

Planning & Zoning Commission
August 10th, 2016 Minutes
City Council Chambers

The regular meeting of the Planning and Zoning Commission was called to order at 6:10 p.m. by Chairwoman Kent Wilson.

Upon roll call, the following were present:

Chairman K. Wilson
Commissioner J. Dooley
Commissioner F. Pawlowski
Commissioner F. Kozeliski
Commissioner M. Long

Upon roll call, the following were absent:

Vice-Chairperson K. Mackenzie-Chavez
Commissioner L. Miller

Presented to the Chairman and Commissioners for their approval were the minutes of the July 13th, 2016 regular meeting. Commissioner Pawlowski motioned for approval of minutes as presented. Seconded by Commissioner Dooley, A.V.A. Motion Carried.

Chairman Wilson administered the oath required by state law for public forum.

ITEM ONE: CASE# 16-00700002: Request by Nita Patel, on behalf of OM 2000, Inc., property owner, for a Conditional Use Permit to allow placement of an Accessory Structure between a street frontage and the façade of a principle structure. The property is located at 1007 West Coal Avenue, more particularly described as the West 35' of Lots 6 & 18, the East 20' of Lots 9 & 15, All of Lots 7,8,16 & 17 Block 5, Vogel West Triangle Addition.

C.B. Strain explained that per Section 10-4D-3L3b of our City Code an accessory storage structure in the area between the façade of the principal structure and street frontage is prohibited. In this case the applicant's business fronts two frontages; Coal Avenue and Aztec Avenue. The reason for the prohibition is mainly for aesthetic reasons; normally we do not want big storage units on a street to detract from the business or to become an eyesore. There is a provision in our Code; Section 10-4D-3L4 allows these requirements to be varied under the conditional use process – if there is a hardship to the property. In this case, the applicant does have a hardship in that they have frontages on both the north and south sides of the property; as well as businesses abutting their property on the east and west sides. This limits placement of any structure to the rear and front. The request is to place a storage structure to the front. C.B. used the overhead monitor to identify the location of proposed structure. A conditional use permit allows the City to place conditions on the placement of the structure to prevent the structure from being detrimental, distracting or in any way create a hardship to the adjacent properties. C.B. read the acceptable grounds that must be met in order to grant the request.

Commissioner Pawlowski asked if staff has received any feedback, either for or against, regarding this request. C.B. replied that we have not.

Commissioner Kozleski asked if the storage unit will come all the way out to the property line. C.B. noted that a site plan has been included in the agenda packet; the structure itself will come out 12' (twelve feet) from the building, and will be 17' (seventeen feet) wide. It will be set back from the property line and will meet the required setback for that zoning district.

Chairman Wilson asked if it will be a fabricated structure and if plans have already been submitted to the Planning Department. C.B. informed that Commission that the property owner is in the audience and can answer any questions regarding the proposed structure.

Mrs. Patel, property owner, stated that it is her husband that is aware of all the plans. She noted that the owner's presence is required at the Commission meetings but her husband was unable to attend; which is why she is in attendance. Chairman Wilson asked if it will be a container. He was informed by both C.B. and Mrs. Patel that it will be a wooden structure.

Motion was made by Commissioner Kozeliski for approval of this item as presented by staff and subject to compliance of the conditions included in Resolution RP2016-05. Seconded by Commissioner Long. A.V.A., Motion Carried.

ITEM TWO: CASE# 16-00600002: Request by Richard Murphy, on behalf of Timothy W. Kern Revocable Trust, property owner, for the Rezoning of approximately 3 acres **FROM** Single-Family Residential District (RS-2) **TO** Multiple-Family Residential District (RM3). Said Property is located Adjacent to and Southeast of 312 E. Nizhoni Boulevard and South of 404 E. Nizhoni Boulevard; More particularly described as: Lots 11, 12, 13, 14 & 15, Blk. 2, Rolling Hill Subdivision Unit 2; Lots 4 & 5, Blk. 5, Rolling Hills Subdivision, Unit 2; and Lots 3A, 9A & 10A, Blk. 1, Zia Subdivision, Unit 1.

Commissioner Long recused himself and stepped down to the audience seating area.

C.B. used the overhead screen to identify the property on the GIS Map. He explained that the request to rezone to Multiple-Family Residential District (RM3) is consistent with the zoning districts to the west, as well as the current development to the west. There are also developed apartments to the southwest of the proposed rezone area. C.B. explained the requirements in order to approve a rezone request; in this case the conditions have been met. The current zoning designation will only allow for single-family residences and the new zoning designation will allow for multi-family development in the future. After rezoning (if approved) the property, the next phase will be to replat the properties so that we do not have land locked lots in this area.

Commissioner Dooley asked if staff knew what development is being planned; for example townhouses, apartments, two-story dwellings, etc. C.B. replied that the only information the planning department has received is that there will be multi-family residences, but no specific plans have have been submitted.

Mr. Richard Murphy, developer, thanked the Commission for hearing his request. He described the proposed development as having approximately 20 - 45 units; given the topography and difficulty of the project. The unique topography will be a challenge but also creates some unique characteristics to the property. It is currently surrounded by commercial and multi-family development. He explained in detail why he likes the area and what he envisions being developed at this location. He feels Gallup needs nice, secure, housing to attract young professionals; or any type of professionals that may be working at the hospital or the assisting living facility that is adjacent to this location.

Commissioner Dooley asked if these will be privately built apartments that will be at a higher rental price range. Mr. Murphy replied that these rentals may be the highest in the area. The targeted market is for

higher income individuals. Mr. Murphy did add that with some types of financing agreements, it may be that they have to include certain kind of income types.

Commissioner Dooley asked if there would be only one entrance, that being from Nizhoni Boulevard. Mr. Murphy replied that this will be determined at a later time, but there could be an entrance from Rudy Drive as well. He would prefer not to have an entrance from Rudy Drive, but utility issues may require it.

Commissioner Dooley asked if the proposed development will contain two story units and will they be equal to the backyard of the single –family units on Mariyana Avenue. Mr. Murphy replied that the exact development has not been determined. He cannot say for sure if they will even be two-story units, but he does feel the roof line will be visible from the properties on Mariyana Avenue.

Chairman Wilson noted that the Gallup Task Force comments regarding utilities, mentioned that this project will take some development of infrastructure. He asked Mr. Murphy if he has seen the comments. Mr. Murphy replied that he had and he has had discussions with members of the task force – he further added that he understands the difficulties that may/will arise at this site.

Commissioner Kozelski asked if Mr. Murphy is planning on using the ten existing lots and how many apartments does he plan to build on the ten lots? Mr. Murphy replied that the development will be anywhere from 20 - 45 units, but nothing definite has been decided on. He elaborated on what he envisions at this site; he will try to maximize the use and area for the quality of life of the residents that will reside there.

Commissioner Kozelski also asked why Mr. Murphy would not like to see entrances from both Nizhoni Boulevard and Rudy Drive? Mr. Murphy explained that they would like to see only one access and not a through street. This is to create more of a community neighborhood as opposed to a traffic route. He mentioned the options that have currently been considered but nothing has been decided on.

Commissioner Pawlowski asked how many separate buildings Mr. Murphy anticipates on building at this location? Mr. Murphy replied that he does not know yet, but for example if they build only 20 units, then it could be 10 buildings – and it would be more of a townhouse type structures. But ultimately it will depend on what the market needs are for Gallup. Of course the topography in that area will be a determining factor as well.

Mr. Weldon Delaney, nearby property owner, asked if the existing alley way behind his vacant lot on the southeast corner of Nizhoni Boulevard and Mesquite Dr. will be vacated with this project or will it remain as is? CB noted that there are no plans to vacate the alley at this time.

Mr. Delaney asked if Rudy Drive will be vacated. CB explained that this vacation is still under discussion depending on how the structures will be arranged. The plan is to create one large lot from the ten existing lots; this would include vacating a portion of Rudy Drive. Vacating the remaining portion of Rudy Drive, near Nizhoni Boulevard is still being discussed by the developer and our Public Works Department. CB noted the issues that are currently being discussed. Mr. Delaney is also concerned about Rudy Drive, which is along the west side of his lot and is located on the east side of the existing vocational facility; what would happen if Rudy is vacated and emergency access is gone? CB mentioned the issues such as this that are being discussed with the developer and Public Works Department.

Mr. Delaney asked if the developer was to construct a wall, would they be blocking access from Rudy Drive. CB noted that the developer will need to design a project that complies with Building, Fire and Safety Codes – which includes adequate access and turn around radius for fire trucks.

Chairman Wilson asked if the issues that are currently being discussed issues that will exist regardless of what the developer decides to construct at this location. The Commission is only voting on whether to allow the increase of density to the area.

In conclusion, Mr. Delaney expressed his concerns regarding the type of soil that exists in Gallup, including this site.

Mr. Dennis Peterson, 1810 Mariyana Avenue, expressed his concern as to how the construction work that will take place affect his property; primarily his retaining wall. He also feels that apartments, etc will devalue his property as he currently has a beautiful view. He is very unhappy and displeased with the project that is being proposed to be developed place behind his property.

Mr. Dan Horsely, 1808 Mariyana Avenue, also expressed his disapproval and concerns with the proposed project. He noted that Mr. Murphy stated there could be anywhere from 20 to 45 units built at this location; that is a huge difference in the number of units. Due to the topography, he is also very concerned how the construction work will affect his property and the properties belonging to his neighbors. As Mr. Peterson had mentioned previously, Mr. Horsely is worried about the huge drop or slope behind their property and if construction work will have settlement and movement issues affecting the properties on Mariyana Avenue. Other concerns are noise pollution and if any noise ordinances currently exist.

Mrs. Michele Horsely, 1808 Mariyana Avenue, voiced her disapproval with the proposed project. She was raised in Gallup and in her current home. She is now raising her children in that home. She feels the proposed project is a quality of life issue. She and her son suffered from asthma in Phoenix, yet when they returned to Gallup their asthma went away. She asked the Commission to think "in terms of quality of life". The proposed location is currently zoned for single family residences and building 10 homes is quite different from building 40 to 50 apartments. She asked the Commission to close their eyes and imagine the picturesque setting she described. She then asked them to imagine a setting that is completely opposite and asked each of them which they would prefer to live in.

Mrs. Patty Biggs, 1806 Mariyana Avenue, agreed with the previous speakers and is opposed to the proposed development. She would not have an issue with single family residences but is opposed to apartments being in her backyard. Her family has lived in this neighborhood for 38 years and feels that apartments will be an eyesore.

Mr. Dennis Peterson returned to the podium and wanted to reiterate his concern for his retaining wall that was very expensive to build. He asked the Commission if he would have any recourse if the construction work has an adverse effect on his wall. What will he do if it is damaged and all the developer can say is he is sorry for the damage? The thought of looking into a window of an apartment instead of the beautiful view he has now is surely going to devalue his property. He feels this will be very unfair.

Ms. Nancy Minchall, 1804 Mariyana Avenue, also is opposed to the proposed project. She is agreement that the construction work will cause many problems. In addition to those already mentioned are the bugs, spiders and snakes that will be going into their homes.

Mr. Murphy noted that he sympathizes and understands the concerns expressed and he agrees there are some settling issues at this location. He then addressed the concerns that were voiced beginning by stating that Nizhoni Boulevard access will not be closed off. That entrance is planned to be the primary access to the development. He knows he must comply with City Code and Land Development Standards; for building, fire and safety codes. His concern is also for Quality of Life for the citizens of Gallup. He feels there is currently not adequate housing for temporary professionals that come to our

City. This type of housing is very hard to find and yet that is the market he is attempting to target. He also feels that any impact his development would have in this area is minimal as compared to activity that currently exists. He detailed the reasons why the impact will be very minimal. He concluded by saying that he feels this development will add value to our community in general.

Chairman Wilson asked Mr. Murphy how far into the design phase he has gotten. Mr. Murphy replied that they had not planned on proceeding until it was determined if his rezoning request was approved, as this will be an expensive endeavor. At this time, no specific type or number of units has been finalized.

Commissioner Dooley asked where the telephone poles are located. Mr. Murphy used the GIS Map to point out where the existing utility easement is located. CB clarified that the area being addressed is a public utility easement and not a dedicated Alley or Right-of-Way. Commissioner Dooley asked if the new utilities will be underground. CB replied that they have not seen any official plans, so placement of utilities, design, etc. are undetermined at this time. Commissioner Dooley expressed that it would be helpful if the Commission was able to see some plans or designs as to what exactly is being planned for the area. She added that Gallup has a great need for housing and it appears from what Mr. Murphy has stated that the apartments that are being contemplated are not low income housing, instead will be for professionals. So by its very nature they should be very well maintained. Mr. Murphy agreed, adding that our City Code is strict and just meeting the requirements will assure that the development will be of high standard. Commissioner Dooley expressed her empathy for the nearby neighbors and their concerns. Mr. Murphy did add that sometimes financial institutions require a certain percentage of units to accommodate certain income ranges; but that would be out of his control.

Commissioner Kozeliski had questions regarding the topography and if it would be possible to build units that would not affect the view of the residents on Mariyana Avenue. Mr. Murphy replied that it is not his intent to build apartments looking into houses, but it is very likely that there will be roof lines obstructing some of the views – but again, no final plans or designs have been agreed upon so it is very difficult to say. Mr. Murphy and CB noted that the building height restriction for the current and proposed zoning districts is the same. So if the rezoning request did not get approved and someone wanted to build a three-story home in this area – this would also obstruct the view.

Mr. Dennis Peterson once again expressed his immense concern that his property will be adversely affected both in value and structurally, most especially his retaining wall. He asked the Commission once again, if they approve this rezoning request, what recourse will he have if the construction work damages his property.

There was discussion regarding the affect construction work will cause if the rezoning request is approved or not, and what changes will occur if development in this area is allowed; albeit single family residences or multifamily units. Mr. Murphy reiterated reasons why this project will be good for Gallup and how it will have minimal effect on neighboring properties.

Mr. Weldon Delaney returned to podium and expressed concern regarding the type of soil in this area and that the occupants may disturb the residents of the nearby assisted living facility.

Motion was made by Commissioner Kozeliski for approval of this item as presented by staff and subject to compliance of the conditions included in Resolution RP2016-04. Seconded by Commissioner Pawlowski. A.V.A., Motion Carried.

ITEM THREE: APPLICANT HAS REQUESTED THIS ITEM BE REMOVED FROM THE AGENDA UNTIL A LATER DATE