



Town of Ponce Inlet

Planning Board

Special Meeting Minutes

October 6, 2022

1 **1. CALL TO ORDER:** Pursuant to proper notice, Chairman Cannon called the meeting to
2 order at 10:00 a.m. in the Council Chambers, located at 4300 S. Atlantic Avenue, Ponce Inlet, FL.

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4 **2. PLEDGE OF ALLEGIANCE:** Led by Chairman Cannon.

5
6 **3. ROLL CALL AND DETERMINATION OF QUORUM:**

7
8 Board members present:

9 Mr. Kaszuba, Seat 2

10 Mr. White, Seat 3; Vice-Chairman

11 Mr. Cannon, Seat 4; Chairman

12 Mr. Carney, Seat 5

13 Dr. Iyampillai, Alternate #1

14 Mr. Oebbecke, Alternate #2

15
16 A quorum was established with six members present; Mr. Mauldin, Seat 1 was absent.

17
18 Staff present:

19 Mr. Disher, Director, Planning & Development Department

20 Ms. Hunt, Deputy Clerk

21 Mr. Mendenhall, Principal Planner

22
23 **4. ORDINANCE 2022-07, LUDC AMENDMENT FOR MOBILE FOOD VENDORS**
24 **AND TEMPORARY USE PERMITS:**

25
26 Chairman Cannon noted that this item was not “Tabled” at the last meeting, rather it was returned
27 to staff for further review. The agenda was amended to remove item 4.A.1.

28
29 A. ~~Tabled item:~~

30
31 1. ~~Motion to “Remove from the Table”.~~ Removed as noted above.

32
33 2. Ordinance 2022-07, LUDC Amendment for Mobile Food Vendors &
34 Temporary Use Permits. Mr. Mendenhall reviewed the changes as discussed at the Planning
35 Board’s August 23, 2022 meeting and provided a brief overview of the ordinance as a whole,
36 noting in section 2.40.1, mobile food vendors have been added to the Table of Permitted Uses
37 allowing them in the B-1, B-2, and PWD zoning districts; the ordinance prohibits mobile vendors
38 from operating within any Public Institutional, Residential, Conservation, or PUD zoning districts,
39 (including any parks within the Town) through the Temporary Use process and application; he
40 added that mobile food vendors would be allowed in all other zoning districts through a Special
41 Event Permit, limited to the duration of that event. Each Temporary Use Permit is valid for one

42 year from the date of issuance; mobile food vendors are allowed to occupy two parking spaces and
43 must be at least 35 feet from a residential zoning district; allowed to operate a maximum of eight
44 hours per day between the hours of 7:00 a.m. and 11:00 p.m.; must vacate the site at the end of the
45 day; and pick up trash within the immediate area of the site. Mr. Mendenhall noted that section H
46 provides the town with multiple opportunities to revoke, rescind, or terminate a permit based on
47 the conditions noted within. Mr. Mendenhall stated that all previous language remains the same
48 except as listed below:

49

50 **Temporary Use Permits:** *Section 6.6.17.E. Criteria*

51 This language has been updated to remove the reference to the criteria of LUDC Section 6.3.6.F.
52 This new use within the B-1, B-2, and PWD zoning districts is already being established as being
53 consistent with these criteria through the code amendment process. The temporary use permit to
54 allow any particular mobile food vendor will be an administrative-level approval. The criteria of
55 6.3.6.F are more appropriately applied to new developments and permanent structures and uses.
56 Mr. Mendenhall noted that Temporary uses, such as mobile food vendors, are a commercial
57 operation just like any other restaurant. The General Retail Commercial Future Land Use (FLU)
58 designation specifically allows and encourages these types of uses. The only defining characteristic
59 that sets a mobile food vendor apart from any other typical use is its temporary location and
60 duration. He reported that based on the findings of the staff report dated October 4, 2022, staff
61 recommends the Board find Ordinance 2022-7 to be consistent with the comprehensive plan and
62 forward it to the Town Council with a recommendation of approval.

63

64 The board discussed state law, noting that these MFVs cannot be prohibited, but can be regulated,
65 which is the purpose of this ordinance; concerns of vendors other than food vendors operating
66 within the town; generators operating outside or apart from the main vehicle; signage; prior
67 violations in other jurisdictions; and trash. Mr. Mendenhall responded that the generators must be
68 attached or part of the main vehicle; no additional signage is allowed because the vehicle is a sign;
69 the vendor is responsible for picking up trash in their immediate area. He also clarified that these
70 vehicles are not allowed in any right-of-way, travel lane, or vacant lot; a resident could apply for
71 a Special Event permit and have one on their developed lot (where there is an existing principal
72 structure) for the duration of the Special Event. Mr. Disher noted that regarding prior violations,
73 the ordinance allows the Town to reject the temporary use permit application if it contains any
74 material falsehoods, and the application form will ask for this information; if the vendor is violating
75 a town ordinance, then action can be taken by the town (in Section H). There was a discussion
76 regarding clusters of mobile vending sites and the number of vehicles per site. Mr. Mendenhall
77 stated that the two closest clusters would be the location at Jerry's and Down The Hatch; the only
78 other closest cluster would be at Fisherman's Harbour and Winterhaven Park. Mr. Disher reiterated
79 that the Town has no control over Winterhaven Park as it is a beach approach and is under the
80 jurisdiction of Volusia County. Mr. Kaszuba asked if there was language that could be added that
81 would require minimum separation from each other? Mr. Disher stated yes, a separation
82 requirement could be added that would require mobile food vendors to be a certain minimum
83 amount of distance from each other. Mr. Kaszuba asked if the Town passes this ordinance, can it
84 come back later and require a separation requirement? Mr. Disher stated yes, amendments can
85 occur at any time; and the Board could make it a part of its recommendation; noting that staff is
86 proposing to present this for first reading to the Town Council at its October meeting. Mr. Kaszuba
87 then asked if there should be a minimum separation recommended; Mr. Disher stated it has to be
88 based on perceived harm; it's analogous to the Town's Special Exception rules and he was not

89 comfortable with providing an arbitrary number. Vice-Chairman White asked if the town could
90 require background checks, as the County has that as part of its requirements. Mr. Disher noted
91 that the County’s beach concession agreement is between the County (host) and the vendor; it
92 requires an additional level of liability and responsibility since the County is inviting vendors onto
93 its beaches and beach parks.

94
95 Chairman Cannon referenced section 6.6.17.C.d and 6.6.17.C.2 (A-F) and noted that the criteria
96 referenced in “F” may not be applicable as these seem to contradict each other. Mr. Mendenhall
97 stated that in the current Code, there is one set of language that is referred to for all applications,
98 and that is the section that we must refer to for submittal review and criteria; the amendment
99 process that we are establishing is identifying that this *use* is consistent with the Comprehensive
100 Plan; not where they will be located. Chairman Cannon referenced G.3 and G.4 and asked why the
101 Town would concern itself with the 45- and 90-day rules for permit cancellation and noted that
102 would be difficult to monitor; adding that is between the vendor and the property owner. Mr.
103 Mendenhall stated this was included because it gives the Town the opportunity to monitor and take
104 appropriate action. Chairman Cannon stated the Town does not have enough staff to monitor and
105 the Town should leave it up to the property owner and the vendor because this adds another level
106 of complication in the ordinance. Mr. Disher stated this has been discussed in great detail and that
107 could be part of the Board’s motion. Mr. Kaszuba asked if the 35-foot setback language applies to
108 Winterhaven Park. Mr. Disher clarified that no part of this ordinance applies to *Winterhaven Park*.

109
110 Chairman Cannon opened public participation. Nicole Carr, 41 Jana Drive – asked if the food
111 trucks at the Ponce Inlet Community Center are affected by this ordinance? Mr. Disher stated no,
112 as those are allowed with a Special Event permit. Kristen Negoty, 3703 S. Atlantic Ave – asked
113 what the difference is between the Farmers Market if they are selling food and a food truck?
114 Chairman Cannon stated food trucks are being regulated because the State of Florida passed a law
115 that states a municipality cannot ban them but can regulate them; and without an ordinance we
116 cannot regulate them. Ms. Negoty asked if food trucks can be controlled through an application?
117 Chairman Cannon stated not without an ordinance – this is the first step. Farmers Markets are
118 controlled through a Special Exception process. Mr. Disher clarified that the State of Florida and
119 the Town have distinguished the differences between them and right now the Town has an existing
120 process to allow Farmers Markets, but not an application process to allow food trucks, that is what
121 we are trying to do now. Eric Jackson, 3670 Reinwood Drive, a County beach vendor, and owner
122 of the Stoked Poké Mobile Food Truck, asked what local communities the Town has looked at in
123 preparation of this ordinance – Port Orange, Ormond Beach, Daytona Beach? – because he owns
124 a food truck and operates in many local communities and those communities have figured it out.
125 Mr. Mendenhall stated that Staff researched the regulations of Port Orange, Daytona Beach, New
126 Smyrna Beach, and others, but the ordinance must be tailored to meet the needs and desires of the
127 Ponce Inlet community. Melanie Nordstrom, Beach Rentals & Refreshments of Volusia County,
128 15 Astor Court, stated her company was awarded a contract from Volusia County and they have
129 the rights to the two areas – Winterhaven Park and Lighthouse Point Park. She stated there were
130 pre-planning meetings held before the RFP went out and the contract was awarded to her; she
131 stated she has been managing the concessionaires for 18 years and when the RFP came up, and
132 saw that it included upland parks, she noted that the upland parks cater to the local population, and
133 she wanted to make sure the vendors are residents of Ponce Inlet. She noted that there will be one
134 food truck per location, will have exclusive rights to that area for the duration of the contract and
135 will not be rotated out. The vendors have been drug tested, vetted, had background checks, have

136 been trained in habitat conservation and turtle protection; these vendors are your residents from
137 within your community. The Winterhaven Park location will be Stroud's BBQ, whose owners are
138 residents of Ponce; the vendor at the other location is Stoked Poké, owned by Eric Jackson who
139 grew up in the Ponce Inlet area. We made sure that the vendors are residents who give back to the
140 community. Some of the misinformation out there is that we are going to bring in golf cart rentals
141 and E-bike rentals – none of that is coming in; we do have the rights to bring in umbrellas and
142 chair rentals, but there is not a need for that because these are resident parks – so all that we are
143 bringing in is one food truck per location. Vice-Chairman White stated that everything Ms.
144 Nordstrom stated that she would not do – she is allowed to do according to the County contract.
145 Ms. Nordstrom stated that there will not be any E-bikes or golf cart rentals; Mr. White stated that
146 according to the contract, they can do it anywhere in the County; Ms. Nordstrom stated that these
147 devices are not allowed in the upland parks. Mr. White stated that the County can terminate the
148 contract with a 30-day notice, so if the Town does not write an ordinance, and the next vendor
149 comes in and offers these types of rentals, then there will be an issue with the residents. John
150 Murray, Towers 8 – asked who is going to pick up the trash? Mr. Murray stated he walks the beach
151 every day and he, along with other residents, and pick up trash. Mr. Disher stated the food contract
152 with the County, is outside of this board's jurisdiction. Jessica Fentress, Volusia County Coastal
153 Division is in charge of the beach contract and management of the beach; she has stated that beach
154 patrol picks up the trash on the beach. Ms. Carr stated that a food truck participates as part of the
155 Ponce Inlet Farmers Market and it has been well-received, the area is clean, and there have been
156 no complaints. She stated that at some point, people need to be held accountable; she cleans the
157 area at Fisherman's Harbour before the Farmers Market opens because there is trash everywhere.
158 Eric Jackson, 3670 Reinwood Drive, owner of the Stoked Poké Mobile Food Truck which will be
159 in the Lighthouse Point Park, stated that per the contract, the area must be kept clean and litter-
160 free; he is not selling anything but food; there is a lot of misconception and misunderstanding out
161 there; he is working on programs to give back to the community; his contract does not allow rentals
162 – just food sales. Vice-Chairman White reiterated that his concern is about another vendor coming
163 in and offering rentals; that is why we need to write the ordinance the way the citizens want it to
164 read. Mr. Jackson noted that the vendors are heavily vetted and asked if every restaurant owner in
165 Ponce Inlet had a background check? Mr. White stated the concern is someone else coming in with
166 different ideas. Mr. Jackson asked if any member of the board has ever reached out to an owner of
167 a food truck to get their perspective? Mr. Disher stated that staff reached out to the Ponce Inlet
168 Business Association to obtain input. Susan Blando, Harbour Village – asked if the Lighthouse
169 will be affected by this; Mr. Mendenhall stated no, we're talking about Lighthouse Point Park. Mr.
170 Disher stated Lighthouse Point Park is a County-run park, the County asked for an exemption from
171 this draft ordinance to be allowed to operate food trucks in that park, and the Town Council voted
172 to not allow the exemption. Chairman Cannon closed public participation.

173
174 Mr. Kaszuba moved to find the proposed ordinance to be consistent with the comprehensive plan,
175 and to forward to the Town with a recommendation of approval, to include 1) a suggested inclusion
176 of a minimum separation requirement ; and 2) removal of section G.3 and 4; seconded by Vice-
177 Chairman White. The motion PASSED 5-0, with the following vote: Mr. Kaszuba – yes; Vice-
178 Chairman White – yes; Chairman Cannon – yes; Mr. Carney – yes; Dr. Iyampillai – yes.

179
180 Mr. Disher noted for the audience that this Board is an advisory body and has recommended
181 forwarding the ordinance to the Town Council. This item will appear for first reading on the
182 October 20, 2022 Town Council agenda and it will be up to the Town Council to approve or deny.

183
184 Chairman Cannon noted the next Planning Board meeting date is October 25th.

185
186 **5. ADJOURNMENT:** The meeting was adjourned at 11:32 a.m.

187
188 Prepared and submitted by,

189
190 *Peg Hunt*

191 Peg Hunt, Deputy Clerk

192
193 Attachment(s): None.