

**Minutes of Planning Commission Meeting
held Monday, May 23, 2016, 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) *absent*
Bill Callan *absent*
David Dahl
Georgette Dumont

Alternates
Britton Sanders
Jeffrey Jones *absent*

Also present were Heather Ireland, Senior Planner and Recording Secretary Amber Lehman.

Approval of Minutes

There were no minutes to approve.

Correspondence

Ms. Ireland reported that there was no correspondence.

Old Business

(A) PC #14-16- Finding of Facts

Staff Report:

Ms. Ireland reported that the Commission has been provided a copy of the Finding of Facts for PC #14-16 from May 9.

Motion: Mr. Dahl made a motion to approve the Finding of Facts for PC# 14-16 from the May 9 meeting. The motion was seconded by Ms. Dumont.

The motion was approved unanimously.

New Business

(A) PC #16-16- 528 Beach Boulevard

Conditional Use Application for outdoor seating for an existing restaurant building, located in a Commercial, general: C-2 zoning district, pursuant to Section 34-343(d)(14) of the Jacksonville Beach Land Development Code.

Staff Report:

The applicant is proposing to open a restaurant in the vacant Wendy's restaurant building on the south side of Beach Boulevard, between 5th Street and 6th Street South. The building has been vacant since 2009. The applicant is proposing to renovate the existing building and wants to add an outdoor seating area on the east side of the building, where the old drive-thru lane was located. The applicant is proposing 538 sq. ft. of outdoor seating space, which is within the Sec 34-407 size allowance for the existing building. The applicant is aware that the seating area would have to be enclosed by a minimum of 42-inch high wall or fence if alcohol will be consumed, and that outdoor music is not permitted within approved outdoor restaurant and bar areas.

Adjacent properties include a new restaurant directly to the east, commercial uses directly to the south across Shetter Avenue, a package liquor store to the west across 6th Street South, and City of Jacksonville Beach Historical Park and commercial uses to the north across Beach Blvd. The redevelopment of this blighted vacant commercial property into a new restaurant with outdoor seating should not negatively impact the neighboring properties or commercial establishments.

Applicant:

The applicant, Matt Phillips, 10751 Deerwood Park Blvd., Jacksonville, introduced himself.

Mr. Sanders asked where the outdoor seating would go and asked about the wall. Mr. Phillips described the type of fence that would go there.

Public Hearing:

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

There was no one present to speak in favor of or in opposition to the application.

Motion: Ms. Dumont made a motion to approve the Conditional Use Application. The motion was seconded by Mr. Sanders.

Roll call vote: Ayes – Dahl, Dumont, Sanders, and Callan. The application was approved unanimously.

(B) PC #17-16- 136 19th Avenue North

Conditional Use Application for a proposed miscellaneous health office and single-family residential, located in a *Residential, multiple family: RM-2* zoning district, pursuant to Section 34-340(d)(12) and (d)(14) of the Jacksonville Beach Land Development Code.

Staff Report:

The applicant is proposing to purchase the subject property on 19th Avenue North and is requesting conditional use approval to relocate her existing acupuncture business to a small portion of the first floor of the building, while maintaining the upstairs as her primary residence. The subject property is currently a duplex, with one dwelling unit on each floor. Business and professional offices, including miscellaneous health offices, are permitted conditional uses in *RM-2* zoning districts.

The applicant is currently operating her business at a location on 3rd Street North. She informed staff that she does not have any employees, and does not see more than one client at a time, with an average of 20 clients a week. The subject property has adequate residential parking for the dwelling unit proposed to remain, and the applicant has provided a proposed site plan to add three off-street commercial parking spaces at the rear of the property to accommodate the business use, including one handicapped space. If approved, this conditional office use would not be transferable to another owner, occupant, or business.

Adjacent uses include multiple family and single-family residential. Due to the low intensity of the proposed use, and the decrease in residential density on the subject property, adjacent properties should not be negatively impacted by the proposed use.

Applicant:

The applicant, Joy Esler, 1420 3rd Street North, stated that her business was a quiet operation.

Ms. Dumont asked if she would be adding employees. Ms. Esler responded no.

Public Hearing:

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

Mr. Sutton noted that he had a number of cards and read the names of those in attendance who had completed cards stating they were in favor of the application but did not wish to address the Board. There were two people who submitted cards in opposition to the application.

Mr. Dave Koseruba, 27 Fairway Lane, spoke in favor of the application.

Ms. Kathy Koseruba, 27 Fairway Lane, stated that they had used her services for many years. She stated there are never multiple patients simultaneously. She spoke of the advantages of her services.

Mr. Bob Bunkley, 314 14th Avenue North, stated that Ms. Esler was a neighbor and there has never been any issues with the business. He added that there were never parking issues with the business.

Ms. Diana McCool, 1551 1st Street South, spoke in favor the application.

Ms. Sandy Kirkland, 314 14th Avenue North, stated that Ms. Esler is a good neighbor and spoke in favor of the application.

Ms. Jean Francis, 116 19th Avenue North, objected to this business being located in this densely residential neighborhood and expressed concerns that this could set a precedent. She added that she had 6 e-mails from others in the condominium objecting to the application.

Mr. Lyle Raymond, 91 19th Avenue North, stated that this was a residential area where there have been dramatic improvements. He stated that once a variance was given to allow a business it will result in others being proposed.

Discussion:

Ms. Esler explained how she will deal with medical waste. She added that the zoning does allow for conditional use of miscellaneous health. She pointed out other businesses in this area of the City.

Mr. Sanders asked how many clients per day. Ms. Esler responded 20 clients per week, and explained her business hours. Mr. Sutton asked if she would see anyone during off hours. Ms. Esler stated no.

Ms. Dumont asked if she would object to conditional hours of operation. Ms. Esler

stated as long as she could see her last client at six p.m. that would be okay. Mr. Sutton stated that they could also consider Ms. Esler coming back to the Board at a future date.

Mr. Sanders noted that there were two hurdles. He noted the Code allows some businesses in the zoning district. He also noted that the areas of the Code that spell out the criteria for conditional use. He stated that the issues of the patients being happy with the service is not a criteria for approval.

Motion: Ms. Dumont made a motion to approve the Conditional Use Application with the condition that if another acupuncturist is hired she has to reappear before the Board, and the hours of operation shall be restricted to Monday through Friday between 12 p.m. and 7 p.m. where clients can be seen. The motion was seconded by Mr. Sanders.

Mr. Dahl stated that it would be easier to monitor it and see how the operation was working. He stated it should be limited to one therapist.

Amended Motion: Ms. Dumont amended the motion to approve the Conditional Use Application with the condition that if another acupuncturist is hired she has to reappear before the Board, and the hours of operation shall be restricted to Monday through Friday between 12 p.m. and 7 p.m. where clients can be seen., and to revisit the application after one year. The motion was seconded by Mr. Sanders.

Roll call vote: Ayes – Sanders, Dahl, Dumont and Sutton. The application, as amended, was approved unanimously.

(C) **PC #18-16- 3790 3rd Street South**

Planned Unit Development: PUD Zoning Amendment Application amending Ordinance No. 7411, as amended, to allow for the outdoor storage and display of merchandise at shopping center retailers.

Staff Report:

The owner of *South Beach Regional Shopping Center* and representatives from the *Home Depot* approached staff recently to discuss the possibility of being able to display outside seasonal merchandise at the retail center. They were informed that the existing Planned Unit Development (PUD) Ordinance governing the center specifically prohibited the outside storage and display of products and materials, and changing this prohibition would require a PUD amendment. In response, the owner of *South Beach Regional Shopping Center* has submitted an application to amend the Planned Unit Development that was established for the shopping plaza

under Ordinance No. 7411 in 1989, and as was subsequently amended to accommodate subsequent development within the center.

When it was adopted, PUD Ordinance No. 7411 included specific “Conditions of Approval of Final Development Plan”. Specifically, Condition No. 11 stated, “There will be no outside storage of any kind on the shopping center property, including, but not limited to use of palletized storage or semi-trailers”. In 2006, the PUD was amended to allow for the Home Depot to replace the former *K-Mart* at the east end of the center. Ordinance No. 2006-7928 specifically reiterated the condition stated in Ordinance No. 7411 that prohibited the outside storage and display of merchandise. Ordinance No. 2006-7928 contained the following conditions, specifically related to the then proposed Home Depot store:

- There shall be no outside storage of goods or services offered or empty cartons/pallets at any time, to include but not limited to storage in portable storage units, except that empty pallets, baled cardboard, and recyclable items may be stored within the truck well area, adjacent to the compactor, at the northwest corner of the building.
- There shall be no outside storage or display of propane bottles except in the area of the truck well or the north side of the garden center.
- All shopping carts and lumber dollies shall be stored in the building or in the parking lot cart corrals during business hours and within the building before and after business hours.
- There shall be no outside display of goods and services.

The property owner is requesting that the PUD language be amended to permit the outside display and storage of seasonal merchandise at retail establishments at the *South Beach Regional Shopping Center*.

Adjacent property uses for the shopping center include commercial offices to the north, Butler Boulevard directly to the south bordering the entire PUD, single family residential to the east across 3rd Street, and single family to the west across South Beach Parkway. Internal shopping center uses currently include retail, personal services, grocery, and eating establishments.

Staff reviewed the requested amendment with the Fire Marshal, and the display of merchandise in front of the store and garden center would not necessarily compromise emergency access, so long as the entry/exit ways for the store remained unblocked at all times. He did indicate that if the request were approved, any areas approved for such outside display would have to be fire sprinklered.

If this request should be approved, staff feels that any such approval should carry with it specific site plans as to the limits of allowable areas for outside display throughout the center, and, if appropriate, times during each year when such display would be allowed.

Applicant:

The applicant, Kevin Hollenbeck, 9745 Touchton Road, Jacksonville, stated that he was not here tonight to satisfy one particular tenant. He stated that he understood the desire for a uniform look and the avoidance of clutter, but thought that the requirement of no outdoor display was obsolete. He stated that Home Depot has taken in their outside items and the place looks empty. He added that the Home Depot is off of 3rd Street and outside display is not a safety issue.

Mr. Sanders asked when Trader Joe's opened. Mr. Hollenbeck responded that they have been open about 2 years. Mr. Sanders asked if the existing storage was in accordance with the PUD. Mr. Hollenbeck responded that it was. Mr. Sanders asked if this was to be allowed for all parcels in the PUD. Ms. Ireland responded that all parcels were approved in one PUD.

Mr. Michael Enfield, Home Depot store manager, 3790 3rd Street South, stated that Home Depot needs a standard store appearance to attract customers. He stated that he was moved here in November and was trying to get things right. Mr. Sutton asked if the restriction has resulted in an increase in hardship on Home Depot and whether anything has changed from 10 years ago.

Public Hearing:

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

Mr. Dan Leary, 3105 Coral Reef Drive, Jacksonville, stated that he was the owner of Home Depot and this was his fourth manager. He stated he was for the customer.

Ms. Kathleen Gall, 4059 Palm Way, stated that there are a lot of palettes sitting outside. She questioned whether there was any room for outdoor storage. She stated that it is not a good idea for outdoor storage.

Ms. Gretchen Alter, 3915 Ponte Vedra Boulevard, stated that this was to be the gateway to Jacksonville Beach, and it should remain free of clutter. She stated that Home Depot originally agreed to these parameters. She added that their business is thriving and there was no reason to allow this.

Mr. Mitchell Turner, 101 Citrus Lane, Ponte Vedra Beach, stated that Home Depot is understating what they intend to do. It doesn't comply with the types of development we want at the Beaches.

Discussion:

Mr. Hollenbeck stated that the water is treated before going into the Waterway. In addition, they will not be affecting parking and will not have a cluttered look. He noted that safety and adherence to the Fire Code are their intent. The Home Depot Manager then explained their plans and the uniform look that they wish to achieve.

Mr. Sutton stated that this was a unique location for a Home Depot. He stated that most are stand alone stores, and explained the ingress and egress issues, noting that the sidewalk in front of the store needs less clutter than a typical store due to the foot traffic. He added that he was concerned with how things operated there given the conditions placed on the PUD in 2006. He stated that they are not following the map that was provided and that there was regular storage of material outside the store. He questioned the need for the additional outdoor display.

Ms. Dumont stated that she understood the need to put the plants outside. She noted that the application is for the whole center not just Home Depot. Ms. Ireland noted that the PUD covered the entire shopping center. She thought the display should be extremely limited. Mr. Sanders agreed and would like to see a site plan for the outdoor storage.

Mr. Sutton asked Ms. Ireland if there was a violation report. Ms. Ireland stated that there were 10 violations since 2010 and once notified they complied. She added that typically it is because of a new manager.

Motion: Ms. Dumont made a motion to deny the Application. The motion was seconded by Mr. Sanders.

Roll call vote: Ayes – Dahl, Sutton, Dumont, and Sanders. The application to deny was approved unanimously.

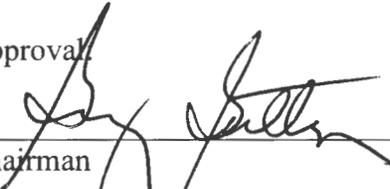
Planning & Development Director's Report

Ms. Ireland advised the board that the next meeting is scheduled for Monday, June 13, 2016 with four agenda items.

Adjournment

There being no further business coming before the Commission, Mr. Sutton adjourned the meeting at 8:25 P.M.

Submitted by: Amber Maria Lehman
Recording Secretary

Approval: 
Chairman _____
Date: 07-11-2016