

BOARD OF ALDERMEN

ITEM NO.: F(2)

AGENDA ITEM ABSTRACT

MEETING DATE: FEBRUARY 22, 2011

TITLE: REPORT ON AGREEMENT BETWEEN PROPERTY OWNER AND REPRESENTATIVE NEIGHBORS REGARDING 901 WEST MAIN STREET (JOHNNY'S)

DEPARTMENT: PLANNING DEPARTMENT	PUBLIC HEARING: No
ATTACHMENTS: A. RESOLUTION B. LETTER FROM ZONING DIVISION REGARDING CEASING EVENTS C. LETTER TO BOARD OF ALDERMEN REGARDING AGREEMENT D. STAFF MEMO	FOR INFORMATION CONTACT: MARTY ROUPE, 918-7333

PURPOSE

The Board of Aldermen received a letter from the property owner and representative neighbors of 901 West Main Street and subsequently referred it to staff for consideration. This agenda item reports back to the Board staff's findings regarding the letter. Staff requests that the Board receive the report and consider adopting the attached resolution. Any additional steps to be undertaken may be described in the resolution.

INFORMATION

The property at 901 West Main Street is a longstanding, well-established nonconforming retail use on property zoned R-10 (Residential – 10). The structure on the premises housed a grocery and general store for a long period of time before the current Land Use Ordinance (LUO) was adopted in November 1980. In recent years, the use of the property has changed on multiple occasions (bait & tackle shop; tienda, etc), but remained retail in nature. Currently, the property is being used as a retail store selling coffee and pre-packaged food products, along with various other retail products including beer and wine.

As additional background, during summer 2012 some questions arose about whether the property could be used for indoor live music and wine tastings. Complaints surrounding such matters were received by the Zoning Division, which, in turn, wrote a letter to the owner and management regarding the need to cease activities that could be construed as 'events' (**Attachment B**). The situation was informed by uses of the property that occurred during the preceding few years when the management slowly evolved what was happening on the site to what some perceived to be a bar rather than a retail use. Staff had inadvertently signed a State ABC form allowing for on-site consumption of alcohol, which, while not intended, fostered use of the property beyond the historic, grandfathered retail use. Upon receiving a complaint regarding the matter, Zoning Division staff began investigating and considering the situation. Eventually, the establishment closed for business and the management and property owner went separate ways.

Subsequently, the property owner submitted an application to rezone the property to a commercial district in order to legally operate in a manner similar to its recent, past use. This involved asking for a category

8.000 restaurant / bar / nightclub use to be permissible on the property. Some number of neighbors objected to the classification and to any rezoning of the property to a commercial district.

In late fall 2012, a representative group of neighbors and the property owner engaged in discussions about what might be acceptable ways to use the property, without rezoning and without otherwise losing the grandfathered, nonconforming use classification of the property. Upon completing the discussions, the owner and representative group of neighbors submitted a letter summarizing their points of agreement (**Attachment C**). The letter requests that the Town accept the agreement and determine that the activities described in the letter simply be considered accessory use of the 901 West Main Street property.

*Staff still working on staff memo, summary table, and additional information for abstract. Also discussing with Town Attorney the possibility of being able to issue a Zoning Permit under LUO Section 15-126. Additional details to be discussed during Agenda Review.

RECOMMENDATION

Town staff requests that the Board of Aldermen receive this report and consider adopting the attached resolution (**Attachment A**). Any desired follow-up actions may be specified in the resolution.