

## NOTICE OF DECISION

### PLANNING AND ZONING COMMISSION TOWN OF SILVER CITY

Case No. ZC 23-01

#### IN THE MATTER OF:

**ZC 23-01** Request for a Zone Change, for one tract of land, from Residential A to Open Space, legally described as Quarter: SW S: 34 T: 17S R: 14W PT NEQSWQ Quarter: SE S: 34 T: 17S R: 14W PT NWQSEQ 29.593 AC. The property is approximately bounded on the south by the Silver Cliff Apartments, approximately on the east by Ursa Major and Crestway Drive, and approximately on the west by Little Walnut Rd. excluding all private property in Silver City, NM. The applicant is the Town of Silver City.

#### BACKGROUND:

**Background:** The Town of Silver City owns the subject property and desires to change the current Residential A zoning designation to the Open Space zoning designation. The Town has been working to re-zone outdoor recreation areas since 2020, beginning with the Boston Hill Open Space. The Town wishes to restrict all development aside from uses permitted in the Open Space Zone District. These uses include natural areas and accessory uses, trails, and structures directly incidental to such open space use, protection, and maintenance, such as parking areas, hikers' shelters, and maintenance equipment sheds.

The Town of Silver City has completed the necessary application and provided supporting documents that the Planning & Zoning Commission reviewed. The Planning and Zoning Commission held a public hearing on the matter on May 2<sup>nd</sup>, 2023, where the request was heard, and four, 3<sup>rd</sup> party witnesses testified.

#### EVIDENCE:

The Commission reviewed the application, deed, staff report, and sworn testimony given at the public hearing on May 2, 2023, all of which show the following:

The subject property is along the undeveloped parcel currently zoned as Residential A. The Town wishes to re-zone the area to the Open Space zoning designation. Table 3.1.12 of the Land Use and Zoning Code of 2010 states, "the Open Space District is intended to preserve and enhance public open space. Purposes served by such lands include recreational uses such as hiking and bicycling, preservation of scenic vistas, preservation of sensitive lands, protection of natural vegetation, wildlife and landforms, and protection of natural areas for such natural processes as flooding to occur without damaging development."

The Community Development Department contacted thirty-eight surrounding property owners, as identified by the Grant County Assessor's Office, within 300 feet of the affected area by mail about the proposed Zone Change. Seven responses were received during the Citizen Participation process. Of the seven, four asked only for clarification on what Open Space Zoning Designation entails. Once informed of the designation three stated they were in favor of the change and two abstained from providing a position on the proposal. Two responded in favor of the proposal and liked the idea of preserving the area.

Ms. Olea presented the staff report on behalf of the Community Development Department and noted the Town of Silver City staff, including the Utilities, Fire, Public Works, Police, Engineering, Meters, and Code Enforcement Departments, reviewed the application and had no comments on the proposed Zone Change. Ms. Olea then provided further details regarding the application. She stated the area has a user-created trail used by citizens and was identified as a Native American archaeological area in 1996 & 2000. The Town wishes to further safeguard the area by re-zoning to the Open Space zoning designation. She stated previously there were drafts in place to improve the current user-made trails and provide a connector trail to Little Walnut Rd. She stated as of the meeting, those plans are no longer being considered by the Town. She stated this zone change will be purely administrative.

**FINDINGS OF FACT:**

The applicant requests a zone change for the property zoning to be changed from Residential A Zoning District to Open Space Zoning District. 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 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;
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 public health, safety, or general welfare and will 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, and use of further studies that have been completed since the adoption of the Land Use Code;
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.

The required findings for a map amendment/zone change have been met as outlined in the Land Use Code and found that: 4. The proposed amendment will not adversely impact public health, safety, or general welfare and will promote the original purposes of the Land Use Code.

**DECISION:**

In its review of the case, The Planning and Zoning Commission voted unanimously (3-0) to recommend the Applicant’s request for a Zone Change to the Silver City Town Council.

In recommending the Zone Change request, the Commission finds that the spirit of the Land Use Code will be observed and the proposed amendment will not adversely impact public health, safety, and general welfare and will promote the original purposes of the Land Use Code.

Sincerely,

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Jacqui Olea  
 Interim Community Development Director  
 May 22, 2023

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Nick Seibel  
 Commission Chair

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Date