M I N U T E S

ORMOND BEACH PLANNING BOARD

Regular Meeting

December 10, 2009 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

Al Jorczak
Patrick Opalewski
Rita Press
Doug Thomas
Doug Wigley

Staff Present

Randal Hayes, City Attorney
Ric Goss, AICP, Planning Director
Steven S. Spraker, AICP, Senior Planner
Chris Jarrell, Recording Technician

Members Excused

John Adams
Patricia Behnke

II. INVOCATION

Mr. Jorczak led the invocation.

III. PLEDGE OF ALLEGIANCE

IV. 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).

V. PLANNING DIRECTOR'S REPORT

Mr. Goss stated that there were no new issues on which to report.

VI. APPROVAL OF THE MINUTES

The minutes of the November 12, 2009 Planning Board meeting were unanimously approved as presented.

VII. PUBLIC HEARINGS

A. LDC 09-26: T-1 Zoning District Land Development Code Amendment

Mr. Spraker stated that the proposal to amend the Land Development Code would re-establish the T-1 zoning district. He advised the Board that the T-1 district had been removed from the Code in the early 1980's, presumably so that as T-1 zoned properties developed and redeveloped, they would be rezoned to Planned Manufactured Home Community (PMHC). He explained that it was the same concept as requiring SLDR (Suburban Low Density Residential) properties to rezone to Planned Residential Development for development with an intensity greater than one unit per acre. He said that after many years, the T-1 properties remained and were appropriately zoned and staff realized that the T-1 zoning classification needed to be reinstated.

Mr. Spraker referenced the existing planned manufactured home communities in Ormond Beach zoned T-1: Aberdeen, 534 units; Bear Creek, 642 units; The Falls, 600+/- units; and existing mobile home communities (Arroyo Parkway, Nova Road, approximately 49 units; Camelot, Nova Road, 100 units; Ridgecrest, (124 units).

Mr. Spraker also reported that there were two such properties located at 194 and 200 North US 1, which were currently improved with single-family homes, rather than with mobile or manufactured homes, and had, in essence, no permitted or conditional uses and no dimensional standards. He said that those properties needed some assignment of legal potential uses. In addition, he advised that there were other mobile home parks currently in the county that had expressed interest in annexing into the city (Life Mobile Home Park next to Camelot) and that the proposed amendments would allow them to annex and be assigned a land use and a zoning.

Mr. Spraker said that the proposal included four amendments:

1) Table 2.2 – would establish a consistency matrix between the land use and the zoning.

2) LDC §2-20 would establish the zoning district, the permitted and conditional uses, dimensional standards, etc. The PMHC would be deleted, since there was no property in the city currently zoned PHMC.

3) LDC §2-57 would establish the conditions necessary to develop a mobile home or manufactured home community (basically the PMHC rules, minus redundant regulations from the Building Code and the Parking section of the LDC, and any other language that did not apply to the two specific uses).

4) Added to LDC §2-57 a requirement for a shelter to provide safe haven for residents in the event of a hurricane, tornado or other inclimate weather; would take effect if there was new development, expansion, or if more than 50% of the units within a park were destroyed.

Mr. Spraker said that staff had sent out notices to all property owners about two months earlier, along with copies of staff report. He said that staff had tweaked the proposal based on the comments of one property owner, and then re-noticed the owners to advise them of the Planning Board meeting and the future City Commission meetings. He asked the Board for their recommendation of approval of the amendments.

In response to Mr. Jorczak, Mr. Spraker explained that earlier city zoning maps included T-1 and T-2 areas and that the city had intended to force those properties into the PMHC zoning district, which was an overlay district prior to 2004. He said that was no undeveloped land for new T-1 districts and that staff did not foresee land use changes and rezonings to the T-1, since there were no suitable tracts of land available; staff was, however, anticipating the need for the land use and zoning districts for future annexations, such as Life Mobile Home Park.

Mr. Jorczak questioned the vacancy rates of such communities.

Mr. Spraker replied that although vacancy rates had not been discussed with the property owners, the communities seemed to be well-occupied. He agreed that as lower income housing, it would coincide with the city's overall plan for affordable housing, but explained that the intent of the change was to correct an oversight, not necessarily to expand it. He noted that there had been no new applications since the last major manufactured home development, which was Aberdeen.

Mrs. Press asked if the developments were zoned for medium and high densities and if so, if a manufactured home could be placed on a vacant lot.

Mr. Spraker responded that there were a variety of land uses within such developments and that the T-2 zoning district allowed manufactured mobile homes on individual single-family lots of record. He said that the T-2 district was generally located between of Hand and Fleming Avenues, east of Nova Road (Collins and Bryant Streets) and in the Arroyo Parkway area (Alabama and Tennessee Streets).

Mrs. Press expressed her concern with manufactured homes being allowed in other areas of the city.

Mr. Spraker explained that any areas would have to be rezoned in order to do so, which would require public hearing before both the Planning Board and the City Commission.

Mrs. Press also expressed concern with the requirement for manufactured home developments to have [emergency] shelters, pointing out that others who were required to evacuate their homes (e.g., those on the peninsula) did not have to shoulder the same burden.

Mr. Goss responded that according to the city's fire chief, Volusia County's evacuation plan requires that the first people to be moved out in a disaster or emergency event are those in low-lying areas, flood areas and in mobile homes. He said that the there would not be enough room in the shelters if everyone complied, and that officials also did not want people in their vehicles during such an event. He said that the best alternative was to provide shelter for people where they live, such as a clubhouse built to current windloads. He said that anecdotal evidence and scientific evidence confirmed that manufactured housing did not hold up as well as stick-built structures and that many people, particularly those in older homes that did not meet windload standards, would not remain in their homes during a storm event. He noted that some of those could be expected to lose their homes. He further clarified that although not all mobile homes were in low-lying areas, the residents would still evacuate.

Mr. Jorczak remarked that those not built to current code standards would be more susceptible to damage; therefore, those residents would be better off in a facility that met all the current requirements.

Mr. Goss noted that even a recently constructed manufactured home that met the standards would not hold up as well as site-built home. He said that unlike a stick-built home, once the seal was broken, everything disintegrates.

Mrs. Press said that it had been her experience that when damage occurred, it was generally because of a falling tree, not because a home had blown away. She felt it did not make sense to require the newer manufactured home communities to bear the burden of the additional expense.

Mr. Opalewski agreed with Mrs. Press that the requirement did not seem to be practical, particularly since there were many houses in Ormond Beach that were not built to current windload standards. He pointed out that if one-half of an older subdivision was destroyed, they would not be required to construct a shelter.

Mr. Goss explained to Mr. Wigley that the square footage of the shelter would be based upon the number of residents in a given mobile home park. He pointed out that it was not unusual for a community to require a shelter for mobile home park after a disaster event.

Mr. Wigley understood the requirement for new park construction, but thought it was a big penalty to require it of an older park if a certain percentage of homes were destroyed.

Chair Thomas agreed with Mr. Goss and stated that he also knew from experience that there were not enough hurricane shelters and surmised that those who lived in hard-hit areas would want shelter in the event of a repeat emergency. He thought that the reason it did not seem to be a big problem was because memories of the 2004 were fading. He stated that he dealt with the issue on a daily basis and had just bid on two school shelters. He confirmed that manufactured

housing was always the first to be evacuated, simply because of the structural design and the construction of manufactured homes. He saw a need for the shelters proposed by the language in the amendment. He recalled that manufactured housing had once been proposed for Breakaway Trails as a way to include affordable housing.

Mr. Wigley agreed that shelters were important and that more were needed, but questioned how a mobile/manufactured home park with a 50% loss of dwellings could be required to build such a community center/shelter, given the limited geographic area. He asked how the determination would be made as to who lost their homesite.

Mr. Goss explained that a shelter would be required to be built as part of a new mobile home park, or for redevelopment of a mobile home park that was more than 50% destroyed. He reminded the board that mobile homes were considered personal property, given a sticker, and could be replaced the same as a vehicle. He explained that it was the pad that defined the livability of a mobile home, because it is the pad that is improved with water and sewer hookups. He said that the proposed language assumes that the residents whose homes were not damaged would remain. He informed the board that Pinellas County had nearly 35,000 mobile homes and required shelters in all new mobile home parks and for redevelopment of mobile home parks. He agreed with Mr. Jorczak that the parks would effectively lose units, unless they had open space.

Chair Thomas pointed out that not all parks would lose units, because some (Bear Creek, Aberdeen, The Falls, Camelot) already had clubhouses, which could simply be brought up to shelter codes.

Mrs. Press thought it was sensible to require existing clubhouses to be upgraded to shelter standards if struck by disaster, but felt that rather than building a shelter to protect the remaining homes, improvements should be made so that those homes did not blow away in the future. She pointed out that the people who occupied the mobile homes could not afford the additional expense that would be passed on to them as a result of the cost of a shelter.

Mr. Goss said that did not know how it would be possible to ensure that the remaining homes were upgraded. He explained that although typical evacuation plans involved moving people out of the area, there were not many roads to do that from Ormond Beach. He said that the idea was not to have people stuck on the roads in the middle of a storm while trying to get away. He asked where people would go if under a mandatory evacuation and the shelters were full.

Mrs. Press thought that the answer was [to build] more major shelters in Florida.

Chair Thomas opined that the newer schools were built to double as shelters, but pointed out that the County was not expected to build many new schools in the coming decade.

Mr. Randy Hendrix, 458 South Beach Street, stated that he was the former owner of Ridgecrest Mobile Home Park and had 29 years in the mobile home park business; he now owned Camelot Mobile Home Park. He felt the proposed language was discriminatory and asked if the area subdivisions such as Tomoka Oaks would be required to build a shelter if 50% or more of their older homes were damaged.

Mr. Hendrix said that he had been involved in rewrites over the years and that every time someone new was hired they wanted to change the mobile home codes. He stated that the proposed language would not hold up, because there were State statutes that prohibited cities or municipalities from changing mobile home communities as they were built. He said that in trying to sell Ridgecrest, he learned that city staff had told the buyers they could not replace mobile homes if the park was damaged by 50% or more. He recalled that he had contacted the Florida Manufactured Housing Association (FMHA), whose attorneys then called the city to advise that it was not legal by State statutes. He said that there was also no requirement that they have shelters and advised that he would challenge the requirement if implemented by the City.

Mr. Hendrix said that although he understood the concern regarding wind issues, he had not lost a mobile home to a hurricane in 30 years; he had, however, seen damage to the homes in Tomoka Oaks (screen porches and pool enclosures) not only from wind, but also from falling trees. He pointed out that Ridgecrest was an old park, but was also a neat, clean community that served a purpose. He stated that it was not possible to build a shelter on those ten acres, which housed people from 104 mobile homes and 20 travel trailer sites spaces.

Mr. Hendrix advised that he also owned the Camelot park, which had an existing clubhouse, and noted that if the clubhouse was destroyed, it would have to build back to current standards. He informed the board members that mobile homes already had to be built to the wind standards of the area in which they were placed and that when individual units were replaced, the tie-downs had to be at current standards and had to meet national fire safety codes (if built before 1984).

Mr. Hendrix responded to Mr. Wigley that cities could require new mobile home communities to have shelters on site, but that the State did not. He clarified that once a park is established, it can continue to operate by the rules in place at the time.

Mr. Goss advised the board that the Statute had been reviewed and that it was his understanding the intent was to prevent local governments from interfering with the relationship between the landlord and the tenant with issues such as lot rents. He said that there was nothing in the Statute indicating that the State legislature had taken away the zoning powers of the city. He replied to Mr. Wigley that there was currently no requirement for parks to have shelters as a part of their plans.

Mr. Opalewski questioned whether the windload standard for a new trailer was the same as for a single-family stick-built residence.

Mr. Hendrix said that he is a licensed installer, and explained that the windload requirements were determined by the zone in which a home was located; e.g., Zone 2 required a windload of 120 MPH. He reiterated that a 25 year old mobile home being retrofitted would have to be tied down to the current standards (anchors placed every 4.5 feet, with lateral restraints). He stated that there had never been a mobile home turned over that had been properly tied down. He also stated that the statute referred to by Mr. Goss was the Landlord/Tenant Act, different from the FMHA regulations for existing mobile home communities.

Chair Thomas pointed out that an ordinance already existed that required homes damaged 50% or more (both stick built and manufactured) to be brought up to current code, but pointed out that a mobile home damaged more than 50% would not be fixed.

Mrs. Press remarked that if a stick-built house is 50% destroyed, the owners are not required to rebuild the house with a safe room.

Chair Thomas advised that although the discussion involved wind speeds, in areas east of Hunter's Ridge the concern was also windborne (flying) debris and that by law, the owner of a home suffering damage to more than 25% of the windows would be required to put in impact windows for hurricane protection, the equivalent of a hurricane shelter. He brought up the fact that some 20 insurance companies had pulled out of Florida following the 2004 hurricanes and that the taxpayers had had to pick up the bill for the State's re-insurance to ensure that the State did not go bankrupt in the event of a repeat season. He said that by including the proposed language in the code, staff was trying to protect the taxpayers and help the State. He said that available data proved that mobile homes sustained more damage than site-built homes in such storm events and thought it would be hard for a manufactured home to pass the wind-borne debris impact testing, hence the need for emergency shelters to prevent injury and loss of life.

Mr. Hendrix said that such a requirement should have to be doable, and stated that it absolutely would not work. He questioned how, e.g., Ridgecrest would locate such a structure on the property, given the density of the park.

Mr. Jorczak replied that the park would lose some of the destroyed rentals.

Mr. Hendrix stated that it could not happen and asked if they were aware of the cost.

Mr. Jorczak said that if the park lost 50% of the mobile homes, the park would be left with the pads only for that portion of the park, and that the proposed legislation would require that some of those units be sacrificed to create space for a shelter that would adequately accommodate the remaining residents. He said that to do otherwise, would be putting the residents at risk.

Mr. Hendrix thought that to be irrelevant.

Mr. Wigley felt that Mr. Hendrix' was, in essence, asking the taxpayers to build shelters for his residents. He explained that the first people go to shelters were those in mobile home parks and that because the taxpayer-built schools were the shelters, the schools had to close so that those in low-lying areas and mobile home communities could evacuate. He said that if 50% of the park was destroyed, there would most likely be insurance money to help offset the losses. He said he had problems with what was, essentially, an unfunded mandate.

Mr. Hendrix said the comparison was invalid, because many older subdivisions include homes not built to current wind standards

Mr. Wigley pointed out that the houses were owned by the residents, whereas the mobile homes simply occupied rental spaces. He said that those occupants could buy a new mobile home with their insurance money and re-rent, relocate or could rent a dwelling unit. He disagreed with Mr. Hendrix that the regulation was dictating that the park owner build a $500,000 structure, but said

that because of the shortage of shelters for park residents, the taxpayer was being asked to provide shelter for those residents at the taxpayers expense.

Mr. Hendrix said that if he had to build a shelter for the residents, the cost would have to be passed on to them, the lowest income people. He pointed out that the mobile home owners would not give him their insurance proceeds to build the shelter. He said that those residents had lifetime leases, which they could sell to others.

Mr. Wigley reiterated that either the park owners would have to build shelters or the taxpayers would have to build shelters and close schools to house the mobile home residents. In response to Mr. Hendrix, he pointed out that it would only be an issue if 50% of an existing park was destroyed, and since Mr. Hendrix had never lost a mobile home in a hurricane, it was moot.

Chair Thomas pointed out that the regulation would be unfair to a homeowner if the mobile home park owner did not have to abide by the city's re-build regulations and. felt that there were considerations other than simply wind speeds (tie-downs).

Mr. Hendrix responded that a manufactured housing community was laid out with sewer and electrical connections, streets, etc., and he would therefore be unable to parcel out a section of the park without affecting those utilities.

Chair Thomas understood the problems and suggested that perhaps a compromise would be possible.

Mr. Goss stated that the FMHL was located in Largo, Florida, a town with one-third of its housing stock in mobile homes. He said they had a shelter requirement for any redevelopment or new development. He explained that the requirement had been included in the proposed language at the request of the Fire Department and said that he was willing to first seek the advice of the legal staff to determine whether or not it was illegal to require shelters after disasters as part of the redevelopment before bringing the item back to the board.

Mr. Wigley made a motion to continue the item to a future meeting.

Mr. Jorczak seconded the motion, which was approved by unanimous vote of the board.

VIII. OTHER BUSINESS/INFORMATIONAL ITEMS

A. Wetland Land Development Code Amendments

Mr. Spraker reported that the discussion item was being presented to afford the Board members an opportunity to provide input prior to their being asked to take action on the proposed changes to the wetlands regulations. He reminded the Board that earlier changes to the Conservation Element text of the comprehensive plan had been found in compliance by DCA (Department of Community Affairs) in August, 2009.

Mr. Spraker explained that the staff-developed draft of the proposed changes had been shared with both Volusia County and with VCARD (Volusia County Association for Responsible

Development) and that each had provided some excellent comments and recommended changes. He summarized the changes and scenarios as shown in the Board staff report:

- The city would now accept State permits as meeting the city's wetland standards, from both the St. Johns River Water Management District (SJRWMD) and the Department of Environmental Permitting (DEP), but would review projects to make sure they included the County's required 25-foot buffer. (Those agencies review different wetlands issues.)

  The City is bound by the County charter to mandate that all remaining wetlands have a 25-foot buffer; projects with a SJRWMD or DEP permit that do not meet the 25-foot buffer requirement would be required to mitigate or provide the additional buffer area.

- The city's wetlands classification system would be eliminated.

- The increase to the wetland buffers along the eco-corridor (environmental core overlay district) currently being incorporated into the Volusia County regulations would be incorporated into the city's requirements. The few privately held eco-designated properties within the city would have to adhere to Volusia County standards.

- Included an alternative for smaller wetland impacts; the Code would allow for mitigation. Any mitigation approved by the State would be acceptable to the city, rather than on-site mitigation only, as currently allowed by the current contradictory Code regulation.

  Wetlands impacts associated with a dock could be mitigated by paying into the Volusia County fund as an alternative.

Chair Thomas questioned how a dock would impact wetlands.

Mr. Spraker responded that although not substantial, pilings impact wetlands and wetland areas under decking are no longer in the sun and might require some mitigation.

Mr. Spraker provided examples of the scenarios considered by city staff in the development of the proposed changes:

- A project with a State permit (SJRWMD or DEP) that met the County's 25-foot buffer requirement would require no review by city staff, only verification of the wetlands permit.

- A project connected to Thompson's Creek, Dodson's Creek, or the Tomoka River, having a State permit, and for which the City believed the impact to be too great: the City would not only have the right to review and comment on the project, but also to object to it, based on the wetland criteria. The goal is to ensure the continued protection of the most pristine wetlands. Although not a likely scenario, it would reserve the option for those wetland areas formerly classified as Class I and to discourage those impacts for waterbodies connected, e.g., to the Tomoka River.

- A project with a State permit that did not meet the 25-foot required buffer would be required to delineate where the buffer area was lacking and could utilize the excess buffer areas to mitigate those inadequate buffer areas (<25-foot depth). The mitigation could be done either on- or off-site.

- A project not requiring a State permit, and having a letter of "no exemption", would be reviewed solely by the City. Such projects (typically small commercial sites of less than one acre) would be required to have a wetland management plan in order to determine the impacts and whether or not mitigation would be required.

- A project claiming to be an "exempted activity" would have to provide evidence to that effect. The City would then provide the applicants with a letter so stating.

Mr. Spraker said that staff had met with VCARD representatives earlier in the week and reported that their concerns could easily be incorporated into the proposed language. He cited as an example their request to substitute "*and function of value*" for "*no loss of wetland function*". He said that they also expressed concern with the City's ability to review projects that contain pristine wetlands that had already obtained State permits; however, he reiterated that the city wanted to continue to be able to review projects with wetlands that staff felt should be preserved or impacts that should be altered.

Mr. Spraker displayed a map, as requested at the EAB meeting the night before, which showed the wetlands and the vacant areas of the city. He pointed out that the Ormond Crossings area and the airport industrial park were currently using SJRWMD standards, and said that staff felt that if it was being done for that development, those standards should be utilized citywide.

Mr. Spraker clarified for Mr. Wigley that Volusia County staff did not like the mitigation language that had been proposed by the city, so the city instead used the County language, which meant that the city was relying primarily on the State permitting. He said that would capture approximately 90% of the mitigation and that projects that could not meet the upland buffer standards, they would have to mitigate. He confirmed that the city's current wetland requirements were more restrictive than the county's in terms of what could be impacted, but that the goal was to align city wetland standards with those of the State and the County.

Mr. Jorczak asked if the 25-foot requirement was originally a State mandate.

Mr. Spraker explained that the SJRWMD utilized a 15-foot minimum buffer, above which the County could impose additional restrictions to which all the cities in Volusia County would then have to adhere.

Mr. Jorczak remarked that a 15' or 25' buffer seemed small.

Environmental expert Shannon Julien, 341 Cumberland Avenue, advised the Board that she and the VCARD staff had worked well with city staff and commended them on the proposal. She stated that their main focus (which had been the same for years) was the exemption and said that they were now happy with the exemption language in the proposal. She said that they understood the staff rationale in adding language to ensure the city's ability to review projects with State permits.

Mr. Spraker advised that staff's intent was to bring the changes back to the Board in January for approval recommendation.

B. Floodplain Land Development Code Amendments

Mr. Spraker said that staff was trying to accomplish three things with the proposed floodplain modifications: 1) align the city's regulations with the National Flood Insurance Program (NFIP), 2) align the city's regulations more closely with the Community Rating System (CRS), which provides a community-wide discount for the city's participation in the Flood Management program, and 3) remove the artificial fill in the floodplain percentage.

Mr. Spraker recalled that prior to 2004, the amount of allowed fill in the floodplain was 45%, and the city had no requirement for compensating storage; therefore, if 45% was filled, there was nowhere for the water to go other than to the stormwater areas. He said that in 2004, the city began (following some of the State regulations) requiring compensating storage, thereby not changing the volume of the floodplain.

Mr. Spraker explained that the Conservation Element amendments [of the comprehensive plan] included language removing the artificial fill limitations and substitute compensating storage. He said that the Environmental Advisory Board (EAR) expressed concern with the threshold of 20,000 square feet to differentiate the 1:1 ratio for compensating storage versus the 1:1.15 ratio, which meant that anything over 20,000 SF would require providing more storage volume. He said that the planning director had clarified that the requirement would apply only to existing single-family residences that were not part of a master permitted system. He explained that a commercial site with a State permit for compensating storage would be allowed by the city, i.e. the City would honor whatever was approved by the State permitting authority. He reminded the board members that compensating storage requirement and the stormwater requirement are two different issues and that both have to be provided. He also pointed out that most single-family homes were developed as part of planned developments and would rely on State permits. He said that for single-family homes not part of a planned development, the ratio would be 1:1; anything over 20,000 square feet would require a greater amount of storage (1:1.15), because the floodplain was being impacted.

Mr. Jorczak questioned how the regulations would be applied for vacant lots in landlocked communities with wetlands, where it would not really impact the total wetland corridors.

Mr. Spraker responded that there were two separate issues: the wetland impacts and the floodplain impacts. He explained that for the wetland impacts, as long as the property was not directly connected to a waterbody, the impacts could be mitigated either on-site or by purchasing credits in a mitigation bank; for the floodplain impacts an alternative construction type could be utilized, such as stem walls. He added that if the lots were to be filled, compensating storage would have to be provided.

Mr. Jorczak concluded that it would not impact the ability to do infill projects.

Mr. Goss explained that his concern, particularly since the May flooding event, was that development of individual lots in older subdivisions (with no stormwater system) could displace flood volume onto neighboring properties because there was no compensatory storage required of residential; the change would address that issue so that single-family lots of a certain size would have to compensate for the water they displaced. He advised that an engineer had

designed a spreadsheet model to make sure it could be done. He explained that the City Commission needed to be able to say that they were doing everything within reason to prevent people from being flooded out. He said felt that the cumulative impact would be great.

Mr. Goss recalled that when he first arrived in Ormond Beach, he was told that the codes were extremely unfriendly and has been working to turn that around. He pointed out that the comprehensive plan amendments were designed to do more than just streamline.

In response to Mrs. Press, Mr. Goss explained that compensatory storage was an artificial way of providing area for that which had been encroached upon and if that area for flood volume could not be provided on-site or off-site, the city would allow for a payment in lieu of. Based upon the studies underway in those areas, he said, staff would know exactly how much it would cost (on a volume per square foot basis) to provide whatever volume was needed. He said it simply did not make sense to allow people to just encroach into the floodplain without some type of compensatory storage. He pointed out that very little flood damage occurred in the newer developments as a result of the May flooding because they were well designed, but that in the low-lying areas in the older parts of Ormond Beach, it had resulted in rip-downs for new homes.

Chair Thomas noted that even Ormond Lakes, one of the newer subdivisions, had a lot of street flooding during the 2004 hurricanes.

Mr. Goss explained that the level of service was considered acceptable if there was no property damage, i.e., the homes had not flooded. He said that although it was inconvenient when the yards and roads were flooded, there was no way Ormond could provide the capacity in which all facilities would be dry.

Mr. Spraker confirmed for Mr. Opalewski that a commercial property owner would go through the State for both their floodplain and compensating storage permits.

Mr. Opalewski commented that the Ormond regulation moved the City's regulations towards consistency, particularly for wetlands and floodplain. He commended staff on their work.

Mr. Wigley remarked that too often the word *streamline* meant a rubber stamp. He felt that since city staff had maintained their review ability, it would simply be more consistent.

Chair Thomas agreed and told Mr. Goss that he believed the attitude of the general public towards the city had changed for the better as a result.

Mr. Goss clarified that while the standards had been streamlined, the community values had not been sacrificed; the standards were just as good as they were before. He explained that he was reacting to a comment that had been made, which had failed to look at the overall picture of where the city had progressed over the last 2.5 years.

Ms. Shannon Julian stated that VCARD's only issue had been with the floodplain regulations, and that they would refrain from making any comments on the ratios at present, since she thought that was the major issue. She said she also thought that most of the engineers who had expressed concern would understand, since the standards would be utilized in trying to retrofit some of the problem areas or put funds into coffers that could then help the low-lying properties.

She said that the draft language would be taken back to VCARD once the language had been revised.

Mr. Goss clarified for Mr. Thomas that the regulation was for new development of vacant lots in low-lying areas; new structures, even in replacement homes, would now have to do compensatory storage. He reiterated that having the requirement in place would result in recovering lost flood volume over the years.

C. Signage Land Development Code Amendments

Mr. Spraker said that staff reviewed the sign code and amended the language to address issues that had previously arisen. He informed the Board that staff had met with sign companies representatives, the Ormond Beach Chamber of Commerce personnel, VCARD representatives and property owners who had historically had complained or who had issues with their signage.

He summarized as the major issues:

- Formatting the sign section to condense all the requirements throughout the code into one location.
- Requiring architectural treatment of monument signage, as required within most of the planned developments.
- Allowing flexibility with the five-foot setback requirement for older developments; planning director would have some discretion based on site conditions.
- Allowing electronic changeable copy signs in the primarily commercial areas of SR A1A, Nova Road, US 1 and excluding them along Granada Blvd., Hand Avenue, in the B-1, B-9 and B-10 zoning districts and within the Downtown Redevelopment Area.

Electronic Changeable Copy Signs

In response to Chair Thomas, Mr. Spraker noted that the electronic changeable copy signs were currently allowed for The Trails and for governmental signage. He pointed out that the City Commission, through the Volusia County review process, had allowed one at the Harley Davidson dealership at Destination Daytona as part of their planned development. He also responded that no one with a business on Granada Boulevard had complained because such signs were allowed elsewhere in the city. He said that it was staff's opinion that it was not appropriate for the office and professional development along Granada Boulevard, but acknowledged that there were some commercial uses at the major intersections. He responded to Mr. Thomas that Lowe's or Wal-Mart would be denied such a sign under the proposed ordinance, but pointed out that they could try to negotiate it through a planned business development. He said that they would have to prove that it should be allowed, however, and it would then be at the discretion of the Planning Board and the City Commission.

Mrs. Press asked if the language would restrict the color changes and flashing lights and whether or not it would require a complementary architectural foundation.

Mr. Spraker explained that all monument signs have architectural requirements. He added that the display could not be more than 50% of the sign area (32 square feet of the 64 square-foot maximum signage allowance). He said that pole signs allowed for bigger signage, i.e., up to 125 square feet for sites 600' long, equating to a 62.5 square foot electronic changeable copy sign. He added that there were prohibitions against flashing or blinking, dimmers were required, and said that they could be used to advertise on-site tenants.

Mrs. Press recalled that The Trails could change only a certain number of times per day; Mr. Spraker explained that it was a specific condition of The Trails development order.

Chair Thomas stated that the city of Ormond Beach was going to place an electronic changeable copy sign on the Performing Art Center's US 1 frontage that would inform the public of any activity related to the city.

Mr. Spraker asked the Board to let him know if they needed additional time to consider the changes. He said he did not want to rush the members if they felt they needed additional time to consider the issue.

Chair Thomas said he could foresee the City's wanting to have flashing lights to simulate fireworks [to advertise the Fourth of July celebration] and cautioned the members look at the overall implications.

Mr. Spraker said that there was a difference between flashing lights (illegal) and animation (legal), which would be allowed under the Code.

Mrs. Press noted that animation would be, e.g., a moving caricature and something that she would oppose; Chair Thomas said he would not object to the animation.

Mr. Spraker pointed out that to be the reason the item had been brought forward for discussion.

Other Signage Issues

Mrs. Press asked if the city could require that signs be removed if a business vacated a particular location and if they required removal of nonconforming signs.

Mr. Spraker replied that if a business moves out, the city has the right to require them to cover the sign cabinet or install a blank face on the sign; it gives the Chief Building Official some flexibility in addressing that issue. He said that to his knowledge, however, the City had never forced removal of a nonconforming sign in that situation, because the sign could be re-utilized if another, similar use occupied the same location. He cited Moe's use of the former Long John Silver's sign as an example.

Mrs. Press said that she would prefer to see the nonconforming signs removed if a business was vacant for a period of time.

Mr. Spraker advised that as currently written, a sign must be removed if a use is abandoned or discontinued for a period of six months; it did not have to be removed if a new tenant took some additional time to establish their business of similar use.

Mrs. Press clarified that the idea was not to punish business endeavors, but rather to eliminate eyesores, such as the sign at the former gas station at the southwest corner of Granada Boulevard and Ridgewood Avenue, a property that had been vacant for years. She stated that she wanted the removal provision for nonconforming signs to be enforced.

Mr. Spraker explained that the city did not actively pursue the removal of nonconforming signs, but instead required them to be replaced at the time of site development. He said that there was no amortization and that nonconforming signs were allowed to be maintained or repaired as long as the use was not changed or the business did not close.

Mrs. Press expressed dismay at the proliferation of signage (balloons, flags, etc.) throughout the city since the easing of the sign restrictions (deemed necessary as a result of the current economic climate). She asked for assurance that the proposed language would not permit the continuation of the current regulations when the economy rebounded.

Mr. Spraker said that they were not allowed by the city ordinance that had changed the Code. He said that he thought the sunset provision was longer than six months.

Mrs. Press said that she had no problem with the A-frame signage, but felt that the signage she was referring to was like graffiti in that one mess generated another mess.

Mr. Goss said that the added provision in the Code was for **A-frame signage**, not for illegal human directionals or signs tied to trees, and that the provision did not create the sign mess to which she was referring. He reminded the Board that the City employed reactive enforcement, i.e., issues were only addressed when complaints were received.

Chair Thomas said that as a business person, he was somewhat conflicted about requiring the upgrading of nonconforming signs, because nonconforming houses were not required to be brought up to code when they changed hands.

In response to Mr. Wigley, Mr. Spraker said that it was not only that the **nonconforming signs** were too close to the property lines, but that pole signs were required to be replaced with monument signage in some areas of the city. He pointed out that many of the pole signs along Granada Boulevard in the Downtown were grandfathered and could remain forever or until the property became vacant for 6 months or underwent a change of use or the sign was destroyed. He also confirmed for Mr. Thomas that there was no such requirement for nonconforming homes.

Mr. Spraker said that the **wall sign height** requirement of 20’ had been removed from the Code and that the proposed language would allow alternative locations, rather than only over the front entrance. He said, e.g., that wall signage would be allowed on the side, as long as it did not impact residential. He added that there was also a provision that would allow 50% of the site signage to be transferred to additional wall signage if a property owner did not or could not have site signage, such as in the Downtown or on SR A1A, where some of the properties do not have enough frontage for site signage.

Mr. Spraker also advised that language had been included to make the **calculation of square footage for identification signage** more equitable. He explained that currently, the bigger the unit frontage, the smaller the allowable signage as a percentage. A unit with smaller frontage would achieve more signage on a percentage basis than would a storefront of 100 linear feet (LF). He said that the solution proposed by staff would allow a 1:1 ratio up to 30 LF; any additional footage over 30 LF would be calculated at 1:0.5. Therefore, a 100 LF storefront would be calculated as 30 LF, plus ½ of the 70 remaining linear feet, or 35 LF, resulting in 65 SF, as compared to a maximum of 53 SF under the existing calculation. He pointed out that the change altered only the square foot copy area of the sign and did not increase the number of allowable signs; he said that a corner or double-frontage lot would be allowed more copy area to be allocated to the two permitted signs.

Mr. Spraker said that staff had addressed the issue of **wall vs. canopy signage**, raised at the public meeting, by including language to permit the allowable square footage of wall sign to be divided between wall signage and canopy signage. He said that the calculation for window signage had also been simplified to allow a 20% of the total window area for **window signage**, whereas at present, it was based upon a percentage of square footage of the wall signage. He explained that this was also a simpler way of calculating allowable signage and would allow more signage than before.

Mr. Spraker recalled that **sign variances** had been discussed at length at the public meeting, and said that the position of staff was that there should be no variances for nonconforming signs, since the purpose of nonconformity was to eliminate them. He said that the current code allowed sign variances for existing nonconforming signs destroyed by an act of God, thereby allowing the continuation of nonconforming signs. He pointed out that the code allowed for other mechanisms, such as the planned business development zoning district, during which signage could be negotiated and permitted through a public hearing process. He said that rather than going through a rezoning, a Special Exception could be utilized as an alternative for properties that did not need to rezone, but only wanted to **negotiate signage** based on some unique characteristic. He said that that change in the language might afford more people the opportunity to negotiate their signage.

In response to Mr. Thomas, Mr. Spraker felt the only risk would be that someone would want to utilize the Special Exception process for a second sign, which was not the intent of the change. He added that the time and effort involved for staff in the Special Exception process would be about the same, but could be less expensive for the applicant. He said the difference would be that the PBD was more of a negotiation tool, whereas the Special Exception would require that the application would have to meet certain criteria.

Mrs. Press and Mr. Opalewski thought the Special Exception route seemed preferable.

Mr. Jorczak asked if the owner of a nonconforming sign could utilize the one of those routes to extend it beyond the six-month requirement.

Mr. Spraker answered that the owner would have the right to apply, but questioned whether or not staff would recommend approval; he thought the applicant would have a heavier burden of

proof. He reiterated that the purpose of identifying nonconforming signs was to ensure that at some point they would be removed.

Mr. Goss reminded the board that the PBD had already been changed to include a list of criteria that could be gained by the City in exchange for allowing increased signage.

Mrs. Press commented that political signs should be limited to six weeks.

Mr. Spraker recalled that a previous attempt to change that requirement had been unsuccessful and the language continued to limit the time to the qualifying period.

City Attorney Hayes pointed out that there was a State statute addressing the issue, which made it difficult to regulate. In response to Mrs. Press, he said he was unsure if asked if a candidate could put out signs a year in advance, if he or she opened an account as a qualified candidate.

IX. MEMBER COMMENTS

Mr. Jorczak wished his fellow board members a safe and merry Christmas, as did Mr. Opalewski. He stated that he had enjoyed serving with his fellow board members.

Chair Thomas asked that staff provide an opinion from the Chief Building Official regarding standards, windloads and codes for different housing types so that the Board could differentiate between a 1950's concrete block house and a 21st century manufactured home. He did not believe that the standards were the same.

Chair Thomas said he also enjoyed serving this year and reminded the board that they had one more year as a Board in which to accomplish what they wanted [before the next election].

X. ADJOURNMENT

The meeting was adjourned 9:00 p.m.

Respectfully submitted,

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Ric Goss, AICP, Planning Director

ATTEST:

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Doug Thomas, Chair

Minutes transcribed by Betty Ruger