

---

A regular meeting of the City of Daytona Beach Planning Board was held on Thursday, August 23, 2007, at 6:00 PM in City Hall Commission Chambers, 301 S. Ridgewood Ave., Daytona Beach, FL

---

**Board members present were as follows:**

<b>Anita Gallentine</b>	<b>Present</b>
<b>Bob Hoitsma</b>	<b>Present</b>
<b>Jeff Hurt</b>	<b>Present</b>
<b>Janet LeSage</b>	<b>Present</b>
<b>John McGhee</b>	<b>Present</b>
<b>Larry Moore</b>	<b>Present</b>
<b>James Neal</b>	<b>Present</b>
<b>Sam Rogers</b>	<b>Present</b>
<b>Cathy Washington</b>	<b>Present</b>
<b>Kenneth Wood</b>	<b>Present</b>

**Absent Members:**

**Edith Shelley**

**Staff members present:**

**Cheryl Harrison-Lee, Chief Administrative Officer**  
**Steven Spraker, Planning Manager**  
**Belinda Collins, Principal Planner**  
**Reed Berger, Redevelopment Director**  
**Rose Askew, Assistant City Clerk**

**1. Call to Order**

Bob Hoitsma, Chair called the meeting was called to order at 6:00 pm.

**2. Roll Call**

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

**3. Approval of the Minutes: July 26, 2007 and August 2, 2007**

This item was not discussed.

Mr. Hoitsma stated before the meeting starts he wanted to announce that number five (5) Marina Point II has requested a continuance. He asked Mr. Spraker what the normal process was for that.

Steven Spraker, Planning Manager stated the applicant has requested a continuance. The Marina Point residents have consented to the continuance. The rules of procedure for the Planning Board state the Planning Board must take a vote on whether or not it should be continued. Staff is recommending the Planning Board continue the item since both sides have agreed to it. Staff further recommends that the applicant be required to do the notice again, the certified letters within 500 feet, the News-Journal ad and the site posting that way everyone will be aware of the item for September 27, 2007 Planning Board meeting.

**Board Motion**

It was moved by Mr. Moore to continue the item until the September 27, 2007 Planning Board meeting and to require the applicant to do the notice again, the certified letters within 500 feet, the News-Journal ad and the site posting. Seconded by Mr. Hurt.

**Board Action**

The motion was unanimously approved (10-0).

**Continued Items**

4. **RIGHT-OF-WAY VACATION, DEV-2007-103, Boardwalk (portion of Ocean Avenue)**

A request by The City of Daytona Beach to vacate a portion of the 50-foot Ocean Avenue right-of-way totaling approximately 0.53 ± acres located east of Atlantic Avenue between Main Street and Auditorium Boulevard.

**Board Motion**

It was moved by Mr. Neal to approve the Right-of-Way Vacation, DEV-2007-103, Boardwalk (portion of Ocean Avenue). Seconded by Mr. Rogers.

**Board Action**

The motion was unanimously approved (10-to-0).

**Presentation**

Belinda Collins, Principal Planner reported this portion of Ocean Avenue being vacated is between Main Street and Auditorium Boulevard and is approximately 575 feet in length. The request calls for the vacation approximately 428 feet of that total leaving a little more than 150 feet open. She stated in 2003 the City Commission authorized a development agreement for the development of a mixed-use project that would include a hotel, condominiums and public park in the Boardwalk and Main Street area. Several properties have already been purchased for the purpose of consolidating and construction of the mixed-use project. The Daytona Beach Boardwalk Development Agreement provides for a portion of Ocean Avenue between Auditorium Boulevard and Main Street to be vacated by the City. Section 2.06 of the development agreement spelled out the language regarding the vacation of streets at the expense of the City. There are a number properties owners in the vicinity of the right-of-way that have an objection to the action and generally the owners feel the vacation will hinder the operation of their business because of what will happen to through traffic. Mrs. Collins stated the developer has indicated that at the time the City vacates the portion of Ocean Avenue as provided by development agreement the developer will immediately grant a public access easement back to the City. The public access easement will allow the uninterrupted and continued public access and use of the vacated portion of Ocean Avenue for public utilities, vehicles and pedestrians. The public access easement shall remain in legal effect until such time as the City approves a redevelopment plan for the Boardwalk project. The approval by the City will be conditioned upon the redevelopment plans incorporating a perpetual public utility, vehicular and pedestrian ingress/egress rights. Staff recommends approval of the request.

Mr. Hurt stated he needed to abstain from voting because he owns a very small portion of the property.

Ms. Gallentine asked if Mrs. Collins said after construction of the project the vacated property would be opened back up again.

Mrs. Collins replied yes, there will be access through where it stops currently all the way to Auditorium Boulevard.

Ms. Gallentine stated so people would not necessarily have to continuously do a u-turn and come back on.

Mrs. Collins replied that is correct.

**Citizen Comments**

Attorney Jim Morris stated he represented the Paspalaskis family and several other families that own a piece of property adjacent to the proposed vacation. He stated that all of the families have discussed the vacation with Mr. Geary and they support the proposed vacation.

Ilene Pikis Catosos stated she is the property owner of 8 North Ocean Avenue and 7 Boardwalk. She stated she spoke with Mr. Gary earlier and let him know that her mother was quite upset when she heard that the road was going to be closed and that no one would have access to her property. She stated they have access for the Boardwalk property but from Ocean Avenue the only way in to her shop is through Ocean Avenue. Ms. Catosos is concerned that her customers will not be able to park and turn around as they have done in the past. She stated her attorney could not be present because he was in Deland attending a meeting but he has submitted a letter to Mrs. Shelley on August 2<sup>nd</sup> and she believes it is on file.

Mr. Spraker stated the access would be maintained throughout the vacation. The day after the City Commission adopts the vacation things will not change. He stated the property at the Boardwalk will have the opportunity to go for financing showing it as one parcel so all the utilities and all the access will remain the same. The access will stay the same as it is today. During site development they will accommodate the site to give access. He was not sure exactly the pattern yet but in no circumstances would the access to those properties be eliminated.

Ms. Catosos stated she wanted to go on record stating she was in opposition.

6. **SITE PLAN, DEV-2006-135, Cape Morris Cove**

A request by Mark Karet, Zev Cohen and Associates on behalf of Marc Gauthier, Cape Morris Cove Partners, LLP, for site plan approval of 177 multi-family units located at the southeast corner of Big Tree Road and Clyde Morris Boulevard.

**Board Motion**

It was moved by Mr. Hurt to approve Site Plan, DEV-2006-135, Cape Morris Cove. Seconded by Mr. Moore.

**Board Action**

The motion was unanimously approved (10-to-0).

**Presentation**

Belinda Collins, Principal Planner gave a detailed report on the tem. She stated the applicant is requesting site plan approval for a 177 unit multi-family complex. The multi-family complex is an affordable housing tax credit project. Mrs. Collins showed a series of slides detailing where the property was located and also the surrounding properties. She stated the property is located at the southern end of the city limit. East of it is Volusia County unincorporated property, south of it is Port Orange city limits and is currently zoned RA; property to the north is zoned BP and has a bank on it and a church on it. The property northeast of the site is zoned BR2 shopping center and is currently being developed as a shopping center. South of that is undeveloped and is zoned BP. Everything else surrounding the site is pretty much zoned for residential use in both the Port Orange and Volusia County properties. The property to the east is a mobile home park. Mrs. Collins stated in reviewing the project staff determined that there would be a requirement to have two (2) entries, one on Clyde Morris Boulevard and a second on Old Kings Road. This was done to help elevate some of the traffic

*Planning Board Minutes  
August 23, 2007*

situations that may occur on Clyde Morris Boulevard. She referenced three (3) other comments from Volusia County, St. Johns and FDEP and DOT outstanding permits. A traffic mitigation plan is required for impacts to Clyde Morris Boulevard and Beville Road and the final design for offsite sewer improvements is required. The resulting density of the project is a little bit more than what would have been normally permitted for the RH zoning but it being a multi-family complex those issues have been taken care of with requirements so it meets all of the density requirements. The other issues dealing with the Comprehensive Plan had to do with how the neighborhood was composed. There are other mobile home parks in the area and there was an issue that had to deal with mobile homes and how the property was developed. In addition other goals in the housing element of the Comprehensive Plan which provide for assisting the private sector in providing additional housing units was also helped with the development of the project. All of the site plan criteria have been met and staff is recommending approval of the project.

Mark Karet, 55 Seaton Trail, Ormond Beach, Florida stated he was present tonight on behalf of Atlantic Housing Partners and Cape Morris Cove Partners, LLP. Stated Atlantic Housing is a very experienced housing developer. They have developed over 35,000 units across the eastern United States including complexes in Orange City, New Smyrna Beach, Port Orange and they already have a complex in Daytona Beach called Windy Pines.

Larry Moore stated he noticed there was a large area of retention on the property and he noticed there are retaining walls around the pool and a large portion of that but not on the backside. He asked if the elevation such that it will not be a problem.

Mr. Karet replied that is correct.

Mr. Hoitsma, stated he would like to complement Mr. Karet because this is the first picture of one that did not have a palm tree in it.

Mrs. Collins stated she wanted to mention one (1) more thing, the Land Development Code requires a 10-year dead restriction prior to the final Certificate of Occupancy being issued for this project and that will be done also.

John McGhee asked if there was a price quote at this time.

Mr. Karet replied this is a full housing tax credit project so there are fairly stringent criteria in place as to whom the projects will be affordable to. As stated in the Staff Report a sizable percentage will be market rate but the criteria that is established in the code is between 50 and 65 percent would be affordable below market value.

Sam Rogers asked him to repeat this statement in laymen's terms.

Mr. Karet stated he did not indicate a number but what he was indicating was that a majority of the residents would pay below market rates for the rental housing.

**Citizen Comments**

No citizen comments.

Mr. Hurt asked if he could clarify something before they move to the next item. Stated knows the board had the discussion once before that when staff had their comments on an item that they make the motion to approve it as presented and that automatically included staff comments. He asked if that was the ruling before.

Marie Hartman, Deputy City Manager stated she was not here before and does not know if that was the ruling but the general practice is to say "subject to staff approval."

**7. REZONING, DEV-2007-092, Pro S & K**

A request by Pro S & K, LLC, to rezone a 2.39 ± acre parcel of land located 834 Bill France Boulevard from M-2 (Light Manufacturing) to PCD (Planned Commercial Development) and enter into the Pro S & K Planned Commercial Development Agreement to establish development standards for a 23,093 square foot office/showroom/warehouse (17,093 square feet in Phase 1, and 6,000 square feet in Phase 2).

**Board Motion**

It was moved by Mr. Hurt to approve Rezoning, DEV-2007-092, Pro S& K. Seconded by Mr. Moore.

**Board Action**

The motion was unanimously approved (10-to-0).

**Presentation**

Steven Spraker, Planning Manager stated this is an application to rezone property at 834 Bill France Boulevard from M2 (Industrial) to PCD (Planned Commercial Development). In September 2006 the applicant went through a site plan review process and was approved for an industrial building. Since then they have done some studies and have indicated that they would like to have a greater percentage of showroom than the City's Land Development Code (LDC) allows. The City's LDC only allows 15 percent of floor area to be dedicated for showroom. The applicant has indicated in phase one (1) of the development of the 23,000 square foot building they would like to have 48 percent in the first phase and 35 percent as a warehouse is added to the project. Surrounding the property are retail type uses such as BR2 and T5. The site plan shows that there is a scenic setback along Bill France Boulevard. The building is setback approximately 200-feet from the roadway. Staff believes this is an appropriate PCD amendment in terms of the modifications. Staff believes the rezoning is consistent with the LDC and Comprehensive Plan and recommends approval.

Mr. Hoitsma stated he noticed he said they were limited to 15 percent and then said 48 percent is what they are asking for.

Mr. Spraker replied correct if you do the calculations of the amount of showroom versus warehouse the figure of 48 percent ... and again the predominant use even in a mixed use type of facility is 50 percent so the predominate use is still warehouse. The warehouse portion is 52 percent and showroom is 48 percent. They are trying to allow the ability for a customer to walk through and select the carpeting they want. They are asking for flexibility in terms of the overall square footage.

Mr. Hoitsma stated what you are thinking then is because it is carpet you won't have masses of people coming in to buy on a regular basis.

Mr. Spraker replied yes sir.

John Zemble, with Parker Mychenberg and Associates, representing Pro S& K stated he would like to thank staff for recommending approval and was there to answer any questions.

Mr. Moore stated he noticed there was 2.4 in architectural style and quality apparently there was something the applicant wanted to do that the City did or did not accept. He was curious to hear about it.

Mr. Spraker stated correct, in the development agreement if the applicant were to change the architectural style and staff didn't agree with the change they have the right to appeal to the Planning Board. That standard is in most of the development agreements it allows minor changes within a building so if they were to change something in the site as long as staff thought it was consistent with the original development agreement they would approve it. If staff thought it was inconsistent the applicant would have the right to appeal to this board.

8. **Rezoning, DEV-2007-114, Daytona Live! – Planned Master Development**

A request by Robert Merrell III, Esquire, Cobb & Cole, on behalf of Daytona Live! Holdings, LLC, for approval of a zoning map amendment from MSD (Major Sports District) to PMD (Planned Master Development) for 71± acres and to enter into the Daytona Live! Development Agreement to establish development standards for a mixed-use development including offices, hotels, restaurants, retail sales and services, multi-family residential, and other commercial use. The subject property is located at 1800 West International Speedway Boulevard.

**Board Motion**

It was moved by Mr. Hurt to approve Rezoning, DEV-2007-114, Daytona Live! – Planned Master Development. Seconded by Mr. Moore.

**Board Action**

The motion was unanimously approved (10-to-0).

**Presentation**

Steven Spraker, Planning Manager gave a detailed presentation on the item. He stated this an application for a zoning map amendment from MSD (Major Sports District) to PMD (Planned Master Development District) for 71± acres. The property is located at 1800 West International Speedway Boulevard. The property abuts the Volusia Point and the Volusia Mall. To the east of the property is retail use and to the west of the property is the Best Buy PCD, which has a number of retail components. To the north of the property are First DATA and Palm Terrace Elementary. There are additional industrial uses located within the M4 (Industrial Park District). To the south of the subject

*Planning Board Minutes*  
*August 23, 2007*

property is the actual Speedway property itself. Mr. Spraker affirmed the purpose of the PMD and discussed traffic issues. He stated staff feels the applicant has fulfilled the purpose of the PMD, has addressed traffic concerns and recommends approval.

Lisa Kennedy, International Speedway Corporation (ISC) stated she feels this is one of the most exciting projects ISC has ever embarked on and the community will see. She stated it is very important to ISC to have an entrance to the community that is going to make a positive statement. Feels it has been a long time coming but ISC wanted to make sure it was a top-notch development and they had a top-notch partner.

Dave Froelich, Vice President of Design for the Cordish Company out of Baltimore Maryland stated from the time they got on board with the project, he and Doug met and discussed how the project should be approached. From the very beginning their attitude was they had to take great care in creating a fantastic entry to the site. He stated, it isn't just a project for Daytona; it is a project for the world. He has known of Daytona since he was a child. They decided to move the lakes to the front so they serve as reflecting pools reflecting the buildings put beyond them and move the buildings back far enough so the lake isn't just a little pond. They did a lot of different designs but along the way every one of them got back to something that had the buildings pushed back from the front.

Doug Bolis, NATC, 1801 West International Speedway Boulevard, Daytona Beach, Vice President of Design stated the project has 222,0000 square feet of office space, a theatre complex with 2,500 seats and 14 screens, 68,000 square feet of retail shops, approximately 132,000 square feet of restaurants and entertainment, a 160 room hotel and then there is residential and condominiums where they can build up to 450 units depending upon market demand. The maximum building height on the property will be 157 feet. The project is a \$430 million investment.

Mr. Froelich went through a slide presentation that showed the overall plan for the project. He stated as you can see the most prominent things are the two (2) lakes on International Speedway Boulevard (ISB). The retail development begins roughly 500 feet back from ISB. The office has been placed on axis with ISB as you are coming eastbound. They have been working to make sure the building is fantastic, interesting and dominant on the vista. The entire west side of the property is residential. At the far north end is the theatre.

Both Mr. Froelich and Mr. Bolis gave additional detailed information about the project and showed slides of other projects the Cordish Company completed.

Mr. Bolis stated the project has a lot of economic potential for the community. They have hired Washington Economic Group, a consulting firm out of South Florida, to do some studies. There are construction benefits; impact fees totaling \$7.3 million dollars of which \$2.8 million will go to the City. \$16.1 million in local taxes, \$14.1 in state taxes and the overall economic impact for construction is \$855 million. New benefits include approximately 2,400 new jobs, new payroll of \$65 million, new state taxes of \$7.1 million, new local taxes of \$7.7 million and the overall economic benefit of \$172 million. The ongoing benefits of retaining headquarters and their employees in Daytona Beach, there are 1,300 employees, retained payroll of \$68.2 million and retained economic benefit outside of race events is \$157.5 million.

Mr. Hoitsma asked what type of retail they were looking to build.

*Planning Board Minutes  
August 23, 2007*

Mr. Froelich replied he did not know specifically but they will probably end up having some type of fashion boutiques and a good mix of local and national retailers.

Mr. Rogers stated the community is in dire need of opportunities to work especially the minority community. He asked what was in the plans to include the minority community and what efforts will be made to attract minority vendors.

John Weinberg with the Cordish Company stated what they will be doing with the project is reach out to the community in a number of different ways in terms of employment opportunities and opportunities to participate in their projects. They hold a number of job fairs throughout the year where they recruit people looking for employment. They bring in potential employers and their human resource staff for two (2) days to interview potential employees. Applicants can apply right there on sight.

Mr. Rogers stated what he's asking was if there would be some special efforts to recruit minorities.

Mr. Weinberg stated they have a very aggressive effort in terms of looking for tenants and for potential vendors for the projects. He restated again that they would reach out to the community to make sure they are aware of what all the opportunities are in the project and make sure they are publicizing good people to contact for potential opportunities.

Mr. Bolis stated with ISC and construction projects they do reach out to minorities and try to get local minority construction companies to come in and be a part of the construction of the facilities.

Ms. Gallentine stated she believes this is very exciting and feels it is a great title for the development. She noticed the plan is to build over approximately 15-year time frame. She is concerned about traffic and parking. In the fourth phase, the residential phase, instead of being able to build enough parking that the current LDC offers, they were recommending one (1) space per unit. Her concerns are during special events, parking is a premium. When she read the development will allow trailers and motor homes to park on the property she worries even more that there will not be enough parking because if you own a condominium you are certainly going to be here during Daytona 500 and would imagine they will have more than one car. She also asked if the hotel would be a condominium hotel or strictly a condominium.

Mr. Bolis stated on the parking they have experience in doing these types of things with mixed-use projects all over the country and there is tremendous ability to provide the cross over in parking. He also stated the plan is for 160 straight hotel units and the condominiums are just regular condominiums.

Ms. Gallentine asked if there would be facilities for motor homes where it will turn into a camping type environment.

Mr. Bolis stated at this time they do not anticipate putting in water and sewer facilities for that purpose.

Ms. Gallentine asked if the general public would be charged for parking into the facility.

*Planning Board Minutes*  
*August 23, 2007*

Mr. Bolis replied the primary goal of the project is for residents to be the primary market.

Ms. Gallentine asked if there would be outdoor venues like outdoor concerts.

Representative replied the goal of the project is to service the local population first so there will be a lot of events aimed toward being an enhancement to the local community. It will include everything from music, street performers and lots of common area activities to attract the local population. Most of the concerts will be indoors.

Mr. McGhee asked if there was a price quote for the condominiums.

Representative replied not at this time, they are currently doing market studies to determine the right residential price.

**Citizen Comments**

Tom McClullen 424 Pelican Bay Drive, Daytona Beach stated he and the Pelican Bay community support the project.

Samuel Goodwin, Business Development Partnership in Daytona Beach stated the Business Development Partnership supports the project.

Jim Morris, 420 South Nova Road, Daytona Beach stated he met with John Graham and Mr. Graham asked him to take a look at the booklet the board had to see what he thought about it. Mr. Morris thinks the most exciting thing is when you look at it first is the architecture. It is a major development at the entry to the City. He feels it will create an image and the most exciting concept or component to it is that it is a mixed-use project. He feels it is a wonderful project.

Pat Drago, Volusia County School District stated Volusia County School District supports the project. She stated working with Daytona Live has exemplified the kind of partnership needed for future development. They were able to have language put in the agreement that looks at noise level, hours of operation and recognizes the existence of elementary schools.

Mary Ann Jackson Trumble, 925 North Grandview stated she is not always anti-development. She supports the project and wants some events geared toward older citizens. She wanted to know if the project was being funded with private dollars.

Catherine Curshaw and Dr. Ray Shackelford representing Bethune-Cookman University (BCU), 640 Dr. Mary McCloud Bethune, Daytona Beach stated BCU supports the project. Ms. Curshaw feels the project will enhance the community and has potential for jobs and internships for students.

Dr. Shackelford stated he echoes Mrs. Curshaw's statements and supports the project. He sees the project as an opportunity for students at BCU and also an opportunity to serve the families of Daytona Beach.

*Planning Board Minutes  
August 23, 2007*

Jerry Fink, 315 North Atlantic Avenue stated he was one of the partners in the Ocean Walk Development and he now has the Daytona Beach Pier. He stated speaking from that perspective he is very proud of what has been done on the beachside in creating an entertainment district and shopping center on the pier. He feels the project will complement Ocean Walks and he supports it.

Carol Killian, 221 Glen Bryer Circle stated she is a resident of Indigo and supports the project. She has lived here for approximately 17 years and feels Daytona Beach is the hub of Central Florida. She feels the future will bring exceptional things for Daytona and this project will make Daytona Beach a final destination.

Joni Hunt, Embry-Riddle Aeronautical University (ERAU) stated ERAU feels the project will be fantastic for their students as well as staff and faculty. ERAU and IMC have a fantastic working relationship going back to the days when it was Big Bill France and Jack Hunt were building the Speedway. She stated ERAU fully supports the project.

Bob Davis, CEO for the Hotel Motel Association of Volusia County stated he represents 100 hotels with 10,000 rooms, 150 associate members, 43,000 employees in hospitality in Volusia County. He feels this is a no brainer and is one of the greatest things that has ever happened to Daytona Beach. The Hotel Motel Association supports the project.

Tom Staed, 2000 South Peninsula Drive, Daytona Beach stated he is a long time hotelier and long time supporter and board member of the International Speedway Corporation which is partnering this exciting project. He feels the project will revitalize the area by attracting new business and will help attract new upscale tourist.

Reverend John Long, III, Vice President of the Daytona Black Clergy Alliance stated the Daytona Black Clergy Alliance Supports the project. He stated the Master Development Plan they follow states "where there is no vision the people perish." The alliance sees the vision in this project and look forward to it reflecting the depth, the color, and the flavor of the community. He looks forward to the jobs and income it will generate.

Doug Kosarek, 126 West International Speedway Boulevard, representing the residents in South Daytona at 146 Bellwood Avenue stated ditto to everything said and hopes the board approves it.

John Nicholson, 413 North Grandview Avenue stated he is against the project. Feels it is an addition to what is already here. He feels it will kill either kill or save the beachside. He has a problem with the entrance because it is too small to have two (2) entrances on a major road and no other entrances. He knows there is another one off to the side but does not feel tourist will know that. He stated Volusia County promised the citizens they would never put signage on the overpass over A1A and they did. Stated he hopes they will stipulate no signage on the overpass on International Speedway. He does not want motor homes. He stated the project is half asphalt and this is not a project to do that. He suggest finding a way to put a parking lot or garage in the center of the project.

Mr. Hurt stated he is excited about the project. It has already been pointed out about the economic benefits. He feels it will be a family destination in the evening.

*Planning Board Minutes  
August 23, 2007*

Mr. Rogers stated Daytona Beach has been his home for a long time. Strongly suggest there will be some special efforts to recruit minorities and locals to work at the project. Would like to see minority vendors.

Mrs. Gallentine stated she likes the project. She does not feel there is a lot to do in the area and feels this project will be visited quite a bit by the residents. She does not want motor homes here because she knows how much they can detract from an area. She likes the theatre and the user-friendly atmosphere.

Mr. McGhee asked if there was any type of provision or set backs for the signage. He felt it was a little unclear.

Mr. Spraker replied yes there is some signage that is identified within the sign plan. There are some larger signs and he would imagine they would advertise the movie theatre on them. Once you get internal onto the site there will be additional signs. The signage in the front is designed for people who are going along the roadway and tourist coming into town and when you park and get in to the entertainment area there will be additional signs.

Mr. McGhee asked about the PMD and the rules changing for signage.

Mr. Spraker replied the Planned Master Development (PMD) requires that they provide a sign plan which staff has reviewed and worked with the applicant to develop and finalize. When each individual site plan comes in it will show more detail of sign location.

Mr. McGhee stated he loves the project. He feels it will bring youth here.

Mrs. Washington stated she feels the project is awesome and she supports it.

Mr. McGhee stated for clarification from staff, if he is a seasonal part-time employee of a subsidiary of ISC does that disqualify him from voting.

Marie Hartman, Deputy City Attorney replied the rule is if your employer can gain financially then you would abstain. Because she was not entirely sure what his relationship was that is the rule.

Mr. McGhee asked what her recommendation was.

Mrs. Hartman replied without knowing his relationship then in the interest of caution you should abstain.

Break at 7:37 p.m.

Reconvened at 7:46 p.m.

Mr. McGhee excused from the remainder of the meeting.

9. **Rezoning, DEV-2007-122, Fantasias Investments**

A request by Maryann Rogers, Fantasias Investments, Inc., for a zoning map amendment from T-2 (Tourist, Office & Restaurant) to T-3 (Tourist, Office & Retail) located at 1333 South Ridgewood Avenue.

**Board Motion**

It was moved by Mr. Hurt to approve Rezoning, DEV-2007-122, Fantasias Investments located at 133 South Ridgewood Avenue. Seconded by Mr. Wood.

**Board Action**

The motion was unanimously approved (9-to-0).

**Presentation**

Belinda Collins, Principal Planner gave a detailed presentation on the item. She stated this is a request for rezoning from t-2 (Tourist, Office Restaurant) to T-3 (Tourist, Office and Retail) for a 0.15± acre parcel located on south Ridgewood Avenue. The property is located south of Wilder Avenue and the existing land use is commercial retail. In the general area surrounding properties also have the commercial property land use designation and there are other land uses in the area. The land use is supportive of the zoning category that is being requested. The commercial land use designation supports the T-3 retail uses. The applicant has indicated they would like to use this property for personal services. There is parking in the front that fills the majority of the lot and the building is built up to the property boundaries. There are a number of variances that have been requested in order to approve the site plan. Staff has reviewed the request in view of the LDC and the Comprehensive Plan and has found no policies that it conflicts with. Staff recommends approval.

Mr. Moore asked the size of the lot the building sits on.

Mrs. Collins replied 0.15± acres.

Mr. Moore asked what the size was in feet.

Applicant replied 6,500 square feet.

Neil McGennis, Project Manager for Daniel Johns stated this is also a privately funded project. He stated Ms. Rogers has operated Fantasia Salon for a long time. He stated she has gotten to a point where she can own a piece of property and continue to operate her business out of it. Unfortunately as a layperson to the development world, she thought the zoning was correct. He stated there is not a big difference between the T-2 and T-3 zoning. He stated Ms. Rogers contracted with his engineering firm to assist her. It is right on the lot lines and they have got all the variances requested by City staff. Unfortunately there is difference between personal and professional services and the zoning considers Ms. Rogers service as a personal service. She needs this rezoning to be able to operate her salon.

Marry Ann Rogers, Owner of Fantasia on Reed Canal Road stated she bought the property six (6) months ago with the faith that it had the proper zoning. She stated she even asked and there was some kind of mix-up. Three (3) weeks into her contract she found out it was not zoned correctly. She has been paying a large mortgage to try to keep herself above water plus keep the business where she currently is going. She asked the board to please pass the rezoning.

10. **Rezoning, DEV-2007-119, Mid-Town Plaza**

A request by Christopher Challis, Esquire, Cobb & Cole, P.A, on behalf of Retail Realty Associates I, LLC, for approval of a zoning map amendment from BR-2 (Shopping Center) to PCD (Planned Commercial Development) for 9.19 ± acres and to enter into the Mid-Town Plaza Planned Commercial Development Agreement to establish development standards for retail sales and services, restaurants, and other commercial use. The subject property is located at the northwest corner of Nova Road and W. International Speedway Boulevard.

**Board Motion**

It was moved by Mr. Hurt to approve Rezoning, DEV-2007-119, Mid-Town Plaza. Seconded by Mr. Rogers.

**Board Action**

The motion was unanimously approved (9-to-0).

**Presentation**

Steven Spraker, Planning Manager gave a detailed report. He stated This is a request for approval of a zoning map amendment from BR-2 (Shopping Center) to PCD (Planned Commercial Development) for 9.19± acres of property located at the northwest corner of Nova Road and ISB. The existing property was constructed in 1972 and doesn't meet many of the current LDC requirements. There are specific provisions within the code that exempts out shopping centers for parking and landscaping. The applicant would like to renovate the mall to do some landscaping improvements, some updated architecture and to look at the potential of doing out parcels to further aid redevelopment. The application has been reviewed by the Midtown Redevelopment Board and they approved it 8-to-0 with the condition if the applicant could not get the access agreement for the landscaping it would need to go back to the board for further review. Staff finds the request consistent with the LDC and the Comprehensive Plan and recommends approval.

Ms. Gallentine asked what the out parcels would do to the flow of traffic in the mall area getting in and out of Steak-N-Shake. She feels everyone uses the current mall parking lot to egress and ingress out of Steak-N-Shake. She was worried about the flow of traffic.

Mr. Spraker replied they have created some new landscape islands that do not exist today. He believes the flow of traffic will actually be better.

Mr. Rogers stated the Midtown Board has been reported as approving this project. He stated they believe it will definitely improve the area and they are excited about it.

Roger LeBlanc, 17920 Pierbrook Circle, Boca Raton, Florida stated they are reallocating out parcel areas. Presently there is more square footage now in out parcels than what they will be doing when they finish. The square footage will actually go down and parking has been increased. He stated he has a national tenant that is using 75,000 square feet of space and they will have a 10-year lease with a 25 years of renewal options. He stated they are here for the long haul and it is a multi-billion dollar company and they are very excited about coming here. Mr. LeBlanc stated he brought Mark Dowst to answer any questions when he finishes his presentation.

Mark Dowst, Project Engineer with the firm Mark Dowst and Associates, 536 North Halifax Avenue stated Mr. LeBlanc looked at what could be done to reconfigure the space onsite to make it more marketable to generate more revenue. The redevelopment of the center has three (3) major elements, which are architecture, sight and signage. He stated the landscaping immediately adjacent to Steak-N-Shake would remain the same. The tire store will be demolished. Mr. Dowst went through a slide presentation and clarified what the changes would be.

Ms. Gallentine requested a point of clarification. She asked if the two (2) current access points from Nova Road would be removed.

Mr. Dowst replied what you see is the south half of the Daytona Mall and that is the only part of the mall in the application. The north half of the Daytona Mall is owned by a separate owner and is not part of this application so there are driveways that allow people to drive through the parking lot to get to the two (2) driveways she was talking about. These two (2) driveways would remain. He stated they are on property the applicant does not control.

Mr. Neal asked if the property would be split.

Mr. Dowst replied it probably would not be split. The existing Steak-N-Shake is actually a lease parcel.

Mr. Hurt stated he has lived in Daytona Beach for 21 years and that shopping center has not a destination for him because it is not attractive and it doesn't have the shops he would frequent. Feels this will be a welcome addition continuing the trend all the way down to the City's gateway.

11. **Site Plan, DEV-2007-024, Jon Hall Cadillac**

A request by Mr. Dwight DuRant, P.E., Zev Cohen and Associates on behalf of SunCoast Autobuilders, for site plan approval of a 20,087 square foot automobile sales and service facility. The subject property is located at the southwest corner of Third Street and Nova Road.

**Board Motion**

It was moved by Mr. Hurt to approve Site Plan, DEV-2007-024, John Hall Cadillac. Seconded by Mr. Moore.

**Board Action**

The motion was unanimously approved (9-to-0).

**Presentation**

Steven Spraker, Planning Manager gave a detailed report on the site plan approval for John Hall Cadillac located at 998 North Nova Road. He stated Planning Board approval is required because the square footage of the building goes over 20,000 square feet. The applicant had a site plan approved for under 20,000 square feet but the plans have changed and so they had to come back before the board for the additional square footage. It incorporates both the zoning districts BA and Residential Professional. The front porch along Nova Road will serve as the new care sales and service facility. There will be parking in the rear. There are several historic trees on site, which the applicant has worked to preserve. The applicant has either met or exceeded the landscaping and buffer requirements. It meets the requirements of the LDC and staff recommends approval.

Mark Karet, 55 Seaton Trail, Ormond Beach, Florida here on behalf of the applicant stated he was here to answer any questions.

Ms. Gallentine asked if there were any problems or impacts with the nursing home that sits close to the site because it appears the borders of the lot are sort of wrapped around it.

Mr. Spraker replied a six (6) foot screen wall will be placed around the northern perimeter of the site and there is also a natural preservation area so there will not only be a buffer wall but additionally there will be landscaping. He stated this is more of the area that will be used for vehicle storage so you won't have the activity that you would in terms of the service area, which is oriented more towards Nova Road.

12. **Large Scale Comprehensive Plan Amendments, Beachside Height: Riverfront and west side of SR A1A**

This is an administrative request to amend the Future Land Use Element of the Comprehensive Plan clarifying and amending the maximum permitted heights on the beachside along the Riverfront and west side of SR A1A.

**Board Motion - Area "A"**

It was moved by Ms. Gallentine to suggest that wording come back to identify Area "A" for riverfront development with the same language in their packet but to extend the line south to Glenview Boulevard instead of University and 35-foot maximum height if it abuts or is within 50-feet of a Level one (1) or Level two (2) residential area, with no exceptions. Seconded by Ms. LeSage.

**Board Action - Area "A"**

The motion was unanimously approved (9-to-0)

**Board Motion - Area "C"**

It was moved by Ms. LeSage to suggest that wording come back to identify moving Area "C" north to Vermont Avenue with the special ruling for existing buildings that are already there. Seconded by Ms. Gallentine. The motion passed 9-to-0 with the breakdown as follows:

**Board Motion – Area "C"**

The motion was unanimously approved (9-to-0).

**Board Motion - Area "A" West Side of A1A**

It was moved by Ms. Gallentine to bring back language for Area "A" that identifies 35-foot height restrictions on the west side of A1A, bring the line all the way to Glenview going north and if it abuts or is within an Level-1 or Level-2 50-feet. Seconded by Ms. LeSage.

**Board Action – Area "A" West Side of A1A**

The motion was unanimously approved (9-to-0).

**Board Motion – Area "C" Extension to Vermont Avenue**

It was moved by Ms. Lesage to bring back language for Area "C" that identifies 35-foot height restrictions from Vermont Avenue south within 50-feet of Level 1 or Level-2. Seconded by Ms. Gallentine.

**Board Action – Area "C" Extension to Vermont Avenue**

The motion was unanimously approved (9-to-0).

**Presentation**

Steven Spraker, Planning Manager introduced John Jones from Land Design Innovations who walked the board through the power point presentation and summaries.

John Jones with Land Design Innovations, Winter Park, Florida stated he was present to assist in facilitating a discussion on beachside height regulations. Mr. Jones gave a detailed presentation on the City's current height regulations and the proposed changes to height regulations. He stated there are three (3) specific subject areas: Area "A" north of University, Area "B" Between University Avenue and Silver Beach Avenue and Area "C" South of Silver Beach Avenue.

The first subject area is Area "A", which is located north of University Boulevard to the City Limits. The area is Area "B", which is located between University Boulevard Silver Beach Avenue and Area "C" is south of Silver Beach Avenue to the City limits.

*Purpose and Intent of Height Regulations*

The purpose and intent of the height regulations or the amendments to the Future Land Use Element of the Comprehensive Plan include, Protecting Existing Neighborhoods, Manage Future Development, to allow and encourage redevelopment in CRA, and to address the Peninsula Gateway Development.

*Current Height Regulations in Area "A"*

The existing zoning classifications are all 35-feet except for the T-1, T-2 and T-3 whose current height regulations are governed by the Comprehensive Plan, which limits height to three (3) stories when the property is abutting a residential area. This regulation also applies to BR-2.

The compatibility standards in the LDC also address height regulations with regards to the setback required and relative to the height of the building. The minimum setback for multi-family or non-residential structures adjacent to a single-family or duplex residential use is 25-feet and the setback increases as the building height increases.

*Current Height Regulations in Area "B"*

The existing zoning classifications are all 35-feet for residential uses. The PUD is a negotiated height. In RP there is no regulation other than that governed by the Comprehensive Plan, which limits it to three (3) stories when the property is abutting a single-family residential area. For the tourist uses in T-1 through T-4 the Comprehensive Plan also regulates a height to three (3) stories when the property is abutting a residential use. Also in Area "B" the compatibility standards apply, which is the minimum 25-foot setback for uses that are adjacent to residential use and those setbacks increase as the height increases.

*Current Height Regulations in Area "C"*

The existing zoning classifications are all 35-feet for residential uses and once again the PUD is negotiated and the T-1 through T-4 uses are governed by the Comprehensive Plan limiting them to three (3) stories when the property is abutting a residential. The compatibility standards for area "C" also apply with regards to the setbacks being increased as the buildings rise over 35-feet.

Mr. Jones gave current height regulations for St. Petersburg, Naples, Miami Beach, Sarasota, Clearwater, Pensacola, Daytona Beach Shores, Ormond Beach, Tampa, Orlando, Maitland and Gainesville. He then went through the list of concerns expressed by citizens from previous studies. Some of those concerns are protecting existing neighborhoods, increasing public input in the approval process for projects, establishing specific height regulations to manage future development that may be adjacent to single family residential uses, develop architectural standards, allow planned development on properties less than one (1) acre in size, avoid regulations that restrict redevelopment options, the lack of flexibility to accommodate changing market conditions and restricted redevelopment opportunities. He listed a number of previous planning activities and studies performed by the City, some of which are: 1999 Seabreeze Special Area Plan, 2001 South A-1-A Redevelopment Plan, 1994 Entertainment Development Plan for Main Street, 2000 Amended City CRA Plan for Main Street, 2005 Main Street Redevelopment Plan, 2007 Orange Isle Vision Urban Land Institute Main Street Plan and the 2006 Seabreeze-University Neighborhood City Vision.

Mr. Jones gave several alternatives/options for the beachside/riverfront area. They are: 1) Leave regulations as they currently exist. He asked residents to consider when thinking about this option if there would be sufficient protection for existing single-family neighborhoods and if the current regulations provide for sufficient public participation in granting or moving exceptions to current height regulations, are the Gateway Development issues sufficiently addressed and whether or not there are sufficient opportunities for redevelopment; 2) Have 35-foot height limits in areas north of University Boulevard (Area "A") and south of Silver Beach Boulevard (Area "C") and a 65-foot height limit in the area between University Boulevard and Silver Beach Boulevard (Area "B"); 3) 35-foot height limits in areas north of University Boulevard (Area "A") and south of Silver Beach Boulevard (Area "C") and a 65-foot height limits in the area between University Boulevard and Silver Beach Boulevard (Area "B"), Potential Exceptions to limits for planned development projects on International Speedway Boulevard, Main Street and Seabreeze Bridges (Gateways) on a case-by-case review; 4) 35-foot height limits in areas north of University Boulevard (Area "A") and south of Silver Beach Boulevard (Area "C") and 65-foot height limits in the area between University Boulevard and Silver Beach Boulevard (Area "B"), potential exceptions to limits for planned development projects at Gateways and for other planned development projects that meet certain exception criteria on a case by case review.

He then gave the options for the Westside of A1A. They are as follows: 1) Have 35-foot height limits for commercially zoned property that is abutting or within 50 feet of an R-1 series zoning district. He asked residents to take into consideration whether or not there would be sufficient protections for existing residential neighborhoods, if this would hinder redevelopment in the central Redevelopment District, if compatibility issues were sufficiently addressed and if this area provides opportunities for non-residential redevelopment. 2) 35-foot height limits on the west side of Atlantic Avenue (A1A) applied to all properties within 50 feet of a Level 1 or Level 2 residential land use. 3) 35-foot height limits on the west side of Atlantic Avenue (A1A) applied to all properties abutting of a Level 1 residential land use.

#### Potential Considerations for Exceptions

The following factors should be considered: Positive community impact; negative impact on single-family residential uses; increased buffers, setbacks, landscaping abutting single-family residential uses; stepped-back building fronts; additional park and open space in the impacted neighborhood or area; additional public hearings, compatibility review and other community enhancements.

#### Upcoming Community Meetings

There will be a City Commission Meeting held to discuss draft Comprehensive Plan Amendments.

Mr. Hoitsma opened the floor up for comments from the board.

Ms. Gallentine asked Mr. Jones if he was aware that Area "B" was not all in the Main Street area.

Mr. Jones replied yes ma'am.

*Planning Board Minutes*  
*August 23, 2007*

Ms. Gallentine stated she did not understand why he would present the plan to the Main Street Redevelopment area to give their opinion when part of Area "B" is not in their control and asked how he felt about that as the consultant.

Mr. Jones replied the areas for discussion were just a starting point. They are not set in stone. They are arbitrary boundaries set up just for discussion. The fact that the Main Street Advisory Board is included in Area "B" that was one of the concerned stakeholders that had to be addressed.

Ms. Gallentine asked if it would be better to only have the Main Street Redevelopment Advisory Board only give opinions on their own area and draw the Area "B" line a little differently than how it is drawn now.

Mr. Jones replied yes ma'am that comment is valid.

Mr. Hoitsma asked Mr. Spraker what he thought the board's action should be tonight.

Mr. Spraker replied he would like to get out of the meeting policy direction in terms of what options the board wants the language to come back in. He stated speaking solely as an observer, it seems as if there is some form of agreement on Areas "A" and "C". He stated in speaking with different people regarding concerns in Area "B" they may not want to allow heights in certain areas. There may be additional study and parcel by parcel analysis needed.

Mr. Moore asked about review of any historic buildings within Area "B".

Mr. Spraker replied the existing regulations apply not only to historic structures but also to single-family. There are existing regulations that are compatible with single-family. There are existing policies that protect single-family homes in both the Comprehensive Plan and the LDC. He stated if the board instructs staff where they want them to look specifically, they will.

Mr. Neal asked if anyone had spoken with anyone in Area "B" regarding height.

Mr. Jones replied there were representatives of the neighborhoods at the last workshop and he assumes some were from Area "B".

Mr. Hurt asked where the exact language was regarding height that the board came up with two (2) or three (3) years ago.

Mr. Spraker replied it is within the options. He believes it was option three (3), which had north of University Boulevard and south of Silver Beach at 35-feet; between University Boulevard and Silver Beach at 65 and then ability to grant exceptions to the planned development process.

Mr. Hurt asked which option was the one the board kind of worked on for the beachside, the riverfront, on the west side of A1A.

Mr. Spraker replied if you recall staff's recommendation was the purpose of the Ordinance was to protect single-family homes, which was level 1-residential. The board went with option two (2), which was not only level one (1) residential but level two (2) and 50-feet. When they did that there are additional areas that you need to be aware of that affected specifically within the Main Street Redevelopment area. He indicated all the options staff has heard are on the table and if there is a new option, they are open to that also.

Mrs. LeSage stated she recalls when she first started on the board there was a very lengthy discussion regarding adjacent and abutting. She has some issues with Area "B". She feels the board should take a closer look at it.

Mr. Hoitsma stated it appears to him that they are talking about four (4) areas and feels they should look at them one (1) at a time. He feels they should get something behind them on the ones they have no real argument about. He suggested the board have discussion on each area individually, allow public to speak on each area individually and then vote on each item.

Mr. Hurt stated he agreed with Mr. Hoitsma and feels it would keep things clear.

### **Citizen Comments on Area "A"**

John Nicholson, 413 North Grandview Avenue suggested going down to Grandview right past the industrial area and use that as your Area "A". He asked to add the word 35-foot residential. He does not want to see those apartments go from the northern City limits to University. He would like it to continue to be single-family homes.

Mark Karet, 55 Seaton Trail, Ormond Beach encouraged the board to look at it very carefully. Mr. Karet stated when they went through the two (2) year process for ocean front standards they began with discussions on height limits. They sat down and modeled the results of the current codes. They began to identify other issues with the form of development that seemed to be more important than the height issues. That is when they go into discussions about the former parking garage and other things. Relaying that back to this area and Area "A", he has not heard anyone complain that the Riverside Condominium is a problem property or that it is incompatible with that area. Feels there are some aspects that may be useful to retain within the current regulations.

Tracy Remark, 815 North Oleander stated she agrees with Mr. Nicholson that Glenview makes more sense to be included in Area "A" since they are talking about Area "A". She would extend the parameters, which changes her comments as she looks at it from the public meeting and from what the board previously did. Does not feel it would be a stretch go to Glenview. Mrs. Remark asked that the board remember this is a National Historic District they are dealing with.

George Smith, Chaffee Place stated when you build, build the foundation first. Mr. Smith feels what is missing is infrastructure. The people in the City are the foundation and the one thing that is strangely absent is a copy of infrastructure. He briefly spoke about exceptions made for developers.

Gary Libby, 723 North Oleander Avenue stated a Comprehensive Plan shows a City that is committed to preserving and enhancing historic neighborhoods and specifically the national registered districts in the City. Mr. Libby feels they should insist on an overlay of the National Historic Districts. He would like to see Area "A" extended to Seabreeze but is ok with Glenview.

*Planning Board Minutes  
August 23, 2007*

Mr. Hoitsma asked if the condominium just after you pass the Diplomat Center was before or after Glenview.

Mr. Libby replied yes.

Mr. Hoitsma asked if there was a lawyers office in there and ...

Mr. Libby replied we lost the Gamble estate right on the river north of Seabreeze. The house and gardens was torn down and a low-rise condominium was built. Mr. Libby feels that is the worst thing that could have been done in the middle of a national registered district.

Eleanor Bannerman, 761 Marina Point Drive stated she is on the Historic Preservation Board for the City. When she joined the board it had jurisdiction over several overlays in the areas of discussion. She does not understand why the Historic Preservation Board has not been brought into the discussions concerning the areas on the east side of the river. She feels these are all areas the Historic Preservation Board should be taking care of. Right not the board has jurisdiction only in the old town of Daytona Beach Historic District. She feels the board should be responsible for all of the historic districts and it should be very relevant in these discussions.

Marsha Sanford, 1224 South Peninsula Drive stated she was concerned about the exceptions. Several of her concerns had to do with the entire area. Those concerns are aesthetic impact, infrastructure impact, ecological impact, citizens/resident desire impact and the opportunities that already exist without special changes.

Jim Cameron, Vice President of Government Relations for the Daytona Beach/Halifax Chamber of Commerce and a resident of the City urged the board to look at and think about flexibility on a case-by-case basis. He feels there have been some good parameters set but would like to stress that there are developments out there that are taking place in the process and they are paying impact fees and taxes so they are having to carry their share of the load.

Ms. Gallentine feels the line should be at Glenview.

Ms. LeSage is also in favor of the line being extended to Glenview.

Mr. Moore asked Mr. Spraker about getting an overview of the historic districts.

Mr. Spraker pointed out that there are major differences in a national register district and a local district.

Karen Jans stated she really appreciates the dialogue but does not understand why Mr. Spraker keeps saying certain things can't happen yet citizens know exceptions have been made already and feel Area "A" could very easily be extended down to Glenview. She feels this should have been a very easy area to block out.

Mr. Hoitsma stated he felt her comments were a little unfair because earlier in the discussion Mr. Spraker did say whatever the board came up with he would do.

Ms. Jans stated she heard him say that but she also heard the discussion.

Mr. Hoitsma stated they were having a difference of opinion and that is what they want him to do because sometimes they don't always know the best way to do things.

Ms. Jans stated she was hearing a lot of dialogue and that is good and important that they continue it at that level.

### **Citizen Comments on Area "C"**

John Nicholson, 413 North Grandview Avenue stated he would like to move the line north to just south of the Black Pearl.

Tracy Remark, 815 North Oleander stated she does understand Mr. Spraker's comments on Area "A" about neighborhood maps. Mrs. Remark feels it was just a miscommunication. She would also like to see it moved up further north all the way to Vermont Avenue and grandfathering in existing properties.

Mr. Hoitsma asked if she wanted the area that has now been bulldozed to be in residential.

Mrs. Remark replied yes she would like them to be back as residential.

Don Harshaw, 510 Poinsettia Road asked if the board knew the zoning for the synagogue properties and if for some reason the synagogue moved would someone be able to build a massive building there or would it revert back to residential property.

Mr. Spraker replied it is zoned RA, which is multi-family zoning, the same zoning as the Black Pearl.

Mr. Harshaw stated so if this is voted in they could not do anything over 35-feet.

Mr. Spraker replied correct.

Rob Merrill, 150 Magnolia Avenue stated this was a gratuitous piece of legal advice. Mr. Merrill it was about Area "A" and "C". He was afraid there were some buildings there that are not his clients, which they are talking about grandfathering. He just wanted to encourage the board to talk with Mrs. Hartman to clarify what they meant by that because to the extent that they mean they can continue to exist and Mr. Spraker spoke with them about the top four (4) floors being blown away by a storm and those people that own those units not being able to rebuild because they are noncompliant your code now talks about nonconforming structures and it doesn't use the word grandfather. When you say grandfather it does not translate very well because nonconforming structures if they are damaged to a certain degree cannot be rebuilt.

John Wagner, 1601 Cresant Ridge Road stated he has been involved in the recent discussions over the past month. He hopes whatever is decided there are very few if any exceptions allowed because if they

*Planning Board Minutes  
August 23, 2007*

are all of their time will have been wasted to create regulations and then have the flexibility built into the system to undo everything that has been done. He would like clear regulations put forth for all people as to what the City hopes and expects of further development so that it can be done with people having knowledge ahead of time and not winding up like the lady trying to move her beauty parlor from one area to another and finds out she can't.

Mr. Hoitsma stated they started with the property beginning at Silver Beach going south and two (2) suggestions were made to bring it further north. That would include the property there at the Black Pearl, which would be limited.

Mr. Spraker stated the Black Pearl has several options. They can pull a building permit under their existing site plan; they can attempt to gain site plan approval of the existing regulations until the amendments come through; they could challenge the Comprehensive Plan on whether or not their property rights are being taken. At this point he feels the board should just do what they feel is appropriate and go from there. He stated there would be substantial impacts to those properties.

Mr. Hoitsma asked if there was any problem legally when they have allowed something to be or to have a regulation on the books for many years and people make a decision based on that rule or law and then that is changed and they don't have the right to do that anymore.

Mrs. Hartman replied that is done regularly. She stated that is the normal course of zoning that you change zoning and something will become nonconforming. There are a couple ways to deal with that. The typical grandfather provision provides when a use is abandoned it can't be re-established for a certain period of time. Another way it is dealt with is to say an existing nonconforming building is recognized as a legal use and is permitted to continue as such. It is not restrained in the sense that it couldn't be rebuilt if there was destruction so there are various ways of dealing with that issue. She stated there are a few instances in the zoning code that say those that exist now can continue to exist and can be maintained and rebuilt.

Mr. Hoitsma asked if the City would have any problems because they have given the right to a developer that he could make an assumption he could build on a piece of property, change the rule and he then can not.

Mrs. Hartman replied there could be instances where that could be a problem but she would need a more factual scenario to answer that question.

Ms. Gallentine commented on an article in the Orlando paper on an Osceola hotel that ended up being approved by the Commission even though they did not want to do it because it was right in a residential area but the developer was going to file a \$19 million law suit against the City because there were no height restrictions. So now two (2) eight (8) story hotels will end up in this single-family area.

Ms. LeSage asked Mr. Spraker if he would roughly outline the boundaries of the South Atlantic Redevelopment Area.

Mr. Spraker replied it is predominately along the south side of ISB and then extends along Atlantic Avenue. He was not sure the exact boundary but he thinks it is to Silver Beach.

*Planning Board Minutes  
August 23, 2007*

Ms. LeSage stated so basically it is a large "L" shaped area that is mostly commercial properties on A1A and ISB. Therefore that is why she supports moving the boundary up like Mrs. Remark said. She feels this is the City's opportunity to preserve the integrity of single-family historic homes. She feels it should be moved up for "C" just like it was moved down for "A".

Reed Berger, Redevelopment Director addressed questions on boundaries. He pointed out that there is an area being discussed that includes the redevelopment area for South Atlantic if you take Vermont Avenue you will bring into Area "C" part of the redevelopment area.

Ms. LeSage asked the name of the street just past Grandview apartments.

Mr. Hoitsma replied Braddock.

There was open discussion from the board on the street just past Grand View apartments.

Ms. LeSage suggested a second meeting to discuss Area "B".

Mr. Spraker asked the board to consider a joint meeting with the Main Street Redevelopment Board at their next meeting on September 12<sup>th</sup>.

Mr. Hurt agreed with Mr. Spraker.

Ms. Gallentine stated she could support that for the river but not for west side. She would like to address west side Atlantic for both Areas "A" and "C" tonight because she does not feel they are that far off.

It was the consensus of the board to meet with the Main Street Redevelopment Board on September 12<sup>th</sup>.

There was open discussion among the board members and Mr. Spraker on whether or not to discuss the west side of A1A tonight and what the boundaries should be.

Mr. Libby stated for reference for their meeting with the Main Street Redevelopment Board the un-adopted 2005 draft of the Main Street Board carves out the historic houses they were discussing as a historic subsection. While that plan was not adopted he knows the consultant used it, visioning uses it and it has some great maps he feels will help tremendously. He also thinks the Main Street Board will refer to it as perhaps a way out.

Mr. Hoitsma stated so what you are saying is all you want to discuss tonight is "A" and "C" on the beachside and leave "B" out of it. He asked if the board had any problem with that.

It was the consensus of the board to discuss the west side of A1A in Areas "A" and "C" and leave "B" out.

**Citizen Comments on West Side of A1A**

Jeff Broth, 444 Seabreeze Boulevard stated as a point of clarification, he was thinking of a parcel in particular that is in Area "A" near McDonalds that backs up to Seabreeze High School. He asked under their proposal how would those parcels be handled under the proposed regulation. He wanted to know if the parcel would be considered residential because he believes it is under special use.

Mr. Spraker replied the existing land use of Seabreeze High School is an institutional school land use so depending on which he selects will determine what happens. Gave Mr. Broth the options he could use.

Ms. Gallentine stated when they discussed this in 2005 that was one of the parcels they discussed.

Mr. Hurt stated he thought they were leaving the existing Ordinances as they were on the west side of A1A, which the existing Ordinance was 35-feet and that was the only parcel on the west side of A1A that could accommodate anything taller than 35-feet.

Mr. Hoitsma asked if the board needed to do anything about it tonight.

Ms. Hurt replied that's what exists.

Mr. Spraker stated the existing land use policy states three (3) stories next to a residential area. Additionally the LDC has criteria that states if you are commercial versus residential you are limited to 35-feet. There's a wide range of options available to the Planning Board and Commission.

Ms. LeSage stated she saw nothing wrong with stating it for the record again, 35-feet on the west side of A1A.

Ms. Gallentine stated I agree.

Mr. Spraker stated adjacent to level one (1) single-family residential.

Ms. LeSage stated not adjacent, not abutting, within 50-feet.

Mr. Spraker stated of single-family level one (1) residential.

Mrs. Remark asked if they were talking about "A" to University or "A" to Glenview; are you talking about "C" to Silver Beach or "C" once you actually go past Silver Beach and it is all residential. She wanted to be clear where "A" and "C" were because if they were talking "A" to Glenview that would be great. She definitely wants it within the 50-feet because that was what the board approved unanimously last time rather than adjacent or abuts.

Mr. Spraker stated it is very important to keep the zoning and land use separated.

There was additional dialogue between Mr. Spraker and Mrs. Remark regarding the different zoning and land use in areas "A" and "C".

*Planning Board Minutes  
August 23, 2007*

Mr. Hoitsma asked if they had definitely set up the meeting with the Main Street/South Atlantic Redevelopment Board.

Mr. Spraker replied he believes the Redevelopment Director would contact Frank Heckman to see if they had any objections to a joint meeting. He stated he could not imagine them objecting to a joint meeting. The meeting will probably be at 6:30 and staff would provide the board with information as to where the meeting would be held. It will be advertised and put on the City's website. Staff will provide the board with copies of the zoning and land use for the Main Street Redevelopment area.

**Other Business**

Mr. Rogers gave a brief report for the Midtown Redevelopment Board. He stated the board met on August 14, 2007 here in Commission Chambers. They approved a site plan for Mary McCloud Bethune Boulevard; approved Midtown Plaza; turned down site plan approval for an Amcott facility on the southeast corner of ISB.

Ms. Lesage stated she was unable to make the last meeting for Main Street/South Atlantic Redevelopment because she was ill but the main topic on the agenda was height restrictions.

Mr. Spraker thanked the board for their patience and willingness to work with staff.

**Adjournment**

There being no further discussion or comments the meeting was adjourned at 10:17 p.m.

---

EDITH SHELLEY  
Chair

ATTEST:

---

CATHY WASHINGTON  
Secretary