

The Special Meeting of the City Council of the City of Panama City Beach, Florida, and when permitted or required by the subject matter, the Panama City Beach Community Redevelopment Agency, conducted on January 22, 2014.

ROLL

MAYOR GAYLE F. OBERST

COUNCILORS:  
JOHN REICHARD  
RICK RUSSELL  
JOSIE STRANGE  
KEITH CURRY

CITY MANAGER:  
MARIO GISBERT  
DEPUTY CITY CLERK:  
JO SMITH  
CITY ATTORNEY:  
DOUG SALE

Mayor Oberst called the meeting to order at 9:00 A.M., with all the Council, the City Manager, Deputy City Clerk and City Attorney present.

**ITEM 1 HEARING TO CONSIDER THE CONDITIONAL USE REQUEST FOR A MULTI-USE ENTERTAINMENT FACILITY AT THE OLD PUBLIX ON 11220 HUTCHISON BOULEVARD.**

Mr. Sale said this would be a Legislative Hearing, not a Quasi-Judicial Hearing, and the Council could make Jennings Disclosures but they were not required. The applicant also did not have a right to this Conditional Use and must demonstrate that the conditions were met in order to be approved for the Conditional Use. He had distributed a copy of the new LDC section for Conditional Uses.

Councilman Reichard disclosed that he was president of two Homeowner Association Board of Directors, which are part of the Edgewater Beach Resort. Mayor Oberst said she had spoken with about fifty different people at various locations, talked with representatives of different businesses, and a number of people expressed interest in this matter. Councilwoman Strange said she deferred to Councilman Curry. Councilman Curry said he concurred with the Mayor, with his receiving a lot of phone calls and emails. Mr. Sale said, in a legislative context, that was what the Council had been elected to do.

The Mayor also entered eleven (11) different emails that she had received into the record.

Mr. Leonard said this Conditional Use application was to locate a multi-use entertainment facility on 8.5 acres at 11220 Hutchison Boulevard, and the applicant was GE/Middle Beach LLC. The Planning Board considered the request on December 9, 2013, and recommended denial six to zero (6-0). Because it involved a Conditional Use greater than three acres, the Planning Board could only make a recommendation to the City Council, with the Council making the final decision. He said the reasons for denial given by the Planning Board were: the Planning Board found that the proposed multi-use entertainment facility would not satisfy the general Conditional Use criteria, specifically #1, #2, #4, #7, #8, #9, and #10. The Planning Board also found that the wide variety of Uses and size of potential events would make it practically impossible to develop effective and legally enforceable conditions that would enable an approval recommendation. He entered the Agenda Packet into the record, which contained the Agenda, Staff Report, Application, Planning Board Meeting Minutes and Planning Board Order.

Councilman Curry asked Mr. Leonard if the application originally filed with the Planning Board had changed. Mr. Leonard said he had no written changes. The City Manager and he had met with the applicant and discussed numerous issues but nothing was written which would alter the application.

Mr. Chris Pitts, 5318 Beach Drive, said no changes had been made to the application because it had not specifically listed Uses. The application merely requested to bring a multi-use entertainment facility to the location. He said he was before Council to present his updated Conditional Use request for the property. He continued that since the last meeting, the plans and the function of the business had been adjusted to address some of the concerns of both the City and residents. Mr. Pitts said after the Planning Board meeting, they went back to the drawing board to determine what would make everyone happy with the project.

Mr. Pitts said their proposal was to take the shopping center and use the old Publix footprint, a 56,000 square feet space, and divide it into two areas. The remainder of the shopping

center would remain untouched and available for general business leasing. Of the 56,000 square feet, Mr. Pitts said they wanted to initially lease 25,000 square feet to open up a "House of Blues" concept restaurant/live music venue. The restaurant would seat 350-480 people, depending upon the configuration with two stages. Live entertainment was planned for every night, live jazz, blues, and comedy acts. The restaurant space would be divided into three areas, the main dining area and two smaller private dining areas. Mr. Pitts said the main dining area would close about 10 P.M. or 11 P.M. on week nights and 12 P.M. or 1 A.M. on the weekends.

Mr. Pitts said he believed no one questioned the restaurant portion of their plan. He met with Staff several times who advised that a Conditional Use request would not be necessary for the restaurant, as long as they met the parking requirements. He explained Phase 1, which would be the restaurant opening and operating properly.

Eventually, Mr. Pitts said they would like to take over the remaining space which they called Phase 2. This would be 31,000 square feet with 18,000 square feet proposed to be a convention/meeting space with possibly indoor sports and other similar activities. Since a location of this size would not be used daily, they had been contacted by some production companies who expressed interest in leasing short-term for a sound stage. He elaborated on the sound stage business and said this would be another potential use for that space.

Mr. Pitts said the biggest change to their original proposal was eliminating the major concert business due to the resident and City Staff concerns. By eliminating the potential concert revenue, which would have been a large portion of their business, they were able to have ten to twelve interested parties send letters of intent to use the space for film and video production in the future.

Regarding the unused building, Mr. Pitts said that since the large concerts were eliminated, this should solve the problem. He suggested that the Council approve an updated Conditional Use with restrictions. These restrictions would be limiting the capacity to 1,500 people which would eliminate a major event but still allow small to medium-size events such as conventions, meetings, etc. A major concert would only be allowed if a Special Event permit was approved. By limiting the capacity to 1,500 people, this would meet the 300 parking place requirement as well as the transportation impact. He asked if there were any questions.

Councilwoman Strange said a potential major concert would go into the other portion of the site (the convention site) and asked how many attendees would be expected. Mr. Pitts said the estimated number would be noted on the Special Event permit, with the appropriate number of security, medical personnel, etc. He continued that the event might not be a concert but rather an indoor sports event. The City would make their decision on a case-by-case basis. Councilwoman Strange questioned where an additional 5,000 people for a concert would park. Mr. Pitts said they would not do a large concert for 5,000 people, only at the most 2,500 people. With a parking plan as part of the Special Event permit, off-site parking may be necessary. He mentioned maybe at a future date buying the vacant land next door to the shopping center, the five or six acres currently for sale.

Councilman Curry said it seemed their current plan was for the restaurant to go in and be operational and then at a future date to develop the convention center area. He asked if Mr. Pitts could supply an approximate timeline. Mr. Pitts explained their problems with the concerts being delayed, a major portion of the plan, and which ultimately led to one lost investor. He said they would like to open the restaurant sometime this summer, and if not, delay until a 2015 opening. Mr. Pitts said they would have to open in phases. As they had the financial resources, they would open more than the 25,000 square feet space. The convention site would depend upon their securing outside funding. Councilman Curry said there was nothing time-sensitive where Mr. Pitts could not go ahead and build the restaurant which did not need the Conditional Use, and then later work with City Staff on the other issues. Mr. Pitts agreed and said he thought it best to continue with the process already started. If they had merely wanted to open a restaurant, there were other locations suitable for a "House of Blues" concept. They would like to move into this location if they knew they could utilize the other space as it did not make sense to him or his investors to move into this location and not be able to use the other space. He said this was a perfect location for a convention center because of its proximity to major resorts and other hotels, making it pedestrian-friendly. He said they had also considered the Wayne's World Shopping Center and in Destin.

Councilman Reichard asked what type of production companies had expressed interest in the other space. Mr. Pitts replied soundstages for television shows or movies, and depending upon the size of the production it might be leased for one or two months. He elaborated and said he had twelve interested parties. Councilman Reichard asked if the month or two would be primarily Spring Break. Mr. Pitts said companies that came to the beach to film Spring Break did

not use a soundstage, they would be on the sandy beach with the kids. Mr. Pitts said the City lacked the infrastructure to support television or movies coming here.

Councilman Russell asked how many patrons would be seated in the restaurant area. Mr. Pitts replied 350 to 480, depending upon the configuration. Mayor Oberst asked how many parking spaces were available. Mr. Pitts said approximately 320 and the parking requirements were different for restaurants as opposed to assembly with the requirement for assembly one space for every five people and restaurant one space for four people. He said the 1,500 cap would meet either requirement. Councilwoman Strange said that would be a lot of people for a restaurant. Mr. Pitts said Angelos and Captain Anderson were twice that size, with Captain Anderson seating over 700 people. He continued that the 25,000 square feet space would not entirely be the restaurant; a majority of the space would be the kitchen, backstage area, and private dining areas. The actual main dining space would be only 10,000 or 11,000 square feet, which included a raised round bar in the center. The Mayor asked for audience comments.

Mr. Lou Carroll, resident of 262 South Glades Trail, said he attended the Planning Board meeting and during that meeting, the presentation included concerts. He said on that basis, the Planning Board recommended denial. He questioned why Mr. Pitts had not gone back to the Planning Board with this new approach. Mayor Oberst responded that the City Council was considering the same information as the Planning Board. There had been no change in his request for the Conditional Use. Mr. Carroll questioned the restaurant capacity quoted in a News Herald article and Mr. Pitts said he would address that issue. Mr. Carroll said it seemed most people liked the restaurant concept, saying that was a good thing. He questioned why the restaurant could not be built now and then if a Special Event permit was needed, he could come to the City for approval. If the Council approved a Conditional Use, it would open the door for almost anything. He said he thought the Special Event permit made sense and the restaurant was a good thing.

Ms. Marilyn Weisfuss, resident of 11703 Seashore Lane in the Palm Cove subdivision, said she was concerned about concerts and conventions. She said the parking lot had 350 spaces but those would be shared by other businesses in the shopping center. She continued that Mr. Pitts had not talked about bussing in people at the Planning Board meeting. Ms. Weisfuss said she was concerned about the traffic and his potential plans for that vacant lot between her subdivision and the shopping center. That lot had trees, bushes and plants which were a buffer between Palm Cove and the shopping center and the residents would not appreciate people parking there.

Mr. Mike Thomas, resident of 148 Heather and Bay County Commissioner, said part of the property which abutted the shopping center was in unincorporated Panama City Beach. He said the County had received several emails about this project and he remarked that a lot of the writers had forgotten that they had moved to a tourist area. Commissioner Thomas said in the past few years, both the County and City had been changing the Codes in order to mirror each other better and because of those changes, the thought the City and County had a better working relationship. One problem in this District was parking because of the growth. He said parking was a horrible problem which he felt both the City and County were trying to do better in addressing. In a project like this in a shopping center, the empty buildings also had parking rights and he said he did not believe that had been considered in this request. The County had a neighborhood commercial zone and in order to have a night club, it had to be a 1000' away from a residential zoned property which would alleviate a lot of problems. Commissioner Thomas continued that a majority of the residents that abutted the property who contacted him stated that they would appreciate confirming the Planning Board's recommendation. He added that Bay County's Senior Planner, Mr. Ian Crelling, was in the audience if anyone had any questions. Mayor Oberst said Commissioner Thomas was correct in that the City and County had been working together better in the last few years.

Mr. Rolf Hunt, resident of 255 S. Glades Trail, said he could see no reason for the Council to act as the restaurant did not require a Conditional Use permit, and the ideas mentioned during this meeting lacked a timeline, specificity as to what would be done, and the project in a state of flux with investors in and out. He recommended that the City take no action on the Conditional Use permit until a specific plan was presented.

Mr. Tom Klumps, resident of 614 Poinsettia Court, said his three concerns were traffic congestion delaying and heavily impacting emergency services, traffic congestion at Beckrich and the Parkway, and the Special Event permits not allowing sufficient time for public input.

Mr. Jim Bailey, President of Edgewater and representing about 892 units, said he had spoken with many of the owners and their concern was the temptation of their amenities to be used by the extra people attracted by this venue, such as their golf course, health club, convention center, etc. He said an event with possibly 1,500 participants would only aggravate the situation. Mr. Bailey explained about the News Herald articles and the paper's owners. He said unless there were stringent enforceable conditions included in any Agreement, the owners at Edgewater would

not see this project as an asset to the neighborhood atmosphere but rather a detriment to their peace and security.

Mr. John Kittler, resident of 611 Wisteria Street, said there were no written changes to the request. For the ten requirements for Conditional Use approval, seven of the ten were not met. He questioned a potential sound stage such as Industrial Light and Magic coming, and suggested this would be an industrial use, something outside the venue of a shopping center. He also questioned a convention site being at this location. Mr. Kittler suggested that once the Council denied the use of this location for this project, to assist Mr. Pitts in locating another location for development, such as the shopping center with the closed K-Mart. This other location would have more parking, better traffic access, and a better building. Mr. Kittler said this area would not be the proper area for this project.

Ms. Barbara Vercrumbo, resident of 11810 Front Beach Road, addressed the quoted parking and said no allocation had been made for the workers within the venue. She said the workers would not be a one to five ratio.

Mr. Pitts said that removing concerts from his plans should have alleviated some of their fears. He said the request now was for a Conditional Use with enforceable restrictions and that limiting the number of people to 1,500 would meet the parking requirements. This would not be a nightclub or a business open seven days a week with 1,500 people per day. He asked for a Conditional Use which would allow a fixed number of people and if a concert was desired, they would apply for a Special Event permit. He mentioned these people would be for a convention or indoor sports, not necessarily concerts.

Chief Whitman said he had spoken with Mr. Pitts a few times and that he did not have an issue with the restaurant part of his plan, and the live entertainment was a great concept. However, his concerns were the Special Events and concerts. When Mr. Pitts mentioned applying for a Special Event permit for concerts, the anticipated crowd would range from 1500 to 2000 to 3000. The Chief was concerned for the five neighborhoods around the shopping center. Only the City Manager may block a Special Event permit; the Department's task for a permit was to ensure sufficient officers during the event. Chief Whitman said this area during the peak time of the year was congested and sometime the residents could not get to the residential areas due to traffic. He said the potential restaurant patrons and staff would bleed over into the neighborhoods and would affect Paddock Club, the Glades, Grand Panama, Gulf Highlands, Hale Avenue and Palm Cove. Chief Whitman said this would be a burden on law enforcement and the City. For any planned big event, this would not be at a slow time of year, and would utilize every law enforcement officer available. The Chief said the self-imposed restrictions were Mr. Pitts, and once the Conditional Use was approved, it would be for anyone for that property and he did not believe that area could handle the extra people. The surrounding communities in his opinion did not want the extra vehicle and foot traffic or noise.

Lt. David Jordan, Fire Inspector, said it was his duty during Spring Break to handle crowd control and concerts during that time would place a lot of pressure on emergency services for medical calls. He said adding this type venue would only add to delays. For any Special Event permit, a certain number of medical personnel were required to be on site, and the PCB Fire/Rescue worked with EMS to try to take care of the City first, then the visitors to any Special Event. With such a small Department, it would be an additional burden during Spring Break. Lt. Jordan said the City only had 31 men for the three shifts.

Mr. Ian Crelling, Sr. Bay County Planner, said he lived in the Palm Cove subdivision and that Commissioner Thomas had correctly summed up the County's concerns. He said he had received phone calls from people both inside and outside of the County about possible changes to the application, and after speaking with Mr. Leonard he was notified that there had been no written changes to the application. He said as far as the County was concerned, with no changes to the application, they recommended denial of the request.

Mayor Oberst said the Council was voting on the Conditional Use request as submitted to the Planning Board which had been denied. She said there was a procedure for changes but that was not the issue today.

Mr. Pitts said he could not see any reason why the Conditional Use request could not be approved with the restrictions in place and potential black-out dates. He said Aaron Bessant Park had been a controversial issue for a long time but it eventually was approved with restrictions which were good for the community and the tourists. He said the beach needed a development like this to keep visitors and locals entertained.

Mayor Oberst said there was a procedure to make changes to his application and what the Council would rule on today was what had been submitted to the Planning Board. She said if something else needed to go to the Planning Board, he should contact City Staff and take the information back to the Planning Board. Mr. Pitts said his application did not mention concerts or

any specifics. His application merely requested a multi-purpose convention and meeting space and a restaurant. Mayor Oberst said that he was now asking for a Conditional Use with restrictions and that there were no restrictions on this request. Once a Conditional Use was granted, the applicant could do whatever was allowed within that Use. She said if Mr. Pitts wanted, he could go back to the Planning Board and reapply with those restrictions, then work with City Staff. Mr. Pitts said he did not realize that should be the route to take but said he did not see why the Conditional Use with verbal restrictions could not be approved today. Mayor Oberst said the Council would not do so during a Public Meeting. She continued that Mr. Pitts could build the restaurant as it was already zoned properly. Regarding his Conditional Use request, the Council would be voting on that issue shortly.

Councilwoman Strange said she lived in a neighborhood impacted by an entertainment venue, Aaron Bessant Park, and she understood everyone's fear. She said she thought what concerned everyone was the vagueness of his project. She said if he went back to the Planning Board and resubmitted his application with restrictions, it might be more favorably accepted. At least with this location with four-lane highways, there were numerous avenues for the traffic to be dispersed. She said the Council did not want to deny someone from making a living but it was the general vagueness and too open-ended regarding the impact on the residents.

Councilman Reichard said Aaron Bessant Park was on State land and operated by the City's Park and Recreation, answerable to the City Council, which would allow more control over venues and the day-to-day operations.

Councilman Curry encouraged Mr. Pitts not to give up in that he liked the ideas and concepts mentioned during the meeting. He said the Council was very pro-business and not against approving a Conditional Use but the document before them today stated specifically that some events may have 3,000 attendees. That was in black and white and upon what the Council would rule. Councilman Curry said Mr. Pitts should vet his plan with City Staff and the residents and bring back a plan which would not only be profitable for his investors but also palatable for the residents and Council.

Mr. Pitts said the 3,000 number had been submitted by Staff, not on his application. He said his application was only for a multi-use entertainment facility and that number had been mentioned during early conversations with Staff. He said his request was very generic. The Mayor asked if there were any further questions. **Councilman Reichard made the motion to deny the Conditional Use request as written. Second was by Councilman Russell.** The Mayor called for comments

Mr. Sale asked Councilman Reichard if his motion to deny was based upon the recommendation from the Planning Board and for the reasons articulated by the Planning Board. Councilman Reichard replied affirmatively. The Mayor added that the Council would love to see the building occupied and thought the restaurant would be a great idea. However, this issue was the Conditional Use and once granted it could become anything; the Council did not want to put the residents into that situation nor put the City Staff into the position of trying to figure out how to handle this matter. **With nothing further, the motion passed by unanimous roll call vote recorded as follows:**

<b>Councilman Russell</b>	<b>Aye</b>
<b>Councilwoman Strange</b>	<b>Aye</b>
<b>Councilman Curry</b>	<b>Aye</b>
<b>Councilman Reichard</b>	<b>Aye</b>
<b>Mayor Oberst</b>	<b>Aye</b>

The meeting was adjourned at 10:25 A.M.

READ AND APPROVED this 27th of February, 2014.

**IN THE EVENT OF A CONFLICT BETWEEN THE FOREGOING MINUTES AND A VERBATIM TRANSCRIPT OF THESE MINUTES, THE FOREGOING MINUTES SHALL CONTROL.**

  
Mayor

ATTEST:

  
City Clerk

Special Meeting-Hearing  
January 22, 2014