

MINUTES
CITY OF BETHANY
PLANNING AND ZONING COMMISSION
MAY 4, 2023

MEMBERS PRESENT: Charles Snyder, Chair
Justin Peck, Vice-Chair
Steve Marx
Robert Helton
Kent Lynn
James Clemmer

MEMBERS ABSENT: Ron Crouch

STAFF PRESENT: Ray Jones, City Attorney
Amanda McCellon, Comm. Dev. Director
Brendan Summerville, Comm. Dev. Associate
Linda Hlinicky, Adm. Assistant

NOTICE: Agenda posted in the lobby and on the front door of Bethany City Hall, 6700 NW 36th St., Bethany, OK 73008 on Thursday, April 27, 2023, at 11:00 a.m.

Charles Snyder, Chair called the meeting to order. Steve Marx gave the invocation. Motion was made by James Clemmer, seconded by Justin Peck to approve the April 6, 2023 Planning and Zoning Commission minutes with the correction of changing "Mr. Gholson" to "Ms. Gholson". The votes are as follows: AYE- Charles Snyder, Justin Peck, Steve Marx, Robert Helton, Kent Lynn, James Clemmer. NAY- None. ABSTAIN- None. The motion carried unanimously 6 -0.

ITEM 1: **PC 23-03**
Consider a request by Bruce Saunkeah, applicant and property owner, for a special use permit that will allow a dwelling unit within a commercial business at 3200 N. Rockwell Ave.

LEGAL DESCRIPTION:
Sect. 21-T12N-R4W NW Qtr., Holloway Acres 002 000 PT of Lot 2 Beg at SWW/C Lt 2 TH N330.6ft E261.95ft W262.33ft to Beg. & N30ft OG W262.33ft Lot 3.

ACTION: Brendan Summerville, Comm. Dev. Associate presented the staff report to consider a special use permit request that would permit a dwelling unit at 3200 N. Rockwell Ave. Summerville summarized the lot characteristics and surrounding zoning. The primary function is retail sales and mercantile; and was built in 1989. Planning staff was notified of the use of the property as a dwelling unit by Deputy Chief Biswell of the Bethany Fire Department. The dwelling unit was found during a routine inspection. Should the applicant's request be approved, the applicant must file for building permits that would legally alter the existing structure. In addition, applicant must comply with all fire safety items, including but not limited to fire suppression, fire alarms, egress requirements, etc. This is not a traditional use of the property. After discussion with legal counsel, we determined that

the applicant could potentially live there under a caretaker clause, meaning their intention is to maintain and survey the property over all hours of the day.

Bruce Saunkeah, Applicant stated he is one of the owners(s) of Rink Gallery Vintage Mall.

Charles Snyder, Chair asked if Mr. Saunkeah was the owner of the property at 3200 N. Rockwell.

Bruce Saunkeah, Applicant said no.

Charles Snyder, Chair asked Mr. Saunkeah if he has permission from the property owner to request the special use permit.

Bruce, Saunkeah, Applicant said yes.

Charles Snyder, Chair explained regardless of how the Planning and Zoning Commission members vote, he is going to require part of the recommendation include that Mr. Saunkeah produce documentation before the City Council hearing that shows Mr. Saunkeah has permission from the LLC that owns the property to ask for this special use permit. Snyder, Chair believes this documentation should be provided to the City, so the owner of the property is on board with what the applicant is doing.

Bruce, Saunkeah, Applicant explained we are requesting this special use permit to continue having a physical presents of someone on the property at all times, which we have had since the business opened in 2006. This has not been an issue until the most recent fire inspection when we were notified this property was not zoned for dwelling. We would like to continue occupying the living space on property to provide 24-hour surveillance and monitoring. In the past we have had some vandalism, and some plumbing issues. So, it has been useful to have someone on site 24 hours a day.

Charles Snyder, Chair asked if there has been any recent vandalism or theft.

Bruce Saunkeah, Applicant stated within the last couple of years we have vandalism to the chain link fence, and people got in and took scrap metal stored in the back yard of the property. Also, stole some copper from some of the old air conditioners from the old ice-skating rink. We installed more security cameras and upgraded the outdoor lighting. Sometimes people will park their cars in lot. If they are not having car problems, I ask them to leave because this is private property.

Charles Snyder, Chair asked if the building has an alarm system.

Bruce Saunkeah, Applicant stated the building had an alarm system but currently it is not functional. Then he said we have alarms on the three exits. The alarm system that was installed when the skating rink was here is no longer functional.

Commissioner Marx asked how many people will be living here.

Bruce, Saunkeah, Applicant said just himself.

Commissioner Lynn asked how much living space is on site now.

Mike Brody, Manager of the Rink Gallery stated there is about 900 square feet. You are talking about a recliner, bed, bathroom, microwave, and a coffee pot.

Charles Snyder, Chair said so it is more like a breakroom.

Mike Brody, Manager of the Rink Gallery said yes, it is more like a breakroom. It is important to have the caretaker residence on site. We do a lot of work, and we are open seven days a week. Open from 10-7 every day (except for two holidays).

Commissioner Lynn stated as a general rule, residence is not allowed in commercial buildings. So, if we approve this, are we setting precedence?

Ray Jones, City Attorney read ordinance #158.02 definition in respect to this issue. Ordinance #158.02 defines caretaker or employee housing. It is defined as a detached secondary housing unit that is used for persons employed on the premises. Where the principle commercial, industrial, or institutional use of the site involves operations, equipment or other resources that require 24-hour oversight. Such housing shall be occupied exclusively by the caretaker and/or employee and not for rent or use as a separate housing unit by persons other than those employed on the premises. The Planning Commission must find that the principal use on the site requires the continual supervision of a caretaker, superintendent, or watchman.

Ray Jones, City Attorney felt there are two critical issues here. It requires a detached building, which is absent in this case. Secondly, there has to be a finding from the Planning Commission that the nature of the site requires continual supervision.

Commissioner Clemmer inquired about an ordinance that allows dual use with living upstairs and business downstairs.

Ray Jones, City Attorney stated there are specific zoning ordinances which are mixed use. However, it is a specialized form where we have business on the first floor and residence on second floor.

Commissioner Clemmer asked if that was restricted to the CBD itself?

Amanda McCellon, Comm. Dev. Director said it is not, but this is not something staff would encourage us to look at zoning mixed-use. This goes against everything our mixed-use is in the comprehensive plan. This request would set a precedence moving forward to just use mixed-use that catch all zoning versus what we are trying to attract those type of businesses that are going to do the up and down mixed-use concept.

Commissioner Helton stated mixed-use does not define density, or if it should be on the first or second floor in our comprehensive plan.

Brendan Summerville, Comm. Dev. Associate said it would be more of the ordinance as opposed to the comprehensive plan in that case.

Charles Snyder, Chair discussed in order to clarify under the ordinance, we need to have three findings: 1) need for 24-hour security, 2) a separate structure; and add 3) some documentation that the owner approves this request.

Amanda McCellon, Comm. Dev. Director mentioned if the Planning Commission chooses to approve request, I would put a date in there that all the structure updates need to be approved and put in for the fire safety side of things. I would make it date specific because otherwise Deputy Chief Biswell will not know what to hold them too as far as getting the work done.

Charles Snyder, Chair asked the applicant if they have been reporting the vandalism incidents and other problems to the Police Department.

Bruce Saunkeah, Applicant said yes.

Charles Snyder, Chair said you should have copies of those reports.

Bruce Saunkeah, Applicant said we called when the fence was cut, and they came out and looked at it. I guess we did not file an official report.

Charles Snyder, Chair asked if that is the last incident applicant has had.

Bruce Saunkeah, Applicant said it is hard to say. At some point someone climbed over the chain link fence causing some damage to the fence.

Mike Brody, Manager of the Rink Gallery explained it is a breezeway where the property is at the Rink Gallery. We have people sleeping and hanging out behind the building.

Commissioner Lynn asked if Mr. Saunkeah was living on property when there were vandalism problem(s).

Bruce Saunkeah, Applicant said yes.

Commissioner Lynn stated so that did not detour anyone from stealing away. So, I am not sure how continuing to live there will detour anyone in the future.

Commissioner Clemmer asked the applicant if they plan to put up cameras outside to see what is going on.

Bruce Saunkeah, Applicant and Mike Brody Manager of the Rink Gallery said we do have cameras.

Commissioner Helton asked the applicant how long it would take them to bring the building up to code.

Amanda McCellon, Comm. Dev. Director mention if the Planning Commission should approve this request, the living corridor will have to be brought up to fire code (fire walls, etc.) for someone to be able to live there. The Deputy Fire Chief has talked with the applicants on what has to be done but it will be costly.

Mike Brody, Manager of the Rink Gallery said that is the first I have heard of that. He said that has never been communicated to us. He said we have been through multiple fire inspections throughout the years.

Amanda McCellon, Comm. Dev. Director spoke on behalf of Deputy Chief Biswell by saying he came directly to her after the inspection of 3200 N. Rockwell Ave. He found the room and that he was lied to, that nobody was using the room or living in the room. He asked someone to get the keys and was told they could not find the keys or have access to keys. When he pushed the issue again, finally we had a set of keys, and a dog ran out and it is being used as a living quarter. That was how it was explained to her after he found it.

Mike Brody, Manager of the Rink Gallery said he does not know what that is all about, there are no keys.

Charles Snyder, Chair told Mr. Brody that the bottom line is, you need permission from the owner no matter what you do; and you do not have a separate facility/structure. So, I do not think you can live inside the structure that is there now based on the current ordinance which we are required to follow.

Commissioner Clemmer asked the applicant if he has checked into how long it will take to accomplish what the Deputy Chief is requesting. You would need to submit plans, obtain a permit and a certificate of occupancy.

Bruce Saunkeah, Applicant and Mike Brody, Manager of the Rink Gallery stated this is the first time we have heard anything about that.

Commissioner Clemmer noted this letter from the Deputy Fire Chief is addressed to you.

Amanda McCellon, Comm. Dev. Director read from the letter written to the applicant from the Deputy Fire Chief that states along with the special use permit there are also some building and fire code provisions that would have to be met specifically those pertaining to fire separation, fire suppression, fire alarm and egress requirements as they pertain to your circumstances.

Ray Jones, City Attorney stated a special use permit would be required to even have a detached building on the space.

Motion was made by Steve Marx, seconded by Kent Lynn to recommend denying the special use request as written, and provide documentation that the true property owner approves applicant going forward. The votes are as follows: AYE- Charles Snyder, Kent Lynn, Steve Marx. NAY-James Clemmer, Justin Peck. ABSTAIN- Robert Helton. The motion passed 3-2-1.

ITEM 2: PC 23-04

Discussion and possible action to accept the final plat of Bethany Village, a part of the SE/4 of Section 17, T12N, R4W, I.M. Bethany Oklahoma County, Oklahoma, and the dedication of public easements and rights-of-way.

ACTION: Brendan Summerville, Comm. Dev. Associate presented the staff report to discuss and possibly accept the final plat of Bethany Village. This case has previously been heard by the Planning and Zoning Commission in October or September of 2021. The City Attorney and City Engineer have already reviewed the final plat. Engineers and Applicant are aware of the sodding requirement that will be taken care of by the time of the City Council meeting. This is just more of a procedural matter. We do have the final plat here for signing.

Ray Jones, City Attorney said he did review the final plat. It was important to Mr. Jones that all the easements were marked and identified. There does not appear to be any inconsistencies in the markings, and all appears to be accurate. Mr. Jones, City Attorney recommended approving the final plat.

The final plat had been approved in October, 2021, but Brendan Summerville, Comm. Dev. Associate noted some alterations have been made to the final plat.

Brendan Summerville, Comm. Dev. Associate noted the City Engineer, Public Works Director and myself made visits to the site to look over public easements and dedications on behalf of the development.

Motion was made by Kent Lynn, seconded by James Clemmer to recommend approving the final plat at NW Corner of NW 36th and N. Divis Ave. The votes are as follows: AYE- Charles Snyder, Justin Peck, Kent Lynn, Steve Marx, Robert Helton, James Clemmer. NAY- None. ABSTAIN- None. The motion carried unanimously 6 - 0.

NEW BUSINESS

Brendan Summerville, Comm. Dev. Associate mentioned there will be three cases on the June 1, 2023 Planning and Zoning Commission agenda. All of them are accessory structures.

Charles Snyder, Chair asked if anyone found anything on the comprehensive plan that they thought was a pressing item.

Commissioner Helton stated mixed-use is not really defined. Attracting buses into the city is not a very good idea.

Charles Snyder, Chair asked what happened to the items Planning and Zoning heard on April 6, 2023.

Brendan Summerville, Comm. Dev. Associate stated City Council approved the rezoning case and denied the car lot.

Amanda McCellon, Comm. Dev. Director encouraged the Planning Commissioner(s) to check the city's website. Periodically we are uploading all the projects from the City Council meetings.

Motion was made by James Clemmer, seconded by Justin Peck to adjourn. The motion carried unanimously 6 - 0.