

**Minutes of Planning Commission Meeting
held Monday, August 23, 2010, at 7:00 P.M.
in the Council Chambers, 11 North 3rd Street,
Jacksonville Beach, Florida**



Call to Order

The meeting was called to order by Chairman Terry DeLoach.

Roll Call

Terry DeLoach (Chairperson)
Lee Dorson
Greg Sutton (Vice Chairperson)
Fred Jones
Bill Callan
David Dahl
Tom Baker *Absent*

Also present was Bill Mann, Senior Planner and Recording Secretary Amber Lehman.

Approval of Minutes

It was moved by Mr. Dorson, seconded by Mr. Sutton, and passed, to approve the minutes of the meeting held July 26, 2010, as presented.

Correspondence

Mr. Mann stated that there was no correspondence.

Old Business

There was no old business.

New Business

- (A) **PC #18-10 (10-10099) – Conditional Use Approval**
Conditional use approval for a one-hundred (100) bed *elderly-oriented group home* located in a *Residential, Multiple-Family: RM-1* zoning district, pursuant to Sections 34-339(d)(1) of the Jacksonville Beach Land Development Code.

Staff Report

Mr. Mann read the following staff report into the record:

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The owner of the subject property has formed a development group, Pablo Gardens, LLC, for the purpose of redeveloping the property into a privately owned, non-subsidized, 100-bed elderly-oriented group home, or assisted living facility (ALF). The applicant indicates that there is a demand for this type of facility in the area, citing high occupancy levels of competing facilities including Harbor Chase, Cypress Village, Ashford Court, and Fleet Landing. Group homes for the elderly, with six or more residents, are listed as conditional uses in the RM-1 district where the property is located.

The property is currently unoccupied, but contains the former facilities of the Jacksonville Beaches Women's Club. That group sold the property to the current owner in 2007. The existing facilities are proposed to be demolished, and the property would then be redeveloped as shown on the site plan provided in the application package. The proposed conditional use is described as a retirement community for independent seniors who desire assisted living type housing. The ALF would provide both studio and one-bedroom spaces in a fire and hurricane resistant concrete building. On-site care would consist of a licensed nurse, seven days a week, certified nursing assistants, housekeeping staff, and a recreational coordinator.

The applicant's site plan has been reviewed against relevant Comprehensive Plan and Land Development Code standards, and has been determined to be consistent with those standards, including location, lot coverage, parking, and setbacks and buffering from adjacent residential uses. The ALF structure is cited in the northwestern portion of the property, over 100 feet away from the nearest residential use property. The applicant has provided adequate setbacks from adjacent streets to preserve a majority of the existing trees along them. The parking lot and grounds will be required to be landscaped in accordance with Land Development Code standards.

A required traffic study has been performed for the proposed facility, and it was shown and confirmed by the City's traffic consultants that there would be no adverse transportation impacts from the project on the City's road network. This location is also proximate to JTA bus routes, less than one block to the west on Penman Road.

Adjacent uses include a US Coast Guard Channel Navigation maintenance Facility to the north, the City's former Recreation Office facilities and Lions Club property to the west, and single-family residential uses to the south across 2nd Avenue and to the east across Palm Tree Road. Given the historical, non-residential mix of uses in the block containing the subject property, and the given the sensitivity to the existing neighborhood demonstrated on the applicant's proposed site plan, the change in use of the subject property from civic organization use to group home use should not negatively affect the existing character of the surrounding neighborhood. Staff has no information that would indicate that the proposed use would negatively affect adjacent property values, especially considering that the subject property is zoned RM-1 and could be developed to a multifamily residential use containing approximately 30 units.

Recommendation: Approval.

Applicant

Applicant, Gorge Suazo, 416 South 3rd Street, Suite 1, Jacksonville Beach, stated that he concurred with staff's recommendation and asked to reserve his time for any questions.

Mr. Sutton asked if there was a site plan that was submitted with front elevations.

Mr. Suazo replied that there was not a site plan with elevations at this time but he can forward a more detailed plan within the week.

Public Hearing

Mr. DeLoach opened the public hearing and asked if anyone wished to speak in favor of or in opposition to the application.

The following people spoke in favor of the application:

- Rose Marie Lagant, 2244 Beach Blvd, #11, Jacksonville
- Steve Jarrett, 2002 Seagate Avenue, Jacksonville Beach, stated that he was in favor of the application, however had the following questions:
 1. How is the property determined as an Assisted Living Facility?

Mr. Mann responded that the facility is characterized as an Elderly Oriented Group Home with six or more residents.

2. How will spillover parking be addressed?

Ernesto Gonzales, architect for the project, answered that there is more parking than is required by the LDC.

3. Can there be a more enhanced landscaping buffer in the front of the property, possibly a 4 to 5 foot solid hedge?

Mr. Gonzales stated that the applicant has taken every step in preserving the trees on the property and it will have a substantial landscaping buffer.

The following people spoke in opposition to the application:

- Don Brown, 1330 2nd Street North, Jacksonville Beach.
- Matt Campbell, 2161 2nd Street North, Jacksonville Beach.
- Charles Hendricks 1306 2nd Avenue North, Jacksonville Beach.

The following person spoke neither for nor against the application:

- Bob Burkina, 1228 2nd Street North, Jacksonville Beach, asked how many stories the facility would have in total.

Mr. Gonzales replied that there would be three stories total.

- Steve Jarrett asked how many rooms will there be to accommodate the 100 beds.

Mr. Gonzales replied that the facility will not be broken down by rooms, but will be broken down by units. Some units will have one bed and others may have two beds in each unit.

Seeing no one else who wished to address the board, Mr. DeLoach closed the public hearing.

Discussion

Mr. Sutton stated that he was not completely satisfied with the submitted drawings of the building/grounds. He stated that he would like the applicant to provide a comprehensive site plan, containing detailed information including building elevations and a landscape plan.

Motion: It was moved by Mr. Sutton, seconded by Mr. Dorson, to defer the request until the September 27, 2010 meeting.

Roll call vote: Ayes – DeLoach, Dorson, Jones, Sutton and Callan; motion carried unanimously.

(B) PC #22-10 (10-100114) – Conditional Use Approval

Conditional Use approval for a *group home, developmentally or physically disabled* with six (6) or more residents in a *Residential, Multiple-Family: RM-2* zoning district, pursuant to Sections 34-340(d)(1) of the Jacksonville Beach Land Development Code.

Staff Report

Mr. Mann read the following staff report into the record:

The applicant purchased the subject property on the south side of 4th Avenue South, between 1st and 2nd Streets, in January 2008. At that time, the property existed as a legal non-conforming medical office use in the RM-2 residential district in which it is located. The medical office use was nonconforming in that it had been established prior to the adoption of our current RM-2 zoning district regulations in 1991, and because it did not provide adequate off-street parking. Medical office is not currently listed as a permitted use in RM-2 districts, but is only potentially allowed as a conditional use.

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On July 30, 2008, the property owner received approval of a local business license application for the "All About Health House" business, which was described on the business application as a medical use. That application was approved by staff as a continuation of an existing legal non-conforming use (medical office), pursuant to Land Development Code (LDC) Sec. 34-622(f) which provides that a discontinued non-conforming use may be re-established if such use is not discontinued or abandoned for a period of more than six months.

In August 2009, a complaint was filed with Code Enforcement staff that the property was being used as a residential substance abuse recovery facility. In November 2009, following a second similar complaint, and verification of both complaints by Code Enforcement staff, a Warning of Zoning Violation was issued and sent to the property owner.

The owner met with staff in November 2009, and he was informed that either he would have to cease operation of his group home, or, since group homes with six or more residents are listed as conditional uses in RM-2 districts, he could apply for conditional use approval for his business. Otherwise, the zoning violation would be scheduled to be resolved at a hearing with the Special Magistrate, if the use was not ceased.

By definition, the type of group home that may be permitted as a conditional use in an RM-2 zone is "dwelling unit licensed to serve clients of HRS (now known as DCF), providing a living environment for residents who operate as the functional equivalent of a family, including supervision and care by support staff as may be necessary to meet the physical, emotional, and social life needs of residents. A developmentally disabled resident is a person with a disorder or syndrome which is attributable to retardation, cerebral palsy, autism or Spina bifida and which constitutes a substantial handicap that can reasonably be expected to continue indefinitely. A physically-disabled resident is a person who has a physical impairment which substantially limits one (1) or more major life activities, or who has a record of having, or is regarded to have such physical impairment." It has been determined that alcoholism and drug addiction are disabilities within the meaning of this definition.

The property owner subsequently hired legal counsel to assist in the filing of a conditional use application, and from December 2009 to the present, has been working towards the preparation and filing of the application, which is the application now under consideration. The proceedings before the Special Magistrate have been stayed pending the outcome of the conditional use application.

The application package includes a survey of the subject property and also a two-page narrative explaining how the applicant feels that the requested use of the subject property is consistent with the Land Development Code (LDC) standards that the Planning Commission is supposed to consider in reviewing conditional use applications, pursuant to LDC Section 34-231.

Staff submits the following, concerning the applicability of the LDC conditional use standards to Application PC #22-10, and to portions of the applicant's narrative.

Sec. 34-231 Standards applicable to all conditional uses.

When considering an application for development permit for a conditional use, the Planning Commission shall consider whether and the extent to which:

- (a) The conditional use is consistent with the goals, objectives and policies of the comprehensive plan, including standards for building and structural intensities and densities, and intensities of use;

The applicant states in the *Summary and Conclusions* section of the application narrative that the project is consistent with goals, objectives and policies of the LDC and Comprehensive Plan because it is designated Residential – High Density, and that designation allows group homes.

Staff disagrees with this characterization of the applicant's proposed use of the subject property. The Future Land Use element of the 2010 Comprehensive Plan does not specifically address the placement of group homes in multifamily residential use areas. The LDC does list them as conditional uses in RM-2 districts; however, this provision does not mean that group homes are generally consistent with multifamily residential uses. As stated in the LDC, conditional uses are those uses, which are generally not compatible with the other land uses permitted in a district, but with individual review and control of their location, design, configuration and intensity and density of use, and with the imposition of certain relevant conditions, may be permitted as conditional uses. (Ref. LDC Sec. 34-221)

In this particular case, since the proposed use would occupy an existing, fully developed site, there is no ability to control the location, design, or intensity of use of the property. Staff calculates the lot coverage of the existing structures and paving at approximately 91%. The maximum lot coverage for any permitted use in RM-2 districts is 65%. Other issues related to the standards for location, design, and density/intensity relative to the proposed use is noted below.

- (b) The conditional use is consistent with the character of the immediate vicinity of the land proposed for development, and designed so that it is consistent with the harmonious development of the zoning district in which it is proposed;

The proposed use is located in a residential neighborhood, immediately adjacent and across the street and alley from established residential uses. The existing structures violate all of the minimum yard setbacks and lot coverage standards for any of the permitted uses of the property. The buildings were designed and built for professional office use, and are not residential in character.

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- (c) The design of the proposed conditional use minimizes adverse effects, including visual impact, of the proposed use on adjacent properties, and provides adequate screening and buffering;

The entire area in front of the former medical office building is paved in concrete or asphalt, due primarily to the lack of adequate parking on-site. This is inconsistent with the residential properties in the vicinity, which provide off-street parking and have landscaping and lawn areas within their required setbacks. There is no screening or buffering of the proposed use from adjacent properties. The two-story structure at the front of the lot lies less than seven feet from a single family home on the adjacent lot to the west.

- (d) The proposed conditional use will have an adverse effect on the permitted uses of the zoning district where it is located;

The property does not contain adequate parking for the proposed group home (eight spaces, including one ADA accessible space, are required for a 16-bed facility), forcing the facility to rely on on-street parking. In addition, the intensity of the proposed use will have an adverse effect on the surrounding residential uses.

- (e) The proposed conditional use will have an adverse effect on the value of adjacent property;

The applicant provided no information in response to this review standard.

- (f) There are adequate public facilities and services pursuant to Article X, Adequate Public Facility Standards;

- (g) The proposed conditional use will require signs or exterior lighting that will cause glare or adversely affect area traffic safety;

- (h) There is adequate ingress and egress to the proposed conditional use, and it is designed to minimize traffic congestion on the city's roads;

The only vehicular access to the property is via a 12' wide unpaved public alley at the rear of the property. Further, the Land Development Code states that changes in use to existing land uses, in this case medical office to group home, must provide off-street parking pursuant to LDC Article VIII, Division 1. Parking and Loading Standards.

- (j) The applicant has the financial and technical capacity to complete the conditional use as proposed, and has made adequate legal provision to guarantee the provision of open space and other improvements associated with the proposed conditional use;

There is no ability to provide the required parking together with the required open space (35%, with maximum allowable RM-2 district 65% lot coverage) given the layout and extents of coverage of the structures and paving as they currently exist on the property.

- (k) The proposed conditional use complies with all additional standards imposed on it by the particular provision of the comprehensive plan authorizing such use and all other applicable requirements of the LDC.

As stated, the application does not comply with a number of applicable Land Development Code requirements.

There are no other similar uses in the RM-2 zoned areas adjacent to this site, and therefore the proposed use is not consistent with the character of the immediate vicinity. It is unlikely that a site with this configuration, or in a similar location, would be permitted to be developed for the requested use from a vacant condition. Therefore, for the reasons set forth above, staff recommends that the Planning Commission deny this request.

Recommendation: Disapproval, finding that the subject property with its existing improvements is not suitable for the proposed conditional use, due to inconsistency with Land Development Code conditional use and site development standards.

Applicant

Attorney for the applicant, Stephanie Burch, 230 Canal Blvd, Ponte Vedra Beach, stated that she would like to address each of the items that Mr. Mann submitted with his recommendation for disapproval.

Comments made by the applicant:

Item A – The use that is permitted is a conditional use that can be controlled. The applicant is only asking for 16 residents with heating/cooling area being 5,000 square feet. The prior use was permitted as an office building; for the proposed use, there will be doctors that frequent the property, a house manager with the facility being significantly staffed, which is fairly close to what is, was previously.

Item B – Referencing the character of the vicinity, Ms. Burch presented the board with pictures of the surrounding neighborhood as well as pictures of the facility. Ms. Burch pointed out that there are several multi-family units within the area.

Item C – There is adequate parking on-site for eight vehicles as well on-street parking.

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Item D – Regarding the adverse affect on the zoning district, the applicant has not hired an appraiser to determine if in fact the facility has affected the surrounding properties. There has not been any problems that have been created due the facility being in use.

Item E - No comments were made to this item.

Item H – There is adequate egress and ingress to the property, applicant does not agree with the staff's comment as pointed out in the pictures, there is direct access to 4th Avenue.

Item J – Referring to the parking, all properties near the facility violate the open space requirement. There is not much the applicant can do about the setback requirements.

Item K – The property is not vacant, the applicant would like to use it in a different way.

In response to the applicant's comments, Mr. Mann stated that the Fire Marshall has completed an inspection of the property and if the property is permitted as the requested use, there will be issues that need to be addressed. Mr. Mann also stated that there are building codes that have not been addressed and he was not sure if the applicant has met with the Building Official to determine what they are.

Public Hearing

Mr. DeLoach opened the public hearing and asked if anyone wished to speak in favor of or in opposition to the application.

The following people spoke in favor of the application:

- Dan Carzoli, 451 Catherine Street, Jacksonville.
- Stephanie Taylor, 1821 Visconti Drive, Jacksonville.
- Heather Reynolds, 2228 1st Street South, Jacksonville Beach.
- Sherri King, 130 4th Avenue South, Jacksonville Beach.
- Ron Cipriano, 3735 3rd Street South, Jacksonville Beach.
- Robert Alt, 9 11th North Street South, Jacksonville Beach.
- Susan Schemenski, 1583 Chain Fern Way, Orange Park.
- Virginia Thomas, 1159 Bellcove Road, Jacksonville.

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- Howard McKinn, 1116 Cedar Street, Neptune Beach.
- Oscar Payne, Jacksonville.
- Terri Brown, Neptune Beach.
- Tim Vibral, 1260 Lantana Loop, Jacksonville.

The following people spoke in opposition to the application:

- John Marina, 400 1st Street South, Jacksonville Beach.
- Kim Stanley, 317 4th Avenue North, Jacksonville Beach.
- Shelly Rossi, 631 Preserve Drive, Jacksonville Beach.
- Tracie Parsons, 1970 Marcella Court, Atlantic Beach.

Ms. Burch addressed the concerns that were raised during the public hearing and stated, in regards to the dumpster issue, that the house manager, Sherri King, had not been aware of the problems with the residents using Spinnakers dumpster. The issue has been remedied.

As for the noise issues, the applicant had not been made aware of any noise complaints and if there should be any in the future, Ms. Burch asked that the house manager be notified so it will be remedied immediately.

Concerning the parking, Ms. Burch stated that it would be a shame if this application were denied due to parking concerns. There will only be one car parked at the facility that belongs to the house manager. There will be absolutely no impact on the traffic.

Concerning the opposition that the residents were transients, the facility requires that the residents sign a six-month commitment before entering into the program. There will not be any transients on the property.

Seeing no one else who wished to address the board, Mr. DeLoach closed the public hearing.

Discussion

Mr. Sutton stated that the service that the applicant provides is recognized as an asset, however, the surrounding property owners have legitimate concerns with the facility as it currently operates.

Motion: It was moved by Mr. Dorson, to approve the request with the condition that the applicant improves fire, electrical and plumbing in the facility and complies with requirements mandated by public works.

Motion died due to lack of a second.

Motion: It was moved by Mr. Sutton, seconded by Mr. Jones, to deny the application as requested.

Roll call vote: Ayes –DeLoach, Jones, Sutton, & Callan
Nays – Dorson

Motion carried 4 to 1 to deny the application.

(C) **Chairman & Vice Chairman Elections**

Mr. Mann informed the board that the Chairman and Vice Chairman elections that were held in July will need to be reconsidered due to Mr. DeLoach having reached his term limit as Chairman.

Motion: It was moved by Mr. Dorson, seconded by Mr. Jones, to reconsider the entire election.

Roll call vote: Ayes –DeLoach, Dorson, Jones, Sutton and Callan; motion carried unanimously.

Chair

Motion: It was moved by Mr. Dorson, seconded by Mr. Jones, to nominate Greg Sutton as Chairman.

Roll call vote: Ayes –DeLoach, Dorson, Jones, Callan, and Sutton

Motion carried unanimously.

Vice Chairman

Motion: It was moved by Mr. Dorson, seconded by Mr. Jones, to nominate Terry DeLoach as Vice Chairman.

Roll call vote: Ayes – Dorson, Jones, Sutton, Callan, DeLoach; motion carried unanimously.

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Planning & Development Director's Report

Mr. Mann advised the board that the next meeting would be on September 13, 2010 with a possibility of two cases.

Adjournment

There being no further business coming before the Commission, Mr. DeLoach adjourned the meeting at 9:00 P.M.

Submitted by: Amber Maria Lehman
Recording Secretary

Approval:

/s/Terry DeLoach

Chairperson

Date: September 27, 2010