



**CITY OF ATLANTIC BEACH
COMMUNITY DEVELOPMENT BOARD
REGULAR MEETING AGENDA**

Tuesday / September 19, 2017 / 6:00 PM
Commission Chambers / 800 Seminole Road

1. Call to Order and Roll Call.

2. Approval of Minutes.

A. Minutes of the June 20, 2017 regular meeting of the Community Development Board.

3. Old Business.

A. Ord. No. 90-17-228 **PUBLIC HEARING**

AN ORDINANCE OF THE CITY OF ATLANTIC BEACH, FLORIDA, ESTABLISHING THE MAYPORT BUSINESS OVERLAY DISTRICT; AMENDING CHAPTER 24, ARTICLE III, DIVISION 7, TO ADD NEW SECTION 24-175, MAYPORT BUSINESS OVERLAY DISTRICT; PROVIDING FOR A LIST OF PERMITTED AND CONDITIONAL USES AND DEVELOPMENT STANDARDS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

4. New Business.

5. Reports.

A. Administrative Variances Approved (None)

6. Adjournment.

All information related to the item(s) included in this agenda is available for review online at www.coab.us and at the City of Atlantic Beach Community Development Department, located at 800 Seminole Road, Atlantic Beach, Florida 32233. Interested parties may attend the meeting and make comments regarding agenda items, or comments may be mailed to the address above. Any person wishing to speak to the Community Development Board on any matter at this meeting should submit a Comment Card located at the entrance to Commission Chambers prior to the start of the meeting. Please note that all meetings are live streamed and videotaped. The video is available at www.coab.us.

If any person decides to appeal any decision made by the Community Development Board with respect to any matter considered at any meeting may need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence upon which any appeal is to be based.

In accordance with the Americans with Disabilities Act and Section 286.26 of the Florida Statutes, persons with disabilities needing special accommodations to participate in this meeting should contact the City not less than three (3) days prior to the date of this meeting at the address or phone number above.

ITEM

2.A



MINUTES OF THE REGULAR MEETING OF THE COMMUNITY DEVELOPMENT BOARD June 20th, 2017

1. CALL TO ORDER AND ROLL CALL.

The meeting was called to order at 6:05pm. All members were present except for Patrick Stratton, who was absent. Also present were Planner Derek Reeves, Planner Brian Broedell, Board Secretary Grace Mackey and representing the firm Lewis, Longman and Walker, Mrs. Brenna Durden.

Chair Paul announced that due to the high number of attendees wishing to make public comment on items unrelated to the agenda items, she would be inserting a public comment portion into the agenda immediately following the discussion and vote on the approval of minutes.

2. APPROVAL OF MINUTES.

A. Minutes of the March 21st, 2017 Regular Meeting of the Community Development Board

Mr. Elmore motioned to approve the minutes as written. Ms. Lanier seconded the motion. The motion carried unanimously.

B. Minutes of the April 18th, 2017 Regular Meeting of the Community Development Board

Mr. Elmore motioned to approve the minutes as written. Ms. Lanier seconded the motion. The motion carried unanimously.

Public Comment

Susan Barker, 1938 Beachside Ct., Atlantic Beach, FL 32233 discussed a potential rezoning of a portion of the Mayport Corridor (namely, Section H). She stated that there will soon be a rezoning request brought before the City of Atlantic Beach to rezone this portion of the Corridor from Commercial General and Light Industrial to only Light Industrial. Ms. Barker referenced the City's CRA and requested that the Board wait until their review of the City's current zoning codes to consider the zoning of Section H.

Steven Foraker, 387 6th St., Atlantic Beach, FL 32233, explained that he is part of a group of active and engaged citizens who would like a presentation to be made by a member of the Community Development Board on the decision making processes of the Board.

Kelly Erhayel, 1649 Norton Hill Dr., Jacksonville, FL 32225, expressed that she was coming before the Board on behalf of The Mayport Corridor Business Association. She explained that the prior week, 48 people gathered for the purpose of discussing this area of Atlantic Beach. She expressed her and the other business owners of this Association desire to thrive as long-standing businesses in the community.

Mike Whalen, 1420 Mayport Rd., Atlantic Beach, FL 32233, also spoke on behalf of the Mayport Corridor Business Association. He lamented that there is some misunderstanding in the community, regarding the goals of the Association. He alluded to the partnership between residents and business owners within the association and restated their primary goal of rezoning this area of the Mayport Corridor, while working with the residents in the area. Mr. Whalen also explained that the Association wants better infrastructure in their area, including: sidewalks, sewer and other utilities, public lighting, and other necessary infrastructure that does not currently exist.

Ellen Glasser, 2060 Beach Ave, Atlantic Beach, FL 32233, commented that she attended the meeting of the Mayport Corridor Association which took place the week prior. She commended those who participated at the meeting for their efforts to include local residents in their discussion and to educate as many people as possible about it.

Atilio Cerqueira, 36 W 6th St, Atlantic Beach, FL 32233, spoke on behalf of the Mayport Corridor Business Association and mentioned that this Association includes both business owners as well as citizens of Atlantic Beach. He stated that the Association's goal is to unify their district in order to allow a more diverse group of businesses to operate in the area. He stated his desire for a more friendly approach to new businesses coming into the area. He also argued that a large influx of businesses would not take place, as, available real estate is minimal, however, he would like it be easier for new businesses moving into existing spaces to conduct their business.

Chair Paul stated that she in fact attended the meeting in question of the Mayport Corridor Business Association, however, she attended as an observer and not as a participant.

Ms. Lanier divulged that she had ex parte communication with members of the Mayport Corridor Business Association.

3. NEW BUSINESS.

A. ZVAR17-0001 PUBLIC HEARING (Thomas Goodrich)

Request for a variance as permitted by Section 24-64, to increase the maximum fence height from 4 feet in the side yard adjacent to a street on a corner lot as required by Section 24-157(c)(1) to up to 7 feet to allow a 4 foot fence on top of an existing retaining wall along the Beach Avenue property line at North Atlantic Beach Unit No. 3 Part of Lots 76A, 77A, and 78A (aka 30 20th Street).

Staff Report

Planner Reeves explained that the property in question is a corner lot on the corner of Beach Avenue and 20th St. The property is in Multi-Family (RG-M) zoning district with a Residential Low future Land Use. The applicant is proposing to build a 4 foot tall wood fence on top of an existing retaining wall that has an average height of 2.5 feet along the side of the house that is on Beach Avenue.

There was an existing fence on top of this retaining wall, however, the fence was nonconforming. As such, in order to rebuild the fence, the applicant needs a Variance.

The need for a variance is derived from City Code section 24-157(c)(1) which states:

“For corner lots located on rights-of-way that are fifty (50) feet or less in width, no fence, wall or landscaping exceeding four (4) feet in height, shall be allowed within ten (10) feet of any lot line which abuts a street.”

As the proposed fence will lie along Beach Avenue and as Beach Avenue has a 25 foot right of way, this code section applies to this situation. In addition to this, the height of fences must be measured from the grade beneath the fence to the top and the maximum height of a retaining wall should only be 4 feet. These three regulations render the applicant in need of a Variance for their proposed fence construction.

Planner Reeves explained that Staff has historically interpreted any fence built on top of a retaining wall to be a continuation of the retaining wall. On the other hand, if the fence is detached from the retaining wall, it is considered a separate structure and is measured from the grade below the fence to the top of the fence.

Planner Reeves then explained that the underlying reason for this fence height requirement in the code is to prevent obstruction of sight lines at intersections. In this situation, however, the necessity of a reduced height for a fence may not be as necessary, as the traffic flow at this intersection does not require drivers and pedestrians to look toward the property in question, for oncoming traffic.

Planner Reeves then mentioned that the original 4 foot tall wood fence was issued in August 2007, with no inspections conducted on record. In November of 2007, the retaining wall was then permitted, however, the only inspections on record for the retaining wall were not conducted until two years later.

Mr. Elmore questioned if the City's public parking that lies adjacent to the property line in question along Beach Avenue, was built within the property owner's property lines, as the applicant purported. It was determined that a portion of the City's public parking is located within the owner's private property lines.

Ms. Lanier asked Staff if the original fence and wall were permitted by the City or by the property owner. Staff commented that it was permitted by the property owner at the time.

Applicant Comment

Tom Goodrich, 1907 Creekside Circle, Atlantic Beach, FL 32233, introduced himself as the applicant. Mr. Goodrich challenged the assumption that a previous owner built the preexisting retaining wall and fence. He questioned the timeline of the permit issuances. Mr. Goodrich then presented documents to the Board. These documents displayed a berm which lies adjacent to the retaining wall in discussion. He then stated that he believed that the City dug out the Berm and as such, the public parking along it was elevated.

He explained that his request for the fence was intending to ameliorate this situation (of a lack of privacy), as the view of his property is more exposed due to the berm. He also stated that he did not intend to do anything that would lead to taking away the public parking in question.

Ms. Lanier asked the applicant if the proposed fence would be one continuous line of fencing. The applicant responded that it would.

Mr. Reichler asked the applicant if any documentation could be provided for the applicant's supposed removal of berm in the past. Mr. Goodrich responded that he did not have documentation, but that he was assuming the situation had occurred based on his observation of the landscape.

Mr. Elmore then commented on the many previous requests for increased fence height that the Board has denied, as it would set precedents for increased fence heights in many other situations.

Mr. Elmore then referenced a situation where the Board did approve a variance for fence height increase, because the property was adjacent to a public beach access and the grade of the access was essentially higher than that of the property. What's more, this applicant had experienced issues with theft. Therefore, the Board allowed this applicant to increase their fence height.

Ms. Lanier commented that she remembered the aforementioned case, however, the beach access was only a few feet from that applicant's front door in this situation.

Ms. Simmons commented on the possibility of a walled-off City, should the many applications for increased fence height be approved.

Public Comment

Sid Jenkins, 2119 Beach Avenue, Atlantic Beach, FL 32233, commented that he lives five houses north of property in question. Mr. Jenkins gave first hand recount of a previously existing berm before the current fence and wall in question were built. He gave his support for the proposed fence replacement.

Mr. Reichler questioned if the City built the retaining wall. Mr. Jenkins commented that he believes the City did build it but could not remember when.

John Meserve, 2126 Beach Ave, Atlantic Beach, FL 32233 gave his support for the variance request. He commented that in this case, the proposed fence height will have no impact on the sight-line for the intersection it would abut.

Mr. Reichler asked Mr. Meserve if he remembered when the retaining wall was built. Mr. Meserve responded that he did not remember when the wall was built, however, he does believe that the City built the retaining wall in question and he remembers a preexisting berm.

Ellen Glasser, 2060 Beach Avenue, Atlantic Beach, FL 32233 commented that she lives two doors down from the applicant. She gave concern for the safety of children, as the applicant has a pool in their backyard. She commented that a barrier stronger than hedges may be necessary in order to keep children safe. She then gave her support for the proposed variance request.

Mr. Reeves brought to the attention of the Board a letter from a resident who wished to give comment to the situation but could not attend in person.

Chair Paul referenced the letter from Teresa Mazur, 1949 Seminole Road, Atlantic Beach, FL 32233, stating that Ms. Mazur had no problem with a fence being placed on top of the retaining wall, as long as it's not cement.

With no more public comment, the public comment portion was closed and Chair Paul moved to Board discussion.

Board Discussion

Mr. Reichler commented that it was unusual for the Board to be reviewing a fence proposal, without being able to see a design of

the proposed fence. He asked Staff to clarify if the Board's vote would be to approve or deny solely the height of the fence, not the structure or material, etc. Staff confirmed that the Board was in fact voting to approve or deny the fence height only, and explained that the fence type and structure would be regulated by the Florida Building Code.

The applicant displayed for the Board his proposed fence structure and explained how it was designed to meet the Florida Building Code.

Mr. Reichler questioned the reasons given by the applicant for the variance request. He did not agree with the topographical concerns raised, however, he gave concern for the second issue of unusual circumstances, as the City had put parking spaces on the applicant's private property in addition to not conforming to other City ordinances pertaining to appropriate parking spaces.

Mr. Elmore recommended that the Board approve the proposed variance based upon the unusual circumstances of the property, in that it is adjacent to a beach access which has public parking. Mr. Mandelbaum agreed with Mr. Elmore.

Mr. Reichler stated that he agreed with Mr. Elmore in this circumstance insofar as it leads to a pathway for the applicant to remediate the legal issues surrounding the City parking on private property.

City Attorney Brenna Durden interjected that she had just had a short conversation with the applicant. She stated that the applicant is willing to address the legal needs of the City in order to be in legal compliance while maintaining the current Public Parking spaces (namely, a recorded license which the property owner could revoke at whatever time they saw fit.)

Chair Paul commented that she agreed with the sentiments of Mr. Elmore.

Motion

Mr. Elmore made a motion to approve ZVAR17-0001 with the stipulation that it met the criteria of having surrounding conditions and circumstances disparately impacting the property. Mr. Reichler seconded the motion. The motion carried unanimously to approve the variance request ZVAR17-0001.

B. ZVAR17-0002 PUBLIC HEARING (Kimberly Warren)
Request for a variance as permitted by Section 24-64, to decrease the side yard setback from 5 feet as required by Section 24-108(e)(3)(a) to 0 feet to allow an open porch addition in the side yard at Ed Smith S/D South 41 feet of Lot 10, North 9 feet of Lot 11 Block 1 (aka 1620 Jordan Street).

Staff Report

Planner Reeves gave site context. The property is located within Residential General Multi-family (RG-M) zoning district, with a Residential High (RH) Future Land Use. The property is on a street that dead-ends. The Public Works water and sewer treatment facility is nearby and Jordan Park is just to the North of the property.

Staff explained that the structure is already built. When the structure was found to have been built without a permit, a stop work order was placed on the work. If the variance request is denied, the applicant will have to remove the structure. The applicant is proposing to keep this structure, which, is less than one foot from their property line.

The need for a variance is derived from section 24-108(e)(3)(a), which states that the minimum side yard requirements in the RG-M zoning for single-family dwellings are a combined fifteen (15) total feet and five (5) minimum feet on either side. The proposed porch is less than 1 foot from the side property line and the opposite side yard is 15.4 feet according to the side yard.

Staff mentioned code section 24-83(b) which allows structural projections to encroach up to 24 inches into the required side-yard setback. Effectively, the applicant could have a 3-foot setback rather than the usual 5 foot due to this code section.

Staff added that the door opening to this structure is the only door of the house.

Chair Paul questioned the point at which the applicant would not need a variance for this structure, that is, how much of the structure would need to be removed in order to not require a variance. Staff clarified that if the structure was a minimum of 3 feet off of the side yard property line, then it would not require a

variance in that respect. He also commented that only the posts and roof would need to be moved further in, as, any part of the patio under 30 inches would be allowed to remain without a variance.

Staff also explained that if the Variance request in question was approved, the structure would still need to be permitted through the City and would have to come into compliance with applicable building codes and engineering requirements.

Applicant Comment

Andrew and Kimberly Warren, applicants and owners of 1620 Jordan St., explained that he was unaware of the building codes applicable to constructing this patio. He stated that he spoke to the City Inspector when the stop work order was issued and he has since contacted a structural engineer to have engineered documents created for the permitting process. Mr. Warren explained that he was trying to get the variance approval prior to proceeding with the building permitting process, as, this process would incur quite a cost. He added that this was his only egress to the back of the property but the area was unusable in any sort of inclement weather.

Mr. Reichler questioned if the applicant constructed the structure. The applicant responded that his father-in-law actually did the construction and commented this he has prior construction experience.

Public Comment

Shukriyyah Baker, 1549 Jordan St., Atlantic Beach, FL 32233, stated she lives across the street from the applicant and she commented on the aesthetically pleasing nature of the structure and gave her support for the variance.

Board Discussion

Mr. Elmore commented that unfortunately, the structure was built without review by the City and is a nonconforming structure. He commented that he could not find grounds for approval, as this seems to be a self-imposed hardship. He recommended possibly creating a porch on another side of the house. Chair Paul agreed with Mr. Elmore and commented on the precedent it could set for future situations.

Ms. Lanier clarified that the situation may be remedied by moving the porch roof and posts back so that they were within the allowed setbacks.

Motion

Ms. Lanier moved to deny ZVAR17-0002. Mr. Elmore seconded this motion. The motion to deny variance request ZVAR17-0002 carried unanimously.

4. REPORTS.

A. Administrative Variances Approved

None.

B. Staffing Update

Planner Reeves stated that a second planner, Brian Broedell, was hired. In addition to this, he explained that the Commission gave approval to temporarily hire a firm or an employee to lead the code rewrite either in-house or with defined hours, for the duration of the code rewrite process.

C. Form Based Codes/Code Rewrite

After discussion, the Board decided to not follow-through with this presentation as it was emailed to them. Ms. Simmons requested a copy of this presentation.

D. Mayport Business Grants (Steve Mandelbaum)

The discussion was turned over to Mr. Mandelbaum. He presented three issues which he believes are confronting the Mayport Road Area:

1. Beautification Needs
2. Zoning needs to be clarified
3. He would like to see the City take steps to bring more businesses into the area.

Mr. Mandelbaum suggested the possibility of subsidizing the bringing in of new businesses. He recommended giving grants to new or relocating businesses, which gave money towards fixed costs for targeted business types.

Chair Paul commented that she may be open to giving grants for exterior capital improvements, however, not for the reasons proposed by Mr. Mandelbaum.

The Board discussed the current and upcoming City budget and the possibility of money being allocated towards this purpose being discussed. Planner Reeves commented that there was already \$50,000 allocated in this fiscal year's budget, however, he would need to confer and confirm with the City Manager regarding these proposals.

Mr. Elmore commented that he did not approve of giving grants to businesses, as he believed that government interference in business growth was not ultimately the best for the private sector.

Ms. Lanier commented that she believes that there is dynamic and creative growth already happening in the Mayport area. She gave opinion that the area is already an economic engine in the community and she commented that the government should not interfere with their businesses, rather, the City should invest in better infrastructure in the area, such as improved streets, sidewalks and utilities, in addition to supportive city ordinances. Mr. Elmore gave his support as well for public infrastructure improvements, but not for giving grants to individual businesses. Ms. Simmons gave her support for the proposed infrastructure improvements, but commented that she was not in favor of some of the rezoning possibilities discussed.

Mr. Reichler gave his support for a structured grant program for new businesses.

5. ADJOURNMENT.

Chair Paul moved to adjourn the meeting at 8:10pm. Mr. Elmore seconded the motion. The motion carried unanimously.

Brea Paul, Chair

Attest

ITEM

3.A



**CITY OF ATLANTIC BEACH
COMMUNITY DEVELOPMENT BOARD
STAFF REPORT**

AGENDA ITEM 3.A
CASE NO **Ord. No. 90-17-228**
AN ORDINANCE OF THE CITY OF ATLANTIC BEACH, FLORIDA, ESTABLISHING THE MAYPORT BUSINESS OVERLAY DISTRICT; AMENDING CHAPTER 24, ARTICLE III, DIVISION 7, TO ADD NEW SECTION 24-175, MAYPORT BUSINESS OVERLAY DISTRICT; PROVIDING FOR A LIST OF PERMITTED AND CONDITIONAL USES AND DEVELOPMENT STANDARDS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

LOCATION **Mayport Business Overlay District**
DATE **September 1, 2017**
STAFF **Derek W. Reeves, Planner**

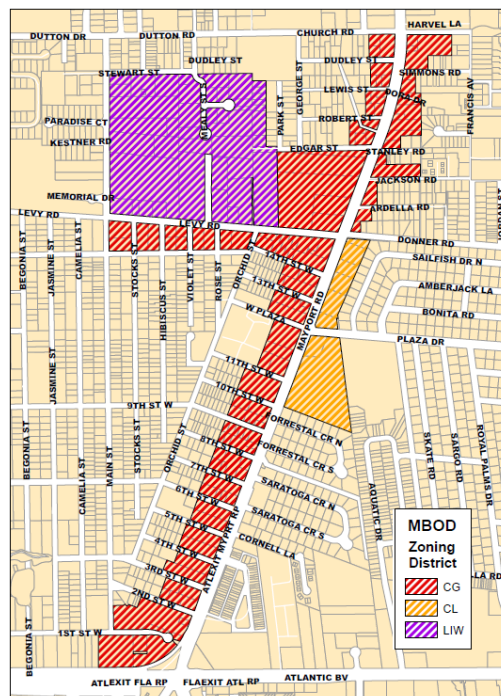
PROPOSED ORDINANCE

The City Commission has asked staff to prepare an ordinance based on draft language created by a group of business owners/commercial property owners from the Mayport Road Corridor. The Commission and Community Development Board held a joint meeting to discuss the draft language on May 24, 2017. The basics of the proposed ordinance are to provide a larger list of permitted uses across the commercial and industrial zoning districts in the Mayport Road corridor with required increased buffering standards.

The Community Development Board considered the proposed ordinance at their August 15, 2017 meeting where they asked staff to come back at the next meeting with changes to the proposed ordinance that were consistent with the Comprehensive Plan. Staff held a public workshop on August 30, 2017 to gather additional input from stakeholders in the community. While it is planned to have a follow public workshop on September 18, 2017 to flush out some final details, the frame work is largely in place and described in the following.

Area Impacted

One major change to the previous map is that the Commercial and Professional Office (CPO) properties have been removed from the Mayport Business Overlay District (MBOD). This removes the lowest intensity zoning districts and those with some of the greatest potential impact on residential. See the revised map to the right.



Uses

The proposal is no longer that all of the permitted uses and uses-by-exception from Light Industrial and Warehousing (LIW), Commercial General (CG) and Commercial Limited (CL) would be allowed throughout the district. Instead, there will be a defined list of permitted uses and uses-by-exception for the MBOD that are in addition to what is allowed by a property's zoning district. This removes some of the more intensive and industrial uses that may not be appropriate in CL or CG under the Comprehensive Plan. Like the previous proposal, there is still a provision that makes the least restrictive requirement between the MBOD and the respective zoning district allowed.

Permitted Uses

The current proposed list of permitted uses throughout the MBOD is as follows:

- (1) Services establishments where a service is provided on-site, such as restaurants, banks, barbers, tailors, gyms, printers, fine arts school, on-site repairmen, minor automotive repair, and child care centers.
- (2) Retail sales of goods such as food, pharmaceuticals, clothing, jewelry, toys, books, flowers, art, home furnishings, home appliances, automotive parts, nursery plants, beer and wine only for off-premises consumption.
- (3) Professional and business offices such as doctors, lawyers, architects, and real estate brokers.
- (4) On-premises consumption of beer and wine only in conjunction with a restaurant, where at least fifty one (51) percent of sales are from food and non-alcoholic beverages.
- (5) Wholesale operations in conjunction with on-premises retail sales, where at least fifty one (51) percent of sales are from on-premises retail sales.
- (6) Craftsmen and artist operations in conjunction with and secondary to on-premises retail and service establishments, such as furniture repair with woodworking, surfboard repair with surfboard production, and tap room with brewery, provided the gross enclosed square footage does not exceed two thousand five hundred (2,500).
- (7) Contractors where work is performed off-site, such as plumbing, electrical, heating and air conditioning, lawn care, and pest control.
- (8) Hotels, motels, resorts, and short-term rentals as defined in Section 24-17.
- (9) Non-amplified live entertainment performed within an enclosed building, not including adult entertainment establishments as defined by Section 847.001(2), Florida Statutes.
- (10) Civic centers such as libraries, museums and cultural centers.
- (11) Religious institutions in accordance with Section 24-153.
- (12) Mixed use projects combining the uses above, and those permitted by right by the zoning district as applicable.

Uses-by-Exception

The current proposed list of uses-by-exception throughout the MBOD is as follows:

- (1) Veterinary clinics, pet grooming, pet day cares, and pet kennels including those for the overnight boarding of animals.
- (2) Hospitals.
- (3) On-premises consumption of alcoholic beverages, not including restaurants with on-premises consumption and tap rooms as described in Section 24-175(c)(4 and 6) respectively.
- (4) Retail sale of gasoline, diesel, propane, hydrogen, electricity for battery charging or other fuels intended for use in motors.

- (5) Sale of new and used automobiles, motorcycles, boats and street legal electric vehicles, and automotive leasing establishments.
- (6) Drive-through facilities including those in association with restaurants, banks, retail establishments, pharmacies and ice vending machines.
- (7) Mixed use projects combining the uses above, as approved, and those in the preceding section as well as those permitted by right or use-by-exception by the zoning district as applicable.

Commercial Vehicles

Something included in the previous proposal is the allowance for multiple commercial vehicles to be allowed on a property throughout the MBOD. In the revised language, this has been specifically called out as allowable with defined requirements for the commercial vehicles to be parked on stabilized surfaces. Those parking or vehicle use areas as they are called in the code require defined setbacks and landscape requirements.

Buffering and Screening Required

For where outside storage is permitted, the same requirements as described in the previous proposal would apply. Some stricter language has been added for the type trees to be planted.

ANALYSIS

Comprehensive Plan

Concerns about the previous proposal related to the Comprehensive Plan have been addressed in this new proposal. By removing the purely industrial uses and the more intensive uses from the MBOD, there are no longer conflicts with having those industrial and intense uses in commercial zoning districts and especially the CL zoning district. This also includes the removal of outside storage from the commercial zoning districts as the Comprehensive Plan only recognizes it in industrial areas.

Standard Industrial Classification (SIC)

Similar to the conflicts with the Comprehensive Plan, the removal of industrial uses and more intensive uses from the MBOD is also consistent with SIC descriptions.

CONCLUSIONS

Since another public workshop is scheduled after the release of this staff report that may lead to additional changes, staff's presentation will update the board on those changes at the meeting. Ultimately, staff is working with the public to draft something that is agreeable to all parties and that is also consistent with the Comprehensive Plan, as request by the Board at the last meeting.

STAFF RECOMMENDATIONS

Based on the current version of the proposed ordinance at the time this report was prepared, staff recommends that the Community Development Board should recommend to the City Commission that this ordinance be **Approved**, finding that it is consistent with Comprehensive Plan.

ORDINANCE 90-17-228

AN ORDINANCE OF THE CITY OF ATLANTIC BEACH, FLORIDA, ESTABLISHING THE MAYPORT BUSINESS OVERLAY DISTRICT; AMENDING CHAPTER 24, ARTICLE III, DIVISION 7, TO ADD NEW SECTION 24-175, MAYPORT BUSINESS OVERLAY DISTRICT; PROVIDING FOR A LIST OF PERMITTED AND CONDITIONAL USES AND DEVELOPMENT STANDARDS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Atlantic Beach recognizes and supports the need for economic development along the Mayport Road corridor; and

WHEREAS, the City of Atlantic Beach desires to promote the use, development and redevelopment of commercial and light industrial properties along the Mayport Road corridor through the establishment of an overlay district in the area and modification and expansion of permitted uses and use-by-exceptions;

WHEREAS, the City of Atlantic Beach recognizes a need for buffers and screening of and between certain uses; and

WHEREAS, establishing the Mayport Business Overlay District is in the best interest of the City of Atlantic Beach.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION ON BEHALF OF THE PEOPLE OF THE CITY OF ATLANTIC BEACH, FLORIDA:

SECTION 1. Establishment of New Overlay District. There is hereby established the Mayport Business Overlay District, as a new overlay district within the City of Atlantic Beach.

SECTION 2. Regulation Added. The Code of Ordinances of the City of Atlantic Beach, Florida, is hereby amended by adding a new section to be numbered Section 24-175, which shall read as follows:

Sec. 24-175. – Mayport Business Overlay District.

- (a) *Purpose and intent.* The purpose and intent of the Mayport Business Overlay District is to encourage economic development by providing for a mix of uses in the commercial and light industrial zoned properties located within the Mayport Business Overlay District.
- (b) *Applicability.* The Mayport Business Overlay District provisions set forth within this section shall apply to all use, development and redevelopment of Commercial Limited (“CL”), Commercial General (“CG”) and Light Industrial and Warehouse (“LIW”) zoned properties located within the boundaries of the Mayport Business Overlay District, as more particularly described as follows:

Atlantic Boulevard between Mayport Road and the southerly extension of Main Street on the south;

Main Street, including the southerly extension to Atlantic Boulevard and North Main Street on the west;

Dutton Island Road West between North Main Street and Mayport Road on the north; and

Mayport Road between Atlantic Boulevard and Dutton Island Road West on the east, including those properties with frontage on Mayport Road on the east side of Mayport Road and north of North Forrestal Circle.

- (c) *Permitted uses.* The permitted uses on properties zoned CL, CG and LIW within the Mayport Business Overlay District shall include those uses enumerated in the property’s respective zoning district or districts, together with the following uses:
- (1) Services establishments where a service is provided on-site, such as restaurants, banks, barbers, tailors, gyms, printers, fine arts school, on-site repairmen, minor automotive repair, and child care centers.
 - (2) Retail sales of goods such as food, pharmaceuticals, clothing, jewelry, toys, books, flowers, art, home furnishings, home appliances, automotive parts, nursery plants, beer and wine only for off-premises consumption.
 - (3) Professional and business offices such as doctors, lawyers, architects, and real estate brokers.
 - (4) On-premises consumption of beer and wine only in conjunction with a restaurant, where at least fifty one (51) percent of sales are from food and non-alcoholic beverages.
 - (5) Wholesale operations in conjunction with on-premises retail sales, where at least fifty one (51) percent of sales are from on-premises retail sales.
 - (6) Craftsmen and artist operations in conjunction with and secondary to on-premises retail and service establishments, such as furniture repair with woodworking, surfboard repair with surfboard production, and tap room with brewery, provided the gross enclosed square footage does not exceed two thousand five hundred (2,500).

- (7) Contractors where work is performed off-site, such as plumbing, electrical, heating and air conditioning, lawn care, and pest control.
- (8) Hotels, motels, resorts, and short-term rentals as defined in Section 24-17.
- (9) Non-amplified live entertainment performed within an enclosed building, not including adult entertainment establishments as defined by Section 847.001(2), Florida Statutes.
- (10) Civic centers such as libraries, museums and cultural centers.
- (11) Religious institutions in accordance with Section 24-153.
- (12) Mixed use projects combining the uses above, and those permitted by right by the zoning district as applicable.

In the event of a conflict between the uses authorized by a respective zoning district and in this subsection, the least restrictive regulation shall be applicable.

- (d) *Uses-by-exception.* The use-by-exception uses on properties zoned CL, CG and LIW within the Mayport Business Overlay District shall include those uses enumerated as uses-by-exception in the property's respective zoning district or districts, together with the following uses:

- (1) Veterinary clinics, pet grooming, pet day cares, and pet kennels including those for the overnight boarding of animals.
- (2) Hospitals.
- (3) On-premises consumption of alcoholic beverages, not including restaurants with on-premises consumption and tap rooms as described in Section 24-175(c)(4 and 6) respectively.
- (4) Retail sale of gasoline, diesel, propane, hydrogen, electricity for battery charging or other fuels intended for use in motors.
- (5) Sale of new and used automobiles, motorcycles, boats and street legal electric vehicles, and automotive leasing establishments.
- (6) Drive-through facilities including those in association with restaurants, banks, retail establishments, pharmacies and ice vending machines.
- (7) Mixed use projects combining the uses above, as approved, and those in the preceding section as well as those permitted by right or use-by-exception by the zoning district as applicable.

In the event of a conflict between the uses authorized by a respective zoning district and in this subsection, the least restrictive regulation shall be applicable.

- (e) *Commercial vehicle regulations.* There shall be no limitations on the number and location of commercial vehicles within the Mayport Business Overlay District, provided that they are parked within the confines of a property on a stabilized surface such as asphalt, concrete or pavers and are properly registered. Commercial vehicles shall include all cars, trucks, vans, trailers and other vehicles authorized to operate on public streets.
- (f) *Outside storage regulations.* The following provisions regarding fencing and landscaping shall be applicable to the use, development and redevelopment of LIW zoned properties within the Mayport Business Overlay District, in addition to other fencing and landscaping

regulations contained within the City's Code of Ordinances; provided, however, that, in the event of a conflict between the express provisions below and any other fencing or landscaping regulations, the express provisions below shall apply.

For property with a Local Business Tax Receipt where outside storage of equipment, trailers, materials, products not intended for immediate sale as permitted elsewhere in the code, or other similar items; not to include properly registered, as applicable, commercial and industrial vehicles; exists, all such outside storage shall be screened from view with fencing and landscaping so that no portion is visible from the street or adjoining properties in accordance with the following provisions:

1. Fencing shall be made of wood, vinyl or masonry, except that exposed plain concrete block shall not be permitted.
 2. Fencing shall be at least eighty-five (85) percent opaque.
 3. Fencing height and location shall be as follows:
 - a. Six (6) feet tall in the front yard and any side yard adjoining a street; and be located at least five (5) feet from the property line, except along Mayport Road and Atlantic Boulevard where fences shall be at least 10 feet from a property line abutting the specified streets to accommodate the 10 foot wide landscape buffer required by Section 24-171(g)(1).
 - b. Six (6) feet tall in side and rear yards, except where permitted to be taller by this chapter.
 4. Landscaping with proper irrigation shall be required in the area between property lines and fencing in front yards, and in side yards which adjoin a street on corner lots as follows:
 - a. A continuous line of shrubs no taller than 2 feet so as to provide clear sightlines at intersections and driveways; and
 - b. At least one (1) tree found in the City of Atlantic Beach Recommended Tree List in Chapter 23 of the Code of Ordinances for every twenty-five (25) linear feet of street frontage excluding driveways. The trees may be clustered, but shall be no more than fifty (50) feet apart. Fifty (50) percent of all trees shall be shade trees. No canopy foliage shall be below a point eight (8) feet above grade one (1) year after planting. Palms may be substituted for the required trees at a ratio of two (2) palms for each required tree or four (4) palms for each required shade tree.
 5. All fencing and landscaping improvements on corner lots shall meet the sight-line provisions contained in Chapter 19, as may be amended, of the City's Code of Ordinances.
- (g) *Effect of other Code Provisions.* Except as expressly modified by the provisions of this section, all other provisions of Sections 24-110, 24-111 and 24-112, as may be amended, of

the City’s Code of Ordinances, as well as other applicable provisions in the City’s Code of Ordinances, shall remain valid and in full force and effect as to the use, development and redevelopment of all CL, CG and LIW zoned properties within the Mayport Business Overlay District.

SECTION 3. Conflict. All ordinances previously adopted by the City in conflict with this ordinance are repealed to the extent inconsistent herewith.

SECTION 4. Severability. If any section, subsection, sentence, clause or phrase or provision of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not be construed to render the remaining provisions of this ordinance invalid or unconstitutional.

SECTION 5. Effective Date. This Ordinance shall take effect immediately upon its final passage and adoption.

PASSED by the City Commission on first reading this ____ day of _____, 2017.

PASSED by the City Commission on second reading this ____ day of _____, 2017.

CITY OF ATLANTIC BEACH

Mitchell E. Reeves, Mayor

ATTEST:

Donna L. Bartle, City Clerk

Approved as to form and correctness:

Brenna M. Durden, City Attorney