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**CITY OF MELBOURNE**  
**MINUTES OF THE REGULAR MEETING OF THE**  
**LOCAL PLANNING AGENCY/PLANNING AND ZONING BOARD**  
**MELBOURNE CITY HALL COUNCIL CHAMBER**  
**MARCH 4, 2010 ♦ 6:30 P.M.**

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Alan King, Chairman, Planning and Zoning Board, called the regular meeting of the Local Planning Agency/Planning and Zoning Board to order at 6:30 p.m., followed by the Pledge of Allegiance to the Flag and introduced the Board and City Staff members.

**PRESENT:**

Alan King	Chairman
Glen Outlaw	Vice-Chairman
Ed Coruzzi	Member
Don Laird	Member
Nat Clement	Member
Noel Droor	Member
Shane Norcross	Member
Kathy Chambers	Alternate Member
Bruce Waters	Alternate Member

**ABSENT:** NONE

**OTHERS PRESENT:**

Suzanne Crockett	Attorney to the Board
Cheryl Dean	Planning & Zoning Administrator
Melinda Thomas	Housing & Community Development Director
Jeffrey Higgins	Planner
Harry Williams	Affordable Housing Advisory Committee
Kathy Lee	Recording Secretary

**3. Declarations of Conflict**

None

**4. Approval of the February 18, 2010 Planning & Zoning Board Minutes**

Mr. Clement noted he was not present at the February 18, 2010 meeting.

Moved by Coruzzi/Laird to recommend approval of the February 18, 2010 Planning and Zoning Board minutes with an amendment indicating Mr. Clement was not present at the meeting.

Motion carried unanimously.

Mr. King advised the Board and audience that Item No. 6, Administrative Zoning Amendment (Z-2010-2256AD) Land Development Regulations and Finding of Consistency (LDR-201-01/FOC-2010-03) Downtown Melbourne Consumption of Alcohol Development Orders, has been removed from the agenda per the direction of City Council.

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5. **Administrative Rezoning Request (Z-2010-1154AD) Land Development Regulations/Finding of Consistency (LDR-2010-01/FOC-2010-02) City of Melbourne Affordable Housing-Based Code Changes**

**Proposed Action** Mrs. Dean and Mr. Higgins explained the following to the Board.

Amending the following within City Code, Chapter 16:

- Article II Housing Discrimination;

Amending the following within City Code, Appendix B:

- Article II Definitions;
- Article III, Zoning Districts and Intent;
- Article V, District Regulations; and
- Article VI, Use Standards

Amending the following within City Code, Appendix D:

- Chapter 8, Subdivision Code; and
- Chapter 10, Impact Fee Agreements and Security Requirements

**Location**

The proposed applies to all properties in the City.

**Issues and Considerations**

The committee submitted a report to City Council on December 9, 2008, that included recommendations on the implementation of affordable housing incentives in the following areas:

- (1) Expedited processing of approvals of development orders or permits, as defined in F.S. §163.3164(7) and (8), for affordable housing projects;
- (2) The modification of impact fee requirements, including reduction or waiver of fees and alternative methods of fee payment for affordable housing;
- (3) The allowance of flexibility in densities for affordable housing;
- (4) The reservation of infrastructure capacity for housing of very low-income persons, low-income persons, and moderate-income persons;
- (5) The allowance of affordable accessory residential units in residential zoning districts;
- (6) The reduction of parking and setback requirements for affordable housing;
- (7) The allowance of flexible lot configurations, including zero lot line configurations for affordable housing;
- (8) The modification of street requirements for affordable housing;
- (9) The establishment of a process by which the City considers, before adoption, the effect of policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing;
- (10) The preparation of a printed inventory of locally owned public lands suitable for affordable housing; and

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- (11) The support of development near transportation hubs and major employment centers and mixed-use development.

The recommended changes to the City Code are included in the agenda memorandum.

Mrs. Dean pointed out that Harry Williams, a member of the Affordable Housing Advisory Committee, was present in the audience and available for questions or comments.

Mr. Outlaw recommended a page by page review of the proposed ordinance, and to allow Mr. Williams to participate in the overall discussion.

Mr. Williams said his purpose for attending the meeting was to recognize the input of staff and all their hard work, especially Mr. Higgins. He feels staff has done a great job throughout the entire process.

Mr. Higgins provided a brief history pertaining to the proposed ordinance, stating the committee was put together per a requirement of Florida Statutes. The members come from a variety of interests; consisting of both non-profit and for-profit members, as well as the real estate industry and one private citizen. He said the purpose of the Committee was to go through the 11 criteria mandated in the statutes, and provide recommendations on whether our current code or policies meet the 11 criteria.

Mr. Higgins indicated the Committee was primarily charged with reviewing the Land Development Regulations relative to affordable housing. He said the Committee looked at what is currently in the Code, how it related to the 11 criteria, whether it met the criteria, and provide recommendations for changes or omissions. This process was similarly done with the Comprehensive Plan pertaining to policies and objectives. The overriding factor of this ordinance was to incentivize affordable housing. He said the proposal is not mandating that every affordable housing project has to follow the changes presented. The intent is however, to attract affordable housing projects.

Mr. Higgins affirmed this has been an exhaustive review; there are many elements to the Comprehensive Plan, and many areas in the Land Development Regulations that must be covered while maintaining consistency. He pointed out the 11 criteria have been outlined on Page 2 of the agenda memorandum and said the Committee had to determine the establishment of these criteria in Code. As the proposed ordinance is reviewed, he believes the Board will find the 11 criteria are in place.

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Mrs. Dean noted that based upon the findings contained in the Planning and Zoning Board agenda memorandum, the Affordable Housing Committee, the Housing and Community Development Department, and the Planning and Economic Development Department recommend **APPROVAL** of Administrative Zoning Amendment (Z-2010-1154AD), Land Development Regulations and Finding of Consistency (LDR-2010-01/FOC-2010-02) for the Affordable Housing-Based Code amendments, consistent with the attached draft ordinance. At this time, she introduced Melinda Thomas, the Housing and Community Development Director.

By consensus, the Board agreed to perform a page by page review of the proposed ordinance.

There were no questions or comments pertaining to Page 1 or 2.

Page 3

Mr. Coruzzi referenced the definition of "affordable housing" and asked if the intent was that an individual earning 20% above median annual income could still be eligible for affordable housing.

Mr. Higgins replied yes.

Mr. Coruzzi felt this did not make sense.

Mr. Higgins stated the income limits would not be as high as one would think. The income is based upon a family of four and he does not believe the income level would be that high.

Mr. Coruzzi said his understanding is that with median income, half are above and half are below.

Melinda Thomas, Housing and Community Development Director, said the median income for the Metropolitan Statistical Area (MSA) is \$56,000/\$57,000; 120% of that number would probably amount to between \$60,000 and \$70,000. She said 120% is allowed under the State Housing Initiatives Partnership Program. All of the programs that Melbourne currently has in terms of housing assistance for its residents serve people at 80% of median and below. She noted that one of the comments that came back from DCA indicates the City of Melbourne is not doing anything for persons above this standard or the middle/moderate income person. One of the issues the advisory committee considered, was whether or not the level should be raised to 120% to address DCA's comment regarding the City not providing assistance to individuals over the 80% mark.

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Ms. Thomas indicated the Committee is working through the SHIP plan at this time, and there are many people at the 80% level and below that need assistance; therefore, it is not very likely that many of the City's programs will serve individuals above that limit. As far as affordable housing is concerned, and getting developers interested in affordable housing, she said those individuals at the 120% level would be served. She said the State has raised the level to 140% with the approval of the local governments, which would allow service to those individuals at that level in the SHIP plan.

Mr. Coruzzi asked if 120% was a requirement of the State.

Ms. Thomas replied no; the local government decides who receives financial assistance. The programs currently in place do not serve persons over the 80% of median mark. The only time this was permitted was when the City partnered with the Department of Financial Services for the Hurricane Hardening Program. She said the 120% level is not mandated, the City gets to decide who receives financial assistance to the extent that state funds are received. She believes the environment in which this discourse began (with DCA and the Evaluation and Appraisal process) was during the time the real estate market made it impossible for even young professionals to afford housing.

Mr. Coruzzi said it seems the upper 30<sup>th</sup> percentile is getting us into upper income and not moderate income.

Mrs. Crockett noted that \$56,000 x 120% would be approximately \$67,200.

Mr. King stated the 120% seemed incongruous and wondered if part of the thought behind this is to have a mixture of people who statistically would qualify, possibly removing the stigma of low income housing. He asked if this was a possible objective.

Ms. Thomas replied yes; there are directives and guidelines preventing the City from concentrating poverty. She said her personal preference would be to have mixed communities as well.

There were no comments on Page 4.

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Mr. Outlaw questioned the possibility of a developer doing an affordable housing project and setting aside different percentages for the affordable housing. He asked if the entire subdivision would benefit from the lesser restrictions.

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Mr. Higgins indicated the lesser restrictions would be specific to the portion set aside for affordable housing.

Mr. Outlaw felt his question may have been misunderstood. A subdivision is proposed which will have different setbacks. If there are 100 lots, 30% will have one set of setback requirements and the remainder will have another. He does not feel the regular lots should be granted the same concession as the others. He feels if you are going to develop an affordable housing project, it may be best to deem the entire project as affordable housing. If only a portion of that subdivision will be affordable housing, then only that portion should be granted the exception to the rules.

Mr. Dean noted the section in question talks about the project. If it is a subdivision, it's the entire subdivision. In the future, there could be a section that references individual lots. Staff is looking at how to make the proposed more equitable for all; the intent for the subdivisions is for the whole project.

Mr. King expressed concern with development of a 100-lot subdivision with 30% set aside for affordable housing.

Mr. Outlaw said his understanding at this time is the entire subdivision will be affordable housing.

Mr. Higgins said the intent is for the development criteria to work for the entire subdivision. This will avoid the possibility of different setbacks for different lots within a single subdivision.

Mr. Outlaw felt this could be a type of mixed-use, integrating and going into 120%, but if the entire subdivision is not 100% affordable housing, the developer should not get the lesser of the requirements for the entire subdivision. He then questioned ways to vary road width.

Mr. Higgins indicated there will be no reduction in the roadways, which staff tried to refrain from, due to objections received from the Utilities Division. The same right-of-way width will be required for utilities. There is nothing proposed for the reduction of roadways; however, there are proposed setback reductions.

Mr. King asked if a subdivision would still be considered affordable housing if only 30% is set aside. He asked if the developer would be granted the smaller setbacks for the entire subdivision if only 30% is set aside for affordable housing.

Mr. Higgins stated this is not the intent of the proposed ordinance. If there were a reduction of setbacks for a home deemed affordable, but the house next

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door was not, he did not believe the intent would be to have a 25-foot setback. He believed the aesthetics alone would make it appear out of the mainstream of what is intended to be achieved. The proposed is meant to be a financial incentive for developers, allowing for the possibility of saving on utility costs.

Mrs. Dean said part of what she has heard from the Committee and staff is the intent is to create a flexibility of design by providing setback changes and minimum lot widths.

Mr. Outlaw clarified that a developer could not have a mixed subdivision.

Mrs. Dean explained you can have a mixed subdivision if a developer wishes to design this way (according to the minimum requirements). The proposed would give the developer the incentive to meet the intent of an affordable housing project for a subdivision; these are minimum standards.

Mr. King confirmed a developer could in fact propose a subdivision with 30% provided for affordable housing, and in turn, have the same setback requirements for the remaining 70% of the lots that are not affordable housing.

Mrs. Dean affirmed this is a possibility.

Mr. Williams said the committee felt it would not be good to be able to drive through a subdivision and have the ability to identify which homes were affordable housing.

Mr. King expressed concern with developers taking advantage of the benefits offered for affordable housing projects.

Mr. Williams referenced (3)(a) which states "At forty (40) percent of build-out of a project phase, twenty-five (25) percent of the affordable housing units must be built", noting this would keep the project in sync.

Mr. Droor felt the proposed would give developers the incentive to build.

Mrs. Chambers, noting she is a member of the Committee, stated there were discussions among the group pertaining to the trouble the developers have when building affordable housing and all the hoops they must jump through. This is why the Committee likes the proposed incentives; this may provide some type of compensation for their efforts.

Mr. King reiterated his concern with developers taking advantage of the benefits offered for affordable housing projects.

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Mr. Droor reminded the Board this is an incentive for developers to do affordable housing projects.

Mr. Outlaw thought he saw text in the proposed ordinance pertaining to smaller street widths. He said he sees problems with the proposed 10-foot setback, as he feels this will create more parking in the right-of-way. He indicated there would be a larger cost savings with street width reductions than a lesser front setback.

Mrs. Crockett asked where Mr. Outlaw had seen street width reductions. She said Housing Committee kicked around the idea, which was eventually rejected by staff.

Mr. Outlaw felt the real savings would be in street width reduction and not the reduction of setbacks. Changing the setback requirement to 10 feet may allow a savings on concrete and water lines, but this will not be a major cost savings. He referenced the deference of impact fees and questioned why all fees were not waived.

Mr. Williams pointed out that with a 100-lot subdivision, a 10-foot setback would be a reduction of 10,000 square feet, which could be substantial to a developer.

Mr. Outlaw quoted a possible savings of \$750.00 per home for reduction of concrete, but reiterated his concern that there would be more parking in the right-of-way with a 10-foot setback reduction.

Mrs. Dean pointed out the lots would still be required to provide on-site parking. The proposed setback reduction would allow a front porch or the main structure 10 feet from the property line; while the garage would need to be setback further to allow for the required parking of two vehicles.

Mr. Outlaw feels developers will find a way to manipulate building design and setbacks.

Mrs. Dean said the proposed ordinance states "in the single-family subdivision, the front yard setback is 10 feet, not including required parking and driveways" (Page 6 of 11, (4)(a)1.). Mrs. Dean stated tandem parking can be done in residential subdivisions; however with a two car garage, you can not use the 10-foot setback.

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Mr. Outlaw felt 16-feet would not be wide enough for two cars; one car ends up parked in the garage, while one ends up on the street. He recommended the 10-foot setback allowance be more explanatory.

Mrs. Dean affirmed the requirements for parking and a garage in a single-family subdivision will not change, minimum requirements must still be met.

Mr. Outlaw suggested requiring a minimum 20-foot apron versus the 16-foot minimum currently required. This would add approximately \$1,000 to the construction cost. He said he does not want to see the Board/City contributing to the growing problem of vehicles parking in the rights-of-way.

Page 6

Mr. Coruzzi requested clarification with regards to (4)(a)5., which states "usable common or active open space; ten (10) percent passive open space requirement, or five (5) percent active open space requirement with specific amenities including but not limited to playground equipment and recreation fields".

Mr. Higgins explained that if a developer meets the 10% open space requirement, he/she will not be required to provide additional amenities; however, should active recreation amenities be provided, the overall open space requirement is reduced to 5%.

Mrs. Dean elaborated, noting in R-1B zoning there is a minimum of 10% useable open space, with the ability to use a percentage of wetlands if a boardwalk and gazebo are provided. There are currently standards in Code for R-1B for minimum 10% open space of the project. In the current Code it states "useable"; if doing an affordable housing project, 10% can still be done as passive open space, or this can be reduced to 5% if amenities are being provided.

Mr. Coruzzi recommended identifying what the percentage applies to.

Mrs. Dean asked if the wording would be clearer if it stated "10% of project area".

Mr. Coruzzi replied yes.

There were no comments related to Page 7.

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Page 8

Mr. Outlaw questioned (b) "Deferred contracts" for transportation impact fees and why there would be any fees charged for affordable housing. He did not feel there would be any advantage to a developer by deferring fees.

Mr. Higgins explained the intent, from the development perspective, is to limit the up front costs. Once released from the developer's ownership, the fees should be paid.

Mr. King asked if it would be legal to exempt a group from not having to pay impact fees.

Mrs. Crockett noted the intent of the impact fees is to assure that growth will pay for itself. The fees collected mitigate the impact of growth in that given area. She indicated the City allows impact fee credits to developers when jobs are added. When it comes to the overall impact of new development, she said she would have to research the issue for legality purposes for exempting impact fee costs.

Mr. King said his concern is that if impact fees are there for mitigation purposes and a developer does not have to pay these fees, someone else will have to pick up the expense.

Ms. Thomas stated she believed there was verbiage in the code pertaining to the deferral of impact fees in certain circumstances.

Mrs. Crockett explained a deferral would be okay, but totaling exempting a particular class from the payment of impact fees may be an equal protection challenge.

Mr. Outlaw affirmed he still feels all fees (water, sewer, transportation, etc.) should be exempt. He questioned the issue of discrimination and the legalities of impact fee exemptions.

Mrs. Crockett reminded the Board these impact fees are meant to cover real costs of development/growth to the City.

There were no comments pertaining to Pages 9 through 11.

Mr. Outlaw suggested the placement of bus stops within the vicinity of any affordable housing subdivision for the provision of additional transportation.

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Mrs. Dean advised it could be indicated that projects located on arterials or collectors will be reviewed for the feasibility. This has to be coordinated with Space Coast Area Transit. This could be included as part of the review criteria.

Mr. King stated that while he understands the benefits, he still has concerns with the possibility of splitting a subdivision. Mr. Outlaw said he has the same concerns.

Mrs. Dean asked if developers can receive credits for affordable housing, which may provide additional incentives to develop more than 30% of a subdivision at that level.

Ms. Thomas said this depends on the funding source, when a proposal is submitted, the City looks at how many units are proposed and at what level.

Mrs. Dean noted there may be times when a developer has the incentive to provide more than 30% of a subdivision for affordable housing.

Ms. Thomas said it also depends on how much actual cash is available as well. Sometimes these incentives may not be enough to move a developer in that direction.

Mr. King opened the public hearing; there being no public comment, the public hearing was closed and discussion was brought back to the Board.

Mr. Outlaw confirmed the proposed ordinance did not address retrofitting lots.

Mrs. Dean replied not at this time; at this time the ordinance is geared towards new subdivisions or multi-family site plan projects.

Moved by Outlaw/Laird to recommend approval of Z-2010-1154AD with the changes mentioned in the page by page review and the addition of bus stops in the review criteria, based upon the findings contained in the Planning and Zoning Board agenda memorandum.

Motion carried unanimously.

Moved by Outlaw/Laird to recommend approval of LDR-2010-01 and FOC-2010-02 for the Affordable Housing-Based Code Amendments, consistent with the attached draft ordinance, based upon the findings contained in the Planning and Zoning Board agenda memorandum.

Motion carried unanimously.

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6. **ADMINISTRATIVE ZONING AMENDMENT (Z-2010-1156AD) LAND DEVELOPMENT REGULATIONS AND FINDINGS OF CONSISTENCY (LDR-2010-02/FOC-2010-03) DOWNTOWN MELBOURNE CONSUMPTION OF ALCOHOL DEVELOPMENT ORDERS:**

(No action was taken on this item.)

7. **ANNUAL EVALUATION**

No comments were made at this time.

8. **FUTURE BUSINESS**

Mrs. Dean provided the Board with a summary of the preliminary business items, which includes Brevard County's Household Hazardous Waste site and a Finding of Consistency pertaining to a Federally Funded Sub-Grant Agreement between the City of Melbourne and FEMA.

There being no further business,

Moved by Laird/Outlaw to adjourn at 7:40 p.m.

Motion carried unanimously.



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Cheryl A. Dean, AICP  
Planning and Zoning Administrator