

MINUTES  
REGULAR MEETING – PLANNING BOARD

August 26, 2010

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Minutes for the Regular Planning Board for The City of Daytona Beach, Florida, held on Thursday, August 26, 2010, at 6:00 p.m., in the Commission Chambers, City Hall, 301 South Ridgewood Avenue, Daytona Beach, Florida.

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Board members Present were as follows:

John McGhee, II  
Jeff Hurt  
Tracey Remark  
Edith Shelley  
Bob Hoitsma  
Janet LeSage  
John McGuinness  
Larry Moore  
Kevin Fishback (6:09)  
Cathy Washington

Absent Members:

James Neal

Staff members present:

Richard Walton, Planning Director  
Dennis Mrozek, Planner  
Carrie Lathan, Assistant City Attorney  
Rose Askew, Planning Technician

1. **Call to Order**

Robert Hoitsma, 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 22, 2010

**Board Motion**

It was moved by Mrs. Shelley to approve the July 22, 2010 Planning Board Meeting Minutes. Seconded by Mr. Moore.

**Board Action**

The motion was approved 9-to-0.

4. **Land Development Code Text Amendment, Alcohol Beverage Service, DEV 2010-041**

An administrative request by the Development and Administrative Services Department, Redevelopment Division, to amend the Land Development Code (LDC), Article 12 (Redevelopment Areas and Districts), Section 4.1 (Alcoholic beverages), to remove the ability for establishments with 4-COP licenses to locate within 500 feet of each other in the RDD-1 and RDD-2 Districts. *(Continued from the May 27, 2010 Planning Board Meeting)*

**Staff Presentation**

Jason Jeffries, Project Manager stated this item came before the Board two months ago and was continued to allow the redevelopment boards the opportunity to discuss and make recommendations. He stated the Downtown/Balough Road Redevelopment Area Board met and is recommending some additional criteria for alcohol beverage service as it relates to the downtown area. He stated their recommendations expand the scope of the original notice so this item will have to be advertised again. He stated based on this, staff is requesting a 30 day continuance.

Ms. Washington stated she noticed the request specifically read "Beach Street retail." She asked if the amendment was only addressing alcohol beverage service in the Beach Street redevelopment area and if so, why?

Mr. Jeffries replied the amendment only addressed the RDD-1 and RDD-2 zoning districts in the Downtown area which are in the Downtown Redevelopment district. He stated this amendment request was a result of some ongoing issues on Beach Street that relate to nightclubs and bars. Mr. Jeffries stated the goal is to try to attract more residential uses in the area and right now it has more mixed uses, which is causing a conflict between the residents and bar owners. He stated over the past few months the Downtown Board has been working on some carefully crafted restrictions that will attract the types of bars and restaurants to the area that will lessen the conflict.

Mrs. Washington asked if he thought Midtown Redevelopment Area and Downtown Redevelopment Area had some of the same types of issues due to their proximity.

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Mrs. Shelley stated the Midtown Redevelopment Area Board has the opportunity to address these issues but they do not want to be as restrictive as the Downtown Area. She stated each redevelopment area is addressing the issue individually.

Mrs. Washington stated so this came from the Downtown Board.

Mr. Jeffries replied yes. He stated staff was working with FAMU's planning process to address these types of issues in the Midtown area.

**Board Motion**

It was moved by Mrs. Shelley to continue Land Development Code Text Amendment, Alcohol Beverage Service, DEV 2010-041 to the September 23, 2010 Planning Board Meeting. Seconded by Mr. Moore.

**Board Action**

The motion was approved 9-to-0.

5. **Rezoning - Residential Planned Unit Development, Seabreeze Marina (Overlook), DEV2009-122**

A request by Glenn P. Greiner, Zahn Engineering Inc., on behalf of Richard Zahn, Daytona Seabreeze, LLC, to rezone a 11.26 acre parcel of land located at 100 and 101 Seabreeze Boulevard from BR-1 (Business Retail) to RPUD (Residential Planned Unit Development); and to enter into an RPUD Agreement, establishing development standards for the RPUD. *(Continued from the July 22, 2010 Planning Board Meeting)*

Mrs. Remark stated before staff gives their presentation she had information she felt was germane as to whether the Board should consider this request tonight.

Carrie Lathan, Assistant City Attorney announced a Conflict of Interest form had been submitted for Mr. McGuinness.

Mrs. Washington stated the proper papers had been filed and he could participate in the discussion but he could not vote.

Mrs. Remark stated the applicant is requesting the Board approve this rezoning request tonight with the condition that they show proof of ownership. She stated she believes the documents presented to staff, that reflects they will be the owners, is incorrect based on an email she received on yesterday from Florida Department of Transportation (FDOT) on their surplus property procedures (Attachment) and confirmed by FDOT Senior Council, Tim Laubach and Project Director, Todd Moynihan. She stated the applicants intimated that they would be the owners because they were the requesters but according to the email she received that was not the case. She stated the email she received from FDOT states there were several layers the property had to go through before it could be declared surplus property. She stated one of the layers in the process requires FDOT to offer the local municipality the opportunity to purchase

the land once it has been declared surplus. If the local municipality does not want to purchase the property FDOT must then put the parcel up for public auction or a sealed bid process via the local newspaper. It is not until it gets to this stage that the applicant would be able to bid on the parcel and there is no guarantee that the applicant tonight would be the owner of the parcel. Mrs. Remark stated the timeframe for the complete process from beginning to end can take up to six months and both Mr. Laubach and Mr. Moynihan confirmed that the property has not even been deemed excess land and they do not believe this will happen in the timeframe the applicant has told staff and this Board. Mrs. Remark stated she was also told this was a very odd piece of property that will take some time to be evaluated. She stated both Mr. Laubach and Mr. Moynihan told her the Memorandum of Understanding was given to the applicant because he asked for it but it was basically meaningless. She stated they said all it means is they were having discussions with the applicant but there were no guarantees. She stated in addition the applicant is not the authorized agent for the project and therefore is not allowed to present this request. She stated based on this information she does not believe the Board can hear this request. She stated to Mr. Morris she knew he was representing the applicant but she wanted a legal opinion from staff first.

Mr. Morris replied he could request a continuance at any time. He stated they did not agree with Mrs. Remark's comments but this was not the place to argue that. He requested a 60 day continuance to allow them time to get the deed.

**Board Motion**

It was moved by Mr. Hurt to continue Rezoning - Residential Planned Unit Development, Seabreeze Marina (Overlook), DEV2009-122 to the October 21, 2010 Planning Board Meeting. Seconded by Mrs. Shelley.

**Board Action**

The motion was approved 9-to-0 with one abstention.

6. **Special Use Permit, R.J. Gainous Funeral Home, DEV2010-031**

A request by Stan Hoelle, Architect, on behalf of Alexander C. Wynn III, for approval of a Special Use Permit, to construct an addition to an existing funeral home located at 804 Dr. Mary McLeod Bethune Boulevard.

Mrs. Washington stated she had filed Form 8B Voting Conflict form. She stated she would participate in the discussion but would not vote.

**Staff Presentation**

Jason Jeffries, Project Manager stated the request was to construct an addition on to an existing funeral home located on Dr. Mary McLeod Bethune Boulevard. He stated the funeral home is located west of Bethune-Cookman University in the Midtown Redevelopment Area. He stated the parcel is zoned Business Automotive (BA) and the land use is Retail. He stated Midtown Redevelopment Area Board has reviewed the project and recommended approval unanimously. He stated there were still a few minor technical items that need to be resolved like combining the parcels. He stated staff was recommending approval.

Mrs. Shelley asked if the additional parking lot across the street would be resurfaced.

Mr. Jeffries replied yes that was part of the criteria for having offsite parking. He stated the architect would show renderings when he gives his presentation.

**Applicant Presentation**

Stan Hoelle, 4 Loft Springway, Ormond Beach, Florida stated the addition would add approximately 2,400 square feet to the building and would also address the parking issue. He stated the addition included a new chapel and handicap accessible bathrooms.

Mrs. Remark asked if they had discussed trying to incorporate on the side of the building the brick that was on the front. She stated she felt the way it currently is almost looks like two buildings.

Mr. Hoelle replied the existing funeral home only had brick on the front so they were trying to follow the same design with the addition. He stated the addition was fairly small and he felt making it brick on all four sides would be too dominating.

**Board Comments**

Mr. McGhee stated the Midtown Board was very pleased with the addition to the community.

Mr. McGuinness commended the applicant on the landscape plan especially in the area adjacent to the single-family home use. He stated he felt it really makes a difference when you see appropriate landscaping shielding the single-family homes from the commercial uses.

**Board Motion**

It was moved by Mrs. Remark to approve Special Use Permit, R.J. Gainous Funeral Home, DEV2010-031. Seconded by Mrs. Shelley.

**Board Action**

The motion was approved 9-to-0 with one abstention.

7. **Right-of-Way Vacations, Halifax Hospital Medical Center, DEV2010-040**

A request by Robert A. Merrell III, Cobb Cole on behalf of Halifax Hospital Medical Center to approve 2.15± acres of right-of-way street vacations for land located from Willis Avenue between Heineman Street and Lakeshore Drive, Jabaly Street between Willis Avenue and Dunn Avenue, Roth Avenue between Lee Street and Dunn Avenue, and Lee Street between Willis Avenue and Jabaly Street.

**Staff Presentation**

Dennis Mrozek, Planner gave a brief PowerPoint presentation. He restated the location of the property and showed a sketch and some photos of the property. He stated the property was approximately 2,300 linear feet (2.15± acres). He read the Land Development Code (LDC) criteria and stated the Utilities Department had reviewed the application and determined that the water and sewer lines located within the rights-of-way were not required for public use and therefore was not needed. Mr. Mrozek stated the City's Property and Evaluation Team (PERT) had reviewed the request and found no objections. He stated based on the LDC criteria, clearance from the City's Utilities Department staff, PERT clearance, Florida Power and Light (FPL), TECO Gas Company, Brighthouse Networks and AT&T, staff has determined that the property is not required for public use and the request is appropriate. He stated staff recommends approval of the vacation request.

Mrs. Remark asked if the map Mr. Mrozek showed include the little northeast corner.

Mr. Mrozek replied the area Mrs. Remark was referencing was included in the request.

**Applicant Presentation**

Robert Merrell, CobbCole, 150 Magnolia Avenue, Daytona Beach stated Halifax Hospital Medical Center purchased the property that previously had single-family homes on it. He stated the streets and all of the utilities on them served those homes and the hospital plans to develop a self-contained project that will not require the utilities.

**Board Motion**

It was moved by Mrs. Shelley to approve Right-of-Way Vacations, Halifax Hospital Medical Center, DEV2010-040. Seconded by Ms. Washington.

**Board Action**

The motion was approved 10-to-0.

8. **Rezoning – Hospital/Medical, Halifax Hospital Medical Center, DEV2010-039**

A request by Robert A. Merrell III, Cobb Cole, on behalf of Halifax Hospital Medical Center (HHMC), to rezoning a 10± acre parcel of land located between Dunn Avenue, Heineman Street, Willis Avenue, and Lakeshore Drive from R1a (Single Family) to HM (Hospital/Medical).

**Staff Presentation**

Dennis Mrozek, Planner gave a brief PowerPoint presentation. He stated the property was currently zoned R1a and the future land use is Hospital. He stated the proposed zoning will be Hospital which will match the properties to the south. He stated HHMC intends to utilize the property for hospital related uses including expansion of the existing campus. The City's Technical Review Team (TRT) has reviewed the request and found it to be in compliance with the City's Comprehensive Plan and Land Development Code. He stated staff recommends approval.

**Applicant Presentation**

Robert Merrell, CobbCole, 150 Magnolia Avenue, Daytona Beach stated a few months ago the Board approved a comprehensive plan amendment for this property. He stated this rezoning request will bring this in compliance with the amendment.

**Board Motion**

It was moved by Mrs. Shelley to approve Rezoning – Hospital/Medical, Halifax Hospital Medical Center, DEV2010-039. Seconded by Mr. McGhee.

**Board Action**

*The motion was approved 10-to-0.*

9. **Rezoning - Planned Commercial Development, Hyde Park, DEV2009-117**

A request by Paul Momberger, Zev Cohen and Associates, Inc., on behalf of Legacy Pointe Properties, LLC to rezone a 10.45 ± acre parcel of land located at 3042 West International Speedway Boulevard from County MPUDC (Mixed Use Planned Unit Development/Corridor Overlay) and MPUD (Mixed Use Planned Unit Development) to the City's zoning classification of PCD (Planned Commercial Development); and to enter into a PCD Agreement, establishing development standards for the PCD.

**Staff Presentation**

Dennis Mrozek, Planner gave a brief PowerPoint presentation. He stated the property is located on the north side of International Speedway Boulevard (ISB) approximately one quarter mile west of Tomoka Farms Road. He stated currently the property's future land use is Volusia County Mixed Use designation and the applicant is requesting to have the property annexed into the City with the County's land use. He stated the City's future land use for properties surrounding the applicant's property is Interchange Commercial, Conservation and Retail. Mr. Mrozek stated the current County zoning is MPUD and R7 and the City's zoning for properties surrounding the applicant's property is Agriculture and R1a. He stated the proposed zoning for the property is Planned Commercial Development (PCD). He stated currently the property is located in the County and will need to be annexed into the City before it can be rezoned. He stated the current structure on the property has been vacant for quite

some time and has become dilapidated and over grown. He stated the existing buildings will be demolished and the proposed development will be a 75,000 square foot/52 unit high end storage facility and the future development of an 8,500 square foot retail outparcel that is believed will be a Dollar General. Mr. Mrozek stated the out parcel was located closer to ISB, still outside of the 50 foot scenic setback. He stated because this is a PCD the applicant is allowed to request waivers from the LDC. He stated the only waiver the applicant has requested has to do with the minimum yard setbacks for scenic thoroughfares. He stated the LDC requires a 50 foot scenic setback and the applicant is encroaching into that setback with their ingress/egress area and a slight modification to the driveway isle. He stated they have included a cross access point for the property to the east. He stated the rezoning request will not be set for City Commission review until the property has been annexed into the City and currently staff is still collecting information on the annexation. He stated the County has reviewed the development plan for consistency with the County's Comprehensive Plan and a letter from the County was included in each Board member's packet. He stated the City's Technical Review Team (TRT) has reviewed the request and found it not to be in compliance with the City's Comprehensive Plan because it will retain the County's land use; however it is in compliance with the City's LDC. He stated staff recommends approval with the previously stated conditions.

Mr. Walton stated staff was requesting a condition that would not allow the rezoning request to move forward to the City Commission until the parcel was annexed into the City and also if it was more than 60 days, the request would not have to come back to the Board again.

#### **Applicant Presentation**

Glen, Storch, 420 South Nova Road, Daytona Beach stated in this situation they were doing their very best to solve problems. He stated the structure is extremely dilapidated and is not acceptable as the gateway from the community and into the City of Daytona. His client has purchased the property and is ready to start development immediately. He stated additionally his client is willing to annex the property into the City. Mr. Storch stated the property is an enclave and the County has been working closely with them to make sure the annexation takes place so they can begin construction on the \$8 million dollar project, which will create new jobs. He stated one of features that cannot be seen from the elevation is the extensive landscaping that fronts the building and one of the advantages to this is the project will be done as a gateway into the City. Mr. Storch stated they were trying to fast track the project as quickly as possible and the County has been very cooperative.

Mr. Moore stated he noticed there was a property owner's common area maintenance and asked if some of the storage areas would be for sale.

Mr. Storch replied all of the storage areas will be for sale. He stated that was one of the reasons why the values were so great and also for the tax benefits as well. He stated they are not storage units they are condominium storage areas people can buy to store things like antique automobiles. He stated this facility is like one done in North Carolina that is spectacular. Mr. Storch stated to answer Mr. Moore's question yes there are common areas because they are condominiums, but not to live in.

**Citizen Comments**

John Nicholson, 413 North Grandview Avenue, Daytona Beach spoke in opposition of the rezoning request. He stated he was concerned about the types of projects the City allowed to be built on arterial roads and he did not have a high opinion of Dollar General.

**Board Comments**

Mr. Hoitsma stated the one good thing that comes out of this is the outparcel project would have to come before the Board for approval.

Mr. Storch stated that was correct and the important thing was how the project would look when it was completed and not what type of project it was. He stated a Dollar General was only one of the options that could go there as a retail use but there were other options as well.

Mr. Moore stated how the completion schedule of five years after approval was determined. He stated that seemed like a very long time.

Mr. Walton replied that was the City's standard completion schedule but maybe the applicant would be willing to move the timeline up.

Mr. Hoitsma asked Mr. Storch if there was a reason why they chose five years.

Mr. Storch replied that was the typical timeline but they were anticipating starting immediately.

Jamie Rolewicz, 11106 Treynorth Drive, Cornelius, North Carolina stated they were anticipating starting the project soon after the approval and they would be comfortable with maybe a three year build time. He stated they were anticipating having all of the buildings demolished by the first of the year.

Mr. Hurt asked if the five year period always came up because it was in the LDC.

Mr. Walton replied it was in the development agreement.

Mr. Storch stated honestly the five year period has been the typical period in PUD agreements so they just left it in there.

Mr. Hoitsma stated that area started out as a motel many years ago and then was taken over by the American Motorcycle Institute. He stated since that time it has been on a slow down spiral. He stated he was very pleased to see many of the trees were not palm trees.

Mrs. Remark stated she felt anything would be an improvement over what was there currently. She stated she agreed with Mr. Nicholson that a different type of retail would better complement the site.

Mr. Storch stated probably the smartest thing to say would be retail but they were being forthcoming because they had been approached by Dollar General.

**Board Motion**

It was moved by Hurt to approve Rezoning - Planned Commercial Development, Hyde Park, DEV2009-117 subject to staff comments. Seconded by Ms. Washington.

**Board Action**

The motion was approved 10-to-0.

10. **Rezoning - Planned Commercial Development, Beach House At Milan, DEV2010-063**

A request by Paul Momberger, Zev Cohen & Associates, Inc., on behalf of The Milan Condominium Developers, LLC, to rezone a 4.36± acre parcel of land located at 1400 South Atlantic Avenue from T1 (Tourist) to PCD (Planned Commercial Development); and to enter into a PCD Agreement, establishing development standards for the PCD.

**Staff Presentation**

Dennis Mrozek, Planner gave a brief PowerPoint presentation. He stated the request was to rezone a 4.36± acre parcel from T1 (Tourist) to PCD (Planned Commercial Develop) to develop a 10 unit hotel and a 5,230 square foot restaurant. He stated the site was located directly on the Atlantic Ocean and fronts on South Atlantic Avenue. He stated the future land use is Tourist Accommodations and is located in Neighborhood C of the City's Comprehensive Plan. He stated the site is currently vacant with existing buildings on both sides. He stated the applicant is proposing to complete the project in two phases with the first phase being the 5,230 square foot restaurant and bar area, a 2,000 square foot pool deck area and a 10 unit hotel which would be located on the second floor of the restaurant/bar area. Mr. Mrozek stated the second phase of the proposed development is a hotel multi-family condominium accommodation of which the exact number has not been determined. He stated the applicant has stated it will be maxed out by whatever the comprehensive plan or floor area ration will allow, which is somewhere around 170. Mr. Mrozek gave a layout of the property and stated the applicant is requesting two LDC waivers. The first waiver the applicant is requesting is to use shell parking for 92 of their off-street parking spaces and the second waiver is a parking reduction of approximately 20 percent or 30 spaces. He stated the applicant feels they will not need those spaces because they will be able to park on beach. He stated the problem with the waiver is the City cannot regulate parking on the beach. Mr. Mrozek read the comprehensive plan criteria for Tourist Accommodations and stated because the applicant is rezoning the property to PCD the restaurant would be an allowable use. He stated Neighborhood Policy C from the Comprehensive Plan prohibits ocean properties to be rezoned for retail activities as the principal use. He stated after careful review, staff determined that the restaurant and the bar are acting as the principal use on the site and until Phase II of the project is complete, the development will not be in compliance with the Comprehensive Plan. He stated if the City Commission determines that the development is consistent with the Comprehensive Plan, staff recommends approval with the following conditions:

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- Prior to final site plan approval, the permit status list must be updated to show receipt of all required permits. Copies of all permits are to be attached to the list, and submitted to the City with the final plans.

Mr. Walton stated the applicant was also requesting that phase II be allowed to last for nine years which is a variation from the standard PD template.

Mrs. Remark asked if there were any discussions about what happens between sunset and 3:00 am when beach parking is not allowed.

Mr. Mrozek replied staff had not discussed that with the applicant but he had informed them that it could only be a temporary use and could not be used at night.

Mrs. Remark stated over the years she had reviewed a lot of PDs and she could not recall ever seeing a PD that just read Phase II with no indication of what Phase II would be.

Mr. Mrozek stated staff has requested architectural drawings to get some sort of idea of what to expect for Phase II but as of today the applicant has not provided anything.

Mrs. Remark asked if her understanding was correct that currently A1 is allowed on the east side of A1A as long as it is not the principal use but A2 & A3 short order and drive up restaurants are not allowed.

Mr. Mrozek replied he knew that A2 would be allowed across the street but he was not sure about the others.

Mr. Walton stated staff requested in the development agreement that a drive-in restaurant would be a prohibited use on the facility.

### **Applicant Presentation**

James Morris, 420 South Nova Road, Daytona Beach stated he was distributing a handout because he was going to go through an interpretation of the City's Comprehensive Plan. He stated he believed the first question the Board had to answer was whether or not they believed the proposed use was a retail use. He stated staff has rendered an opinion that is a retail use. He stated he had gone through the Comprehensive Plan, definitions in the LDC and legal points of view that apply to the question and determined that it is not a retail use. He stated the threshold point made by staff that the development could not be approved in Phase I because it is a retail use and is therefore prohibited based on Neighborhood Policy C (1). He stated however if it is not retail it is subject to being considered for rezoning. He went through the handout in detail skipping Phase II. He read the Comprehensive Plan and LDC criteria and stated based on this he does not agree with staff's determination. He stated Daytona Beach's ordinances require a site plan be submitted with a PCD request. Mr. Morris stated as far as the site plan requirement when submitting PCDs, he stated he has argued with staff for quite some time on changing that requirement because it is extremely expensive especially when developers don't know exactly what the project will be. He stated the City of Port Orange

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only requires a conceptual plan. He stated from an economic perspective, there is not a market presently for a large resort hotel so his client would spend thousands of dollars to comply with standards for a building they may never get to build. He stated all the owner was trying to do was simply find an interim use for the property during the current economic conditions. He showed a copy of the warranty deed that reflects Milan Condominium Developers, LLC as the true owners of the property and stated Mr. James Rudnik is a part of the property ownership group. He stated the parking waiver is necessary because of the existence of the 2,600 square foot pool deck. He stated the way Daytona Beach counts parking requirements is they count not only the restaurant service area but also the pool and pool deck. He stated if the pool were deleted from the request no waiver would be required. He stated the pool could be pulled out if the waiver is not approved but his client thought it added to the facility considering it was a beach use and sometimes people who buy condominiums don't go to the beach, they simply swim in the pool and then go back and sit in a chair on the pool deck. Mr. Morris stated they met with the neighbors and he felt they had tried to address their concerns. He stated they are using the shell parking because they believe it add to the atmosphere. He stated there were concerns from neighbors that it would be used for beach parking. He stated they are actually going to utilize an entry fee to the parking lot that would exceed the beach toll and patrons would receive a credit when they go dine at the restaurant. He stated when you look at the beachside there are so many things that have been cleared and not used and a lack of activity. He stated this is not the core area from the standpoint of a need for tourist accommodations which is closer to the Ocean Center; there an acknowledged deficiency there and he was requesting approval.

Mrs. Remark asked where the bandstand came from.

He stated the bandstand was added after the neighborhood meeting because people wanted identification of where the music would be.

Mr. Morris asked Mrs. Remark if she had any more questions for him.

Mrs. Remark replied yes but first she needed to know what the size of the bandstand was.

Paul Momberger, 240 South Palmetto Avenue, Daytona Beach stated he believed the dimensions were 10x15 but he could not say for sure. He stated this was just a graphic to show the location. He stated the tables and chairs that were part of the packet the Board received would be moved and the bandstand would be placed there.

Mrs. Remark asked who was Blake Thompson and what was involvement with the project.

Mr. Morris replied he was the agent for Mr. Rudnik but Mr. Rudnik was present if anyone had questions.

Mrs. Remark asked how Blake Thompson was represented at the resident meeting held at City Hall.

Mr. Morris replied he was present at the meeting.

Mrs. Remark asked if he is the agent for the applicant, what was Zev Cohen's role.

Mr. Morris replied they are the agent for the developer.

Mrs. Remark asked for clarification of the agent's role.

Mr. Morris stated a person can have any number of agents. The key item of being an agent is that an individual authorizes that person/company to act on their behalf on certain subject matter. He stated Blake Thompson is involved in the business activities of Mr. Rudnik but he is not a designer or engineer. He stated from the standpoint of processing an application and submitting the required documents, they appointed Zev Cohen to be their agent. He stated that was done with the consent of both Mr. Thompson and Mr. Rudnik.

Mrs. Remark stated as far as the Board is concerned, Mr. Thompson was not an agent but he was involved with the application process.

Mr. Morris stated he did not feel that was a fair statement because in terms of communication with the property owner and the development proposal Mr. Thompson was certainly involved but the execution of the design was being done by Zev Cohen because they had the expertise to do it.

Mr. Morris asked staff to explain retail versus restaurant.

Mr. Walton replied he would be happy to review the package Mr. Morris distributed tonight and if he wanted to continue the request for 30 days he could give him a response.

Mr. Morris stated he did not want a continuance.

### **Citizen Comments**

Randall Phillips, 1505 Crescent Ridge Road, Daytona Beach stated he was not speaking in favor or opposition of the request. He stated the site looked very bad and he would be glad to see something built there.

Amit Patel, 1503 South Atlantic Avenue, Daytona Beach spoke in favor of the request.

Fay Klouaris, 3405 John Anderson, Ormond Beach spoke in favor of the request.

Maria Costodovzo, 1320 Atlantic Avenue, Daytona Beach spoke in favor of the request.

Dan Harshaw, 510 Ponsenia Road, Daytona Beach spoke on behalf of Ocean Dunes Neighborhood Association. He spoke in opposition of the request.

Alan Gebhardt, 517 Old Trail Road, Daytona Beach spoke in opposition of the request.

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Karen Ricks, 419 Ocean Dunes Road, Daytona Beach spoke in opposition of the request.

Ruth Trager, 612 Bostwick Avenue, Daytona Beach spoke in opposition of the request.

Mary Anne Jackson-Trumbull, 925 North Grandview Avenue, Daytona Beach spoke in opposition of the request.

John Nicholson, 413 North Grandview Avenue spoke in opposition of the request.

Amanda Jones, 409 Old Trail Road spoke in opposition of the request. She stated she did not want to see something built like Caddy's.

Mr. Morris rebutted the comments of the citizens in opposition of the request.

Mrs. Remark asked Mr. Walton if Mr. Thompson made any representations about whom he was or what he was involved in.

Mr. Walton replied the first representations Mr. Thompson had with the City he was not involved in but they did come to TRT prior to their submittal and was told about staff's concerns about the project's consistency with the Comprehensive Plan. He stated he returned a phone call to someone representing himself as Mr. Thompson's partner. He stated the gentleman stated he was the manager of their facility in Pinellas County and that was the kind of facility they wanted to build here.

Mrs. Remark asked if the facility was Caddy's.

Mr. Walton replied he did not know. He stated at the neighborhood meeting Mr. Thompson did say he had a facility in Pinellas County that this project was similar too.

Mr. Morris stated the reference was to the Postcard Inn.

### **Board Comments**

Mr. McGhee asked staff for some clarification on retail versus tourist.

Mr. Walton stated he had not had a chance to review Mr. Morris's package before tonight but he would be happy to review it and give the Board an update at the next meeting. He stated in terms of the concern relative to the Comprehensive Plan, there were specific neighborhood policies put in that are additional requirements and need to be looked at when a piece of property is brought to staff. He stated the neighborhood policy in the staff report that was discussed tonight is dealing with all properties in this neighborhood on the east side of A1A being a motel or accommodations unit with ancillary facilities. He stated staff does not believe this facility is ancillary to accommodations facilities.

Mr. Morris stated this was a quasi judicial meeting and he wanted to ask Mr. Walton a question about his statement. He stated to Mr. Walton that he said the policy required hotels.

Mr. Walton replied motels.

Mr. Morris read the policy referenced in the staff report and stated the policy did not mandate hotel or motel.

Mr. Walton read Issue A under the same policy and stated he would argue that based on that language Mr. Morris's proposal was not consistent with the Comprehensive Plan.

Mr. Morris stated he was asking about Mr. Walton's statement that the policy mandates only hotel/motel use on oceanfront property. He asked if he misunderstood Mr. Walton's response to Mr. McGhee's request.

Mr. Walton stated he could read the policy to him again and restate staff's interpretation that based on that policy the request was not consistent with the City's Comprehensive Plan.

Mr. Morris stated the point he was trying to make was Mr. Walton answered Mr. McGhee's question with a statement to make him believe the policy mandated only hotel/motels when it really does not. He stated his interpretation was it prohibits one thing but does not mandate other outcomes.

Mrs. Remark stated that was not her understanding of what Mr. Walton said.

Mrs. LeSage stated she appreciated the fact that the City needed development on the ocean front and quality was also needed. She stated she felt this proposal was bad on so many levels. She stated the fact that on one level the hotel rooms opened up to a bar was not family oriented. She stated she did not know of any family that would come to this restaurant, use the pool, go to the beach during the day and then stay in a hotel where their room door opens up to a bar. She stated the Ocean Deck makes no bones about the fact that it is a beach nightclub that serves great food. She stated she feels this would be equivalent to that and she could not support this request.

Mr. Moore stated he agreed with Mrs. LeSage. He stated there was no question that the main use was a restaurant/bar and not a hotel. He stated everything in the proposal was geared toward the restaurant, bar and pool which is where the main revenue would be generated from. He stated there he did not feel this proposal was proper for that area of the City.

Mrs. Remark asked staff if this request would not have to meet the standards the Board just developed for live entertainment since this was a PCD.

Mr. Walton replied correct.

Mrs. Remark asked if they would have to meet the standards for food and beverage sales on the pool deck, having to close between the hours of 3:00 and 7:00 am, within 500 feet of a residential zoning.

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Mr. Walton replied not if it was not part of the development agreement.

Mrs. Remark asked if they would have to meet any of the temporary promotional activity criteria.

Mr. Walton replied he was not sure and would have to ask the City's zoning officer.

Mrs. Remark asked if they were allowed to have the ancillary bars on the pool deck.

Mr. Walton replied yes.

Mrs. Remark stated the hotel/condo use is just under 30 percent of the total usage area; 52 percent of the seats in the restaurant are bar seats that surround the three bars. She stated an A1 conventional restaurant allows no more than 15 percent of the seating be for the bar area, which is the easy way to make sure more food is sold than alcohol. Mrs. Remark stated she agreed with Mrs. LeSage that the request was disguised as a hotel with a restaurant and bar as an ancillary use when in actuality it was the restaurant and bar that was the primary use. She stated she would not support the request.

Mrs. Shelley stated she was in support of staff's interpretation of the Comprehensive Plan and anyone that compares the City's beachfront with Beirut has not seen Beirut. She stated she knows the City has issues with the present look of the beachfront but she was appalled with the exaggeration that was made and it diminishes the actual catastrophes that are actually happening in Beirut.

Mr. Hoitsma stated he was a little bothered by the ratio difference in the restaurant and hotel and he was also in support of staff's interpretation of the Comprehensive Plan.

**Board Motion**

It was moved by Mrs. Shelley to approve Rezoning - Planned Commercial Development, Beach House At Milan, DEV2010-063. Seconded by Mrs. Remark.

**Board Action**

The motion failed by roll-call-vote 9-to-, with the breakdown as follows:

John McGhee, II	No
Jeff Hurt	Yes
Tracey Remark	No
Edith Shelley	No
Bob Hoitsma	No
Janet LeSage	No
John McGuinness	No
Larry Moore	No
Kevin Fishback	No
Cathy Washington	No
James Neal	Absent

Mr. Walton stated the applicant will be required to appeal the denial for the request to move forward to the City Commission.

11. **Other Business**

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

Mrs. Shelley stated the Board met Tuesday, August 3<sup>rd</sup>. She stated the Board continued the Alcohol Beverage Service Text Amendment; update on the Redevelopment Plan; discussion on ISB Streetscape and also the Site Plan Approval LDC Amendment.

B. **Midtown Redevelopment Area Board Report**

Mr. McGhee stated the Board met on Tuesday, August 10<sup>th</sup>. He stated the Board had another presentation from FAMU on the Redevelopment Plan; concerns on street improvements on Magnolia Avenue; viewed new renditions on the Midtown sign at the corner of Orange Avenue and MLK; discussion on grant programs that do not require matching funds from the City. He asked for staff assistance.

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

Mrs. Remark stated the Board met on Wednesday, August 11<sup>th</sup>. She stated the Board heard reports from the Police Department and Code Enforcement; discussion on Site Plan Approval LDC Text Amendment; update on E-zone Master Plan and economic incentive programs. She stated they also had discussion on non-matching grants. She stated the Board reviewed an addendum for Tailgaters Restaurant on east ISB.

D. **Public Comments**

Patricia Heard, 822 Vernon Street, Daytona Beach stated she had attended meetings in the past but she really enjoyed the meeting tonight. She stated she feels it is good to come out and listen to other boards because you learn a lot. She stated she was a member of the Midtown Board and would definitely take some of the information she received tonight back to the Board.

E. **Staff Comments**

Mr. Walton gave an update on the LDC Re-write process. He stated staff should receive a draft of Module I before the September meeting and he would try to get copies to the Board. He stated Module I only deals with procedures. He stated one other thing he wanted to discuss was policy requirements for documents in the Board's packet. He stated staff was trying to minimize the amount of paper in the packet so the Board was not overloaded.

Mr. Hurt stated he agreed because he did not think they needed to get the truss, irrigation, and plumbing plans. He stated what they did like was the landscape, site and elevation plans. He stated the copies in the packets the Board received for this meeting were supplied by the applicant but in the future staff would like to standardize the packet with less paper.

Mr. Hoitsma stated he felt that was a good decision.

F. **Board Member Comments**

Mrs. LeSage stated it has been a pleasure to drive down ISB since the Midtown Landscape project was completed. She stated she felt it really looked nice and was worth the traffic congestion for a few months. She stated the landscaping for the Performing Arts Center is beautiful.

Mr. Hoitsma stated his daughter made a comment that she was impressed with the improvement on ISB.

Mrs. LeSage stated she believed what makes it look so good is the scale.

Mrs. Remark stated the Hope VI Project started the trend.

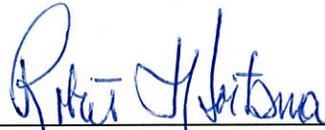
Mr. Moore thanked Mrs. Remark for her research on submerged land because it was really helpful.

Mr. Fishback stated PBs needed to be addresses with the LDC Re-write. He stated he felt it was getting ridiculous. He congratulated Mrs. Shelley for moving forward to the General Election.

Mr. McGhee encouraged everyone to participate in the American Music Festival activities.

**Adjournment**

There being no further actions to come before the board, the meeting was adjourned at 8:50 pm.



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ROBERT HOITSMA  
Chair

ATTEST:



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CATHY WASHINGTON  
Secretary