

MINUTES

BUILDING AND STANDARDS COMMISSION

Wednesday, October 10, 1990

4:00 p.m.

Members present: Russell Duncan, Donna Doty, Whit Williams, Lee Birkhead (4:32 p.m.) and Jan Russell.

Members absent: None.

Staff present: Gene Cravens (4:37 p.m.), Pat Payne, David Hall, Lyle Dresher, Don Blanton, Steve Boone, Robert Walterscheid, and City Attorney Mack Barnhart.

Visitors: None.

The first item of business on the agenda was the calling of the meeting to order at 4:10 p.m.

The second item on the agenda was consideration of minutes from the meeting of August 15, 1990. A motion was made by Whit Williams and seconded by Jan Russell to approve the minutes as presented. Motion carried by the following votes: Ayes: Duncan, Doty, Russell, and Williams. Nays: None. Absent: Birkhead.

The third item on the agenda was consideration of and action on determination of the Building Inspector's decision of the substandard condition of a structure located at 305 N. Interstate 35 Service Road, and also being the old Curtwood Motel.

NOTE: The testimony given during the public hearing has been recorded and transcribed by a certified Court Reporter; all persons giving testimony were sworn in; and a copy of the recorded transcript may be reviewed in the office of the Assistant City Manager, Department of Community Development, 214 E. Main Street, Gainesville, Texas.

Chairman Duncan asked Mr. Hall if proper notices had been sent by Certified Mail to the legal owners of the property; Mr. Hall replied that they had. Chairman Duncan asked if the lien holders, if any, had been notified; Mr. Hall replied they had been. Chairman Duncan asked if the proper notices had been published in the local newspaper; Mr. Hall replied they had. Chairman Duncan asked who was the legal owner of the property; City Attorney Barnhart answered that the partnership of Patel, Patel, & Patel is the legal owner.

Mr. Duncan noted that at least four members of the Building and Standards Commission were present, with those four present being Whit Williams, Donna Doty, Russell Duncan, and Jan Russell. The only absentee was Lee Birkhead who arrived at 4:32 p.m.

At that time, all persons who were to testify were sworn in by oath by Chairman Duncan. Mr. Duncan noted that Mr. Barnhart would be representing the City (of Gainesville) in the matter of the Curtwood Motel.

Mr. Barnhart began by presenting all evidence gathered for the hearing and subsequently marked by the proper "Exhibit"* notation. Exhibit "A" was the deed reflecting conveyance of the property to the partnership of Patel, Patel & Patel. At that time Mr. Barnhart presented David Hall, Building Official for the City of Gainesville since January 21, 1990, as the first witness to testify. Mr. Hall testified as to his qualifications and background. Mr. Barnhart then asked Mr. Hall if he had had occasion to inspect the 1.69 acres out of the Alexander Boutwell Survey and containing the Curtwood Motel. Mr. Hall replied he had inspected and assessed the property three times with the first being in March, once in August, and again shortly before the hearing. During the August inspection, Robert Walterscheid-Environmental Health Officer, Don Blanton-Fire Marshal, Gene Cravens-Assistant City Manager, and Tom Watson-Emergency Management Coordinator accompanied Mr. Hall. A video was produced as a result of that inspection. The video was labeled as Exhibit "B". Mr. Hall testified as to the credibility of the video.

Mr. Barnhart asked Mr. Hall if he had established a list of ownership and lien holders on the Curtwood Motel and Mr. Hall said he had. The list of same was marked as Exhibit "C". A copy of the notice which was sent to all persons on the ownership list was marked as Exhibit "D". Mr. Barnhart then presented a bundle of returned notices and green return receipts which were titled Exhibit "E". This series of Exhibits represented compliance of due process of notification.

At that time, Mr. Barnhart asked Mr. Hall if he had had any discussion with any of the owners as listed and shown in Exhibit "A" in the last year. Mr. Hall replied that he talked with Randy (Ranjit j) Patel earlier in the year in reference to entering the structure to do an on-site inspection. Mr. Patel told him that he did not want anything to do with the structure and he didn't want to "mess" with it. He also said he did not have anything to do with the structure.

Mr. Barnhart asked Mr. Hall if he made notes during the August inspection. Mr. Hall replied he filled out an inspection report (titled, REPORT OF BUILDING OFFICIAL), which report was marked as Exhibit "F". Mr. Barnhart then presented the Publisher's Affidavit, marking it as Exhibit "G", which affidavit proved the publishing of the Notice of Public Hearing. The Notice of Public Hearing, which was publicly posted, and also posted on the structure, was labeled as Exhibit "H". Pictures of the substandard structure were taken at the time of the posting on October 2, 1990, and were labeled as Exhibit "H-1". The pictures were presented (numbered 1-37) to the Panel for their observance after Mr. Hall's explanation of each one.

* All exhibits are subject to public viewing and may be seen in the office of the Assistant City Manager, 214 E. Main St., Gainesville, Texas.

During observance of the photographs, Mr. Barnhart asked Mr. Hall if the structure was habitable and safe; Mr. Hall replied it is not and should not be allowed to be occupied.

Mr. Hall continued by describing conditions upon his inspection of the structure on August 28, 1990. He reviewed the Building Official's Inspection Report of the extremely deteriorated condition of the building for the panel. The building is not weathered, in that it is completely open to anyone who wants to enter it.

Mr. Barnhart asked Mr. Hall, based on his inspections, other visits to the location, and based upon his experiences in the building business, if the motel could be economically repaired in its present condition. Mr. Hall replied it could not due to the amount of repair or remodeling which would be 50% or more of its present day value. The structure would have to also be brought up to present day Code. He further stated that the expenditure of 50% of the present value would not bring it into compliance with Code and repairs could easily exceed its present value.

Mr. Barnhart continued by asking Mr. Hall if the building is located within the Flood Plain; Mr. Hall replied it is. Mr. Barnhart also asked what criteria would be required under the City's ordinances regarding repairs. Mr. Hall said that under Ordinance No. 331-4-87, as amended, any structure would have to meet certain criteria in order to be permitted. He said that no Building Permit could be issued at the present time and even after meeting all criteria, certification by a registered engineer would have to be submitted for issuance of a permit for remodeling.

Mr. Barnhart then asked Mr. Hall if he had a recommendation as to the feasibility of repair versus demolition of the structure. Mr. Hall replied that it would be more feasible to remove the structure and start over if that type occupancy were to continue at that site.

At that time, Mr. Barnhart concluded his questioning of Mr. Hall.

Mr. Duncan asked if anyone was present on behalf of the owners of the Curtwood Motel who would like to ask any questions of Mr. Hall; there was none. Mr. Duncan asked if anyone was present on behalf of the mortgagees, lien holders, or others who have an interest in the property who would like to ask any questions of Mr. Hall; there was none. Mr. Duncan asked if anyone on the Board wanted to ask questions of Mr. Hall; there was none.

Mr. Barnhart called Mr. Robert Walterscheid, Environmental Health Inspector for the City of Gainesville, to testify. Mr. Walterscheid was previously sworn in.

Mr. Barnhart asked Mr. Walterscheid if he had had the opportunity to inspect the property known as the Curtwood Motel on August 28, 1990. Mr. Walterscheid replied he did. He explained that his duties regarding inspecting a structure such as that one involved the

sanitary conditions, health hazards, and personal safety hazards. Mr. Barnhart asked Mr. Walterscheid what he found at the motel. Mr. Walterscheid said that because of the condition of the structure, there are totally inadequate sanitary facilities due to vandalism. The dampness in the structure is conducive to mosquito harborage. Also skunks, opossums, cats, dogs, rats, mice, etc., can easily enter and exit the structure. Mr. Barnhart asked Mr. Walterscheid, based upon his training and experiences as an environmental health inspector, if the structure is hazardous or unsanitary as it is. Mr. Walterscheid replied it is. Mr. Barnhart then asked if he thought the structure could be renovated economically to such an extent to remove those hazards and unsanitary conditions. Mr. Walterscheid said it could not, in his opinion. He also verified that the structure could be hazardous to vagrants from a health standpoint since the structure is open.

Mr. Duncan asked if anyone on behalf of the owners would like to ask Mr. Walterscheid any questions; there were none. He asked if anyone on behalf of the mortgagee or lien holders would like to ask Mr. Walterscheid any questions; there was none. He then asked if anyone on the Board had any questions for Mr. Walterscheid; there was none. Mr. Duncan asked about any habitable buildings near the structure. Mr. Walterscheid said only 3 or 4 apartments at the rear of the main structure and to the west of the building were habitable. Jan Russell asked if the motel were within close proximity to the City's Leonard Park and was told it was. Mr. Walterscheid also affirmed that the building had been flooded with several feet of water during a major flood in Gainesville in 1981.

At that time Mr. Barnhart called Don Blanton, Fire Marshal for the City of Gainesville, to testify. Mr. Blanton had been previously sworn in. Mr. Barnhart asked Mr. Blanton if he had inspected the structure on August 28, 1990; Mr. Blanton replied he had. Mr. Barnhart then asked Mr. Blanton if, based upon his experiences and training, the building were a fire hazard and, if so, what constituted a fire hazard in the building. Mr. Blanton said that the building being unsecured, allowing transients to enter, was one. There was quite a lot of debris throughout the structure; a lot of the sheetrock was torn off the walls, taking away some of the fire protection; the roof is sagging in the restaurant badly, allowing a danger to any firefighting operations from inside. In all, the building, according to Mr. Blanton, was definitely a fire hazard.

Mr. Duncan asked if anyone on behalf of the owners wanted to ask Mr. Blanton any questions; there were none. He asked if anyone present representing the mortgagee or lien holders wanted to ask Mr. Blanton any questions; there were none. There were no questions from any Board member.

Next, Mr. Barnhart called Steve Boone, Fire Chief for the City of Gainesville, to testify. Mr. Boone was previously sworn in. Mr. Barnhart asked Mr. Boone if he had the opportunity to inspect the structure known as the Curtwood Motel; Mr. Boone replied he had. Mr. Barnhart asked Mr. Boone, based upon his experiences and training,

what problems he would have as a Fire Chief in fighting a fire in that structure. Mr. Boone replied that due to the dilapidated condition of the building, it would take very little fire to bring the building down and the fire would have to be fought with an outside attack type of firefighting in order to insure the safety of the firefighters. Due to the windows being broken out, more oxygen would fuel the fire. Mr. Boone said that transients and vagrants are a big concern in relation to the condition of the building, as they stay in it during the cold winter months to stay warm and often times build fires indoors to stay warm and to cook. Mr. Barnhart asked Mr. Boone if he felt the structure could be reasonably repaired and be in the safety and interest of the citizens of Gainesville. Mr. Boone said, in his opinion, it could not and should be demolished.

Mr. Duncan then asked if anyone present on behalf of the owners would like to ask Mr. Boone any questions; there was none. Mr. Duncan asked if anyone present representing the mortgagee or lien holders would like to ask Mr. Boone any questions; there was none. Whit Williams asked Mr. Boone if he had ever noticed children playing around the structure. Mr. Boone replied that he had been told that children had been in the building, but he had not personally observed any children there.

Mr. Barnhart ceased testimony at that time and presented the video tape [Exhibit "B"] which had been recorded at the August 28, 1990 inspection of the Curtwood Motel.

After the tape was viewed by the Board members, Mr. Barnhart announced that the City closed its case against the Curtwood Motel.

Mr. Duncan asked if any owner of the property wanted to present a case; there was none. He asked if anyone on behalf of the mortgagee or lien holders wanted to present a case; there was none. At that time, Mr. Duncan asked Mr. Barnhart what his recommendation was. Mr. Barnhart replied that the City has proven that the structure is obviously dilapidated and basically is not subject to economic repair. It constitutes a nuisance, a hazard to the public and to City employees, and also to the traveling public on Interstate 35. He said he would recommend that the Board not order repair, but to order the owners to demolish within sixty (60) days.

Mr. Duncan asked the Board if they had questions or comments. Whit Williams said it appeared to him that the building had been abandoned and is not cared for or about at all and no attempt has been or is being made to care for it or to preserve it.

Mr. Barnhart stated that every diligent effort has been made to contact all owners and lien holders and the response has been nil.

Taxes are due on the building for the years '86, '87, '88, and '89 in the amount of \$33, 106.79.

The Board members and Mr. Barnhart discussed the liens on the property and the priority of lien holders.

October 10, 1990

Mr. Dresher explained that a demolition cost estimate from one contractor was approximately \$18,000.00 with \$15,000.00 being a "safe" estimate.

At that time, Mr. Williams made a motion to follow Mr. Barnhart's recommendation that the structure be demolished within sixty (60) days [by order to the owners]. Mr. Williams amended his motion to include that the motion to include a \$500.00 a day fine after the expiration of the sixty-day period. The motion was seconded by Lee Birkhead. Clarification of the term "demolished" was expressed as: The site would be cleared and cleaned, which definition will be included in the Order. After some discussion as to the disposal of debris from demolition, the motion carried by the following votes: Ayes: Doty, Duncan, Russell, Williams, and Birkhead. Nays: None. Absent: None.

Mr. Duncan said that, with the agreement of the Board, after passage of the motion, an Order will be issued with all requirements of the Ordinance being followed.

The next scheduled meeting of the Building and Standards Commission will be Wednesday, November 28, 1990, at 4:00 p.m.

After no further discussion, the meeting adjourned at 5:31 p.m.