

**Minutes of Planning Commission Meeting
Held Monday, July 22, 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 (*absent*) Jon Scott Walker
Alternates: Bill Spann Colleen Murphy White

Also present were Senior Planner Heather Ireland, Acting City Attorney Denise May, and Police Chief Gene Paul Smith.

Approval of Minutes

The following minutes were approved unanimously:

- June 10, 2019

Correspondence

Ms. Ireland stated an email regarding PC #16-19 was received today from Jeanell Wilson, and a copy was given to each of the Planning Commission members [on file].

Commission

Chairman Greg Sutton stated he would move PC #16-19 to the end of the agenda and proceeded with new business items.

New Business

(A) **PC#23-19** 1198 Beach Boulevard, Suite 9

Owner: Hasteh, LLC
3982 Alhambra Drive W.
Jacksonville, FL 33207

Applicant: Bento Jax Beach, LLC
PO Box 3831
Orlando, FL 32802

Agent: George Fong
2555 Temple Trail, Suite 102
Winter Park, FL 33789

Conditional Use Approval for proposed outdoor restaurant seating at a new restaurant 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:

Ms. Ireland stated the applicant has requested to defer the application until the August 12, 2019, Planning Commission meeting in order to finalize details.

Motion: It was moved by Mr. Dahl, seconded by Mr. Walker, to defer the Conditional Use Application in accordance with the Chair's request.

Roll call vote: Ayes –Margo Moehring, Jon Scott Walker, David Dahl, Colleen Murphy White, and Greg Sutton

The application was deferred by a unanimous vote.

(B) PC#24-19 Ponte Vedra Golf Course

Owners/ Ponte Vedra Corp
Applicants: 200 Ponte Vedra Blvd
Ponte Vedra Beach, FL 32082

Southside Boulevard Land Company
9540 San Jose Blvd
Jacksonville, FL 32257

Agent: Prosser, Inc.
13901 Sutton Park Drive South, Suite 200
Jacksonville, FL 32224

Conditional Use Approval for the expansion of an existing private golf course located in a *Residential, single-family: RS-1* zoning district, pursuant to Section 34-336(d)(7) of the Jacksonville Beach Land Development Code.

Staff Report:

Ms. Ireland read the following into record:

The subject property is the existing Ponte Vedra Inn and Club Ocean Course that has existed since the late 1920s. The north portion of the Ocean Course is located in Jacksonville Beach and surrounded by single-family homes. Due to increased demand for the driving range located on Pablo Road in Ponte Vedra, there is a need to expand the number of tees to accommodate the growing number of members and guests. This expansion will result in a need to shift the golf course to the north, expanding the course north into an area that is currently undeveloped property. The north boundary of the golf course property is Ponce De Leon Boulevard in Jacksonville Beach.

Adjacent uses are single-family to the north, east, and west, and the balance of the golf course to the south, expanding into St. Johns County. The proposed expansion of the existing golf course to the north should not negatively impact adjacent properties.

Agent:

Brad Davis, 13901 Sutton Park Drive South, Suite 200, Jacksonville, approached the Commission to discuss the case. He stated the purpose of the request is to improve the practice facilities and renovate the golf course at the cost of approximately \$8 million. The applicants would be renovating the greens, bunkers, and fairways as part of improving the standards of the facility. The golf course precedes the zoning code since it was built in the 1920s. Mr. Davis described in detail the changes that would occur on the golf course, like the creation of a new Hole 13 on the northside of Jacksonville Beach.

Ms. Moehring questioned the agent about the use and age of homes adjoined to the property and possible issues that may arise from their proximity to the golf course. Mr. Davis responded the golf course would add to the property value of these homes.

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 application.

Motion: It was moved by Mr. Walker and seconded by Mr. Dahl, to approve the Conditional Use Application.

Roll call vote: Ayes –Jon Scott Walker, David Dahl, Margo Moehring, Colleen Murphy White, and Greg Sutton

The application was approved unanimously.

(C) **PC#25-19** 2115 12th Avenue North

Owner: Ocean Forest, LLC
1912 Nightfall Drive
Neptune Beach, FL 32266

Applicant: Ossi Development
1112 3rd Street, Suite 4
Neptune Beach, FL 32266

Agent: Chuck Kennedy, P.E.
Connelly and Wicker, Inc.
10060 Skinner Lake Drive, Suite 500
Jacksonville, FL 32246

Concept Plan for Plat Approval for a proposed 10 lot single-family residential subdivision for property located in a *Residential, single-family: RS-2* zoning district, pursuant to Section 34-503 of the Jacksonville Beach Land Development Code.

Staff Report:

Ms. Ireland read the following into record:

The subject property is located at the north side of 12th Avenue North, west of Pinewood Lane in the Ocean Forest neighborhood. The property contains over two and a half acres and has been used as a private school child daycare center by the Lighthouse Christian Fellowship since 1999. The owners are proposing to redevelop the subject property into a ten-lot single-family subdivision under the *Residential, single-family: RS-2* zoning standards.

All ten of the proposed lots meet or exceed the RS-2 lot size and dimensional standards. On-site privately maintained stormwater retention is proposed for the southeast corner of the property. Adjacent uses include single-family properties and a city-maintained drainage ditch to the north and east. The proposed ten-lot subdivision is consistent with the existing single-family uses surrounding the property and as shown meets the RS-2 zoning standards.

Agent:

Chuck Kennedy, 10060 Skinner Lake Drive, Suite 500, Jacksonville, approached the Commission to discuss the application. Mr. Sutton asked Ms. Ireland if a similar application was presented before the Commission. Ms. Ireland responded a similar application for Concept Plan for Plat Approval was presented approximately four years ago.

Public Hearing:

The following wished to address the Commission regarding this application:

- Nancy Masten and Glenda Oakley, 2115 12th Avenue North, Jacksonville Beach, representatives of Lighthouse Christian Preschool, corrected the name of the child daycare center from Fellowship to Preschool. They commented they are not opposed to the plan, but had inquiries about the timeline of the project.
- Bobby Welton, 1032 1st Street South, Jacksonville Beach, spoke about the need for the applicant to work with the Preschool to minimize the impact to parents and students.

Mr. Kennedy stated the construction schedule had not been set. Permitting for the project can take approximately six months, which may start the construction before June 30, 2020. Mr. Sutton questioned if the owner would suffer from hardships if they are not allowed to start construction until after the school year. Mr. Kennedy responded it might cause financial burdens. Ms. Moehring asked about the possibility of timing the construction to start outwardly and move inwardly to least affect the existing preschool. Mr. Kennedy responded it would present a challenge as well. Mr. Dahl asked if he would be willing to defer the application until it is further discussed with members of the community and the preschool. It was decided this application be deferred until the August 12, 2019, Planning Commission meeting.

Mr. Sutton closed the public meeting.

Discussion:

There was no further discussion regarding this application.

Motion: It was moved by Mr. Dahl and seconded by Mr. Spann, to approve the Concept Plan for Plat Application deferral until the August 12, 2019, Planning Commission meeting.

Roll call vote: Ayes – Jon Scott Walker, David Dahl, Margo Moehring, Colleen Murphy White, and Greg Sutton

The application was deferred by a unanimous vote.

Old Business

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

Applicant: Planning and Development Department
11 North 3rd 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.

The City Attorney, with assistance from Planning, Police, and Fire Department staff compiled a proposed set of STR regulations for consideration and approval by the Planning Commission and City Council. At the June 10, 2019, Planning Commission meeting, the Planning Commission voted to defer the application until after a scheduled public workshop.

On June 27, 2019, the City held a public workshop which resulted in changes to the proposed regulations. 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. The City Attorney will provide details on the proposed changes.

City Attorney:

Acting City Attorney Denise May approached the Commission. She stated Commission members were given two handouts [on file]: the first contains summaries of the changes made after the June 27, 2019, short-term rentals workshop, and the second summarizes the regulations remaining after the changes. She pointed to a new, recently added stand-alone section brought to her attention and not located in Chapter 509 of the Florida Statutes nor directly related to short-term rentals. It allows for a civil action to be brought against a City to challenge the adoption or enforcement of a local ordinance on the grounds it is expressly preempted by Florida Statutes. The preemptions of Chapter 509 disallow the prohibiting and regulating of the duration or frequency of vacation rentals, and the proposed City ordinance does not limit either. Chapter 509 also does not limit the authority of the local government to conduct inspections of public lodging establishments for compliance with building and fire codes.

Ms. May proceeded with summaries of the changes proposed during the workshop. Some "whereas" clauses were removed, and permissive language was added. The term "sleeping room" was changed to "bedroom," as defined by Florida Statutes. Applicants would undergo single and collective registrations based on the number of properties being managed. Ms. May reiterated an exception made in the previous meetings, in which homes within a Home Owners Association, condominium units, and owner-occupied homes would not be subject to the requirements of this ordinance. While some of the language derived from Florida Statutes was removed from the ordinance, owners are still to comply to the State's Fire Prevention Code, Life Safety Code, Building Code, and Chapter 509.215 "Fire Safety" via affidavit signature.

The definition of maximum occupancy was changed after discussion with the City Council. It was originally defined as three people per air-conditioned bathroom. It is now two people per bedroom, or one per 150 square feet, whichever is less. Providing interior and exterior site sketches, names and ages of occupants, and license tag numbers is no longer a requirement but is expected to be maintained by rental managers. Modification language was clarified as only that which increases the gross square footage of bedrooms or otherwise would lead to an increase in the maximum occupancy. It is one of the instances that would lead to inspections proceeding the initial one. Fines were also modified for the City to take actions against delinquent properties by placing liens.

The Division of Business and Professional Regulation (DBPR) does not require owner-occupied properties to register as a public lodging establishment if 50% or less of the property is being rented. If a property is being rented at least three times per year for less than 30 days, then it is considered a public lodging establishment. Ms. May presented Chapter 509 definitions of a public lodging establishment to facilitate the understanding of what qualifies a property to become a public lodging establishment.

Mr. Dahl questioned how enforcement would be enacted. Ms. May responded the City staff would perform extensive searches on vacation rental websites, and there are also third-party vendors. The cost associated with third-party vendors is approximately \$35,000 annually and is based on the number of listings in Jacksonville Beach at the time of the search. Code enforcement is managed by building and fire officials, and properties would often be reported by neighbors and the community. The cost to register is a \$150 registration fee and \$10 per each additional unit. After assessment of costs and revenues by Commission members, Ms. May stated this ordinance is not a money-making endeavor, but an attempt to regulate short-term rentals and bring them into compliance.

Upon further questioning by Mr. Dahl regarding code enforcement, Police Chief Gene Paul Smith approached the Commission. He spoke of the soft costs associated with the ordinance from the collective efforts of City staff and the Jacksonville Beach Police Department, and how they can never truly be calculated. Police would be involved in the criminal, misdemeanor, parking, felony statutes, and City ordinances, but they would not manage Code Enforcement issues. He added enforcement might not be possible without the passage of these regulatory laws. If the ordinance is enacted, Police would be able to detect the problem locations and frequent violators.

Ms. May commented the drafting of this ordinance stemmed from complaints of properties located adjacent to vacation rental properties. Mr. Spann questioned if current ordinances are sufficient to regulate the properties without the introduction of this new ordinance. Ms. May stated this ordinance is needed to manage frequent violators. Homestead properties were later discussed.

Ms. May spoke in detail about the registration processes, which would check for compliance with:

- Florida Department of Revenue (DOR)
- Florida Department of Business and Professional Regulations (DBPR)
- County and City business tax receipts
- Florida Fire Prevention Code; NFPA 101 Life Safety Codes; Section 509.215 of Florida Statutes; and other applicable local, state, or federal laws
- Rules regarding maximum occupancy, parking standards, and solid waste containers
- Designated responsible party
- Lease agreement verbiage
- Required postings inside the rental units
- Jacksonville Beach codes

There is an initial inspection. Inspections would not occur every year unless there is a change in ownership, modification of the property, or life safety or building code violations. The registration process would take approximately six months. Mr. Walker questioned what defines a "person." Ms. May responded based on discussion with Council, there would be no minimum age used in the definition. Ms. Moehring asked about how the living space, which determines maximum occupancy, is defined in the ordinance. Ms. May stated the information is found in the "heating and cooling" section on the property appraiser's website and added she would incorporate clarifications for this definition in the ordinance if directed.

Chief Smith approached the Commission to address violation concerns. He commented in the case of a disturbance of peace, it is best to contact the police department. The responsible agents in such occurrences would be contacted. This ordinance would allow the City to act against violators.

Public Hearing:

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

- Tess Walter 1030 4th Street North, Jacksonville Beach

The following was in favor of the text amendment application, but preferred not to speak:

- Lynn Walker, 2902 Madrid Street, Jacksonville Beach

The following spoke in favor of the text amendment application:

- Tony Komarek, 533 11th Avenue South, Jacksonville Beach
- Evan Greenfield, 1800 The Greens Way, #208, Jacksonville Beach

The following spoke in opposition to the text amendment application:

- Bobby Welton, 1032 11th Avenue South, Jacksonville Beach
- Mark Beamenderfer, 1505 Osceola Avenue, Jacksonville Beach
- Greg Phipps, 127 10th Avenue South, Jacksonville Beach
- Gretchen Kornutik, 1722 Mayview Road, Jacksonville
- Kent Ammons, 930 10th Street North, Jacksonville Beach
- Erin Sandoval, 1300 Florida Boulevard, Neptune Beach, provided a handout [on file]
- Mike Vinci, 214 Tallwood Road, Jacksonville Beach
- Jeanell Wilson, 2014 South Oceanfront Drive, Jacksonville Beach

Mr. Sutton closed the public meeting.

Discussion:

Ms. May approached the Commission to address concerns raised by public speakers. She explained maximum occupancy has been a reoccurring issue and questioned if the Commission wants to recommend changes to the definition. She offered an alternative maximum occupancy of two persons per bedroom, plus two, in addition to alternative limits to parking and changes to the definition of a "person." Possible recommendations were discussed. Ms. May emphasized Florida Statutes would always be applicable, regardless of whether they are mentioned in the ordinance or not.

Mr. Walker spoke of the need for these regulations and questioned Ms. May on the alternative maximum occupancy of two persons per bedroom, plus two. Commission began to consider making changes in maximum occupancy and parking regulations concerning grass parking and grandfathered-in properties that do not currently meet the City's parking requirements due to their age. Ms. Murphy White announced her voting conflict into the record and suggested to Ms. May a minimum age could be added to the definition of a "person."

Motion: It was moved by Mr. Dahl and seconded by Mr. Walker, to approve the Land Development Code Text Amendment Application with the following recommendations and changes for fairness and probity:

1. Look at the two [persons per bedroom] plus two occupancy recommendation provided by the City Attorney as discussed.
2. Review grass parking based on the testimony from public speakers to ensure short-term rentals are treated fairly with parking and no damage to the residential owners near the property.
3. Review the definition of a "person" based on the business case analysis commercial property speakers put forth.
4. At the end of one year after the passage of the amended Land Development Code, there is a cost-revenue analysis in order to know what the taxpayers are covering and what the commercial interests are covering, as far as the expenses of these regulations and enforcements.

Roll call vote: Ayes – David Dahl, Margo Moehring, Jon Scott Walker, Bill Spann, and Greg Sutton
Abstain – Colleen Murphy White (completed Form 8B)[on file]

The application was approved unanimously.

Planning & Development Director's Report

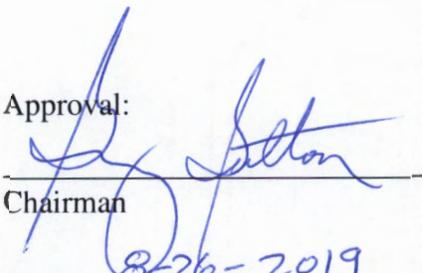
Ms. Ireland noted the next meeting is scheduled for Monday, August 12, 2019. There are two (2) scheduled cases.

Adjournment

There being no further business coming before the Commission, Mr. Sutton adjourned the meeting at 9:20 P.M.

Submitted by: Sama Kaseer
Administrative Assistant

Approval:



Chairman

8-26-2019

Date