

*Planning Board Meeting Minutes  
September 25, 2008*

---

A regular meeting of the City of Daytona Beach Planning Board was held on Thursday, September 25, 2008 at 6:00 PM in City Hall Commission Chambers, 301 S. Ridgewood Avenue, Daytona Beach, Florida.

---

Board members Present were as follows:

John McGhee, III  
Jeff Hurt  
Anita Gallentine  
Edith Shelley  
Bob Hoitsma  
Janet LeSage  
Ken Wood  
Larry Moore  
James Neal  
Cathy Washington

Absent Members:

Sam Rogers

Staff members present:

Mr. Richard Walton, Planning Director  
Mr. Thad Crowe, Planning Manager  
Ms. Carrie Lathan, Assistant City Attorney  
Ms. Rose Askew, Planning Technician

1. **Call to Order**

Edith Shelley, Chair called the meeting to order at 6:00 pm.

2. **Roll Call**

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

3. **Approval of the Minutes:** July 24, 2008 and August 28, 2008.

**Board Motion**

It was moved by Mr. Moore to approve the July 24, 2008 and August 28, 2008 Planning Board Meeting Minutes. Seconded by Mr. Hoitsma.

**Board Action**

The motion was approved 10-to-0.

4. **Preliminary Plat, DEV 2008-079 – Vince Carter’s Restaurant**

A request by Parker Mynchenberg, P.E., Parker Mynchenberg and Associates, on behalf of Michelle Carter-Scott, Flight XV, LLC, for approval of a preliminary (one-lot) plat for 3.51± acres of land located on the north side of LPGA Boulevard, west of Williamson Boulevard, to allow for a 10,640 square foot restaurant.

**Staff Presentation**

Thad Crowe, Planning Manager gave a PowerPoint presentation. He stated the City’s Comprehensive Plan requires that all rezoning in the area be done as a Planned Commercial Development (PCD) to get greater scrutiny and the site plan allows the board to have input on site design and development. He stated the board recommended approval of the PCD at the August 28, 2008 meeting and the item before you tonight was for a one lot plat for a restaurant, associated parking, landscaping and retention, and that staff recommends approval.

**Applicant Presentation**

Parker Mynchenberg, 1729 Ridgewood Avenue, Holly Hill, Florida stated he was available to answer questions.

**Board Motion**

It was moved by Mr. Hoitsma to approve Preliminary Plat, DEV 2008-079 – Vince Carter’s Restaurant based on the recommendations from staff. Seconded by Mr. Moore.

**Board Action**

The motion was approved 10-to-0.

**Item No. 5 and 6 were taken together.**

5. **Small Scale Comprehensive Plan Map Amendment, DEV 2008-003 – Cape Morris Cove Outparcel**

A request by Jeff Jackson, P.E., Zev Cohen and Associates, on behalf of Steve Joos, Southern LHC, LLC, for approval of a small scale comprehensive plan map amendment for 1.83± acres of land located at the southeast corner of Clyde Morris Boulevard and Big Tree Road, from Level 2 Residential to Low Intensity Commercial. **At the request of the applicant the item was continued to the October 23, 2008 Planning Board Meeting.**

**Applicant Presentation**

Mark Watts, Cobb Cole, 351 East New York Avenue, Suite 200, Deland, Florida stated the applicant had requested to continue items five and six for 30 days due to some late revisions on the PCD.

**Citizen Comments**

Margaret LeMay, 3558 Forrest Branch Road, Daytona Beach stated she was not in favor of the project because they were cutting down all of the trees. She stated she had been a resident of Townhomes West for approximately nine years and the reason she moved there was because of the beauty in the area. She asked the board to think before they approved the project because it was destroying the one thing that was keeping the City away from global warming.

Mrs. Shelley stated the board would not vote on the item tonight but the applicant was available if she wanted to discuss her issues with him.

**Board Motion**

It was moved by Mr. Hurt to continue Small Scale Comprehensive Plan Map Amendment, DEV 2008-003 – Cape Morris Cove Outparcel to the October 23, 2008 Planning Board Meeting. Seconded by Mr. Moore.

**Board Action**

The motion was approved 10-to-0.

6. **Rezoning, DEV 2008-042 – Cape Morris Cove Outparcel**

A request by Jeff Jackson, P.E., Zev Cohen and Associates, on behalf of Steve Joos, Southern LHC, LLC, for approval of a zoning map amendment for 1.83± acres of land located at the southeast corner of Clyde Morris Boulevard and Big Tree Road, from RA (Multi-Family) to PCD (Planned Commercial Development), to allow for a retail development. **At the request of the applicant the item was continued to the October 23, 2008 Planning Board Meeting.**

**Board Motion**

It was moved by Mr. Hurt to continue Rezoning, DEV 2008-042 – Cape Morris Cove Outparcel to the October 23, 2008 Planning Board Meeting. Seconded by Mr. Moore.

**Board Action**

The motion was approved 10-to-0.

7. **Rezoning, DEV 2008-091 – First Baptist PCD**

A request by Robert A. Merrell III, Esq., Cobb Cole, on behalf of First Baptist Church of Daytona Beach for approval of a zoning amendment for an approved PCD (Planned Commercial Development), located west of Tomoka Farms Road, north of Interstate 4, and south of International Speedway Boulevard, to amend the recorded PCD development agreement timeframe.

**Staff Presentation**

Thad Crowe, Planning Manager gave a PowerPoint presentation. He stated the request tonight was to amend the First Baptist PCD agreement that was approved by the City Commission at their March 17, 2004 meeting (Ordinance No. 04-121). He stated if approved the amendment would change the expiration dates to August 3, 2011 for permits for the first phase and August 3, 2018 for build-out. He stated staff recommends approval with the condition that the applicant apply for City land use as opposed to County land use and the applicant has agreed to the condition.

**Applicant Presentation**

Robert Merrell, III, Esquire, Cobb Cole, 150 Magnolia Avenue, Daytona Beach stated although this item was being presented as a rezoning it was simply a request for a time extension based on the current economy and change in leadership at the church. He stated nothing had changed from the original agreement that was approved and he was available to answer any questions.

Ms. Gallentine asked Mr. Merrell if he thought the board would be setting a precedence for approving extensions based on the economy.

Mr. Merrell replied he thought the church's situation was unique due to the fact that after 30 years the church's leadership changed. He stated he felt each project should stand on its own merit and the board might want to take in to consideration approving extensions as a manner of policy based on the economy. He also stated some municipalities are granting automatic extensions for three years to all PCD's because they do not want them to die for economic reasons. He stated the applicant was in agreement with staff's condition and would come back at a later date with a Large Scale Comprehensive Amendment.

### **Citizen Comments**

Zachary Stumbos, 529 North Magnolia Avenue, Orlando, Florida stated he owns a 50 acre piece of property that was adjoining the church's property next to Tomoka Farms Road and another 27 acres adjoining the front where LPGA hits State Road 92. He stated he would highly recommend extension.

John Nicholson, 413 North Grandview Avenue, Daytona Beach stated he was in opposition and in favor of the extension. He stated he did not have a problem with the three year extension at the beginning due to economic problems but he did have a problem with the additional three years at the end of the agreement. He stated he felt 2018 was quite a ways into the future and that there should be time limits and that they come back in 2015 and request the additional three years if it was still needed. Mr. Nicholson stated he liked Mr. Merrell's suggestion to give everyone three year extensions based on the economic situation because it would save everyone a lot of time.

Robert Monyak, 1465 Frances Drive, Daytona Beach submitted a copy of the map he received in the mail from the applicant that had a different plot line than the one on the map the board received. He stated the map the board received did not have the extension out to State Road 92 and it did not have the driveway over to 415. He stated he and his neighbors thought having a church beside their neighborhood would be a good idea because it would mean economic development. He stated when the church's contractor came in they did so without any permits and dumped approximately 30 loads of fill and asphalt pavement at the end of their street and they also did not have a water retention study. He stated his road was destroyed by the applicant's contractor hauling 300 loads of dirt a day to the Volusia Dog Track. He stated based on what he was told by the City's head building inspector, Francis Drive should not have been used for a construction entrance. Mr. Monyak played, then submitted an audio recording. He also submitted a VHS tape for the record. He asked that all the damage to his street be repaired and also to have it fixed where Francis Drive was not accessed for church purposes.

Mrs. Shelley asked Mr. Merrell to address Mr. Monyak's comments.

Mr. Merrell stated he did not have any personal knowledge of the discussion on the audio and he did not know who the person was Mr. Monyak was speaking to. He stated Zev Cohen and Associates were the head engineers for the project and they had been involved with all of the direct permitting with the Water Management District and all other permitting agencies including the City. He stated the doctor who was referenced on the tape had a lot of

*Planning Board Meeting Minutes  
September 25, 2008*

construction activity and to his knowledge the doctor and his partner had done quite a bit of clearing to their property at the same time the church was preparing for their ground breaking ceremony. He stated the church did pile some dirt up to put crosses on top of it so it could be seen from Interstate 4 but as far as any other activities on the road he could not say whether it was the church's contractor or the doctor's. Mr. Merrell stated they would be happy to address Mr. Monyak's comments from a procedural perspective and Pastor Tim Mann would like to address his comments from a personal stand point.

Tim Mann, Senior Pastor of First Baptist Church stated to Mr. Monyak that he became the Sr. Pastor of First Baptist Church in August 2007. He stated at the end of January 2007 all of the previous leadership no longer served the church and to his knowledge all construction ceased at the end of December 2006. He stated neither he nor any of the current leadership at the church was around during that time and so as it relates to how Mr. Monyak and all of his neighbors felt they were treated, all he could do was extend a heartfelt apology on behalf of the church. Pastor Mann stated they were presently trying to determine where to go from here and how they would move forward with construction. He stated as they move forward they will have conversations with their contractors about how things should be addressed and how people should be treated.

Ms. Gallentine asked staff if City or County code enforcement went out to see if there were violations and if so was there a record available.

Mr. Crowe replied staff had no knowledge of the incident and he had not specifically looked at the development agreement for access but it certainly was something he could look at.

Mrs. Shelley asked Mr. Crowe to do some research and report back to the board tonight, because she remembered discussions on access when the item came up in 2004. She asked Pastor Mann to give Mr. Monyak a contact number.

Mr. Crowe asked Mrs. Shelley if the board wanted to take a five minute break for him to go pull the file.

Mr. Merrell stated Mr. Crowe was not involved in the original rezoning and he might be able to assist the board. He stated at that time they were close to seeing the reality of LPGA going south from ISB around through to Madeline Avenue in Port Orange and that was one of the access points. He stated the project had a long-term build out and the church owns property all the way out to what would have been the extension of LPGA. He stated the primary access to the property was off of Tomoka Farms Road and they built a beautiful, expensive bridge which was the primary access in accordance with the agreement. Mr. Merrell stated Francis Drive was an open public road that would be the secondary means of access to the property and he believes the tape and time frame Mr. Monyak was referencing was before the bridge was built and Francis Drive was the only way anyone could get in and out of the property.

Mr. Crowe stated everyone might want to consider incorporating something into the development agreement that deals with possibly only allowing emergency access or having a gate on Francis Drive.

Mr. Monyak stated what Mr. Merrell said was totally inaccurate and he had the video tape to prove it. He stated the construction had nothing to do with the doctor or his property. It had solely to do with paving the end of the street to the point where the Lynx busses could get through to the concert and hauling dirt to the Dog Track. He stated neither he nor his neighbors had anything against the church; they just wanted to be treated with respect and have their road repaired.

Mrs. Shelley suggested to set up a time when Mr. Monyak could sit down and go through the video with the applicant and staff so his issues could be addressed.

Mr. Merrell stated they did not bring any construction or engineering staff to the meeting tonight because they did not think it would be relevant but they would be happy to bring anyone needed to explain and discuss drainage situation or remove anything that was improperly placed there.

Brent Fulton, 3127 West ISB, Daytona Beach, Florida stated he was the doctor referenced in the audio. He stated the reason he was there was because he owns the property just north of the church. He stated he had concerns with the eastern border of the church's property and he wanted to make sure that when the survey was completed he would have an opportunity to look at it to make sure there were not any conflicts.

### **Board Comments**

Mrs. Shelley stated to Mr. Monyak that his comments were well taken and explained that the Planning Board did not deal with permits. She asked staff and the applicant to work with Mr. Monyak to resolve all of the issues.

Ms. Gallentine stated she was not in favor of granting an extension to everyone based on economic conditions.

Mr. Moore stated he agreed with Ms. Gallentine and was in favor of the extension for first three years but feels the applicant should come back to the board to request the additional three years.

### **Board Motion**

It was moved by Mr. Hurt to approve Rezoning, DEV 2008-091 – First Baptist PCD Agreement Extension with the condition that all affected parties meet to discuss all issues surrounding the project. Seconded by Mr. Neal.

Mr. Walton stated one of the items that will be discussed later on the agenda (# 11) talks about having the items heard before the City Commission within 60 days of review by the Planning Board. He stated having meetings with residents was fine but staff would need the board under the discussion of Article 3, Section 1.2(c) of the LDC to extend or waive the 60-day time frame required for the item to go to the City Commission in order for all issues to be resolved.

Ms. Washington asked for clarity purposes shouldn't the motion include resolution of the issues and not just to meet.

Mrs. Shelley asked Mr. Hurt and Neal to withdraw their motion so a new motion could be made.

Mr. Hurt withdrew his motion and Mr. Neal withdrew his second.

### **Board Motion**

It was moved by Mr. Hurt to approve Rezoning, DEV 2008-091 -- First Baptist PCD Agreement Extension with the condition that all affected parties meet to discuss and resolve all issues surrounding the project; and to waive the LDC 60-day requirement for the item to go to the City Commission. Seconded by Mr. Neal.

### **Board Action**

The motion was approved 9-to-1.

### **8. Rezoning, DEV 2008-093 – Former Dog Track**

A request by Robert A. Merrell III, Esq., Cobb Cole, on behalf of Daytona International Speedway, LLC for approval of a zoning map amendment for 23.65± acres of land located at 2201 West International Speedway Boulevard from AE (Amusement/Entertainment) to MSD (Major Sports District).

### **Staff Presentation**

Thad Crowe, Planning Manager stated the applicant was requesting to rezone the property from A/E (Amusement/Entertainment) to MSD (Major Sports District) zoning category. He stated the site was the former dog track; it was surrounded on two sides by the Speedway; the proposed zoning was compatible with surrounding zoning; the zoning was allowed in the current land use of Commercial Amusement; it would allow orderly integration of the site with the Speedway complex (current zoning only allows pari-mutual) and staff recommends approval.

### **Applicant Presentation**

Robin Braig, President, Daytona International Speedway (DWAS), 1908 South Peninsula Drive, Daytona Beach stated the item was a clean-up item to make the zoning consistent with the current operations on DIS property. He stated the DIS did not have any plans for gaming operations on any of their property including the former dog track property that was recently acquired.

### **Citizen Comments**

John Nicholson, 413 North Grandview Avenue stated he understood DIS was not planning on having gambling but the demographics of the City were changing and he was wondering if the City would be missing out on a golden opportunity. He stated he feels with Daytona Live across the street this would be a golden location for a gambling facility. He asked the board to postpone approving the rezoning therefore keeping the City's options open.

Mrs. Shelley stated the rezoning would not hurt the City and the applicant would have to come back to the board if they chose at a later date to try for a gambling facility, that way it would have public input.

### **Board Motion**

It was moved by Mr. Hurt to approve Rezoning, DEV 2008-093 – Former Dog Track. Seconded by Ms. Washington.

### **Board Action**

The motion was approved 10-to-0.

## 9. **Land Development Code Ordinance, DEV 2008-096 – Amendment to Permitted Uses for Major Sports Zoning District**

A request by Robert A. Merrell, III, Esq., Cobb Cole, on behalf of Daytona International Speedway, LLC to amend the City's Land Development Code (LDC), Article 15 (Specialty Districts), Section 4.3 (Permitted Uses), to allow stadiums and racetracks for sports events and also to allow businesses or professional services related to stadiums and racetrack sports events.

### **Staff Presentation**

Thad Crowe, Planning Manager told the board this was a housekeeping item that was related to the previous item and also to the next item on the agenda. He stated it pertains to the Major Sports Zoning District (MSD) which was a specialty District in the City's zoning code that currently allows stadiums, racetracks, sports events and business or professional services. He stated the applicant has requested to amend the current code to clarify the permitted uses to add the phrase "those uses customarily incidental and subordinate to a stadium or racetrack including activities related to the major sports activities." He stated the purpose of the amendment was to allow the applicant to continue to do what they currently do which was the associated activities that occur during speedway events. He stated staff recommends approval of the amendments.

**Applicant Presentation**

Robert A. Merrell, III, Esq., Cobb Cole, 150 Magnolia Avenue, Daytona Beach stated he wanted to clarify that on item number eight's motion it should have been MSD and not PCD.

Mrs. Shelley asked Ms. Askew to make sure the minutes reflected the motion was to rezone the property to MSD and not PCD.

**Citizen Comments**

John Nicholson, 413 North Grandview Avenue, Daytona Beach stated quite a few years ago there was a problem with vending that went from Interstate 95 all the way down ISB. He stated the City had kind of cleaned it up and now this could allow all that vending again. He asked if this would be allowed to all the other businesses on ISB or was it only allowed to the Speedway.

Mr. Merrell stated he was around when there was a problem with vending on ISB and after a lot of discussion between the Planning Board, the Chamber and numerous workshops; the City Commission adopted an ordinance that got rid of most of the vending. He stated a lot of the activity going on was related to Speedway activities and they were allowed to have a limited number of vending with certain conditions. He stated that limited number was still within the code and nothing was being changed. He stated in addition when Mr. Nicholson spoke about additional properties owned by the Speedway, those properties were not the subject of this request. Mr. Merrell stated only the properties that are adjacent to DIS or across the runway from DWAS were being discussed tonight.

**Board Comments**

Mr. Moore asked what the exact uses and activities were in part B under uses that are customary, subordinate or incidental and activities related to sports activities.

Mr. Merrell replied that language was already in the code and those activities are already taking place. He stated when the Speedway purchased the Daytona Live property they went through a MSD rezoning for that property. He stated at that time and now some of the property was used for professional office purposes that support the Speedway. Mr. Merrell stated when they added the provisions to the MSD addressing professional offices as part of that zoning category they were compartmentalized separately. He stated all this amendment does was bring them back together so that the offices don't necessarily have to be separate from the uses that are incidental for the Speedway operations and their business.

Mr. Moore stated he was confused because it says it was interpreted by the City in the sense that such supporting uses and activities are allowed. He asked why they wanted to change the language if it was already interpreted that way.

*Planning Board Meeting Minutes  
September 25, 2008*

Mr. Merrell replied that part was not changing and if the board looks through the remainder of the LDC they would see the language pertaining to customary and incidental uses in every zoning category has a certain amount of judgment and discretion that City staff uses. He stated all the cities he works with uses that language as a catchall for customary incidental uses that are subordinate or related to as accessory uses to a principal use.

Mr. Moore stated that was the problem that it was being used as the catchall and he feels it applies to what Mr. Nicholson said on item number eight. He stated gambling was the one he received the most calls about. He stated his concern was if the board were to change the language to what Mr. Merrell was requesting the City would be turning over everything to the MSD District to say whatever they want to do would be related to racing and it would be allowed. He stated consequently if gambling were ever passed or allowed it would be an issue that would not come to the board for review.

Mr. Merrell stated the snippet in the Staff Report did not give a clear picture of what they were asking for. He asked staff to try to assist Mr. Moore with understanding the request better.

Mr. Crowe stated he had the same discussion with Mr. Merrell because initially he had the same questions but he now understood what Mr. Merrell was trying to do and he was in agreement with him. He stated staff does have to make a lot of interpretations because every single use that was out there was not in the code so this could work in the City's favor in the sense that if the applicant were to come in with a plan for new facilities or a full service bar, staff would be able to say it was not something that was incidental or subordinate to the racetrack and the fans utilize it. It could work to the benefit of the applicant in the sense that the use was not anticipated and could not be named. He stated both he and Mr. Walton agreed that if there was a conservative doubt then they would not go out on a limb they would come to the board for guidance.

Mr. Moore asked Mr. Crowe if in his opinion the Speedway wanted gambling based on the clause, they could not just put it in.

Mr. Crowe replied no; staff would not consider that to be an incidental or subordinate use.

Mrs. Shelley stated she had this discussion this afternoon with Mr. Walton and Mr. Crowe because she had people contacting her with concerns about that. She stated any change that was made would have to come back to the board for review.

Mr. Moore stated he would not have any objection to the amendment as long as it was understood that the applicant would have to come back to the board for approval.

Mrs. Shelley stated that was her feeling also because she wanted to make sure there was citizen input.

**Board Motion**

It was moved by Mr. Hurt to approve Land Development Code Ordinance, DEV 2008-096 – Amendment to Permitted Uses for Major Sports Zoning District with the condition that if gambling comes up it must come back before the board for approval. Seconded by Mr. Moore.

**Board Action**

The motion was approved 10-to-0.

10. **Rezoning, DEV 2008-095, Williamson/Bellevue DWAS**

A request by Robert Merrell III, Esq., Cobb Cole, on behalf of Daytona International Speedway, LLC, for approval of a zoning map amendment for 214.1± acres of land located south of Bellevue Avenue and east of Williamson Boulevard from M-2 (Light Manufacturing) to MSD (Major Sports District).

**Staff Presentation**

Thad Crowe, Planning Manager stated this was another related application by DIS to rezone 214.1± acres of land from M-2 (Light Manufacturing) to MSD (Major Sports District). He stated the character of the area was generally urbanized/industrial; it was adjacent to the Airport; was currently utilized for parking, RV camping and Speedway-related activities and has easy shuttle access to the Speedway which mitigates congestion. Mr. Crowe stated the application tracks with the companion land use amendment from Industrial to Commercial Amusement. He stated the applicant recently discovered that there was a deed restriction on the eastern portion of the property that has required its removal from application.

**Applicant Presentation**

Robert Merrell III, Esq., Cobb Cole, 150 Magnolia Avenue stated last month the board approved the companion Future Land Use Map request and he explained that the primary driving force behind the rezoning was the need to put some ADA parking on the site but it was not allowed under the Industrial Land Use so the rezoning was required. He stated he wanted to make sure it was clear that his client had agreed to withdraw the portion of the property that had the deed restriction.

**Board Motion**

It was moved by Mr. Hurt to approve Rezoning, DEV 2008-095, Williamson/Bellevue DIS with staff recommendations on the deed restriction. Seconded by Mr. Moore.

**Board Action**

The motion was approved 10-to-0.

11. **Land Development Code Amendments:**

A. **Land Development Code Amendment, DEV 2008-114 – City Commission Timeframe for Planning Board Items Consideration.**

An Administrative request (Development Services Department, Planning Division) to amend the City's Land Development Code (LDC), Article 3 (Decision Making Bodies and Procedures), Section 1.2(c), to require items being heard by the City Commission must be heard within 60 days after Planning Board review.

**Staff Presentation**

Thad Crowe, Planning Manager stated staff was requesting the board to consider extending the current timeframe in the LDC, Article 3, Section 1.2(c) requiring requests to be heard by the City Commission within 60 days of Planning Board review and final action, or the request shall be referred back to the Planning Board for reconsideration to be extended to 90 days. He stated the 60 day review creates a tight timeframe for staff due to legal review and other things that must be done prior to the City Commission reviewing the request. He stated the 90 days would give staff a little more time to perform any unforeseen problems that might arise.

**Board Comments**

Mr. Moore asked if there had been a reduction in staff that was causing the need for additional time.

Mr. Crowe replied yes.

Mr. Moore asked if staff was requesting three months instead of two months to prepare requests for City Commission.

Mr. Crowe replied that was correct.

Mr. Moore stated that was a very long time and the City Commission could also send the request back to the Planning Board. He stated the board always talks about projects moving through the City's process without delays and people could get the wrong idea if the timeframe was extended another 30 days.

Mr. Walton stated staff's intention was to move the requests through on the same schedule that was currently in place. Planning items typically skip one month to give staff time to prepare minutes from the previous meeting and get all of the required documents that the City Commission needed to review. He stated in addition if there were issues including a hurricane and the City Commission meeting was canceled the item would have to come back to the board.

*Planning Board Meeting Minutes  
September 25, 2008*

Mrs. Shelley stated she had mixed feelings on the request but she understood the request was supposed to be for extenuating circumstances. She stated she would like to see something in writing that said the 90 day extension would only be for extenuating circumstances.

Mr. Hoitsma asked if it would be possible to leave the code at 60 days and say the board would allow exceptions up to 90 days. He stated if some type of condition was not put on the request staff could keep using 90 days instead of 60.

Mr. Walton stated the intent was not to move anything so that it takes 90 days.

Mr. Hoitsma recommended leaving the rule at 60 days and make exceptions up to 90 days so if staff continuously took up to 90 days the board could remind them the rule was 60 days.

Mr. Walton replied yes the language could be tweaked so say the 90 days could only be used in the case of extenuating circumstances.

Mr. Moore asked how many times in the last two years had requests gone past the 60 day rule.

Mr. Walton stated approximately two years ago when the schedule was changed and put together for requests to be on second reading two months. He stated if any of those items did not happen it did not meet the code.

Mr. Moore asked what was done in those cases.

Mr. Walton replied the items were moved forward anyway. He stated his understanding was the reason for putting the language in was because there were some problems a few years ago where things were being held up unduly. He stated from what he had seen that had not happened in the last two years.

Mr. Moore asked if a special meeting could be called in cases where special circumstances arose that caused requests not to meet the 60 day code.

Mr. Walton stated what staff tried to do was tweak the language so it would have the same outcome.

There was additional discussion on how the wording should read to make sure that extra time would only be allowed in cases where special circumstances arose.

**Board Motion**

It was moved by Ms. Gallentine to approve Land Development Code Amendment, DEV 2008-114 allowing requests to move forward for City Commission review beyond the 60 days required by the LDC if extenuating circumstances exists and they are identified with the request as it was forwarded to the City Commission and the condition that it cannot go beyond 90 days.

Mrs. Shelley stated she was not comfortable with that motion.

Ms. Gallentine withdrew her motion.

Mrs. Shelley stated she believed what Ms. Gallentine was trying to say was requests must be heard by the City Commission within 60 days of Planning Review except when extenuating circumstances exist and they are identified with the request as it was forwarded to the City Commission and the condition that the request could not go beyond 90 days of the Planning Board review.

Mr. McGhee stated the request was to move the timeframe to 90 days.

Mrs. Shelley stated that was correct so the board would first have to vote the original request up or down and if it was not approved then put a second motion on the floor to be voted on.

**Board Motion**

It was moved by Mr. Moore to approve Land Development Code Amendment, DEV 2008-114 extending the LDC 60 day rule to 90 days. Seconded by Mr. Hurt.

**Board Action**

The motion was denied 10-to-0.

**Board Motion**

It was moved by Mr. Hoitsma to approve Land Development Code Amendment, DEV 2008-114 requiring requests to be heard by the City Commission within 60 days of Planning Board review except when extenuating circumstances arise whereas the 60 days could then be extended to a maximum of 90 days and the extension must be accompanied with a request from staff or the applicant and must have documentation to support the request.

**Board Action**

The motion was approved 10-to-0.

**B. Status Report on LDC Amendments**

Thad Crowe, Planning Manager stated the packet the board approved that was adopted by the City Commission included the following:

- Article 1 - PURPOSE, ADMINISTRATION, AND ENFORCEMENT  
Adopt digital zoning maps
- Article 2 – DEFINITIONS  
Revisions to definitions for redevelopment District prohibited uses
- Article 4 LAND DEVELOPMENT ORDERS AND PROCEDURES  
Move Comprehensive Plan Consistency section to Applicability

- Public notice requirements – reorganization of mail notice area distance requirements and clarification of notice requirements
- Clarification of LDC and zoning map change notification/mail notice area requirements
- Clarification of site plan notification/mail notice area requirements
- Re-stating of mail notice requirement for variances
- Re-stating of mail notice requirement for appeals of administrative interpretations or applications of LDC
- Re-stating of mail notice requirement for street or public access easement vacations
- Re-stating of mail notice requirement for variances
- Article 6 INFRASTRUCTURE, PUBLIC IMPROVEMENTS, AND UTILITIES
  - Adoption of MPO Countywide Traffic Concurrency and Transportation Impact Analysis (TIA) requirements
- Article 8 SUPPLEMENTAL PERFORMANCE STANDARDS
- Article 6 INFRASTRUCTURE, PUBLIC IMPROVEMENTS, AND UTILITIES
  - Adoption of MPO Countywide Traffic Concurrency and Transportation Impact Analysis (TIA) requirements
- Article 8 SUPPLEMENTAL PERFORMANCE STANDARDS
  - Delay of amortization for fence standards along major city thoroughfares
- Article 12 REDEVELOPMENT AREAS AND DISTRICTS
  - Addition of prohibited uses in redevelopment Districts and clarification of current language
  - Clarify Planned Redevelopment District within Article 12 (Redevelopment Areas and Districts)
  - RV and Boat Outdoor Storage in Downtown Redevelopment Area
- Article 14 PLANNED DISTRICTS
  - Reference Planned Redevelopment Districts (detailed description moved to Article 12 - Redevelopment)
- Article 13. INDUSTRIAL DISTRICTS
  - Increase maximum percentage of space taken up by showroom/sales in warehouses
- Article 17: CONDITIONS AND REQUIREMENTS FOR SPECIFIC USES
  - Eliminate prohibition of in-restaurant ordering of alcoholic beverages at counter
- Article 18. APPEARANCE STANDARDS
  - Clarify and strengthen standards for landscape inspection, certification, and maintenance (separation of installation and maintenance components)

Mr. Crowe stated the below listed amendments were either denied withdrawn or determined they required further study:

- Article 1 - PURPOSE, ADMINISTRATION, AND ENFORCEMENT
  - Revise nonconforming uses determination of discontinuation (denied by City Commission)
- Article 4: LAND DEVELOPMENT ORDERS AND PROCEDURES
  - Citizen Participation Plan (Planning Board determined further study needed)
- Article 5: SUBDIVISIONS AND SITE PLANS
  - Optional submittal of 3-D renderings (withdrawn by Planning Board)
- Article 12: REDEVELOPMENT AREAS AND DISTRICTS

Implement Density Bonus Point program as adopted in Comprehensive Plan (Planning Board determined further study needed)

- Article 14: PLANNED DISTRICTS  
Reduce multitude of Planned Developments categories, revise standards and criteria, and reorganize Article (Planning Board determined further study needed)
- Article 17: CONDITIONS AND REQUIREMENTS FOR SPECIFIC USES  
Allow churches as conditional use (instead of special use) in R-2 and RR (multifamily) zoning Districts (withdrawn by Planning Board)
- Article 18: APPEARANCE STANDARDS  
Allow LED billboards subject to removal of other billboards (withdrawn by Planning Board)  
Allow for LED changeable copy signs for public and semi-public uses (withdrawn by Planning Board)

Mr. Crowe stated the next set of slides were amendments that the board determined should be included in future rounds:

- Article 2, DEFINITIONS  
Submerged Lands  
Floor Area Ratio (including treatment of structured parking)
- Article 4, LAND DEVELOPMENT ORDERS AND PROCEDURES  
Implement school concurrency (Section 2)
- Article 5, SUBDIVISIONS AND SITE PLANS  
Implement school concurrency
- Article 6, INFRASTRUCTURE, PUBLIC IMPROVEMENT, AND UTILITIES  
Implement school concurrency (Section 1)
- Article 6, INFRASTRUCTURE, PUBLIC IMPROVEMENT, AND UTILITIES  
Revise concurrency codes and processes
- Article 8, Supplemental Performance Standards  
Noise standards (particularly regarding businesses with outside amplified speakers or live music)
- Article 15, SPECIALTY DISTRICTS  
Revise mobile vending standards (Section 4)
- Article 18, APPEARANCE STANDARDS  
Revise sign regulations  
Develop corridor (roadway) design standards (Comprehensive Plan Evaluation and Appraisal Report recommendation)  
Building height study (to implement new height standards)  
Clarify/revise compatibility buffer standards for incompatible uses (i.e. industrial-residential, etc.)  
Revise buffer/fence/wall standards
- Article 20, FEES  
Update development application fees
- TBD  
Develop transfer of development rights program

Mr. Crowe stated as you could see the list was quite extensive and staff was happy to report that we are proceeding with the RFP for the LDC rewrite. He stated Mr. Walton will speak in more detail on that later in the meeting.

Mr. Moore complemented staff on the difference he could see in the presentations coming forward, for giving the board more information and keeping the board up to date on the process.

Mrs. Shelley stated she agreed and that she felt it was really nice to see what had gone forward.

Ms. Gallentine stated she was concerned with things on page three. She stated she felt Round one was more of housekeeping changes and was concerned that the City was paying \$100,000 for a consulting firm to come in and rewrite the LDC which would take months. She stated she would like the board to start handling some of the difficult issues with staff now. She recommended that the board work with staff on items one, six, eight and nine from the list of future amendments.

Mrs. Shelley stated she was also concerned that the Citizen Participation Plan would not move forward. She stated in her meeting with staff a suggestion was made to develop a subcommittee made up of Planning Board members. The subcommittee meetings would be open for public participation; they would be in workshop format so a quorum would not be required; all recommendations would be reported back to the full Planning Board and the subcommittee would meet in between the regular Planning Board meeting to work on the LDC in conjunction with the consultant. Mrs. Shelley stated the board did not have to make a decision tonight but she would like to have either a subcommittee or the full board decide how the issues should be addressed and she would like a decision by the next regular scheduled meeting.

Mr. Moore stated he agreed with that suggestion and asked how many members would serve on the subcommittee. He stated there would need to be a representative from staff at the meetings.

Mrs. Shelley replied yes the meetings would be held at City Hall, possibly in Room 116 and would be publically noticed. She stated the reason for the subcommittee was because statements had been made that board members were growing tired of attending special meetings in addition to the regularly scheduled meetings.

12. **Other Business**

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

Mrs. Shelley stated she had three months of board meetings to report on. She reported that the board met on July 1<sup>st</sup> at 12:00 noon; they elected Al Smith as Vice Chair. She stated the board reviewed the following items: approved the request for an easel sign at Jessup's Pawn Shop, 100 South Beach Street; approved the request for a site plan for Burger King Restaurant, 112 North Ridgewood Avenue; approved a rezoning request for 957 Beach Street – Terra Mark Condominiums from RPUD to PR; approved the CRA Plan Amendments pertaining to the

audit; discussed the LDC Amendments (Historic Preservation Ordinance). The board met on August 5<sup>th</sup> at 12:00 noon. They reviewed the following items: approved (5-2) a site plan for Catholic Charities; discussed the Riverfront Master Plan schedule. She stated there will be three workshops, two had already been held and the third workshop was scheduled for Tuesday, November 11<sup>th</sup>, 7:00 pm at City Island Recreation Center, west of the Chamber of Commerce office. She stated the board had a discussion and update on downtown parking; approved the annual CR/DDA agreement; update on the Historic Preservation Ordinance; discussed Votran bus benches; had an update on Brownfield's and the Density Bonus Points Program. She stated the last meeting was September 17<sup>th</sup> at 4:00 pm. She stated the board discussed the following items: selected black as the board's color of choice for the Votran bus benches; downtown parking limits and LDC Text Amendments.

**B. Midtown Redevelopment Area Board Report**

Absent.

**C. Main Street/South Atlantic Redevelopment Area Board Report**

Ms. Lesage reported at their September 10<sup>th</sup> meeting there were two items on the agenda. She stated the board approved a special use permit for Wise Guys on Main Street to use the property next door to expand their business and there was discussion on Votran bus benches. She stated the board was upset because the advertising part was completed before the project was brought to the redevelopment boards. She stated the board also had an issue with the fact that there were quite a few bus stops in their area and after negotiations with Votran they agreed to reduce some of the bus stops.

**D. Vision Committee Report**

Mrs. Shelley reported that the Vision Steering Committee met in September; they are still working on putting together a video presentation of the vision; one of the subcommittees met and worked on a recommendation to present to the City Commission on how they would like to see the Vision Committee move forward and how to bring in new people; brief discussion on a 1989 article from the News-Journal called Take Part. She stated the article discussed things the residents wanted here in Daytona Beach.

**E. Public Comments**

John Nicholson, 413 North Grandview Avenue, Daytona Beach spoke briefly on Floor Area Ratio (FAR), submerged land and height limits on A1A.

Chris Daun, 132 Pierce Avenue, Daytona Beach stated he was representing the Uptown Neighborhood Association and last week at their meeting representatives from the City's Planning Division attended. He spoke briefly about issues his association had with the Catholic Charities project.

**F. Staff Comments**

Mr. Walton stated there were some projects that would require time and assistance from the board. He stated at the next Planning Board meeting staff would have a draft of the Capital Improvements Element, which must be done by December. He suggested the board meet at 4:00 pm on October 23<sup>rd</sup>. He stated before the October meeting, staff should receive a draft from the consultant on the Evaluation & Appraisal Report (EAR) Comprehensive Plan Amendments that are being implemented, which would be a large document and would require quite a bit of discussion and input from the board. Mr. Walton stated today there was a non-mandatory meeting for consultants that wanted to submit proposals for the LDC rewrite. He stated their deadline to submit proposals was the middle of October. He stated once a firm was selected they would have questions about how the City wants to approach making the required changes. He stated breaking the board down into subcommittees might work better than having the full board try to meet and it would eliminate having to cancel the meeting due to lack of a quorum. Mr. Walton stated the EAR has a state deadline of April 2009 and CIE was December 2008 and both projects must move forward. He stated the LDC was a major want and need but it was not required by the State of Florida so it does not have to be completed as quickly.

Mrs. Shelley stated in response to Mr. Walton's comments she was asked to bring up for discussion tonight a request for the board to have a workshop on October 23<sup>rd</sup> from 4:00 pm to 5:00 pm, take a break for dinner (staff will provide) and then go right into the 6:00 pm regular meeting. She asked Mr. Walton to make sure the board was notified well in advance of the workshop and suggested to maybe send email reminders to the board members.

Ms. Gallentine asked what the board would review at the workshop.

Mr. Walton replied the Capital Improvements Element which had to be updated every year. He stated it became a state requirement when Senate Bill 360 was passed a couple of years ago. He stated what the evaluation does was evaluate all of the City's Comprehensive Plan levels of service and requires that the City identifies its deficiencies in the first five years and put funding towards correcting the deficiencies.

Mrs. Shelley stated one of the things she wanted to discuss was rewriting the LDC. She stated Ponce Inlet was rewriting their LDC and they had called for a moratorium that was approved unanimously by their City Commission. She stated if the board chose to do that it would have to be a date certain and could not be any longer than 12 months. Mrs. Shelley asked for volunteers for the subcommittee.

Mrs. Shelley, Ms. Gallentine, Mr. Neal, and Mr. McGhee volunteered to serve on the subcommittee.

There was additional discussion on whether or not the board wanted a subcommittee or to have the entire board meet.

Mr. Walton stated the decision did not have to be made tonight because the committee would not need to meet before the next meeting.

Ms. Lathan stated the Planning Board By-Laws required an affirmative vote of at least six members if the board sets up a special committee, so a formal motion would be needed to create the committee.

Mrs. Shelley recommended that the board make the decision at the October 23<sup>rd</sup> meeting because there were still a lot of questions not answered; she was now having second thoughts and it would allow staff to get more information for the board.

Mr. Hurt gave an update on the Affordable Housing Workshop he attended earlier today. He stated the discussion was to try to get some incentives for builders to go into the affordable housing sector with possibly some reduced fees or other combined efforts to entice them to go into affordable housing arena.

G. **Board Member Comments**

Ms. LeSage asked who Mr. Daun should contact in regard to his ADA questions.

Mr. Walton replied that Mr. Daun's questions were across the board and there may be several staff members he would need to speak with.

Mr. Crowe stated he and Mr. Daun had been conversing and he was trying to get him to clarify some of the things he wanted staff to assist him with.

Mrs. Shelley stated at the next meeting she would like the board to have thought about what LDC items they would like to see move forward. She stated she would personally like to see the Citizen Participation Plan move forward and also would like staff to provide some information on submerged land.

**Adjournment**

There being no further actions to come before the board, the meeting was adjourned at 8:46 pm.

  
\_\_\_\_\_  
EDITH SHELLEY  
Chair

ATTEST:

  
\_\_\_\_\_  
CATHY WASHINGTON  
Secretary