

**CITY OF CENTRAL
CITY COUNCIL MEETING
August 4, 2015**

CALL TO ORDER

A regular meeting of the City Council for the City of Central was called to order by Mayor Engels at 6:00 p.m., in City Hall on August 4, 2015.

ROLL CALL

Present: Mayor Engels
Mayor Pro Tem Heider
Alderman Voorhies
Alderman Gaines
Alderman Laratta

Absent: None

Staff Present: City Manager Miera
City Clerk Bechtel
Attorney McAskin
Public Works Director Hoover
Fire Chief Allen
Contract Planner/HPO Thompson

EXECUTIVE SESSION

Mayor Pro Tem Heider moved to go into Executive Session pursuant to C.R.S. 24-6-402(4)(b) and (4)(e) to discuss specific legal questions and to instruct negotiators concerning pending water rights cases concerning the City of Central. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

At 7:03 p.m., Mayor Engels reconvened regular session.

The Pledge of Allegiance was recited by all present.

ADDITIONS AND/OR AMENDMENTS TO THE AGENDA

The agenda was approved as presented.

CONFLICTS OF INTEREST

No Council Member disclosed a conflict regarding any item on the agenda.

CONSENT AGENDA

Alderman Gaines moved to approve the consent agenda containing the regular bill lists of July 9, 16, 23, and 30; and the City Council minutes for the meetings on July 7 and 21, 2015. Alderman Laratta seconded. Alderman Gaines questioned the shuttle fee for the Pit Rally Event. City Manager Miera explained that the Pit Rally event contract fees paid for the shuttle service. When Mayor Engels called the question, the motion carried unanimously.

PUBLIC FORUM/AUDIENCE PARTICIPATION

No one requested time to address the Council.

BOARD OF ADJUSTMENT

At 7:10 p.m., Alderman Gaines moved to convene as the Board of Adjustment. Mayor Pro Tem Heider seconded, and without discussion, the motion carried unanimously.

Alderman Gaines moved elect Mayor Engels as Chairperson. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

Resolution No. 15-BOA-01: *A resolution of the Board of Adjustment of City of Central, Colorado approving a variance request submitted for property known as the Shores Residence, and setting forth Findings of Fact.*

Contract Planner/HPO Thompson explained that the applicant is proposing to build a new home on the north side of Eureka Street, Lots 19 and 20 (the "Subject Property"). And provided the following background: the Subject Property is located in the Medium Density Residential (MDR) zone district; and the size of the home proposed to be constructed on the Subject Property is approximately 20'-8" x 50'-0" with a small courtyard on each end and a covered 6' deep porch across the full length of the front. The HPC reviewed the plans at its June 10, 2015 meeting and approved the plans as presented with a condition of approval that a variance be granted allowing a 6'6" front yard setback; a 25' minimum front yard setback is required per the table set forth in Section 16-2-60 of the Code.

The Board may grant a variance only if it makes findings that all of the following requirements, insofar as applicable, have been satisfied:

- a. That there are unique physical circumstances or conditions such as irregularity, narrowness, or shallowness of lot, or exceptional topographical or other physical conditions peculiar to the affected property;
- b. That the unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located;
- c. That, because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of [Chapter 16 of the Municipal Code];
- d. That such unnecessary hardship has not been created by the applicant;
- e. That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, or substantially or permanently impair the appropriate use or development of adjacent property; and
- f. That the variance, if granted, is a minimum variance that will afford relief and is the least modification possible of the provisions of [Chapter 16 of the Municipal Code] which are in question.

In addition, the concurring vote of four (4) members of the Board is required to approve a variance (reference Section 16-8-60 of the Code).

HPC - The Historic Preservation Commission reviewed and approved the building elevations and site plan for the Subject Property at its June 10, 2015 meeting and approved the request, subject to a condition that a variance for the front yard setback was obtained from the Board.

Subject Property and Site Observations

- The topography of the site slopes steeply from the north to the south towards the street.
- The site contains several existing rock walls and the proposed structure integrates one of the existing rock walls into the back wall of the structure.
- The proposed design minimizes the impact to the existing site walls and topography.
- The proposed front porch canopy, encroaches into the 25' front yard setback by approximately 18'-6".

Design Guidelines

- Municipal Code, Chapter 16 Zoning - Medium Density Residential (MDR)
 - 16-2-60 Yard and bulk requirements.
 - 16-8-110(2) Variance Criteria
- Design Guidelines for Central City – September 28, 1993
 - Chapter 3, Guideline 25
 - Chapter 3, Guideline 27
 - Chapter 3, Guideline 41
 - Chapter 12 Eureka/Prosser Street Residential Neighborhood Goals

Analysis of Variance Criteria

- a. That there are unique physical circumstances or conditions such as irregularity, narrowness, or shallowness of lot, or exceptional topographical or other physical conditions peculiar to the affected property;
As discussed above, the Subject Property slopes steeply from the north to the south.
- b. That the unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located;
The Subject Property has site development constraints that do not exist throughout the MDR zone district.
- c. That, because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of [Chapter 16 of the Municipal Code];
- d. That such unnecessary hardship has not been created by the applicant;
The steep slope of the Subject Property and existing rock walls were not created by the applicant.
- e. That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, or substantially or permanently impair the appropriate use or development of adjacent property; and
The variance, if granted, will not substantially or permanently impair the appropriate use or development of adjacent property.

- f. That the variance, if granted, is a minimum variance that will afford relief and is the least modification possible of the provisions of [Chapter 16 of the Municipal Code] which are in question.

The requested variance is the minimum variance that will afford relief.

Geoff Harris, architect and Steven Shores, applicant were present to answer any questions. Mr. Harris explained that they have worked to maintain existing Cornish walls on the site and have used them to design the home. The home will be set back 12 feet with the porch which has an open face set back 6 feet 6 inches from the front wall.

Alderman Gaines moved to approve Resolution No. 15-BOA-01: A resolution of the Board of Adjustment of City of Central, Colorado approving a variance from setback requirements under the City's Zoning Ordinance based on a Finding of the Board that the variance application meets all of the approval criteria set forth in Section 16-8-110(2) of the Zoning Ordinance, as more specifically set forth in the Board of Adjustment Communication Form dated July 30, 2015. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

Alderman Voorhies moved to return to regular session. Alderman Gaines seconded, and without discussion, the motion carried unanimously.

ACTION ITEMS: NEW BUSINESS

Ordinance No. 15-06: *An ordinance amending Article 6 of Chapter 6 of the City of Central Municipal Code regarding Entertainment Districts.*

Attorney McAskin gave the background as follows:

Ordinance No. 15-06 proposes amendments to Article 6 of Chapter 6 of the Central Municipal Code concerning entertainment districts and the hours of operation of a common consumption area.

The amendment would remove the limitation currently set forth in Section 6-6-80(e)(6) which prohibits the consumption of alcoholic beverages in any common consumption area after 10 p.m. and would further amend the Municipal Code to allow a promotional association to request extended hours of operation between 2:00 a.m. and 7:00 a.m. as part of its application for designation as a common consumption area.

In addition, Section 6-6-70(b)(6) is amended to require a promotional association to specifically identify any portion of the common consumption area that is proposed to be located outside (out of doors) and to provide a detailed description of the promotional association's plan to comply with the maximum db(A) levels established in Section 7-2-210(a) of the Municipal Code ("Maximum Permissible Noise Levels").

City Council considered this topic at the July 21, 2015 work session.

The proposed amendments to Article 6 of Chapter 6 of the Municipal Code as set forth in Ordinance No. 15-06 include the following:

- Amend Article 6 of Chapter 6 of the Municipal Code concerning entertainment districts by removing the current 10:00 p.m. limitation on hours of operation of a common consumption area
- Amend Article 6 of Chapter 6 of the Municipal Code to allow a promotional association to request extended hours of operation between 2:00 a.m. and

7:00 a.m. as part of its application for designation as a common consumption area

- Amend Article 6 of Chapter 6 of the Municipal Code concerning entertainment districts to require the applicant (a promotional association) to specifically identify any portion of the common consumption area that is proposed to be located outside (out of doors) and to provide a detailed description of the promotional association's plan to comply with the maximum db(A) levels established in Section 7-2-210(a) of the Municipal Code ("Maximum Permissible Noise Levels") The burden of proof for this requirement will be on the applicant.

C.R.S. § 12-47-301(11) authorizes the expanded consumption of alcohol within common areas located within designated entertainment districts that are established by local jurisdictions. Pursuant to Ordinance No. 12-06, the City Council established the Central City Entertainment District and authorized the licensing of designated common consumption areas. The City's Entertainment District regulations are codified in Article 6 of Chapter 6 of the Municipal Code.

In accordance with C.R.S. § 12-47-301(11)(f), a local licensing authority may set hours during which a common consumption area and attached licensed premises may serve alcohol. The Liquor Enforcement Division of the Colorado Department of Revenue, in consultation with the Colorado Attorney General's Office, issued Bulletin 14-01 dated October 1, 2014, which bulletin concludes that a local licensing authority has the authority to set hours of operation outside of the 2:00 a.m. to 7:00 a.m. restriction set forth in C.R.S. § 12-47-901(5)(b).

Attorney McAskin added that a Promotional Association is required to be made up of two or more liquor licenses.

Mayor Pro Tem Heider deferred to those on Council that live closer to the downtown area.

Alderman Voorhies moved to adopt Ordinance No. 15-06: An ordinance amending Article 6 of Chapter 6 of the City of Central Municipal Code regarding Entertainment Districts on first reading and set the Public Hearing for September 1, 2015 at 7:00 p.m. Alderman Laratta seconded, and without discussion, the motion carried unanimously.

STAFF UPDATES

City Manager Miera responded to Council questions on the following:

FEMA Project – since we have yet to award the BID for the work, we want to make this request now in the event that we may need additional time to complete the project

Xcel Project on Eureka – delays due to the culvert with cables that need to be sorted out. Staff is working with them to move this to completion.

Pit Rally – Staff had a debriefing with the organizers and there were considerable improvements this year. They will work with the Opera to schedule a date for 2016 that does not conflict with other car events.

COUNCIL COMMENTS

Alderman Gaines offered congratulations to Main Street Commission for receiving a designation as a Main Street Community.

Alderman Voorhies noted that progress is being made on the stabilization to the Knights of Pythias.

Mayor Pro Tem Heider informed Council that an Ad Hoc Committee had met to discuss renovations to the Belvidere. The County expects to hear before the end of August if they will receive an Assessment Grant and the next step is to clear the contents.

City Manager Miera added his compliments to the Police and Fire Departments for outstanding work on July 4th and to Public Works for all their extra effort with events.

PUBLICFORUM/AUDIENCEPARTICIPATION

Barbara Thielemann, 101 H Street, on behalf of the many volunteers read the announcement from DOLA of the four cities accepted as a Main Street community. Mayor Engels expressed congratulations to Barb and all those involved.

EXECUTIVE SESSION

At 7:54 p.m., Mayor Pro Tem Heider moved to adjourned into Executive Session pursuant to C.R.S. 24-6-402(4)(e) to determine positions relative to matters that may be subject to negotiations; to develop strategy for negotiations and to instruct negotiators regarding city shuttle/transportation service. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

The next Council meeting is scheduled for September 1, 2015 at 7:00 p.m.

Ronald E. Engels, Mayor

Reba Bechtel, City Clerk