



MEETING MINUTES

Date and Time: July 19, 2018 at 5:15pm

MEMBERS PRESENT:

Greg Spears
Michael Atkinson
John Hyak
James Johnson
Gail Hoad
Mary Ann Wyatt
Brian Rokyta
Jill Trevino

MEMBERS ABSENT:

Julia Welder

STAFF PRESENT:

Development Services:

Julie Fulgham, Director of Development Services
Rick Madrid, Assistant Director of Development Services
Alina Phillips, Planning Manager
Celeste Menchaca, Planner
Lila Foster, Planning Technician

City Manager's Office

John Kaminski

City Attorney's Office:

Allison Lacey, Assistant City Attorney

A. CALL TO ORDER

Mr. Spears called the July 19, 2018, regular meeting to order at 5:15pm.

B. APPROVAL OF MEETING MINUTES

June 21, 2018 – Regular Meeting

A motion to accept the minutes was made by Ms. Trevino. Ms. Wyatt seconded the motion to accept the minutes. The motion was passed unanimously.

C. CITIZEN COMMUNICATION

There were no citizen communications.

D. DEVELOPMENT REVIEWS/FORMAL ACTION

1. **Variance Request for The Texan** – Request for Variance to City Code for a tract legally described as being 5.9 acres and being part of the The Texan Subdivision, Block 1, Lot 1 located at 7305 N. Main Street; Brian Dlugosch (Owner); Mark Pullin (Agent).

A variance request to Section 5-149(A)(1)(a)(2) – Permanent Signs; On-Premise Sign.

- a. **Staff report**

The staff report and staff recommendation were presented by Celeste Menchaca, Planner to the Planning Commissioners.

The subject property is a 5.9-acre tract located at 7305 N. Main Street. The property sits at the corner of N. Main Street and NW Zac Lentz Parkway Frontage Road W. The property is currently being developed into a commercial convenient store with fueling pump stations.

The owner would like to place two (2) permanent freestanding on-premise signs on the property. Commercial businesses who place permanent freestanding on-premise signs shall not exceed one (1) square foot for each linear foot of frontage the property has along public streets, or 500 square feet, whichever is less, of cumulative area for freestanding signs on their property. The subject property has 519.96 linear feet of frontage along N. Main Street and 505 linear feet of frontage along NW Zac Lentz Parkway Frontage Road W for a combined total of 1,024.96 linear feet of frontage for the whole property. Based on the Section 5-149(A)(1)(a)(2) the owner would only be allowed to have maximum cumulative area of 500 square feet of signage.

The first of two signs the property owner is proposing is to construct a two (2) pole sign to be placed in the front of the property along N. Main Street that is 30'6" feet tall and has a total square footage of 217 square feet. The proposed second sign will be a single pole, high rise sign, approximately 50' feet tall with a total square footage of 418.50 and is proposed to be oriented towards NW Zac Lentz Parkway Frontage Road W. The total cumulative area for these two proposed signs is 635.5 square feet, which is 135.5 square feet more than the maximum allowed cumulative area of signage any single site is allowed. Additionally, there is a pending application for a billboard, which is in compliance with the sign code, on this property.

The proposed variance would allow the property owner to erect two (2) permanent freestanding on-premise signs with a cumulative area over 500 square feet totaling 635.5 square feet.

Staff recommends denial of the variance request for the additional square footage to the on-premises signs. While there is no set criteria for the Planning Commission to evaluate sign variances against, unlike other variance requests, staff believes there are no adequate reasons for approving this variance. This property is similar to many properties within the City of Victoria and denying the variance will maintain the uniform and orderly development of the City by limiting all properties within the City to a maximum cumulative area of 500 square feet. The current sign ordinance was adopted in August of 2014 and the standard for the maximum amount of square footage for any one property was established by the community at that time and no variances have been granted since then to allow signage over the maximum standards set by the community. The property owner may reduce each proposed

sign, for a maximum cumulative area of 500 square feet and have adequate signage that is no smaller than elsewhere in the City.

Commissioner Hyak addressed whether there was a height issue with the sign or just the cumulative square footage.

Ms. Menchaca explained it was only the total square footage for both signs that was in question and that both proposed signs were to be within the legal height requirement.

b. Public Hearing

Chairman Spears opened the Public Hearing.

Mark Pullin, with Compadres Designs and agent for The Texan, which is located at 3104 E. Red River, Victoria, TX, approached the podium.

Mr. Pullin explained the reasoning behind the larger sign was to direct traffic to the Zac Lentz entrance, to provide more visibility, and allow drivers more time to transition into the exit lane. He further stated that this is the only location on this side of town with service pumps for tractor trailers and the trucks need to make use of the Zac Lentz driveways. Mr. Pullin explained the LED light structures only come in certain sizes, you cannot custom order the sizes. With the two different speeds of traffic; 70mph on Zac Lentz and 50mph on N. Main, and stopped traffic at the red light, they would not be able to meet needs of all travelers with one size sign.

Commissioner Hyak inquired if the signs had been purchased already.

Mr. Pullin explained it had and that it would be delivered tomorrow, July 20, 2018, and the other sign would be delivered next week. Mr. Pullin also stated that if the variance was denied, the sign would have to be used somewhere else.

Mr. Jon New, who resides at 405 CreekrIDGE Victoria, Texas, took the podium.

Mr. New explained the signs were custom ordered for a total cost of \$25,000. He did not believe using the signs in another location was feasible if the variance was denied.

Commissioners asked Mr. New if he was aware of the sign ordinance and the regulations before he ordered the signs.

Mr. New stated he did not know and that he would have to direct the question back to Mr. Pullin.

Commissioners then asked Mr. Pullin if he knew about the City's sign ordinance and regulations before the sign was ordered considering he had been in the sign business in Victoria for many years.

Mr. Pullin stated he was aware the City had a sign ordinance but that he did not know about the 500 square foot maximum cumulative area and he did not reference the ordinance before the sign was ordered.

c. Deliberations

Chairman Spears closed the public hearing and the Commissioners began their deliberations and acted on the variance.

Commissioners began their deliberation discussing the traffic at the N. Main Street/ Zac Lentz Parkway Frontage Road intersection. They discussed how they could see the benefits of allowing a bigger sign if it could assist in the overall safety of traffic by allowing motorist more time to make lane changes to enter the store driveways safely.

Commissioner Wyatt made a motion to accept the variance. Commissioner Atkinson seconded the motion to grant the variance.

Chairman Spears asked for vote.

The variance was granted by a 7 to 1 vote. Commissioners Hoad, Rokyta, Trevino, Wyatt, Spears, Johnson, and Atkinson voted to grant the variance. Commissioner Hyak voted to deny the variance. Commissioner Welder was absent.

2. Variance Request for Peaches and Tortilla Boutique – Request for Variance to City Code for a tract legally described as being 0.3223 acres being part of Victoria Part of Lot 4, Block 58 located at 507 N. Vine Street; Lascena Milner and Dr. Matthew Simmons (Owners)

A variance request to Section 21-92 – Off-Street Parking Requirements.

a. Staff Report

The staff report and staff recommendation were presented by Celeste Menchaca, Planner to the Planning Commissioners.

The subject property is located at 507 N. Vine Street and was developed into a single-family residential lot with a primary home, pool, and accessory structure on the lot. The residential lot currently has two (2) off-street residential parking spaces on the property. The residential parking area is located in between the primary home and pool house.

The current owners of the property would like to open a commercial retail boutique in the accessory structure. The City of Victoria does not have zoning within its city limits, however the City does have codes and regulations in which commercial businesses must abide by. When a new commercial business opens; the business

must provide the minimum off-street parking spaces required by the code for the intended use. The proposed commercial use for the accessory structure is a retail boutique. A retail boutique must provide one (1) off-street parking space per 250 square feet gross floor area. Based on the proposed layout of the boutique submitted by the owner, the boutique would require a minimum of three (3) off-street parking spaces with one (1) of the off-street parking space being a dedicated handicapped parking space.

Single-family residential uses are required to provide two (2) off-street parking spaces according to the City code. The subject is in compliance with this regulation; however, by converting the accessory structure into a retail boutique, the property owner is changing the use of the accessory structure from a residential accessory structure into a commercial business and off-street parking must be provided in accordance with the adopted regulations prior to a Certificate of Occupancy being granted for a commercial business at this location. With the addition of the retail boutique in the accessory structure, the lot will become mixed use lot: with both residential and commercial uses located on it. When a lot is deemed mixed use, parking requirements for each separate use located on the lot must be met. Based on the proposed plans submitted by the owners, a minimum of five (5) off-street parking spaces must be provided to support both uses of the property and comply with the adopted regulations.

The City is aware the property at one-time housed a home-based business, which is generally described as a business with limited use and on an appointment bases and is incidental and subordinate to the primary use of a property as a residential property. At various times, this home-based business was non-compliant and in violation of the Code and grew to become a nuisance to the neighborhood by obstructing the public streets with on-street parking to support its non-complaint business. At that time, the Building Official made code enforcement attempts to bring the property into compliance and eventually, the non-compliant business relocated to a bigger space which could support its clientele and parking needs.

The City does allow for some commercial businesses to utilize on-street parking to count towards their required parking requirements if the business is located within the Downtown Business District (Section 21-92a). Additionally, the Director of Development Services may reduce the parking requirements for historic structures (Section 21-92(b)(7)). The proposed retail boutique is located within the Original Townsite Historic District, but it is not located within the within the Downtown Business District nor is it being located in a historic structure, and, therefore, does not meet any criteria in which the property would be exempt from any required off-street parking.

The owners are requesting a variance to Section 21-92, which requires at the time any building, use, or structure is initiated, erected, enlarged or converted from one land use to another land use which requires an increase in the number of parking spaces, off-street parking facilities shall be provided in accordance with these regulations for the use of occupants, employees, visitors and patrons. If the

owners do not provide the required off-street parking for both the residential use and the commercial use, they cannot be granted their certificate of occupancy. If the variance is granted, the owners will be allowed to open their commercial business and obtain their Certificate of Occupancy without having to provide off-street parking and on-street parking could be utilized by patrons.

Staff recommends the denial of the variance of waiving the off-street parking requirement for this commercial retail boutique finding it does not meet the criteria established in Section 21-16 for granting variances:

This property is located within a primarily residential area, with an existing legally non-conforming dance studio located one block east of the subject property. The introduction of additional non-residential on-street parking has the potential to negatively impact the surrounding residential neighborhood. The City of Victoria does not have locational requirements for businesses, but has established development standards so that businesses do not negatively impact the public right-of-way, are developed in such a way so as to accommodate the commercial activity located on the site, and do not negatively impact surrounding properties.

In response to a question from the Commission, Ms. Fulgham stated that the previous home based business in this location had grown to a point where the city received complaints and the Building Official spoke with them on various occasions about the size and scale because it had grown beyond a home based business.

Ms Menchaca stated the building will require some work to bring it to commercial standards, including electrical and plumbing requirements.

In response to questions about parking, it was stated the three commercial parking spaces would need to meet commercial parking requirements. The residential parking could be developed according to traditional residential parking standards and the property is a corner lot with enough footage to allow for two driveways.

Commissioner Hyak asked about the five criteria for granting a variance and if this variance met the criteria to be granted.

Ms. Fulgham replied that, in staffs professional opinion, it did not meet the variance criteria to be granted.

b. Public Hearing

Chairman Spears on the meeting up to a Public Hearing.

Lascena Milner who resides at 507 N. Vine, Victoria, Texas, approached the podium.

Ms. Milner explained when she and her husband first bought this property, they had a previous city planner come out to inspect the property. The planner at the time

told them they could not serve food but that he would allow it to be used as a retail boutique. She did not remember the name of the planner who came out to the property. She further stated she would only be using 500-600 square feet of the space for her high-end boutique.

Ms. Milner stated she respects the neighborhood. She feels there is unequal treatment between her proposed boutique and the dance studio up the street that has been in continuous operation in its present location since 1939. Ms. Milner does not feel there would be a conflict since her hours of operation were different than the dance studio. When she had her yoga business she had 12-20 people and had not heard of any parking complaints.

Torin Bales who resides at 106 S. William St., Victoria, TX, approached the podium.

Mr. Bales felt that the variance should be allowed and that to make them incur the cost of extra parking would not be fair.

Byron Cumberland who resides at 1807 E. Warren, Victoria, TX, approached the podium.

Mr. Cumberland stated he was the property owner of 401 and 403 W. Stayton. He explained he had experienced the on-street parking issues and how cars often block the driveways. He understands that the dance studio is existing non-conforming business, but he believes the Commission should not add to the problem and he is opposed to any new commercial business in this area that would be non-conforming. Mr. Cumberland further stated that when additional parking was required at his two business locations, he obtained the needed land and put in the parking which was required because part of running a commercial business is following the codes and requirements.

Commissioner Atkinson asked Mr. Cumberland about a letter the Commission had received that had not been signed addressing some of the same issues he had just spoken about.

Mr. Cumberland stated he was not the author of the letter.

Matt Simmons who resided at 705 N. Vine, Victoria, TX, approached the podium.

Mr. Simmons stated when he comes home between five and six in the evening, there is traffic from the dance studio but he had not seen cars parked in front of the accessory building where they wish to open their boutique. This is a stepping stone for them and they want to eventually be located on Main St.

Mr. Simmons also questioned some statements in the unsigned letter submitted to the Commission. He did not believe some of the statements were true, such as the t-boned accidents that had happened at the intersection of Vine and Stayton. He could not recall such wrecks happening unless they happened and he was unaware

of it.

The Commissioners had questions about who granted the grandfathered status to commercial businesses; and if this is something the Commission decided?

Ms. Fulgham explained they would not have the authority and in fact she did not have the authority to grant that as well.

c. Deliberations

Chairman Spears closed the public hearing and the Commissioners began their deliberations.

Commissioner Hyak stated the Commission had approved a similar variance about a year and a half ago for Trinity Episcopal Church, and he did not see much of a difference in this one from that one.

Commissioner Trevino stated she was torn on this variance. She stated she had come in with one opinion but had since changed her opinion. She had just read about Victoria is a growing community and how the median age has lowered in Victoria County. She felt Victoria could benefit from being more start-up friendly, so folks could have a stepping stone to move into larger businesses. As a young professional, Commissioner Trevino loves the idea of businesses like this, but still believes the Commission needs to consider safety. Commissioner Trevino brought up the three T-bone accidents in the area in the past, and did not want to contribute to those types of accidents in future if the variance was granted. However, she did mention if those accidents happened at a time no business was being ran out of the accessory structure then she did not see safety issue by one being in there.

Commissioner Atkinson brought up a citizen letter, which had been submitted to the Planning Commission unsigned and did not give the property owner's address. The letter was allegedly from a property owner located near the proposed business along with other property owners also located around the proposed business who did not support the variance, but they did not sign it or show up. Commissioner Atkinson believe the letter was equivalent to writing a nasty note, sticking it under a door, ringing the door bell and running. He felt the letter was inappropriate and letter has little to no merit.

A motion was made by Commissioner Hyak to grant the variance. Commissioner Trevino seconded the motion to grant the variance.

Chairman Spears called for a vote. The Commissioners voted unanimously to grant the variance. Commissioner Welder was absent.

E: OTHER BUSINESS

1. Ms. Menchaca presented the monthly Development Services Report.

2. Ms. Fulgham reminded Commissioners of early registration for the state conference and the Open Meetings Act Training.

F: ITEMS FROM PLANNING COMMISSIONERS

There were no items from the Planning Commissioners.

G: ADJOURNMENT

Mr. Spears adjourned the meeting at 6:05pm.

APPROVED: _____
Greg Spears, Chairperson
Victoria Planning Commission

APPROVED: _____
James Johnson, Secretary
Victoria Planning Commission