

M I N U T E S
ORMOND BEACH PLANNING BOARD
Regular Meeting

February 19, 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

John Adams
Pat Behnke
Al Jorczak
Patrick Opalewski
Rita Press
Doug Thomas
Doug Wigley

Staff Present

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

II. INVOCATION

Mr. Thomas 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 introduced Ms. Joyce Shanahan, the new city manager. Ms. Shanahan invited the board members to speak with her about their ideas and recommendations for Ormond Beach. She said she was currently on a listening tour, after asking the City Commission who she should speak with in the community. Ms. Shanahan thanked the board members for their service to the community, stating that one of the things that had drawn her to Ormond was its active citizen involvement. The board members welcomed her to the City and thanked her for coming to introduce herself.

Mr. Goss said the City Commission had entertained the amendments previously reviewed by the Planning Board for transmittal to DCA (Department of Community Affairs) and had passed them. He said Ms. Kornel would be presenting three Elements for discussion; Transportation, Utilities, and Housing, and also reported that the DCA had found the Evaluation and Appraisal Report (EAR) to be sufficient and had accepted it. He expected the Elements to be treated similarly to the EAR process. The process was expected to take about a year and a half, and that four or five workshops were planned by June or July.

VI. APPROVAL OF THE MINUTES

The minutes of the December 11, 2008 Planning Board meeting were approved as presented by a unanimous vote.

The minutes of the January 15, 2009 Planning Board meeting were approved as presented by a unanimous vote.

VII. PUBLIC HEARINGS

A. LDC 08-53: Land Development Code Amendment – Chapter 1, Article III, Definitions

Mr. Spraker recalled that zoning district amendments had been discussed at the last meeting. He said the goal of the current amendment was to streamline the Code. In this case, the definitions did not match the uses, so the definitions had been rewritten for consistency and to conform with State statutes. He asked if the board members had any questions.

Ms. Behnke said the definitions had been very helpful to her. Mr. Thomas expressed considerable concern about a definition permitting room rental for less than a six-hour period and twice in one day under the Adult Hotel definition. Some discussion ensued. Mr. Goss explained that no hotels in Ormond currently allowed such use and that the purpose of the definition was to assign such use as an adult use under sexually oriented businesses in order to provide for strict regulation. He had pulled the definition from his research of successful regulations in other cities. He observed that the broader the definitions for adult use, the more regulation of those uses would be enabled. In response to Mr. Thomas, Mr. Goss stated that the courts had been clear that adult use had a place in the City whether the City agreed or not. Rather than trying to make the definitions as narrow as possible, staff had made them as broad as possible so the City could cover the uses under broad categories and then apply the strictest standards possible under the law. Under this definition, any hotel in the area that started to allow

such uses would now fall under adult use and would have to meet licensing and locational standards, etc. Restrictions were likely to send such businesses elsewhere in the county where there were fewer standards. The definitions were tied to Statutes and to Daytona's experiences with legislating sexually oriented businesses. Mrs. Press wondered what could be done to require the county to enforce Ormond's standards in areas that were adjoining, since the County's standards were much looser than Ormond's. She thought Ormond should lobby county-wide to enforce comprehensive standards. Mr. Adams and Ms. Behnke agreed. Mr. Goss said that the City's separation requirements would be applied regardless of whether or not such uses were situated on parcels that were under the jurisdiction of the County. Mr. Thomas pointed out that there were a number of places along North US 1 that were county properties that would be affected by the City's requirements. Mr. Goss said he would pass on the board members' recommendations to the City Commission in the Friday letter.

Chair Thomas asked if there were any further comments from the public or the board. When no comments were forthcoming, **Mrs. Press moved to approve LDC 08-53. Mr. Adams seconded the motion, which passed with unanimous approval.** All of the board members were in favor of closing the public hearing.

B. LDC 08-54: Land Development Code Amendment – Chapter 2, Article IV, Conditional and Special Exception Uses

Mr. Spraker explained that the amendment would clean up and streamline the Conditional and Special Exception regulations in the code. Ms. Behnke asked about the prohibition of auctions during regular business hours. She said she did not see the need for that prohibition. Mr. Spraker said it was up to the Board; if the Board considered the prohibition unnecessary, staff could remove it. He did not know of a purpose for that particular regulation. Mrs. Press asked if the use was considered Conditional or Special Exception (and therefore have to come before the Board). When Mr. Spraker said it was a Special Exception, Mrs. Press said she had no problem with removing the clause forbidding auctions during business hours.

Mr. Thomas had difficulty with the limitation forbidding the uses of sales, repair, and storage for RVs in the industrial zone. He pointed out that the Giant Recreation sales lot on North US1 (in the county) allowed all three, stating that he did not see it as the City's job to regulate business owners in that way. He felt that business owners would not open a business in an area that did not have enough traffic to support the business. He felt that it was a mistake to limit business owners in the current economic climate. Mr. Spraker replied that "sales" was not allowed in the I-1 zone, as the primary use for that zone was to be industrial. However, if the board desired that the language be changed, staff would follow the Board's direction. The uses could be allowed and regulated through the PBD process, Mr. Spraker stated. He cautioned that he did not believe the highest and best use of industrial land was sales. Mr. Thomas said it made sense to him that in the case of RVs, a business that repaired them and/or stored them would want to be able to sell them as well, and also that a business that sold them would need to be able to repair them and could easily store them. Mrs. Press asked if the discussed uses would be considered Conditional or Special Exception. She was primarily concerned with how RV storage would look, as she did not consider such operations particularly attractive. However, she said she could see the sense in allowing all three uses together, particularly if the permission for it fell under Special Exception

and required review by the Planning Board. Ms. Behnke concurred as well, as did Mr. Jorczak and Mr. Opalewski. Mr. Spraker reiterated that if such was the direction of the Board, staff would come back with the language to allow it. Mr. Jorczak verified with City Attorney Hayes that the appropriate action would be to table the motion to the following month to allow staff to change the proposed language.

Mr. Spraker asked if there were any further comments on the recommend uses. Ms. Behnke asked if the language requiring inclusion on the Historic Landmark List for permission to operate as a bed and breakfast had always been there. Mr. Spraker replied that it had. Ms. Behnke also wondered why bars were required to be 1,000 feet from churches, whereas sexually oriented businesses only had to be 500 feet away from schools and churches. Mr. Goss replied that the only regulation on location of bars had to do with churches, but sexually oriented businesses had to be a certain distance from schools, residential neighborhoods, churches, recreation areas, etc. There would not be any areas within Ormond Beach if that requirement was increased to 1,000 feet, which would not be defensible in a court of law. Mr. Thomas confirmed that sexually oriented businesses also had to be a certain distance from bars.

Mr. Jorczak moved to continue LDC 08-54. Ms. Behnke seconded the motion and all were in favor.

C. LDC 08-55: Land Development Code Amendment – Chapter 2, Article III, Section 2-50, Accessory Uses

Staff wished to continue this item. **Mr. Jorczak moved and Mr. Wigley seconded the motion to continue LDC 08-55. All were in favor.**

D. LDC 09-03: Land Development Code Amendment: Chapter 2, Article III, Section 2-50, Accessory Uses

Mr. Goss said this item was the final amendment to the Code to implement the affordable housing plan update for 2008. The Board had passed the amendments the previous month, he said, and the item before the Board was to provide the management and monitoring plan to ensure that the units designated as affordable housing were maintained to appropriate standards. The purpose and findings as to why a management and monitoring plan was needed, as well as the few incentives allowed by the City, were explained in the documents the board members had received with their packets, he said. Applications to develop more than ten units must include a certain percentage of affordable units. In return, incentives were available if such development occurred in the downtown Tax Increment Financing (TIF) district, or a density bonus was provided for developments that included affordable housing units on the mainland, not beachside. Units were to remain affordable for their lifetime. In an apartment complex, the units would rotate, but there would always be the same number of units.

Mr. Jorczak questioned the number of units needed in the City. Mr. Goss said he did not have the number with him, but stated his belief that the number obtained through the University of Florida had been too high and more than the City actually required. Ms. Behnke and Mrs. Press

expressed concern about the affordable housing plan. Ms. Behnke stated flatly that she believed housing values surrounding a single-family affordable housing unit would certainly fall.

Mr. Goss replied that the units designated as affordable housing as part of the City's requirements would not differ from those at market value. Ms. Behnke said the maintenance difference would be clear nonetheless. Mrs. Press concurred, stating that there was plenty of affordable housing in Ormond Beach. She said The Trails was a wonderful example of a development that included affordable housing, where some units were worth half a million but others could be purchased for \$110,000. She said that even if an affordable unit looked the same, she did not see how someone living in an affordable unit could afford to maintain the property to the standard of the surrounding market value properties. She thought a wetland bank concept or an area designated for affordable housing might work, but thought the current plan, in which affordable units were sprinkled in with market value units, was a bad idea. Mr. Goss replied that the current item was not anything more than was already in the comprehensive plan; he said it just enabled management and monitoring to ensure standards were being met. The affordable housing plan had been reviewed and approved previously by the Task Force and the City Commission.

Mr. Adams said he served on the Affordable/Attainable Housing Task Force (AAHTF) and that although the committee members and staff worked hard on the issue, finding a solution had been difficult because Ormond Beach was surrounded by affordable housing and developers would be competing with existing affordable housing. He thought it would be counter-productive to utilize TIF funds to accomplish affordable housing goals and suggested that there might be other incentives available that had not yet been considered.

Mrs. Press asked if a purchaser would be required to relinquish the home if his or her income increased. Mr. Goss explained that the owner could remain in the home as long as the mortgage was paid, as would anyone else; however, a provision in the deed would require that the home be sold to someone within 120% of the adjusted median income for families, based upon HUD's (Housing and Urban Development) annually-published AMI (adjusted median income) report. He said that everyone who could afford it deserved to be in a homeowner unit.

Mr. Thomas agreed with Mrs. Press that some of the larger developments, such as Breakaway Trails or The Trails, were developed with areas of more affordable housing. He felt that such a requirement for smaller subdivisions, such as Creekside (35-40+ homes) would result in affordable units being scattered throughout the development. He said that everyone was entitled to the opportunity to buy and own a home, but that there was disagreement as to where those homes should be located. He asked the city attorney if the requirement could be altered to require such affordable housing only in larger housing developments or perhaps the concept of an affordable housing land bank.

City Attorney Hayes said that his staff would have to look at the issue.

Mrs. Press felt that there were areas with Ormond Beach that were comprised of affordable homes, as well as some that could use incentives for renovation, but did not think it necessary to impose those standards on new developments in new areas.

Mr. Goss clarified that staff had not created the proposal. He reiterated that it was already in the comp plan and was already being implemented in the LDC. Mr. Thomas felt that the language in the comp plan could be revisited at a later date.

Mr. Goss confirmed that the requirements were solely income-based and that the item before the Board was simply a management and monitoring plan for the density bonus and inclusionary bonus provisions requirements already in place. He said that the item before the Board would simply ensure staff's ability to make sure the units remained affordable over time.

Mrs. Press cited The Trails subdivision as an example of a developer, without a directive, including affordable housing by including an area of affordable townhouses, as well as more expensive townhouses. She also pointed out that the responsibility for monitoring the affordable housing requirement would fall to staff, and that the city did not have adequate staff to do so.

Mr. Goss pointed out that the reason there was nothing but single-family detached housing west of Interstate 95 was that mixing multi-family with single-family had not been viewed favorably, and was the reason that inclusionary set-asides were necessary in those single-family subdivisions. He said that the affordable units were indistinguishable from the more expensive homes in the same areas and disagreed with the concerns expressed by the Board that the occupants of the affordable units would not be able to maintain their properties or be responsible homeowners. He said that they should not be concentrating on the type of people, only that they have an adjusted median income of between 80-120%.

Mr. Thomas opined that no one on the Board was against affordable housing, to which Mrs. Press added that they simply felt a different method was needed. The board members acknowledged the discussions and study of the Task Force, but generally disagreed with the recommendations. Mr. Goss recalled that he had thoroughly reviewed the housing plan update with the Task Force and that they had discussed everything from manufactured housing, to inclusionary provisions, promoting affordable housing within existing subdivisions and even an entire affordable housing type development. He said that they actually proposed an actual project on a Cardinal Boulevard site, per the affordable housing update, but that the City Commission had not wanted to pursue it. He pointed out that everything else that had been discussed and recommended by the task force had been included in the Update and was approved by the Task force in March, 2007 and by the City Commission in April, 2008.

Mr. Goss said that once approved by the City Commission, staff had been implementing the provisions of the Housing Plan in the LDC. He reiterated that the inclusionary language had always been there, but that the most recent language simply resolved some conflicts between the language in the comprehensive plan and the code. He cited as an example that the LDC did not allow manufactured housing in single-family districts solely because people thought that manufactured housing would look different, even though by state law they were required to do so; therefore, single-family design standards were implemented so that manufactured housing would be designed just like a site-built single family structure, a requirement that was now going to the City Commission for approval, based on the recommendations of the AAHTF. He acknowledged the attendance problems were experienced by the task force, but pointed out that the issues had been thoroughly discussed and studied and that recommendations were made

when full membership was present, which delayed final action to March, 2008, rather than in December, 2007, as originally scheduled.

Mr. Goss said he was somewhat taken aback by the Board's reaction, given that they had been provided a copy of the Housing Study at the time it was recommended by both the AAHTF and the City Commission, and because staff had been fairly consistent in furthering the recommendations by correcting the language between the Comp Plan and Land Development Code regarding the inclusionary and density bonuses. He pointed out that they had decided to utilize a density bonus to offset the cost to the developer for that set-aside type of unit, since inclusionary zoning had already been required, but with no off-setting provision. He pointed out that during the last six years of the housing boom, no one was building affordable housing because there was no money in it, and opined that developers would not build affordable housing when the market turned around, because they could make more money on the more expensive housing. He stated that staff was attempting to further the recommendations of the task force by implementing a management monitoring plan as directed, but would take the Board's recommendations to the City Commission. Mr. Thomas said he would prefer to wait for the city attorney's findings.

Mr. Goss explained to Mr. Jorzak that the task force had originally been asked not only to look at the regulations, but also to identify a project that could be done using city money or land and had chosen public excess land at Cardinal that could be dedicated to affordable housing; he said that the area residents objected. He also responded to Mrs. Press that cities could not reduce their impact fees even if for a public purpose, such as for affordable housing. He explained that a unit created an impact regardless of the fact that it might be affordable. He said that cities could pay an impact fee on behalf of a unit, but could not waive or reduce an impact fee.

Mr. Goss agreed with Mrs. Press that money could be placed into a bank that could be used to pay the impact fees for homes to be built, but pointed out that such a deed-restricted house or project would be exactly what was being proposed. In response to Mr. Wigley, he confirmed that it was his understanding that Brian Share's affordable housing project was to have received support for some of the infrastructure for the senior housing complex and noted that he made no distinction between affordable housing for seniors vs. families.

Mrs. Press and Mr. Thomas thought it was different because the senior housing was not being mixed in with non-affordable housing, as proposed. They felt it was not a reflection on the people themselves, but that the owners would not be able to afford to keep up with the community standard.

Mr. Wigley felt that the hang-up seemed to be with the upscale housing developments, pointing out that it was not feasible to set aside homes in a neighborhood of \$500,000 homes; he thought it worked fine in a planned unit development such as The Trails, because it could be tiered based on the size of the unit or a specific location.

The Board members did not remember that the Pineland PRD project had included affordable housing, to which staff advised that lots identified as affordable had been included in the staff report and the project plan.

Ms. Behnke stated that before making a decision she wanted to wait for the answers to the questions posed to the city attorney, otherwise she would not support the item. Mr. Thomas said he, too, would prefer to wait for the city attorney to respond to the question regarding a size threshold for subdivisions. He clarified for City Attorney Hayes that he wanted to know if it was legal to limit affordable housing requirements to subdivisions of say, more than 150 homes so that they could be clustered, rather than scattered throughout a development; property maintenance would therefore not be an issue. Mr. Hayes said that recognizing the obligation to have affordable housing, the question became the level of discrimination that could lawfully be enforced, but he thought there was some flexibility in how to approach the issue. Mr. Thomas clarified that his concern was the ability and capability of the homeowner to maintain their property, to which Mr. Jorzak defined it as a standard of where to locate the units. Mr. Hayes agreed that the level of aesthetics could be regulated, as well as whether or not the units could be clustered.

Mr. Hayes referenced the concept of an affordable housing bank that had been offered as a possible solution and confirmed with the Board that he was being asked to look into the creation of that kind of bank. Mr. Goss pointed out that a developer could be expected to set aside only a few thousand dollars for each unit required.

Mrs. Press clarified that it was not her intent to imply that only people with money would take care of their property, but rather that she did not feel the proposal was not the best solution to the problem. She agreed that it was a difficult situation faced by all cities, i.e., people who work in a community cannot always afford to live there, but said that although the city of Ormond Beach was one of the more affluent communities, there already existed a diversity of housing options.

Mr. Goss referred to the purpose and findings of the affordable housing task force, which would require inclusionary units as part of the market rate units to encourage balance and mixed economic neighborhoods. He also pointed out that the areas of the city mentioned as affordable seemed to have a concentration of code enforcement activities and supported the experts' arguments against concentrating affordable housing in one area; he said that the best way of providing affordable housing was to disperse it in mixed-income neighborhoods.

Mr. Thomas felt the proposal would make it difficult to increase the tax base in Ormond Beach, and agreed with Mr. Jorzak that the city had not reached the need for affordable housing as had cities such as Stanford, Connecticut or Key West, Florida.

Mr. Jorzak moved to continue the item. Ms. Behnke seconded the motion, which was approved by unanimous vote.

VIII. OTHER BUSINESS/INFORMATIONAL ITEMS

There was no other business to be discussed.

IX. MEMBER COMMENTS

Board members offered their congratulations to Mr. Jorczak, who reported that his granddaughter had been born one week earlier, and to Mr. Wigley, who announced that his daughter had been accepted to the University of Florida.

X. ADJOURNMENT

The meeting was adjourned at 8:45 p.m.

Respectfully submitted,

Ric Goss, AICP, Planning Director

ATTEST:

Mr. Doug Thomas, Chair

Minutes transcribed by Shannon McLeish and Betty Ruger.

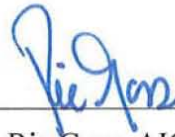
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