

**MINUTES OF THE
CITY OF PIGEON FORGE PLANNING COMMISSION
AND BOARD OF ZONING APPEALS
TUESDAY AUGUST 26, 2014, 3:00 P.M.
CITY HALL, PIGEON FORGE, TENNESSEE**

MEMBERS PRESENT

Bill Bradley, Chairman
Jerry Clark
Jeff Dodgen
Judy Harrell
Stephen Houser
Tom Marsh

MEMBERS ABSENT

Jay Ogle

OTHERS PRESENT

David Taylor, Karl Kreis, Midge Jessiman, Jerry Hanson, Sammy Ownby, Jake Old, Peggy Wilson, Bruce Rutherford, Rod McCarter, Jim Arwood, Ellene Ston, Sophia Connerly, Butch Helton, Angie McCarter, Marvelle Sewell, Stuart Smith, Brett Collier, Ronnie Marshall, Mimi Kulp, others.

PLANNING COMMISSION

CALL TO ORDER

Chairman Bradley noted that a quorum was present.

APPROVAL OF MINUTES

The minutes of the July 22, 2014 meeting were approved on a motion Commissioner Marsh. Commissioner Clark seconded and all voted in favor.

OLD BUSINESS

None.

NEW BUSINESS

None

City of Pigeon Forge Items

A. Special Events

- 1. The Christmas Place at Bell Tower Square – Labor Day Weekend Sidewalk Sale, Friday, August 29th through Tuesday, September 9th, 2014, 2470 Parkway, Teresa Hughes.**

Ms. Hughes was present.

STAFF RECOMMENDATION

Mr. Taylor recommended in favor of this annual event.

ACTION TAKEN

Commissioner Clark made a motion to approve the request. Commissioner Harrell seconded and all voted in favor.

- 2. Adrenaline Sports Management – Santa Hustle in the Smokies' Half Marathon, Sunday, December 14th, 2014, Parkway, Heather Frayn.**

Ellene Ston was present.

STAFF RECOMMENDATION

Staff recommended in favor of the annual event.

ACTION TAKEN

Commissioner Harrell made a motion to approve the request. Commissioner Dodgen seconded and all voted in favor.

- 3. American Cancer Society – Relay For Life, Friday, May 29th and Saturday, May 30th, 2015, Patriot Park, Ann Marie Atchley.**

Sophia Connerly was present.

STAFF RECOMMENDATION

Mr. Taylor recommended in favor of this annual event.

ACTION TAKEN

Commissioner Clark made a motion to approve the event. Commissioner Harrell seconded and all voted in favor.

- 4. Pigeon Forge Office of Special Events – 25th Annual Winterfest Kickoff Event (Patriot Park) and 4th Annual Salute to Veterans Parade (Jehu Street to Patriot Park via Parkway), Tuesday, November 11th, 2014, Butch Helton.**

Mr. Helton was present and explained this year's changes to this event.

STAFF RECOMMENDATION

Mr. Taylor recommended in favor of this annual event.

ACTION TAKEN

Commissioner Harrell made a motion to approve the special event. Commissioner Marsh seconded and all voted in favor.

- 5. Annual Pigeon Forge Rotary Club – Craft Fair, Patriot Park, Saturday September 27th through Saturday, October 25th, 2014, Fred Frische.**

Mr. Frische was not present.

STAFF RECOMMENDATION

Staff recommended in favor of this annual event.

ACTION TAKEN

Commissioner Marsh made a motion to approve the request. Commissioner Clark seconded and all voted in favor.

- 6. CC Isshiw Ryu - Fall Rod Run Fundraiser, Lazerport – 2782 Parkway, , Friday, September 5th through Saturday, September 6th and Thursday, September 11th through Saturday, September 13th, 2014, 10a.m.-12p.m., Perry Smith.**

- 7. Alzheimer Tennessee – Rod Run Fundraiser, Walgreens – 3071 Parkways, Friday, September 5th through Saturday, September 6th and Friday, September 12th through Saturday, September 13th, 2014, Patrick Baker.**
- 8. Smoky Mountain Harley Davidson – Appalachian Bear Rescue Rod Run Event, Friday, September 12th, 2014, 105 Waldens Main Street, Kandy Futch.**
- 9. Rod Run Fundraiser, Huck Finn’s Catfish Restaurant – 3330 Parkway, Thursday, September 4th through Saturday, September 6th and Thursday, September 11th through Saturday, September 13th, 2014, Karen Moore**

Chairman Bradley said that these four items will be handled together, since they are non-profit fundraisers during the fall Rod Runs.

STAFF RECOMMENDATION

Staff recommended in favor of Special Event items 6-9.

ACTION TAKEN

Commissioner Marsh made a motion to approve items 6-9 in one motion. Commissioner Dodgen seconded and all voted in favor.

- 10. Weekend Live Music at the Forge Mall, 2828 Parkway, Every Friday and Saturday through November 22nd, 2014, D. Jean Osborne.**

No one was present.

STAFF RECOMMENDATION

Staff recommended deferring the new event because no one was present.

ACTION TAKEN

Commissioner Houser made a motion to defer the event. Commissioner Dodgen seconded and all voted in favor.

11. Blacksmith Demonstration at Distillery, Old Forge Distillery – 170 Old Mill Avenue, Weekends through end of October, Marvella Sewell.

Ms. Sewell was present.

STAFF RECOMMENDATION

Staff recommended in favor of allowing this as a special event through October. He said the issue may need to be addressed through site planning at that time.

ACTION TAKEN

Commissioner Marsh made a motion to approve the request.
Commissioner Houser seconded and all voted in favor.

12. McCarter Printing – Childhood Cancer Awareness Fundraiser (Lights in the Night 5k Fun Run and Walk), Patriot Park and City Greenway, Saturday, September 20th, 2014, Angie McCarter.

Ms. McCarter was present.

STAFF RECOMMENDATION

Staff said that this has been reviewed through the City staff special events committee. He recommended in favor of the request.

ACTION TAKEN

Commissioner Harrell made a motion to approve the request.
Commissioner Houser seconded and all voted in favor.

13. Wounded Warrior Project – Warrior 10 mile and 5k Road Race, Veterans Boulevard and Teaster Lane (Start and Finish in Sevierville), Saturday, March 7th, 2015, Frank Damante.

Ms. Sophia Connerly made a motion.

STAFF RECOMMENDATION

Staff recommended in favor of the request. However, Mr. Taylor said they will have to work with the police department about the turn-a-round in front of the LeConte Convention Center. He said there is a large conference there that day and worried about traffic conflicts. Ms. Sophia Connerly agreed.

ACTION TAKEN

Commissioner Clark made a motion to approve the request per staff's recommendation. Commissioner Harrell seconded and all voted in favor.

14. Bullfish Catering – LeConte Center, Tent space for extra load in, LeConte Convention Center – Teaster Lane, Christina Center.

Mr. Taylor said this event was added to the agenda and they would explain. Ms. Center said they are placing a tent outside for catering during National Quartet Convention.

ACTION TAKEN

Commissioner Houser made a motion to approve the request. Commissioner Clark seconded and all voted in favor.

B. Subdivisions

1. None.

C. Planned Unit Developments (PUD)

1. None.

D. Site Plans

1. **Doc Collier's Restaurant (Brewery, Distillery, and Winery), Site Plan, 3576 Parkway, Brent Collier/Mike Suttles.**

Mr. Collier and Mr. Suttles were present. Mr. Suttles explained the project. He said that they are expanding Corky's restaurant to include rooftop dining (reporting 10 new tables) plus building a distillery and attaching them with an outdoor pedestrian bridge. He and Mr. Collier showed elevations of the proposed establishment. They said it was going to have a "prohibition-era" concept. They were going to collect stormwater on the

roof to use in the distilling of liquors. They said they would distill liquor and not moonshine. They commented they be giving out up to four free samples and selling distilled liquor (mostly bottled) from the site. Mr. Suttles said they have applied for an ARAP from TDEC as they plan to be 10 feet off the stream. He said much of the nearby stream is covered in tile. It is a small lot (0.12 acres and triangular). He said there was a gas station there in the past. He explained the parking chart and admitted using Corky's and ROW parking and showed no parking on the distillery's lot. They said they plan a sign on the proposed water tower in front of the distillery.

STAFF RECOMMENDATION

Mr. Taylor presented staff comments to the site plan. He reported the site plan has parking problems. He said they are not showing any on-site parking and adding 4374 sq/ft of retail space. He said they are counting Parkway ROW parking in their parking calculations, which has not been allowed to replace required parking. He pointed out to the Commission that the proposed retaining wall along the stream was shown on the adjacent (McDonald's) property. He said that the stormwater regulations require a 30 foot stream buffer. He also said staff has not received any permits from TDEC allowing development close to the stream. He said that proposed water tank would be in the Parkway ROW, which is not allowed under the State/local agreement for activities allowed in the ROW. He also showed that the proposed pedestrian bridge does not have the required clearance for fire and sanitation trucks. Discussion ensued, mostly centered on whether a distillery is an allowed use in a C-1 district. Both Mr. Taylor and City Attorney Jim Gass stated that issue would be discussed and decided at the BZA meeting (Item C). City Attorney Gass said that at this time the Commission needs to rule on the site plan, which has been presented by staff as having many problems. There were four attorneys present representing the landowners. They all pushed for the site plan to be approved with conditions that the problems be corrected by the applicant. Chairman Bradley stated that he did not see how they can approve a site plan with so many problems. He said he could not recall the Commission ever making an action like that.

ACTION TAKEN

No action was necessary as the item was withdrawn by applicants and their attorneys.

2. Econo Lodge Motel, Revised Site Plan, 2905 Parkway, Marcus Whaley.

Mr. Hammond was present.

STAFF RECOMMENDATION

Staff explained that a building will be removed and the pool will be located in the existing building's footprint. Staff recommended the request.

ACTION TAKEN

Commissioner Marsh made a motion to approve the request. Commissioner Clark seconded and all voted in favor.

3. Office of SRA Architects, Site Plan, 3413 Forest Street, Mike Smelcer.

Mr. Smelcer was present.

STAFF RECOMMENDATIONS

Staff said this was a house being converted to office space. Staff recommended in favor of the request.

ACTION TAKEN

Commissioner Harrell made a motion to approve the request. Commissioner Clark seconded and all voted in favor.

4. Splash Pad for Quality Inn Motel, Revised Site Plan, 2162 Parkway, Marcus Whaley.

Mr. Hammonds was present.

STAFF RECOMMENDATIONS

Staff recommended in favor of this revised site plan. However, Mr. Taylor said that if the site plan is approved he recommended that the last site plan revision be nullified as it is conflict with this site plan. Mr. Hammonds had no problem with that.

ACTION TAKEN

Commissioner Harrell made a motion to approve the request and nullify the previous revision. Commissioner Marsh seconded and all voted in favor.

5. Westgate Marketing, LLC, Request for a Temporary Use Permit (OPC Location), Gem Mine – 2865 Parkway, Jeff Ward

Ronnie Marshall was present.

STAFF RECOMMENDATIONS

Staff recommended in favor of the request.

ACTION TAKEN

Commissioner Marsh made a motion to approve the request. Commissioner Harrell seconded and all voted in favor.

E. Requests for Rezoning

1. Teddy and Kristy Jones, A 0.25 acre portion of Tax Map 84P A, Parcel 5.00, Veterans Blvd and Lee Cardwell Circle, R-2 (High Density Residential) to C-6 (Mixed Use Commercial) District.

Mr. Hammonds was present.

STAFF RECOMMENDATION

Mr. Taylor said that half of this property along Veterans Boulevard is zoned C-6 and the rest is R-1. He stated that this situation is left from when commercial zoning was a fixed distance from Veterans. The property owner needs his whole tract C-6 for his proposed development. Staff had no objections and recommended in favor.

ACTION TAKEN

Commissioner Marsh made a motion to recommend the rezoning to the City Commission. Commissioner Houser seconded and all voted in favor.

F. Miscellaneous Requests or Required Actions

1. Review of a proposed municipal ordinance to restrict distilleries from locating on the Parkway, City Attorney Jim Gass.

City Attorney Jim Gass was present.

STAFF RECOMMENDATION

Mr. Taylor stated that City Commission has concerns about maintaining Pigeon Forge as a tourist friendly/family oriented destination. He reminded the Commission that this was a municipal ordinance and not zoning. Despite that, he said the City Commission would like the Planning Commission to also discuss and take action on this item. He stated the ordinance states that distilleries are not allowed within 200 feet of the Parkway ROW. He said that the word "clarification" needs to be changed to "classification." Discussion ensued about the Planning Commission's role. City Attorney Gass said that City Commission was asking for them to only make a recommendation. He said as other municipal ordinances it would have to pass two readings and a public hearing before City Commission to become city code. Commissioner Marsh felt like a workshop was needed.

ACTION TAKEN

Commissioner Houser made a motion to recommend the ordinance to the City Commission. Commissioner Clark seconded and all voted in favor.

Planning Region Items

A. Subdivisions

- 1. None.**

B. Planned Unit Developments (PUD)

- 1. None.**

C. Site Plans

- 1. Addition to Moonshine Ridge, Revised Site Plan, 2005 Wears Valley Road, Marcus Whaley.**

Mr. Hammonds was present.

STAFF RECOMMENDATIONS

Staff said that they were proposing expanding this existing planning region business by adding a building and a pavilion. He said it was in order recommended in favor of the request.

ACTION TAKEN

Commissioner Houser made a motion to approve the request. Commissioner Marsh seconded and all voted in favor.

D. Requests for Rezoning

1. None.

E. Miscellaneous Requests or Required Actions.

1. None.

BOARD OF ZONING APPEALS

1. Call to order
1. Old business
2. New business

A. Interpretation of section 711.3.5, Warehouse Façade (Rear), Teddy Jones Property, Veterans Blvd and Lee Cardwell Circle, W.C. Whaley.

Mr. Hammond was present.

STAFF RECOMMENDATION

Mr. Taylor explained that Section 711.3.5 of the ordinance calls for trees every 15 feet around the perimeter of a warehouse with sheet metal façade. He continued that three sides of the proposed warehouse are going to be a façade type that does not need trees. However, he said the applicant is requesting that the rear of the building be sheet metal without trees. Mr.

Taylor said that the rear of the building will be against a bluff and will not be easily seen. He said there may need to be one tree closest to Veterans Boulevard, but the rest of the building will not be visible. He stated that the intent of the section was for the sheet metal not to be seen. He recommended approval of there not being trees along the rear of the building.

ACTION TAKEN

Commissioner Marsh made a motion that in this instance, trees were not necessary to meet the intent of the ordinance. Commissioner Harrell seconded and all voted in favor.

B. Request for variance to allow an accessory building in a front yard setback in an R-1 district, Lot 21 of Riverbend Acres Subdivision, No. 2, 607 Hatcher Circle, Stuart Smith.

Mr. Smith was present.

STAFF RECOMMENDATION

Mr. Taylor said that the applicant is requesting to put a 30 feet by 25 feet accessory building in front yard of his property. He said that zoning code calls for accessory building in the rear yard of properties. He said that when the house was built (likely before it came into the City), it was built to the very rear of the property. He stated that this leaves no room for him to place a shed in the rear. He continued that the house was built back much farther from the street (in front) than all the other houses in the subdivision. He showed pictures showing that the proposed building would not be very visible and in keeping with the subdivision character. He recommend in favor of the variance.

ACTION TAKEN

Commissioner Marsh made a motion to approve the variance request. Commissioner Houser seconded and all voted in favor.

C. Request for interpretation to allow a "Rooftop Restaurant – Brewery – Distillery – Winery" as a permitted use in a C-1 district, Brett Collier.

Mr. Collier and others were present for this request. The lawyers for the property owners of the proposed "Rooftop Restaurant" presented their case. They read a statement and handed out booklets to the Board. Attorney Shultz said that the zoning ordinance for C-1 only list the uses that are permitted, but not the uses that are prohibited. They said, therefore all uses are "deemed permitted" in a C-1 district including distilleries. They continued that other uses allowed in C-6 districts, such as, "distilleries" and "candy making" are allowed as "light manufacturing." He said that candy making is allowed in a C-1 district, therefore distilleries should be as well. He also stated that wineries are on the Parkway. Lastly, he said that there are places on the Parkway zoned C-6 and C-7, where a distillery can be built. He concluded by saying if the Board disagreed with his argument that they would like a variance to allow the distillery in a C-1 district.

STAFF RECOMMENDATION

City Attorney Jim Gass said that an interpretation is what they are on the agenda for, not variance, and "use" variances aren't allowed under State law. He also disagreed with many of their positions. Firstly, he said that the winery was annexed into the city as a non-conforming use and is not allowed on the Parkway under C-1 zoning. Secondly, he continued that there is not any C-6 or C-7 property on the Parkway. Lastly, he said the zoning ordinance was written where any use not listed "permitted" is deemed "prohibited." He said "hog farming" is also a use not listed as permitted and would also not be permitted in a C-1 district on the Parkway. Chairman Bradley asked if interpreting that distilleries are allowed in a C-1 district would contradict a recent decision by the Board where they interpreted that distilleries were only allowed in C-6 and C-7 districts. City Attorney Gass responded "yes." There was much discussion.

ACTION TAKEN

Commissioner Houser made a motion to deny the request to allow a distillery in a C-1 district. Commissioner Harrell seconded. Chairman Bradley took a roll vote. Commissioners Harrell, Houser, Clark, Dodgen, and Bradley voted to deny. Commissioner Marsh abstained. None voted to approve.

4. Adjournment

The meeting was adjourned at 4:00 p.m.

8/26/14

Bill Bradley, Chairman

Attest: _____