

LPA / PLANNING AND ZONING BOARD  
MINUTES  
MARCH 7, 2016

The Local Planning Agency / Planning and Zoning Board held a regular meeting on Monday, March 7, 2016 in the City Commission Chambers, 210 Sams Avenue, New Smyrna Beach, Florida. Chairperson Steven Casserly called the meeting to order at 6:30p.m.

ROLL CALL

The following members were present:

Steven Casserly  
Ian Ratliff  
Kelly Azzinaro  
Jamie Calkins  
Pat Arvidson  
Stephen Sather

Travous Dever was absent. Also present were Planning and Zoning Manager Amye King; Chief Planner Jeff Gove; Planner Robert Mathen; Assistant City Attorney Greg McDole; Board Secretary Tammy Dickerson and members of the public.

Mr. Sather stated that he had a conflict with A-9-16, items 1 thru 3 due to that he was the consultant for those cases so he wouldn't be able to vote on those 3 cases.

Mr. McDole stated that he not only has a voting conflict and a conflict has already occurred and he won't be able to participate on those 3 cases either.

Mr. Sather asked what conflict has already occurred.

Mr. McDole stated that Mr. Sather was representing cases before the Board and he can't represent an applicant before the Board or even through the application process as a Board member.

Mr. Sather stated that he wasn't aware of that.

**APPROVAL OF MINUTES**

**Motion by Ms. Arvidson, seconded by Mr. Ratliff, to approve the minutes of the regular meeting on February 1, 2016 and special meetings on February 4, 2016 and February 25, 2016 of the Planning and Zoning Board. Motion passed unanimously on a roll call vote, 6-0 on February 25<sup>th</sup> and vote, 5-0 with Mr. Calkins abstaining on the February 1<sup>st</sup> and February 4<sup>th</sup> meetings.**

Ms. King stated that the applicant would like to request a continuance for the case V-6-16 until the next scheduled meeting April 4, 2016.

Chairman Casserly stated that they would vote on that when it comes up on the agenda.

### PUBLIC PARTICIPATION

Randy Herman, 108 Esther Street, stated his name then addressed the Board. He stated that appreciates the clarification of the voting conflict because he feels the Board members at times will advocate for certain cases that they are representing in their professional life.

### OLD BUSINESS

None

### NEW BUSINESS

- A. A-9-16: 1959 SR 44 / 105 FRAN DRIVE / 109 FRAN DRIVE / 242 OAK LANE / 2576 SELLECK AVENUE / 2586 SELLECK AVENUE
- 1) Steve Sather, 806 14<sup>th</sup> Avenue, New Smyrna Beach, Florida 32169, applicant for Douglas C. Bowdoin, 255 South Orange Avenue, Orlando, Florida 32801, property owner, request voluntary annexation, *Comprehensive Plan* amendment from Volusia County Commercial, to City Commercial, and rezoning from Volusia County B-4, General Commercial and B-2, Neighborhood Commercial to City B-3, Highway Business District. The subject property consists of approximately 0.60 acres, and is generally located north of SR 44 and west of Eddie Road at 1959 SR 44. (VCPA# 7343-02-02-0020)
  - 2) Steve Sather, 806 14<sup>th</sup> Avenue, New Smyrna Beach, Florida 32169, applicant for Bourne Management LLC, 1520 Livingston Street, Orlando, Florida 32803, property owner, request voluntary annexation, *Comprehensive Plan* amendment from Volusia UMI, Urban Medium Intensity, to City MDR, Medium Density Residential, and rezoning from Volusia County R-4, Urban Single-Family Residential to City R-2, Single-Family Residential. The subject property consists of approximately 0.25 acres, and is generally located north of SR 44 and west of Eddie Road at 105 Fran Drive. (VCPA# 7343-02-02-0070)
  - 3) Steve Sather, 806 14<sup>th</sup> Avenue, New Smyrna Beach, Florida 32169, applicant for Bourne Management LLC, 1520 Livingston Street, Orlando, Florida 32803, property owner, request voluntary annexation, *Comprehensive Plan* amendment from Volusia UMI, Urban Medium Intensity, to City MDR, Medium Density Residential, and rezoning from Volusia County R-4, Urban Single-Family Residential to City R-2, Single-Family Residential. The subject property consists of approximately 0.25 acres, and is generally located north of SR 44 and west of Eddie Road at 109 Fran Drive. (VCPA# 7343-02-02-0080)
  - 4) Harry Kinney, 242 Oak Lane, New Smyrna Beach, Florida 32168, applicant and property owner, request voluntary annexation, *Comprehensive Plan* amendment from Volusia ULI, Urban Low Intensity, to City LDR, Low Density Residential, and rezoning from Volusia County A-3, Transitional Agriculture to City A-3, Transitional Agriculture. The subject property consists of approximately 10 acres, and is generally located north of SR 44 and east of I-95 at 242 Oak Lane. (VCPA# 7322-00-00-0120)

- 5) Norbert & Tammy Schroeder, 2576 Selleck Avenue, New Smyrna Beach, Florida 32168, applicant and property owner, request voluntary annexation, *Comprehensive Plan* amendment from Volusia ULI, Urban Low Intensity, to City LDR, Low Density Residential, and rezoning from Volusia County R-3, Urban Single-Family Residential to City R-3CO, Urban Single-Family Residential. The subject property consists of approximately 0.85 acres, and is generally located north of SR 44 and east of I-95 at 2576 Selleck Avenue. (VCPA# 7323-02-01-0090)
- 6) Norbert & Tammy Schroeder, 2576 Selleck Avenue, New Smyrna Beach, Florida 32168, applicant and property owner, request voluntary annexation, *Comprehensive Plan* amendment from Volusia ULI, Urban Low Intensity, to City LDR, Low Density Residential, and rezoning from Volusia County R-3, Urban Single-Family Residential to City R-3CO, Urban Single-Family Residential. The subject property consists of approximately 0.69 acres, and is generally located north of SR 44 and east of I-95 at 2586 Selleck Avenue. (VCPA# 7323-02-01-0011)

Mr. Mathen reviewed staffs' findings and stated that staff recommended approval of the requested annexations, *Comprehensive Plan* amendments and rezonings.

Shane Schroeder, 242 Oak Lane, stated his name then addressed the Board. He stated that he is trying to get city water at these requested annexations at 2576 and 2586 Selleck Lane and hoping one of the perks for annexation will be to get city water and what are the possibilities of getting that.

Mr. Mathen stated that city water is decided by the Utilities Commission and they will do that whether a property is in the city or outside the city.

Mr. Schroeder stated that basically that means we won't be able to get water lines.

Mr. Mathen stated that is up to the Utilities Commission and residents can put a request in for water. He stated that the advantages to annexation is the city's mileage rate is less than the county, 2 garbage pick-ups instead of just one and more local representation and hopefully quicker response for fire and police.

Mr. Schroeder asked what about getting Selleck Lane paved.

Mr. Mathen stated that Selleck Lane is a county road and to find out if the city would take over that road and pave it would be up to the Public Works Department.

Bonnie Davenport, 117 Fran Drive, stated her name then addressed the Board. She stated that her mother received a letter for these annexations at 105 and 109 Fran Drive and wanted to know why they received it. She asked if this was going to occur in the future for everyone on the street.

Mr. Mathen stated that when someone applies for an annexation the neighbors are notified within 150 feet of the property and this notification includes the information on annexing in to the city just in case any of the neighbors would like to also annex in to the city.

Ms. Davenport asked what annexation would do for them.

Mr. Mathen discussed the advantages of annexing in to the city.

Ms. King stated that she could discuss this with Ms. Davenport at a later time to give more details of annexing.

**Motion by Mr. Ratliff, seconded by Mr. Calkins, to recommend the City Commission approve the requested annexations, *Comprehensive Plan* amendments, and rezonings. Motion passed on a roll call vote, 5-0 on #1 thru #3 with Mr. Sather abstaining and motion passed unanimously on a roll call vote, 6-0 on #4 thru #6.**

- B. V-6-16: 313 JESSAMINE AVE / FERNANDEZ  
David Fernandez, 317 Flagler Ave, New Smyrna Beach, FL 32169, requests approval of a variance to increase the maximum permitted driveway width from 30 feet to 69 feet.  
The subject property is zoned R-3A Single-Family and Two-Family (Zero Lot Line) Residential, consists of approximately 0.17 acres, and is generally located south of Jessamine Avenue and east of Pine Street, and is addressed as 313 Jessamine Ave. (VCPA # 7409-06-02-0130)

Ms. King stated that the applicant requested more time to review information and would like to request a continuance until the next scheduled meeting April 4, 2016 and staff recommends approval of the continuance.

**Motion by Mr. Calkins, seconded by Mr. Ratliff, to continue V-6-16: Jessamine Avenue / Fernandez to the April 4, 2016, Planning and Zoning Board meeting. Motion passed unanimously on a roll call vote, 6-0.**

- C. PUD-10-15 1<sup>ST</sup> AMENDMENT TO PUD ORDINANCE # 108-06 (PUD-4-06 / RUBIN / EAST & WEST ACTIVITY CENTER) - FOR EAST SIDE ONLY  
James Stowers, Esquire, 424 Luna Bella Lane, New Smyrna Beach, Florida 32168, legal representative of the property owner, Geosam Capital US (Venetian Bay) LP, 424 Luna Bella Lane, New Smyrna Beach, Florida 32168, requests approval of amendments to an existing Planned Unit Development (PUD) Master Development Agreement (MDA) established in 2006, as City Ordinance # 108-06, for modifications within the east area only, for:

- 1) Extension of the MDA term life to perpetuity,
- 2) Allowing for new permitted uses of excavations and communication towers,
- 3) Removing the existing requirement for a multi-purpose trail,
- 4) Modifying signage requirements for an existing billboard to remain in place, from its current requirement for it to be removed in 2014.

The subject property consists of approximately 25 acres and is generally located north of State Road 44 and fronting on the east side of Interstate 95. (VCPA PID # 7322-00-00-0040)

Mr. Gove reviewed staffs' findings and stated that staff recommends the Board recommend to the City Commission to deny the PUD except for section C.1 pertaining to the new permitted uses and section E.8.

Mr. Calkins asked if there were any other reasons staff is supporting the billboard besides being in non-compliance.

Mr. Gove stated that the city's policy is that they don't want any billboards in the city and the PUD was approved with the fact that the billboard would be removed 2 years ago and that hasn't happened.

Mr. Calkins asked why it was approved for an 8 year period.

Mr. Gove stated that there was a current lease at the time that expired in 2014 and he turned this over to the legal department to decide the outcome of that decision because the current lease is now until 2024.

Mr. Sather asked where the policy comes from that the city doesn't allow billboards in the city.

Mr. Gove stated that it is in the land development regulations which changed in 2011.

Mr. McDole stated that he has talked with Mr. Stowers and they agree the property owner has a right to keep the billboard until 2024 under the current lease and the request is to keep it indefinitely.

James Stowers, GeoSam Capital, stated his name then addressed the Board. He discussed the process of the PUD agreement that occurred in the past. He stated that the Coastal Woods site development will require fill dirt and on site would be cheaper than having it brought in. He stated that if dirt is brought off site due to the regulations it then is a borrow pit and an excavating business. He stated that we are requesting to be able to move the fill dirt off site if needed. He stated that they own the property surrounding this as far as accessing the property. He stated that they were withdrawing request #4 involving the multi-use trail. He read the lease regarding the billboard to the Board which stated that the lease commenced in 1994 for 20 years and shall continue for a second term of 10 years and thereafter from year to year so it never expired there was an option to renew in 2014 which they did extend the lease. He stated that they are requesting for it to extend past 2024. He stated that he realizes it is a policy decision and the billboard is on I-95 and not in a residential area and has been there

since 1994. He stated that they didn't feel for the limited dirt that will be moving off site that a traffic impact analysis is necessary.

Ms. Azzinaro asked if they would have to go through city permitting for the excavating.

Mr. Gove stated that no permitting is necessary if they use it on site the question is whether they will take it off site and the transportation of that which triggers the traffic study.

Mr. Stowers stated that the request is to go off site if needed without having to do traffic impact analysis and a site plan.

Mr. Ratliff stated that in section E.8 with the traffic impact change aren't they precluding themselves from taking off site.

Mr. Stowers stated that is only if there is excavation and stormwater and no other uses on this site. He stated that this is contemplating moving the fill dirt to off site.

Mr. Ratliff stated that if the fill dirt is taken off site that it would require a traffic impact study.

Mr. Calkins stated that if we approve this it leaves it open for them to move as many dump trucks of fill off site that they want.

Mr. Stowers stated that the fill dirt is needed for the Coastal Woods project so if we moved the fill dirt off site we would be financially be going in the wrong direction.

Mr. Casserly asked what the need for fill dirt is in Venetian Bay and when would it cease to excavate it to there.

Mr. Stowers stated that they just acquired the Fountains East final plat approved and doesn't think it is anywhere close to what the St. Johns permit is approved for. He stated that they just need some flexibility in the MDA. He stated that this is not intended for this to be a borrow pit just the flexibility of it.

Mr. Calkins asked what the reason is for not going through the process that is required.

Mr. Stowers stated that it was timing.

Mr. Ratliff asked if that process was a site plan review.

Mr. Gove stated that was correct.

Mr. Calkins stated that it seems that they are looking for a short cut with less restrictions.

Randy Herman, 108 Esther Street, stated that the city is trying to make the gateway in to the city nice and a borrow pit sounds like a nice word for a dump and then cell phone towers as well doesn't sound like a nice entrance in to the city. He stated that he was also concerned about reducing the setback and this could be years of looking at a

borrow pit they should at least landscape the perimeter of the property. He stated that he is also concerned about traffic if there are going to be trucks going out to Verano.

Ms. Arvidson asked about fencing or landscaping around the borrow pit.

Mr. Gove stated that the landscaping regulation isn't very specific around a borrow pit. He stated that the fencing is 4 foot and not really for screening more so for safety.

**Motion by Mr. Ratliff, seconded by Ms. Azzinaro, to recommend the City Commission approve the following changes to the Planned Unit Development:**

**C.1 is hereby amended to allow the following permitted uses and structures:**

**C.1. East Parcel Permitted Use and Structures.**

**Excavations**

**Exempt excavations (as limited by City LDR Section 801.15(D)(I-9)**

**Excavations for lakes or stormwater retention ponds for which a permit is required**

**Communications towers not exceeding 70 feet in height above ground level (as limited by City LDR Section 801.13)**

**Section H. is hereby deleted in its entirety and amended as detailed herein:**

**H. Expiration. This MDA originally provided that it extended in perpetuity unless development had not commenced on the property within ten years from the date of execution. Due to the commencement of construction on the property) west parcel) within the ten year timeframe, this MDA shall be deemed valid in perpetuity for both the west and east parcels.**

**Motion passed unanimously on a roll call vote, 6-0.**

**Motion by Mr. Ratliff, seconded by Ms. Azzinaro, to recommend the City Commission approve the following changes to the Planned Unit Development:**

**E.4. Signage Requirements**

**Allow billboard to remain until the lease expires in 2024.**

**Motion passed unanimously on a roll call vote, 6-0.**

**Motion by Mr. Ratliff, seconded by Ms. Azzinaro, to recommend the City Commission approve the following changes to the Planned Unit Development:**

**Section E.8 is hereby amended to add the following provision:**

**In the event the East Parcel is utilized solely for excavation, or for water retention related to and otherwise incidental to development of the adjacent property also owned by Developer, no Traffic Impact Study shall be required.**

**Motion passed unanimously on a roll call vote, 6-0.**

D. PUD-1-16: NEW SMYRNA BEACH CHRYSLER-PLYMOUTH-JEEP-RAM / STORCH

Glenn D. Storch, 420 South Nova Road, Daytona Beach, FL 32114, applicant on behalf of property owner Mitchell Equity Group LLLP, P O Box 2180, New Smyrna Beach, Florida 32170, requests rezoning from Volusia County A-3, Transitional Agriculture (C-Thoroughfare Overlay Zone), to City PUD, Planned Unit Development, and approval of the New Smyrna Beach Chrysler-Plymouth-Jeep-RAM PUD Master Development Agreement (MDA) & Conceptual Development Plan (CDP). The subject property consists of approximately 12.0 acres and is generally located at the northwest corner of SR-44 and North Glencoe Road. (VCPA # 7323-02-01-0080, eastern and major portion of parcel)

Mr. Gove reviewed staffs' findings and stated that staff recommends the Board recommend to the City Commission to deny the request as currently submitted, staff believes the Master Development Agreement and Conceptual Development Plan do not comply with various sections of the *Land Development Regulations* and the *Comprehensive Plan*, as listed above. However, should the Board determine that the PUD rezoning request should be recommended for approval to the City Commission, staff recommends the Board include the following conditions to that recommendation of approval:

1. A shared driveway connection and 24' wide internal drive be noted in the MDA text and shown on the PUD CDP, similar to the as "24' Access Drive to West Property" located within the New Smyrna Chevrolet PUD and facility (attached as **Exhibit F**).
2. This currently submitted MDA and CDP Concept Plan should be revised to comply with the requirements of Ordinance # 29-15, regarding placement of landscape materials "*evenly spaced in the area between the building and State Road 44*". Failing that revision, either the building setback from SR 44 would be required to be reduced to 65' or an additional variance would need to be applied for and granted by the Planning and Zoning Board.
3. The **Exhibit D** variance rendition letter be included as an additional exhibit to the revised MDA to serve as background information regarding the variance approvals and to resolve any possible future conflicts that could occur in interpretation of the various approval conditions.
4. The applicant's error regarding Section E. 6. of the current MDA text should be corrected in provide for Variance Conditions # 6 & 13 regarding minimum 4" caliber trees in the SR 44 frontage and 6' minimum height for planting/screening materials in the east and north buffers.
5. The recently revised Traffic Impact Analysis must be approved by the City's traffic consultant before scheduling this item for City Commission final action.
6. Any outstanding staff comments be addressed and all Plan Review Committee members sign off on the MDA prior to scheduling this item for City Commission final action.

Glenn Storch, 420 South Nova Road, stated his name then addressed the Board. He stated that we have solved several issues with the neighbors during the variance process which makes this a better project. He stated that the Mr. Holcomb has agreed to a 25 foot buffer between the property and the neighbors with all holes filled in. He discussed staff recommended conditions with the Board and he was fine with all the conditions except #1. He stated that he spoke to the property owner Stewart Mitchell and he owns both properties that staff is requesting a shared driveway with and he sees no reason to have to have the shared driveway. He stated that both properties are on a corner which they can access their property from the corner.

Ms. Azzinaro asked Mr. Gove why there was a need for the access drive.

Mr. Gove stated that staff is trying to get that interconnectivity where ever possible.

Mr. Storch stated that there is no need for this parcel to have the shared access drive they both have access from the corners.

Ms. Azzinaro stated that she agreed with that.

Mr. Gove stated that there have been discussions of a possible convenience store on the other lot and staff felt they needed access from more than just Oak Lane.

Mr. Storch stated that it doesn't make any sense for them to go across a car dealership to access a convenience store.

Ms. King stated that maybe the driveway won't be used in this development but at least it would be there just in case there is a need to ever redevelop the property.

Mr. Calkins asked how much frontage was on the properties.

Mr. Gove stated that looking at the aerial he would guess maybe 300 feet.

Mr. Calkins stated that he didn't see people going through the entire car dealership to get to out of the convenience store it would take a significant amount of the time to do that.

Mr. Gove stated that he didn't see too much traffic using the access to exit the western site, just westbound traffic entering it.

Chairman Casserly asked how many parking spaces the applicant would lose.

Mr. Storch stated that he would lose 6 parking spaces and he is at bare minimum right now after the variance request.

Mr. Sather stated that if the car dealership vacated the property couldn't the interconnectivity be created at that time.

Ms. King stated that it depends on how the PUD is designed.

Mr. Storch stated that he would put a provision in to the PUD that if the use ever changes on the property it will be provided to connect the two properties with a service driveway.

Mr. Sather stated that he would be in favor of that verbiage added to the PUD.

Ms. King stated that staff would at least like to have the verbiage in the PUD just in case there is a future project on this property.

**Motion by Mr. Calkins, seconded by Ms. Azzinaro, to recommend the City Commission approve the requested Planned Unit Development with the following conditions:**

- 1. It should be noted in the MDA text and shown on the PUD CDP, that if the use is changed from a car dealership, a shared driveway connection and 24' wide internal drive be constructed, similar to the as "24' Access Drive to West Property" located within the New Smyrna Chevrolet PUD and facility (attached as Exhibit F).**
- 2. This currently submitted MDA and CDP Concept Plan should be revised to comply with the requirements of Ordinance # 29-15, regarding placement of landscape materials "evenly spaced in the area between the building and State Road 44". Failing that revision, either the building setback from SR 44 would be required to be reduced to 65' or an additional variance would need to be applied for and granted by the Planning and Zoning Board.**
- 3. The Exhibit D variance rendition letter be included as an additional exhibit to the revised MDA to serve as background information regarding the variance approvals and to resolve any possible future conflicts that could occur in interpretation of the various approval conditions.**
- 4. The applicant's error regarding Section E. 6. of the current MDA text should be corrected in provide for Variance Conditions # 6 & 13 regarding minimum 4" caliber trees in the SR 44 frontage and 6' minimum height for planting/screening materials in the east and north buffers.**
- 5. The recently revised Traffic Impact Analysis must be approved by the City's traffic consultant before scheduling this item for City Commission final action.**
- 6. Any outstanding staff comments be addressed and all Plan Review Committee members sign off on the MDA prior to scheduling this item for City Commission final action.**

**Motion passed unanimously on roll call vote, 6-0.**

#### COMMENTS OR STATEMENTS BY MEMBERS OF THE BOARD

Mr. Calkins asked when the special workshop would be with the City Commission and requested that it not be set prior to a regular City Commission scheduled for shortly after, so there would be enough time for the workshop discussion.

Ms. King stated that it would be in May and she planned to try and have the meeting during the day but needed to discuss that with the City Manager.

REPORTS AND COMMUNICATIONS BY THE STAFF

- March 2016 Development Activity Report

No discussion

ADJOURNMENT

With there being no further business, the meeting was adjourned at 8:46pm.