

**Minutes of Planning Commission Meeting
held Monday, August 25, 2014, 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 Chairman Greg Sutton.

Roll Call

Greg Sutton, Chairperson
Terry DeLoach, Vice Chairperson
Bill Callan *Absent*
David Dahl
Georgette Dumont

Alternates: Lee Dorson *Absent*
Britton Sanders

Also present were Bill Mann, Senior Planner, and Recording Secretary Amber Lehman. Mr. Mann introduced the new Alternate Member, Mr. Britton Sanders, to the Commission members.

Approval of Minutes

It was moved by Ms. Dumont, seconded by Mr. Dahl, and passed, to approve the minutes for the July 14, 2014 meeting, as submitted.

Correspondence

There was no correspondence.

New Business

(A) PC #19-14 – 333 1st Street North, Suite 101

Conditional Use Approval for transfer of ownership of an existing outdoor restaurant/bar seating area located in a *Central Business District: CBD* zoning district, pursuant to Section 34-345(d)(7) of the Jacksonville Beach Land Development Code.

Staff Report:

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

The applicants currently operate *The Shim Sham Room* establishment in the Beach Village commercial complex on the southeast corner of 1st Street and 3rd Avenue North.

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They would like to lease the adjacent, recently vacated *Off the Hook* restaurant space to open *Hoptinger*, which they describe as a beer garden and sausage house. They have applied for conditional use “outdoor restaurant and bar” approval in order to use the existing outdoor seating area formerly approved for use by *Off The Hook* in February 2012, via Application PC#1-12. Prior to 2012, the outdoor seating area was approved for use by *Paco’s Mexican Grille* in 2007, via Application PC#13-07. The size of this outdoor seating area was reviewed for compliance with Section 34-407 standards when it was originally approved in 2007.

Staff is not aware of any major problems associated with the use of this established outdoor seating since its establishment in 2007. Outdoor seating areas such as this one and the outdoor seating area across the street at Harmonious Monk’s actually complement and enhance the pedestrian friendly environment that the City has created in this portion of the Central Business District via its Downtown Vision Plan improvements.

Adjacent uses include the balance of the *Beach Village* complex to the immediate north and east, the *Best Western* hotel next door to the south, and the *Metropolitan* mixed-use building across 1st Street to the west. Approval of the use, under new ownership, of this existing outdoor seating area should not change the character of the surrounding neighborhood nor should it negatively affect adjacent property values. If approved, the applicants will be subject to LDC Section 34-407 Outdoor Restaurant and Bar regulations, and they have been provided with a copy of those regulations.

Recommendation: Approval

Applicant:

The applicant, Austin Towery, 115 9th Avenue South, stated that he concurred with the staff report.

Ms. Dumont asked where the beer garden would be. Mr. Towery responded that it would not be outdoor space. It would be natural elements so it would be gardenesque.

Ms. Dumont inquired whether the iron doors would be disruptive to the outside on the sidewalks and if it would be a fire safety issue. Mr. Towery stated that they would be fixed open and they would comply with the Fire Marshal’s requirements.

Mr. Mann added that there would be personnel staffing the door at all times, which Mr. Austin agreed with.

Mr. DeLoach asked what drives a decision to have a beer garden. Mr. Towery stated that, in his many travels, he has seen the success with this type of establishment. He reviewed the menu items.

Ms. Dumont asked if there would be tables. Mr. Towery responded that there would be community tables.

Mr. Mann asked how the license treated the common area between the two spaces. Mr. Towery responded that it was segmented and they would not allow access to both.

Ms. Dumont stated that these businesses were separate entities, but the alcohol license would cover both operations. She commented that it went against the intent of license, even though it may be within the letter of the law.

Public Hearing

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

Seeing no one who wished to address the Commission, Mr. Sutton closed the public hearing.

Motion: It was moved by Mr. Dahl, seconded by Mr. DeLoach, to approve the conditional use as presented.

Roll call vote: Ayes - DeLoach, Dahl, Dumont, Sutton, and Sanders; motion carried unanimously.

(B) PC #20-14

Land Development Code Text Amendment to amend **Sections 34-336, 34-337, and 34-338** to change ‘Public and private parks, playgrounds, and recreational facilities’ from permitted uses to conditional uses in *RS-1*, *RS-2*, and *RS-3* single-family residential zoning districts, respectively, and to amend **Sections 34-339 and 34-340** to change ‘Public parks, playgrounds, and recreational facilities’ from permitted uses to conditional uses in *RM-1* and *RM-2* multiple-family zoning districts, respectively.

Staff Report:

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

Currently, in our three single-family residential zoning districts, ‘public and private parks, playgrounds, and recreational facilities’ are listed as permitted uses, and in the *RM-1* and *RM-2* multi-family districts, ‘public parks, playgrounds, and recreational facilities are listed as permitted uses. In all five residential districts, though, ‘religious organizations’ are listed as conditional uses.

The U.S. Congress passed the Religious Land Use and Institutionalized Persons Act (RLUIPA) in 2000. Many, if not most, of the current LDC regulations predate the passage of RLUIPA. Among other matters, generally, RLUIPA and construing federal case law requires that assembly uses, such as religious organizations, and parks and recreational facilities, be treated on equal terms. While legal counsel for the City and the Planning Division believe the present LDC regulations as to the City’s residential zoning districts comply with RLUIPA and

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other applicable federal law, it has been recommended that such regulations be amended to equalize the treatment of religious organizations, and public and private parks, playgrounds, and recreational facilities groups.

The attached ordinance removes 'public and private parks, playgrounds, and recreational facilities' from the list of permitted uses in RS-1, RS-2, and RS-3 districts, and adds them to the list of conditional uses in those districts, where 'religious organizations' are listed. It also similarly removes 'public parks, playgrounds, and recreational facilities' from the list of permitted uses in RM-1 and RM-2 districts, and adds them to the list of conditional uses in those districts, also where religious organizations are listed.

Recommendation: Approval

Mr. DeLoach stated that it brings these questions back to the Planning Commission and allows for more control of these issues.

Mr. Mann added that they are looking at other uses that attract people to see if this change needs to be addressed elsewhere in the LDC.

Mr. Sanders asked why it took so long to look at this. Mr. Mann stated that these regulations predate the requirements, and that there had been no onus to look at the LDC to see if changes were needed to address RLUIPA requirements.

Public Hearing

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

Seeing no one who wished to address the Commission, Mr. Sutton closed the public hearing.

Motion: It was moved by Mr. DeLoach, seconded by Mr. Dahl, to approve the changes to the land development code.

Roll call vote: Ayes - DeLoach, Sutton, Dumont, Dahl, and Sanders; motion carried unanimously.

Planning & Development Director's Report

Mr. Mann advised the Planning Commission members that the next meeting is scheduled for Monday, September 22, 2014. A brief discussion ensued about receiving agenda packets earlier.

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Adjournment

There being no further business coming before the Commission, Mr. Sutton adjourned the meeting at 7:20 P.M.

Submitted by: Amber Maria Lehman
Staff Assistant

Approval:

/s/Greg Sutton

Chair

Date: October 13, 2014