

RESOLUTION NO. 11-04

A RESOLUTION RELATING TO A CONDITIONAL USE PERMIT FOR A MULTIPLE FAMILY DWELLING AT 1600 LEE STREET; GRANTING AUTHORITY TO THE MAYOR TO EXECUTE SAID RESOLUTION AND AUTHORIZING CITY SECRETARY TO AUTHENTICATE MAYOR'S SIGNATURE TO SAID RESOLUTION, AND AUTHORIZING CITY MANAGER TO EXECUTE ANY AND ALL INSTRUMENTS REQUISITE IN IMPLEMENTING SAID RESOLUTION, AND AUTHORIZING CITY SECRETARY TO AUTHENTICATE CITY MANAGER'S SIGNATURE TO ANY AND ALL INSTRUMENTS REQUISITE IN IMPLEMENTING SAID RESOLUTION.

A regular meeting of the City Council of the City of Commerce, Texas, was held in Commerce, Texas, at City Hall, on the 15th day of February 2011, at 6:00 p.m., a majority of Council Members being present and constituting a quorum, the following resolution was adopted:

WHEREAS, The owner of the personal property located at 1600 Lee Street in the City of Commerce, reference is made thereto for all purposes, said owner has made a request for a Conditional Use Permit for the use of said premises being more particularly described in said request, as well as in the minutes of the City of Commerce, Texas, Planning and Zoning Commission meeting of February 1, 2011, and which minutes are attached hereto, marked Exhibit "A" and made a part hereof just as if copied herein verbatim; and

WHEREAS, the Planning and Zoning Commission of the City of Commerce, Texas, in accordance with Section 10, Subsection 10-104 of the Zoning Ordinance of the City of Commerce, Texas, after conducting a public hearing on said request and all other prerequisites relating thereto, and after consideration of the grounds for the authorization of a conditional use permit for the use of that premises described in said request, recommended to the City Council of the City of Commerce, Texas, that said request be approved, and that a Conditional Use Permit be authorized; and

WHEREAS, the City Council, after having reviewed the action of the Planning and Zoning Commission and this recommendation, as well as having complied with all prerequisites of the Zoning Ordinance of the City of Commerce, Texas, relative to the authorization of conditional use permits, deems it in the best interest and general welfare of the City of Commerce that said request for conditional use permit be granted and that conditional use permit should be authorized for the owner of the personal property shown on map, attached hereto and marked Exhibit "B", as provided for in Article 10, Subsection 10-411 through 10-415 of the Zoning Ordinance of the City of Commerce, Texas.

NOW BE IT RESOLVED that the City Manager or his designate in accordance with this Resolution be authorized and he is hereby authorized to issue a Conditional Use Permit on such property described in said request.

NOW THEREFORE, BE IT RESOLVED that the Mayor of the City of Commerce, Texas, be authorized and he is hereby authorized to execute said Resolution;

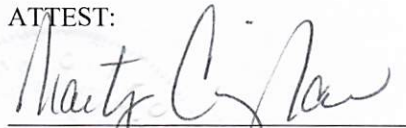
BE IT RESOLVED, that the City Secretary be authorized and she is hereby authorized to attest to the signature of the Mayor to said Resolution;

BE IT FURTHER RESOLVED that the City Manager be authorized and he is hereby authorized to execute any and all instruments requisite in implementing said Resolution;

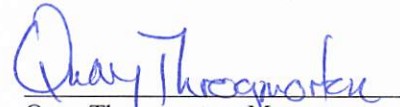
BE IT FURTHER RESOLVED that the City Secretary be authorized and she is hereby authorized to attest to the signature of the City Manager to any and all instruments requisite to implementing said Resolution.

PASSED BY THE GOVERNING BODY of the City Council of the City of Commerce, Texas, on the 15th day of February 2011.

ATTEST:

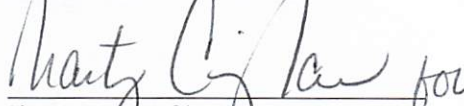

Marty Cunningham, City Secretary

CITY OF COMMERCE, TEXAS


Quay Throgmorton, Mayor

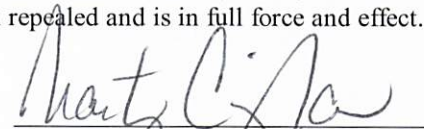
(seal)

APPROVED AS TO FORM:


Jim McLeroy, City Attorney

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

(seal)

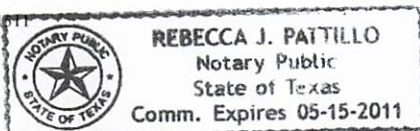

Marty Cunningham, City Secretary
City of Commerce, Texas

Sworn to and subscribed before me, on this the 16th day of February, 2011,
to certify which witness my hand and seal of office.

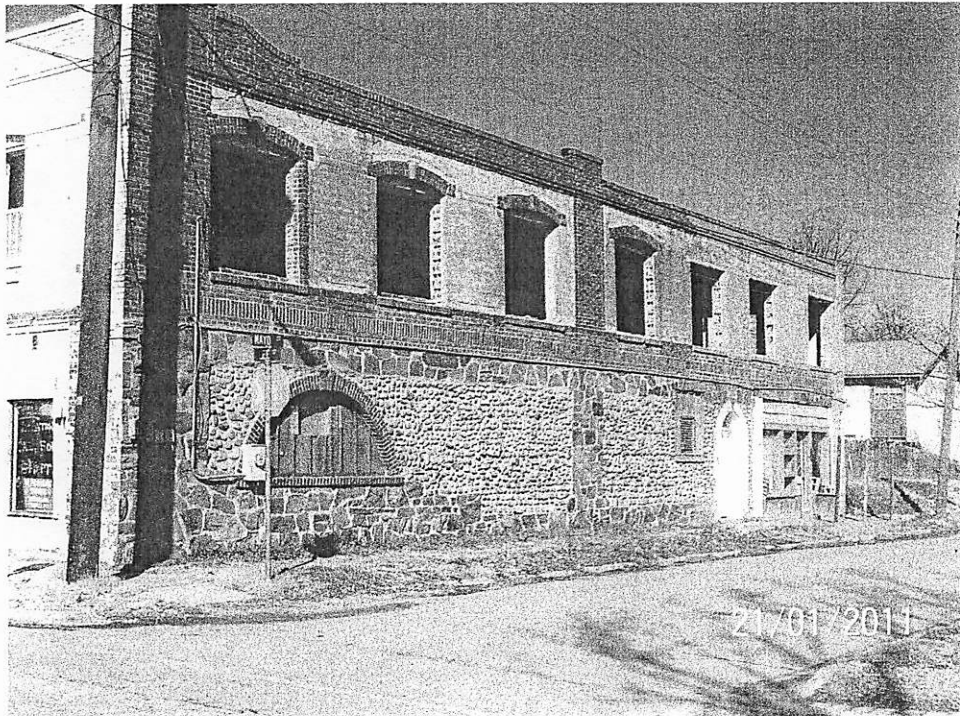
(seal)


Notary Public, State of Texas

LeeSt1600CondUse.021611



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Attachments: Site Pictures

MINUTES

PLANNING AND ZONING COMMISSION MEETING

February 1, 2011 -5:30 p.m.

MEMBERS PRESENT: Chairman Charles Elliott, Greg Hulse, Carolyn Trezevant, Terry Harris, Sharon Arce.

MEMBERS ABSENT: Russell Lutes, Henry Ross.

OTHERS PRESENT: Director of Community Development Steve Wilson, Community Development Building Inspector Eric Wallace, Mike Oglesby, Nick Bailey

1. Call to Order.

Chairman Charles Elliott called the meeting to order at 5:30 p.m.

2. Approval of Minutes.

Chairman Charles Elliott entertained a motion to approve the minutes of August 10, 2010. Member Carolyn Trezevant moved for approval with Member Sharon Arce seconding, and the vote in favor was unanimous.

3. Public hearing and consideration on an ordinance to amend the current zoning ordinance to allow Dance Hall Permits in the General Business Zone with a Conditional Use Permit.

Chairman Charles Elliott asked Director of Community Development Steve Wilson to explain the agenda item. Mr. Wilson explained that Dance Halls are only allowed in certain areas, and some of those areas require a Conditional Use Permit, but General Business does not allow them at all. A dance hall by definition is a place open to the general public to dance whereas a bar is an establishment whose primary purpose is to sell beer and or alcohol and can contain a dance hall. A bar can be a dance hall, a dance hall cannot be a bar, but they can bring their own beverages. Mr. Wilson stated that the applicants name is Nick Bailey, and he would like for Dance Halls to be allowed in the General Business zone with a Conditional Use Permit. Chairman Charles Elliott asked where General Business is located in the city and there was some discussion on the subject. Member Carolyn Trezevant asked what the responsibilities are for the owner of a Dance Hall, specifically whether or not they will just rent the space out or if they would have to actually run the events held, and Mr. Wilson answered that it could be both. Member Carolyn Trezevant then asked who is responsible for the security and maintaining order at these events, and Mr. Wilson responded that whoever owns the license and/or the property owner. There was then discussion on where General Business areas were and whether or not they would affect residential areas. Chairman Charles Elliott asked Mr. Bailey to explain the situation to the commission, to which Mr. Bailey

explained that he worked for Dennis Waldman and was helping to manage his properties and was representing him in this endeavor. He said that they would like to reopen a dance hall at The Lodge and that he himself was here representing Mr. Waldman. Chairman Charles Elliott asked how many nights a week they intend to be open and if BYOB would be accepted, and Mr. Bailey responded that they would be open one night a week two times a month and at this time they would not be allowing any open containers on the property. Member Terry Harris asked if that particular location had been open recently and who owned it. Mr. Bailey replied that Mr. Waldman owns it and had been renting the building out in the past, but that Mr. Waldman was not as invested as he himself is this time around and that he would really like to see it prosper and is willing to take the necessary steps to ensure safety to prevent the shootings of the past. Chairman Charles Elliott reminded the commission that the agenda item is for a general amendment recommendation and the next step would be to look at the individual address. Member Sharon Arce asked how many people the building would hold and if it was up to code. Mr. Bailey stated that he thought the maximum occupancy load was 400 people, and Mr. Wilson replied that the building had not been inspected in some years and would need to be inspected again before anything moved forward with the property. Member Carolyn Trezevant stated that Commerce has had bad experiences in the past with this particular property concerning safety, and asked Mr. Bailey how he would prevent such events from happening in the future. Mr. Bailey replied that people would be allowed to attend by invitation only, and that there would be a five person security team in place at every event to monitor the parking lot, the door, and inside as well. Member Carolyn Trezevant asked what would happen if the commission were to approve this and then Mr. Bailey left for some reason, would it become a free for all similar to the way it had been previously. Mr. Bailey answered that it is possible that the level of security may not be maintained as he had overseen if he were to leave. Member Terry Harris stated that this property presents a lot of risks and was wondering if it being open only two days a month is worth that risk. Mr. Bailey explained that they were going to be assessing the risks in the beginning to see if any changes in security need to be made and then they would like to be open more days during the month than just two. Chairman Charles Elliott reminded the commission that the agenda item is concerning the zoning amendment recommendation to council and the particular property was not in question yet. Member Greg Hulsey stated that by opening the potential for Dance Halls to enter the General Business zones could disturb the residential areas surrounding them, to which Chairman Charles Elliott replied that this commission and City Council has the ability to limit and or contain that problem with the Conditional Use Application needed. There was then some discussion on the events this particular location as had in the past in correlation with having a Dance Hall Permit and if there has been a demand for dance halls in the General Business zone in the past. Member Sharon Arce asked what would happen if everything was approved for this location and Mr. Bailey left, would the new manager have to come before this commission again and reapply for everything, and Mr. Wilson answered no, that Conditional Use Applications stayed with the property. Even in the event of closure as long as the same business opens back up

within a year, it does not matter who owns or operates the property. After no more questions, Chairman Charles Elliott entertained a motion, and Member Carolyn Trezevant moved to recommend to City Council to not amend the current zoning ordinance to allow Dance Hall Permits within the General Business Zone with a Conditional Use Permit. Member Terry Harris seconded the motion resulting in two in favor and two opposed. The chair voted in favor, the motion carried.

4. Public hearing and consideration on a Conditional Use application for the property located at 1600 Lee Street for use as an Apartment Complex within the General Business Zone (GB).

Mr. Wilson explained that the applicants name was Michael Ogelsby and he would like to construct new apartments in the building located at 1600 Lee Street which is located in the General Business Zone and this requires a Conditional Use Permit to do so within this particular zone. Mr. Wilson also stated that at this time, there is no parking on sight for this building, but Mr. Ogelsby was working on an agreement with the University to use some of their parking spaces, which is within the 300 foot perimeter limitation for parking. There was some discussion on the parking requirements per number of units as well as for the restaurant that will be under the apartments on the ground floor and problems that might arise with using University parking. Chairman Charles Elliott stated that in order for the commission to approve this agenda item they would need to see proof of an agreement for parking with the University. Member Terry Harris asked what would happen if the University grows and needed these spaces back, and Mr. Ogelsby replied that he will be renting the apartments to students which means they already have passes to park at the University anyway, and he predicts that most of the patrons eating at the restaurant will be students as well with parking passes. He then said that if push comes to shove they will purchase parking passes themselves each semester for the necessary spaces. There was then more discussion on the restaurant and its parking requirements. After no further questions, Chairman Charles Elliott entertained a motion, and Member Greg Hulsey moved to accept the Conditional Use Application for the property located at 1600 Lee Street for use as an Apartment Complex within the General Business Zone pending on documentation of a parking arrangement with the University, with Member Sharon Arce seconding. The vote in favor was unanimous.

5. Other Business.

None.

6. Adjourn.

Chairman Charles Elliott entertained a motion to adjourn at 6:22 p.m. Member Carolyn Trezevant moved to do so with Member Sharon Arce seconding. The vote in favor of adjournment was unanimous.

Chairman Charles Elliott

Lisa Ibarra, Community Development Secretary

Date