



City of Jacksonville Beach

11 North Third Street
Jacksonville Beach, Florida

Amended Agenda

Planning Commission

Monday, January 10, 2022

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

OATH OF OFFICE

A. Oath of Office to be administered to Newly Appointed Commission Alternate: Emily Stouffer

ROLL CALL

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

APPROVAL OF MINUTES

- A. Regular Planning Commission Meeting held on November 22, 2021
- B. Regular Planning Commission Meeting held on December 13, 2021

CORRESPONDENCE

OLD BUSINESS

NEW BUSINESS

- A. **PC# 15-21** ADDRESS 160 7th Avenue North

SUMMARY OF APPLICATION

Conditional Use Application for the transfer of an approved multiple family dwelling unit development located in a Commercial limited: C-1 zoning district, pursuant to Section 34-342(d)(15) of the Jacksonville Beach Land Development Code. The property is located at 160 7th Avenue North, legally described as Lots 50, 51, 52 and 53, *Flagler Tract*.

ELECTION OF OFFICERS

- A. Election of Chair and Vice Chair per Section 34-77 of the Land Development Code.

PLANNING DEPARTMENT REPORT

COURTESY OF THE FLOOR TO VISITORS

ADJOURNMENT

- A. The next meeting is tentatively scheduled for Monday, February 14, 2022.

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, 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.

**Minutes of Planning Commission Meeting
held Monday, November 22, 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 Vice-Chairman David Dahl.

ROLL CALL

Chairman: Greg Sutton (absent)
Vice-Chairman: David Dahl
Board Members: Margo Moehring Britton Sanders Colleen M. White (absent)
Alternate: Justin Lerman

Director of Planning and Development Heather Ireland, Senior Planner Christian Popoli, and Deputy City Clerk Jodilynn Byrd were also present.

APPROVAL OF MINUTES:

It was moved by Ms. Moehring, seconded by Mr. Lerman, and passed unanimously to approve the following minutes:

- Regular Planning Commission meeting held September 27, 2021

CORRESPONDENCE: None

OLD BUSINESS: None

NEW BUSINESS:

(A) **PC# 11-21** Land Development Code Text Amendment

Applicant: Planning and Development Department
11 North 3rd Street
Jacksonville Beach, FL 32250

Agent: Heather Ireland, Director Planning and Development Department
11 North 3rd Street
Jacksonville Beach, FL 322550

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.

Staff Report:

Senior Planner Christian Popoli read the following report into the record:

At the August 9, 2021, City Council Briefing, the Council indicated support for amendments to Section 34-407 of the Land Development Code (LDC) in regards 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 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 reviewing and considering 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.

The 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 immediately adjacent to residential uses.

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

Public Hearing:

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

Mr. Dahl closed the Public Hearing.

Discussion: Conversation ensued regarding Land Development Code (LDC) Text Amendment regarding Chapter 34, Section 34-407 related to outdoor seating areas and amending Article IV, definitions, and Article VII Zoning Districts.

Ms. Ireland offered to add the following recommended language to the LDC "any expansion of existing outdoor seating would require review by the Planning Commission."

Motion: It was moved by Mr. Lerman and seconded by Mr. Sanders to approve PC# 11-21 with the conditions discussed that restaurants expanding outdoor seating from 25% to 50% come before the Planning Commission for approval.

Roll Call Vote: Ayes – Margo Moehring, Britton Sanders, Justin Lerman, and David Dahl.

The motion was unanimously approved.

PLANNING DEPARTMENT REPORT

Motion: It was moved by Mr. Sanders and seconded by Mr. Lerman to cancel the December 28, 2021 meeting.

Roll Call Vote: Ayes – Britton Sanders, Margo Moehring, Justin Lerman, and David Dahl.

The motion was unanimously approved.

ADJOURNMENT

There being no further business coming before the Board, Vice-Chairman Dahl adjourned the meeting at 7:45 P.M.

Submitted by: Jodilynn Byrd
Deputy City Clerk

Approval:

Chairperson

Date

**Minutes of Planning Commission Meeting
held Monday, December 13, 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 7:03 P.M by Chairman Greg Sutton.

ROLL CALL

Chairman: Greg Sutton
Vice-Chairman: David Dahl
Board Members: Margo Moehring Britton Sanders Colleen M. White
Alternate: Justin Lerman

Director of Planning and Development Heather Ireland, City Attorney Sandy Robinson, and Administrative Assistant Lauren Loria were also present.

APPROVAL OF MINUTES: None

CORRESPONDENCE: Emails (on file) were received regarding Agenda Items A and B.

OLD BUSINESS: None

NEW BUSINESS:

Items A and B were heard together.

- (A) **PC# 12-21** Comprehensive Plan Amendment
Owner/
Applicant: JB Fair Park MF, LLC and Beaches Preserve, LLC
1 Independent Drive, Suite 1200
Jacksonville, FL 32202
- Agent:** Driver, McAfee, Hawthorn & Diebenow, PLLC
Steve Diebenow and Cyndy Trimmer
1 Independent Drive, Suite 1200
Jacksonville, FL 32202
- Location:** 1944 Beach Boulevard
- (B) **PC#13-21** Planned Unit Development: PUD Rezoning
Owner/
Applicant: JB Fair Park MF, LLC and Beaches Preserve, LLC
1 Independent Drive, Suite 1200
Jacksonville, FL 32202
- Agent:** Driver, McAfee, Hawthorn & Diebenow, PLLC

Steve Diebenow and Cyndy Trimmer
1 Independent Drive, Suite 1200
Jacksonville, FL 32202

Location: 1944 Beach Boulevard

Director of Planning and Development Heather Ireland stated the City received an email from the applicant's agent on December 2, 2021, requesting to defer both applications. She invited the applicant to speak.

Agent Steve Diebenow, 1 Independent Drive, Suite 1200, Jacksonville Beach, provided his cell phone number and email address for the community to reach out to him with questions and concerns regarding the project. He requested more time to gather information for the staff and to defer both items until a future meeting.

Public Hearing:

Given the request for deferral, Mr. Sutton did not open the Public Hearing portion of the meeting. He acknowledged the submitted speaker cards and thanked those in attendance who wanted to speak. He encouraged the speakers to participate at the future meeting regarding this topic. Mr. Sutton stated the decisions made regarding any application presented to the Planning Commission had to be relevant and competent and not influenced by emotion.

Discussion: None

Motion: It was moved by Mr. Sutton and seconded by Mr. Sanders to defer Items A and B to be heard at a future meeting date agreed to between the applicant and staff.

Roll Call Vote: Ayes – Margo Moehring, Britton Sanders, Colleen White, and Greg Sutton
Nays – David Dahl

The motion to defer Items A and B passed 4-1.

(C) **PC# 14-21** Comprehensive Plan Amendment
Applicant: Planning and Development

Ms. Ireland stated the application was a Comprehensive Plan Amendment initiated by staff to add a Property Rights Element to the 2030 Comprehensive Plan.

Ms. Ireland read the following report into the record:

During the 2021 legislative session, the Florida Legislature adopted House Bill 59, which was signed into law by the Governor and became effective on July 1, 2021. House Bill 59 requires all local governments to adopt a Property Rights Element into their existing Comprehensive Plans. The proposed new element has one new Goal, one new Objective, and one new Policy, in compliance with Florida Statutes. The required Property Rights Element serves to ensure that private property rights are considered in local decision-making by governmental entities. A local government was provided the option to adopt the statement of

rights provided in House Bill 59. The proposed new Property Rights Element addition to the 2030 Comprehensive Plan shall read as follows:

Goal PR 1.

A local government was provided the option to adopt the statement of rights provided in House Bill 59. She reviewed the new goal, objective, and policy.

Objective PR 1.1

The City will ensure that private property rights are considered in local decision-making.

Policy PR 1.1.1

The following private property rights shall be considered in local decision-making.

1. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
2. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.
3. The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.
4. The right of a property owner to dispose of his or her property through sale or gift.

Pursuant to House Bill 59, each local government must adopt a Property Rights Element into its Comprehensive Plan by the earlier of the date of the adoption of its next proposed plan amendment that is initiated after July 1, 2021, or the date of the next scheduled evaluation and appraisal of its Comprehensive Plan. Jacksonville Beach is not due for a scheduled evaluation and appraisal, however, staff has received a private application for amendment to the Comprehensive Plan, which has triggered the requirement for the transmittal and adoption of a new Property Rights Element.

The Department of Economic Opportunity (DEO) has notified all local governments that any proposed comprehensive plan amendment packages submitted after July 1, 2021, will be returned to the local government if the package does not include a property rights element or if the comprehensive plan does not already include the required property rights element.

Public Hearing:

Mr. Sutton noted it appeared some of the speaker cards received may have been for Items A and B and not Item C. He reviewed each card to confirm whether a speaker wanted to speak on Item C.

No one came before the Board to speak on the item.

Mr. Sutton closed the Public Hearing.

Discussion: None.

Motion: It was moved by Mr. Sanders and seconded by Mr. Dahl to approve PC#14-21.

Roll Call Vote: Ayes – Britton Sanders, Colleen White, David Dahl, Margo Moehring, and Greg Sutton

The application was unanimously approved.

PLANNING DEPARTMENT REPORT

Ms. Ireland clarified PC#14-21 would be presented to the City Council as a transmittal hearing on January 18, 2022.

She stated once new dates for PC#12-21 and PC#13-21 were established, the cases would be re-advertised in the newspaper and on the website. She asked anyone who sent emails on those items to resend them once they had the new hearing date.

Ms. Ireland noted a new second alternate, Emily Stouffer, would join the Board at the January 10, 2022, meeting.

The next meeting was tentatively scheduled for January 10, 2022.

ADJOURNMENT

There being no further business coming before the Board, Mr. Sutton adjourned the meeting at 7:20 P.M.

Submitted by: Lauren Loria
Administrative Assistant

Approval:

Chairperson

Date



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PLANNING COMMISSION AGENDA ITEM	
TO:	Planning Commission Members
FROM:	Christian Popoli, Senior Planner
DATE:	12/22/2021
SUBJECT:	January 10, 2022 Planning Commission Staff Report

The following information is provided for your consideration for the following agenda item for the upcoming Monday, January 10, 2022 Planning Commission Meeting.

NEW BUSINESS:

PC#15-21

OWNER: Ocean View 160, LLC
13738 Chatsworth Lane
Jacksonville, FL 32225
Attn: Mark Kornhauser

APPLICANT: Jax Beach IIA, LLC
177 4th Avenue North
Jacksonville Beach, FL 32250

AGENT: Driver, McAfee, Hawthorne & Diebenow
Steve Diebenow & Cyndy Trimmer
One Independent Drive, Suite 1200
Jacksonville, FL 32202

LOCATION: 160 7th Avenue North

REQUEST: **Conditional Use Application** for the transfer of an approved multiple family dwelling unit development located in a Commercial limited: C-1 zoning district, pursuant to Section 34-342(d)(15) of the Jacksonville Beach Land Development Code. The property is located at 160 7th Avenue North, legally described as Lots 50, 51, 52 and 53, *Flagler Tract*.

COMMENTS: The subject property is located on the south side of 7th Avenue north, west of 2nd



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Street North. The 16-unit apartment building known as *Ocean View* apartments was built in 1995 with Conditional Use approval for multiple family in a *Commercial, limited: C-1* zoning district under PC#20-94. The subject property also has approved variances for minimum setbacks, lot coverage, and required parking. Pursuant to Section 34-233, conditional uses are not transferable, therefore the applicant wishing to purchase the property is requesting conditional use approval in his LLC's name. The property was subsequently granted a Conditional Use approval for a transfer of ownership under PC#31-16, in October of 2016.

Adjacent property uses include multiple family to the north and west, and mixed-use commercial/residential planned for the vacant property to the east and south with approved RD rezoning. Transfer of the approved conditional use for the apartment building into a new owner's name should not negatively impact adjacent properties.

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.