

**Minutes of Planning Commission Meeting  
held Monday, September 26, 2016, at 7:00 P.M.  
in the Council Chambers, 11 North 3<sup>rd</sup> Street,  
Jacksonville Beach, Florida**



**Call to Order**

The meeting was called to order Chairman Greg Sutton.

**Roll Call**

Greg Sutton (Chairperson)  
Terry DeLoach (Vice Chairperson)  
Bill Callan  
David Dahl  
Georgette Dumont

Alternates  
Britton Sanders  
Margo Moehring

Also present were Heather Ireland, Senior Planner, Bill Mann, Planning Director, and Recording Secretary Amber Lehman.

**Approval of Minutes**

It was moved by Mr. DeLoach, seconded by Ms. Dumont, and passed unanimously, to approve the following minutes as presented:

- Planning Commission meeting held on July 25, 2016

**Correspondence**

There was none.

Ms. Ireland introduced Margo Moehring as the new Planning Commission Alternate.

**New Business:**

**(A) PC #28-16- 1198 Beach Boulevard**

**Conditional Use Application** for outdoor seating at a new commercial shopping center located in a *Commercial, general: C-2* zoning district pursuant to Section 32-343(d)(14) of the Jacksonville Beach Land Development Code.

**Staff Report:**

Ms. Ireland read into the record the following:

The property owner has vacant commercial property located at 1198 Beach Boulevard. The site is a 30,000 square foot outparcel in the northeast corner of Beach Plaza, just west of 12<sup>th</sup> Street South. The property owner plans to develop the site with a 12,375 square foot commercial project. The proposed commercial building will contain multiple tenants, including prospective restaurants. The owner would like to provide the availability of outdoor seating space for his prospective tenants, specifically on the rooftop of the building.

Pursuant to Section 34-407 of the Land Development Code, the area of outdoor seating shall not exceed 20% of the first 3,000 square feet of total enclosed area, plus 10% of the enclosed area over 3,000 square feet. Based on the proposed size of the enclosed commercial building, the maximum amount of outdoor seating that could be permitted, if all tenants are restaurants, is 1,538 square feet. Each separate future restaurant tenant, pending conditional use approval, would then receive their proportionate share of the total allowable outside seating, based on the code allowances at the time of their application.

The applicant has been made aware that all restaurant tenants that want outdoor seating would have to apply for conditional use approval in their name for their allowable space, as conditional use approvals are not transferable. The applicant is applying now so he can plan for the potential outdoor space during the development plan process. He is considering placing the outdoor seating on the roof of the proposed building. The applicant is aware that all outdoor seating areas are required to be enclosed by a 42-inch high wall or fence if alcoholic beverages will be consumed and/or if the outdoor areas are on an upper level, and also that there is currently no amplification of sound or music allowed in outdoor seating areas. He is also aware that each conditional use outdoor seating area that is included as a licensed alcoholic beverage premises for an establishment must be maintained as distinctly separate from any other such approved seating area on the same property.

Adjacent uses to the north, south, east and west are all commercial. The proposed outdoor seating should not negatively impact adjacent properties.

**Applicant:**

The applicant was not present for presentation.

**Public Hearing:**

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

Mr. James Sorrell, 1410 Pinewood Road, stated that he was in favor of proper and responsible development in the City. He objected because he did not think that it met the Land Development Code for parking requirements. He stated that they did not produce any evidence that the State did not intend to use the parking property at some time in the future. He added that they should be required to get a letter from FDOT indicating that FDOT had any plans to use the easement used for spaces. He stated that even if they applied the shopping center rate for parking they are short of parking spaces, adding that restaurants are a high-volume parking type use.

**Discussion:**

Ms. Ireland stated that they do have a variance for parking. With the addition of the outdoor seating they will have to request another parking variance. Ms. Ireland added that it is considered a shopping center for parking space requirements. She added that they wanted to apply for this in advance to allow them to plan for it in the construction phase.

Mr. Dahl asked about clarification to the parking requirements. Ms. Ireland said that it is multiple tenants in the shopping center so that parking requirement applies.

Mr. DeLoach stated that the vagueness of the project worried him. He stated that they didn't know the types of uses and the actual mix, and he would feel more comfortable when they had more information. Mr. Dahl agreed with Mr. DeLoach.

Ms. Dumont stated that they should defer this application so the applicant could attend. Ms. Ireland added that it was speculative and they didn't know the actual mix of land uses. Mr. DeLoach asked if they knew if there was an agreement signed with the land owner; thinking that the plaza would go up for sale and it was questionable whether the new owner would grant the same rights. Mr. DeLoach added that he really wasn't concerned with the roof seating.

Mr. Sutton noted that the next meeting for this item would be October 24.

**Motion:** Ms. Dumont made a motion to defer this item to the October 24 meeting. The motion to defer was seconded by Mr. DeLoach.

**Roll call vote:** Ayes – Callan, Dahl, DeLoach, Dumont, and Sutton.  
The motion to defer was approved unanimously.

**(B) PC #29-16**

**Land Development Code Text Amendment** to amend Sections 34-340, 34-341, 34-342, 34-343, 34-344, 34-345, and 34-346 and Section 34-407, to modify the limitations and conditions for outdoor restaurants and bars in certain zoning district.

**Staff Report:**

Ms. Ireland read in to the record the following:

The Land Development Code currently permits restaurants, outdoor restaurants, bars, and outdoor bars, as either permitted or conditional uses in commercial zoning districts and in *Residential multiple family: RM-2*. In developing the Downtown Action Plan to implement various approved Vision Plan objectives, staff has proposed to revise certain regulations relative to outdoor restaurants and bars by:

- (1) Making the allowable area calculations simpler and more consistent; and
- (2) By allowing restaurants and bars to have small (under 200 square feet) outdoor areas by right, and without additional required parking.

The proposed changes in the attached ordinance would allow approved restaurants and bars to have up to 200 square feet of outdoor seating areas without having to receive conditional use approval, and without having to provide for additional parking. Any outdoor restaurants and/or bar areas greater than 200 square feet would continue to require conditional use approval as well as require additional parking to be provided. Changes to the current regulations are provide in the ~~strike through deletion~~/underlined addition format. These changes would apply to the following zoning districts: *RM-2, CPO, C-1, C-2, CS, CBD, and I-1*.

The proposed changes also include revisions to Section 34-407, Outdoor Restaurants and Bars. Section 34-407, Paragraph (b), as proposed, would now allow for outdoor customer service areas of restaurants or bars to not exceed 25% of the total enclosed area of the restaurant or bar. Currently the code allows for 20% of the first 3,000 square feet, and 10% of the enclosed space over 3,000 square feet. Parking for outdoor seating will only be required for outdoor areas over 200 square feet, and then at the same ratio as for the enclosed area of the restaurant or bar or shopping center tenant space, as applicable.

The final proposed change to the LDC is to update Paragraph 34-407(e) that addresses sound within an approve outdoor seating area. Currently, outdoor amplified sound or music is not permitted. Paragraph (e) is proposed to be updated to eliminate the prohibition of amplified and other sounds, and to reflect the new outdoor sound permit regulations submitted by the Police Department for adoption by the City Council. A new Paragraph (f) has also been proposed, moving the regulations concerning animals in outdoor restaurants and bars from Paragraph (e), and adding language referencing the Dogs in Outdoor Dining Area permit process, administered by the City Clerk's office.

The proposed changes contemplated by the Police Department to Section 18 of the City Code of Ordinances will allow for outdoor amplified and acoustic sound through a valid permit issued by the City Clerk's office. Section 18(b)4 of the City Code of Ordinances provides standards applicable to outdoor amplified and acoustic sounds. The changes proposed to Section 34-407(f) of the Land Development Code in the attached ordinance reflect and reference the proposed changes to Section 18 of the City's noise ordinance.

**Applicant:**

The applicant is the City of Jacksonville Beach Planning Department.

Mr. Dahl stated that he could not find the site reference in the report. Ms. Ireland stated that it is in the noise ordinance. Ms. Ireland stated that it may have been changed from the copy that was used to develop the staff report. Chief Dooley explained the pertinent sections of the Code that were proposed for modification. Ms. Ireland stated that it should say Section 18(b)4. Chief Dooley stated that he was here tonight to explain the changes.

Chief Dooley stated that some of the sections in Chapter 18 have been moved and this is what the Council will be looking at on October 3. He stated that the City was looking at the amplified noise ordinance. He added that in 2008 the Council stated that no new outdoor noise permits would be issued; noting that there are 16 permits out there that address outside amplified music. He stated that there is a pilot program that will expire at the end of 2018 that is intended to balance out the inequity between the 16 that have the permits and those that would like low volume amplified music. He stated that the new ordinance addresses low volume amplified sound and read the new language. Chief Dooley added that this has been done in Raleigh but not in Florida. The measurement will be if two people can carry on a normal conversation off-site within 36 inches.

Mr. DeLoach asked how complaints would work. Chief Dooley explained how enforcement would work. Mr. DeLoach questioned whether this was feasible. Ms. Dumont asked about why the 16 would continue to be grandfathered in. Chief Dooley stated that is the request of the Council. Ms. Dumont questioned whether the condition that residents would be protected from amplified sound would continue. Mr. DeLoach asked why they would want to make the residents do that.

Mr. Dahl stated that this went to the issue of compatible use, and explained the metrics that went into calculating noise. Mr. Dahl noted that he provided for the record ten questions about this issue. He questioned whether they had the knowledge to rule on this tonight. Ms. Ireland stated that Section 18 is not in the Land Development Code so would not come before the Board. She noted that the Land Development Code changes address the sound piece so that it stays consistent with the Police Department's Sound Ordinance. Mr. Dahl asked how they can make a decision on this tonight when they don't know what the full picture is. Ms. Ireland stated that the Council, adding that they would hear the Land Development Code changes directly after the Noise Ordinance.

Ms. Dumont stated that they were asking for this premature. Mr. DeLoach stated that they did not need to make a recommendation at this meeting, adding that there should be a workshop on this before a vote is taken. Ms. Dumont stated that they would be sending this back to the Planning Department until there was sufficient information for them to make a decision. Chief Dooley stated that he would contact the City Manager and recommend put it on as a workshop item.

Ms. Dumont asked about outdoor bars. Ms. Ireland stated it would be an already approved bar. Ms. Dumont asked about the change to the allowable service area to 25%. Ms. Ireland stated that it was to simplify it. Mr. Dahl asked if there was an advantage to larger restaurants. Mr. Sutton agreed that it did but not to an alarming rate.

Mr. DeLoach asked where the ratios came from. Ms. Ireland stated that she was not certain, but changing it was to make it more simplified. Mr. Callan asked how they got the 200 square feet for outdoor seating space. Ms. Ireland stated that it allowed for smaller spaces not to have to go through the process, and explained how they came up with 200 square feet. In response to Mr. Sutton, Ms. Ireland stated that they would still have to meet the wall requirement if they served alcohol.

Mr. DeLoach stated they he would like the entire thing carried over and not just sections.

**Motion:** Ms. Dumont made a motion to defer this item and send it back to the Planning Commission for more information as well as the completed ordinance. The motion to defer the item was seconded by Mr. DeLoach.

**Discussion on Motion:**

Chief Dooley stated that there were other parts of the Ordinance that he would like to address.

**Roll call vote:** Ayes – Callan, Dahl, DeLoach, Dumont, and Sutton.  
The motion to defer was approved unanimously.

**Further Discussion:**

Chief Dooley explained other parts of the proposed ordinance. Discussion followed on how the ordinance changes what is adopted today. Mr. Sutton asked if the 16 that were grandfathered would still be allowed to produce amplified music. Chief Dooley responded that they would. Mr. DeLoach stated that those that were closing the loophole were not a problem, it is the one's that open other issues that are of concern. Mr. DeLoach asked if they were looking at other cities. Chief Dooley responded that for low volume music other cities were looking at Jacksonville Beach.

Mr. Dahl asked about costs. Chief Dooley responded that the costs should not be high. He added that this gives you a low volume standard; the decibel level will stay in place.

Mr. DeLoach questioned the wisdom of putting this responsibility on the Police Department. Chief Dooley responded that the businesses were aware of the proposal.

**Planning & Development Director's Report**

Ms. Ireland reported that there will be a meeting on October 10<sup>th</sup>. She added that as it stands now the ordinance for the sound code would go to City Council on October 3<sup>rd</sup>.

**Adjournment**

There being no further business coming before the Commission, Mr. Sutton adjourned the meeting at 8:16 P.M.

Submitted by: Amber Maria Lehman  
Recording Secretary

Approval:

  
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Chairman

Date: 10/24/16