

MINUTES

REGULAR MEETING
PLANNING AND ZONING COMMISSION
SAN LUIS COUNCIL CHAMBERS
1090 E. UNION STREET
NOVENBER 17, 2015
7:00 PM

CALL TO THE ORDER /ROLL CALL. The meeting was called to order at approximately 7:01 PM., by Chairman Javier Barraza.

PLEDGE OF ALLEGIANCE: Pledge of Allegiance was led by Chairman Javier Barraza.

PRESENT:

Chairman Javier Barraza
Commission Member Bill Cordova (arrived @7:07PM)
Commission Member Hugo Garcia
Commission Member Maria G. Guzman
Commission Member Guillermina Fuentes

ABSENT:

Vice Chairman Daniel Bazua
Commission Member Jahaziel Vargas

OTHER PRESENT:

John Starkey, Zoning Administrator
Jose A. Guzman, Assistant Planner
Roman Pacheco, Planning Technician
Kay Macuil, Assistant Attorney
Richard Bauermann, Fire Inspector

CONSENT AGENDA:

1. **Approval of Minutes**
 - [Special Planning & Zoning Commission Meeting held June 9, 2015.](#)
 - [Regular Planning & Zoning Commission Meeting Held October 13, 2015.](#)
2. **Withdrawals by Applicant - None**
3. **Time Extensions – None**
4. **Continuances --None**
5. **Approvals – None**

MOTION: **Maria G. Guzman / Hugo Garcia** to APPROVE the Consent Agenda as presented. Motion passed unanimously (5-0).

PUBLIC HEARINGS

AGENDA ITEM NO. 1

Public hearing followed by discussion and possible action regarding Conditional Use Permit Case No. 2015-0420 A request by Mario D. Buchanan, owner, for a Conditional Use Permit as per Chapter 7 section 7.2 – C.9 of the City of San Luis Zoning Ordinance to allow a medical marijuana dispensary located on a Community Commercial (C-2) zoned district. The subject property is located at 702 N. Mesa Street, San Luis, AZ, Assessor's Parcel No. 775-37-201.

Kay Macuil, City Attorney informed to the members of the Planning and Zoning Commission that at this point we do not have a quorum. **Macuil** explained that this is a competing request for a property that Commissioner Fuentes owns and the State can only give one CHAA. **Macuil** explained that if Commissioner Fuentes were to vote against it would give the appearance of impropriety.

Guillermina Fuentes, stated that it could be inappropriate for me to vote on this item, therefore I will declare a possible conflict of interest and I will abstain in any participation for this particular item.

Chairman Barraza informed that at this point we do not have a quorum.

Mr. Pacheco, Planning Technician informed members of the Planning and Zoning Commission that for the record Commissioner Bill Cordova arrived @ 7:07PM and he was present to participate.

Chairman Barraza, mentioned to Commissioner Cordova that the commission was ready to hear the staff report for the request of Conditional Use Permit Case No. 2015-0420.

John Starkey, Zoning Administrator stated that this is a request by Mario D. Buchanan, owner, for a Conditional Use Permit to allow a medical Marijuana dispensary on a Community Commercial zoned property is located at 702 N. Mesa Street, San Luis, Arizona. **Starkey** furthermore, summarized staff report recommending approval of Conditional Use Permit Case No. 2015-0420 to the City Council as presented by staff.

QUESTIONS FOR STAFF

Chairman Barraza, mentioned that he was looking at the site plan that was on the staff report and it was crop all over and I thought this was kind of deficient in all aspect, but now that I got the official one. I noticed that Mesa Street is actually an easement. **Starkey**, responded yes, this is a utility easement. We paved it, and it has water and sewer. Is similar to the same thing we have in the down town area to the east where it looks like we have paved alleys but those are also utilities easement. **Chairman Barraza**, mentioned that what he see on the site plan is actually one of the parking spaces is on that easement, according to the site plan. Also I did not see south set back, I believe is 10 feet on the side street. **Starkey**, responded that they are showing entrance off of Mesa Street it might be more advantageous. But like I said when we get to discussing this one, when if they

get approve from the State to have this place it may be better for them to access to site off of "C" Street than Mesa. **Barraza**, asked so they cannot built or have a parking install in the easement? **Starkey**, responded no. However people park in that area (alley). But their required parking cannot be in that area because that is for all practical purpose a public road. **Barraza** asked do you know how many employees there are going to be. **Michael Gaida** (agent) Sperry Van Ness, LLC responded 2 or 3. **Barraza** mentioned that he asked that because also in the parking requirements stated one parking space per 2 employees and doing rough calculations I think this site as proposed requires about 7 parking spaces and it is showing only 6. I personally think that the site plan provided lacks of full details.

Michael Gaida, 5136 N. 31st Place #364, Phoenix, Arizona, stated that he is a license real estate broker in Arizona my broker is Sperry Van Ness, LLC at 3200 E. Camelback Road, Ste 280 Phoenix, Arizona. **Mr. Gaida** apologized to the Commission as he stated that he did not have a presentation that he is fairly new at petitioning and standing in front and that he was embarrassed for his cut and paste regarding the plat. But he realized that something was needed to at least open the discussion regarding this request. **Mr. Gaida** explained to the commission that the Arizona Department of Human Services (AZDHS) has announced a second lottery for the deficient or nonuse dispensary within the CHAA's in the State of Arizona. While the majority of those CHAA's are on Native American land and we have approached them, is not worth our time to go after a Native American land. The CHAA's that are available are San Luis, Somerton and there is hand full of others in the state that we are also applying. So this is one of 3, possible 4 CHAA that we are going for. We have very strong backers, the gentlemen that I am working with, his name is Lazlo Nemeth, has over 30 years of cultivation experience. He is from Bulgaria and has learn his trade in Amsterdam over 25 years ago. Mr. Nemeth has two dispensaries in southern California and he is looking to do more here. I worked with him now for over 4 years. We started on the initial dispensary and we have several lined up, unfortunately we were not awarded any of the CHAA's. Lazlo and his team, they do own half of El Mirage dispensary. They do all of the cultivation for that dispensary. He also has partners with the dispensaries in Quartzsite and Lake Havasu to operate

and manage their twenty thousand square foot warehouses that are fill with cultivation. He has experiences and ties with the first and only publicly traded medical marijuana business in the country that business is out of Las Vega, Nevada. The expertise and the capital that is behind this group here is one that is going to do is right. Mr. Nemeth has done dispensaries in California for over a decade, they have not been raided. They are operating within the law. **Barraza** mentioned that there is a comment from the San Luis Fire Department that they will not support this because it looks like a house, it has a cooking facility. **Barraza** asked Mr. Gaida what you would do to fix that. **Mr. Gaida** stated that he actually went into a mobile home manufacture website and I downloaded this one from their commercial building property section. And I found a size that was big enough for this. **Mr. Gaida** furthermore stated that they will do whatever is required by the City. There are two other CHAA's that we are going for right now and they understand that the conditional use permit is going to be needed but they are waiting after the lottery happens to go the process of defining what the site plan is going to be and engineering plans. So before spending anywhere from seven to ten thousand dollars on engineering plans and another five thousand dollars in architectural plan for this. This site plan is my six grade level submission here is just merely to get a talking point, and to let you know who we are, that we are willing to work with the city on whatever is necessary if and when we actually are awarded the certificate. AZDH was supposed to do their second lottery in May. I been working on this over a year and half identify this site at the beginning of the year. But they postpone their lottery for their remaining CHAA's until the fall. We check that site daily to see if there any changes and unfortunately we got to set ourselves up with landlords, with city council and without knowing when and where this lottery is going to take place, so that is what we are trying to accomplish. If we do get awarded the certificate, we will work with the city on this property or if there are other properties that are more suitable that the City of San Luis would like us to move to, we will do that. There is a section in the medical marijuana ordinance that allows for a relocation within the same CHAA. And this is because of the time that comes to. I have Mr. Buchanan signing, he signed a document of ownership which is required by AZDHS and you have a notarized copy of that. Let just say that Mr. Buchanan

wanted to sell it and we have this agreement with him but we have not gone through the actually lottery yet. So this loop hole of being able to relocate within the CHAA it is for that same reason. We have to set up ourselves up with a land lord to either lease of purchase the property and a lot of time can go on between the time we do a deal and the lottery sets up. That is why the law allows for relocation within the CHAA. It is a matter of three-thousand dollar file fee and letting AZDHS were will be going. It is a long explanation but we want this property, if we can get this property that will be great. If once the city decides after the lottery is done there is more suitable, then we are prepare to go there as well.

OPEN PUBLIC HEARING

No Public Comment

CLOSE PUBLIC HEARING

MOTION: **Maria G. Guzman / Hugo Garcia** to CLOSE public hearing. Motion passed with 4-0.

Chairman Barraza explained to the members of the commission that he personally felt uncomfortable with the proposal as present because this is a recommendation that we are going to make to Council. As I mentioned before this lacks a few features and also the Fire Department is not supporting this as presented they reserve the right to comment upon subsequent submittals.

QUESTION FOR STAFF

Commission Member Maria G. Guzman asked that in the conditions of approval No. 2, it mentioned that he medical Marijuana Dispensary Use and the subject site shall comply with all City of San Luis regulations as well as all requirements identified under Section 14.15 of the Zoning Ordinance. So this

would cover the concern from the Fire Department, is that correct? **Starkey** responded that would be correct.

Chairman Barraza asked when a proposal comes as a conditional use, it is not site plan specific? It is just a rough idea, can be change later? Because if this goes to the Yuma County Board of Supervisors, the commission recommends based on this. **Starkey** explained to Chairman Barraza that he had to understand that this is a different situation than most conditional use permits. You are expecting them, like Mr. Gaida said, you are expecting them to invest thousands of dollars to put it together in a site plan on a chance that they might in fact win the lottery. Most conditional uses do not have to go to the state in addition to the city. So they just want to submit something to give you an idea of what they are proposing. It may not be the idea, what you (the commission) really approving is not much the site plan, what you are approving is the concept of having a medical marijuana dispensary at that location. When the state or when and if the state gives them a permit to have one there. It may not even be able to build that big of a building in order to have the number of required parking. It may have to be a smaller building. Council may not even allow them to do it in a manufacture building maybe they will required to build it in an actual wood frame building. So there could be a lot of changes, the conditional use permit basically is the use, which they want to have a medical marijuana in this location. The rest would be handle by within the city staff to make sure it meets the Fire code, Building code, Zoning ordinance, storm drainage requirements and Landscaping.

Hugo Garcia asked so basically it would be better to just present the lot size? **Starkey** responded that what you are getting a vague idea of what they are thinking about. At least it gives you something to look at. But as I stated before the final product could very well be lot different.

MOTION: **Maria G. Guzman / Hugo Garcia** to recommend APPROVAL of Condition Use Permit Case No. 2015-0420 to the City Council as presented by staff.

Chairman Barraza requested a roll call vote. The roll call vote was as follows:

Commission Member M. G. Guzman	Aye
Commission Member H. Garcia	Aye
Commission Member Bill Cordova	Nay
Chairman J. Barraza	Nay

Motion 2 to 2 votes. Motion died. (Motion is not valid according to the Zoning Ordinance Section 2.1-G.3)

Mr. Starkey, informed to Chairman Barraza that according to our zoning ordinance in order for us to proceed with this case to the next level, the City Council. We have to have 4 votes either affirmative or negative. We cannot have a 2 to 2 votes and then proceed.

Kay Macuil, City Attorney, informed that we can continued this item to see if we get everyone here to see what the vote will be with all the Planning and Zoning Commissioners.

Mr. Gaida asked the commission to please bear in mind that he did not want to spend 10 to 15 thousands on engineering and site plans. And since we do not have this yet and we kind of putting the car before the horse here. Because you are the only city doing this, and I am happy to do, go through this. But the other cities are waiting to after the lottery is awarded and then we are going to the Conditional Use Permit. So please take in mind that all we are asking is for the opportunity to get to that lottery stage. And then we will do whatever it takes to work with the city on site plans, engineering and plat maps. Furthermore, Mr. Gaida asked the commission what would you want me to do to help you out at this time? **Chairman Barraza** responded just an accurate site plan of what you are proposing, showing property lines.

MOTION: **Javier Barraza / Hugo Garcia** to CONTINUED Conditional Use Permit Case No. 2015-0420 to the regular Planning and Zoning Commission on December 8, 2015 at 7:00PM. Motion passed with unanimously (4-0).

ITEMS REQUIRING DISCUSSION AND/OR ACTION

- None

INFORMATION AND DISCUSSION ITEMS

- None

NEW ITEMS OF BUSINESS FOR FUTURE AGENDAS

John Starkey Zoning, Administrator, informed that on the next meeting there is going the following cases:

1. **Conditional Use Permit Case No. 2015-0493 / Choice Cannabis, LLC** (Medical Marijuana Dispensary on 2801 N. Main Street, San Luis, Arizona).
2. **Conditional Use Permit Case No. 2015-0435 /AZ15-030 Baja** (multi carrier 80' monopole on 690 N. 10th Avenue, San Luis, Arizona).
3. **Subdivision Case No. 2015-0482/ San Luis Port Subdivision** (Northeast corner Co. 24th Street, & Avenue E, San Luis, Arizona).

CALL TO THE PUBLIC

There were no public comments.

ADJOURNMENT

Chairman Barraza adjourned the meeting at approximately 7:46 PM.