

**Minutes of Planning Commission Meeting
Held Monday, November 13, 2006 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 DeLoach.

Roll Call

Terry DeLoach (Chairperson)
Paul Schmidt (Vice Chairperson)
Lee Dorson
Greg Sutton
Julio Williams
Fred Jones
Bill Callan (Absent)

Bill Mann, Senior Planner, and Amber Lehman, Recording Secretary were also present.

Approval of Minutes

It was moved by Mr. Dorson, seconded by Mr. Sutton, and passed, to approve the August 14, 2006, meeting minutes, as previously amended; the September 25, 2006 meeting minutes, and the October 23, 2006 meeting minutes as amended.

Correspondence

There was no correspondence.

OLD BUSINESS:

PC#31-06 – Rita's Italian Ice

Request for conditional use approval for outdoor seating in Central Business District: CBD Zoning District, pursuant to Section 34-345(d)(14) of the Jacksonville Beach Land Development Code.

Mr. Mann provided the following comments for the record:

Following discussion and continuance of the applicant's outdoor restaurant seating request at our last meeting, the applicant has revised the site plan for his proposed use, and has provided a customer queuing area in front of his tenant space, in addition to his requested seating areas.

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Staff recommends approval.

Christian Reyes, 3550 Waterchase Way West, Jacksonville, stated that he concurred with Mr. Mann's comments.

Motion: It was moved by *

Roll call vote: Ayes- DeLoach, Schmidt, Dorson, Sutton, and Williams; motion carried unanimously.

NEW BUSINESS:

PC#32-06 – Scooter Hut

Request for conditional use approval of a commercial recreational use in a Commercial Limited: C1 Zoning District, pursuant to Section 34-342(d) (17) of the Jacksonville Beach Code in conjunction with the transfer of ownership.

Staff Report

Mr. Mann provided the following staff report:

He stated that the applicants are buying the *Scooter Hut* business in the small commercial strip center on the west side of South 3rd Street between 7th and 8th Avenue South. They were informed that the retail sale of scooters under 50cc displacement was permitted at that location, but that scooter rentals were considered a recreational service. The current owner of the business obtained conditional use approval for the rentals in March 2004 via PC#06-04. There are no records of any problems associated with the rental business since that time.

As a tenant in an existing center, the proposed business should not generate any additional parking requirements, and the center does have adequate parking. Required parking spaces for the center, however, may not be used to display the rental scooters, or any other merchandise. With the center owner's permission, they may display several of them immediately in front of their business. It is also recognized by staff that employees or customers of the business may park their scooters in actual parking spaces, and that should not be a problem. The intent is that the parking lot not be turned into an outdoor display area.

Staff recommends approval.

Applicant:

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Applicant, Tracey Hoey, 94 Nicholson Drive, Ontario, Canada, stated that she concurred with Mr. Mann's staff report.

Mr. DeLoach asked if anyone wished to speak in favor or in opposition to the application.

The following person spoke in favor of the application:

Wendell Finner, 420 Lower 8th Avenue South, Jacksonville Beach

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

Motion: It was moved by Mr. Dorson, seconded by Mr. Schmidt, to approve the request for conditional use approval for commercial recreational use.

Roll call vote: Ayes- DeLoach, Schmidt, Dorson, Sutton, and Williams; motion carried unanimously.

PC#33-06 – Public Hearing

Request for conditional use approval of a Type II Home Occupation in a residential Multi-Family 2: RM-2 zoning district, pursuant to Section 34-340 (d)(3) of the Jacksonville Beach Code.

Staff Report

Mr. Mann provided the following staff report.

He stated that staff has little information concerning this request other than from a brief conversation with the applicant, and an anonymous telephone complaint concerning his operation of a roofing business from his condominium unit. Following the complaint, Code Enforcement contacted the applicant and informed him that a Type II Home Occupation license would have to be applied for, and if approved, he could then use a portion of his residence for office use related to his roofing business, and he could have one non-resident employee work at his residence.

During the review of this application, staff spoke with the applicant on two occasions over the phone, and requested certain additional information be provided to aid in the formulation of a staff recommendation on his request. Specifically, the applicant was asked to provide written information addressing the nature of the business activity at his residence, whether there was adequate parking within the subject property for his employee, and also either a letter from his condominium association approving of his business use of his residence, or a copy of his

condominium documents showing that he was permitted to use his unit in this manner. To date, no information has been received.

Recommendation: Continue the application to the next scheduled Planning Commission to allow the applicant to provide the information requested by staff.

Applicant, Herbert C. Fouraner, 1301 South 1st Street, #908, asked if his application could be deferred until the next meeting, so that more information can be gathered.

PC#34-06 – Proportionate Fair Share Program

Amendment to the text of Land Development Code (LDC) Article X Adequate Public Facility Standards to incorporate a Proportionate Fair Share program related to transportation impacts.

Staff Report

Mr. Mann provided the following staff report.

The purpose of this amendment is to incorporate into the City's Adequate Public Facilities zoning regulations a State-mandated Proportionate Fair Share program as a means to address development impacts to transportation facilities that are at or over capacity. This concurrency-related program is now required of all cities in the state, and was one of the more significant growth management changes approved during the 2005 State Legislative Session. (Refer to the two-page document entitled "Excerpts from Chapter 163, F.S." included with the PC packages.)

This amendment was prepared under direction of staff by the City's consultants, Reynolds Smith and Hills (RS&H). Their primary objective was to develop a program for the City based on the FDOT Model Proportionate Fair Share Ordinance. This model ordinance was specifically prepared as a guideline for use by local governments to ensure consistency with the statutory requirements for this program. The model ordinance was customized to reflect local conditions, Land Development Code regulations, and relevant Comprehensive Plan policies. The use of fair share revenues collected by the City includes appropriations for multi-modal improvements, including bicycle /pedestrian projects and public transit facilities. Currently, our Adequate Public Facilities, or concurrency, standards provide that the transportation component of a development's concurrency review can be approved if any of the following five conditions are met:

- a. Road facilities are in place to provide the proposed development sufficient services based on the LOS for road facilities; or
- b. Road facilities are under construction that will provide the proposed development sufficient services based on the LOS for road facilities; or

- c. Road facilities are the subject of a binding and executed contract that will provide the proposed development sufficient services based on the LOS for road facilities; or
- d. Capital improvements are in the CIE and will be initiated no later than the third year CIE that will provide the proposed development sufficient services based on the LOS for road facilities; or
- e. Capital improvements are to be provided by the applicant that will provide the proposed development sufficient services based on the LOS for road facilities pursuant to a development agreement demonstrating that sufficient capacity will be available prior to issuance of a certificate of occupancy.

The proposed Fair Share program will now offer a sixth option for gaining transportation concurrency approval for a development project. If none of the above conditions can be met, the fair share program would allow a development to proceed under certain conditions, notwithstanding the failure of transportation concurrency, by the developer contributing their proportionate fair share of the cost of improvements or enhancements to the affected transportation facility. Any fair share agreement must be approved by the City Council, after it is reviewed by staff, as well as other agencies (FDOT, JTA), depending on the roadway and proposed improvement.

The City has already utilized a similar fair share impact mitigation process when we identified the need and designed an intersection/turn lane improvement project for the Marsh Landing Parkway /South Beach Parkway intersection. That project was paid for, in part, by contributions required by the City from the *Paradise Key*, *Valencia* and *Target* store expansion developers. These three projects were identified as adding future vehicle trips to that problematic intersection, and a proportionate monetary contribution was calculated for each of these developers, based on the amount of traffic in that intersection that could be attributed to their respective project.

One portion of the State's model ordinance that has been included in proposed program (Item K. pg. 8) involves cross jurisdictional impacts. This is an optional element of the program, and it may be adopted any time, should the City choose to do so. Based on discussions an interagency meeting held at the outset of this work effort (DOT, Jacksonville, St. Johns County, JTA, and Jacksonville Beach representatives), staff feels that there needs to be more discussion involving cross jurisdictional impacts and their measurement prior to incorporating this language into the proposed program.

Recommendation: Approval of the Transportation Proportionate Fair Share Program, with the condition that Section K. Cross-Jurisdictional Impacts be deleted for future consideration.

Mr. DeLoach asked staff whether they have had a chance to address Ms. Golding's e-mail. Mr. Lindorff responded that they had just received her comments, but noted that Ms. Golding was commenting on a draft that was not the most recent draft, and that there were some points that would be addressed with the changes to the draft that she had comments on. Mr. Lindorff then introduced Steve Tocknell, the project manager for the development of the ordinance. Mr. Lindorff stated that the efforts for this ordinance were part of a broader effort that RS&H is working on as part of their continuing services agreement that will eventually lead to a revised Transportation Element.

Mr. Tocknell introduced the sub-consultants, and reiterated that Ms. Golding's comments are based on a less recent document. Mr. Tocknell stated that they are working on a concurrency management system that would be more consistent with the Transportation Element. Everything that is being done will ensure that the City meets its transportation concurrency requirements.

Mr. Tocknell responded in detail to Ms. Golding's comments. Mr. Tocknell noted that there would be automatic cross-references between the ordinance and the Land Development Code. Mr. Tocknell noted that no further actions would be taken until further remedies were taken. Mr. DeLoach asked whether permits will be issued. Mr. Mann responded that the building permit would not be reviewed until it was resolved. Mr. Tocknell stated that the scale of the model ordinance was adjusted to be applicable to Jacksonville Beach. Much of the model ordinance is not applicable to Jacksonville Beach.

Mr. Tocknell addressed Ms. Golding's comments that parts of the ordinance were redundant – Mr. Tocknell noted that the redundancies that she pointed out were not applicable. Mr. Tocknell acknowledged that reference to Sec. D should be a reference to Sec. E. Mr. Tocknell stated that the reference to the time frame in the Land Development Code was fine. Mr. Lindorff noted that the period for a site plan approval was two years, and that if someone gets an adequate facilities reservation that also is two years.

Mr. Tocknell responded that the use of the word may in Section 2G was acceptable and an insignificant distinction. Mr. Tocknell stated that it was conceivable that S.R A1A would benefit from the FDOT TRIP program, which could be used to fund multi-modal improvements – fair share contributions could be used as the match for funds and that language was not necessary. Mr. T. noted that the developer is entitled to a reimbursement if contribution is greater than the fair share in the model ordinance, and recommends that this language be maintained and no reference to discretion of reimbursement be included in the ordinance.

Mr. Tocknell referenced Ms. Golding's comments on cross-jurisdictional impacts. Mr. Tocknell recommended to wait until they were addressed in the ordinance and until other jurisdiction determined how to address cross-jurisdictional impacts – recommended to defer comments until a later date. Mr. Jones asked how the language on proportionate share addressed financial feasibility. Mr. Tocknell responded that there would be a multi-modal element within the ordinance – would make more sense to use proportionate share to do bike lane or sidewalk improvements. If project was not financially feasible, could not use fair share. Mr. Lindorff stated that in order to be subject to proportionate share, would have to be in Transportation Element, which would only be included if financially feasible. Congestion management projects such as turn lanes and realignment would be more likely to be those type of projects subject to proportionate share. We can't build our way out of the problem that many trips are pass-through trips.

Mr. Tocknell reiterated that the ordinance allows fair share to be contributed toward multi-modal types of improvements. Mr. Jones asked if fair share for multi-modal improvements would be calculated according to the same process. Mr. Tocknell responded yes – it was based on the cost of a financially feasible project.

Mr. DeLoach asked if there was anyone to speak in favor or in opposition.

Jim Overby, 21 Burling Way, Jacksonville Beach spoke in opposition and recommended deferral.

Dean Thompson, 2067 Green Heron Court, concurred with Mr. Overby and spoke in opposition, and recommended that the Jacksonville Beach Ordinance follow the State's model ordinance word for word.

Wendell Finner, 420 Lower 8th Avenue South, spoke in opposition and recommended deferral.

Mr. Lindorff's responded to Mr. Finner's comments, stating that the model ordinance uses the word may, changed from will. A condition precedent has to happen before a charge is incurred. The City controls whether the situation happens, therefore use of the word may is acceptable.

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

Mr. Tocknell stated that level of service is being worked on and the City will have a better handle on it upon completion of the work. In the meantime, we have the fair share ordinance to rely on. No benefit for the City to put off action on the proportionate share.

Mr. DeLoach asked about the source of the level of service data. Mr. Tocknell responded that it was based on existing traffic counts. Mr. Lindorff stated that the consultant's go to the latest available traffic counts and evaluate against adopted LOS. Most current counts are 2005 counts

– we will be able to access raw FDOT data next year. Annual public facilities report publishes the most recent traffic counts, which is the extent of data needed to evaluate level of service on the system.

Mr. Tocknell addressed Mr. Buckholz written comments, stating that there was nothing problematic in those comments. Comments are addressed by public facilities report and work under way. Other comments are based on traffic studies guidelines. Mr. Lindorff reminded the Board that the comments were made in regard to the Home Depot case, and that Mr. Buckholz comments seemed to be centered on the fact that the City doesn't do concurrency consistent with other communities. Jacksonville Beach is not similar to other communities – Mr. Lindorff stated that he believed that the ordinance is consistent with SB 360.

Mr. Sutton asked on the time frame for adoption. Mr. Lindorff responded by Dec. 1, 2006. Mr. Mann was not aware of any automatic penalties if the ordinance was not adopted by 12/1.

Mr. DeLoach expressed concern that the Board has just started to received information in short time, and that there hasn't been adequate time to review material. Was not comfortable with making this decision now and would request more time to review model referenced in the ordinance and research questions brought up by the public.

Motion: It was moved by Mr. Sutton, seconded by Mr. Dorson, to table the request until the next meeting, on November 27, 2006.

Roll call vote: Ayes- DeLoach, Schmidt, Sutton, and Dorson. Nays – Williams; motion carried 4 to 1.

PC#35-06 – Proportionate Fair Share Program

Amendment to the Potable Water sub-element of the adopted 2010 Comprehensive Plan. This is an amendment mandated by the Florida Legislature to update the current Potable Water sub-element to include a water supply facilities work plan covering at least a 10-year planning period and which is consistent with the St. Johns River Water Management District's 2005 District Water Supply Plan.

Staff Report

Mr. Mann provided the following staff report.

Tonight's hearing on this amendment is for the Planning Commission's recommendation to City Council on the transmittal of a proposed amendment to the Potable Water supplement of the Comprehensive Plan to the Florida Department of Community Affairs (DCA) for sufficiency review.

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The City employed RS&H to assist staff with this amendment required to address recent changes to State growth management regulations. (Chap. 163, F.S.) (Refer to the two-page document entitled: "Excerpts from Chapter 163, F.S." included with the agenda packages). These rule changes now require that all Florida cities' water supplies be shown to adequately serve new development no later than at the issuance of a certificate of occupancy. This amended, or updated, sub element analyses the needs of the potable water supply system to serve the City through the year 2016, and identifies those projects necessary to ensure that those needs are addressed.

Part of the identification of water supply projects, as mandated by the State, was the review of the recently completed St. Johns Water Management District's 2005 District Water Supply Plan. As stated on page 6 of the sub element, there are no Jacksonville Beach projects identified in that plan as being necessary to meet regional water supply needs.

In terms of the City's projected needs, the sub element concludes that the current potable water system operating capacity of 7.0 mgd is sufficient to meet the water needs of the City beyond the next 10 years.

Grant Misterly, 411 Pablo Avenue, spoke as the applicant for the study and agreed with staff's recommendation.

Wendell Finner, 420 Lower 8th Avenue South, commended the staff for their efforts.

Mr. Dorson stated that he never received the information.

Motion: Mr. Dorson moved to defer action to November 27th, seconded by Mr. Sutton; motion approved 5-0.

Planning & Development Director's Report

Mr. Mann stated that the next Planning Commission meeting will be on November 27, with two cases on the agenda.

Mr. DeLoach asked for a roll call to poll the members on their preference for receiving their agenda packets.

Mr. DeLoach – hard copy
Mr. Dorson – hard copy
Mr. Schmidt – hard copy
Mr. Sutton – both e-mail and hard copy
Mr. Williams – both e-mail and hard copy
Mr. Jones – e-mail

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Adjournment

There being no further business coming before the Board, Mr. Schmidt adjourned the meeting at 8:35 P.M.

Submitted by: Amber Maria Lehman, Recording Secretary

Approved:

/s/Terry DeLoach
Chairperson

Date: December 11, 2006