

Culver Planning Commission
May 16, 2023; 6:00 pm
Culver City Hall

Minutes

CALL MEETING TO ORDER; The meeting was called to order by Chair Joanne Heare.

ROLL CALL: Commissioners Joanne Heare, Linda Victorine, Becky Jordan, and Wayne Symons were present. Amber Stout was absent. In addition, Kirk Fatland, Jered Reid, Donna McCormack and Kim Symons were also present.

MINUTES OF MARCH 30, 2023: Motion made by Linda Victorine to approve the minutes as presented. The motion was seconded by Becky Jordan and passed unanimously.

PUBLIC HEARING: The public hearing for SHORTY’S TAP HOUSE to consider a Site Plan application and a Conditional Use Permit to construct a tap house and food cart court was opened by Chairman Heare. Kirk Fatland read the hearing process procedures and there were no ex parte contacts, biases or conflicts of interest declared by the commissioner and no audience challenges were expressed. The staff report was requested and it was presented by Kirk Fatland. He explained there are three types of decisions in the code. If an application meets all of the criteria and no exception is requested, it can be administratively approved by staff. The next levels require more review such as a site plan application which is reviewed to ensure it complies with set criteria and the third level is where specific criteria are not clearly identified and the planning commission holds a hearing to decide if the application meets the much more subjective goals for the community, which is what is being requested in this case. He explained A Conditional Use Approval is required because the use would be taking place outside of an enclosed building. He presented the staff report indicating staff recommendation was to deny the application and he explained conditions of approval were also presented.

He indicated Heather Kenyon is the applicant and she is proposing a taphouse at the northeast intersection of Hwy 361 and Iris Lane. The development would use two cargo containers, one for the main building and the second for restroom facilities and there would be spaces for six food carts and a 23-space parking area. He indicated the code is not specific on parking spaces necessary for outdoor seating. The applicant is dedicating a 10’ right of way and the landscaping includes street trees, a sidewalk and street lighting consistent with the adopted Culver Streetscape Plan. He indicated the plan had been presented to the fire department and he has not received comments from them. It was clarified the applicant intends to have power, sewer and water to each of the food cart areas and the design includes drainage. He again indicated staff recommendation is to deny the application based on the application not meeting the Conditional Use Permit criteria which is that the development would have no more impact that what is allowed outright and the use of a container which is deemed more suitable in an industrial zone rather than commercial. And the proposed development did not meet the goals of the streetscape for the future look of the commercial area. He explained the decision of the PC can be appealed to the City Council.

Applicant Testimony: **Diana Kenyon and Greg Crabtree** addressed the commission with Ms. Kenyon reporting the city is very difficult to work with. She expected hurdles but certainly not to the extent they encountered. (No specific examples were provided.) Mr. Crabtree explained the development will include utilities to each of the food truck areas and he feels the development does fit the area well. The food carts will be on wheels but the container structures will be permanent. There will be a Grease interceptor and a sewer line to each cart. There will be different electric boxes with one meter and service will be overhead coming to the property and then be underground to each unit. The old septic system was removed when the old grange was removed. He explained there will be an area for deliveries and no parking will be allowed on Iris Lane.

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PUBLIC TESTIMONY:

Testimony in Support: The chair requested supporting testimony and **Chris Goelze** (D Street) testified there isn't much growth in town and it costs over \$10,000 to build a home in Culver. He asked why staff would recommend denial if the criteria are met and the business would bring new revenue to town. He feels it would help the community economically, he wants the neighbors to know it would be much more attractive than a big, ugly field that is there now and the applicants are investing a great deal of money and they should not be denied the opportunity because they plan to use a shipping container. He believes the development will be well organized and clean and he urged the commission to approve the request to bring something nice into the community.

Danny Zook asked about the width of the right of way on the south side of the property and indicated the right of way jogs instead of being straight. He also asked if the sewer connections would be permanent instead of flex-pipe and asked how the development would affect the taxes. He was advised the county assesses the taxes on a property and the setbacks are measured off the property line, not the street center line.

Jim Cyr, who has owned the Corner Store for 30 years has only seen one new business come into town and that is because of all the hoops required to start a business and now that there is an applicant who is taking the risk to start a business, they should be supported.

Bill Kenyon, the applicant's relative, testified he was a sheriff deputy and watched the community grow. The Store is disgusting and other businesses in the community look bad too but this proposal will be new and elaborate. There are multi-level containers used in some communities and people park them on their private land. The proposed development is in the flood plain and the building will be raised to meet those requirements. They want to start a business that will bring more food options and there will be no hard liquor sold.

Sheryll Alley indicated if using a container is the problem, it would be possible to soften the look by using different materials for the exterior, for example have 15% of the structure covered with wood but a stick-built structure is expensive. By using a container, the applicants can pull it out if it fails but they deserve a chance to try.

Jeanie Fessler testified she has weighed the option for parking and feels she could expect people to use her lot after she closes. She also indicated the pictures the applicant's showed to the community are beautiful but it is very expensive to build.

Jack Icker testified Elbe Lane will be re-routed and will not continue north to the intersection, as it does now, after the property to the south develops. There isn't enough parking at Dollar General and there is no room for RV's and he expects his lot to the west to be used for parking after the 23 spaces are filled. He indicated the "Culver is Oregon" sign was removed from his property because he was talking with the post office but hasn't heard anything from them.

Opposing Testimony: Mae Houston testified when the article in the newspaper was published it showed a stick-built structure and now the proposal has been changed to use containers and that is not what the people expect. She feels even though the code does not address containers directly, the Conditional Use requirement does address the look for the community and committee should say no to having cargo containers in the city limits. She also feels there are enough places for people to buy alcohol.

Applicant Rebuttal: The applicant, from the floor, indicated there are enough bars in the community and there were three of them when she was here but they are not proposing a bar, a taphouse is different in that

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they only sell beer and wine with no hard alcohol and people are not sitting around drinking. The are proposing games to cater to families and kids can't come into a drinking area according to OLCC rules. According to OLCC rules, bars need to serve food but that isn't the case with a taphouse. **Heather Kenyon** approached the lectern and indicated beer and wine can be served in a restaurant with children present and this is no different except it is not a brick-and-mortar structure. There will be no gambling, hard liquor or lottery on the premises.

Jim Cyr urged the commission to understand what a taphouse it.

Danny Zook indicated this type of development started as a millennial fad and are different from what restaurants were before COVID but the concept has strengthened since then. He also indicated the commission is under a lot of pressure to approve the application and the city has an opportunity to take care of what the look of Culver will be. He urged the PC to not cater to the pressure and to consider what the 19 homes directly south of the development will look like and he urged the PC follow a consistent design and create a nice neighborhood. He expressed concern about what the ends of the containers will look like and he also indicated the proposal will most likely be presented to URD to request funding assistance and the PC needs to think about how it will look.

William Kenyon Jr. announced when Frazier's owned the store it was nice but now looks horrible and if the city is worried about how the town looks, they should do something about the Store.

Karen, the applicant's child, urged the commission to look at other areas that have taphouses so they will understand what is being proposed.

Heather Kenyon indicated they could modify the containers if necessary.

The Public Hearing was closed at 7:16.

Victorine indicated she liked the look of the structure that was in The Pioneer but the change to using containers is not what was expected and they would need to be more "dressed up". She also expressed concern about if the application is approved using containers, that also provides the basis for other commercial structures to be built using them, such as the Post Office.

Symons indicated he feels the city does need new businesses in Culver and he likes the Streetscape Plan. He is concerned if the city relaxes the standards, they would need to continue to relax standards with the result not being what was designed. The PC liked the idea of softening the structure to look like a building and Ms. Kenyon announced she fully intends to change it to look good and they might be able to be expanded to include rooftop seating but they can't do that now. She says the area will grow to be something awesome and will be open year-round. She said On Tap in Bend is an example of what they propose and they have operated for 5 years with a container front and she would like to soften the look when funds allow and would like to include wood accents and a farmhouse style.

Jered Reid reminded the group the time for public testimony has closed and the applicant can only answer questions from the PC. Becky Johnson asked if the applicant could revise the application to soften the front and was advised that is an option. The applicant asked if they could soften the look by including awnings, wood etc. because softening usually includes trees and site work and there are no specific criteria for what they are being asked to do to "soften" the look. The applicant also explained they are not able to obtain funding without city approval. The PC discussed options for "softening" which included putting awnings over the doors, wood accents, wrapping the structure with wood and wrapping a certain percent of the structure with wood accents that would be compatible with the look of the community.

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Decision: After additional discussion with the applicant, Linda Victorine moved to add Condition #15 which would require 25% of the street facing sides to be covered with wood. The motion was seconded by Wayne Symons and passed unanimously.

Linda Victorine moved to approve the application with all 15 of the recommended conditions of approval. The motion was seconded by Becky Jordan and passed unanimously.

PUBLIC HEARING: The public hearing for the proposed floodplain ordinance for a Legislative Hearing is to establish a Flood Hazard Ordinance with the intention of promoting public health, safety, and general welfare, and minimizing public and private losses due to flooding in flood hazard was opened at 7:55 p.m. by Linda Victorine. Because it is a legislative hearing, there were no disclosures requested and none offered. Kirk Fatland explained the ordinance brings the city into compliance with FEMA regulations and they requested the city update the ordinance.

Public Testimony: There was no testimony either in support or opposition to the proposed ordinance and the hearing was closed at 7:57 p.m.

Decision: Commissioner Becky Jordon moved to approve the proposed ordinance and the motion was seconded by Commissioner Victorine and passed unanimously.

ADJOURNMENT. There being no further business to come before the Commission, Commissioner Victorine adjourned the meeting at 7:58 p.m.

Planning Commission Chair

Attest:

City Recorder