

MINUTES
LOCAL PLANNING AGENCY
THURSDAY, JULY 21, 2016 - 5:30 P.M.
DESTIN CITY HALL BOARDROOM

1. **CALL TO ORDER:**

Chairman Wood called the Local Planning Agency meeting to order on Thursday, July 21, 2016 at 5:30 p.m., in the Destin City Hall Boardroom.

The Chairman welcomed and introduced newest member Darryl Shelton

2. **PLEDGE OF ALLEGIANCE:**

3. **ROLL CALL:**

Members Present

James T. Wood, Jr
Steve Menchel
Donald David
Andrew McDowell
Scott Jacobs
Darryl Shelton

Members Absent

Corey Ledbetter

Staff

Kim Montgomery, Deputy City Clerk
Hank Woollard, Planner
Scott Shirley, Land Use Attorney

3. **APPROVAL OF MINUTES: June 2, 2016**

Motion by Agency member Menchel, seconded by Agency member McDowell; the members voted 6-0 to approve the minutes of the June 2, 2016 meeting minutes as written.

4. **NEW BUSINESS:**

- A. A public hearing to review proposed Ordinance No. 16-14-LC, which is an Ordinance that amends the City of Destin Land Development Code to allow land, use "4412 Other Motor Vehicle Dealers" as a conditional use in the Town Center Mixed Use (TCMU) zoning district. The proposed Ordinance title is as follows:

ORDINANCE 16-14-LC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA RELATING TO PERMITTED USES WITHIN THE TOWN CENTER MIXED USE ZONING DISTRICT; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR THE AMENDMENT OF LAND DEVELOPMENT CODE SECTION 7.12.06 ZONING DISTRICTS, TABLE 7-2: TABLE OF ALLOWABLE USES TO PROVIDE FOR OTHER MOTOR VEHICLE DEALERS AS A CONDITIONAL USE WITHIN THE TOWN CENTER MIXED USE ZONING DISTRICT; PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

The Land Use Attorney read the ordinance by title into the record. He then informed the members that staff is recommending against adopting this ordinance because it is of the opinion that this ordinance is contrary to the Comprehensive Plan adding that the reason why there is a draft ordinance is because any action taken will be fully supported.

The Planner explained that this ordinance is an applicant-initiated ordinance for a Text Amendment to the Land Development Code (LDC) to allow boat dealers as a Conditional Use in the Town Center Mixed Use Zoning District (TCMU). Further explaining that the objective is to help this particular dealer's business, but the change would apply to the entire zoning district. He then referred the members to the Future Land Use Map (FLUM) in their meeting packet that shows the entire zoning district this change would apply to and how this is a concern since it would apply to such a broad area.

The Planner pointed out how well maintained the owner keeps his property is in comparison to all the other businesses adjacent to it, however, the future plan for the Town Center is to be more scaled to a pedestrian friendly walkable area with businesses that people would want to walk to or ride their bikes to and this business plan is contrary to that long range vision.

Mr. Robert McGill, Attorney for the applicant handed out a packet of exhibits for the members to reference pointing out that the business directly across the street is an auto and marine parts business, which is a permitted use for the TCMU Zoning District. He explained that they initially filed an application for a text amendment to make other motor vehicles a permitted use in the TCMU zoning district however, they withdrew that application and filed this one to requesting boat sales as a conditional use in the TCMU. He also explained that doing so is not automatically a permitted use but a two-step process by coming to this board first then going before the Board of Adjustment (BOA) if the ordinance is approved.

He spoke of how the applicants businesses are cohesively operating with the Orr dealership request on Main Street, the Porsche dealership on Airport Road and the service department that backs up to the Main Street business, on Industrial Road and how if they are allowed to continue on to the Board of Adjustment, they would then be requesting boat sales at their Main Street business.

He asked the members to refer to page 4A of their package and to 2.25 3-b, regarding the safeguards of what the BOA can hear and decide on regarding Conditional Uses and determine when they should be granted, and to grant them with the appropriate uses and safeguards or; to deny them when proven they are not in harmony with the purposes and intent of the zoning ordinance. He explained that there are several conditions that the BOA can place on the operation of the business and read the definition of a Conditional Use and the perimeters that they can set if this case is allowed to be presented to the BOA by the passing of this ordinance. He read the adjoining zones that border the TCMU zone and what's allowed to operate and how this use would not change the character of this part of the community; since Destin is known as the "Luckiest Fishing Village in the World" and argued that this is a legitimate compatible use in the TCMU and quite frankly is consistent with the Goals, Objectives, and Policies of the Comprehensive Plan and appropriate along with any safeguards that would be put forth by the BOA. He then asked the members to look at the aerial map he provided that references all the businesses on Main Street adjacent to Orr auto dealers and how they are not asking to do anything that is not out of character in this part of the community.

In conclusion, Mr. McGill compared staff's conclusion to what he referred to as a "Fear Factor" in that if this use is allowed, there could be a proliferation of boat dealerships wanting to come into this zoning district and feels that the City of Destin, who relies on its livelihood of marine operations for fishing and selling boats, is not something that should be too concerning to the residents of the City. Adding that the LDC provides for the BOA to hear and decide on Conditional Uses to provide and prescribe supplemental developmental safeguards to ensure compatibility and prescribe appropriate conditions and safeguards to keep those requests within the conformity of the existing zoning ordinance.

The Land Use Attorney spoke of the difficult nature of this case since the applicant has been such a good neighbor and has been a responsible business owner and because of the unique situation of this particular business, and to him, the argument that was presented is almost convincing to allow boat sales in the TCMU zoning district. However, staff's responsibility is to look at the long-term plan and not short term for this part of the city and that plan is for Main Street to function like a traditional downtown;

adding that although the applicant has proven to be a good neighbor, boat and car dealerships just don't fit into the feel of what the City is wanting. He explained that even though and the automobile aspect of the business is allowed to operate as a conditional use, it is not pedestrian oriented and that above all, the one thing that they want to avoid doing is placing staff in a position where they're continually having to bring these types of requests to the BOA every time someone wants to operates a business that is not an allowable use. And spoke of how that practice needs to be avoided for the long range plan of the Town Center CRA and they have a chance now to stop these type of requests.

He then asked the members to look at Exhibit C on page 2 of 4 of their staff report, referring them to 1-1.3.3(2.) of the policies that reads:

Town Center CRA and Main Street. The City shall promote the image, function, and design of the Town Center CRA and Town Center Mixed Use area, a planned pedestrian-oriented mixed-use center of employment, commerce, city center living, as well as civic and cultural enrichment. As part of this initiative, the City shall continue to implement the adopted Community Redevelopment Plan, including the tax increment finance program and a regulatory program that assists in implementing:

- a. Grid street system that enhances access to and with the Town Center and sub-areas of the CRA.
- b. Design criteria that incorporate pedestrian and streetscape amenities, criteria for achieving the form, function, and design promoted in the adopted Community Redevelopment Plan.
- c. Transit system that links the Town Center with the Harbor area, major center of activity along the Emerald Coast Parkway corridor, and other activity centers that generate patrons who seek the Town Center and Harbor areas for leisure activities, shopping, and/or employment.

The Land Use Attorney spoke of how it talks about what the city has planned in the Comprehensive Plan: 2020 by creating a planned pedestrian oriented mixed-use design with civic and cultural enrichments and how boat dealerships just do not fit into that type of description and although none is not currently in place, the future plan is for a well-designed criteria that incorporates pedestrian and streetscape amenities to create form, function, and design. He also pointed out that if there are transit opportunities, generally there will uses such as small grocery stores, cafes, as well as a mix of residential uses but not automobile dealerships. He spoke of while staff is appreciative to the fact that this applicant has proven to be such a successful and well maintained business; staff simply cannot recommend approval of this request. And lastly, in reference to Mr. McGill's screenshot taken from the City's website for the Town Center CRA and how it talks about the \$18M worth of improvements that the City undertook; the reason those were made was to attract redevelopment.

In rebuttal, Mr. McGill pointed out that although small grocery stores and restaurants could be possible to promote a more walkable community, there are none there now and the Town Center needs a business that is vibrant, that will keep the property values up; reminding the members that the Town Center still has a Bond that financed those improvements.

The Chairman opened the hearing to the public to speak. Having no one come forward, he closed the public portion of the hearing and opened the discussion for member comments. According to Agency member David, he cannot see any reason not to allow the Conditional Use. Pointing out that the City can control the requests through oversight and with the auto dealerships currently being a conditional use and the fact that there is only one, speaks that staff and the BOA has not been overrun with these types of requests and he does not see how the City would lose any kind of control. He pointed out how he cannot see how this part of town could ever be considered walkable and a pedestrian friendly zone with a Gulf

Power substation, a sewer plant, and the US Post Office and spoke of how all of these uses are commercial as well as the other office centers that are located in the Town Center and to him, none of them are attractive to pedestrian traffic. He added that he does not see how this request is incompatible with the current zoning with the dealership already present he feels that the addition of boat sales would offer the citizens of the City another outlet to shop for boats and another level of competition for what is already available and would be a benefit to the citizens of Destin.

Agency member Shelton made the recommended motion that the Local Planning Agency find proposed Ordinance 16-14-LC is not consistent with Comprehensive Plan: 2020 and recommends City Council deny the proposed Ordinance on 1st Reading, with Agency member Menchel providing the second to the motion.

In discussion, Agency member Shelton asked the Land Use Attorney if they allow this, what leverage would this give others to come forward and ask for uses that are not allowed in certain zones, similar to the request for the Walmart grocery store that wanted to come in on Gulf Shore Drive. According to the Land Use Attorney, it would not necessarily give them more leverage, but it might encourage others to apply. He explained that the City is trying to promote more pedestrian oriented areas, as well as promoting redevelopment for the Town Center, and the more they entrench the current pattern, the more likely that will happen.

Agency member Shelton agreed that the walkability pattern is not there and at this point, he could not support it without knowing more.

Agency member McDowell asked the Land Use Attorney if another applicant wanted to sell boats if they would have to make the same application to the Board of Adjustment. According to the Land Use Attorney, they would. Agency member McDowell then asked what if the applicant wanted to move the service department back to the Main Street property, if the boat dealership did not work out. According to Mr. McGill, that would be up to the BOA to set the conditional uses of how they could operate their business.

According to the applicant, their business model is to stay small, like a boutique sales center and do not intend to get any bigger. He added that he started the boat sales back in January and did not realize that there is a difference in cars and boats since a motor operates them both.

Agency member Menchel asked what happens if the BOA turns down the request. According to the Land Use Attorney, the next step would be to appeal to the Circuit Court.

Agency member David spoke of the quality that this business provides to the Town Center and does not feel that they would be opening a Pandora's Box if approved by the BOA.

The Chairman clarified the motion for the members and what voting no or yes meant.

Agency member Jacobs offered a substitute motion to find the proposed ordinance consistent with Comprehensive Plan: 2020 and to recommend the City Council approve Ordinance 16-14-LC on first reading. Mr. David provided a second to the substitute motion. The vote was evenly split (3-3) with members Jacobs, David, and McDowell voting in favor of the motion and members Shelton, Menchel and Wood voting no, the motion does not carry.

The Chairman called for a vote on the original motion that the Local Planning Agency find the proposed ordinance 16-14-LC is not consistent with the Comprehensive Plan: 2020 and recommend that the City Council deny the proposed Ordinance 16-14-LC on 1st Reading. Again, vote was evenly split (3-3), again with members Shelton, Menchel and Wood voting in favor of the motion and Jacobs, David, and McDowell voting against the motion and again, the motion does not carry.

The Land Use Attorney informed the members and the applicant that the proposed ordinance will proceed to the City Council for a public hearing on 1st Reading with a report that the LPA was evenly split on whether or not to recommend the proposed ordinance for adoption or denial.

- B. A public hearing to review proposed Ordinance No. 16-15-CC, which is an Ordinance that amends the City of Destin Code of Ordinances to prohibit commercial concession activities on Norriego Point. The proposed Ordinance title is as follows:

ORDINANCE NO. 16-15-CC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA RELATING TO CODE ENFORCEMENT; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR AN AMENDMENT OF CODE OF ORDINANCES CHAPTER 14, OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE IV CODE ENFORCEMENT CITATION PROGRAM AND PROCEDURES, SECTION 14-94 APPLICABLE CODES AND ORDINANCES, CLASS VIOLATION; PROVIDING FOR AMENDMENT OF CODE OF ORDINANCES CHAPTER 15, PARKS AND RECREATION, ARTICLE II STANDARDS OF BEHAVIOR AND OPERATION ON PUBLIC PARKS, SECTION 15-37, RECREATIONAL ACTIVITIES; PROVIDING FOR AN AMENDMENT OF CODE OF ORDINANCES CHAPTER 15, PARKS AND RECREATION, ARTICLE II, STANDARDS OF BEHAVIOR AND OPERATION OF PUBLIC PARKS, SECTION 15-42 PENALTY; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

The Land Use Attorney read the ordinance by title into the record. He explained to the Agency members that this ordinance is a multipurpose one that empowers the City Manager to appoint members of the Parks & Recreation Staff as Code Enforcement Officers for purposes of enforcing park rules under the civil citation. He explained how limited the Code Enforcement staff currently is, being in the neighborhoods enforcing the Codes and with the Parks & Recreation staff being out in the parks, this enables them to issue the civil citations as they see them happening.

He also explained how it also closes a loophole for Class-2 violations in short term rentals and asked the members to refer to page 2 of 4 of the ordinance and in *Section 3, 14-94, Subsection 4, 1-5 Laundry list*, which needs to be underlined as that is what is being added to the Code. He further explained that 14-94 defines the jurisdiction of the civil citation program and is included in short-term management with the authorization to issue civil citations however, they do not want it to conflict with the Statement of Jurisdiction in the Civil Citation therefore, he added it in the short-term rentals as well. He also, pointed out that in Section 15-37 the Rules of Public Parks, by adding the Restrictive Covenants of Norriego Point Deed, this prohibits private concessions, and they also added "**Subsection G**" to the list of prohibitions, which precludes a party from operating a concession or otherwise using the park in any manner other than a capacity of a member of the general public and defines "Concession" as the provision of any type of good or services by a person or entity other than the park user regardless of where the business services are provided for compensation.

He also pointed out that this does not apply to any city-sponsored events or to the assistance of a disabled person, adding that this document is more of "housekeeping" type ordinance and is important, as it will expand the City's authority and efficaciousness of the enforcement under the civil citation program in the city parks.

The Chairman opened the public portion of the hearing, having no one come forward to speak; he closed the hearing to the public and asked staff for any additional input.

Agency member Menchel moved that the Local Planning Agency find the proposed Ordinance 16-15-CC consistent with the Comprehensive Plan: 2020 and recommend that City Council approve said ordinance at first reading with Agency member David providing the second.

In reference to a past conversation he had with past City Manager, Mary Ann Ustick, Agency member Shelton asked the Land Use Attorney for verification that Homeowner's Associations are not nongovernmental entities, as he has heard arguments where they claim they are, and asked if this ordinance clears that argument up. According to the Land Use Attorney, it does, adding that they are not a governmental entity regardless if it is for compensation or not.

Agency member McDowell asked at what point do they consider a party, whether it is for compensation of not, providing a concession and specifically for example; a water taxi service where they are being compensated for coming onto public property to pick up their passengers. According to the Land Use Attorney, typically, those are transportation services and would not be operating on Norriego Point in manner that would ever violate restrictive covenants and he doesn't think that the County would ever take the position either.

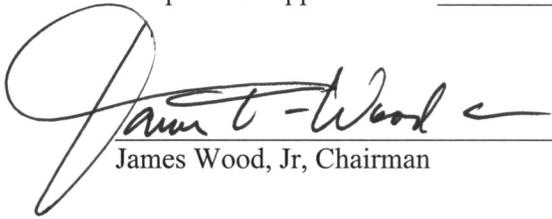
The Chairman questioned the Land Use Attorney if this applied to the vendors that sell pizza slices and ice cream where the customer has to walk out into the water to pay for and pick it up. In response, the Land Use Attorney stated that unless it becomes a significant issue then, citations may need to be issued.

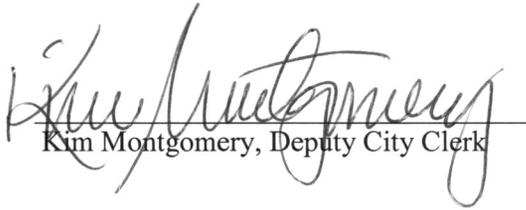
Having no further discussions or questions, the Chairman called for a vote and the motion passed unanimous vote of 6-0

5. ADJOURNMENT:

Having no further discussion at this time, the meeting adjourned at 5:40 p.m.

Adopted and approved this 6th day of Oct 2016.


James Wood, Jr, Chairman


Kim Montgomery, Deputy City Clerk