

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

August 12, 2021

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

Harold Briley, Vice Chair  
G.G. Galloway (excused)  
Al Jorczak  
Mike Scudiero  
Angeline Shull  
Lori Tolland  
Doug Thomas, Chair

Staff Present

Steven Spraker, Planning Director  
Robin Gawel, Senior Planner  
Noel Eaton, Senior Planner  
Randy Hayes, City Attorney  
Marcella Miller, Recording Secretary

**II. INVOCATION**

Chairman 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. APPROVAL OF MINUTES

**May 13, 2021**

**Mr. Briley moved to approve the May 13, 2021 Minutes. Ms. Tolland seconded the motion. The minutes were unanimously approved.**

## VI. PLANNING DIRECTOR'S REPORT

Mr. Spraker, Planning Director, informed the Board that Item C has been withdrawn by staff. Further information will be brought back to the Planning Board at a future date. Mr. Spraker continued that the City has been working on the Parks and Recreation Master Plan city-wide. There is a link on the Leisure Services webpage to the needs assessment in the existing conditions including the survey results. There is a survey update with specific questions as well. He added that the Planning staff has been working on the Impact Fee update which will be completed in early 2022. The Land Development Code amendments planned for second reading for the August 17, 2021 City Commission meeting consist of the floodplain management update, utility line extensions, sidewalks and Downtown Overlay Districts. Mr. Spraker stated that the Off Road Recreation Vehicle Course as a principal use, was denied by the City Commission. The car and bike wash was moved to prohibit it during recognized special events and will come back before the City Commission, first reading, on September 8.

Mr. Spraker explained that there is one administrative item planned for September, therefore suggests holding two Planning Board meetings in October, if necessary, on October 7 and October 14, and cancelling the September meeting. If only one October meeting is necessary then it would remain the planned October 14 meeting date.

Mr. Briley asked if one of the agenda items is for Tomoka Oaks. Mr. Spraker replied that there is no application for Tomoka Oaks. Once there is an application it would be required to go through site plan review and a neighborhood meeting. He continued that the Courtyard at Ormond Beach has planned for a neighborhood meeting August 25, 2021 at 6:00 p.m. and may be an item ready for the October Planning Board meeting. Another project by the name of Tattersall, which is the old Marshside subdivision at Tymber Creek and Airport Road, may be ready for the October meeting as well.

## VII. PUBLIC HEARINGS

### A. **LDC 2021-084- Land Development Code Amendment, Virtual Golf Centers**

Ms. Robin Gawel, Senior Planner, stated that this is a request by Mr. Michael A. Peterson, Jr., business owner, to amend Chapter 1, General Administration, Article III, Definitions and Acronyms, Section 1-22, Definitions of terms and words; Chapter 2, District and General Regulations, Article II, District and General Regulations, Section 2-29, B-8, Commercial Zoning District, paragraph D; and Chapter 2, District and General Regulations, Article IV, Conditional and Special Exception Regulations, Section 2-57, Criteria for review of specific conditional and Special Exception, to provide definitions and specific conditional criteria that would allow Virtual Golf Centers as a Conditional use in the B-8, Commercial zoning district.

Ms. Gawel explained that the applicant operates a Virtual Golf Center within the City of Ormond Beach. The facility allows simulated golf, a variety of courses and allows retail sales of golf equipment. She added that the sale of beer and wine is not permitted as part of the use. The consumption of alcohol on the premises at any establishment that does not derive 51 percent of its sales from non-alcoholic beverages is defined as a bar in the Land Development Code. Ms. Gawel continued that the amendment contains three parts: 1) creating the definition; 2) Establish and introduce the use within a specific and appropriate zoning district; 3) Establish the conditions for the use. Ms. Gawel explained the three parts of the amendment:

- 1) **Creating definitions:** Virtual Golf Centers shall mean any indoor facility devoted to the game of golf that offers scheduled virtual tee times (round of golf), virtual driving range, and virtual golf challenges that require skills associated with golfing. Such facilities may include indoor putting greens;
- 2) **Use:** To allow Virtual Golf Centers as a conditional use for staff approval upon successful demonstration of compliance in the B-8 zoning district;
- 3) **Conditions:** **a.** Virtual Golf Center shall be the principle use of the establishment; **b.** Hours of operation shall be from 8:00 a.m. to 9:00 p.m.; **c.** The Virtual Golf Center use is permitted to sell beer and wine, with a 2 COP alcohol license to customers who are actively engaged (or participating) in a round of virtual golf during normal business hours; **d.** Customers that are not participating in a round of virtual golf shall not be allowed to purchase or consume beer or wine on the premises.

Ms. Gawel commented that staff recommended, and the applicant agreed, that the amendment should propose a new but conditional use with specific conditions tailored to meet the applicant's intentions. The applicant desired to limit the use to the B-8 zoning district. She continued that the conditions establish the golf center as the primary use with the specific criteria for the sale and consumption of beer and wine on the premises. The Land Development Code amendments will apply district-wide and are not specific to individual properties.

Ms. Gawel stated that the business is currently licensed as a recreational indoor facility. The consumption of beer and wine on the premises is not permitted as part of this use. The applicant does not desire to be a bar or a restaurant in order to be able to offer participants beer and wine as part of their experience. She added that the only option available to have beer and wine for consumption on the premises as part of this unique use is for the applicant to amend the Land Development Code. Ms. Gawel concluded that City staff believes that the use is appropriate in the B-8 zoning district and the conditions proposed ensure that the Virtual Golf Center is maintained as the principal use. It is recommended that the Planning Board approve Chapter 1, General Administration, Article III, Definitions and Acronyms, Section 1-22, Definitions of terms and words; Chapter 2, District and General Regulations, Article II, District and General Regulations, Section 2-29, B-8 Commercial Zoning District, paragraph D; and Chapter 2, District and General Regulations, Article IV, Conditional and Special Exception Regulations, Section 2-57, Criteria for review of specific conditional and special exception, subsection (90) to provide definitions and specific conditional criteria that would allow Virtual Golf Centers as a Conditional use in the B-8, Commercial Zoning District. The tentative City Commission dates are September 22, 2021 for the first reading and October 5, 2021 for the second reading.

Ms. Shull inquired about other businesses in the B-8 zoning district. Ms. Gawel replied that it is the general commercial zoning district with an array of businesses

there. Mr. Spraker added that restaurants, retail, personal services, drive-thru restaurants, assisted living facilities and a wide variety of permitted uses are in the B-8 zoning district.

Mr. Briley commented that he does not have a problem with the amendment proposal.

### **Audience Comments**

Mr. Michael Peterson, Jr., applicant, stated that he was in attendance for any questions.

Mr. Jorczak asked how long it takes to receive a COP alcohol license. Mr. Peterson replied that it takes two months.

Ms. Tolland asked if this was the only business of its kind in the area. Mr. Peterson replied that there are similar businesses in Jacksonville, Orlando and Miami.

**Mr. Briley motioned to approve LDC 2021-084 – Land Development Code Amendment, Virtual Golf Centers. Ms. Shull seconded it. Vote was called, and the motion was approved (6-0).**

### **B. SE 2021-089 – Special Exception, 148 North Yonge Street, Outdoor Activity**

Ms. Noel Eaton, Senior Planner, stated Special Exception 2021-089 is a request submitted by Mr. Charles Jones of Southern Mower Sales, Inc. to authorize outdoor activity use. The subject property currently operates as a retail store for lawnmowers and the request seeks to allow daily outdoor display and sales of merchandise under certain conditions at the Southern Mower Sales shop located at 148 North Yonge Street in the B-5, Service Commercial zoning district. Ms. Eaton continued that the Special Exception application is solely for outdoor activity to allow daily outdoor display and sales of merchandise under certain conditions and does not propose any building construction.

Ms. Eaton explained that the Land Development Code allows outdoor product sales under a limited basis (56 days) as staff approval and any other timeframe above this must be reviewed by the Planning Board and approved by the City Commission as a Special Exception. She continued that the applicant is seeking to allow outdoor activity to include eight mowers in a 75' wide area approximately 14' from the existing city sidewalk. The mowers will be stored behind an existing privacy fence after normal business hours. Staff views the Special Exception application similar to other requests such as the former Lucky's Market at 101 East Granada Boulevard and Perrine's Produce and Deli at 120 S. Nova Road. Ms. Eaton added that the location of the outdoor activity does not impact pedestrian and handicapped access along the city sidewalk. The location does not use existing parking spaces and provides adequate vehicle accessibility through the site. The applicant has stated in the application that only new lawn mowers will be displayed onsite and any repairs will be done at their Southern Equipment Rentals facility at 874 S. Nova Road, located in Volusia County, in order to maintain a clean and organized facility at this location.

Ms. Eaton stated that the applicant has proposed a 14' setback from the city sidewalk and it is recommended that the area of display be setback 15' from the front property line to ensure that the display area will not encroach into the required 15' front landscape buffer. The City Commission denied the application at 712 S. Atlantic

Avenue due to the distance and proximity to the public right-of-way. A code compliant front landscape buffer would reduce the visual impacts from the North Yonge Street right-of-way. Ms. Eaton summarized the proposed conditions that were attached in the staff report and explained that they are designed to ensure that the use is an appropriate outdoor activity.

Ms. Eaton concluded that staff has received no objections to the request and staff recommends that the Planning Board approve the application for outdoor activity, the outdoor display or sales of merchandise, per the attached plan and exhibit and conditions listed for Southern Mower Sales Inc. retail store located at 148 N. Yonge Street. It is expected that the application will be reviewed by the City Commission on September 22, 2021.

Mr. Charles Jones, Southern Mower Sales Inc., explained that he would like to put eight new lawn mowers on the property line just before the easement. He continued that there will not be any repair work, rentals or sales going on outside and sales will take place indoors. Mr. Jones stated that he owns Southern Equipment on Nova Road where repair work is done.

Ms. Shull commented that Mr. Jones improved the building and landscaping from what it was.

**Mr. Scudiero motioned to approve LDC 2021-089 – Special Exception, 148 North Yonge Street, Outdoor Activity. Ms. Tolland seconded it. Vote was called, and the motion was approved (6-0).**

**C. LDC 2021-090 – Land Development Code Amendment, Off Road Recreational Vehicle Course, accessory use**

WITHDRAWN BY CITY STAFF

**D. LDC 2021-083 – Land Development Code Amendment, Mobile food dispensing vehicles in residential community centers**

Mr. Steven Spraker, Planning Director, explained that LDC 2021-083 is an administrative request to amend Section 2-50, Accessory Uses, of Chapter 2, District and General Regulations, Article III, General Regulations, of the City of Ormond Beach Land Development Code to allow single-family and multi-family developments with a residential clubhouse or community center to conduct events that allow mobile food dispensing vehicles (food trucks) a maximum of 12 days per calendar year with a Special Event Permit. Mr. Spraker stated that the Planning Board acted upon a food truck ordinance in May 2021 and it was approved and adopted on August 4, 2021. It is proposed that if a neighborhood has a clubhouse or community center, special events including food trucks would be allowed 12 times per calendar year. The operational standards that were approved previously specifies that music cannot be blaring and cannot sell alcohol. These operational standards stay the same. Mr. Spraker concluded that staff recommends that the Planning Board approve the amendment to the Land Development Code, Section 2-50, Accessory Uses, of Chapter 2, District and General Regulations, Article III, General Regulations, of the City of Ormond Beach Land Development Code to allow mobile food dispensing vehicles (food trucks) to conduct events a maximum of 12 days per

calendar year at single-family and multi-family developments with a residential clubhouse or community center with a Special Event Permit. The tentative City Commission dates are September 22, 2021 and October 5, 2021.

Discussion occurred regarding the number of times per calendar year the food trucks could operate at the single and multi-family developments.

Ms. Tolland stated that with this amendment, the Board would not be intending to impinge on the brick and mortar businesses. She added that food trucks bring in a sense of community and open spaces. Studies regarding green and community space is one of the top interests. Ms. Tolland inquired if communities that do not have clubhouses or community centers are included as well.

Chairman Thomas commented that this may benefit large subdivisions during after-school hours. He added that it should not affect the restaurants.

Mr. Jorczak concurred with Ms. Tolland's comments.

Mr. Scudiero commented that he is a fan of brick and mortar restaurants that pay taxes to the city and also agrees that food trucks bring a sense of community. The process was discussed and determined that the applicant would apply for a Special Event Permit. If they are a non-profit organization there would be no cost. A site plan specifying where the food truck would go, detailing the parking and where restrooms in the vicinity would also be required. Mr. Spraker commented if in a community area and not a clubhouse/community center within a development, there would be no parking area or restrooms.

Ms. Tolland noted that it would be a walking event, similar to a block party for neighborhoods that do not have clubhouses/community centers to order from the food truck, visit and then go back home.

Ms. Shull commented that in some neighborhoods an HOA would have to approve a food truck to be there. She concurred that it would not be taking away from the restaurants as some can cater their special events from local restaurants. She inquired if restroom facilities are required for special events with food trucks. Mr. Spraker replied that restroom facilities are part of the operational standards.

Mr. Spraker stated that food truck amendments can be made in small steps just as it began with the amendment to limit to the B-8 and I-1 zoning districts. Observation can be made once allowed in the clubhouses and community centers and if there becomes a demand for open space areas it can be brought back before the Board with new amendments. There are concerns with unintended consequences that holding the special events with food trucks in open spaces in neighborhoods that do not parking or facilities would bring.

There was Board discussion regarding sub-HOAs. It was stated that any HOA Board can apply for a permit as a non-profit organization and would not be charged for the permit.

Attorney Hayes explained the difference between platted subdivisions with HOAs, common areas, clubhouses and parking and how neighborhood communities that do

not have active HOAs or common areas or parking, which are important to hold special events, as there is nowhere for the food trucks to go other than public right-of-way where they are not allowed to park. He continued that developing conditions for the use can set some unintended consequences. Attorney Hayes recommended that the Board approve staff's suggestion for the Land Development Code amendment for mobile food dispensing vehicles in residential community centers, and let the Planning staff and City Attorney's Office evaluate the second request. He added that there is a provision in the Code of Ordinances (not the Land Development Code), that allows neighborhood block-type parties and it may be possible to fit something within the context of the block party events which may be better suited for neighborhoods without common areas where they may be able to section-off some of the road for a food truck.

Mr. Briley commented that he would be in favor of taking the mandatory restroom facility guideline out. Mr. Spraker replied that it is part of the operational standards and would apply across to all food trucks. The number of times per year could be suggested and changed by the Planning Board. Parking in the right-of-way and operations will have issues.

It was discussed that if there are violations that Code Enforcement is called to they will be cited.

Ms. Tolland stated that she is for it the way that it is currently written but would like for staff to look into incorporating the block party type events with food trucks within a year's time.

Mr. Scudiero concurred with Ms. Tolland and suggested observing and possibly increasing the number of times per year up the road. It was discussed that allowing *weekly* food trucks in an area may have a negative effect on the restaurants in that area.

Mr. Jorzak concurred and suggested that it be tried out with the possibility of changes later.

**Ms. Tolland motioned to approve LDC 2021-083 – Land Development Code Amendment, Mobile food dispensing vehicles in residential community centers. Mr. Jorzak seconded it. Vote was called, and the motion was approved (6-0).**

## **VIII. OTHER BUSINESS**

None.

## **X. MEMBER COMMENTS**

Mr. Briley asked about the status of the proposed apartments on Tymber Creek Road. Mr. Spraker answered that there have been no resubmittal within the last six months and an extension has been filed. Code requires timely resubmittal. There are site plan issues that are being worked upon, including a modification of the entrance on State Road 40 to remove an entrance on Tymber Creek.

Mr. Scudiero reiterated that it is worth exploring the neighborhood block party in the future since it is in an existing ordinance.

Ms. Shull inquired about the status of the Assisted Living Facility by Kings Crossing on State Road 40. Mr. Spraker replied that they pulled a site permit and that permit expired due to the permitting process not progressing. They were required to close out the site permit and remove all of the construction material and trees that were disturbed. The property does not have any development approvals or applications. It is now a vacant parcel of land that they or another applicant can propose another site plan and move forward with in an application. Mr. Spraker concluded that there is another Assisted Living Facility currently under construction on Clyde Morris Boulevard as well as at 1211 West Granada Boulevard.

Ms. Tolland commented that she is excited about the Leisure Service Master Plan. She added that there is a need and desire for greenspace in the city and suggested that when large parcels of land and property go up for sale for the city to consider purchasing for city use, greenspace or other city needs. Mr. Spraker stated that there is no program that seeks to identify and buy land. City resources and dollars are done through a competitive capital budgeting process and there are a lot of quality projects competing for limited dollars.

Chairman Thomas commented that he received a call regarding a facility on U.S. Highway 1 and heard talk about it being transitioned into a home. Mr. Spraker replied that 1571 N. U.S. Highway 1 applied for a Business Tax Receipt (BTR) and it was proposed to house undocumented children to find them a permanent solution. The property was formerly an Assisted Living Facility and is zoned in the B-7 zoning district. Mr. Spraker explained that in the B-7 there are permitted, conditional, and special exception uses. The use identified did not meet any of the categories, therefore they were given the option to appeal the determination of the Planning Director that it did not meet the categories and state why it does, or go through a Planned Business Development (PBD). If the use is not allowed in the zoning district the ability is there to go through a zoning map amendment and introduce the use through a public hearing process. Mr. Spraker continued that staff does not have the ability to approve uses not in the specific categories outlined. He concluded that there have not been any resubmittals on it.

Mr. Briley asked for an update on Ormond Central on State Road 40. Mr. Spraker answered that there have not been any applications. The building was demolished but nothing has gone to a site plan. It was determined that the development order runs with the land and not the property owner.

## **XI. ADJOURNMENT**

The meeting was adjourned at 7:48 p.m.

Respectfully submitted,

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Steven Spraker, Planning Director

ATTEST:

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Doug Thomas, Chairman

*Minutes transcribed by Marcella Miller.*

DRAFT