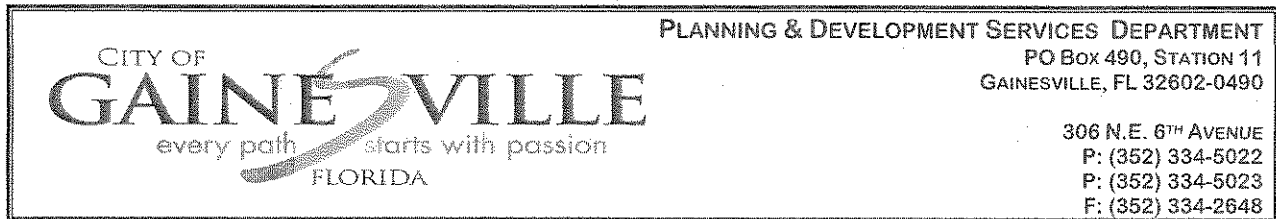


LEGISLATIVE #

110112A



TO: City Plan Board **Item Number: 15**

FROM: Planning & Development Services Department **DATE: April 28, 2011**
 Staff

SUBJECT: Petition PB-11-55 TCH, Jason Cleghorn, agent for East Coast Ice. Amend the Land Development Code to add ice manufacturing/vending machines as a specially regulated use.

Recommendation

Staff recommends approval of Petition PB-11-55 TCH as follows: 1) Add Ice Manufacturing/Vending Machines as a new specially regulated use under Article VI as Sec.30-120 of the Land Development Code; 2) Approve the staff-recommended requirements for the specially regulated use as stated in the staff report; 3) Limit the zoning districts in which this use is allowed to: Business industrial (BI), Warehouse (W), Limited industrial (I-1), General industrial (I-2), General business (BUS), Automotive-oriented business (BA), and Tourist-oriented business (BT); and, 4) Recommend staff initiate a petition to change the BI, W, I-1, I-2, BUS, BA, and BT zoning districts to add the specially regulated use with reference to Article VI.

Discussion

This petition proposes an amendment to Article VI of the Land Development Code to add a new specially regulated use of Ice Manufacturing/Vending Machines. This would be codified as Sec. 30-120.

The petitioner, East Coast Ice, has provided a document (see Exhibit A-1) with proposed language for the new Sec. 30-120. That document also contains various photos of various buildings already in place in locations and schematics showing the ability to screen machinery.

Staff has reviewed the petitioner's draft language, and while there are some areas of agreement, staff finds that the petitioner's proposed requirements do not adequately protect the City's design and aesthetic principles as embodied in the Comprehensive Plan and Land Development Code. The section below labeled "Recommended Changes to Article VI. Requirements for Specially Regulated Uses" indicates staff's recommended requirements for this use as the preferred alternative to the draft proposed by the petitioner.

In addition, the petitioner's draft language included allowing the use by Special Use Permit in the MU-1 (8-30 units/acre mixed-Use Low Intensity); MU-2 (12-30 units/acre mixed use medium intensity); UMU-1 (up to 75 units/acre urban mixed-use district); UMU-2 (up to 100 units/acre urban mixed-use district); and CCD (up to 150 units/acre central city district) zoning districts.

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Staff cannot support the addition of this proposed use even by Special Use Permit in any of the mixed use districts, which includes MU-1, MU-2, UMU-1, UMU-2, and CCD. The Ice Manufacturing/Vending Machines are not consistent with the urban and streetscape vision for these districts as embodied in the Comprehensive Plan and Land Development Code. Each of these districts allow residential, and the Ice Manufacturing/Vending Machines are not compatible with residential use.

This proposal for inclusion in the MU-1, MU-2, UMU-1, UMU-2, and CCD districts is inconsistent with several Comprehensive Plan goals, objectives, and policies. They include: Urban Design Element Objectives 1.2, and 1.8; and Future Land Use Element Policy 1.4.4.

In particular, Future Land Use Element Policy 1.4.4 speaks to the issue of uses in the mixed-use zoning districts. It states, "In mixed-use zoning districts, the City should prohibit or restrict land uses that discourage pedestrian activity and residential use, including car washes, motels (hotels are acceptable), storage facilities, auto dealerships, drive-throughs, warehouses, plasma centers, and street-level parking lots."

While the ice machine manufacturing/vending units are not specifically called out in this policy, it is clear that the mixed-use zoning districts should discourage uses that discourage pedestrian activity and residential use. Currently, the MU-1 and MU-2 zoning districts do not allow the use and building type proposed by Ice House America, and this is supported by the Comprehensive Plan.

Staff recognizes that when the City Commission heard an appeal (December 2, 2010) of the Board of Adjustment decision on the classification of this use (see Exhibit C-2 and more fully explained in the Background Information section below), there was an additional motion approved at the time that stated, "Direct staff to look at development and architectural standards for businesses such as these in the MU-1 and MU-2 zoning districts."

During the interim period, staff has consistently moved forward on recommended changes to the MU-1 and MU-2 zoning districts. The Plan Board heard a preliminary report on the changes at the March 31, 2011 Plan Board hearing. After a careful review of the proposed changes and the intent of the revised MU-1 and MU-2 zoning regulations, staff does not find the Ice Manufacturing/Vending Machines as a compatible use with those regulations for a more urban form in the MU-1 and MU-2 zoning districts.

The proposed building type is incompatible with the consultant recommendations in the proposed amendment package for these zoning districts.

Incompatibilities include:

- a. The building materials
- b. Building articulation requirements
- c. Glazing requirements

The build-to line and design requirements in those districts also do not support this proposed use.

The Ice Manufacturing/Vending Machine use is auto-oriented and does not support the pedestrian/bicycle vision for the mixed use districts. Both the City's Transportation Concurrency Exception Area (TCEA) and the mixed use zoning districts promote pedestrian access and a reduction in vehicle trips. As stated in the MU-1 district purpose clause, "The district is intended to reduce the length and number of vehicle trips by providing for basic needs within close proximity to residential area, by encouraging pedestrian access, and by the combining of trips." Access to the structure is clearly designed for automobiles, and pedestrian/bicycle trips are not encouraged by this use.

Background Information

The following provides background information and a timeline concerning various actions by the petitioner concerning the proposed Ice Manufacturing/Vending Machine proposal.

In March 2010, Planning received an application from the petitioner to amend the Land Development Code text to allow this as a use by right in the Mixed Use 1 and Mixed Use 2 zoning districts. The staff report for this request was supplied to Plan Board members, however, the petitioner asked that the petition be continued prior to the hearing. Staff's recommendation at that time was to deny the petition.

In August 2010, the petitioner applied for a Zoning Compliance Permit for the proposed use on property zoned MU-1. Planning Manager Ralph Hilliard, after receiving an explanation of the machinery and review of that material, classified the use as SIC IN 2097 Manufactured Ice. Since this is not an allowable use in the MU-1 zoning district, the Zoning Compliance Permit was denied on 8/5/10.

On August 24, 2010, the petitioner filed an application (BA-10-6 APP) with the Board of Adjustment to appeal the administrative decision of Planning Manager Ralph Hilliard.

The appeal of administrative decision was heard by the Board of Adjustment on October 5, 2010. The Board, by a 3-1 vote denied the petitioner's request to classify the use as proposed as SIC IN 5999 (Ice dealers retail) and upheld the staff decision that the use was more appropriately classified as IN 2097, which is not allowed in the MU-1 district. The Board of Adjustment issued a Final Order to this fact on October 26, 2010 (see Exhibit C-1).

The petitioner then appealed the Board of Adjustment decision to the City Commission. On December 2, 2010, the City Commission heard the appeal and voted unanimously to affirm the Board of Adjustment decision and deny the appeal of Petition BA-10-6 APP. The Final Order was approved by the City Commission on December 16, 2010 (see Exhibit C-2).

Subsequent to the City Commission's decision on December 16, 2010, the petitioner and his agents have met with the Planning and Development Services staff to develop a revised petition. On March 22, 2011, the petitioner applied for this text change (Petition PB-11-55 TCH) to the Land Development Code to add this use as a Specially Regulated Use.

Recommended changes to Article VI. Requirements for Specially Regulated Uses

The recommended changes to Article VI, Section 30-120 are shown in underline below.

Section 30-120. Ice Manufacturing/Vending Machines

- (a) Permitted zoning districts. Ice Manufacturing/Vending Machines shall be allowed in the following zoning districts: Business industrial (BI), Warehouse (W), Limited industrial (I-1), General industrial (I-2), General business (BUS), Automotive-oriented business (BA), and Tourist-oriented business (BT). Within the BI, W, I-1, and I-2 districts, the use shall be allowed by right and shall meet requirements as stated in Sec. 30-120 (b)(1), (c), (e) and (f). Within the BUS, BA, and BT zoning districts, the use shall require a Special Use Permit with all requirements as stated in this section and Article VII, Division 5.
- (b) Locational requirements. The placement of Ice Manufacturing/Vending Machines shall comply with the following requirements.
- (1) Ice Manufacturing/Vending Machines shall be co-located with existing commercial, industrial, or retail uses. In no case will an Ice Manufacturing/Vending Machine be allowed as a principal use on a lot.
 - (2) Ice Manufacturing/Vending Machines shall meet a spacing requirement of one mile.
 - (3) Ice Manufacturing/Vending Machines shall be located to the side or rear of principal structures at the site.
 - (4) The placement of Ice Manufacturing/Vending Machines at a site shall allow adequate queuing space for vehicles such that the on-site flow of traffic is not interrupted and there is no backup of traffic onto adjacent roadways.
 - (5) Ice Manufacturing/Vending Machines shall be placed on the site to ensure that: pedestrian/bicycle safety and convenience are maximized, the visual impact on the street frontage is minimized, and the parking requirements for the principal use(s) are maintained.
 - (6) Ice Manufacturing/Vending Machines shall be placed a minimum of 20 feet from any side or rear property line when abutting property shown on the Future Land Use Plan for residential use.
 - (7) The Ice Manufacturing/Vending Machine shall be placed no further forward on the site than the location of the front façade of the principal building.
- (c) Development plan approval. Ice Manufacturing/Vending Machines shall be required to obtain development plan approval in accordance with the Land Development Code from the appropriate reviewing board.

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- (d) Architectural, design, and color standards. The following standards shall apply.
- (1) A roof that screens all mechanical equipment from view is required.
 - (2) Building facades shall have the appearance of brick.
 - (3) Building and roof colors shall be consistent with the City's Advisory Color Guidelines and shall use soft, earth tone colors for the building façade.
 - (4) Skirting is required and shall complement the building façade colors and be consistent with the City's Advisory Color Guidelines.
 - (5) Roofs and canopies shall be designed to provide sufficient building articulation and interest.
- (e) Landscaping. At a minimum, Ice Manufacturing/Vending Machines shall meet the landscape code. In cases of Special Use Permits, additional landscaping may be required for visual shielding or aesthetic purposes.
- (f) Signage. Ice Manufacturing/Vending Machines less than 24 feet long shall have a maximum of 2 signs with the total square footage of both signs not exceeding 20 square feet. Ice Manufacturing/Vending Machines greater than or equal to 24 feet shall have a maximum of 2 signs with the total square footage of both signs not exceeding 36 square feet. Sign permits are required for signage on Ice Manufacturing/Vending Machines.

Impact on Affordable Housing

There are no specific impacts to affordable housing from this petition.

Respectfully submitted,


Onelia Lazzari, AICP
Principal Planner

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List of Exhibits

Exhibit A-1: East Coast Ice documents

Exhibit B-1: Application for Land Development Code text amendment

Exhibit C-1: Board of Adjustment Final Order on appeal of an administrative decision

Exhibit C-2: City Commission Final Order on appeal of Board of Adjustment decision