

ORDINANCE NO. 99-18

AN ORDINANCE OF THE CITY OF COMMERCE, TEXAS, AMENDING THE ZONING ORDINANCE, DESIGNATING A PERMITTED CONDITIONAL USE FOR LOCATION OF A PRIVATE CLUB WITH DINING IN ALL ZONED AREAS EXCEPT RESIDENTIAL; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE, TEXAS:

WHEREAS, the Planning and Zoning Commission held a meeting June 22, 1999, a copy of the minutes are attached and marked Exhibit "A" recommending the City of Commerce Zoning Ordinance be amended by allowing a Private Club with Dining be allowed in all zoned areas except residentially zoned areas, with a Conditional Use Permit; and

WHEREAS, after careful consideration by the City Council it has been determined that it is in the best interest of the City of Commerce that the City of Commerce Zoning Ordinance be amended to allow a Private Club with dining be allowed in all zoned areas except residentially zoned areas, with a Condition Use Permit.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE, TEXAS:

SECTION 1. That Section 10-206 titled *Schedule of Uses: Food and Beverage Service* of the Zoning Ordinance, City of Commerce, Texas is hereby amended by allowing a Private Club with Dining to be put in the following zoned areas, with a Conditional Use Permit: Neighborhood Services (NS), Shopping Center District (SC), General Business (GB), Central Area (CA), Heavy Commercial (HC), Light Industrial (LI), Heavy Industrial (HI) and Planned Development (PD).

SECTION 2. That Section 10-300 titled *Definitions and explanations applicable to Use Schedule* of the Zoning Ordinance, City of Commerce, Texas, be amended by adding the definition of a Private Club with dining to read as follows:

(58b) *Private Club with Dining*: Sales and service of alcoholic beverages incidental to sales and service of food in food establishments holding private club registration permits under the Texas Alcoholic Beverage Code.

Such sales and service are authorized in designated zoned areas subject to the Conditional Use approval process.

SECTION 3. If any section, sub-section, word, sentence, or phrase of this Ordinance is declared to be invalid, it shall not affect the validity of this Ordinance.

SECTION 4. All Ordinances and parts of Ordinances inconsistent with or in conflict with the provisions of this Ordinance shall be and the same are hereby expressly repealed.

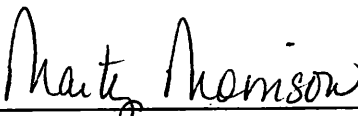
SECTION 5. This Ordinance shall take effect and be in force from and after its passage and approval.

PASSED AND APPROVED ON FIRST READING at a regular meeting of the City Council of the City of Commerce, Texas, on this the 20th day of July, 1999.

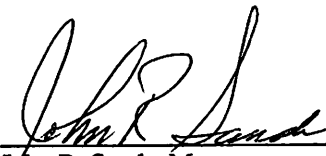
PASSED AND APPROVED ON SECOND READING at a regular meeting of the City Council of the City of Commerce, Texas, on this the 3rd day of August, 1999.

ATTEST:

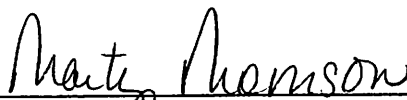
CITY OF COMMERCE:


Marty Morrison, City Secretary

(seal)


John R. Sands, Mayor

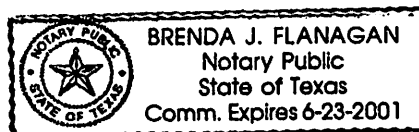
I, Marty Morrison, City Secretary of the City of Commerce, Texas, do hereby certify that the above is true and correct copy of a resolution, and that the same has not been repealed and is in full force and effect.

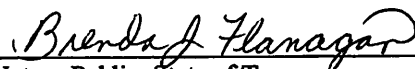

Marty Morrison, City Secretary

(seal)

Sworn to and subscribed before me, on this the 5th day of August 1999, to certify which witness my hand and seal of office.

(seal)




Notary Public, State of Texas

MINUTES
PLANNING AND ZONING COMMISSION MEETING
June 22, 1999 – 5:30 p.m.

MEMBERS PRESENT: Chairman Charles Elliott, Anthony Harris, Fred Klaus, Evonne Richardson and Pete Hale.

MEMBERS ABSENT: Wayne Pierce and Claudia Record.

OTHERS PRESENT: Director of Community Development Fred Eaton and Assistant City Secretary Brenda Flanagan.

1. Call to Order.

Chairman Charles Elliott called the meeting to order at 5:32 pm.

2. Approval of Minutes.

Commission Member Anthony Harris moved that the minutes of the April 27, 1999 regular meeting be approved as written. Commission Member Fred Klaus seconded the motion. The vote was unanimous.

3. Consideration and possible recommendation to City Council on adoption of an ordinance amending the City of Commerce Zoning Ordinance designating a permitted conditional use for location of a private club with dining in Central Area (CA) and General Business (GB) zoning districts.

Chairman Charles Elliott asked Director of Community Development Fred Eaton to brief the Commission on this item. Mr. Eaton explained that Thieresa Farmer had bought the building at 1229 Washington to open a Mexican food restaurant and she desires to serve mixed drinks in the restaurant. He stated the Texas Alcoholic Beverage Commission would issue a license designating this restaurant as a private club. Mr. Eaton said our current Zoning Ordinance allows a permitted use for restaurants serving wine and beer only. He stated the amendment would allow for the permitted use of private club with dining upon issuance of a conditional use permit and each request would be considered case by case.

Chairman Elliott asked Mr. Eaton if all zoning districts that allow location of a restaurant could have this permitted conditional use. Mr. Eaton replied that the Zoning Ordinance could be amended to that effect. Chairman Elliott asked if this would exclude residentially zoned districts. Mr. Eaton said it would. Chairman Elliott asked for comment from the audience.

1 Dick Latson, owner of Latson's Printing and Office Supply, addressed the Commission
2 stating he is in support of this request from Ms. Farmer. Mr. Latson stated that the
3 Farmer's have invested a lot of money already in buying the restaurant and in renovations.
4

5 David Earls, who stated he lives in Commerce, said the change that was made to the
6 Zoning Ordinance in the past served to rid the downtown area of bars that catered to kids.
7 Mr. Earls stated the City is growing and this change would allow for future location of
8 restaurants such as Applebee's and Red Lobster.
9

10 Joan Lambert, owner of The Collegiate Shoppe, stated she is in support of the Farmers
11 and she welcomes them to the City. She said she is happy to have someone in the building
12 and feels this would be beneficial to the downtown area and she supports their efforts.
13

14 Chairman Elliott called for discussion from the Commission. Commission Member
15 Anthony Harris moved to recommend that City Council adopt an ordinance amending the
16 City of Commerce Zoning Ordinance designating a permitted conditional use for location
17 of a private club with dining in all zoning districts exclusive of residentially zoned districts.
18 Commission Member Fred Klaus seconded the motion. Chairman Elliott called for a vote.
19 The vote was unanimous.
20

21 **4. Consideration and possible recommendation to City Council on a request for**
22 **issuance of a conditional use permit for location of a private club with dining for the**
23 **property located at 1229 Washington; R54265; Original Town of Commerce, Block**
24 **9, Lot 13.**

25 Chairman Charles Elliott asked Director of Community Development Fred Eaton if the
26 Commission could go ahead with a conditional recommendation to City Council on this
27 item. Mr. Eaton replied that it would be contingent upon City Council approving the
28 matter in Agenda Item #3.
29

30 Chairman Elliott called for discussion from the Commission. There being none, he called
31 for a motion. Commission Member Anthony Harris moved to recommend that City
32 Council issue a conditional use permit for location of a private club with dining for the
33 property located at 1229 Washington, contingent upon City Council adopting the
34 ordinance as recommended in Agenda Item #3. Commission Member Evonne Richardson
35 seconded the motion and the vote was 5-0.
36

37 **5. Consideration and possible recommendation to City Council for a rezone, from**
38 **ETSU to General Business (GB), of the property located on Hwy 50 and Loop 178**
39 **(Culver); R111918; A1228, Roads Josiah, Tract 1, Acres 62.21.**

40 Chairman Charles Elliott stated he is concerned that neither this request nor the request
41 for replat is coming from the owner of the property, Texas A&M University-Commerce
42 (TAMU-C). Director of Community Development Fred Eaton introduced Jack Gray,
43 Vice President for Marketing and Resource Development at TAMU-C. Mr. Gray stated it
44 is his understanding that Wal-Mart requested the rezoning of this property. He said the

1 property is still owned by TAMU-C and the contract for the sale of the property to Wal-
2 Mart is pending. Mr. Gray said TAMU-C supports the rezoning and would like to
3 facilitate the process. Mr. Eaton suggested the Commission recommend the approval of
4 the rezone contingent upon execution of the contract between Wal-Mart and TAMU-C
5 before the matter is considered by the City Council.
6

7 Don Craig of Adams Engineering stated he was representing Wal-Mart and that Wal-Mart
8 would like the property to be zoned appropriately before they buy it to prevent the
9 possibility of having property they cannot build on. He stated that normally the property
10 is rezoned under the present owner. Mr. Craig asked that the Commission proceed with
11 the rezoning. He said that if it is just a matter of paperwork, TAMU-C could complete
12 the application.
13

14 Chairman Elliott stated that in the past, rezoning and replatting have been considered
15 when the owner was the applicant. Mr. Eaton said that at times rezoning was initiated by
16 the Commission without the owner's request. Commission Member Anthony Harris
17 stated that since both parties are in favor of the rezoning, the Commission could initiate
18 the change.
19

20 Chairman Elliott called for a motion from the Commission. Commission Member Pete
21 Hale moved to recommend that City Council approve the rezone, from ETSU to General
22 Business (GB), of the property located on Hwy 50 and Loop 178 (Culver). Commission
23 Member Fred Klaus seconded the motion. The vote was unanimous.
24

25 **6. Consideration and possible recommendation to City Council for a replat of the**
26 **property located on Hwy 50 and Loop 178 (Culver); R111918; A1228, Roads Josiah,**
27 **Tract 1, Acres 62.21.**

28 Chairman Charles Elliott stated that the replat could be approved pending transfer of
29 ownership of the property to Wal-Mart.
30

31 Chairman Elliott called for a motion. Commission Member Anthony Harris moved to
32 recommend that City Council approve the replat of the property located on Hwy 50 and
33 Loop 178 (Culver) contingent upon transfer of ownership of the property to Wal-Mart.
34 Commission Member Fred Klaus seconded the motion. The vote was 5-0.
35

36 Don Craig of Adams Engineering representing Wal-Mart asked whether after City Council
37 approves the plat it could be filed before transfer of ownership. Chairman Elliott said that
38 is a question for the City Council and the City Attorney to look at. Director of
39 Community Development Fred Eaton said that since the plat was submitted under the
40 Texas A&M Board of Regents, the motion for recommendation might be changed to be
41 contingent upon TAMU-C signing the application. This would prevent having to have a
42 new plat drawn up for Wal-Mart signatures.

1 Chairman Elliott called for a motion to reconsider. Commission Member Evonne
2 Richardson moved that the Commission reconsider the previous motion on this matter.
3 Commission Member Fred Klaus seconded the motion and the vote was unanimous.
4

5 Chairman Elliott called for a new motion on this matter. Commission Member Anthony
6 Harris moved to recommend that City Council approve the replat of the property located
7 on Hwy 50 and Loop 178 (Culver) contingent upon transfer of ownership of the property
8 to Wal-Mart or the replat application being signed by TAMU-C. Commission Member
9 Fred Klaus seconded the motion and the vote was unanimous.
10

11 Mr. Eaton said he would obtain appropriate signatures for the replat application prior to
12 the City Council meeting.
13

14 **7. Other Business.**

15 Chairman Elliott called for other business. Director of Community Development Fred
16 Eaton stated there would be an item on the agenda for the July 27, 1999 meeting to
17 remove from the table the conditional use application for location of a bar, lounge, or
18 tavern for Sugar Hill.
19

20 **8. Adjourn.**

21 Chairman Charles Elliott called for a motion to adjourn. Commission Member Anthony
22 Harris moved that the meeting be adjourned. Commission Member Fred Klaus seconded
23 the motion and the vote was unanimous. Chairman Elliott adjourned the meeting at 6:03
24 p.m.
25
26
27
28
29

30 _____
31 Chairman Charles Elliott or Vice Chairman Fred Klaus
32
33
34
35

36 _____
37 Brenda J Flanagan, Assistant City Secretary
38
39

40 _____
41 Date
42
43
44

TYPE USE	AG	R-1	R-16	R-10	R-7	R-5	D	A-1	A-2	A-3	NS	SC	GB	CA	HC	LI	HI	PD			
Agricultural District	Single-Family Dwelling District	Single-Family Dwelling District	Single-Family Dwelling District	Single-Family Dwelling District	Single-Family Dwelling District	Single-Family Dwelling District	Two-Family Dwelling District	Apartment Dwelling District	Apartment Dwelling District	Apartment Dwelling District	Neighborhood Service District	Shopping Center District	General Business District	Central Area District	Heavy Commercial District	Light Industrial District	Heavy Industrial District	Planned Development District			
e Convent or Monastery	•	C	C	C	C	C	C	C	•	•	•	•	•	•	•	•	•	•			
f Day Nursery or Kindergarten (30)	C	C	C	C	C	C	C	C	•	•	C	C	•	•	•	•	•	•			
g Day Camp	C	C	C	C	C	C	C	C	C	C								C			
h Fraternity or Sorority									C	•			•	•	•	•					
i Institution for Care of Alcoholic, Narcotic or Psychiatric Patient (31)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	•	C	•	•			
j Hospital, General Acute Care (32)	C	C	C	C	C	C	C	C	C	C	•	•	•	•	•	•	•	•			
k Hospital, Chronic Care (33)	C							C	C	C			C	•	•			•			
l Institution of Religious Charitable or Philanthropic Nature (34)	C	C	C	C	C	C	C	C	C	C	•	•	•	•	•	•	•	•			
m Library, Art Gallery or Museum (Public) (35)	C	C	C	C	C	C	C	C	C	•	•	•	•	•	•	•	•	•			
n Lodge or Fraternal Organizations		C	C	C	C	C	C	C	C	C	C	C	•	•	•	•	•	•			
o Nursing Home or Residence Home for Aged (36)								C	C	•	C	C	•	•	•			•			
p School, Business (37)											C	C	•	•	•	•	•	•			
q School, Commercial Trade or Craft (38)													C	•	•	•	•	•			
r School, Public or Denominational (39)	•	•	•	•	•	C	•	•	•	•	•	•	•	•	•	•	•	•			
s Welfare or Health Center (40)	C							C	•	•	•	•	•	•	•	•	•				
10-205 ADVERTISING AND SIGN USES																					
a Nameplates (41)	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•			
b Real Estate (42)	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•			
c Construction (43)	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•			
d Development (44)	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•			
e Nonresidential Indemnification (45)	•	•	•	•	•	•	•	•	•	•											
f Institutional (46)	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•		•			
g Apartment Wall (47)								•	•	•	•	•	•	•	•	•		•			
h Apartment (48)								•	•	•	•	•	•	•	•	•		•			
i Mobile Home (49)															•						
j Agricultural (50)	•																				
k General Business (51)											•	•	•	•	•	•	•	•			
l Special Height (52)												•	•	•	•	•	•	•			
m Advertising (53)	•											•	•	•	•	•	•	•			
10-206 FOOD AND BEVERAGE SERVICE																					
a Bar, Lounge or Tavern (54)															C	C	C	C			
b Eating Place with Drive-in or Curb Service (55)													•	•	•	•	•				
c Eating Place without Drive-in or Curb Service (56)										L	•	•	•	•	•	•	•	•			

TYPE USE	AG Agricultural District	R-1 Single-Family Dwelling District	R-16 Single-Family Dwelling District	R-10 Single-Family Dwelling District	R-7 Single-Family Dwelling District	R-5 Single-Family Dwelling District	D Two-Family Dwelling District	A-1 Apartment Dwelling District	A-2 Apartment Dwelling District	A-3 Apartment Dwelling District	NS Neighborhood Service District	SC Shopping Center District	GB General Business District	CA Central Area District	HC Heavy Commercial District	LI Light Industrial District	HI Heavy Industrial District	PD Planned Develop- ment District			
d Eating Place with Dancing or Enter- tainment (58)												•	•	•	•	•	•	•			
e Private Club with Dining (58a)															•	•	•	•			
f Catering Service												•	•	•	•	•	•	•			
10-207 OFFICE, PROFESSIONAL & FINANCIAL USES																					
a Bank or Savings & Loan Office												•	•	•	•	•	•	•			
b Clinic, Medical or Dental (59)									C	•	•	•	•	•	•	•	•	•			
c Doctors or Physicians Office (60)									C	•	•	•	•	•	•	•	•	•			
d Laboratory, Medical or Dental										•		•	•	•	•	•	•	•			
e Laboratory, Scientific Testing												•	•	•	•	•	•	•			
f Medical Appliance Fittings & Sales												•	•	•	•	•	•	•			
g Mortuary											C	•	•	•	•	•	•	•			
h Office, Professional or General Busi- ness										•	•	•	•	•	•	•	•	•			
i Optical Shop											•	•	•	•	•	•	•	•			
j Studio, Artist										•	•	•	•	•	•	•	•	•			
k Studio, Drama Speech or Dance (61)										•		•	•	•	•	•	•	•			
l Studio, Music										•		•	•	•	•	•	•	•			
m Studio, Display of Arts & Decorators Objects (62)											•	•	•	•	•	•	•	•			
n Studio Recording and Broadcasting												•	•	•	•	•	•	•			
10-208 PLANTS, PETS, ANIMALS & RELATED USES																					
a Animal Clinic or Hospital (Household Pets, No Outside Run)	C											•	•	•	•	•		•			
b Animal Clinic or Hospital or Kennel (Outside Run)	C														C	C					
c Animal Pound, Public or Private	C														C	C					
d Aquarium, Commercial												•	•	•	•	•					
e Farm, Ranch, Garden or Orchard (63)	•	•	•	•	•		•								•	C	•				
f Garden Shop & Plant Sales Display or Greenhouse	C											•	•	•	•	•	•	•			
g Hatchery, Poultry																C	•				
h Livestock Auction Pens or Sheds															C		C				

- (58) *Eating place with dancing or entertainment*: An establishment, the primary activity of which is the sale and service of food or beverage to customers and which incidentally may offer music, entertainment and facilities for dancing by patrons.
- (58a) *Private club*: A club where alcoholic beverages are stored, possessed and mixed on club premises and served for on-premises consumption only to members of the club and their families and guests, by the drink or in sealed, unsealed or broken containers of any legal size.
- (59) *Clinic, medical or dental*: Facilities for examining, consulting with and treating patients including offices, laboratories and outpatient facilities but not including hospital beds and rooms for acute or chronic care.
- (60) *Doctor's or physician's office*: A small office for examining and consulting with patients including necessary accessory facilities and occupied by not more than two doctors.
- (61) *Studio: Drama, speech or dance*: A building or rooms in a building used for the instructing, coaching or counseling in drama, speech, dance or similar personal skills.
- (62) *Studio: Display of art or decorator's objects*: Display rooms and accessory offices for the display of art objects, fabrics and similar items which may be supplied to the clientele of the operator but not involving a direct retail shop.
- (63) *Farm, ranch, garden or orchard*: An area of three acres or more which is used for growing of usual farm products, vegetables, fruits, trees and grain [or] for the raising thereon of the usual farm poultry and farm animals such as horses, cattle and sheep, including a private stable and also including the necessary accessory uses for raising, treating and storing products raised on the premises, but not including the commercial feeding of offal or garbage to swine or other animals and not including any type of agriculture or husbandry specifically prohibited by ordinance or law.
- (64) *Pet shop, small animals and birds*: Facilities for the display and sale of small animals and birds as pets, such as dogs, cats, parakeets or canaries, but not involving the boarding or treating of dogs or similar pets.
- (65) *Stable, commercial*: A structure housing horses which are boarded or rented to the public or any stable other than a private stable; but not including a sales barn, auction or similar trading activity.
- (66) *Art needlework*: Hand sewing, knitting or weaving of handicraft objects for sale or on a custom basis.
- (67) *Book handcraft binding*: Hand binding on a custom basis of books and similar documents.
- (68) *Cabinet and woodwork shop (custom)*: Shop for the repair or creation of individual items of furniture and wooden home furnishings on a custom basis, not a factory, planing mill or similar woodworking plant.