

**Minutes of Planning Commission Meeting
Held Tuesday, February 25, 2008, 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) *Absent*
Julio Williams *Absent*
Greg Sutton
Fred Jones *Absent*
Bill Callan

Also present was Bill Mann, Senior Planner and Recording Secretary Amber Lehman.

Approval of Minutes

It was moved by Mr. Dorson, seconded by Mr. Sutton, to approve the minutes for January 14, 2008, and January 28, 2008, as presented.

Correspondence

Mr. Mann stated that there was no correspondence.

Old Business

There was no old business.

New Business

PC #02-08 – Planned Unit Development: PUD zoning amendment

Request to amend the PUD ordinance (Ord. No. 2003-7866), for the South Beach Village subdivision, located at the southeast corner of St. Augustine Boulevard and A-1-A, in order to allow homeowners to apply for certain setback and lot coverage variances.

Mr. Mann read the following staff report into the record:

The applicants own the home at 246 Cayman Court, in the *South Beach Village* PUD on the southeast corner of St. Augustine Blvd and 3rd St. S. The applicants' lot is Lot 12, located on the

southeast corner of Abaco Lane and Cayman Court. They have applied to amend their PUD ordinance to allow property owners within the subdivision to apply for variances from certain of their PUD development standards. A copy of Ord. no. 2003-7866 is provided for your reference.

There are currently no provisions in Ord. No. 2003-7866 to allow residents to apply for variances of any type. The applicants are asking to be allowed to apply for variances from the PUD standards listed in Sections 1.B.5 through 1.B.8. of the ordinance, the minimum yard setback and lot coverage standards for the PUD.

The applicants have filed this application as the initial step to attempt to remedy a wooden deck addition that they constructed without a building permit in the required 5' southerly side yard of their lot (Type "C" lot). If this amendment is approved by City Council, they could then file for a variance on their lot for their encroaching deck. If that variance were approved, they could then apply for a building permit to build within the side yard (or, in this case, to retroactively approve existing construction).

The side yard that the applicants built in also exists as the northerly half of a 10-foot wide drainage and utility easement running between Lots 11 and 12. Because of the permitted intensity of development within this PUD (reduced setbacks, and 60 % allowable lot coverage versus coverage versus 35% lot coverage in the surrounding RS-1 district), the minimum yard areas around many of the homes also serve as the required storage volume and collection system for the "first flush" of stormwater runoff from rain events. The permissibility of putting the applicants' deck or any other structure within this or any other easement on the property must also be approved by the Public Works Department, as part of the building permit process. If the applicant were ultimately unsuccessful in obtaining a building permit, the existing deck would have to be removed.

Adjacent uses include RS-1 zoned single-family homes to the northeast, south, and to the east across Madrid St., and a gas station across St. Augustine Blvd. to the north. East of 3rd St., St. Augustine Blvd. serves as a zoning boundary between the C-1 district along 3rd St. to the north, and the established residential areas including the PUD, to the south.

To the extent that the proposed PUD amendment would allow property owners within the subdivision to seek variances that would allow horizontal improvements such as decks within their rear and side yards, staff does not feel that the intent of the adopted PUD standards for *South Beach Village* would be compromised. Simply allowing the opportunity, via variance, to explore, the ability to place at-grade improvements on a specific lot within the subdivision will not negatively affect the character of the surrounding area, nor will adjacent property values be impacted. Staff does not feel, however, that variance requests should be permitted for building additions to existing structures, given the extremely close proximity of the existing homes to each other already.

Recommendation: Approval, with the condition that variances may be applied for only for relief from the rear yard, side yard, accessory structure, and lot coverage standards of the PUD, and that they may only be applied for in conjunction with on-grade improvements.

Applicant:

The applicant, John Anderson, 246 Cayman Court, Jacksonville Beach, stated that he had constructed a wooden deck that was not permitted. Mr. Anderson also said that he has a drainage issue that inhibits the uses of the back yard. In addition, Mr. Anderson has older family members that live with him that enjoy the deck.

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:

David Kramer, 256 Cayman Court, Jacksonville Beach, stated that he was on the board of their homeowners association, and that they were in favor. However, he requested that the HOA still be able to govern all request for variances before coming to the city for approval.

Mr. Mann stated that although he understood Mr. Kramer's request, staff would not be able to enforce an HOA approval requirement as a pre-requisite to individual variance applications. He stated that they could amend their covenants and restrictions to require HOA approval, but it would be a civil matter, not involving the City.

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

Mr. DeLoach asked that if the board approves the homeowner's request to allow them to seek variances for setback and lot coverage, will Pubic Works still have the last approval?

Mr. Mann stated that PW would have to give approval in the applicant's case, because the deck they built lies over a drainage and utilities easement.

Motion:

It was moved by Mr. Sutton, to recommend approval with staff's recommendation that variances may be applied for only for relief from the rear yard, side yard, accessory structure, and lot coverage standards of the PUD, that they may only be applied for in conjunction with on-grade improvements and that lot coverage variances are not to exceed 70%.

Motion died due to lack of a second.

2nd Motion

It was moved by Mr. Dorson, to deny the request.

Motion died due to lack of a second.

3rd Motion

It was moved by Mr. Sutton, seconded by Mr. Dorson, to recommend approval with staff's recommendation that variances may be applied for only for relief from the rear yard, side yard, accessory structure, and lot coverage standards of the PUD, and that they may only be applied for in conjunction with on-grade improvements and lot coverage variances not to exceed 70%.

Roll call vote: Ayes – DeLoach, Sutton, Dorson, and Callan. Motion carried unanimously.

PC #03-08 – Planned Unit Development: PUD Zoning Amendment

Request to amend the PUD ordinance (Ord. No. 2003-7765), governing the portion of Osceola Professional Center Located on the west side of Isabella Boulevard, south of Osceola Avenue (2560 Isabella Boulevard). The applicant is requesting to add “physical fitness facilities” to the list of permitted uses within the PUD.

Mr. Mann read the following staff report into the record:

The applicant, Tim Benner, is the developer of the *Osceola Professional Center* office park on the south side of Osceola Ave., west of 3rd St. Development and permitted uses within the PUD-zoned portion of the existing office park (west of Isabella Blvd.) are governed by Planned Unit Development: PUD Ordinance No. 99-7765. (Copy attached) Mr. Benner has applied to amend that ordinance to add two types commercial uses, “physical fitness facilities” and “dance studios and schools,” to the list of uses permitted within the PUD.

The *Osceola Professional Center* spans three separate zoning districts. The portion of the office park between A-1-A and Almonaster St. is zoned C-1. The portion between Almonaster St. and Isabella Blvd. is zoned RM-1. The RM-1 portion of the office park is an approved conditional use. The portion of the park lying west of Isabella is the subject of this amendment and is zoned PUD. The applicant has been approached by the owner of a physical fitness facility in the area who would like to relocate to a tenant space in one of the buildings in the PUD. Since the PUD regulations currently only permit professional office, and financial and business service establishments, the applicant was informed that he would need to seek an amendment to the PUD standards to accommodate the proposed use. The applicant said he would also like to include “dance studios and schools” as a permitted use, to further add to his flexibility in leasing space within the PUD, and to accommodate businesses which may be classified as both dance and fitness type facilities.

Adjacent uses include a shopping center across Osceola to the north, residential homes across a large retention pond to the west, and across a pond to the south and Isabella to the southeast. The balance of the *Osceola Professional Center* lies to the east. Isabella Blvd. is blocked off at the southern point of the office park, to prevent commercial traffic from intruding into the residential neighborhood to the south.

Staff has reviewed the requested amendment against our LDC standards governing PUD Districts, specifically, and zoning amendments generally. The applicant has requested uses would generally complement the balance of permitted uses in the building and in the area. Both “physical fitness studios” and “dance studios and schools” are permitted uses in the surrounding C-1 district. The adequate provision of public services to the development will remain unchanged by the additional permitted use, as the applicant is not proposing to add any new square footage to the office park.

Adequate parking is available on-site, and the typical patronage times of the proposed uses actually would complement the daytime office demand for the office park’s available parking. There are no changes proposed to the appearance of the buildings or landscaping within the PUD, and the character of the surrounding neighborhood should be unaffected by approval of the request.

Recommendation: Approval

Applicant:

The applicant, Tim Benner, Ponte Vedra Beach, stated that he concurred with Mr. Mann’s staff 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.

Mr. Sutton asked for clarification on the location of the buildings.

Motion:

It was moved by Mr. Dorson, seconded by Mr. Callan, to recommend approval with staff’s recommendation to add “physical fitness facilities and dance studios and schools” to the list of permitted uses within the PUD.

Roll call vote: Ayes – Dorson, and Callan. Nays – DeLoach and Sutton. Split vote, motion died.

Mr. Mann stated that this is only a recommendation to City Council and that the split vote could be reported as the Planning Commission’s recommendation in the staff memo to Council on the amendment.

Mr. DeLoach stated that he would feel more comfortable with “conditional use language” as opposed to changing the PUD.

2nd Motion

It was moved by Mr. Sutton, seconded by Mr. Dorson, to recommend approval of “physical fitness studios” and “dance studios and schools” as conditional uses in the PUD..

Roll call vote: Ayes – Dorson, DeLoach, Callan, and Sutton. Motion carried unanimously.

PC #04-08 – Conditional Use Approval

Request for conditional use approval for existing outdoor restaurant seating (transfer of ownership) in a Commercial: C-1 zoning district, pursuant to Section 34-342 (d) 19 of the Jacksonville Beach Land Development Code. The property is located at 120 South 3rd Street (Beachside Seafood).

Mr. Mann read the following staff report into the record:

The outdoor seating area for *Beachside Seafood* restaurant and retail market was originally approved in 2002, via PC#48-02. The business changed hands in 2007, and the outdoor seating was approved under the new owner’s name in July 2007, via PC# 17-07. The business is now in the process of changing ownership again, and the applicant has applied to gain conditional use approval for the outdoor seating in his name.

The subject outdoor seating area is primarily located on the second floor of the market, and has been in use since it was approved and constructed in 2003. There are no records of any problems with its operation since that time. The deck was originally approved before the City had its current full range 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. Since the pending approval would take place now, though, our current regulations related to outdoor seating (Sec 34-407) would apply to its future operation. 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 recognized as legal conformities, and will be regulated as such.

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 negatively impact these adjacent uses.

Applicant:

The applicant, John Shuler, 320 North 1st street, stated that he concurred with Mr. Mann’s staff 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 person spoke in favor of the application:

Bill Barnett, 232 Briarwood Lane, Ponte Vedra Beach. He owns the subject property and supports the applicant's request.

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. Callan to approve the request for conditional use.

Roll call vote: Ayes – DeLoach, Sutton, Dorson and Callan. Motion carried unanimously.

Planning & Development Director's Report

Mr. Mann advised the board that there would be a meeting on March 10, 2008 with two cases.

Adjournment

There being no further business coming before the Board, Mr. DeLoach adjourned the meeting at 7:45 P.M.

Submitted by: Amber Maria Lehman

Approval:

/s/Terry DeLoach
Chairman

Date: March 10, 2008