

6. Petition 28SPA-01 DB Water & Air Research, Inc., agent for Tomlinson Motor Company, Inc. Development plan review for construction of a building addition for auto sales. Zoned: BA (automotive oriented business district). Located at 3580 North Main Street

Ms. Bedez Massey was recognized. Ms. Massey presented a map of the site and described it in detail. She noted that the site was bordered by properties zoned BA and I-1. She pointed out a ditch located to the south of the property. She discussed landscaping, parking areas, building, and retention basins. She pointed out the site was in the Tertiary Zone of the City's Wellfield District, however, evidence was provided verifying the project met the criteria for exemption from a Special Use Permit. Ms. Massey explained that the City's Land Development Code required sidewalks along abutting rights-of-ways when a request for development plan review was presented. She explained that there was an existing utility pole, piping and a stormwater ditch located along NE 4th Street where the sidewalk would have to be constructed. Ms. Massey indicated that other City departments such as Public Works had looked at the area to assess the degree of the work to be done. She explained that given the magnitude of that work, the developer was requesting consideration from the Public Works Department not to construct the sidewalk. She indicated that, if the Public Works Committee and the City Commission determined that no sidewalk was required, it would not have to be provided by the petitioner. She noted, however, should the Public Works Committee and the Commission decide that the Code stands, the sidewalk would have to be constructed. Ms. Massey offered to answer any questions from the board.

Mr. Bailey noted that several petitioners had requested relief on the Code sidewalk requirements. He explained that those petitioners were told that there were no exceptions. He asked if Ms. Massey was suggesting that there were or possibly could be an exemption procedure.

Ms. Massey stated that there were no exemptions or variances. She explained that the developer had just asked for the opportunity to address the Public Works Committee and the board would not be granting any waiver's to the Code. She indicated that staff was just alerting the board to the fact that the request had been made and, subsequent to the meeting, a determination might be made that might result in a text change to the Code whereby the sidewalk would not be required.

Acting Chair Boyes pointed out that the ditch along NW 4th Street was a rather large ditch. He asked who owned the right-of-way.

Ms. Massey indicated that the City owned the right-of-way.

Ms. Alison Fetner, agent for the petitioner was recognized. Ms. Fetner discussed the ditch and explained that the cost of the improvements to the sidewalk, including infrastructure in the City's right-of-way, would be more than the cost of redevelopment of the site. She explained that there was no problem with any of the other conditions except that the petitioner wished to plant crepe myrtle trees instead of the East Palatka hollies requested by the Arborist. She noted that the landscaping was being done voluntarily. She pointed out that there was a sidewalk on Main Street.

Acting Chair Boyes asked if there was a sidewalk anywhere else on NW 4th Street.

Ms. Fetner indicated that there was not. She explained that there would also be a significant transition where the ditch ran into the NW 35th Avenue Ditch. She noted that the road was a semi-paved swale section road with industrial uses and there would be design issues.

There was no public comment on the petition.

Acting Chair Boyes indicated that he had observed the ditch and agreed that the cost to install a sidewalk would be significant. He suggested that the board approve the petition with staff conditions except for the requirement for a sidewalk on NW 4th Street.

Mr. Bailey indicated that it was his understanding that the requirement was a Code ordinance.

Acting Chair Boyes pointed out that there was a sidewalk on Main Street and he found that to be adequate for the project.

Mr. Bailey noted that the board could send a message to the Commission requesting a rewrite of the ordinance, but at the present time, did not have the authority to remove the condition.

Acting Chair Boyes stated that he did not believe the board should approve the project requiring a sidewalk.

Mr. Calderon explained that staff realized that there were concerns with the requirements for sidewalks in some areas. He noted, however, that the sidewalk was a requirement of the ordinance and the board's role was to be sure that the site plan met the ordinance. He explained that the board could not change the ordinance. He suggested that, if the board believed there was a problem with the ordinance, they could make a motion to request that the City Commission address the issue. Mr. Calderon explained that there was work in progress to address the matter.

Acting Chair Boyes indicated that he believed the board should find that the project meets the requirements by having the sidewalk on Main Street.

Mr. Bailey asked if the board could go against the ordinance and approve the petition without the sidewalk.

Mr. Calderon reiterated that the role of the board was to follow the ordinance and not change it. He stated that the ordinance required the sidewalk.

Acting Chair Boyes read the following Land Development Code text into the record. "Each preliminary development plan shall include the following...point 34, sidewalks, sidewalks on all streets on both sides and at least five feet wide. Sidewalks not required on cul-de-sacs or dead end or loop, less than 100 feet long. Sidewalk required on at least one side of street on cul-de-sac or dead end or loop, from 100 to 250 feet long and for a project in which the closest lots to a connecting street on a cul-de-sac or dead end are at least 1000 feet from the street it stems from. Sidewalks on both sides of cul-de-sac or dead end or loop greater than 250 feet long." He asked if the NE 4th Street right-of-way continued south of the site or stopped at the ditch.

Ms. Fetner indicated that it went on through.

There was discussion of the actual layout of the ditch network near the site and the engineering work required to install a sidewalk.

Ms. Fetner agreed. She pointed out that the existing basin, water-oil separator and sanitary sewer on the site would have to be reconfigured if the infrastructure for the sidewalk were installed.

Acting Chair Boyes suggested that the right-of-way was a dead end at the large ditch. He noted that the Code specifically mentioned dead-ends.

Mr. Calderon stated that it was staff's opinion that the board did not have the authority to waive the sidewalk requirement.

Ms. Tammy Tomlinson was recognized. Ms. Tomlinson spoke on behalf of the petition. She cited a concern about persons walking down a road that was primarily used for industrial vehicles.

Acting Chair Boyes called for a motion.

<u>Motion By:</u> Mr. Layon	<u>Seconded By:</u> Mr. Bailey
<u>Moved To:</u> Approve Petition 28SPA-01 DB with staff conditions and recommendations except: allowing the petitioner to plant crepe myrtle trees rather than the East Palatka hollies recommended by the Arborist; and finding that NE 4 th Street involved a dead-end situation, therefore, a sidewalk was not required; and making the finding based upon the health, safety and welfare of the community.	<u>Upon Vote:</u> Motion Carried 3-0 Yeas: Bailey, Layon, Boyes

VI. BOARD MEMBER COMMENTS

Acting Chair Boyes requested that staff convey to the City Commission the board's concern about the sidewalk requirements in certain areas. He indicated that he supported sidewalks to create a pedestrian friendly environment, but in areas where there were large drainage features it was not always practical.

Mr. Layon indicated that he agreed, but wished it stated that the board clearly supported sidewalks and bicycle paths where possible.

Acting Chair Boyes suggested that the City could pick up some percentage of the cost of repairing the right-of-way so that regular sidewalk installation could take place.

Ms. Fetner suggested that a sidewalk fund could be established.

<u>Motion By:</u> Mr. Layon	<u>Seconded By:</u> Mr. Bailey
<u>Moved To:</u> Request that staff convey to the City Commission the DRB's position that, while the board supported the concept of pedestrian and bicycle friendly regulation, they requested that Land Development Code requirements be reviewed with regards to the need for sidewalks in specific situations.	<u>Upon Vote:</u> Motion Carried 3-0 Yeas: Bailey, Layon, Boyes

VII. ADJOURNMENT

There being no further business, the meeting adjourned at 8:45 PM.

Secretary, Development Review Board

Date

Clerk, Development Review Board

Date