



## **NOTICE OF REGULAR PLANNING AND ZONING COMMISSION MEETING**

In accordance with Section 38-431.01 of the Arizona Revised Statutes of the State of Arizona, notice is hereby given to the Members of the Planning and Zoning Commission and to the general public that the Planning and Zoning Commission of the City of San Luis, Arizona will hold a Regular Planning & Zoning Commission Meeting at 7:00 p.m., Tuesday, August 8, 2017. The meeting will take place at the City Council Chambers, located at 1090 E. Union Street, San Luis, Arizona, 85349. Everyone from the public is invited to attend the open meeting.

In accordance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, the City of San Luis does not discriminate on the basis of disability in the admission of or access to, or treatment of employment in its programs, activities, or services. For information regarding rights and provisions of the ADA or Section 504, or to request reasonable accommodations for participation in City programs, activities or services contact: ADA/Section 504 Coordinator, City of San Luis Human Resources Department, 1090 East Union Street, San Luis, Arizona 85349; (928) 341-8520.

Notice is hereby given that pursuant to A.R.S. §1-602.A.9, subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the City Council are audio and/or video recorded, and, as a result, proceedings in which children are present may be subject to such recordings. Parents in order to exercise their rights may either file written consent with the City Clerk to such recordings, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the City will assume that the rights afforded parents pursuant to A.R.S. §1-602.A.9 have been waived.

THIS NOTICE IS GIVEN BY:

/s/ Jose A. Guzman, Acting Planning and Zoning Director

## **AVISO DE JUNTA REGULAR DE LA COMISIÓN DE PLANEACIÓN Y ZONAMIENTO**

De acuerdo a la Sección 38-431.01 de los Estatutos Revisados del Estado de Arizona, se les informa a los Miembros de la Comisión de Planeación y Zonificación y al público en general que la Comisión de Planeación y Zonificación de San Luis, Arizona, tendrán una junta regular a las 7:00 p.m., el día Martes, 8 de Agosto del 2017. La junta se llevará a cabo en la Cámara del Consejo de la ciudad, ubicado en el 1090 East Union Street, San Luis, Arizona, 85349. El público esta cordialmente invitado.

De acuerdo con el Acta de Americanos con Discapacidades y la Sección 504 del Acta de Rehabilitación de 1973, la Ciudad de San Luis no discrimina por causa de discapacidad la admisión y acceso a sus programas, actividades, servicios o en el trato en cuanto a empleo. Para más información referente a derechos y provisiones del Acta de Americanos con Discapacidades o Sección 504, o para solicitar adaptaciones que sean razonables para la participación en programas, actividades o servicios de la ciudad, contactar a: Coordinador del Acta de Americanos con Discapacidades/Sección 504, Departamento de Recursos Humanos de la Ciudad de San Luis, 1090 Este Calle Unión, San Luis, Arizona, 85349; (928) 341-8520.

Por medio de éste aviso y de acuerdo con los Estatutos Revisados del Estado de Arizona, sujeto a ciertas excepciones reglamentarias, los padres de familia tienen el derecho de dar o no dar el consentimiento ante el Estado o alguna subdivisión política grabe a un menor de edad, ya sea en audio o video. Las juntas del Concilio se graban en audio y/o video y como resultado, el hecho de que haya menores presentes puede ser sujeto a que sean grabados. Para que los padres de familia puedan ejercer sus derechos pueden solicitar por escrito a la Secretaria de la Ciudad dicha grabación, o tomar acción personal para asegurarse que su hijo/hija menor no esté presente cuando la grabación se lleve a cabo. Si un menor de edad está presente en el momento de la grabación, la Ciudad asumirá que los padres de familia están cediendo los derechos sobre una posible grabación de acuerdo con el Estatuto Revisado del Estado de Arizona §1-602.A.9.

ESTE AVISO ES DADO POR:

/f/ Jose A. Guzman, Director Interino de Planeación y Zonificación



**AGENDA**  
**Planning & Zoning Commission**  
**Regular Meeting**  
**San Luis Council Chambers**  
**1090 E. Union Street**  
**San Luis, AZ 85349**  
**Tuesday, August 8, 2017**  
**7:00 P.M.**

**MEMBERS OF THE SAN LUIS PLANNING & ZONING COMMISSION WILL ATTEND EITHER IN PERSON, TELEPHONE, OR VIDEO CONFERENCE COMMUNICATION.**

**1. CALL TO ORDER/ROLL CALL**

**2. PLEDGE OF ALLEGIANCE**

**3. CONSENT AGENDA**

All matters are considered to be routine by the Planning & Zoning Commission and will be enacted by one motion. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

**3. A. Approval of Minutes**

-Regular Planning and Zoning Commission meeting held June 13, 2017  
-Regular Planning and Zoning Commission meeting held July 11, 2017

**4. PUBLIC HEARINGS** – the Planning & Zoning Commission will be considering a vote or action on the following cases. Any vote or action will be considered separately for each case.

**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 Ivonne 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. **(item continued from July 11, 2017 Commission meeting)**

A. Open public hearing

1. Staff presentation
2. Call to the Public on this item

B. Close public hearing

C. Action on Conditional Use Permit Case No. 2017-0432

**4. B.** 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. **(item continued from July 11, 2017 Commission meeting)**

A. Open public hearing

1. Staff presentation

- 2. Call to the Public on this item
  - B. Close public hearing
  - C. Action on Text Amendment Case No. 2017-0457

5. **CALL TO THE PUBLIC** - This is the time for the public to comment. Members of the Commission may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to Arizona Revised Statute §38-431.01(G), action taken as a result of comment will be limited to directing staff to study the matter, or scheduling the matter for further discussion and decision at a future date. All Planning & Zoning Commission meetings are recorded.

6. **ADJOURNMENT**



## PLANNING & ZONING AGENDA ITEM REVIEW FORM

### Planning & Zoning Commission Meeting

3.A.

**Meeting Date:** 08/08/2017

**Submitted By:** Roman Pacheco, Planning Technician, Planning & Zoning Department

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#### ITEM:

##### Approval of Minutes

- Regular Planning and Zoning Commission meeting held June 13, 2017
- Regular Planning and Zoning Commission meeting held July 11, 2017

#### SUMMARY:

#### RECOMMENDED MOTION:

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#### Attachments

Minutes June 13, 2017

Minutes July 11, 2017

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# MINUTES

REGULAR MEETING  
PLANNING AND ZONING COMMISSION  
SAN LUIS COUNCIL CHAMBERS  
1090 E. UNION STREET  
June 13, 2017  
7:00 PM

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

2. PLEDGE OF ALLEGIANCE: Pledge of Allegiance was led by Chairman Bill Cordova.

PRESENT:

Chairman Bill Cordova  
Vice Chairman Javier Barraza  
Commission Member Hugo Garcia (arrived @ 7:04PM)  
Commission Member Guillermina Fuentes  
Commission Member Marco A. Pinzon  
Commission Member Jose A. Ponce

ABSENT:

Commission Member Daniel Bazua

OTHER PRESENT: Jose A. Guzman, Acting Planning and Zoning Director  
Roman Pacheco, Planning Technician  
Kay Macuil, City Attorney  
Richard Bauermann, Firefighter/EMPT

3. PRESENTATIONS:

### 3. A. PRESENTATION ON AVAILABLE TRAINING FOR COMMISSION MEMBERS: ARIZONA CITIZEN PLANNER ONLINE PROGRAM.

Jose A. Guzman, Acting Planning and Zoning Director, informed members of the Planning and Zoning Commission regarding an online training available to all of them called Arizona Citizen Planner 101. Mr. Guzman also stated that this training is a self-pace and that he found this course very interesting. Guzman encourage all the members to do the course as soon as possible. Guzman mentioned that there will be an email sent to all members of the commission with details on how to log in.

### 4. PUBLIC HEARINGS

4. A. Public hearing followed by discussion and possible action on any and all matters regarding Conditional Use Permit Case No. 2017-0284. A request by Nicholas Ramos on behalf of Estanislao Escobosa, property owner, for a conditional use permit to allow the establishment of a religious institution on property located at the southeast corner of Avenue F and Aracely Street, San Luis, Arizona.

#### A. Open Public Hearing

MOTION: Javier Barraza / Marco A. Pinzon to open public hearing. Motion passed unanimously (6-0).

Jose A. Guzman, Acting Planning and Zoning Director, summarized staff report recommending APPROVAL of Conditional Use Permit Case No. 2017-0284.

#### B. Close Public Hearing

MOTION: Hugo Garcia / Marco A. Pinzon to close public hearing. Motion passed unanimously (6-0).

#### C. Action on Text Amendment Case No. 2017-0284

MOTION: Marco A. Pinzon / Javier Barraza to APPROVE Conditional Use Permit Case No. 2017-0284. Motion passed unanimously (6-0 votes).

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.

#### [A. Open Public Hearing](#)

MOTION: Bill Cordova / Marco A. Pinzon to open public hearing. Motion passed unanimously (6-0).

Jose A. Guzman Acting Planning and Zoning Director, stated staff needed further discussion with other department in order to have more detail amendment and staff recommends to continue this item to the next regular commission meeting.

#### [B. Close Public Hearing](#)

MOTION: Jose A. Ponce / Javier Barraza to close public hearing. Motion passed unanimously (6-0).

#### [C. Action on Text Amendment Case No. 2017-0339](#)

MOTION: Jose A. Ponce / Marco A. Pinzon to APPROVE Conditional Use Permit Case No. 2017-0339. Motion passed unanimously (6-0 votes).

4. C. Public hearing followed by discussion and possible action on any and all matters regarding Text Amendment Case No. 2017-0340. A request by the City of San Luis for a text amendment to the San Luis City Code, Chapter 152 Zoning Regulations, Section 152.121 "L-I" Light Industrial District, Subsection 152.121(C) to allow the refining, processing, or packaging of agricultural or edible food products as a conditional use.

#### [A. Open Public Hearing](#)

MOTION: Jose A. Ponce / Marco A. Pinzon to open public hearing. Motion passed unanimously (6-0).

Jose A. Guzman, Acting Planning and Zoning Director, summarized staff report recommending APPROVAL of Text Amendment Case No. 2017-0340.

#### B. Close Public Hearing

MOTION: Marco A. Pinzon / Jose A. Ponce to close public hearing. Motion passed unanimously (6-0).

#### C. Action on Text Amendment Case No. 2017-0339

MOTION: Javier Barraza / Jose A. Pinzon to APPROVE Text Amendment Case No. 2017-0340. Motion passed unanimously (6-0 votes).

### 5. INFORMATION AND DISCUSSION ITEMS

5. A. Discussion and possible action regarding Subdivision Case No. 2017-0334P. A request by Nieves Riedel on behalf of R&G Associated, LLC, for the preliminary 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. 2017-0334P with conditions as presented by staff.

MOTION: Jose A. Ponce / Marco A. Pinzon to approve Preliminary Plat Subdivision Case No. 2017-0334P with conditions as presented by staff. Motion passed unanimously (6-0).

### 7. CALL TO THE PUBLIC

There were no public comments

### 8. ADJOURNMENT

MOTION: Marco A. Pinzon / Jose Ponce to adjourn the Regular Planning & Zoning Meeting at approximately 7:19 p.m. Motion passed unanimously.

# 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.



## PLANNING & ZONING AGENDA ITEM REVIEW FORM

### Planning & Zoning Commission Meeting

4.A.

**Meeting Date:** 08/08/2017

**Submitted By:** Jose A. Guzman, Acting Planning & Zoning Director, Planning & Zoning Department

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#### ITEM:

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 Ivonne 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. **(item continued from July 11, 2017 Commission meeting)**

- A. Open public hearing
  - 1. Staff presentation
  - 2. Call to the Public on this item
- B. Close public hearing
- C. Action on Conditional Use Permit Case No. 2017-0432

#### BACKGROUND:

In an effort to improve pedestrian access in Community Commercial Zoning District (C-2), City Council adopted Ordinance No. 338 on May 27, 2015. This ordinance amended the Zoning Regulations by requiring a conditional use permit to allow outdoor sales and displays and only if the following conditions are met:

1. Products and services displayed outdoors are customary, accessory, and incidental to those sold and displayed in a primary business being conducted in a permanent building on the property.
2. Outdoor sales and displays do not interfere with pedestrian access ways, walk-ways, fire lanes, required parking spaces, driveways, landscape areas, or traffic visibility at driveway entries and street intersections.
3. The combined outdoor sales and displays areas do not exceed ten percent (10%) of the business's gross square footage.

Since Ordinance No. 338 was adopted this is the first request submitted for a conditional use permit for outdoor sales and displays. The request is to allow electronics and clothes to be displayed outside Gomart, business located in the downtown area at 588 N. Main Street.

#### CITIZEN REVIEW MEETING:

The Citizen Review Meeting was held on June 27, 2017 at City Hall Council Chambers at 6:00 p.m. The intent of this meeting was to allow the public to learn about the project, ask questions, and express any comments. There were no one from the public present.

#### AGENCY REVIEW:

As part of the review process, all land use cases are reviewed by various City and outside agencies. We have received the following comments:

1. City of San Luis Fire Department (6-26-17)
2. City of San Luis Building Safety Division (6-26-17)
3. City of San Luis Community Development Department (6-28-17)

As required by State Statute, staff sent notification letters to property owners within 300 feet of the proposed project (19 letters). The City has not received any other significant concerns or objections from the various review agencies or adjacent property owners.

**PLANNING AND ZONING COMMISSION MEETING:**

This item was presented to the Planning and Zoning Commission at their regular meeting of July 11, 2017. The Commission continued the item to the next scheduled meeting to get more details regarding the request.

**ANALYSIS:**

Staff met with the applicant on July 18, 2017 and provided information regarding the seven (7) approval criteria for a conditional use permit. The applicant was not present, staff provided the information to her representative. It was discussed that the applicant would revise the request and provide alternatives and submit a new narrative explaining each criteria. Staff received the narrative on August 2, 2017 explaining each criteria. The new site plan showing less area for the request was received on August 7, 2017.

On August 2, 2017 staff from Building Safety and Fire Department met with the representative at the location of the request. On August 8, 2017 staff received updated comments from both departments.

As per the Zoning Regulations Section 152.0143(F) *Approval Criteria*, uses permitted subject to a conditional use permit shall be permitted only if the applicant demonstrates that:

(1) The proposed conditional use shall be in compliance with all regulations of the applicable zoning district, design standards, or general provision requirements of this chapter;

*The request requires a conditional use permit as per Zoning Regulations Section 152.107(C)(11).*

(2) The establishment, maintenance, or operation of the proposed use shall not be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the surrounding land nor be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas;

*The establishment of outdoor sales and displays will create visual clutter and possible blocked egress therefore the use will be detrimental to the safety and comfort of persons in the surrounding land.*

(3) The proposed use shall not be materially injurious to properties or improvements nor diminish or impair property values in the immediate vicinity;

*The downtown area was recently improved to enhance traffic circulation, pedestrian safety and improve access to downtown business. As per General Plan 2020 Section 11.2 one objective is to enhance the appearance of the downtown area and Main Street. This request would be materially injurious to the downtown improvements as this will create visual clutter.*

(4) The proposed use will be served by ingress and egress routes that minimize traffic congestion, shall not burden the existing and anticipated traffic conditions including parking facilities on adjacent streets and land, and will be served by adequate public utilities;

*The property has existing parking spaces for vehicles; however it will create unsafe conditions for pedestrians.*

(5) The proposed use shall not impede the normal and orderly development and improvement of surrounding property for uses permitted by right in the zoning district and shall be in compliance with the City of San Luis General Plan adopted by the City;

*The property has a land use designation of Activity Center under the General Plan 2020. As per General*

*Plan Land Use Element Section 2.6, two of the Character and Design of this designation are visually attractive corridors and easy access for pedestrians. As mentioned by the Fire Department any obstruction to the path of egress might hinder evacuation of employees and the general public in case of an emergency.*

(6) The proposed use is necessary or desirable or provides a service or facility that contributes to the general well being of the area; and

*Outdoor sales and displays are not necessary or desirable or provide a service or facility that contributes to the general well-being of the area. It does contribute to only one business owner.*

(7) The proposed use shall not create more adverse impacts on existing uses in the surrounding areas than those which reasonably might result from development of the site with a use that is permitted by right in the zoning district.

*The use will not create more adverse impacts on existing uses.*

**SUMMARY:**

Staff recommends denial of the request based on that it does not meet the approval criteria as per City Code- Zoning Regulations Section 152.0143(F).

**RECOMMENDED MOTION:**

**A. I MOVE TO OPEN PUBLIC HEARING**

**B. I MOVE TO CLOSE PUBLIC HEARING**

**C. I MOVE TO FORWARD CONDITIONAL USE PERMIT CASE NO. 2017-0432 TO THE CITY COUNCIL WITH RECOMMENDATION OF DENIAL**

---

**Attachments**

Location Map

Pictures of Location

New Site Plan (8-7-17)

Letter from applicant (8-2-17)

City of San Luis Fire Department Comments (8-7-17)

City of San Luis Building Safety Division Comments (8-7-17)

Site Plan

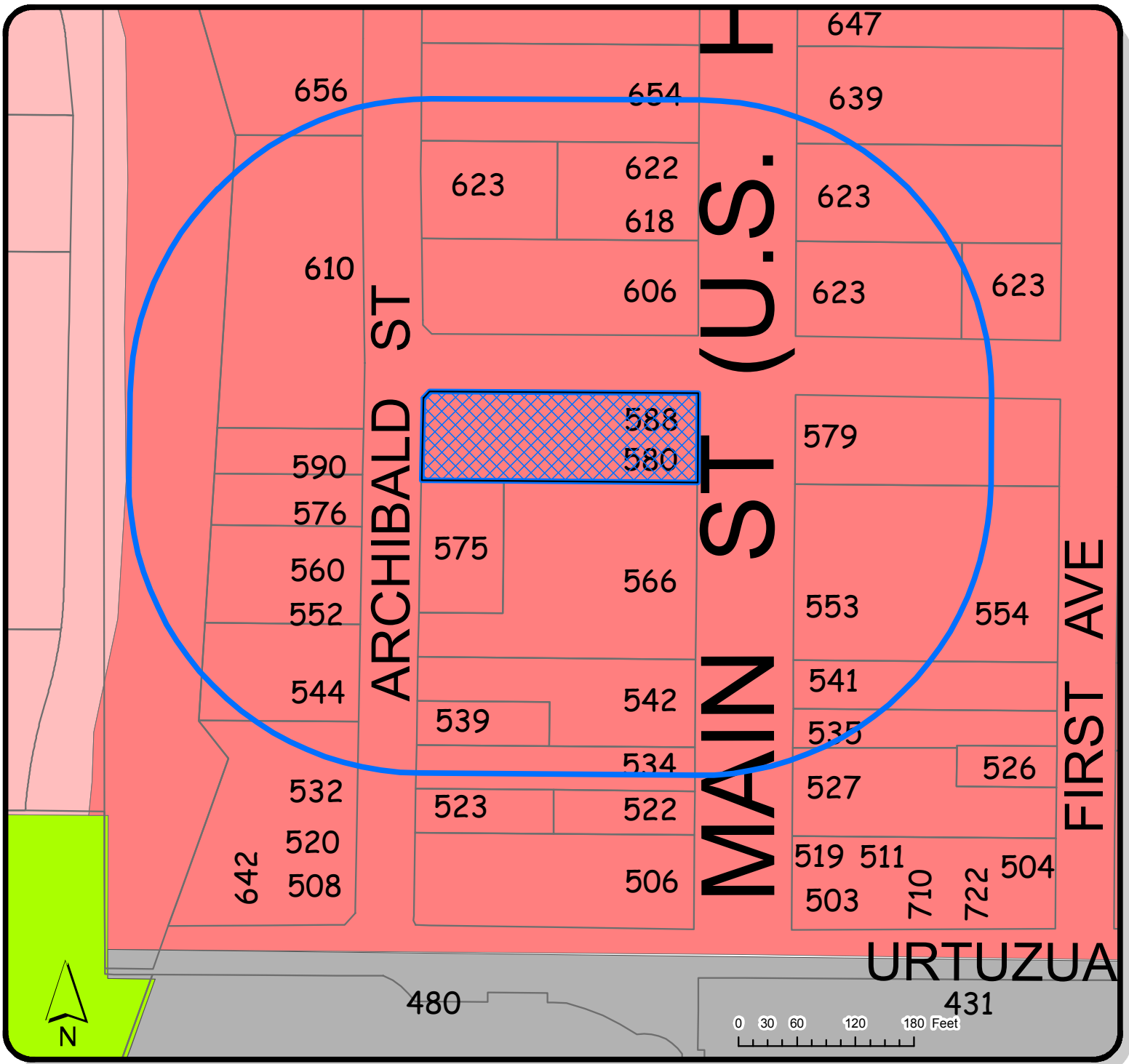
City of San Luis Fire Department Comments (6-26-17)

City of San Luis Building Safety Division Comments (6-26-17)


City of San Luis Community Development Department Comments (6-28-17)

Ordinance No. 338

---



**LOCATION OF SUBJECT PROPERTY**





 588 N MAIN ST  
 LEGAL: Subdivision: SAN LUIS TOWNSITE Block: 1  
 Lot: 1 EXC R/W PER 2014-02472 Section: 12  
 Township: 11S Range: 25W

 300ft Notification Area

**Location Map**

**CONDITIONAL USE PERMIT**

**Zoning**

-  LI
-  C-1
-  C-2
-  RA-10

**Date:** 6/22/2017

**Checked By:**  
ROMAN PACHECO



**Prepared By:**  
IG

**APPROVED BY:**  
JOSE A. GUZMAN

**Case No.**  
2017-0432



go fast  
go smart GOMART

metroPCS  
Authorized Dealer

MONACO

BICYCLE  
BIKE LANE

CONTROL  
of TAX'S

ATM

11th St

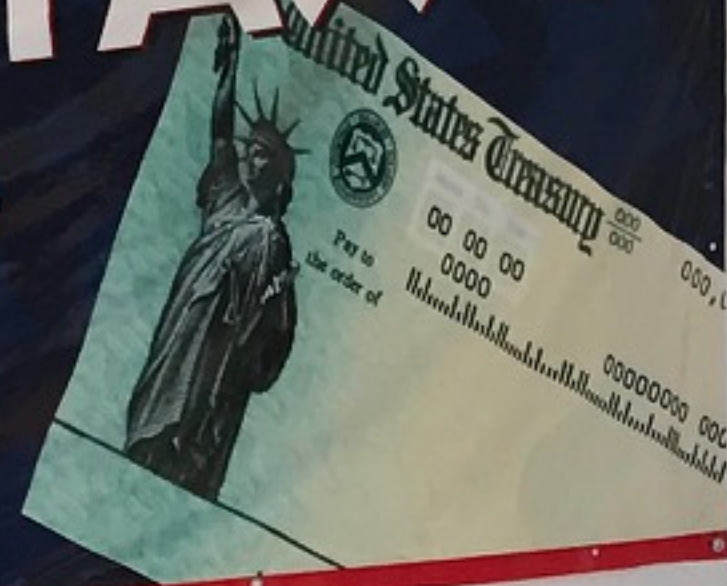

1st Ave

metroPCS  
Authorized Dealer

**★ ★ ★ ★ GANA DINERO ★ ★ ★ ★**  
CON LA TARJETA DE CLIENTE FRECUENTE

# Cambio de TAX'S

**1%**



588 N. MAIN ST. · SAN LUIS AZ

**CAMBIO DE CHEQUES**  
**1%**  
ATM  
CAJERO AUTOMÁTICO

**Gomart**  
**CAMBIO DE CHEQUES**  
**1%**  
**PAGO DE PARKING**

LECTRÓNICOS  
CALZADO  
ACCESORIOS  
**ROPA**  
RECARGAS MEXICANAS

ESCOGE TU PLAN PERFECTO

30  
40  
50  
60 SIN LIMITE

Items 7/10  
1x25  
2x40

Spinner  
100  
↓

NOW HIRING

RECIBE HASTA

# \$100

DESCUENTO

**EN TELEFONOS**  
PARA CLIENTES NUEVOS  
Y EXISTENTES





1%  
CAMBIO DE CHEQUES  
PAGO DE...

GANAR DINERO  
CON LA TARJETA DE CLIENTE FRECUENTE  
Cambio de TAX'S  
4%

CAMBIO DE CHEQUES  
1%  
ATM  
CAJERO AUTOMÁTICO  
Gomart

BIENVENIDOS  
Welcome!

MIERCOLES  
20%  
DESCUENTO  
EN ACCESORIOS  
boost mobile

NOW HIRING  
APPLY TODAY

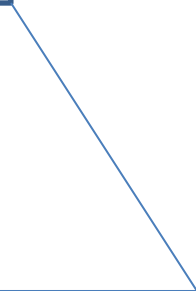
NICOS  
ADO  
RIOS  
DA  
CAS  
NAS

Especia  
en bo...

MONACO

**GOMART**

METRO PCS



**BANQUETA**



AGOSTO DE 2017, SAN LUIS, AZ 85349

CITY OF SAN LUIS:

TIENDA GOMART UBICADA EN 588 N. MAIN ST SAN LUIS, AZ 85349, PIDE EL PERMISO A LA CIUDAD PARA PONER EN EXCIBICION ROPA Y ELECTRONICO EN NUESTRA BANQUETA.

1.- NUESTRA MERCANCIA ESTARA EN UN ESPACIO DE 5 FT X 14 FT. SOBRE NUESTRA BANQUETA, COMO SE MUESTRA EN LA IMAGEN ANEXA.

2.- LA EXCIBICION DE NUESTROS PRODUCTOS NO CAUSA NINGUN PROBEMA DE SALUD, SEGURIDAD, YA QUE LO PONDREMOS EN UN ESPACIO QUE QUEDA HACIA ADENTRO DE LA BANQUETA, NO SE UTILIZARA NINGUN MATERIAL QUE DAÑE BANQUETAS O MEDIO AMBIENTE.

3.- LOS PRODUCTOS NO PERJUDICA LA CIRCULACION DE LA MAIN Y MUCHO MENOS SON OBSTENTOSOS EN LA BANQUETA.

4.- NO OBSTRUYE LA RUTA PEATONAL, NI TAMPOCO OCASIONA UNA CONGESTION YA QUE UTILIZAMOS UNA PARTE DE LA BANQUETA HACIA ADENTRO SOBRE LAS REGULACIONES QUE MARCA LA CIUDAD Y ADEMAS CONTAMOS CON UN PARKING EXCLUSIVO PARA NUESTROS CLIENTES.

5.- NO OBTRUYE LA ENTRADA Y SALIDA DEL ESTABLECIMIENTO, ADEMAS EL ACCESO AL ESTABLECIMIENTO ES FACIL Y VISIBLE PARA LOS PEATONES.

6.- NUESTRA META ES INCREMENTAR VENTAS, CONTRATAR MAS PERSONAL, DE ESTA MANERA PODREMOS GENERAR MAS EMPLEOS, EL EXCIBIR PRODUCTOS AFUERA NOS AYUDA A INCREMENTAR UN 80% MAS NUESTRAS VENTAS POR QUE LA GENTE NO QUIERE ENTRAR AL LOCAL Y LA UNICA MANERA ES MOSTRAR NUESTROS PRODUCTOS A LA PASADA DE LOS CLIENTES, ADEMAS SABREMOS LAS NECESIDADES DEL CLIENTE Y ASI EXPANDEREMOS MAS PRODUCTOS.

7.-LA MERCANCIA DE AFUERA NO SUPERA A LA CANTIDAD TOTAL DE LOS PRODUCTOS DE LA TIENDA, SE APROXIMA A UN 20% EN EXCIBICION.

---

ARELY CARDENAS

CITY OF SAN LUIS:

Gomart Store requests permission to the City to put clothing and electronic display in our sidewalk.

1. - Our Merchandise will be in an area of 5 ft. X 14 ft., on our sidewalk, as shown in the attached image.
2. - Our display products will not cause any health problems, nor security risks. As, we will put it in a space that it remains inward of the sidewalk. There will be no use of any material that can damage sidewalks or the environment.
3. - The products do not harm the circulation of Main Street and much less be ostentatious in the sidewalk.
4. - Will not obstruct the pedestrian route, no cause congestion. Since we use a portion of the sidewalk that is toward the inside as per the regulations of the City, and also we have an exclusive parking for our customers.
5. - It does not obstruct the entrance or exit of the establishment. Also, access to the establishment is easy and visible to pedestrians.
6. - Our goal is to increase sale, and hire more staff. This way we can generate more jobs. Displaying products outside will help to increase our sales 80% more, because customer do not want to come inside the store. And the only way is to show our products to the customers passing by. Also, we will know the needs of the customer and be able to expand more products.
7. - The merchandise outside does not exceed the total amount of the products of the store, its approaching a 20% on display.



June 26, 2017

**CONDITIONAL USE PERMIT CASE NUMBER: 2017-0234**

**CASE SUMMARY:** A request by Arely Cardenas, (applicant) representative of Gomart on behalf of Robert Bruce, property owner, for a Conditional Use Permit as per Section 152.107-C.11 of the City of San Luis Code of Ordinances to allow outdoor sales and displays in a Community Commercial (C-2) zoning district, Assessor’s Parcel No. 775-45-001, located at 588 N. Main Street, San Luis, Arizona.

A Citizen Review Meeting has been scheduled on the day 29<sup>th</sup> of June, 2017 at 6:00 p.m. at the San Luis City Hall Council Chambers, 1090 E. Union Street, San Luis, Arizona, in order to give interested parties an opportunity to meet with the applicant to have questions answered and express any issues or concerns prior to any public hearing.

**PUBLIC HEARING: July 11, 2017**

**COMMENTS DUE: June 30, 2017**

Your comments on this case will help us prepare an accurate and timely staff report. Your comments on this case will be inserted “as is” into the staff report with your name, department, and telephone number, should the applicant have any questions. Your comments are a public record and will be available to the public, media, and the applicant, in addition to the Commission hearing this case. Please complete the section below and return via e-mail. For additional information please contact me at 341-8563, extension 2012, or at [Jaguzman@cityofsanluis.org](mailto:Jaguzman@cityofsanluis.org).

Thank you,

Jose A. Guzman  
Acting Planning and Zoning Director  
Attachment: Location Map



COMMENTS       NO COMMENTS     

**Enter Comments below:**

The City of San Luis Fire Department cannot support this request within the limitations of the San Luis Fire Code. Any obstruction to the paths of egress which might hinder evacuation of employees and the general public is not supported by the Fire Code and therefore the City of San Luis Fire Department. SLFD is prepared to provide cite examples of the loss of human life, the resulted of blocked or restricted paths of egress.

Any issues with placement of sales or displays are within the prevue of Planning and Zoning; infringement on public right of ways or Zoning laws.

**Date:**  
August 7, 2017

**Agency:**  
Hank Green, Fire Chief: City of San Luis Fire Department

**Phone:**

928-341-8550

**Return to:** [rpacheco@cityofsanluis.org](mailto:rpacheco@cityofsanluis.org)

## Jose A. Guzman

---

**From:** Joaquin Campa  
**Sent:** Monday, August 07, 2017 5:28 PM  
**To:** Jose A. Guzman  
**Subject:** GoMart Special Request

Jose,

Regarding the GoMart special request, I performed a site inspection to physically verify the dimensions of the areas proposed for outdoor sales.

My findings for this business are that the merchandise can be contained in a designated area. This will require that the doors are to remain unobstructed at all times, as stated in the request letter.

However, it is my recommendation for this special request not be approved for the following reasons:

- This business is the only one that has the appropriate space for this activity, therefore our code enforcement will have to be checking periodically to avoid other businesses that do not have the space to have the outdoor sales.
- Also, without the periodic inspections, the business can expose themselves and others to liabilities if they are not in compliance with the safety requirements for this activity.
- We do not have the staff to be able to accommodate for the periodic inspections required for this special request.

If you have any questions, please let me know.

MONACO

**GOMART**

METRO PCS

15 FT

2'6 FT

5 FT

5 FT

**ENTRADA**



**BANQUETA**





June 26, 2017

**CONDITIONAL USE PERMIT CASE NUMBER: 2017-0234**

**CASE SUMMARY:** A request by Arely Cardenas, (applicant) representative of Gomart on behalf of Robert Bruce, property owner, for a Conditional Use Permit as per Section 152.107-C.11 of the City of San Luis Code of Ordinances to allow outdoor sales and displays in a Community Commercial (C-2) zoning district, Assessor’s Parcel No. 775-45-001, located at 588 N. Main Street, San Luis, Arizona.

A Citizen Review Meeting has been scheduled on the day 29<sup>th</sup> of June, 2017 at 6:00 p.m. at the San Luis City Hall Council Chambers, 1090 E. Union Street, San Luis, Arizona, in order to give interested parties an opportunity to meet with the applicant to have questions answered and express any issues or concerns prior to any public hearing.

**PUBLIC HEARING: July 11, 2017**

**COMMENTS DUE: June 30, 2017**

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Thank you,  
Jose A. Guzman  
Acting Planning and Zoning Director  
Attachment: Location Map



COMMENTS       NO COMMENTS     

**Enter Comments below:**

The City of San Luis Fire Department cannot support this request. Merchandise staged in front of store fronts tend to lead to blocked egress routes, and pedestrian congestion, making it difficult for the City of San Luis Fire Department to respond to any kind of emergency crisis that may occur on the premises. Final decisions regarding this request are best made by the Planning and Zoning Department.

**Date:**

06/26/17

**Agency:**

The City of San Luis Fire Department

**Phone:**

928/341-8550

**Return to:** [rpacheco@cityofsanluis.org](mailto:rpacheco@cityofsanluis.org)



June 26, 2017

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**PUBLIC HEARING: July 11, 2017**

**COMMENTS DUE: June 30, 2017**

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Thank you,

Jose A. Guzman  
Acting Planning and Zoning Director  
Attachment: Location Map



COMMENTS       NO COMMENTS     

**Enter Comments below:**

City of San Luis Building Safety Division cannot approve this conditional use permit requested. Having merchandise outside the store may create an obstruction to the required path of egress and creates an obstruction in the public walkway.

**Date: June 26, 2017**

**Agency: Building Safety Division**

**Phone: (928) 341-8565**

**Return to: [rpacheco@cityofsanluis.org](mailto:rpacheco@cityofsanluis.org)**



June 26, 2017

**CONDITIONAL USE PERMIT CASE NUMBER: 2017-0234**

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**PUBLIC HEARING: July 11, 2017**

**COMMENTS DUE: June 30, 2017**

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Thank you,

Jose A. Guzman  
Acting Planning and Zoning Director  
Attachment: Location Map



COMMENTS       NO COMMENTS     

**Enter Comments below:**

Outdoor sales and displays should be permitted on a temporarily and/or seasonal basis. Exterior noise level should be a factor in determining the appropriateness of the conditional use. Specific criteria should be established to prevent visual clutter. The Community Development Department will be conducting a redevelopment plan for the downtown area. New policies are expected to be review and amendment to conform to the redevelopment plan.

**Date:**

6/28/2017

**Agency:**

Community Development Department

**Phone:**

(928) 341-8584

Return to: [rpacheco@cityofsanluis.org](mailto:rpacheco@cityofsanluis.org)



# *Ordinance*

OFFICE OF THE  
MAYOR  
CITY OF SAN LUIS

## **Ordinance 338**

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, AMENDING THE CITY OF SAN LUIS ZONING ORDINANCE WITH RESPECT TO PROVISIONS REGARDING OUTDOOR SALES USES IN COMMUNITY COMMERCIAL ZONING DISTRICTS; PROVISIONS FOR MEDICAL MARIJUANA DISPENSARIES IN COMMUNITY COMMERCIAL ZONING DISTRICTS; PROVISION FOR THE ADDITION OF MEDICAL MARIJUANA DISPENSARIES AND MEDICAL MARIJUANA DISPENSARY OFFSITE CULTIVATION USES IN GENERAL INDUSTRIAL ZONING DISTRICTS; PROVISION FOR THE ADDITION OF MINI STORAGE USES IN COMMUNITY COMMERCIAL ZONING DISTRICTS; PROVIDING FOR EFFECTIVE DATE; REPEALING ANY CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.**

Whereas, the City of San Luis desires to amend, correct, and update its Zoning Code;

Whereas, the City of San Luis desires to provide better pedestrian access in its Commercial C-2 Zoning District by allowing a reasonable space for out-door sales, displays, and vending machines;

Whereas, the City of San Luis desires to add the use of in-door mini-storage use to its Commercial C-2 Zoning District;

Whereas, the City of San Luis desires to correct a scribner's error in the description of a conditional use in Commercial C-2 Zoning District. It should read "Medical marijuana dispensary" rather than it currently reads as "Medical marijuana dispensary offsite cultivation location." There was an error in copying Ordinance 292 passed February 23, 2011 (Exhibit "A") to the City of San Luis Zoning Code under section 7.2(C) (9) passed in Ordinance 312 on April 11, 2012 becoming effective May 12, 2012;

Whereas, the City of San Luis desires to add medical marijuana dispensary and medical marijuana dispensary offsite cultivation location as a conditional use and as regulated under State Statute A.R.S. § 36-2804 et seq. in its General Industrial H-1 Zoning District; and

Whereas, the City Council of the City of San Luis finds that it is necessary for the public health, safety, and welfare of the City that the changes to the City of San Luis Zoning Ordinance as set forth in this ordinance become effective at the earliest date provided by law;

**NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SAN LUIS, ARIZONA AS FOLLOWS:**


Section 1. The City of San Luis Zoning Ordinance is hereby amended to read as set forth in that certain document entitled "Exhibit B – Amendments to City of San Luis Zoning Ordinance Sections 7.2 (B)(13), 7.2(C)(9), 7.2(C)(10), 8.2(C)(9), and 8.2(C)(10)", hereinafter referred to as "Exhibit B", which is attached hereto and by this reference incorporated herein as though fully set forth again in full. The provisions of said Exhibit B are to become effective on the 26<sup>th</sup> day of June 2015.

Section 2. In the event of a conflict between the provisions of this ordinance and any other ordinance, resolution, regulation, or policy within the City of San Luis, the conflicting provisions are hereby repealed, superseded, and replaced, and the provisions of this ordinance and "Exhibit B– Amendments to City of San Luis Zoning Ordinance Sections 7.2 (B)(13), 7.2(C)(9), 7.2(C)(10), 8.2(C)(9), and 8.2(C)(10)" shall govern.

Section 3. If any section, subsection, sentence, clause, phrase, or portion of this ordinance, or "Exhibit B– Amendments to City of San Luis Zoning Ordinance Sections 7.2 (B)(13), 7.2(C)(9), 7.2(C)(10), 8.2(C)(9), and 8.2(C)(10)" is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or said reference regulations.

Section 4. It is necessary for the preservation of the peace, health and safety of the City of San Luis, Arizona, an emergency is declared to exist, and this ordinance shall become immediately operative and in force from and after the date of posting hereof.

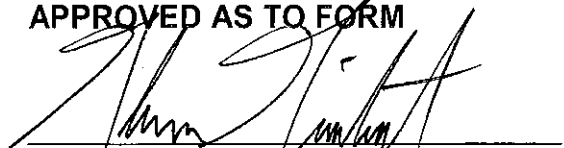
**PASSED AND ADOPTED** by the Mayor and City Council of the City of San Luis, Arizona, this 27<sup>th</sup> day of May, 2015.

  
Gerardo Sanchez, Mayor

**ATTEST:**

  
Sonia Cornelio, City Clerk

APPROVED AS TO FORM



---

Glenn Gimbut, City Attorney



# *Ordinance*

## **NO. 292**

OFFICE OF THE  
MAYOR  
CITY OF SAN LUIS

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, AMENDING ORDINANCE NO. 13, AS AMENDED, PROVIDING FOR CHANGES TO THE ZONING AND LAND USE REGULATIONS OF THE CITY OF SAN LUIS TO PROVIDE REGULATIONS FOR MEDICAL MARIJUANA DISPENSARIES AND DISPENSARY OFFSITE CULTIVATION LOCATIONS AS AUTHORIZED PURSUANT TO A.R.S. §36-2804; PROVIDING FOR PENALTIES; REPEALING ANY CONFLICTING PROVISIONS; AND PROVIDING FOR SEVERABILITY.**

Whereas, the City of San Luis desires to amend and update its zoning regulations in accordance with Initiative 203 as approved by the voters of the State of Arizona in November 2010; and

Whereas, the City of San Luis has adopted Resolution No. 919, said resolution having declared certain documents entitled "Medical Marijuana 2010" as a public record;

**NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, AS FOLLOWS:**

Section 1. The City Code is hereby amended to read as set forth in that certain document entitled "Exhibit A - Medical Marijuana 2010", three copies of which are on file with the City Clerk, and which is hereby adopted by reference as though fully set forth again in full.

Section 2. Penalties. It shall be unlawful for any person, firm, or corporation to violate, or cause the violation of any provision of "Exhibit A - Medical Marijuana 2010" as adopted by this ordinance. Each separate day, or part thereof, that a violation continues is a separate offense. Any violation of or failure to do or perform any act required by this ordinance or "Exhibit A - Medical Marijuana 2010" constitutes a civil offense punishable pursuant to Article 1-8 of the City Code. Any third, or more, offense committed within one year of the date of the first offense shall be punishable as a class one misdemeanor pursuant to Article 1-8 of the City Code.

Section 3. In the event of a conflict between the provisions of this ordinance and any other ordinance, resolution, regulations, or policy regarding the regulations of Medical Marijuana within the City of San Luis, the conflicting provisions are hereby repealed, superseded, and replaced, and the provisions of this ordinance and the "Exhibit A - Medical Marijuana 2010" shall govern.


Section 4. If any section, subsection, sentence, clause, phrase, or portion of this ordinance, or "Exhibit A - Medical Marijuana 2010" is for any reason held to be invalid or

Section 5, unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or said reference regulations.

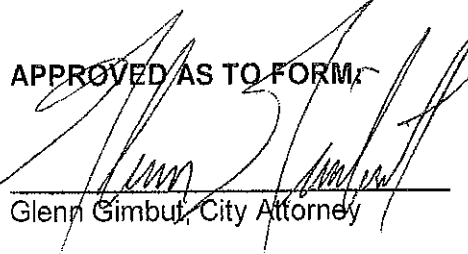
**PASSED AND ADOPTED** by the Mayor and City Council of the City of San Luis, Arizona, this 23rd day of February, 2011.

  
Juan Carlos Escamilla, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Sonia Cuello, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Glenn Gimbut, City Attorney

**EXHIBIT A  
MEDICAL MARIJUANA 2010  
PROPOSED AMENDMENTS BY STAFF  
CITY OF SAN LUIS ZONING ORDINANCE**

SECTION 1. Article II (Definitions) of the Land Use Regulations, adopted by reference pursuant to Ordinance No. 13, as amended, of the City of San Luis, is hereby amended by adding the following definitions of "medical marijuana dispensary" and "medical marijuana dispensary offsite cultivation location" to Section 201 (Definitions "M"):

Medical marijuana dispensary: A nonprofit medical marijuana dispensary duly registered and certified pursuant to A.R.S. § 36-2804.

Medical marijuana dispensary offsite cultivation location: The one additional location, if any, duly identified pursuant to A.R.S. § 36-2806 (E) during the process of registering a nonprofit medical marijuana dispensary, where marijuana will be cultivated for sale at a nonprofit medical marijuana dispensary duly registered and certified pursuant to A.R.S. § 36-2804.

SECTION 2. Article VI, Section 601 (Zoning) Rural Area of the Land Use Regulations as adopted by reference by the City of San Luis as referenced hereinabove, hereby amended by revising 601.03, "Special Uses", to add a new subparagraph Q, as follows:

Q. Medical marijuana dispensary offsite cultivation location, subject to the requirements found in Section 1110.

SECTION 3. Article VI, Section 611 (Zoning), General Commercial District (C-2) of the Land Use Regulations as adopted by the City of San Luis, as referenced hereinabove, is hereby amended by revising Section 611.03, "Special Uses", to add a new subparagraph b as follows:

b. Medical marijuana dispensary, subject to the special use permit procedure, and subject to the requirements found in Section 1110.

SECTION 4. Article VI, Section 612 (Zoning), Light Industrial District of the Land Use Regulations as adopted by the City of San Luis, as referenced hereinabove, is hereby amended by revising Section 612.03, "Special Uses", to add new subparagraphs c and d, as follows:

c. Medical marijuana dispensary, subject to the requirements found in Section 1110.

d. Medical marijuana dispensary offsite cultivation location, subject to the requirements found in Section 1110.

SECTION 5. Article XI (Additional Use and Setback Regulations) of the Land Use Regulations as adopted by the City of San Luis, as referenced hereinabove, is hereby amended by adding new Section 1110, as follows:

Section 1110 Medical Marijuana Uses.

- A. The minimum requirements of this section shall apply to all “medical marijuana dispensary” and “medical marijuana dispensary offsite cultivation location” uses located in any zoning district.
- B. In addition to any other application requirements, an applicant for any “medical marijuana dispensary” or “medical marijuana dispensary offsite cultivation location” conditional use permit shall provide the following:
1. A notarized authorization executed by the property owner, acknowledging and consenting to the proposed use of the property as a medical marijuana dispensary or a medical marijuana dispensary offsite cultivation location, as applicable.
  2. The legal name of the medical marijuana dispensary or medical marijuana dispensary offsite cultivation location.
  3. If the application is for a medical marijuana dispensary offsite cultivation location, the name and location of the medical marijuana dispensary with which it is associated.
  4. The name, address, and birth date of each officer and board member of the nonprofit medical marijuana dispensary.
  5. The name, address, birth date, and valid registry identification card number of each nonprofit medical marijuana dispensary agent.
  6. A copy of the operating procedures adopted in compliance with A.R.S. §36-2804 (B) (1) (c).
  7. A notarized certification that none of the nonprofit medical marijuana dispensary officers or board members has been convicted of any of the following offenses:
    - i. A violent crime as defined in A.R.S. § 13-901.03 (B) that was classified as a felony in the jurisdiction where the person was convicted.
    - ii. A violation of state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted

except an offense for which the sentence, including any term of probation, incarceration or supervised release, was completed ten or more years earlier or an offense involving conduct that would be immune from arrest, prosecution or penalty under A.R.S. § 36-2811 except that the conduct occurred before the effective date of that statute or was prosecuted by an authority other than the state of Arizona.

8. A notarized certification that none of the nonprofit medical marijuana dispensary officers or board members has served as an officer or board member for a medical marijuana dispensary that has had its registration certificate revoked.

9. A floor plan showing the location, dimensions and type of security measures demonstrating that the medical marijuana dispensary or medical marijuana dispensary offsite cultivation location will be secured, enclosed, and locked as required by law.

10. A scale drawing depicting the property lines and the separations from the nearest property boundary of the parcel containing the medical marijuana dispensary or medical marijuana dispensary offsite cultivation location to the property boundary of the parcel containing any existing uses listed in paragraph E below. If any of the uses are located within 50 feet of the minimum separation, the drawing, showing actual surveyed separations, shall be prepared by a registered land surveyor.

C. A medical marijuana dispensary shall have operating hours not earlier than 9:00 a.m. and not later than 5:00 p.m.

D. A medical marijuana dispensary or medical marijuana dispensary offsite cultivation location shall:

1. Be located in a permanent building and may not be located in a trailer, cargo container or motor vehicle.
2. Not have drive-through service.
3. Not emit dust, fumes, vapors or odors into the environment.
4. Not provide offsite delivery of medical marijuana.
5. Prohibit consumption of marijuana on the premises.
6. Not have outdoor seating areas.

7. Display a current City of San Luis business license applicable to medical marijuana uses.

E. A medical marijuana dispensary or medical marijuana dispensary offsite cultivation location shall meet the following minimum separations, measured in a straight line from the boundary of the parcel containing the medical marijuana dispensary or medical marijuana dispensary offsite cultivation location to the property boundary of the parcel containing any existing uses listed below:

1. 2,000 feet from any other medical marijuana dispensary or medical marijuana dispensary offsite cultivation location.
2. 2,000 feet from a residential substance abuse diagnostic and treatment facility or other residential drug or alcohol rehabilitation facility.
3. 1,000 feet from a public, private, parochial, charter, dramatic, dancing, music, learning center, or other similar school or educational facility that caters to children.
4. 1,000 feet from a childcare center.
5. 1,000 feet from a public library or public park.
6. 1,000 feet from a church.

F. A medical marijuana dispensary offsite cultivation location not associated with a medical marijuana dispensary is prohibited, and only one medical marijuana dispensary offsite cultivation location shall be permitted for the single medical marijuana dispensary with which it is associated.

**EXHIBIT B  
CORRECTING AND AMENDING  
VARIOUS ZONING DISTRICT USES  
PROPOSED AMENDMENTS BY STAFF  
CITY OF SAN LUIS ZONING ORDINANCE**

Section 1. Section 7.2 (Commercial Zoning District) Subsection (B) (Permitted Uses – “C-2” Zoning District), adopted by reference pursuant to Ordinance No. 312 , as amended, of the City of San Luis Zoning Ordinance, is hereby amended as follows:

~~13. Outdoor sales, displays, and vending machines only if one (1) or more of the following conditions are present:~~

~~a. Products and services displayed outdoors are customary, accessory, and incidental to those sold and displayed in a primary business being conducted in a permanent building on the property.~~

~~b. Outdoor sales and displays do not interfere with pedestrian access ways, fire lanes, required parking spaces, driveways, landscape areas, or traffic visibility at driveway entries and street intersections.~~

~~c. The combined outdoor sales and display areas do not exceed fifty (50%) percent of the business's gross square footage.~~

~~14.~~ 13. Dry-cleaning facility.

~~15.~~ 14. Hotels and motels.

~~16.~~ 15. Indoor entertainment and amusement facilities such as; movie theaters, dance halls, bowling alleys, billiard parlors, skating rinks, video and game arcade.

~~17.~~ 16. Health club, fitness or exercise facility and tennis and racket clubs.

~~18.~~ 17. Household, sickroom or office equipment rental and services.

~~19.~~ 18. Car wash facilities, auto part stores, auto service stations and convenience market with the sale or dispensing of gasoline.

~~20.~~ **19.** Outdoor display areas for the sale of new or used automobiles, trucks, boats, trailers, and recreational vehicles and for the rental of such vehicles provided all sales, repair and rental activities are conducted within a building.

~~21.~~ **20.** General auto repair, including auto painting and body repair, provided all repair operations are conducted within a building. May include an outside vehicle storage area to be used only for vehicles under repair which shall be screened from any street or surrounding property.

~~22.~~ **21.** Nurseries, flower and plant sales, provided all incidental equipment and supplies including fertilizer and empty cans, are kept within a completely enclosed building or within an area enclosed on all sides by a solid fence or wall at least six (6) feet in height and no goods, materials or objects are stacked higher than the fence or wall.

~~23.~~ **22.** Mobile Food Vendors provided that such uses may not be located within any portion of the public right-of-way (including sidewalks).

~~24.~~ **23.** Mobile Vendors provided that such uses may not be located within any portion of the public right-of-way (including sidewalks).

~~25.~~ **24.** Religious Institutions.

Section 2. Section 7.2 (Commercial Zoning District) Subsection (C) (Conditional Uses – “C-2” Zoning District), adopted by reference pursuant to Ordinance No. 312 , as amended, of the City of San Luis Zoning Ordinance, is hereby amended as follows:

**11. Outdoor sales, displays, and vending machines only if all of the following conditions are present:**

**a. Products and services displayed outdoors are customary, accessory, and incidental to those sold and displayed in a primary business being conducted in a permanent building on the property.**

**b. Outdoor sales and displays do not interfere with pedestrian access ways, walk-ways, fire lanes, required parking spaces, driveways, landscape areas, or traffic visibility at driveway entries and street intersections.**

**c. The combined outdoor sales and display areas do not exceed**

**ten percent (10%) of the business’s gross square footage.**

Section 3. Section 7.2 (Commercial Zoning District) Subsection (C) (Conditional Uses – “C-2” Zoning District), adopted by reference pursuant to Ordinance No. 312 , as amended, of the City of San Luis Zoning Ordinance, is hereby amended as follows:

9. Medical marijuana dispensary ~~offsite cultivation location~~, subject to the requirements found in Section 14.15 Medical Marijuana Uses.

Section 4. Section 7.2 (Commercial Zoning District) Subsection (C) (Conditional Uses – “C-2” Zoning District), adopted by reference pursuant to Ordinance No. 312 , as amended, of the City of San Luis Zoning Ordinance, is hereby amended by adding conditional use for in-door mini storage as follows:

**10. Mini-storage facility except that no outdoor open storage will be allowed. A night watchman quarters, as a security provision, may be an accessory use.**

Section 5. Section 8.2 (“H-I” General Industrial Zoning District) Subsection (C) (Conditional Uses – “H-I” Zoning District), adopted by reference pursuant to Ordinance No. 312 , as amended, of the City of San Luis Zoning Ordinance, is hereby amended by adding conditional use for medical marijuana dispensary and medical marijuana dispensary offsite cultivation location as those uses are defined in Section 1.12(B) (117) and (118) as follows:

**9. Medical marijuana dispensary, as defined in Section subject to the requirements found in Section 14.15 Medical Marijuana Uses.**

**10. Medical marijuana dispensary offsite cultivation location, subject to the requirements found in Section 14.15 Medical Marijuana Uses.**



## PLANNING & ZONING AGENDA ITEM REVIEW FORM

### Planning & Zoning Commission Meeting

4.B.

**Meeting Date:** 08/08/2017

**Submitted By:** Jose A. Guzman, Acting Planning & Zoning Director, Planning & Zoning Department

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#### ITEM:

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. **(item continued from July 11, 2017 Commission meeting)**

- A. Open public hearing
  - 1. Staff presentation
  - 2. Call to the Public on this item
- B. Close public hearing
- C. Action on Text Amendment Case No. 2017-0457

#### BACKGROUND:

On October 12, 2016, City Council adopted Ordinance No. 358 amending the City Code by adding a section relating to Personal Dog Kennels. This was done in an effort to alleviate issues related to the over-population of dogs that San Luis was experiencing. Ordinance No. 358 established requirements for space, sanitation, elimination of excessive noise, spaying and neutering of the dogs. Now an annual permit is required and the City has the ability to revoke the permit if the standards for a personal kennel are not met.

#### SUMMARY:

In order to have consistency throughout the City Code, the Zoning Regulations need to be amended. Text Amendment Case No. 2017-0457 will create this consistency by adding the definition and regulations for Personal Dog Kennels as adopted by Ordinance No. 358.

#### RECOMMENDED MOTION:

- A. I MOVE TO OPEN PUBLIC HEARING**
- B. I MOVE TO CLOSE PUBLIC HEARING**
- C. I MOVE TO FORWARD TEXT AMENDMENT CASE NO. 2017-0457 TO THE CITY COUNCIL WITH RECOMMENDATION OF APPROVAL**

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#### Attachments

Proposed Ordinance  
Ordinance No. 358

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NO. \_\_\_\_\_

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA AMENDING THE SAN LUIS CITY CODE TITLE XV LAND USAGE, CHAPTER 152 ZONING REGULATIONS 152.013(B) DEFINITION OF PERSONAL DOG KENNEL; REPEALING ANY CONFLICTING PROVISIONS; ESTABLISHING AN EFFECTIVE DATE AND PROVIDING FOR SEVERABILITY.**

**NOW THEREFORE BE IT ORDAINED** by the Mayor and Council of the City of San Luis, Arizona as follows:

**Section 1:** That Title XV Land Usage, Chapter 152, Zoning Regulations Section 152.013(B) of the San Luis City Code is hereby amended by adding the definition of “personal dog kennel” to read as follows:

***PERSONAL DOG KENNEL.*** any premise in which seven (7) to a maximum of twelve (12) Dogs of three (3) months of age or older are kept in accordance with San Luis City Code Chapter 95;

**Section 2:** That Title XV Land Usage, Chapter 152, Zoning Regulations – General Provisions is hereby amended by adding Section 152.227- Personal Dog Kennels to read as follows:

**§152.227 PERSONAL DOG KENNELS**

Personal dog kennels shall be allowed only in a single residence dwelling.  
Personal dog kennels within the city are regulated through Chapter 95 Animals in the City of San Luis City Code.

**Section 3:** In the event of a conflict between the provisions of this Ordinance and any other ordinance, resolution, regulation, code, or policy of the City of San Luis, the conflicting provisions are hereby repealed, superseded, and replaced, and the provisions of this Ordinance shall govern.

**Section 4:** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

**Section 5:** The effective date of this Ordinance shall be April 1, 2017.

PASSED AND ADOPTED by the Mayor and Council of City of San Luis, Arizona, on  
this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Gerardo Sanchez, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Sonia Cornelio, City Clerk

\_\_\_\_\_  
Kay Marion Macuil, City Attorney



# Ordinance

OFFICE OF THE  
MAYOR  
CITY OF SAN LUIS

NO. 358

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA AMENDING THE SAN LUIS CITY CODE TITLE IX, CHAPTER 95 RELATING TO ANIMALS BY ADDING SECTION 95.03, PERSONAL DOG KENNELS; REPEALING ANY CONFLICTING PROVISIONS; ESTABLISHING AN EFFECTIVE DATE AND PROVIDING FOR SEVERABILITY.**

**NOW THEREFORE BE IT ORDAINED** by the Mayor and Council of the City of San Luis, Arizona as follows:

**Section 1:** That Title IX, Chapter 95, of the San Luis City Code relating to Animals, be amended by adding Section 95.03, Personal Dog Kennels to read as follows:

## **§95.03 PERSONAL DOG KENNELS**

(A) **Definitions.** For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**DOG.** A member of the *canis familiaris* family over the age of four (4) months.

**ENFORCEMENT OFFICER.** Any person delegated by the City Manager or his or her designee who is responsible for the enforcement of this Chapter and the regulations promulgated under this Chapter.

**IMPOUND FACILITY.** Any establishment authorized for the confinement, maintenance, safekeeping and control of Dogs and other animals that come into the custody of the Enforcement Officer in the performance of his or her official duties.

**KENNEL.** Either

- (1) any premise in which seven (7) to a maximum of twelve (12) Dogs of four (4) months of age or older are kept or

- (2) any premise where the business of buying, selling, breeding, grooming, training or boarding of Dogs is conducted; does not include veterinary hospitals or humane societies.

**SERVICE ANIMAL.** As it is defined under the provisions of Title 28 Code of Federal Regulations Chapter 1, Part 35, relating to nondiscrimination on the basis of disability in state and local government services at 28 CFR 35.104. Any Dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a Service Animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

- (B) **Interpretation.** For purposes of this San Luis City Code on personal kennels, headings and titles of sections and subsections are for convenience of reference only, and shall in no way be of any weight in interpretation of these provisions.

(C) **Personal Dog Kennel Permits.**

- (1) A permit for a Personal Dog Kennel shall be required for any person who owns, maintains or harbors seven (7) to a maximum of twelve (12) Dogs on property not zoned for kennels. The maximum allowed Dogs shall be less than twelve (12) Dogs if in the particular case the requirements of Personal Dog Kennel Permit cannot be met for that individual Dog owner. For example, a person's lot size may not be big enough for the enclosure requirements of the Personal Dog Kennel Code.
- (2) The enclosure shall meet the requirements of this Personal Dog Kennel Code.

- (3) Any person who owns, maintains or harbors six (6) or fewer Dogs over four (4) months of age is not required to obtain a Personal Dog Kennel Permit.

**(D) Circumstance Personal Dog Kennel Permits not required.**

- (1) Emergency: The permit provisions do not apply to emergency situations where a person or nonprofit entity boards Dogs, subject to the following conditions:
  - a. The person boarding Dogs will submit a sworn and notarized statement that they are caring for the Dogs for a maximum of thirty (30) calendar days per Dog.
  - b. This statement shall contain the name, address, and phone number of the individual or organization who provided the Dog or Dogs to the boarder.
  - c. No more than two (2) Dogs will be permitted under this emergency exception.
  - d. The boarder will provide the Enforcement Officer with the final disposition of the animal within the thirty (30) calendar days for each Dog noted on the original statement, as well as the name and contact information of the adopting party. Extensions of the time limit of thirty (30) days may be permitted at the discretion of the Enforcement Officer, but in no event shall such extension exceed six (6) months per animal.
  - e. The goal of this emergency exception is to protect the animals that are in foster care rather than to punish law abiding pet owners.
- (2) Service Animals: Any Service Animal as defined in section (A) above shall not be counted toward the six (6) Dogs allowed without a personal Kennel Permit.
  - a. The provisions of Title 28 Code of Federal Regulations Chapter 1, Part 35, relating to nondiscrimination on the basis of disability in state and local government services at 28 CFR 35.136(f) apply to inquiries about Service Animals. The Enforcement Officer shall not ask about the nature or extent of a person's disability, but may make two (2) inquiries to determine whether an animal qualifies as a Service Animal for purposes of this section.
    - i. A public entity may ask if the animal is required because of a disability and

- ii. what work or task the animal has been trained to perform.
  - b. Generally, the Enforcement Officer may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (for example, the Dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).
  - c. The Enforcement Officer shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.
- (E) **Duration of Permits.** Each Personal Dog Kennel Permit shall be valid for twelve (12) consecutive months and expire on the first anniversary of the permit and shall become delinquent thirty (30) calendar days from the date of expiration. Each subsequent permit issued will be valid for a one-year period and expire on the respective anniversary date. The fee is established by resolution. A late fee shall be charged on all delinquent Personal Dog Kennel Permits, as established by resolution. No Personal Dog Kennel Permit shall be prorated or refunded nor shall the permit be transferable.
- (F) **Dogs to be Vaccinated, Licensed, and Fixed.** All Dogs covered by a Personal Dog Kennel Permit shall be vaccinated, licensed by Yuma County, and spayed or neutered. A Dog owner may apply for a waiver of the spay or neuter requirement as long as they obtain a veterinarian's written opinion that such surgery would endanger the safety of the Dog, or a certification from a veterinarian determining that the other Dogs owned by the owner or those maintained or harbored at the same address are spayed and/or neutered. At the discretion of the Enforcement Officer and upon documented proof, the spaying and neutering requirement shall not apply to Dogs registered by the American Kennel Club or by the Continental Kennel Club.
- (G) **Commercial Use of Dogs Prohibited.** At no time shall Dogs covered under this section be used for trade, business, profit or gain. There shall be no boarding or breeding of Dogs covered by this permit. All Dogs shall be the exclusive property of the permittee.
- (H) **Sanitation and Noise Elimination.** The permittee shall operate the Personal Dog Kennel in such a manner to eliminate excessive noises by day or night which disturbs the peace of any person or family, to eliminate offensive odors from the kennel and to maintain the kennel and grounds in a sanitary condition.

- (I) **Fence.** The property covered by this permit shall be surrounded by a fence of sufficient height and strength to confine the Dogs. Sufficient height and strength will be determined by an Enforcement Officer based on the Dog being confined and the provisions and the provisions of this Personal Kennel Code.
- (J) **Violations.** Any violations of this Chapter shall be cause to revoke any Dog Kennel Permit. The permit may be revoked by the Chief of Police after notice and hearing. The notice, hearing and appeal procedures shall be handled in the same manner as similar provisions set forth in §113.11 of this Code as nearly as practicable, except that for matters involving this Chapter, the Enforcement Officer shall assume the duties that the that the Chief of Police or the City Zoning Administrator is responsible for in §113.11 and the Chief of Police shall assume the duties that the City Manager is responsible for in §113.11.
- (K) **Excess of Dogs.** Any Dogs over the allotted number allowed will either be surrendered to the Enforcement Officer or to new homes found by the owner within thirty-six (36) hours after the discovery of the excess number of Dogs by Enforcement Officers. The holder of a Personal Kennel Permit shall not be bound by the same requirements governing a commercial Dog kennel.
- (L) **Inspection.** The Enforcement Officer shall, within thirty (30) calendar days before the annual renewal date for the Personal Kennel Permit, inspect the premises to confirm compliance with provisions of this chapter. In no event shall a renewal be issued unless the inspection is made and all non-compliant matters are corrected before the annual renewal date.
- (M) **Kennel Specifications.** Enclosures for Dogs must meet the following minimum requirements:
1. General requirements.
    - a. Enclosures must be designed and constructed of suitable materials so that they are structurally sound. The primary enclosures must be kept in good repair.
    - b. Enclosures must be constructed and maintained so that they:
      - i. Have no sharp points or edges that could injure the Dogs;
      - ii. Protect the Dogs from injury;
      - iii. Contain the Dogs securely;
      - iv. Keep other animals from entering the enclosure;

- v. Enable the Dogs to remain dry and clean;
- vi. Provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to all the Dogs;
- vii. Provide sufficient shade to shelter all the Dogs housed in the primary enclosure at one time;
- viii. Provide all the Dogs with easy and convenient access to clean food and water;
- ix. Enable all surfaces in contact with the Dogs to be readily cleaned and sanitized in accordance or be replaceable when worn or soiled;
- x. Have floors that are constructed in a manner that protects the Dogs' feet and legs from injury, and that, if of mesh or slatted construction, do not allow the Dogs' feet to pass through any openings in the floor; and
- xi. Provide sufficient space to allow each Dog to turn about freely, to stand, sit, and lie in a comfortable, normal position, and to walk in a normal manner.

2. Space.

- a. Each Dog housed in an enclosure (including weaned puppies) must be provided a minimum amount of floor space, calculated as follows: Find the mathematical square of the sum of the length of the Dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; then divide the product by 144. The calculation is:  $(\text{length of Dog in inches} + 6) \times (\text{length of Dog in inches} + 6) = \text{required floor space in square inches}$ .  $\text{Required floor space in inches} / 144 = \text{required floor space in square feet}$ .
- b. Each female Dog with nursing puppies must be provided with an additional amount of floor space, based on her breed and behavioral characteristics, and in accordance with generally accepted husbandry practices as determined by a veterinarian. If the additional amount of floor space for each nursing puppy is less than five (5) percent of the minimum requirement for the female Dog, such housing must be approved by a veterinarian.
- c. The interior height of a primary enclosure must be at least six (6) inches higher than the head of the tallest Dog in the enclosure

when it is in a normal standing position *provided* that each Dog must be able to stand in a comfortable normal position.

3. All Dogs housed in the same enclosure must be compatible, as determined by observation. Puppies under 4 months of age may not be housed in the same primary enclosure with adult Dogs, other than with the natural mother or foster mother of the puppies. Dogs with a vicious or aggressive disposition must be housed separately.
4. Dogs that are part of a mobile or traveling show or act may be kept, while the show or act is traveling from one temporary location to another, in transport containers that comply with all requirements of Title 9 of the Code of Federal Regulation §3.14. When the show or act is not traveling, the Dogs must be placed in enclosures that meet the minimum requirements of this Personal Kennel Code.
5. Tethering of Dogs is prohibited for use as an enclosure.
6. Interpretations of Title 9 Code of Federal Regulations §3.6 may be used as a guide to interpret the above Kennel Specifications of this Personal Kennel Permit Code.

**Section 2:** In the event of a conflict between the provisions of this Ordinance and any other ordinance, resolution, regulation, code, or policy of the City of San Luis, the conflicting provisions are hereby repealed, superseded, and replaced, and the provisions of this Ordinance shall govern.

**Section 3:** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

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**Section 4:** The effective date of this Ordinance shall be April 1, 2017.

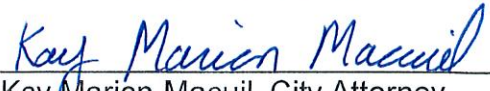
PASSED AND ADOPTED by the Mayor and Council of City of San Luis, Arizona, on  
this 12<sup>th</sup> day of October, 2016.

  
\_\_\_\_\_  
Gerardo Sanchez, Mayor

ATTEST:

  
\_\_\_\_\_  
Sonia Cornelio, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Kay Marion Macuil, City Attorney