



ZBOA Agenda Item # 5 June 6, 2017

PELUC Request by Kenneth & Brenda Anderson File #: APP-2017-02

Kenneth and Brenda Anderson are requesting approval for a Previously Established Land Use Conformity (PELUC) Certificate to re-establish a single-family residence in a Wholesale/Light Industrial (M-1) zoning district. The subject property is located at 1306 Cypress Street. The property consists of 0.16 acres and, at the time of this writing, contains a single-family residence damaged by a fire. (The applicant has purchased a demolition permit to remove the structure.)

Single-family residences are not a permitted use in M-1 zoning. The single-family residence was built before zoning was adopted, and became nonconforming when the M-1 zoning was adopted in the area. The problem developed when the house was damaged by fire; when damaged beyond 60% of its fair market value, it must conform to today's standards, including zoning. The structure was damaged beyond 60%, to the extent where it is more feasible to demolish the house than repair it. Given the fact that single-family residences are not allowed in M-1 zoning districts, the applicants were left with two choices in order to rebuild their house: either rezone or apply for a PELUC. The Industrial Activity Center Character Area makes the parcel ineligible to rezone for a residential zoning district, so the PELUC is the only recourse. (Please note: this case is running concurrently with APP-2017-03 for the same property and concerns a front yard setback variance.)

The PELUC process offers an opportunity to re-establish a nonconforming use that was legally operating on January 1, 2009, when the LDR became effective. PELUCs can only authorize the last legally nonconforming use, "IF" it was legally operating at the time the LDR became effective on January 1, 2009. (This use was a legal nonconforming use on January 1, 2009.) If the PELUC is granted, the property may not be utilized for another nonconforming use.

The request is for a PELUC, replacing the damaged single-family house with a new one in the same location. The area is a mixture of industrial uses, churches, and site-built homes. While M-1 zoning allows an array of industrial-type uses, the small size of the parcel better lends itself to a residential use than it does to an industrial-type use. Given the property has been occupied by a single-family residence for decades, and the surrounding properties include a mixture of uses, staff supports the request as presented.

Staff Recommendation: Find consistent with the PELUC Review Criteria and **approve** the PELUC Certificate for a single-family residence.