M I N U T E S

ORMOND BEACH PLANNING BOARD

Regular Meeting

January 13, 2011 7:00 PM

City Commission Chambers
22 South Beach Street
Ormond Beach, FL 32174

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE PLANNING BOARD WITH RESPECT TO ANY MATTER CONSIDERED AT THIS PUBLIC MEETING, THAT PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, SAID PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, INCLUDING THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

PERSONS WITH A DISABILITY, SUCH AS A VISION, HEARING OR SPEECH IMPAIRMENT, OR PERSONS NEEDING OTHER TYPES OF ASSISTANCE, AND WHO WISH TO ATTEND CITY COMMISSION MEETINGS OR ANY OTHER BOARD OR COMMITTEE MEETING MAY CONTACT THE CITY CLERK IN WRITING, OR MAY CALL 677-0311 FOR INFORMATION REGARDING AVAILABLE AIDS AND SERVICES.

I. ROLL CALL

Members Present	Staff Present
Patricia Behnke	Randal Hayes, City Attorney
Harold Briley	S. Laureen Kornel, AICP, Senior Planner
Lewis Heaster	Becky Weedo, AICP, Senior Planner
Alan Jorczak	Chris Jarrell, Recording Technician
Rita Press	
Doug Thomas	
Doug Wigley	

II. ADMINISTRATIVE ITEMS

A. Election of Chair and Vice Chair

Mrs. Behnke made a motion to elect Alan Jorczak as Chair of the Planning Board; Mrs. Press seconded the motion. The motion was denied by a 4-3 vote.

Mr. Wigley made a motion to nominate Doug Thomas as Chair of the Planning Board. The motion was seconded and passed by a vote of 5-2.

Mr. Wigley made a motion to elect **Al Jorczak as Vice Chair** of the Planning Board. The motion was seconded by Mr. Briley and passed by unanimous vote.

B. Adoption of Rules and Procedures

C. Adoption of the Calendar and Submittal Deadlines

Mr. Jorczak made a motion to accept the Rules of Procedure, as presented, and to adopt the 2011 calendar and submittal deadlines. Mr. Wigley seconded the motion, which was approved by a 6-0 vote of the Board. Mr. Heaster abstained, noting that he was not a board member at that time.

III. INVOCATION

Mr. Wigley led the invocation.

IV. PLEDGE OF ALLEGIANCE

V. NOTICE REGARDING ADJOURNMENT

NEW ITEMS WILL NOT BE HEARD BY THE PLANNING BOARD AFTER 10:00 PM UNLESS AUTHORIZED BY A MAJORITY VOTE OF THE BOARD MEMBERS PRESENT. ITEMS WHICH HAVE NOT BEEN HEARD BEFORE 10:00 PM MAY BE CONTINUED TO THE FOLLOWING THURSDAY OR TO THE NEXT REGULAR MEETING, AS DETERMINED BY AFFIRMATIVE VOTE OF THE MAJORITY OF THE BOARD MEMBERS PRESENT (PER PLANNING BOARD RULES OF PROCEDURE, SECTION 2.7).

VI. APPROVAL OF THE MINUTES

The minutes of the December 9, 2010 Planning Board meeting were unanimously approved, as presented.

VII. PLANNING DIRECTOR'S REPORT

Ms. Kornel reported that Planning Director Goss had asked that she inform the Board that staff anticipated receiving the Notice of Intent for the E.A.R.-Based remedial amendments from the Department of Community Affairs on or about January 18th. She added that the Board could expect to hear the mobility fee item in February.

VIII. PUBLIC HEARINGS

A. LDC 11-014: Land Development Code Amendment – Certificate of Appropriateness Criteria

Ms. Kornel said that the proposed amendment was in response to the question first raised in July, 2010, by the Historic Landmark Preservation Board (HLPB) regarding cost of fees required to process a Certificate of Appropriateness (COA). She explained that subsequent discussions then evolved to include discussions about requiring COAs for projects involving less substantial alterations, as well as for COAs now required for demolitions of properties built prior to January 1, 1950.

Ms. Kornel said that at the request of the HLPB, staff completed a review of LDC §2-71 and invited the owners of all locally designated properties to participate in the discussions, several

workshops and the tentatively-scheduled public hearings. She reported that the discussions with the participating citizens and the HLPB resulted in the general consensus that the cost of the COAs for Landmark property owners was both unreasonable and unnecessary in cases where the exterior appearance was not being significantly altered, where like material was to replace like material and for routine maintenance (particularly when the cost of processing the COA exceeded the cost of an alteration). She pointed out that requiring unnecessary COAs was a disincentive to property owners and not the intent of LDC §2-71.

Ms. Kornel advised that additionally, the participants felt that properties historic only by age (i.e., built prior to January 1, 1950) should not be required to obtain a COA for demolition. She noted that this was a shift in Board philosophy; the HLPB a few years earlier wanted implementation of the regulations to be quite stringent, and that the change was perhaps a reaction to the current economic downturn.

Ms. Kornel showed slides to illustrate the certificates of appropriate that had required processing during her tenure with the City.

Mr. Jorczak said that in reviewing past HLPB minutes he had noted much discussion regarding the implementation of the 1950 age threshold and that some Board members had thought that an earlier date such as 1940 or earlier might be appropriate. Mr. Jorczak recalled that the 1950 date had resulted following staff review of the city's properties and questioned whether staff had any idea of the number of properties within in each 10-year time period that might be considered architecturally significant. He said that the minutes indicated some sense that the 1950 date might be too late and could result in more homes being affected by the regulation.

Ms. Kornel agreed that each added year resulted in more homes required to be reviewed, even if not in an historic district. In response to Mr. Jorczak, she explained that the 1950 date had been established prior to her tenure, but that research indicated that most of the structures for which COAs for demolitions had been issued were built prior to 1925-1930; therefore, changing the 1950 date would not be of much help in reducing the amount of COAs for demolition required. In addition, she explained, the 1950 date threshold would capture homes of architectural significance built between 1940 and 1950 (not designated as historic landmarks or within the Lincoln Avenue Overlay District), that could potentially be demolished without a COA. She said that the end result was the staff recommendation to retain the 1950 date, but with some level of staff discretion to review for requests by property owners of historically noteworthy properties.

Mr. Briley recalled that the Code used to require that any structure 75 years or older be deemed historic. He said that both staff and the Planning Board recognized the existence of buildings not quite 75 years old (even in the Lincoln Avenue Overlay District) that the HLPB thought to be historic. He said that they had also recognized that the 1950 date would bring in homes in areas such as Ellinor Village, built in the late 1940s, but not deemed historic in nature. He stated that he was comfortable with the change because it exempted homes that are not contributing historically, even by retaining the 1950 date requirement.

Ms. Kornel said that the reason the 1950 date threshold was not eliminated as recommended by the Historic Landmark Preservation Board was that there were properties, e.g. the Rose Villa, that should undergo review by the Board should the owners decide to demolish them. She

explained that because the Rose Villa was not a Landmark property and not in the Lincoln Avenue Overlay District, no COA would be required for demolition. She pointed out that the amendment was also intended to address the COAs that were now required in order to allow a simple roof replacement or removal of a tree (e.g., 61 Lincoln Avenue). She clarified for Mr. Briley that the current language ("any movement of earth") had in the past necessitated that the owners obtain a COA for an alteration, such as tree removal.

Ms. Kornel detailed examples of COAs that had been processed in the past, but which would not require COAs if the amendment were approved, including the replacement of a fence with little change, replacement of a boardwalk at 1 North Beach Street with a similar boardwalk, those with no change in exterior appearance, several roof replacements with like materials, and replacement of a monument at 56 North Beach Street with a nearly identical sign. She added that the kinds of examples for which the HLPB would continue to want oversight by means of certificates of appropriateness were:

- Replacement of the coquina wall with a wood fence at 173 South Beach Street (necessitated by both safety and cost issues)
- Removal of a door and replacement of windows
- Garden projects, such as that at The Casements/Rockefeller Gardens

Reiterating that most COAs required for demolitions were for homes built prior to 1925, she said that the cost of $724 had been an added burden and noted that some projects were county-initiated projects through a housing program to replace the homes.

Ms. Kornel summarized that the proposed amendments included a definition for the purpose of certificates of appropriateness and a list of exempt routine maintenance, such as repair and installation activities, for alterations where the exterior appearance was not being significantly altered, in situations where like materials are being used to replace like materials. She reminded the Board that the HLPB also wanted to exempt derelict properties not considered historically noteworthy from having to obtain a COA for demolition. She also pointed out that the maintenance section had been relocated into the COA section of the Code and a section regarding unsafe structures had been added per HLPB recommendation in order to provide the chief building official with the authority to appropriately exempt certain properties from the COA process for purposes of demolition, resulting from e.g., a fire or flood. She assured the Board members that the original intent of the regulations remained unchanged and that the recommendations of the Historic Landmark Preservation Board had been unanimous. She also noted that although it had been reviewed in depth by the HLPB, the Planning Board was charged reviewing amendments to the Land Development Code. She said that subsequent public hearings before the City Commission were tentatively scheduled for February 1st and 15th.

In response to Mr. Heaster, Ms. Kornel explained that a significant change, such as the fencing and gate added at 253 John Anderson, would continue to need a COA, because it did not previously exist.

Mrs. Press opined that requiring certificates of appropriateness for minor improvements in the past could have discouraged people from fixing up their homes because of the expense involved.

Ms. Kornel concurred, but pointed out also that the intent of historic districts and landmark properties was to protect the historic resources within the city, the intent of LDC §2-71. She said she had compiled a list of advantages for designating historic properties, which she was willing to share. She responded to Mrs. Press' concern that historic designation might deter potential buyers by pointing out that there were tax incentives and exemptions available for such properties.

Mr. Briley recalled that historic properties had to be in an active historic district in order to take advantage of such incentives, but that the owners could not significantly change their properties.

Ms. Kornel pointed out that the Landmark list was voluntary and that some owners believed the designation added value to their homes at the time of sale.

Mrs. Press agreed that it was important to maintain and restore certain areas of the city, but expressed concern that the section dealing with demolition by neglect seemed to indicate regulation of the interior of such structures.

Ms. Kornel assured the Board that the city regulated neither the interior of a dwelling, nor did it regulate the exterior color. She agreed to clarify the language in that section of the amendment if necessary, since Ms. Behnke said she could not vote for the amendment as written.

Mr. Jorczak thought that allowing some staff discretion in lieu of stringent restrictions for changes in excess of 50% of reconstruction for homes built before 1950, not on the Landmark list or in an historic district, was a good thing. He asked if staff had ever compiled a list of homes not on the Landmark list that were considered architecturally significant.

Ms. Kornel recalled that a Master Site File had been completed in 1986, which contained information on every structure in the city built prior to 1950, but was unaware of any study that was devoted to other properties of architectural significance.

Chair Thomas questioned the way the city had determined the $724 fee for certificates of appropriateness, noting that that each municipality had a different fee structure.

The planning department staff established the fee based on the staff time and costs of processing the COAs, Ms. Kornel advised, but pointed out that it did not completely cover all associated costs. She said that the major portion of the cost was related to required legal advertisement.

Chair Thomas acknowledged Mrs. Press' concern that the cost of the permit could deter people from improving their historic properties.

Ms. Kornel indicated that the city could not afford to process such applications without some cost sharing and felt that a fee reduction was neither prudent nor likely. She concurred with Mr. Briley that the HLPB had considered the issue, but had voted not to change the fee.

Replying to Mrs. Press, Ms. Kornel explained that whether or not a COA for a repair would be required would depend upon the nature of the project. She said that under the revised regulations a minor alteration would not require a COA, but that a significant change would. She clarified

also that the 1950 date threshold applied only in cases of demolition, not for alterations; a house built before 1950 and not historically significant, would not need a COA to remove an exterior porch, only to demolish it. She noted that the language presented to the Board had not included the word *exterior*, but assured the Board that it would be added before the amendment went to the City Commission for approval.

Chair Thomas opened the meeting to public comment; there was none.

Mr. Jorczak made a motion to adopt LDC 11-014, with staff clarification of language to ensure no required review of the interior of historic structures.

Mr. Briley seconded the motion, which was approved by unanimous vote of the Board.

Chair Thomas declared the public hearing to be closed.

B. LDC 11-015: Land Development Code Amendment – Non-Emergency Medical Transport Conditional Use

Ms. Kornel said that the proposed amendment for a conditional use resulted from a citizen request to provide non-emergency medical transport services, a use not addressed in the city's Land Development Code (LDC).

While the Code does provide for a *Taxi Barn* use as a Special Exception in the B-5 zoning district, Ms. Kornel advised, medical transport differs from that use because it services people with handicaps, illness, injury or who are otherwise incapacitated, making typical transportation by bus, car, or taxi impractical. She said that staff recognized that there would be an increasing need for such medical transport services, given the growing aging population. She stated that the I-1 (Light Industrial) zoning classification was appropriate because the use would require overnight parking and because the I-1 districts throughout the city are generally removed from residential areas (generally along US 1 and along the railroad tracks). She said that such businesses could be anticipated to operate during regular business hours.

Ms. Kornel stated that the amendment included a definition as well as criteria, and that staff was asking that the Planning Board recommend that the City Commission approve the LDC amendment. The City Commission was scheduled to hear the request on February 1st and February 15th, she advised.

In response to Ms. Behnke, Ms. Kornel confirmed that the amendment had been initiated by someone who would be establishing a medical transport business in Ormond Beach.

Ms. Behnke questioned whether the vehicles would be equipped with lights and sirens; she pointed out that the request was for *non-emergency* transport.

Mr. Alan Rabin, 19 Choctaw Trail, stated that he currently owned SuperMed, a business that provides non-medical equipment in the area and which owned a warehouse in the complex at 880 Airport Road, an I-1 zoned area. He confirmed that the service was for non-emergency transport and advised that his van drivers were not allowed to touch the individuals they transported.

Mr. Briley questioned whether the employees would be using the vehicles as their primary transport, i.e., taking the cars or vans to their homes when not working.

Ms. Behnke asked how the drivers were able to get the clients into the conveyances when they were not allowed to touch them.

Mr. Rabin said that they were able to move their wheelchairs. He noted that they had less flexibility in their transport services than they did for their medical equipment business. He also confirmed that they were competitive with the business offered by Votran, but that they were able to transport a stretcher, whereas Votran could not. He advised Mrs. Press that the vans had lifts and were all ADA (Americans with Disabilities Act) approved.

Mr. Wigley repeated Mr. Briley's question regarding the ability of employees to take the vehicles home at night.

Mr. Rabin stated that the transport vans would remain on the business property at night, but said that they had other vehicles that employees took home.

Mr. Briley cautioned Mr. Rabin that there was a city ordinance addressing commercial vehicles being parked in residential driveways.

Mr. Rabin said that he paid for the fuel and for insurance, and therefore preferred that the employees not take the transport vehicles home.

Mrs. Press concurred and noted that commercially lettered vehicles were not allowed to be parked in residential areas overnight.

Chair Thomas pointed out that it would be a code enforcement issue if the business vehicles were taken home at night and not a concern for the Planning Board. Since the request was essentially for a medical taxi-cab business, i.e., a vehicle for hire, Mr. Thomas asked if the amendment was designed to limit the use to a certain zoning district.

Ms. Kornel responded that staff wanted it specifically identified as a conditional use in the Code, since there was currently no category in the LDC to allow the use.

Chair Thomas pointed out that there was also nothing in the Code that said it could not be done and stated that he did not feel that the amendment was necessary.

City Attorney Hayes explained that everyone, including staff, was better served with having as much specificity in the Code regulations as possible, rather than not addressing non-permitted or undescribed uses. He said that the added detail precluded staff from having to address the question through some nebulous process. From a use perspective, Mr. Hayes said, all lawful regulatory uses should be prescribed in the Code as tools for planning staff. He also pointed out that any concerns of route origination could be addressed in the development order.

Mr. Briley agreed, noting that cab barns were also allowed in the B-5, whereas the proposed non-emergency medical transport use was not.

Ms. Kornel stated that overnight commercial-type parking, as also allowed in the B-5 zoning district, had more potential for conflicts with abutting residential areas; therefore staff thought it more appropriate to limit the use to areas industrial in nature.

Ms. Behnke reiterated her desire that the regulation specifically prohibit emergency lights and sirens.

Mr. Briley made a motion to recommend approval of LDC 11-015, per Board comments and concerns to be addressed by staff prior to the City Commission hearings.

Mrs. Press seconded the motion.

Ms. Jarrell called the vote:

Harold Briley	Yes
Pat Behnke	Yes
Doug Wigley	Yes
Al Jorczak	Yes
Lewis Heaster	Yes
Rita Press	Yes
Chair Thomas	No

The motion was approved by a 6-1 vote. Chair Thomas stated his belief that the amendment was unnecessary.

C. LDC 11-007: Land Development Code Amendment – Highest Roof Elevation of Structures On Docks; and Exception to Permitting Requirements for Single-Family Docks

Ms. Weedo stated that the amendment would raise the highest point of the roof of any boathouse or similar structure from 12 feet above the water level at mean high tide to 15 feet, and to add language to simplify the permit process for single-family residential docks not in aquatic preserves. The purpose, she explained, is to correct a clearance issue and to provide a greater flexibility in design and construction of boathouses and similar structures.

Ms. Weedo said that reviewers typically check the engineered drawings to make sure that the height from the mean high water line (MHWL) to the highest point of the structure meets the requirements of the Land Development Code (LDC). She added that such structures built on an Outstanding Florida Water (Class III) are required by the Florida Department of Environmental Protection (FDEP) to have a 3-foot elevated platform, which reduces the available clearance to 5'6". She said that in an aquatic preserve, the FDEP requires a 5-foot elevated platform, further reducing the clearance to 3'6". She said that the proposed amendment to raise the height limit for these structures would result in a 6'6" clearance and would resolve the issue.

The amendment would also provide language, Ms. Weedo stated, to provide an exception to permitting requirements for dock projects eligible for consent by rule by the Florida Department Environmental Protection and to simplify the permit process for single-family docks not located in aquatic preserves. She explained that currently, all applicants obtaining city permits for dock projects must also obtain a letter of consent from the FDEP, even for DEP-exempt projects, a step not required by DEP standards. She said that it would simplify the permit process for dock projects already considered consent by rule (projects not required to have a permit or written authorization).

Ms. Weedo reported that planning staff was recommending that the Planning Board recommend approval of the proposed amendment and said that the item was expected to be heard by the City Commission on February 15 and March 1, 2011.

Mr. Heaster felt that the additional clearance would help in stuations when the water level was raised, particularly in times of low pressure areas. He thought that it would also help protect property, since it would allow the lifts to be raised.

Chair Thomas agreed, noting that it was not uncommon for the boat T-tops to be damaged because of boats being jammed against the upper structure. He suggested that the amendment allow the height of the roof structure to be raised to 18 feet, rather than 15 feet, and asked if there was any known reason not to do so. He also noted that newer boats were larger.

Ms. Behnke said that whether or not it was a valid argument, she understood that it was to further prevent shadowing of sea grass. She did not think that the 18-foot suggestion was unreasonable.

In response to Mr. Jorczak, Ms. Weedo said that she believed the rationale for the 15-foot limt was to provide only what it would take to fix the problem, which it appeared to do

Chair Thomas that amending the height to 18 feet now would preclude the need to raise it again later and explained that he was simply looking out for the interests of the citizens of Ormond Beach. He pointed out that per the comparison charts provided, Ormond's height regulation was among the lowest, while the adjacent municipality allowed the highest height. He also noted that many newer boathouse roofs were flat, with seating areas on top.

Mr. Jorczak answered Mr. Thomas' question, saying that the Army Corp of Engineers controlled only the length of the structure and the coverage over the water. He agreed that changing the amendment to allow a height of 18 feet was reasonable, and **made a motion to accept LDC 11-007, raising the proposed 15-foot limit to 18 feet from water level at mean high tide.**

Mr. Briley seconded the motion.

Ms. Jarrell called the vote:

Doug Wigley	Yes
Pat Behnke	Yes
Al Jorczak	Yes
Lewis Heaster	Yes

Harold Briley	Yes
Rita Press	No
Chair Thomas	Yes

The motion was approved by a 6-1 vote.

IX. OTHER BUSINESS

There was no other business to be discussed.

X. MEMBER COMMENTS

Mr. Briley thanked the Chair for welcoming him to the Board and said he was looking forward to working with everyone.

Chair Thomas also welcomed Mr. Heaster to the Board, who echoed Mr. Briley's comments.

The other board members concurred.

Mr. Jorczak asked staff if they could provide an update of the current status of all open projects at the next meeting.

XI. ADJOURNMENT

The meeting was adjourned 8:05 p.m.

Respectfully submitted,

L. Kornel

S. Laureen Kornel, AICP, Senior Planner

ATTEST:

Doug Thomas, Chair

Minutes transcribed by Betty Ruger