

**Minutes of Planning Commission Meeting
held Monday, August 27, 2012, at 7:00 P.M.
in the Council Chambers, 11 North 3rd Street,
Jacksonville Beach, Florida**



Call to Order

The meeting was called to order by Chairman Greg Sutton.

Roll Call

Terry DeLoach (Vice Chairperson)
Lee Dorson
Greg Sutton (Chairperson)
Fred Jones
Bill Callan
David Dahl

Also present were Bill Mann, Senior Planner and Recording Secretary Amber Lehman.

Approval of Minutes

It was moved by Mr. Dorson, seconded by Mr. Jones, to approve the meeting minutes for the July 23, 2012 meeting as presented

Correspondence

There was no correspondence.

New Business

(A) PC #17--12 - Conditional Use

Conditional Use approval for transfer of ownership of an existing outdoor restaurant seating area located in a *Commercial general: C-2* zoning district pursuant to LDC Section 34-343(d)(14).

Staff Report:

Mr. Mann read the following staff report into the record:

The applicant is in the process of relocating the existing *Tacolu* restaurant from the north side of the 1100 block of Beach Boulevard six blocks west to its new location at the former *Homestead* restaurant property. He has applied to transfer the current outdoor seating conditional use approval associated with the subject property into his name. The existing outdoor decks were originally approved in July of 2002 via application PC #32-02 (Malcolm Marvin, applicant). That approval carried with it the condition that there be no amplified music on the decks. In September 2002, Mr. Marvin applied again, to have the prohibition of outdoor music repealed, so he could install low level background music outside.

That request (PC#41-02) was approved with the three conditions: (1) that any speakers on the decks be oriented back towards the building, (2) that the music not be audible past any property lines, and (3) that the approval be for a one-year time period only. There were no records of any incidents related to the operation of the decks over that year, and in 2003, Mr. Marvin re-applied as required, with the request that the one-year stipulation be removed. That application, PC#45-03, was approved in October of 2003. The most recent approval of the outdoor restaurant space was for the *Coppertop Kitchen* restaurant in February 2011, via application PC #2-11. There have been no records of any incidents related to the operation of the outdoor decks since their initial approval in 2002.

Adjacent uses to the restaurant include *Adventure Landing* to the west, the *Boulevard* retail center and the *Jardin de Mer* condominiums to the east and southeast, a church and funeral home across Beach Boulevard to the north, and a wetland area to the south. Both the strip center and the condominiums have been developed since the outdoor restaurant areas on the subject property were originally approved. The continued operation of the decks, under the current approval conditions, should not negatively affect the character of this stretch of Beach Boulevard, and adjacent property values should not be negatively impacted.

Since the applicant's request is for approval of existing outdoor seating areas approved and constructed prior to the enactment of our current outdoor seating standards (Section 34-407), any existing aspects of the outdoor seating areas that do not meet Section 34-407 standards, such as the size of the approved area and the allowance for amplified low level music, simply exist as legal nonconformities. The original conditions placed on outdoor seating areas related to the orientation of the speakers back toward the building, and that any outdoor music not be audible past any property line would remain in effect, should this application be approved.

Recommendation: Approval.

Applicant:

The applicant was not present.

Public Hearing

Mr. Sutton opened the public hearing and asked if anyone wished to speak in favor of or in opposition to the application.

The following person spoke in favor of the application:

Darryl Shields, 315 18th Street North, Jacksonville Beach, stated that he is in favor of the application. Mr. Shields stated that the previous tenant, The Copper Top Restaurant, had amplified music that was heard in the neighboring residential area on more than one occasion.

Mr. Mann, through the Chairman, informed Mr. Shields that the prior approval included the condition that amplified music should not be heard beyond the property boundary lines.

Seeing no one else who wished to address the board, Mr. Sutton closed the public hearing.

Mr. Dahl, through the Chairman, asked Mr. Mann about code enforcement for violations regarding amplified sound, specifically what is the process when a violation occurs.

Mr. Mann, through the Chairman, replied that when a resident files a complaint with Code Enforcement, a warning is issued to the offending party. Should a second complaint be filed, the complaint will then go to a Special Magistrate and a fine could be issued.

Motion: It was moved by Mr. DeLoach, seconded by Mr. Jones, to approve the conditional use as presented, with the condition that there be no amplified outdoor music.

Roll call vote: Ayes – DeLoach, Dorson, Jones, Sutton, and Callan
Motion carried unanimously.

Planning & Development Director's Report

Mr. Mann advised the board that the next meeting is scheduled for September 24, 2012.

Adjournment

There being no further business coming before the Commission, Mr. Sutton adjourned the meeting at 7:20 P.M.

Submitted by: Amber Maria Lehman

Approval:

/s/ Greg Sutton
Chairman

Date: September 24, 2012