

MINUTES OF THE ZONING COMMITTEE
Thursday, April 30, 2015 - 3:30 p.m.
City Council Chambers, 3rd Floor
City Hall and Court House
15 West Kellogg Boulevard

PRESENT: Edgerton, Makarios, Nelson, Padilla, Reveal, and Wencil
ABSENT: Merrigan (excused), Wickiser
STAFF: Bill Dermody, Samantha Langer, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Nelson.

Freedom Works, Inc. - 15-021-950 - Conditional use permit for a transitional housing facility for up to 24 residents with modification of required lot area, 869 5th St E, NW corner at Mendota

Chair Nelson explained this application was laid over at the April 16, 2015, Zoning Committee meeting with the request that staff to investigate other potential definitions and applicable regulations with regard to the property.

Bill Dermody stated that the applicant has been involved in a couple of community meetings, and District 4 ultimately decided to remain neutral on the application. He noted that he has received additional letters from the community, and there are people in the audience who would like to speak, but the public hearing was closed at the previous meeting. The public hearing would need to be reopened if they would like to hear any testimony. Mr. Dermody presented the memo and additional information and staff's recommendation of approval with a condition, which remains unchanged.

Commissioner Padilla questioned if there are any code requirements that state a distance or concentration limit on any of the facilities listed on the handout showing facilities licensed by DHS.

Mr. Dermody stated that none of the sites located within a quarter mile are the types of sites, either by size or classification, that need to be separated from the subject use.

Commissioner Padilla noted that at the previous Committee meeting there was a question on Finding 5, related to undue hardship to the owner, and whether the Finding was met. She didn't see any change made to the staff report, and the analysis seems okay, but not expressive enough in her opinion. She analyzes the undue hardship requirements looking at the modification that is requested and the totality of the circumstances surrounding the modification. In this case, the modification is lot size. There is no mechanism for the property owner to increase the lot size to manage the discrepancy. It is an existing building that has been used in the past as 24 units as a convent. There is existing room and space for the use being requested as a conditional use, and the applicant is not requesting an expansion in units or the number of people residing at the property. He is requesting the reuse of an existing facility on an existing lot size. The undue hardship comes from limiting the existing use in a way that would cause financial damage to the property owner.

Commissioner Reveal questioned if she was troubled by the fact that the nature of the use is different than it was when it was when it had previously been used as a 24 unit building. She

also questioned if when it was used as a religious facility would that be reviewed under our zoning requirements.

Commissioner Padilla stated that it is an allowed use with a conditional use permit, and to her it is not a question of a difference in use, it's a question of whether the use is allowed by code, and if the modification requested is an appropriate modification.

Mr. Dermody stated he is not sure what classification a convent would fall under, but at the time the facility was built, in 1963, it met the requirements for lot size.

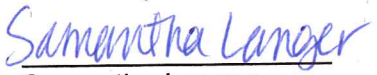
Commissioner Nelson stated he does not believe there are any religious exemptions for facilities, and they would still need to meet zoning code requirements for the use of the building.

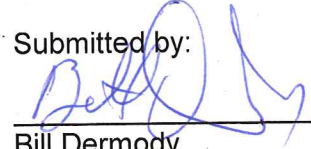
Allan Torstenson stated that a convent would be listed under religious institutions in the zoning code, with the condition that the use be associated with a church or similar house of worship, in a residential district. There is no specific space requirement for a convent use as there is for transitional housing. The convent use would need to meet setback requirements and other dimensional requirements of the district, but there are no unique lot area requirements.

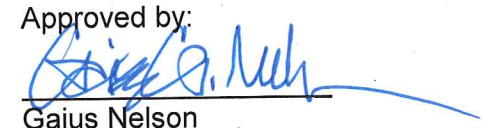
Commissioner Julie Padilla moved approval with a condition of the conditional use permit, subject to clarification to Finding #5; stating there is no easy mechanism to increase the lot area due to the surrounding development, and strict application would unreasonably limit the use of the building resulting in undue hardship for the owner. Commissioner Kyle Makarios seconded the motion.

The motion passed by a vote of 6-0-0.

Adopted Yeas - 6 Nays - 0 Abstained - 0

Drafted by:

Samantha Langer
Recording Secretary

Submitted by:

Bill Dermody
Zoning Section

Approved by:

Gaius Nelson
Chair