

**PLANNING COMMISSION
MEETING
OCTOBER 25, 2010**

MEMBERS PRESENT: Lynne Matthews, Chairman
John Burrage, Massey Loughman, Bill Schindler,
Charles Thomas, Charles Zajicek, Edward Zapke

OTHERS PRESENT: Teri Tubbs, Zoning Official
David Hilston, Urban Design Manager
Joan LeBeau, Chief Planner
Tom Fenneran

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting
- 1. November 22, 2010

APPROVAL OF MINUTES

- A. September 27, 2010 Meeting
- Mr. Burrage MOVED, Mr. Zapke SECONDED approval of the September 27, 2010 minutes. MOTION CARRIED UNANIMOUSLY.

PUBLIC HEARINGS

- Recording Secretary Smith swore in all participants.
- A. ZA-17-10 - An Ordinance of the City of Punta Gorda, Florida, Amending Chapter 26, Code of Ordinances, City of Punta Gorda, Florida, known as the Land Development Regulations; amending Article 19, Section 19.3, "Definitions," to provide a new definition for the term "restaurant" and renumbering accordingly; amending Article 3, Regulating Districts, Section 3.9, CC, City Center District, Section 3.9(c), Uses Permitted with Conditions, adding Subsections (12), (13), (14) and (15), to include permanent non-seating public food service establishments, convenience stores with limited food service, convenience stores with significant food service and food outlets with limited food services; thereby allowing certain restaurants to be located within 200 feet from a Neighborhood Residential zoning district boundary; amending Article 4, "Uses Permitted with Conditions," adding new Sections 4.35, 4.36, 4.37 and 4.38, to provide conditions for permanent non-seating public food service establishments, convenience stores with limited food service, convenience stores with significant food service and food outlets with limited food services to be located within 200 feet from a Neighborhood Residential zoning district boundary; providing for conflict and severability; and providing an effective date (continued from September 27, 2010).

- Ms. Teri Tubbs, Zoning Official, recalled this item had been reviewed by the Commission the previous month, noting she also had a discussion with City Council regarding the changes suggested by the Commission. She explained she attempted to reduce the references to specific food types within the definitions as suggested, adding paragraph 1(b)(2) was the only one which did not reference the number of people; therefore, that reference had been added. She stated those particular definitions were applicable to the entire City, adding it was beneficial to include something in the Code that was specific to the City's needs. She stated in Article 3, Section 3.9(c), which was zoned City Center (CC), the four types of food service establishments were listed as uses permitted with conditions, noting in Article 4 the conditions were added along with a minimum size for trashcans. She stated table type and table location had been addressed for all four restaurant types.
- Mr. Burrage commented the updated document was well written.
- Mr. Zapke opined all of the Commission's comments and concerns had been addressed.
- Mr. Schindler stated if there was no discussion regarding the definition of restaurant or the four divisions of public food service establishment, he would recommend approval.
- Ms. Matthews stated with regard to paragraph (4), Food Outlet With Significant Food Service, there were many restaurants which served both hot and cold entrees, adding restaurants could also have more or less than 40 seats. She opined that language should be removed as it was not relevant, suggesting the definition of full service restaurant should not be limited to serving hot entrees but rather should better reflect the different types of restaurants in the City. She stated the same held true for paragraph (3), stressing definitions should be more generic.
- Mr. Loughman questioned the definition of limited versus significant food service.
- Mr. Thomas inquired if the City Attorney had drafted the document word for word.
- Ms. Tubbs advised the definitions used by the City Attorney were taken from State Statutes.
- Ms. Matthews reiterated it was too specific because of the uniqueness of the restaurants in the City, maintaining it should read, "other preparation of food for consumption on or off the premises".
- Discussion ensued regarding the language in paragraphs (3) and (4) with consensus to combine paragraphs (3) and (4) into one definition for a food outlet with food service.
- Mr. Schindler stated if serving alcohol was a reason for defining those restaurants with greater than 40 seats, the City Attorney may want to retain separate definitions.

- Ms. Matthews stated she would only be in favor of further changes if it read “food outlet with alcoholic beverage service.” She then pointed out Sections 4.35, 4.36, 4.37 and 4.38 were not consistent with the definitions discussed previously.
- Ms. Tubbs agreed to make the revisions and corrections.
- Mr. Schindler inquired if there were any deletions or discussion regarding the individual items under each Section.
- Mr. Zapke responded he believed the Commission’s comments had been addressed.
- Ms. Matthews stated Sections 4.37 and 4.38 indicated “there shall be no outdoor consumption of alcoholic beverages,” opining that language was not appropriate since there were many restaurants downtown with outdoor courtyards.
- Ms. Tubbs stated after Hurricane Charley in August 2004, the City received a proposal to refurbish the structure located at the corner of West Marion Avenue and Harvey Street for the purpose of operating a restaurant; however, residents were opposed to same, adding City Council subsequently adopted an ordinance prohibiting any eating establishment within 200 feet of the Neighborhood Residential (NR) zoning district. She stated the unintended consequence was shutting out the smaller businesses that would not have a detrimental effect on the residential portion of the neighborhood, adding she wished to retain the original intent of residents not wanting noise, bars or entertainment within that buffer zone. She opined it was possible the definition of restaurant with alcoholic beverages was needed in order to address that issue for other areas in the City where it would be permitted. She displayed a map of the buffer zone.
- Mr. Zajicek stated the buffer zone extended to Charlotte and Cross Streets, asserting the church sometimes served food.
- Ms. Tubbs explained that was a secondary use rather than a primary use.
- Mr. Zapke stated he was satisfied with the way the ordinance had been amended.
- Ms. Matthews confirmed the intent was for paragraphs (1), (2), (3) and (4) to coincide with Sections 4.35, 4.36, 4.37 and 4.38, respectively, adding if paragraphs (3) and (4) were merged, then Sections 4.37 and 4.38 would be merged and reworded.
- Mr. Zapke disagreed, stating Section 4.38 could be left alone, adding Sections 4.35, 4.36 and 4.37 would remain to address convenience stores.
- Ms. Tubbs confirmed the word “limited” would be removed from Section 4.38 in order to reference the new definition of food outlet.
- Ms. Matthews suggested it be titled “retail” rather than “limited” food service.
- Mr. Zapke suggested eliminating the words “with limited food service”.
- Mr. Tom Fenneran stated the ordinance contained a general statement that trash receptacles had to be 45 gallons in order to insure the site was maintained in a clean,

litter free manner, questioning if any other ordinance required these establishments to keep their area clean.

- Ms. Tubbs explained the concern being addressed was a minimum size for the trash can located outside the facility, advising there was a general ordinance which addressed trash and debris on a commercial site.
- Mr. Zapke stated during discussions about the soon to be developed 7-11 store, it was specified they would police the area for trash on a regular basis.
- Ms. Tubbs stated that had not been included in the final agreement.
- Mr. Schindler inquired if trash should be removed on a daily basis.
- Mr. Zajicek stated as long as the trash was covered, he had no concerns regarding same.
- Mr. Thomas interjected there were other ways trash removal was monitored.
- Ms. Matthews opined restaurants had their garbage removed on a regular basis.
- Mr. Zapke opined using the word “covered” was sufficient.
- Ms. Matthews called three times for public comment.
- Mr. Burrage MOVED, Mr. Zajicek SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
- Mr. Zapke MOVED, Mr. Zajicek SECONDED to find ZA-17-10 consistent with the City’s Comprehensive Plan and to recommend approval as amended based upon the evidence and testimony presented. MOTION CARRIED UNANIMOUSLY.
- Ms. Matthews requested the revised ordinance be emailed to members for comment prior to City Council review.

STAFF COMMENTS

- A. Community Redevelopment Agency (CRA) Project Status Report
- Ms. Joan LeBeau, Chief Planner, provided an update on the status of the City’s Comprehensive Plan, noting the first draft would be reviewed by the Commission in January, 2011.

MEMBER COMMENTS

- Mr. Zajicek stated he had received many positive comments on the entrance signs, thanking Mr. David Hilston, Urban Design Manager, for same.
- Ms. Matthews announced Mr. Schindler would be absent from the November 2010 meeting, requesting one of the alternates attend in his place.
- Mr. Zapke announced he would not be available for the December 2010 meeting.

ADJOURNMENT

- Meeting Adjourned: 2:43 p.m.

Lynne Matthews, Chairman

Karen Smith, Recording Secretary