

Draft Minutes for Summit Center for arts/innovation at PC 08/10/18

#18-084-109 The Summit Center for Arts and Innovation – Historic use variance for the Summit Center for Arts and Innovation, including music and art related education, public programs and events, and spiritual/church related service and receptions, including weddings and memorial services. 1524 Summit Avenue, SW corner at Saratoga Street. (*Bill Dermody, 651/266-6617*)

Commissioner Rangel Morales said a lot of community members voiced concern about how these proposed uses would impact the neighborhood. He had asked City Attorney Peter Warner whether the use would be tied to the current owner or to the building, and Mr. Warner said it goes with the building. Commissioner Rangel Morales expressed concern that future users will not be held to more innocent uses like choruses and orchestras based on these broad conditions that allow concerts and events, so he doesn't think this proposal is compatible with existing uses in the neighborhood or corridor. He intends to vote no.

Chair Reveal asked Commissioner Rangel Morales if he had alternative language that would satisfy his concern.

Commissioner Rangel Morales said his concern is that there aren't terms narrow enough in the zoning code to be able to restrict the use so that we can assure that it will be used for the limited purposes or for the purposes stated by the applicant. While these conditions are narrower than the application, this type of use variance would presumably enhance the value of the property so it could then be sold to someone else who could use it for other types of music and concerts.

Commissioner Baker asked for clarity on what the recourse would be if the next owner used the facility for, say, rock concerts.

Chair Reveal said that generally whoever purchased it would be subject to the same conditions here, and she believes non-amplification is one of the conditions.

Commissioner Rangel Morales said he believes that non-amplification only applies to outdoor events.

Bill Dermody said they discussed many ways to address the concern of this becoming a night club under a future owner. It's difficult because there is no zoning code definition for a night club to turn to, they had to think of other ways to go about it. The hope is that the restrictions on the hours will take care of that concern. With the requirement that indoor events other than wedding receptions conclude by 10:00 p.m. on the weekends and 9:30 p.m. during the week, there are very few if any full-on amplified concert venues that operate under those hours. Staff thought that this was the cleanest and most enforceable route to regulate against a night club situation.

Chair Reveal asked Mr. Dermody to speak on what the options are for people if there is a perceived or actual infraction.

Mr. Dermody said that the historic use variance conditions, if approved, must be abided by. Just like a conditional use permit or any other similar zoning approval, if the conditions are being violated, the zoning administrator can start a revocation process with public hearings in front of the Zoning Committee.

Commissioner Perryman said that as a wedding DJ he understands that it can get very amplified as the music as the individuals drinking and getting late it can be comparable to a concert. Wedding receptions having that open is going to cause issues.

Chair Reveal asked if non-amplification outdoors would take care of the problem.

Commissioner Perryman said non-amplified would take care of it, because then you could not make it very loud.

Commissioner Edgerton asked what are the noise requirements. The city has standards for noise requirements. What would they be in this case?

Mr. Dermody said he had not talked directly with the enforcement staff in Department of Safety and Inspections (DSI). His understanding of code is that there are limits from early morning up until 10:00 p.m., after which you are not allowed to have hardly any noise as heard on residential properties. He cannot provide more detail on noise enforcement without speaking with the inspection crew.

Commissioner Vang said the use is committed to retain both spiritual presence and educational programs consistent with the historical uses of the church itself. So, would like to propose adding another condition to allow them to use to regulate based on their percentage of uses category, 60% is used more towards arts and music, 40% for weddings and other activities.

Mr. Dermody said if you wanted to go that route he would propose something a little different, because that would require a complex calculation that would be difficult to enforce for DSI. A better route would be to look at the uses you consider an issue and put a maximum number per week or some maximum hours on those problematic uses.

Commissioner Baker said his concern with such a condition is that they are moving into changing the business model, getting into how the applicant does their business.

Chair Reveal thinks that this is only the second time they have used this historic use variance vehicle, and it does not have a lot of history behind it either from enforcement or from initial execution and definition. So, it is not like it has a body of precedent like a conditional use permit or something like that. From her perspective it's a complicated vehicle to use because it is not as well-defined as some other things.

Commissioner DeJoy respects the staff's recommendation and the due diligence that has taken place. She admires Mr. Rupp's vision for preservation and reuse of the building and his investment in the property, but in her opinion the historic use variance should be denied because of the intensification of the use in an RM1 zoning district. She knows they cannot reject something because of lack of parking but it's the intensification that creates the parking problem. There are twelve spaces and potential to have 300 people at a wedding – that does not work for her.

Chair Reveal asked her if she saw what the applicant said about shared parking.

Commissioner DeJoy replied she did not see any contract tied to that, so maybe they can get some clarification. The use now in RM1 allows social institutions but events on a regular basis like weddings can significantly increase the intensity.

Commissioner Ochs said that every church has an intensified use at some time during the day sometimes one day a week sometimes several days a week and thankfully they don't have parking lots to accommodate every seat in the house, because then you have a large parking lot that is mostly unused most days. He lives not too far from Summit Avenue and he can see parking spilling out onto the streets and overflowing the parking lots and that is why there are public streets so all people have an opportunity to use it. He does not believe that this property is going to use all of its parking seven days a week as people feel.

Commissioner Lindeke said he thinks churches are an intense use. Historically there are weddings at churches so it seems like an historic use to him. It's a risk they always take when they approve a variance or a permit because the property will be sold to someone and that is the nature of zoning in general.

Chair Reveal said that the important thing on that is there is a vehicle to address the problem if a problem materializes.

Commissioner Lindeke prefers not to use the zoning code to regulate things like sound, that is something DSI and ordinances for because that is a more flexible tool.

Commissioner Edgerton added that there will be disruption, there will be more people, more events, more noise, more people parking and almost every item that we approve there's disruption and the question is to how much is acceptable. And that is very subjective and we always wrestle with that. What he does like about this is it allows for the reuse and maintenance of a historic building, a church. We run into more and more churches that are no longer viable as churches, and we have to ask what will happen with them. They require a lot of maintenance and upkeep and they are old. Ultimately, we have to weigh this all in and make our best judgement.

Commissioner Vang proposed a motion to add in a limit to certain events to just a few hundred. They can discuss more about this in terms of the details in terms of limit so they can reduce the intensity of events. He wants to add in an additional condition so they can limit the intensity.

Chair Reveal asked him what specifically he is proposing that for weddings and similar events, and do you have a time?

Commissioner Vang replied no I don't have a time, but we can discuss the details.

Commissioner Rangel Morales seconded the motion.

Chair Reveal asked for discussion on the motion to limit the days per week or the time allowed for certain kinds of intense uses.

Commissioner Baker is concerned that moving forward in changing the applicant business model and he does not think that the Zoning Committee's goal is not to go in and regulate what people specifically do as a business and that type of a change would go into say what this person can and cannot do. He does not think that is their authority.

Commissioner Ochs asked for clarification on the proposed amendment.

Commissioner Vang said that he is not trying to limit the number of people there but limit the number of certain activities and the number of days. He does not have a number off the top of his head but he thought that would be something to consider.

Commissioner Ochs said for clarification you want us to do their scheduling.

Commissioner Vang said on an annual basis they could do 200-300 wedding receptions, he's not a wedding planner so it would take further conversation to see. However, he is not trying to limit their business but because they came on like they wanted to change their business actions too. He is for free market and making sure to avoid government intervention but at the same time, they're implementing this change, they're changing their business model to more of an event center.

Commissioner Ochs said this is about determining the number of people allowed in each building for each use. Certificate of Occupancy determines the number of people therefore it is already regulated.

Commissioner Oliver is struggling with the fact that they are having a discussion over the specific language for an amendment.

Commissioner Rangel Morales said the reason he seconded the motion to amend because part of the presentation of the Zoning Committee by the current owner was an explanation of what his business is. Commissioner Vang's concerns are not unfounded in the sense that the business that this will be incorporated into is already a wedding planning/reception business. And it sounds like it will be heavily used for that and is in a really nice location which means it will probably be booked a lot. It's a very fair concern to have given the anticipated heavy use.

Chair Reveal stated that she is not going to accept this as an amendment for consideration unless it is more specific. Giving either a number or a number of days per week or a number of events per time something that quantifies it.

Commissioner Fredson said that there are examples of other ways this committee has established limits on let say churches, the number of...

Chair Reveal said certainly not on churches.

Commissioner Fredson said it's not a church anymore.

Commissioner Oliver said part of this seems to be that there is a separate rule that applies to indoor reception events that requires locking the doors ending the event one hour later on Friday and Saturday, but it seems to be half an hour earlier during the rest of the week. So, if you call it a reception it can go late. He is trying to figure out where that came from the separate rule as opposed to saying that all events need to wind up at 10 and the doors close at 11 across the board.

Mr. Dermody said that question is partially answered in the applicant's response to the neighborhood testimony where they lay out these hours as one set they are willing to abide by. Also, events like concerts have a clear end time, while wedding receptions seem to trail off, with most of the activity ending around 10. But there is always the bride, groom and several hard-core participants who want to stay until the very end. That is why the hours are written differently for indoor reception events as opposed to other indoor events.

Commissioner Edgerton asked how typical is it to go until midnight. To tell the DJ he/she has to stop at 10 p.m. would that end up creating hardship on the business because of this limitation.

Commissioner Perryman said he has seen a variety of situations. Some venues that have sound issues, where neighbors have complained, they are really strict on it, and then the wedding party will hop on a bus and go to a bar or somewhere. It is ideal to have everything in one place instead of having people driving around. The most traditional time is midnight; 10:00 p.m. is rare amongst venues he has been to.

Commissioner Vang asked if this building will have a liquor license?

Mr. Dermody said that this building does not have a liquor license, but they anticipate applying for one shortly.

Chair Reveal noted that a liquor license is an entirely separate process that the Planning Commission has nothing to do with, but is a process of regulation. Chair Reveal then ruled the amendment to be out of order unless someone wants to recommend specific language.

Mr. Dermody heard a concern about the frequency of reception events and the most enforceable would be days per week as opposed to keeping track of an entire year. So perhaps no wedding reception events Monday through Wednesday or something like that. Also, the applicant has expressed great concern over any such restrictions, such that they may not open their business depending on what the restrictions are.

Commissioner Vang made a motion to restrict usage Monday through Wednesday.

Chair Reveal asked for a second to the motion. No one seconded the motion.

Commissioner Perryman asked if this was going to operate as a church or is it purely going to be an event venue.

Mr. Dermody said there is a church in there currently that is anticipated to continue being there. The church is not the focus of this historic use variance because it's already an allowed use.

Chair Reveal stated that it is cited as one of the potential uses.

MOTION: Commissioner Edgerton moved the Zoning Committee's recommendation to approve the historic use variance subject to additional conditions. The motion carried 11-2 (DeJoy, Ochs) on a voice vote.