

ORDINANCE NO. 31

AN ORDINANCE APPROVING AN AMENDMENT TO A CONDITIONAL USE PERMIT APPROVED JANUARY 27, 2004 PURSUANT TO ORDINANCE NO. NO. 01-03-13 TO AUTHORIZE EXPANSION OF AN EXISTING USE FOR THE RETAIL SALE OF ALCOHOL AND TO AUTHORIZE A RESTAURANT USE INCLUDING OUTDOOR SEATING FOR PROPERTY IN LA HACIENDA PLAZA, 11715 BEE CAVES ROAD, SUITE 100 AND SUITE 200, BEE CAVE, TEXAS; WHICH PROPERTY IS ZONED PLANNED DEVELOPMENT DISTRICT WITH A BASE RETAIL DISTRICT ZONING; PROVIDING FOR AN EFFECTIVE DATE AND PROVIDING FOR CERTAIN CONDITIONS;

WHEREAS, the zoning of the property subject to this Ordinance is governed by Ordinance No. 01-03-13 dated March 13, 2001 and pursuant to that ordinance has previously been zoned as a Planned Development District with a base zoning of Retail District;

WHEREAS, a Conditional Use Permit to authorize the retail sale of alcohol was approved for the Property located at Suite 200 in the La Hacienda Plaza at 11715 Bee Cave Road, Bee Cave, Texas, on January 27, 2004;

WHEREAS, the property owner is requesting an amendment to the Conditional Use Permit authorized by the City of Bee Cave on January 27, 2004 to authorize expansion of the retail sale of alcohol into Suite 100 adjacent to the property previously approved by the City and to authorize use of the Property for restaurant use including outdoor seating for the restaurant use and the retail sale of alcohol;

WHEREAS, the property owner has submitted an amended site plan depicting the expansion into Suite 100 of the La Hacienda Plaza located at 11716 Bee Cave Road and including the depiction of the outdoor seating proposed and associated with Suite 100 and Suite 200 (the "Property") of the La Hacienda Plaza and has otherwise complied with the requirements of the City of Bee Cave Ordinances and Ordinance No. 01-03-13 for an amendment to the Conditional Use Permit;

WHEREAS, the notice as required by the City's Zoning Ordinance has been published in the official newspaper and given to adjacent property owners;

WHEREAS, the Planning and Zoning Commission and the City Council has each conducted Public Hearings on the Application for the amendment to the Conditional Use Permit wherein public comment was received and considered on the Application;

WHEREAS, the City Council finds that the use of the Property for the retail sale of alcohol and for a restaurant use including outdoor seating with the conditions listed below, are appropriate uses for the Property.

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

Section 1. The City Council finds that the information submitted in the Application for an amendment to the Conditional Use Permit approved January 27, 2004 and submitted by Applicant meets the requirements of the City of Bee Cave Zoning Ordinance and underlying zoning Ordinance No. 01-03-13, for the Property located in the La Hacienda Plaza, Suite 100 and Suite 200, 11716 Bee Cave Road, Bee Cave, Texas.

Section 2. Uses. The Conditional Use Permit granted January 27, 2004 is hereby amended, subject to the conditions listed in Section 4, to authorize expansion of the retail sale of alcohol into Suite 100 and the outdoor seating area and to authorize a Restaurant use on the Property including the out-door seating area;

Section 3. Site Plan. The amended site plan depicting the expansion of the retail sale of alcohol use into Suite 100 and the out-door seating area and the Restaurant Use in Suite 100 and Suite 200 and including the outdoor seating area is contained in Exhibit "A", attached hereto, and is hereby approved contingent upon the property owner meeting the conditions contained within Section 4;

Section 4. Amended Conditional Use Permit. The City Council hereby approves the amended Conditional Use Permit to the property owner (hereinafter "Permittee") upon the following terms and conditions:

1. Permittee shall not commence development until it has secured all building permits and has received any other approvals as required by the City of Bee Cave Ordinances;
2. This amendment to the Conditional Use Permit approved January 27, 2004, authorizes additional development of the subject property only as represented in the Permittee's application and only to the extent such development is depicted in the site plan or other plans contained in Exhibit "A", attached hereto and only to the extent authorized herein. If portions of the development of the subject property requested in the application are not approved herein by the Council, or are not depicted in Exhibit "A", then that portion of Permittee's application is specifically denied;
3. Permittee shall obtain and maintain all necessary Texas Alcohol Beverage Commission permits for the retail sale of alcohol for the area depicted in Exhibit "A"; including the outdoor areas.
4. The operational hours for the Property shall be from 11 am to midnight Monday through Friday and on Sunday, and from 11am to 1 am on Saturday. The operational hours of the outdoor seating area shall be the same times as the indoor seating.

5. Additional Conditions:

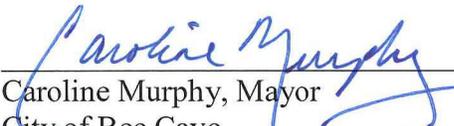
- a) Outdoor music shall not be authorized.
- b) Patrons shall not be seated in the outdoor seating area after the operational hours listed in section 4 above. Outdoor seating shall be limited to 19 patrons and shall include any outdoor waiting area.

Section 5. Severability. Should any sentence, paragraph, subdivision, clause, phrase, or section of this Ordinance be adjusted or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Ordinance in whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional, and shall not affect the validity of the City's Zoning Ordinance or Map as a whole.

Section 6. This Ordinance shall take effect immediately from and after its passage and publication as required by law.

PASSED AND APPROVED this 26th day of May, 2009.

APPROVED:



Caroline Murphy, Mayor
City of Bee Cave

ATTEST:



Kaylynn Holloway, City Secretary
City of Bee Cave, Texas

[SEAL]

APPROVED AS TO FORM:



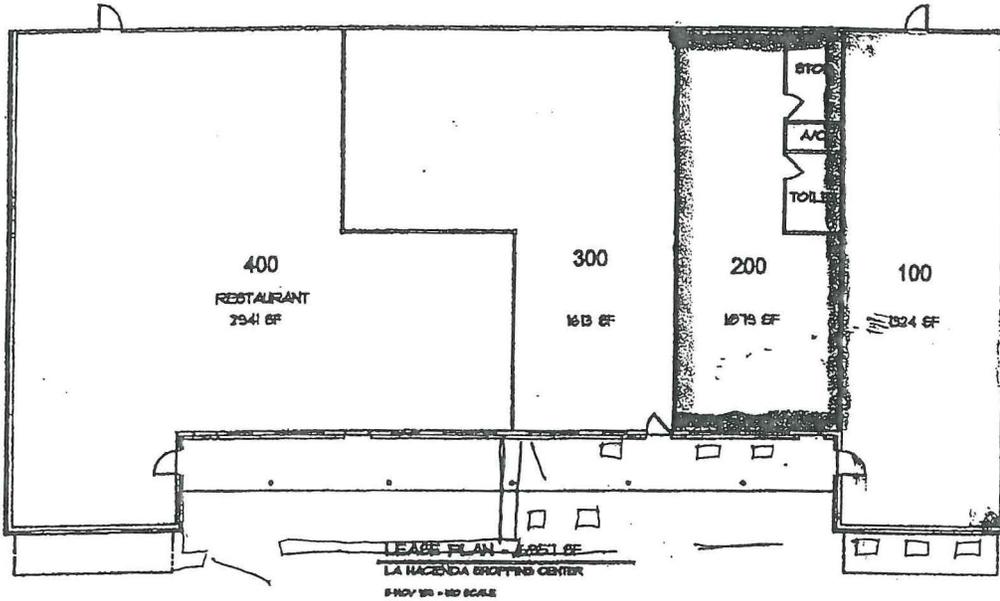
Patty L. Akers, City Attorney

City of Bee Cave

MAY 06 2009

RECEIVED

EXHIBIT "A"



□ = SEATING

OUTDOOR SEATING SHALL BE LIMITED
TO 19 PATRONS AND SHALL INCLUDE
ANY OUTDOOR WAITING AREA

#06492

5

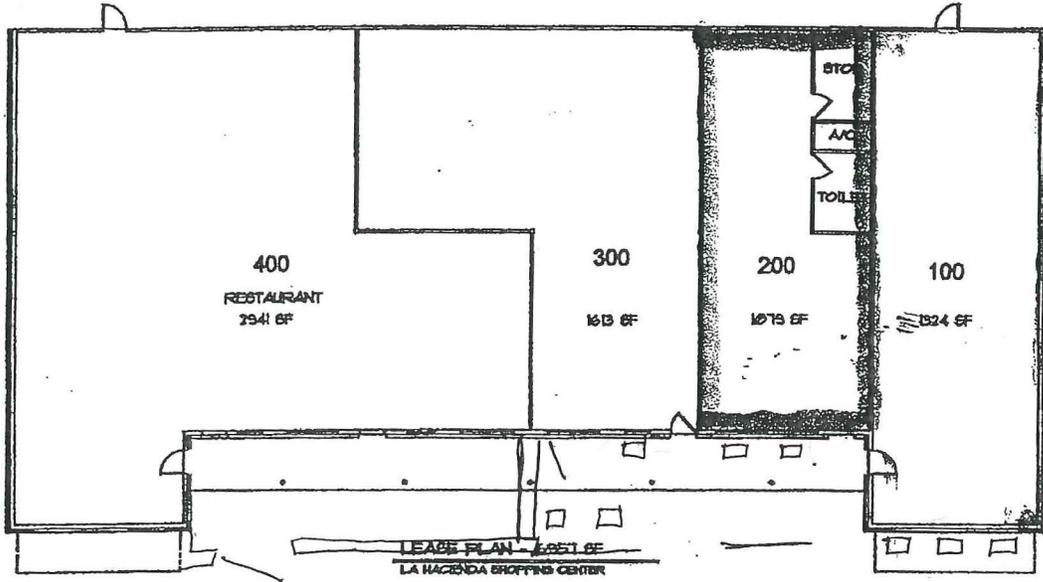


City of Bee Cave

MAY 06 2009

RECEIVED

EXHIBIT "A"



□ = SEATING

#06492

D. Discussion on the sign application variance request for Sportman's Finest.

MOTION: Upon a motion made by Alderwoman Holloway and a second by Mayor Pro Tem Auslander the Board voted five (5) for and none (0) opposed to approve the variance request for Sportman's Finest, allowing them to attach the sign to the windmill. The motion carried.

E. Discussion on the business Wildwood Wine and Spirits and the Conditional Use Permit request per Ordinance No. 01-03-13, Planned Development Retail District.

In accordance with the Texas Government Code, Section 551.071-Consultation with attorneys, the Village of Bee Cave Board of Alderman convened into Executive Session at 9:37 p.m. on Tuesday, January 27, 2004 in order to continue discussing matters pertaining to this item.

The Village of Bee Cave Board of Alderman reconvened into regular session at 9:58 p.m. on Tuesday, January 27, 2004.

MOTION: Upon a motion made by Alderman Coker and a second by Alderman Eslyn the Board voted three (3) for, one (1) opposed, and one (1) abstention with Mayor Pro Tem Auslander against, and Alderman Murphy abstaining, to approve the Conditional Use Permit for Wildwood Wine and Spirits. The motion carried.

F. Discussion on the relocation of the Old Bee Cave School House.

The location of where to place the Old Bee Cave School House is still undecided. Staff is trying to locate the School House so as not to lose any parking spaces and to protect as many trees as possible.

G. Discussion on the financial report for the first quarter of the 2003-2004 Annual Budget for the Village of Bee Cave.

Mr. Fisher reported we are doing very well with regard to our budget. He reported that several development projects sat idle for awhile, and they are starting to move again.

H. Discussion on personnel concerns for the Village of Bee Cave.

Mr. Fisher requested that this item be deferred to February.

I. Discussion on Planning and Zoning meeting dates.

Wildwood Wine & Spirits 11715 FM 2244 Austin, TX 78738 512-263-7988

January 23, 2004

Attention: James Fisher
Village of Bee Cave
13333-A Highway 71 West
Bee Cave, Texas 78738

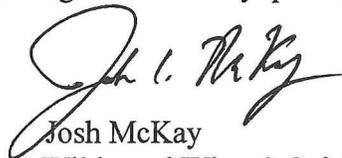
Dear Mr. Fisher:

I am requesting a Conditional Use Permit to operate an "Alcoholic Beverage Retail Sales" within the La Hacienda plaza on Bee Caves Road. The La Hacienda Plaza is subject to the Planned Development Retail District in Ordinance No. 01-03-13. Section 14, Special Provisions Concerning Conditional Use Permits, provides that the Board of Alderman may approve, without a public hearing, a conditional use permit for a change in use of all or a portion of an existing building or structure for which there is an approved site plan if it finds that:

1. The change in use does not require any change to the size, or exterior walls;
and
2. The change in use does not require additional parking spaces.

I will not be changing the size or exterior walls, and the change will not require any additional parking spaces.

I respectfully request that the Board of Alderman give this favorable consideration, and I will be present at the January 27 meeting to answer any questions that you may have.



Josh McKay
Wildwood Wine & Spirits

VILLAGE OF BEE CAVE
13333-A HIGHWAY 71 WEST
BEE CAVE, TEXAS 78738
(512) 263-2151
FAX (512) 263-5576

FACSIMILE TRANSMITTAL SHEET

TO: PATTY AKERS

FROM: JAMES FISHER

COMPANY:

DATE: JANUARY 16, 2004

FAX NUMBER:

TOTAL NO. OF PAGES INCLUDING COVER:

11

PHONE NUMBER:

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

Patti:

This is in reference to our brief conversation yesterday regarding Wildwood Wine and Spirits on Bee Cave Road. The applicant is a new "use" within an existing building, "LaHacienda". The applicant is requesting to operate an alcoholic beverage retail store, Condition Use Permit within a Planned Development Retail District. Section 14 provides means to grant the CUP. Are you ok with this and can this be done Tuesday the 27th?

The proposed store is also across the street from Laje Pointe Elementary (the school in the ETJ) Does Article 4.3 of the Villages Code apply?

James

Notice: THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL TO WHOM IT IS ADDRESSED AND CONTAINS INFORMATION THAT IS PRIVILEGED OR CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER LAW. IF YOU ARE NOT THE ADDRESSEE NAMED ABOVE, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THIS MESSAGE TO THE ADDRESSEE, YOU ARE HEREBY NOTIFIED THAT ANY UNAUTHORIZED DISCLOSURE, DISTRIBUTION, OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED. IF

VOBC@CI.BEE-CAVE.TX.US

Village of Bee Cave

January 16, 2004

Caroline Murphy,
Mayor

Zelda Auslander,
Mayor Pro Tem

Jonathan Coker,
Alderman

Marcy Holloway,
Alderwoman

Cole Eslyn,
Alderman

Mike Murphy,
Alderman

James Fisher,
Administrator

Josh McKay
3406-A Dolphin Drive
Austin, Texas 78704

RE: Wildwood Wine & Spirits

Dear Mr. McKay,

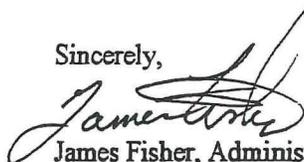
This letter is in reference to your proposed business, Wildwood Wine & Spirits, located at 11715 Bee Caves Road, Suite 200, Bee Cave, Texas. As I was reviewing your sign application request for compliance with the Village's Code of Ordinances and Ordinance No. 01-03-13, enclosed, I found a serious issue that needs your immediate attention.

Ordinance No. 01-03-13, establishes a Planned Development Retail District for Lots 1A and 1B, Block G, resubdivision of Lot 1, Block G, Uplands Village, Bee Cave, Travis County, Texas. Wildwood Wine & Spirits is located in the La Hacienda plaza which is on Lot 10. The Planned Development Retail District lists "Alcoholic Beverage Retail Sales" as a "Conditional Use." A "Conditional Use" requires you to follow the procedures outlined in Section 14.129, enclosed, of the Village of Bee Cave Code of Ordinances. You cannot open your proposed business until you have obtained a "Conditional Use Permit" from the Village of Bee Cave Board of Alderman.

Therefore, your sign application request will be placed on hold until you receive the proper approval from the Village. Also, your temporary banner must be removed as it is allowed for a maximum period of 15 days and the Conditional Use Permit process will take longer than that time span.

If you have any questions regarding this matter, please feel free to contact me.

Sincerely,


James Fisher, Administrator
Village of Bee Cave

Enclosures

cc: w/o enclosures
Mayor Caroline Murphy
Board of Alderman
Village Attorney
Duncan Spiller, La Hacienda Plaza

JF/kes

CERTIFICATE OF CITY SECRETARY

(If not in an incorporated city, so state)

FOR W, X, LX, G, Z, D, B, MB, RM, P, Q, BF, BE, BG, BQ, V, BB, BC, BD, BA, BI

I hereby certify that on this 18th day of November, 2002 that the location indicated in question 4 as the place of business is in a "wet area," for a BF, P, CP, E, P2

Type of License or Permit

and that such location is inside the boundaries of this city or town for which permit/license is sought and is not prohibited by charter or ordinance.

SIGN HERE

 Sherry Mathison Bee Cave, Texas
City Secretary/Clerk

SEAL

CERTIFICATE OF CITY SECRETARY

(If not in an incorporated city, so state)

FOR LATE HOURS LICENSE OR PERMIT

FOR RETAIL DEALER'S PREMISE LATE HOURS LICENSE OR MIXED BEVERAGE LATE HOURS PERMIT

I hereby certify that on this _____ day of _____, _____ that:

1. The governing body of this city has by ordinance authorized the sale of "mixed beverages" between midnight and 2:00 A.M.
(or)
2. The governing body of this city has by ordinance authorized the sale of "beer" between midnight and _____ A.M.
(or)
3. The population of the county in which such premises are located was 500,000 or more according to the last Federal Census.

SIGN HERE

 _____, Texas
City Secretary/Clerk

SEAL

CERTIFICATE OF CITY SECRETARY

(If not in an incorporated city, so state)

(Address for Storage Permits and Manufacturer's Warehouse License listed in Questions 21B and/or C.)

STORAGE PERMITS & MW

I hereby certify that on this _____ day of _____, _____ the location herein given as the place of business is in a "wet area," that such location is inside the boundaries of this city or town and that the sale of alcoholic beverages for which license/permit is sought is not prohibited by charter or ordinance.

SIGN HERE

 _____, Texas
City Secretary/Clerk

SEAL