

REGULAR MEETING OF THE CITY COUNCIL:

Austin, Texas, January 14, 1937.

The meeting was called to order at 11:00 A. M., with Mayor Tom Miller presiding. Roll call showed the following members present: Councilmen C. F. Alford, C. M. Bartholomew, Simon Gillis, Mayor Tom Miller, and Councilman Oswald G. Wolf, 5; absent, none.

The reading of the Minutes was dispensed with.

A committee, composed of Mrs. C. A. Matthews, President of the Parent-Teacher Association of St. Mary's Academy, Miss Emma Burleson, and others, representing said school, appeared before the Council and entered a protest against the petition of Dr. Z. T. Scott for a change in the Use designation of one hundred sixty feet of his property fronting on Brazos Street between Sixth and Seventh Streets from "C" Commercial District to "C-2" Commercial District to permit the sale of beer, wine, and liquor, such protest not applying to a package store in the proposed new hotel to be erected on said property.

Dr. Z. T. Scott was present and spoke in defense of his petition to the effect that although personally he did not favor the sale of beer and alcoholic beverages, still the present restrictions on his property were discriminative and detrimental to the use of same for business purposes.

The following report of the Zoning Board of Adjustment on the matter was read:

"January 14, 1937

Hon. Mayor and City Council
Austin, Texas

Gentlemen:

The Board of Adjustment at a meeting held on January 12, 1937, passed the following resolution, which is hereby submitted for your consideration:-

R E S O L U T I O N.

WHEREAS, the City Council of the City of Austin, pursuant to the terms of Section 30 of the Zoning Ordinance of the City of Austin, has referred to the Board of Adjustment for its consideration, a petition of Dr. Z. T. Scott for a change in the "Use" District Designation of his property located in Block 84, of the original township of the City of Austin, measuring 81 feet on East Seventh Street and 160 feet along the west side of Brazos Street, from "C" Commercial District to "C-2" Commercial District to permit the sale of beer, wine, and liquor; and

WHEREAS, the Board has taken due cognizance of the reference in the applicant's petition to the development of this property for hotel purposes and does not consider the applicant in jeopardy with respect to his rights in this particular, in view of the fact that it is the Board's interpretation of the Texas Liquor Control Act that hotels and drug stores would not be prohibited from the exercise of this right, as the Act in Section 15, Article 1, provides among other things that "hotels and drug stores as hereinafter defined, as well as other qualified persons, may obtain package store permits"; the Board, therefore, deems that, should the applicant develop the property for hotel purposes, he would not be embarrassed nor suffer interference from any restrictions in the future development of his property for this purpose and would enjoy all the privileges which similar developments now enjoy; and

WHEREAS, the Board of Adjustment carefully considered the changing of the "Use" designation of this property in the light of the Texas Liquor Control Act, the recent amendment to the Zoning Ordinance, the conditions and circumstances surrounding this property, and the causes leading to the establishment of the "C-2" Commercial District by the City Council; therefore

BE IT RESOLVED BY THE BOARD OF ADJUSTMENT:

THAT the change of the "Use" designation of the above described property is not recommended and that its present "Use" designation remain unchanged for the following reasons:

1. That this request is for the change of a single parcel of property under a single ownership, which change would thus create a spot zone.
2. That when the present "C-2" Commercial District was recommended to the City Council and later adopted by the Council as an amendment to the Zoning Ordinance, the

property of the applicant, as well as all the property east of the alley between Congress Avenue and Brazos Street and north of Seventh Street to Eleventh Street, was omitted from the "C-2" District on account of the fact that there are located on the east side of Brazos Street within these limits the St. Mary's Academy, the St. Mary's Catholic Church, the First Presbyterian Church, the Young Woman's Christian Association, and practically the entire remainder of the property occupied by residences; therefore, the inclusion of this area within the "C-2" District would have conflicted with the Texas Liquor Control Act, as well as the intent and purpose of the Council in the establishment of the said "C-2" Commercial District in preventing the dispensing of wines, beers, and liquors, in residence districts and the close proximity to schools and churches; and that since the passage of the Amendment to the Zoning Ordinance establishing the "C-2" Commercial District, there have been no material changes in the conditions and developments and character of this area and the same reasons would not apply for the exclusion of this area.

3. That such a change would, therefore, be inconsistent with both the former recommendations of the Board of Adjustment and the action of the City Council unless it could be shown that there will be no conflict with the Texas Liquor Control Act or other local ordinances, or that there will be no damage to properties located in this district, nor threat to the health, peace, comfort, temperance, safety and general welfare of the community; and

BE IT FURTHER RESOLVED BY THE BOARD OF ADJUSTMENT:

THAT should the City Council deem it desirable to make the above change after thorough investigation of the questions involved and the necessary public hearing as required by law, and having determined that no conflict with existing statutes and ordinances will occur and no damage to properties in this district and no adverse effect resulting to health, peace, comfort, temperance, safety, and general welfare of the surrounding community, then the Board recommends that the entire half block between Seventh and Eighth Streets and Brazos and the alley between Congress Avenue and Brazos Street should be changed as this half block is now fully covered with commercial buildings.

Respectfully submitted,

BOARD OF ADJUSTMENT

By H. F. Kuehne, Chairman. "

(LETTER OF APPLICANT ATTACHED)

"Austin, Texas
January 5, 1937

Mr. Guiton Morgan
City Manager City of Austin
Austin, Texas.

Dear Mr. Morgan:

It has come to my attention that by action of the Zoning Board at some previous meeting my property at the corner of East Seventh and Brazos Streets has been placed in a classification as to the sale of liquors which embarrasses my tenants at this time and which will seriously interfere with the completion of my plans for a hotel development on this site. In fact a Hotel Company would not consider such a project without the privilege of competing with similar businesses in this section of the city.

I therefore urgently request that my corner in Block 84, measuring 81 feet on East Seventh and 160 feet along the west side of Brazos Street, be placed unconditionally in the zone permitting the sale of liquors and beers, as well as any other legitimate business.

Please bring this matter to the attention of the Zoning Board and City Council at their earliest meeting.

Yours very truly,

(Signed) Z. T. Scott. "

Following considerable discussion, the matter was taken under advisement.

Judge Dave Doom, Attorney for Miss Mayme Rabb, appeared before the Council and asked that, in view of the misunderstanding on the part of his client that her property adjacent to Barton Springs would not be included in the corporate boundary extension made in 1928, the interest and penalties on the delinquent taxes on said property for the years 1929 to 1935, inclusive, be remitted.

After considerable discussion, the matter was referred to the City Manager for negotiation with Mayme Rabb, through her attorney, Judge Doom, on the basis that the City would remit the interest, penalties, and courts costs on said property in return for a donation of ground by Miss Rabb for a bridge across Barton Creek, the City

agreeing to build a fence to protect the property of Miss Rabb, if necessary; it was further agreed that the City Council would uphold the City Manager in any reasonable proposition he may make.

Councilman Bartholomew was excused from the meeting.

Councilman Gillis introduced the following ordinance:

AN ORDINANCE AMENDING, IN THE CERTAIN PARTICULARS HEREINAFTER STATED, AN ORDINANCE ENTITLED: "AN ORDINANCE ESTABLISHING ZONING REGULATIONS AND DISTRICTS IN ACCORDANCE WITH A COMPREHENSIVE PLAN; AND REGULATING AND DISTRICTING THE HEIGHT, NUMBER OF STORIES AND SIZE OF BUILDINGS AND OTHER STRUCTURES, THE PERCENTAGE OF LOT THAT MAY BE OCCUPIED, THE SIZE OF YARDS, COURTS AND OTHER OPEN SPACES, THE DENSITY OF POPULATION, THE LOCATION AND USE OF BUILDINGS, STRUCTURES AND LAND FOR TRADE INDUSTRY, RESIDENCES AND OTHER PURPOSES, AND DIVIDING THE CITY OF AUSTIN INTO DISTRICTS OR ZONES, AND REGULATING AND DISTRICTING THE ERECTION, CONSTRUCTION, RECONSTRUCTION, ALTERATION, REPAIR AND USE OF BUILDINGS, STRUCTURES OR LAND WITHIN SUCH DISTRICTS OR ZONES; AND PROVIDING UNIFORM REGULATIONS FOR THE SEVERAL CLASSES AND KINDS OF BUILDINGS OR STRUCTURES AND USES WITHIN THE DISTRICTS OR ZONES; AND ADOPTING TWO ZONING MAPS, DISCLOSING RESPECTIVELY THE SEVERAL USE DISTRICTS AND THE SEVERAL HEIGHT AND AREA DISTRICTS, AND THE RESTRICTIONS AND LIMITATIONS AND PROVISIONS APPLICABLE TO SUCH DISTRICTS; AND PROVIDING FOR A BOARD OF ADJUSTMENT AND DEFINING THE POWERS OF SAME; AND PROVIDING CERTAIN PENALTIES AND REMEDIES; AND DECLARING AN EMERGENCY."

The ordinance was read the first time and Councilman Gillis moved that the rule be suspended and the ordinance be passed to its second reading. The motion carried by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Bartholomew absent, 1.

The ordinance was read the second time and Councilman Alford moved that the rule be further suspended and the ordinance be passed to its third reading. The motion was seconded by Councilman Gillis and was carried by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Bartholomew absent, 1.

The ordinance was read the third time and Councilman Gillis moved that the ordinance be finally passed. The motion carried by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Bartholomew absent, 1.

Councilman Alford introduced the following ordinance:

AN ORDINANCE REGULATING TRAFFIC ON A CERTAIN PORTION OF SIXTH STREET IN THE CITY OF AUSTIN, CUMULATIVE OF CERTAIN ORDINANCES HERETOFORE ORDAINED, REPEALING ALL PARTS OF ALL ORDINANCES IN CONFLICT HEREWITH, AND PRESCRIBING PENALTIES.

The ordinance was read the first time and Councilman Alford moved that the rule be suspended and the ordinance be passed to its second reading. The motion carried by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Bartholomew absent, 1.

The ordinance was read the second time and Councilman Alford moved that the rule be further suspended and the ordinance be passed to its third reading. The motion carried by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Bartholomew absent, 1.

The ordinance was read the third time and Councilman Alford moved that the ordinance be finally passed. The motion carried by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Bartholomew absent, 1.

Councilman Alford offered the following resolution:

WHEREAS, Ben M. Spears is the Contractor for the construction of an addition to a store building at 1818 South 1st Street and desires a portion of the sidewalk and street space abutting Lot 16, Block B, Bouldin Addition in the City of Austin, Texas, during the construction of the addition, such space to be used in the work and for the storage of materials therefor; therefore

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

1. THAT space for the uses hereinabove enumerated be granted to said Ben M. Spears, the boundary of which is described as follows:

Sidewalk and Street Working Space

Beginning at the northeast corner of the above described property; thence in an easterly direction and at right angles to the centerline of South 1st Street for a distance of 20 feet; thence in a southerly direction and parallel to the centerline of South 1st Street for a distance of 130 feet; thence in a southwesterly direction to a point in the west line of South 1st Street and 20 feet south of the north line of West Mary Street; thence in a westerly direction and parallel to the centerline of West Mary Street for a distance of 52 feet; thence in a northerly direction and at right angles to the centerline of West Mary Street for a distance of 20 feet to a point in the west line of West Mary Street; thence in an easterly direction along the north line of West Mary Street to the southeast corner of the above described lot; thence in a northerly direction along the west line of South 1st Street to the place of the beginning.

2. THAT the above privileges and allotment of space are granted to said Ben M. Spears, hereinafter termed "Contractor," upon the following express terms and conditions:

(1) That the Contractor shall construct a 4-foot walkway within the outer boundaries of the above described working space in South 1st Street and West Mary Street, such walkway to be protected on each side by guard rails at least 4 feet high and substantially braced and anchored, and such walkway to have appropriate entrances at the intersection of South 1st Street and West Mary Street.

(2) That the Contractor shall in no way obstruct any fire plugs or other public utilities in the construction of such guard rail.

(3) That provision shall be made for the normal flow of all storm waters in the gutter and the Contractor will be responsible for any damage done due to obstruction of any such storm waters.

(4) That the Contractor shall place on the outside corners of any walkway, barricades or obstructions, red lights during all periods of darkness.

(5) That the Contractor is permitted to construct a temporary work office within such allotted working space provided such work office is not within 25 feet of any corner street intersection.

(6) That the Contractor shall remove all fences, barricades, loose materials and other obstructions on the sidewalk and street immediately after the necessity for their existence on said sidewalk or street has ceased, such time to be determined by the City Manager, and in any event all such sidewalk, barricades, materials, equipment and other obstructions shall be removed not later than March 20, 1937.

(7) That the Contractor shall restore all public and private property injured during the use of such space to as good condition as the same existed before the use of such space began.

(8) That the City reserves the right to revoke at any time any and all the privileges herein granted or to require the erection or installation of additional barriers or safeguards if the conditions demand it.

(9) That the Contractor shall furnish the City of Austin a surety bond in the sum of Five Thousand (\$5000.00) Dollars, which shall protect, indemnify and hold harmless the City of Austin from any claims for damages to any person or property that may accrue

to or be brought by any person by reason of the exercise of the privileges granted the Contractor by the City of Austin and shall guarantee the replacement of all sidewalks, pavement, and all other public property and public utilities disturbed or removed during the construction work and shall further guarantee the construction of a walkway and other safeguards during the occupancy of the space.

The foregoing resolution was adopted by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Bartholomew absent, 1.

The application of the Enfield Realty & Home Building Company for a change in the zoning classification of Enfield "H" from Residence "A" to Residence "B" was received, and the City Manager was instructed to refer the same to the Zoning Board of Adjustment for recommendation.

The proposal of H. I. Sites to furnish an insurance company that would write bonds for the colored taxicab owners was referred to the City Manager for investigation and report.

The Council, by general consent, approved the transfer of Taxicab License No. 57, issued on Ford Sedan, 1936 Model, Engine No. 2,794,996, State Highway License No. 997,369, from P. J. Hill to E. Owens, such automobile having been purchased by the said E. Owens from the said P. J. Hill.

The Council, by general consent, approved the transfer of Taxicab License No. 62, issued on Terraplane Sedan, 1937 Model, Engine No. 257,904, State Highway License No. F-80,861, from Sid Kelso to D. F. Samuel, such automobile having been purchased by the said D. F. Samuel from the said Sid Kelso.

Upon motion duly seconded and carried, the meeting was recessed at 1:00 P. M., subject to call of the Mayor.

Approved: Tom Miller
Mayor.

Attest:

Hallie McCallan
City Clerk