

TAB 16



City of Palmetto Agenda Item

Meeting Date

1/3/11

Presenter: Lorraine Lyn

Department: Public Works

Title:

Conditional Use Permit (CU-2010-06) for video amusements/computer slots/games space at Palm Plaza I, 1035 Hasko Road

Mr. Amerson, the petitioner is requesting a Conditional Use for 870 square foot of video amusements/computer slots/games space within an existing shopping center located in the Heavy Commercial/Industrial (CHI) zoning district.

Budgeted Amount: \$0.00 **Budget Page No(s):** **Available Amount:** \$0.00 **Expenditure Amount:** \$0.00

Additional Budgetary Information:

Funding Source(s): **Sufficient Funds Available:** Yes No **Budget Amendment Required:** Yes No **Source:**

City Attorney Reviewed: Yes No N/A **Advisory Board Recommendation:** For Against N/A **Consistent With:** Yes No N/A **Future Land Use Plan**

Potential Motion/Direction Requested: The City Commission shall APPROVE, APPROVE WITH CONDITION(S) or DENY the proposed conditional use permit.

Staff Contact: Lorraine Lyn City Planner 723-4580 Ext. 135

Attachments: Staff report and Minutes of the P&Z meeting of 11/16/2010

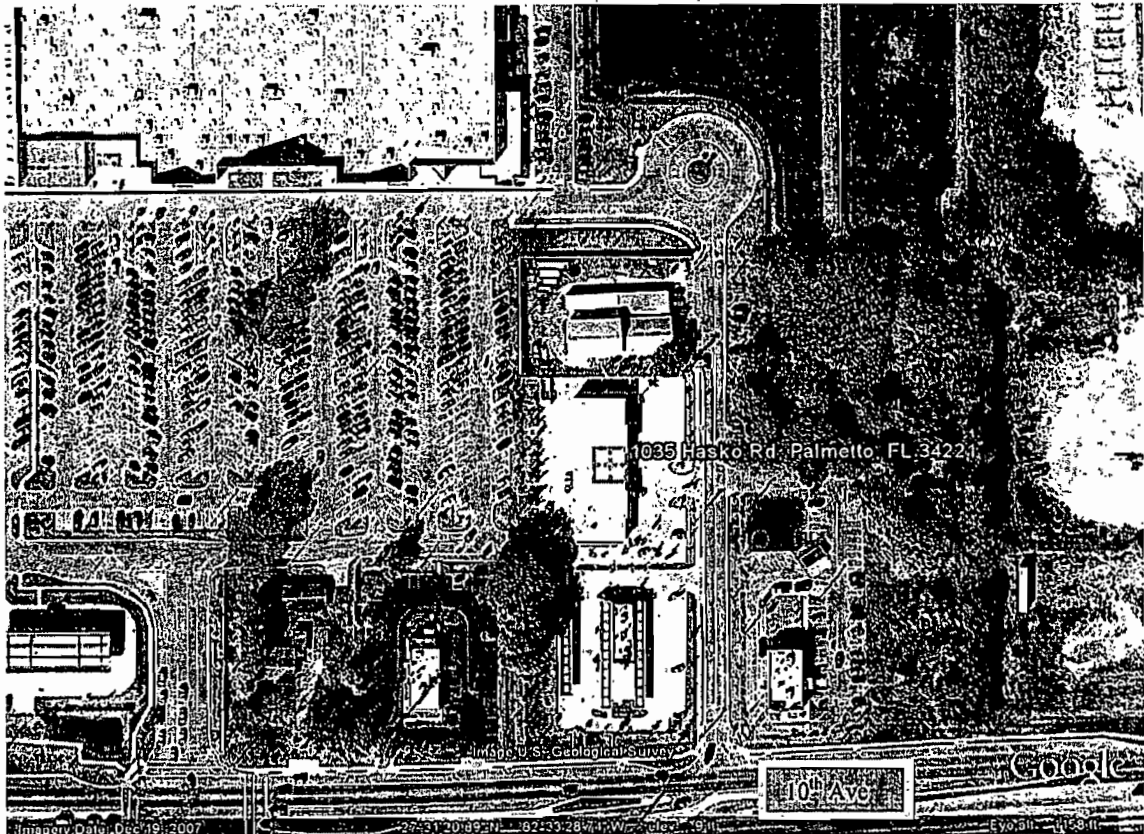
Staff Report
Conditional Use Permit (CU-2010-06)
Palm Plaza I
1035 Hasko Road

BACKGROUND

Palmetto Rental Properties, the owner of Palm Plaza I at 1035 Hasko Road is the applicant of this Conditional Use (CU) for 870 square foot of video amusements/computer slots/games space within the Heavy Commercial/Industrial (CHI) zoning district. The applicant/owner of Palm Plaza I filed this petition in order to rent space within this shopping center for a computer slots/games arcade.

PARCEL ID/SIZE

Parcel ID: 2599700059
Location: Palm Plaza I, 1035 Hasko Road
Size: 1.0 acre



CU-2010-06
Games Arcade
1035 Hasko Road
Revised 12/21/2010

EXISTING LAND USE/ZONING CATEGORY

Future Land Use: Heavy Commercial/Industrial (HCI)
Zoning: Heavy Commercial/Industrial (HCI)

A Recreation and Amusement Service is permitted only as a Conditional Use in the CHI and CG zoning districts subject to public hearings by the Planning and Zoning Board and the City Commission. Recreation and Amusement Services is defined in the Zoning Code as:

A commercial facility providing recreational activities, including, but not limited to, swimming pools, tennis clubs, gymnasiums, amusement arcades, discotheques, bowling alleys, bingo halls, shuffleboard courts, baseball hitting ranges, miniature golf, golf driving ranges, billiards or pool halls, dance schools or classes, skating rinks, zoos, indoor movie theaters, and other similar recreation and amusement uses.

REQUESTED APPROVAL

The following conditions have been analyzed in reviewing this request:

- (1) The proposed use shall be consistent with the purpose and intent of the applicable zoning district regulations, this article, and the comprehensive plan.

The proposed request for a computer slots/games arcade is permitted within the CHI zoning as a Conditional Use. The CHI zoning district is consistent with the proposed Future Land Use Element and CHI plan category on the Future Land Use Plan map.

The proposed use shall be compatible with surrounding land uses and the general character of the area, considering, without limitation, such factors as traffic, lighting, appearance, and effect on surrounding property values. **The surrounding uses in the immediate area are predominantly light or general commercial uses such as a sports bar and dry cleaners within the Palm Plaza I shopping center and Taco Bell and Wal-Mart to the east and west respectively. The CHI zoning district in which the subject property is located, permits the most intense commercial uses allowed in the City by the zoning code.**

- (2) The Conditional Use will not adversely impact on the public interest or adjacent property and all necessary alternative measures shall be taken by the applicant to prevent any such impact.

The proposed amusement arcade use is generally considered a light commercial use since the business will be comprised of computer

terminal stations for individual computer gaming use. The proposed business will be located within a vacant space of an existing shopping center under common ownership. The applicant indicated that management would not tolerate any negative impacts on adjacent uses within the shopping center.

- (3) The Conditional Use is not discriminatory, considering similar situations in the general area and in past decisions under this article.

The Conditional Use is not discriminatory. There are other commercial facilities providing recreational activities and services in the City.

- (4) The purpose of the requirement is otherwise fully achieved, or more important purposes of this article will be served thereby, or the requirement serves no valid public purpose in the particular case.

It appears that because Recreation and Amusement Service uses defined in the Zoning Code vary significantly in scale and intensity, the consideration of each use is the same, the Conditional Use process.

- (5) The proposal shall be consistent with the stated purpose and intent of the applicable district regulations and this article.

All recreation and amusement services within the city, including the subject property must comply with the following requirements pursuant to Sec. 6.22 of the Zoning Code:

- **All sites for recreation and amusement services uses shall front on a principal arterial roadway, and shall utilize such arterial roadway as the primary access for the site.**
- **All recreation and amusement services uses shall provide a six-foot perimeter wall or opaque fence for all portions of the site which are adjacent to residential uses or residentially-zoned property.**
- **Hours of operation for recreation and amusement services uses shall be limited to the hours between 8:00 a.m. and 12:00 a.m.**

- (6) The proposal shall comply, where applicable, with the regulations of the zoning district in which the proposed use is most commonly permitted. **The proposed use is considered a Recreation and Amusement Service which is permitted only as a CU in the CG and CHI districts. Besides the proposed use, other uses considered Recreation and Amusement**

Services include recreation and amusement establishments, marinas, golf courses and clubs, cultural facilities, tennis clubs, swimming clubs and amusement parks, all requiring an approval of a CU.

Recreational uses such as swimming pools, tennis clubs, shuffleboard courts and golf driving ranges may also be approved in a PD zoning as part of a planned residential development or mobile home park.

- (7) The proposal shall not create hazardous vehicular or pedestrian traffic conditions or any other type of unsafe condition.

Palm Plaza I is accessed from Hasko Road as well as via the east side of Wal-Mart's parking lot. The required parking for the proposed use is the same as a retail use; one (1) vehicle space for each two hundred (200) square feet of floor area for public use. Assuming the total space of 870 square feet will be for public use, 5 parking spaces will be required. The applicant indicated that there are ample parking spaces associated with this shopping center. Palm Plaza I shopping center was approved for 10,000 square feet of retail uses with 50 parking spaces.

STAFF RECOMMENDATION:

Staff recommends approval of the proposed Conditional Use permit.

PLANNING AND ZONING BOARD RECOMMENDATION:

At its public hearing held on November 16, 2010, the Planning and Zoning Board voted to **APPROVE** the proposed Conditional Use permit.

CITY COMMISSION

The City Commission shall **APPROVE, APPROVE WITH CONDITION(S) or DENY** the proposed Conditional Use permit.

**DRAFT MINUTES
CITY OF PALMETTO
PLANNING AND ZONING BOARD
DECEMBER 16, 2010 – 5:30 P.M.**

516 8th Avenue West
Palmetto, FL 34221

www.palmettofl.org
941-723-4570

PLANNING AND ZONING BOARD MEMBERS

BARBARA JENNINGS, Chair
JON MOORE, Vice Chair
ERIC GILBERT
CHARLIE UGARTE-Absent

CHRISTOPHER MOQUIN-Absent

School Board Appointee (Non-voting)

MIKE PENDLEY

Staff

Lorraine Lyn, City Planner
Linda Butler, Recording Secretary

Scott Rudacille, City Counsel

Anyone wishing to speak before the Planning and Zoning Board must sign in prior to the meeting, stating name, address and topic to address. All comments will be limited to two minutes.

Swearing in of all persons speaking to the Board:

ORDER OF BUSINESS:

Ms. Diane Ponder, Deputy City Clerk apologized to the Board and the public for any inconvenience due the remodeling of the Commission Chambers.

1. **Approval of November 18, 2010 Meeting Minutes** Tab 1

November 18, 2010 Meeting Minutes

Action request: Mr. Gilbert moved to approve the minutes and Mr. Moore seconded.

Chair Jennings took tab 4 out of order on the agenda and moved it before tab 2.

Public Hearing:
4. **Variance (VAR-2010-04) Request**

Tab 4

Ms. Lyn gave a summation of the staff report, stating that the property is located at 900 17th Street with two frontages zoned General Commercial (CG). Presently it is occupied by a vacant commercial building that was once a Movie Gallery retail store.

The applicant is requesting front set-back variances from the required 20 foot setback along 8th Avenue West and 17th Street to construct additions to both sides of the existing 5,648 square feet commercial building which is located on the corner.

Staff recommends a 20 foot front setback for the existing building along 17th Street and 8th Avenue and a 20 foot front setback for a proposed addition along 17th Street.

Chair Jennings opened the public hearing.

Mr. Jason Henbest, Grimes Goebel, representative for Future Plan asked for a continuance of the public hearing until January 20, 2011 at 5:30 pm.

Mr. Pierre Dubord, Hungry Howie's, stated that he feels the expansion on 8th Avenue will block Hungry Howie's frontage and it will also cause problems with parking. Mr. Dubord stated they would allow the set back variance and the expansion along 17th street in the back of the existing former movie gallery building but not along 8th Avenue.

Action request: Mr. Gilbert moved to continue the public hearing for Variance 2010-04 until January 20, 2011 at 5:30 pm in the City of Palmetto Commissions Chambers. Mr. Moore seconded. **MOTION CARRIED UNANIMOUSLY.**

Public Hearing:
2. **Conditional Use Permit Application (CU-2010-05)**

Tab 2

Ms. Lyn gave a summation of the staff report stating that Mr. Budick, the owner of 702 9th Street W is the applicant of this Conditional Use (CU) who is requesting to live in a former office space of 670 square ft. within a building containing an auto detailing business that is zoned commercial (CG). The applicant also owns the adjacent Laundromat to the west, behind the Value Pawn store.

Staff recommends approval of the proposed conditional use permit.

Chair Jennings opened the public hearing.

Mr. Paul Budick, 706 9th St W stated he is requesting a conditional use permit to allow him to live on site. Recently there has been vandalism at the Laundromat and he feels that if he is living on site it will help curtail criminal activity. Chief Wells is in support of the proposal. Mr. Budick circulated pictures of the site showing the recent vandalism.

Chair Jennings closed the public hearing.

Discussion ensued.

Mr. Moore requested for future agenda items that staff provide a site map such as a Google map showing the site location. A survey is not required.

Action request: Mr. Moore moved to recommend approval of the request for the Conditional Use Permit CU-2010-05. Mr. Gilbert seconded.
MOTION CARRIED UNANIMOUSLY.

Public Hearing:

3. Conditional Use Permit Application (CU-2010-06)

Tab 3

Ms. Lyn reviewed the staff report. The request is for an 870 square foot video amusements/computer slots/games space within the Heavy Commercial/Industrial (CHI) zoning district located at Palm Plaza I, 1035 Hasko Road. The applicant is not present.

Staff recommends approval of the proposed Conditional Use permit.

Chair Jennings opened the public hearing.

Mr. Rudacille stated the code requires that the applicant or an applicant's representative shall be present at the designated Planning and Zoning board meeting. If no one is present at the meeting, the item shall be continued to the next scheduled meeting.

Ms. Lyn stated we did not inform the applicant of this requirement.

Chair Jennings stated she was not aware of this requirement and suggested we need to do some research to find out why it is in the code.

Mr. Moore stated for the record that as he was walking into the building this evening he was approached by Mr. Amerson regarding this item. He stated he had another conflict and asked if he needed to be there for the meeting and Mr. Moore informed him that he did not know.

Questions' regarding the real use of the site was brought up to staff. Will it be a gambling facility, a video arcade, slot machines, or computer terminals? Are there separate regulations for slots? Have slots been addressed in the area before? Ms. Lyn stated she is only aware of what the applicant proposed to her and put on the application.

Mr. Moore stated there are two issues before the Board. One is that applicants should be made aware of this requirement to be present; it should be placed on the material the applicants receive. The second issue is the bureaucracy that is going to keep a business entity from providing income to the City. Mr. Moore stated that there is a line between gambling and gaming - what is considered gambling and what is considered amusement. He also concurred that he would like to understand what the proposed use involved.

Ms. Lyn received permission from the board to call and notify the applicant of the pending continuation of the hearing because no one was aware of this requirement and the applicant was not informed at the time the application was submitted as it was not stated on the application.

Chair Jennings closed the public hearing.

5. **Old Business**

a. Director's report

- Ms. Lyn reported on a call she received from DCA asking the City to submit a letter indicating that the City would be willing to re-instate a concurrency policy in the Comprehensive Plan. A letter was submitted this week indicating that the City would re-instate this policy in the next plan amendment cycle.
- Ms. Lyn stated the City Commission held a workshop on the amendment to the alcohol beverage ordinance and discussed the distance requirements, zoning and/or conditional use requirements and alcohol in conjunction with a special function permit. This item will come before the board in January.

Chair Jennings re-opened the Conditional Use 2010-06 public hearing.

Mr. Jim Amerson, Palmetto Rental Properties, was sworn in.

Mr. Amerson stated he has a commercial building with a commercial tenant wanting to lease space in the building. The type of business is completely legal. The tenant will lease the space; they will bring in

computers; you go in, give them money to pay for computer time and you leave. Mr. Amerson stated that he did not know what they do on the computers. The use is compatible with the area. These uses are permitted in Manatee County, they are all over the state of Florida and there are 15 around the area of Palmetto. Mr. Amerson stated he visited several sites around Manatee County and has spoken with Senator Bennett regarding the legality of these types of facilities and was assured by him that they are legal.

Mr. Amerson stated this is a viable legitimate business, if the City does not want this type of business they need to pass an ordinance that states that this type business is not allowed. Is there a law against people sitting and playing black-jack on-line or some other games?

Chair Jennings closed the public hearing.

Mr. Rudacille stated that the Board should not be concerned with whether or not the proposed use is a legal use because if the proposed use is illegal, it is going to be shut down. Mr. Gilbert was uncertain whether the proposed use fits into the use description.

Discussion ensued.

Mr. Moore indicated that since it is not the Board's purview to consider the legality or the morality of this type of use, it is relatively clear in the code that the proposed use is allowed (as a Conditional Use).

Action request: Mr. Moore moved to recommend approval of the Conditional Use Permit CU-2010-06. Ms. Jennings seconded. **MOTION CARRIED UNANIMOUSLY.**

6. **New Business**

None

7. **Adjournment:** 6:50

NOTE: There is no electronic audio recording for this meeting. Cassette tape audio is on file at City Hall.