



City of Jacksonville Beach

11 North Third Street
Jacksonville Beach, Florida

Agenda

Planning Commission

Monday, November 22, 2021

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.

CALL TO ORDER

ROLL CALL

Greg Sutton (Chair), Dave Dahl (Vice-Chair), Britton Sanders, Margo Moehring, Colleen White
Alternate: Justin Lerman

APPROVAL OF MINUTES

A. Regular Planning Commission meeting held September 27, 2021

CORRESPONDENCE

OLD BUSINESS

NEW BUSINESS

A. **PC# 11-21**

AGENT: Planning and Development

Land Development Code Text Amendment to amend Chapter 34, Section 34-407 related to outdoor restaurant areas, and amending Article IV. Definitions, and Article VII Zoning Districts.

PLANNING DEPARTMENT REPORT

A. The next meeting will be held on December 13th, with three agenda items.

ADJOURNMENT

NOTICE

Information concerning the hearing process is available online at www.jacksonvillebeach.org/publichearinginfo and a copy is also posted in the City Hall first floor display case. In accordance with Section 286.0114, Florida Statutes, any member of the public can attend the public hearing and can be heard on any matter presented before the Commission. Anyone who wishes to provide live public comment should complete a "Speaker Request Card" and submit it 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. Speakers will be called to address the Commission when specified items are under consideration and will be limited to a maximum of three minutes or less, at the discretion of the presiding officer.

Alternatively, written public comment can be submitted in advance and must include the following: (1) First Name,

(2) Last Name, (3) Address, (4) Public Hearing Date, (5) Case Number, and (6) Comments. Written public comments may be submitted by one of the following options: (1) Email to planning@jaxbchfl.net, (2) Postal mail to Planning and Development, Planning Commission - Public Comment, 11 3rd Street North, Jacksonville Beach, FL 32250, or (3) Drop off in-person to Planning and Development at City Hall. Written comments that include all required information and are received 24 hours in advance of the meeting will be distributed to the Commission and attached to the related agenda item before the start of the meeting. All comments received are public record.

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 no later than one business day before the meeting.

In accordance with Section 286.0105, Florida Statutes, if any person decides to appeal any decision made by the commission with respect to any matter considered at such meeting, he or she will need a record of the proceedings. For such purpose, he or she 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.

**Minutes of Planning Commission Meeting
held Monday, September 27, 2021, 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*) Colleen Murphy White

Alternates: Justin Lerman

Also present were Senior Planner Christian Popoli and Office Assistant Sheila Boman.

Approval of Minutes

The following minutes were passed unanimously by a voice vote:

- August 23, 2021
- July 26, 2021

Correspondence - None

New Business

(A) PC#10-21 Conditional Use Application
Owner: Patricia Wallace, MMRG
Seahorse Real Estate, LLC
2305 Greenside CT.
Ponta Vedra Beach, FL 32250

Applicant: Jennifer Enzenbacher
Cookies & Crème Jacksonville Beach
241 13th Avenue North,
Jacksonville Beach, FL 32250

Agent: Carter McKinnon Jr.
588 Charlton CT NW
Marietta, GA 30064-1451

Location: 1403 3rd Street North, Unit 3 (241 13th Avenue South)

Conditional Use Approval for outdoor restaurant seating at an existing restaurant, for property located in the Commercial Limited: C-1 zoning district, pursuant to Section 34-342(d)(20) of the Jacksonville Beach Land Development Code.

Staff Report:

Mr. Popoli read the following report into the record:

The subject property is located at the northeast corner of 3rd Street North and 13th Avenue North. The site is a multi-tenant site with the primary use of a retail trade / fuel dealer, with an attached convince

store. The third use on the site is the applicant's business of restaurant / ice cream store. The existing restaurant operates in the evening only, from 5:00 p.m. to 10:00 p.m. Sunday through Thursday, and 5:00 p.m. to 11:00 p.m. Friday and Saturday. The site currently has a large shared parking lot, with parking in both traditional spaces, as well as the gas island. Based on the parking calculations, there are several more spaces than required by the code. The parking space immediately in front of the Cookies and Crème storefront is also in close proximity to the fenced dumpster location for the whole site. The ability to use this space is severely limited by the lack of maneuvering space between the dumpster and the parking space, leaving this space underutilized by all except the smallest cars. The applicant desires to use this space for outdoor restaurant seating.

Outdoor restaurant areas are limited to 25% of the gross indoor area of the restaurant. The proposed outdoor restaurant area with the parking space and adjacent grassed area would meet this requirement.

Adjacent uses include a multifamily uses to the east, multifamily and retail uses to the south across 13th Avenue North, retail and office uses to the west across 3rd street north, and retail uses adjacent to the north. The proposed use of a new outdoor restaurant seating area is consistent with other outdoor seating areas in the C-1 zoning district and adjacent properties should not be negatively impacted. In addition to the standards applicable to all conditional uses, all outdoor restaurant seating areas are subject to the limitations and conditions in Section 34-407 of the Land Development Code.

Based on the proposed location, and its proximity to drive lanes and parking spaces, staff proposes the following conditions:

- 1. The outside restaurant area shall be separated from the rest of the parking area with the use of temporary barrier, to be place at the open of business and removed at close of business. The barrier may consist of reflective cones, temporary fencing, or other such devices that will ensure separation from vehicular activity.*
- 2. The outside restaurant area shall be limited to the area noted on the attached site plan dated August 27, 2021.*

Applicants:

Jennifer and Ray Enzenbacher, 225 Hopkins Street, Unit B, Neptune Beach, stated they would like to add outdoor seating to their restaurant.

Public Hearing:

The following were in support of the Conditional Use Application but did not wish to speak:

- Corey Oppen, 1207 2nd Street North, Apartment B, Jacksonville Beach
- Katherine Way, 426 3rd Street North, Jacksonville Beach
- Liz and Mike Yerington, 12 17th Avenue North, Jacksonville Beach
- Sean Cantlon, 3175 Merrill Boulevard, Jacksonville
- Barbara Scholz, 1st Street North, Jacksonville Beach

The following spoke in support of the Conditional Use Application:

- Eileen Kampfe, 118 12th Avenue North, Jacksonville Beach
- Brandon Long, 132 13th Avenue North, Apartment A, Jacksonville Beach
- Tanya Cornau, 1728 Inwood Terrace, Jacksonville Beach

- Isaac Amaya, 114 6th Avenue South, Jacksonville Beach
- Patty Mickens, 420 Timberwalk Court, Jacksonville Beach
- Mark Juliano, 1647 3rd Avenue North, Jacksonville Beach
- CJ McAlister, 1001 Hagler Drive West, Neptune Beach
- Levy Green, 2850 Post Street, Apartment 1, Jacksonville
- Josiah Pritchard, 525 3rd Street North, Unit 413, Jacksonville Beach
- Matthew Dearwent, 8544 Iron Mill Court, Jacksonville
- Sally McAfee, 222 14th Avenue North, Unit 207, Jacksonville Beach
- Kendra Cantlon, 3175 Merrill Boulevard, Jacksonville Beach
- Mary Hart, 222 13th Avenue North, Jacksonville Beach

The following spoke in opposition of the Conditional Use Application:

- Sara Wallace, 221 13th Avenue North, Unit# 214, Jacksonville Beach

Mr. Enzenbacher addressed the concerns of Ms. Wallace. He stated there was no alcohol served at the restaurant, nor was it allowed on the property. He further advised they have relocated the outdoor speakers to not disturb the residents living next to his business.

Mr. Sutton closed the Public Hearing.

Discussion: Discussion ensued regarding the safety of the outdoor seating area, changing the weeknight closing time to 9:00 p.m. during the school year to help minimize any potential noise complaints, and seating and outdoor games are taken inside each night after closing.

Motion: It was moved by Mr. Lerman and seconded by Ms. White to approve the Conditional Use Application as written.

Roll call vote: Ayes – David Dahl, Margo Moehring, Colleen M. White, Justin Lerman, and Greg Sutton

The application was unanimously approved.

Planning & Development Director's Report

Mr. Popoli announced the next meeting was scheduled for Monday, October 25, 2021.

Adjournment

There being no further business coming before the Board, Mr. Sutton adjourned the meeting at 8:14 P.M.

Submitted by: Sheila Boman
Office Assistant

Approval:

Chairman

Date



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PLANNING COMMISSION AGENDA ITEM	
TO:	Planning Commission Members
FROM:	Heather Ireland, Director of Planning and Development
DATE:	10/21/2021
SUBJECT:	November 22, 2021 Planning Commission Staff Report

The following information is provided for your consideration for the following agenda item for the upcoming Monday, November 22, 2021 Planning Commission Meeting.

NEW BUSINESS:

PC#11-21 Land Development Code Text Amendment

OWNER: Not applicable

APPLICANT: Planning and Development Department

AGENT: Heather Ireland, Director Planning and Development Department

LOCATION: Not applicable

REQUEST: **Land Development Code Text Amendment Approval** to amend Chapter 34, Section 34-407 related to outdoor restaurant areas, and amending Article IV. Definitions, and Article VII Zoning Districts.

COMMENTS: At the August 9, 2021 briefing, City Council indicated support for amendments to Section 34-407 of the Land Development Code (LDC) in regard to outdoor restaurants and bars, specifically as it pertains to the ratio of allowable outdoor restaurant seating, and the seating calculations for restaurants to qualify for a special restaurant (SRX) alcoholic beverage license (4COP).

The outcome of the discussion on August 9th is summarized as follows:

- Support for amendments to Section 34-407 of the LDC to increase the ratio for allowable outdoor seating areas at restaurants Citywide at a minimum of a 50% ratio.
- Support for amendments to Section 34-407 of the LDC to allow outdoor restaurant seating areas Citywide to count towards the 150 seats required to qualify for a 4COP (SRX) alcoholic beverage license. It was discussed that establishments with a 4COP (SRX) and outdoor restaurant seating areas would potentially not be eligible for extended



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hours of operation permits in an effort to avoid the creation of additional RINOs (restaurants in name only). Additionally, 4COP (SRX) establishment's outdoor restaurant areas would remain subject to Section 4-2.(e)(1)b.4 which requires 4COP (SRX) establishments to keep all tables and chairs upright and in place during all hours of operation as per diagram submitted to the city during the permitting process.

- Consider amendments to Section 34-407 of the LDC to increase the ratio for allowable outdoor bar areas, but perhaps at a future date.
- Consider amendments proposed in Ordinance 2017-8093 that would allow outdoor restaurant areas approximately 200 sq. ft. in size that do not serve alcohol to be permitted without having to receive conditional use approval and without having to provide for additional parking.
- Support for review and consideration of amending any definitions related to restaurants and outdoor restaurant areas to ensure clarity and consistency with other parts of the City's Code of Ordinances.

Council also expressed some concern with potential consequences of the proposed changes discussed, such as the potential creation of new RINOs, impacts on parking, compatibility concerns with other uses, and unintended loopholes. Staff addresses these concerns with the Council.

Staff took Council's requests and concerns into consideration and provided some proposed amendments to the Land Development Code at a subsequent September 13, 2021 Council Briefing. Council confirmed their preferred amendments to the Land Development Code and staff has prepared the attached draft Ordinance for consideration by the Planning Commission prior to final review and consideration by City Council.

The proposed suggestions for amendments to pertinent sections of the Land Development Code in relation to outdoor restaurant areas are summarized as follows:

- Update the definition of *outdoor restaurant area* to match the definition in Section 18- Noise of the City's Code of Ordinances.
- Allow outdoor restaurant areas of 250 square feet or less, at establishments where alcohol is not served, as a permitted use in certain commercial zoning districts where restaurants are a permitted use.
- Remove the parking requirement for outdoor restaurant areas less than 250 square feet.
- Amend the outdoor restaurant area allowable ratio from 25% of the indoor restaurant area to 50% of the indoor restaurant area.
- Allow outdoor restaurant seating areas to be used to compute the minimum seating area required to qualify for a 4COP (SRX) alcoholic beverage license.
- Require a buffer around outdoor restaurant or bar areas that are



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immediately adjacent to residential uses.

The proposed amendments are currently scheduled for an upcoming December 20th, 2021 City Council Meeting.

In accordance with Sec. 286.0105, Fla. Stat., any person who desires to appeal any decision made by the commission at this meeting will need a record of the proceedings. For such purpose, he or she 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.

Introduced by: _____
1st Reading: _____
2nd Reading: _____

ORDINANCE NO. 2021-8168

AN ORDINANCE TO AMEND AN ORDINANCE ENACTING AND ESTABLISHING A COMPREHENSIVE LAND DEVELOPMENT REGULATION AND OFFICIAL ZONING MAP FOR THE INCORPORATED AREA OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AS AUTHORIZED BY CHAPTER 163.3202, FLORIDA STATUTES, BY AMENDING ARTICLE IV. DEFINITIONS, ARTICLE VII. ZONING DISTRICTS, AND ARTICLE VIII, DIVISION 2. SUPPLEMENTAL STANDARDS, TO MODIFY THE LIMITATIONS AND CONDITIONS FOR OUTDOOR RESTAURANTS AND BARS; TO REPEAL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith, AND FOR OTHER PURPOSES.

WHEREAS, the City of Jacksonville Beach has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida; and Chapters 163 and 166, Florida Statutes; and

WHEREAS, the City of Jacksonville Beach Code of Ordinances, Chapter 34 Land Development Code (LDC) exists to establish comprehensive and consistent standards, regulations, and procedures for the review and approval of all proposed development of land in the City, and to implement the goals of the Comprehensive Plan; and

WHEREAS, the City of Jacksonville Beach finds it necessary to periodically review and make amendments and revisions to the LDC to provide clarifications, address new issues pertaining to regulations and procedures, make updates, enact new portions and reorganize parts; and

WHEREAS, the City of Jacksonville Beach City Council has expressed interest in modifying the language and regulations pertaining to outdoor restaurant areas, the requirements to qualify for a special restaurant alcoholic beverage license, and clarify definitions pertaining to restaurants; and

WHEREAS, the City of Jacksonville Beach Planning Commission, after notice and public hearing, has considered the ordinance and the proposed amendments, clarifications, revisions, updates and reorganization to the articles, divisions and sections of the LDC, it has considered staff recommendations, information provided and public testimony given at the public hearings and has presented its recommendation to the City Council; and

WHEREAS, the City Council hereby finds that this Ordinance serves legitimate government purposes and is in the best interests of the public health, safety, and welfare of the citizens of the City of Jacksonville Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF JACKSONVILLE BEACH, FLORIDA:

SECTION 1. That Article IV. Definitions, Section 34-41. –General, of the Land Development Code of the City of Jacksonville Beach, Florida is hereby amended, and as amended shall henceforth read as follows:

Outdoor restaurant or bar means any restaurant or bar, or portion thereof, which exists outside of the permanent exterior walls of the principal building(s) on a lot and has, in place, tables and chairs set up to accommodate patrons for seating, during all hours of operation. This definition includes any deck or other area constructed and/or utilized on the roof of a structure.

SECTION 2. That Article VII. –Zoning Districts, Division 2, of the Land Development Code of the City of Jacksonville Beach, Florida is hereby amended, and as amended shall henceforth read as follows:

Section 34-342. Commercial limited: C-1.

(b) Permitted uses.

(7) Restaurants, except, drive-ins; and outdoor restaurants less than or equal to 250 square feet if alcohol is not served.

Section 34-343. Commercial limited: C-2.

(b) Permitted uses.

(11) Restaurants; and outdoor restaurants less than or equal to 250 square feet if alcohol is not served.

Section 34-345. Central business district: CBD.

(b) Permitted uses.

(4) Retail trade establishments as follows: Building materials, hardware and garden supplies; general merchandise stores; apparel and accessory stores; home furniture, furnishing and equipment stores; restaurants; drug stores; florists; tobacco stands and newsstands; optical goods stores; ~~and~~ miscellaneous retail goods; and outdoor restaurants less than or equal to 250 square feet if alcohol is not served.

SECTION 3. That Article VIII. –Site Development Standards, Division 2 –Supplemental Standards, Section 34-407. –Outdoor restaurants and bars, of the Land Development Code of the City of Jacksonville Beach, Florida is hereby amended, and as amended shall henceforth read as follows:

**ARTICLE VIII.
SITE DEVELOPMENT STANDARDS
DIVISION 2.
SUPPLEMENTAL STANDARDS**

Sec. 34-407. Outdoor Restaurants and Bars

In addition to the standards applicable to all conditional uses, as stated in Section 34-231, and in addition to the regulations of the zoning district in which the restaurant or bar is located, outdoor restaurants and bars that are permitted or allowed in any zoning district shall be subject to the following limitations and conditions:

(a) The unenclosed, ~~outdoor, portion, area~~ of the restaurant or bar shall be accessory to ~~or~~ and under the same ownership or control as the restaurant or bar that is operated within a totally and permanently enclosed building located on the same lot.

(b) The area of unenclosed, outdoor customer service area of a restaurant shall not exceed fifty percent (50%) of the total gross enclosed area of the restaurant. The area of unenclosed outdoor ~~or bar~~ shall not exceed twenty-five (25%) of the total enclosed area of the ~~restaurant or bar.~~

(c) Required parking spaces shall be provided for the unenclosed, outdoor customer service area outside of the permanently enclosed building at the same ratio as is required for the permanently enclosed area of the restaurant or bar. Parking is not required for outdoor restaurant areas of 250 square feet or less.

(d) The outdoor customer service area ~~shall not~~ may be used to compute the minimum seating or customer service area required to qualify for a special restaurant (SRX) alcoholic beverage license. For any establishment selling alcoholic beverages for on-site consumption, the outdoor customer service area shall be enclosed by a minimum 42" high wall or fence. The wall or fence shall be constructed of wood, metal (Except chain link), plastic, or other similar material. No rope of any kind shall be permitted.

(e) Buffering must be provided around outdoor restaurant or bar areas when immediately adjacent to residential uses. At a minimum, a six foot tall fence should be installed between the commercial and residential uses, or a thirty-six (36) inch diameter pot by a minimum of twenty-four (24) inches high should be provided every five (5) lineal feet of outdoor restaurant area immediately adjacent to a residential use. The plant species should be at least two (2) times as high as the height of the pot.

(~~f~~) No animals except service dogs shall generally be permitted within an approved outdoor restaurant or bar seating areas. However, pursuant to Ordinance No. 2010-7992, other dogs may be allowed in an outdoor restaurant area upon approval of a Dogs in Outdoor Dining Area permit application.

(~~g~~) The Planning Commission is authorized to establish hours of operation for conditional use outdoor restaurant and bar seating areas as a means to ensure their capability with surrounding land uses.

(gh) If an approved outdoor restaurant or bar area violates any of the standards set forth in this section, or any other conditions placed on their approval by the Planning Commission, the violation shall be referred to the Special Magistrate for a hearing. Upon finding that such a violation exists, the Special Magistrate may apply penalties as provided by law, including revocation of the conditional use approval for that outdoor seating area. Whenever the approval for a conditional use outdoor bar or restaurant seating area is revoked for a particular establishment, a conditional use application for outdoor bar or restaurant seating shall not be considered for any portion of that establishment for a period of two (2) years after the date of revocation.

SECTION 2. That all ordinances or parts of ordinances in conflict with this ordinance are, to the extent that the same may conflict, hereby repealed.

SECTION 3. That this ordinance shall take effect upon its adoption by the City Council.

AUTHENTICATED THIS __ DAY OF _____, A.D., 2022.

Christine H. Hoffman, Mayor

Sherri Gosselin, City Clerk