

MINUTES

REGULAR MEETING – PLANNING BOARD

October 28, 2010

Minutes for the Regular Planning Board for The City of Daytona Beach, Florida, held on Thursday, October 28, 2010, at 6:00 p.m., in the Commission Chambers, City Hall, 301 South Ridgewood Avenue, Daytona Beach, Florida.

Board members Present were as follows:

John McGhee, II
Jeff Hurt
Tracey Remark
Edith Shelley
Janet LeSage
John McGuinness
Larry Moore (6:08 PM)
James Neal
Kevin Fishback
Cathy Washington

Absent Members:

Bob Hoitsma

Staff members present:

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

1. **Call to Order**

Edith Shelley, Vice-Chair called the meeting to order at 6:03 pm.

2. **Roll Call**

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

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3. **Approval of the Minutes:** September 23, 2010

Board Motion

It was moved by Mr. Hurt to approve the September 23, 2010 Planning Board Meeting Minutes. Seconded by Mr. Fishback.

Board Action

The motion was approved 9-to-0.

Mrs. Shelley informed the audience that the proposed marina had been removed from the Overlook Rezoning request (Item No. 6) and would not be reviewed tonight.

4. **Land Development Code Text Amendment, Site Plan Approval, DEV 2010-053**

A request by The City of Daytona Beach's Development and Administrative Services Department, Planning Division, to amend the Land Development Code (LDC), Article 3 (Decision-Making Bodies and Procedures), Section 5 (Redevelopment Area Boards); Article 4 (Land Development Orders and Procedures), Section 7 (Conditional Use) and Section 8 (Site Plan); Article 5 (Subdivisions and Site Plans), Section 4 (Site Plans); Article 18 (Appearance Standards), Section 5 (Redevelopment Areas); and Article 20 (Fees), Section 2 (Fee Schedule) to revise review responsibilities in the site plan review process and provide for an appeal process and fees. *(Continued from the September 23, 2010 Planning Board Meeting)*

Staff Presentation

Dennis Mrozek, Planner gave a brief PowerPoint presentation that included the request as stated above, current Land Development Code (LDC) requirements and proposed changes as follows:

- Clarify and reaffirm that all new building construction and building additions be reviewed and approved by the redevelopment board for that area.
- Require all exterior rehabilitation or changes exceeding the assessed value of a building require redevelopment board approval.
- Provide for applicant appeals of redevelopment board action to City Commission.
- Provide for fees for the appeal process

Mr. Mrozek gave a brief summary of the redevelopment boards' recommendations as follows:

- Downtown/Balough Road Board recommended approval (7-0).
- Main Street/South Atlantic Board recommended approval (9-0).
- Midtown Board recommended denial (0-7).

He stated the request was tentatively scheduled for December 1st City Commission Meeting (1st Reading) and December 15th (2nd Reading/PH). He stated staff recommends approval.

Citizen Comments

Hemis Ivey, 732 Orange Avenue, Daytona Beach stated he was speaking on behalf of the Midtown Redevelopment Area Board. He spoke in opposition of the request and asked that the Midtown area be excluded from the amendment if the Board approved it.

There was discussion between Mr. Ivey and Mrs. Remark on why the Midtown Board wanted to exclude the Midtown area from the amendment. Mr. Ivey specifically mentioned the study of the Midtown Area that is being conducted by FAMU and is scheduled for completion in six months.

John Nicholson, 413 North Grandview Avenue, Daytona Beach spoke on the parts of the amendment he was in favor of and against.

Robert Merrell, 150 Magnolia Avenue, Daytona Beach spoke in reference to Mr. Ivey's request for the Midtown Redevelopment Area to be excluded from the amendment and gave his understanding of the amendment request.

Board Comments

There was discussion among the Board and staff on the intent of the amendment, Midtown Redevelopment Area Board's request to be excluded from the amendment and the differences in LDC requirements for redevelopment areas.

The question was asked if areas in the City could be excluded from the LDC.

Mrs. Lathan replied yes it could be done; the language would have to be drafted appropriately.

As part of the discussion, Board members made the following recommendations for the amendment request:

- Add fees to cover City cost.
- Exclude Midtown Area from the amendment request.
- Approve the request, excluding Midtown Redevelopment Area and bring it back in six months for re-review.

Board Motion

It was moved by Mr. Hurt, seconded by Mr. McGhee, to approve Land Development Code Text Amendment, Site Plan Approval, DEV2010-053, excluding the Midtown Redevelopment Area.

Board Action

The motion was approved 9-to-0.

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Mr. Merrell asked for clarification on the Board's motion because he has a process on behalf of Bethune-Cookman University that he will be bringing forward and if he has problems he wants an appeal process in place for him to utilize. He asked for the rationale behind allowing the Midtown Area to be excluded from the amendment.

Mrs. Shelley stated the only rationale was that the Midtown Redevelopment Area Board was strongly opposed to the request. She stated she did not think the Board had a problem with the appeal process but it was up to the Commission to make the final determination.

Mrs. Remark asked if there needed to be a separate motion on changing the word "rendered" in the language.

Mrs. Shelley replied yes because Mr. Hurt did not include that as part of his motion.

Board Motion

It was moved by Mrs. Remark, seconded by Mr. Hurt, to change the language in Article 3, Section 5.4 (b); second sentence from "*the decision is rendered*" to "*of the Board's decision.*"

Board Action

The motion was approved 9-to-0.

5. Land Development Code Text Amendment, Sign Code (EMC), DEV2010-066

An administrative request by the Development and Administrative Services Department, Planning Division, to amend the Land Development Code (LDC), Article 2 (Definitions), Section 3 (Use Designations), adding a definition for Place of Assembly; Article 18 (Appearance Standards), Section 6.6 (Prohibited signs) to provide for electronic message center signs, inserting a new Section 6.20 (Electronic message center signs) to define and provide for electronic message center signs, regulations and penalties; and Article 20 (Fees), Section 2 (Fee Schedule), adding fees for electronic message center signs. *(Continued from the September 23, 2010 Planning Board Meeting)*

Staff Presentation

Dennis Mrozek, Planner gave a brief PowerPoint presentation that included the request as stated above, current Land Development Code (LDC) requirements and history behind the request as follows:

- March 30, 2010, City Commission denied an ordinance outright prohibiting EMC's throughout the City and requested staff review and update the existing sign code by considering EMC's.
- July 21, 2010 staff presented as a discussion item to the City Commission a draft LDC text amendment regulating EMC's. It was the consensus among City Commission to move the amendment forward with the following modifications.
 - Include provision for EMC display area screen quality.
 - Provide for enforcement and penalties for violators.

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Mr. Mrozek stated the draft ordinance presented tonight reflects the draft presented to the City Commission with staff changes in strikethrough and underline format. He stated the amendment request is tentatively scheduled for the December 1st City Commission Meeting (1st Reading/PH) and December 15th City Commission Meeting (2nd Reading/PH). He stated staff recommends approval.

Citizen Comments

Mrs. Shelley stated to Mr. Merrell that she was deleting him as the speaker on behalf of the Daytona Beach Chamber because Jim Cameron was present and had submitted a form to speak. She stated Mr. Merrell had been allotted additional time because he was speaking on behalf of several clients. She stated he would have three minutes per client and needed to make sure he stayed within timeframe allotted.

Rob Merrell, 150 Magnolia Avenue, Daytona Beach spoke on behalf of Halifax Hospital Medical Center, Bethune-Cookman University and Daytona Beach Kennel Club. He thanked staff for the support he and his clients had received in support of the ordinance. He stated his clients and the Chamber believed the ordinance was very conservative when compared to others and they were in support of it. He distributed photographs of different types of EMC signs and briefly spoke on each type of sign.

Susan Ward, 531 Aeolian Drive, New Smyrna Beach, Florida spoke in support of the request.

Daniel Francotti, President, Daytona Beach Kennel Club, 960 South Williamson Boulevard, Daytona Beach, Florida spoke in support of the request.

Cecil Ward, 5472 Ward Lake Drive, Port Orange, Florida spoke in support of the request.

Jim Cameron, Senior Vice President, Government Relations, Daytona Beach Chamber, 126 South Orange Avenue, Daytona Beach, Florida spoke in support of the request. He stated over the past few months, he, Mr. Merrell and several others met with Commissioner Pam Woods on the draft ordinance and although she was tough, she was fair. He commended Commissioner Woods' approach to handling the draft ordinance with the following requested changes:

- Smaller acreage requirements for sports facilities.
- Allowing animation.
- Overall square footage and height limit of signs.

Mr. Cameron stated what the Chamber did not want to see was Las Vegas style gaudy signs.

Mike Kempany, 14819 County Road 565A, Groveland, Florida spoke in support of the request. He showed a brief PowerPoint presentation that gave a comparison and contrast of pole signs, changeable copy boards to EMC signs.

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John Nicholson, 413 North Grandview Avenue, Daytona Beach, Florida spoke in support of parts of the request. He was not in favor of the eight foot height limit and the 10 second sign change requirement. He requested a time be changed from 10 seconds to 15-20 seconds. He asked the Board to define "major road ways." Does not want the County to have the ability to put EMC signs wherever they want. He stated he felt the 1,000 seat criteria opened up to a lot more venues and would cause problems. Mr. Nicholson stated he thought the purpose was to allow EMC signs for public purposes and asked the Board to define "public purposes."

Board Comments

Mr. Hurt asked why the criterion was changed from 35 contiguous acres to 50.

Mr. Walton replied it was Mr. Merrell that suggested the change because he did not think having different acreage requirements made sense since the properties they were discussing were Halifax Hospital, Daytona Live and Daytona International Speedway. He stated staff agreed and changed the criterion to 50 contiguous acres. He stated the purpose of the ordinance was to establish some standards, allow a few signs to see how the community felt about them. He stated the intent was to be as conservative as possible.

Mr. Merrell requested to amend the posed criteria from requiring 50 contiguous acres to 35 contiguous acres, which would allow the Daytona Beach Kennel Club to become eligible to receive an EMC sign.

Mr. Moore stated he agreed with Mr. Nicholson's comments regarding the 10 second sign change criterion being too frequent and sign height. He stated he understood why the City and County were excluded from almost all of the criterion but he felt there should be some standards that everyone should have to adhere to.

Mrs. Remark stated she has a lot of problems with the amendment, it was nonconforming, the Legal Department misinterpreted the intent of the language in the LDC and she would not support the request. She submitted for the record her written comments and recommendations on the proposed amendment.

Mrs. Washington out at 7:17 PM.

There was a lengthy discussion between Board members, staff and Mr. Merrell surrounding what types of businesses should be allowed to have EMC signs and the current and proposed LDC criterion for EMCs.

Board Motion

It was moved by Mrs. Remark, seconded by Mr. Moore to approve Land Development Code Text Amendment, Sign Code (EMC), DEV2010-066, with the following changes.

1. Section 3.1 Places of Assembly

- After the word designed, add the language “specifically and primarily.”
Remove the words “speeches and ceremonies.”

2. Section 6.20

- (b)(1) After the word total, add the language “permanent or fixed” and change the word “interior” to “indoor.”
- (b)(6) Change the word, “uses” to “property.”
- (c) Change the word “specifically” to “currently.”
- (c)(2) At the end of the sentence, add the language “and located at least 500 feet apart within the same development.”
- (c)(9) Change the language “ten seconds” to “one minute.”
- (c)(13) At the end of the sentence, add the language, “and repaired within two weeks.”
- (c)(14) After the word “to”, add the language, “or used to change or expand.”
- (c)(15) Delete the language, “The city commission may approve a government sign that deviates from the standards in this section upon finding that the deviation promotes the public health, safety and welfare.”
- Add (c)(16) to read, “The background of the EMC screen shall be limited to one single solid color.”
- (d)(1-3) Delete the language, “within any continuous twelve month period.”

Board Action

The motion failed 5-to-4 by roll-call-vote, with the breakdown as follows:

Remark	No
Hurt	No
LeSage	Yes
McGhee	No
Moore	Yes
Neal	Yes
Fishback	No
Shelley	Yes
McGuinness	Yes
Washington	Not present
Hoitsma	Excused

Break at 8:45 PM.

Mrs. Lesage out at 8:45 PM.

Reconvene at 8:55 PM.

6. **Rezoning - Residential Planned Unit Development, Seabreeze Overlook, DEV2009-122**

A request by Glenn P. Greiner, Zahn Engineering Inc., on behalf of Richard Zahn, Daytona Seabreeze, LLC, to rezone a 3.22± acre parcel of land located at 100 and 101 Seabreeze Boulevard from BR-1 (Business Retail) to RPUD (Residential Planned Unit Development) to allow additional development and redevelopment of the property; and to enter into an RPUD Agreement, establishing development standards for the RPUD. *(Continued from the August 26, 2010 Planning Board Meeting)*

Mr. McGuinness announced that since the marina had been removed from the project, he no longer had a conflict of interest and would now vote on the request.

Staff Presentation

Dennis Mrozek, Planner gave a brief PowerPoint presentation that included the applicant's request as stated above, Land Development Code (LDC) waivers requested and public benefits.

Applicant Presentation

Jim Morris, 4020 South Nova Road, Daytona Beach, representative for the applicant, gave a brief history of the request, and a detailed explanation for the requested LDC waivers. He also noted that improvements were limited by the existing site conditions. He offered the following as public benefits to offset the requested LDC waivers requested:

- Install screening wall at ground level to buffer the view of the property.
- Modifications to landscaping that consist of replacing Sable Palms with Queen Palms or other more tropical trees and providing additional landscaping along the screening wall.
- Install screening on roof of dry cleaners to hide HVAC and other equipment.

Citizen Comments

John Nicholson, 413 North Grandview Avenue, Daytona Beach spoke in favor of the request and asked the Board to request significant public benefits for the City and to recommend the applicant improve the riverfront portion of the property.

Board Comments

There was extensive discussion between Board members and Mr. Morris regarding the requested LDC waivers, public benefits offered and the nonconforming nature of the building. As a public benefit to the City, Mr. Morris offered a \$5,000 donation for Riverfront Park improvements.

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Board Motion

It was moved by Mr. Hurt and seconded by Mr. Neal, to approve Rezoning - Residential Planned Unit Development, Seabreeze Overlook, DEV2009-122, subject to staff comments, applicant's proposed improvements, and the applicant's donation of \$5,000 to the City for improvements to Riverfront Park.

Board Action

The motion was approved 6-to-2.

7. Other Business

A. Downtown/Ballogh Road Redevelopment Area Board Report

Mrs. Shelley stated the Board met on Tuesday, October 5th and heard reports from the Police Department and Code Enforcement. She stated they had discussion on a Retail Market Study, Downtown Streetscapes, Redevelopment Plan Update and Redevelopment Project update.

B. Midtown Redevelopment Area Board Report

Mr. McGhee stated the Board met on Tuesday, October 12th at 6:00 PM and heard reports from the Police Department and Code Enforcement and a presentation by Florida A & M on the Midtown Redevelopment Master Plan. He stated the Board voted unanimously against the proposed LDC Text Amendment for Site Plan Review Process.

C. Main Street/South Atlantic Redevelopment Area Board Report

Mrs. Remark stated the Board met on Wednesday, October 13th at 6:30 PM and heard reports from the Police Department and Code Enforcement. She stated the Board had one action item on the New Years Eve festivities on Main Street. She stated in the past the Board has always voted to recommend the CRA donate \$7,000 to help with marketing the event. She stated the remainder of the meeting the Board heard updates on the E-Zone Master Plan, the Main Street side of the ISB Streetscape project, and Appearance Standards.

D. Public Comments

No public comments.

E. Staff Comments

Mr. Walton reminded the Board subcommittee members about the November 22nd meeting with Clarion Associates to give comments and recommendations on Module I and the public forum being held on November 23rd in the City Commission Chambers. He reminded Board members' whose terms would expire on December 31st to get their application in to the City Clerk's office. The members whose seats are expiring are Mrs. Shelley, Mr. Fishback and Mr. Hoitsma.

Mr. Walton stated a copy of the 2011 Planning Board Meeting dates were included with each Board member's packet.

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Mrs. Remark asked if the Board wanted to consider changing the May 26, 2011, meeting date because it was the Thursday right before the Memorial Day Weekend and sometimes people go out of town.

Mrs. Shelley replied they usually do not change that date and for consistency purposes she would recommend leaving the dates as is.

It was the consensus of the Board not to change the May 26th meeting date.

Board Motion

It was moved by Mrs. Remark to approve the 2011 Planning Board Meeting Schedule as presented. Seconded by Mr. McGuinness.

Board Action

The motion was approved 8-to-0.

Mrs. Shelley stated for the record, the November and December meetings were scheduled for the third Thursday of the month.

F. Board Member Comments

Mr. McGuinness informed the Board he received a call today from Chris Daun informing him that a petition had been submitted to staff for a Neighborhood Preservation and Enhancement Plan for the Uptown neighborhood.

Mrs. Shelley stated she had the statutes and they reflect a neighborhood could submit a request to create a district in their area by notifying the local government planning agency and requesting to be placed on their agenda. She stated Mr. Daun has submitted a petition requesting to have a discussion item placed on the Board's November meeting.

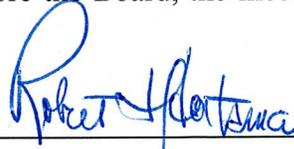
Mr. Walton stated staff received the request earlier today and had not reviewed the petition thoroughly. He stated once staff has had the opportunity to thoroughly review the request and make a determination on completeness it will be placed on the agenda.

Mrs. Remark spoke briefly about a trip she recently took to Blue Ridge, Georgia and how they take great pride in a bank that once was a coffee shop. She stated it looks authentic and is pedestrian friendly. She stated they were in the process of trying to bring redevelopment to Blue Ridge and they had an artist rendering that looked just like everything that was being proposed for Beach Street and Midtown.

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Adjournment

There being no further actions to come before the Board, the meeting was adjourned at 9:49 PM.



ROBERT HOITSMA
Chair

ATTEST:



CATHY WASHINGTON
Secretary