

MINUTES (DRAFT)
SOUTH DAYTONA
PLANNING AND APPEALS BOARD
Regular Meeting

June 3, 2020

6:00 P.M.

South Daytona City Council Chambers
1672 South Ridgewood Avenue
South Daytona, FL

PURSUANT TO SECTION 286.0105 FLORIDA STATUTES, if an individual decides to appeal any decisions made with respect to any matter considered at a meeting or hearing, that individual will need a record of the proceeding and will need to ensure that a verbatim record of the proceeding is made. The City does not prepare or provide a verbatim record of the proceedings.

In accordance with the American Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in the proceedings should contact the City of South Daytona's Deputy City Clerk at (386) 322-3011 for assistance at least 48 hours before the date of the meeting.

I. CALL TO ORDER

II. ROLL CALL

Members Present

Eric Sander, Chair
Abe Agront, Vice Chair
David Beery
Jerry Masters
Phil Trimarchi

Members Absent

Ari Morse (excused)
Marian (Sam) Buckman (excused)

Staff Present

James L. Gillis, City Manager
S. Laureen Kornel, Community Development Director
Scott Simpson, City Attorney
Lauren Rizzo, Recording Secretary

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF THE MINUTES: February 19, 2020

Vice-chair Agront made a motion to approve the February 19, 2020 meeting minutes. Mr. Masters seconded the motion. Hearing no objections, the minutes were unanimously approved (5-0).

V. DISCLOSURE OF EXPARTE COMMUNICATION

None disclosed.

VI. PUBLIC HEARINGS

A. SE 2020-05: Special Exception, Elite Auto Services, LLC 2325 S. Ridgewood Avenue

This is a request for a Special Exception by Michael J. Woods, applicant and authorized agent acting on behalf of Stephen M. Wallace, Property Owner, for a Special Exception to allow automotive parts service and installation at the property located at 2325 South Ridgewood Avenue. The subject property is zoned BGC (Business General Commercial) which provides for automotive parts service and installation as a Special Exception under certain conditions. The proposed use would be conducted in a fully enclosed building and **no additional building or site construction is proposed** as part of the Special Exception application.

Before beginning the presentation, Ms. Kornel thanked the board for their attendance and flexibility during the COVID-19 pandemic. She also thanked the City Manager, Les Gillis, for attending the meeting as a part of the audience. The Special Exception was then presented by S. Laureen Kornel. She stated that the property had historically been used for automotive repairs but that the last active Business Tax Receipt on file was in April 2018, thus requiring a Special Exception. Ms. Kornel began to describe the surrounding properties and pointed out that a hedge separating the property frontage from S. Ridgewood Avenue was present. She pointed out that there had been a gap in the hedge which the applicant had filled and irrigated as a condition of the Special Exception. Ms. Kornel advised that the criteria for this Special Exception had been met including the recommended conditions that all work be conducted in enclosed spaces, the site meets the 10,000 square foot requirement, and the site is located on the corner lot. There had only been one call from a resident of the east-abutting property that was curious about the Special Exception and had no objections. Ms. Kornel advised that City staff was recommending approval of Case #2020-05 with the following conditions: landscaping as recommended on the frontage of S. Ridgewood Avenue as already completed by the applicant, and that no vehicles be stored outside of the boundaries of the property.

Chairperson Sander inquired if the second condition of vehicle storage meant that the business could not store vehicles on the vacant property to the north of the subject property. Ms. Kornel advised that were the applicant to store anything on that property it would qualify as trespassing and that this condition is an extra level of protection to avoid conflicts.

Mr. Beery inquired if there was permanent parking on the street in front of the property, implying S. Ridgewood Avenue. Ms. Kornel advised that there is not and that the asphalt goes up to the street with no sidewalk between the property and the road. Ms. Kornel did advise that there was adequate parking on the Ridge Avenue (north) side of the property. Mr. Beery stated he thought there was parking on that road, but Mr.

Simpson and Mr. Masters stated he believed the Department of Transportation took that parking away further south on South Ridgewood Avenue.

Chairperson Sander asked if there were any questions from the board. Hearing none, he asked if anyone from the audience wished to speak. Michael Woods of Cobb Cole Law Firm, 231 N. Woodland Blvd, Deland, spoke as the representative for the applicant. Mr. Woods thanked the board and staff and expressed that they were fortunate in this case that the conditions as required by the City of South Daytona were easy to satisfy. Mr. Woods also thanked staff for expediting the application as the process could have taken many more months due to COVID-19 delaying meetings. Mr. Woods also thanks the board for being present at the date in order to expedite the review to move forward to City Council later in the month of June rather than July or August.

Chairperson Sander asked if there were any further questions or comments and, hearing none, asked for a motion to approve Case #2020-05 to allow auto part service and installation at the property located at 2325 S. Ridgewood Ave with the recommended conditions. **Mr. Masters motioned for approval, and Vice-Chair Agront seconded the motion. Hearing no objections, the motion passed with a unanimous vote for approval (5-0).**

B. LDC 2020-06: Land Development Code Amendments, 1. Deletion of Certified Mail requirement, 2. Registered Landscape Architect requirement, 3. Require Off-street parking areas to be hard surfaced, and 4. Addition of paved drive isle requirement.

This is an administrative request for the following three Land Development Code (LDC) amendments:

1. Amend *Article III, Section 3.1 General provisions under subsection (D) Notification* to remove the requirement for certified mail notification to abutting property owners and to change the certified mail requirement to require regular mail unless otherwise required by State Statute;
2. Amend *Article III, Section 3.6 Development plan submittal requirements under subsections (2)(f) Landscaping* to require Landscape Plans be prepared by a Registered Landscape Architect;
3. Amend *Article VII, Section 7.5 Traffic/parking management under subsection (B)(1) Parking and loading* to clarify that for all new construction off-street parking areas shall be hard surfaced with concrete or asphalt; and
4. Amend *Article V, Section 5.6 Supplementary Regulations under subsections (A)(3)(b) Industrial zones* to create subsection [5] and amend; and, to amend *Article VII, Section 7.5 Traffic/parking management under subsection (B) Parking control* to create a new subparagraph (8) called *Required surface for accessways, driveways and drive aisles* after subparagraph (7) *Buffering, surfacing and lighting requirements*, and renumbering subsequent sections accordingly to require that drive aisles in commercial and industrial zoning districts be hard surfaced with concrete or asphalt.

The amendments were presented by S. Lauren Kornel, and she began by explaining that in being a newer member of the City staff, she has come upon areas of the Land Development Code that she believes could be strengthened. Ms. Kornel went over the amendments individually giving a brief summary of each. Ms. Kornel advised that these four items would require ordinances and would need to be reviewed at two additional public hearings before the City Council on June 8th, 2020 and July 28th. Ms. Kornel stated that staff recommends approval and she would be happy to ask any questions.

Vice-Chair Agront had a question regarding the second item for amendment (*Article III, Section 3.6 Development plan submittal requirements under subsections (2)(f) Landscaping* to require Landscape Plans be prepared by a Registered Landscape Architect). He inquired as to how much it usually costs for an applicant to get a registered landscaping architect versus one not registered. Ms. Kornel advised she was not sure, but that it would be no different than requiring site plans to be signed by a certified and licensed architect or engineer. She indicated that some of the site plans that have been submitted in the past have not been adequate, and that the city does not have its own landscape architect to review plans. She advised the purpose of the amendment was to improve overall quality of submittals. Vice-Chair Agront asked if this was just for commercial projects, and Ms. Kornel advised that, yes, it would be for commercial projects and new construction. She stated that the purpose is not to be unreasonable, and most applicants do not find issue with most recommendations that, as Chairperson Sander indicated, was an “easy fix.”

Vice-Chair Agront also had a question regarding the third item for amendment (*Article VII, Section 7.5 Traffic/parking management under subsection (B)(1) Parking and loading* to clarify that for all new construction off-street parking areas shall be hard surfaced with concrete or asphalt). He wanted to know if by “asphalt” that included “asphalt millings” or strictly asphalt, because asphalt millings could be considered asphalt. Ms. Kornel stated she would defer to the City Manager and licensed engineer, Mr. Gillis. City Manager Gillis addressed the board stating that it would be asphalt pavement, not asphalt millings because that is what the City is trying to move away from. He stated that a dirt parking lot or one covered in gravel or shell restricts emergency vehicle access as well as lowering the overall quality of commercial development. Chairperson Sander commented that it’s a way of holding someone to higher standard, to which Mr. Gillis agreed. Mr. Gillis went on to state that property owners would start off with something they can reasonably maintain for “10, 15, 20 years.”

Chairperson Sander returned to amendment item two (*Article III, Section 3.6 Development plan submittal requirements under subsections (2)(f) Landscaping* to require Landscape Plans be prepared by a Registered Landscape Architect) to state that one of the benefits of a landscape architect would be the appropriate use of vegetation, to which Ms. Kornel agreed. Ms. Kornel stated that there is a knowledge base that the average person does not possess and that [the City] could have an improved design by requiring landscape architects. She also indicated that it is the cost of doing business.

Chairperson Sander asked if there were any more questions or comments from the board and, in hearing none, asked for a motion to approve Case #2020-06, amendments

to the Land Development Code. **Vice-Chair Agront motioned for approval, which was seconded by Mr. Trimarchi. Ms. Kornel asked if there was supposed to be public comment on the case? Mr. Simpson stated the board could do that. Chairperson Sander opened the meeting for public comment. Hearing no objections, the board moved forward with a unanimous vote for approval (5-0).**

VII. OTHER BUSINESS AND DISCUSSION ITEMS

There was no other business or discussion items.

VIII. MEMBER COMMENTS

Chair Sander mentioned that he would be running for seat 4 on the South Daytona City Council. He stated the election would not affect his current board position because it is a non-paid position.

Mr. Masters thanked and recognized City Manager Les Gillis for his regular attendance to board meetings and his ongoing efforts. He stated it spoke a lot to his dedication to the City. Mr. Gillis thanked Mr. Masters and said he tries to go to everything.

Mr. Sander then thanked the board and attendees for attending the meeting amidst concerns for COVID-19 and continuing to serve the City.

IX. ADJOURNMENT

Chairperson Sander asked for a motion to adjourn. A motion was made by Mr. Masters and was seconded by Vice-Chair Agront. The meeting was adjourned at 6:22 PM.

Respectfully submitted,

Lauren Rizzo, Planning Technician

ATTEST:

Eric Sander, Chairman

Minutes transcribed by Lauren Rizzo

STAFF REPORT

City of South Daytona Community Development Department

DATE: July 8, 2020

SUBJECT: Land Development Code Amendment - Article V, Section 5.6, Supplementary Regulations (Fences)

APPLICANT: Administrative (City initiated)

NUMBER: LDC 2020-07

PROJECT PLANNER: S. Laureen Kornel, AICP, Community Development Department

INTRODUCTION: This is an administrative request to amend Article V, Section 5.6, Supplementary regulations, (E) fences and walls of the Land Development Code (LDC) to modify the fence requirements.

BACKGROUND: The prohibition of fences within the first 25' of front yards prompted staff to review the current fence requirements of the LDC. For examples in multi-family zoning districts such as the Palmetto Apartments, on large lots along Palmetto Avenue with front yards where the front yard setback is greater than 100' and along commercial corridors, the land Development code does not permit fences within the first 25' of the front yard. Upon a review of Section 5.6(E) Fences and Walls, staff compiled a list of amendments as itemized below to allow fences in front yards and to improve the application of fence regulations.

ANALYSIS:

The LDC amendment applies to Article V, Section 5.6(E) Fences and Walls. Below is an itemized explanation of the changes proposed:

- 1. Add Building Permit guidance.** This change provides guidance on submittal requirements necessary to apply for a fence permit application.
- 2. Add a description of fence materials.** This change clarifies acceptable and unacceptable fence material in front yards. Specifically, chain link fences are prohibited in front yards and side corner yards of the R-1A, R-1B, R-1C, and R-2 single family residential zoning districts.
- 3. Allow fences in front yards.** The City's Land Development Code currently prohibits fences in the first 25' of front yards. Requests for fences in front yards are not uncommon in the City of South Daytona; for example, Warner Christian Academy recently requested a 6' decorative open fence for security reasons within the first 25' of the front yard. With the current code, a variance to allow the 6' fence

was required and approved. The Palmetto Apartments recently asked for a 5' fence for similar reasons within the first 25' of the front yard. Their request would require a variance.

For residential properties, typical reasons for requesting fences in front yards are to keep children and pets secured and away from the dangers of the street, as well as for aesthetics and to reduce potential for conflicts between neighbors. Not allowing fences within the first 25' of front yards reduces opportunity to maximize the total square footage available for use when a fence, for reasons stated earlier, is desired.

The amendment proposes to find a balance between security and aesthetics by deleting the requirement prohibiting fences in the first 25' of front yards. Alternatively, for R1A, R1B, R1C, and R2 residential zoning districts, the proposed amendment would allow a maximum height of 4' (maximum 50% opaque), and for larger lots with a minimum front yard setback of 100', 6' fences and gates (maximum 50% opaque) would be permitted. For residential districts other than R1A, R1B, R1C, and R2, the proposed amendment would allow open (maximum 50% opaque) fences up to 6' tall, or an open or non-open face fence not to exceed 4' in height. These changes generally provide for fences in front yards (maximum 50% opaque) within the first 25' of a front yard. On commercial and industrial zoned properties, 6' open fences will no longer require a variance.

4. **Prohibit fences and walls in conservation areas.** Conservation easements are restrictive by nature such that they are generally associated with a voluntary legal agreement that limits or prohibits development. Typically, no building (such as fences) is allowed in conservation easements to preserve unique vegetation or land features and to eliminate the risk of being ordered to take a fence down by a government agency that has an easement access to a given property. This change clarifies that fences and walls are prohibited in conservation easements.
5. **Clarification of fences allowed in drainage and utility easements.** This change clarifies that fences may be permitted within drainage and utility easements. If a fence is removed by a utility agency, however, it shall be the property owner's responsibility to replace the fence if desired in accordance with the LDC.

The proposed amendments are included in Attachment A attached to this staff report.

CONCLUSION: In accordance with *Section 3.2(J)(1)* of the Land Development Code, there are certain criteria that must be evaluated before adoption of a Land Development Code amendment. The Planning & Appeals Board must consider the following criteria when making their recommendation:

1. **Identifies any provision of the Code, Comprehensive Plan or other law relating to the proposed change and describes how the proposal relates to them.**

The proposed amendments are consistent with the Comprehensive Plan and the Land Development Code.

2. **States factual and policy considerations pertaining to the recommendation.**

The purpose of the amendments is to update and strengthen the regulations of the Land Development Code to generally allow fences in front yards. There are no other policy considerations pertaining to the recommendations other than what has been stated in the background and analysis of this report.

3. Includes the written comments, if any, received from the Development Review Committee.

Comments from the Development Review Committee have been incorporated into the proposed amendments.

RECOMMENDATION: It is expected that the proposed amendment will be reviewed by the City Council on August 11, 2020 (1st Reading) and September 14, 2020 (2nd reading). It is recommended that the Planning & Appeals Board recommend **APPROVAL** of Case #LDC 2020-07, *Article V, Section 5.6 Supplementary regulations (E) fences and walls of the LDC to amend the fence requirements to allow fences in front yards as specified in Exhibit “A” attached to this report.*

Attachment A – Proposed Fence Amendment

STAFF REPORT

City of South Daytona Community Development Department

DATE: July 8, 2020

SUBJECT: Land Development Code Amendments: Article VII. Engineering/Environmental Standards, Section 7.5 Traffic/parking management (B) Parking Control (6) Location of parking spaces.

APPLICANT: Administrative (City initiated)

NUMBER: LDC 2020-08

PROJECT PLANNER: Patty Rippey, AICP, Redevelopment Director

INTRODUCTION: This is an administrative request to amend the Land Development Code (LDC) Article VII. Engineering/Environmental Standards, Section 7.5 Traffic/parking management (B)(6).

BACKGROUND AND ANALYSIS: The purpose of the proposed amendment is to prevent negative impacts from large, unsightly, commercial vehicles and equipment parking in commercial zoning districts. The LDC identifies zoning districts and land use designations that separate and provide buffers between uses that are incompatible. These zoning districts account for surrounding uses, roadway capacity, neighborhood character and the quality of business districts. The City is divided into the following zoning districts:

- Single-Family and Multi-Family Residential (R1A, R1B, R1C, R2, R3)
- Mobile Home Park - MHP; Mobile Home Subdivision - MHS
- Business Neighborhood Commercial - BNC
- Business Professional Office - BPO
- Business General Commercial - BGC
- Business Heavy Commercial - BHC
- Light Industrial - LI
- Planned Commercial Development - PCD
- Planned Unit Development - PUD
- Mixed-Use 1 and Mixed-Use 2 – MXD1/MXD2
- Community Redevelopment Area - CRA

While commercial vehicles may park on-site in commercial districts, the intent of the permitted uses in the BPO, BNC and BGC zoning districts is to prevent the parking and storage of extremely large commercial/industrial vehicles and equipment such as cement mixing trucks or bucket trucks. In the past, staff has utilized industry standards and legal opinions to require large trucks and equipment to park behind buildings, effectively screening them from view. Outdoor storage of equipment and materials is only permitted in BHC and LI zoning districts. The only exception for outdoor storage is for landscape or garden supplies in a fenced area approved as part of an overall site plan or a display set-up of products customarily used out of

doors.

Over the years, the LDC has been amended and the CRA district was established in 1997 to improve commercial corridors, in part, by relocating heavy commercial business and industrial uses to more appropriate locations citywide. While zoning and land use regulations would typically prevent commercial parking and storage issues from arising, there were existing companies that use large and heavy equipment for their associated trade located in the BGC and CRA districts prior to the more recent changes. These are the locations where parking standards need to be clearly identified to ensure that commercial vehicles and equipment are not negatively affecting commercial districts and surrounding neighborhoods. The parking standards for commercial districts amendment proposes an LDC change (deleted text is shown in ~~strike through~~ and new text is underlined) as shown below.

Amend Article VII. Engineering/Environmental Standards, Section 7.5 Traffic/parking management, B. Parking Control, 6. Location of parking spaces, adding:

f. Parking standards for commercial zoning districts.

[1.] Parking spaces in commercial zoned districts may be utilized by commercial vehicles that fit into a standard commercial parking space as defined in Section 7.5 Traffic/parking management (B) (5). Any commercial vehicle that is not completely enclosed in a structure and exceeds the confines of a standard parking space shall be parked in the rear yard behind and five feet within the back plane of the associated commercial building when parking in Business Neighborhood Commercial BNC, Business Professional Office BPO and Business General Commercial BGC zoning districts.

[2.] Equipment, for purposes of Section 7.5 Traffic/parking management of the LDC, means implements used in the operation of a business including any implements or vehicles that are hauled behind a commercial vehicle or used in the operation of a business. Equipment includes, but is not limited to, utility trailers, installation equipment, and enclosed haulers/trailers. Any equipment that is not completely enclosed in a structure shall be parked in the rear yard behind and five feet within the back plane of the associated commercial building when parking in Business Neighborhood Commercial BNC, Business Professional Office BPO and Business General Commercial BGC zoning districts. Equipment may only be stored in Business Heavy Commercial BHC and Light Industrial LI zoning districts.

CONCLUSION: In accordance with Section 3.2(J)(1) of the Land Development Code, there are certain criteria that must be evaluated before adoption of a Land Development Code amendment. The Planning & Appeals Board must consider the following criteria when making their recommendation:

1. Identifies any provision of the Code, Comprehensive Plan or other law relating to the proposed change and describes how the proposal relates to them.

The proposed amendments are consistent with the Comprehensive Plan and the Land Development Code.

2. States factual and policy considerations pertaining to the recommendation.

The purpose of the amendments is to update and strengthen the regulations of the Land Development Code. There are no other policy considerations pertaining to the recommendations other than what has been stated in the background and analysis of this report.

3. Includes the written comments, if any, received from the Development Review Committee.

Comments received from the Development Review Committee have been incorporated into the proposed amendment.

RECOMMENDATION: It is expected that the proposed amendments will be reviewed by the City Council on August 11, 2020 (1st Reading) and September 14, 2020 (2nd reading). It is recommended the Planning & Appeals Board **APPROVE** Case #LDC 2020-08 Article VII. Engineering/Environmental Standards, Section 7.5 Traffic/parking management (B)(6) adding *f. Parking Standards for Commercial Zoning Districts* as specified in this report.