

MINUTES  
REGULAR MEETING – PLANNING BOARD

January 27, 2011

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Minutes for the Regular Planning Board for The City of Daytona Beach, Florida, held on Thursday, January 27, 2011, 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:

Jeff Hurt  
Tracey Remark  
Bob Hoitsma  
Janet LeSage  
John McGuinness  
Larry Moore  
James Neal  
Kevin Fishback  
Cathy Washington

Absent Members:

John McGhee, II

Staff members present:

Richard Walton, Planning Director  
Dennis Mrozek, Senior Planner  
Carrie Lathan, Assistant City Attorney  
Rose Williams, 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:** November 18, 2010 and December 16, 2010

**Board Motion**

It was moved by Mrs. Remark to approve the November 18, 2010 Planning Board Meeting Minutes. Seconded by Mr. Hurt.

**Board Action**

The motion was approved 9-to-0.

**Board Motion**

It was moved by Mr. Hurt to approve the December 16, 2010 Planning Board Meeting Minutes. Seconded by Mrs. Remark.

**Board Action**

The motion was approved 9-to-0.

Mr. Hoitsma stated last month the Board was supposed to elect the 2011 chair, vice-chair and secretary, but it was postponed until tonight because so many members were out. He asked Board members if they wanted to elect officers now or at the end of the meeting. He stated if they elect officers at the beginning, the new officers could preside over the meeting tonight.

It was the consensus of the Board to elect officers at the end of the agenda.

4. **Gateway Daytona, Planned Commercial Development – Amendment, DEV2010-052**

A request by Robert A. Merrell, III, Esq., Cobb Cole, on behalf of Kash Patel, Blue Water VI, LLC, to approve the second amendment to an approved Planned Commercial Development (PCD) for 5.43± acres of land including 150 and 160 South Halifax Avenue and lands located north and south of Hewen Place, to allow for construction of Phase I “stand alone” marina and amended permitting, construction and completion of the project contained in the recorded PCD Development Agreement.

**Staff Presentation**

Dennis Mrozek, Senior Planner gave a PowerPoint presentation that included the request as stated above and the current Land Development Code (LDC) requirements. He stated the site was located north of International Speedway Boulevard, and east, between Halifax River and Halifax Avenue. The current zoning on the property is PCD and the Future Land Use (FLU) is Commercial. Mr. Mrozek stated a copy of the original PCD that was approved in November 2007 was included in each Board members packet in a strikethrough and underline format that reflects the proposed changes. He stated the uses included with the original approved PCD were hotel, condominium, marina, retail, and parking garages associated with the project and the applicant was proposing to amend the PD agreement with the following modifications:

- *Phasing Plan* – The original PCD agreement reflected the project be completed in one phase with the option for an amendment to allow phasing. He stated the applicant is now proposing to amend the approved agreement to allow the project to be built in two phases. Phase I consist of construction of the 169-slip “stand alone” marina and Phase II includes all construction associated with the originally approved PD agreement, including: hotel, condominium, townhomes, restaurant, parking garages, and retail uses. He stated a phasing plan was included as Attachment B in each Board member’s packet.
- *Off-site Improvements* - For required streetscape improvements along Halifax Avenue, the applicant is proposing to have those completed as part of the Phase II construction. For ISB streetscape improvements that are required, as part of Phase I, the Redevelopment Division has planned ISB Corridor improvements, which include streetscaping, landscaping and hardscaping along ISB. The applicant also had requirements for improvements to ISB as part of their plan. They are proposing to bond the amount of money that is required to complete the improvements and have the City use those funds as part their ISB Corridor improvements. Mr. Mrozek stated the estimated cost of the improvements is \$36,000. The LDC has a requirement for landscape bonding to be 125 percent of the proposed improvements, which would bring the total to approximately \$46,000. He stated the agreement included in each Board member’s packet has the bonding amount at \$35,000 but the applicant has agreed to increase the bond to the 125 percent amount.
- *Developer Contributions* – Mr. Mrozek stated this was also required in the original PCD agreement. He stated the applicant is required to make monetary contributions to the Midtown Redevelopment Area and the schedule for disbursement of these funds is provided for in the currently approved PD agreement. He stated the applicant has proposed modifications to the disbursement schedule. Mr. Mrozek stated according to the original agreement within 30 days of receipt of building permit for the marina and/or hotel, the developer was required to contribute \$250,000; within 30 days of the issuance of the Certificate of Occupancy for the marina and/or hotel the remaining \$250,000 was required, for a total contribution of \$500,000. The applicant is proposing to modify the agreement as follows: within 30 days of receipt of the building permit for Phase I or the “stand alone” marina, \$25,000 will be paid; within 30 days of the issuance of the Certificate of Occupancy for Phase I an additional \$25,000 will be paid; within 30 days of receipt of building permit for Phase II \$225,000 will be paid and within 30 days of the issuance of the Certificate of Occupancy for Phase II, the final \$225,000 will be paid, totaling the original \$500,000 contribution.

- Completion Schedule – Mr. Mrozek stated the original PCD agreement was dated November 2007. In February 2009, the first amendment to the agreement was approved extending the expiration date approximately 18 months and in December 2009, Senate Bill 360 extended the expiration dates as follows: Section V: Vesting of Marina Slips and Section XVI: Application for construction permits for entire project or Phase I from November 2, 2010 to November 2, 2012 and Section XVI: Application for Construction Permits for Subsequent Phases from November 2, 2011 to November 2, 2013. The applicant is now requesting an extension of the expiration dates for Section XVI: Construction of Phase I, from May 2, 2014 to May 2, 2016 and for Section XVI: Construction of any other phase, from May 2, 2015 to May 2, 2017.

Mr. Mrozek stated the Main Street/South Atlantic Redevelopment Area Board approved the request 9-to-0 with the condition that additional landscaping be placed up front along the parking area and along ISB. He stated the applicant has revised the plan to address the Board's request. He reminded the Board that with the ISB Corridor improvements there would be additional landscaping along the front of ISB. He stated the item is tentatively scheduled for the March 2, 2011 City Commission Meeting on first reading and second reading on March 16, 2011. He reminded Board members that an affirmative vote of six was required to recommend approval to the City Commission.

Mrs. Remark asked if the language on page 10 of the revised development agreement, under the completion schedule, could be cleared up to make sense with the actual completion schedule.

Mr. Mrozek replied when the revised agreement was originally presented to staff, the applicant was trying to demonstrate, using strikethrough and underline, part of what was the first amendment that granted the 18 month extensions. He stated what they failed to do was change the language to reflect that they were actually referencing the most current agreement and not the original agreement. He stated the language would definitely be cleared up and staff would also include a schedule that is very similar to the one in the staff report.

Mr. McGuinness stated the preconstruction inspection of the Halifax Villas was to be completed prior to the beginning of any portion of the development and now it is being performed before Phase II of the development. He stated he assumed it was to protect the structural integrity of the neighbors' properties and their seawall and he noticed in the minutes of the Main Street/South Atlantic Redevelopment Area Board Meeting that there would be pile driving for the instillation of the pier. He asked why the structural survey was not being done prior to the beginning of Phase I.

Mr. Mrozek replied when TRT originally reviewed the request they were looking at the big hotel going in and the impact it would have using the big equipment and the effect it would have on the surrounding properties. He stated they failed to take into account any affect construction of the marina would have. Mr. Mrozek stated maybe he could have the applicant address that concern in the form of a modification to the development agreement.

Mr. Hoitsma stated he noticed on the money that had to be paid, the last one read it had to be paid within 30 days of the issuance of the Certificate of Occupancy (CO). He asked what action the City could take if the applicant did not comply with that stipulation.

Mr. Walton replied it would be very difficult to enforce and he was not sure what the process would be and that would not be the language staff would propose.

Mr. Hoitsma asked what language would be proposed by staff.

Mr. Mrozek replied a more appropriate language would be "prior to issuance of the CO."

Mr. Moore asked what amount the applicant be required to pay under the City's new boat-slip ordinance guidelines.

Mr. Walton replied the fees for the public benefit for boat-slips as spelled out by the ordinance is determined by the City Commission. He stated if they build the project as is, they are vested but once they amend it, they are subject to all of the City's codes and the City Commission would have to make that decision.

### **Applicant Presentation**

Robert Merrell, Cobb Cole, 150 Magnolia Avenue, Daytona Beach stated they were not changing anything pertaining to the project. He stated there were some changes to the agreement as a result of the applicant deciding to do the "stand alone" marina as a separate phase but that was contemplated in the original approval. He stated the marina is the exact marina that was approved by the Planning Board and City Commission back in 2007. Mr. Merrell stated originally they planned on completing the project in one phase but soon after the project was approved the economy changed, thankfully one of the partners in the Bluewater Project is in a business that is doing very well and is comfortable with moving forward with the marina component of the project. He stated the changes in the PCD agreement are technical items that had to be changed in order for the project to work in two phases and the preconstruction inspection provision was put in as a result of meetings with next door neighbors concerns about the type of construction and ground moving that would be done to construct a 20+ story building. He stated he did not remember having any discussion about the marina having any affect on that but he spoke with their marina consultant earlier and was told the marina was an entirely floating dock so any piling that would be placed in the ground would be placed horizontally to keep the boats from floating away. He stated Matt could address that question if it was the Board's desire.

Mr. McGuinness stated so you are saying there is not any anticipated construction activity that would cause any damage to the seawall or the structure.

Mr. Merrell replied no, the only construction activity on the land that would take place is the small structure that would complement the marina. He stated everything else is floating. He stated to Mr. Hoitsma in reference to your question, they changed the timing of when the money would be paid, but the language was exactly the same and if an adjustment is needed so it does not result in someone being in a building before the money is paid, he thinks his client would be fine with that.

**Citizen Comments**

John Nicholson, 413 North Grandview Avenue, Daytona Beach spoke in opposition of the request. He stated five or six times agreements had been made that were supposed to be short term and turned out to be long-term. He spoke in reference to the change in distribution of funds to the City and concerns about a “stand-alone” marina. He asked the Board to get clarification on how long the property would sit vacant with only a marina on it.

Mr. Merrell stated the extensions that resulted in the timeframes for construction of both phases are not changing. He stated as a result of the legislative actions that occurred last year, everyone received the extension. He stated the build-out date was outside the statutory window so they changed the dates to correspond proportionately with the start date and the deferral of the payments resulted from taking a proportional relationship of the value of the marina versus value of the entire project and that proportion resulted in the difference of the deferral of the payments.

**Board Comments**

Mr. Moore stated so you are saying 10 percent is the marina and 90 percent is the remainder of the project.

Mr. Merrell replied actually it is an over statement. He stated the cost and value of the marina will be less than 10 percent of the entire project so they rounded it off to 10 percent. He stated they discussed it with both the Mayor and City Commissioners that were involved with the project in 2006 and they were very happy and satisfied with it.

Mr. Hoitsma asked if the same thing would apply to the end of the first phase.

Mr. Merrell replied yes, they would do it that way across the board.

Mr. Hurt applauded the applicant for moving forward. He stated the City has so many projects that have been approved that are just sitting waiting to be sold and he feels the marina will enhance the area. He referenced projects that had been sold because the marina portion was never built and stated that would not be the case with this project because the marina would already be built first.

Mrs. Remark stated she agreed with Mr. Hurt and she appreciated the responsiveness from the applicant with trying to address the Board’s concerns.

**Board Motion**

It was moved by Mrs. Remark and seconded by Mr. McGuinness to approve Gateway Daytona, Planned Commercial Development – Amendment, DEV2010-052 subject to correction to the bonding amount, clean-up of the completion schedule and change in developer contribution language.

**Board Action**

The motion was approved 9-to-0.

5. **Halifax Management Systems - Rezoning, DEV2010-087**

A request by Robert A. Merrell, III, Esq., Cobb Cole, on behalf of Halifax Management Systems, Inc., to rezone 3.86± acres of land, located on the northeast corner of North Clyde Morris Boulevard and West International Speedway Boulevard, from Residential Professional (RP), to Hospital Medical (HM), to allow for amended permitting, construction and completion of the project contained in the recorded PCD Development Agreement.

**Staff Presentation**

Dennis Mrozek, Senior Planner gave a brief PowerPoint presentation that included the request as stated above. He stated the Future Land Use (FLU) is Hospital and the current zoning is Residential Medical (RP). He stated proposed rezoning to hospital is consistent with the FLU and with the adjacent HM zoned hospital property, which will bring all of the property into consistent zoning. He stated the request was tentatively scheduled to be heard at the March 2, 2011 City Commission Meeting on first reading and on March 16, 2011 for second reading and staff was recommending approval. He reminded the Board members that an affirmative vote of six was required to recommend approval to the City Commission.

Mr. Hoitsma stated essentially you are doing this because it was left out in the original rezoning and you are trying to make everything consistent.

Mr. Mrozek replied yes that was what he had been told; he did not understand why it was left out but this would correct the situation and make everything consistent with the property.

Mrs. Remark stated this will now make their comprehensive sign plan to be in compliance also.

Mr. Mrozek replied correct.

**Applicant Presentation**

Robert Merrell, Cobb Cole, 150 Magnolia Avenue, Daytona Beach stated he did not believe anyone knew why this happened but they ran across it when they were preparing the sign plan. He stated he believes the property carried this zoning when the hospital purchased it. He stated the only zoning that would be consistent is HM so this was more of a housekeeping measure and ultimately it was something they agreed to do when the sign plan was adopted.

Mr. Moore asked what was there.

Mr. Merrell replied currently it was a parking lot.

**Citizen Comments**

No comments.

**Board Comments**

No additional comments.

**Board Motion**

It was moved by Mr. Hurt to approve Halifax Management Systems - Rezoning, DEV2010-087. Seconded by Mrs. Remark.

**Board Action**

The motion was approved 9-to-0.

6. **2011 Planning Board Election of Officers**

The terms for the Planning Board Chairman, Vice-Chairman and Secretary expired on December 31, 2010. The Land Development Code (LDC), Article 3, Section 2.2(d), reads, "Member-appointed chair can serve a maximum of two consecutive one-year terms." The Board By-laws reads, "A Vice-Chairman and a Secretary shall be elected by the Planning Board from its number. Their terms of office shall be 2 years." The election of all officers shall be held at the last regular meeting preceding the end of tenure of the officers."

Mr. Hoitsma stated since they were not required to have a closed vote he recommended Board members make recommendations on each position.

Mr. Moore asked if the recommendation should be a slate for all three positions.

Mr. Hoitsma stated he had not done this before so he assumed it was ok.

Mrs. Remark nominated Larry Moore for chair.

Mr. McGuinness second the nomination.

Carrie Lathan, Assistant City Attorney stated they could make nominations for individual officers or a slate that included all three.

Mr. Moore nominated Mr. Hurt for chair, Mr. Hoitsma for vice-chair and Ms. Washington for secretary.

Mrs. Remark seconded Mr. Hurt's nomination.

Mr. Hurt declined his nomination.

Mr. Mrozek stated he was just informed that previously a nomination committee was put together to elect officers.

Mr. Hoitsma stated yes that was the normal process but the problem was it was past the time required to elect officers and they needed take care of it tonight. He stated at the last meeting too many board members were out to elect officers so it was postponed to tonight.

Mr. Moore nominated Mr. McGuinness for chair, Mr. Hoitsma for vice-chair and Ms. Washington for secretary.

Mr. McGuinness declined the nomination.

There was discussion on the chair position.

Mr. Fishback stated he felt Mr. Moore for chair, Mr. Hoitsma for vice-chair and Ms. Washington for secretary would be a great slate. Seconded by Mr. McGuinness.

It was the consensus of the Board that it was a good slate.

Mr. Hoitsma asked if there were any other nominations.

No other nominations were put forth.

Ms. Lathan asked Mr. Moore if he accepted the nomination for chair.

Mr. Moore replied yes.

Ms. Lathan stated they could now call for a vote.

There was discussion on who made the motion.

Ms. Washington stated there was only one slot for the nomination.

Ms. Lathan recommended Mr. Fishback restate his motion.

### **Board Motion**

It was moved by Mr. Fishback to elect Larry Moore for chair, Bob Hoitsma for vice-chair and Cathy Washington for secretary for the 2011 year. Seconded by Mr. McGuinness.

### **Board Action**

The motion was approved 9-to-0.

7. **Other Business**

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

Ms. Washington stated the Board met on Tuesday, January 11<sup>th</sup> at 12:00 PM and that it was her first meeting. She stated discussion for the majority of the meeting surrounded grants that were available for owners of properties in the Downtown/Ballough Road Redevelopment area and she would have a more detailed report next month.

B. **Midtown Redevelopment Area Board Report**

No Report.

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

Mrs. Remark stated the Board met on Wednesday, January 12<sup>th</sup> at 6:30 PM. She stated the Board had one action item that was a LDC Text Amendment for Temporary Parking Lots (DEV2010-095) that was returned to staff for additional work. She stated the item would be heard again at the Board's February meeting and no other items were discussed.

D. **Public Comments**

No public comments.

E. **Staff Comments**

Mr. Walton reminded Board members that their LDC supplements were included in their packets and in the APA Magazine received in their packet featured a story from Blue Springs, Missouri, which was a city he worked at for before he moved back to Florida.

Mrs. Remark asked what form based zoning versus use was.

Mr. Walton replied form based zoning allows more flexibility in use but regulations focus more on design, where the building is as opposed to the use.

Mr. Moore asked exactly where Blue Springs was located.

Mr. Walton replied on the eastern side of Kansas City.

F. **Board Member Comments**

Mr. Hurt thanked Mr. Hoitsma for serving as Board chair.

Mr. Hoitsma stated he was very proud to serve on the Board and thanked all Board members for everything they had done to make his job as chair run smoothly.

Mr. Neal stated he learned a lot from Mr. Hoitsma because this was the first time he had served on any type of political board. He stated he had scaled back in other areas so he could devote more time to the Board. He stated he wanted the Board to would know why he had absences last year but he should not hot have that problem moving forward. He stated the input he received from the discussions has really helped him get to know and understand what is happening in the City.

Mr. Hoitsma stated he wanted to make a point about attendance. He stated it was not just that they wanted everyone to be present for meetings, it was each Board member's input that was very important and residents that attend expect Board members to be available. He stated he understands that sometimes things come up and members cannot attend but for the most part everyone should take their attendance seriously.

**Adjournment**

There being no further actions to come before the board, the meeting was adjourned at 7:52 pm.



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ROBERT HOITSMA  
Chair

ATTEST:

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CATHY WASHINGTON  
Secretary