

Beachside Redevelopment Board
Draft Minutes

The City of Daytona Beach

Beachside Redevelopment Board Meeting
September 18, 2017

(Excerpts from the September 18, 2017 Beachside Redevelopment Board Meeting)

5. **Rezoning to Planned Development-Redevelopment (PD-RD) – Victory Tattoo, DEV2017-055**

Staff Presentation:

Reed Berger, Redevelopment Director, presented the staff report which is included as part of the packet. Mr. Berger stated that the only area that is zoned BA and would allow the location of a tattoo establishment is the vacant Shell service station at E. International Speedway Blvd. and Peninsula. Mr. Berger reviewed the rezoning analysis which provides for this request which is also included as part of the packet.

Mr. Berger noted that if all of the LDC modifications requested are approved, the application does not appear to be entirely consistent with the City's adopted plans, goals, and policies; however, it is ultimately the City Commission that has the final decision to determine whether or not this rezoning request is consistent with the City's adopted plans, goals, and policies.

Mr. Berger stated the written report reflects his professional opinion; however, the report does not reflect the position of the City Administration which supports the establishment of a tattoo facility at this location.

Ms. Tuggle stated Page 9 of the staff report indicates that tattoo establishments are permitted uses in the RDB-2 zoning district. Mr. Berger stated that was his error and tattoo establishments should not be included in that list.

Applicant's Presentation:

Rachel Pringle, Cobb & Cole, 149 S. Ridgewood, spoke representing the applicant. Ms. Pringle stated the request is to rezone an existing building to a Planned Development. Ms. Pringle stated tattoo establishments were not permitted prior to April of 2017. Ms. Pringle stated a museum is also planned for the site.

Robert Ellis, 216 First Avenue, Daytona Beach, Florida, stated he opened Victory Tattoo in Ormond Beach in 2009. Mr. Ellis stated the business does very well and has meshed with the community. Mr. Ellis stated he purchased a historic house in Daytona Beach on First Avenue and has been working to renovate the business.

Mr. Myara asked where the business is currently located.

Mr. Ellis stated the business is on A1A in Ormond by the Sea.

Mr. Denis asked how long it took Mr. Ellis to open his business in Ormond Beach.

Mr. Ellis stated a couple of weeks.

Mr. Denis asked how the cost compared to open his business in Ormond Beach as opposed to what he has spent in Daytona Beach so far.

Mr. Ellis stated he has spent 20 times more in Daytona Beach so far.

Ms. Tuggle asked if Mr. Ellis' intent is to buy the building.

Mr. Ellis said yes, he intends to buy the building.

Ms. Pyle asked if Mr. Ellis has met with any merchants on Main Street that feel his establishment would detract from what Main Street is all about.

Mr. Ellis stated thus far, he has had overwhelming support.

Mr. Newman asked what changes to the building are planned or if the request is merely a change of use.

Mr. Ellis stated he plans to re-do the upstairs on the inside. Mr. Ellis stated he plans to put up more signage and make more art to go on the outside of the building.

Mr. Denis asked if Mr. Ellis plans to have his business open during Bike Week or if he would sublet the site to another business.

Mr. Ellis stated he plans to be there primarily but if other local business wanted to put items in his store, he would be happy to put items in the display cases.

Mr. Myara asked if Mr. Ellis has done any research to find out why tattoo establishments have been discouraged in the City.

Mr. Ellis stated he has not been any able to find any information on that.

Mr. Myara stated the tattoo establishments and body piercing businesses were removed in the late 1980's. Mr. Myara stated there was a controversy at that time and Rob Merrell was part of

that controversy. Mr. Myara stated the reason Mr. Ellis has received resistance about placing a tattoo parlor on the beachside is because the City has a concept of wanting to bring families to the area.

Ms. Pringle stated any of those past controversies do not affect what we are doing today.

Mr. Ellis stated tattooing and what surrounds it has vastly changed in the past 20 years.

Ms. Pyle asked what portion of the store will be set aside for the museum and what portion will be used for tattooing.

Mr. Ellis stated the area to the right of the entrance will be used for photographs and newspaper articles as well as old artwork. Mr. Ellis stated Native American Indians were tattooed and to add those photos would include a historical element. Mr. Ellis stated eventually he plans to locate the museum on the second floor. Mr. Ellis stated the tattoo area would be separate from the museum.

Ms. Pringle stated any discussions about consistencies with the Master Plan or E-zone Master Plan are addressed in the responses to the City's comments.

Mr. Denis stated the tenant is applying for this rezoning, not the building owner. Mr. Denis stated when the process is complete, who owns the asset and what happens to the asset if Victory Tattoo leaves the site.

Mr. Gross stated the Land Development Code requires that the approval would be based on the use, not the user.

Jennifer Fino Ellis, 216 First Avenue, Daytona Beach, Florida, stated she and her husband are the applicants for this rezoning. Ms. Ellis stated she has a goal she would like to see for Main Street and stated she has seen Main Street decline over the years. Ms. Ellis stated she would like to see more artists on Main Street. Ms. Ellis stated art brings a sense of culture to a community which Daytona Beach has been lacking. Ms. Ellis stated other businesses have opened near her business in Ormond Beach that were not formerly in the area and she hopes that will happen on Main Street.

Mr. Paspalakis asked how many people get tattooed at Ms. Ellis' business in Ormond Beach in a day.

Ms. Ellis stated sometimes she is unable to serve all of the customers in one day but most days 20 people are served in a day and during the busy season, there are 30 to 40 customers each day.

Public Comments:

Anne Ruby, 137 Park Avenue, Daytona Beach, Florida, stated she and her neighbors had discussed approaching property owners on Main Street to allow them to place art in the windows of the vacant buildings. Ms. Ruby stated she is pleased to see the request from Victory Tattoo since they plan to be open all year. Ms. Ruby stated tattooing is now a family activity. Ms. Ruby stated small businesses will generate foot traffic which is needed on Main Street. Ms. Ruby stated the plans for the E-zone developed by the city have not materialized.

Kevin Murphy, 136 Park Avenue, Daytona Beach, Florida, stated he attended Victory Tattoo's open house and the city is lucky to have someone like Victory Tattoo wanting to locate in the area. Mr. Murphy stated there is nothing he can say that would be negative about Victory Tattoo and the owners.

Rob Merrell, 1638 John Anderson Drive, Ormond Beach, Florida stated he is a neighbor to the Victory Tattoo site in Ormond Beach. Mr. Merrell stated as it relates to his personal experience in his neighborhood, other businesses have located and grown in the area where Victory Tattoo is currently located in Ormond by the Sea.

David Keezer, Hard Core Tattoo, Holly Hill, Florida, stated he approached the City of Daytona Beach 7 years ago about opening a tattoo shop. Mr. Keezer stated he transports customers to his site on Nova Road where tattooing is permitted. Mr. Keezer stated he feels Victory Tattoo's request should be granted.

Adrian Fino, 216 First Avenue, Daytona Beach, Florida, stated he is the son of Jennifer and Robert Ellis and has grown up in a tattoo shop. He stated he learned to draw and has learned family values because of his environment. Mr. Fino stated he supports his parents' request and would like to see revitalization in the area.

Rio Vandivier, 420 Goodall Avenue, Daytona Beach, Florida, stated she works at Victory Tattoo. Ms. Vandivier stated she supports the Victory Tattoo request and feels the business will improve the Main Street area.

Board Comments:

Mr. Newman stated he has previously met the Ellis family and lives not far from First Avenue where the Ellis' have restored a beautiful old home. Mr. Newman noted that once the PD is approved for the building, it is permanent so if the Ellis' would move out, anyone could put a tattoo parlor at this location.

Ms. Pyle stated in looking at the list of approved uses for this area in the Comprehensive Plan, pottery studios, a small grocery, laundromat, seafood market, a household goods repair business, a second hand retail store, and indoor gaming would not be allowed. Ms. Pyle stated she feels the list needs to be reviewed in the future. Ms. Pyle stated she would like to tell business owners that such businesses could be located in the Main Street area. Ms. Pyle stated the process is a problem in Daytona Beach. Ms. Pyle asked what is done right now to bring families and tourists to Main Street from the Ocean Center. Ms. Pyle stated there is nothing inviting to bring visitors to Main Street from the Ocean Center, not even a nice restaurant. Ms. Pyle stated she would like to see that changed. Ms. Pyle stated the window displays on Main Street are borderline perverted, misogynist and racist. Ms. Pyle stated a biker bar could be opened on Main Street without jumping through any hoops.

Mr. Berger stated bars are not permitted on Main Street and what is there are restaurants. Mr. Berger stated the businesses that are there are a carry-over from previous days when bars were permitted.

Ms. Pyle stated she would like to see an open business that is not a biker bar. Ms. Pyle stated she would like to see a trendy business that will attract millenials. Ms. Pyle stated she would like to see a business with a proven track record and an artistic flair. Ms. Pyle stated she would like to see a business that can survive in the current state of Main Street. Ms. Pyle stated Victory Tattoo is a pioneer and she would like to see what might grow up around them.

Ms. Nazak stated the rezoning will be the use, not the user. She asked if future owners would have to go through this process.

Mr. Gross stated as long as a future business met the provisions of the PD agreement, they would be able to occupy the premises. Mr. Gross noted there will be a PD agreement with this site that will have some provisions. Mr. Gross stated he has not seen the PD agreement but he would imagine one of the provisions is the establishment of the museum so that might eliminate some tattoo parlors in the future.

Mr. Denis stated he likes the enthusiasm of having a 52-week business and that impresses him.

Mr. Chapin stated very little has happened in the Main Street area since he arrived 22 years ago. Mr. Chapin stated Main Street and the Ellis' have terrific potential. Mr. Chapin stated he does not believe the Ellis' will be the generators for the Main Street potential that he had hoped for. Mr. Chapin stated the City Commission may feel the need to stick to their guns and comply with the regulations as set in the Comprehensive Plan and e-zone. Mr. Chapin stated he is in favor Victory Tattoo but not here.

Ms. Tuggle stated the e-zone and Comprehensive Plan are long-term and what we are looking at here is what will get things off the ground. Ms. Tuggle stated you have to start with small

businesses. Ms. Tuggle stated she feels we need to embrace the biker culture since it is part of Daytona's history, just like cars and the Native American history. Ms. Tuggle stated what is presented is a great addition. Ms. Tuggle stated she wants to see the vacant shops filled and this is a beginning.

Mr. Myara stated the city spent a lot of time and money on the E-zone process. Mr. Myara stated families do not come to this area because there is nothing for them to do here. Mr. Myara stated if we want to stick with planning for family visitors, this business does not fit in. Mr. Myara asked what will happen if another tattoo parlor applies to locate next to Hard Rock or the Jimmy Buffett restaurant. Mr. Myara asked if we will open the doors for tattoo parlors and body piercing shops to come in. Mr. Myara stated if that is ok, then the city will need to change what is on the books. Mr. Myara asked what the definition will be for a museum. Mr. Myara stated if this is approved for the Ellis', it needs to be permitted for everyone else.

Mr. Newman stated he disagrees that we will have to open up to everyone that applies. Mr. Newman stated the requests are reviewed on a case by case basis. Mr. Newman stated proximity and other criteria need to be considered on a case by case basis.

Mr. Paspalakis asked if it would be unfair to deny requests of other businesses just because Victory Tattoo submitted their application first.

Mr. Gross stated no one is entitled to a Planned District rezoning. Mr. Gross stated future PD rezoning requests would have to be considered based on the evidence presented so legally a precedent would not be set by allowing this.

Ms. Tuggle stated if the city felt there are too many tattoo parlors, doesn't the city have the right to set a moratorium or revise ordinances in order to limit such businesses.

Mr. Gross stated he did not think the City Attorney's office would recommend a moratorium. Mr. Gross stated the City Commission does not have to allow this. Mr. Gross stated if other applications are received, a decision would have to be made based on the facts presented. Mr. Gross stated he has not looked at the case law recently, but there were ordinances in place in some cities that limited tattoo parlors. Mr. Gross stated he did not think there would be distance limitations on a business that has First Amendment protection.

Ms. Pyle stated once Victory Tattoo is established on Main Street, the City can begin to court other businesses, nice things like ice cream shops. She stated if we worked harder to fill the vacant shops, we wouldn't have to worry that the only thing that will locate on Main Street is a tattoo parlor.

Mr. Gross stated that Page 5 of the staff reports indicates a section of the E-zone overlay provides for mixed use development. Mr. Gross stated if there were a proliferation of one particular use, the city could decide for the E-zone area that it did not want a concentration of too many of one particular business.

Board Action:

A motion was made by Ms. Pyle, seconded by Mr. Denis, to approve Rezoning to Planned Development-Redevelopment (PD-RD) – Victory Tattoo, DEV2017-055, in accordance with the staff report as presented. The motion carried (7-1 Mr. Chapin voted nay).

Mr. Chapin left the meeting at 7:35 p.m.