

DeFuniak Springs Planning Board Meeting Minutes

August 3, 2009

The DeFuniak Springs Planning Board met in Regular Session at 5:30 PM with the following members present: Board Chairman B B Campbell Sr; Planning Board Members: Don Truitt, Ryan Douglass, Jim Harman, Roger Leatherberry, Kermit Wright, Keturiah Baldwin; Planning Director Greg Scoville, Mayor C. Harold Carpenter; Clay Adkinson standing in for City Attorney Clayton Adkinson; and Deputy City Clerk Vanessa Mitchell. City Clerk Susie Campbell-Work, Eglin AFB ex-officio member Marion Cook and Walton County School District ex-officio member Tom Blackshear were absent.

CALL TO ORDER: Mr. B B Campbell Sr called the meeting to order.

MINUTES:

July 6, 2009: There were no corrections.

Motion made by Kermit Wright to accept the minutes as presented, second by Roger Leatherberry, motion carried 6-0.

2009-SP-04: FREDE LOPEZ D/B/A EL CHARO:

Attorney Clay Adkinson, standing in on behalf of City Attorney Clayton Adkinson, announced anyone, including City staff, who will give testimony on behalf of or against this project would need to stand and be sworn in. He swore in the citizens and staff who stood.

Mr. B B Campbell Sr called the quasi-judicial public hearing to order.

Planning Director Greg Scoville explained the request and went over the packet information. The request is for a Special Approval/ Change of Use to operate a Bar/Tavern within a C-1 Commercial Restricted District. Mr. Scoville said since it is an existing building he did not require some items under the Code provisions in Section 15.08. He said the request is to change the use from a retail or merchant classification to a bar or tavern. Mr. Scoville said he had requested and received a traffic impact analysis. He summarized Mr. George Newman's, FDOT, findings; there is no significant traffic impact associated with this redevelopment project. Mr. Scoville said there are provisions in the Code requiring separation from any church or school and in all cases, the site is within the requirements of the necessary distance. Mr. Scoville also announced his office has received four phone calls and two letters against the request. Mr. Jim Harman asked about other local Ordinances within Walton County regarding distance from church and schools. Mr. Scoville pointed out the portion of the Code (page 187, Section 3-2, paragraph a) in their packets that addresses the distance requirement and said there is not a differentiation between a business that sells food and one that does not. Mr. Scoville then read that portion of the Code aloud for clarification. Mr. Harman asked if the business was within 1,325 feet. Mr. Scoville said he only measured the distance required by our Code. Clay Adkinson stated under our Municipal Code, regardless of other existing Ordinances, we abide by our Code. Mr. Adkinson also stated at another time the Board could bring up the subject of revising the Code but that would be a separate issue and tonight's business would be ruled by the current Code.

Mr. Frederico Lopez, owner of El Charo, gave a brief presentation. Mr. Jim Harman asked if he was the licensed owner. Mr. Lopez said he was. Mr. Harman asked what license he held. Mr. Lopez answered a beer and wine license. Mr. Harman asked Mr. Lopez about parking. Mr. Lopez said the parking would be on the street.

Mr. B B Campbell Sr read a portion of a letter he received. The letter was against the request.

Mr. Jack Bell, owner of the property, asked if a letter should be extended to us (the audience) during a public hearing without giving from whom (it was written). Clay Adkinson said under the Florida Sunshine Laws it would be appropriate to disclose for the record it was Mr. Clyde Rhodes. Mr. Scoville said the other letter submitted was written by Margaret Butler and Gloria Kokowicz. Mr. Bell spoke for the request and said he also owns a lot across the street that could be used for parking.

Clay Adkinson asked Mr. Scoville if the hours of operation were written in the application. Mr. Scoville said it was not in writing but verbally Mr. Lopez had told him the hours of operation would be 7:00 pm to 2:00 am. Mr. Adkinson asked if staff had any concerns about the area or with the parking. Mr. Scoville said there were two restaurants and retail stores in the area; he felt during the proposed hours of operation the parking was adequate. Mr. Harman said there had been discussion about a plan for downtown, a rejuvenation plan, and asked how this fit in with that plan. Mr. Scoville responded the City Council had cited the plan as an objective for the City's strategic plan but at this point that plan has not been formulated so it is not against any plan. Mr. Harman asked without exceptions, where a bar or tavern could go. Mr. Scoville said a C-2 and Industrial zone, as well as C-1 with special approval. Mr. Kermit Wright asked if the business was located in the Historic District. Mr. Scoville said he did not believe so. Mr. Scoville reviewed Mr. Wright's map and said, according to Mr. Wright's map it appeared to be located within the Historic District. Mr. Scoville said there is no use that is prohibited in the Historic District and any structure changes would require a Certificate of Appropriateness and building permit.

Mr. Ryan Douglass asked Mr. Scoville if he had heard from the City Marshal regarding the history (of Mr. Lopez' current business regarding disturbances) as referenced in the letter (from Margaret Butler and Gloria Kokowicz). Mr. Scoville said he had not. Clay Adkinson asked if there were any building permits required. Mr. Scoville said there was no need for a permit at this time. Mr. Adkinson asked if an assessment of fire and public safety would be done at the time of building permitting. Mr. Scoville said yes and during occupational licensing there is a courtesy check done at that time for building code requirements, fire or safety concerns, and handicap accessibility. Mr. Adkinson asked if during that time, they would look at seating, number of patrons, etc. Mr. Scoville said yes.

Mr. Harman asked if, as an individual member of the Board, he is to vote to say it is in compliance to the Code, or nothing within the Code that would except (exclude) it or does he vote as the City Council a lot of times votes, their conscience. He asked if it is their duty as a planning board to vote in that manner. Mr. Adkinson addressed the question by reading a portion of the Municipal Code (Page 1497, Section 15.08, paragraph 3) and said it should be your guiding paragraph in any special approval case. Mr. Adkinson said the burden for special approval is just that, it's special, you have to find a reason to allow; you shall not approve it unless you make those specific findings; that all applicable zoning requirements have been met and that the health, safety and welfare of the public are properly provided for contiguous and nearby residential property. Mr. Adkinson asked Mr. Scoville if everything was in compliance. Mr. Scoville said again it was not a new structure so he did not require some items, but yes, it met all requirements that were required of other applicants in the past. Mr. Adkinson then said to the Board, on the issue of voting their conscience, he would urge them to determine that competent substantial evidence existed and they can reasonably infer what the code requires and with that they find that the development does conform to all provisions of the zoning Ordinance and that the health, safety and welfare of the public are properly provided for. And if they felt confident that enough had been presented to do that, then they should approve it. Mr. Adkinson said we are in a different posture for a special approval than a standard development approval.

Mr. Kermit Wright said he did not consider it to be an appropriate use in a C-1 district and especially in what he believes to be a Historical District.

Motion made by Kermit Wright to recommend denial to the City Council, second by Jim Harman, motion carried 6-0.

Mr. Greg Scoville announced if there is a meeting next month, the meeting will need to be held at 6:00 pm. He said he would send an agenda notice to the Board.

ADJOURN:

Motion made by Jim Harman to adjourn the meeting, second by Don Truitt, motion carried 6-0.



Jim Harman, Vice Chairman