

UNION CITY PLANNING COMMISSION – REGULAR MEETING

Tuesday, May 29<sup>th</sup>, 2018

CITY OF UNION CITY

7:00 P.M.

Present: Chairman Marilyn McCain, Commissioner Jo Croom, Commissioner Trevor Cason, Commissioner Robert Potts, Commission Linda Johnson, Assistant City Attorney Dennis Davenport, Community Development Director - Ellis Still, Senior Planner - Kalanos Johnson, Planner I - Giavani Smith

MEETING CALLED TO ORDER:

Introduction of Commission members and staff by Commission Chairman Marilyn McCain

I. REVIEW OF MINUTES:

Meeting, March 26<sup>th</sup>, 2018

Chairman McCain noted that those minutes were not readily available.

Meeting, April 30<sup>th</sup>, 2018

A motion was made by Commissioner Potts, seconded by Commissioner Croom to accept the minutes as presented. Vote was unanimous. Motion carried.

II. OLD BUSINESS:

None

III. NEW BUSINESS:

1. **Public Hearing:** (18180075) to rezone 0.4356 acres of land at 5013 College Street from M-1 Light Industrial to O-I Office Institutional for use as a place of worship.

Community Development Director Ellis Still presented the staff report.

Commissioner Cason asked if street parking on College Street was allowed.

Director Still stated that it is a two lane street and off street parking is not permitted.

Commissioner Cason asked if they could only park in the parking lot.

Director Still stated that parking in the lot would be it and there is a small amount of space to add parking.

Chairman McCain asked about the current size of the congregation.

Director Still was not sure of the current size of the congregation.

Chairman McCain mentioned that there are about 7 spaces there.

Director Still stated that according to the ordinance, they will be required to have 4 seats per parking space; based off of the current ordinance and their site plan, they would need 28 parking spaces.

Chairman McCain asked if it was the minimum requirement.

Director Still confirmed it is the minimum requirement.

Commissioner Cason asked could they use the parking lot at the jail.

Director Still stated they would need to work out a partnership and could be a possibility.

Commissioner Croom asked if there is a church across the street.

Director Still stated that there is a church across the street from the property.

Commissioner Potts mentioned the hill being on College Street and how dangerous it would be to park; clarity was asked to Director Still based off of the staff recommendation stating that the property is not big enough to accommodate parking for what they are asking for.

Director Still confirmed what Commissioner Potts said was correct.

Public Hearing was opened.

Roxanne Daley with Battle Law was present to represent the petitioner; Ms. Daley stated that Psalm 23 is considered a small ministry/starter church with fluctuating membership between 15-20 members and by no means a mega-church. She stated once they outgrow their capacity, they will give another starter church a chance in the facility. Ms. Daley presented a new site plan that included 6 additional parking spaces on the property lot, which will allow for 52 seats inside the sanctuary, opposed to the 28 seats; she stated the additional parking will address staff's concern for the limited parking spaces. It was mentioned that 15-12 of the Union City Code should be used when considering rezoning applications and land use was not one of them. In regards to the zoning, Ms. Daley mentioned they wouldn't want to ask for a zoning that is more intense than needed; she stated that O-I is less dense and intense for a church. Ms. Daley asked for recommendation of approval and if it would not be approved tonight, she asked for deferral instead of denial.

Commissioner Croom asked if the congregation was 28 members.

Ms. Daley stated that they fluctuate between 15-20 members and allows for 28 seats.

Chairman McCain asked for clarity on the additional parking that was found and if the spaces were on the property.

Ms. Daley stated that they aren't paved and the applicant will be willing and ready.

Commissioner Croom asked about the access to the parking lot.

Ms. Daley stated that the access is off of Watson Street and access the 6 parking spaces; the other access is on College Street.

Ray White, Member of Union City Lodge # 600 spoke in favor of the petition and stated that when we joined the lodge they had about 150 + members and never had a problem with parking. Mr. White stated that the parking spaces are deep and they have always double parked which gave them 14 and sometimes triple parked which gave them 21; he stated that they also parked in the used to be gravel area, now grassy area which gave them additional parking of 21 spaces. Mr. White says that he has previously conducted events at the Lodge with 60 + people at a time and never had a problem with parking; he says the back of the lodge has parking as well. He stated a church rented the lodge for 2 ½ years and parking was never an issue.

Commissioner Croom asked Mr. White if the lodge owns the grassy area and if it is a part of the property.

Mr. White stated that they own the grassy area and they also have built a retaining wall that separates them from the other property and goes back to the other property.

Commissioner Potts stated that the lodge was built years ago and the codes have changed in the City.

Mr. White stated that code or not, they still had over 150 members that attended.

Commissioner Potts stated that things have changed and there are certain guidelines that you have to go buy. He asked about the status of the charter.

Mr. Williams stated that his understanding for the reason of this zoning hearing is the parking and they have no problem with parking.

Commissioner Potts stated that there are rules, codes and guidelines and you must have a certain amount of impervious area and asked Mr. Williams if he understands impervious area.

Mr. White asked Commissioner Potts if he understands that he has 21 in the front and at least 21 spaces on the side.

Commissioner Potts stated that if they continue to pave they will have to build a detention pond for storm water instead of putting it in the street or neighbor's yard and things are different from years ago.

Mr. White stated he didn't think Commissioner Potts understood what he was explaining.

Chairman McCain stated that when the members were there, they made parking available on the property and the parking that is there now designated is what they are reviewing and adding more parking would be consistent with the regulations. She stated that Mr. White made due with the property and the parking spaces that were there and not clearly defined as parking spaces; the spaces on College Street are the defined parking spaces.

Commissioner Johnson asked Mr. White for the seating capacity of the building church style with chairs.

Mr. White stated in the lodge room that the number is somewhere around 50 along the side and 12 officer stations that allow about 60 or more. They would bring in folding chair when they had special events which allowed for more seating.

Commissioner Johnson talked about her seating capacity at her business in Union City and they have to have so many parking spaces.

Mr. White says that the church is quite small.

Commissioner Potts talked about the capacity and asked Mr. White what would happen if there was a revival at the church.

Mr. White stated that he would have to talk with Psalm 23.

Major Macintyre, representative of Psalm 23 and isn't knowledgeable of the codes, etc. but wishes to gain the favor of the Planning Commission for which they would be in compliance and would hope to add the additional parking spaces.

There was no one else present to address the petition.

Public Hearing was closed.

Commissioner Croom stated that Community Development had not had a chance to review the site plans with additional parking spaces and asked if it would it come up to code with the additional 7 spaces.

Director Still stated that the number sounded correct but there would be some additional concerns with the driveways/intersections and it is pretty close to the intersection which would need to be reviewed by Public Services

Commissioner Johnson asked if it should meet the requirements would it change the recommendation from the Staff.

Director Still stated the recommendation would change.

Chairman McCain asked how long it would take for a review of the driveway to see if it meets the code.

Director Still stated he would need to meet with Public Works the following day.

Chairman McCain asked Director Still if it would give enough time before the petition goes before Mayor and Council in June.

Director Still confirmed with Chairman McCain that it would allow enough time.

Commissioner Potts asked Director Still besides Public Work, if we would be getting with the City Engineers.

Director Still stated that he would have to get with the City Engineers.

Commissioner Potts stated his concern was the storm water running off any area of that size and going into Watson Street and hydroplaning.

Director Still stated to Commissioner Potts that he is correct and the current zoning of the property is grandfathered in but once the use changes it will have to come up to the current code.

City Attorney Dennis Davenport asked to review the plat again and the placement of the building to address the setbacks that were noted in the Staff report and stated that on the current site plans, one of the setbacks is not being met. The distance on the site plans were 42 feet and the requirement is 50 feet; he also stated that it was considered a non-conforming structure. It was also noted that the lot is .4356 acers and M-1 requires a minimum 30,000 square feet which makes it a non-conforming lot. City Attorney Dennis Davenport stated that parking is not an issue from a legal standpoint; the land use plan categorically is not a reason. City Attorney Dennis Davenport stated that they can't get a variance for lot size but can get a variance for O-I to meet the minimum lot size.

Chairman McCain asked City Attorney Dennis Davenport if M-1 was less intense.

City Attorney Dennis Davenport stated that M-1 is more intense than O-I.

Commissioner Croom asked if they approve the zoning for O-I will it eliminate one of the non-conforming uses and if the petitioner would have to go before the Zoning Board of Appeals to ask for a variance.

City Attorney Dennis Davenport confirmed that the petitioner would still need to go before the Zoning Board of Appeals and stated that if they go before the ZBA, they would be going to change the use on a non-conforming lot and non-conforming structure; if the petitioner did the rezoning and variance, they wouldn't need to go to the ZBA.

Commissioner Croom stated that they could move to approve the rezoning based on going before the Zoning Board of Appeals and to request a variance.

City Attorney Dennis Davenport says that a fair amount of time to get the meetings completed would be 6 months.

Commissioner Potts asked a question about the parking.

City Attorney Dennis Davenport stated that the parking wouldn't be an issue if they have 15-20 people or if they grow then parking would be an issue. If they add the 6 spaces then they have room to grow and they have time to handle it if they choose to do so; he stated that it isn't guaranteed that the City will rezone or give a variance.

Chairman McCain stated that the additional 6 spaces would be a part of the conditions.

Commissioner Johnson stated her issue was that she wanted to know if the petitioner understood the issues with the non-conforming uses and what they have to do.

City Attorney Dennis Davenport stated that the petitioner's legal counsel will have the conversation with them.

Commissioner Croom made a motion to approve the rezoning request with the conditions and going before the Zoning Board of Appeals to ask for a variance within a 6 month period. Commissioner Johnson seconded the motion.

City Attorney Dennis Davenport stated that they need to prepare for the contingency that they don't get the variance from the Zoning Board of Appeals, the building will have to comply; they would need to cut 8 ft. off of the building if they don't get the variance

Chairman McCain asked if this was contingent upon the variance.

City Attorney Dennis Davenport confirmed that it is contingent upon the variance because if the variance isn't granted the rezoning would occur but the building couldn't be used for a church because it violates the setback and would need to be torn down or take 8 ft. off to make it comply and they could use it without the variance.

Director Still asked if the motion was to approve the rezoning with the conditions of being granted a variance within 6 months.

Chairman McCain stated that they would need to address the other issues, such as the driveway so that it is in compliance.

City Attorney Dennis Davenport stated the driveway must be in compliance whether they make it a condition or not.

Chairman McCain stated that the motion had been made to approve the rezoning, pending the variance and other conditions within a 6 month period.

City Attorney Dennis Davenport stated that the 6 month period would start from the decision of the Mayor and Council.

Chairman McCain & Commissioner stated that Mayor and Council could deny the request at the June 19<sup>th</sup>, 2018 meeting.

Vote was unanimous. Motion carried

IV. OTHER BUSINESS:

None

V. ADJOURNMENT

There being no other business to discuss, meeting was adjourned. Vote was unanimous. Motion carried.

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Giavani Smith

City Planner

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Marilyn McCain

Chairman