



**REGULAR  
MEETING *MINUTES*  
MAYODAN TOWN COUNCIL  
May 8, 2023  
6:00 p.m.  
James A. Collins Municipal Building**

**MAYOR AND COUNCIL PRESENT:**

Mayor Chad Wall  
Melanie Barnes  
Doug Cardwell  
Letitia Goard  
Dwight Lake  
Buck Shelton

**STAFF PRESENT:**

Town Attorney Eugene Russell  
Town Manager Kathleen Patterson  
Town Clerk Sarah Hopper

The Mayodan Town Council met at 6:00 pm on May 8, 2023, in the Council room of the James A. Collins Municipal Building, and with a quorum present, Mayor Wall called the meeting to order.

**INVOCATION:**

Invocation given by Reverend Doyle Marley of Mayodan.

**PLEDGE OF ALLEGIANCE:**

The Pledge of Allegiance was led by Mayor Chad Wall and Town Council members.

**PUBLIC COMMENTS:**

No one wished to speak.

**APPROVAL OF MINUTES:**

**Approval of Agenda, Regular and Continued Meeting Minutes of March 9 and 13 and April 6 and 10**

**Motion** by Councilmember Barnes, seconded by Councilmember Cardwell, to approve minutes for agenda, regular and Special meeting minutes of March 9 and 13, 2023 and April 6 and 10, 2023 as presented.

Ayes: Councilmembers Barnes, Cardwell, Goard, Lake and Shelton.

Nays: None.

Motion carried unanimously.

**QUASI JUDICIAL HEARING:**

**A. Special Use Permit for 303 S 5<sup>th</sup> Ave, Mayodan.**

Juana Tovar, the property owner, is requesting a special use permit to allow a residential dwelling at the above location, which is zoned C1 Commercial. The property is a house that is attached to the commercial structures located along West Washington Avenue. The parcel number is 117627. The structure faces South 5<sup>th</sup> Avenue, which is a residential street. The owner would like to maintain the C1 zoning to allow for the potential of commercial versus residential use in the future and to allow for the

addition of a bathroom to the structure on the side eliminating a potentially unsafe situation of having the structure beneath the staircase attached to the commercial building on West Washington Avenue. The Planning board has reviewed the special use permit and plans and agreed that this would be an appropriate use for the structure.

Mayor Chad Wall opened the Quasi-Judicial Hearing at 6:09pm

Town Clerk Sarah Hopper swore Kevin Jones Plan Designer, Kathleen Patterson Town Manager, Juana Tovar Applicant and Town Attorney Eugene Russell.

Mayor Wall stated he would go over the formalities of the meeting. This hearing is related to a request from the property owner at 303 S 5<sup>th</sup> Avenue to allow the structure on this property to be used as a residential dwelling which would be considered a non-conforming use since it's zoning is C1. The property owner would like this property to maintain a C1 zoning this will require a special use permit to be issued for this structure from a residence in a C1 zone.

Mayor Wall asked if any councilmember that would like to disclose any relationship, conversations or information that would hinder your ability to be impartial in your consideration or even excuse yourself if necessary.

Mayor Wall disclosed that he had visited the property I have no opinion on this unless there is a tie vote I will not have a vote on it but any way I will disclose I visited the property. Councilmember Shelton disclosed he visited the property also. Councilmember Barnes stated she visited the property as well. Councilmember Lake stated he drives by the property every morning going to the gym. Councilmember Cardwell stated he drives by it every day. Mayor Wall stated its hard not to drive by it. Councilmember Goard stated she hadn't visited the site. Mayor Wall stated that hopefully this will not hinder your ability to make a decision on this matter.

Town Manager Kathleen Patterson read the staff report attached is a copy that read to Town Council.

From: Kathleen Patterson, Town Manager

Subject: SPU-2023-01 – Special Use Permit Request for 303 S 5<sup>th</sup> Avenue.

Applicant: Juana Tovar and Constantino Robles Tovar

**Request for special use permit to allow a single-family residence at 303 S 5<sup>th</sup> Avenue, which is in the C1 Zoning District.**

#### **A. Action Requested by Town Council**

1. Motion to accept the Town's exhibits into the record.
2. Motion to approve/revise Findings of Fact for the Special Use Permit.
3. Motion to approve (approve with conditions) (deny) the issuance of the Special Use Permit.
4. Motion to Issue Order of Approval.

#### **B. Required Votes to Pass Requested Action**

A majority vote is required to approve, approve with conditions, or deny the requested actions.

#### **C. Background**

The applicant, Constantino Robles Tovar, is requesting a Special Use Permit (SUP) to allow for a single-family residence in the Central Commercial District (C1) zoning district. This property is located at 303 S 5<sup>th</sup> Avenue, parcel number 117627, which is on the corner of S 5<sup>th</sup> Avenue and W Washington Street.

Pursuant to Article IV, Section 1 – Table of Permitted Uses of the Mayodan Zoning Ordinance issuance of a SUP is required for single family residence in the C1 zoning district. This use requires a special use permit as it is a nonconforming use. However, per Article VI – Special Uses and Development Standards page 6-31, the house can be reconstructed on the site if it was destroyed in anyway. New construction of a single-family dwelling is not allowed.

## **D. Fiscal Consideration**

None

## **E. Policy Issues**

Article VI, Section 3.4 of the Mayodan Zoning Ordinance requires that the responsible party, Town Council, approve, modify, or deny the application based on the following criteria.

Staff Findings of Fact

YES NO

That the use requested is listed as a special use in the district for which the application is made.

*A single-family dwelling is listed as a special use in C1.*

That the use or development is located, designed, and proposed to be operated so as to maintain or promote public health, safety, and general welfare.

*The site has a house currently on it. The renovation of the house will allow the structure to be placed back into service and stop the demolition by neglect of the property.*

That the use or development complies with all required regulations and standards of this ordinance and with all other applicable regulations.

*The renovation of the structure complies with all required regulations and standards of this ordinance and with all other applicable regulations.*

That the use or development is located, designed, and proposed to be operated so as not to substantially injure the value of the adjoining or abutting property, or that the use or development is a public necessity.

*The design of the renovation is mainly contained within the current structure. The only change is the addition of a bathroom on the side of the structure. Plans have been provided to show the renovations to the house.*

That due consideration has been given to the suitability of the property for the use applied for with respect to trends of growth and change; the effect of the proposed use upon the community; requirements for transportation, schools, parks, playgrounds, recreational areas, conservation of natural resources, preservation of floodplains, and encouraging the most appropriate use of the land.

*The house has not been in use for many years. With the current trend of a lack of housing available in the area, this use will improve the community by renovating a blighted structure and providing much needed housing.*

## **F. Legal Issues**

Board Findings of Fact – Based on application review and public hearing.

In order to determine whether a special use permit is warranted, the Board must decide that each of the six findings as outlined below has been met and that the additional approval criteria has been satisfactorily addressed. If the Board concurs completely with the findings of the staff, no additional findings of fact are necessary, and the staff findings should be approved as part of the decision. However, if the Board wishes to approve different findings (perhaps as a result of additional evidence or testimony presented at the public hearing), alternate findings need to be included as part of the six criteria below. Should a special

use permit be approved, the Board may place conditions on the use as part of the approval to assure the adequate mitigation measures are associated with the use.

YES NO

The proposed conditional use will be in harmony with the area in which it is to be located and in general conformance with the City’s Land Use Plan.

Adequate measures shall be taken to provide ingress and egress to designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.

The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas.

The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.

The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.

The proposed use complies with all applicable provisions of the zoning ordinance.

The applicant consents in writing to all conditions of approval included in the approved special use permit.

**G. Recommendation**

Based on the above findings, staff recommends approval of the Special Use Permit based on the staff Findings of Fact (or as modified by the Council), the renovation plan, and compliance with all local, state, and federal requirements.

*The Town Council should consider all facts and testimony after conducting the Public Hearing and render a decision accordingly to approve, approve with conditions, or deny the Special Use Permit.*

**H. Attachments**

- 1. Special Use Permit Application
- 2. Map
- 3. Renovation Plans (Shown in person – no electronic file available)
- 4. Powerpoint with site images
- 6. List of notified properties
- 7. Notice to adjacent property owners
- 8. Posted Public Notice

**I. Issue Reviewed By:**

Town Manager	X
Town Attorney	

Mayor Chad Wall asked the applicants if they had any evidence that they wanted to share with Council at this time. Kevin Jones stated that they really didn’t have anything else to add and that Constantino and his wife Juana are more than willing to abide by the criteria that Town Manager Kathleen Patterson

set out. Mayor Wall stated that there would be no rebuttal since there was no evidence presented on the petitioner's side.

Mayor Wall asked Council and deliberate and discuss among themselves.

Mayor Wall asked if there were any considerations to approve or disapprove this special use permit.

Councilmember Lake stated that it's been a house since 1944 it really didn't make a difference to him if it had been lived in in 3-5 years or not really didn't make any difference to him. Councilmember Bares stated it being in C1 bothered her. Mayor Wall stated that the Johnny Smith house on the left was burned or destroyed and that has allowed residents back into C1 zoning. There is a Modular home on the left which is in a C1 zoning. Mayor Wall stated that this is an example of a residents in a C1 zoning, Councilmember Barnes stated that that didn't seem to make it right. All of the 5 surrounding houses on the corner are in the C1 district too Councilmember Shelton stated. Councilmember Goard asked if the house would continue to be attached to the current building. Kevin Jones stated he did the plans he is a residential designer. Mr. Jones stated that they are proposing to separate that from the other existing structure that is currently there. Councilmember Barnes stated that if the stairs were detached from the house, it would change the zoning to residential. Councilmember Cardwell stated that the house was there before the zoning was put in place. Councilmember Cardwell stated that the whole block was owned by one person. The house was owned by the same people who owned the whole block.

Councilmember Barnes stated that that wasn't the case now. Town Manager Patterson stated that the challenge now would be when you look at the map was a plan in place that was going to be some plan of neighborhood business district or something of that nature that is my assumption I wasn't here when those were put into place. She stated that was what that looked like. She stated that the long-term plan is to be some kind of neighborhood business district at one point. Councilmember Cardwell agreed that it was a business district at one point. Town Manager Patterson stated that was the criteria at that point.

The building next door to the home has been recently purchased their desire is to have commercial on the bottom and residential on top which will be a mixed use. Councilmember Goard asked if this would fall into C1 district. Town Manager Patterson stated that it was permitted by right. Councilmember Shelton asked about the apartment up top wouldn't need a special use permit? Town Manager Patterson stated that it wouldn't because of it being mixed use. Councilmember Cardwell stated that there were apartments at the other end as well if anybody decides to use that. Town Manager Patterson stated that this fits your C1 if you look at your downtown which is also C1 you have apartments above Commercial that is what mixed use is essentially. Councilmember Goard asked if the other ones have to have this special use Town Manager Patterson stated that if anyone wanted a single-family dwelling in C1 is required to have a special use permit. Councilmember Cardwell stated that all the others have been continuously in use since before the C1 was put into place. Councilmember Goard stated that what if we play devil's advocate and we wanted to make it residential instead of C1 what is the avenue.

Councilmember Goard asked what does that do for the structure its self. Town Manager Patterson stated that he would not be able to have the structure it wouldn't fit into the zoning criteria of R6.

Councilmember Goard asked for that to be explained. Town Manager Patterson stated that Mr. Tovar's set backs are currently zero from the lot line on all sides. If Mr. Tovar was to go to R6 20 feet from the rear 8 feet from the side 20 from the front. Councilmember Goard stated that the bathroom would be in the middle. Town Manager Patterson stated that he wouldn't be able to have a bathroom.

Councilmember

Goard asked her to explain. Town Manager Patterson said it would be to close. Councilmember Goard stated that it would just be a dilapidated house. Town Manager Patterson said yes.

Mayor Wall asked if there was anything else. Mayor Wall stated that a motion needed to be made to approve these exhibits into record. Town Manager Patterson stated that was correct. Mayor Wall stated that to there would not be a motion to approve a revised findings of fact because they haven't had any.

Town Manager Patterson stated that if they do not have any then they wouldn't need to do that.

Councilmember Cardwell made a motion to approve these findings. Mayor Wall stated that they would need to make a motion to accept the Town's exhibits into record.

Motion by Councilmember Cardwell, seconded by Councilmember Lake to approve to accept the Towns exhibits into record

Ayes: Cardwell, Goard, Lake, and Shelton

Nays: Barnes

Motion carried with a majority 4-1.

Mayor Wall stated that there was no need to make a motion to approve/revise Findings of Fact because there was no revision.

3. Motion to approve (approve with conditions) (deny) the issuance of the Special Use Permit.

Mayor Wall stated that a motion to approve the issuance of the Special Use Permit needed to be made.

Motion by Councilmember Lake, seconded by Councilmember Cardwell to approve/revise Findings of Fact for the Special Use Permit. Town Attorney Eugene Russell asked that the motion includes adopting the staff's Findings of Facts. Councilmember Goard asked if all 6 of those or do we have to do all individually. Town Attorney Russell stated they could be approved all at one time staff's Findings of Facts the conclusions or the recommended conclusions.

Ayes: Cardwell, Goard, Lake, and Shelton

Nays: Barnes

Motion carried with a majority 4-1.

4. Motion to Issue Order of Approval.

Mayor Wall asked for a motion to issue an order of approval which will be a written order based on the discussion and decision based on Council for Sarah to do. Town Attorney Russell stated it looked like you adopted what was here probably the most practical thing is to document the decision and present at your next meeting. Mayor Wall stated that Sarah needed to draft a written order based on the Findings of Fact for the Special Use Permit.

Mayor Wall declared the Quasi-Judicial hearing closed at 6:27pm.

## **PUBLIC HEARING:**

### **A. Text Amendment to Zoning Ordinance for Planned Residential Development 22-Rivers Edge Subdivision.**

The Planning Board recommends approval of a text amendment to create Planned Residential Development 22-Rivers Edge Zoning District. This zoning district allows for the vested rights of the developer to be honored in the zoning ordinance for the subdivision by adopting the dimensional requirements, accessory use provisions, and monument sign requirements used when Rockingham County approved the subdivision in April 2021. This zoning district only applies to the Rivers Edge Subdivision and no other location in the Town of Mayodan.

Mayor Wall opened the Public Hearing to hear public comment regarding the text amendment zoning ordinance for planned residential development 22-Rivers Edge subdivision at 6:29pm.

No question or comments from the public.

Mayor Wall declared the public hearing closed at 6:30pm.

**Motion** by Councilmember Lake, seconded by Councilmember Barnes to approve the Text Amendment to Zoning Ordinance for Planned Residential Development 22-Rivers Edge Subdivision.

Ayes: Councilmembers Barnes, Cardwell, Goard, Lake and Shelton

Nays: None

Motion carried unanimously.

Mayor Wall asked for a 10-minute recess before discussion of FY 2023-2024.

Mayor Wall called the meeting back to order at 6:37pm.

**OLD BUSINESS:**

**NEW BUSINESS:**

**A. Presentation of the Manager's Recommended Budget**

Town Manager Kathleen Patterson went over proposed draft budget for FY 2023-2024.

**MANAGER/ COUNCIL COMMENTS/ANNOUNCEMENTS:**

**Motion** by Councilmember Lake, seconded by Councilmember Cardwell, recessed to Monday, May 15 at 6:00pm.

Ayes: Councilmembers Cardwell, Goard, Lake and Shelton

Nays: None.

Motion carried unanimously.

Meeting adjourned at 7:14 p.m.

**ATTEST:**

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Sarah Hopper, Town Clerk

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Chad Wall, Mayor