

**APPROVED** by Planning & Zoning Commission

**Date:** August 8, 2017

**P&Z Office:** /s/ Roman Pacheco

## MINUTES

REGULAR MEETING  
PLANNING AND ZONING COMMISSION  
SAN LUIS COUNCIL CHAMBERS  
1090 E. UNION STREET  
JULY 11, 2017  
7:00 PM

*Ray Urias, Attorney, mentioned to the members of the Commission that there is not a chairman or Vice Chairman present for tonight's meeting therefore, a temporary Chairman is to be elected among the four (4) commissioners present to conduct the meeting. Thus, somebody needs to make a motion and second followed by a call for a vote.*

**MOTION:** **Guillermina Fuentes / Hugo Garcia** to elect Marco A. Pinzon as Chairman. Motion passed unanimously (4-0).

**1. CALL TO THE ORDER /ROL CALL:** The meeting was called to order at approximately 7:05 PM., by Acting Chairman Marco A. Pinzon.

**2. PLEDGE OF ALLEGIANCE:** Pledge of Allegiance was led by Acting Chairman Marco A. Pinzon.

### **PRESENT:**

Commission Member Hugo Garcia  
Commission Member Guillermina Fuentes  
Commission Member Marco A. Pinzon  
Commission Member Jose A. Ponce

### **ABSENT:**

Chairman Bill Cordova  
Vice Chairman Javier Barraza  
Commission Member Daniel Bazua

**OTHER PRESENT:** Jose A. Guzman, Acting Planning and Zoning Director  
Roman Pacheco, Planning Technician  
Chris Hagan, Management Analyst  
Eulogio Vera, Public Works Director  
Gloria Torres, Council Member  
Johnathan, Dumadag, I. T. Technician  
Kay Macuil, City Attorney  
Ray Urias, Attorney  
Tadeo A. De La Hoya, City Manager

### **3. CONSENT AGENDA:**

#### **3. A. MINUTES OF**

**- Regular Planning & Zoning Commission Meeting held May 9, 2017**

**MOTION:** Jose A. Ponce / Hugo Garcia to APPROVE the Consent Agenda as presented. Motion passed unanimously (4-0).

### **4. PUBLIC HEARINGS**

**4. A. Public hearing followed by discussion and possible action on any and all matters regarding Conditional Use Permit No. 2017-0432. A request by Arely Cardenas on behalf of Robert Bruce and Ivone Jackson, property owners, for a conditional use permit to allow outdoor sales and displays on property located at 588 N. Main Street, San Luis, Arizona.**

#### **A. Open Public Hearing**

**MOTION:** Jose A. Ponce / Hugo Garcia to open public hearing. Motion passed unanimously (4-0).

**Jose A. Guzman, Acting Planning and Zoning Director,** summarized staff report recommending DENIAL of Conditional Use Permit Case No. 2017-0432.

**Viridiana Monreal, Representative of Gomart, 588 N. Main Street,** stated that what they are requesting is a Conditional Use Permit to allow outdoor sales. For our business our sales are high during the month of December and with this permit it will benefit our business to increase sales during the months with low season. We have taking various measures to increase our sales especially when the traffic flow was redirected and with the new restrictions regarding the outdoor sales.

**Commission Member Guillermina Fuentes** asked if this request for a Conditional Use Permit will be forever.

**Ms. Monreal** responded yes, our intention is to put outdoor sales all year long to increase our sales.

**Fuentes** also stated that there are two request for comments received with concerns regarding this request.

**Commission Member Jose A. Ponce,** asked if this permit is only for this store or would this be for other merchants too.

**Ms. Monreal** responded that this is only pertaining to the Gomart store.

**Pinzon** stated that he has her comments and from other vendors that sales have gone down. I have more negative comments than positive and of course changes is not positive for everybody. For the City it is because, it beautifies our down street and the traffic, but also there is a negative side which one of them is that our local vendors that have been there for years and dealing with the sales that have dropped dramatically. I do not agree on a conditional use permit where they can do it every day but I do agree on one where they can do it on weekends or on certain occasion like weekends or holidays.

### **Questions for Staff**

**Pinzon asked** Mr. Guzman if he can explain a little bit more where you mentioned one section where it is permitted and also were you pointed out one that doesn't which you were recommending denial.

**Guzman** responded that this use is listed under conditional use permit but they have to meet three (3) criteria to be able to apply for it. But then we

have a different section in general for any conditional use permit, that applies to every application and it has 7 criteria and it does not meet most of them, so that is why we are recommending denial but as the Commission you can always make a different recommendation to Council.

**Fuentes** asked what are the three (3) criteria that they have to meet, based on the conditional use permit. **Guzman** responded that the criteria is to have the product and services they are going to be displaying, which will be the same products they are selling inside the store. The second is that they do not interfere with pedestrian access ways, walk-ways, fire lanes, required parking spaces, driveways, landscape areas, or traffic visibility and that with the comments made by the Fire Department and Building Safety Division that one would probably will not meet. And the third one is that the combined outdoor sales and displays areas cannot exceed ten percent (10%) of the business's gross square footage, in which they comply. **Commission Member Hugo Garcia** asked what prevents them from not putting things on the side walk. Are we having a code enforcer go every day to check on that? **Guzman** responded that on every zoning districts we have what is called "Conditional Uses" and outdoor sales or displays is under the C-2 zoning as a conditional use. So, that is the requirement that makes you have to apply for the permit in order to be able to do that. There is a regulation that doesn't allow you to just put stuff out on this place. **Pinzon** stated so now they are applying for a permit and what the Fire Department is saying on that part that the applicant is requesting to put outdoor display. **Guzman**, responded that their concerns is that they will block egress routes, and exit of the building. And in case of emergency it will make it difficult for them.

Furthermore, **Pinzon** mentioned that his frustration is that when we did all of this back then, there was talked about a special permit so they can do sidewalk sales on special holidays and it never went through and it upsets me because we talked about it. And because there were going to be a lot upset vendors because we were going to take that away. Again, this is my frustration, I guess someone forgot and they did it without contemplating something like we did with the yard sales. **Guzman** stated that there are only a few business that they actually have space on their property, most of them are in the property line.

**Pinzon** mentioned that the call to the public for this item was still open if somebody had any comments or wishes to speak and that there is no one from the Fire Department present to explain us their reasons and regulations they have on why is not permitted to be close by the door.

**Ms. Monreal** explained that their intention is to display the items in the front area as outline in the picture and where they are not going to be blocking the entrance.

**Ray Urias, Attorney**, mentioned to Acting Chairman Pinzon, that he did not want to influence his decision on either way but if you look at the staff report you will see that there are 7 enumerated criteria. All seven have to be met in order for you to make a recommendation of approval. In staff report they said number 1 is met, and number 7. But those in between ones are not. When you go through these, if someone is going to make a motion to pass on an approval. You will need to go to 2, 4, 5, and 6 criteria and show how you in view in your mind they do meet that criteria.

**Pinzon mentioned** to Mr. Guzman if they do not meet these criteria, why even present to us, if they do not even meet them. **Guzman** responded that they meet the three (3) criteria to apply. Let say, if there was another business and we review that application and they meet the seven 7 criteria, then we will recommend approval. So when we do the review we based it on that criteria's and it is on case by case basis. **Urias** mentioned to Mr. Pinzon that the applicants and property owners, they all have a right to apply and try to get a permit. Just because staff professional opinion is that they do not meet the criteria that is not the end of it; that is why there is a hearing, and evidence. You folks may consider differently or look it differently than staff and you might have a different opinion so that is why we go through the whole process but staff does not have the authority to say: you do not meet it and that is why we are not going to go further, they have to presented it and that is why we are here tonight.

### **B. Close Public Hearing**

**MOTION:** **Guillermina Fuentes / Jose A. Ponce** to close public hearing. Motion passed unanimously (4-0).

### C. Action

**MOTION:** **Jose A. Ponce / Hugo Garcia** to move forward Conditional Use Permit Case No. 2017-0432 to the City Council with recommendation of DENIAL. Motion died with a tie vote 2 ayes and 2 nays.

**Ray Urias**, stated that the results is a tie and under the Robert's Rules of Order a tie means nothing happens. It has to go forward on a positive vote 3 to 1 in this case. A 2 to 2 means it is not going forward with approval. The staff will report to Council that it was a tie vote, so it did not get a recommendation for approval that is the way it will be said. Because you have a tie, it is your choice, you can say do we want to try again with a positive vote to approve and see how that works out, sometimes people change their minds, but I do not know.

Furthermore, **Mr. Urias** mentioned the way it works is; in order for something to have an approval you have to have a motion, because there is four (4) of you there has to be three (3) people vote "yay" on a motion to approve. Anything else is a denial that is the effects of Robert Rule of Order and parliamentary procedure. So you do not have something going in through the back door on a tie or something.

**Pinzon** asked Mr. Urias if we do this motion again, can they reapply. Urias responded the general rule is, this still has to go to Council unless the applicant wants to withdraw the matter and come back. If they come back with the same proposal, they cannot do that. They might have to wait a year and reapply.

**Pinzon** asked Mr. Guzman when they apply for this application does the Fire Department or staff go over there and talk to them and tell them this is the problem that we have and this is the problem that we see or you guys throw the requirements and regulations. **Guzman** responded we go out to look at the property I am not sure if the Fire Department goes, we send out the requests and we get comments from them. Furthermore, **Guzman** explained that we usually have a predevelopment meeting where we explain all the regulations and we let them know that we do a recommendation and that the Planning and Zoning Commission makes and forward a recommendation to City Council and Council makes the final decision.

**Viridiana** (*Gomart store representative*) asked if she can come up to the podium to address the commission.

**Pinzon** asked Ray Urias, attorney if they can reopen the public hearing. **Urias** responded you will need to reopen the public hearing part if you want to address the applicant again, to keep clean and the record clear.

### **REOPEN PUBLIC HEARING**

**MOTION:** **Marco A. Pinzon / Hugo Garcia** to re-open public hearing. Motion passed with 3 aye votes and 1 nay vote from Jose A Ponce.

**Viridiana Monreal, Representative of Gomart, 588 N. Main Street,** mentioned that on the comments that I heard that there are 7 steps in order for us to be approve. We met 3 of them, which are the other steps that we did not met, so we can work on them. **Fuentes** asked was the applicant informed that they had to meet the seven (7) criteria. **Mr. Guzman** responded that staff provided the information to Arely Cardenas applicant and not Ms. Monreal.

### **Close Public Hearing**

**MOTION:** **Guillermina Fuentes / Hugo Garcia** to close public hearing. Motion passed unanimously (4-0).

### **C. Action**

**MOTION:** **Guillermina Fuentes / Jose A. Ponce** to CONTINUED Conditional Use Permit Case No. 2017-0432 to the August 8, 2017 regular meeting. Motion passed unanimously (4-0).

**4. B. Public hearing followed by discussion and possible action on any and all matters regarding Text Amendment Case No. 2017-0339. A request by the City of San Luis for a text amendment to the San Luis City Code, Chapter 152 Zoning Regulations, Section 152.262- Administration of Sign Regulations, Subsection 152.262(F)- Variances, to allow the use of conditional use permits in addition to variances to allow relief from design standards. (Item continued from June 13, 2017 Commission meeting)**

### **A. Open Public Hearing**

**MOTION: Jose A. Ponce / Hugo Garcia** to open public hearing. Motion passed unanimously (4-0).

**Jose A. Guzman, Acting Planning and Zoning Director,** summarized staff report recommending APPROVAL of Text Amendment Case No. 2017-0339.

There were no public comments.

### **B. Close Public Hearing**

**MOTION: Jose A. Ponce / Hugo Garcia** to close public hearing. Motion passed unanimously (4-0).

### **C. Action**

**MOTION: Marco A. Pinzon / Jose A. Ponce** to APPROVED Text Amendment Case No. 2017-0339 as presented by staff. Motion passed unanimously (4-0).

**4. C. Public hearing followed by discussion and possible action on any and all matters regarding Text Amendment Case No. 2017-0457. A request by the City of San Luis for a text amendment to the San Luis City Code, Chapter 152 Zoning Regulations, by adding the definition and regulations regarding personal dog kennels.**

### **A. Open Public Hearing**

**MOTION: Jose A. Ponce / Hugo Garcia** to open public hearing. Motion passed unanimously (4-0).

**Jose A. Guzman, Acting Planning and Zoning Director,** stated due to further discussion from staff we are recommending to CONTINUE Text Amendment Case No. 2017-0457 to the next regular meeting.

### **Close Public Hearing**

**MOTION: Jose A. Ponce / Hugo Garcia** to close public hearing. Motion passed unanimously (4-0).



### **C. Action**

**MOTION:** **Guillermina Fuentes / Hugo Garcia** to CONTINUE Text Amendment Case No. 2017-0457 to the August 8, 2017. Motion passed unanimously (4-0).

## **5. INFORMATION AND DISCUSSION ITEMS**

**5. A. Discussion and possible action on any and all matters regarding Subdivision Case No. 2017-0433F. A request by Nieves Riedel on behalf of R&G Associated, LLC, for the final plat approval for Santa Cecilia Subdivision. The property is located at the north east corner of County 24th Street and Avenue "F", Assessor's Parcel No. 227-10-010, San Luis, Arizona.**

**Jose A. Guzman, Acting Planning and Zoning Director,** summarized staff report recommending APPROVAL of Subdivision Case No. 2017-0433F subject to condition that the applicant addresses the letter from staff date July 11, 2017.

### **B. Action**

**MOTION:** **Marco A. Pinzon / Hugo Garcia** to Approve Subdivision Case No. 2017-0433F subject to condition that the applicant addresses the letter from staff date July 11, 2017. Motion passed unanimously (4-0).

## **6. CALL TO THE PUBLIC**

There were no public comments

## **7. ADJOURNMENT**

**MOTION:** **Marco A. Pinzon / Jose A. Ponce** to adjourn the Regular Planning & Zoning Meeting at approximately 8:08 p.m. Motion passed unanimously.