Helen Humphreys	Yea
Tony Servance	Yea
James Newman	Yea
Milverton Robinson	Yea
Cathy Washington	Yea

10. **Glitch Bill – Land Development Code (LDC) Text Amendment DEV2022-042 (Legislative Hearing)**

A request by the Development and Administrative Services Department, Planning Division to amend Articles 3, 4, 5, 6, 7, and 11 of the Land Development Code (LDC) to correct language that was incorrectly transitioned from the previous LDC and to provide additional clarification.

**Staff Presentation**

Hannah Ward, Planner, presented the staff report which was included as part of the packet. She stated the presentation was prepared in coordination with Rose Askew, Planner and Dennis Mrozek, Planning Director, as a request by the Development and Administrative Services Department, Planning Division to amend Articles 3, 4, 5, 6, 7, and 11 of the Land Development Code (LDC) to correct language that was incorrectly transitioned from the previous LDC and to provide additional clarification. She summarized the text changes in Article 3, 4, 5, 6, 7, and 11 of the Land Development Code (LDC) to correct inconsistencies and provided additional clarification in the text of LDC.

Ben Gross, Deputy City Attorney, stated a lot of the revisions were based on a list that they had been maintaining which were really omissions or errors in the LDC. He stated he will review attachments from front to back starting with Attachment A, Table 3.3.E.1, page 1 of 13, which shows four different types of land development permit applications, whether hearings are required, what kind of hearings they are and who they need to be in front of. He stated text in LDC referred to standard public hearings, which basically means they did not have it on consent agenda but gave the public the opportunity to speak before a vote if there is an applicant. He stated just wanted to signify that same thing is true at the planning board level and general zoning district map amendments. He stated there has been greater notice at the commission level for certain zoning amendments because of State Statutes, even though the planning board have been doing standard hearing for rezoning. He stated that on page 2 of 13, this is an additional notice that is not currently provided where there is going to be mail notice now for planning board public hearings 10 days before the hearing and it is part of an effort to be more transparent. He stated people know to look at the website to know what is coming up. He stated there will be some state statutory changes on the type of notice they are required to do for public notices. He stated that page 3 of 13 there is nothing more to add to what Ms. Ward talked about, but some variances could not be heard by the Board of Adjustment. He stated they can apply the criteria correctly rather than use variances. He stated taking the variance process out of the Board of Adjustment hands, would require somebody to seek a change in the LDC, which is lengthier. He stated the Board of Adjustment can impose condition changes in the table that continues on page 4 to page 5, it is a correction relating to easement abandonments. He stated they have right of way vacations and easements amendments, which both need to be approved by the commission right. He stated that vacations require public notice easement for utilities. He stated they are not called right of way easements when you look at the document, but they

are for public access. He stated Ms. Ward, pointed out that in the tables on accessory and temporary uses, there was a reference to an industrial zoning district that does not exist. He stated they are correcting that reference then on the bottom of page 9 regarding encroachments in the right of way and the actual change on page 10, section B is just to reflect something that is already done. He stated it is not found in this section but in a different section, if looking to see what kind of encroachments I can do, you would not be able to find in this section even though that is what this section is about and just a correction of a typo. He stated that on page 11, the clarification regarding street trees reflects our practice, which is where the City is talking about requiring somebody to do street trees, which we can do in certain instances, but where a development wants to have street trees, we will allow those if the Commission approves them as encroachments. He stated on page 12, reflects the City practice but there was nothing in our code that describes what we do in terms of requiring sod or seed of the grassy strip between the sidewalk and the streets that is in the right of away. He stated that down the page on page 12, regarding dead end streets, the code currently says Cul-de-sacs are required, but in instances hammerheads, cul-de-sacs, a big round diameter turning radius. He stated in many instances' hammerheads are sufficient and staff has been approving them and this reflects current practices. He stated the change to paragraph 17, on the same page is just to make clear that we are all on the same page by staff when reviewed and if a developer wants to put upgraded lighting in their subdivision and once done, the lighting is turned over to the City for ownership and have to pay the promulgated rates by FPL for maintenance and repairs. He stated that if those repair costs are higher and he does not want that to be approved at a staff level. He stated that if a Commission level approval is obtained then there might be an ability to recover that cost and that increase in costs that results from those upgraded fixtures. He stated that the City always take back an easement when we vacate right of way. He stated that an easement is only taken when there is a need and just correcting to refer to common practice. He stated on the last page (13) was just correcting some typos and wanted the staff to be aware of all the changes, in addition of the notice for the planning board hearings. He stated was not a typo, but staff wanted this to be included.

**Applicant:**

None

**Citizens Comments:**

No comments

**Board Action:**

It was moved by Mr. McLean to approve the request per staff recommendations. Mr. Newman seconded the motion in accordance with the staff report as presented. The motion passed 7-0 with the breakdown as follows:

Tony Barhoo (Chair)	Yea
Michael McLean (Vice Chair)	Yea
Helen Humphreys	Yea
Tony Servance	Yea
James Newman	Yea
Milverton Robinson	Yea
Cathy Washington	Yea

**11. Other Business**

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

No Report

**B. Midtown Redevelopment Area Board Report**

No report

**C. Beachside Redevelopment Area Board Report**

No report

**D. Public Comments**

John Nicholson 413 N. Grandview Avenue, Daytona Beach, stated that last week there was a meeting held with the City Commission on planning and what is being developed and left to develop. He stated concerns about the area at the north end of the city such as the developments, population, and what is being presented to the City Council regarding flooding.

**E. Staff Comments – Ethics Training**

Mr. Dennis Mrozek, Planning Director, stated that the last meeting information was handed out on a required Ethics Training that came from the City Manager and City Clerk. He stated that he forwarded an email to everybody with the actual dates to sign up and additional opportunities for the completion of the Ethics Training by the end of the year. He stated because of the difficulty of having everyone to complete the training in March was the reason for extending the mandatory in person training to the end of the year. He stated that if everybody did not receive the email just to let him know and he could get them the information. He stated that this meeting was exciting because everyone was able to meet staff members from the Utilities Department and all the Planners. He stated that

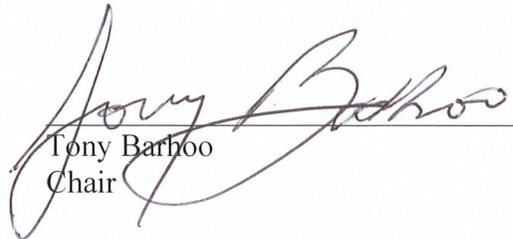
Shannon-Planner has been with the planning department for 3 months and this was her first presentation for the board, which she did a fantastic job. He stated that the City Attorney and Deputy City Attorney has done a fantastic job as well. He stated that he wanted to say how proud he was of the planning department staff and their efforts, but the other departments and how we all work together to create a better product.

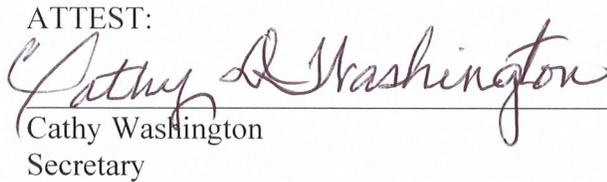
**F. Board Members Comments**

No comments

**12. Adjournment**

There being no further discussion or comments the meeting was adjourned at 7:36 p.m.

  
Tony Barhoo  
Chair

ATTEST:  
  
Cathy Washington  
Secretary