

MINUTES  
REGULAR MEETING – PLANNING BOARD

December 15, 2011

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Minutes for the Regular Planning Board for The City of Daytona Beach, Florida, held on Thursday, December 15, 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  
John McGuinness  
Louis Moore  
James Neal  
Kevin Fishback (6:04)  
Cathy Washington

Absent Members:

Janet LeSage  
Shirley Benjamin  
Matthew Bohon

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**

Louis Moore, 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.

*12-15-11 Planning Board Meeting*

3. **Approval of the Minutes:** November 17, 2011

Mr. Moore stated the November 22, 2011 Meeting minutes will be ready for approval at the December 22, 2011 Special Planning Board Meeting.

**Board Motion**

No motion made.

**Board Action**

No action taken.

Mr. Moore asked Richard Walton, Planning Director to clarify for the record why staff was requesting Items 4, 5 and 6 be continued to the December 22, 2011 Special Planning Board Meeting.

Richard Walton, Planning Director stated the News-Journal advertisement for tonight's meeting did not run. He stated staff is requesting to continue agenda items 4, 5 and 6 to allow anyone not present tonight the opportunity to speak. The advertisement for next week's special meeting was properly advertised on Monday, December 12th.

Mrs. Remark asked if the Board could make one motion for all three items or should each motion be made separately.

Carrie Lathan, Assistant City Attorney replied it could be done either way.

4. **Rezoning - Planned Commercial Development (PCD) Amendment, Golden Triangle, DEV2011-096**

A request by Mark S. Dowst, P.E., on behalf of Roby R. Epling, Jr., Managing Member, Epling Leasing Company, to rezone 7.05± acres of land located at 2900 Bellevue Avenue, Daytona Beach, amending the existing Planned Commercial Development (PCD), to allow amusement, retail and restaurant uses on lot #1 and other minor site modifications to accommodate the proposed uses.

**Staff Presentation**

No staff presentation.

**Applicant Presentation**

No applicant presentation.

*12-15-11 Planning Board Meeting*

**Citizen Comments**

No citizen comments.

**Board Comments**

No Board comments.

**Board Motion**

It was moved by Mrs. Remark to continue Rezoning - Planned Commercial Development (PCD) Amendment, Golden Triangle, DEV2011-096 to the December 22, 2011 Special Planning Board Meeting. Seconded by Mr. Hoitsma.

**Board Action**

The motion was approved 7-to-0.

**5. Rezoning – Planned Redevelopment District (PRD), William Square, DEV2011-065**

A request by Parker Mynchenberg, P.E., R.L.A., on behalf of John “Jack” White, Managing Member, The William Lofts LLC, to approve a PRD (Planned Redevelopment District) Rezoning, for property located on the southeast corner of Palmetto Avenue and Magnolia Avenue. The request is to rezone the 1.0± acre property to PRD and allow for the development of a 15-unit single-family subdivision and associated improvements.

**Staff Presentation**

No staff presentation.

**Applicant Presentation**

No applicant presentation.

**Citizen Comments**

No citizen comments.

**Board Comments**

No Board comments.

**Board Motion**

It was moved by Mrs. Remark to continue Rezoning – Planned Redevelopment District (PRD), William Square, DEV2011-065 to the December 22, 2011 Special Planning Board Meeting. Seconded by Mr. Hoitsma.

*12-15-11 Planning Board Meeting*

**Board Action**

The motion was approved 7-to-0.

**6. Preliminary Plat - William Square, DEV2011-066**

A request by Parker Mynchenberg, P.E., R.L.A., on behalf of John “Jack” White, Managing Member, The William Lofts LLC, to approve a Preliminary Plat for 1.0± acres of land located on the southeast corner of Palmetto Avenue and Magnolia Avenue, to allow for the development of a 15-unit single-family subdivision and associated improvements.

**Staff Presentation**

No staff presentation.

**Applicant Presentation**

No applicant presentation.

**Citizen Comments**

No citizen comments.

**Board Comments**

No Board comments.

**Board Motion**

It was moved by Mrs. Remark to continue Preliminary Plat - William Square, DEV2011-066 to the December 22, 2011 Special Planning Board Meeting. Seconded by Mr. Hoitsma.

**Board Action**

The motion was approved 7-to-0.

**7. Land Development Code Discussion – Regulations Related to Site Restoration Fencing Requirements, DEV2011-108**

A discussion on Article 8, Section 6.5 of the Land Development code regarding site restoration requirements for properties located east of Atlantic Avenue, specifically reviewing fencing requirements.

## *12-15-11 Planning Board Meeting*

### **Staff Presentation**

Tom Weitnauer, Principal Planner gave a PowerPoint presentation that included the discussion item as written above and stated Ordinance 07-36 was adopted at the January 2, 2007 City Commission Meeting amended the Land Development Code (LDC) Article 8, Section 6.5 to set site restoration requirements, specifically for properties on the east side of A1A after hurricanes and demolition. At that time staff and the Planning Board took a comprehensive look at everything from vegetation stabilization, fence requirements, removal of structures and maintenance provisions. He stated over the course of time with the poor economy, some of the fences have been up longer than anticipated and are showing some wear and tear. He stated staff was asked to take a look at fencing and make recommendations for appearance improvements. Mr. Weitnauer read LDC fencing requirements and stated currently the fencing along the east side of A1A meet all of the requirements with the exception of maintenance. He stated last night the Main Street-South Atlantic Redevelopment Board discussed this issue and there was discussion on possibly removing fencing that was in disrepair if the natural vegetation had taken hold. He opened the floor for Board discussion.

Mr. Hoitsma asked why this item was being brought before the Planning Board.

Mr. Weitnauer replied it came up as a City Commission item.

Mr. Walton stated the Commission felt it was a concern and asked the Main Street-South Atlantic Redevelopment Board and Planning Board to review the ordinance and give suggestions on how to improve the appearance of the properties.

Mr. Hoitsma stated it sounds like it is more of a code enforcement problem.

Mrs. Remark stated Code Enforcement said they feel it is more than just a code problem. She stated there are some areas where there are broken pickets but the Code Enforcement officer that spoke at the redevelopment board meeting last night said a lot of the problem is people removing sections of fencing to get access to the beach. She stated last night the Board discussed coming up with some minimum standards and that right now it is the very cheapest materials, fencing is up a lot longer than anticipated and the fences are being put up with nails guns instead of screws, which makes it very easy to take down sections of the fence. She stated the Board suggested minimum size timbers so they could not be pulled off easily, standards on how the fence should be attached to the timbers, what kind of attachment to use and increasing the quality of materials. Mrs. Remark stated consensus of the Main Street-South Atlantic Board was support in support of getting rid of the fencing that needed repairs if the natural landscape had grown in behind the fence and there were not any hazards. She stated there will still be some sand that gets blown onto the sidewalk but that would happen even if the fence is still there. She stated the Redevelopment Board suggested coming up with a list of natural vegetation and possibly allowing property owners the option to have natural vegetation instead of the fence and xeriscaping as much as possible. She stated the Board also suggested keeping some of the posts with signs that read "No Trespassing, violators will be prosecuted."

## *12-15-11 Planning Board Meeting*

Mr. Moore stated as far as he could see, none of the properties were meeting all of the LDC's fencing requirements and he agreed with the Redevelopment Board's recommendations.

Mr. Hoitsma stated he was surprised that the Redevelopment Board thought the vegetation would prevent the sand from blowing onto the sidewalk. He stated he thought the reason the fencing requirements were put add was because the vegetation was not enough to stop the sand from blowing.

Mrs. Remark stated at that time there was not any vegetation and if you look behind the fences many of them are fully covered with natural vegetation but they were originally motels that had to be demolished after the three hurricanes in 2004. She restated the Redevelopment Board's suggestion of coming up with a list of natural vegetation would be acceptable. She stated they gave staff a list to review when making the determination whether or not there was enough vegetation and not just weeds. She stated another problem Code Enforcement had with enforcing the fencing requirements was every time the property is sold, they have to start all over again. Several of the property owners are in Ontario, Canada and Code Enforcement has not been able to get in contact with them.

Mr. Hurt stated he feels the standards that are in place should be left as is and if the site fills in with natural vegetation and the fence is in disrepair then give the property owner the option to either repair or remove the fence. He stated what the Board could do is include language that makes the property owner liable for repairing or removing the fence before transfer of ownership.

Mr. Fishback asked Mrs. Remark if the Redevelopment Board's preference was to have property owners repair the fencing or remove it and go with the natural vegetation.

Mrs. Remark stated the Redevelopment Board's preference leaned more toward removing the fencing.

Mr. McGuinness stated the challenge then becomes what vegetation does or does not look good.

Mrs. Remark stated that was the reason the Redevelopment Board recommended coming up with a list of acceptable vegetation.

Mr. McGuinness asked if the property owner follows the Redevelopment Board's recommendation, would the code enforcement problem disappear.

Mr. Hurt replied no. He stated the Board could put whatever language they wanted in the code but there will still be property owners that will not comply.

Mr. Walton stated last night he listened to the Redevelopment Board's discussion and he wanted to point out that the fencing requirements in the LDC are citywide and he did not believe Mike worked from north city limits to south city limits.

## *12-15-11 Planning Board Meeting*

Mrs. Remark stated they only discussed the east side of A1A.

Mr. Walton stated he understood that and the area he was referencing was the east side of A1A outside of the redevelopment area. He stated code enforcement supplements the redevelopment area so the more rules and regulations put in, the more effort there will be to enforce them. He stated secondly, if the fences come down you increase the possibility of people dumping on the grounds and trespassing. He stated he did feel the City should not prohibit fencing because many property owners want some type of barrier for security purposes.

Mr. Hurt stated his understanding of the Redevelopment Board's discussion was to allow the property owner to remove the fence if it was in disrepair and if the natural vegetation covered 70 percent of the lot based on the City's established criteria or to repair the fence.

Mrs. Remark stated and they must keep it posted.

Mr. Walton stated he believed the property owner was also required to give the Police Department authority to arrest trespassers.

Mrs. Remark stated they could for loitering on private property. She stated they contract with a towing company and anyone could call in the violation.

Mr. Hurt asked if there was a way the property owner could make the request for the Police Department to have authority to arrest trespassers when they request the permit for the fence.

Mr. Walton stated he spoke with a representative from Code Enforcement last night and was told they must have permission from the property owner to be able to go onto the site.

Mr. Hurt asked why permission could not be given at the time the permit was requested.

Mr. Walton replied he was not sure that would transfer if the property was sold. He stated he believed enforcement of rules on private property was one of the concerns brought up by Code Enforcement last night.

Mr. Hoitsma asked Mr. Hurt is he was saying if the lot had vegetation behind the fence the property owner could remove all of the fencing or only remove the fencing that had vegetation behind it.

Mr. Hurt replied if the lot was 60 to 70 percent covered with natural vegetation more than likely it spread over the entire lot, so allow the property owner the option to remove the fence if it is in disrepair or repair it if he/she would like to keep it.

Mr. Hoitsma stated he was concerned that the entire fence would be removed and only half of the lot was covered with natural vegetation.

Mr. Hurt stated the property owner would have to meet the percentage criterion established by the City in order to remove the fence but ultimately whether to take it down or repair it will be up to the property owner.

## *12-15-11 Planning Board Meeting*

### **Citizen Comments**

John Nicholson, 413 North Grandview Avenue, Daytona Beach stated he felt the Board was overlooking the fact that the regulations were put in the code because the blue tarps that were placed on the chain link fences kept coming off and blowing sand everywhere. He stated it was supposed to be temporary until the property was developed, but it has lasted much longer than anticipated. He asked the Board to look at beach property in Flagler as an example. He spoke in opposition of the white picket fences currently in place. In favor of natural vegetation and no fences.

### 8. **Other Business**

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

Ms. Washington stated the Downtown/Balough Road Redevelopment Area Board met on Tuesday, December 6, 2011 at 12:00 PM in City Commission Chambers. She stated the Board received their monthly update from Code Enforcement and the Police Department and they unanimously approved the William Square Rezoning request.

#### B. **Midtown Redevelopment Area Board Report**

No report given.

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

Mrs. Remark stated the Main Street/South Atlantic Redevelopment Area Board met on Wednesday, December 14, 2011 at 6:00 PM in City Commission Chambers. She stated the Board received their monthly update from Code Enforcement and the Police Department; the discussion on fencing for properties east of A1A; updates on redevelopment projects; highlights on the Band Shell holiday activities and parking for Joe's Crabshack.

#### D. **Public Comments**

John Nicholson, 413 North Grandview Avenue, Daytona Beach spoke on the discussion at last night's Main Street/South Atlantic Redevelopment Board Meeting regarding the parking requirements on A1A.

#### E. **Staff Comments**

Mr. Walton stated the staff report and agenda for the December 22, 2011 Special Planning Board Meeting would be distributed at the end of the meeting. He stated he would not be present at the meeting but there would be representation from staff. He wished everyone a happy and safe holiday season.

#### F. **Board Member Comments**

Ms. Washington and Mrs. Remark wished everyone a Merry Christmas and Happy New Year.

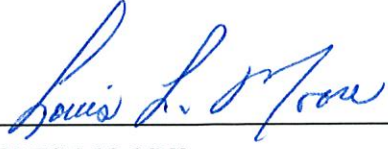


**12-15-11 Planning Board Meeting**

Mr. Moore thanked all of the Board members that had confirmed they would attend the special meeting next week.

**Adjournment**

There being no further actions to come before the board, the meeting was adjourned at 6:35 pm.

  
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LOUIS MOORE  
Chair

ATTEST:

  
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CATHY WASHINGTON  
Secretary