

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

May 11, 2023

6:00 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

Angie Shull, Vice Chair
G.G. Galloway
Al Jorczak
Mike Scudiero
Barry du Moulin
Troy Railsback (absent)
Doug Thomas, Chair

Staff Present

Steven Spraker, Planning Director
Becky Weedo, Senior Planner
Robin Gawel, Senior Planner
Scott McKee, City Attorney
Marcella Miller, Recording Technician

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 9:00 PM UNLESS AUTHORIZED BY A MAJORITY VOTE OF THE BOARD MEMBERS PRESENT. ITEMS WHICH HAVE NOT BEEN HEARD BEFORE 9:00 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

April 13, 2023

Chairman Thomas asked if there were any corrections to the April 13, 2023 minutes. Mr. Jorczak moved to approve the April 13, 2023 Minutes.

Hearing none, vote was called, and the minutes were unanimously approved (6-0).

VI. PLANNING DIRECTOR'S REPORT

Mr. Spraker stated that the aforementioned possibility of a second Planning Board meeting in June to discuss Tomoka Reserve will likely be discussed at the July 13, 2023 Planning Board meeting. They will be resubmitting their application for review. He continued that Planning Board items that are now being funneled through the City Commission next Tuesday are Tymber Creek Apartments after their continuance, RidgeHaven and 1755 N. U.S. Highway 1 - Impact Fees.

VII. PUBLIC HEARINGS

A. FLUM 2023-036, 204 Magnolia Drive, Future Land Use Map Amendment

Ms. Becky Weedo, Senior Planner, explained that FLUM 2023-036, is an administrative request for a Small-Scale Comprehensive Plan Land Use Map amendment for a ±0.241-acre property located at 204 Magnolia Drive, from City "Public/Institutional" (P/I) to City "Low Density Residential" (LDR). The request is to correct an inconsistency with the adopted zoning district of R-3 (Single-Family Medium Density). There is a single-family home on the site built in 1953 per the Volusia County Property Appraiser's records. The "Public/Institutional" Future Land Use designation does not allow dwelling units.

Ms. Weedo delivered background on the amendment and elaborated on the former Peninsula Medical Center which was originally located where now 264 and 300 South Atlantic Avenue and 225 and 204 Magnolia Drive is. In 2004, a lot split was approved creating two separate properties. The second lot, 204 Magnolia Drive, was created specifically to continue the use of a single-family residence and allow the legal sale of the proposed lot containing the single-family home to an individual owner. Ms. Weedo explained that because the lot had been part of the hospital property prior to 2004, the Future Land Use was designated "Public/Institutional" and was never amended. Staff requests the amendment as a housekeeping matter to correct the inconsistency.

Ms. Weedo concluded that 204 Magnolia Drive is the only property on the street with a Public Institutional Future Land Use designation and is abutted by Low Density Residential, therefore staff recommends approval. Tentative City Commission dates are July 18, 2023 and August 1, 2023.

Chairman Thomas opened it up to the Board and entertained a motion.

Board Questions

Ms. Shull asked if will affect the tax bill, in which Ms. Weedo answered that it would not and that everything will remain the same.

Ms. Shull motioned to approve FLUM 2023-036, 204 Magnolia Drive, Future Land Use Map Amendment. Mr. Galloway seconded it. Vote was called, and the motion was approved (6-0).

B. FLUM 2023-037, 901 Airport Road, Future Land Use Map Amendment

Ms. Becky Weedo, Senior Planner, explained that FLUM 2023-037, is a joint request from the City of Ormond Beach and the County of Volusia for an administrative Small-Scale Comprehensive Plan Land Use Map amendment for a ±5.2-acre portion of property located at 901 Airport Road from Ormond Beach “Light Industrial/Utilities” to Ormond Beach “Open Space/Conservation”.

Ms. Weedo added that the property was identified as a candidate for the Volusia Forever program and was purchased by St. Johns River Water Management District (SJRWMD), County of Volusia and the City of Ormond Beach. The partnership for purchase of the property included: 1) St. John’s River Water Management District to ensure the ecological values of the property remains protected with a conservation easement over the land; 2) City of Ormond Beach to manage the park area; and 3) County of Volusia to retain joint ownership with the city. Ms. Weedo continued that since the property was purchased with Volusia Forever and St. John’s River Water Management District (SJRWMD) funds for the purpose of preserving the land as conservation and passive park purposes, the future land use of “Light Industrial/Utilities” is required to be changed to “Open Space/Conservation”. Ms. Weedo concluded that staff recommends approval, noting the tentative City Commission dates of July 18, 2023 and August 1, 2023.

Chairman Thomas opened it up to the Board and entertained a motion.

Board Questions

Ms. Shull inquired about if the zoning lasts forever. Ms. Weedo replied that it does and added that the land is environmentally sensitive and that there is an easement over the entire land so that it cannot be changed.

Mr. Jorczak asked what can be done with the property and if it could be used for biking and walking trails or if the City can develop further. Ms. Weedo replied that the land can be used for trails and any passive park features such as nature kiosks and benches. She confirmed that pavilions, building or structures are not allowed.

Mr. Galloway motioned to approve FLUM 2023-037, 901 Airport Road, Future Land Use Map Amendment. Mr. Jorczak seconded it. Vote was called, and the motion was approved (6-0).

C. ZMA 2023-038, 901 Airport Road, Zoning Map Amendment

Ms. Becky Weedo, Senior Planner, explained the joint request from the City of Ormond Beach and the County of Volusia is for an administrative Zoning Map amendment for a ±18.6-acre property located at 901 Airport Road, from Ormond

Beach I-1 (Light Industrial) to Ormond Beach SE (Special Environmental). She explained that the zoning map amendment is for consistency with the Future Land Use map change to “Open Space/Conservation”. Ms. Weedo added that since the property was purchased with Volusia Forever and SJRWMD funds for the purpose of preserving the land as conservation and passive park purposes, the zoning map is required to be changed to Ormond Beach Special Environmental. Ms. Weedo concluded that staff recommends approval and the tentative City Commission dates are August 1, 2023 and August 15, 2023.

Chairman Thomas opened it up to the Board for discussion and entertained a motion.

Mr. Galloway motioned to approve ZMA 2023-038, 901 Airport Road, Zoning Map Amendment. Ms. Shull seconded it. Vote was called, and the motion was approved (6-0).

D. LDC 2023-050, Land Development Code Amendment Sections 1-14 and 1-19, Certificate of Use

Ms. Robin Gawel, Senior Planner, explained the administrative amendment to the Land Development Code (LDC), Chapter 1, General Administration, Article II, Administration and Enforcement, Section 1-14, Development Orders and Building Permits and Section 1-19, Appeals to amend language in the existing text and establish requirements for a Certificate of Use.

Ms. Gawel stated that the proposed amendments involve three elements of the code that govern the occupancy and use of structures and land for residential and non-residential purposes.

Certificate of Occupancy – issued one time for the life of the building at the completion of the building and site improvements for new residential and non-residential structures.

Certificate of Use – issued primarily to non-residential locations and residential properties operating a home-based business.

Business Tax Receipt – receipt issued as proof of payment of the tax assessed to a business for operating within the city’s jurisdiction.

Ms. Gawel added that Florida Statute 205 grants municipalities the authority to levy a tax for engaging in business within its jurisdiction. The Business Tax Receipt is issued as proof of payment of the tax assessed in accordance with Chapter 12 of the Code of Ordinances. The regulations in Chapter 12 of the City’s Code of Ordinances currently uses the Business Tax Receipt as the method by which the City approves the use prior to accepting payment and issuing the receipt. The process included three reviews and one inspection.

- a) **Zoning review** to confirm to confirm that proposed use and location complies with City zoning regulations;
- b) **Building review** and inspection of the premises to confirm that the building meets all of the state building and safety codes for the type of use;
- c) **License review** to ensure that the owner possesses all of the required state licenses, insurance and other required state licenses, and other required documentation.

Ms. Gawel explained that once these are complete, the Business Tax Receipt is issued as proof of payment.

Ms. Gawel stated that the Florida Association of Business Tax Officials has emphasized that the statute only authorizes a municipality to tax businesses operating within their jurisdiction and recommends utilizing Certificates of Use as a more effective means of approving and regulating business uses and activities. She continued that the amendments to Sections 1-14 and 1-19 seek to accomplish this by revising language in the Land Development Code (LDC) to be consistent with the proposed amendments to the City's Code of Ordinances, Chapter 12, Business Regulations. Ms. Gawel explained that the proposed amendments to Chapter 12 intend to establish a Certificate of Use for the regulation and administration of business uses and activities and retain the Business Tax Receipt as proof of payment of the tax required. Ms. Gawel concluded that staff recommends approval, with tentative City Commission dates of July 18, 2023 and August 1, 2023.

Chairman Thomas opened it up to the Board for discussion and entertained a motion.

Board Questions

Mr. du Moulin commented on the streamlining of current laws.

Mr. Galloway referenced the 'commercial side' of things, commenting that at times the Certificate of Occupancy can hold someone up from moving in. He added that he feels that there should be a different Certificate of Occupancy for Residential and Commercial. Mr. Galloway was in support of the provision that allows a temporary CO to be issued under certain conditions in circumstances when not all site improvements have been completed.

Mr. Jorczak asked if another individual other than the Chief Building Official can approve the Certificate of Occupancy. Ms. Gawel answered that the Chief Building Official or their designee has the authority to approve it.

Ms. Shull asked if they go in a specific order with the Certificate of Occupancy being first. Ms. Gawel replied that they can be worked on concurrently and explained that the City is currently working on new software that will allow the Certificate of Use and the Business Tax Receipt to be done at the same time under one application.

Mr. Galloway motioned to approve LDC 2023-050, Land Development Code Amendment, Sections 1-14 and 1-19, Certificate of Use. Ms. Shull seconded it. Vote was called, and the motion was approved (6-0).

VIII. PUBLIC COMMENTS

The opportunity was announced and it was determined that there was no one in attendance that wished to deliver any public comments.

IX. OTHER BUSINESS

Mr. Jorczak asked about affordable housing law recently passed by the legislature and if it will have an impact on the development in the City. Mr. Spraker replied that if it is applicable to commercial uses, industrial and mixed use and anything in the zoning district. He continued that previously industrial did not allow residential and now residential uses are introduced into a zoning category that was not meant to have residential. Conditions will have to be met such as the 40 percent affordable housing for 30 years and with that comes the highest density at 32 units per acre, and the greatest height within a mile of the property and an administrative SPRC approval. No comprehensive plan or planned development would be required. It will be required to comply with the parking, buffers, landscaping and setback requirements. Planned Developments are staff approved if all criteria is met. The Live Local Act was further discussed.

He stated that the average house is currently \$415,000, in which the average person cannot afford in the City of Ormond Beach, and there is currently no inventory here.

Mr. du Moulin added that there are rapid amount of retirees still moving to Florida.

Ms. Shull remarked that other states are having the same issue with the lack of low-income housing challenges.

Chairman Thomas referenced low-income housing that at one time Vanacore planned to build approximately eight years ago in Pine Trails where one in every four homes were going to be for low-income housing.

Mr. Galloway stated that 500 to 1-million people are crossing the border this evening and asked where they will go. He added that eventually the Federal Government will force it and it will bypass municipality buffers.

Mr. Spraker advised the Board that Tomoka Reserve will be coming to the Planning Board to resubmit their application and address site plan comments and reach a resolution. It is expected that there will be a large number of attendees for that meeting, therefore may be held at another location. The meeting will tentatively be held July 13, 2023.

Mr. Galloway asked if a developer can pull a state program on Tomoka Reserve proposed property. Mr. Spraker replied that the property has a residential land use and zoning. It is not commercial, industrial and mixed use. The Live Local Act would not apply. No single-family residential could be used for the Live Local Act program.

Mr. Jorczak inquired if the zoning can be amended for Tomoka Reserve. Mr. Spraker reiterated that the Live Local Act cannot be used for residential zoning. The City cannot artificially change the land use and zoning without notification to the property owner.

Chairman Thomas asked if the property owner could request that the zoning be amended. Mr. Spraker replied that the property owner could and it would then go through a public hearing process.

X. MEMBER COMMENTS

Mr. du Moulin complimented the City on the work with the conservation land.

Mr. Jorczak commended City staff and the current City Commission for their efforts in getting the most money than any other city for development activity (11 million dollars). He suggested that the citizens be made aware of the state grants, remarking that they can be publicized in their water bill that details the efforts made by the City for infrastructure improvements. He gave kudos to the staff, explaining that it will reduce taxes for the tax payers.

Mr. Galloway thanked the Board and staff.

Chairman Thomas spoke positive regarding the City's relations, elaborating on how residents get straight-forward answers from the City. He commented on the City's culture of, "*what can we do for our residents*", and how that has been the culture over the last 30 years and does not exist in a lot of other places.

XI. ADJOURNMENT

The meeting was adjourned at 6:52 p.m.

Respectfully submitted,



Steven Spraker, Planning Director

ATTEST:



Doug Thomas, Chair

Minutes transcribed by Marcella Miller.