

**Minutes of Planning Commission Meeting
Held Monday, December 11, 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 (Absent)
Greg Sutton
Julio Williams (Absent)
Fred Jones
Bill Callan

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

Approval of Minutes

It was moved by Mr. Schmidt, seconded by Mr. Sutton, and passed, to approve the minutes for the November 13, 2006 and November 27, 2006 meetings as presented.

Correspondence

There was no correspondence.

OLD BUSINESS:

PC#33-06 – Public Hearing

Application for conditional use approval of a Type II Home Occupation in a *Residential, Multiple-Family 2: RM-2* zoning district, pursuant to Section 34-340(d)(3) of the Jacksonville Beach Land Development Code.

Staff report:

Mr. Mann stated this application was carried over from the November 13, 2006 Planning Commission at the applicant's request, to allow him to furnish the Commission with additional information regarding his request.

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At the November 13th public hearing on this application, the president of the *Ocean 1* Condominium Owner's Association spoke against this request, stating that she had been in contact with their attorney in the matter of Mr. Fouraker using his unit for business purposes, and that she and their attorney concur that their governing documents forebode Mr. Fouraker from using his unit as a business. A letter from their attorney, Thomas M. Jenks, is attached.

On November 28, Mr. Fouraker provided staff with two documents (attached) related to proposed amendments to the referenced governing documents. The first was an October 28, 2006 memorandum from Ron Bannister (Chairman of the condominium board's Governing Documents review committee) to the Board of Directors outlining recommendations for amendments to the governing documents, including allowing units to be used in conjunction with "home professional pursuits." These types of uses were characterized as not having frequent public visits by pedestrian or vehicular traffic, no non-residential storage or non-residential levels of mail, deliveries, or trash.

The second document was a letter dated November 13, 2006 from Mr. Bannister to the applicant, stating that the Governing Documents Review Committee approved the changes to the governing documents outlined in the attached October 28, 2006 memorandum.

What is unclear from those attachments is whether the Governing Documents Review Committee's approval of the proposed changes constitutes their actual approval, or just that committee's recommendation of approval to the Board of Directors.

Applicant:

The applicant, Herbert C. Fouraker, stated that he has lived in his condo for five years. Mr. Fouraker advised the board that he had submitted a letter to the Home Owner's Association explaining in depth about how operating his business out of his home would not affect his neighbors. Mr. Fouraker stated that he is a roofing contractor for commercial properties. There would be no need for any type of foot traffic or automobile traffic. He also stated that he hired an assistant who lives a couple of blocks away and also does not require any parking. Mr. Fouraker advised that his home office takes up less than 25 percent of his living space. He also advised that the condominium documents were written 30 years ago and the language is outdated. The documents are in the process of being revised.

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

The following people spoke in opposition:

Faisal Deen , 1301 South 1st Street, Unit 1508, stated that she was the past president of the Home Owners Association and voted against updating the current covenants and restrictions, and does not approve of Mr. Fouraker operating a business out of his home. Ms. Deen feels that if one

person is allowed then this will open the door for more people to operate home businesses. This will ultimately change the dynamics of the condominium.

Harvey Slessinger, 1301 South 1st Street, Unit 807, Jacksonville Beach, stated that this request is premature since the governing documents committee voted in opposition to update the documents. And even if the committee voted to update the documents it takes 66 percent of approval from all homeowners to have the documents revised and updated.

Mary Louis Gallagher, 1301 South 1st Street, Unit 1008, Jacksonville Beach

Susan Obeena, 1301 South 1st Street, Unit 1407, Jacksonville Beach

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

Mr. Schmidt asked Ms. Deen if there has been any governing action taken by the board. Ms. Deen replied that the board voted not to approve updating the covenants and restrictions.

There followed a brief discussion about the fact that the business is not allowed to operate in the condominium under the current governing documents. The governing documents would need to be changed in order for the planning board to vote on this.

Motion: It was moved by Mr. Sutton, seconded by Mr. Jones, to deny based on the governing documents disallowing this type of business to be operated.

Roll call vote: Ayes – DeLoach, Jones, Sutton, and Callan. Nays – Schmidt. Motion carried 4 to 1.

PC#36-06 – Public Hearing

Request for conditional use for outdoor restaurant seating, for an existing restaurant, in a Commercial Limited: C-1 zoning district, pursuant to Section 34-342(d)(19) of the Jacksonville Beach Land Development Code.

Staff report:

Mr. Mann stated the applicant leases the northern most tenant space, the *Spare Time Tavern*, in the *Waves* commercial center on the west side of North 3rd St., between 16th and 17th Avenue North and would like to establish a 540 s.f. outdoor seating deck over three of the existing parking spaces immediately in front of the tavern.

Staff reviewed this application in the context of our recently adopted outdoor seating regulations (Ord. 06-7918). The applicant's restaurant is 4,000 s.f., therefore by our new standards it could have a maximum of 700 s.f. of outdoor seating area. The applicant is requesting 540 s.f. The

existing center requires 111 parking spaces. With the proposed deck, the requirement would increase to 116. The attached diagram shows that even with the deck displacing three existing spaces, the center still has roughly 127 spaces on-site.

In terms of proximity to residential uses, there is only one property that could potentially cause the proposed outdoor deck to violate the minimum 300' distance standard, if no building is present separating the deck from the residence. That residence is located diagonally to the northwest of the center, on the northwest corner of 17th Ave North and 4th Street.

In order to satisfy the minimum residential distance standard, as shown the detailed sketch of the proposed deck, the applicant has pulled the north edge of the deck in one parking space, or 9' from the northerly property line, thereby utilizing the northeast corner of the existing building to separate it from the referenced residential use.

Adjacent uses to the restaurant include the balance of the commercial center to the south, commercial and office uses across 3rd Street to the east, a telephone communications facility across 17th Avenue to the north, and residential uses across 4th Street to the west, behind the center. Provided that the proposed deck is located as shown on the attached detailed plan, pulled back off of the northerly line and utilizing the existing building to block the deck from the sight line to the residential use on the northwest corner of 17th Avenue North and 4th Street North, adjacent uses should not be negatively affected. The applicant is aware that there shall be no operation or playing of any speakers, instruments or other sound producing devices within an approved outdoor seating area, and this should further ensure that neighboring uses won't be impacted. Adjacent property values should not be affected by the approval and establishment of the proposed outdoor deck.

Recommendation:

Approval, with the condition that the deck shall be set one foot back off of the northerly property line for every foot it extends to the east into the parking lot, and that the deck shall not extend to the east beyond the end of the existing parking spaces along the front of the center.

Applicant:

The applicant, Chris Oneski, 209 Bolles Street, Neptune Beach stated that he concurred with the staff report as well as the recommendation.

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

Seeing no one who wished to speak, Mr. DeLoach closed the public hearing.

There followed a brief discussion about the out door seating being 540 square feet and that the applicant would have to make a slight modification to the outer portion of the seating area.

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Motion: It was moved by Mr. Schmidt, seconded by Mr. Sutton, to recommend approval based on the mathematical calculation recommendation by staff.

Roll call vote: Ayes- DeLoach, Schmidt, Sutton, Jones, and Callan. Motion carried unanimously.

Planning & Development Director's Report

Mr. Mann stated that there would not be a Planning Commission meeting on January 8, 2007.

Adjournment

There being no further business coming before the Board, Mr. DeLoach adjourned the meeting at 7:50 P.M.

Submitted by: Amber Maria Lehman, Recording Secretary

Approved:

/s/Terry DeLoach
Chairperson

Date: February 12, 2007