MINUTES
HEALTH AND BUILDING STANDARDS COMMISSION
December 14, 2023

After determining that a quorum was present, the Health and Building Standards Commission of the City of Denton, Texas convened in a Regular Meeting on Thursday, December 14, 2023, at 3:06 p.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas at which the following items were considered:

PRESENT: Chair Michael Sweigart, Vice-Chair Nicholas Stevens, and Commissioners: Zachary Cathcart, Greg Coward, Sebastian Delgadillo, Joshua Ingram, and David Mollen

REGULAR MEETING

Chair Sweigart opened the meeting at 3:06 p.m.

1. PLEDGE OF ALLEGIANCE

A. U.S. Flag
B. Texas Flag

2. ITEMS FOR CONSIDERATION

A. HBS23-015 Consider approval of the November 9, 2023, minutes.

Commissioner Mollen motioned to approve the November 9, 2023, meeting minutes. Motion seconded by Commissioner Coward. Motion carried.

AYES (7): Chair Sweigart, Vice-Chair Stevens and Commissioners Cathcart, Coward, Delgadillo, Ingram, and Mollen
NAYS (0): None.

3. PUBLIC HEARINGS

A. HBS23-017 Hold a public hearing to affirm or reject an order by the Building Official to declare a structure substandard. The structure is located on Denton County Parcel 102686, addressed as 1505 Wellington Drive. STAFF IS REQUESTING TO POSTPONE THIS ITEM INDEFINITELY.

The item was not presented, no discussion followed.

Commissioner Cathcart motioned to postpone the item indefinitely. Motion seconded by Commissioner Ingram. Motion carried.

AYES (7): Chair Sweigart, Vice-Chair Stevens and Commissioners Cathcart, Coward, Delgadillo, Ingram, and Mollen

NAYS (0): None.

B. HBS23-019 Hold a public hearing to affirm or reject an order by the Building Official to declare structures substandard. The structure is located on Denton County Parcel 94373, addressed as 1400 Teasley Ln. STAFF IS REQUESTING TO POSTPONE THIS ITEM INDEFINITELY.

The item was not presented, no discussion followed.

Commissioner Coward motioned to postpone the item indefinitely. Motion seconded by Commissioner Ingram. Motion carried.

AYES (7): Chair Sweigart, Vice-Chair Stevens and Commissioners Cathcart, Coward, Delgadillo, Ingram, and Mollen
NAYS (0): None.

C. Hold a public hearing and consider an appeal of an administrative decision regarding the storage of more than 2,000 liquid gallons of hazardous material at CUA Pools located at 2717 North Elm Street. The approximately 0.20-acre property is located on the west side of North Elm Street, approximately 160 feet south of Orr Street in the City of Denton, Denton County, Texas. (AA23-0003, CUA Pools - Acid Storage)

Chair Sweigart swore in the witnesses.

Chair Sweigart opened the public hearing.

City staff presented the case. Staff stated multiple neighborhood complaints began on July 25, 2023, regarding hazardous materials storage and bleach odors. On October 7, 2023, a chlorine gas leak from a bleach production system was discovered. Fire and Police attempted to evacuate 29 residences (500 ft radius) and observed 50 ppm chlorine gas measurement on site (5 x IDLH concentration).

Staff continued that the incident on October 7, 2023, led to a Fire inspection on October 9, 2023. At that time multiple drums of muriatic (hydrochloric) acid were located outside. The Appellant indicated the intent to store this type of acid in a 5,500-gallon storage tank on site. Additional information was requested from the applicant following the inspection to determine the land use. On October 27, 2023, a written determination was issued regarding the land use and the storage of acid being limited to 2,000 gallons. The appeal was submitted November 16, 2023.

Staff stated that there are two parts to the appeal, first is regarding the storage of the acid which is to be heard from Heath and Building Standard Commission as it pertains to the Fire Code. The second part of the appeal will be heard by the Zoning Board of Adjustment on December 18, 2023, regarding the land use as it pertains to the Denton Development Code.

Discussion occurred.

Mr. Juan M. Franco, the appellant, stated that the complaints were for the chlorine machine. The appellant stated they have never had 2,000 gallons of hydrochloric acid on site. They were planning to get ready for next season. Mr. Franco continued to state they would buy a truck load of hydrochloric acid from a distributor that sells all over Texas; he stated the reason for hydrochloric acid storage is because they developed a technology where data is sent to their office and trained personnel is able to read the values of the sensors. They can do the testing once a week instead of having to go every day to check the water.

Mr. Juan M. Franco stated they are locals from Denton. Mr. Franco stated if they are not able to carry the large amount of hydrochloric acid then they will probably only be able to stay in Denton for a year.

Mr. Juan C. Franco stated the reason they are here is to decide if they can store hydrochloric acid on site over 2,000 gallons. Mr. Juan C. Franco stated the main reason the city is deciding they can't do it is because it is a corrosive material and how they determined it was a corrosive material is based on the SDS sheet he provided. Mr. Franco continued that there are other places in the city that are storing corrosive materials if you go by the SDS sheet and are being stored more than 2000 gallons. Mr. Juan C. Franco stated in the handouts he provided are what the City of Denton stores at the water treatment plant.

Mr. Juan C. Franco stated they are long time members of the community and starting a business from the ground up. He thought the city would be a barrier.

Discussion with the Commission occurred between the Appellant and Commission. Mr. Juan C. Franco stated a truck will deliver the hydrochloric acid and pump into the tank. He stated currently they get drums delivered and do not currently use the tank.

Megan Schuth, Fire Marshal, stated if Mr. Franco was able to get the hydrochloric acid at a diluted concentration and had a SDS sheet from the manufacturer that indicated it would no longer be a corrosive material, then it would be acceptable. Staff continued that he provided an SDS sheet that was for concentrations from 8 to 35 percent and listed all concentrations as a corrosive. Schuth stated she informed Mr. Franco that per the International Fire Code we are required to have an SDS sheet for any hazardous materials as that is the sole way of classifying the material. She state that he has not produced an SDS sheet that classifies the acid as anything other than a corrosive.

Mr. Juan C. Franco stated that there are different levels of corrosion. There is mild and strong corrosive. Mr. Franco continued that when you dilute the hydrochloric acid to 15 percent the corrosiveness is still there, but it is diluted to a much lower amount. The commission asked if Mr. Franco had a way to prove the percentage. Mr. Franco stated they would be able to dilute the hydrochloric acid, and the way they could do it is to write procedures, they would get a truck and dilute on site. It doesn't make sense to receive the acid at fifteen percent. So, what they proposed is they can dilute the acid, which comes in at 36 percent, with water to the 15 percent.

The commission questioned if the truck is connected directly to the tank and emptied, then hydrochloric acid in there is not diluted in that state. Mr. Juan C. Franco stated no but if you first add water to the tank before the delivery of hydrochloric acid then once the truck unloads into the

tank it will dilute on spot. Mr. Franco stated as the tank fills up the concentration of the water will go up and wear off and technically that is the way it is supposed to be done; the proper process is to add acid to water not water to acid when diluting.

Megan Schuth, Fire Marshal, stated for clarification that in the 2021 International Fire Code, which is the City's adopted code, SDS Sheets are required for hazardous materials simply because if something is in a tank, the Fire Department is unable to have the resources to verify what might be in the tank and therefore require the manufacturer's SDS sheet be provided.

Discussion occurred between the Commission and staff. The Commission asked based on an email provided by the appellant listed as A1 it states the City of Denton purchases liquid chlorine at 30,000 pounds. Schuth stated she cannot speak to that but that there are different requirements and storage allowances for different occupancy types under the Fire Code.

Staff provided clarification regarding the zoning.

The Appellant provided his last statement. Mr. Juan C. Franco stated the zoning they had was for the chlorine machine, no one has brought up the zoning code, but the fire code applies everywhere no matter the zone. There is no zoning in the fire code which is why we are having another meeting regarding the zoning. This fire code applies for everyone and if this is all true then the city should not be allowed to store the chemicals. This is completely against industry standard not being able to deliver the whole truck.

Staff provided clarification regarding the Fire Code.

City staff presented their rebuttal. Megan Schuth, Fire Marshal, stated even if hydrochloric acid comes from a supplier on a truck, 2,000 gallons is still the limit. Due to the property size he is allowed one control area so that would be the one tank of 2,000 gallons. As far as whether a material is corrosive, that is determined per the SDS sheet which we are required to obtain per the International Fire Code. Storage of more than the 2,000 gallons of a corrosive would require a change in the occupancy classification to a high hazard occupancy. Per the International Fire Code maximum allowable quantities for outdoor storage are indicative of industry practice. Schuth stated that Mr. Juan C. Franco mentioned Appendix E of the International Fire Code, but that is not an adopted appendix. The Code states that Appendix E is for informational purposes only and that it should not be used as the sole means of hazardous materials classification which is why the SDS sheets are required to classify specific materials on sites.

The following individuals spoke:

Micha Bracie, 2720 Bolivar, stated he is in support of Fire Marshal's determination. He provided background regarding an event that happened expelling chlorine gas. He stated the event affected the neighbors and us as they were asked to leave their homes twice. When he spoke to neighbors a block away, they stated they could also smell chlorine. He continued that when the appellant was speaking, he didn't hear them say anything about any chemical education which seems to be an important part of this business if they are doing such things as diluting chemicals. If they are operating within the limits of the percentage of corrosive materials, they need then he has no issue

but wants to make sure they are operating within those limits. He stated he is worried if there is a catastrophic spillage it would immediately go to the neighbors and there is no plan to stop that.

Beatrice Robinson, 408 Northridge Street, is in support of the Fire Marshal's determination. Ms. Robinson stated she lives in the neighborhood with her young children. She stated she is a small business owner in Denton and understands the fight as a small business owner and wishes no ill will to the appellant. However, in this specific situation safety has to be the biggest concern for her. She wants to ensure her children are safe and her parents who are backed up to this business are sleeping in a safe area. She is unaware of the chemicals, doesn't know the math on them or the code, but stated what it does sound like is the code is saying this is unsafe. Ms. Robinson stated this building may have been the building for them at the time but now that they have grown to a point it no longer fits their business.

Chair Sweigart closed the public hearing.

Discussion occurred between staff and the Commission regarding the International Fire Code.

Discussion occurred between the Commission and appellant.

Commissioner Mollen moved to affirm the Fire Marshal's decision or interpretation. Motion seconded by Commissioner Cathcart. Motion carried.

AYES (5): Chair Sweigart, and Commissioners Cathcart, Coward, Delgadillo, and Mollen
NAYS (2): Vice-Chair Stevens and Commissioners Ingram

4. CONCLUDING ITEMS

Commissioner Coward moved to adjourn the meeting. Motion seconded by Commissioner Ingram. Motion carried.

AYES (7): Chair Sweigart, Vice-Chair Stevens and Commissioners Cathcart, Coward, Delgadillo, Ingram, and Mollen
NAYS (0): None.

The meeting was adjourned at 4:17 p.m.

X _____ 6/13/24
Nicholas Stevens Date
Vice-Chair of Health and Building Standards Commission

X _____ 6/13/24
Cathy Welborn Date
Administrative Assistant III