

MINUTES
REGULAR MEETING – PLANNING BOARD

April 26, 2012

Minutes for the Regular Planning Board for The City of Daytona Beach, Florida, held on Thursday, April 26, 2012, at 6:00 p.m., in the Commission Chambers, City Hall, 301 South Ridgewood Avenue, Daytona Beach, Florida.

Board members Present were as follows:

Jeff Hurt
Tracey Remark
Bob Hoitsma
Janet LeSage
John McGuinness
James Neal
Kevin Fishback
Cathy Washington
Shirley Benjamin
Matthew Bohon

Absent Members:

Louis Moore

Staff members present:

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

1. **Call to Order**

Bob Hoitsma, Acting 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.

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3. **Approval of the Minutes:** February 23, 2012 Amended

Board Motion

It was moved by Mrs. Remark to approve the Amended, February 23, 2012 Planning Board Meeting Minutes. Seconded by Ms. Washington.

Board Action

The motion was approved 10-to-0.

- Approval of the Minutes:** March 22, 2012

Board Motion

It was moved by Mr. Hurt to approve the March 22, 2012 Planning Board Meeting Minutes. Seconded by Mr. Neal.

Board Action

The motion was approved 10-to-0.

New Items:

4. **Small Scale Comprehensive Plan Amendment – Family Dollar (Mason Avenue), DEV2012-012**

A request by Jeffrey J. Lamberson, Twin Rivers Capital, LLC on behalf of First Coast Energy, LLP, Karen Gaynair and Bettie Cade Norwood, to approve a Small Scale Comprehensive Plan Amendment (SSCPA) changing the Future Land Use designation from Level 1 Residential to Retail for a 0.29± acre parcel of land located at 800 Derbyshire Road and 815 Essex Road.

Staff Presentation

Thomas Weitnauer, Principal Planner gave a PowerPoint presentation that included the request as written above and the general location. He stated the project consists of three parcels, one vacant parcel that fronts Mason Avenue, one parcel that fronts on Essex Road and one parcel that fronts on Derbyshire Road. The lots that front on Essex and Derbyshire are single-family parcels that back up to one another and are immediately adjacent to the larger undeveloped parcel that fronts Mason Avenue. The site that fronts on Mason Avenue has the correct land use and zoning but is not large enough. He stated the applicant is working on purchasing the two single-family lots at the rear of the property and that the next item on the agenda was a rezoning request to change the zoning use on the two single-family lots from Residential to Business Automotive. Once the small scale amendment and rezonings have been approved, the applicant plans to combine all three lots bringing the total acreage to 0.866 acres to build a Family Dollar Store. Mr. Weitnauer stated a second caveat of this application is to add a

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Neighborhood K Issue and Policy that specifically describes the location of the three combined parcels and restricts future development on the combined parcel to retail only. Since the Issue and Policy is written specifically to this property it serves two purposes: 1) As a map note to the Future Land Use Map that documents the retail-only restriction for future reference; and 2) It allows this Comprehensive Plan amendment application to follow the Small Scale Amendment process as a text change to policies that are site-specific small scale activities and not applicable to any other property, permissible by Chapter 163.3187 (1) c., F.S. He stated the Technical Review Team (TRT) found the impact of water, sewer and traffic acceptable and the restriction to Retail use only addresses Comprehensive Plan, Future Land Use Policy 2.2.2 regarding encroachment of incompatible land uses into neighborhoods. Mr. Weitnauer stated with the exception of meeting approval of the proposed text amendment, staff finds that the request is consistent with the Comprehensive Plan, does not create urban sprawl, and the City has available capacity to serve the increased demand on available water, sewer and traffic. Planning staff recommends approval of the map amendment for the two residential parcels if the map note is simultaneously approved and as a condition of approval the three lots are combined into one. Planning staff recommends approval on the policy issue of the proposed new Neighborhood K Issue and Policy.

Mr. McGuiness asked if the City had ever approved a new issue in the neighborhood policies specifically designed for one plot.

Mr. Walton replied there are some neighborhood policies that only apply to one property. He stated if the request is not processed this way, it would not be considered a small scale amendment. He stated up until last year if any text was changed it was considered a large scale amendment, but with the 2011 changes, it now says if the map note only applies to one property, it can be done as a small scale.

Mrs. Remark asked if Twin Rivers Properties, LLC was the authorized agent for all three properties.

Ms. Lathan replied yes, staff received three notarized Authorization of Agent forms.

Mrs. Remark asked the applicant why there was a 1,200 average trip disparity in the manual used. She asked Mr. Weitnauer if a neighborhood meeting had been held since the date the staff report was written.

Mr. Weitnauer replied no there has not been a neighborhood meeting held.

Mrs. Remark stated in the staff report it says when the application was received, staff strongly encouraged the applicant to hold a neighborhood meeting. She asked when the application packet was received.

Mr. Weitnauer replied mid February.

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Applicant Presentation

Dwight Durant, 300 Interchange Boulevard, Ormond Beach stated he was available to answer any questions.

Mrs. Remark restated her question regarding trip generation.

Mr. Durant replied there were several that are done. With the SSCPA they looked at the most intense development that could be on the property for current and proposed conditions. For zoning it was based on the range that goes in the zoning documents. Then there is the site plan where it is done based on what is actually proposed to go on the site and what currently exist on the site. He stated they used what they thought would be the most accurate for a neighborhood retail use instead of a specialty shop. He stated they met with the traffic engineer and satisfied all of his concerns.

Mrs. Remark asked if he knew what figures the other Family Dollar Stores were using.

Mr. Durant replied yes, 500 to 600 trips per day, which were the numbers they used in their site plan development.

Mrs. Remark asked why a neighborhood meeting had not been held.

Mr. Durant replied they tried to but were unsuccessful. He stated they went through staff to get the name of a neighborhood leader but he/she were sick. He stated they were trying to get scheduled for the next neighborhood meeting.

Mrs. Remark asked if letters were sent to the actual residents who live in the neighborhood.

Mr. Durant replied they called and sent emails to the property owners.

Mrs. Remark stated she meant to the actual people who live in the neighborhood.

Mr. Durant replied no they would like to meet with them personally to present plans.

Mrs. Remark stated so no follow up was done other than the regular notifications letters to property owners.

Mr. Durant replied no because they were trying to go through the channels recommended to them. He stated there is still quite a bit to do before the project is approved so there would be time to meet with the residents.

Mrs. Remark replied she understood that, but this was neighborhood encroachment, which is a major impact.

Ms. Lathan stated the neighborhood notice would have gone out for the rezoning.

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Mrs. Remark stated but not for the Comprehensive Plan Amendment, which changes the policy and allows the encroachment.

Mr. Durant stated they were following the City's process and if there was anyone that would like to discuss concerns they have he would be happy to talk after the meeting.

Ms. Washington stated she felt it was a great project, but until there was more communication with the residents in the neighborhood she did not feel the Board should make a recommendation. She recommended continuing the request to the May 24th Planning Board meeting.

Mrs. Remark stated she agreed with Ms. Washington's recommendation and that she had gone out and knocked on doors to find out if anyone had been in the neighborhood knocking on doors to discuss the project. She stated Essex Road already has major traffic problems, the neighbors have concerns because they have not seen site plans or any information on the project and she feels the applicant could have held a neighborhood meeting before tonight.

Mr. Durant stated they had been working on the project for over two years and that neighborhood meetings were not a requirement. He stated they followed all of the City's procedures and are volunteering to go a little further by agreeing to hold a neighborhood meeting, but a delay could jeopardize the project.

Mr. Bohon asked if holding a neighborhood meeting was a requirement.

Mr. Walton stated the LDC does not require a neighborhood meeting, the policy has been discussed for quite some time and it is in draft form in the new code. Staff strongly encourages applicants to hold neighborhood meetings even though it is not a requirement.

Mr. Fishback stated he would feel more comfortable voting in favor of the project if he knew every method possible had been made to inform the residents because it is an encroachment no matter how you look at it. He stated he sees accidents at the corner of Mason Avenue and Derbyshire Road all the time and this project is going to increase traffic.

Mr. Neal stated following procedures and sending letters is good, but he lives in the area and he knows personal contact has to be made.

Mrs. LeSage stated she felt strongly that the neighbors should be included as part of the process.

There was additional discussion on notification and the importance of holding a neighborhood meeting.

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Citizen Comments

John Nicholson, 413 North Grandview Avenue, Daytona Beach spoke in favor of the request.

Willie Mitchell, 819 Essex Road, Daytona Beach spoke in favor of the request but was concerned how close the stakes were placed to his property's boundary line. He stated if a neighborhood meeting is held, he will attend.

Mr. Hoitsma asked how they could build any closer to the property boundary line than what was previously there.

Mr. Mitchell replied the original property line is more than four and a half feet from his hedges and air conditioner, but when the survey was done, it was within three feet of his hedges and air conditioner. He stated the surveyor did not tell him anything and he did not know anything about the project until he received the letter last week.

Mr. Hurt asked Mr. Mitchell if he knew the survey was being done for the Dollar General Store.

Mr. Mitchell replied not until last week when signs were posted on the property. He stated there had been some talk in the neighborhood but nothing official until last week.

Mr. Durant stated that to make sure they were not encroaching, they had the three sites surveyed and also the adjacent properties. He stated from looking at the survey, it appeared they were at least five feet from the property line. He stated additionally, there will be a buffer on their site.

Board Comments

Mr. McGuinness asked if the notice letters were sent out on time.

Mr. Mrozek replied yes. He stated the letter included a location map showing the properties that are being rezoned and a brief summary of the request.

Mr. McGuinness stated he was very concerned with the encroachment into the neighborhood. He stated ordinarily there is a buffer zone like the one on the other side of Mason Avenue. This area has the highest level residential use directly abutting retail and the request is to take a piece of the residential and turn it into the highest level retail use. He stated what will happen when someone else makes a request to rezone their property to commercial; eventually it will eat up the residential area and he feels it is a disservice to all of the other property owners and the entire R1a area. Mr. McGuinness asked if it was a disservice to any future owner of the parcel with the extensive restrictions put in the neighborhood policy and issue because they will be bound by it.

Mr. Walton replied they could come in and request a change.

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Mrs. Remark asked if the BA was the only zoning the City had for retail.

Mr. Walton replied it is not, but the lot on Mason Avenue was already zoned BA, which is why staff supported it. He stated without the neighborhood policy there would still be limitations on the retail use and the primary reason staff is recommending the neighborhood policy is because the land use also allows 40 units per acre for residential but staff did not feel it was appropriate and he feels the applicant should state for the record that they are comfortable with the proposed policy as written.

Mr. Durant stated they were comfortable with the proposed policy and were happy for the restrictions.

Board Motion

It was moved by Mr. Hurt to approve Small Scale Comprehensive Plan Amendment – Family Dollar (Mason Avenue), DEV2012-012. Seconded by Mr. Bohon.

Board Action

The motion failed by roll-call-vote 3-to-7, with the breakdown as follows:

Mrs. LeSage	No
Mr. Neal	No
Mr. Fishback	No
Ms. Benjamin	No
Ms. Washington	No
Mr. Hoitsma	Yes
Mr. Bohon	Yes
Mr. McGuinness	No
Mrs. Remark	No
Mr. Hurt	Yes

Mr. Durant asked the Board if a motion could be made to continue the request to the May 24, 2012 Planning Board meeting.

Ms. Lathan stated the Board could do a motion for reconsideration and then a motion to continue.

Board Motion

It was moved by Mrs. Remark to reconsider Small Scale Comprehensive Plan Amendment – Family Dollar (Mason Avenue), DEV2012-012. Seconded by Mrs. Lesage.

Mr. Fishback asked if the applicant could appeal the denial to the City Commission.

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Mr. Walton replied yes he could appeal and that it would require a super majority vote for it to be approved.

Board Action

The motion was approved by roll-call-vote 10-to-0, with the breakdown as follows:

Mrs. LeSage	Yes
Mr. Neal	Yes
Mr. Fishback	Yes
Ms. Benjamin	Yes
Ms. Washington	Yes
Mr. Hoitsma	Yes
Mr. Bohon	Yes
Mr. McGuinness	Yes
Mrs. Remark	Yes
Mr. Hurt	Yes

It was moved by Mr. Hurt to continue Small Scale Comprehensive Plan Amendment – Family Dollar (Mason Avenue), DEV2012-012 to the May 24, 2012 Planning Board Meeting. Seconded by Ms. Washington.

Board Action

The motion was approved 10-to-0.

5. **Rezoning – Family Dollar (Mason Avenue), DEV2012-013**

A request by Jeffrey J. Lamberson, Twin Rivers Capital, LLC on behalf of First Coast Energy, LLP, Karen Gaynair and Bettie Cade Norwood, to approve an application to rezone 0.29± acres of land located at 800 Derbyshire Road and 815 Essex Drive from Single Family Residential (R-1a) to Business Automotive (BA), for the construction of a 8,050 square foot retail building with associated parking, utilities and stormwater facilities.

Discussion and comments for this request were included with Item No. 4.

Board Comments

It was moved by Mr. Hurt to continue Rezoning – Family Dollar (Mason Avenue), DEV2012-013 to the May 24, 2012 Planning Board Meeting. Seconded by Ms. Washington.

Board Action

The motion was approved 10-to-0.

6. **Land Development Code Text Amendment – Prohibited Uses in the Midtown Redevelopment Area, DEV2012-018**

A request by the Development and Administrative Services Department, Redevelopment Division, to amend the Land Development Code (LDC), Article 12 (Redevelopment Areas and Districts, to prohibit carwashes, vehicular service (light and heavy), sales and rental of vehicles (light, heavy and recreational) and auto supply stores in the Midtown Redevelopment Area. *(Staff is requesting a continuance to the May 24, 2012 Planning Board Meeting)*

Staff Presentation

No staff presentation.

Citizen Comments

Jim Morris, 420 South Nova Road, Daytona Beach stated he was representing Daytona Beach Holdings, LLC, the owner of the Daytona Mercury property as well as the old Quincy's Restaurant immediately to the north. He stated his client has both properties under contract to sell. The purchaser for the Quincy's Restaurant property plans to build a hub store. The purchaser of the Lincoln Mercury property has plans for redevelopment of the site. He stated both properties must be brought into compliance before anything can be developed. He stated not approving the project could have a dampening effect on redevelopment in the Midtown Redevelopment Area and it is important for the City to understand that the Lincoln Mercury property was specifically built for automotive purposes. He stated this is important because the City may have an obligation to compensate for loss in value when someone's development rights are taken away pursuant to zoning (Bert Harris Act). He stated it was his understanding that during the decision at the Midtown Redevelopment Board meeting auto supply stores were added to the proposed prohibited use list. He reminded the Board that Spanos would also be included in this prohibition. He stated it is a different argument as to whether you improve the community by precluding people that want to reinvest. Mr. Morris asked the Board to give very careful consideration to the issue and he was present tonight to put on the record the property owners' objections to the proposed amendment.

No other citizen comments.

Board Comments

No comments

Board Motion

It was moved by Mrs. Remark to continue Land Development Code Text Amendment – Prohibited Uses in the Midtown Redevelopment Area, DEV2012-018 to the May 24, 2012 Planning Board Meeting. Seconded by Mr. Hurt.

Board Action

The motion was approved 10-to-0.

7. **Site Plan Approval – Automall III, Mercedes Benz Dealership, DEV2012-019**

A request by Parker Mynchenberg and Associates, Inc., on behalf of Nancy Cera with TT of Daytona Beach, LLC, to approve a site plan for 12.41± acres of land located on North Tomoka Farms Road, to construct a 34,850 square foot Mercedes Benz Dealership.

Staff Presentation

Dennis Mrozek, Senior Planner gave a PowerPoint presentation that included the request as written above, the general location and site details. He stated staff recommends approval and prior to final site plan approval the permit status list must be updated to show receipt of all permits; copies of the permits must be attached. A majority vote of Planning Board Members present and voting is required for approval.

Applicant Presentation

Steve Buswell, 1729 Ridgewood Avenue, Holly Hill stated he was available for questions.

Citizen Comments

No comments.

Board Comments

No comments.

Board Motion

It was moved by Mrs. Remark to approve Site Plan Approval – Automall III, Mercedes Benz Dealership, DEV2012-019. Seconded by Mr. McGuinness.

Board Action

The motion was approved 10-to-0.

8. **Site Plan Approval – Embry-Riddle Aeronautical University College of Arts and Sciences, DEV2012-025**

A request by Parker Mynchenberg and Associates, Inc., on behalf of Eric B. Weeks, Senior Executive Vice President, Embry-Riddle Aeronautical University, to approve a site plan for 3.21± acres of land, located at 600 South Clyde Morris Boulevard, to construct a 140,000 square foot Arts and Sciences building.

Staff Presentation

Dennis Mrozek, Senior Planner gave a PowerPoint presentation that included the request as written above, site detail and proposed building details. He stated the Technical Review Team (TRT) had reviewed the request and there were outstanding comments from the Utilities Department concerning lift station 3. He stated staff recommends approval with the condition that prior to final site plan approval the permit status must be updated, an updated boundary survey with a title opinion is submitted, and all outstanding Utilities comments must be resolved. A majority vote of all Board members present and voting is required to recommend approval to the City Commission.

Mr. McGuinness asked if final site plan approval was done when the request went to City Commission.

Mr. Mrozek replied that the Planning Board was final approval and that final site plan sign-off would be done by staff when all of the conditions had been met.

Mrs. Remark asked if the language on page four of the staff report was saying Embry-Riddle was required to pay for the lift station upgrades or if the City would be required to pay for the upgrades.

Mr. Mrozek stated that was one of the things that had to be worked out between the Utilities Department and Embry-Riddle.

Applicant Presentation

No Presentation

Citizen Comments

John Nicholson, 413 North Grandview Avenue, Daytona Beach spoke in favor of the request. He asked about the correlation of a lift station going out west.

Board Comments

No Comments

Board Motion

It was moved by Mr. Hurt to approve Site Plan Approval – Embry-Riddle Aeronautical University College of Arts and Sciences, DEV2012-025. Seconded by Mrs. Remark.

Board Action

The motion was approved 10-to-0.

9. **Discussion – Tree Removal and Associated Penalties**

Discussion item requested by the Development and Administrative Services Department, Planning Division, to review restoration requirements and penalties for damaged or unauthorized removal of trees or vegetation.

Staff Presentation

Dennis Mrozek, Senior Planner gave a PowerPoint presentation that included the discussion item as written above and read the list of requirements for removal and restoration of trees from private property, penalties for the illegal removal of trees and payment in lieu of replacing trees. He stated staff is asking for possible direction for modifications to the Land Development Code (LDC) that may be needed. He stated this issue only addresses development on private property.

Mr. Hurt asked if the discussion was pertaining to changing the current regulations on tree removal.

Mr. Mrozek replied no, it would be for illegal removal of trees.

Mr. Hoitsma asked if a restoration tree needed to be replaced if the site already had more trees than required.

Mr. Mrozek stated his interpretation of the code was even though there are plenty of trees on the site; no permit has been pulled to remove any of them so the owner would have to replace the trees or make payment into the fund. He stated the process is to come forward with a plan that shows what trees you are requesting to remove and the reason why, then get a permit for removal of the trees. For purposes of this discussion, the possible code amendment would be to address people that did not follow the City's process and cut down the trees illegally.

Mrs. LeSage asked if the penalties apply to private residential properties.

Mr. Mrozek replied yes.

Mrs. Lesage stated she was glad to hear that because Daytona Beach is designated as "Tree City USA," which is a very special designation and we need to protect our trees as much as we can. She stated she understands private property rights but someone should be held accountable when someone goes out and chops down a tree in their backyard that is two feet in diameter. She stated it does a disservice to the neighborhood.

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Mr. Mrozek stated one question is, if a property owner does chop down a tree on their property without a permit, is the current penalty enough to discourage others from doing the same thing.

Mr. Hoitsma stated he believes a lot of people don't know the City's process for removal of trees.

Mrs. LeSage stated maybe the City could do a public information campaign to inform residents of the City's process for removing trees as well as the penalties for illegal removal of trees.

Mr. Hoitsma stated it should also include grass being blown into the road when mowing lawns.

Mr. McGuinness stated he has seen illegal tree removal and reported it. The property owner received a fine.

Mrs. Remark asked if the replacement tree had to be like the one removed.

Mr. Mrozek replied it must be a species accepted on the City's list of trees, but it does not have to be the identical tree.

Mrs. Remark stated she feels the Board should also address what happens on the City's right-of-ways. She stated over the holidays over 30 gorgeous, native long leaf Florida Pines were cut down and there is only one property owner that benefited. Because it is the City right-of-way there is no way to deal with the issue. She stated she called Florida Power and Light and was told they could not do anything because it was not on their property.

Mr. Hoitsma asked why people could not be fined after the fact.

Mr. Walton replied to fine or to bring action against someone, you must have proof of who committed the act.

Mr. Hoitsma wouldn't it be the property owner.

Mrs. Remark stated it was on City property.

Mr. Walton stated there was a section in the Code of Ordinances that deals with trees and that staff is working with Code Enforcement to see if anything can be done.

Mrs. Remark asked if the section included the fines for illegal removal of the trees.

Ms. Lathan replied Section 86.201 covers approval to cut, trim or remove trees and Section 86.202 covers injurious substances. She stated a new provision 86.203 setting forth penalties could be added to the end.

Mr. Walton stated if there was evidence, they could be prosecuted under 86.201.

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Mr. Fishback stated he likes the process but it appears that the penalties are only enforced on residents that are not well connected with the right people. He stated he would like to see the process work the same for everyone.

Mr. Hoitsma stated the process is being applied to everyone.

Mr. Fishback stated somehow the penalties seem to get waived for large companies and they get clearance to move forward.

Mr. Mrozek stated the penalties do not distinguish single-family homes from commercial development. He stated maybe a solution could be to separate the two and make stricter penalties for commercial development.

Mrs. Remark asked the cost to get a permit for tree removal.

Mr. Walton replied the cost was not a significant amount.

Mrs. LeSage stated Code Enforcement is reviewing each removal on a case-by-case basis.

Mr. Hoitsma stated he feels strongly about the City holding information sessions to inform residents about the process.

Mr. Mrozek replied staff would start working on it.

Continued Items:

10. Rezoning, Planned Commercial Development – Tarragona Shoppes, DEV2011-088

A request by Paul F. Holub Jr., on behalf of Speedway Investors, LLC, to rezone 2.47± acres of land located at 1173 International Speedway Boulevard, Daytona Beach, from Single Family (R-1a) to Planned Commercial Development (PCD), to allow for a 21,274 square foot, retail center and associated improvements. **(Continued from the January 26, 2012 Planning Board Meeting) (Applicant has requested a continuance to the July 26, 2012 Planning Board Meeting)**

Board Motion

It was moved by Mrs. Remark to continue Rezoning, Planned Commercial Development – Tarragona Shoppes, DEV2011-088 to the July 26, 2012 Planning Board Meeting. Seconded by Mr. McGuinness.

Board Action

The motion was approved 10-to-0.

11. **Land Development Code Text Amendment – Internet Cafés, DEV2012-023**

A request by the Development and Administrative Services Department, Planning Division, to amend Article 1 (Purpose, Administration and Enforcement), Section 4.3 (District regulations and uses permitted) of the Land Development Code (LDC), to prohibit internet cafes, sweepstakes redemption centers, establishments using slot machines or slot machine like equipment, and other similar indoor entertainment and amusement activities throughout the City. **(Continued from the March 22, 2012 Planning Board Meeting) (Staff is requesting a continuance to the May 24, 2012 Planning Board Meeting)**

Board Motion

It was moved by Mrs. Remark to continue Land Development Code Text Amendment – Internet Cafés, DEV2012-023 to the June 24, 2012 Planning Board Meeting. Seconded by Mr. Neal.

Board Action

The motion was approved 10-to-0.

12. **Other Business**

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

Mrs. Washington reported that the Board met on March 30, 2012 at 12:00 PM. She stated the Board heard their monthly report from Code Enforcement, approved a conceptual review for Renaissance Place, 400 Beach Street and discussed Board priorities and retail strategies.

B. **Midtown Redevelopment Area Board Report**

Ms. Benjamin reported that the Board met on April 10, 2012 at 6:00 PM in City Commission Chambers. She stated the Board heard a report from the Public Works Department on projects in the Midtown Redevelopment Area; a discussion on Halifax Apartments and the Board continued the request to amend the Midtown Master Plan.

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

Mrs. Remark reported that the Board met on April 11, 2012 at 6:00 PM in City Commission Chambers. She stated the Board approved a conditional use for a roller coaster on the Boardwalk; had discussion on Main Street parking and Bikeweek and special events in relation to the EZone.

D. **Public Comments**

John Nicholson, 413 North Grandview Avenue, Daytona Beach spoke in reference to the tree ordinance and the permitting process when a tree is dead. He also spoke on submerged land, Florida Airway Show, parking and landscaping.

E. Staff Comments

Mr. Walton stated State statutes require every local government to have a designated local planning agency. Typically it is done in one of two ways, either the City Commission wears that hat or the Planning Board is designated with that responsibility. He stated the primary responsibility is to review development applications as they come forward. Another aspect of that is discussing prospective projects and issues that may come forward. He stated if the Board is in agreement, staff would like to place those discussion items on the future agendas.

It was the consensus of the Board to place discussion items on lighter agendas.

Mr. Walton stated over the last couple years, the Planning Division has lost some positions and with our secretary position has been frozen. Due to these losses, staff has had to prioritize tasks, doing things that are most important and cutting back on less important tasks. He stated Board members have probably noticed that the minutes are shorter. If any Board members have corrections please call Rose. We will no longer be able to call members to remind them of meetings, but if there are members that need the reminder, please let us know and we will try to accommodate. If there are any Board members that know they will not be able to attend the meeting, please call as far in advance as possible. Mr. Walton stated each Board member should have received a training manual with their packet. He stated staff will make sure all new members receive this packet.

F. Board Member Comments

Mr. Hurt asked the Legal Department to research whether or not the City could be sued for not approving a project because they did not hold a neighborhood meeting. He referenced the Family Dollar project that was continued tonight.

Mr. McGuinness stated he did not believe that was the reason the request was denied. He stated it was part of the discussion but he understood the vote to be on the amendment to the Comprehensive Plan amendment. He stated if the Board would have denied the request based on the neighborhood meeting it would have been improper and the City Attorney would have said something.

Ms. Lathan stated correct. If that would have been the reason the applicant could have filed a petition for Writ of Certiorari and assert that the Board was not applying the correct law.

Mrs. Remark stated she understands Ms. Lathan's point, but there are a lot of things that are not a requirement in the LDC but are City policies. She stated quite often Mr. Morris references the City's policies and staff as well as the Board relies on them quite a bit. She stated she would like to know how much weight City policies have.

Ms. Lathan replied in a land development context, the only thing that carries weight is what is required in the LDC that carries out the Comprehensive Plan policies. The way things have been done in the past does not carry any weight.

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Mrs. Remark stated she believes when the amendment to the Dicks Sporting Goods PD was approved staff said hat racking was a violation of the LDC and should be included in the PD. She stated she would like to know what the Planning Division can do to get Code Enforcement to realize that hat racking is a violation.

Mr. Walton stated he had not spoken with Code Enforcement regarding the issue but it is a violation of the LDC whether it is or is not in the PD agreement. He stated it is a citywide issue and can be cited anywhere. He stated the agent that spoke at the meeting stated he would speak with the owner to make sure they stopped doing that.

Mr. Fishback stated he received a letter regarding his absence from meetings. He stated the reason he did not respond to the letter is because the May meeting will be the last meeting he will be serving on the Board. He stated he is moving out of the City and will no longer be eligible to serve on the Board. He asked if he should respond to the letter.

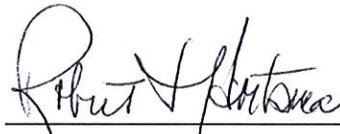
Mr. Walton stated the LDC requires that a letter be sent to Board members that miss more than three meetings within a 12 month period. He stated if there are extenuating circumstances you would need to respond.

Mrs. Remark asked where he would be moving too.

Mr. Fishback stated he was moving back home to East Kentucky.

Adjournment

There being no further actions to come before the board, the meeting was adjourned at 8:18 pm.



BOB HOITSMA
Acting Chair

ATTEST:



CATHY WASHINGTON
Secretary