

COMMISSION MEETING CITY OF ST. PETE BEACH

155 Corey Avenue

Monday, November 10, 2008

6:30 PM

Call to Order
Pledge of Allegiance
Invocation
Roll Call

AGENDA MEETING

All items on the Consent Agenda will be enacted by one motion at the Regular Meeting. Items may be removed for discussion, changes, and/or anticipation of a non-unanimous vote and considered separately at the Regular Meeting on the request of anyone on the Commission or by a majority vote of the City Commission upon request of an audience member

REGULAR MEETING

- 1. Presentations**
 - a. Impact Fee Special Assessment - Bryant Miller Olive**
- 2. Audience Comments**
- 3. Consent**
 - a. Pinellas Planning Council recommended appointment - Commissioner Al Halpern**
 - b. Resolution 2008-30, reappointing John Elias, Esq. as the Parking Citation Hearing Officer, Administrative Appeals Hearing Officer and the Special Magistrate for the City's Code Enforcement Division.**
- 4. Ordinances**
 - a. Ordinance 2008-42, First Reading and Public Hearing, creating a policy that governs actions and deliberations during City Commission meetings in order to maintain decorum**
 - b. Ordinance 2008-43, First Reading and Public Hearing, amending Division 1 of Article III, Chapter 82, Section**

82-137 of the Code of Ordinances; as it relates to stopping, standing or parking of vehicles.

- c. Ordinance 2008-44, First Reading and Public Hearing, providing a supplemental appropriation for fiscal year 2008 to the General Fund in the amount of \$134,251 as well as a reallocation of expenditures between departments and a supplemental appropriation to the Wastewater Fund in the amount of \$340,000 and providing for funding.**

5. Action Items

- a. Case 20080009A - Conditional Use review for an existing outdoor restaurant, commercial recreation facility and parking variance at 687 75th Avenue, 7417 & 7407 Sunset Way and vacant property located at the northeast corner of Sunset Way and Corey Avenue (Philthy Phil's Restaurant).**

6. City Manager, City Attorney and City Commission Reports

7. Adjournment

APPEALS

If a person decides to appeal any decision made at this hearing, they will need a record of the proceeding and, for such purpose, may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based. (F.S. 286.0105) The City does not furnish verbatim transcripts; interested parties should make the necessary arrangements for verbatim transcripts.

Agenda Material is available for review at City Hall on the Friday preceding the meeting. In accordance with the Americans with Disabilities Act and F.S. 286.26, persons with disabilities needing special accommodation to participate in this proceeding should contact Ed Pickhardt at (727) 363-9243 no later than four (4) days prior to the proceeding for assistance.

**St. Pete Beach City Commission
Agenda Report**

Issue Considered: Pinellas Planning Council recommended appointment
– Commissioner Al Halpern

Date: November 10, 2008

Prepared By: Mike Bonfield, City Manager *MB*

Summary of Issue: Commissioner Halpern has expressed his desire to
serve on the Pinellas Planning Council.

Requested Motion: “I move to recommend that Commissioner Al Halpern
be appointed to the Pinellas Planning Council.”

Attachments: N/A

**St. Pete Beach City Commission
Agenda Report**

Issue Considered: Resolution 2008-30, reappointing John Elias, Esq. as the Parking Citation Hearing Officer, Administrative Appeals Hearing Officer and Special Magistrate for the City's Code Enforcement Division.

Date: November 10, 2008

Prepared By: Michael P. Bonfield, City Manager

Summary of Issue: Pursuant to the requirements of Chapter 82 of the Code of Ordinance, Traffic and Vehicles, the City Commission appoints an attorney to hear parking citation cases. Also, pursuant to the requirement of Section 22-274, Special Magistrate, qualifications and removal, at the discretion of the City Manager any Special Magistrate may be reappointed or removed with or without cause. The reappointment shall be made for a term of one year. The current Special Magistrate for the city's code enforcement division is Mr. John Elias, Esq. This resolution reappoints Mr. Elias as the parking citation hearing officer, Administrative Appeals Hearing Officer and Special Magistrate.

Requested Motion: "I move to approve Resolution 2008-30 (read title)."

Attachments: Resolution 2008-30

RESOLUTION 2008-30

A RESOLUTION OF THE CITY OF ST. PETE BEACH, PINELLAS COUNTY, FLORIDA, REAPPOINTING JOHN ELIAS, ESQ AS THE PARKING CITATION HEARING OFFICER, ADMINISTRATIVE APPEALS HEARING OFFICER AND SPECIAL MAGISTRATE

The Board of Commission of the City of St. Pete Beach, Pinellas County, Florida at a regular meeting held on Tuesday November 13, 2007, resolves as follows:

WHEREAS, the City Code of Ordinance, Chapter 82, Traffic and Vehicles provides for a parking citation hearing officer; and

WHEREAS, Section 22-274, Special Magistrate, qualification and removal allows for the reappointment or removal with or without cause of a Special Magistrate; and

WHEREAS, Division 3, Section 3.14(e), provides for an administrative appeals hearing officer.

NOW, THEREFORE, the City Commission of the City of St. Pete Beach, Pinellas County, Florida DOES RESOLVE:

1. The Parking Citation Hearing Officer shall be John Elias, Esq.
2. The Administrative Appeals Hearing Officer shall be John Elias, Esq.
3. Mr. John Elias, Esq. shall be reappointed as the city's Special Magistrate for the city's code enforcement division.

INTRODUCED AND PASSED by the City Commission of St. Pete Beach, Pinellas County, Florida on this 10th day of November 2008.

Michael Finnerty, Mayor

ATTEST:

Theresa McMaster, City Clerk

**St. Pete Beach City Commission
Agenda Report**

Issue Considered: Ordinance 2008-42, creating a policy that governs actions and deliberations during City Commission meetings in order to maintain decorum

Date: November 10, 2008

Prepared By: Mike Bonfield, City Manager

Summary of Issue: At the October 14th City Commission meeting the City Attorney was instructed to provide the attached ordinance to address actions and deliberations during City Commission meetings.

Requested Motion: “I move to approve Ordinance 2008-42. . . (read title).”

Attachments: Ordinance 2008-42

ORDINANCE 2008-42

AN ORDINANCE OF THE CITY OF ST. PETE BEACH, FLORIDA CREATING A POLICY THAT GOVERNS ACTIONS AND DELIBERATIONS DURING CITY COMMISSION MEETINGS IN ORDER TO MAINTAIN DECORUM; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is necessary that the City approve a policy of decorum that governs actions and conduct at Commission meetings to maintain order and ensure public deliberations and actions are conducted in an atmosphere free of hostility; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. BALANCE OF RIGHTS AND DECORUM. The City is afforded the means to ensure that individual's right to participate in a public meeting is balanced with maintaining decorum during that meeting. The right of the individual to express his or her thoughts will generally prevail over restrictions on public participation.

SECTION 2. CITIZENS TO BE HEARD BEFORE THE COMMISSION. Each person who wishes to address the Commission under Citizens To Be Heard shall complete a citizen's comment card and submit the card to the Commission Secretary.

A. Any person desiring to address the Commission shall first secure the permission of the presiding officer to do so.

B. The remarks of each speaker are limited to three (3) minutes. The presiding officer shall be responsible for tolling the time and advising the speaker when their time has run out. When the speaker's time is finished he or she shall leave the lectern.

C. Discussion cannot include issues on the agenda or previously acted on by the Commission. If the matter was not listed on the meeting agenda, the members of the Commission must limit their participation to listening to the speaker and asking questions of the speaker and/or appropriate City staff for clarification only. Under no such circumstances may the Commission discuss or take any action on matters presented under such circumstances.

D. Each person addressing the Commission shall step up to the microphone and shall give his or her name and address in an audible tone of voice for the records; such person, however, shall be entitled to speak one time only on any one subject unless further time is granted by the presiding officer.

SECTION 3. ADDRESSING THE COMMISSION.

A. When the person's name is called, the person shall approach the speaker's lectern and shall give the following information in an audible tone of voice for the minutes:

1. Name; whether they reside in the City, and if not, which City, or whether they reside in the unincorporated area;

2. If requested by the presiding officer, the person may be required to state whether the person speaks for a group of persons or a third party, if the person represents an organization, whether the view expressed by the person represents an established policy or position approved by the organization and whether the person is being compensated by the organization.

B. All persons shall provide a place of residence or business address in writing prior to speaking.

C. All remarks shall be addressed to the Commission as a body and not to any member thereof. No person other than the Commissioners and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Commission, without the permission of the presiding officer. No questions shall be asked a Commissioner except through the presiding officer.

D. No person, other than a member of the Commission, and the person having the floor, may be permitted to enter into an discussion, either directly or through a member of the Commission, without the permission of the presiding officer. No question may be asked except through the presiding officer.

E. Speakers should make their comments concise and to the point, and present any data they wish the Commission to consider.

SECTION 4. SIGNS, PLACECARDS, BANNERS. For public safety purposes, no signs or placecards mounted on sticks, posts or similar structures shall be

allowed in the City Commission meeting rooms. Other signs, placecards, banners, shall not disrupt meetings or interfere with others' visual rights.

SECTION 5. DECORUM.

A. While the Commission is in session, the members must preserve order and decorum and a member will neither, by conversation nor otherwise delay or interrupt the proceedings or the peace of Commission or disturb any member while speaking or refuse to obey the orders of the Commission or the presiding officer, except as otherwise permitted herein.

B. All those in attendance must be respectful of others' opinions and refrain from making personal attacks. Any person who becomes disorderly or who fails to confine remarks to the identified subject or business at hand shall be cautioned by the presiding officer and given the opportunity to conclude remarks on the subject in a decorous manner and within the designated time limit. Any person failing to comply as cautioned may be barred from making any additional comments during the meeting by the presiding officer, unless permission to continue or again address the Commission is granted by the majority of the Commission members present.

C. If the presiding officer or the Commission declares an individual out of order, he or she may be requested to relinquish the podium. If the person does not do so, he or she may be subject to removal from the Commission Chamber or other meeting room, and barred from future appearance before the Commission.

D. Any person barred from further appearance before the Commission by the presiding officer shall remain in that status, unless permission to continue or again address the Commission is granted by the majority vote of the Commission members present.

E. Clapping, applauding, heckling or verbal outbursts in support or opposition to a speaker or his or her remarks shall be discouraged. Persons exiting the Commission Chamber shall do so quietly.

F. The City Commission reserves the right to designate the placement of video, still or phone cameras within the commission chamber to minimize disruptions at the public meeting. The use of cell phones in the Commission Chamber is not permitted. Ringers must be set to silent mode to avoid disruption of proceedings. Individuals, including those on the dais, must exit the Commission Chamber to answer incoming cell phone calls.

SECTION 6. ENFORCEMENT OF DECORUM. The Mayor, or anyone acting in his or her stead, shall preserve order and decorum, prevent clashes of personalities or the impugning of members or motives, confine members in debate to the question under discussion and shall decide all points of order to an appeal to the Commission. The Chief of Police, or such member or members of the St. Pete Beach Police Department as the Chief of Police so designates, shall be the Sergeant-at-Arms of the Commission meetings. He, or they, will carry out all orders and instructions given

by the presiding officer for the purpose of maintaining order and decorum of the Commission meetings.

PASSED AND DULY ADOPTED, with a quorum present and voting, this ____ day of _____, 2008.

FIRST READING: _____, 2008

PUBLISHED: _____, 2008

CITY OF ST PETE BEACH, FLORIDA, BY AND THROUGH THE CITY COMMISSION OF THE CITY OF ST PETE BEACH.

By: _____
Michael Finnerty, Mayor

ATTEST:

By: _____
Teri McMaster, City Clerk

**St. Pete Beach City Commission
Agenda Report**

Issue Considered: First Reading of Ordinance 2008-43, amending Division 1 of Article III, Chapter 82, Section 82-137 of the Code of Ordinances; as it relates to stopping, standing or parking of vehicles.

Date: November 10, 2008

Prepared By: Dan O'Connor, Administrative Services Supervisor

Through: David Romine Chief of Police

Summary of Issue: The attached ordinance amends Section 82-137 of the Code of Ordinances related to restricted parking zones throughout the City.

The amendments are as follows:

Section 82-137(c): Adds 58th. Avenue.

Section 82-137(o): Adds Boca Ciega Isle Drive.

Section 82-137(s): Changes the 15 spaces along the North side of the Don Vista Center from 30 Minute Parking to Don Vista Event Only Parking.

Parking Maps to be updated upon passage.

Requested Motion: "I move for the adoption of Ordinance 2007-35 . . . (read title)."

Attachments: Ordinance 2008-43

Reviewed By:
City Manager: _____

ORDINANCE NO. 2008-43

AN ORDINANCE OF THE CITY OF ST. PETE BEACH, FLORIDA PROVIDING FOR AMENDMENT OF SUBSECTIONS (c), (o), AND (s) OF SECTION 82-137 OF DIVISION 1 OF ARTICLE III OF CHAPTER 82 OF THE CODE OF ORDINANCES, PERTAINING TO STOPPING, STANDING AND PARKING OF VEHICLES; PROVIDING FOR PARKING RESTRICTIONS ON SPECIFIC STREETS AND PARKING LOTS; PROVIDING FOR AMENDMENT OF THE CITY PARKING MAPS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HERewith, TO THE EXTENT OF SUCH CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission wishes to improve the traffic and parking control regulations pertaining to city streets and city controlled parking areas within the city; and

WHEREAS, the City Commission has found this ordinance to be in the best interest of the health, safety and welfare of the citizens of the city;

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA DOES HEREBY ORDAIN:

SECTION 1. Subsection (c) of Section 82-137 of Division 1 of Article III of Chapter 82 of the Code of Ordinances, pertaining to stopping, standing and parking of vehicles, is hereby amended thereto as follows:

(c) The following city streets shall require a “D” permit for parking at any time everyday on one side of the street, as designated on the city parking maps:

11th Avenue between Gulf Way and Pass-A-Grille Way;
21st Avenue between Gulf Way and Pass-A-Grille Way;
23rd Avenue between Sunset Way and Pass-A-Grille Way; and
4 parking spaces on the south side of West Maritana Drive east of Casablanca Avenue.

58th. Avenue between Gulf Blvd. and the east end of 58th. Avenue.

SECTION 2. Subsection (o) of Section 82-137 of Division 1 of Article III of Chapter 82 of the Code of Ordinances, pertaining to stopping, standing and parking of vehicles, is hereby amended thereto as follows:

(o) Parking on each side of the following city streets shall be prohibited at any time, as designated on the city parking maps:

Pass-A-Grille Way between 13th Avenue and 32nd Avenue;
14th Avenue to 20th Avenue between Pass-A-Grille Way and the east end;
30th Avenue to 31st Avenue between Sunset Way and Pass-A-Grille Way;
2nd Street West;
Cabrillo Avenue;
West Maritana Drive between Casablanca Avenue and Alahambra Street;
Belle Vista Drive between 44th Avenue and Belle Vista Drive East;
44th Avenue between Gulf Boulevard and Moody Street;
45th Avenue between Gulf Boulevard and 2nd Street East;
Punta Vista Drive;

Boca Ciega Isle Drive between Plaza Way and 520 Boca Ciega Isle

Drive;

52nd Avenue between Gulf Boulevard and the beach;
55th Avenue between Gulf Boulevard and Leilani Drive;
Aloha Drive;
59th Avenue between Gulf Boulevard and Bimini Way;
Sunset Way between 70th Avenue and 71st Avenue; and
1st Street East between Lido Drive and 45th Avenue.

SECTION 3. Subsection (s) of Section 82-137 of Division 1 of Article III of Chapter 82 of the Code of Ordinances, pertaining to stopping, standing and parking of vehicles, is hereby amended thereto as follows:

(s) Parking on the following city streets and parking lots shall be limited as hereafter designated, as shown on the city parking maps:

Lazarillo Park - Parking shall be for park users only;
Lido Park - 45th Avenue Lot- Parking shall be for park users only;
Lido Park - 46th Avenue Lot- Parking shall be for park users only,
with the exception of 4 parking spaces designated “B” Permit
Required from 9:00a.m to 5:00 p.m.;
Don Boat Ramp – “D” Permit or “B” Permit required with attached boat
trailer, or any vehicle with attached boat trailer subject to payment of
designated parking fee from 8:00 a.m. to 8:00 p.m.;
County Park – Parking is subject to payment of designated parking fee at
any time;
44th Avenue Parking Lot – Five Parking Spaces designated “B”, “D”, or
“E” Permit required; Two Parking Spaces designated “B” Permit Required
“3”Hour Limit; One parking spaces designated “3”Hour Limit.
McKinney Park - Parking shall be for park users only;
Sunset Park - “B” Permit required from 9:00 a.m. to 5:00 p.m. on the
waterfront side;
Egan Park / Captiva Circle
North side: No parking
East side: 1 waterfront parking space designated “Car parking
only”; 16 waterfront parking spaces designated “Vehicle with

attached boat trailer only” and subject to payment of designated parking fee at anytime. Parking fee and vehicle with boat trailer attached restriction waived during adult softball games for the 6 southernmost waterfront spaces.

South Side - East end of Captiva Circle:

4 parking spaces designated “No vehicle with boat trailer attached parking at anytime”.

South Side of Captiva Circle – designated “No Parking Anytime”.

Egan Park gravel parking lot- “B” permit required for Vehicle with attached boat trailer”.

Don Vista Parking Lot –

South side: Don Vista event parking only, and

North side: ~~30 minute parking~~ **15 Spaces, Don Vista event parking only.**

SECTION 4. The City Parking Maps, attached and incorporated into Ordinance 07-18 shall be amended as provided in this Ordinance.

SECTION 5. If any portion, part or section of this ordinance is declared invalid, the valid remainder hereof shall remain in full force and effect.

SECTION 6. All ordinances or parts of ordinances, in conflict herewith, are hereby repealed, to the extent of such conflict.

SECTION 7. This Ordinance shall become effective immediately upon final passage as provided by law.

Mike Finnerty, MAYOR

FIRST READING : _____

PUBLISHED : _____

SECOND READING : _____

PUBLIC HEARING : _____

I, Theresa B. McMaster, City Clerk of the City of St. Pete Beach, Florida, do hereby certify that the foregoing Ordinance was duly adopted in accordance with the provisions of applicable law this _____ day of _____, 2007.

Theresa B. McMaster, City Clerk

**St. Pete Beach City Commission
Agenda Report**

ISSUE CONSIDERED: Ordinance 2008-44 providing a supplemental appropriation for fiscal year 2008 to the General Fund in the amount of \$134,251 as well as a reallocation of expenditures between departments and a supplemental appropriation to the Wastewater Fund in the amount of \$340,000 and providing for funding.

DATE: November 10, 2008

PREPARED BY: Elaine Trehy, Finance Director

SUMMARY OF ISSUE: First reading of Ordinance 2008-44 provides a supplemental appropriation to General Fund. Additional monies were received from the State of Florida for the police and fire pension funds respectively. The money received is a 100% pass-thru and must be paid to the pension funds. These costs are reflected in the police and fire budgets. Additionally, recreation revenue for instructor fees is decreased \$26,100 with a corresponding decrease in contract fee expenditures. The original budget was based on the City receiving 100% of the instructor fees and paying 75% to the instructors. The payment method has been changed to the instructor receiving 100% of the fees and remitting 25% to the city as revenue.

Budgeted expenditures have been adjusted between departments to accommodate overages in legal fees and the police department budgets. Extra legal fees exceed the amount budgeted by \$100,000. This additional cost was partly funded by elimination of the fireworks display for the fourth of July of \$20,000. The balance of \$80,000 is funded by a transfer from the City Manager's budget. The police department over-expended their budget by \$75,000. This amount is also being funded by a transfer from the City Manager's budget for the same amount. The additional money available in the City Manager's budget is a result of monies unexpended for general liability and workers compensation insurance coverage.

The budgeted adjustment for the Wastewater Fund is necessary to fund an increase in the Wastewater Treatment Expense in the amount of \$430,000. Part of the increased costs has been offset by savings in other line items of the budget thereby reducing the required additional funding to \$340,000. This amount is funded by a loan from the General Fund since there is no fund balance available in the Wastewater fund.

REQUESTED MOTION: "I move to approve on final reading, Ordinance 2008-44, (read title)...

ATTACHMENTS: Ordinance 2008-44

**REVIEWED BY
CITY MANAGER:**

ORDINANCE 2008-44

AN ORDINANCE OF THE CITY OF ST. PETE BEACH, FLORIDA PROVIDING A SUPPLEMENTAL APPROPRIATION TO THE GENERAL FUND AND THE WASTEWATER FUND FOR FISCAL YEAR ENDING SEPTEMBER 30, 2008; PROVIDING FOR FUNDING; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, notice of this ordinance has been provided in accordance with applicable law:
and

WHEREAS, estimated revenues and expenditures are provided in Ordinance 2007-29, Budget Ordinance; and

WHEREAS, the authority for appropriation amendments is provided in Article III, Section 3.13 (a) of the City Charter; and

WHEREAS, the City Commission wishes to provide an additional appropriation in the amount of \$134,251 in the General Fund and \$340,000 to the Wastewater Fund; and

WHEREAS, transfers between departments are necessary to fund the expenditures for legal fees and the police department budgets.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, PINELLAS COUNTY, FLORIDA, HEREBY ORDAINS:

Section One. For the General Fund, the amount of \$46,090 is appropriated to account 5701.521.5225 Police Department Pension State Funds offset by an increase in revenue account 335.240 State Excise Tax Police Pensions of \$46,090. The amount of \$114,261 is appropriated to account 5801.522.5225 Fire Department Pension State Funds offset by an increase in revenue account 335.230 State Excise Tax Fire Pensions of \$114,261. A decrease in revenue account 347.240 Recreation fees – Instructors offset by a decrease in expenditure account 6106.572.5310 Recreation Division Professional/Contractual Services for payments to instructors. An increase to account 5301.514.5315 Extra Legal Fees of \$100,000 offset by a decrease to Recreation Other Expenses of \$20,000 and a decrease to account 5201.512.5450 City Manager Department Insurance of \$80,000. An increase to account 5701.521.5529 Police Department Operating Supplies of \$75,000 offset by a decrease to account 5201.512.5450 City Manager Department Insurance of \$75,000.

Section Two. For the Wastewater Fund, the amount of \$340,000 is appropriated to account 6107.535.5434 Wastewater Treatment to be funded by a loan from the General Fund of \$340,000.

Section Three. This ordinance shall become effective upon final passage.

MICHAEL FINNERTY, MAYOR

FIRST READING : _____
PUBLISHED : _____
SECOND READING : _____
PUBLIC HEARING : _____

I, Theresa B. McMaster, City Clerk of the City of St. Pete Beach, Florida, do hereby certify that the foregoing Ordinance was duly adopted in accordance with the provisions of applicable law this _____ day of _____, 2008.

Theresa B. McMaster, City Clerk

**ST. PETE BEACH CITY COMMISSION
AGENDA ITEM REPORT**

ISSUE CONSIDERED: Case 20080009A

DATE: November 10, 2008

PREPARED BY: Anne Marr, Zoning Official

SUMMARY OF ISSUE: Conditional use review for an existing outdoor restaurant, commercial recreation and parking variance at 687 – 75th Avenue, 7417 & 7407 Sunset Way & vacant property northeast corner Sunset Way & Corey Avenue – Philthy Phil's Restaurant.

At the 10/28/08 City Commission meeting, several Commissioners expressed concern about the parking variance. The applicant was to provide a modified parking proposal. To date, this has not been received and it is assumed it will be presented at the meeting.

**REQUESTED
MOTION:**

I move to (***approve or deny***) the request for a modification of an existing lawful Conditional Use for an outdoor restaurant to increase the outdoor restaurant seating area with 75 seats to be located on the spectator area, per the submitted plans.

Staff suggested condition: (approve or deny) a 6.0' wide planted landscape buffer or 6.0' high fence to be located along the entire east property line.

I move to (***approve or deny***) the request for a variance to Section 23.5(a) requirement of an additional 22 parking spaces

ATTACHMENTS: Plans and staff summary

CONDITIONAL USE/VARIANCE APPLICATION

CASE NO. 20080009A

Applicant: John Bodziak

Owner: 876 – 75th Ave St Pete Bch LLC

Property: 687 – 75th Avenue, 7417 & **Lot area:** N/A
7407 Sunset Way &
vacant property northeast
corner Sunset Way &
Corey Avenue

Request: Request a variance to Section 23.5(a) requirement of an additional 22 parking spaces.

Request a modification of an existing lawful Conditional Use for an outdoor restaurant to increase the outdoor seating area.

GENERAL INFORMATION:

FLUP map category: CG

Current zoning: CG2

Current use: Commercial

Proposed use: Commercial

Surrounding properties:

Location:

	Zoning:	Land use:
North:	CG2	Commercial
South:	CG2	Commercial

East:	CG2	Commercial
West:	CG2	Commercial

COMMENTS AND INFORMATION:

The applicant had previously received approval with conditions, see attached Development Order. A modified site plan has been submitted which deviates from the original approval. The plan is being presented to the City Commission to review and consider approval, approval with conditions or denial of the modified proposal. Staff has included the original approved site plan to better understand how the new plan differs from the original approval.

As originally presented, the applicant is requesting to install a commercial recreation use and expand the outdoor restaurant seating area. The commercial recreation shall involve the installation of 2 sand volleyballs courts and the proposed spectator area will also be utilized as outdoor seating for the restaurant. Modifications include relocating the volleyball courts approximately 54.0' to the south, increasing the size of the spectator area to include a roof covering, addition of restrooms, walk in cooler, food preparation area and a serving bar. A detached (future) tiki hut had been indicated, but has been removed from the current proposal.

The spectator area was proposed to be 1,860 sq. ft. in area. The modified plan indicates the spectator area shall be 3,989 sq. ft. (roofed area) which includes the new indicated amenities (restrooms, walk in cooler, bar and food preparation area). A variance of 17 parking spaces was previously granted, however, with the increase in the spectator area, additional parking would be required. The approximate increase of 2,129 sq. ft. of area would require an additional 22 parking spaces. As part of the previous approval, a "parking agreement" with the Beach Shack was required and the agreement should be modified to sufficiently address the necessary increase to the parking requirements.

The current restaurant is licensed for 146 seats and was increasing seating by an additional 30 seats on the spectator area. A total of 176 seats was proposed. The applicant has provided a seating plan indicating the increase from the original approved 30 seats for the spectator area. The new seating plan proposed by the applicant would be a total of 75 seats, which is an increase of 45 seats from the original 30 seats proposed for the spectator area. The new total for the entire site would be 221 seats.

The proposed covered stairwell is new and is intended to replace the existing uncovered stairway located on the southern side of the structure. The proposed stairwell was not indicated on the previous site plan. Handicap access shall be required to the second floor.

Within the CG2 zoning district the setbacks are determined through the site plan process. The proposed structures for the spectator/service area are approximately 8.0' from the rear property line (east boundary) and the proposed new stairwell indicates a 0.0' front yard setback (west boundary). The existing primary structure is currently situated on the property line and the covered stairwell is intending to utilize the same building line. Staff has determined that there is no issue regarding height or floor area ratios.

Impervious area is being reduced with the removal of existing structures and concrete areas. Pervious area is being increased to meet or exceed the requirements.

Landscaping is being included where none currently exists. Staff recommends that the applicant provide a landscape or fence buffer on the east property line to mitigate impact to adjacent properties. Since the amenities are 8.0' from the property line staff feels that a buffer would be a reasonable request.

Lighting is proposed and will be shielded to prevent spillage into adjacent properties.

Sec. 4.3. Compliance requirements.

(a) The city, as a further condition to approval of an application for a conditional use permit, may require financial guarantees or other such guarantees as may be reasonably necessary to insure compliance with the terms and conditions of its approval.

(b) In instances where no additional construction is necessary to implement the conditional use failure to obtain an occupational license for the approved conditional use within six months from the date of approval of the conditional use permit shall invalidate the approval, unless a shorter compliance period is required by the city.

(c) Where construction is necessary prior to the operation of the conditional use, failure to obtain a building permit within 12 months of the date of approval of an application for a conditional use permit, shall invalidate the approval. A shorter compliance period may be required by the city commission.

(1) An occupational license shall be obtained within 30 days of the issuance of the certificate of occupancy for the necessary construction.

(2) Failure to maintain continual construction, as defined in Division 2 of this ordinance, shall void any building or other development approval granted in connection with the project. If construction activity ceases at any time after the zoning lot has been cleared of vegetation, the owner shall be required to reclaim the site in accordance with section 22.3(g) of this division.