

**LOCAL PLANNING AGENCY
MEETING MINUTES
MARCH 7, 2024 - 5:30 P.M.
DESTIN CITY HALL BOARDROOM**

1. CALL TO ORDER:

Chairman Wood called the Local Planning Agency Meeting to order on Thursday, March 7, 2024, at 5:30 p.m., in the Destin City Hall Boardroom; with the Pledge of Allegiance immediately following.

2. ROLL CALL:

Members Present

James T. Wood, Jr.
Todd Buhr
Marcie Bell
Corey Ledbetter
Jay Purut

Staff Members Present

Kim Montgomery City Clerk	Christopher Willis Planner
Steven O'Connor Principal Planner	Noelle Bell Building Official
Daniel Butler Senior Planner	Kimberly Kopp City Attorney
Ryan Scott City Engineer	
Tina Deater Planner	
Rachel Houg Planner	

3. APPROVAL OF MINUTES: February 1, 2024

Motion by Agency member Buhr, seconded by Agency member Bell to approve the February 1, 2024, minutes as corrected, the motion passed unanimously with a 5-0 vote.

4. NEW BUSINESS:

A. Ordinance 24-01-LC & 24-02-CC (ROW Protection During Construction Development)

Noell Bell, Building Official explained staff received direction from the City Council to create an ordinance that pertains to construction parking, blocking the right of way on the road, and sidewalks that makes the general area's conditions unsafe for the public. She explained further that staff performed research and brought recommendations to the Public Works/Public Safety Committee for their input on three different options staff provided, as well as it was presented to the Code Compliance Department staff for their input. She also pointed out that currently, the Code states no loading or unloading in the ROW and how that is just not feasible when there are large deliveries for construction projects, and how providing a maintenance of traffic control standards outlined by FDOT guidelines, with a flagman to help control traffic during deliveries is more practical.

Agency member Buhr stated that he would prefer to have the language, "Permitted Construction Activity" in the title of the Ordinance. He also provided pictures of recent

construction activity in his neighborhood and asked if the intent of the proposed ordinance to have everything occur within what is or is going to be the driveway, for the lot or the entire frontage of the lot? According to Mrs. Bell, it is for the entire frontage of the lot, regardless of where the driveway may be located, adding there is a five foot clearance from the adjacent property line and the edge of the roadway. Agency member Buhr then asked staff to provide what exactly is considered the edge of the roadway, asking if it is from the white line that is sometimes present or, the actual edge of the pavement. Mrs. Bell stated it is from the edge of the pavement. There was a discussion regarding the placement of the required Port-a-potty and how Agency member Buhr feels that they should be within the property line and not in the ROW that people have to walk by because of health and safety aspects of bodily fluids contained within those.

Chairman Wood made the motion for the Local Planning Agency to recommend City Council approval of the revision to Land Development Code (LDC) 8.01.00 Right of Way Protection as presented in Ordinance 24-01-LC and the revision to the City Code of Ordinances, Chapter 18, Article II, Right-of-Way, Ordinance 24-02-CC. Agency member Purut provided the second for discussion.

Agency member Buhr referred staff to page 3 of Ordinance 24-01-LC and stated that he does not see any specific language and feels it needs improvement for the topic such as, ***“Parking of construction vehicles in nearby, adjacent, or other rights-of-way in the area is prohibited.”*** Adding that this would provide clarity for the construction personnel as well as the neighborhood. Additionally, he would like to see language that states any violations have to be corrected within the same day or the next business day. As well as language that states a certain number of violations within a certain time period may enact a stop work for the project, reasoning is, there are habitual offenders will continue to do so without any reason in place to curb that behavior.

Agency member Buhr made the substitute motion, based on discussions, have staff bring back an adjustment to the title that includes permitted activities, language adding another line item that deals with a prohibition for parking and construction activities at a construction site that affects the rights of the adjacent property owners, while the property is under development. Work on language for multiple violations in a proposed escalation of penalties using the existing noise ordinance as a starting point, for analysis and discussion. Agency member Bell provided the second. In discussion, it was agreed to add additional language, that staging plans for construction and parking must be approved by staff as part of approval for the permit. Additionally, Agency member Buhr reminded staff to work on adding language for the edge of the pavement requirements as well as the language required to not block sidewalks for ADA purposes. Chairman Wood opened the public, with no comment, he closed the public and called for the vote, **the motion passed 5-0.**

D. Net Positive Environmental Benefit (NPEB) Fee – LDC 11.02.N – This item was heard for the benefit of Mr. Mike Abadie

Mr. O'Connor, Principal Planner explained the purpose of this item is to amend the Comprehensive Plan and the Land Development Code, specifically addressing the Net Positive Environmental Benefit (NPEB) fee, which is currently 25% on the cost of construction labor and materials for any projects waterward of the Mean High Waterline along the harbor. He explained the Comprehensive Plan also has to be amended because it specifically addresses the 25% fee. He further explained how this has already gone before the Harbor and Waterways Board for their recommendation as well the City Council for their input who, directed staff to create the ordinance, bring before the Local Planning Agency for input and a recommendation. He briefly covered the three classifications that was created by the Board for Article 7, Marina Siting which amends the previous Article 11 language, that allows for the applicants applying for residential docks approval process to be easier by creating the three classifications and briefed the members what those are.

Mr. O'Connor also explained the purpose of the NPEB, which was created by a Memorandum of Understanding between the city and the state. However, over the past 30+ years, it was never properly enforced, and once current staff started enforcing the LDC, this caused quite a bit of disagreement with the public and is why staff has brought it before them for their input. He explained how the health of the harbor is very important and part of keeping it healthy is with the harbor pump. However, maintaining the pump is very expensive maintenance wise and electricity use. He mentioned how the Harbor Capacity Study determined that the largest users of the harbor are the residential private property owners and are creating the largest impacts on the harbor.

Chairman Wood opened the public for comment.

Mr. Mike Abadie 530 Harbor Blvd. asked staff if the fee was implemented in 1986 and if that is when the city started assessing the fee. Mr. O'Connor agreed that is the year it started. Mr. Abadie then spoke of how harbor property owners have to pay the state yearly for their submerged land lease, but only pay the one time fee to the city, for use of the harbor. He compared his onetime payment of \$90k for his new project and how depending on the project, it is very onerous, and suggested a different way of collecting a fee. Since it has been proven by the study that the vast majority of the use of the harbor is from the property owners, he suggested assessing a \$1,000 per slip initial fee and then charge everyone on the harbor an amount such as \$100.00 a year, or whatever amount Council decides should be assessed across the board for everyone, in order to maintain the health of the harbor.

Motion by Agency member Bell for the LPA to recommend the City Council approve the amendments to the Comprehensive Plan and the Land Development Code concerning the Net Positive Environmental Benefit fee. Agency member Ledbetter provided the second. In discussion, the members agreed to what Mr. Abadie spoke of as being a good suggestion but also agreed that it should be sent to the Harbor and Waterways Board for their consideration and then bring their input back to the Local Planning Agency for discussion for additional discussion and input, then on to City Council for their consideration. Agency member Buhr stated that the

total cost of construction should be included. Mr. O'Connor stated the correct language should be the total cost of the project. Agency member Buhr agreed.

Agency member Buhr made the substitute motion to send this back to the Harbor and Waterways Board for them to consider an annual fee structure similar to what Mr. Abadie proposed and look at adding language for the total cost of project as opposed to total cost of construction to base the percentages. Agency member Bell provided the second for discussion.

Agency member Bell asked Mr. Abadie how many slips are being built with his new construction. According to Mr. Abadie, 20 in the original dock he built in 2010 and 16 slips are being built for the new construction. He also spoke of how creating a fee that is spread across the harbor for everyone to pay into, is fairer than having one project pay such a steep fee, especially since everyone uses the harbor all the time. The Agency members agreed that coming up with some kind of yearly fee to benefit the cost of keeping the harbor pump maintained may also incentivize the property owners with dilapidated structures that need to be repaired because currently, most don't have them repaired or replaced because of the steep fees in place. With no further discussion, **Chairman Wood called for a vote on the substitute motion, the motion passed 5-0.**

B. Draft Article 4- Zoning Districts, Overlays, and On-Site Regulations

Mr. O'Connor introduced their new staff member Tina Deater, and explained how she has already been working and contributing to Article 4. He briefly explained her background experience with planning. He then briefed the members on what they previously discussed at their last meeting on this subject and asked if they had any additional information to add.

Agency member Buhr spoke of their conversation they had about changing the square footage and how it could possibly cause a Bert Harris challenge or a taking.

The City Attorney explained that anytime the city makes changes that causes a decrease, such as with density, it could possibly cause one however, the cost of litigation would typically be outweighed with this one simply because it is just 200-square feet, however, in theory, it could happen.

In review of the draft document, Agency member Buhr stated that he agrees with the 50% but for the square footage, he feels that it should be reduced to 1,000 square feet and feels it is a better number than 1,200 but he is open to any member's input. The Agency members agreed.

Motion by Agency member Buhr to recommend staff change language to the document at 50% with a maximum of 1,000 square feet for Accessory Buildings and Guest houses. Chairman Wood provided the second. Mr. O'Connor informed the members that these amounts are consistent with what is in the Code for guest homes. He then explained the difference

between a guest house and an ADU is, guest homes are not permitted to have gas for 220 volts to power to a stove, but it is allowed for heating elements, just not for cooking. With there being no public present for input, Chairman wood called for the vote, **the motion passed 5-0.**

C. Draft Article 5- Subdivision Regulations

Mr. O'Connor asked the Agency members if they had anything further to add. With no further discussion, **Agency member Bell made the recommended motion that the Local Planning Agency recommends approval by City Council of the Draft Article 5-Subdivision Regulations as presented. Agency member Ledbetter provided the second.**

In discussion, Agency member Buhr stated that at their last meeting they made a recommendation to add another line item #6 for, "Approval of a waiver is in the best interest of the city of Destin."

Mr. O'Connor explained that the reason staff did not add that is because, in discussions with the Community Development Director, Louis Zunguze, staff believes that the language is so nebulous and subjective that it is almost impossible to move forward with it, and after further discussions about how those concerns are mitigated through the requirements of the code for density and so forth, staff thought it best to not add it.

The City Attorney spoke up and agreed to create language to bring back for discussion at their meeting on March 21, 2024, to further determine if it is necessary to add it or not.

Agency member Buhr made the substitute motion to table this item until their March 21, 2024, meeting with Agency member Bell providing the second. The motion passed 5-0.

D. Net Positive Environmental Benefit (NPEB) Fee- LDC 11.02.N (Previously heard above item B.

5. PUBLIC COMMENTS: None

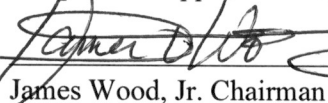
6. DIRECTOR'S REPORT:

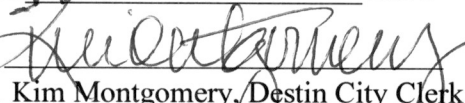
Mr. O'Connor explained to the members that Article 6 was posted to the website for public input and will be brought to them at their March 21, 2024, meeting for discussion, as well as Article 7, Resource Conservation Protection and Articles 9 & 10.

7. ADJOURNMENT:

Having no further discussion at this time, the meeting adjourned at 6:30 p.m.

Adopted and approved this 21st day of March 2024.


James Wood, Jr. Chairman


Kim Montgomery, Destin City Clerk