

PLANNING AND ZONING COMMISSION MONTHLY MEETING

Council Chambers

9/6/16 5:00 P.M.

Present: Ron Welder, Ed Delaney, Lyle Brown, Joel Amandus, Larry Wright, Council Liaison
Kevin Rink
Absent: Neal Boeding
Staff: Doug Krogmeier, Emily Britton
Visitors: City Manager David Varley, Council Member Mark Lair, Sal Gonzales

Ron Welder called the meeting to order at 5:00 P.M. with five members present.

ACTION ON MINUTES

The minutes from July 26, 2016 were approved with corrections on a motion by Delaney, seconded by Brown.

NON AGENDA ITEMS

None

Case #16-07: Special Use Permit to allow an expired nonconforming use to be converted to a special use for Salvador Gonzales to operate an event center, catering business, part time restaurant, and potentially reuse of the apartments at 3525 Ave Q.

Staff reviewed report and provided written neighbor comments.

Welder opened the public hearing at 5:05P.M.

Sal Gonzales spoke in favor. He explained it will not be used as a restaurant but more of an event center to host fundraisers with the exception of serving food during Mexican Fiesta (the 3rd weekend in September). He continued to say he did not plan to rent the apartments and Krogmeier pointed out one is occupied now and if he ever wants to rent them out he will need that included in this Special Use to do so. He said the current tenant is leaving within 30 days and although he does not plan to rent them he agreed it was a good idea to leave the option open for later by including it. Amandus said he drove by the property and asked what the framework was out front. Gonzales answered that it is a temporary structure and is separate from the building so it doesn't matter. Wright then asked if there was a permit taken out for that temporary structure. Gonzales replied there was not, so Wright asked Krogmeier for clarification if one was necessary and Krogmeier said yes a permit would be required for a structure and confirmed there was not one issued for it. Wright asked if a permit could be issued for it and if it is compliant with zoning codes. Krogmeier said he could not issue a permit for it the way it is because it does not comply with zoning codes. He explained that the unfinished structure exceeds maximum height, does not meet setback requirements and is in fact located on the city right of way. Gonzales argued the structure has nothing to do with the Special Use request, and Delaney disagreed stating that it does make their decision more complicated as the special use is applied to the property owner, not necessarily the property, and he is already violating zoning codes with this structure. Gonzales explained that he made a mistake and the structure was delivered earlier than expected and it was not finished because Krogmeier caught him so he stopped work on it and cannot finish it until the crew comes back to do so. He continued to say he cannot move it until it is finished but intends to move it to the back of the property. Krogmeier mentioned even in the back it will exceed the maximum height. Welder asked what the purpose of the structure was but Gonzales did not specify. Krogmeier explained that he has sold food from that location before but has not been associated with Fiesta in recent years so he was not covered by their insurance and was not compliant with zoning as it was not allowed in the residential district. When asked why it was allowed before Krogmeier said the city did not know it was happening until Fiesta committee members brought it to his attention which is how this request came up. Krogmeier then reminded commission members to

focus on the zoning code and what would or should be allowed in regard to this request and if it fits into this neighborhood.

Welder closed the public hearing at 5:21P.M.

Commission completed the Special Use Finding of Fact. Wright was not comfortable approving based on the standards for a special use, particularly code 10-22-7 A and F. He explained the structure is a safety concern for children potentially climbing it like a ladder and falling, so Gonzales mentioned laying the structure down to eliminate that and Wright was still concerned about children getting hurt on it. There was also concern about section F, which states "The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located" and the structure does not conform therefore the property is not compliant until the structure is removed. Amandus then asked if he would be allowed to do anything if approved and Krogmeier said the commission can approve with conditions and be as specific as they want.

Amandus moved, seconded by Brown, to recommend approval with the following conditions: the structure must be removed by 9/12/16 (BOA meeting), operation is allowed only 10 days per year, the property is compliant with all other codes, and the Special Use Permit will be reviewed again in one year.

Motion passed. 5-yes 0-no

OLD BUSINESS

None

OTHER/NEW BUSINESS

Krogmeier said the issue of allowing an education facility in the downtown district is still tabled and he intends to gather more information for the commission to address it again in a couple months.

Wright suggested the commission (as well as other boards and commissions) be given ID cards to show if they are approached when looking at properties in question. For example, if he goes to look at a property that has applied for a variance and the owner or neighbors consider him to be suspicious it would be nice to show a form of ID showing he is on the commission and is there for that reason. City Manager David Varley said that could be arranged and would be easy to do.

Ron Welder, Chairman of Planning and Zoning Commission