

**Minutes of Planning Commission Meeting
held Monday, January 10, 2005, 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 Chairperson Bill Wilson.

Roll Call

David Dahl
Terry DeLoach
Paul Schmidt (*absent*)
Julio Williams
Bill Wilson (*Chairperson*)

Undine McEvoy
Robert Ermovick

Also present were Steve Lindorff, Planning & Development Director and Bill Mann, Senior Planner.

Approval of Minutes

It was moved by Mr. DeLoach, seconded by Mr. Williams, and passed, to approve the Minutes of the December 13, 2004, meeting, as presented.

Correspondence

There was no correspondence.

Unfinished Business

There was no unfinished business.

Amendment to Agenda

Mr. Wilson advised that he was reversing the order of presentation of the two cases on the Agenda.

New Business

At this time, Chairman Wilson read the following statement for the record:

“This conditional use application is before the Planning Commission for public hearing and consideration. Under the laws of the state of Florida, a conditional use zoning application is handled as a quasi-judicial proceeding. A quasi-judicial proceeding means that the decision

making group is functioning in a manner similar to a court with the voting member sitting as impartial decision makers similar to a court with the voting members who are to provide substantial and competent evidence of presenters to support their side of the issue under consideration. It is the duty of the Planning Commission to arrive at sound decisions regarding the use of property within the City. This includes receiving citizen input regarding the effect on the neighborhood, especially where the input is fact-based and not simple expressions of opinion. It is the applicant's burden to demonstrate that their application is consistent with the Land Development Code and Comprehensive Plan. If the applicant is successful in showing consistency, then it is up to the Planning Commission to produce competent substantial evidence of record to the contrary if the application is to be denied. The Planning Commission's decision on a conditional use application is to be based on the criteria contained in Section 34-231 of the Land Development Code. Each member of the Planning Commission has been provided a copy of the criteria. In addition, the Planning Commission has received a copy of the application and the staff report and recommendation on this conditional use zoning request."

PC #40-04 – The Home Depot

Request for an amendment to the test and preliminary PUD Development Plan to PUD Ordinance No. 7436 governing the *South Beach Regional Shopping Center*, to allow the conversion of the former *K-Mart* tenant space into a *Home Depot* store, and modifications to the parking area that supports that tenant space.

Mr. Mann advised that the applicant has purchased the former *K-Mart* tenant space in the *South Beach Regional Shopping Center* and plans to convert that space into a *Home Depot* store. As part of the conversion, they would like to increase the size of the outdoor garden center by 13,000 s.f. and construct a mezzanine level within the main building that would add approximately 12, 300 s.f. of floor area. They are also asking to convert the current one-way angled parking aisles in front of the store to perpendicular aisles accommodating two-way traffic.

Staff informed the applicant that in addition to being within a PUD, the shopping center was also located in our Southend Redevelopment Area Development of Regional Impact (DRI). It was further explained that any increase in the square footage within the shopping center would have to be addressed by a change to the DRI's Development Order along with an amendment to the PUD ordinance now governing the shopping center.

The City filed a requested modification (Notification of Proposed Change, or NOPC) to the DRI Development Order to allow an increase in the overall DRI commercial square footage on November 29, 2004. The NOPC is reviewed by city staff, the Northeast Florida Regional Planning Council (NEFRPC), and the Florida Department of Community Affairs (DCA). As part of their review of the application, the NEFRPC forwards a copy to the Florida Department of Transportation (FDOT) for any comments or objections.

Staff was informed by the NEFRPC on January 4 that the FDOT provided no comments or objections, and that they were forwarding a letter to the DCA recommending that the requested additional square footage would not result in any additional regional impacts, and did not represent a substantial deviation from the approved DRI Development Order. Staff is now preparing a resolution for the City Council's approval of the DRI Development Order.

The modifications to PUD Ordinance No. 7436 requested in this amendment application are as follows:

1. Modify the portion of the approved PUD Development Plan as they relate to the K-Mart parcel to reflect the proposed building footprint of the *Home Depot* store and the addition of the mezzanine and garden center space. The modification will also reflect the parking lot modifications converting the spaces serving the store from diagonal, one-way aisle parking to perpendicular, two-way aisle parking.
2. Modify the portion of the approved PUD Landscape Plan covering the *K-Mart* parcel to reflect the landscape modifications and additional plant materials provided in conjunction with the redesigned parking area.
3. Allow a maximum of 12 spaces in an uninterrupted row in certain locations to allow the parking re-configuration to save or preserve the existing trees and landscape islands.
4. The allowance of a maximum of 365 s.f. of wall signage for the new store, as opposed to the maximum 250 s.f. currently allowed per tenant space.

The existing *K-Mart* store space has a footprint of roughly 86,000 s.f., and a 9,200 s.f. outdoor garden center. The proposed *Home Depot* space will have a roughly 86,000 s.f. footprint as well, but with an additional 12,300 s.f. of mezzanine level sales area within the building, and a 22,432 s.f. outdoor garden center. The major modification to the current site plan is the expansion of the garden center area to the east, into the small parking area between the existing center up to the internal road separating the *K-Mart* Parcel from the *Outback* restaurant and adjacent bank parcels along A1A. The loss of parking in this lot is offset by the parking gained by the reconfiguration of the parking area in front of the tenant space.

Because the subject property is a developed retail shopping center, the change of a vacant tenant space into a new retail use should not negatively impact the uses in the balance of the center or surrounding properties. The applicant has provided traffic data demonstrating that the proposed use, with the additional mezzanine area and garden center space, will actually generate fewer daily and PM peak hour trips than the former discount retail store use. Staff has no basis to disagree with the presented data. The traffic impacts from this proposed use have also been reviewed by the NEFRPC and FDOT, through the NOPC review process previously described. Neither agency has objected to the requested increase in overall DRI commercial square footage.

The Comprehensive Plan Future Land Use map designation for the shopping center is South Beach District because of its location within our Southend Redevelopment Area DRI. The proposed use of the subject tenant space as a retail home products retail store is consistent with DRI's commercial designation of the shopping center property. The requested increase in overall DRI square footage, and its associated traffic and other regional impacts, has been

reviewed, without objection or comment, by the NEFRPC and FDOt. The NEFRPC noted in their review that even with the requested increase in commercial space, the overall vehicle trip generation from the DRI

The applicant has requested an increase in wall signage over the currently approved 250 s.f. maximum applicable to the balance of the center, and by our LDC sign standards applicable throughout the entire City. Staff has consistently upheld the LDC permitted maximum of 250 s.f., though, and would recommend disapproval of any additional sign square footage.

Staff recommended approval, subject to compliance with LDC sign standards, limiting the wall signage to 250 s.f., and subject to City Council approval of a resolution modifying the approved Development Order for the Southend Redevelopment Area DRI to allow the requested increase in commercial square footage.

Edward Allen, agent for the applicant, advised that the applicant agrees to amend their application to remove the request for more signage.

Paul Harden, attorney for the applicant, advised that this store would be a scaled-down model of their traditional stores with the added space coming from the interior mezzanine. He also stated that the busiest times at the store would be early in the morning before the rest of the shopping center is open.

Mr. Wilson opened a public hearing and asked if anyone wished to speak either in favor of or in opposition to the request?

The following people spoke in opposition:

John Tipton, 503 North 6th Street, Jacksonville Beach
William Dean Thompson, 2067 Green Heron Point, Jacksonville Beach
Jim Overby, 21 Burling Way, Jacksonville Beach
Lance Folsom, 1022 No. 21st Street, Jacksonville Beach
Scott Chesnut, 224 2nd Avenue South, Jacksonville Beach

Seeing no one else who wished to address the Board, Mr. Wilson closed the public hearing.

Following a lengthy discussion concerning how the possible increase in traffic and the noise would effect the surrounding neighborhoods, it was moved by Mr. Williams and seconded by Mr. DeLoach to send the request with the staff recommendations to the City Council with a positive recommendation.

Mr. Dahl advised that he would be more comfortable with the request if there were a safety valve in place to protect the neighbors. Mr. Harden advised that they would be happy to ensure that there would be no outside speakers. Mr. Dahl made an amended motion, which was seconded by

Mr. DeLoach, to send the request with staff recommendations and no outside speakers allowed, to the City Council with a positive recommendation.

Roll call vote: Ayes – Dahl, DeLoach, Williams, Wilson and McEvoy. Motion carried unanimously.

Old Business

PC 12-04 – Chris Hionides

Request for conditional use approval of a proposed multifamily use in a *Commercial limited: C-1* zoning district.

Mr. Mann advised the Board that this application is presented for public hearing pursuant to a Writ of Certiorari granted to the applicant by the Fourth Judicial Circuit Court. This court order follows the Planning Commission's original disapproval of the application on April 26, 2004. He also stated that the following documents were included in the Agenda packets:

1. Application for PC #12-04
2. Staff Recommendation memo, dated April 15, 2004
3. Meeting Minutes, April 26, 2004, Planning Commission meeting.
4. Planning & Development Director memo, dated October 11, 2004, with attached Court Order.

Staff recommended approval.

Mr. Lindorff introduced Attorney Bill Graessle, who is working with the City on this case.

Paul Harden, attorney for the applicant, gave a brief presentation in which he called to the Board's attention the staff recommendation from April 15, 2004, in which it was stated that Mr. Hionides had met all of the criteria for this application to be approved and that this development would not negatively affect the dynamics of the neighborhood because there have been six other residential projects approved in the area. He also referenced a traffic study, dated January 10, 2005, that was conducted by Zev Cohen & Associates, Inc. for the City. (*Copy attached*) He advised that both he and Mr. Hionides were available to answer any questions the Board might have.

Mr. Wilson opened a public hearing and asked if anyone wished to speak either in favor of or in opposition to the request?

The following people spoke in favor:

Scott Gay, 3948 South 3rd Street, Jacksonville Beach
Thad Moseley, 3701 Duval Drive, Jacksonville Beach

Jorge Swazo, a real estate developer

The following people spoke in opposition:

Sandy Golding, 1203 18th Avenue North, Jacksonville Beach, who also distributed a document pertaining to the loss of hotel rooms in the City. (*Copy attached*)

Jim Overby, 21 Burling Way, Jacksonville Beach

Seeing no one else who wished to address the Board, Mr. Wilson closed the public hearing.

There followed a lengthy discussion by the Board concerning the advisability of converting too much commercial space to residential use and traffic problems in portions of the City. Mr. Dahl referenced correspondence he received from the Florida Department of Transportation concerning traffic and level of service on City roadways and a handout from Sandy Golding concerning the City's Comprehensive Plan. (*Copies attached*)

It was moved by Mr. DeLoach, seconded by Mr. Dahl, to deny the request.

Roll call vote: Ayes – DeLoach, Williams, Wilson and Dahl. Nays – McEvoy. Motion carried by a vote of 4 to 1.

Planning & Development Director's Report

There was no Planning & Development Director's Report.

Adjournment

There being no further business coming before the Board, Mr. Wilson adjourned the meeting at 9:25 P.M.

Chairman

/lmw