



AGENDA ITEM REQUEST FORM

Development Services

Department Submitting Request

Jeff Bowman

Code/Zoning Supervisor

REGULAR
COMMISSION MTG
Meeting Dates - 7:00 PM

DEADLINE TO
Town Clerk

ROUNDTABLE
MEETING
Meeting Dates - 7:00 PM

DEADLINE TO
Town Clerk

July 12, 2011

July 15 (5:00 pm)
*Subject to Change

July 12, 2011

July 1 (5:00 pm)

- | | | | |
|---|---|---------------------------------------|---------------------------------------|
| <input type="checkbox"/> Presentation | <input type="checkbox"/> Reports | <input type="checkbox"/> Consent | <input type="checkbox"/> Ordinance |
| <input checked="" type="checkbox"/> Resolution | <input type="checkbox"/> Quasi Judicial | <input type="checkbox"/> Old Business | <input type="checkbox"/> New Business |

FY2011 DESIGNATED HIGH PRIORITY ITEM

SUBJECT TITLE: Resolution 2011-19 (Exhibit 1) Establishing Fees for Conditional Use Permits

EXPLANATION: At the May 10, 2011 Roundtable, the Commission discussed the fee for a Conditional Use Permit. The Commission concluded that applications for paid private parking submitted prior to June 1, 2011 or prior to the adoption of the resolution establishing the fee amounts would not be required to pay a fee. Attached for your convenience is a copy of the agenda item and minutes (**Exhibit 2**).

The typical costs to process a conditional use application are shown in Table 1.

Table 1 – Typical Cost to Process Application

	Activity	Estimated Cost
1.	Staff time to evaluate application and prepare agenda item.	3 hrs x \$60 per hour = \$180
2.	Legal Notice - This includes the notice for the hearing before the Town Commission. However, should the application be delayed, there would be an additional expense to re-advertise for the Town Commission meeting. (Does not include the Clerks time to arrange the legal ad or process the documentation)	\$180
3.	Town Attorney Review	1 hr @ \$215 per hour = \$215
4.	Board Meeting (minutes and 2 staff attending meeting + TA)	1 hr discussion = \$90 + \$215
5.	Staff to address P&Z recommendations or new conditions	?
6.	Preparation of Commission Item	1 hr = \$60
7.	Town Attorney Review	½ hr = \$108
8.	Commission Meeting (2 staff + TA))	½ hr = \$60 + 108
9.	Issuance of Permit and Inspections	1 hr = \$60
Total		\$1,270

Note: Table 1 does not include any costs of the Town Clerk's Office.



The attached Resolution establishes a fee for \$900 to file a conditional use application or a Level 2 amendment to an existing conditional use permit and a \$450 fee for processing a Level 1 amendment to an existing conditional use permit. The \$900 fee is consistent with the fee we charge all other types of applications that go to the Planning and Zoning Board and then the Town Commission.

Note: **Level 1 Amendment:** a modification to an already approved conditional use permit and that is non-impacting. Administration determines this level and the Commission approves it. Planning and Zoning review is not required for a Level 1 Amendment. Only an administrative review is required.

Level 2 Amendment: a modification which presents a significant change in intensity of use which, in turn, may have a significant impact upon facilities, concurrency; upon nearby and adjacent properties, or upon findings made at the time of approval of the site and development plan.

Chapter 30-54 (m) (4) outlines the criteria for determining a Level 1 and Level 2 Amendment.

RECOMMENDATION: We recommend approval of the attached Resolution (Exhibit 1).

EXHIBITS: Exhibit 1 – Resolution
Exhibit 2 – May 10, 2011 Agenda Item and Minutes

Reviewed by Town Attorney
 Yes No

Town Manager Initials CA

RESOLUTION 2011-19

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, ESTABLISHING A FEE FOR CONDITIONAL USE PERMITS; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 30-56(g), of the Lauderdale-By-The-Sea Code of Ordinances provides that the fees for conditional use permits and conditional use modifications shall be established by the Town Commission by resolution; and

WHEREAS, the Town Commission has considered the proposed fee.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA:

SECTION 1. Fees. Pursuant to Section 30-56(g), Lauderdale-By-The-Sea Code of Ordinances, the following fees are hereby adopted:

Conditional use permit application review fee	\$900.00
Conditional use modification review fee, level 1	\$450.00
Conditional use modification review fee, level 2.....	\$900.00

SECTION 2. Conflict. All resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

SECTION 3. Effective Date. This resolution shall become effective upon passage and adoption.

PASSED AND ADOPTED this ____ day of June, 2011.

MAYOR ROSEANN MINNET

ATTEST:

June White, Town Clerk, CMC

Approved as to form:

Attorney Trevarthen said it was important for the Commission to state their opinion because there was a wide range of municipalities in Broward County.

Commission Sasser asked if they could recommend that only municipalities with their own ethics ordinance be allowed to opt-out. Attorney Trevarthen said that it could be an alternative, that if there was not to be a complete opt-out, that there could be an opt-out if the municipality adopted their own ethics ordinance.

Vice Mayor Dodd inquired as to what the penalties would be if a municipality was in violation of the Broward County Code of Ethics.

Town Manager Hoffmann suggested that language be added stating that costs of the County Inspector General's office shall not be delegated to the municipality. She also suggested the Commission decide on which items they wanted staff to bring back at the May 24, 2011 Commission meeting to present to the Broward League of Cities.

The consensus of the Commission was to 1) add language that if the opt-out option was chosen the municipality could have their own ethics ordinance; 2) define penalties; 3) eliminate the honest fraud language as it was already covered by federal law; 4) add language that any costs to the Inspector General's office shall not be charged to, or born by, the municipality; 5) add that the Inspector General shall render opinions on ethics questions.

h. Sign Ordinance 2010-16 (Zoning and Code Compliance Supervisor Jeff Bowman)
Approved 1st reading April 27, 2011

Mayor Minnet suggested the Commission accept the language staff proposed regarding sandwich signs and approve staff recommendations to review banner signs and signs on the side of buildings at a later date and come back to the Commission with recommendations.

There was Commission consensus to approve the language for sandwich signs and present Ordinance 2010-16 to the Commission for second reading on May 24, 2011.

i. Fee for Processing a Conditional Use Application (Assistant Town Manager Bud Bentley)

Vice Mayor Dodd asked for an explanation as to why the proposed ordinance did not contain a grandfathering clause. He said that Aruba Beach Café provided paid private parking service for approximately 20 years and believed it was incomprehensible to charge them a one-time \$900 conditional use permit fee. Attorney Trevarthen explained that for many years the Town took the position that this service was not a legal use; it was just not enforced. She said that the proposed Ordinance made it clear that they were allowed to provide that service, once the conditional use was approved. Attorney Trevarthen stated that if there was evidence to show that the service was legally

established prior to adoption of the Code language that prohibited it, then they would be recognized as a non-conforming use.

Commissioner Sasser believed that the Town should have taken more time on developing the ordinance. He inquired as to how many required spaces the business needed, and were the parking spaces in the lots that were used for parking, or in other lots. Attorney Trevarthen stated that those were facts she did not have as no application had been submitted. Commissioner Sasser asked whether the Commission wanted to implement grandfathering. Vice Mayor Dodd was concerned with the enforceability and asked whether a Code Officer would have to ask each driver whether they were going to the restaurant or to the beach. Attorney Trevarthen said that it would be in the Town's discretion and believed the Town did not have the resources to do that. Assistant Town Manager Bentley explained that staff was not penalizing anyone that provided this service in the past; no one had been cited, and no one was before the Code Enforcement Board. He said that staff created a conditional use so that those businesses would be legally allowed to provide those services in the future. He said the expense to process the application could be reduced when the Commission developed the fees under Resolution.

Commissioner Sasser inquired as to whether the Commission wanted to require the conditional use application process for everyone, or only for future applicants, and whether the Commission wanted to require a \$900 permit fee from everyone, or just for future applications. Commissioner Vincent believed they needed to be careful because they did not know how many people were going to come forward saying that they had been providing this service. Mayor Minnet did not want to put an additional burden on the businesses at this time. She suggested that everyone go through the application process, but anyone submitting an application prior to adoption of the Resolution establishing specific fees would be exempt from the \$900 conditional use application fee providing they submit proof within 3 months that they had been providing paid parking services.

Town Manager Hoffmann asked what would be considered proof. Assistant Town Manager Bentley suggested that the application fee not go into effect until June 1st, that way anyone could apply and would not have to prove anything.

The consensus of the Commission was that anyone wishing to apply for the conditional use permit for paid parking only would go through the application process and pay the \$900 permit fee, but anyone submitting their application prior to June 1, 2011 would be exempt from the \$900 permit fee.

j. Jarvis Hall

This item was added earlier in the evening.

Town Manager Hoffmann explained that Town Code required that applicants provide an indemnity and hold harmless certificate to use Jarvis Hall. Attorney Trevarthen stated



AGENDA ITEM REQUEST FORM

Town Manager's Office

Bud Bentley

Department Submitting Request

Assistant Town Manager

REGULAR COMMISSION MTG Meeting Dates - 7:00 PM

DEADLINE TO Town Clerk

ROUNDTABLE MEETING Meeting Dates - 7:00 PM

DEADLINE TO Town Clerk

- May 24, 2011
June 28, 2011
July 26, 2011

- May 13 (5:00 pm)
June 10 (5:00 pm)
July 15 (5:00 pm)

- May 10, 2011
June 14, 2011
July 12, 2011

- April 29 (5:00 pm)
June 3 (5:00 pm)
July 1 (5:00 pm)

*Subject to Change

- Presentation, Reports, Consent, Ordinance, Resolution, Quasi Judicial, Old Business, New Business

SUBJECT TITLE: Fee for Processing a Conditional Use Application

EXPLANATION: A question was asked by a Vice Mayor Dodd and a potential applicant for a paid parking conditional use if the \$900 fee was appropriate to the amount of expense we incur to process these applications.

At its April 27th meeting, the Commission adopted Ordinance No. 2011-07, which among other things, expanded the Conditional Uses possible in B-1-A and B-1 Zoning. As the Commission is aware, we have been holding several conditional use applications until the ordinance was adopted and this week as we started informing people we would start processing application on payment of the \$900 fee provided for in Section 30-6 of the Code. We have one application scheduled for the May 18th Planning and Zoning agenda and one application for the June meeting.

Ultimately, the fees for conditional use permits and Level 1 and Level 2 Amendments will be established by the Town Commission by Resolution (subsection 30-56(g)). Until the fee resolution is adopted, we are charging the \$900 fee set in Section 30-6 of the Code for those applicants that want to proceed with their applications.

Section 30-6, which is reprinted below, provides:

Application; fee.

- a. All applications which require review by the Town Planning and Zoning Board pursuant to this chapter shall be made on an application form prescribed and furnished by the Clerk of the Town Planning and Zoning Board and shall be numbered and preserved as a permanent record.
b. Upon the filing of such an application, the applicant shall pay the sum of \$900.00 to cover the costs of application, preparation of necessary information, publication of notice, and similar in-house employee expenses, plus any additional costs incurred by the Town for third-party contractors (such as the Town Attorney, the Town Planner and/or the Town Engineer). For any application which pertains to single-family residence, the application fee shall be \$350.00, plus any additional costs incurred. Payment shall be made to the Clerk of the Town Planning and Zoning Board. Unless such application fee is paid and notice of application filled out in proper form, the Clerk shall not transmit the same to the Town Planning and Zoning Board for consideration.



Exhibit 2

Following are the conditional uses established by Ordinance No. 2001-07.

- (1) Bicycle taxi (no outside storage or display)
- (2) Car wash/Outdoor hand wash
- (3) Charter and sightseeing boat
- (4) Child and adult day-care centers
- (5) Drive-through services that are accessory to a primary use, provided that any approval of the drive-through use by the Town Commission shall specifically establish the location and traffic flow pattern of the drive-through.
- (6) Dry cleaner
- (7) Mixed use, in accordance with the requirements of subsection (e)
- (8) "Paid Private Parking" on parcels with a primary use, excluding stand alone parking lots in accordance with the following requirements:
 - i. During business operational hours, only non-required parking spaces, may be used as Paid Private Parking.
 - ii. After business hours, required parking may also be used for Paid Private Parking.
- (9) Parking garage.
- (10) Pet store.
- (11) Pool supply store.
- (12) Outside seating for restaurants, on private property, that is accessory to the primary use and that are not regulated under Chapter 17, Article VI.
- (13) Outside storage of propane tank cabinets for the storage of propane tanks sold and rented at hardware stores and gas stations.
- (14) Water craft sales and rental (new or used)
- (15) *Conditional Uses not listed.* Permission to apply for conditional uses not covered by the above list in the B-1 district may be granted by the Town Manager or designee only if the proposed conditional use is similar to a listed conditional use; otherwise, an amendment to this chapter is required. The Town Manager or designee shall consult with the Town Commission on any proposal to determine that a conditional use is similar to those listed, prior to authorizing the filing of an application to seek approval of that conditional use in the B-1 district.

To begin to answer the question of what it will cost the Town to process an application, we looked at the processing requirements found in Section 30-56 (Exhibit 1). The application requirements can be extensive depending on the complexity of the request and the situation of the property. Please note Subsection 30-56(b) was specifically drafted to delegate to the Development Service Director the authority to waive submittal requirements that are not necessary for the evaluation of the specific conditional use application thus significantly reducing the expense to prepare some conditional use applications.

The costs to process an application to the Board and Commission include:

1. Staff time to prepare review the application and prepare the P&Z agenda item.
2. Town Attorney review of agenda item and any legal issues.
3. Legal Notice (the public hearings are quasi-judicial proceeding).
4. Board Meeting (minutes and staff time attending meeting).
5. Staff time to address new recommendations or conditions recommended by the P&Z.



Exhibit 2

6. Staff time to prepare the agenda item for the Town Commission
7. Town Attorney review of the Town Commission agenda item and any legal issues.
8. Commission Meeting (minutes and staff time attending meeting).
9. Issuance of the Conditional Use Permit and follow-up inspection(s).

As mentioned, we are processing a Conditional Use application for the May 18th P&Z agenda and we have projected our cost in Table 1.

Table 1 – Cost to Process Application

	Activity	Estimated Cost
1.	Staff time to evaluate application and prepare agenda item.	3 hrs x \$60 per hour = \$180
2.	Legal Notice - This includes the notice for the hearing before the Town Commission; however, should the application be delayed, there would be additional expense to re-advertise for the Town Commission meeting.	\$173.90
3.	Town Attorney Review	1 hr @ \$215 per hour = \$215
4.	Board Meeting (minutes and 2 staff attending meeting + TA)	1 hr discussion = \$90 + \$215
5.	Staff to address P&Z recommendations or new conditions	?
6.	Preparation of Commission Item	1 hr = \$60
7.	Town Attorney Review	½ hr = \$108
8.	Commission Meeting (2 staff + TA))	½ hr = \$60 + 108
9.	Issuance of Permit and Inspections	1 hr = \$60
Total		\$1,270

In Table 1 we have not included any costs of the Town Clerk's Office or for the cost of copying.

Reviewed by Town Attorney
 Yes No

Town Manager Initials _____