

PINE BLUFF PLANNING COMMISSION
MINUTES
FOR MEETING HELD OCTOBER 27, 2009

MEETING: Shown herein is a summary of action taken at the Pine Bluff Planning Commission Meeting held October 27, 2009 at 4:00 p.m. in the City Hall Chambers.

QUORUM: Those members present included: Lou Taylor, Joe Clement, Frank Hartwick, Edward Long, Gordon Reese and Don Scott.

OTHERS

PRESENT: Others present include: Jerre George, Regional Planner, Lakishia Hill, Zoning Official, and other concerned citizens.

CALL TO

ORDER: Chairman Taylor called to order the Pine Bluff Planning Commission meeting for October 27, 2009.

CONSIDERATION

OF MINUTES:

September 2009 minutes were adopted.

OLD BUSINESS:

NONE

NEW BUSINESS:

Item 1: Use Permitted on Review request by Ofelia Golden to operate a Tea room-restaurant at 4340 Camden Road in an R-B residential-business zone.

Ms. Ofelia Golden spoke for this request.

Ms. Golden stated: I am interested in a tea room-restaurant and that is why I am here.

Commission Chair Taylor asked if commissioners had questions of Ms. Golden.

Commissioner Scott stated: I did not physically go out. Could you help me with the proximity of the location?

Regional Planner George stated: It is located past the U-Store It business on the west side of the road.

Commission Chair Taylor stated: Just a few more feet and you would not have to be here because you would be outside city limits. I am curious about the occupancy size. What is the square footage of the property? How many people would you be able to get in there?

Ms. Golden answered: Around sixty (60).

Regional Planner George stated: It is about 2,000 square feet.

Commission Chair Taylor stated: You will operate from 11am to 2pm.

Commissioner Clement asked: Have you all talked about parking?

Regional Planner George stated: They have plenty of room to expand their parking and she knows she will have to add some.

Ms. Golden stated: That is in the plan.

Commissioner Scott asked: When are you planning to open?

Ms. Golden answered: Hopefully next month, if everything goes well.

Commission Chair Taylor asked if there was anyone else present to speak for or against the request. Since there were none, he asked for staff recommendation.

Regional Planner Jerre George stated: We recommend approval of the request as submitted and described in your letter. Also the zoning staff must approve your parking. All parking must be installed prior to opening the business.

Commission Chair Taylor asked if there were any questions of staff. Since there were none, he asked for a motion.

Commissioner Long started a motion to approve the request.

Commissioner Reese seconded the motion.

Commission Chair Taylor asked if there any discussion of the motion. Since there was none, he asked all in favor to signify by saying "Aye". All opposed signify with the same sign. The request was unanimously approved subject to staff recommendations.

Item 2: Use Permitted on Review request to operate an event center at 2221 S. Olive Street, Suite G in a B-3 Highway Commercial zone.

Mr. Martin Scott spoke for this request.

Mr. Scott stated: I have been open for going on 1-½ month, but I did not know the procedures to follow. I didn't have any guidance. I talked to an officer and he told me what I had to do. So I am trying to follow the right steps to make sure I'm not getting in trouble by doing what I am trying to do.

I want to open us Next Level Event Center where I will do parties, wedding receptions, banquets and different things. I am also trying to do things like food drives, mentoring programs and things of that sort.

Commission Chair Taylor asked if there were any questions of Mr. Scott from commissioners.

Commissioner Long stated: The write-up that we have states that you do not plan to sell alcohol.

Mr. Scott stated: There will be no sale of alcohol.

Commissioner Long stated: But there will be alcohol consumed on the premises.

Mr. Scott stated: That will probably only be if there is a wedding reception or something like that, but not at parties where there are children. I also have Pine Bluff Police Department for security. If the building is rented out they have to provide security or I will. Security has to be provided by Pine Bluff Police Department.

Commission Chair Taylor asked if there were any further questions of Mr. Scott. Since there were none, he asked for more speakers for or against the request. Since there were none, he asked for staff recommendation.

Regional Planner George stated: We recommend approval of the request as submitted.

Commission Chair Taylor asked if there were any questions of staff. Since there were none, he asked for a motion.

Commissioner Reese started a motion to approve the UPOR request.

Commissioner Scott seconded the motion.

Commission Chair Taylor asked if there was any discussion of the motion. Since there was none, he asked all in favor of granting the UPOR request to signify by saying "Aye". All opposed signify with the same sign. The UPOR was unanimously approved as submitted.

Item 3: Amending the Zoning Code as it pertains to home occupations.

Commission Chair Taylor stated: You have covered everything.

Regional Planner George stated: A few years ago, the Planning Commission approved an ordinance that amends the home occupation section of the Zoning Code. Due to some in-house problems, the ordinance was never forwarded to the City Council for its adoption, and the City is still operating under the former home occupation regulations.

There had been (and still are) so many people who desire to work from home that the staff felt that the Code needed to be changed to provide better guidance on permitting home occupations. The existing code is vague, relies too much on staff interpretation, and requires approval of 75% of the property owners within 100 feet of the property. The following regulations provide specific guidance on when and what type of home occupations can occur and also provides different levels of approval depending upon

what type of home occupation is being implemented. This ordinance was approved by the Planning Commission after a number of public hearings and a number of changes.

Commissioner Scott stated: On the minor impact businesses, are we going to hold them to five customers per day. If you get a neighbor that is counting that could be a problem.

Regional Planner George stated: You don't want to have too many customers. Do you want to remove that part and state one customer at a time or increase it to ten (10) customers? That would be reasonable because that would be one (1) car per hour in a (10) hour day.

Commissioner Scott stated: I would increase it to ten (10).

Commissioner Reese asked: Does this cover beauticians?

Regional Planner George answered. No. You cannot have a beauty shop at your house. You don't want a bunch of cars coming in and out all the time because it would then become a regular business.

Commissioner Reese stated: With my business, if I ran it out of my home, people would come at the first and fifth of the month in droves. The rest of the month they would not come at all. That limitation would hurt my business.

Regional Planner George stated: You have to limit it. Most of the time you are not going to have a problem because you're not going to have neighbors counting. People will try to do right. But we have to put some constraints in place because if you give some people an inch they will take a mile. We do have a big list of things that are not permitted as home occupations. Anything that is existing now is grandfathered in. If someone has been given a UPOR for a beauty shop in their house they can continue until they quit.

Commissioner Long asked: Isn't there some way this can be written without a number in it.

Regional Planner George answered: It can be written in a way that a nuisance can be determined by the zoning administrator.

Commission Chair Taylor stated: That is what we are trying to get away from so that Lakishia does not have to be in a judgment situation.

Commissioner Scott stated: Just increase it to ten (10).

Commissioner Clement stated: You're not going to shut somebody down if somebody has fifteen (15) people one day but averages three (3) people on other days. You would not want to shut someone down if they cross an arbitrary threshold.

Commissioner Scott stated: I think what is missing is what Commissioner Clement just mentioned. We should include an average and a different number in the ordinance.

Regional Planner George stated: You might want to word it as “generally averaging”. When you get into the nuisance side of the business then it would be up to the zoning official.

Commissioner Clement stated: You would know if there is a problem because you would have multiple people calling to complain. The ordinance should read “generally averaging less than twelve (12) people per day”.

Commissioner Reese stated: If they have more than that they should have an office.

Regional Planner George stated: I’ve tried to cover everything that people try to do. People like to cater out of their homes. That’s always a problem and the health department won’t let them anyway. The home occupation is only valid for the person who applied for it, the specific use and location. The use cannot be transferred.

Commissioner Scott: This could help a landlord.

Regional Planner George stated: The Planning Commission can revoke a home occupation permit if the applicant does not comply or it is determined that it is adversely impacting the residential neighborhood or they violate any city codes. So I think this is pretty good and we have been over this before. We approved it in White Hall and I think it would be good to have similar ordinances.

Commission Chair Taylor asked: What if they continue after their permit has been revoked.

Regional Planner George stated: They would have to go to court.

Commission Chair Taylor stated: We couldn’t fine them on a per day basis?

Zoning Official Hill stated: The zoning ordinance has a fine in place. So the judge could impose a fine on the violation.

Commission Chair Taylor asked: How much?

Zoning Official Hill answered: There is a maximum amount and the judge can fine violators in consecutive days of the violation. It’s in the range of \$100.00 to \$150.00.

Commission Chair Taylor entertained a motion to send the amended ordinance to City Council.

Commissioner Reese started a motion to forward the amended ordinance to City Council.

Commissioner Hartwick seconded the motion.

Commission Chair Taylor asked if there was any discussion of the motion. Since there was none, he asked all in favor of forwarding the amended ordinance to the City Council to signify by saying “Aye”. All opposed signify with the same sign. The amended ordinance was forwarded to the City Council.

Item 5: Salvage yard regulations referred to the Planning Commission from the City Council.

Commission Chair Taylor stated: Mrs. Roberts isn't here, but I was hoping she would be so that we could clarify some things in section 2 and section 3.

Regional Planner George stated: The whole thing is aimed at salvage yards, but it affects everything. Staff feels that there are adequate controls in the zoning ordinance to make out of compliance businesses come into compliance. If they are illegal they have to become legal or cease operations. If they are grandfathered they cannot spread out. The amended ordinance makes them illegal and does not allow businesses to come into compliance. It's up to them if they want to raise the fine for salvage yards that are out of compliance. There are not any permitted salvage yards in the city. They are all grandfathered. You can have a legally established salvage yard if you're zoned properly and get a UPOR.

We can't take any action on this tonight because this isn't a legal public hearing. We had a problem with our advertising.

Commissioner Hartwick stated: Undersized lots fall under this ordinance. You would have lots that nothing could be done with them.

Regional Planner George stated: That is a good point. We have many undersized lots and nothing could be done with them.

Commission Chair Taylor stated: I did some work on an estate where people had property in Eureka Heights Subdivision. They have 25 feet lots that could not be used.

Regional Planner George stated: This doesn't just affect salvage yards. It affects everything.

Commission Chair Taylor stated: We have given variances to insurance companies to bring properties into compliance.

Regional Planner George stated: It's bad when someone builds a house and they later get a survey. Then they discover someone made a mistake and the house is sitting two (2) feet over the setback. They could never get a clear title to the house and the city could make them tear it down to come into compliance.

Commission Chair Taylor stated: If she wants to increase the fines, I don't see a problem with it. Section 2 and 3 should be removed.

Regional Planner George stated: I don't see that happening. She had it on the agenda at the last council meeting.

Commission Chair Taylor stated: I was asked why this was written this way if the Assistant City Attorney knew this ordinance was against the law. He was just writing it the way she wrote it and she would not have accepted it any other way. Hopefully, from now on they will say "we can't do this".

Regional Planner George stated: We really need to think about this because next month we will have the official public hearing and will be sending a recommendation to the council.

Commissioner Reese stated: Couldn't the City Attorney advise her? He may have and we don't know.

Regional Planner George stated: If you all can think of another way to word this in a way that appeases her, let me know.

Commission Chair Taylor stated: Isn't this already in the ordinances.

Regional Planner George stated: If they are out of compliance they have to come into compliance.

Commission Chair Taylor stated asked: Hasn't this particular gentleman done that or he's getting there? He has given up his grandfathering and he has the proper zoning.

Regional Planner George stated: He can come into compliance with the ordinance if he does what he is supposed to do.

Commissioner Reese asked: What has he not done?

Regional Planner George stated: He does not have all his fencing up and he still has a lot of stuff on the east side of the street.

Commissioner Long stated: Another eight (8) weeks will solve this problem.

Regional Planner George state: Yes, he will either be in compliance or he won't.

Commissioner Clement stated: Section 2 says you cannot grant a UPOR. This whole ordinance seems to be about automobile salvage yards. Do you think that who ever drafted this would be willing to add automobile salvage yards immediately after UPOR? That way it would not apply to everything.

Regional Planner George stated: Yes, we could probably do that.

Commissioner Reese stated: The whole ordinance appears to be slanted towards automobile salvage yards.

Regional Planner George stated: It is, but it's not written that way.

Commissioner Clement stated: The salvage yards are referred to in number 1 and if you refer to salvage yards in 2 and 3 you're limiting those restrictions to automobile salvage yards.

Commission Chair Taylor stated: All of this already exists in existing codes.

Commissioner Clement stated: Number 2 does not exist. It states you have to be in full compliance before you can get a UPOR.

Regional Planner George stated: That's true.

Commissioner Clement stated: We need to negotiate with whoever wrote this.

Commission Chair Taylor stated: We will be handling this next month and we will be making the recommendation that it will affect salvage yards.

COMMITTEE REPORTS:

Commission Chair Taylor asked Commissioner Long to do a follow-up on the environmental court.

PLANNING DIRECTORS REPORT:

NONE

ADMINISTRATIVE MATTERS:

NONE

OPEN DISCUSSION:

NONE

ADJOURNMENT:

Commission Chair Taylor entertained a motion to adjourn.

The motion was made and seconded.

Commission Chair Taylor adjourned the meeting.

THESE MINUTES ARE ADOPTED THIS 24TH DAY OF NOVEMBER 2009.

CHAIRMAN

SECRETARY