



## MEMORANDUM

**TO:** Mayor and Aldermen  
**FROM:** Rob Hernandez, City Manager  
**DATE:** April 23, 2019  
**SUBJECT:** Agenda Item #11 - Zoning Ordinance Regarding Nonconforming uses at 321 Habersham Street (Petitioner: Robert L. McCorkle for the Fox & Fig, LLC)

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Mayor and Aldermen,

During the previous two weeks I have had staff conduct a thorough review of the history and background of this item. If this zoning item is approved by Council, the business would then be entitled “by right” to apply for an additional alcohol license for “beer” in conjunction with their current wine license. Below is a product of the research:

“It appears that Harold Yellin and/or his client decided that obtaining a “wine only” ABL was the path of least resistance in 2004. They filed a text amendment and then a rezoning in 2004. The rezoning reached City Council in 2004, but was subsequently withdrawn before a second Zoning Hearing. The 2004 and 2005 Minutes indicate that former City Manager Michael Brown was in favor of the text amendment for “wine only” and Council agreed in 2005.

- Rezone 321 Habersham St from RIP-A-1 to RIP-D:
  - File # Z-040903-39011-2;
  - 1964:
    - Area bounded by Lincoln, Liberty, Price and Jones had land use controls through an Urban Renewal Plan that expired in 1984;
    - Predominantly residential area.
  - 1984:
    - Area bounded by Lincoln, Liberty, Price and Jones rezoned from R-U (Residential Urban) to RIP-A-1, which is the only RIP-A-1 Zoning District in the City.
  - Prior to 2005
    - Troup Square Café at 321 Habersham St
  - October 24, 2004 - City Council Zoning Hearing:
    - Rezone the property so that the restaurant would become conforming as it is not permitted in the RIP-A-1 and to sell wine only;

- Harold Yellin told City Council that his clients wanted to sell wine only with a meal. *“He believed this is significant because it underscores the idea that the petitioners want to have a neighborhood café; not a bar, not a tavern, but a neighborhood café”*;
  - 11 pages long (4-14);
  - Continued to December 9, 2004.
- December 9, 2004 - City Council Zoning Hearing:
  - Harold withdrew the petition.
- Text Amendment:
  - File # Z-040702-37207-2;
  - February 15, 2005 - City Council Zoning Hearing:
    - Allows the sale and consumption of wine at the restaurant
    - 30 pages long (10-39)
  - March 3, 2005 – City Council First Reading:
    - Amend Article F - Nonconforming Uses Sec. 8-3134
      - Allows a nonconforming restaurant in the RIP-A-1 Zoning District to sell and serve wine, by the drink, subject to conditions;
      - 321 Habersham St is the only nonconforming restaurant in the RIP-A-1 Zoning District.
    - Pages 11-14.
  - March 16, 2005 – City Council Second Reading:
    - Pages 4-6.
- Alcoholic Beverage License
  - March 31, 2005: Firefly Café was first licensed at 321 Habersham St. They were approved for a retail wine-by the drink license with Sunday sales. There is a memo in the file from March 2005 that references the RIP-A-1 zoning district and the conditions for that district, which were attached as a condition to the licensing.
- At least one text amendment to Article F - Nonconforming Uses Sec. 8-3134 has been approved since 2005.