

MINUTES
REGULAR MEETING – PLANNING BOARD

January 26, 2012

Minutes for the Regular Planning Board for The City of Daytona Beach, Florida, held on Thursday, January 26, 2012, at 6:00 p.m., in the Commission Chambers, City Hall, 301 South Ridgewood Avenue, Daytona Beach, Florida.

Board members Present were as follows:

Jeff Hurt
Tracey Remark
Bob Hoitsma
John McGuinness
Louis Moore
James Neal
Kevin Fishback (6:04)
Cathy Washington
Shirley Benjamin

Absent Members:

Matthew Bohon
Janet LeSage

Staff members present:

Richard Walton, Planning Director
Dennis Mrozek, Senior Planner
Thomas Weitnauer, Principal Planner
Carrie Lathan, Assistant City Attorney
James Sloane, Deputy Public Works Director
Michael Marcum, Traffic Division Administrator
Rose Askew, Planning Technician

1. **Call to Order**

Louis Moore, Chair called the meeting to order at 6:00 pm.

2. **Roll Call**

Ms. Washington called the roll and noted members present as listed above.

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3. **Approval of the Minutes:** December 15, 2011

Board Motion

It was moved by Mrs. Remark to approve the December 15, 2011 Planning Board Meeting Minutes. Seconded by Mr. Hurt.

Board Action

The motion was approved 8-to-0.

- Approval of the Minutes:** December 22, 2011 (*Special Meeting*)

Board Motion

It was moved by Mr. Hurt to approve the December 22, 2011 Special Planning Board Meeting Minutes. Seconded by Mrs. Remark.

Board Action

The motion was approved 8-to-0.

4. **Large Scale Comprehensive Plan Amendment – Tarragona Shoppes, DEV2011-087**

A request by Paul F. Holub Jr., on behalf of Speedway Investors, LLC, for approval of a Large Scale Comprehensive Plan Map Amendment changing the Future Land Use Map designation from Office Transition to Low Intensity Commercial for 2.47± acres of land located at 1173 International Speedway Boulevard; and amending issues and policies to Neighborhood “M” of the Future Land Use Element in the Comprehensive Plan, to allow commercial development along the south side of west International Speedway Boulevard, between Nova Road and Clyde Morris Boulevard.

Staff Presentation

Thomas Weitnauer, Principal Planner gave a PowerPoint presentation that included the requested as written above, the current future land use and zoning of the property, and the Comprehensive Plan’s definition for what uses were allowed within Office Transition and Low Intensity Commercial land uses. He informed the Board that there was also a rezoning request in conjunction with the amendment request and that the comprehensive plan amendments would have to be approved before the rezoning request could be considered. He stated that with the exception of meeting the approval of the LDC Text Amendment, staff finds the requested LSCPA to be consistent with the Comprehensive Plan, does not represent urban sprawl and will decrease the demand on available water and sewer. He stated staff offers no recommendation on the proposed policy issue for the text Amendment.

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Mrs. Remark asked Mr. Weitnauer questions regarding his statement on the intensity of retail and office use in relation to traffic.

Mr. Weitnauer replied the retail use had a more intense demand on traffic than the office and that traffic would increase but water and sewer would decrease.

Mr. Walton stated the comparison was apples to oranges and that the current land use allows a FAR of three with the office use but only allows a FAR of one with the retail use. He stated the amount of trips per thousand square feet was so much more for retail than it was for office that there was a net increase.

Mr. Moore asked if he understood correctly that a traffic impact analysis (TIA) would have to be prepared.

Mr. Weitnauer replied not for the land use amendment. He stated staff was comfortable that when the Department of Transportation (DOT) reviews the request they would put in writing what they indicated verbally that they would approve the request.

Mr. Moore asked if two separate votes would be required for this request.

Weitnauer replied no that was DOT's verbal answer and he could not commit that it would be their final answer.

Mr. McGuinness asked for an explanation on the change in the setback from "will" to "shall."

Mr. Weitnauer stated changing the language to "shall" just makes it more mandatory.

Mrs. Remark asked if legally there was a difference.

Ms. Lathan replied she did not believe legally there was a difference but "shall" sounded more powerful.

Mr. Walton stated staff did not want anything to be unclear.

Mrs. Remark asked Mr. Weitnauer what data he used to determine that the neighborhood was not primarily single-family.

Mr. Weitnauer replied frontage. He stated the way it was described was how someone would see passing that particular segment of International Speedway Boulevard and that the diagram labeled each one.

Applicant Presentations

Paul Holub, Managing Member for Speedway Investors, 675 North Beach Street, Daytona Beach stated in their preliminary meeting with DOT they indicated a full traffic analysis was not required but if the Board determined a full traffic study was needed, they would comply before the item moved forward to the City Commission. He stated he was not aware that the Comprehensive Plan Neighborhood Policy went all the way to Nova Road so today he went out to the site and performed an inventory. He counted seven homes between Tarragona and ISB and stated there were several older homes on the subject property that had been demolished before he purchased it. He stated many of the homes were well kept but he did not feel they fell into the category of the policy for large landscaped deep lots fronting along ISB. Mr. Holub stated they looked at the project from an office professional use and found there was not a market in this area for that type of use and he feels the revisions to the text amendment made by staff were good revisions and he had no issues with them.

Mrs. Remark asked Mr. Holub who he met with at DOT and if she understood him correctly to say FDOT said a traffic impact analysis was not needed.

Mr. Holub replied they met with Richard Wiskerman and Chris Kens and yes, at that time he was told a traffic impact analysis was not required. He would let the traffic engineer address that question in more detail.

Mrs. Remark stated when she spoke with Chris Kens today; he told her something different and she thinks there is some confusion because it was a conceptual meeting.

Mr. Holub stated yes it was a conceptual meeting that addressed access issues, but if DOT requires a TIA they would submit what was needed even if the City code did not specifically require it.

Turput Dereril, Florida, Traffic Planner for applicant, 535 Versulles Drive, Maitland, stated he did not attend the DOT meeting but his associate did and it was a conceptual meeting where access was discussed in detail. He stated when Mr. Holub submits his application for a permit a TIA is required and they would submit one. He stated they provided a traffic assessment to staff.

Mrs. Remark stated she just wanted to make sure the applicant understood that a TIA would be required when he submitted his application for a permit.

Citizen Comments

John Nicholson, 413 North Grandview Avenue, Daytona Beach spoke in favor of the request. He stated he liked the project but was not sure if he liked the location. He stated he would like to see the site plan. He stated he was against removing any historic trees and the impact the project would have on the surrounding neighborhood.

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Robert Kelly, President of the Daytona Highlands Neighborhood Association, 1110 Loomis Avenue, Daytona Beach, spoke in opposition of any land use change.

Mr. Moore asked how many homes there were in the neighborhood and how many members the neighborhood association had.

Mr. Kelly replied he could not answer that question but it was pretty extensive.

Saralee Morrissey, with Volusia County School District, 3750 Olson Drive spoke in opposition of the request. She stated she has been a planner practicing in this area for 25 years and was still active on a number of visioning and planning committees. She stated she was present when the original policy was written and reminded the Board why the policy was put in place. She stated she also wanted to inform the Board what the school district went through for Mainland High School. She stated the reason there is a specific policy was to protect the Highlands neighborhood and the neighborhood east of Daytona State College (DSC). The second reason for the policy was because it was recognized where retail was desired. She stated it was put in place to recognize an image that was different and to help enhance that image. She stated what this segment of ISB says is that education and healthcare are important and the architectural statements that the hospital, Mainland High School and DSC have made are recognized as a gateway into the community and they express the values that so many people think are important.

Chuck Matheny, 1143 Orange Avenue, Daytona Beach spoke in opposition of the request.

Phyllis Hogan, 1112 Balboa Avenue, Daytona Beach spoke in opposition of the request.

Board Comments

Ms. Washington stated as a native of Daytona Beach, she understood the residents' concerns and she spoke with a few residents today and was told traffic was a major problem in the neighborhood. She stated she was not in support of the request.

Mr. McGuinness stated he felt the current office transition land use should be preserved as a barrier to further intrusion into the neighborhood and was opposed to the request.

Mrs. Remark stated she disagrees with staff's belief that the area is not primarily single-family residential and also with the language in the staff report.

Mr. Hurt stated he had mixed feelings about the request because he has seen this type of development work in other neighboring cities.

Mr. Hoitsma stated there appeared to be a significant difference in retail use and office transition use. He stated he feels retail would encroach on neighbors and is opposed to the request.

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Mrs. Remark stated she would rather have a building on ISB like the one at 444 Seabreeze Boulevard rather than retail.

Mr. Holub stated he would be willing to put in a deceleration lane if DOT required it. As far as office traffic generation versus retail, their peak hour trips, between four and six o'clock would be nominal. He stated they do not compete with Mainland High School. If they use the office transition land use, their peak hours in the morning would go up dramatically. He stated if the Board required restricted or no Central Avenue access, they did not have a problem with changing the plans to satisfy the Board's request. If the Board required the change, it would limit access to ISB only.

Board Motion

It was moved by Mrs. Remark to approve Large Scale Comprehensive Plan Amendment – Tarragona Shoppes, DEV2011-087. Seconded by Mr. Hurt.

Board Action

The motion failed by roll-call-vote 2-to-7 with the breakdown as follows:

Mr. Hurt	Yes
Mrs. Remark	No
Mr. McGuinness	No
Mr. Bohon	Absent
Mr. Moore	No
Ms. Washington	No
Mr. Hoitsma	No
Ms. Benjamin	Yes
Mr. Fishback	No
Mr. Neal	No
Mrs. LeSage	Absent

Mr. Moore stated the Board would not hear Item No. 5 because Item No. 4 failed.

Ms. Lathan instructed the Board to call the item for the record.

5. **Rezoning, Planned Commercial Development – Tarragona Shoppes, DEV2011-088**

A request by Paul F. Holub Jr., on behalf of Speedway Investors, LLC, to rezone 2.47± acres of land located at 1173 International Speedway Boulevard, Daytona Beach, from R-1a Single Family to Planned Commercial Development (PCD), to allow for a 21,274 square foot, retail center and associated improvements.

Mr. Mrozek asked what options the applicant had for the denial of his LSCPA request.

Ms. Lathan replied he could still move forward with an appeal to the City Commission.

Mr. Mrozek asked if the applicant would have the same option for the rezoning.

Ms. Lathan replied that was why she felt an official action should be done to give the applicant his ability to seek relief he chooses too.

Mr. Holub requested that the Board review the rezoning request and make recommendations. He stated several revisions had been made as a result of the neighborhood meeting and he believed other changes could be made tonight as a result of the Board's review. He stated it was his intention to appeal the Board's recommended denial of the LSCPA request and if possible, he did not want the rezoning to have to come back to the Planning Board if the City Commission approved the LSCPA request.

Staff Presentation

Dennis Mrozek, Senior Planner gave a PowerPoint presentation that included the request as written above, the current and proposed land use and zoning. He gave some details of the current site, the proposed project, requested variances and a summary of the concerns raised by neighbors at the neighborhood meeting.

Mrs. Remark asked what the depth of the buffer was on the back side where the red line was drawn.

Mr. Mrozek replied the property line was at the wall line. He stated as far as compatibility to surrounding uses, the requirement was a 10-foot landscape buffer and a hedge. He stated by his calculations, the applicant provided an eight foot buffer and a six foot wall, which was a substantial buffer for that location. He ran through some of the proposed uses and gave staff's recommended language for some of the uses listed.

Mr. Moore asked what the original intent was for the specialty eating and drinking establishment.

Mr. Mrozek replied he would allow the applicant to address that question. He read the list of uses the residents were opposed to and stated as a result Mr. Holub revised the PD agreement to reflect those uses as strictly prohibited. He informed the Board of one additional waiver

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request to allow alcohol sales in an area that was located in close proximity to a school. He stated staff had reviewed the application request and if the concurrent request for the land use change receives final approval by the City Commission an approval of the PCD rezoning request would bring the property into compliance with the LDC and Comprehensive Plan. He stated an affirmative vote of six by the Planning Board was required to recommend approval to the City Commission.

Applicant Presentation

Paul Holub, Managing Member for Speedway Investors, 675 North Beach Street, Daytona Beach stated in retrospect he believes the rezoning request should have been presented before the Comprehensive Plan Amendment. He stated he was fine with staff's recommended changes to personal service and office uses and that including eating and that they included drinking establishments because they had those types of services in other centers and he was not sure what category they should be listed under. He stated they had no plans to have a bar or boutique bar in any of their centers and any alcohol would strictly be under an SRX license, which would require 51 percent of the service to be food before any alcohol could be served. Mr. Holub briefly talked about the architectural elevations, hardscape and landscape features. He briefly discussed the concerns raised by neighbors regarding traffic and changes that were made as a result of the meeting. He stated they had no problem with eliminating access from Central Avenue, which would make ISB the only access point on the site. He addressed Ms. Morrissey's concerns regarding Mainland High School students having access to the property without having to cross ISB.

Mrs. Remark asked why there were 50 more parking spaces than required and what the percentage increase was.

Mr. Holub replied it was approximately 70 percent increase and the reason was because standard retail parking would not work during peak hours of operation for restaurants.

There was additional discussion between Mr. Holub and Mrs. Remark regarding parking spaces required and traffic.

Citizen Comments

Robert Kelly, President of the Daytona Highlands Neighborhood Association, 1110 Loomis Avenue, Daytona Beach spoke in opposition of the rezoning request and submitted letters of opposition from Anita Parrish Emery, 219 Tarragona Way, Phyllis Hogan, 112 Balboa Avenue, James E and Sandra R Thompson, 117 Cedar Street and Diane Scot, 200 Ponce de Leon Boulevard.

Saralee Morrissey, with Volusia County School District, 3750 Olson Drive spoke in opposition of the request. She stated her comments were based on the land use moving forward and included restrictions being requested from the School District, i.e. no alcohol. She referenced the language on page three of the PD agreement that read "the following uses are restricted." She suggested changing the language to read "the following uses are

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prohibited” and include nightclubs, bars and other establishments that serve alcohol. She stated if a full TIA was done the School District would take a look at it. She had concerns about the right turn, how much of the median would be removed for the left turn, and how much stacking.

Board Comments

Mrs. Remark asked Ms. Morrissey if she was saying prohibit restaurants that sell alcohol.

Ms. Morrissey replied in her discussions with the principal she was told no alcohol.

Mrs. Remark stated even if it were a sit down restaurant.

Ms. Morrissey replied yes.

Mr. Fishback stated the more he heard about the project the more disruptive it appeared to be. He stated he felt if the project were completed it would become a hangout for students and would need security to keep the students off the property during the day when they were supposed to be in school. He stated he felt there was a level of stability in the area that would be compromised if this project was approved and that this was a very bold request that might bring a negative image to the City.

Mrs. Remark asked staff why this project was brought to the Board without a TIA because the LDC, Article 6 had two requirements that generate a TIA; one was one thousand or more two-way trips and *“rezonings applications in which the trip ends associated with the requested zoning districts most intensive use are greater than 10 percent of the trip ends associated with the existing zoning use.”* She stated this project met the second criteria, additionally, before the Board reviews the request, the TIA must be received by staff four weeks before the meeting. She stated she would like staff to explain how there was any leeway in the determination that the requirement could be suspended.

Mr. Walton replied the applicant submitted a traffic statement, it was routed to the City’s TRT and no one raised that as a requirement.

Mrs. Remark asked Mr. Walton if he agreed that it should have been a requirement.

Ms. Lathan replied it would have been up to the Planning Division to make the determination whether or not it met that requirement and she guessed they determined they did not.

There was a lengthy discussion between staff and Board members on traffic issues.

Mrs. Remark asked what she should do with the three pages of recommendations she had because she wanted them to be included with the request if it moved forward to the City Commission.

Ms. Lathan replied give them to Ms. Askew and they would be included as part of the record.

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Mr. Holub requested a continuance to give him the opportunity to get a full TIA, modify the plan to address some of the issues and concerns raised tonight, to eliminate all traffic into the neighborhood and the opportunity meet with Board members for additional input on their concerns.

Ms. Lathan stated the decision was at the Board’s discretion whether or not to continue the request or vote it up or down. She stated to save the public notice requirements the continuance would have to be set for a date certain.

There was Board discussion on how the motion could be made.

Mr. Fishback stated he did not understand why the Board would continue the rezoning request when the land use amendment had not been approved. He asked Ms. Lathan for clarification.

Ms. Lathan stated both the land use and rezoning would move forward to the City Commission with the Planning Board’s recommendation for denial and the City Commission could approve the requests by super majority vote and the applicant would still be on track with his development process.

Mrs. Remark stated if the land use amendment goes to the City Commission and is approved by super majority vote then the only discussion the City Commission would have from the Planning Board would be the written record.

Mr. Moore stated he feels the project was put through too quickly and a continuance would allow the applicant a chance to go back and make changes.

Board Motion

It was moved by Mrs. Remark to continue Rezoning, Planned Commercial Development – Tarragona Shoppes, DEV2011-088 to the April 26, 2012 Planning Board Meeting. Seconded by Mr. McGuinness.

Board Action

The motion was approved 7-to-2 by roll-call-vote with the breakdown as follows:

Mr. Hurt	Yes
Mrs. Remark	No
Mr. McGuinness	Yes
Mr. Bohon	Absent
Mr. Moore	Yes
Ms. Washington	No
Mr. Hoitsma	Yes
Ms. Benjamin	Yes
Mr. Fishback	Yes
Mr. Neal	Yes
Mrs. LeSage	Absent

6. **Large Scale Comprehensive Plan Amendment – Citywide Social Service Uses, DEV2011-091**

A request by the Development and Administrative Services Department, Planning Division for approval of a Large Scale Comprehensive Plan Amendment adding a Goal, an Objective and Policies to the Future Land Use Element in the Comprehensive Plan to encourage equalization of the City’s over-population of social service providers to underserved areas in the County.

Staff Presentation

Thomas Weitnauer, Principal Planner read the request as written above and stated Mr. Walton was handing out changes to the packet the Board received. He stated the changes were a result of input from a Board member and the City’s Legal Department. He stated based on research over the past two years, it was determined that The City of Daytona Beach had a disproportionate share of social service uses when compared to its population and other local governments throughout Volusia and Flagler counties. He stated currently the Comprehensive Plan does not include any goals, objectives or policies regarding social service uses and that the purpose of the proposed amendments was to set policy on the equalization of social service uses within Volusia and Flagler counties.

Mrs. Remark stated in Policy 4.1.3 the word “demonstrated” was left out and she thought that the whole idea was to have to demonstrate the need.

Mr. Walton replied need was a policy in the LDC that was used when a public or semi-public use was being requested. It was used to determine if there was a need for the requested use.

Citizen Comments

No citizen comments.

Board Comments

No Board comments.

Board Motion

It was moved by Mrs. Remark to approve Large Scale Comprehensive Plan Amendment – Citywide Social Service Uses, DEV2011-091 with staff proposed revisions. Seconded by Mr. Hurt.

Board Action

The motion was approved 9-to-0.

Break at 8:16 PM.

Reconvened at 8:20.

7. **Rezoning, Planned Master Development Amendment – Embry-Riddle Aeronautical University Technology Park, Tree Preservation, DEV2011-097**

A request by Christopher Challis, Esq., Cobb Cole, on behalf of Eric Weeks, Senior Executive Vice President, Embry-Riddle Aeronautical University (ERAU), to rezone 77.57± acres of land located on the east side of South Clyde Morris Boulevard, north of Beville Road and south of Bellevue Avenue, amending the existing Planned Master Development (PMD) to modify the tree preservation and mitigation requirements.

Staff Presentation

Dennis Mrozek, Senior Planner gave a brief PowerPoint presentation that included the request as written above, the future land use and current zoning of the site. He gave a brief history of the project and discussed details of the proposed modification to the approved PMD. He read the Land Development Code requirements for tree replacement specimens, and historic trees, the number of specimen trees required on the proposed site, and the number of trees, including historic trees the applicant was proposing to remove. He stated staff recommends approval of the request and an affirmative vote of six was required to recommend approval to the City Commission.

Applicant Presentation

James Stowers, Cobb Cole, 150 Magnolia Avenue, Daytona Beach went through the history of the project and the reason the request was categorized as a rezoning. He stated a tree survey was completed when the original PMD was approved and that the original idea was to relocate trees within the site. He stated since the original approval of the PMD the engineers realized it was not practical to shift the trees within the site. Doing this would result in a loss of a large number of trees. He stated they determined the solution would be to go with the three options offered in LDC for replacement of trees and that it would not impact the buffer for adjacent properties.

Mrs. Remark asked if there would be a deed restriction for property purchased so it would be in perpetuity.

Mr. Stowers replied he had not gone through that process but he presumed if the university were to purchase a piece of property off site for the purpose of tree conservation there would be some conservation easement associated with it because it would be in perpetuity.

Mr. Hurt asked if they would be required to maintain the amount of trees that were mitigated.

Mr. Stowers replied yes.

Mrs. Remark stated she believes that option would be used the least but she wanted to know if the language could be tweaked to read something like “*a conservation easement in perpetuity*” should still be included and it must be in the City. She stated staff could tweak the language.

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Ms. Lathan stated she felt that was a good recommendation and it would make sure any trees off site were maintained forever.

Mrs. Remark asked Mr. Stowers if he was agreeable with that language.

Mr. Stowers replied yes.

Mr. Hurt clarified that the applicant had the option to select any of the three options offered in LDC for replacement of trees and the stipulation Mrs. Remark was referencing only applied to one of the options.

Mrs. Remark replied yes.

Citizen Comments

John Nicholson, 413 North Grandview Avenue, Daytona Beach asked Mrs. Remark how many years were in perpetuity.

Mrs. Remark replied until we all die.

Mr. Nicholson asked if any of the trees being removed was in the buffer.

Mr. Stowers replied the research park was south of the cemetery and was unrelated to the buffer references discussed earlier this evening. He stated the buffers were not related to Mr. Nicholson's comments.

Board Comments

Mr. Hurt stated he was not in favor of removing a lot of trees but sometimes they get in the way. He stated the Research Park would put Daytona Beach on the map; we can plant more trees but we can't get another research park.

Ms. Washington stated she felt it is an excellent project.

Board Motion

It was moved by Mr. Hurt to approve Rezoning, Planned Master Development Amendment – Embry-Riddle Aeronautical University Technology Park, Tree Preservation, DEV2011-097 adding the language requiring a conservation easement for offsite properties. Seconded by Mr. Neal.

Board Action

The motion was approved 9-to-0.

8. **Rezoning – Planned Commercial Development – Teledyne-ODI Inc., DEV2011-090**

A request by Joseph Hopkins, P.E., The Performance Group, Inc., on behalf of Laverne B. Fisher, Teledyne – ODI Inc., to rezone 12.48± acres of land located on the west side of North Williamson Boulevard, north of Dunn Avenue and south of Mason Avenue, from R-2a Multifamily to Planned Commercial Development (PCD); to allow for the development of a 52,500 square foot building and associated improvements; and to allow for an industrial manufacturing use on the site.

Staff Presentation

Dennis Mrozek, Senior Planner gave a brief PowerPoint presentation that included the request as written above, the future land use, current zoning and proposed zoning. He stated Teledyne-ODI was a research and development facility and read the proposed uses for the site. He discussed the architectural design of the building and the applicant's requested waivers from the LDC standards for building architectural design. He stated the proposed building did not meet all of the LDC requirements for architectural design standards and the reason the applicant was requesting waivers. He stated staff was recommending approval of the rezoning request and an affirmative vote of six was required by the Planning Board members present and voting to recommend approval to the City Commission.

Mrs. Remark asked if the applicant was clear cutting and planting all new vegetation or enhancing the existing vegetation within the 50-foot setback.

Mr. Mrozek stated staff would take a look at what currently exist and save as much as possible but the applicant could elaborate more during his presentation.

Applicant Presentation

Joe Hopkins, 100 Marina Point Drive, Daytona Beach stated he wanted to clarify one statement made by Mr. Mrozek regarding modifying the site. He stated one thing they may possibly have to do is shift the site a little to the south to prevent closing off as much of the existing drainage ditch that exist on the north boundary line. He stated the project should generate 85 research and development jobs and would appreciate the Board's support. He stated in response to Mrs. Remark's comments regarding the 50-foot buffer, the City has a 25-foot utility easement that occupies half of the buffer where they were allowed to plant and there was a request to install a 20 inch line across the front of the entire site. He stated their plan was to put the same quantity of plants in a constrained area.

Citizen Comments

No citizen comments.

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Board Comments

Mr. Hurt stated from the article he read in the newspaper, the 85 jobs could turn into 150 jobs at \$65,000 a year at entry level. He feels this is a great opportunity for the City.

Mr. Moore stated he did not know why they could not put a break in the long building.

Mr. Fishback stated that was the same suggestion he was going to make.

Mr. Hurt stated that was the design that worked for them and would make for a corporate identity.

Board Motion

It was moved by Mr. Hurt to approve Rezoning – Planned Commercial Development – Teledyne-ODI Inc., DEV2011-090. Seconded by Ms. Washington.

Board Action

The motion was approved 9-to-0.

9. **Special Use Permit – Our Lady of Lourdes, DEV2011-110**

A request by Joseph Hopkins, P.E., on behalf of Our Lady of Lourdes Church, located at 201 University Boulevard, for a Special Use Permit to operate a carnival (Italian Festival) on the church grounds from Thursday, April 19 to Sunday, April 22, 2012; and from Thursday, April 11 to Sunday, April 14, 2013.

Staff Presentation

Dennis Mrozek, Senior Planner gave a brief PowerPoint presentation that included the request as written above, the future land use and zoning of the site. He read the special use requirements from Article 4, Section 6.3 of the Land Development Code (LDC) and Carnival requirements from Article 17, Section 2.23. He stated the applicant meet all of the requirements. He read some of the conditions that had been approved with the request over the past few years and stated additional comments and concerns that were brought up by residents this year which include vehicles parked in the 50-foot buffer with the engine running, cell phone number and name of the church's contact person. He stated the language "any vehicle parked in the 50-foot buffer cannot have the vehicle running during the carnival non-operational hours" had been added; a contact name and cell phone number had been provided; and a stormwater inspection would be completed before and after the carnival. He informed the Board that the condition on page two of the staff report that reads, "the church will hire police to monitor illegal traffic in the neighborhood" had been eliminated and was not one of the current conditions of approval. He stated staff recommends approval of the request with conditions and a majority vote of the Planning Board members present and voting was required to recommend approval to the City Commission.

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Mr. Hoitsma asked if the City was protected from being held liable for anything that occurs on the premises.

Ms. Lathan replied she assumed the operator of the festival would have insurance but the applicant could answer that question better.

Applicant Presentation

Joe Hopkins, 100 Marina Point Drive, Daytona Beach stated there was a rider provision provided by the church for operation of the carnival and the carnival group was self insured. He stated to the best of his knowledge, the City would not be held liable for anything within the permit of the property.

Mrs. Remark asked how the emergency contact information was disseminated or if it would be on the church's answering machine if someone called afterhours.

Mr. Moore stated he assumed it would be on the church's answering machine.

Mrs. Remark stated it needs to be clear to residents how they would be able to contact someone after hours.

Mr. Hurt referenced it being done through the homeowners association.

Mr. Hopkins stated the contact person was an employee of the church and the number was his personal cell phone number. He stated he would speak with someone from the church to make sure residents knew how to get the contact information.

Mr. Hopkins stated in reference to Mr. Mrozek's comment regarding the church hiring police; they do have a walkthrough with public safety. The Fire Department comes out to the site before the carnival opens up to the public to evaluate safety routes. He briefly discussed setup and breakdown times and stated in reality they do have setup and breakdown before and after the carnival starts and shuts down. He asked to strike the language that reads "setup or take down" under condition number two because generally the setup is three to four days before the carnival opens to the public and breakdown takes approximately two to three days after the carnival closes to the public.

Ms. Lathan stated the number of days allowed were more of a problem than the hours.

Mr. Hopkins replied yes.

Ms. Lathan suggested changing the language to read, "*Monday through Wednesday, but not before 8:00 am or after 10:00 pm*".

Mr. Hopkins agreed to the change.

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Ms. Washington asked if the Board was extending hours of operation on Friday and Saturday nights; what was being done to prevent people from sleeping on residents' property; if the Police Department's walkthrough evaluation was only for the church grounds and if the condition that prevented individuals from parking on the grass had been removed.

Mr. Hopkins replied time was not being extended. On Friday and Saturday night the carnival shuts down at 11:00 pm; and the Police Department's walkthroughs were only for the church grounds. He stated he did not believe there had been any issues involving people sleeping on residents' property and pointed out on the site plan where the church had designated paved parking and grassy areas for overflow parking.

Citizen Comments

Bob Carr, 304 Waverly Circle, Daytona Beach spoke in favor of the request and stated last year's carnival went well and he believed the church complied with all of the conditions. He spoke briefly on parking in grassy areas and stated that condition was included in the plan but not in the list of conditions presented by Mr. Hopkins and he would like to have it added to the list of conditions. He went through a list of additional recommended conditions and changes to language of existing conditions. Some of the recommended conditions and changes were regarding ingress and egress off of University and North Halifax Avenue, 50-foot buffer should reflect both the north and east boundary, hours allowed for setup/breakdown, refrigerated trucks parking outside the 50-foot right-of-way with the engine running, and noise.

Mr. Hurt stated a contact person had been appointed and if there was a problem after hours, residents could give him a call.

Mr. Hurt asked Mr. Hopkins if he agreed to all of Mr. Carr's recommended conditions and changes.

Mr. Hopkins replied no and stated a lot of time had been spent crafting the conditions of the agreement and when you start playing on semantics it causes problems. He stated some of the conditions Mr. Carr was recommending were already provided and stated what he felt the intent was for some of the conditions Mr. Carr was recommending changes. He stated they agreed to turn off the engines at the end of the operating day for all vehicles parked within the 50-foot buffer but there was absolutely no way they could have the carnival without having refrigeration units onsite. He stated they could consider moving them outside the 50-foot buffer and if the Board wanted to consider additional changes they would comply. Mr. Hopkins stated the 70 decibels provided for by the LDC under the special use has been consistent and he would like to keep the conditions as is.

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Board Comments

Mrs. Remark stated she agreed with the suggestion to separate the festival operating and non-operating hours so the setup and breakdown hours would not be included with hours of operation. She suggested using whatever noise decibel was allowed in the LDC.

Mr. Hopkins stated they would cross reference it with staff and go with what the LDC requires.

Board Motion

It was moved by Mrs. Remark to approve Special Use Permit – Our Lady of Lourdes, DEV2011-110 with recommended changes for operating hours during non-festival days and noise decibel levels to meet City code. . Seconded by Mr. McGuinness.

Board Action

The motion was approved 9-to-0.

10. **Other Business**

A. **Downtown/Ballogh Road Redevelopment Area Board Report**

Ms. Washington stated the Board met on January 10, 2012 at 12:00 PM in City Commission Chambers. They received their monthly reports from the Police Department and Code Enforcement and had a big discussion on possible expansion of the Farmers Market.

B. **Midtown Redevelopment Area Board Report**

Ms. Benjamin stated the Board met on January 10, 2012 at 6:00 PM in City Commission Chambers. The Board elected Hemis Ivey as their new Chair, Patricia Heard as their Co-chair. They welcomed new members Dr. Irma Brown-Jamison, Mr. Wilburn Williams, and Reverend Martin Tooley. She stated the Board received their monthly reports from the Police Department and Code Enforcement; approved a minor modification the parking lot located at 723 Dr. Mary McLeod Bethune Boulevard and received redevelopment project updates.

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

Mrs. Remark stated the Board met on January 11, 2012 at 6:00 PM in City Commission Chambers. The Board received their monthly reports from the Police Department and Code Enforcement; a presentation on the Ice Rink and Holidays at the Beach Program, redevelopment project updates; approved a request for a temporary parking lot at 140 South Ocean Avenue for a two year period; had discussion on a possible LDC text amendment for parking in RDB-5 area and the possible extension of Biketoberfest. By consensus the Board was in opposition to the possible extension of Biketoberfest and voted to have the Board chair or vice chair attend the Hobward meeting scheduled for January 18th.

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D. Public Comments

John Nicholson, 413 North Grandview Avenue asked the Board to discuss submerged lands, floor area ratio and hotel parking and landscaping along A1A.

E. Staff Comments

Mr. Walton stated at last week's last week's City Commission meeting Chris Dawn spoke during the discussion on the North Ridgewood Overlay about concerns he had regarding additional needed restrictions. As a result the Commission directed staff prepare either a discussion or action item for the February Planning Board agenda.

F. Board Member Comments

Mr. Moore thanked the Board members for their attendance tonight.

Adjournment

There being no further actions to come before the board, the meeting was adjourned at 9:35 PM.



LOUIS MOORE
Chair

ATTEST:



CATHY WASHINGTON
Secretary