



**MINUTES**  
**COMMUNITY DEVELOPMENT BOARD**  
**SPECIAL MEETING**  
**MAY 23, 2022, AT 6:00 P.M.**  
**COUNCIL CHAMBERS**  
**116 FIRST STREET**  
**NEPTUNE BEACH, FLORIDA 32266**

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Pursuant to proper notice a public hearing of the Community Development Board for the City of Neptune Beach was held in person May 23, 2022, at 6:02 p.m. in the Council Chambers.

Attendance Board members were in attendance:  
Bob Frosio, Chair  
Greg Schwartzenberger, Vice-Chair  
William Hilton III, Member  
W. Jeremy Randolph, Member  
Rene Atayan, Member  
Jonathan Raiti, Member  
Charles Miller, Member

Tony Mazzola and Rhonda Charles, alternate members, were also in attendance.

The following staff members were present:

Samantha Brisolara, Community Development Director  
Zachary Roth, City Attorney  
Megan Steward, Mobility Management Director

Pledge Pledge of Allegiance.

Call to Order/Roll Call Chairperson Frosio called the meeting to order at 6:02 p.m. He stated the plan was to go over the code changes from the last meeting, then have public comments and open discussion. He asked any comments should be held until all the changes have been discussed.

ULDC Board discussion and review of the final draft of the Unified Land Development Code  
Final Draft Revisions.

Samantha Brisolara, Community Development Director, stated the purpose of the meeting was purely for discussion of the proposed Unified Development Code rewrite. No voting will be done. This is the full draft.

Mr. Raiti had a question about gross site area and if it was a good idea to include the adjacent area of the right-of-way.

Mr. Mazzola asked if the gross site area would be used to calculate pervious and impervious surface? Why would we want to do that? There were multiple comments

among the board which restrictions the r-o-w affects and how having a larger or smaller r-o-w in front of someone's house would affect the homeowners. Would like to test the code on actual properties to figure out the impact. The concern is that small lots with large right-of-way could "cheat" the system. Is there a way to address the issue of lot coverage and size of structure compared to lot size. You could use half of the right of way for lot coverage and use the property boundaries only for density purposed. The consensus seems to be to split the two issues. Board is in agreement to split those two.

Ms. Pat Hazouri interrupted the order to comment on the placement of the public comments after the review of the changes. Chairperson Frosio explained that public comments will be after the review so that attendees can be made aware of the changes that have been made.

Mr. Hilton: Hazard tree, who makes that decision: Mrs. Brisolara: Certified arborist and that is addressed in the tree section.

### **Article1. General**

Section 27-15 added definitions for: A-frame; boathouse lots, caliper, catered event, corner lot visibility triangle; defects for trees, driveway, driveway apron, drive-thru facility, easement, failure in trees, food truck, hazard tree, intersection, open-air markets, on-street parking, roadway, sidewalk, special event, traffic impact study, warehouse/mini-warehouse, attenuation, detention, illicit discharge, illegal dumping, low impact design, driveway visibility triangle, home-based business, moped-motorized kick scooter, municipal separate storm sewer system (MS4), pervious pavements, pre-development, retention, site, scooter, sediment, stormwater, stormwater management facilities and swale.

### **Article 2. Administrative and enforcement Bodies**

Mr. Schwatzenberger asked under the terms of office, can the City Council vote out a board member? Both Mrs. Brisolara and Mr. Roth affirmed this.

Revised the Charter to be 18 inches above the crown of the road to meet stormwater and erosion control finish floor elevations. Allow for 6 inches of curb and gutter to aid in less flooding due to stormwater.

There are no changes to Chapter 4, Alcoholic Beverages or Chapter 8 for Sea Turtle lighting.

Insert the word "temporary" in front of OpenAir Sales and Markets. Open Air Sales and Markets has a hyphen added between open and air. In section 17-48 we talk about food trucks. Add subsection "C" to clarify regular and frequent operations. Fixed grammar issued and the word "or". Added a subsection to 6 stating applicant shall pay a fee.

Chapter 18, Streets, Sidewalks and other Public Places: Remove allowance for private parking areas in the right-of-way beyond the apron. Request for an extension for approved right-of-way permit can be done in writing, approval and fee required.

### **Division 9 Special Exceptions**

27-158: Is there anything similar to the special exception running with the land? Make a note to look that before copying it over. We could look at the special exception language and add a similar blurb.

Section 27-165, language was added to allow for the extend the expiration date of an approved Special Exception after review of a formal request in writing with supporting documentation and receipt of applicable fees.

#### **Article V: Land Use**

Section 27-226-removed Bed and Breakfast and wholesale and accessory structures and uses from C-1. Restaurants were move to by special exceptions. Removed outdoor seating on public and private property. Section 27-227(5)(b) limits the hours for interior service restaurants from 7am to 10pm in the C-1. This gives a very narrow time to operate and you're not going to have late night activities.

C-1 Move interior service restaurants from allowable to use by special exception. How will this be enforced? There is additional information in the next section that we will talk about. There will be conditions and enforcement by code enforcement and the police department. If the conditions are not followed, the City could pull their business license, alcohol license, etc.

C-2, C-3 and CBD: Changed accessory structures and uses from allowable to use by special exception.

Change elementary, junior and high school to Primary and Secondary Education facilities.

27-235 add "shall be no closer than five (5) feet of any property line" for projecting porches, stoops and porticos. This is to ensure that we are not going to have anybody abutting a sidewalk or their neighbor's property line.

27-236(14) vertical clearance has been revised.

27-237 Building area requirements. We didn't want McMansions and without limitations, the lots could have big houses. Dover Kohl stated that the code already counts for this when we crated maximum lot size with the RC overlay. That's the reason there are not Floor Area Ratios in Section 27-237-4.

Mr. Hilton asked: If someone were to try to replat and create a large lot than the maximum allowable, it wouldn't even be able to come to us for review. Say if they combined lots. coupled with lot coverage it is the only way to control the size. They could do so, but they would still be governed by the maximum lot size.

#### **27-245 Planned unit development (PUD)-special regulations.**

City Attorney Roth stated the PUD is a special exception to zoning overlay. This change put the discretion back into the City's hands, if we feel like it a sufficient to meet what we have and give them their PUD. It's a re-zoning of a lot instead of something there in entitled to by right. It puts a lot of power in the City's hands and takes that power away from the applicant which will 1) prevent bad development that we don't want, and 2) allow us to use that leverage to obtain benefits that the City does want. This is a fundamental shift in how PUDs are processed in our city.

Chair Forsio inquired what kind of PUDs might be allowed then?

Mr. Roth answered: We may find that there's a zoning district that does not allow a certain type of mixed use between retail and restaurant. We'll allow you to have the retail/ restaurant, but you're going to give the central part as a public plaza or something like that. Essentially, we can force a public benefit.

Mr. Schwartzenberger: Would we not want to consider residential applications?

Both Mr. Roth and Mrs. Brisolara stated this is prohibited by our comprehensive plan.

Mr. Schwartzenberger: Has concerns that other aspects of this code are not in line with the comprehensive plan.

Mr. Roth: We can't. This must comply with the comp plan, or it is illegal, unenforceable.

Mr. Raiti asked to have section 27-445(e) stricken. Mr. Roth and Mrs. Brisolara agreed that will be stricken as well. No PUDs by special exception.

#### **Article X Streets, Sidewalks and Right of Way:**

27-476(m) Alleys. Are all existing dedicated to the city? This section reads a little funny. We will change that.

#### **Public Comments:**

Genny Thurston, 1200 Seventh St, expressed concerns about restaurants in C-1. The folks along Third Street when they bought their homes, they bought a property next to a professional business, not with restaurants in their backyard. Concerned about trucks, traffic, smelly trash. Half of the row. DKP suggested this to level the playing field. When I bought my property, I knew what my playing field was.

Davis Blais, 800 First Street, expressed frustration with process of the code rewrites. It's not tweaks, it's complete flipping of things around. DKP is not properly taking our feedback and are instead arguing. C-1 is currently low intensity. Concerns about parking issues, intensity of traffic. Run it down Atlantic Blvd. instead of down Third Street. Is on board with tweaking to add more retail but does not see how this code is not viable without restaurants. Concerns about McMansions based on the size of the lot you are one.

Chairperson Forsio asked for any email comments or feedback:

Joseph King, 517 McCollum Circle, is concerned about zoning expansion in C-1. Is against restaurants in C-1 and the resulting density increase. Concerns about parking and increased traffic. Firmly against expanding the zoning in C-1, would like to leave it as is.

Christine Burke, 113 Walnut Street, wants immediate public comment, requests that we change the order so that public comment is at the beginning.

Open Discussion:

Mr. Hilton: We should talk about C-1. Comes down to smells, light, sound and traffic.

Mr. Mazzola: What is the motivation to allow restaurants?

Mr. Randolph: Every email I received was against it. I understand the restaurateurs point, but he doesn't live there.

Mrs. Atayan: You but into a certain area with a certain expectation then it is significantly changed, that's a problem. These folks didn't buy houses across from a restaurant. Th the same time, I don't like a complaint without some kind of solution. We have a solution that runs west up Atlantic Blvd. That is the higher intensity area, we have a central business district. There is still room to grow going west up Atlantic Blvd. where the expectation of the commercial corridor already exists.

Mr. Schwartzenberger: The board is in agreement that we do not want restaurants in C-1. Allowing restaurants for special exception, they are going to be granted it. We were told no strip malls, but there is a large retail space outlined on here. We've removed residential from C-1 completely stricken it, but we want to open it up to restaurant and retail.

Mr. Raiti: We can express the sentiment of the board that we want to listen to the voice of the community that we don't want restaurants in C-1.

Mr. Hilton: Why was day spa removed as special exception form C-1? Staff clarified that it was move to "by right" instead.

Mr. Randolph: This is now the 3<sup>rd</sup> time that the public has been frustrated by not talking at the beginning. Thinks it would be more appropriate to have them talk first so that they can express their ideas and cut down on people leaving.

Mr. Hilton: Concerned that we have to get through the agenda, aren't always sure how many members of the public are going to be speaking. Logistical concern.

Mrs. Brisolara: Going through items first may also answer questions that the public might have.

Mr. Miller: We could make a recommendation to go into this and take out the restaurants in the C-1 area.

Mrs. Brisolara: City council would have to make that decision. Big changes like that would need to go before the City Council.

Mr. Schwartzenberger: Why the appetite for additional special exception, if the residents don't want it?

Mr. Hilton: That's a question for Council.

Mrs. Brisolara: Expanding economic vitality.

Mr. Schwartzenberger: People seem confused about where this recommendation is coming from, so maybe that could help to clear that up.

Mr. Hilton: Concerned about social clubs, fraternities, other uses that could create lots of noise, traffic, smells, lighting. I think we are too focused on restaurants and there are other categories here that we should consider the impact of.

Mr. Schwartzenberger: Residents wanted to leave C-1 as is.

Mr. Raiti: Private clubs listed in F is almost the same as lodge, so this is a matter of semantics.

Mr. Mazzola: If it ain't broke, don't fix it. Why are we changing C-1? Why does Neptune Beach want PUDs? We're giving the developers the ability to do something that we don't want them to do.

Mr. Roth: No, it's the exact opposite. Our code can't anticipate every circumstance that might come about in the next 30 years. Taking it away from the special exception is very powerful tool in the city's tool belt, rather than the developer's tool belt.

Mr. Mazzola: D page 127, concerned that we have no idea who will be on the CDB or Council 5, 10 years from now. Should we give them that much leeway without City? IS the board concerned about PUDs? That tells me that the developer will be doing something we don't like such as the Kmart.

Mr. Randolph: They had the potential for that special exception. So, if they met that, we couldn't do anything to stop it.

Mrs. Atayan: I had concerns in residential but no in the commercial areas. It gives the City leverage, as the Attorney explained, to get a larger public benefit that we wouldn't normally get from a developer. It gives the public more say. An example of would be we have aging infrastructure, and your development is going to be impacting it. Could require utility, drainage improvements in their area and surrounding areas.

Mr. Randolph: At the end of the day, we are trying to protect the City. Part of the reason we are driving this is that we want it to be viable and stand up in a lawsuit. We don't want loopholes in our code that cause legal problems.

Mr. Hilton: Do PUDs come before the board? Yes, you and the City Council.

Mrs. Brisolara: We can also add a requirement that PUD applications require a 500-foot notice instead of 300-foot.

Mrs. Atayan: I'd like us to reconsider this board handling art.

Mr. Schwartzenberger: There is no permitting for art in Atlantic Beach unless you're getting a grant. I like that.

Mrs. Atayan: We have to be really careful about it. Example: Nashville has a process to go through with a board for art.

Mr. Raiti: Jacksonville Beach is setting up its own art committee. Would be helpful to state where we are with PUDs. They are stricken from special exceptions, removed from residential areas. Whether we want to have them at all, we can debate.

Schwartz: Concerns about overlay language east of third. Language is traditional of other planned developments. Roof pitch requirements could limit design solutions available to design professionals and slant architecture a certain way.

Garage set back from main structure was removed. Yes.

Mr. Schwartzenberger: Are we at an 8000-sf minimum for duplex structures?

Mrs. Brisolara: yes, can be increased to 8500 if you wanted. It was 5000 with the previous draft, and then was changed to 8000 for duplex lots after the city council special meeting.

Mr. Hilton: How much of the new office building going on in C-1, what's the total gross floor area of that building? Trying to get a feel for the size of the businesses we want.

23111 total square feet

Mr. Schwartzenberger: If the land is greater than 1 acre, only council hears the special exception request?

Mrs. Brisolara: They would come to you for recommendation First and THEN go to council.

Mr. Raiti: Requests test cases done, apply them to all of the zoning districts and see how they work in practice.

Mr. Raiti: I'm still finding all types of contradictions on balconies in here. I can lay them out now or send a big memo and circulate it. For example, comparing the different space. This one's a minimum of 4 feet, this one's a maximum of 4 feet. It's complex and could be simplified. Perhaps being less prescriptive about what you can and can't do. Less regulation, plainer language.

Mr. Roth: Don't send your thoughts to everyone on the board, it's a sunshine

violation. Send them to Sam and she will include them in the packet.

Mr. Raiti: In order to maintain the eclectic character of Neptune Beach, to state that new development going up cannot have identical facades.

Mr. Roth: There's a statute that says we can't do that.

Mr. Raiti: Roofs – there an instance where people lose their ocean views, etc., when you start varying the heights. I'd like to see when you do those models, to vary the pitch height and see how it works out in practice.

Mr. Raiti: Green space – you noted there is a new green space requirement in the table. Requests that we add Green Space to the main definitions section. Concerns about water use, wants to encourage xeriscaping, make sure definition is consistent with other landscaping sections encouraging less water usage and less stormwater problems.

Mrs. Atayan: If we are giving credit for pervious parking, can we give credits for green space?

Mrs. Brisolara: That might get very labor intensive.

Mr. Raiti: Suburban residential II, traditional residential II, what does that correspond to?

Mrs. Brisolara: Future land use map from comp plan.

Mr. Raiti: Are there I, III?

Mrs. Brisolara: I and II, no III.

Mr. Raiti: Looking at how to deal with nonconforming structures. Once we change these codes, how we will deal with new nonconformities? I read in here 224-225 is how you deal with it, but I'm not sure where that stands. 27-706 (4) nonconforming structures. Will nonconforming homeowners be able to do work on their homes in the future?

Mr. Schwartzenberger: This code will create more nonconformities.

Mrs. Brisolara: There is a legal stickiness there. I'm willing to look into.

Mr. Schwartzenberger: We haven't done anything with language to encourage anyone to renovate or retrofit. It's problematic that we're adding more homes to that category of nonconformity.

Mr. Raiti: Process for nonconforming structure would be to apply for a variance?

Mrs. Brisolara: Yes.

Mr. Schwartzenberger: Concerned that this will incentivize people to tear down existing and build new, which is the opposite of what we're trying to accomplish. And thus cause more variance applications?

Mr. Hilton: I think these issues will come up, but I don't think we should build a code

around planning for people to get variances. If we have a large amount of variance requests, we can change the code. But we should not build the code on what-ifs and hypotheticals. We don't know how many people that applies to.

Mr. Raiti: I like the terminology in here about changes that decrease nonconformities. That's a net improvement. But it's not hitting our goal of eliminating a nonconformity.

Mrs. Brisolara: Eliminating all nonconformity is not a realistic goal.

Mr. Raiti: Requests that we look back at those sections and give them some thought.

Mr. Schwartzenberger: When is DKP complete, do we have outstanding payment, can we continue asking for changes?

Mrs. Brisolara: They are done when the council votes this in. On some things, if they're not going to do it, I'll do it myself. I'm not going to continue arguing with them when you all are clear on what you want.

Mr. Raiti: The CONB is the customer, the community. I don't see a need to rush this.

Mr. Randolph: We want to get it right.

Mr. Raiti: Is there a limitation on extending the moratorium if needed?

Mr. Roth: No

Mr. Randolph: If it takes longer to get it right, that's better than having to go back and change it later.

Mrs. Brisolara: C-1, FAR are the two big items that needs a consensus on which way to go.

Mr. Randolph: No on street parking – look at that because that would cause nonconformities.

Mr. Schwartzenberger: Don't want parking to creep down Second Street.

There being no further business, Chairperson Forsio adjourned the meeting at 8:30 pm. The next board meeting will be June 8, 2022, at 6:00 pm.

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Robert Frosio, Chairperson

ATTEST:

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Piper Turner, Board Secretary