



CITY OF SALINAS COUNCIL STAFF REPORT

DATE: NOVEMBER 6, 2018
DEPARTMENT: COMMUNITY DEVELOPMENT
FROM: MEGAN HUNTER, COMMUNITY DEVELOPMENT DIRECTOR
BY: COURTNEY GROSSMAN, PLANNING MANAGER
TITLE: ZCA 2018-001 AND CUP 2018-004

RECOMMENDED MOTION:

A motion to affirm the findings and adopt the attached resolution denying the request for a Zoning Code Amendment and Conditional Use Permit.

RECOMMENDATION:

Staff recommends City Council consider the Planning Commission's recommendation and deny the request for a Zoning Code Amendment and Conditional Use Permit.

BACKGROUND:

The New Harvest Christian Fellowship of Salinas is requesting approval to establish and to operate a religious assembly use within an existing, vacant building located at 344 Main Street (formerly occupied by Beverly's Fabrics). Retail, service, and similar uses mostly surround the property. New Harvest Christian Fellowship of Salinas purchased the property earlier this year as shown in a Grant Deed dated March 19, 2018. While not officially designated as a historic resource, the building is included in the City's 2016 Historic Survey (see attached) and is eligible for historic designation. If designated, the site could be subject to the historic building code, which could provide certain relief to applicable building code regulations.

Because of its location within the Downtown Core Area of the Central City Overlay District, this building is subject to the restrictions of Zoning Code Section 37-40.310(a)(2). Section 37-40.310(a)(2) reads as follows:

“(a) Downtown Core Area. The use classifications for properties located in the downtown core (DC) area shall be those of the underlying base district...with the following exceptions.

...

(2) Assembly and Similar Uses. Clubs, lodges, places of religious assembly, and similar assembly uses shall only be permitted above the ground floor of buildings facing Main Street within the downtown core area.”

Under this provision of the Zoning Code, religious assembly uses are not prohibited in the downtown core area. Rather, they are prohibited from being established on the ground floor of a building and may be established above the ground floor.

In order to establish their religious assembly use at this location Ignacio Torres, on behalf of the New Harvest Christian Fellowship of Salinas, is requesting approval of the following:

1. ZCA 2018-001: An amendment to Zoning Code Section 37-40.310(a)(2) to allow religious assembly uses on the ground floor of buildings facing Main Street within the Downtown Core area of the Central City Overlay District (Applicant's amendment requests that the restriction on Religious Assembly and similar assembly uses be deleted — see attached); and
2. CUP 2018-004: Approval of a Conditional Use Permit to establish and to operate a Religious Assembly within an existing 11,343 s.f. two story building consisting of the following:

Ground Floor. Seating for 299 persons, 176 s.f. (11' x 16') bookstore, three offices, and restrooms; and

Second Floor. Three classrooms, six offices, storage space, and a kitchen area. An existing mezzanine is shown above the first floor and labeled "not for public use".

As required, the Community Development Department provided notice to properties within 300 feet of the proposed Zoning Code Amendment and Conditional Use Permit. In response, the Community Development Department received a number of letters in opposition to the amendment (The letters are attached for reference.)

The requested Conditional Use Permit cannot be approved as proposed because Zoning Code Section 37-40.310(a)(2) does not allow places of religious assembly on the ground floor within the Downtown Core Area. Therefore, the applicant is requesting that the Zoning Code be amended. If the Zoning Code Amendment is not approved by the Planning Commission and the City Council, the Conditional Use Permit cannot be approved and the religious assembly use cannot be established on the ground floor of this building.

DISCUSSION:

The City of Salinas has only one Downtown. Within this Downtown, the City has identified three core blocks facing Main Street, with special standards written into the Zoning Code to preserve the ground floor for active commercial and office uses. As outlined below, the following policy documents including, but not limited to, the Economic Development Element of the Salinas General Plan, City of Salinas Downtown Vibrancy Plan, and Zoning Code support the retention of Zoning Code Section 37-40.310(a)(2) as currently written (prohibiting assembly uses and other uses on the ground floor of buildings located in the Central City Overlay Area of the Downtown Core Area).

General Plan:

Policy LU-I.3: Make provision in residential areas for institutional uses that are needed near homes or which benefit from a residential environment, including places of religious assembly, day-care homes, homes for physically or developmentally disabled persons, and care facilities in accordance with the provisions of State Law. The Downtown Core Area of the Central City Overlay is not a residential area. The Mixed Use designation allows a mixture of retail, office and residential uses in the same building, on the same parcel or in the same area. The intent of the mixed-use designation is to create activity centers with pedestrian-oriented uses in certain portions of the City.

The recently adopted Economic Development Element includes the following applicable policies:

Action I-U-1.3.1 — Utilize the Downtown Vibrancy Plan as a tool to work towards revitalizing the downtown area (Economic Opportunity Areas P and Q) to create a desired destination for people and businesses. Revise existing City policies and regulations as needed to incorporate the Downtown Vibrancy Plan recommendations and incentivize and streamline new investment (e.g. develop a signage and gateway program, provide pedestrian amenities, create a façade program(s), parking management plan, explore form-based codes etc.).

Action LU-1.3.2 — Support key catalyst development projects in the downtown area (Economic Opportunity Areas P and Q), such as the Taylor Farms Corporate Headquarters and other development projects that bring more people into and help revitalize the downtown.

Action RET-1.1.6 - Locate new commercial uses in strategic locations to capture tourist/visitor spending (e.g. quality hotels and/or retail commercial at gateways to City, within downtown, within themed districts, or along U.S. Highway 101).

Action RET-3.1.6 — Create and promote the downtown and Alisal Marketplace as entertainment and tourism districts.

City of Salinas Downtown Vibrancy Plan: Section 1.1 of the Vibrancy Plan states that the Plan has been developed to restore activity, commerce and vitality to downtown Salinas. Section 5.2 Creating Catalyst Sites identifies priority development to include developments that add base employment, housing and/or an urban grocery use downtown.

Zoning Code:

A focus of the mixed-use (MU) district is on commercial development on the ground floor and housing on the upper floors. Per Section 37-30.2306), the purpose of the mixed-use district is to promote and to provide development opportunities for integrated, complementary housing and employment opportunities in the same building, on the same parcel or within the same block. The emphasis of nonresidential uses is primarily on locally oriented/neighborhood serving retail, service, and office uses. Development is encouraged to provide businesses on the ground floor with housing on upper stories and provides incentives to assist in achieving this goal. However, stand-alone commercial, public and semipublic, and residential development is also permitted. Per Section 37-30.230(e)(2), the mixed-use district provides opportunities for mixed-use, office, public and semipublic uses, and commercial uses that emphasize retail, entertainment, and service activities.

As discussed above, per Zoning Code Section 37-40.290, the purpose of the Central City Overlay District regulations is to provide development regulations and design standards as follows:

- (a) Encourage and accommodate the increased development intensity for mixed-use, commercial, retail, and office uses within the central city;
- (b) Increase opportunities for infill housing and innovative retail while transforming and aesthetically improving transportation corridors into pedestrian-oriented civic boulevards with mixed use projects;
- (c) Promote live entertainment uses in the downtown core area of the city without adversely impacting adjacent land uses; and
- (d) Encourage pedestrian-oriented neighborhoods where local residents and employees have services, shops, entertainment, jobs, and access to transit within walking distance of their homes and workplace.

Alternative Zoning Code Amendment.

Religious Assembly uses; however, could be considered on the second floor pursuant to the existing zoning regulations with a minor revision to the definition of Religious Assembly. This alternative clarifies that incidental office and retail would be permissible on the ground floor. This creates an issue with the current Zoning Code definition of Religious Assembly, which should be addressed.

Office space exists on the ground floor of several buildings throughout the Downtown Core Area. The current Zoning Code definition of Religious Assembly prohibits the New Harvest Christian Fellowship of Salinas from establishing office space on the first floor of their building. The Zoning Code definition of Religious Assembly should be changed to make clear that the Church, like all other businesses, can establish office space on the first floor.

As an alternative to the Zoning Code Amendment proposed by Mr. Torres, and to better effect this direction, staff suggests a minor revision to the definition of Religious Assembly as shown below. This proposed amendment would allow office space on the first floor, but would continue the prohibition on religious assembly on the first floor. That use would continue be limited to the second floor.

Religious Assembly. *Facilities for religious worship and assembly, incidental religious education, meeting halls, gymnasiums, and similar uses. Religious assembly does not include public and private schools, day care centers, incidental professional and business offices, and retail as defined in this division.*

This alternative Zoning Code Amendment is presented for the consideration of the City Council. It is recommended that the definition be amended as presented here by staff so that incidental office and retail associated with religious assembly would be permitted on the ground floor of buildings within the Downtown Core Area of the Central City Overlay. Note that the Planning Commission was presented with the same alternative, but it was not chosen (see Planning Commission review below).

Planning Commission Review:

On August 15, 2018, the Planning Commission considered the project and voted 5/1 to recommend denial to the City Council. At the meeting, several individuals including members of the New Harvest Christian Fellowship supported the project, while others including downtown business and property owners opposed the project citing economic reasons. Pastor Torres of the New Harvest Christian Fellowship acknowledged he was aware of the Zoning Code restrictions *before* the Church purchased the subject building; he acknowledged the existing restriction and acknowledged he was aware that the Zoning Code restriction would have to be changed before they could conduct their church activities in the subject building. He and the church knowingly and willingly took the risk that the Zoning Code may not be changed as they are now requesting. The Church purchased the subject building knowing of the restriction and knowing that the restriction may not be changed. At the Planning Commission Chairperson Nohr asked Pastor Torres whether he and the Church had conducted their due diligence and “were clearly understanding of the zoning requirements and the zoning laws that are in place” and that the pastor and the Church “took it upon [their] own risk to go forward with this project.” In response, Pastor

Torres acknowledged having awareness of the zoning restrictions prior to purchasing the subject building.

Pastor Torres also indicated that the Church's activities would be burdened by this restriction because the upstairs portion of the building has poor acoustics and would therefore affect the music portion of the congregation's activities. Specifically, Pastor Torres made the following comments to the Planning Commission regarding the burden created by the existing Zoning Code provision:

"I find it very awkward that I would have to submit to this and say I can only have a religious gathering upstairs when it is not convenient for our congregation, I feel, because of the length of the ceiling of the upstairs building, and so I would like the Commission to reconsider."

Pastor Torres continued:

"[I]f the upstairs was fitting for me, meaning if the ceiling was high enough for the acoustics of our music worship team, I would do it like that. But it's not high enough. So I'm gonna have to inconvenience our congregation and say you guys helped me purchase this building, but I'm sorry, based on everything, we have to go upstairs and deal with this horrendous, uh, acoustic in this facility because of the height of the ceiling."

Please refer to the attached Planning Commission Resolution 2018-011 and minutes for further information.

DEPARTMENTAL COORDINATION:

The Community Development Department Current Division has been the lead project manager. The Legal Department assisted in the review of application, staff report, and provided support to the Planning Commission. The Development Review Committee (DRC) comprised of the Permit Services Division (Building), and Public Works (Development Engineering) and Fire (Fire Prevention) Departments provided feedback on the application materials.

CEQA CONSIDERATION:

Zoning Code Amendment: The environmental impacts of the project have been analyzed in accordance with the California Environmental Quality Act (CEQA). The proposed Zoning Code Amendment is categorically exempt (Class 5) from further environmental analysis per CEQA Guidelines Section 15305 (Minor Alterations in Land Use Limitations).

Conditional Use Permit: The environmental impacts of the project have been analyzed in accordance with the California Environmental Quality Act (CEQA). The proposed request to

establish and operate a religious assembly use within an existing building is categorically exempt (Class 32) from further environmental analysis per CEQA Guidelines Section 15332.

STRATEGIC PLAN INITIATIVE:

Denial of the Zoning Code Amendment and Conditional Use Permit would support the City Council's goal of Economic Diversity and Prosperity by limiting ground floor space facing Main Street to active uses, consistent with creating a vibrant Downtown.

FISCAL AND SUSTAINABILITY IMPACT:

Implications to the City's General Fund are not expected to be significant whether the Zoning Code Amendment and the Conditional Use Permit is approved or not.

ATTACHMENTS:

Proposed City Council Resolution

Planning Commission Resolution 2018-011

Planning Commission Staff Report dated August 15, 2018

Planning Commission Minutes dated August 15, 2018

Applicant's Zoning Code Amendment request (strike out version)

Proposed Plan (Sheet A-1)

2016 Historic Survey: 344 Main Street

Correspondence Received:

Letter dated April 10, 2018 from Moxxy! Marketing opposing the amendment

Letter dated July 24, 2018 from Salinas City Center opposing the amendment

Letter dated July 30, 2018 from Salinas Valley Chamber of Commerce opposing the amendment

E-mail dated August 1, 2018 from Furey's Old Town Barber opposing the amendment

Letter dated August 1, 2018 from Kobrinsky Group opposing the amendment

Letter dated August 8, 2018 from Ms. Leach opposing the amendment

Letter dated August 9, 2018 from law offices of Robert H. Ames opposing the amendment

Letter dated August 15, 2018 from Ms. Hitchcock opposing the amendment

E-mail dated August 15, 2018 from Donna Bruhn opposing the amendment

Letter dated October 23, 2018 from Kobrinsky Group opposing the amendment

Letter dated October 23, 2018 from Mr. DeSerpa opposing the amendment