

TAB 8



City of Palmetto Agenda Item

Meeting Date

10/17/11

Presenter: Lorraine Lyn

Department: Planning

Title:

Conditional Use Permit (CU-2011-04)

Prepaid Phone Time Sweepstakes proposed in laundromat building located at 1527 8th Avenue West

Florida Commercial Laundry Equipment, Inc., the owner of a laundromat located at 1527 8th Avenue W is the applicant of this Conditional Use (CU) for approximately 784 square feet (20% of the building square footage) of prepaid phone time sweepstakes space within the General Commercial (CG) zoning district. In addition to the laundromat, 5% of the 4,000 square foot building is used for ice cream sales/snack shop and 5% for an office.

According to the applicant, Phone-Sweeps, LLC is in the business of selling pre-paid long distance telephone cards within various internet café business center vendor store-fronts throughout the country. Like McDonalds, Chile's, Visa, Pepsi and 6700 other retailers in Florida, Phone-Sweeps, LLC operates promotional sweepstakes which by law are licensed and regulated by the Florida Department of Agriculture and Consumer Services. They are designed to undersell the big box stores because they market using a game promotion.

The proposed use is considered a Recreation and Amusement Service which is permitted only with a CU in the CG and CHI districts. Besides the proposed use, the City Commission approved a 5 year Conditional Use permit for 870 square foot of video amusements/computer slots/games space within the CHI zoning district at Palm Plaza I located at 1035 Hasko Road on January 24, 2011.

The Planning and Zoning Board held its public hearing on September 15, 2011 and recommends APPROVAL of the proposed Conditional Use permit with the following conditions:

1. Limited to selling pre-paid phone time cards sweepstakes only in the 784 sq ft proposed area;
2. Hours of operation is from 8 am to 12 am;
3. Limited to a 5 year period.

Budgeted Amount:	\$0.00	Budget Page No(s):		Available Amount:	\$0.00	Expenditure Amount:	\$0.00
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Additional Budgetary Information:

Funding Source(s):		Sufficient Funds Available:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Budget Amendment Required:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Source:	
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City Attorney Reviewed:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Advisory Board Recommendation:	<input checked="" type="checkbox"/> For <input type="checkbox"/> Against <input type="checkbox"/> N/A	Consistent With:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Palmetto 2030 Comprehensive Plan
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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. 2135

Attachments: Staff report, maps and basic procedures for sweepstakes

Staff Report
Conditional Use Permit (CU-2011-04)
Prepaid Phone Time Sweepstakes
1527 8th Avenue West

BACKGROUND

Florida Commercial Laundry Equipment, Inc., the owner of a laundromat located at 1527 8th Avenue W is the applicant of this Conditional Use (CU) for approximately 784 square feet (20% of the building square footage) of prepaid phone time sweepstakes space within the General Commercial (CG) zoning district. In addition to the laundromat, 5% of the 4,000 square foot building is used for ice cream sales/snack shop and 5% for an office.

Phone-Sweeps, LLC is in the business of selling pre-paid long distance telephone cards within various internet café business center vendor store-fronts in 7 states including Florida and within nearly 40 cities including Jacksonville, Gainesville, Alachua, Lake City, Daytona, Sarasota, Ft. Lauderdale and others. Like McDonalds, Chile's, Visa, Pepsi and 6700 other retailers in Florida, Phone-Sweeps, LLC operates promotional sweepstakes which by law are licensed and regulated by the Florida Department of Agriculture and Consumer Services. They are designed to undersell the big box stores because they market using a game promotion.

The proposed use is considered a Recreation and Amusement Service which is permitted only with a CU in the CG and CHI districts. The proposed use will be conducted within an existing building which has done business in the City for years. Besides the proposed use, the City Commission approved a 5 year Conditional Use permit for 870 square foot of video amusements/computer slots/games space within the CHI zoning district at Palm Plaza I located at 1035 Hasko Road on January 24, 2011.

PARCEL ID/SIZE/LOCATION

Parcel ID: 2663400006
Size: 0.4 acres
Location: 1527 8th Avenue W., W side of 8th Ave., S of 17th St. W

PLAN CATEGORY/ZONING DISTRICT/EXISTING LAND USE OF SUBJECT PARCEL

General Commercial (GCOM)/ Commercial General (CG)/laundromat, office, snack shop

PLAN CATEGORY/ZONING DISTRICT/EXISTING LAND USES OF SURROUNDING PROPERTIES

1. North: GCOM/CG/restaurant (Kojak's)
2. South: GCOM/CG/auto sales and repair
3. East: GCOM/CG/retail (new bridal shop)

4. West: PF/P /park (Palmetto 17th Street park)

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 standards shall apply to all applications for Conditional Use permits pursuant to Sec. 15.4 (C) of the Zoning Ordinance.

1. Purpose and Intent: The Comprehensive Plan

The proposed use shall be consistent with the stated purpose and intent of the applicable zoning district regulations and this ordinance, and consistent with the Comprehensive Plan.

The proposed request for a prepaid phone time sweepstakes is considered a "Recreation and Amusement Service" which is permitted within the CG zoning as a Conditional Use. The CG zoning district is consistent with the proposed Future Land Use Element and the GCOM plan category on the Future Land Use Plan map.

The proposed prepaid phone time sweepstakes is generally considered a light commercial use since the business will be comprised of computer terminal stations for individual use. In addition, the proposed business will occupy space within a building with other uses including a laundromat and ice cream sales/snack shop under common ownership.

2. Applicable district regulations

The proposal shall comply, where applicable, with the regulations of the zoning district in which the proposed use is most commonly permitted.

A Recreation and Amusement Service is permitted as a Conditional Use in the CG zoning district in which the subject property is located. 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.**

The proposed site is located on 8th Avenue, a principal arterial roadway. There are no residential uses or zoning districts adjacent to the property. The laundromat's hours of operation are from 7 am to 10 pm daily.

3. Compatibility

The proposal shall be compatible with surrounding land uses and the general character of the area, considering, without limitation, such factors as traffic, noise, drainage, dust, lighting, appearance, and effect on property values.

The surrounding uses in the immediate area are predominantly light or general commercial uses such as retail, offices, restaurants, and personal and professional services. The CG zoning district in which the subject property is located extends along both sides of 8th Avenue from 17th Street to 9th Street. Recreation and Amusement Service uses are not permitted south of 9th Street as they are not allowed in the CC zoning district. This proposal involves an existing development which proposes no new development. It is not expected to generate additional traffic, noise, drainage, dust, and lighting or have negative impacts on appearance or property values.

4. Environment

The site shall be environmentally suitable for the proposed use and such use shall not have a substantial adverse impact on the natural environment. Soils, drainage, flood hazards, wildlife, and air and water quality shall be among the factors considered in this regard.

The proposed conditional use will be located within an existing building which has operated business in the City for a number of years. It is not expected to have an adverse impact on the natural environment since no new development is being proposed.

5. Orderly development

The proposal shall be consistent with providing for efficient and orderly development, considering, without limitation, such factors as provision of public facilities and services, growth patterns and energy conservation.

The proposed conditional use will be located within an existing building that is zoned CG and designated GCOM on the Future Land Use Plan map. The provision of public facilities and services, growth patterns and energy conservation would be applicable to new development.

6. Public facilities and services

Necessary public facilities and services, such as sanitation, water, drainage, emergency services, education, recreation and similar facilities and services shall be adequate to serve the proposed use.

This proposal is for a new use in a portion of an existing building which has operated

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Prepaid Phone Time Sweepstakes

1527 8th Ave W

Revised 10/5/2011

business in the City for years. No new development is proposed.

7. Traffic

The proposal shall not create hazardous vehicular or pedestrian traffic conditions nor result in traffic exceeding the capacity of streets and intersections serving the use.

The proposed conditional use is located on 8th Avenue, a 4-lane undivided state arterial operating at a C or better level of service. The existing laundromat and ice cream sales/snack shop and the proposed prepaid phone time sweepstakes business have a secondary access off 9th Street W with parking spaces off both streets. The required parking for the existing and proposed uses is at least one parking space for each 400 square feet of floor area or fraction thereof, or 10 spaces. There are 16 parking spaces onsite. Internal trip capture is likely because the existing 4,000 sq. ft. building contains more than one use.

8. Screening and buffering

The proposal shall include screening and buffering as necessary to minimize adverse impacts on surrounding land uses.

The City's zoning ordinance contains landscape buffering requirements for adjacent uses that are less intense than the proposed use. No buffering is required when the adjacent uses are the same or comparable to the subject site.

9. Signs; lighting

Signs and outdoor lighting which may be involved in the proposal shall be designed to ensure that the use harmoniously fits into its surrounding.

This is an existing use. Signs and lighting are not proposed for the subject property.

STAFF RECOMMENDATION:

Considering that the proposed use is not the primary use of this commercial building and that it occupies 20% of the total floor area, staff recommends approval of the proposed Conditional Use permit with the following conditions:

1. The use shall be limited to selling pre-paid long distance telephone cards only;
2. The use shall occupy a maximum space of 784 sq. ft. which shall be limited to adults only;
3. Hours of operation for this conditional use shall be from 8 am to 8 pm;

PLANNING AND ZONING BOARD RECOMMENDATION:

The Planning and Zoning Board held its public hearing on September 15, 2011 and recommends **APPROVAL** of the proposed Conditional Use permit with the following conditions:

1. Limited to selling pre-paid phone time cards sweepstakes only in the 784 sq ft proposed area;
2. Hours of operation is from 8 am to 12 am;
3. Limited to a 5-year period.

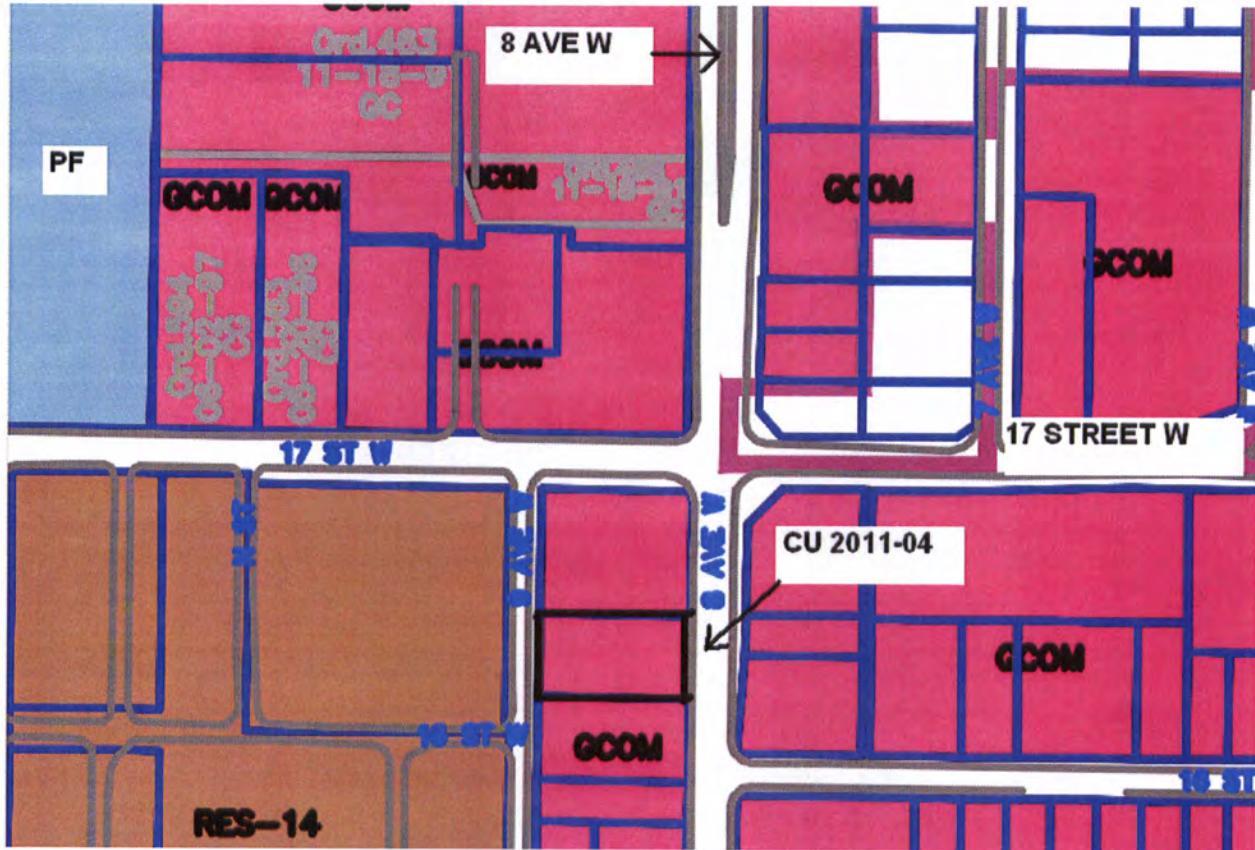
**Basic procedures for purchasing phone card and playing promotional
sweepstake game provided by the applicant
Conditional Use 2011-04**

1. Consumer physically visits the retail vendor site (ie. Internet Café)
2. Consumer purchases a \$10 phone-card and receives \$10 worth of competitive long-distance phone time and 1000 free sweepstake points.
3. Consumer swipes phone-card thru READER located next to any on-site computer terminal he/she selects. READER communicates with database confirming that Consumer's phone-card has 1000 points to redeem
4. Consumer selects game style (in reality, simply the terminal screen graphics) and redeems 100 tickets @ 10 points each.
5. Graphics on terminal screen spin like games while terminal communicates through the Local Database (located in that Internet Café location) to the Sweepstakes Ticket Pool Database for the determination of the 10 tickets and then displays the outcome on the terminal screen.
6. Each terminal serves as a conduit to the Sweepstakes Ticket Pool. The terminal DOES NOT determine the game outcome.
7. The Local Database notifies the Sweepstakes Ticket Pool Database of the tickets that have been drawn by Consumer and thus removed from the Sweepstakes Ticket Pool Database.

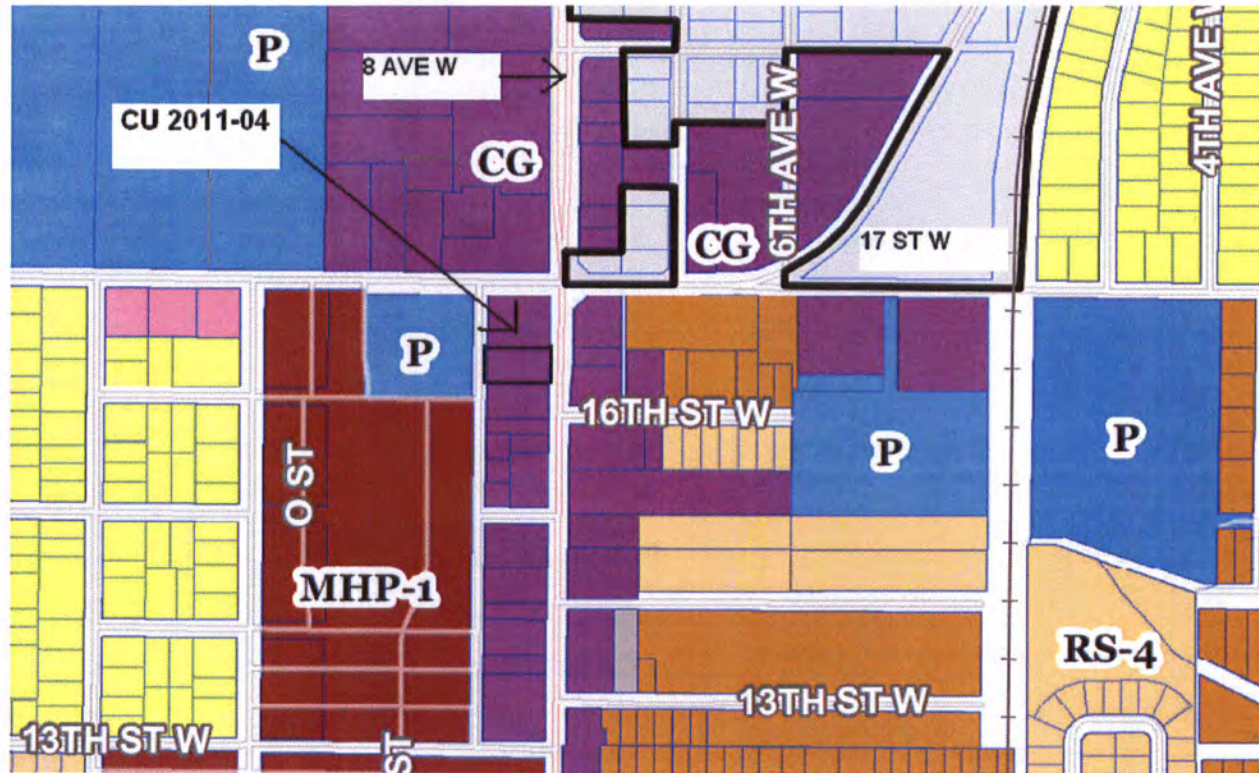
**AERIAL FOR CONDITIONAL USE 2011-04
RECREATIONAL/AMUSEMENT SERVICE
1527 8TH AVENUE**



LAND USE PLAN MAP FOR CONDITIONAL USE 2011-04
RECREATIONAL/AMUSEMENT SERVICE
1527 8TH AVENUE



ZONING MAP FOR CONDITIONAL USE 2011-04
RECREATIONAL/AMUSEMENT SERVICE
1527 8TH AVENUE



DRC- Item did not trigger a DRC meeting, staff was informed, no comments or concerns

P&Z minutes

Florida Commercial Laundry Inc. Conditional Use (CU-2011-04) Tab 4

Ms. Lyn reviewed the staff report. Florida Commercial Laundry Equipment, Inc. is a Laundromat located at 1527 8th Avenue W. The Conditional Use (CU) application is for approximately 784 square feet (20% of the building square footage) of prepaid phone time sweepstakes space within the General Commercial (CG) zoning district. In addition to the Laundromat, 5% of the 4,000 square foot building is used for ice cream sales/snack shop and 5% for an office.

Phone-Sweeps, LLC is in the business of selling pre-paid long distance telephone cards within various internet café business center and vendor store-fronts. Phone-Sweeps, LLC operates promotional sweepstakes which by law are licensed and regulated by the Florida Department of Agriculture and Consumer Services.

The proposed use is considered a Recreation and Amusement Service which is permitted only with a CU in the CG and CHI districts. The proposed use will be conducted within an existing building which has done business in the City for years. Besides the proposed use, the City Commission approved a 5 year Conditional Use permit for 870 square foot of video amusements/computer slots/games space within the CHI zoning district at Palm Plaza I located at 1035 Hasko Road on January 24, 2011.

Staff recommends the following:

1. The use shall be limited to selling pre-paid long distance telephone cards only;
2. The use shall occupy a maximum space of 784 sq. ft. which shall be limited to adults only;
3. Hours of operation for this conditional use shall be from 8 am to 8 pm

Mr. Ugarte asked if the hours recommended is 8 am to 8 pm or 8 am to 12 am. Ms. Lyn stated from 8 am to 8 pm. Ms. Lyn read the conditions that are included in the code for recreation and amusement services which included hours of operation from 8 am to 12 am. Mr. Honaker's hours of operation are from 7 am to 10 pm.

Mrs. Jennings asked how the stipulations will be enforced stating there's an issue of putting in stipulations on a conditional use that cannot be enforced. Ms Lyn stated that is a valid

concern, but it did not take long for Code Enforcement to discover the unapproved use and close down the business.


Mr. Pastor asked if the added use will increase the required parking. Ms. Lyn stated she used the 1 space per 400 sq. ft. for other commercial uses because there is more than one use, therefore it will meet parking. Mr. Pastor asked what made code enforcement flag them. Ms. Lyn stated the facility had a sign posted which drew the attention of Code Enforcement.

Chair Gilbert asked how the "adult only" condition will be monitored if this is a Laundromat that is self service.

Mr. Pastor asked if this is illegal for a minor. Mr. Barnebey stated not as we understand the operation today according to Lt. Tyler. The police department is not aware of any illegal activity with this type of establishment.

Mr. Barnebey notes that these types of uses have caused problems in other communities which may be the reason the Commissioners placed a 5 year timeframe on a similar use in the City.

Open to the applicant:


 Marie McCaughan, PE stated the reason the applicant did not come before the Board is because the use is not a gambling facility. It is a phone card that can be checked right away by the cashier and you do not have to play the games. Ms. McCaughan addressed the following comments and concerns:


- Parking: parking is adequate, there are 16 spaces.
- Sign: a legal sign is already in place, the name on the sign might change.
- Permitted Uses: Ms. McCaughan stated selling pre-paid phone cards is a permitted use in the CG district.
- Hours of Operation: Ms. McCaughan requests the sweepstakes use be open the same hours as the business. Mr. Honaker will only sell the phone cards to adults.

Chair Gilbert asked for clarification, you are selling a pre-paid long distance phone card that happens to have a sweepstakes as a promotion to buying that card. Is there an internet café in the room where the terminals are located? Ms. McCaughan stated, yes to the pre-paid long distance phone card question. And stated the internet café is a permitted use in the general commercial zoning district, it does not fall under the conditional use criteria, it is an allowable use just as an eating establishment, this is like a coffee shop. An internet cafe is a coffee shop with computers that are available to the public

Ms. McCaughan stated this not a gaming site. The internet café is something Mr. Honaker has in mind and would like to offer but is not being done at this time.

Ms. Lyn asked if customers can win cash. The answer is yes.

 Chair Gilbert opened the public hearing

 Chair Gilbert closed the public hearing


 Discussion

Mr. Pastor commented that if the operation is legal we don't have to stipulate a legal age.

Mr. Barnebey asked the connections of the phone cards with the computer terminals.

Ms. Paula Dumas, after being sworn stated the sale of the retail phone time is promoted through a game promotion; the terminals are a revealing system for the game promotion. All the computers are linked together though the internet and are monitored. Everyone has to be 18 years of age if they access the game terminal. There are choices given when you sit at the terminal, sweepstakes or Microsoft Open Office.

Chair Gilbert stated if someone sits down at the terminal can they access the internet. Ms. Dumas said the customer have to buy internet time. The only option offered at this time is long distance pre-paid phone card sweepstakes.

 Mrs. Jennings moved to recommend approval of CU-2011-04 with the following stipulations:

1. Limited to selling pre-paid phone time cards sweepstakes only in the 784 sq ft proposed area
2. Hours of operation is from 8 am to 12 am
3. Limited to a 5 year period

Mr. Ugarte seconded the motion. **MOTION CARRIED UNANIMOUSLY.**