

ORDINANCE NO. _____

PROPOSED ORDINANCE NO. 09-064

**AN ORDINANCE RELATING TO ZONING; APPROVING A
CONDITIONAL USE TO ALLOW A BAR ON PROPERTY
LOCATED AT 122 SOUTH KENTUCKY AVENUE;
FINDING CONFORMITY WITH THE COMPREHENSIVE
PLAN; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, an application was filed by Soloman Wassef, on behalf of Mousa Djahankhah, for a conditional use to allow a bar on property located at 122 South Kentucky Avenue , more particularly described on Attachment “A” and graphically depicted on Attachment “B”, attached hereto; and

WHEREAS, on October 20, 2009, the Planning and Zoning Board held a public hearing on the request of the applicant to have such conditional use granted; and

WHEREAS, the Planning and Zoning Board approved the application on November 17, 2009, and recommended to the City Commission that the conditional use be granted.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION
OF THE CITY OF LAKELAND, FLORIDA:**

SECTION 1. The foregoing findings are incorporated herein by reference and made a part hereof.

SECTION 2. A bar on property more particularly described on Attachment “A” and graphically depicted on Attachment “B”, attached hereto, is hereby approved subject to the following conditions:

1. Alcoholic beverage sales shall be limited to beer and wine only.
2. This conditional use shall be for the benefit of the applicant only, Soloman Wassef, who shall be the sole proprietor of the alcoholic beverage establishment at this location.
3. If the proposed bar is discontinued or relocated, or if ownership of the establishment or the subject property changes, no other bar or entertainment establishment shall be permitted at this location without the approval of a new conditional use by the City of Lakeland
4. Hours of operation shall be in accordance with Chapter 6 of the City of Lakeland Code and shall be from 12:00 p.m. to 12:00 a.m. Monday through Thursday; 12:00 p.m. Friday through 2:00 a.m. Saturday; and 12:00 p.m. Saturday through 2:00 a.m. Sunday.

SECTION 3. This conditional use is approved for the benefit of the applicant only and for the use as specified within the application only, subject to the conditions herein. The character or benefit of this conditional use shall not be changed or transferred without City Commission approval by resolution.

SECTION 4. The City Commission does hereby expressly find that the provisions of this ordinance are in conformity with the Comprehensive Plan of the City of Lakeland adopted by Ordinance 4140, as amended.

SECTION 5. If any word, sentence, clause, phrase, or provision of this ordinance, for any reason, is held to be unconstitutional, void, or invalid, the validity of the remainder of this ordinance shall not be affected thereby.

SECTION 6. This ordinance shall take effect immediately upon its passage.

PASSED AND CERTIFIED AS TO PASSAGE this 21st day of
December, A.D. 2009.

RALPH L. FLETCHER, MAYOR

ATTEST: _____
KELLY S. KOOS, CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS: _____
TIMOTHY J. McCAUSLAND
CITY ATTORNEY

ATTACHMENT "A"

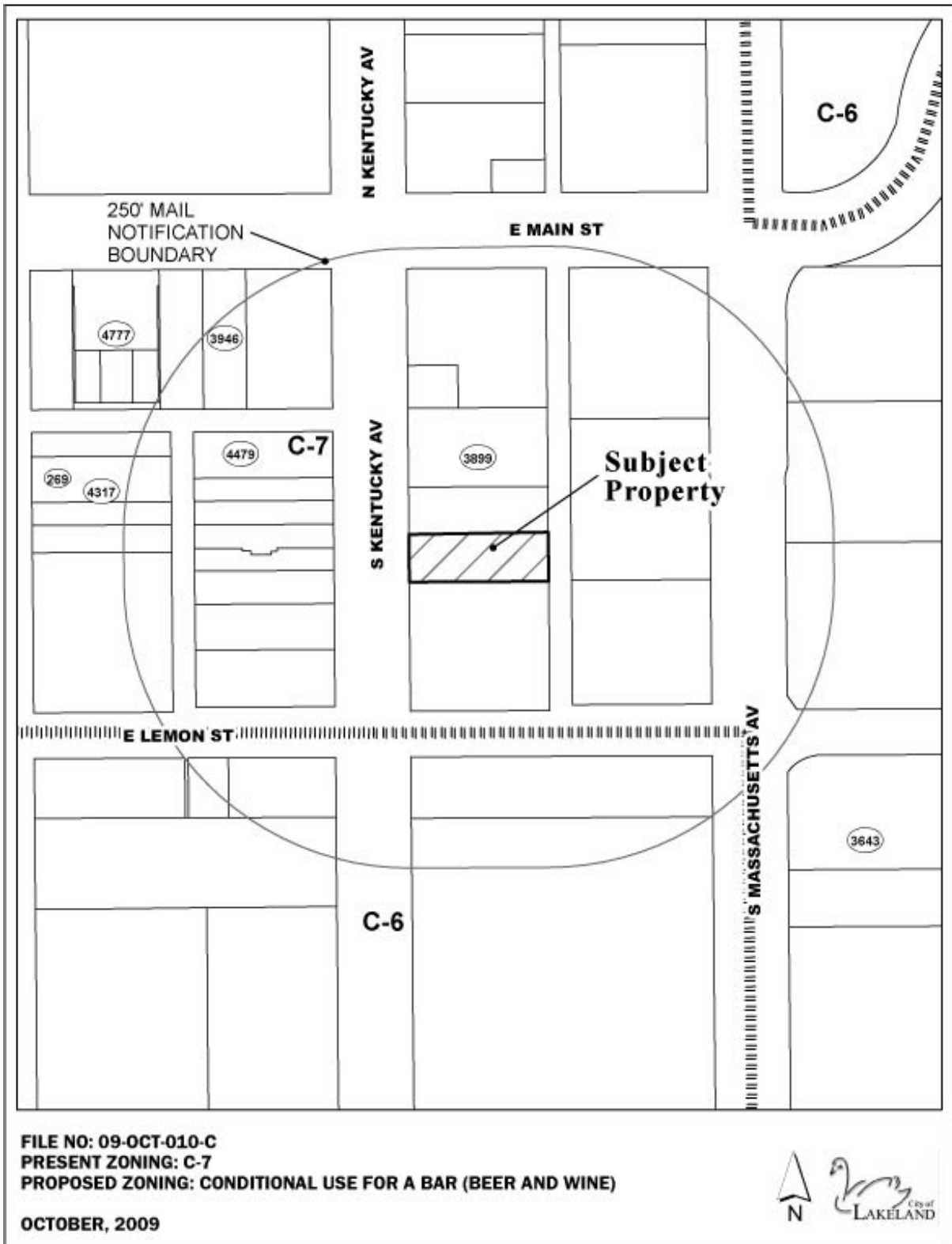
Legal Description

Originally a portion of Lots "I", "K" and "M", in Block 17, of MUNN'S SURVEY OF LAKELAND, Florida according to the map or plat thereof, as recorded in Deed Book "G", Page 392, LESS AND EXCEPT the North 49.0 feet of Lot "I" (See Warranty Deed recorded in O.R. Book 3776, page 150, dated December 31, 1996 and Corrective Warranty Deed recorded in O.R. Book 3883, page 1257, dated August 12, 1997, and Quitclaim Deed recorded in O.R. Book 4345, page 1597, dated November 3, 1999.) AND LESS AND EXCEPT Lot "M" and the South 31 feet of Lot "K", AND LESS AND EXCEPT the property described in the SPECIAL WARRANTY DEED recorded in O.R. Book 4472, page 1644, dated June 7th, 2000, all recorded in the public records of Polk County, Florida.

Said property being more particularly described as follows:

Commence at the Northwest corner of Lot "I", in Block 17, of MUNN'S SURVEY OF LAKELAND, Florida according to the map or plat thereof, as recorded in Deed Book "G", Page 392, of the public records of Polk County, Florida, and run thence S00°06'12"W a distance of 90.40 feet to the Point of Beginning; thence continue S00°06'12"W a distance of 40.00 feet; thence S89°43'36"E through the centerline of a common wall a distance of 122.15 feet; thence N00°12'14"E a distance of 40.00 feet; thence N89°43'36"W through the centerline of a common wall a distance of 122.22 feet to the Point of Beginning.

ATTACHMENT "B"



MEMORANDUM

DATE: DECEMBER 7, 2009

TO: MAYOR & CITY COMMISSION

FROM: CINDY PETTERSON, CHAIRMAN
PLANNING & ZONING BOARD

SUBJECT: CONDITIONAL USE TO ALLOW A BAR ON
PROPERTY LOCATED AT 122 SOUTH KENTUCKY
AVENUE

CASE NUMBER: 09-OCT-010-C

OWNER: MOUSA DJAHANKHAH

APPLICANT: SOLOMAN WASSEF

P&Z HEARING: OCTOBER 20, 2009

P&Z FINAL DECISION: NOVEMBER 17, 2009

LEGAL DESCRIPTION:

A legal description of the subject property is included as Attachment "A."

Background

Soloman Wassef is requesting a conditional use for a bar at 122 South Kentucky Avenue located on the east side of Kentucky Avenue between East Lemon Street and East Main Street. The proposed bar is to be located within a vacant storefront which was formerly occupied by Idin Oriental Rugs. A map of the subject property is included as Attachment "B."

The applicant proposes a Middle Eastern themed bar serving beer and wine in a lounge setting and offering hookah pipes with flavored smoking tobacco. An assortment of non-alcoholic beverages including coffee and tea will also be served along with pre-packaged pastries and desserts. Hours of operation are proposed as 12:00 p.m. to 12:00 a.m. Monday through Thursday and 12:00 p.m. to 3:00 a.m. Friday and Saturday.

The subject property is zoned C-7 (Munn Park Historic). Within the C-7 zoning district, a conditional use is required for bars and lounges which are not located within a hotel, theater, retail shopping or office building of 50,000 square feet or greater.

Existing Land Use and FLUM/Zoning of Adjacent Properties		
Adjacent to	Existing Land Use	FLUM/Zoning
North	Restaurant	RAC/C-7
South	Restaurant	RAC/C-7
East	Vacant/Parking Lot	RAC/C-7
West	Retail	RAC/C-7

Discussion

The applicant is proposing a unique concept within a core area of downtown that functions as a retail and entertainment district. While the applicant has described the proposed use as “not a bar atmosphere,” the sale of beer and wine, without food service as the primary use, is considered a bar. As such, the use is regulated in the same manner as other establishments within downtown where food sales are significantly less than that of alcoholic beverage sales. This includes application of the C-7 zoning standards in establishing the bar as a conditional use and compliance with the Alcoholic Beverage Establishments regulations contained within Article 31 of the Land Development Regulations. The smoking of flavored tobacco products is incidental to the primary use as a bar and is not regulated by the Land Development Regulations.

The Land Development Regulations provide a number of considerations in determining if the proposed establishment “will be detrimental to the city’s downtown redevelopment plan or to the general effort of the city to eliminate slum and blight.” This includes the concentration of bars within downtown; compatibility with surrounding uses; the operator’s ability to manage the establishment; and support by the Lakeland Downtown Development Authority.

Currently there are only three (3) active conditional uses for bars within downtown: Linksters on Main Street; Molly McHughs on South Kentucky Avenue; and Hurricane Alley, also on South Kentucky Avenue. With the number of storefronts along the adjoining block faces occupied by a majority of restaurant uses, the concentration of conditional uses for bars is relatively low. Given the recognition of the area as an entertainment district, the proposed use is compatible with the surrounding restaurants and bars along East Main Street and South Kentucky Avenue. Approval of the request would fill a vacant storefront along South Kentucky Avenue and provide a venue with the potential to increase activity within downtown, primarily in the evening hours. This supports overall redevelopment goals of attracting more people to downtown and increasing activity after business hours.

Both the Lakeland Downtown Development Authority (LDDA) and Lakeland Downtown Partnership (LDP) support this request. At their regular meeting on

September 10, 2009, the LDDA Board of Directors voted 6 – 0 (with one member stating a conflict of interest) to support the request for a hookah establishment provided that the conditional use, if approved, goes with the applicant and not the location. The LDP submitted a letter of support describing Mr. Wassef's efforts in promoting downtown businesses and his success as a downtown business proprietor. Mr. Wassef previously owned and operated Fresh Choice Plus, a restaurant formerly located at 119 S. Kentucky Avenue.

A number of e-mails were received from supporters of the request noting their enthusiasm for this type of establishment and Mr. Wassef's past success in operating a business within downtown.

At the Board's public hearing, a downtown business owner expressed concerns with hours of operation and age restrictions. Specifically that Chapter 6 of the City Code prohibits the sale of alcoholic beverages after 2:00 a.m. on Saturday and Sunday. In response to this concern, the LDDA considered the issues of age restriction and hours of operation at its meeting on November 5, 2009, and recommended that hours of operation be limited to 2:00 a.m. Given that no other conditional use approvals for stand alone bars within downtown include an age restriction, the LDDA further recommended that if the City Commission enacts a universal age restriction in the future for stand alone bars, the restriction should apply to this property.

It should be noted that while the city approves the use of the property as a bar, the ability to sell beer and wine is licensed by the State of Florida Division of Alcoholic Beverages and Tobacco (ABT). The sale of tobacco products also requires a license issued by ABT. Even though the State issues the licenses, applications for a license must document consistency with local zoning laws. As a result, approval of this conditional use for a bar will provide the basis for a finding of compliance with local zoning regulations in applying for a State license.

The Community Development Department and the Board reviewed this request for compliance with Lakeland Comprehensive Plan: 2000-2010 and it is our opinion that the request is consistent with the Comprehensive Plan. All roadway levels of service are acceptable. Other essential services are presently available to provide concurrency for the proposed use as a bar.

The Community Development Department reviewed this request and recommended the conditional use for a bar. Letters of notification were mailed to 24 property owners within 250 feet of the subject property.

This recommendation was approved by a vote 5-0 vote of the Board.

Recommendation

It is recommended that the request for a conditional use for a bar, as described above and in Attachments "A" and "B," be approved, subject to the following

conditions. Approval of this conditional use provides a finding of compliance with the city's zoning regulations for the applicant's use in applying for a State Alcoholic Beverage License and Tobacco Permit.

1. Alcoholic beverage sales shall be limited to beer and wine only.
2. This conditional use shall be for the benefit of the applicant only, Soloman Wassef, who shall be the sole proprietor of the alcoholic beverage establishment at this location.
3. If the proposed bar is discontinued or relocated, or if ownership of the establishment or the subject property changes, no other bar or entertainment establishment shall be permitted at this location without the approval of a new conditional use by the City of Lakeland
4. Hours of operation shall be in accordance with Chapter 6 of the City of Lakeland Code and shall be from 12:00 p.m. to 12:00 a.m. Monday through Thursday; 12:00 p.m. Friday through 2:00 a.m. Saturday; and 12:00 p.m. Saturday through 2:00 a.m. Sunday.