

**Minutes of Planning Commission Meeting
Held Monday, July 9, 2007 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 (*Absent*)
Fred Jones (*Absent*)
Bill Callan

Bill Mann, Senior Planner, was also present.

Approval of Minutes

It was moved by Mr. Dorson, seconded by Mr. Schmidt, and passed to approve both the May 14, 2007 and May 29, 2007 minutes as presented.

Correspondence

There was no correspondence.

OLD BUSINESS:

There was no old business.

NEW BUSINESS:

PC#11-07 Land Development Code Text Amendment

Request to amend LDC Article XIII, Enforcement Proceedings and Penalties, to add new Sections 34-636 through 34-640, and to incorporate the requirement for a special magistrate into the Enforcement Proceedings and Penalties sections of Chapter 34, Comprehensive Land Development Code, of the Jacksonville Beach Code of Ordinances.

Staff Report

Mr. Mann provided the following staff report:

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Mr. Mann stated that this LDC text amendment is a follow-up to Ordinance No. 2007-7937, which was heard at its first reading by City Council on Monday, June 18. That ordinance amends the Chapter of the Jacksonville Beach Code of Ordinances to allow the use of a special magistrate appointed by Council to carry out the functions that are now handled by our Code Enforcement Board. A copy of the Planning and Development Director's June 6, 2007 memorandum to the City Manager explaining that ordinance is attached.

Because the Land Development Code contains language providing for enforcement proceedings and penalties related to LDC regulations via the code enforcement board (LDC Article XIII), it must now be amended to also reflect the replacement of the code enforcement board with the special magistrate process.

Ordinance No. 2007-7938 repeals the current Article XIII in its entirety, and replaces it with a new Article XIII, Sections 34-636 through 34-640.

Staff recommends approval.

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

The following person spoke in opposition:

Jim Overby, 21 Burling Way, Jacksonville Beach expressed concern that the proposal was not in the public interest.

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

Mr. Schmidt asked if the proposal would come before the council again.

Mr. Mann responded that the City Council will hear two readings, and that this is only a recommendation.

Mr. Schmidt asked whether the Special Magistrate process allowed for public input. Mr. Mann responded that it did not.

Motion: It was moved by Mr. Dorson, seconded by Mr. Schmidt to approve the request.

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

PC#16-07 – RD District Zoning Text Amendment

Request for redevelopment District: RD Zoning Text Amendment, to add 'beer and wine drinking establishment,' and 3,100 s.f of outdoor seating as permitted uses for first floor tenants

in the *Metropolitan* RD zoning district, pursuant to Section 34-347(c)(3)o. of the Jacksonville Beach Land Development Code.

Staff Report

Mr. Mann provided the following staff report:

Mr. Mann stated that the applicant and developer of the *Metropolitan* is currently in the process of securing tenants for the first floor lease spaces of the building. Three of the prospective tenants, a pizza restaurant, a wine store, and a dessert shop, have expressed the desire to have outdoor seating for their patrons. Ordinance 2003-7849, which established the *Metropolitan* RD district, lists as permitted uses for the district as being limited to the permitted uses of the CBD zoning district, with several exceptions. Accordingly, since ‘outdoor restaurant and bar seating’ and ‘drinking establishments’ (wine and tapas bar) are listed as conditional, not permitted, uses in the CBD zoning district, they are not presently permitted within the *Metropolitan* property.

The applicant submitted a site plan showing the three tenant spaces involved with the subject requests.

The tenant space on the east side of the building is proposed to be leased by a franchise pizza restaurant (Chicago Pizza), and they would like to provide up to 2,500 sq.ft. of outdoor seating area adjacent to their tenant space, along 1st Street. The other two tenant spaces requesting outdoor seating are smaller spaces, both along the north side of the building. Their outdoor seating areas, 300 sq.ft. each, would be recessed within the existing building, under cover of the second floor.

The applicant is also requesting to have ‘beer and wine drinking establishment’ listed as a permitted use for the first floor tenant spaces in the *Metropolitan* building. One of the prospective tenants along the north side of the building wants to open a retail wine store, which is permitted in the CBD, and would also like to sell wine for consumption on-premises, which would classify the business as a drinking establishment.

Staff has reviewed the requested amendment against our LDC standards governing RD Districts, specifically, and zoning amendments generally. The proposed uses are not contained in the list of specifically prohibited uses for RD districts. Rather, they complement and further the mixed-use nature of the existing *Metropolitan* development, and add a pedestrian-friendly component to the existing site, a concept promoted by our recent downtown visioning exercise. While the outdoor seating area proposed for the east side of the building, along 1st St., is shown in an area of existing unimproved open space, its use as outdoor seating simply changes the quality of that open space from passive to active. The applicant is aware that any impervious area added along that side of the building may cause the necessity for a modification to the City’s master downtown stormwater permit. The approval of the requested amendment will not otherwise affect the availability of adequate public facilities to serve the development.

With the exception of the proximity of other drinking establishments in the immediate vicinity, the request to add 'drinking establishment' to the list of permitted uses in the RD, is not inconsistent with relevant LDC and comprehensive standards. If this amendment is approved, however, staff feels that the number of drinking establishments should be limited to the one space that the owner actually has a tenant in line for. If this application is approved, the RD amendment ordinance will be drafted to acknowledge and provide relief from the LDC proximity standard stated in LDC Sec. 24-393(b). The other tenant discussed above, the pizza restaurant, is exempt from this standard as a restaurant containing 150 or more seats.

In examining the level of outdoor seating requested (3,100 s.f.) staff feels that any approval of outdoor seating should be consistent with the levels of outdoor seating available to other CBD area permitted uses. The 300 sq.ft. areas proposed for the two north side tenant spaces are consistent with those standards, but the area requested for the 1st St. tenant, 2,500 s.f., exceeds the maximum area allowed, per LDC sec 34-407, for outdoor seating areas. Using the formula in that section, the 1st Street tenant space, which totals 6,300 s.f., would be allowed a maximum of 930 s.f. of outdoor seating area, versus the 2,500 s.f. requested in the application. The applicant has adequate parking on-site for the requested outdoor seating.

Given that establishments with outdoor seating exist on all four sides of the subject property, and given that the City has developed a good set of regulations to control these areas, the request for outdoor seating is not out of character with its surrounding neighborhood. Adjacent property values should not be impacted.

Staff recommends approval with the following conditions:

1. Notwithstanding LDC Section 34-393(b), one beer and wine drinking establishment, not to exceed 3,000 sq.ft., shall be permitted within the *Metropolitan RD*.
2. Outdoor restaurant and bar seating shall be permitted within the Metropolitan RD, in compliance with LDC Sec. 34-407, Outdoor Restaurants and Bars.

Applicant:

The applicant, John Alexaon, Palm Valley, FL expressed support for the staff report, stating that outdoor seating is critical for businesses to survive.

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

The following person spoke in favor of the application:

Kate Clifford, with local real estate firm, stated that for many tenants, outdoor seating is a critical component.

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The following people spoke in opposition:

Sandy Golding, 1203 18th Avenue North, Jacksonville Beach, spoke, not in opposition to outside dining, but recommended that this would be a granted use as opposed to a conditional use, and that the Planning Commission will not be able to reevaluate the outdoor seating if tenant leaves. The request should only be granted as a conditional use.

Tim Franklin, 418 Seagate Avenue, Neptune Beach, voiced his concerns about the information tendered, regarding parking requirements, etc., were not adequately addressed. He stated that this should be a conditional approval and evaluated on a case by case basis.

Dean Thompson, 2067 Green Heron Point, Jacksonville Beach, stated that this needs to continue to be a conditional use approval. Also opposed the amount of square feet on First St.

Thad Mosely, 3701 Duval Drive, conditional use approvals were established in 2006. This gives permitted outdoor use to this and future tenants. All that's being requested can be achieved using the conditional use procedures adopted last year.

Jim Overby, 21 Burling Way, was opposed amount of ground coverage being requested and expressed his opinion that the 500 foot barrier against adjacent drinking establishments should be upheld and the City should maintain the current conditional use requirements.

Mr. Mann stated that the staff recommendations were directly addressing applicants request and explained that Conditional use opened up entire first floor for beer and wine establishments. He also addressed the regulations that governed what was currently governing this issue..

John Alexaon advised that he understood that he could not have a conditional use permit as PUD.

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

Mr. Dorson asked whether you could have drinking establishments 100 feet away from residential development.

Mr. Mann responded that particular standard does not apply to CBD; that the conditions for outdoor seating areas applies. It only requires the 500 feet standard between drinking establishments.

Mr. Schmidt inquired about open space requirements.

Mr. Mann responded that the open space amount was Water Management District requirements.

No maximum lot coverage is required for CBD development.

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Mr. Dorson asked about the other tenants.

Mr. Alexon stated that it would be an ice cream/coffee shop/dessert shop (Mona Lisa) and a wine store with outdoor seating for guests.

Mr. Sutton asked whether the Board would have to approve or change the zoning in order to allow conditional uses to move forward.

Mr. Mann stated that this is a zoning change and that the applicant would like to have these listed as permitted uses and that it would have to be an amendment to the zoning use. He added that each applicant would have to come in to get requested approval.

Mr. Schmidt asked if they could we do this as a conditional use. Mr. Mann responded that the Board could approve it as conditional use or permitted use. The standards apply to this property alone.

Mr. Sutton asked who would be the applicant for conditional use. Mr. Mann stated that it would be the owner authorized to a sign letter for conditional use.

Motion No. 1: Mr. Sutton moved to amend the RD Ordinance governing the metropolitan zoning district to list outdoor drinking, outdoor restaurant and bar seating and beer and wine drinking establishments as conditional uses within the development.

Amendment to Motion No. 1: Mr. Dorson made the following amendment to the original motion: to add the need for a barrier around the outside edge.

Mr. Schmidt seconded the amended motion.

Mr. Mann advised that there was already a barrier requirement to be handled through zoning.

Mr. Dorson withdrew his amendment.

Motion No. 2: It was moved by Mr. Sutton , seconded by Mr. Schmidt, to amend the RD Ordinance governing the Metropolitan Zoning District to list outdoor drinking, outdoor restaurant and bar seating and beer and wine drinking establishments as conditional uses within the development.

Roll call vote on Motion No. 2: Ayes- DeLoach, Schmidt, Dorson, Sutton, and Callan; motion carried unanimously.

PC#16-07 – Outdoor Restaurant Seating

Request for Transfer of ownership of an existing approved conditional use outdoor restaurant seating area 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 recently purchased the existing seafood market and restaurant business from the property owner and applied for an occupational license for the business in her name. Staff's review of that application yielded that she was gaining ownership of an approved conditional use outdoor seating area in conjunction with the business. She was informed that conditional uses were not transferable, and that she needed to file for conditional use approval of the outdoor seating in her name.

The seating area is on the second floor of the market, and has been in use since it was approved and constructed in 2003. (Ref. PC #48-02) There are no records of any problems with its operation since that time. The deck was approved before the City had its current set of regulations governing outdoor seating, but the Planning Commission expressed concern over the potential for noise from outdoor entertainment, and conditioned the deck's approval on allowing no amplified music other than low-volume background music.

The subject property is bordered on two sides by City-owned property. Immediately south of the property is the Jacksonville Beach Fire Department, and to the west of the property is the small City Archives Storage building. Across 3rd Street to the east is *Pablo Towers*, and north across 1st Avenue South is a vacant office building. The transfer of ownership and continued operation of the subject outdoor restaurant seating area should not impact these adjacent uses. Though the deck was originally approved prior to our current standards, its pending re-approval is occurring now, with the current set of outdoor seating regulations in effect 9LDC Sec 34-407. These standards will generally apply to the deck if the application is approved, and any existing deviations from those standards, such as the deck's size, or if they do currently have low volume music within the deck area, will be treated as legal conformities, and will be regulated as such.

Staff recommends approval.

Applicant:

The applicant, Michelle Stoler, stated that she concurred with staff's report.

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

The following people spoke in favor of the application:

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William Barnett, Jacksonville Beach

Jim Overby, 21 Burling Way, 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. Sutton to approve the request.

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

PC#19-07 – Miscellaneous Recreation Service – Beach Rentals (chairs, surfboards, etc.)

Request for miscellaneous recreation service – beach rentals (chairs, surfboards, etc.) in a *Commercial Business District*: CBD zoning district, pursuant to Section 34-345 (d)(4) of the Jacksonville Beach Land Development Code.

Staff Report

Mr. Mann stated that the applicant was before the commission in June and gained approval for outdoor restaurant seating for her boardwalk snack bar, and immediately afterward, applied for an occupational license for beach equipment rentals for her gift shop. Staff informed her that this, too, required conditional use approval, as a miscellaneous outdoor recreational service.

Adjacent uses include *Bukkets* to the south, a souvenir and shell shop to the north, and the public boardwalk and beach to the east. As long as the applicant keeps the boardwalk area uncluttered for general pedestrian use, this request should complement the balance of commercial and recreation uses in the area. Adjacent property values should not be impacted by approval of this request.

Staff recommends approval, provided the applicant may utilize no larger than a 5' by 6' area in front of her shop in which to place a stand or rack displaying/storing beach rental items.

Applicant:

The applicant stated that she concurred with staff's report.

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

Seeing no one 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.

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

PC#20-07 – Carwash Addition

Request for conditional use approval of a proposed carwash addition to an existing service station in a *Commercial limited: C-1* zoning district, pursuant to Section 34-342 (d)(6) of the Jacksonville Beach Land Development Code.

Staff Report

Mr. Mann stated that the applicant operates the *Kangaroo* gas/convenience store on the northeast corner of 3rd Street South and St. Augustine Blvd. They would like to convert a portion of the existing building into a drive-through carwash. Car washes are conditional uses in C-1 districts, and they have applied for that approval.

The station was originally built and operated as a full-service gas station for many years prior to its renovation into a convenience and gas store only. From a site plan submitted with the application, the car wash would occupy the easternmost of the three former service bays of the building. Cars would access the carwash from the front, and pull through when washed and exit out an existing driveway onto St. Augustine Blvd.

Adjacent uses include the *Coste Verde Plaza* commercial shopping center to the north across 25th Avenue South, a *Gate* gas/convenience store to the west across 3rd Street, and single family residences and vacant lots across St. Augustine Blvd. to the southeast. St. Augustine Blvd in this area is a zoning boundary between C-1 and RS-1 districts, east of 3rd Street. Given that the subject property has a long history in specifically car-serving commercial use, the addition of a one bay carwash within the existing structure and without altering on-site vehicular movement patterns, should not negatively impact adjacent uses. Potential noise from the air dryers sometimes used in automatic carwashes would occur at the northeast end of the facility, at the wash bay's exit oriented to the northeast, away from the single-family properties to the southeast. The overall operation of the facility would be subject to the City's noise regulations as well.

Applicant:

The consultant for the applicant, Lara Dietrich, 8657 Baypine Road, Jacksonville with Kimley Horn, stated that the recommended dryer will have silencer kits and will meet the noise ordinance requirements. The dryer has a 68.0 decimal level, falls well below the maximum of 75 that is allowed.

Mr. DeLoach asked about the hours of the carwash.

Ms. Dietrich responded that in best cases it would be 24 hours.

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Mr. DeLoach asked if the Kangaroo was open 24 hours. Ms. Dietrich responded yes, and that the current use actually decreases what has been there for some time.

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

The following people spoke in opposition to the application.

Ross Bryant, 224 St. Augustine Blvd, opposed the proposal expressing concerns with environmental impacts, where the water will go; the driveway empties in front of his house, noise, and that commercial business will be exiting into a residential street. Mr. Bryant added that traffic is heavy on St. Augustine Blvd. and there could security issues, and vandalism that would affect property values.

Ann Diondo 103 37th Avenue South, stated that she owns vacant lot near the property and is concerned about the car wash would have a negative impact on her property. She added that she won't be able to sell her house and can't afford the taxes now.

Jim Overby, 21 Burling Way, stated that FDOT is going to prohibit left turns on 19th at 3rd St. and traffic will be uncontrolled. He urged caution on anything that would change the traffic pattern.

Dean Thompson, 2067 Green Heron Point, Jacksonville Beach, stated, in his opinion that it is bad planning to have commercial use across from residential. He concurred that that traffic patterns will only get worse

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

Mr. DeLoach asked about what time did the bays close. The recollection was that the bays shut down at 7:00 p.m.

Ms. Dietrich stated that the traffic pattern would not be changed and they are not asking for something new to be put in.

Mr. Schmidt asked about landscaping.

John Crowe, the applicant, 1801 Douglas Drive Sanford, North Carolina addressed the hours of operation.

Mr. Mann advised that you can not regulate coin operated car wash hours. He added that there may be an option for curb cut on 25th.

Ms. Dietrich stated that some of these issues such as landscaping, new curb cut, hours of operation can be further addressed.

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Mr. Schmidt stated that the applicant should come back with some of the suggestions to address these issues.

Mr. Dorson stated that this should be tabled until those issues are further addressed.

Motion: It was moved by Mr. Dorson, seconded by Mr. Schmidt, to table the application until the August 13, 2007 meeting.

Roll call vote: Ayes- DeLoach, Dorson, and Callan. Nays – Sutton and Schmidt; motion carried 3 to 2.

Planning & Development Director's Report

Mr. Mann stated that the next Planning Commission meeting will be on July 23, 2007 with one agenda item.

Adjournment

There being no further business coming before the Board, Mr. DeLoach adjourned the meeting at 8:45 P.M.

Submitted by: Amber Maria Lehman

Approved:

/s/Terry DeLoach
Chairman

Date: August 13, 2008