

**Minutes of Planning Commission Meeting  
Held Monday, June 10, 2019, 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 at 7:05 PM by Chairman Greg Sutton.

**Roll Call**

*Chairman:* Greg Sutton  
*Vice-Chairman:* David Dahl  
*Board Members:* Margo Moehring Britton Sanders  
*Alternates:* Jon Scott Walker Bill Spann (*absent*)

Also present were Senior Planner Heather Ireland, Director of Planning and Development Bill Mann, Interim Fire Chief/Fire Marshall Steve Sciotto, and Acting City Attorney Denise May.

**Approval of Minutes**

The following minutes were unanimously approved:

- March 11, 2019
- April 8, 2019
- April 22, 2019

**Correspondence**

Ms. Ireland commented she received two emails regarding PC #15-19 and one email regarding PC #16-19 with redlined comments on the proposed Ordinance No. 2019-8118.

**Old Business** None

**New Business**

**(A) PC#14-19 Land Development Code Text Amendment Application**

**Applicant:** Edward Malin, Shetter Ave., LLC  
13 Roscoe Boulevard North  
Ponte Vedra Beach, FL 32082

**Land Development Code Text Amendment Application** requesting to amend Land Development Code Section 34-343(d) to add "Craft Distillery" to the list of Conditional Uses in the *Commercial, general: C-2* zoning district.

**Staff Report:**

Ms. Ireland read the following into record:

The applicant is the owner of Angie's Subs, which is located at 1436 Beach Boulevard on the southeast corner of Beach Boulevard and 15<sup>th</sup> Street South. The applicant plans to redevelop the property with a reimagined Angie's Subs and a barbeque restaurant and partner with a local craft distillery (*Jacksontucky*). *Jacksontucky* currently exists as a small approved craft distillery on

Shetter Avenue but desires to expand its operations and improve its visibility by partnering with, and relocating to, the *Angie's* property as part of the applicant's proposed redevelopment project.

Currently, restaurants are permitted uses in C-2 zoning, but craft distilleries are not. Craft distilleries are a listed conditional use in *Industrial: I-1* zoning districts, as described in the applicant's application. In order for the redevelopment project to be permitted, the applicant is applying to add craft distilleries to the list of conditional uses in the C-2 zoning district. Craft distilleries are similar to microbreweries, which are a listed conditional use in C-2 zoning.

"Craft distillery" is defined by Florida Statute as a licensed distillery that produces 75,000 or fewer gallons per calendar year of distilled spirits on premises. As a conditional use, a craft distillery in C-2 zoning would require approval by the Planning Commission on a case by case basis.

**Applicant:**

Edward Malin, 1436 Beach Boulevard, Jacksonville Beach, approached the Commission for discussion. Mr. Sanders questioned the applicant about the designated spaces for each of the businesses discussed in the staff report. Mr. Malin responded the design is to be determined, as this is the first step in the project approval process, but he prefers the distillery be situated in the east corner of the lot and the smokehouse be situated behind it; *Angie's* size and location would depend on the layout of the parking.

The footprint of the distillery is about 5,000 square feet, and it would be open space, multi-story. Mr. Sanders commented this is an impressive improvement and followed with parking concerns. Mr. Malin responded the distillery should not pose a parking issue as it would have few employees, but the restaurant would require the most amount of spaces, along with *Angie's*. However, different operation times may facilitate parking.

**Public Hearing:**

The following spoke in support of the Conditional Use Application:

- Chuck McCue, 1908 3<sup>rd</sup> Street, Neptune Beach

Mr. Sutton closed the public meeting.

**Discussion:**

Mr. Dahl presented a question for the Interim Fire Chief on the fire requirements for the distillery should this project be built. Chief Sciotto commented this could not be determined until plans are finalized.

**Motion:** It was moved by Mr. Dahl and seconded by Mr. Sanders, to approve the Land Development Code Text Amendment Application.

**Roll call vote:** Ayes – David Dahl, Margo Moehring, Britton Sanders, Jon Scott Walker, and Greg Sutton

The application was approved unanimously

(B) **PC#15-19** 102 North 6<sup>th</sup> Avenue, Suites 10-11

**Owner:** 1036 Beach Blvd., Inc.  
2440 Mayport Road #7  
Jacksonville, FL 32233

**Applicant:** Trulieve  
3494 Martin Hurst Road  
Tallahassee, FL 32312

**Conditional Use Approval** for a proposed Medical Marijuana Treatment Center Dispensary, located in the *Central Business District: CBD* zoning district, pursuant to section 34-345 (d)(11) of the Jacksonville Beach Land Development Code. (Applicant – *Trulieve*)

**Staff Report:**

Ms. Ireland read the following into record:

The subject property is located on the south side of 6<sup>th</sup> Avenue North between 1<sup>st</sup> and 2<sup>nd</sup> Streets and is a commercial shopping center with a variety of commercial tenants. The tenant spaces were most recently occupied by a magazine publishing office. The applicant was advised by staff that, pursuant to Ordinance No. 2018-8104, conditional use approval is required for medical marijuana dispensaries in the *Central Business District: CBD* zoning district.

Adjacent uses include vacant commercial property to the north across 6<sup>th</sup> Avenue, restaurants and bars to the west across 2<sup>nd</sup> Street, a historic hotel to the east across 1<sup>st</sup> street, offices, multiple-family residential, and a bar to the south, and various commercial uses in the balance of the shopping center.

Dispensing facilities are subject to limited hours of operation from 7:00 am to 9:00 pm, and may not be located with 500 feet of another dispensing facility or school. There are no other dispensing facilities in Jacksonville Beach within 500 feet of this location, and no elementary, middle, or secondary schools exist within 500 feet. The proposed use should not negatively impact adjacent properties.

**Agent:**

Daniel Sparks, 735 Northeast 39<sup>th</sup> Street, Oakland Park, first spoke of Trulieve's history as being the first licensed dispensing organization and added it serves over 50% of the approximately-300,000 patients in the state of Florida. There would be no cultivation, manufacturing, or consumption in this dispensary. Their headquarters and cultivation centers are located in the Tallahassee area. Only registered patients would be able to obtain their medication from this location. Trulieve sells over 150 pre-packaged, sealed, and tracked products that treat multiple ailments.

Patients must first visit a qualified physician in order to be granted a registration card to purchase cannabis medicine. The patient would visit the dispensary to purchase medication and receive consultation after showing their registration card to the security staff upon entering the facility. Trulieve would be a retail store. He referred to a PowerPoint presentation with images of the

proposed construction [*on file*] and pointed to its interior in explanation of the patients' purchasing process.

Mr. Sanders commented he appreciated the low visibility and professional design and asked Mr. Sparks about the security measures being taken. Mr. Sparks commented the front doors are unlocked during the permitted operating hours. Patients are immediately greeted by security staff upon entering the lobby area and given a chance to show their registration card. The overall goal of the facility is not to have lines forming outside, which is why there is a waiting room. Pick-up orders are where patients can receive their medication in a short time period. Regarding odor, the majority of the rooms would have carbon filtration that would reduce the odor of the medication.

Ms. Moehring asked about parking and employee count. Mr. Sparks stated approximately 10-20 employees would be working in the facility at one time. If parking becomes an issue, patients would be encouraged to pre-order their medication online.

Chief Sciotto approached the Commission and added the maximum occupancy for the dispensary and waiting areas is 70 people and explained the reasoning behind this requirement. Ms. Ireland commented a shopping center parking standard would be used to determine the minimum parking spaces. Mr. Sanders questioned the agent on the typical waiting load for the dispensary. Mr. Sparks stated outside of the grand opening, less than 70 people would be present at one time. The facility's foot traffic is similar to a typical pharmacy's.

**Public Hearing:**

The following was opposed to the Conditional Use Application, but preferred not to speak:

- Gary Paetau, 725 Bonaire Circle, Jacksonville Beach

The following spoke in opposition to the Conditional Use Application:

- Bobby Welton, 1032 First Street South #2

The following spoke in favor of the Conditional Use Application:

- Elias Honides, 329 West 6<sup>th</sup> Street, Jacksonville, property manager of the proposed project; addressed security and parking concerns. He commented parking had not been a concern.
- Chuck McCue, 1908 3<sup>rd</sup> Street, Neptune Beach

Mr. Sutton closed the public meeting.

**Discussion:**

Mr. Sanders questioned Mr. Sparks about the duration of the purchase process. Mr. Sparks stated it could vary from just a couple of minutes for a pick-up that was pre-ordered, up to 20 minutes.

Ms. Ireland commented she is unsure of the extent the Commission can limit occupancy.

Mr. Dahl asked Ms. May about how the Commission's vote would interface with the Florida Statutes. Ms. May approached the Commission and spoke of Chapter 381 of the Florida Statutes, which regulates medical marijuana dispensaries. When the City inspected the chapter, it determined the Central Business District in Jacksonville Beach is an area of the permissible, conditional use. Chapter 381 addresses some issues the City cannot regulate, like distance requirement, and requests marijuana facilities be treated as pharmacies. She later referred to the

Commission's criteria in determining this case. Facilities may not operate from 9:00 pm to 7:00 am, products must be locked in secured vaults, security must be present at all times, and law enforcement reporting is also required.

**Motion:** It was moved by Mr. Sanders and seconded by Ms. Moehring, to approve the Conditional Use Application.

**Roll call vote:** Ayes –Margo Moehring, Britton Sanders, David Dahl, Jon Scott Walker, and Greg Sutton

The application was approved unanimously.

**(C) PC#16-19 Land Development Code Text Amendment Application**

**Applicant:** Planning and Development Department  
11 North 3<sup>rd</sup> Street  
Jacksonville Beach, FL 32250

**Land Development Code Text Amendment Application** requesting to amend Chapter 34. Land Development Code to define and regulate short-term vacation rentals, where permitted.

**Staff Report:**

Ms. Ireland read the following into record:

Following the receipt of complaints regarding occupant conduct and parking problems at a short-term rental (STR) property in the city in the Spring of 2018, and also upon learning that there were a large number of STRs throughout the city, the City Manager asked staff to look into ways that the City could address some of the problems with certain types of STRs. This includes primarily those located in single-family, two-family, and townhouse dwelling properties, and especially for properties located in established lower density residential neighborhoods.

In 2011 Florida House Bill 883 pre-empted local regulations on the restriction and prohibitions on vacation rentals based solely on their classification, use, or occupancy. At that time the city had no regulations addressing what are now referred to as short-term rentals. In 2014, Senate Bill 356 rescinded portions of the 2011 preemption but provided that local governments could still not prohibit or regulate the frequency or duration of STRs. What local governments could still regulate at that time, and can currently regulate, including registration and licensing, public safety, noise, trash accumulation, parking, and occupancy levels.

The City Attorney, with assistance from Planning, Police, and Fire Department staff has compiled a proposed set of STR regulations for consideration and approval by the Planning Commission and City Council. If approved, these regulations will become a new section, Section 34-411 – Short Term Vacation Rentals, of Article VIII. Supplemental Standards of the Land Development Code.

**City Attorney:**

Ms. May approached the Commission. She explained the purpose of this application arose after many residential complaints regarding short-term rentals were brought to the City's attention. Several post-2011 jurisdictions and models were researched in constructing this ordinance, which

includes Flagler County, Panama City, City of St. Augustine, City of Hallandale Beach, City of Largo, City of Cape Coral, and the City of Jacksonville. According to these jurisdictions, short-term rentals can be regulated, but not their frequency or regulation. Condominium units and homes within a Home Owners Association are also not regulated by this ordinance, as they are already governed by bylaws. Home shares, in which owners and renters are together sharing the property, are also not regulated. Ms. May then elaborated on important provisions in the proposed ordinance:

- This ordinance requires a registration process. Upon registration with the City; proof of registration with other governmental entities, including the State (Department of Revenue), County, Department of Business and Professional Regulation, and Local Business Tax.
- Standards for the maintenance of short-term rentals in this ordinance are already-installed State laws that should currently be followed by renters: swimming pools, sleeping rooms, smoke and carbon monoxide detections, fire extinguishers, and automatic sprinkler systems are all currently regulated by the State of Florida under Chapters 509 and 515 of the 2018 Florida Statutes. The same applies to City standards, like the City's Noise Ordinance that installs "quiet hours" from 10:00 pm to 7:00 am.
- What is subject to the debate of the Planning Commission is determining the maximum occupancy and the way it is defined. Ways it can be defined include the square footage of the home, number of persons per bedroom, and full air-conditioned bathrooms. Maximum occupancy would determine solid waste handling and parking standards.
- Informative standards and provisions would be included in the short-term rental lease agreements to notify the occupants of allowances and restrictions.
- An initial inspection would be required to ensure compliance with fire and building codes.
- The ordinance would require the designation of a responsible party available 24/7 to respond to issues.
- Those that do not comply would go before the Special Magistrate. Vested rights would be considered. The City understands this transition will take time. Therefore, any rentals deemed not abiding after the installation of the ordinance would be given time to transition.

Ms. Moehring commented she is unclear about the standards for air-conditioned full bathrooms. Ms. May responded an air-conditioned bathroom includes a sink, toilet, tub, and is part of the living space of the house, per building and fire officials' codes. Mr. Sanders questioned if there would be a public workshop to inform the residents of these changes. Ms. May responded this had been discussed by City Council three times, and a public workshop would be held on June 27, 2019, at 5:30 pm to address residents. He later questioned how Ms. May distinguished the cities in which she used as examples in the creation of this ordinance from others, and she responded the regulations installed by her example cities were tried and tested in courts and later refined.

Upon discussion and complaints of the length of the ordinances, Ms. May commented while some of the provisions written in the ordinance can be removed, that does not mean they would not be applicable as they remain enforced by the State of Florida. Mr. Walker stated examples of different short-term regulations other states have installed and questioned how the decision regarding maximum occupancy can be made. Ms. May stated this is determined by this Commission and added the recommendations she previously offered were determined by not just herself, but other City officials. The method of determining maximum occupancy should not be arbitrary and unreasonable.

#### **Public Hearing:**

The following were opposed to the text amendment application, but preferred not to speak:

- Evan Greenfield, 1800 The Greens Way #208, Jacksonville Beach
- Lisa Phipps, 127 10<sup>th</sup> Avenue South, Jacksonville Beach
- Michelle Steffen, 2043 A 2<sup>nd</sup> Street South, Jacksonville Beach
- Connie Gilbert, 2100 Ocean Drive South, Jacksonville Beach
- Colin Thomas, 1124 17<sup>th</sup> Street North, Jacksonville Beach
- Gabriel Prieto, 950 16<sup>th</sup> Avenue North, Jacksonville Beach

The following spoke in opposition to the text amendment application:

- Chuck McCue, 1908 3<sup>rd</sup> Street, Neptune Beach
- Jeanell Wilson, 2014 South Oceanfront, Jacksonville Beach
- Greg Phipps, 127 10<sup>th</sup> Avenue South, Jacksonville Beach
- Kristian Boehler, 2260 Beach Boulevard, Jacksonville Beach
- William Gilbert, 2100 Ocean Drive South, Jacksonville Beach
- Nancy Garcia, representative of Northeast Florida Association of Realtors, 4130 South 3<sup>rd</sup> Street, Jacksonville Beach
- Evan Raita, 731 6<sup>th</sup> Avenue South, Jacksonville Beach
- Gretchen Kornutik, 1722 Mayview Road, Jacksonville
- Bobby Welton, 1032 1<sup>st</sup> Street South #2, Jacksonville Beach

The following spoke in favor of text amendment application:

- Tony Komarek, 533 11<sup>th</sup> Avenue South, Jacksonville Beach
- Jim Sorrell, 1410 Pinewood Road, Jacksonville Beach
- Michael Barker, 213 Tallwood Road, Jacksonville Beach
- Michael Drog, 124 11<sup>th</sup> Avenue South, Unit B, Jacksonville Beach
- Bruce Jacobi, 210 Tallwood Road, Jacksonville Beach

Mr. Sutton closed the public meeting.

**Discussion:**

Ms. May approached the Commission to address some concerns. The State of Florida already allows and defines short-term rental, and this cannot be debated by the City. Short-term rentals are considered public lodging establishments under the Division of Hotels and Restaurants and are regulated by its laws. The ordinance is not adding more restrictive regulations but is asking for property owners to register and pay taxes. Only eight business tax receipts for short-term rentals were granted by the City Clerk's office, but there are at least 400 rentals in the City according to the testimony of the public.

Mr. Sanders asked about who would be performing inspections. Chief Sciotto presented himself before the Commission and commented the initial inspection would be conducted by a Fire official, and later by a Code or Building official from the Planning and Development Department. Mr. Sanders inquired about what constitutes a "person" and whether it includes both adults and children or solely adults. Ms. May commented she would research this topic and added ages 16 and up are normally considered adults in this type of regulation. Mr. Sanders commented this decision is being rushed as more clarification is needed and believes this case should be delayed until after the public workshop. Mr. Dahl agreed and added Council would be the determining

body that would allow or deny this ordinance. Mr. Walker agreed with Mr. Dahl's and Mr. Sanders' comments. Ms. Moehring commented she did not fully understand the ordinance.

**Ex-Parte:**

Mr. Sanders commented he spoke with Jeanell Wilson regarding this case via phone call. Ms. Moehring also communicated with Ms. Wilson about the process.

**Motion:** It was moved by Mr. Sanders and seconded by Ms. Moehring, to delay voting on the Land Development Code Text Amendment Application until after the public workshop on June 27, 2019.

**Roll call vote:** Ayes –Britton Sanders, Margo Moehring, and Greg Sutton  
Nays– Jon Scott Walker and David Dahl

The motion to delay was approved 3-2.

Ms. May asked for a firm date. Ms. Ireland stated there may not be enough time to advertise before the meeting immediately following the public workshop, so the following meeting date of July 22, 2019, was given.

**(D) PC#19-19 Land Development Code Text Amendment Application**

**Applicant:** Planning and Development Department  
11 North 3<sup>rd</sup> Street  
Jacksonville Beach, FL 32250

**Land Development Code Text Amendment Application** requesting to amend Section 34-408 of the Land Development Code to modify the proximity requirements for Medical Marijuana Treatment Center Dispensing Facilities for consistency with Florida Statute 381.986.

**Staff Report:**

Ms. Ireland read the following into record:

In February of 2018, City Council approved Ordinance 2018-8104 that permitted medical marijuana dispensing facilities within the City, and established regulations under a new Section 34-408 of the Land Development Code. The State of Florida requires that if a municipality permits dispensing facilities, they cannot regulate them more stringently than pharmacies. Section 34-408(a)(1) established proximity requirements for dispensaries to be 500 feet from another dispensary and 500 feet from any school.

In order to maintain consistency and compliance with the latest version of Florida Statute 381.986(11)(c), the City is requesting to amend Section 34-408 of the Land Development Code to remove the proximity requirement that dispensaries be at least 500 feet from one another, as this requirement is not also applied to pharmacies, and is not required by Florida Statute.

When Section 34-408 was drafted, it was not intended to be stricter than Florida State Statute required, and pursuant to Florida Statute 381.986, dispensing facilities only have to be 500 feet away from any public or private school. As proposed, dispensing facilities are still permitted by

right in C-2 zoning districts, and those located in C-1 or CBD zoning districts will still be required to request conditional use approval for specific locations, and hours of operation will remain limited to 7:00 am to 9:00 pm, pursuant to Florida Statute 381.986(8).

**Staff:** Ms. Moehring questioned if the Florida statute in the discussion was changed from when it was first adopted. Ms. Ireland responded it might have changed, but it is best for the City to stay consistent and approve based on the most current statute available.

**Public Hearing:**

No one came before the Commission to speak regarding this application.  
Mr. Sutton closed the public meeting.

**Discussion:**

There was no further discussion regarding this case.

**Motion:** It was moved by Mr. Sanders and seconded by Mr. Dahl, to approve the Land Development Code Text Amendment Application.

**Roll call vote:** Ayes –David Dahl, Margo Moehring, Britton Sanders, Jon Scott Walker, and Greg Sutton

The application was approved unanimously.

**Planning & Development Director's Report**

Ms. Ireland noted the next meeting is scheduled for Monday, June 24, 2019. Mr. Sutton advised he would not be in attendance.

**Adjournment**

There being no further business coming before the Commission, Mr. Sutton adjourned the meeting at 9:30 P.M.

Submitted by: Sama Kaseer  
Administrative Assistant

Approval:

Chairman

Date

  
