



City of Jacksonville Beach

11 North Third Street
Jacksonville Beach, Florida

Agenda

Planning Commission

Tuesday, November 12, 2019

7:00 PM

Council Chambers

MEMORANDUM TO:

Members of the Planning Commission
City of Jacksonville Beach, Florida

The following Agenda of Business has been prepared for consideration and action at the Regular Meeting of the Planning Commission.

1. **Call to Order**

2. **Roll Call:** Greg Sutton (Chair), Dave Dahl (Vice-Chair), Britton Sanders, Margo Moehring, Jon Scott Walker
Alternates: Colleen White, Bill Spann

3. **Approval of Minutes:** October 14, 2019

4. **Correspondence:** Email on PC#32-19

5. **New Business:**

(A) PC#32-19 1222 South 3rd Street

Conditional Use Application for a proposed Medical Marijuana Treatment Center Dispensing Facility located in a *Commercial, limited: C-1* zoning district, pursuant to Section 34-342(d)(23) of the Jacksonville Beach Land Development Code. (Applicant – *Liberty Health Sciences*)

6. **Planning Department Report:**

(A) The next meeting is tentatively scheduled for Monday, December 9, 2019.

NOTICE

In accordance with Section 286.0105, Florida Statutes, any person desirous of appealing any decision reached at this meeting may need a record of the proceedings. Such person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The public is encouraged to speak on issues on this Agenda that concern them. Anyone who wishes to speak should submit the request to the recording secretary prior to the beginning of the meeting. These forms are available at the entrance of the City Council Chambers for your convenience. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the City Clerk's Office at (904) 247-6299, extension 10, no later than one business day before the meeting.

Minutes of Planning Commission Meeting
held Monday, October 14, 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 7:00 P.M. by Chairman Greg Sutton.

Roll Call

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

Also present was Senior Planner Heather Ireland.

Approval of Minutes

None

Correspondence

None

New Business

(A) **PC#18-19** 602 North 1st Street
Owner: John Kowkabany
602 North 1st Street
Jacksonville Beach, FL 32250
Applicant: John Kowkabany & Robert Tilka
1506 Prudential Drive
Jacksonville, FL 32207

Conditional Use Application to request a modification of approval conditions for outdoor bar seating at an existing establishment pursuant to Section 34-345(d)(7) of the Jacksonville Beach Land Development Code. (Applicant – Mango’s)

Staff Report:

Ms. Ireland read the following report into the record:

The subject property is located on the northwest corner of North 1st Street and 5th Avenue North and has existed as a drinking establishment since the 1960s. In 2007, the owner requested conditional use approval for the existing bar with outdoor seating to rectify the legal nonconforming use. Staff recommended at that time that, if approved, the applicant be required to install opaque screening to a height of six (6) feet adjacent to the westerly and southerly sides of the outdoor deck area as a means of mitigating noise and visual impacts to adjacent residential uses and be subject to the provisions of Section 34-407 of the LDC.

The Planning Commission approved the request with the condition that the recommended six (6) foot tall opaque screening be installed on the south and west sides of the outdoor bar area and the outdoor bar would be subject to the provisions of Section 34-407 of the Land Development Code.

Since approval of outdoor seating with conditions in 2007, the text of Section 34-407 of the Land Development Code has been changed to reflect the updated Section 18 of the City Code of Ordinances regulating Noise. More specifically, Ordinance No. 2018-8106 allowed Low Volume Outdoor Amplified and Acoustic Sound permits to be issued to licensed establishments. Based on this change, Mango's was eligible to apply for a permit, which they have received. City code enforcement has received some recent noise complaints regarding Mango's, and the establishment responded and addressed the complaints according to the Code Enforcement officer.

The establishment is under new management and wishes to open up the outdoor seating by removing the six (6) foot tall screening that was required as a condition of approval of PC# 31-07. The owners were informed by staff that they would have to apply to modify or remove the approval condition from 2007.

Adjacent uses to the subject property include multiple family to the immediate west, a commercial shopping center to the north, and the Casa Marina hotel and pier parking lot across 1st Street to the east and a mixed use commercial and residential property across the avenue to the south. Since the six (6) foot tall screening wall was required due to concerns with potential noise and visual impacts to the adjacent residential uses, if the request were to be approved, it would be appropriate to condition such approval with an expiration date to allow the Planning Commission to then revisit the request to discuss any issues that may have arisen during that time period.

Applicant:

Robert Tilka, 3584 Trident Court, Jacksonville Beach, stated he recently took over the management of Mango's and would like to make the atmosphere more relaxing and welcoming. Mr. Tilka said that removing the current fencing, it would open the outside patio area to a better view and offer better air circulation. Acting City Attorney Denise May explained the ambient noise rules.

Mr. Tilka stated since there has been new management of the establishment, he was not aware of any noise complaints. He stated the sound system is regulated, and the establishment always complies with the current noise ordinance of the City.

Public Hearing:

No one came before the Commission to speak about this case.

Mr. Sutton closed the Public Hearing.

Discussion:

Ex-parte was received from David Smith regarding previous complaints about Mango's. Conversation ensued regarding the validity of the complaints. The time frame of the complaints was also discussed.

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

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

The application was approved by a 4-1 vote.

(B) **PC#29-19** 2017 N. Third Street
Owner: 2017 N. Third Street, LLC
700 Third Street #2013
Neptune Beach, FL 32266
Applicant: Margaret Cornelius
218 Bay Street
Neptune Beach, FL 32266

Conditional Use Application for a proposed four-unit residential townhouse project located in a Commercial, limited: C-1 zoning district pursuant to Section 34-342(d)(15) of Jacksonville Beach Land Development Code.

Staff Report:

Ms. Ireland read the following report into the record:

The subject property is located on the east side of North 3rd Street between 20th Avenue North and 19th Avenue North and exists as a vacant commercially zoned lot approximately 12,000 square feet in size. The applicant is proposing to develop a four-unit, fee-simple townhouse project on the property, and was advised by staff that conditional use approval would be required.

In 2005, a different applicant applied for and received conditional use approval under PC#18-05 for a multi-family residential development. In 2018 another applicant applied for and received approval for a townhouse project under PC# 15-18. Neither project was developed. The current proposal is similar to the 2018 proposed project.

Adjacent uses include medical office and multi-family residential to the south, single and multi-family to the east, commercial office to the north, and Fletcher Middle School directly to the west across 3rd Street. The proposed use of a four-unit townhouse development is consistent with the RM-2 zoning standards, and is consistent with surrounding multi-family development.

Applicant:

Ms. Margaret Cornelius stated she had nothing further to add to Ms. Ireland's report.

Public Hearing:

The following person spoke in opposition to the case:

- Gary Paetau, 725 Bonaire Circle, Jacksonville Beach, had concerns about the vehicle turning radius.

Mr. Sutton closed the Public Hearing.

Discussion:

Conversation ensued regarding the initial plan design submitted with the application. Ms. Ireland reminded the Board the vote is regarding a Conditional Use Application and not the plan design. Ms. Ireland stated she has spoken with Ms. Cornelius (applicant) about appearing before the Board of Adjustment for any required variances.

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

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

The application was approved by a 4-1 vote.

Planning & Development Director's Report

Ms. Ireland noted the next meeting is scheduled for Monday, October 28, 2019.

Adjournment

There being no further business coming before the Commission, Mr. Sutton adjourned the meeting at 7:33 P.M.

Submitted by: Jodilynn Byrd
Administrative Assistant

Approval:

Chairman

Date

MEMORANDUM



TO: Planning Commission Members
FROM: Heather Ireland, Senior Planner
DATE: November 4, 2019
RE: November 12, 2019 - Planning Commission Staff Report

The following information is provided for your consideration regarding the following agenda item for the upcoming **Tuesday, November 12, 2019** Planning Commission meeting.

NEW BUSINESS:

PC#32-19 Conditional Use Application

Owner: Retail Properties, Inc.
10739 Deerwood Park Blvd, Suite 300
Jacksonville, FL 32256

Applicant: Liberty Health Sciences
18770 N County Road 225
Gainesville, FL 23609

Agent: Angela Chiang
106 East College Avenue Suite 810
Tallahassee, FL 32301

Location: 1222 3rd Street South

Request: **Conditional Use Approval** for a proposed Medical Marijuana Treatment Center Dispensing Facility located in a *Commercial, limited: C-1* zoning district, pursuant to Section 34-342(d)(23) of the Jacksonville Beach Land Development Code.

Comments: The subject property is located on the east side of South 3rd Street between 12th and 13th Avenues South and exists as a commercial shopping center with multiple tenants. The applicant is planning to lease a tenant space on the north end of the shopping center for use as a Medical Marijuana Treatment Center Dispensing Facility. The applicant was informed by staff that conditional use approval would be required pursuant to Section 34-342(d)(23) of the Land Development Code.

Adjacent uses include commercial and a fraternal organization to the north, commercial to the east across 3rd Street, single family residential and city owned property to the west, commercial to the south, and commercial in the balance of the shopping center. There are no schools within 500 feet of the subject property. The proposed use should not negatively impact adjacent properties.



CONDITIONAL USE APPLICATION

PC No. 32-19
 AS/400# 19-100184
 HEARING DATE 11/2/19
 (Tuesday)

This form is intended for submittal, along with the required attachments, with all requests for approval of a conditional use in a particular zoning classification as listed in Article 7, Zoning Districts of the City of Jacksonville Beach Land Development Code. An application for approval of a conditional use will be evaluated for sufficiency by the Planning and Development Director within five (5) days of receipt. If the application is found to be complete, it will be scheduled for review, public hearing and a decision by the Jacksonville Beach Planning Commission at their earliest meeting following appropriate public notice of the request. All applications for approval of a conditional use shall be accompanied by a nonrefundable fee of \$500.00.

APPLICANT INFORMATION

Land Owner's Name: <u>Retail Properties, Inc.</u>	Telephone: <u>(904) 367-5959</u>
Mailing Address: <u>10739 Deerwood Park Blvd. Suite 300</u>	Fax: <u>(904) 367-5958</u>
<u>Jacksonville, FL 32256</u>	E-Mail: <u>N/A</u>
Applicant Name: <u>DFMMJ, LLC d/b/a Liberty Health Sciences</u>	Telephone: <u>(386) 462 0141</u>
Mailing Address: <u>18770 N County Road 225</u>	Fax: <u>N/A</u>
<u>Gainesville, FL 23609</u>	E-Mail: <u>N/A</u>

NOTE: Written authorization from the property owner is required if the applicant is not the owner.

Agent Name: <u>Angela Chiang</u>	Telephone: <u>(850) 727-5009</u>
Mailing Address: <u>106 E. College Ave. Suite 810</u>	Fax: <u>(850) 270-2610</u>
<u>Tallahassee, FL 32301</u>	E-Mail: <u>angela@lockwoodlawfirm.com</u>

Please provide the name, address and telephone number for any other land use, environmental, engineering architectural, economic or other professionals assisting in the application on a separate sheet of paper.

PROJECT DATA

Street address of property and/or Real Estate Number: 12223rd St. S, Jacksonville Beach, FL 32250
(RE# 176238-0000)

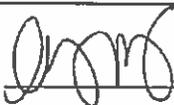
Legal Description of property (attach copy of deed): See attachment 1.

Current Zoning Classification: C-1 Future Land Use Map Designation: Commercial ^{LC}

An 8 1/2 x 11-inch vicinity map must be attached showing the location of the proposed conditional use. If the proposed conditional use meets the criteria set forth in Section 34-226 (i), a sketch site plan for the development will be required to be submitted with this application.

Code section(s) applicable to the requested conditional use: Section 34-342 (d)(2)

Describe the proposed conditional use and the reason for the request: See attachment 2.

Applicant Signature:  Date: 10/11/2019

Attachment 2

Describe the proposed conditional use and the reason for the request:

The proposed conditional use, a Medical Marijuana Treatment Center (“MMTC”) dispensing facility, is consistent with the requirements of the Land Development Code. Using this property as a MMTC dispensing facility will not have an adverse effect on the development and character of the adjacent property. The applicant, LHS has the financial and technical capacity to complete the conditional use as proposed.

All MMTCs are heavily regulated by the State of Florida and are not permitted to be located within 500 feet of a K-12 school and must pass a Florida Department of Health, Office of Medical Marijuana Use (“OMMU”) inspection before they can open for business. MMTCs are required to maintain adequate security of any facility where dispensing occurs, to include an alarm system and video surveillance system. By statute, MMTCs are not permitted to engage in advertising visible to members of the public from any street, sidewalk, or any other public place. The OMMU only allows signage that identifies the MMTC dispensing facility by name, or with a department-approved logo. These may not contain wording or images that are commonly associated with marketing aimed toward children or promote the recreational use of marijuana.

Compliance with the state requirements also ensures that the proposed conditional use will not have an adverse effect on the value of adjacent property and is designed in a manner that is consistent with the harmonious development of the C-1 zoning district.

RECEIVED

PC# 32-19

PLANNING & DEVELOPMENT

City of Jacksonville Beach
Planning and Development Department
11 North 3rd Street
Jacksonville Beach, FL 32250

Re: Conditional Use Application – Property Owner Authorization

To Whom It May Concern:

Property owner Retail Properties, Inc., hereby authorizes DFMMJ Investments, LLC d/b/a Liberty Health Sciences, to submit an application for conditional use of the property located at 1226 3rd Street S., Jacksonville Beach, FL 32250 as a medical marijuana dispensary.

Retail Properties, Inc.
10739 Deerwood Park Blvd.
Suite 300
Jacksonville, FL 32256

By: Carrie Markley
Name: Carrie Markley
Title: V.P.
Date: 10.10.19

RECEIVED

PC# 32-19
PLANNING & DEVELOPMENT

Attachment 1

Legal Description:

Lots 1 through 12, Block 124, Pablo Beach South, as recorded in Plat Book 3, Page 28, of the current public records of Duval County, Florida together with a 12 foot alley as closed by Ordinance #7363, City of Jacksonville Beach, Duval County, Florida, dated September 21, 1987

RE Parcel 176238-0000

RECEIVED

PC # 3249
PLANNING & DEVELOPMENT

PREPARED BY:
Robert A. Heekin, Esq.
1 Sleiman Parkway, Suite 280
Jacksonville, Florida 32216
File: Pablo Village

NOTE: This conveyance is made to correct a deficiency in the Special Warranty Deed recorded in Official Records Book 14843, page 2182, public records of Duval County, Florida on which the documentary stamp tax, if any, has been paid; accordingly, only minimum tax is required pursuant to Rule 12B-4.014(3), Florida Administrative Code.

WARRANTY DEED

THIS WARRANTY DEED is made to be effective the 6th day of February, 2009, by DUVAL ROYAL INVESTMENTS, INC., a Florida corporation (the "Grantor"), whose address is 1 Sleiman Parkway, Suite 270, Jacksonville, Florida 32216, to and in favor of RETAIL PROPERTIES, INC., a Florida corporation (the "Grantee"), whose address is 10739 Deerwood Park Boulevard, Suite 300, Jacksonville, Florida 32256.

WITNESSETH:

That the Grantor, as an additional capital contribution to the Grantee, has granted, bargained and sold to the Grantee, its successors and assigns forever, that real property located in Duval County, Florida, which is described in the attached Exhibit A, subject to all matters of public record (provided this mention shall not serve to reimpose same), all claims arising by, through or under the Grantee, and ad valorem taxes accruing after December 31, 2007.

And the Grantor does hereby fully warrant the title to said real property, and will defend same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the Grantor has executed this Warranty Deed as of the day and year first above written.

[SIGNATURE BEGINS ON THE FOLLOWING PAGE]



ADDRESS: 1226 3RD ST S
JACKSONVILLE BEACH, FL 32250

LEGEND

- 500' BUFFER
- PROPOSED SITE

LEGAL DESCRIPTION: LOTS 1 THROUGH 12, BLOCK 124, PABLO BEACH SOUTH, AS RECORDED IN PLAT BOOK 3, PAGE 28, OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA TOGETHER WITH A 12 FOOT ALLEY AS CLOSED BY ORDINANCE#7363, CITY OF JACKSONVILLE BEACH, DUVAL COUNTY, FLORIDA, DATED SEPTEMBER 21, 1987. (LEGAL DESCRIPTION TAKEN FROM DUVAL COUNTY OFFICIAL RECORDS WARRANTY DEED, INSTRUMENT # 2010223057, DATED 09/23/2010)

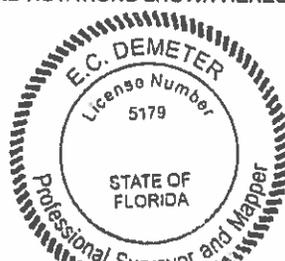
RECEIVED

PARCEL ID: 1762380000
JURISDICTION: CITY OF JACKSONVILLE BEACH
ZONING: C-1 - COMMERCIAL

SURVEYOR CERTIFICATION

I HEREBY CERTIFY, THAT A SPECIFIC PURPOSE SURVEY OF THE EXISTING USES SHOWN HEREON WERE MADE UNDER MY SUPERVISION AND THAT THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 427.027, FLORIDA STATUTES. SUBJECT TO NOTES AND NOTATIONS SHOWN HEREON.

E.C. Demeter
E.C. DEMETER, P.S.M. 5179
DATE: 9-12-19



NOT VALID WITHOUT THE SIGNATURE AND THE SURVEYOR'S RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

METHOD OF MEASUREMENT

SEPARATION DISTANCES ARE MEASURED BY FOLLOWING A STRAIGHT LINE FROM THE NEAREST PROPERTY LINE OF THE PROPOSED MEDICAL CANNABIS DISPENSING FACILITY TO THE NEAREST PROPERTY LINE OF THE SEPARATED USE.

PC#32-19

SCHOOL (MINIMUM 500' SEPARATION):

THE PROPOSED MEDICAL MARIJUANA DISPENSING FACILITY IS NOT LOCATED WITHIN 500' OF THE REAL PROPERTY THAT COMPRISES A PUBLIC OR PRIVATE ELEMENTARY SCHOOL, MIDDLE SCHOOL, OR SECONDARY SCHOOL PURSUANT TO F.S. 381.986 (11) (C).

SCHOOL IS DEFINED AS GRADES K-12.

SURVEYOR'S NOTES:

THIS IS NOT A BOUNDARY SURVEY. THIS IS A SPECIFIC PURPOSE SURVEY PREPARED TO SHOW THE MEASURED DISTANCES FROM THE PROPOSED MARIJUANA/CANNABIS DISPENSING FACILITY TO EXISTING USES.

DATE OF FIELD SURVEY: 09/12/2019

Kimley»Horn
© 2019 KIMLEY-HORN AND ASSOCIATES, INC.
655 NORTH FRANKLIN STREET, SUITE 150, TAMPA, FL 33602
PHONE: 813-820-1460
WWW.KIMLEY-HORN.COM CA 02000698

LIBERTY HEALTH SCIENCES - JACKSONVILLE BEACH 3RD ST S
1226 3RD ST S
JACKSONVILLE BEACH, FL 32250

DATE: 09/12/2019	SCALE: 1" = 400'	SHEET: 1
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Stacy M. Tinker

From: Manganaris, Samantha A <samantha.manganaris@uhc.com>
Sent: Monday, October 28, 2019 5:11 PM
To: Planning Division
Subject: PC#32-19

RECEIVED

OCT 29 2019

Good Evening,

PLANNING & DEVELOPMENT

I received the notification regarding the opening of a new medical marijuana treatment center opening by my home. I would like to formally object. The beach area already has several treatment centers and there is no reason to allow more to open. The area is saturated with medical marijuana centers, dispensaries, and mattress stores. Please strongly consider preventing the opening of further MMTC locations.

Best Regards,

Samantha Manganaris

Samantha A. Manganaris, RN
Manager of Inpatient Care Management, UnitedHealthcare
Jacksonville Beach, Florida
Office: 952-406-6325
Cell: 407-488-4006
Fax: (866) 370-0106
Email: Samantha.Manganaris@uhc.com

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