



CITY OF PALATKA PLANNING BOARD MINUTES

February 25, 2015

The meeting was called to order by Chairman Daniel Sheffield at 4:00 pm. **Other members present:** Earl Wallace, George DeLoach, Charles Douglas, Jr., Anthony Harwell, Joe Pickens, Joseph Petrucci and Tammie Williams. **Members absent:** None. **Also present:** Planning Director Thad Crowe, Recording Secretary Pam Sprouse and City Attorney Don Holmes.

Motion was made by Mr. DeLoach and seconded by Mr. Harwell to approve the minutes of the February 3, 2014 meeting. All present voted affirmative, motion carried unanimously.

Chairman Sheffield read the appeal procedures and requested that members divulge any ex-parte communications before each case.

Vice-Chairman Pickens expressed concerns as to whether the special called meeting was called in an appropriate manner. Mr. Holmes stated that he had a similar concern about the meeting, and was advised by staff that this is a new application that differs from the previous one. The new application was filed separately and the site plan and several key use attributes (hours of operation, restricted alcohol sales, etc.) were substantively different due to changes based on Presbyterian Church member input.

Mr. Harwell revealed an ex-parte communication with Scott Lagasse regarding the action of the previous meeting. Mr. Douglas revealed ex-parte communications with the Mayor, Greg Bacon and T.J. Smith. Vice-Chairman Pickens revealed ex-parte communications with the Mayor specifically about this meeting. He repeated his concern with a potential conflict as described in an e-mail he received from Allegra Kitchens. In the email, she questioned whether there was authority for this special meeting to occur, interpreting that a reconsideration of the case is not appropriate as a vote of the Planning Board is final – the proper procedure would be an appeal to the Commission, which could refer the case back to the Planning Board for further review with instructions or suggestions. He asked Mr. Crowe had conferred with the City Attorney about this situation, and Mr. Crowe said he had not had an opportunity as Mr. Holmes had been out of the office. Mr. Holmes confirmed that the Planning Director had made the determination that the application was substantively different and thus a new application. Although the first application was appealed, he found nothing in the Code that prohibits a new application for a conditional use on the same parcel of property for a similar request that earlier was defeated by the Planning Board. Mr. Crowe reminded the Board that there were significant differences from the previous application. He added that this is a little unusual, but it stands as a separate and distinct application.

Mr. Crowe said that at the direction of the Board from the last meeting Staff met with the Church to try to mitigate their concerns. With the substantive nature of the changes resulting from that meeting, staff felt it was appropriate to come back to the Board, given the direction given to Staff.

Vice-Chairman Pickens asked if it was appropriate for Staff to call for a meeting, and wondered if such a decision should only be made by the Chairman. Mr. Crowe responded that the recent ordinance adoption regarding Planning Board duties and structure now gave the Planning Director the right to call a special meeting. Chairman Sheffield stated that he did call the meeting, upon Staff's request. Vice-Chairman Pickens stated that he has a difference of opinion as to whether this process respects the purview of this Board. In that, an application was presented to this Board, it was heard and a decision was made by this Board. There is a process that precludes that slippery slope of "well we didn't get what we wanted so let's change it" in the middle of an appeal. He stated that he finds reconsideration of this item to be improper, even if 'technically' it is not. He asked if the Lagasse's are involved in this request in some material way and what material way would today's decision affect them. Mr. Jonathan Griffith, City Project Manager, explained that the Lagasse's Corporation, Palatka Boathouse Marina, LLC are in negotiations with the city for concessions. Vice-Chairman Pickens said he was a member of the First Presbyterian Church for 10 years, adding that Mrs. Lagasse is on his Board of Trustees, and for these reasons recused from this case, and requested to be excused from the meeting. He then left the premises.

Case 15-05(2): Request for a conditional use to allow for an alcohol serving establishment within 300 feet of a church (in association with a restaurant and ship's store within the riverfront park) located at 301 River St.

Mr. Crowe advised that he only accepted and processed the new application because the Board gave Staff direction to work with the Church. He added that he does not take this lightly and strives to consistently and fairly interpret the Zoning and other Codes. He noted that the applicant went twice before the Historic Preservation Board to receive design approval.

He then reviewed the conditional use evaluation criteria after confirming that the ship store and restaurant is an allowable use in the Recreation and Open Space zoning category, as a customarily accessory use to a marina complex, and is in full compliance with the Comprehensive Plan, as is required in Criterion 1. In addition, the site plan complies with an important Comprehensive Plan policy requiring a 50-foot building setback from the river. Finally, the Comprehensive Plan through the Community Redevelopment Plan supports a downtown entertainment district, which is achieved through encouraging multiple restaurants and a vibrant riverfront. Alcohol sales are a customary aspect and important component of most restaurants, especially those that focus on dinner.

Regarding Criteria 2 and 3, he said vehicular and pedestrian ingress and egress are well-designed in the soon-to-be completed boat ramp parking lot. Minimum parking requirements for a 160 seat restaurant are 40 spaces. Staff believes there to be sufficient parking with the peak hours of the restaurant generally in the evening, a time at which there is less park activity, in addition to the available public parking in close proximity. There are 86 spaces in the parking lot, with 35 overflow spaces and 25 planned overflow spaces. There are also dozens more on-street parking spaces in the eastern part of downtown.

He said that the Applicant would be required to provide for screened trash areas, as is called for by Criterion 4, and added that utilities were present as is required by Criterion 5.

He said that Criterion 7 (screening and buffering) was addressed through distance – the nearest residence was more than 300 feet away and the Presbyterian Church was more than 400 feet away. The numerous existing and planned tree and shrub plantings in the park will “soften” the visual impact of the ship store building.

He said that Criterion 8 – signage – would require compliance with the Sign Code, in this case meaning that a wall sign was allowed of up to 50 square feet in size. No beer or alcohol window signs would be allowed.

He said that Criterion 9 – open space – was satisfied through the large areas of open space throughout the Riverfront Park.

He noted that Criterion 11, dealing with historic district requirements, had been met through two meetings of the Historic Preservation Board, with extensive notice and input, which resulted in an approved design. Any future changes in that design would require another Historic Preservation Board meeting.

Regarding the requirement to examine the impact on public interest, Mr. Crowe said that the riverfront restaurant has always a very important element of the Riverfront master plan. The Plan itself was developed by through extensive charrettes and public hearing processes. The idea was not pulled out of someone’s hat; it was done over a course of time and deliberation, with extensive public notice and involvement, press coverage, with high attendance by citizens and planners. It is a product of careful public collaboration over a long period of time. He said that in his opinion, this is one of the critical moving parts of the whole, as part of a larger theme a riverfront restaurant is critical to the future of downtown. Mr. Crowe said that any changes to the design of the building will require going back before the Historic Preservation Board for review. He stated that he appreciated the Presbyterian Church’s willingness to work with the applicant and reviewed the major differences (below) within the new application that directly relate to comments and concerns received their meetings with the Church representatives:

1. Alcohol serving establishment only in association with a restaurant (limited to a SRX alcohol license).
2. Must meet noise ordinance with regards to amplified sound (only allowing low piped music). Waivers would only be allowed, by application, in association with approved riverfront park events.
3. 160 seats, down from 200 seats.
4. Building entrance and any useable outdoor space will be oriented and directed toward the river.
5. No beer or alcohol signs in the windows or on the walls which will apply for the entire site.
6. No package sales for alcohol out of this building.
7. No open alcohol containers outside of restaurant premises. The restaurant itself will have a defined area (by fence or wall etc.).
8. The design of the two-story building will be in keeping with old Florida.

Mr. Griffith presented some images to better convey the City’s vision and show some concessions made to the church. He said that the riverfront development is being done in phases with the docks to be completed within the next few months. The rest of the parking and roundabout will be completed this summer, prior to the

building construction. He showed a new building floor plan and layout based upon input received from church representatives. What staff heard, from those present at their meeting, was that they wanted to see all of the active outdoor uses directed away from the church and towards the river.

The revised plan shows the deck sited on the river side of the building and an attractive Old Florida style two-story building with an upper deck. Reduction of the footprint increases green space. The previous design had been approved by the Historic Preservation board and as this new design is Staff's vision, it will also require another application to the Historic Board for design review and a certificate of appropriateness. He said that another concession made to the Church was to eliminate package sales and limit alcohol sales and consumption to on-premises in connection with the food serving establishment. Mr. Sheffield asked where the City stands with negotiations with the Lagasse's. Mr. Griffith explained that there are some provisions that need to be further defined. Mr. Lagasse's contract is based on his business pro-forma, which is tied to this conditional use approval. The negotiation is approximately 90% final and if this permit is approved a presentation of final contract may be made to the City Commission for consideration.

Mr. Harwell asked what the purpose of the roundabout is and asked why the building was turned around. Mr. Griffith replied that the roundabout is designed as a traffic calming measure for the safe flow of pedestrian and vehicular traffic along River St./Short Laurel St./Memorial Pkwy in an effort to revitalize the riverfront. The reorientation of the restaurant is an effort to satisfy the concerns of the Church, as they had expressed a preference for the outdoor dining to be oriented to the south. Mr. Harwell asked what the square footage of the restaurant was. Mr. Griffith said that the entire building will be approximately 5,000 s.f., with the restaurant being approximately 1/3 of that space.

Mr. Petrucci asked if there was going to be some sort of plantings, or landscape barrier of sorts. Mr. Crowe advised that his recommendation includes an element of landscape buffering and referred to the applicant, Mr. Griffith to speak to that. Mr. Griffith explained that some existing shade trees have been planted where the proposed edge of the north side of the building will be. He added that some of the building budget includes an amount for foundation planning, so the building itself will be tied into the park landscape with adequate buffering to the north.

(Public Hearing)

The Chairman opened up the public hearing.

Andrew Kiely, 613 Kirby St., has no interest in the City's position or the supplier's position just the City's welfare at large. He said that he believes this is a pivotal moment, as the park begins to mature and with potential revenue that may be provided to the City to improve the infrastructure and fire and police protection, which is protection against the concerns that the church may have. He stated that the benefits far outweigh the concerns over the long term. He believes that the concerns can be worked with so that the City and the community and Palatka can grow and benefit.

George Head, Pastor at the First Presbyterian Church, stated that he spoke against this at the previous meeting because the Church felt blindsided by the whole project, not knowing what was going on. However, meeting with the Staff was a great pleasure and the Church representatives found Staff to be very forthcoming and accommodating in trying to work out some sort of a solution. He added that the planners have accommodated many things that the Church felt were important, but that it all boils down to the alcohol sales. He stated that staff has gone a long way to address those concerns as best as they can but, the Church Session met and unanimously voted no. He spoke of his own concerns for his personal safety in areas of Palatka where there are a lot of bars, along a route he had to travel, late in the evening on the way to Walmart. He stated that he had concerns regarding the hours of operation for the restaurant and asked what kind of restaurant would be serving alcohol until 1:00 a.m. He used Olive Garden or Carrabbas as comparisons, and said that they may serve alcohol, but they shut down by 9:00 p.m. Chairman Sheffield asked if the hours of the establishment were limited would that satisfy them. He said that for the Church it is just a bottom line for no alcohol at all, but for him personally, the hours are a major stumbling block.

Kirby Kennedy, 106 Lisa Lane, pastor of First Baptist Church, stated that he supports the First Presbyterian Church in their position. He said the he and his community of faith is all for supporting downtown and they want to see it flourish. He expressed appreciation for the City making some adjustments in the original plan, but the open package sale was a real big issue with him. He urged the Planning Board to vote against the request, but if they decided to move forward with it, he urged the Board to amend the operating hours.

Don Hanna, 120 Country Club Ter., pastor of St. James United Methodist Church Palatka, spoke in support of the First Presbyterian Church. Spoke of concerns for consistency with regards to the conditional use process for distance considerations between alcohol serving establishments and churches, regardless of the applicant. He referenced a previous request for a church to locate within the distance restriction of an existing alcohol serving business that was denied and said now the City is applying to locate within the distance consideration of an established church and should be held to the same standard. He stated that concessions have made but an agreement was not made between the Church and the City and that the position of the Church still stands the same; being opposed to alcohol sales within the limits established and does not believe this review is appropriate.

Mike Dogma, Pastor of Grace Fellowship Church, 2400 St. Johns Ave., stated that he was present in support of the First Presbyterian Church. He said boards like this one make decisions based on values. That economics are important and that everyone knows that our city needs to grow economically, but believes that the values we teach reach further than economics; he said that a great message is sent when the sanctity of a church that has been in place for 100+ years can be infringed upon. He urged the Board to continue to value what our community has valued for the past 100 years.

Rudy Thiel, 420 East Bay St., Jacksonville, Founder/Owner of Nippers Beach Grill Restaurants (the proposed restaurateur) stated that he is a businessman, a church member in Jacksonville and father of two and said that their brand is not a bar it is a restaurant. It is a Chef-driven restaurant. He said that their first chef (Kenny Gilbert) who helped him create the menu and was on season 7 of "Top Chef" and was a Ritz Carlton chef for 9 years. He said their intention is to create an environment of barefoot sheik, where one can come in their hat, flip-flops and get off the boat and enjoy themselves. The original Nippers is a 14,000 square foot 400 seat facility

on the largest marina in Jacksonville with a two million dollar remodel on the building. They have won a number of “best of’s” in the City of Jacksonville. Mr. Thiel said that he is not allowed to sell more than 49% of alcohol with the SRX type alcohol license is food driven only. Mr. Sheffield asked what would happen to his business plan if there were to be no alcohol sales. Mr. Theil replied that a restaurant without alcohol is a waterfront restaurant that does not exist regardless of who the operator is. He ended by saying if you don’t want a *waterfront restaurant* okay, but if you do want it you have to offer alcohol.

Christy Sanford, 312 Dodge St., spoke in support of the request. She said that she walks downtown sometimes late at night and has never felt unsafe. She added that the city desperately needs the tax revenue. She said that she was one that went to the charrettes and the many open public meetings regarding this project and that it was a carefully planned development.

Allegra Kitchens, 1027 S 12th St., stated that that she believed this special called meeting is an illegal meeting, citing that the both cases were advertised with the same case number and if it is a new application it should have a different application number. With regards to the riverfront restaurant, she stated that she also was present at those meetings, and yes originally the riverfront master plan did include a restaurant, to be located across from the Presbyterian Church (approximately where the submarine memorial is). Then in approximately 2007, then Mayor Karl Flagg with the consensus of the Commission meeting there the City of Palatka would never put a restaurant or any other building on the riverfront because that is not what the citizens wanted. She stated that she pointed this out because obviously promises made by the Government cannot be believed. She added that the Riverfront Master plan was accepted by the Commission with the provision that every each aspect of would have to come back to the Commission for approval and that is where it stands right now. She said that outside speakers are going to be an issue.

Jerry Heffner, 122 Hildy Lane, E. Palatka, stated that he was there in a strictly personal capacity. He said that he has been offended and insulted during this meeting. He said he was offended that our City was represented as a place to fear breaking down if driving from Downtown Palatka to Walmart. He was also insulted to feel he should have to justify dining out late in the evening. Adding, that there are many times he and his wife enjoy late night dining, it is not just alcoholics that go to these places, and most of the time he and his wife have to go outside of Palatka as there just aren’t many to choose from in Palatka. He stated that he understood the concerns of the churches and also the concerns of the citizens of this community. Palatka is a dying community – the economic situation in Palatka is miserable. Thanks to people from Corky Diamond and the new restaurateur coming from Jacksonville, we have an opportunity to revive this city. The young graduates who are raised in this town usually leave Palatka as economics drive that. We need to start offering opportunities here. He suggested that folks should consider that you don’t protect your children by hiding them from the real world; you protect your children by teaching the difference between good and bad.

Charles Rudd, Palatka Main Street Manager stated that he contracted with the City to revitalize the downtown area about two years ago. We are here once again talking about compatibility and the challenges to convey the City’s vision as expressed in the master plan. There is a vision of downtown being a vibrant walkable retail corridor, an area where people are drawn to the downtown and riverfront not just for a bass tournament or a festival but daily, to discover the downtown and the park. The vision of the riverfront as expressed in the master plan where there is a lot of activity and commerce, restaurants, with people coming up on their boats. He spoke

in regards to comments made about current safety concerns and “family friendly.” He said that this type of activity will place eyes in the area creating a much safer environment. He added that he has a much different view of “family friendly.” It includes restaurants like Sonny’s, Olive Garden and Red Lobster and they all serve alcohol. He ended by saying that he has been to Nipper’s and they have a wonderful menu with amazing food and encouraged the Board to approve the request.

Robert Browning asked if the concept could change after the decision is made. Mr. Holmes stated that there could be conditions placed upon the approval to include design, layout or floorplan be consistent with what has been presented. Mr. Browning stated concerns for parking and people who use the dock for shrimping and expressed his opposition to the request.

Robbie Corea, 118 Dodge St., Historic Preservation Board Chairperson, stated that most of her concerns and feelings have been addressed, but that the city does need to move forward economically, we do need some viable options for people to visit our city. She said she is in favor of the restaurant. She added that she is very offended by someone telling her, as a competent adult, that they are going to make decisions as to whether liquor is served in a restaurant and whether she has that choice or not. She said that she is a mother of two grown children and believes that people need to be concerned with what they teach their children, not what their children see others do.

Michael Gagnon, stated he and his wife chose to live in the South Historic District due to the walkability. He stated concerns of special interest people such as this Church. This restaurant creates a tremendous tax base. People will come from St. Augustine and Gainesville to go to this restaurant and shop in our stores. This is the best effort forward that he has seen in the 10 years that he has been here. He said that he respects the fine people of the Presbyterian Church and asked that the Church respect others.

Regular meeting:

Hearing no additional speakers, Chairman Sheffield closed the public hearing and stated it is his belief that this is a viable part of the downtown development project and without it he believes Downtown will be in big trouble. Mr. Wallace stated that his objections last time were for the *package store* for the general public to purchase alcohol and sit around the park drinking. He stated that he believed that the City has made concessions to the Church.

Mr. Harwell asked Mr. Holmes if the City Commission needed to approve any development plan. Mr. Holmes stated that he did not believe that the City Commission has to pre-approve the concept of a restaurant on the riverfront before the Planning Board considers the conditional use. The only criteria that had to be met here today is the consistency with the Comprehensive Plan (and the other conditional use criteria). Mr. Harwell asked if there was a maximum square footage that an accessory use can be. Mr. Crowe advised that there are a number of tests used to determine principal use versus accessory uses. Planners look at the amount of activity in terms of traffic and other impacts and overall space coverage. In this case the marina operation is the primary use and in terms of size it is the dominant player, in terms of the docks, the piers, and the boat and ship store activities.

Discussion continued regarding the size of the multi-use building.

Mr. Sheffield asked staff to define the word lounge associated with this project. Mr. Griffith explained that the lounge is not for the general public it is for the transient boaters that come to dock for a fee. It is a place where they can do laundry, watch TV, a place of refuge while they are off their boat.

Mr. Harwell asked if the parking requirements were exempt. Mr. Crowe replied that this is not actually part of the downtown zoning district and therefore is not exempt from parking, but the Planning Board has discretion to accept the site plan and parking layout including the number of parking places, which is sufficient. Mr. Griffith added that the parking exceeds the amount that would be required by the code.

Mr. DeLoach then left the meeting, however a quorum remained.

Mr. Harwell asked what the economic value to the City was. City Manager Michael Czymbor stated that the City will share in the revenue and there will be a significant savings to the City not having to provide for maintenance costs. Mr. Griffith added that there is not an exact capital replacement cost - as time goes on things break, the majority of those revenues gained from this share will go a long way towards infrastructure management.

Mr. Douglas stated as a business owner and taxpayer downtown he is concerned that the City might be favoring one business at the expense of another, but that issue is not before this Board and must be considered by the City Commission. The only issue before this Board today is whether alcohol can be sold within 300 feet of a church. We owe it to the citizens of this community to be consistent in the Board's decisions. His concern is with consistency. The 300 foot radius from this church will affect a large area within the retail core and the redevelopment efforts being made. He added that for a restaurant to survive in this economic climate, alcohol sales are an important component. When he walks downtown in St. Augustine, Savannah and Charleston and he sees churches with restaurants right next door that sells beer or wine they appear to be in good harmony. They are able to work things out and be good neighbors. He said that he feels that can be achieved in this community too. He does not believe that for this City to have restaurants that serve alcohol threatens the moral fabric of the community he was born and raised in. He supports the sale of alcohol sales within 300 feet. He encouraged the City Commission to look really hard at this deal, to make sure it does not present an unfair business advantage.

Mr. Wallace reiterated that he was against the package sales, but stated that before a motion is made, the Board should consider locking in the site plan submitted today. Mr. Petrucci asked if the Board should re-number this case within their motion so eliminate any confusion. Mr. Holmes explained that in his opinion, he not as concerned with the case number as the location and content were advertised appropriately. Mr. Crowe added that this was an oversight and is an internal tracking number only. Mr. Harwell stated that his main concern is the environment of that whole area down there and it goes along with what the City is trying to achieve "character displacement." He stated that the better you make an environment the better character you will have. He believes that the building needs to be looked at in a more detailed way, considering the entire package. The quality of the people down there will revolve around the quality of the development there.

Discussion continued regarding the design development. Mr. Crowe explained that the Board can define parameters to a certain extent, but the design is reviewed by the Historic Preservation Board.

Motion made by Mr. Petrucci and seconded by Mr. Wallace to approve the request with the Staff conditions. Motion passed five yeas to one (nay by Mr. Harwell), motion carried.

With no further business, meeting was adjourned at 7:00 pm.