

**Minutes of Planning Commission Meeting
Held Monday, November 26, 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 Terry DeLoach.

Roll Call

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

Also present was Bill Mann, Senior Planner and Recording Secretary Linda Wilkins.

Approval of Minutes

It was moved by Mr. Sutton, seconded by Mr. Schmidt, and passed, to approve the minutes of the September 10, 2007, and October 8, 2007, meetings.

Correspondence

Mr. Mann stated that there was no correspondence.

Old Business

PC #27-07 – Conditional Use Approval

Request for Conditional Use approval for drinking establishment use and outdoor bar area, pursuant to LDC Sections 345(d)(2) and (d)(7). The property is located at 602 North 1st Street (*Mango's*), more specifically described as Lots 7 and 8, Block 62, *Pablo Beach North S/D*.

Staff Report:

Mr. Mann stated the subject property is located on the northwest corner of 1st Street North and 5th Avenue North, in the CBD. As the applicant describes in the application materials, the request is for conditional use approval of an existing bar with outdoor sales and services. The subject property has continuously supported a drinking establishment use since approximately 1960. It was a bar/package store with a drive-thru window from 1960 until 1990. The drive-thru service has since been eliminated, and today it exists as a “bar and grill” with an outside deck

Minutes of Planning Commission Meeting
held on November 26, 2007

area. The applicant states the conditional uses are now being requested to correct a technical oversight in their alcoholic beverage license renewal application, whereby they neglected to document any outside bar areas as a part of their licensed premises. No expansion or other changes to the current uses or site configuration are requested.

The Land Development Code lists both *bar* and *outdoor bars* as conditional uses in the central business district. This particular bar business, as contained in the existing building on the subject property, exists as a legal nonconforming use in the CBD, since its establishment in 1960 predates our LDC requirements that drinking establishments must be approved by conditional use.

The deck area related to the bar business were constructed in two phases. Sometime prior to 2000, the area under the former drive-thru canopy (approximately 12' x 50', or 600 s.f.) was converted to a deck. No record of a building permit for that deck can be located. In 2000, the applicant did receive a building permit for an 11'x 15', or 165 s.f., uncovered extension to the existing deck. Although the applicant neglected to extend his alcoholic beverage license issued by the State of Florida over these two deck areas, both of these areas have been consistently used as outside bar area from the time they were constructed.

The applicant was instructed by staff that in order to potentially gain use of any of the existing outside deck area in conjunction with the drinking establishment use, he would first have to address the legal nonconformity related to the bar use itself, because nonconforming uses cannot be expanded in area, and adding any outdoor bar area would be considered an expansion of the existing nonconforming bar use. If he were to obtain conditional use approval for the bar use, he could then ask for conditional use approval for the outdoor bar, subject to the current performance standards for same. (LDC Sec. 34-407) For example, the structure containing Mango's is approximately 49'x 49', or 2,401 s.f. in size. In this case, pursuant to Sec. 34-407 standards the outdoor bar area would be limited to a maximum of 20%, or 480 s.f., of outdoor bar area.

The applicant has provided a response to each of the eleven standards applicable to consideration of a conditional use application (Ref. LDC Sec. 34-231). Staff generally concurs with those presentments, but have some additional comments:

Sec. 34-231(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;

Staff recommends that the applicant be required to install opaque screening to a height of six feet (6'), adjacent to the westerly and southerly sides of the outdoor deck area, as a means of mitigating noise and visual impacts to adjacent residential uses.

Sec. 34-231(i) – The proposed conditional use is consistent with the requirements of the LDC;

Minutes of Planning Commission Meeting
held on November 26, 2007

The 2,400 s.f. bar together with its maximum allowance of 480 s.f. of outdoor bar area would require a total of 29 parking spaces. The applicant indicates that there are 32 spaces available on-site. Any other aspects of the design or siting of the building or other improvements on the property, except possible the portion of the outside deck which may not have been properly permitted when constructed, are either in conformance with LDC standards, or they exist as legal nonconformities, having pre-existed the current LDC regulations.

Adjacent uses to the subject property include a multifamily use to the immediate west, a shopping center to the north, the Casa Marina hotel and the pier parking lot across 1st Street to the east, and the previously referenced mixed-use property across the avenue to the south. None of these uses will be additionally impacted from the requested conditional use approval for the existing enclosed drinking establishment use, given how long it has been in operation.

Concerning the approval of the requested outdoor bar area, such approval would actually have the effect of reducing some of the negative impacts of the outdoor bar area when it was previously in use in an unregulated manner. First, since the maximum size of the outdoor seating is limited to 480 s.f., the existing outdoor bar area would have to be reduced in size. Second, there would be no music or sound producing machines of any sort permitted within the approved deck area, whereas previously no such regulations existed on the property. There are also provisions within Sec. 34-407 whereby violations of any outdoor seating area standards, or other conditions established by the Planning Commission in its approval of the conditional use request, would be handled through code enforcement proceedings. If not properly or satisfactorily corrected, violations can ultimately lead to revocation of a particular conditional use permit for a two-year period.

Recommendations:

- Approval of the enclosed drinking establishment use.
- Approval of the outdoor bar area, subject to the performance standards contained in LDC Sec 34-407, and subject to the applicant installing minimum six ft. height opaque screening along the southerly and westerly sides of the outdoor bar area.

Karl Sanders, Esq., representing Mango's, stated that when the original deck was built, Mango's did not ask for an extension of premises for their liquor license with the state. In order to get this extension now, the local government has to sign off on the zoning. The City's code has changed and there can be no sale of liquor on an outdoor deck without conditional use approval. He also advised that Mango's has no problem with staff's recommendations.

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

Tim Franklin, Esq., representing David Smith, spoke in opposition to the request and submitted a packet of correspondence and a CD for the record.

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 with staff recommendations.

Vote: Roll call vote resulted in ayes by boardmembers DeLoach, Dorson and Williams and nays by boardmembers Schmidt and Sutton. Motion carried by a vote of 3 to 2.

New Business

PC #32-07 – Redevelopment District: RD Zoning Amendment

Request to amend the list of permitted uses with the *Pier Point* mixed-use development located at 525 North 3rd Street. The applicant is requesting to add “dance studios and schools” and “physical fitness facilities” as permitted uses within the development.

Staff Report:

Mr. Mann stated that the developer of the *Pier Point* mixed use project on 3rd Street North between 4th and 5th Avenues North. Development and permitted uses within that project are governed by Redevelopment District: RD Ordinance No. 2004-7877. He has applied to amend that ordinance to add two types of commercial uses, “physical fitness facilities” and “dance studios and schools” to the list of uses permitted within the *Pier Point* development.

Pier Point is a mixed use residential and commercial condominium, with 58 residential units and 8,000 s.f. of commercial space. Ordinance 2004-7877 states that the permitted uses within the commercial space of the building are limited to the permitted uses of the *Central Business District: CBD* zoning district (Code Sec. 34-345), except for three *CBD* listed uses; *Automotive rental and leasing* (34-345(b)(9)), *Motion Picture Theaters* (34-345(b)(10)), and *Amusement and recreation service establishments* (34-345(b)(13)).

Although the applicant is requesting both “dance studios and schools” and “physical fitness facilities”, staff has determined that “dance studios and schools” is currently permitted in *CBD* zoning, and is not specifically prohibited by the current *Pier Point* RD Ordinance. The applicant, then, need only request the one new use, “physical fitness facilities” to be added, since it falls under the broader category of excluded uses, *Amusement and recreation service establishments*.

Pier Point is surrounded on three sides by *CBD* zoning and across 3rd Street from our main C-1 commercial district. Physical fitness facilities are permitted uses in both of those districts. Adjacent uses to *Pier Point* consist of a restaurant and bar across 5th Avenue to the north, a vacant lot and Johnson Gallery to the east across 2nd Street, a veterinarian, a small commercial building and a multifamily property across 4th Avenue to the south, and a restaurant and offices across 3rd Street to the west.

Minutes of Planning Commission Meeting
held on November 26, 2007

Staff has reviewed the requested amendment against our LDC standards governing RD Districts, specifically, and zoning amendments generally. The applicant's requested uses would generally complement the balance of permitted uses in the building and in the area. The adequate provision of public services to the development will remain unchanged by the additional permitted use. Adequate parking is available on-site, and the character of the surrounding neighborhood should be unaffected by approval of the request.

Recommendation: Approval

The property owner, Steve Proctor, stated that he thinks physical fitness or personal trainers would be a good fit for this location.

Mr. DeLoach 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:
Kevin Porter, 525 N. 3rd Street, #214
Tim Hofman, 525 N. 3rd Street, #306
June Montanus, 525 N. 3rd Street, #304, in favor with conditions

Peter Stephens, 525 N. 3rd Street, #203, spoke in opposition.

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

Motion: It was moved by Mr. Sutton, seconded by Mr. Dorson, to send a recommendation to City Council for approval to add physical fitness facilities to the list of permitted uses within that project.

Vote: Roll call vote resulted in all ayes by boardmembers Dorson, Schmidt, Sutton, Williams and DeLoach. Motion carried unanimously.

PC #34-07 – 2010 Comprehensive Plan Transportation Element Amendment

2010 Comprehensive Plan Transportation Element Amendment transmittal to the Florida Department of Community Affairs, updating the current Transportation element, adopted in 1999 and reflecting changes in state legislation and in policies of the City of Jacksonville Beach.

Staff Report:

Mr. Mann stated that staff has prepared a proposed (draft) Comprehensive Plan Transportation element update for transmittal to the Department of Community Affairs for their review and approval. This updated element was presented to City Council members and Planning Commissioners at a public workshop on October 17, 2007. The primary reason for updating the

Minutes of Planning Commission Meeting
held on November 26, 2007

element at this time is to identify any needed capacity-related transportation projects, so they can be addressed in a State-required Capital Improvements Element update due in December 2008.

The only significant change to the draft element you were provided in advance of that meeting is the deletion of one programmed project, "Add lanes and Reconstruct Beach Boulevard from Penman Road to A1A". This project is listed on Table TE-8, P. 41, and is described and shown on the project sheet on page 45. This project is being removed from the element prior to its transmittal, and the revised element will be posted on the City's website prior to its transmittal hearing before City Council on December 3.

The reference project to be deleted is a carry-over from the current element. However, it was determined in the course of the study performed on Beach Boulevard in advance of the bridge project that it is not warranted. The data and analysis contained in the draft element also indicate that the portion of Beach Boulevard between Penman and A1A will remain below capacity through 2027.

Following Planning Commission and City Council transmittal hearings, the proposed element will be sent to the Florida Department of Community Affairs for their review. Following that review, we are provided with any objections and/or comments to respond to, and then the final version of the element is heard by the Planning commission and City Council for their approval and final adoption. If there are any errors or omissions discovered in the proposed element after it is transmitted, they can be addressed prior to the adoption of the final version of the element, or after that, when the entire Comprehensive Plan is evaluated in the Evaluation and Appraisal Report process in 2008.

Recommendation: Approval

Stephen Tocknell, consultant with Reynolds, Smith & Hills, was present to answer any questions the board might have.

Motion: It was moved by Mr. Schmidt, seconded by Mr. Dorson, to send the amendment on to the City Council with Planning Commission approval.

Vote: Roll call vote resulted in all ayes from boardmembers: Schmidt, Sutton, Williams, DeLoach and Dorson. Motion carried unanimously.

December 24, 2007 Meeting

Mr. Mann requested the board to entertain a motion to cancel the December 24, 2007, meeting.

Motion: It was moved by Mr. Dorson, seconded by Mr. Schmidt, to cancel the December 24, 2007, Planning Commission meeting.

Voice vote resulted in all ayes from boardmembers.

Minutes of Planning Commission Meeting
held on November 26, 2007

Planning & Development Director's Report

Mr. Mann advised the board that there would be one case on the agenda for the meeting on December 10, 2007.

Adjournment

There being no further business coming before the Board, Mr. DeLoach adjourned the meeting at 8:09 P.M.

Submitted by: Linda M. Wilkins

Approval:

/s/Terry DeLoach
Chairman

Date: January 28, 2008