CITY OF PALATKA
PLANNING BOARD MINUTES
August 2, 2016

Members present: Chairman Daniel Sheffield, Earl Wallace, George DeLoach, Edie Wilson, Tammy Williams, Anthony Harwell, Ed Killebrew and Joseph Petrucci, who arrived at 4:10 p.m. Members absent: Vice-Chairman Joe Pickens. Staff present: Planning Director Thad Crowe, Recording Secretary Pam Sprouse, and City Attorney Donald Holmes.

Chairman Sheffield explained appeal procedures and requested that Board members express any ex-parte communication prior to hearing each case.

OLD BUSINESS:

Chairman Sheffield reminded Board members of their previously-expressed interest in a code amendment that would more strongly regulate Internet cafés. Chairman Sheffield said that he discussed this subject with Mayor Hill, and the Mayor suggested that Staff initiate such an amendment for the Board's review, in the usual process. Mr. Wallace asked if the proposed amendment be like the adult entertainment ordinance. Mr. Holmes replied that it would, in terms of locational restrictions, zoning limitations, and other criteria to be met, like the adult entertainment ordinance.

16-25: Request to rezone and remove a portion of property (SW Corner of River and Morris Streets) from local Historic District Designation (South Historic District) Recommended approval by the Historic Preservation Board for parcel # 42-10-27-6850-0001-0260.

Chairman Sheffield introduced the item and recognized Mr. Crowe.

Mr. Wallace recused himself from this case on the basis that City Staff had paid him to verify differing historic district boundary descriptions.

Mr. Crowe narrated a power point presentation, pointing out that this request is just for a portion of a larger parcel. He referred to graphics from the staff report, showing the parcel as a whole and also the portion of the parcel which appears to have be erroneously included in the South Historic District. He presented slides showing what is considered the intent of the boundary description as it was written, which was to go down the rear of the Morris Street lots to River Street, continuing along this same direction to the river and then continuing northeast along the river shoreline. This site is part of the old Wilson Cypress Mill property, however there are no remnant historic structures and this area is unlikely to have been utilized in the historic period due to its flood zone location. In addition the boundary is not logically drawn as it splits a property. Staff does not believe that the removal would be in conflict with the existing land use pattern, as it would still be subject to zoning criteria. The removal would be acceptable if it was not in conflict with district designation criteria. He added that this action was also reviewed and recommended by the Historic Preservation Board and both Boards' recommendations would go on to the City Commission for final action.

Mr. Wallace mentioned that there were two descriptions he had seen, one was from the National Register and the other one was from the Municipal Code. He said that the proposed description in the packet is the amended description he prepared based on the boundary description from the National Register that Mr. Crowe had shared with him, which is not in the packet. Mr. Crowe stated that the boundary description that is in the packet is the one that is in the Municipal Code to be amended which will then match the National Registry. Mr. Holmes asked what the National Register description is to the Municipal Code description. Mr. Crowe explained that as a Certified Local Government, the intent is to have the two historic districts co-terminus, but the City has the ability to make changes to the local district. Mr. Holmes suggested that the Board could vote

today to make the National Register description and the Municipal Code description consistent with what Staff has proposed as the legal description which is consistent with the redline in the boundary. Mr. Wallace said that would work.

Mr. Petrucci said that when the Historic District was established in 1982, was it established with the straight line coming down Emmett St. going straight to the river as shown in the picture of the staff report. Mr. Crowe said that he was not here at that time and he is not sure where this map comes from. Mr. Petrucci said that there is a reason that the owner does not want it in the historic district and voiced concern that if this property is taken out of the Historic District, future development may not be compatible with the historic district next door. Mr. Crowe agreed that that the owner wants fewer encumbrances for his property with having one set of rules for one part of his property and a different set of rules for the other part.

Mr. Crowe said that he wanted to be careful with reviewing this request was to make sure that there was justification in the criteria for the rezoning of the Historic District that would allow its removal. The City tries to avoid such split zoning, and staff does not believe the property's removal would violate any of the criteria that were used to consider this request. Mr. Harwell asked if there was a mistake in the verbiage. Mr. Wallace answered that no one knew the origin or either description in that he reviewed, but the descriptions did not agree. There was a map of the district which he marked in red based on a different description that was presented to the Historic Preservation Board of which is not included this package.

Mr. Wallace asked if the Historic Preservation Board had heartburn over changing the boundary. Mr. Crowe said that they supported the idea, and Staff tried not to get tangled up in the complications of the three different boundary descriptions and really tried to tie it into the criteria of consideration. He said however, if there is confusion, the Board may table this item. Chairman Sheffield asked Mr. Wallace if he had the same information that was reviewed at the Historic Preservation Board meeting. Mr. Wallace stated that the Board had this and also a third description as well which is not in this staff report.

Chairman Sheffield opened up the public hearing. The Applicant was not present.

Allegra Kitchens, 1027 S 12th St. was present and stated that she did not believe that the original description that ran the boundary to the river was an error. She added that Mr. Perallon's property is in the Historic District and he or whoever owned the property at the time would not have wanted to look across the street and have their view of the woods or river blocked and believes this change would adversely affect the Parallon's property as well as the district.

Discussion continued regarding the origin of the different descriptions. Mr. Holmes suggested tabling could be a good idea as there are serval different descriptions regarding the district and the origin of them is an important factor.

Ms. Kitchens spoke again stating that she has had communications with Dr. Richard Perallon who has expressed concern with the possible adverse effects of what could be built there if this property were to be taken out of the Historic District. She said that she does not think the current boundary description is a mistake, and believes that it should stay in the district to protect the district from incompatible development.

Chairman Sheffield then closed the public hearing.

Motion made by Mr. DeLoach and seconded by Mr. Killebrew to table the request until the next regular meeting. All present voted affirmative and motion was approved unanimously.

NEW BUSINESS:

Case 16-33 Request for a conditional use for non-temporary outdoor storage (sheds) in the C-2 (Intensive Commercial) zoning district located at 920 S. Moody Rd.

Chairman Sheffield introduced the item and recognized Mr. Crowe.

Mr. Crowe narrated a power point presentation, showing the property location and the proposed layout for the requested shed sales activities. He noted that this layout was not in keeping with applicable standards of non-temporary outdoor sales, as set forth in Zoning Code Sec. 94-200(e). Specifically the proposed activities would not meet required parking, paving requirements, solid waste screening, buffering standards, minimum building size, and required restrooms, which are all Code requirements.

Staff recommended approval of the request with the following conditions and specific use standards that would result in the project meeting Code requirements:
1. sales building must be at least 1,200 square feet in size;
2. site plan to be revised to show specific sales areas and the parking needed to accommodate these sales areas;
3. parking areas and driveways must be paved;
4. screened refuse area shall be shown on the site plan;
5. project shall meet Landscaping and Tree Protection requirements (Zoning Code Article VI) and Buffering and Screening requirements (Zoning Code Article VII), as shown in Tables 1 and 2 of staff report;
6. removal of protected trees shall only be allowed for driveway access to interior parts of the site, and revised site plan shall identify protected trees, protected trees planned for removal, and trees planted to mitigate for removed protected trees;
7. new signage and lighting must be in keeping with Zoning Code requirements;
8. site plan to be revised to show required 30-foot setback from property lines (100 feet from south residential property line);
9. site plan to be revised to show how required vegetative, fence, and/or wall screening along the property line buffers and shed display areas will be achieved;
10. site plan to be revised to show fire lanes, restrooms, exterior lighting, and additional required landscaping;
11. signage limited to ground/monument sign, wall sign on building, and not more than two banners or other temporary signs; and
12. activities must comply with operational requirements outlined above [as stated in Zoning Code Sec. 94-200(e)].

Mr. Harwell asked what the building setback of the property was. Mr. Crowe answered that the Zoning Code requires a 30 foot setback for this use.

Chairman Sheffield then opened up the public hearing. The Applicant was not present.

Ms. Carolyn Collier, S. Moody Rd., stated that her home is 3 houses away from this property. She said that the intersection of Moody Rd. and Crill Ave. is really busy and asked where the driveway would be. Mr. Crowe answered that the driveway would be approximately 150 south of the intersection. Ms. Collier added that she would not want to see an eyesore in this location.

Chairman Sheffield then closed the public hearing.

Mr. Petrucci asked if there were going to be walkways. Mr. Crowe stated that the criteria require that the project layout be orderly, with walkways and buffers, but the walkways did not have to be paved.

Motion made by Mr. DeLoach and seconded by Ms. Williams that this item be approved as recommended by Staff. All present voted affirmative and motion was approved unanimously.

Case 16-40 Request for final plat for subdivision to include parcels #04-10-26-0000-0010-0000; 04-10-26-0000-0021-0000; 04-10-26-0000-0021-0030; 04-10-26-0000-0010-0030; 09-10-26-0000-0030-0000; and 09-10-26-0000-0010-0021 (a.k.a. a portion of Putnam Co. Business Park).

Chairman Sheffield introduced the item and recognized Mr. Crowe.

Mr. Crowe noted that the Applicant (Putnam County) has requested that this item be tabled to the Planning Board's September meeting. The reason for this tabling is to pair this application up with a rezoning modification to the Planned Industrial Development (PID) for the Business Park. This modification would provide a schedule of plat-required improvements for the Business Park.

Chairman Sheffield then opened up the public hearing and then closed it, not hearing from anyone in the audience.

Motion made by Mr. DeLoach and seconded by Ms. Williams to table this request until the next meeting. All present voted affirmative and motion was approved unanimously.

Motion made by Mr. DeLoach and seconded by Mr. Kellebrew to approve this request conditioned upon meeting all applicable State and local codes and per staff recommendations. All present voted, motion carried unanimously.

Case 16-42 Consideration of alternative minimum parking standard for gymnastic, dance, and martial arts studios.

Chairman Sheffield introduced the item and recognized Mr. Crowe.

Mr. Crowe narrated a power point presentation. He said that the Zoning Code's minimum parking requirements do not specify these specific uses, which requires that Staff utilize the broad "general business, commercial, or personal service establishments" category for minimum parking, set at one space per 200 square feet of non-storage area. These uses are unique from standard businesses in that they are geared to kids, and parents often drop off kids instead of parking on the site. He said that Staff has received a request from a local business owner to consider an alternative parking standard for these uses. This business is considering expanding and the high parking requirement is presenting a disincentive for such expansion. He stated that other jurisdictions are using less strict minimum parking requirements for these uses. He recommended approval of an alternative minimum parking of one space per 300 square feet instead of the current one space per 200 square feet.

Chairman Sheffield then opened up the public hearing and then closed it, not hearing from anyone in the audience.

Mr. Petrucci noted that he had some concerns as he was familiar with the dance academy on US 17 north of the City, which got pretty crowded in the late afternoon. Mr. Crowe responded that he was also familiar with this business as he drove by it leaving work and had not noticed a parking congestion problem.

Motion made by Mr. Deloach and seconded by Mr. Harwell to approve the request as proposed. All present voted affirmative and motion was approved unanimously.

Case 16-38 Request for a conditional use permit for an indoor recreation use (internet café) in a C-2 zoning district, located at 2000 Reid St.

Chairman Sheffield introduced the item and recognized Mr. Crowe.

Mr. Crowe narrated a power point presentation, pointing out that this same location (a five-unit commercial retail building) was recently approved for a church on the south end of the building. There is also an existing discount store in this plaza (north end of the building) and this use would occupy the center unit of the shopping center. He said that this business is now in operation and the owners told Staff that they did not know they needed conditional use or zoning approval.

Mr. Crowe noted that there had been a previous conditional use approved at this location, for the church. This approval required landscape improvements that have not yet been accomplished.

Addressing conditional use criteria, Mr. Crowe noted that while the request met the Comprehensive Plan in general terms, it should be evaluated in regard to its location, area, number, and relation to the neighborhood (as set forth in the definition of a conditional use). He said the parking and access was acceptable. Criterion # 4 was not met as there was an unscreened dumpster on the site, although it was hidden away in the back out of the public view. Criteria # 7 and 9 were problematic since it would be very difficult for this site to meet the landscape and buffering codes, since it was mostly covered by buildings or pavement. The Board also has to make a finding that the request would not harm the public interest. On this subject, Mr. Crowe noted that the Board had in the past expressed concern about the growing concentration of Internet cafes, particularly in the vicinity of Reid St./US 17. The use in other jurisdictions is linked to crimes including robbery, money laundering, rigged computer systems, and even organized crime. The potential for criminal activity is there, particularly with 24-hour operation. The public's perception of use as marginal and quasi-legal could have negative affect on adjacent businesses and property values. He displayed a map that showed five Internet cafes concentrated along a relatively short segment of Reid St., between N. 18th St. and Pine St., and noted that this could be considered an undue concentration.

Mr. Crowe explained that staff recommended two options for the Board, to either deny with the finding that there is an undue concentration of such uses in the area, and that this use would not promote the public safety, morals, order, appearance, prosperity or general welfare of the City; or approve the request with attendance capped by the Fire Marshall's occupancy limit, and with the following conditions.

1. Use is approved subject to and conforming with the site plan.
2. Within two months of approval, Applicant and City shall coordinate with the removal of pavement (by the Owner or Applicant) for two landscape islands as shown conceptually in Figure 4 of the staff report, and the City shall then install shade trees in each island. The trees shall then be maintained by the Applicant and/or property owner.
3. Screening of the existing dumpster is required.
4. Hours of operation limited to 7 AM to midnight.
5. All other applicable standards of the Municipal Code must be met.

Discussion ensued with the Board regarding the previously approved existing cafés (five), the concerns of an undue concentration and need to establish allowed hours of operations, and developing standards for them. Mr. Petrucci asked if the property owner is responsible for the landscape improvements and what happens if the church does not put the trees in. Mr. Crowe replied that it would become a code enforcement matter. Mr. Holmes asked if the previously approved church was currently operating at this location. Mr. Crowe replied that they are and that were obliged to put in the required landscaping.

Mr. Holmes asked if Staff finds a compatibility issue between the Internet café and the Church that was preapproved. Mr. Crowe said that the Code does not allude to that kind of thing, as it does with alcohol and churches. Mr. Holmes said that from a practical perspective, the issue of compatibility isn't a necessarily a code definition. Mr. Crowe agreed with that and said that one way to address that could be to set standard hours of

operations, so the two uses are not overlapping. Mr. Holmes stated that with conditional use review criteria, compatibility with adjoining uses is a legitimate topic of conversation and the Board should address that however they choose to, whether it is with limiting hours of operations or whatever.

Mr. Holmes asked what communications history between the operators of the use and the City. Mr. Crowe explained that once the Building and Zoning Department was made aware of the business operating, they made contact with the operators and let them know they needed a business license and to meet zoning requirements. The owners then submitted and application and have been working with the City to achieve compliance. Chairman Sheffield asked when was the first contact was made with the business operators. Ms. Sprouse replied that the contact was made approximately six weeks ago. Mr. Petrucci asked if there is any criterion in the Code that has to be followed for density of like kind businesses in the same general location. Mr. Holmes replied the City does not have specific zoning criteria that limit numbers of any legitimate or lawful uses. The City is obligated to make provisions for any use that is authorized and allowed by the State of Florida. With justification under public health and safety concerns, the City is able to place conditions on some uses through the conditional use criteria, including limiting the number of uses, but such findings must be considered on an individual/case-by-case basis. Limitations on uses can include locational restrictions, like limiting uses to specific zoning districts or applying distance restrictions between uses and other uses, as is the case for alcohol and adult entertainment uses. The proximity or distance restrictions of a use can reduce concerns of incompatibility between problematic uses and certain uses such as schools, churches and other alcohol serving establishments. Currently the City does not have an ordinance in place regarding Internet cafés. Discussion took place regarding the fact that the City cannot prohibit a legitimate use, but through zoning and the conditional use process the City can control the number and location of such uses, supported by clear findings.

James Mathews, 2000 Reid St., Pastor of Passionate Worship Center, spoke in favor of the proposed use, stating that there has been no conflict since they have been there. He has not experienced any problems with parking either.

Michael Wolf, 805 SE 3rd Ave, Ft. Lauderdale., representing the applicants stated that the 2013 Florida Legislature recently addressed the overflow of internet cafés, the concept of illegal gambling and its past ties to charities and determined those did not exist. He referenced Florida Statues Chapter 849 which governs Gambling and Chapter 546.10 which was recently made legal for amusement games or machines, under the jurisdiction of the Department Alcohol and Tobacco. He stressed that he would want his applicants business viewed as a legal use, as they are not like other Internet cafés. The applicants have applied for a conditional indoor recreational use, the activity they intend to run there is a family amusement center under the act F.S. 546.10 that was just past this year. He added that his clients also plan to run charitable bingo that will benefit local churches and organizations.

Chairman Sheffield asked how this specific use is different from other internet cafes located on Reid St. Mr. Wolf replied that primarily it would be based on the types of machines that are used. The Legislature does not allow the games to look like slot machines or resemble casino games. He said that there are many state regulations regarding sweepstake gaming and Florida Statute limits the maximum cash payout to $ 5.75 in redemption. The games that are outlawed are the ones where chance ultimately outweighs challenge. Discussions continued regarding similar type redeeming gaming machines, such as Chuckie Cheese, Dave and Busters and even McDonalds. Mr. Holmes said that conditional use criteria the Board can make sure this use complies with the 2013 law, by placing conditions on prizes and their values. Mr. Wolf replied that the arcades around the state have kiosks where you can redeem your points for merchandise from retailers around the world. Discussion continued regarding slot like machines and different types of legal gaming machines. Mr. Holmes advised the Board that there should not be a big philosophical debate on how the prizes are redeemed, the point is zoning and it may be important to know the types of machines, but the bottom line is that people are playing with the idea of getting a reward. The City can look into setting specific parameters after today.

Michael Byars, 138 Michael James Rd., Gaffney, South Carolina stated that he was the co-owner. Mr. Wallace asked what brought them to Palatka. Mr. Byars answered that he heard that Palatka had Internet cafés here. Mr. Byars said that when they were approached and were told there was a problem with not having the proper approvals, they came right down to Palatka to set things right.

Kimberly Burnet from Lloyd, SC stated that the minute they found out they were not in compliance; they were in contact with the City right away and have been working with the Building and Zoning Department. They paid all the fees and have steadily worked toward this process to make everything right and that they do not intend to break any State or local laws.

Mr. Killebrew asked if they would be moving to Putnam County or did they plan to have managers operate the business. Mr. Byars stated that they would not be moving here and they would have the business locally managed. Ms. Williams asked how long they have been operating at this location. Mr. Byars stated they opened in August of 2015.

Pastor Mathews stated again for the record he had no objection to the request and that there has been no conflict with the neighboring use.

Chairman Sheffield then closed the public hearing.

Chairman Sheffield stated that he has great concern with the concentration of Internet Cafes and believes that the City of Palatka has become an easy target. Mr. Killebrew stated that he agreed with Mr. Sheffield and is concerned about the general welfare of our city. Mr. Petrucci commented that he didn't believe that it is this Board's role to put limitations on these types of businesses, and that after this case this Board should recommend to the Commission that they issue an ordinance regarding these uses. Mr. Sheffield advised that he has met with the Mayor, and City Staff will come up with an ordinance. Mr. Petrucci added that he doesn't agree that these types of places produce illegal activity, and while he is not a fan of these uses, this applicant is trying to make the efforts to comply with the requirements. He believes that the Board should approve this request as they have made a concerted effort to comply once they were informed that they were in violation. Mr. Wallace disagreed, noting that they have not done what they were supposed to do as they have been operating for over a year.

Motion made by Mr. Wallace and seconded by Mr. Harwell to deny this request based on the finding that there is an undue concentration of this use in the area and that this use would not promote the public safety, morals, order, appearance or general welfare of the city. The vote on the motion included seven yeas and one nay (Mr. Petrucci), motion carried.

The meeting was adjourned at 6:03.