

OCALA BOARD OF ADJUSTMENT MINUTES
MAY 24, 2004
5:30 P. M.

Public Notice

Public notice for this meeting was posted May 17, 2004, at 151 SE Osceola Avenue, Ocala City Hall, Ocala, Florida, 34471.

Meeting Statistics:

A regularly scheduled meeting of the Ocala Board of Adjustment was held on Monday, May 24, 2004, in the Council Chambers, Ocala City Hall. The meeting was formally opened with the Pledge of Allegiance led by Chairman Trow.

Attendance:

The following board members were present:

Chester Trow, Chairman
Irene Hancher
Leah Taylor, Vice-Chairman
Joyce Johnson
Richard Williamson – arrived at 6:00 PM (excused)
Charles Ruse

Chief, Zoning/Code Enforcement Nancy K. Overstreet, Planner Dave Herlihy, Zoning Analyst Estelle Lens and others interested in the items for presentation attended the meeting.

Consideration of Minutes:

Chairman Trow called for consideration of the minutes for March 15, 2004. Ms. Hancher made a motion to approve the minutes as recorded. The motion was seconded by Ms. Johnson and approved unanimously.

Consideration of Cases:

Chairman Trow stated that he wished to change the order of items on the agenda. He explained that SE04-0006 was uncontested and would be brief, and therefore they would hear this request first.

Approved/ Case SE04-0006

Applicant: Marion Community Hospital, dba Ocala Regional Medical Center
Sue Amsden, Agent

Request a **special exception** to allow installation of illuminated wall letters totaling 96 square feet, for property located at 1431 SW 1st Avenue, approximately 9.11 acres.

Dave Herlihy presented staff comments:

**ZONING BOARD OF ADJUSTMENT
PLANNING DEPARTMENT COMMENTS**

CASE SE04-0006

(EXHIBIT A)

APPLICANT: Ocala Regional Medical Center / Sue Amsden, Agent

REQUEST: Special Exception for Hospital Signage

PARCEL INFORMATION

Location: 1431 SW 1st Avenue
Acres: 9.11
Parcel(s)#: 28609-000-00
Land Use: Public Buildings & Facilities (PB&F)
Zoning: INST, Institutional
Existing Use: hospital

ADJACENT LAND

<u>Direction</u>	<u>FLU</u>	<u>Zone</u>	<u>Current Use</u>
North	Professional Services	O-1	Offices
East	Professional Services	O-1	Offices
South	PB&F, Professional Services	INST, O-1	Church, Office
West	PB&F	INST	Hospital (Munroe Regional)

SITE/AREA DESCRIPTION

The subject 9± acre site lies between, and has frontage on both, SW 1st Avenue and Magnolia Avenue extension. Uses in the surrounding area are predominantly health care related offices. Two exceptions to the office use pattern are Blessed Trinity Church (south/southeast) and Marion Stone and Gravel (east/northeast).

CODE REQUIREMENTS

Signage for hospitals in the INST (Institutional) zoning district must be approved by the Board of Adjustment as a Special Exception. In making its determination, the board shall consider the size and location of signage and its relation to adjoining and abutting land use classifications and zoning districts (Sec. 110-156(b)). Approved signage is subject to the following conditions:

- (1) Total signage area shall not exceed two square feet for each property front foot.

- (2) Permitted types of signs. The maximum total sign area shall be allowed as follows:
 - a. A maximum of two freestanding sign structures for each frontage, totaling up to 50 percent of total business sign area, with no more than 150 square feet of sign area per structure.
 - b. Either one roof sign or one projecting sign of no more than 25 percent of total business sign area.
 - c. Wall signs.
- (3) Height, setbacks and spacing. Setbacks and maximum height for freestanding signs for hospital uses are as follows:
 - a. The maximum height shall be 30 feet.
 - b. Freestanding signs shall be set back a minimum of five feet from the public right-of-way.
 - c. Freestanding signs shall be set back a minimum of 25 feet from side lot lines or equidistant between side lot lines.
 - d. Freestanding sign structures on the same ownership parcel shall be a minimum of 150 feet apart.

Directional or instructional signs of four square feet or less, containing business identification only, where vehicle or pedestrian movements are involved are exempt from permit, area and location requirements (Sec. 110-6(3)).

PLANNING CONSIDERATIONS

The submitted materials comply substantially with City Code submittal requirements and they are sufficient for staff to make a recommendation on the request. The proposed illuminated wall sign will be affixed to the fourth floor of the hospital's southwest face. It measures approximately 50 feet long by 2 feet high and its total area is 96 square feet. No wattage is specified however the neon internal illumination is anticipated to be entirely compatible with surrounding uses given its approximate height of 45 to 50 feet above ground level and its separation distance of at least 300 feet from adjacent uses to the southwest.

The hospital currently has no existing wall signs. This site's total sign area limit, as calculated using Section 110-156(b)(1), equals 1,514 square feet. The proposed addition of a wall sign with a face area of 96 square feet is well within the limit.

STAFF RECOMMENDATION

APPROVAL of Case # SE04-0006

Factual Support Documentation

1. The addition of the proposed wall sign is within the requirements of the City's land development regulations Section 110-156(b) and does not exceed the site's limits on sign type, area, quantity, location or separation.
2. This request is compatible with uses allowed by the future land use designations and zoning districts of the surrounding area.

Conditions

1. This Special Exception is for one wall sign (comprised of 26 letters each being approximately 24 inches high) with an estimated total area of 104 square feet.
2. A sign permit must be obtained from the City's Building department prior to sign installation.

Discussion:

Chairman Trow asked what aspects of the sign required a special exception. Ms. Overstreet stated that a special exception was required for all hospital signage. He then confirmed that the proposed sign would not face any residences.

Chairman Trow asked for public comment. No one came forward.

Chairman Trow asked if the applicant wished to make any further presentation. The applicant denied.

Ms. Hancher moved to approve SE04-0006 based on the findings of facts of staff. Mr. Ruse seconded the motion and without further discussion, the motion carried unanimously upon roll call vote.

Approved / Case SE04-0004

Applicant: Ashcroft Properties, Inc., Lisa Ashcroft

Request a **special exception** to allow Multi-Family Dwelling in a B-4, General Business, one, located in the 3200 to 3400 blocks of West Anthony Road, approximately 8.91 acres.

Dave Herlihy presented staff comments:

**ZONING BOARD OF ADJUSTMENT
PLANNING DEPARTMENT COMMENTS**

**CASE SE04-0004
(EXHIBIT A)**

APPLICANT: Ashcroft Properties, Inc., Petitioner;

REQUEST: To allow multi-family development compatible with surrounding

uses.

50 units (7 DU/acre) are proposed

PARCEL INFORMATION

Location: West Anthony Road (3400 block)
Acres: 7.14±
Parcel(s)#: 25226-008-00
Land Use: Retail Services (RS)
Zoning: General Business (B-4)
Existing Use: undeveloped

ADJACENT LAND

<u>Direction</u>	<u>FLU</u>	<u>Zone</u>	<u>Current Use</u>
North	Retail Services	B-4	Undeveloped
East (large lot)	High Density Residential	R-3	Single-family residences
South easement	Retail Services	B-4	Undeveloped, power line
West	Wholesale & Other Business	B-4	Shopping center (WinnDixie)

SITE/AREA DESCRIPTION

This site is the southern portion of parcel #25226-008-00 (8.91 acres). It lies on the east side of, and takes its access from, West Anthony Road. The northern portion of the site is relatively flat with an elevation of 62 feet. The topography slopes downhill, from about the midpoint, toward the south dropping approximately 10 feet to elevations in the low 50s. Trees, palmettos, shrubs and brush cover the site.

Existing uses in the immediate surrounding area are commerce/service type uses, situated to the west, and single-family homes on lots greater than one acre are located to the east.

The transportation network in the area consists of: West Anthony Road (a paved 2-lane collector); NW 35th Street (a paved 2-lane; and US 441/301 (a 4-lane divided arterial roadway). All currently function at acceptable levels of service.

BACKGROUND

This site lies in the 441 Commercial Corridor Activity Center as identified on the comprehensive plan's Future Land Use Element (FLUE) map #7. FLUE policy 2.3 indicates that the Future Land Use Map (FLUM) shall provide for more intense growth in activity centers. Since adoption of the City's 1985 comprehensive plan FLUM, the property has been designated for business/commercial land use and has held an appropriate implementing zoning.

CODE REQUIREMENTS

The City of Ocala Code of Ordinances states that requests for special exception uses shall be in harmony with the purpose, intent and requirements of Chapter 122, and be compatible with the basic character of the neighborhood or area.

The Code defines a special exception as a use that would not be appropriate generally or without restriction throughout a zoning division or district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the health, safety, welfare, morals, order, comfort, convenience, prosperity or general welfare.

Chapter 122, Article II Administration, Division 3 Special Exceptions, Section 122-73 **Procedure and standards for approval** establishes that the Board of Adjustment (BOA) shall not grant a special exception unless and until five specific procedures are completed. Of chief importance among these five procedures is 122-73(5). Subsection (5) indicates that the BOA shall consider and weigh factors and standards, and show in its record the disposition thereof, and that the applicant has met the ten core requirements of Section 122-73(5), a. thru j. which are to be shown on a site plan/sketch, and/or in the narrative of an application for a special exception.

The Planning Considerations section of this report assesses the general appropriateness of the request and addresses the sufficiency of application items a. thru j. The section also comments on any prominent issues or problems.

PLANNING CONSIDERATIONS

The City of Ocala Code of Ordinances Ch. 122, Art. V, Div. 23, Sec. 122-722(d) *Special exceptions*. identifies “*Multifamily development compatible with surrounding uses*” as a use permitted by Special Exception in the General Business (B-4) district.

This request is valid, as the site has a comprehensive plan Future Land Use designation of Retail Services and a General Business (B-4) zoning district that is consistent with implementing the land use designation. These facts serve as a basic consideration of the City’s comprehensive plan goals, objectives and policies.

The definition of “special exception” establishes that the requested use is not appropriate generally or without restriction. The code specifies that the use must be controlled as to number, location or relation to the neighborhood so as to promote the general welfare, and it is noted that the BOA shall not grant a special exception unless and until the procedures and standards for approval are complete. The BOA shall consider and weigh factors and standards, and show in its record the disposition thereof, and that the applicant has met the requirements of Section 122-73(5), a. thru j.

With the above stated fact base, the focus of the remainder of this analysis is the content and completeness of the application materials as evaluated against the City code’s submission requirements (see Code Requirements section above), and definitions.ⁱ

Staff evaluation of the submitted application materials reveals that with respect to 122-

73(5) a. thru j. all items have been addressed. Staff, however, finds one notable problem regarding refuse and service area location.

The following responses are considered to be sufficient. Each of the issues listed below has been addressed on the submitted Site Sketch (see right middle of front page Special Exception Notes – Item #5).

- Ingress and egress to the site, traffic flow & control, and access in case of fire or catastrophe
- Off-street parking and loading areas
- Utilities hook in location, availability and compatibility for the proposed use
- Screening and buffering by type, dimension and character
- Screening and buffering intent to preserve and improve compatibility and harmony with adjacent uses
- Signage and exterior lighting
- Sign and light glare with respect to traffic safety and economic effect on compatibility and harmony with properties in the district
- Required yards and open spaces
- Height of proposed structures
- Proposed structures
- Economic, noise, glare, or odor effects of the off-street parking on adjacent and nearby properties
- The economic effect of the use on adjacent and nearby properties.

The following responses are considered to be insufficient.

- Refuse and service area location

The following are specific comments on the insufficient responses.

- Public Works has commented that the location of the dumpster pad conflicts with the location of the lift station and will add an increased amount of work to all divisions in the department. This problem must be resolved prior to site plan submittal.

STAFF RECOMMENDATION

Based on findings of fact that the application information is consistent with the purpose, intent and requirements of the City of Ocala Code of Ordinances Sections 122-73 thru 74, Special exceptions, staff recommends **APPROVAL** of Case # SE04-0004.

Factual Support Documentation

3. The application information is generally sufficient to find that recommending approval of the request would promote the health, safety, welfare, morals, order, comfort, convenience, prosperity or general welfare.

Conditions

1. This development must make application to, and receive final site plan approval through, the City's development review process.
2. The plan submitted for site plan approval must be substantially the same (access location, number of units, open space, layout, etc.) as the sketch plan considered at the May 17, 2004 BOA meeting.
3. A drainage easement agreement, between Ashcroft Properties and Progress Energy Power shall be executed prior to submittal for site plan review.
4. The southern drainage area must be setback 35 feet from West Anthony Road to comply with the "yard" established by the back wall of the western tier of units.
5. No trees shall be removed prior to receipt of final site plan approval.
6. Buffering along the east and west property lines shall be provided and maintained, and shall make maximum use of existing trees.
7. Mechanical services (e.g. air conditioning units, etc.) shall be screened for at least the western tier of units which face West Anthony Road.
8. Not more than 50 residential units shall be developed.
9. The refuse and service area (dumpster) location issue must be resolved prior to site plan submittal.
10. An alternative design shall be developed for the parking requirement of 1.5 spaces per unit.
11. Item I. in the Special Exception Notes shall be revised to read Retail Services rather than Medium Density Residential.
12. Dwelling unit footprints shall not be platted into lots without a corresponding reduction of units (density) as the B-4 minimum lot with cannot be achieved.

Discussion:

Mr. Herlihy requested the board members to strike "35 feet" from condition number four.

Mr. Ruse questioned staff's conditions. He confirmed that the applicant would have to go through the site plan process regardless of the Board of Adjustment hearing. Therefore, condition number one was not necessary. Mr. Ruse stated that staff's recommendation contained several conditions that would be required whether or not this request was before the board. He felt that the Board should not add conditions that would be required by staff anyway. He commented on item number 3 regarding a drainage easement. Mr. Herlihy explained that staff did not want to enter into the site plan process without having the easement secured. Mr. Trow asked if the site plan review committee would consider a site plan without the requested easement. Mr. Herlihy stated that the applicant might come up with a different proposal. Mr. Ruse stated that this was his point; he wanted to allow the developer some flexibility.

Discussion continued regarding the other conditions.

Chairman Trow questioned, and Mr. Herlihy confirmed, that the maximum density would be 12 units per acre if the property had R-3 zoning and Medium Density Residential land

use. Therefore the subject property could be developed with a potential of 84 units, almost twice the proposed density. The proposed density of 50 units was slightly above that allowed with a Low Density Residential land use, which allows five dwelling units per acre.

Mr. Ruse stated that B4 was a pretty intense business zone. Discussion followed regarding the permitted uses in the B-4 zone. Mr. Ruse then questioned why the applicant did not request a zoning change. Mr. Herlihy stated that if the zoning had been changed, the development would only have to go through site plan review and the surrounding property owners would not have been notified. With a special exception, staff could review a site sketch first. Ms. Overstreet added that property that is going through site plan review is posted, however it is not advertised, nor are notices sent out.

Mr. Ruse then questioned the number of trips that would be generated with the proposed development vs. the number of trips that would be generated by a strip mall type development. Mr. Herlihy stated that he did not have that information; however, the number of trips would depend on the use and would probably be a little less for a commercial development.

Paolo Mastroserio, 170 SE 32nd Place, Ocala, came forward and stated that he was a professional engineer with Miles Christian Anderson Consulting Engineers and he was representing the applicant. He stated that a traffic impact analysis had been completed. The allowable uses in the B-4 zone had a potential to generate 10,393 average trips on a Saturday. A residential development would generate 284 average trips.

Mr. Williamson arrived at 6:00 PM.

Mr. Mastroserio discussed some of the conditions requested by staff. He added that the units would not be rented, they would be owned. This project would be a condo development with deed restrictions. It would be a gated community with curb and gutter type roads. This would not be a low income development and would not be a detriment to the community.

Chairman Trow commented on the request to strike the 35 foot setback and questioned the relationship of this setback to the area that would be used for water retention. Mr. Mastoserio explained that the setback was a front yard setback which was required by site plan. Discussion followed regarding front yard setbacks.

Chairman Trow then questioned the platting prohibition. Mr. Herlihy explained that this type of use in a B-4 zone required a 100 foot lot width. The lots would not be conforming if the applicant wanted to plat.

Chairman Trow asked for public comment.

Richard Norton, 509 NW 35th Street, Ocala, came forward and stated that he was not really opposed to the proposed development; however he was concerned about how this

project would affect the value of the homes in the area. He was also concerned about the number and size of the units. Chairman Trow confirmed that the proposed development was for 50 units; each having 1500 to 1700 square feet of air conditioned space. Mr. Norton stated that the value of the homes in the area to the north and east of the subject property was \$350,000 and up. Therefore, he would like the project to be less dense with more square footage.

Patricia Acook, 520 NW 35th Street, Ocala, came forward and asked if the applicant could renege on some of the proposed design criteria; such as the size of the units and the statement that the development would be a gated community. Ms. Overstreet said that the board members were not approving the site plan; they were approving the concept of the site plan, including the stipulation of a maximum of 50 units. However, whether it was a gated community was not being stipulated by this board. Chairman Trow explained that the details would be approved by the site plan review committee. Ms. Overstreet explained the site plan review process. Mr. Trow summarized the issue before them: Should a property that is zoned for a business use be permitted to be used for a residential use.

Ms. Acook also asked if there would be improvements to the intersection of West Anthony Road and 35th Street. She commented on the congestion at this intersection. Chairman Trow explained that this would be part of the site plan approval process.

Ms. Overstreet stated that one phone call had been received in opposition to this request from Rosa Feliciano, 620 NW 35th Street, Ocala.

Mr. Herlihy came forward and stated that the developer would not be able to renege on what was proposed. For example: They could not change the development from a multi family development to a single family development. If this were the case, the applicant would have to go back to the board. Chairman Trow clarified that if the board approved a density of 50 units, and the applicant came back with a proposal for the same type and size units, but reduced the amount to 20, they would not have to go back to the board.

Mr. Ruse stated that he had been conceptually against the request as he thought the request was to construct apartments. However, he approved of the internal flow of traffic in the proposed development, as well as condominium usage. He stated that he would like to base approval on the conditions that the units be a minimum of 1500 square feet and have condominium ownership. In addition, he was in favor of staff conditions 11, 8, and 2. He felt the rest of staff's conditions should be dealt with during the site plan process. He added that this development would be a lot more serene than would certain business uses.

Chairman Trow summarized that Mr. Ruse was recommending approval with items 2, 8, & 11, plus a minimum of 1500 square feet of living area and condominium ownership.

Mr. Ruse commented on the gated aspect of the proposed development, stating that he did not want the board to stand in the way should the developer decide in the future that they did not want gates.

Ms. Johnson cited concern over the impact that 50 new residential units would make on the traffic conditions in the area. Mr. Mastroserio came forward and stated that the site plan process would require a traffic study. He acknowledged that the intersection in question was almost at capacity. If this development tripped that capacity, a traffic signal and improvements would be required.

Ms. Taylor asked about staff condition number 10 regarding the parking requirements. She asked if this was something that should be considered by the board, or if it was site plan related. Ms. Overstreet stated that the site plan would not be approved if they did not provide sufficient parking, which was 1 ½ spaces per unit. Mr. Herlihy stated that the area provided in front of each unit equaled the 1.5 requirement; however, it was questionable whether this space was actually usable. Mr. Mastroserio explained the size of the required driveways and explained the layout of the proposed project. Mr. Herlihy added that they might include visitor spaces at another location.

Ms. Johnson asked if staff had considered how the proposed development would impact the value of the existing \$300,000 homes. Mr. Herlihy explained that staff did not do this type of economic impact study. He explained that staff took more of an intuitive approach and considered something readily apparent such as whether the request was for a noxious use, or for something that generated a high volume of traffic. They did not estimate property values.

Ms. Taylor stated that she conceptually agreed with the request. She asked about alternative permitted uses in the B-4 zone which would not have to go to the Board of Adjustment and which might generate more traffic. Ms. Overstreet explained some of the uses allowed in the B-4 zone. Ms. Hancher added that these business uses could make the area more congested.

Mr. Ruse moved to approve Case SE04-0004 based upon the information provided in the findings of fact and included in the motion condition number 2, which dealt with the site plan being substantially the same; condition number 8, limiting the development to 50 residential units; condition number 11, a corrective note to read Retail Services; and with the inclusion that the condominium units have a minimum of 1500 square feet of living area; and that they are condominium ownership. Ms. Hancher seconded the motion. Without further discussion the motion carried unanimously upon roll call vote.

Chairman Trow asked, and Mr. Ruse clarified, that a board member that arrived in the middle of a presentation could vote on the issue at hand.

Chairman Trow then suggested that Mr. Mastroserio coordinate with those audience members present as the request went through the site plan process.

Discussion / Case COD04-0003

An ordinance of the City of Ocala, Florida, concerning voting requirements for the Board of Adjustment; amending section 78-174, decisions; providing for a majority vote and quorum requirements; providing for severability; providing for the repeal of conflicting ordinances; and providing an effective date.

Ms. Overstreet stated that the purpose of this discussion was to obtain the board's input on the proposed ordinance. She stated that this ordinance was presented to the Planning and Zoning Commission and they recommended denial. The ordinance was scheduled to be introduced to City Council on June 8th with the second and final reading scheduled for June 22nd. She stated that the minutes of this meeting would be relayed to City Council, and the Board members were encouraged to attend the June 22nd meeting and address Council. Ms. Overstreet explained that currently a vote of four was required to approve a request before the Board of Adjustment. If there are only four board members present it creates a "sudden death" board and all members must vote in the affirmative for the request to be approved. When this "sudden death" occurs, the applicants are given an option to table their request until a full board is available. This ordinance would allow a simple majority, or a vote of three if there were only four or five members present, to approve a request.

Discussion followed regarding the requirement of four board members to have a quorum and the voting requirements.

Chairman Trow asked why the Planning and Zoning Commission recommended denial of the proposed ordinance. Ms. Lens stated that the Planning and Zoning Commission felt that a vote of three was not enough to approve a special request or a variance.

Mr. Ruse stated that he was opposed to this change. He felt there was no need for it, as this was seldom an issue. He commented on the power of the Board of Adjustment and did not like the idea of three unelected individuals overruling the electorate.

Ms. Hancher added that a Board of Adjustment decision could not be appealed to City Council. The only appeal available was to Circuit Court. In the event of a sudden death board the applicants were given the choice to table the request until the next month at no extra cost. She did not feel the voting requirements should be changed.

Mr. Williamson confirmed that this requested ordinance change came from Councilman Kent Guinn.

Chairman Trow confirmed that currently four affirmative votes are required for approval and the question is to determine if a request could be approved with three votes.

Mr. Ruse commented on the Board of Adjustment for Marion County being a "good idea board," with no rules or regulations. There was no hardship requirement. He felt that the City of Ocala Board of Adjustment did a good job analyzing requests.

Ms. Hancher felt they should be held to higher standards than just three votes.

Discussion followed regarding tabling a request when there was a sudden death board, and the difficulties in the past of obtaining a quorum.

Ms. Lens stated that during the Planning and Zoning Commission meeting, it had been suggested that the membership of the Board of Adjustment be increased to avoid the situation of not having a quorum. Ms. Overstreet stated that the Board of Adjustment had an alternate position, which currently was not filled, and which was created to assist the board in reaching a quorum.

Mr. Williamson stated that he was in favor of increasing the size of the board. Mr. Ruse suggested that they should recommend to City Council that in lieu of adopting the proposed ordinance, they simply increase the membership of the Board of Adjustment to seven with an alternate. This would be a better cushion to avoid sudden death. Chairman Trow clarified that the voting requirement to approve a request would still be four.

Mr. Williamson suggested that it might be better to increase the board, as he felt they had an obligation to not hold up an applicant's project. Chairman Trow agreed, stating they had a duty to hold a hearing as scheduled.

Ms. Johnson stated that she originally thought the proposed ordinance was a good idea, and had questioned why it had been denied by the Planning and Zoning Commission. After listening to the discussion, she agreed with Mr. Ruse; they didn't need to change the voting requirements, but should avoid having to cancel meetings.

Chairman Trow confirmed with the board that they wished to advise Council to leave the voting requirements as they are, and add one more member to the board. The board was opposed to the proposed change.

The consensus of the board was to oppose the ordinance as drafted, and to suggest adding one additional permanent member to the board.

Comments from Board members

Ms. Taylor advised that she was resigning from the board. Chairman Trow stated that the minutes would reflect their sincere appreciation for Ms. Taylor's service.

There being no further discussion, the meeting was adjourned at 6:47 p.m.
