

**Minutes of Planning Commission Meeting
held Monday, June 13, 2016, 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 at 7:27 PM.

Roll Call

Chairman: Greg Sutton
Board Members: Bill Callan David Dahl Terry DeLoach Georgette Dumont
Alternates: Britton Sanders (*absent*)

Also present were Heather Ireland, Senior Planner, and Laurie Scott, City Clerk.

Approval of Minutes

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

- Planning Commission Meeting May 9, 2016

Correspondence

Ms. Ireland reported the City received an email from the Property Manager of Equity One for the Home Depot shopping center. A copy was furnished to Board Members.

Old Business

No old business to report.

New Business

- (A) **PC#19-16 - 115 5th Avenue South**
Conditional Use Application for an engineering consultant's office, located in a *Residential, multiple family: RM-2* zoning district, pursuant to Section 34-340(d)(14) of the Jacksonville Beach Land Development Code.

Staff Report:

The subject property is located on the north side of 5th Avenue South, between 1st and 2nd Streets. The property currently has a two story building that is being used as a café (*The Ugly Cupcake and Muffinry*), and partially as a bed and breakfast. The applicant informed staff that the bed and breakfast is not operating to full capacity, and they would like to rent out one of the small rooms as office space. The tenant would like to use one of the rooms for the executive office of their engineering consulting business (*Ocean, LLC*) with two onsite staff. Office space would be less than 200 square feet including a private bathroom. The applicant informed staff that there would be no client traffic at the proposed office.

Adjacent uses include a vacant lot directly to the east that is in the process of being developed into a private sculpture park, multi-family uses to the south, north, and multi-family uses and

single family uses to the west. The alley provides access to the subject property's on-site parking, in the rear behind the main building. [to the north]

The subject property has been historically used as a bed and breakfast, doctor's office, and rental units. During this time there have been no issues or complaints. Given the mixed-used history of use of the subject property, including the requested use of office space, approval of this request should not impact the existing character of the surrounding neighborhoods, and adjacent property values should not be negatively impacted.

Applicant:

The applicant, Ivy Wolf, 225 Bowles Street, Neptune Beach, Florida, was present.

Ms. Dumont inquired about additional parking required for the office staff. Ms. Wolf replied none was necessary.

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. Dan Wahby, 385 Royal Tern Road South, Ponte Vedra Beach, FL, the property owner, spoke in favor of supporting the application.

Mr. Sutton closed the public hearing.

Motion: Mr. DeLoach made a motion to approve the Conditional Use Application as presented. The motion was seconded by Mr. Dahl.

Roll call vote: Ayes – Callan, Dahl, DeLoach, Dumont, and Sutton.
The application was approved unanimously.

(B) PC #20-16 - 950 Marsh Landing Parkway, Suite #370

Conditional Use Application for outdoor restaurant for an existing restaurant, located in a *Planned Unit Development: PUD* zoning district, pursuant to Section 34-342(d)(20) of the Jacksonville Beach Land Development Code.

Staff Report:

The subject property is located at 950 Marsh Landing Parkway, Suite #370. The site is located within the South Beach Mixed Used Commercial Phase 2 PUD as adopted by Ordinance No. 2003-7846. Pursuant to the "Projective Narrative" for the PUD, the project shall be used only for those permitted uses, conditional uses, and accessory uses allowed for in the *Commercial, limited: C-1* zoning district under the LDC, except those uses, specifically prohibited. The applicant was informed by staff that Conditional Use approval would be necessary for the outdoor seating.

The subject tenant space is at the western most end of the shopping center on Marsh Landing Parkway. The space was previously occupied by Stonewood Grill and Tavern and has been closed for some time. The applicant has leased the existing space for a new restaurant (*Whisky Jax*) and would like to provide outdoor seating for customers.

The proposed outdoor seating space will be located on the western side of the subject property. Currently to the west of the building is a two-lane drive that connects the front parking lot to

the rear service area of the building. The applicant is proposing (as seen on the provided site plan) to replace the two-lane drive with a single lane one-way drive to accommodate the outdoor space. The applicant is proposing 880 square feet of outdoor seating area which is within the Section 34-407 size allowance for the existing restaurant space. The applicant is aware that the seating area would have to be enclosed by a minimum of 42-inch high wall or fence if alcohol will be consumed, and that outdoor music is not permitted within the approved outdoor area. Adequate parking exists for the proposed outdoor space.

Adjacent uses include retail, and personal services to the east in the same shopping center, Butler Boulevard directly to the north, a hotel and offices to the west, and a stormwater retention pond and condominiums to the south. The addition of outdoor seating at this existing restaurant location should not negatively impact any neighboring properties.

Applicant:

The agent for the applicant, Tom Fisher, 88 Oakwood Road, Jacksonville Beach, stated Whiskey Jax is a full-service restaurant. The outdoor seating will be for dining and there will not be any outdoor amplified music, such as bands or disc jockeys (DJs).

A discussion took place regarding the amplified outdoor sound permit and would it apply to the outdoor televisions. Ms. Ireland explained the code would apply to the televisions. The televisions would be permitted to have video only – no outside amplified sound. The applicant was made aware that no music or amplified sounds would be allowed in the outside seating area under the current code.

Public Hearing:

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

- Kathleen Gall, 4059 Palm Way, Jacksonville Beach spoke in opposition to the application.
- Vilma Brueggemeyer, 4300 South Beach Parkway, Jacksonville Beach, spoke in opposition to the application citing the noise levels.
- David Walters, 4300 South Beach Parkway # 3202, Jacksonville Beach, spoke in opposition to the application citing the noise levels.
- Andrew Mandarakas, 4300 South Beach Parkway #2111, Jacksonville Beach, completed the speaker card in support of the application as presented, but did not wish to address the Board.
- Erin Chanatry, 4054 Palm Way, Jacksonville Beach, spoke in favor of the application.

Mr. Fisher addressed the concerns about the noise extending out to the patio from within the establishment by stating that there is one door leading into the establishment and you would need to walk around to get to the patio section. In addition, the indoor sound system is set up in zones in which they control the volume so that none of the indoor sounds would be extending outside.

Mr. Dahl asked when could the establishment close their doors in the evening and still be commercially viable. Mr. Fisher responded that they close between 10:00 P.M. and 11:00 P.M. during the week.

Mr. Sutton closed the public hearing.

Discussion:

A discussion regarding the outdoor seating operating hours ensued between the applicant and the Board Members.

Motion: It was moved by Mr. Callan and seconded by Mr. Dahl, to deny the Conditional Use Application as presented.

Roll call vote: Ayes – Callan, Dahl, and DeLoach
Nays – Dumont and Sutton.
The application was denied by a 3-2 vote.

(C) **PC#21-16 - 2309 Beach Boulevard**

Conditional Use Application for transfer of ownership of existing approved outdoor restaurant, located in a *Commercial, general: C-2* zoning district, pursuant to Section 34-343(d)(14) of the Jacksonville Beach Land Development Code.

The subject property is located at 2309 Beach Boulevard within the Beach Marine complex. The most recent previous use of the applicant's space was for Nipper's restaurant that had outdoor seating approved via PC#26-10. Staff informed the applicant that to maintain the use of the existing outdoor seating for a new restaurant, they would have to receive conditional use approval. In the past, this site has operated as both a nightclub and a restaurant.

The PUD application narrative provides that for this restaurant space, the area of unenclosed, outdoor customer service area shall not exceed 50% of the total enclosed area of the adjacent restaurant or bar. This was to allow for existing conditions to be maintained with greater outdoor seating that has views of the marina and Intracoastal Waterway. The total indoor restaurant space of this location is 12,600 square feet, and the proposed (existing) outdoor seating area is around 3,478 square feet. This existing outdoor space is below the 50% allowance.

Additional conditions listed within the PUD project narrative for outdoor restaurants and bars include: 1) sound and outdoor music may be allowable within outdoor restaurants and bars, subject to City Codes (which do not currently allow outdoor music); 2) hours of operations for restaurants are from 6:00 A.M. to 1:00 A.M., 7 days a week; and 3) domestic animals are allowed within outdoor restaurants and bar seating areas.

Adjacent uses include offices directly to the east and west, a restaurant to the west on the other side of the office building, Beach Boulevard to the south, and the marina basin to the north.

Given the mixed-use nature of the subject property, both existing and proposed, the immediate former use of the subject space and the presence of another restaurant with a history of outdoor seating, the applicant's request is not out of character with surrounding uses. The outdoor seating area would be subject to the standards provided in the property's PUD project narrative adopted by Ordinance No. 2016-8072.

Applicant:

Kaleb Patel, the agent for the applicant - representing Nilesch Shah of Waterway Bar and Grill, stated they would like to re-open the establishment.

Public Hearing:

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

- Samantha Leonard, 631 Cherry Street, Neptune Beach, spoke in favor of the application.
- Kenneth Taylor, 3366 Queen Palm Drive, Jacksonville, the property owner, stated the restaurant will be monitored to maintain the permit in place for the property itself.

Mr. Sutton closed the public hearing.

Discussion:

There was no further discussion on the application.

Motion: It was moved by Ms. Dumont and seconded by Mr. Dahl, to approve the Conditional Use Application as presented.

Roll call vote: Ayes – Callan, Dahl, DeLoach, Dumont, and Sutton.
The application was approved unanimously.

(D) PC#22-16 - 1758 S. 3rd Street

Conditional Use Application for outdoor restaurant at a new restaurant, located in a *Commercial, limited: C-1* zoning district, pursuant to Section 34-342(d)(20) of the Jacksonville Beach Land Development Code.

Staff Report:

The subject property is located at 1758 South 3rd Street, on an outparcel for Pablo Plaza. The site is being redeveloped with a new 2,200 square foot restaurant building. An approved parking variance application (BOA #14-100188) proposed an additional 300 square feet of outdoor restaurant space on the east side of the building. The applicant was informed that conditional use approval would be required to utilize the proposed outdoor seating area. The applicant is proposing 270 square feet of outdoor seating area which is within the Section 34-407 size allowance for the existing restaurant space.

Adjacent uses include Huguenot Park and residential properties to the east across South 3rd Street, and commercial properties to the north, south, and west. Two existing restaurants to the south of the subject property have outdoor seating areas. The proposed addition of outdoor seating at the new restaurant is not out of character for other restaurants in the immediate vicinity and should not negatively impact surrounding properties.

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.

Mr. Sutton closed the public hearing.

Discussion:

There was no discussion on the agenda item.

Motion: It was moved by Mr. DeLoach and seconded by Ms. Dumont, to approve the Conditional Use Application as presented.

Roll call vote: Ayes – Callan, Dahl, DeLoach, Dumont, and Sutton.
The application was approved unanimously.

Planning & Development Director's Report

Ms. Ireland stated the June 27, 2016 meeting is canceled due to no agenda items.

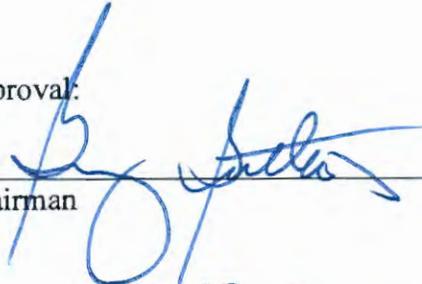
Additionally, Mr. DeLoach stated for the record that the conditional use approval was denied for Whiskey Jax due to the competent substantial evidence in the Findings of Fact, testimony, and historical record.

Adjournment

There being no further business coming before the Commission, Mr. Sutton adjourned the meeting at 7:52 P.M.

Submitted by: Amber Maria Lehman
Recording Secretary

Approval:



Chairman

Date:

5-29-18