

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

March 12, 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

Staff Present

Ric Goss, AICP, Planning Director
Randal Hayes, City Attorney
Steven Spraker, Senior Planner
Ray Hudson, Civil Engineer
Richard Benton, Senior Planner
Betty Ruger, Recording Technician

Members Present

Doug Wigley

II. INVOCATION

Mr. Opalewski 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 advised that the City's economic development director and airport manager would be available for a workshop with the Planning Board, but hoped to schedule them at a time when the Board had a lighter schedule to allow for a more meaningful dialogue. He also advised that staff would investigate the appropriate avenue toward developing countywide standards for adult uses and would keep the Board informed on its findings.

VI. PUBLIC HEARINGS

A. PBD 09-08: Planned Business Development Amendment- Italian Village at Capital Plaza

Mr. Spraker stated that this was a request by a Type A restaurant at 298-300 South Nova Road for an amendment to the existing Capital Plaza development order to extend the daily hours of operation for The Italian Village from 5 pm-to-11 pm to 11am-to-10 pm to allow for lunch service. He stressed that there were no other modifications to the development order to be considered.

Mr. Spraker advised that at the time the restaurant owners initiated their move to the Capital Plaza, the applicants were not considering a lunchtime trade and that personal issues had resulted in an 18-month delay. He said that because of current economic conditions and demand, they now felt that they needed to extend the hours of operation to make their business not only more viable, but to also give their employees more hours of employment.

Mr. Spraker said that staff had reviewed the request for adequate infrastructure and had determined that there was sufficient parking available. He also pointed out that the nearby Pickles restaurant was open for both lunch and dinner and noted that planning staff had received numerous calls from residents and patrons in support of the restaurant's extending their hours to allow for the lunch trade. He said that planning staff supported the amendment.

Mrs. Benhke questioned what, if any, action had been taken as a result of the restaurant opening for business prior to the time permitted by the existing development order, remarking that people and businesses needed to have respect for the City's ordinances. Mr. Spraker reported that Neighborhood Improvement personnel had issued a Notice of Violation on the first day that had occurred and had also issued a citation to the property owners. He said that although the item was scheduled for a hearing before the Special Master, the restaurant owner had sought to remedy the situation as soon as they were made aware of the problem.

Mrs. Press asked if the hours of operation had been included in the lease agreement. Mr. Spraker responded that the city staff had not seen the lease agreement between the owners and the

lessees, but noted that the restaurant owner did not appear to know that the hours of operation were restricted.

Mr. Andy Thomas, 298 South Nova Road (Capital Plaza), did not believe that the hours of operation were ever discussed, because a lunch trade had never been discussed. He responded to Mr. Jorczak that the applicants had originally thought they would be operating only at night. He stated that he also did not think that such a change would be considered a major amendment to the development order; he thought that it was only a minor change. He pointed out for the Board that the property owners had also moved the dumpsters further away from the neighbors.

Mrs. LaFrancola stated that she had known the applicants for years, that they are wonderful people who served phenomenal food. She felt that the business was an asset to Ormond Beach and the extended hours would add needed jobs.

Restaurant employee Christina Tocco, spoke in favor of the extended hours. She said that the restaurant owners had worked with her as a single mother and that the lunchtime hours allowed her to remain employed, yet still be home in the afternoons with her three-year old daughter. She said that the restaurant provided a wonderful opportunity for six lunchtime employees. Another restaurant employee, Haniel Silveria, stated that the owners were great people and pleaded with the Board to allow the extended hours. He pointed out that both the Pickles restaurant and the new Dunkin' Donuts would not be held to such limited hours of operation.

Mrs. Patti Ann Welter, 303 Forest Hills Boulevard, a neighboring resident behind the development, expressed concern that the owners of Capital Plaza continued to request waivers and changes to their approved development order and recalled that the dumpsters had not even been in place when the center originally opened for business.

Mrs. Aiello, the owner of The Italian Village, assured Mrs. Welter that she would make sure that the garbage from her restaurant was properly placed, pointing out that she practically lives at her restaurant. She explained that between the time she initially planned to move their restaurant to Capital Plaza and the time they actually moved the restaurant, her husband had a stroke. Because of the delay and the shift in economic conditions, they now needed the lunchtime trade in order for the business to survive.

Mrs. Behnke stated that she fully favored the change of hours, but questioned what the next request would be for Capital Plaza. She felt that the City's codes and ordinances needed to be taken seriously.

Mr. Mark Baker, representing Capital Plaza, responded that they were not trying to be disrespectful to either the City or to the Board. He said that he and his partner were truly not well versed in how these things worked, but that they were simply trying to make their business work. He explained that the confusion with the dumpsters had been a miscommunication between themselves and the city's environmental manager, Kevin Gray, which had resulted in the dumpsters being delivered a week late. Mr. Baker said that they might have to be back before the Board at some point in the future if a potential tenant needed something feasible that was not currently allowed by their development order.

Mr. Jorczak asked if the code enforcement action would be negated if the amendment were to be approved, to which Mr. Spraker replied that the Special Master hearing would go forward.

Mrs. Press welcomed The Italian Village restaurant to Ormond Beach and wished them well, particularly given the dire condition of the economy. She also thanked Mrs. Welter for her input and asked her to continue her vigilance. Mr. Adams agreed.

Mr. Opalewski agreed with change in hours and said that the food was excellent at The Italian Village. He also welcomed the family-owned business.

Mrs. Press made a motion to approve the amendment to PBD 09-08. Mr. Adams seconded the motion, which was approved by unanimous vote of the Board.

B. LDC 09-03: Land Development Code Amendment: Chapter 3, Article II, Section 3-18 Surface Water Runoff Control

Mr. Spraker explained that the amendment increased the threshold on new impervious surface from 1,000 square feet to 4,000 square feet as a mechanism to encourage redevelopment of existing improved sites within the city. He stated that the amendment language would also serve to also employ the techniques of Low Impact Development (LID).

In response to Mr. Adams' inquiry, Mr. Goss explained that the amendment incorporated the concepts of Low Impact Development by providing for alternatives to retention ponds for treating stormwater in both quantity and quality by using natural [topographic] features and e.g., swales, for detention source control. He further explained that in areas of smaller parcels, as in the Downtown, the need for huge ponds for stormwater detention could be eliminated and that for larger sites such as churches and schools, the need for huge ponds could be substantially reduced, while accomplishing the same thing. He said that it was a different approach to treating stormwater on-site by integrating best management practices; the water would flow into the yard or into a vegetative swale on-site. He said that the techniques were sometimes more expensive to incorporate, sometimes not, in handling the Total Maximum Daily Loads (TDML) of stormwater runoff.

Mrs. Press recalled that six months prior, she had attended an LID seminar put on by the City and other entities regarding the techniques, which included the use of rain gardens and how to incorporate these techniques in areas with no curbing.

Mr. Ray Hudson, civil engineer, pointed out that the LID techniques could not be employed in all situations, but would be encouraged where practical, i.e., where there was land with which to work. He said that in some instances for example, it would minimize parking spaces (using the minimum vs. the maximum) in urban areas, while in rural or suburban settings, it would allow for use of natural land features. He agreed with Mrs. Press that it was a step in the right direction. He also confirmed for Mr. Jorczak that the techniques employed would continue to retain stormwater on site. He explained that the LID technique did not replace retention ponds, but allowed for those ponds to be smaller.

Mr. Jorczak inquired as to whether or not there were any properties in Ormond Beach currently using cisterns, to which Mr. Hudson replied that there were not, because in the past, Ormond Beach had not allowed the use of cisterns.

Mr. Hudson indicated that the City does allow underground exfiltration systems, but requires that a portion of the runoff be in ponds, where the treatment can be monitored above ground. He answered Mrs. Behnke that by using the LID techniques, the quality of water was probably better. He said that with the pre-treatment using the Low Impact Development techniques, the ponds were actually required to do less work.

Mr. Adams made a motion to approve LDC 09-09. Mr. Jorczak seconded the motion, which was approved by unanimous vote.

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

Mr. Spraker stated that the some of the content had been condensed by putting it into a chart, which also made it easier to understand. He pointed out that the regulations now clarified that obstructions were not allowed in drainage easements unless approved on a case-by-case basis through the Engineering Department. He noted that language governing the requirement of a buffer wall between a commercial and a residential use remained unchanged. He felt the changes to the Section made it better and easier to understand.

Mr. Spraker explained that there were currently uses (temporary structures and temporary sales offices) delineated as Conditional Uses in the Accessory Uses section which had not been assigned in any zoning district and that the change simply assigned them to a zoning district or district. He assured Mr. Opalewski that the change was not to eliminate the need for hearing before the Planning Board.

Mrs. Behnke pointed out a typo on Page 15, but commented that the changes laid out the information very clearly.

In response to Mr. Jorczak's inquiry regarding the prohibition of the use of razor wire on the top of fencing, Mr. Spraker responded that the Industrial uses remained unchanged; he thought that the exclusion was most likely for reasons of public safety. Mr. Thomas agreed that razor wire should be allowed for such properties as a deterrent to crime. Mr. Goss was not sure that the insurance companies would agree. Mr. Jorczak noted that electric fences were also not allowed in some areas.

Mr. Thomas asked if the regulation could be written so as to allow the consideration of different types of wire. He pointed out that as written, six people were being asked to make a decision on business security. Mr. Adams stated that he was not in favor of anything that severe and asked if it could be addressed in a future amendment. Mr. Thomas agreed that he did not want to hold up the amendment. Mr. Goss agreed to move the item forward, and that he would bring back to the Board at a later date the information regarding different types of security fencing.

Mr. Jorczak questioned the regulation restricting the height of single-family entrance gates to four feet unless the linear footage of the fencing exceeded 150 feet, given that there are many

homes on North Beach Street that are only 100 feet wide, but with entrance gates higher than four feet. Mr. Spraker responded that the language in the Code had not changed, but that the Board could suggest amendment to shorten or perhaps remove the distance requirement.

Mr. Jorczak also pointed out the difference between the required fence height limit vs. the height of the gate. Mr. Spraker suggested eliminating or reducing the lot width requirement, or perhaps increasing the entrance gate height to a maximum of ten feet. Mr. Thomas suggested simply that the height of the entrance gate not exceed the height of the fencing (which is limited to six feet) for aesthetic purposes.

Mrs. Press made a motion to approve LDC 08-55 with the proviso that the issue of security fencing be brought back to the Board and that the lot dimensions for the entrance gates of single-family residences be eliminated. Mrs. Behnke seconded the motion, which passed by unanimous vote.

D. LDC 09-03: Land Development Code Amendment: Chapter 1, Article II, Section 1-20.1, Affordable Housing Incentive Plan

Mr. Ric Goss, Planning Director, referenced the 5-page memorandum that had been provided to the Board regarding the payment-in-lieu option, as well as the background regarding inclusionary zoning. He explained that they were based on the findings of the Affordable/Attainable Housing Task Force and added that the memo also included the policy issues considered by the task force at that meeting, along with the benefits they believed would result from such a program. He said that at the time the task force looked at inclusionary zoning as increasing the cost of market rate units if there was not some type of offset, and it was the reason that they subsequently recommended a density bonus to the City Commission.

Mr. Goss explained that he had provided the Board with four housing options. One was the inclusionary provision at 20 units, with no density bonus, and required to be on-site as stated in the comprehensive plan. Another was the option proposed by planning staff, which was an inclusionary, along with a density bonus to offset that cost to a developer, but reduced to ten (10) units; he said staff reasoned that the available land within the city primarily consisted of smaller tracts and development would therefore be more infill in nature as opposed to development of large land areas. The third option with an inclusionary zoning would include payment-in-lieu-of, which would give the developer the flexibility to either providing the lots within the project site, pay in lieu of providing those lots within the project site, or provide equal lots somewhere else. He said that the fourth option was either a payment-in-lieu-of because the lots could not be provided within the development or a like number of lots be provided elsewhere. The proposal, Mr. Goss stated, was an attempt to balance the comments of the Planning Board with the direction he had received from the Housing Task Force, which had been approved by the City Commission. He felt that Option 3 was the method that would provide a developer the most flexibility.

Mr. Goss reported that his research had concluded that 19 out of 20 communities considering the Tallahassee model's inclusionary zoning went with the payment-in-lieu-of option rather than provide the units as part of a development. He felt that the flexibility for the developer needed to be included and that there were a number of ways to calculate the affordable unit value. He

stressed that staff was not suggesting any particular value and pointed out that the values could be changed, based upon, e.g., reduction factors. He said that although the staff report provided several ways of assigning values, there are many more ways available. He explained that the methods provided were those that most replicated the methods used in Florida. He summarized:

- Method 1 - Taken from the Tallahassee model; the value of the house would equal the payment-in-lieu-of, i.e., the number of lots times the value. Using Pineland PRD as an example, Mr. Goss explained that if the developer was required to provide nine lots, the payment required be 9 times the lot value, (most likely due at the end of the final phase, since the value at the beginning would be unknown). Calculation would be taken directly from the AAHTF recommendations as they calculated affordability.
- Method 2 - Would value all the lots over time and the average of those values would be the unit cost.
- Method 3 - Basically a lot-for-lot concept, vacant lots in the older areas of the city or development lots with homes in disrepair could be redeveloped; the method would provide the units, while improving older neighborhoods.
- Method 4 - A simple methodology that calculates the payment-in-lieu-of based on an established amount, e.g., \$15,000 per unit. Calculation would be taken directly from the AAHTF recommendations as they calculated affordability.
- Method 5 - Attempts to cover the lot cost, but also a portion of the construction costs. Although utilized in some other areas of the country, the cost would be much higher and probably would not work well.
- Method 6 - Uses as a basis the 80% adjusted median income (AMI) figure for areas within the same Metropolitan Service Area (MSA) times some type of factor. Payment could also be a contribution to a housing fund. Note: Developments considered affordable by definition (multi-family, life care facilities, adult care facilities, manufactured home developments) would not be assessed.

Mr. Goss stated that the issue of affordable housing had been aggravated in recent years, particularly during the period 2002- Spring, 2007. He said he would not argue that there were currently units available in the city that are affordable for 80% to 120% of AMI, but reminded the Board that it was not that way one and one-half years earlier. Given that the economy will turn around, he indicated affordability would be more of an issue again. He said that developers needed to contribute to affordable housing efforts because economic development efforts in Volusia County (and throughout Florida) were tourism and growth-oriented and did not create the kind of jobs that paid enough to allow those employees to be able to afford housing units. He said that affordable housing might not be a problem if economic development efforts created better jobs. He reminded the Board members that it had been demonstrated during the most recent boom period (2002-2007), that very few units were affordable during that time, very few were built, and that although the existing units had been appreciating in value, salaries and wages were not increasing at the same rate. He said that those able to buy a unit, even in older sections of the city, paid a very high price and most likely used a funding mechanism such as an adjustable rate mortgage, because it was all they could get.

Mr. Goss explained that the payment-in-lieu-of could create a type of trust fund that could be administered through Volusia County or one of the non-profit organizations (not the City). He stated that affordable housing should be a basic community provision, a community responsibility. He assured the Board that he was not advocating values, but was trying to 1) ascertain whether the Board was at all interested in the process, and 2) convey to the Board that it was his job not to look at today's economy, but to look to the future. He said the staff recommendation was to keep the inclusionary zoning provision (the set-aside) in the comp plan, lowered to 10 units, provide the developer the flexibility for the payment-in-lieu-of and the lot-for-lot if they did not want to provide lots within the development. He reiterated that the payment could be done at the end of the phasing, acknowledging that the cash up front would be difficult for a developer.

Mr. Thomas questioned the composition of the affordable housing task force members. Mr. Goss replied that it was a diverse group comprised of a realtor, a representative from the Builder's Association, a developer, a builder and other interested citizens. He said that although he was not employed by the city at the time, it was his understanding that the task force was responsible for developing strategies to streamline the code with regard to the processing of developments, and to look at ways to assist with affordable housing. He said that they worked from about April, 2007, and were to have been finished by December, but that it did not go to the City Commission until April, 2008. He said that once the study update had been completed, presented and approved by the City Commission, the task force was disbanded.

Mr. Thomas asked if affordable housing was a Federal government mandate.

Mr. Goss explained that it was a State priority; although the affordable housing study was a requirement, the inclusionary zoning was not. He added that he did not believe that the State had mandated that the provision take place, but had required all communities to look at their affordable housing opportunities, develop their studies and plans, and then in all due haste make the changes that would make it easier for such units to be built. He agreed that the issue was a result of City Commission's appointment of an affordable housing task force, which was a result of the State requirement. He recalled that in 2002, a much more in-depth study was completed, but that not much had been accomplished following those first recommendations. He also recalled that the provision had been in the comprehensive plan since it was updated in 1997, and that the item currently before the Board was the language to provide the framework for how to do it. He reminded the Board that by State law, the comp plan takes precedence over the Land Development Code.

Mr. Thomas surmised that, with the exception of the comp plan provision, there was no mandate that dictated that the City had to do what was proposed.

Mr. Goss replied that there was no mandate to do inclusionary zoning. He responded to Mr. Jorzak that although he did not want to speak for the City Commission, he suspected that when they approved the recommendations they viewed the inclusionary zoning and the density bonus as positives to offset the cost.

Mrs. Behnke inquired if a builder would still be allowed the density bonus if he chose to allocate off-site. Mr. Goss did not believe that had been made clear, but thought they understood that without the density bonus the cost would simply be passed off to the market rate units within the

same development. He said that the idea was to provide some type of density bonus that would mirror the set-aside, e.g., a development having to provide nine units as a set-aside would end up with nine additional lots. In response to her concern that the density bonus would result in over population, Mr. Goss said that he did not believe there would be that many units, but said that had the requirement been in place at the time the Pineland subdivision was being considered, the city could have realized \$270,000 +/- to be paid into the housing fund.

Mr. Goss stated that there was currently a plentiful supply of affordable houses and lots, but that there were people below the 80% threshold, say, at 70%, who could not afford to buy a unit. He said that if it was possible to structure mortgages so that traditional loans based on 30% of income could be supplemented by a second, 0% deferred payment loan that could be payable at the end of the 1st mortgage or at the time the house was sold, the unit would be more affordable. He pointed out that in the recent past, at the time housing prices were escalating, people were using alternative mechanisms such as adjustable rate or balloon mortgages and that in five years, would no longer be able to afford their homes. He did not believe that anyone in the housing industry would agree with the payment-in-lieu-of , or wanted to pay impact fees, pay for transportation or parkland, but said that he was recommending it because he truly believed affordable housing (workforce housing) to be a community responsibility. He emphasized that the proposal was not about types of housing and was not about public housing; he said that it was about housing policemen, firemen, planners, teachers and others with annual incomes of \$30,000-\$40,000.

Mr. Thomas requested that staff provide him with copies of the minutes of the task force meetings, in order to get a feel for the discussions and how the votes were weighted. Mr. Goss agreed to provide the information, including City Commission comments, which would help the Board understand the things that the task force was trying to accomplish. He advised, however, that much of the information would not be in as finished a format as they were used to seeing.

Mr. Thomas stated that he was struggling with the issue, since he understood and hoped that the economy would turn around, but pointed out that he was a businessman and employer and also understood that government intrusion was to a point of being unbearable. He said that through his involvement in city recreation, he knew that people often stepped forward to help children who otherwise would not be able to participate. Acknowledging that it was not Ormond Beach, he stated that he knew someone who had just purchased a foreclosed house in Palm Coast (listed at \$295,000) for \$122,000 less an \$8,000 first-time-buyer tax credit; he said that there were so many foreclosures on the market and that coupled with all the impact fees attached to new homebuilding, he did not expect the new housing market to recover for years. He recognized the social responsibility, but likened the proposed affordable housing requirement to a social impact fee and stated that such a tax burden should be shared by the community, not just the building/developer.

Mrs. Press said she also had been grappling with the issue and had asked a realtor friend for a list of all houses in Ormond Beach that were listed for less than \$180,000. She said that given the volume and the low interest rates, there were many affordable houses in the area. She also pointed out that there were numerous programs available (such as those through Mid-Florida Housing, SHIP) to help people buy houses, including the first time buyer program through the

stimulus package. She pointed out that the older, established neighborhoods were not revitalized when people purchased homes in new developments.

Mrs. Press also stated that she did not believe in set-asides for numerous reasons and thought that if that the Board decided that it was not something they wanted, they should be explicit in their recommendation to the City Commission. She also noted that any discussion regarding fees should be held at another time, but did feel that such money should be put into a trust fund, not administered by the City. Mrs. Press expressed concerned with the timing of the issue, given the number of available affordable units.

Mr. Adams complimented the planning director on the quantity and quality of his research and the materials provided to the Board. Referencing the houses that could be purchased at well below the listing prices, he argued that it might realistically be the market value of the properties at this time, but noted that one of the challenges facing the city of Ormond Beach was that the prices of properties in the city always tended to be higher than those of the surrounding communities. He felt that in place of mandates for set-asides that placed additional costs on the developer that could stymie growth, he preferred to see incentives to encourage the building of affordable housing. He suggested that the Board have a guest speaker, such as the person who spoke to the task force as to why a community would want to do affordable housing and that someone from the development community also be present to speak. He expressed concerned about the idea of an additional tax, saying he would like to find a way to provide some advantage to a developer to do affordable housing.

Mr. Opalewski agreed with concept of incentives and said he did not feel the timing was right, given the way businesses were struggling.

Mrs. Behnke stated that she firmly believed in the free enterprise system and could not agree that providing affordable housing was a community responsibility. She remembered that she and her husband started their home ownership with what they could afford at the time. She felt that the proposal was the equivalent of the government dictating that a business person could sell 80% of their product at their price, but had to sell the remaining inventory at 20-30% less, even if they could then order 20 more. She echoed Mr. Adams sentiments regarding the depth of the research and said that of the options presented, she would prefer Option 3; however, Mrs. Behnke stated that she thought that incentives would be the better way to go.

Mr. Jorczak agreed with Mr. Thomas' comment that if the community wanted affordable housing, then the community bore the responsibility of funding it (as opposed to a specific interest, such as a developer). While he agreed that the work that went into proposal was admirable and provided a number of different scenarios as to how to accomplish it, he felt that any such mandate should be voted on by the community by referendum; he did not feel it a decision to be made by the Planning Board or the City Commission. Mr. Jorczak agreed that the real estate market would rebound in a few years.

Mr. Thomas reiterated that the Board appreciated the work conducted by staff, as well as staff's progressive thinking, but said that he did not agree with the government dictating that he had to provide a portion of his product to people at a reduced cost; he said that it would serve only to drive up the cost for others.

Mrs. Press questioned the kind of incentives that could be provided. Mr. Thomas agreed that would be a great topic for discussion at a future meeting and encouraged the Board members to think about it during the next month.

Mr. Goss thought it important to remind the Board that during the latest economic and building boom, no one was building affordable housing because there was no money in it. He also reminded the Board that as housing prices rose, people going into the housing market had to buy using different instruments. He stated that there was a linkage between new rooftops and the need for housing, just like the need for impact fees because a new house causes an impact on the road network. He understood the Board's concern regarding the current market conditions, but said that it was the right time to take advantage, not during the next siege. He acknowledged that he and the Board did not agree, but said he respected the Board and would not want to go to the City Commission without their support. He said that staff would remove the affordable housing language from the previous amendments approved by the Board so that those items could move forward with streamlining the Code (which he felt would help business) and that they could deal with the affordable housing issues separately at a later date.

Mr. Jorczak reiterated his belief that the proposal was, in reality, a social program, but took issue with the government mandating programs, the funding responsibility for which was placed on the private sector. He noted that even though such things could later be changed or eliminated, doing so could be a cumbersome process.

Mr. Adams commented that as the market improves, not all builders would concentrate on the highest priced homes with the biggest margin because the market would become flooded with those homes, precluding competition. He pointed out that there were builders who had been very successful in homes of a variety of price levels. He felt that if the city could find a way to provide incentives as a part of the free market system, the developers would take advantage of it. He said the bottom line was the best solution for the developers and their investors. investors.

Mr. Goss said he would not move the item forward, even with the backup of the task force and their recommendations, but would instead work diligently on the affordable housing issue so that return with more information that he believed would convince the Board that affordable housing was the right thing to do. He made a commitment to the Planning Board to remove the affordable housing language from all LDC amendments in order to implement the other changes to the Code that would benefit businesses. Mr. Goss also responded to Mrs. Press that the Board would not be acting on the Housing Element of the Comp Plan, but would only be discussing the highlights of those changes.

Mr. Jorczak made a motion to table LDC 09-03 until such time as the planning director wished to bring it back before the Board.

Mrs. Press seconded the motion, which was approved by unanimous vote.

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

Mr. Spraker recalled that the Board had reviewed the item at the February, 2009 meeting and had discussed the RV/board storage provisions. He said that staff had made the changes that had been discussed and, given the additional month, reporting that Richard Benton had been able to change the bed and breakfast language slightly to reflect what has actually occurred with a couple of recent applications. He pointed out that three sections (multi-family, townhomes and zero-lot-line) had affordable housing provisions that would need to be removed before the item proceeded to the City Commission; he asked that if acceptable, it should be included in any motion.

Mr. Adams pointed out a typographical error under “Restaurants Type C”, which Mr. Spraker agreed to correct.

Mr. Jorzak moved approval of LDC 08-54, taking out all references to affordable housing. Mr. Opalewski seconded the motion, which was approved by unanimous vote.

VII. OTHER BUSINESS/INFORMATIONAL ITEMS

A. EAR Amendments: Housing Element

Mr. Goss stated that the memorandum pointed out the major points in the Housing Element to which the Board needed to pay attention and mentioned that of the six new goals added (based on the work of the Affordable/Attainable Housing Task Force), none had to do with inclusionary zoning. He said that also added was a requirement for a housing impact statement for any Code amendment (before any City Commission hearing) that would have a cost impact on housing. He said that planning staff would do the assessment.

Secondly, Mr. Goss stated that staff wanted to do a housing demand forecast model, which would be done in-house, in an effort to balance the existing land use densities with the expected-to-reside residents to 2025. He said that the demand model would ensure that there was sufficient land, without having an excess, to meet those densities.

Mr. Goss also added would be his recommendations, previously made to both the City Commission and previous City Manager, to establish one-stop permitting as part of the Code. Also, he said the changes would include the development of a neighborhood classification model to monitor neighborhood transitioning within the city, both positive and negative. He said it would be computer generated with help from the city’s information technology staff to work as an early warning system for neighborhoods under stress, so that the city could intervene in order to reverse that stress. Adoption of an abatement ordinance to address vacant structures would also be added, he said, because there were currently no effective ordinances to deal with such properties.

Mr. Goss advised that Housing Element Policies 1.5.1 to 1.5.10 dealing with inclusionary zoning would have to be dealt with before the end of the year, since the amendment would be reviewed against the Evaluation and Appraisal Report (EAR) submitted to Department of Community

Affairs (DCA) in 2008. (Mr. Goss noted that there was a bill proposed to eliminate that agency.) He responded to Mrs. Press that he did not believe that DCA would be looking at the amendment for inclusionary zoning, but would be matching the EAR document with the EAR-based amendments to assess consistency. He said that all the changes presented were very consistent with the EAR, with the exception of the inclusionary zoning; he suspected that the city would receive comments from DCA as a result. Additional incentives to support affordable housing were also incorporated, but noted that some, such as the waiver of impact fees, could not be legally supported; definitions, such as that for fair housing discrimination, had been updated to the most current definition by case law, while other changes were made to make wording better. Finally, he said, language was included to achieve a jobs and housing balance that would further the City's economic development strategy, language that currently needed to be integrated into the comprehensive plan along with Smart Growth policies designed to try to get people to live in the same community where they work.

In response to Mr. Thomas' inquiry, Mr. Goss stated that DCA, if they were still in existence by the time the EAR amendments were to be completed, ultimately had the power to mandate (through administrative appeal and hearing) that the City could not amend the comp plan if the City's comprehensive plan was found inconsistent with the Evaluation and Appraisal Report. He anticipated that staff would receive comments from DCA questioning why affordable housing mechanisms had not been implemented, yet had been included in the EAR. He surmised that the City's response would be that the economy was still bad and would provide the data to show that there was plenty of affordable housing available. He said that the Board would be made aware of any such DCA comments.

Mr. Goss further explained that proposed legislation would move Emergency Management oversight from the DCA to the governor's office, while Housing, Community Development, and Growth Management would be shifted to the Secretary of State, and could result in a total watering down of the growth management laws.

Mr. Jorczak's commented that Mr. Goss' recommendation to establish a one-stop permitting process to enhance efficiency in the development review process would be viewed favorably and said he had also discussed streamlining the process with the new city manager. Mr. Goss explained that although it needed to be done, it would be an expensive endeavor because of the existing layout of the city hall building. He felt that it would take at least 1.5 years to accomplish.

The board members again thanked Mr. Goss and his staff for the depth and quality of their work, particularly given the time and staffing constraints.

VIII. MEMBER COMMENTS

Mrs. Press offered congratulations to Chair Thomas, after whom a road was being named at the Airport Recreation Complex. The road will be named Doug Thomas Way. The other Board members also expressed their congratulations.

IX. ADJOURNMENT

The meeting was adjourned at 9:45 p.m.

Respectfully submitted,

Ric Goss, AICP, Planning Director

ATTEST:

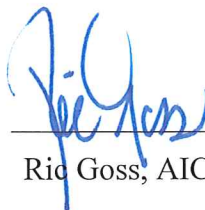
Mr. Doug Thomas, Chair

Minutes transcribed by Shannon McLeish and Betty Ruger.

IX. ADJOURNMENT

The meeting was adjourned at 9:45 p.m.

Respectfully submitted,



Ric Goss, AICP, Planning Director

ATTEST:

Mr. Doug Thomas, Chair

Minutes transcribed by Shannon McLeish and Betty Ruger.