



MINUTES

Planning and Zoning Commission

Tuesday, August 8, 2018
Grant County Administration Building
1400 Hwy 180 East
Silver City, New Mexico

Commissioners Present

Nickolas Seibel, Vice Chair
Carmon L. Steven
Otto Khera
Sam Castello

Commissioners Absent

Staff Present

Priscilla Arredondo, Planner/Zoning Administrator

The regular meeting of the Planning and Zoning Commission was called to order at 6:04 pm by Vice Chair Nicholas Seibel. The Pledge of Allegiance was recited. A roll call of commissioners was taken and a quorum was present.

Approval of Agenda

Commissioner Steven moved to approve the agenda as submitted. Commissioner Khera seconded the motion and it passed by unanimous voice vote of 4/0.

Approval of Minutes

Commissioner Khera moved to approve the minutes of the April 3, 2018 meeting with corrections, Commissioner Steven seconded the motion and it passed by unanimous voice vote of 4/0.

Public Hearings

ZC 18-02: A Request for a Zone Change for a tract of land, from a Residential A District to Historic Downtown Commercial District described as: Lots 1 through 16 of Block 177 of the Fraser Survey of the Town of Silver City; Lots 1 through 16 of Block 176 of the Fraser Survey of the Town of Silver City; Lots 1 through 16 of Block 175 of the Fraser Survey of the Town of Silver City ; Fraser Block: 201 Lot: 2 and :- Lot: 4 and:- Lot: 6 Cen 50' Lot 2, PT Lot 4, PT Lot 6 0.133 AC; Fraser Block: 201 Lot: 2 and:- Lot: 4 and:- Lot: 6 E45' Lot 2, E45' of S30' & E27' of N20' Lot 4, E27' Lot 6 .126 AC; Fraser Block: 201 Lot: 2 and:- Lot: 4 W55' Lot 2, S14.4' of W55' Lot 4 0.081 AC; Fraser Block: 202 Lot: 1 Thru:- Lot: 6 E41.32' Lot 2, E41.32' of S43' &

E26.4' of N7' Lot 4, E26.4' Lot 6 .650 AC; Fraser Block: 202 Lot: 2 and:- Lot: 4 PT Lot 2, PT Lot 4 .220 AC; The applicant is the Town of Silver City.

Seventeen people were sworn in for testimony. Priscilla Arredondo presented the staff report. The Notice of Decision is attached as Appendix A.

Commissioner Steven motioned to approve CU 18-01 with all four findings being met. Commissioner Khera seconded the motion. The motion was approved by roll call vote of 3/0.

New Business

Commissioner Khera motioned to postpone election of new chair until the next meeting that all Commissioners will be present. Commissioner Steven seconded the motion. The motion was approved by voice vote of 3/0

Community Forum

None

Reports from Staff

None

Reports from Commission

Commissioner Seibel stated that there are openings on Planning and Zoning Commission

Community Input

None

Adjournment

Commissioner Steven moved to adjourn. Commissioner Khera seconded and the motion passed unanimously by voice vote of 3/0. The meeting was adjourned at 6:50 pm.

Nickolas Seibel, Vice Chair
Planning & Zoning Commission

Date

NOTICE OF DECISION

**PLANNING & ZONING COMMISSION
TOWN OF SILVER CITY**

Case No. ZC 18-02

IN THE MATTER OF:

A Request for a Zone Change for a tract of land, from a Residential A District to Historic Downtown Commercial District described as:

Lots 1 through 16 of Block 177 of the Fraser Survey of the Town of Silver City;

Lots 1 through 16 of Block 176 of the Fraser Survey of the Town of Silver City;

Lots 1 through 16 of Block 175 of the Fraser Survey of the Town of Silver City

Fraser Block: 201 Lot: 2 and:- Lot: 4 and:- Lot: 6 Cen 50' Lot 2, PT Lot 4, PT

Lot 6 0.133 AC

Fraser Block: 201 Lot: 2 and:- Lot: 4 and:- Lot: 6 E45' Lot 2, E45' of S30' & E27' of N20' Lot 4, E27' Lot 6 .126 AC

Fraser Block: 201 Lot: 2 and:- Lot: 4 W55' Lot 2, S14.4' of W55' Lot 4 0.081 AC

Fraser Block: 202 Lot: 1 Thru:- Lot: 6 E41.32' Lot 2, E41.32' of S43' & E26.4' of N7' Lot 4, E26.4' Lot 6 .650 AC

Fraser Block: 202 Lot: 2 and:- Lot: 4 PT Lot 2, PT Lot 4 .220 AC

The applicant is the Town of Silver City.

BACKGROUND:

Two property owners in the proposed zone change area approached the Community Development Department because their commercial properties are zoned as Residential A. It was determined that the majority of the properties in the proposed change are commercial properties and would benefit from a zone change to Historic Downtown Commercial. Property owners in the proposed zone change area were contacted and offered the opportunity to participate in the proposed zone change.

A staff report has been submitted by the Community Development Department stating that the applicant has submitted a completed application and now requests a Zone Change from Residential A to Historic Downtown Commercial. The staff report notes that the parcels in question are located within town limits, are within the Residential A District and that surrounding neighbors had been notified of the request for the Zone Change pursuant to the community participation provisions of the Land Use and Zoning Code of 2010.

EVIDENCE:

The Commission reviewed the application, deed, staff report and sworn testimony given at the public hearing, all of which show the following:

The applicant submitted a Zone Change request to re-zone the proposed parcels to Historic Downtown Commercial.

The Historic Downtown Commercial (C-HD) District is intended to accommodate a mix of commercial uses serving residents and visitors, mixed-use buildings, and residential buildings in the historic central business core, and to provide a variety of building sizes compatible with the character of the Silver City Historic District. The district encourages a high level of vitality through diverse activities conveniently accessible to pedestrians.

Eighty-five property owners in the surrounding neighborhood were contacted in writing by the applicant.

One property owner called to ask if her property was being included and what was being proposed. I let her know which properties were included and explained to her of the change being proposed. A citizen called because he saw one of the signs posted and asked which properties were affected, I let him know which ones are included in the proposed change. Another property owner, Russell Weigman came in to ask about the letter he received. He lives at 906 N. Grant Street. I explained to him what was being proposed and he did not have any problem with it.

I also met with Rebecca Margolis and Dale Steele. They live at 315 W. 7th Street. They had concerns about the properties involved turning into large developments. Jaime Embick and I let them know it is not possible because of uses allowed in zoning, parking requirements and lot size. They had other concerns and we directed them to contact code enforcement.

Dale Housley and Marcia Stout came in to the office to review the file. They have concerns about the adjoining properties to them. They bought their home because it is in a Residential area and fear this will impact that. I let them know that the changes would not be substantial enough to change that.

Priscilla Arredondo presented the staff report for the Community Development Department.

Frank Drysdale spoke in opposition to the proposed change. He stated that he chose the neighborhood he lives in because it is a residential historic district. He stated that many houses have been completely renovated and the demographic has changed. Younger families have moved in making it more appealing. He also stated that he wondered why he did not get a letter but after looking in the Land Use Code, realized his home is 335 feet from the proposed change. He went on to compare the uses from the use table of Residential A and Historic Commercial. He also stated that the Agenda and Legal Notice did not reference the street numbers to the properties or the North Addition Historic District. There have been previous attempts and there was a lot of public interest and the notification area should have been expanded. He stated that the Commission should defer or deny request because businesses there have been grandfathered in.

Polly Hughes also spoke in opposition to the proposed change. She lives across from the library on Cooper Street. She stated that with the construction of College Street, it is very dangerous and no one is paying attention to parking or traffic safety. She stated that it is hard for her because it does not feel residential anymore. She also stated that people park at the library in the middle of the night to use the wifi and it is a problem. She thought

about asking for her property to be Commercial but that would cause a domino effect to the residents behind her. She stated that she agreed with the idea of informing more people and to really give this proposed change more thought.

Kurt Albershardt stated that he is not in opposition to the proposal, just one of the boundaries of the proposal. He stated that Historic Commercial is completely appropriate for the south side of College Avenue. The funeral home and the large house on the corner have been there for a long time and permitted uses including bars, restaurants, and a number of things that do not fit should be permitted by exception rather than by rule. He stated that there were maps included but it was impossible to tell by the website or signs posted, what was going on.

John Barnes, who lives at 210 W. 7th Street, asked why zone College Avenue commercial when there are more than forty buildings empty in the old downtown area. He stated that he has been here since 1965 and downtown is getting to be a ghost town.

Commissioner Castello moved to recommend approval of ZC 18-02 for a tract of land from Residential A to Historic Commercial District. Commissioner Khera seconded the motion. In response to comments by Mr. Drysdale, Ms. Arredondo stated that the reason legal descriptions were used instead of addresses is because it may become an ordinance and addresses change so legal descriptions were used. Commissioner Khera and Commissioner Castello recommended to staff to include addresses in the future. Commissioner Castello added that there are no parties in favor of the proposed change and that should be addressed. He also stated that he did not feel this was the solution needed for this area.

Commissioner Steven asked who requested the change. Ms. Arredondo stated that it was Bruce McKinney, owner of the College Street Plaza and Becky Smith owner of Smith Real Estate. Commissioner Steven asked if they requested the specific change to Commercial Historic or another use. Ms. Arredondo stated that they originally asked for mixed use but staff did not want spot zoning so they all agreed on Historic Commercial. She also added that the lots in the proposed change are not suitable for large developments which include meeting parking requirements. Commissioner Steven added that College Street Plaza abuts the Historic Commercial District on the east side and is already there and enforced.

Commissioner Khera stated that his main concern relates to research on safety and walkability and some uses allowed in Historic Commercial would bring considerable traffic, he asked where safety fits and if the town did an analysis on pedestrian injuries. Ms. Arredondo replied that no analysis was done. Commissioner Castello added that he had an issue with certain activities with lot sizes and someone can tear down or purchase multiple lots. Just because it looks like it does now, does not mean it always will be as is.

Commissioner Steven stated that it is important to look at who our requestors are and why they requested the change. She added that the Cooper Street issues are different than the Santa Rita Street issues and she does not want to lose sight of the fact that these

property owners requested this zone change and the Town recommended that it be Historic Commercial District to put them in line with mixed residential use and encourage both Commercial and Residential for walkability and safety.

Commissioner Castello stated that he feels this change is very severe and why was it not done when the zoning map was done. He stated that he could be convinced on the southern side but has trouble with the northern boundary.

Commissioner Seibel stated that this proposed change represents about twenty years' worth of work for the people who have sat behind that counter and table. It was a long dream in this area because when zoning was implemented in the Town, it was poorly done, lines were arbitrarily drawn down the middle of lots and they have been dealing with the repercussions of this. He added that the idea behind developing differentiated zones was to make them representative of what is inside of them. He stated that these buildings have all had commercial uses and pre-dates the zoning. He added that nothing they do on College Avenue is going to increase traffic more than Western New Mexico University.

Commissioner Kherra stated that he appreciates the sentimental journey but they are talking about the present and the information put out by the AARP that is relevant to residents of those neighborhoods. He stated that Commissioner Steven's comments regarding connection between historical and commercial logic seems to be opposite of what he sees. He sees it to be a severing or disconnection to residential in ways they cannot predict.

Commissioner Steven stated that the Historic Commercial District can be commercial or residential, she lives in that district and when she tried to refinance, they told her it was a commercial building and could not refinance. When the Historic Commercial District went in, she was able to get rights for residential and commercial uses so she does not see the severing nor with the Smith Real Estate building because it is allowable under C-HD. She added that there is only a ten percent vacancy rate downtown and the people that own those properties are part of a Trust, do not live in Silver City, and use them as tax write-offs. The Town has done a lot to correct the situation but there are private property rights in place. She stated that she is all for rezoning the south side of College Avenue and in total agreement with properties on the north side needing more discussion.

Ms. Arredondo added that the properties are in Historic Districts and the Historic Design Review Committee oversees any renovations or demolitions and they like to keep the feel of the Historic District. Commissioner Seibel stated that they can impose a six month moratorium on issuance of a demolition permit and there are a lot of obstacles to doing these changes. He added that he would love to see a liquor store or small bar, but liquor laws in New Mexico would not allow that.

Commissioner Castello stated that as presented, he has trouble with the process and wish there were property owners in favor present and he was reluctant to recommend approval.

Commissioner Seibel asked Ms. Arredondo if she should prefer to vote it down and come back with a smaller version or postpone with modifications.

Ms. Arredondo stated that whether it is recommended or not, it still goes to the Town Council. Commissioner Steven asked her if it was possible to recommend leaving out the north side of College Avenue. Ms. Arredondo stated that yes and the Town Council would have their input when making their decision. Commissioner Steven motioned to amend the zone change request leaving out the north side properties and accepting the south side properties. Commissioner Castello seconded the motion; the vote was split so it went back to the original motion as presented.

FINDINGS OF FACT OR OTHER FACTORS APPARENTLY CONSIDERED:

The applicant requests a zone change for the property zoning to be changed from Residential A to Historic Downtown Commercial.

The Commission based their decision on testimony of concerns related to traffic, noise, walkability, changing of uses, and lack of parties present in favor of the application.

CONCLUSIONS OF LAW:

Section 6.3.2 of the Land Use and Zoning Code of 2010 provides a means for changing the Official Zoning Map.

DECISION:

The Commission, with a roll-call vote of a quorum of four commissioners three to one, hereby recommends against the Applicant's request for a Zone Change to the Silver City Town Council. None of the findings were discussed or mentioned in the decision. The recommendation will be made to the Town Council when the request is heard for a final decision.

Sincerely,

Priscilla Arredondo
Planner/Zoning Administrator
August 28, 2018

Carmon L. Steven
Vice Chair

Date