



**CITY OF DELTONA, FLORIDA
PLANNING & ZONING BOARD
WEDNESDAY, JULY 20, 2011**

REGULAR MEETING MINUTES

A Regular Meeting of the City of Deltona Planning and Zoning Board was held on Wednesday, July 20, 2011, in the City of Deltona Commission Chambers, located at 2345 Providence Boulevard, Deltona, Florida.

1. CALL TO ORDER:

Chairman Tom Burbank called the meeting to order at 7:00 p.m.

2. ROLL CALL:

Chairman	Tom Burbank	Present
Vice-Chair	Adam Walosik	Present
Secretary	Noble Olasimbo	Present
Board Member	Victor Ramos	Present
Board Member	Eileen Gallagher	Excused
Board Member	Heather Mulder	Excused
Board Member	David McKnight	Present

Staff Present:

Chris Bowley, AICP, Director, Planning & Development Services
Becky Vose, Esq., Acting City Attorney
Ron A. Paradise, Assistant Director, Planning & Development Services
Scott McGrath, Planner II, Planning & Development Services
Pauline Shattuck, Board Secretary

Chairman Burbank recognized Mayor John Masiarczyk, Commissioner Zenaida Denizac, and City Manager Faith Miller.

3. APPROVAL OF MINUTES:

A. Regular Meeting Minutes:

Regular meeting minutes of the Planning & Zoning Board—June 15, 2011.

Member Olasimbo made a motion to approve the June 15, 2011, meeting minutes.

Member McKnight said under “Discussion by the Board,” the minutes state the Board had a discussion regarding organization of sub-committees. He asked for the minutes to reflect that the Board discussed whether the organization of a sub-committee was actually authorized by the City Commission, that the P&Z Board wanted to have clarification, and to include more of the Board’s discussion into the minutes.

Member Olasimbo made a motion to approve the June 15, 2011, meeting minutes, as amended. Member Ramos seconded the motion. The motion carried unanimously, 5:0.

4. **ANNOUNCEMENTS:**

None

5. **OLD BUSINESS:**

A. **CP11-001 Fernwood - Small Scale Map Amendment**

The City of Deltona, as the applicant, is proposing to change the Future Land Use designation on ±3.2 acres of land from Medium Density Residential to Commercial. The property is addressed at 2202, 2212, 2222, 2232, 2242, 2252, 2262, 2272 and 2282 Fernwood Street (Ordinance No. 13-2011).

Mr. Paradise said tonight the Board will hear two small scale future land use map amendment applications, and one rezoning application, all of them administrative. He reminded the Board that these two small scale map amendments and the rezoning are policy decisions. Basically the question being, is this land use and rezoning appropriate here? More detailed type of questions and discussions such as landscaping, aesthetics, access and so forth, are site plan matters that should be discussed in the context of a site plan. There is no pending development associated with these amendments. The intent is to increase and enhance the entitlement on these properties to facilitate expanded commercial options in an area that is associated within an existing commercial node that is probably the most viable commercial area within the City of Deltona. One other statement about the DuPont Lakes application is that City will replace the facilities before any of this land is sold; it is not the intent to compromise the recreational levels of service within the City.

Mr. McGrath stated the City Commission had directed staff to look at ways to expand existing commercial uses. Fernwood Street was one of the busiest commercial nodes and has had the most recent expansions adding Lowe’s, Publix, AutoZone, and Ace Hardware; therefore, it made sense to look at this area. This portion of Fernwood Street is northeast of the intersection of Elkcam Boulevard and Lake Helen-Osteen Road. The land is approximately 3.2 acres and sits behind the C-1 Commercial on Elkcam. It is ideal for commercial uses because it has not been built upon, it is

largely native land, no endangered species have been found on the site, and there is no floodplain issue. The property backs up to existing commercial, separated only by an alley owned by the City. The few comments received from the public were favorable. The current land use designation is *Medium Density Residential* (multi-family). Currently there are single-family residences, duplexes and apartment buildings, along with some commercial. The property has good access to thoroughfares and is an urban infill area. Staff asks that the Board recommend that the City Commission approve the amendment.

No one from the public spoke on this item.

Member Walosik asked Mr. McGrath if at this point there were no development plans for this area; there are just land use changes. Mr. McGrath said there are no proposed developments at this time. No one has come forward with any development in a long time on these properties.

Member Walosik said eventually this property along Elkcam Boulevard will develop as commercial uses and there will be a need for additional depth, and eventually whoever the developer or developers are will possibly try to abandon the alleyway depending on how this property will be developed. If it develops strictly as a commercial strip it would make sense to abandon the alleyway. If it develops as multi-family residential, it would be smart to move the buildings closer to Elkcam and provide rear access to the multi-family developments. He said the Board and staff need to look very carefully at how this property will develop in the future because the alleyway has a certain value and it could be good leverage when potential developers come to the City with development proposal, and with an abandonment application for this section of the alleyway.

Chairman Burbank commented that the City owns the 50 ft. strip of land between those multi-family lots and the alley. He said he would encourage the City to move ahead as soon as possible to abandon that strip, and vacating that part of the plat. A couple of things would be accomplished. It will be out of the way if development ever does come in, which will not slow down the process even further. Also the property owners' legal description will be combined with the alleyway. This actually puts the property back on the tax roll and collects a little more revenue. This is just a suggestion and not part of the motion or discussion.

Member Walosik said he does not necessarily agree with Chairman Burbank, but thinks this would be a good leverage point. If there will be a development proposal, this land has certain value and this Board and City officials can bargain against and say we want something extra; we want better development because the City owns the land and it has a certain value. He agrees the alleyway will eventually go through the abandonment process, but not before the City sees the plans and can bargain with it. He said at this point the City needs to keep the alleyway.

Chairman Burbank said he was thinking about expedited review and plan review, but Member Walosik makes some excellent points and this is something for the City to consider.

Member Olasimbo said when the property is being developed, traffic needs to be addressed. Elkcam Boulevard is already saturated and the City needs to look closely at the impact of additional traffic.

Member McKnight made a motion to recommend approval of Small Scale Future Land Use Map Amendment CP11-001 Fernwood, Ordinance No. 13-2011. Member Olasimbo seconded the motion. The motion carried unanimously, 5:0.

B. CP11-002 DuPont Lakes Park - Small Scale Map Amendment

The City of Deltona, as the applicant, is proposing to change the Future Land Use designation on ±9.6 acres of land from Public/Semi Public and Recreational to Commercial. The property is addressed at 2147 Howland Boulevard and 2711 Elkcam Boulevard, and the property is known locally as DuPont Lakes Park and Deltona Fire Station 63 (Ordinance No. 12-2011).

Mr. McGrath gave a brief overview of the staff report. There is an active gopher tortoise near Wendy's Restaurant. There are some wetland issues around the periphery of the lake, as well as floodplain issues that may arise. There are good points such as the site is a large lot, ±9.6 acres. The City is already looking at various sites to move the softball fields, which are very well used. There are recreational facilities located on-site. Some of the other challenges to this will come up later through the site plan process. There is a City well on-site, a lift station, communications facilities for the Fire Department, and cell phone services. The current zoning is *Public and Recreational*. There are water and wastewater services on-site. There are, at this point, ample transportation facilities to the thoroughfares. The staff report gives the highest possible uses for transportation, which make it look like there could be transportation issues, but it would be difficult for someone to develop the site as heavily as indicated throughout the report.

Chairman Burbank opened the public hearing.

Michael Kiepert, 3254 Wild Pepper Court, Deltona, said he was neither for nor against--just an observation. "What is the likelihood of the park making the area so popular as far as commercial development? Just something to think about."

There were no further public comments. Chairman Burbank closed the public hearing.

Chairman Burbank opened up Board discussion.

Chairman Burbank asked to comment first. He said he skipped ahead to the rezoning staff report, which is slightly different than the Comprehensive Plan application. The report speaks of this property as being covered by the new FEMA floodzone maps,

which take effect September 29, 2011. Referencing his handouts of the new floodzone maps, he said that it looks like roughly 90% of the property will be in the 100-year floodzone. The staff report contains a topographic map and it shows existing topo lines between elevations 20 and 25. The new 100-year base flood elevation will be elevation 28, which means that if someone does want to develop the property they would have to raise the site anywhere from 5 to 9 feet. The staff report says among the techniques to include could be compensating storage. He said the way compensating storage works is if you take an acre out of the floodzone, you need to put another an acre back in from someplace else. If the City takes 9 acres out of the floodzone, someone will need to purchase additional acreage to create some floodzone to compensate for that. He asked whether the City or a developer would be buying that and said he does not see either one doing that. There are elevated structures, which is an extraordinarily expensive way to develop. Commercial development would need to be put up on stilts, so it is that high without filling in the floodplain. He said based on that he cannot support this item.

Chairman Burbank read from the Flood Hazard Management existing Land Use Code states, “control the alteration of and protection of natural floodplains, streams, channels, and natural protective barriers, which allow a combination of floodwaters.” This case seems contrary to that intent. Comprehensive Plan Policy CON 2-WR2.5 states, “other impervious surfaces will not reduce the ability of the floodplains to store and convey the floodwaters.” FEMA actually has guidance on this. He quoted from one of their manuals, “when a community prepares its land use plan and zoning ordinance it should consider what uses and densities are appropriate for floodplains. If buildings are not prohibited entirely, the community should zone its floodplains for agricultural, or other low density uses, to reduce the number of new structures. For example, it is better to have a floodplain zoned for agriculture or conservation use with a minimum lot size than to allow for single-family homes for every acre. In some areas residential uses have a minimum lot size of 2 to 5 acres and provides lots large enough that homes can be built in the floodplain, etc.” This property is, as far as he is concerned, undevelopable. If we do change the comprehensive land use and the zoning, and someone would want to purchase the property, and looks at the floodzone map, it shows that it is high and dry. When they are ready with development plans some months later, they will need to be informed about adding 9 ft. fill because of the floodplain levels. This will make them extremely angry and will make us look very bad.

Member McKnight said the staff report says that the City would move and relocate the lift station, the fire station, and the park. Tonight the Board is looking at changing the future land use and rezoning at the same time. Through what the Commission has been discussing at far as next year’s budget, and even budgets down the road, he has not heard them talking about building any new parks and fire stations. The City still has a fire station that has not opened yet and is behind schedule. This fire station has taken a couple of years to get to where we are now. To change the land use and rezone the property tells him that the property would be up for sale prior to the City having the park relocated. He was a member of the Parks & Recreation Board a

couple of years ago. One year, they worked on the Master Parks Plan; in that process it said that the City currently does not have enough recreation facilities in the City. There is park land available, but the key word missing is developed park land, specifically sports fields. He cannot see the City moving a park before funding is available to move that park. He said he does not see the City having that funding any time soon. He had floodzone comments but Mr. Burbank addressed those. Currently there is a lot of empty commercial property in the City. There are two major shopping centers that are completely or almost vacant. Food Lion just closed down. He cannot see the City creating a new commercial development area until we fill up what is currently available.

Chairman Burbank said there is a community rating system when a community buys into the national flood insurance program. It is assigned a rating of some type. Your rating determines your flood insurance rates for the different floodzones. If we approve filling in this floodplain, which may or may not hurt that rating, and may affect the cost of all Deltona citizens who buy flood insurance. He asked Mr. Paradise if that is correct.

Mr. Paradise said there are two ways to manage floodplains. One is to direct growth and development away from these areas, and that is an appropriate approach to floodplain management; the other is structural alternatives. Mr. Burbank had mentioned compensating storage and fill. It would not compromise the City's rating if we allowed development on this land that complied with appropriate floodplain management regulations, i.e., they were required and did install those requisite structural mechanisms, compensating storage and fill. However, if the City has the ability to grant a variance for development within the floodplain, there is a reporting requirement. If a local government grants variances and waivers to its floodplain regulations that could very well impact its rating. Chairman Burbank said so it goes back to adding anywhere from 5 to 9 ft. of fill or building on stilts. He said he does not see that happening.

Mr. Bowley said there is also another option, which is the amendment process, which is a LOMR, LOMA, CLOMR, CLOMA. There is an appeals process with FEMA, where someone could make application to move the floodplain line. Typically, in the past, they are considered very seriously.

Member Olasimbo asked if we approve the rezoning don't we still have to go through the St. Johns Water Management District (SJWMD)? Mr. Bowley said, yes, we always have to go through them for the ERP, and part of it is to show where your floodplain is located. Member Olasimbo asked if the appeal would be denied if development is in a floodzone. Mr. Bowley said part of the due diligence process if someone would try to purchase the property is to see if they could get a permit through SJRWMD and an amendment through FEMA. Basically these applications are a positioning effort for the property. Mr. Paradise said it is important to keep in mind that the SJRWMD will be very active in how any property is developed regardless of its floodplain characteristics.

Member Ramos said he could not support this rezoning when it is apparent that there will be challenges. This is an area that is definitely being used. When we spoke before, supposedly the City had nothing in mind of moving or getting rid of this park, so he cannot see rezoning an area that will create challenges and is an area being used. It is not in the middle of everything else that is happening.

Chairman Burbank said, to clarify, we are considering the future land use change to be followed by the rezoning.

Mr. McGrath said a portion of this amendment is just a plan for the future, for future growth. He uses the park; he knows it is a well-used park. He does not want to stifle the City by not thinking ahead, and not preparing room for future growth. As has been said, the City does have a lot of empty commercial already, but this is property in a prime location. This is where all of the growth has been. Budgets are tight for parks, but it has been said that it will be used for a new park, or a park will be built before the property sells. He said the lift station will not be moved, because it is not in the prime area of the park and is located off to the side. He asked the Board to consider the pros and the cons.

Member Ramos said it is not about wanting to see the bigger picture. The Board just recommended approval of the Fernwood application. That definitely has more area in which the City can grow, rather than in the DuPont Lakes Park area.

Member McKnight said he understands the need for economic growth and is all for it. He said we are starting to congest everything into one part of the City. He does not know how that corner—Elkcam and Howland—can withstand the traffic. There is already a wait trying to get through that intersection. There is no future road widening project for either road at that intersection; that has been put on hold because of the budget crisis with the Counties, Cities and the State.

Member Walosik said traffic access onto Elkcam has a lot of questions. Access, as it currently exists, does not create problems because of the uses, which are low traffic generators. If the property develops to its full potential, then the current access is not sufficient. There is no room for the left turn lane going from Elkcam to this property. The left turn lane is very short and is working poorly as of today. Member Walosik spoke about the cost of extending the turn lane, the lift station being affected, insufficient right-of-way, and insufficient access, and the park being in the floodplain. He said this case is not a good idea to do this at this point.

Member McKnight made a motion to recommend to the City Commission denial of Small Scale Map Amendment CP11-002 DuPont Lakes Park, Ordinance No. 12-2011. Member Walosik seconded the motion. The motion carried unanimously by voice vote, 5:0.

6. NEW BUSINESS:

A. RZ11-001 DuPont Lakes Park

The City of Deltona, as the applicant, is proposing to change the Official Zoning Map on ±9.6 acres of land from Public to C-1 (Commercial). The property is addressed at 2147 Howland Boulevard and 2711 Elkcarn Boulevard, and the property is known locally as DuPont Lakes Park and Deltona Fire Station 63 (Ordinance No. 14-2011).

Chairman Burbank said this item has been discussed and because of denial of the small scale map amendment it is a moot item.

Member Olasimbo made a motion to recommend to the City Commission denial of RZ11-001 DuPont Lakes Park Rezoning, Ordinance No. 14-2011. Member McKnight seconded the motion. The motion carried unanimously by voice vote, 5:0.

7. OTHER BUSINESS:

None

8. TRAINING:

None

9. DISCUSSION:

A. By the Board

Chairman Burbank said this discussion starts as a result of the small scale map amendment and rezoning. The park is zoned Public and the request is to go to C-1, which is gaining a commercial zoning. So what are they giving up? With the Public zoning category you can have a building at a maximum height of 45 ft. In the C-1 you can only have a maximum height of 35 ft. Looking at other cities, Port Orange has a Community Commercial zoning with a maximum height of 45 ft. New Smyrna Beach has a Mixed-Use zoning with a maximum height of 82 ft. DeLand has a C-2 General Commercial zoning with a maximum height of 80 ft. Daytona Beach has a BR-1 zoning, and the height is virtually unlimited unless it is located beach-side. Chairman Burbank asked staff to look at this as part of the Land Development Code re-write, to consider maybe increasing building heights a little bit to encourage compact development, because the above encourages spreading out. In conjunction with this, Retail Commercial C-1 has a maximum Floor Area Ratio (FAR) of .28 with a maximum height of 35 ft. With this he stated the City is encouraging big tracts of land with small buildings and lots of open spaces and this is not compact development. Recently the EAR based amendment was adopted and from the Comprehensive Plan Future Land Use Element the Commercial maximum FAR is .55. The LDC re-write needs to ensure it comports with the future land use plan. Looking at Retail Commercial the maximum FAR is currently .28, unless it is

medical. It is .12 if it is medical. With C-2 General Commercial the maximum FAR is .5 and there is no reason it cannot be .55. With C-3 Heavy Commercial the LDC draft is calling for a maximum floor ratio of .75 which does not comport with the Future Land Use Plan. He suggested taking another look at that re-write and comparing it to what is in the EAR based amendments in the new Comprehensive Plan.

Member McKnight asked Mr. Bowley if plans had been made for a joint meeting with the City Commission with regard to House Bill 7207. Mr. Bowley said he would get with the City Manager to schedule the meeting. Since agendas are filling up quickly and he will get the meeting scheduled as soon as possible.

B. By the City Attorney

None

C. By the Director of Planning & Development Services

None

10. ADJOURNMENT:

Member Olasimbo moved to adjourn the meeting. Member Ramos seconded the motion. The motion carried unanimously, 5:0.

MEETING ADJOURNED AT 7:44 P.M.

Approved this 17th day of August, 2011.

ATTEST:

Pauline Shattuck, Recording Secretary

Tom Burbank, Chairman