1. **6:00 P.M.  Nov. 10, 2020 Regular Town Council Meeting Materials**

Documents:

01 - 2020 11 10 AGENDA REGULAR COUNCIL.PDF
02 - 2020 10 13 DRAFT MINUTES REGULAR COUNCIL.PDF
03 - PUBLIC INPUT S WHEATON-SMITH RE-CURFEW.PDF
04 - ORD 1296 ZONE CHANGE RES A TO RES B2 ED GARLAND.PDF
06 - NOI ORD 1297 REPEAL ORD 1290 AND AMEND CH 38 LOCAL LABOR BD.PDF
07 - RES 2020-23 BUDGET ADJUSTMENT FY 2020-2021.PDF
08 - 2020 11 10 LEGAL NOTICE REGULAR COUNCIL.PDF
1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

2. CHANGES TO AGENDA

3. CEREMONIES

4. PROCLAMATIONS

5. COUNCIL COMMENTS

6. APPROVAL OF MINUTES - Regular Meeting on October 13, 2020

7. PUBLIC INPUT

8. REPORTS
   A. Staff Reports

9. PUBLIC HEARINGS
   A. Approval / Disapproval of Ordinance No. 1296: Request for a Zone Change (ZC 20-2) from a Residential A Zoning District to Residential B-2 Zoning District for tracts of land described as: SAN VICENTE Block: 15 Lot: 9 .115 AC; SAN VICENTE Block: 15 Lot: 11 .115 AC; SAN VICENTE Block: 15 Lot: 13 .115 AC; SAN VICENTE Block: 15 Lot: 15 .115 AC; SAN VICENTE Block: 16 Lot: 1 .115 AC; SAN VICENTE Block: 16 Lot: 2 .115 AC; SAN VICENTE Block: 16 Lot: 3 .115 AC; SAN VICENTE Block: 16 Lot: 4 .115 AC; SAN VICENTE Block: 16 Lot: 5 .115 AC; The property addresses are 107, 109, 111, and 113 Dorothy Street and the other parcels are not addressed. The applicant is Ed Garland.

10. UNFINISHED BUSINESS
   A. Approval / Disapproval of Closed Session pursuant to NMSA 1978 Section 10-15-1(H) (2) regarding limited personnel matters to discuss the Town Manager’s contract.
   B. Approval / Disapproval of Town Manager’s Contract.

11. NEW BUSINESS
   C. Approval / Disapproval of Notice of Intent Ordnance No. 1297: to repeal Ordinance No. 1290 and adopt an Ordinance declaring the intention of the Town to continue the existence and operation of its “Local Labor-Management Relations Board” and further, amending Chapter 38, Article II (Collective Bargaining), Sections 38-22 through 38-35 of the Town of Silver City Municipal Code.
   D. Approval / Disapproval of Resolution No. 2020-23: A Resolution amending the approved and adopted budget for the fiscal year commencing July 1, 2020 through June 30, 2021 and for municipal purpose in the Town of Silver City, New Mexico, transferring and appropriating funds thereof.

12. ADJOURNMENT
Town of Silver City
Council Members

<table>
<thead>
<tr>
<th>Name</th>
<th>Elected Position</th>
<th>Telephone</th>
<th>Term of Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ken Ladner</td>
<td>Mayor</td>
<td>534-6346</td>
<td>03/2018 - 03/2022</td>
</tr>
<tr>
<td>Cynthia Ann Bettison</td>
<td>Councilor, District 1</td>
<td>597-7031</td>
<td>03/2020 - 03/2024</td>
</tr>
<tr>
<td>Lynda D. Aiman-Smith</td>
<td>Councilor, District 2</td>
<td>597-7032</td>
<td>03/2018 - 03/2022</td>
</tr>
<tr>
<td>Jose A. Ray, Jr.</td>
<td>Councilor, District 3</td>
<td>313-4944</td>
<td>03/2020 - 03/2024</td>
</tr>
<tr>
<td>Guadalupe Cano</td>
<td>Councilor, District 4</td>
<td>597-7034</td>
<td>03/2018 - 03/2022</td>
</tr>
</tbody>
</table>

MISSION STATEMENT OF THE TOWN OF SILVER CITY

Silver City is the hub of an inclusive community settled within a small town that through guided growth, honors and preserves its historical, cultural, and natural heritage while facilitating jobs, health, and education resources such that the residents and visitors may enjoy and protect the recreational opportunities of the area and high quality of life.

Approved by the Town Council on May 25, 2010.

The Council may call an EXECUTIVE SESSION pursuant to NMSA 1978 Section 10-15-1(H) for the following reasons:

1. meetings pertaining to issuance, suspension, renewal or revocation of a license, except that a hearing at which evidence is offered or rebutted shall be open;
2. limited personnel matters which means the discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration of complaints or charges against any individual public employee;
3. deliberations by a public body in connection with an administrative adjudicatory proceeding;
   A. meetings for the discussion of bargaining strategy preliminary to collective bargaining negotiations between the policymaking body and a bargaining unit representing the employees of that policymaking body and collective bargaining sessions at which the policymaking body and the representatives of the collective bargaining unit are present;
   B. that portion of meetings at which a decision concerning purchases in an amount exceeding $2,500 that can be made only from one source and that portion of meetings at which the contents of competitive sealed proposals solicited pursuant to the Procurement Code (13-1-28 NMSA 1978) are discussed during the contract negotiation process. The actual approval of purchase of the item or final action regarding the selection of a contractor shall be made in an open meeting;
   C. meetings subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant;
   D. meetings for the discussion of the purchase, acquisition or disposal of real property or water rights by the public body.

Note: NMSA 1978 Section 10-15-1(H) Exceptions (4) relating to students, (9) relating to public hospitals, and (10) relating to the gaming control board were not listed above since they do not apply to the Town of Silver City.

For information on what’s happening in local government, please visit the Town’s website at www.townofsilvercity.org.
MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
REMOTE MEETING IN COMPLIANCE WITH THE NM OPEN MEETINGS ACT
October 13, 2020, 6:00 p.m.

Present:
Ken Ladner, Mayor
Cynthia Ann Bettison, District 1
Lynda D. Aiman-Smith, District 2
Jose A. Ray, Jr., District 3
Guadalupe E. Cano, District 4

Also, present:
Alex C. Brown, Town Manager
James Marshall, Assistant Town Manager
Robert Higgins, Information Technology Director
Ann L. Mackie, Town Clerk
Freddie Portillo, Police Chief

1. CALL TO ORDER / PLEDGE OF ALLEGIANCE – Mayor Ladner called the meeting to order at 6:00 p.m. Clerk Mackie did a roll call of the Mayor, Councilors, and staff.

2. CHANGES TO AGENDA – None.

3. CEREMONIES – None.

4. PROCLAMATIONS – None.

5. COUNCIL COMMENTS – Councilor Cano expressed concern that a recent “Faith Under Fire” rally at Gough Park had the event without a permit, no insurance, only half of the participants were social distancing, and 90 percent of them were not wearing masks. She commented how two police officers arrived and spoke with the organizers. She said Grant County is now a red spot on the map with more cases every day and that it was really irresponsible for organizers to have the event that way and for the officers not to enforce the Town’s ordinance. She questioned why the Town had a mask ordinance if it was not going to be enforced. Councilor Ray announced that he would be unable to attend the October 27 Council meeting and he encouraged everyone to go vote. Councilor Bettison expressed concern that several large businesses were not enforcing the Governor’s Public Health Order and the Town’s Ordinance with regard to wearing masks. She said the Town needed to make sure the businesses and the impromptu events occurring in the park understand there was a mask ordinance in the Town and they do not want their county to continue to be red. She said it was really concerning considering the number of beds in the hospital and with the flu season upon them. Councilor Aiman-Smith said at the last Council meeting she reported there were 110 COVID-19 cases and it was currently up to 147 cases in Grant County. She discussed the Governor’s recent statement and how social distancing, good hygiene, and mask wearing had been proven to stop the spread of the disease. She commented on a recent hike on Boston Hill where she and her friends wore masks, and other hikers and a mountain biker were also wearing masks. She stated early voting was occurring at the County Clerk’s Office and they were doing a really good job of doing good health precautions, and she encouraged people to exercise their citizen duty and vote. Mayor Ladner commented on a letter he received from a citizen on Langstroth Lane that commended the Public Works employees for promptly repairing potholes, etc. He commented how Halloween was normally celebrated and he encouraged everybody to heed the Governor’s outline on how to enjoy Halloween without putting people at risk. He said he sensed frustration by the Governor and if things did not change really quick, they may be back to a situation as before that really hurt their small businesses. He also mentioned that former Mayor Ken Havens passed away and that he served as Mayor from 1989 to 1992. He invited everyone to join him in a brief moment of silence on behalf of Ken Havens.

6. APPROVAL OF MINUTES - Regular Meeting on September 22, 2020 - Councilor Aiman-Smith moved to approve the Minutes of the Regular Town Council Meeting of the Town of Silver City of September 22, 2020. Councilor Bettison seconded. The Mayor asked if there was any discussion, and there was none. He asked for a roll call vote. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; and Councilor Cano voted aye. Motion carried.
7. PUBLIC INPUT – Mayor Ladner asked Clerk Mackie if any public input was received by email. Clerk Mackie said no public input was received.

8. REPORTS –
A. Staff Reports – Manager Brown reported all city buildings were still closed except for the Library’s curbside service. He said all the employees were working in the offices and services were provided by appointment, etc. He said the reason they stayed closed is to give the employees a week’s notice before opening, how they’ve been monitoring the COVID-19 numbers before changing, and the closest they got to reopening was two weeks ago, but stuff started happening. He said they would continue to monitor the numbers of COVID-19 cases in the community, and once they were at a point where the employees were safe and the public that they serve was safe, they would reopen the offices. He said all the employees were working in the offices and people could make appointments. He also reported water consumption was 17 percent higher than their 10-year average and he attributed it to the heat, no rain, and the increasing numbers of accounts in their system. He said the revenues were up four percent and they were not turning off water for delinquent accounts and not charging fees for paying online. He said there was an average of 80 delinquent accounts per month and currently they had 456 and the amount owed was less than a half a percent of the total number of accounts, so he was not concerned. He said a lot of people needed help and they would continue to look at opportunities to help their residents and those connected to their system. He said they hoped to have the software updated for online payments by the beginning of the calendar year. He said currently people could pay through their bank or call in with a credit card without fees.

Mayor Ladner asked Manager Brown for an update about the CARES Act grant for small businesses. Manager Brown said all the applications were being sent to the Chamber of Commerce for evaluation so there was one point of contact since Silver City, Bayard, Hurley and Grant County received funds. He said James Marshall, Assistant Town Manager, was the Town’s representative on the Review Board. There was further discussion about the process being simple with a one-week turnaround; how they wanted to help as many businesses as possible and need applicants; and how a component of the grant could be used for overtime for the police and fire departments and emergency management issues.

9. PUBLIC HEARINGS – None.

10. UNFINISHED BUSINESS –
A. Approval / Disapproval of Ordinance No. 1295: An Ordinance permitting the transfer of ownership of Town-owned property in exchange for privately-owned property commonly known as the “Hearst Millsite” located within the Town of Silver City, all pursuant to Chapter 48, Section 48-21 et seq., of the Town of Silver City Municipal Code, Mayor Ladner asked Assistant Manager Marshall to present the details of the Ordinance. Mr. Marshall said it was a transfer of Town-owned property with a little over one-acre on Grandview in the Indian Hills Subdivision, and it was outside the Town limits. He said it was not an essential piece of property. He said the Town was trading for a little over three and a half acres of land that was located within the Town limits, and it would become part of the Town’s trails system. He said the request came up ten years ago and they completed the negotiations, have the surveys, and the fair market value was in the Town’s favor. He said the contract had been signed by both parties and they completed the negotiations, have the surveys, and the fair market value was in the Town’s favor. He said the contract had been signed by both parties and would go into effect if the Ordinance was approved. He said staff recommended to proceed and add the property to the Town’s assets for trails and open space. There was further discussion about the remediation of the property per EPA (Environmental Protection Agency) standards; how Phase I had been completed; and how they would proceed with completing Phase II since there were State resources available even though it was not relevant if they left the property as open space and did not develop the property. Councilor Bettison moved to approve Ordinance No. 1295: An Ordinance permitting the transfer of ownership of Town-owned property in exchange for privately-owned property commonly known as the “Hearst Millsite” located within the Town of Silver City, all pursuant to Chapter 48, Section 48-21 et seq., of the Town of Silver City Municipal Code. Councilor Cano seconded. Mayor Ladner asked for a roll call vote. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; and Councilor Cano voted aye. Motion carried.

11. NEW BUSINESS -
A. Approval / Disapproval of Closed Session pursuant to NMSA 1978 Section 10-15-1(H) (2) regarding limited personnel matters to discuss the Town Manager’s contract. Mayor Ladner said if they went into closed session only
the matter listed on the agenda and in the motion would be discussed. He asked for a motion. Councilor Bettison moved for the Town Council to go into Closed Session pursuant to NMSA 1978 Section 10-15-1(H) (2) regarding limited personnel matters to discuss the Town Manager’s contract. Councilor Ray seconded. Mayor Ladner asked for a roll call vote. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; and Councilor Cano voted aye. **Motion carried.** The Mayor, Councilors and Manager Brown exited the remote Regular Meeting and conducted a separate and private remote closed session meeting.

They rejoined the remote Regular Meeting at 6:53 p.m. Mayor Ladner stated they were back in open session and stated no matters other than those contained in the motion were discussed. He asked for a roll call vote to affirm that statement. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; and Councilor Cano voted aye. **Motion carried.**

12. **ADJOURNMENT** – Mayor Ladner concluded the meeting. Councilor Ray moved to adjourn at 6:55 p.m., and Councilor Aiman-Smith seconded. Mayor Ladner asked for a roll call vote. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; and Councilor Cano voted aye. **Motion carried.**

肯·拉德纳，市长


安·麦基，镇书记
The Town is considering whether to implement a curfew, perhaps as early as 7pm. I did some research and there are arguments in favor (one located) as well as opposed to curfews (many).

While I am not an expert in infectious diseases or in viral transmission, for months I have spent hours each day tracking data for NM, AZ, and the USA. This has suggested the following fact:

- Infection seems to be a function of time and distance from infected persons, density of infected persons, viral load in infected persons, as well as on the use of PPE and hygiene by all.

A curfew will reduce restaurant hours, bar hours, and retail hours. Since the same number of people will patronize such businesses anyway, and since many businesses are operating below authorized capacity, the capacity utilization can and will increase with those fewer hours. That will decrease distancing or increase customer density, and that could increase viral transmission. For that reason I question the benefit of a curfew.

The state’s own Rapid Response figures (as of October 26, 2020) show that restaurants account for only 8% of employee sicknesses triggering a Rapid Response. A review of all Rapid Responses for Grant County shows not one single restaurant has had a Rapid Response. Further, almost all RAPID RESPONSE calls were government or medical related, or for businesses closing before 7pm anyway. Only three were for retail after normal hours. Again, I question how a curfew will help reduce such infections.

Unlike El Paso, the latest Las Cruces measures do not include a curfew. El Paso residents seeking a night life might travel to Las Cruces, it is less likely they will go to Deming, and since Silver City is not known for its night life, I question if a curfew will protect us from El Paso residents seeking late night activity. Again, I question how a curfew will help reduce such infections.

New Mexico is a COVID disaster zone, filled with people tired of ineffective and flawed earlier orders. New Mexico has no effective contact tracing, thus customer infection source data is limited and anecdotal at best.

However, the governor has recently done an excellent job in reducing restrictions and changing course by publishing Rapid Response data, the watch list, and the closure list. The state already has a curfew; the current public health order already has curfew hours of 10pm to 4am for many entities.

I imagine the Silver City curfew is intended to protect us from Luna County, Dona Ana County, and El Paso visitors. Remember that we travel there much more than they travel here. We do not have a freeway and thus have fewer opportunities for itinerant visitors.

Finally, I question the benefit of a local curfew, especially one stricter than the state itself requires. I would rather the Town use Grant County Rapid Response data to show a trend, and other sources before enacting a curfew. Always remember that every solution carries the seeds of the next problem.

Thank you for reading this. Below are what others say, as well as references.

Simon Wheaton-Smith
Silver City Resident
11/3/2020
Comments questioning curfew benefits:

The study by the London School for Hygiene and Tropical Medicine (LSHTM) examined the impact of both measures, which were introduced last month. While not yet peer reviewed, the following findings were found:-

- "It found that 42% of the 3,222 individuals it surveyed about the rule of six had the same amount of contacts before and after the measure was introduced.

- Just over three out of ten (31%) reduced their contacts, while 26% saw more people after the rule was introduced."

SAGE: Documents published on Monday from the government’s Scientific Advisory Group for Emergencies (Sage) show that experts dismissed the idea of a curfew exactly a week before one was implemented across England.

- The government’s own scientific advisers warned that its 10pm curfew on pubs, bars and restaurants would only have a "marginal impact" on the spread of coronavirus.

Professor Paul Hunter, an infectious diseases expert and professor in Medicine at University of East Anglia, says in general, there’s a “lack of any real evidence” on the impact of curfews on epidemics. "I did find one paper that suggested some benefit, but was not at all impressed by their analytical approach," he tells HuffPost UK.

References questioning curfew benefits:
- https://www.huffingtonpost.co.uk/entry/uk-curfew-coronavirus-lockdown_uk_5f69ba27c5b655acbc6f7322?guccounter=1&guce_referrer=aHR0cHM6Ly9kdmVYa2dvLmNvbS8&guce_referrer_sig=AQAAAF4CaU5rx6O3ci2JRa0bTrkK86_3fElFxFx5GQBygxR0V4ACNS6nOWFJUpwoPlXgCDpOK7dx85xJ_W2x1dwMUUJIfMxzt8lpp7iDqqCIYKoKfjnkJK_dEIKSjkj9OHZsnXJDgDc-5vdQkFSeW7tg8ib82M5x9M4XyQu56jTygKFY

References supporting curfews to reduce COVID infection rates

Other references:
- https://www.env.nm.gov/nmed-resources-for-covid-19/
<table>
<thead>
<tr>
<th>Date</th>
<th>RR</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>10/30/2020</td>
<td>RR-7480</td>
<td>MAGISTRATE COURT</td>
</tr>
<tr>
<td>10/28/2020</td>
<td>RR-6812</td>
<td>JAMES HAMILTON CONSTRUCTION CO</td>
</tr>
<tr>
<td>10/28/2020</td>
<td>RR-7292</td>
<td>SILVER CITY CARE CTR</td>
</tr>
<tr>
<td>10/27/2020</td>
<td>RR-5678</td>
<td>FOXWORTH-GALBRAITH LUMBER CO</td>
</tr>
<tr>
<td>10/27/2020</td>
<td>RR-5977</td>
<td>WESTERN NEW MEXICO UNIVERSITY</td>
</tr>
<tr>
<td>10/27/2020</td>
<td>RR-5512</td>
<td>Sixth Judicial District Attorneys? Office</td>
</tr>
<tr>
<td>10/21/2020</td>
<td>RR-4956</td>
<td>JAMES HAMILTON CONSTRUCTION CO</td>
</tr>
<tr>
<td>10/20/2020</td>
<td>RR-4615</td>
<td>WALMART AUTO CARE CENTERS</td>
</tr>
<tr>
<td>10/17/2020</td>
<td>RR-4280</td>
<td>GILA REGIONAL MEDICAL CTR</td>
</tr>
<tr>
<td>10/16/2020</td>
<td>RR-4241</td>
<td>Hidalgo Medical Services Tu Casa</td>
</tr>
<tr>
<td>10/16/2020</td>
<td>RR-4209</td>
<td>JAMES HAMILTON CONSTRUCTION CO</td>
</tr>
<tr>
<td>10/14/2020</td>
<td>RR-3841</td>
<td>ADDUS HEALTH CARE</td>
</tr>
<tr>
<td>10/14/2020</td>
<td>RR-3873</td>
<td>GILA REGIONAL MEDICAL CTR</td>
</tr>
<tr>
<td>10/13/2020</td>
<td>RR-3640</td>
<td>GILA REGIONAL MEDICAL CTR</td>
</tr>
<tr>
<td>10/13/2020</td>
<td>RR-3673</td>
<td>GRANT COUNTY</td>
</tr>
<tr>
<td>10/13/2020</td>
<td>RR-3562</td>
<td>WESTERN NEW MEXICO UNIVERSITY</td>
</tr>
<tr>
<td>10/11/2020</td>
<td>RR-3455</td>
<td>GILA REGIONAL MEDICAL CTR</td>
</tr>
<tr>
<td>10/9/2020</td>
<td>RR-3255</td>
<td>WALMART SUPERCENTER</td>
</tr>
<tr>
<td>10/2/2020</td>
<td>RR-2521</td>
<td>Sixth Judicial District Attorneys Office</td>
</tr>
<tr>
<td>10/1/2020</td>
<td>RR-2472</td>
<td>Sixth Judicial District Attorneys Office</td>
</tr>
<tr>
<td>9/24/2020</td>
<td>RR-1470</td>
<td>GRANT COUNTY DETENTION CTR</td>
</tr>
<tr>
<td>9/23/2020</td>
<td>RR-1410</td>
<td>PROTECTIVE SERVICES DIV</td>
</tr>
<tr>
<td>9/16/2020</td>
<td>RR-1117</td>
<td>JAMES HAMILTON CONSTRUCTION CO</td>
</tr>
<tr>
<td>9/11/2020</td>
<td>RR</td>
<td>SILVER CITY CARE CENTER</td>
</tr>
<tr>
<td>9/8/2020</td>
<td>RR</td>
<td>SILVER CITY CARE CENTER</td>
</tr>
<tr>
<td>8/29/2020</td>
<td>RR</td>
<td>Aging and Long Term Services Department - NMDOH</td>
</tr>
<tr>
<td>8/12/2020</td>
<td>RR-2452</td>
<td>Belleza Salon &amp; Tanning (no case noted)</td>
</tr>
<tr>
<td>7/25/2020</td>
<td>RR</td>
<td>Ft Bayard Medical Center</td>
</tr>
<tr>
<td>7/22/2020</td>
<td>RR</td>
<td>Walmart</td>
</tr>
<tr>
<td>7/22/2020</td>
<td>RR</td>
<td>Western NM University</td>
</tr>
<tr>
<td>7/17/2020</td>
<td>RR</td>
<td>J &amp; S Plumbing and Heating</td>
</tr>
<tr>
<td>7/4/2020</td>
<td>RR</td>
<td>Freeport McMoRan Tyrone Mine</td>
</tr>
</tbody>
</table>
ORDINANCE NO. 1296


WHEREAS, on August 26, 2020, the applicant, Ed Garland, filed an application requesting a Map Amendment/Zone Change which would rezone that area from a Residential A Zoning District to Residential B-2 Zoning District. Said application was deemed complete by the Community Development Department and forwarded to the Planning and Zoning Commission for action thereon; and

WHEREAS, the property owners in and around the affected area were contacted by mail to elicit public comment and concerns about the proposed zone change; and

WHEREAS, on October 6, 2020, the Planning and Zoning Commission of the Town of Silver City heard a request to rezone the parcel of land described above from Residential A Zoning District to Residential B-2 Zoning District and

WHEREAS, the Planning and Zoning Commission of the Town of Silver City recommended approval of the application; and

WHEREAS, the Planning and Zoning Commission recommends approving the rezoning of the requested area to Residential B-2 Zoning District with the findings that the proposed amendment will not adversely impact the public health, safety or general welfare and will promote the original purposes of the Land Use Code; and

WHEREAS, the Town Council of the Town of Silver City, after the public hearing and an opportunity to review the record in its entirety, accepts such recommendation from the Planning and Zoning Commission and adopts the findings made therein;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF SILVER CITY, GRANT COUNTY, NEW MEXICO, THAT:

The Town Council adopts the findings and recommendation of the Planning and Zoning Commission in their entirety and that The Town Council approves the application to re-zone the subject properties as described above, from Residential A Zoning District to Residential B-2 Zoning District.
PASSED, ADOPTED, AND APPROVED by vote of the Council of the Town of Silver City, Grant County, New Mexico, this 10th day of November, 2020.

(Seal)

________________________
Ken Ladner, Mayor

Attest:

________________________
Ann L. Mackie, Town Clerk
NOTICE OF DECISION

PLANNING & ZONING COMMISSION
TOWN OF SILVER CITY

Case No. ZC 20-02

IN THE MATTER OF:

ZC 20-02: A request for a Map Amendment/Zone Change from a Residential A Zoning District to Residential B-2 Zoning District for tracts of land described as:

SAN VICENTE Block: 15 Lot: 9 .115 AC;
SAN VICENTE Block: 15 Lot: 11 .115 AC;
SAN VICENTE Block: 15 Lot: 13 .115 AC;
SAN VICENTE Block: 15 Lot: 15 .115 AC;
SAN VICENTE Block: 16 Lot: 1 .115 AC;
SAN VICENTE Block: 16 Lot: 2 .115 AC;
SAN VICENTE Block: 16 Lot: 3 .115 AC;
SAN VICENTE Block: 16 Lot: 4 .115 AC;
SAN VICENTE Block: 16 Lot: 5 .115 AC;

The applicant is Ed Garland.

BACKGROUND:

In May of 2019 Mr. Garland came in and went over his plans of a Tiny Home Community on Dorothy Street. I also issued addresses for his four parcels.

It was discovered by Jaime Embick the Community Development Director on or about December 23, 2019 that one of the homes was moved in without a Zoning or Moving Permit. I called him and informed him what he needed to do and on December 31, 2019 he submitted Zoning Permits for all four lots, he did include a sight plan but sizes of the homes were not submitted. He submitted a Moving Permit also that was stamped complete in February of 2020.

It was then that we realized the home exceeds the size allowed to be considered a “tiny home” which is 400 square feet or less and his home is 832 square feet. Manny Jaure our Code Enforcement officer went out and spoke to him about it and let him know the issue and that he had to stop development until the issue was corrected. Our Town Attorney, Mr. Scavron, also sent him a letter stating he had to stop development.

Mr. Garland is now in the process of purchasing five more parcels from Mr. Hartley. This will attach all properties involved to the Residential B Zoning District to the north which
allows single section manufactured homes. It is currently zoned Residential A which does not allow this type of home. He is requesting this change so that he can keep his current home on the property and continue with his development project.

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 Residential B-2 Zoning District.

Section 3.1.4 LUC 2010, The Residential B Mixed Housing Types (RB-2) District is intended to accommodate low, medium and moderate-density single-family, two-family, and multi-family residential development, and to provide land-use protection for areas that develop in such a manner. The RB District shall exist until the adoption of an amended official zoning map designating RB-1 and RB-2. Uses and dimensional requirements for the existing RB district shall be as established herein for the RB-2 zoning district.

Forty-three property owners in the surrounding neighborhood were contacted in writing by the Community Development Department and the applicant. Betty Hayes called with questions about the Zone Change and how it affects her property. She was not against the change. Laura Harper also called with questions about the proposed changes and after explaining to her what Mr. Garland is proposing, she was happy with it and not against it. I also received an email from Pamela Bryant and Ronald Groves stating that this proposal would impact their quality of life negatively. They stated that although they are pleased with the clean-up they are concerned with the increased traffic. I also received emails from Mary and Denise Maldonado both stating they were against the change for the reason that they did not want single-wide homes allowed in the neighborhood. Denise also stated that she was forced to purchase a double wide trailer due to the zoning requirements. Jaime Embick also received a call from Jenny Strohman and she was concerned it is turning into a trailer park and she was strongly oppose to it.

Priscilla Arredondo, Jaime Embick, Ed Garland, Tracy Bauer, and William Miller were all sworn in to testimony. Priscilla Arredondo presented the staff report for the Community Development Department.

Mr. Garland presented his case also. He stated that he requested this zone change to develop an affordable, stylish project that will enhance the value of the existing neighborhoods and will be a variety of appearances. He is not trying to do a cookie cutter home but a variety of designs. He stated that all the homes will have a drywall interior and attractive front porch to create more interaction in the neighborhood. Also, he stated
that the homes will exceed code requirements for insulation and will do xeriscaping for water conservation. He stated that in a demographic study done, it indicated many individuals want to downsize and he has over twenty potential buyers looking to downsize in a secure neighborhood with low maintenance. He stated that those that have taken a tour of the home, have all only had one vehicle so the concern with an increase of traffic would be minimal.

Bill Miller from Z3 Planners stated that this request would meet findings two and four. He stated that it would meet number four because nothing about having it change from Residential A to B or allowing single section manufactured homes would cause an unsafe or unhealthy environment for the neighborhood. He also stated that the change in zoning does not adversely affect goals of the comprehensive plan and would in fact benefit the neighborhood since there would be less vacant land, less questionable land for crime and will be developed like the neighborhood so it gets filled out. He also replied to the concern from the email about an extension of Dorothy Street to Highway 180. He added that there are no plans to connect Dorothy Street to Highway 180 and is not something that will be happening.

Tracy Bauer from Better Homes and Gardens spoke in favor of the proposed change. She stated that it will create an affordable market for a niche that is solely forgotten. She stated that a lot of people were on board for the low income housing project that went in for the fifty five and older crowd and some could not qualify. This project meets the demographic of the older single woman and that the housing market is missing for them since they cannot afford the more expensive downtown pricing. She added that proximity to downtown is a huge plus also.

Commissioner Sandor asked if they did an analysis of prevailing prices of existing homes in that neighborhood in Residential A. Tracy Bauer stated that she contacted appraisers and lenders and priced them at a range that is affordable. Sandor asked if these homes are put on the market, if will they put downward pressure on pricing of existing homes. She added that they are blazing new trails and appraisers compare it to a single wide and site built homes are not a direct comparable. Commissioner Sandor added if it would be fair to assume that if an existing neighbor put their double wide on the market, would they see a reduction in value they would be able to sell. Tracy stated that no it would not because appraised values are built on age, footage, condition and location. They would pull a comparable property in order to get an appraised value.

Commissioner Wheaton-Smith stated that some of the deeds did not include all of the lots. Mrs. Arredondo added that she made sure they are all owned by the same property owner from the County parcel map. Commissioner Seibel asked staff if this would bring in Residential B-1 and B-2 split. Mrs. Arredondo stated that since the Residential B-1 was previously added, now this will allow for the Residential B-2 to be used. Commissioner Seibel added that this should be a Residential B-2 Zoning District.
Commissioner Sandor added a question to staff about concerns about traffic. He asked if there would be any negative impact of traffic in that area if such homes were built because if a double-wide was put in, it would be the same effect on traffic. Mrs. Arredondo stated that currently four of the lots are developed and any one can go in and put a home whether site built or a double-wide home so it would not impact it differently. Commissioner Seibel asked if the shift to these smaller homes allows them to increase density. Bill Miller stated that the dimension on the lots existing today would meet for a double wide or single wide home and is not forcing a smaller home on a lot that is too small for city standards.

Commissioner Seibel stated that the issue is not the smaller homes or particular development but a Zone Change does not come with conditions and once it is changed, if they property is sold years from now, true single-wide homes can go in. Ed Garland stated that given set back requirements it does not allow two homes on one lot. Commissioner Sandor asked if his master plan will place one unit on each lot as they are laid out and Ed stated that yes and does not intend on putting two homes on one lot. Ed stated that his intent is that, it is not a mobile home park. Tracy Bauer stated that once the homes are there, they will be permanent. Mrs. Arredondo added that two homes are currently not allowed on one lot per the Land Use Code. Commissioner Seibel added that these decisions are bigger than what is currently being proposed. He stated that Mr. Garland’s intentions are admirable but this decision is likely going to outlive all of us and they have to take that into consideration and is a larger responsibility as a commission.

Commissioner Wheaton-Smith motioned for approval of the Zone Change request from Residential A to Residential B-2 Zoning District, meeting finding number four. Commissioner Sandor seconded the motion. For further discussion, Commissioner Sandor added that this is going to be an improvement to the neighborhood. They will be of good quality design and similar in nature. He stated that it would be consistent with the goals and objectives of the general plan. Commissioner Wheaton-Smith stated that they are not single-wide homes but small houses that can be relocated. He added that the front porches is something he feels is very positive and this does present the ability to raise the values in the neighborhood.

**FINDINGS OF FACT OR OTHER FACTORS APPARENTLY CONSIDERED:**

The applicant requests a zone change for the property zoning to be changed from Residential A Zoning District to Residential B-2 Zoning District.

**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 three commissioners hereby recommends the Applicant’s request for a Zone Change to the Silver City Town Council. With the request meeting the following findings:
4. The proposed amendment will not adversely impact the public health, safety or general welfare and will promote the original purposes of the Land Use Code.

Sincerely,

\[Signature\]
Priscilla Arredondo
Planner/Zoning Administrator
October 14, 2020

\[Signature\]
Nickolas Seibel
Chair

November 2, 2020
Date
STAFF REPORT TO THE TOWN COUNCIL

Mtg. Date: November 10, 2020

Request: **ZC 20-02**: Request for a Map Amendment/Zone Change from a Residential A Zoning District to Residential B-2 Zoning District for a tract of land described as:

- SAN VICENTE Block: 15 Lot: 9 .115 AC;
- SAN VICENTE Block: 15 Lot: 11 .115 AC;
- SAN VICENTE Block: 15 Lot: 13 .115 AC;
- SAN VICENTE Block: 15 Lot: 15 .115 AC;
- SAN VICENTE Block: 16 Lot: 1 .115 AC;
- SAN VICENTE Block: 16 Lot: 2 .115 AC;
- SAN VICENTE Block: 16 Lot: 3 .115 AC;
- SAN VICENTE Block: 16 Lot: 4 .115 AC;
- SAN VICENTE Block: 16 Lot: 5 .115 AC;

The property addresses are 107, 109, 111, and 113 Dorothy Street and the other parcels are not addressed. The applicant is Ed Garland.

Analysis: In May of 2019 Mr. Garland came in and went over his plans of a Tiny Home Community on Dorothy Street. I also issued addresses for his four parcels.

It was discovered by Jaime Embick the Community Development Director on or about December 23, 2019 that one of the homes was moved in without a Zoning or Moving Permit. I called him and informed him what he needed to do and on December 31, 2019 he submitted Zoning Permits for all four lots, he did include a sight plan but sizes of the homes were not submitted. He submitted a Moving Permit also that was stamped complete in February of 2020.

It was then that we realized the home exceeds the size allowed to be considered a “tiny home” which is 400 square feet or less and his home is 832 square feet. Manny Jaure our Code Enforcement officer went out and spoke to him about it and let him know the issue and that he had to stop development until the issue was corrected. Our Town Attorney Mr. Scavron also sent him a letter stating he had to stop development.

Mr. Garland is now in the process of purchasing five more parcels from Mr. Hartley. This will attach all properties involved to the Residential B-2 Zoning District to the north which allows single section manufactured homes. It is currently zoned Residential A which does not allow this type of home. He is requesting this change so that he can keep his current home on the property and continue with his development project.

Ordinance No 1276 defines Tiny House: “A dwelling that is 400 square feet or less in floor area excluding lofts placed upon a permanent foundation, but does not include structures on chassis with permanent axles or recreational vehicles.”
Section 3.1.4 LUC 2010, The Residential B (B-2) Mixed Housing Types District is intended to accommodate low, medium and moderate-density single-family, two-family, and multi-family residential development, and to provide land-use protection for areas that develop in such a manner. The RB District shall exist until the adoption of an amended official zoning map designating RB-1 and RB-2. Uses and dimensional requirements for the existing RB district shall be as established herein for the RB-2 zoning district.

Town of Silver City Comprehensive Plan of 2017, page 3-20. Silver City: A Town of Neighborhoods; “One of Silver City’s strengths has been and should continue to be its neighborhoods, and public policy and planning efforts should continue to support strong neighborhoods. Future planning efforts should focus on neighborhood planning initiatives and the creation of area plans and neighborhood plans to direct future growth for the different areas of the Town.”

Section 1.3.3 of the LUC 2010; “To promote good planning practice and to provide a regulatory mechanism that includes appropriate performance standards for development within the Town.”

Individual amendments to the Official Zoning Map on a case-by-case basis, like this request, provide the Town and its residents some flexibility in meeting a long term goal of the land Use and Zoning Code of 2010. Based on the objectives of the Comprehensive Plan and the Land Use Code, the Town hopes to align the Official Zoning Map with the Land Use Code, the Comprehensive Plan, property owners’ wishes and the ways that the Town has grown and developed.

After departmental review of the application, the Code Enforcement, Utilities, Fire, Police, Public Works, and Meters Division had no comment. The Engineering Department stated to consider some sort of master plan for the development of the lots, so the permits do not come in piecemeal.

Citizen Participation Report:
As required by Section 6.2.11 of the Land Use Code of 2010, The Community Development Department contacted the 43 property owners as identified by Grant County tax rolls, within 300 feet of the affected area by mail, about the proposed Zone Change. I received a call from Jenny Strohman. She had some questions and concerns with this development and opposes the request. Wendy Phillips came in to review the file and ask questions. She was representing a few of the neighbors with concerns.

Findings: When the Planning and Zoning Commission makes its recommendation to the Town Council about the request at hand, it shall, at a minimum, make at least one of the following findings:
1. The proposed amendment is in substantial compliance (or not in substantial compliance) with the Town’s Comprehensive Plan;
2. The proposed amendment will not adversely affect the implementation of the goals and policies of the Town’s Comprehensive Plan (or it will adversely affect the implementation of the goals and policies of the Town’s Comprehensive Plan);
3. The proposed amendment is justified in order to correct a mistake in the Town’s Comprehensive Plan (an error in the assumptions about the property, surrounding uses population forecasts, rate of land consumption or other factors);
4. The proposed amendment will not adversely impact the public health, safety or general welfare and will promote the original purposes of the Land Use Code (or it will adversely impact the public health, safety, or general welfare and will not promote the original purposes of the Land Use Code);
5. The proposed amendment responds to changed conditions, such as changes in assumptions on capital investments, road locations, population trends, land committed to development, density, use of further studies that have been completed since adoption of the Land Use Code, (or does not respond to changed conditions);
6. The proposed amendment is necessary in order to respond to state and/or federal legislation.
7. The proposed amendment provides additional flexibility in meeting the objectives of this Land Use Code without lowering the standards of the Land Use Code.

Opinion: It is the opinion of the Community Development Department and Recommendation from the Planning and Zoning Commission, that this Zone Change meets the following findings.

4. The proposed amendment will not adversely impact the public health, safety or general welfare and will promote the original purposes of the Land Use Code. This proposed change will stay aligned with the particular purposes of the Land Use Code, specifically purpose 1.2.3 which states: “To promote good planning practice and to provide a regulatory mechanism that includes appropriate performance standards for development within the Town.” “To encourage a more efficient use of land and public services and to reflect changes in technology of land development.”

Conditions: None

Submitted by:

Priscilla Arredondo,
Planner/Zoning Administrator
Community Development Department
October 26, 2020
This application provides a means for changing the boundaries of the Official Zoning Map (zone change). The request must be heard by the Planning and Zoning Commission and the Town Council. Please fill out the application completely and submit with the following documentation.

REQUIRED DOCUMENTS:
- [ ] Proof of ownership - copy of deed
- [ ] Paragraph explaining the reason for the zone change request.

The application fee is $100.00.

APPLICATION DATE: 8/26/20

APPLICANT INFORMATION:
Name: Ed Garland  Proprietary interest in property:
Property street address: 107, 109, 111, and 113 Dorothy Street, and parcels that do not have address located on Dorothy and Victoria Streets
Mailing address: 5046 Diamond Mine Road, Las Cruces, NM 88011
Phone: Alternate phone:  Email:

OTHER CONTACT (Agent/Surveyor/Other):
Name: Bill Miller  Title:
Name of business: Z3 Planners & Surveyors
Mailing address: 3435 Highway 180 East, Silver City, NM 88061
Phone: 575-386-2252  Alternate phone:  Email:

PROPERTY INFORMATION (property must be located within Town limits):
Currently zoned: Residential A  Proposed zoning: Residential B
Property street address: 107, 109, 111, and 113 Dorothy Street, and parcels that do not have address located on Dorothy and Victoria Streets
Adjacent streets: Theodore Street
Located in floodplain? X No  FEMA map #: 35017G0994E

LEGAL DESCRIPTION:
Platted: Lot(s) 1, 2, 3, 4, and 5  Blocks: 16
Subdivision/Addition: San Vicente
Section: 10  Township: 18 South  Range: 14 West
Total area: 45,084.6 square feet  Property code: 3-081-104-236-103

(The property code # can be obtained from the County Assessor's Office or from the tax bill.)
3-081-104-231-103
3-081-104-221-103
3-081-104-211-103
3-081-104-211-113
3-081-104-206-103
3-081-104-206-113
3-081-104-201-103

Continued on other side

August 18, 2020
As the Applicant, I state that the information provided in this Application and all attachments are true and accurate to the best of my knowledge. I understand that inaccurate information may result in delayed review and scheduling of this item before the Planning Commission and/or the Town Council.

Signature of Applicant  

Date  

FOR COMMUNITY DEVELOPMENT STAFF USE ONLY

Fee $100  
Cash/Check # 4934  
Paid 8/26/20  
Receipt # 775992  

To be heard by the Planning and Zoning Commission on October 4, 2020  

Decision of Planning and Zoning Commission  

Approved  

Denied  

Date of Planning and Zoning Commission hearing  

Staff initials  

To be heard by the Town Council on November 10, 2020

August 18, 2020
Zone Change (Map Amendment) – Case #ZC

Applicant: Ed Garland
Property Street Address- 107, 109, 113, and 113 Dorothy Street, and parcels that do not have addresses located on Dorothy and Victoria Streets
Other Contact: Bill Miller, Z3 Planners & Surveyors

Reason for Zone Change: This zone change is requested so that single section manufactured homes could be placed on the property.
WARRANTY DEED

Silver City Partners I, LLC, for consideration paid, hereby grants to Ed Garland, whose address is 212 W. Hadley, Las Cruces, NM 88005, the following described real estate in Grant County, New Mexico:

Lot 11 of the San Vicente Subdivision in the town of Silver City, Grant County, New Mexico, which subdivision was filed in the Office of the County Clerk of Grant County, New Mexico, on August 28, 1945 in Book 1, Page 37 of Plat Records.

Subject to the reservations contained in the patent, easements of record and restrictive covenants, if any.

With special warranty covenants.

Witness my hand this 25 day of June, 2019.

Silver City Partners I, LLC
By: [Signature]

Acknowledgment for Natural Persons

STATE OF NEW MEXICO
COUNTY OF Grant

This instrument was acknowledged before me on this 25 day of June, 2019 by [Signature] on behalf of Silver City Partners I, LLC.

Cheryl L. Ely
Notary Public

My Commission Expires:

7-10-27
WARRANTY DEED

Silver City Partners I, LLC, for consideration paid, hereby grants to Ed Garland, whose address is 212 W. Hadley, Las Cruces, NM 88005, the following described real estate in Grant County, New Mexico:

Lot 9 of the San Vicente Subdivision in the town of Silver City, Grant County, New Mexico, which subdivision was filed in the Office of the County Clerk of Grant County, New Mexico, on August 28, 1945 in Book 1, Page 37 of Plat Records.

Subject to the reservations contained in the patent, easements of record and restrictive covenants, if any.

With special warranty covenants.

Witness my hand this 25 day of June, 2019.

Silver City Partners I, LLC
By: ______________________________

Acknowledgment for Natural Persons

STATE OF NEW MEXICO                                      )
COUNTY OF Grant                         ) ss:

This instrument was acknowledged before me on this 25 day of June, 2019
by Douglas V. Dexter on behalf of Silver City Partners I, LLC.

Notary Public

My Commission Expires:

2-10-23
WARRANTY DEED

Maritza Hartley Alva

for consideration paid, grant

Dennis Hartley & Monica Hartley

to

whose address is 4655 Beryl Street, Las Cruces, New Mexico 88012

All of her rights title and interest in

The following described real estate in Grant County, New Mexico:

Lots 1, 2, 3, 4 and 5, Block 16, San Vicente Subdivision to the town of Silver City, Grant County, New Mexico, according to the survey and plat thereof made by D.R.W. Wager-Smith Surveyor, filed in the office of the County Clerk of Grant County, New Mexico, October 28, 1945, in Book 1 of Plat at Page 37.

with warranty covenants.

Witnesses

(Seal)

this day of 20

(Seal)

(Seal)

(Seal)

ACKNOWLEDGEMENT FOR NATURAL PERSONS

STATE OF NEW MEXICO

COUNTY OF Grant

This instrument was acknowledged before me on October 22nd 2018

by Maritza Hartley Alva

My commission expires 2018

Notary Public

ACKNOWLEDGEMENT FOR CORPORATION

STATE OF NEW MEXICO

COUNTY OF Grant

This instrument was acknowledged before me on 20

by

Title of Officer

corporation, on behalf of said corporation

Expiration Date

Notary Public
Dennis Hartley and Monica Hartley
4855 Berly Street,
Las Cruces, NM 88012

August 31, 2020

Priscilla Arredondo
Town of Silver City
P.O. Box 1188
Silver City, NM 88062

Hello,

We are the owners of Lots 1, 2, 3, 4, and 5 of Block 16, San Vicente Subdivision, Town of Silver City, Grant County, New Mexico. We are allowing Ed Garland to act as our representative in the application for zone change from Residential A to Residential B for the lots referenced above.

Sincerely,

Dennis Hartley

8/30/2020 6:32:50 PM MDT
Dennis Hartley and Monica Harley
STAFF CHECKLIST/PUBLIC HEARING CASES
COMMUNITY DEVELOPMENT DEPARTMENT
1203 N. Hudson/PO Box 1188, Silver City, NM 88062
(575) 534-6348  Fax (575) 534-6381

Applicant's Name: Ed Garland  Case No.: 20-02
Action Requested: Zone Change  Date Submitted: 8/24
PZ meeting date: Oct 4, 2020  Council meeting date:  

DATE & INITIAL the following:
9/14 PA Routing memo sent
8/30 PA Original application signed by owner
N/A 10 copies of attachments
9/1 Site visit

SIGN(S) for hearing:
Applicant is required to purchase and post 1 number of signs.
Date purchased: 
Confirmation that sign posted: 

******************************************************************************

Please DATE AND INITIAL as each applicable item is completed and added to file:

Planning and Zoning Commission Meeting
8/31 PA Application deemed complete
9/14 PA Added to agenda
9/14 PA Notification letters mailed
9/12 PA Report submitted
10/14 Notice of Decision mailed

Council Meeting
8/31 Application deemed complete
10/9 Notification letters mailed
11/3 PA Packet submitted to Clerk
11/3 PA Report faxed to PZC Chair
9/14 Notice of Decision mailed

******************************************************************************

UTILITIES
Reviewed by: Rollin Engels  Date: 9/16/20
Comments:  

-------------------------------------------------------------------------

X  No Comments  Comments attached as separate letter

FIRE
Reviewed by:  Date: 9/16/20
Comments:  

-------------------------------------------------------------------------

X  No Comments  Comments attached as separate letter
PUBLIC WORKS
Reviewed by [Signature] Date: 9-17-20
Comments

☑ No Comments Comments attached as separate letter

POLICE
Reviewed by [Signature] Date: 9-16-20
Comments

☐ No Comments Comments attached as separate letter

ENGINEERING
Reviewed by [Signature] Date: 9/21/20
Comments Consider some sort of master plan for the development of the lots, so that permits do not come in piecemeal.

☐ No Comments Comments attached as separate letter

METERS
Reviewed by [Signature] Date: 9/16/20
Comments

☑ No Comments Comments attached as separate letter

CODE ENFORCEMENT
Reviewed by [Signature] Date: 9-21-20
Comments

☐ No Comments Comments attached as separate letter
Applicant Name: Ed Garland
Type of Request: Zone Change
Subject Property Street Address: lots on Dorothy St
Number of Property Owners Contacted: 43

Please indicate number of owners contacted by each method:

- Telephone call
- Personal visit
- Neighborhood meeting
- Letter

Other (please describe):

PLEASE WRITE A BRIEF DESCRIPTION OF EACH OF THE FOLLOWING:

What concerns, issues and problems were expressed by the neighbors?
(If none, please indicate):

none

How will the applicant address the above concerns, issues and problems?

none

Are there any issues, concerns, or problems raised that the applicant will not address?
(Please explain):

none

Are the majority of the property owners supportive of the applicant's proposal?
- Yes
- No

If more than one method of contact was used, which generated the most response?
CITIZEN PARTICIPATION ORDINANCE - ORDINANCE 1045
ADOPTED 12/11/2001 - APPLICANT INFORMATION

All applicants submitting an application to the Planning and Zoning Commission are required to comply with the requirements of the Citizen Participation Ordinance. The procedure is outlined below, along with the requirements and the Citizen Participation Report form.

1) Applicant submits application form and all supporting documentation for cases requiring a hearing before the Planning and Zoning Commission to the Planning Department. Unless waived according to the ordinance, all applicants are required to comply with the following procedure. Failure to comply may be taken into consideration by the Commission.

2) The Planning Department determines the target notification area, which, at minimum includes all property owners within 300 feet of the subject site. The Planning Department compiles the property owner notification list and provides a copy to the applicant.

3) The applicant shall contact all parties on the contact list. The applicant shall note the date(s) and time(s) each property owner is contacted and the method(s) of contact.

4) Prior to the scheduled public hearing (indicated on the application) the applicant shall provide those within the target notification area with an opportunity to discuss the application, and to express any concerns, issues, or problems they have with the proposal. The citizen participation contact procedures may include any of the following:
   a. A neighborhood meeting or open house at which the applicant presents the proposal and gives those affected or otherwise interested an opportunity to comment;
   b. A letter sent to all parties on the contact list describing and providing a way for the party to contact the applicant to discuss the proposal; and/or
   c. A personal visit to each party on the contact list to discuss the proposal.

5) The applicant is strongly encourage to work with those within the target notification area to resolve as many differences as possible to the formal public hearing. This may require that more than one citizen participation contact procedure be used.

6) After completion of the citizen participation procedures, the applicant shall complete the Citizen Participation Report form (front) and submit the contact list to the Planning Department. The form and list must be submitted by the date designated on the Planning and Zoning Commission Hearing Schedule.

7) At a minimum, the Citizen Participation Report shall include the following information:
   a. General information regarding the application;
   b. Techniques the applicant used to involve the public;
   c. A written summary of the concerns, issues, and problems expressed during the citizen participation process, including:
      1. The substance of the concerns, issues, and problems;
      2. How the applicant addressed or intends to address the concerns, issues, and problems expressed during the process; and
      3. Concerns, issues, and problems that the applicant is unwilling or unable to address, and why.
October 15, 2020

Dear Property Owner,

On Tuesday November 10, 2020 the Town Council will hold a public hearing on a request for a Map Amendment/Zone Change from a Residential A Zoning District to Residential B-2 Zoning District for a tract of land described as:

- SAN VICENTE Block: 15 Lot: 9 .115 AC;
- SAN VICENTE Block: 15 Lot: 11 .115 AC;
- SAN VICENTE Block: 15 Lot: 13 .115 AC;
- SAN VICENTE Block: 15 Lot: 15 .115 AC;
- SAN VICENTE Block: 16 Lot: 1 .115 AC;
- SAN VICENTE Block: 16 Lot: 2 .115 AC;
- SAN VICENTE Block: 16 Lot: 3 .115 AC;
- SAN VICENTE Block: 16 Lot: 4 .115 AC;
- SAN VICENTE Block: 16 Lot: 5 .115 AC;

The property addresses are 107, 109, 111, and 113 Dorothy Street and the other parcels are not addressed. The applicant is Ed Garland.

The Residential B Mixed Housing Types (B-2) District is intended to accommodate low, medium and moderate-density single-family, two-family, and multi-family residential development, and to provide land-use protection for areas that develop in such a manner. The RB District shall exist until the adoption of an amended official zoning map designating RB-1 and RB-2. Uses and dimensional requirements for the existing RB district shall be as established herein for the RB-2 zoning district.

Should you have any questions regarding this item, the file may be reviewed by appointment only during regular business hours (Monday through Friday, 8 am to 4:30 pm) at the Community Development Department offices, located on the second floor of the Washington Federal/City Hall Annex building at 1203 N. Hudson Street, or call 534-6348.

The meeting will be held remotely via Go To Meeting and in compliance with the NM Open Meetings Act. To participate in the Public Hearing please call Priscilla Arredondo at 575-534-6372 by 4:00 p.m. on November 10 for instructions. The public may attend the meeting as follows: Town Council Meeting on Tuesday, November 10, 2020 at 6:00 PM (MDT). Please join the meeting from your computer, tablet or smartphone.
Public input may be submitted by email by 4:00 PM on November 10 to Priscilla Arredondo at parredondo@silvercitymail.com. Please enter “Public input” in the subject line of the email. The comments will be read into the record during the meeting. Town Council Meeting Nov 10, 2020 6:00 PM-9:00PM (MDT). https://global.gotomeeting.com/join/728278285. You can also dial in using your phone. 1 (408) 650-3123. Access Code: 728-278-285.

Sincerely,

Priscilla Arredondo
Town of Silver City
Planner/Mapper/Zoning Administrator
parredondo@silvercitymail.com
575-534-6372
NOTICE OF INTENT
TO REPEAL ORDINANCE NO. 1290 AND ADOPT AN ORDINANCE DECLARING
THE INTENTION OF THE TOWN TO CONTINUE THE EXISTENCE AND
OPERATION OF ITS “LOCAL LABOR-MANAGEMENT RELATIONS BOARD”, AND
FURTHER, AMENDING CHAPTER 38, ARTICLE II (COLLECTIVE BARGAINING),
SECTIONS 38-22 THROUGH 38-35 OF THE TOWN OF
SILVER CITY MUNICIPAL CODE

The Council of the Town of Silver City, Grant County, New Mexico hereby gives notice of its intention to adopt a proposed amendment to the Town of Silver City Code of Ordinances. This notice is given the title as follows:

ORDINANCE NO. 1297

TO REPEAL ORDINANCE NO. 1290 AND ADOPT AN ORDINANCE DECLARING
THE INTENTION OF THE TOWN TO CONTINUE THE EXISTENCE AND
OPERATION OF ITS “LOCAL LABOR-MANAGEMENT RELATIONS BOARD”,
AND FURTHER, AMENDING CHAPTER 38, ARTICLE II (COLLECTIVE BARGAINING), SECTIONS 38-22 THROUGH 38-35 OF THE TOWN OF
SILVER CITY MUNICIPAL CODE

WHEREAS, in 1975 and as later amended in 2008, the Town of Silver City adopted an ordinance which governed the labor-management relations between the Town, certain of its employees, and any labor or employee organization representing or seeking to represent such employees; and

WHEREAS, such ordinances are codified in the Town’s Municipal Code in Chapter 38, Article II; and

WHEREAS, as part of the comprehensive regulation of labor-management relations, the aforementioned ordinances created a Local Labor-Management Relations Board (hereinafter, the “Local Board”) all consistent with the statutes, rules, and regulations of the State; an,

WHEREAS, the New Mexico State Legislature has passed certain legislation which affects the substance of Article, including the creation and application of certain new rules and
regulations which are incumbent upon the Town to adopt in order to keep and maintain its Local Board; and

WHEREAS, being the intention of the Town of Silver City to keep and maintain its Local Board, the Town Council has adopted the amendments described herein to comport with State Statutory mandates and declares its intention to continue the existence and operation of its Local Board; and

WHEREAS, Ordinance No. 1290 was adopted for the same purpose on May 12, 2020 and was determined to have been adopted prematurely, and is therefore repealed; and

WHEREAS, the Town Council of the Town of Silver City finds that the amendments to the Town’s Municipal Code as made herein are necessary for the health, safety and welfare of the Town;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF SILVER CITY, GRANT COUNTY, NEW MEXICO, that:

As a matter of first concern and in compliance with §10-7E-10 NMSA 1978, the Town Council hereby affirms that the Town of Silver City intends to, and shall continue to, maintain and operate its Local Board, consistent with the rules and regulations expressed and codified in the Town of Silver City Municipal Code, Chapter 38, §§38-22 et seq., as amended, and directs the Town Manager to forward a copy of this Ordinance and any other documents as required to be submitted to the State of New Mexico Labor Relations Board. The Town Council adopts the following amendments to assure consistency between its Municipal Code provisions and those provisions mandated by the State Legislature to take effect July 1, 2020.

Chapter 38, Section 38-22 is hereby deleted and replaced as follows:

Section 38-22. Definitions. All definitions set forth in NMSA 1978, §10-7E-4 are hereby
incorporated herein by reference as if fully set forth in this article.

Chapter 38, Section 38-26 (a) and its title is hereby deleted and replaced as follows:

Section title is to be “Rights of public employees.”

(a) Public employees, other than management employees and confidential employees, may
form, join or assist a labor organization for the purpose of collective bargaining through
representatives chosen by public employees without interference, restraint or coercion and shall
have the right to refuse those activities. Further, public employees have the right to engage in
other concerted activities for mutual aid or benefit. This right shall not be construed as
modifying the prohibition on strikes set forth in Section 10-7E-21 NMSA 1978.

Section 38-26 (c) is deleted and replaced with:

(c) There shall be no union shop, agency shop, or other compulsory forms of unionization
negotiated into any collective bargaining agreement with the Town government.

Section 38-26 (g) is deleted and replaced with:

(g) The Town shall provide an exclusive representative of an appropriate bargaining unit
reasonable access to employees within the bargaining unit, including the following:

(1) for purposes of newly hired employees in the bargaining unit, reasonable access
includes:

(a) the right to meet with new employees, without loss of employee
compensation or leave benefits; and

(b) the right to meet with new employees within thirty days from the date of hire
for a
period of at least thirty minutes but not more than one hundred twenty minutes, during new
employee orientation or, if the public employer does not conduct new employee orientations, at
(2) for purposes of employees in the bargaining unit who are not new employees, reasonable access includes:

(a) the right to meet with employees during the employees' regular work hours at the employees' regular work location to investigate and discuss grievances, workplace-related complaints and other matters relating to employment relations; and

(b) the right to conduct meetings at the employees' regular work location before or after the employees' regular work hours, during meal periods and during any other break periods.

A new subsection (h) under Section 38-26 is added, which states:

(A) The Town shall provide the information in the employer's records to the exclusive representative within ten days from the date of hire for newly hired employees in an appropriate bargaining unit, and every one hundred twenty days for employees in the bargaining unit who are not newly hired employees, in an editable digital file format agreed to by the exclusive representative, the following information for each employee in an appropriate bargaining unit:

(1) the employee's name and date of hire;

(2) contact information, including:

(a) cellular, home and work telephone numbers;

(b) a means of electronic communication, including work and personal electronic mail addresses; and

(c) home address or personal mailing address; and

(3) employment information, including the employee's job title, salary and work site location.
(B) The information shall be kept confidential by the labor organization and its employees or officers. Apart from the disclosure required by this subsection, and notwithstanding any provision contained in the Inspection of Public Records Act, the public employer shall not disclose the information described herein this section, or public employees' dates of birth or social security numbers to a third party.

**A new subsection (i) under Section 38-26** is added, which states:

The Town shall permit an exclusive representative to use the Town’s facilities or property, whether owned or leased by the employer, for purposes of conducting meetings with the represented employees in the bargaining unit. An exclusive representative may hold the meetings described in this section at a time and place set by the exclusive representative. The exclusive representative shall have the right to conduct the meetings without undue interference and may establish reasonable rules regarding appropriate conduct for meeting attendees. The meetings described in this section shall not interfere with the public employer's operations.

**A new subsection (j) under Section 38-26** is added, which states:

(j). An exclusive representative shall have the right to use the electronic mail systems or other similar communication systems of a public employer to communicate with the employees in the bargaining unit regarding:

1. collective bargaining, including the administration of collective bargaining agreements;
2. the investigation of grievances or other disputes relating to employment relations; and
3. matters involving the governance or business of the labor organization.
4. Nothing in this section prevents a public employer from providing an exclusive
representative access to employees within the bargaining unit beyond the reasonable access required under this section or limits any existing right of a labor organization to communicate with public employees.

Section 38-30(a) is deleted in its entirety and replaced with:

(a) The Town government or its representative(s) shall not:

(1) discriminate against a public employee with regard to terms and conditions of employment because of the employee's membership in a labor organization;

(2) interfere with, restrain or coerce a public employee in the exercise of a right guaranteed pursuant to the Public Employee Bargaining Act or use public funds to influence the decision of its employees or the employees of its subcontractors regarding whether to support or oppose a labor organization that represents or seeks to represent those employees, or whether to become a member of any labor organization; provided, however, that this subsection does not apply to activities performed or expenses incurred:

(a) addressing a grievance or negotiating or administering a collective bargaining agreement;

(b) allowing a labor organization or its representatives access to the public employer's facilities or properties;

(3) performing an activity required by federal or state law or by a collective bargaining agreement;

(4) negotiating, entering into or carrying out an agreement with a labor organization;

(5) paying wages to a represented employee while the employee is performing duties if the payment is permitted under a collective bargaining agreement; or

(6) representing the public employer in a proceeding before the board or a local board or
in a judicial review of that proceeding;

(7) dominate or interfere in the formation, existence or administration of a labor organization;

(8) discriminate in regard to hiring, tenure or a term or condition of employment in order to encourage or discourage membership in a labor organization;

(9) discharge or otherwise discriminate against a public employee because the employee has signed or filed an affidavit, petition, grievance or complaint or given information or testimony pursuant to the provisions of the Public Employee Bargaining Act or because a public employee is forming, joining or choosing to be represented by a labor organization;

(10) refuse to bargain collectively in good faith with the exclusive representative;

(11) refuse or fail to comply with a provision of the Public Employee Bargaining Act or board rule; or

(12) refuse or fail to comply with a collective bargaining agreement.

Section 38-33. Negotiating procedures., subsection (f) Resolving disputes. is deleted in its entirety and replaced with a new title and the following subsections, which shall read:

(f) Impasse and resolving disputes.

(1) The following impasse procedures shall be followed by the Town and labor representatives.

(a) if an impasse occurs, either party may request from the board or local board that a mediator be assigned to the negotiations unless the parties can agree on a mediator. A mediator with the federal mediation and conciliation service shall be assigned by the board or local board to assist negotiations unless the parties agree to another mediator; and

(2) if the impasse continues after a thirty-day mediation period, either party may request
a list of seven arbitrators from the federal mediation and conciliation service. One arbitrator shall be chosen by the parties by alternately striking names from such list. Who strikes first shall be determined by coin toss. The arbitrator shall render a final, binding, written decision resolving unresolved issues pursuant to Subsection H of Section 10-7E-17 NMSA 1978 and the Uniform Arbitration Act no later than thirty days after the arbitrator has been notified of selection by the parties. The arbitrator's decision shall be limited to a selection of one of the two parties' complete, last, best offer. The costs of an arbitrator and the arbitrator's related costs conducted pursuant to this subsection shall be shared equally by the parties. Each party shall be responsible for bearing the cost of presenting its case. The decision shall be subject to judicial review pursuant to the standard set forth in the Uniform Arbitration Act.

(3) The Town’s representative(s) may enter into a written agreement with the exclusive representative setting forth an alternative impasse resolution procedure.

(4) In the event that an impasse continues after the expiration of a contract, the existing contract will continue in full force and effect until it is replaced by a subsequent written agreement. However, this shall not require the public employer to increase any employees' levels, steps or grades of compensation contained in the existing contract.

Section 38-34 (a) is amended to include two new subsections, (5) and (6) which shall read:

(5) The board has the power to enforce provisions of the Public Employee Bargaining act through the imposition of appropriate administrative remedies, actual damages related to dues, back pay including benefits, reinstatement with the same seniority status that the employee would have had but for the violations, declaratory or injunctive relief or provisional remedies, including temporary restraining orders or preliminary injunctions. No punitive damages or attorney fees may be awarded by the board.
(6) The board shall maintain current versions of its rules on the Town’s website, along with a current listing of the members of the board and shall within 30 days notify the State Board of any revisions of its rules or change in its membership.

Section 38-34 b. is deleted in its entirety and replaced with:

(b) State rules to govern. The rules adopted by the board shall be consistent with the rules promulgated by the New Mexico Public Employee Labor Relations Board. Upon a conflict between any rule or regulation in this Article and the applicable State rules, such conflict shall be decided in favor of the State rules.

PASSED, ADOPTED AND APPROVED by vote of the Council of the Town of Silver City, Grant County, New Mexico, this _____ day of ________________, 2020.

TOWN OF SILVER CITY

(Signature)

Ken Ladner, Mayor

Attest:

________________________________
Ann L. Mackie, Town Clerk

Consideration of the final adoption of such proposed ordinance will not take place until at least two (2) weeks subsequent to the date of this notice and only at a public meeting called and held in accordance with Section 3-17-3, N.M.S.A. 1978. Consideration of adoption of said ordinance is currently scheduled for and will not take place prior to _________________.

________________________________
Ann L. Mackie, Town Clerk

________________________________
Date
STATE OF NEW MEXICO
MUNICIPALITY OF SILVER CITY
RESOLUTION NO. 2020-23

A RESOLUTION AMENDING THE APPROVED AND ADOPTED BUDGET FOR THE
FISCAL YEAR COMMENCING JULY 1, 2020 THROUGH JUNE 30, 2021 AND FOR
MUNICIPAL PURPOSE IN THE TOWN OF SILVER CITY, NEW MEXICO,
TRANSFERRED AND APPROPRIATING FUNDS THEREOF.

WHEREAS, the Town Council adopted a budget for the Town of Silver City for the fiscal period
beginning the first day of July 2020 through the last day of June 2021; and

WHEREAS, unanticipated obligations and revenues have now been revealed requiring and
justifying the budgetary increases as follows; and

WHEREAS, it has been determined that resources are available, and are sufficient to provide for
requirement as set forth above in the designated funds, respectively; and

WHEREAS, the Town Clerk of the Town of Silver City has submitted the same to the Council
and the Council has received said recommended adjustments, Appendix “A” attached hereto, and
found them to be acceptable and in conformance with the needs of the Town of Silver City’s
Budget for the fiscal year 2020-2021;

NOW THEREFORE, BE IT RESOLVED by the Town Council of the Town of Silver City,
Grant County, New Mexico;

SECTION I: The budget approved by the Town is hereby amended for fiscal period July 1, 2020
to June 30, 2021 pursuant to the Town Manager’s aforesaid recommendation.

SECTION II: That the Local Government Division of the State Department of Finance and
Administration is hereby requested to authorize and approve the budgetary increases, decreases,
and transfers enabled by this Resolution.

SECTION III: The Town Council, considering the need, safety and welfare of the Town, had
determined and approved the adoption of this Resolution.

SECTION IV: This Resolution shall be in full force and effect from and after its passage as
provided by law.

PASSED, ADOPTED AND APPROVED by the Town Council of the Town of Silver City this
10th day of November, 2020.

(Seal)

Ken Ladner, Mayor

Attest:

Ann L. Mackie, Town Clerk

Resolution No. 2020-23

Page 1, Appendix A follows
# TOWN OF SILVER CITY
## SCHEDULE OF BUDGET ADJUSTMENTS
### Appendix A

<table>
<thead>
<tr>
<th>(A) RESOLUTION NUMBER</th>
<th>(B) FUND</th>
<th>(C) REVENUE EXPENDITURE TRANSFER (TO or FROM)</th>
<th>(D) APPROVED BUDGET</th>
<th>(E) ADJUSTMENT</th>
<th>(F) ADJUSTED BUDGET</th>
<th>(G) PURPOSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020-23 347</td>
<td>REVENUE</td>
<td>$0</td>
<td>$489,375</td>
<td>$489,375</td>
<td>New Revenue - Cares Act Local Government Grant</td>
<td></td>
</tr>
<tr>
<td>2020-23 347</td>
<td>EXPENDITURE</td>
<td>$0</td>
<td>$489,375</td>
<td>$489,375</td>
<td>New Expenditure - Cares Act Local Government Grant</td>
<td></td>
</tr>
<tr>
<td>2020-23 348</td>
<td>REVENUE</td>
<td>$0</td>
<td>$359,438</td>
<td>$359,438</td>
<td>New Revenue - Cares Act Small Business Grant</td>
<td></td>
</tr>
<tr>
<td>2020-23 348</td>
<td>EXPENDITURE</td>
<td>$0</td>
<td>$359,438</td>
<td>$359,438</td>
<td>New Expenditure - Cares Act Small Business Grant</td>
<td></td>
</tr>
<tr>
<td>2020-23 501</td>
<td>EXPENDITURE</td>
<td>$0</td>
<td>$1,398</td>
<td>$1,398</td>
<td>Increase in Expenditures - 2018 CDBG Grant</td>
<td></td>
</tr>
<tr>
<td>2020-23 501</td>
<td>TRANSFER TO</td>
<td>$0</td>
<td>$1,398</td>
<td>$1,398</td>
<td>New Transfer In - 2018 CDBG Grant</td>
<td></td>
</tr>
<tr>
<td>2020-23 071</td>
<td>TRANSFER FROM</td>
<td>($757,407)</td>
<td>($1,398)</td>
<td>($758,805)</td>
<td>Increase Transfer Out from Water Sewer Fund</td>
<td></td>
</tr>
<tr>
<td>2020-23 349</td>
<td>REVENUE</td>
<td>$0</td>
<td>$3,100</td>
<td>$3,100</td>
<td>New Revenue - FM Global Fire Prevention Grant</td>
<td></td>
</tr>
<tr>
<td>2020-23 349</td>
<td>EXPENDITRE</td>
<td>$0</td>
<td>$3,100</td>
<td>$3,100</td>
<td>New Expenditure - FM Global Fire Prevention Grant</td>
<td></td>
</tr>
</tbody>
</table>

Total: $1,705,224
LEGAL NOTICE

The Town of Silver City Council will hold a remote Regular Meeting on Tuesday, November 10, 2020 at 6:00 PM. The meeting will be held remotely via GoToMeeting and in compliance with the NM Open Meetings Act. Please join the meeting from your computer, tablet or smartphone. Silver City Town Council Meeting on Tuesday, November 10, 2020 6:00 PM - 9:00 PM (MDT). https://global.gotomeeting.com/join/728278285

You can also dial in using your phone. United States: +1 (408) 650-3123
Access Code: 728-278-285

Public input must be submitted by email by 4:00 PM on November 9, 2020 to the Town Clerk at townclerk@silvercitynm.gov. Please enter “Public Input” in the subject line of the email. The comments will be distributed to the Mayor and Council and be entered into the record of the Council Meeting. The action items on the agenda include:

Approval of Minutes- October 13, 2020 Regular Meeting

Public Hearings:

Unfinished Business-
A. Approval / Disapproval of Closed Session pursuant to NMSA 1978 Section 10-15-1(H) (2) regarding limited personnel matters to discuss the Town Manager’s contract.
B. Approval / Disapproval of Town Manager’s Contract.

New Business
A. Approval / Disapproval of Notice of Intent Ordnance No. 1297: to repeal Ordinance No. 1290 and adopt an Ordinance declaring the intention of the Town to continue the existence and operation of its “Local Labor-Management Relations Board” and further, amending Chapter 38, Article II (Collective Bargaining), Sections 38-22 through 38-35 of the Town of Silver City Municipal Code.
B. Approval / Disapproval of Resolution No. 2020-23: A Resolution amending the approved and adopted budget for the fiscal year commencing July 1, 2020 through June 30, 2021 and for municipal purpose in the Town of Silver City, New Mexico, transferring and appropriating funds thereof.

Adjournment
If you have any questions regarding these items you may reach the Community Development Department during regular business hours by appointment (Monday-Friday, 8:00 am to 4:30 pm), located on the second floor of the Washington Federal/City Hall Annex Building at 1203 N. Hudson Street, or call 534-6348. If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid service to attend or participate in the hearing or meeting, contact the Town Clerk at 534-6346 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes,
can be provided in various accessible formats. Please contact The Town Clerk if summary or other type of accessible format is needed.