

**Planning & Zoning Commission**  
**January 10<sup>th</sup>, 2018 Minutes**  
**City Council Chambers**

The regular meeting of the Planning and Zoning Commission was called to order at 6:03 p.m. by Chairman Kent Wilson.

Upon roll call, the following were present:

Chairman K. Wilson  
Commissioner K. Mackenzie-Chavez  
Commissioner J. Dooley  
Commissioner F. Kozeliski  
Commissioner M. Long

Upon roll call, the following were absent:

Commissioner F. Pawlowski  
Commissioner L. Miller

Chairman Wilson asked if any Commissioner had a conflict of interest for any agenda item and if so to recuse him/herself prior to discussing the particular item.

Upon roll call, the following votes were:

Chairman K. Wilson (No)  
Commissioner K. Mackenzie-Chavez (No)  
Commissioner J. Dooley (No)  
Commissioner F. Kozeliski (No)  
Commissioner M. Long (No)

Presented to the Chairman and Commissioners for their approval were the minutes of the December 13th, 2017 meeting. Commissioner Kozeliski motioned for approval of the minutes as presented. Seconded by Commissioner Long. Motion Carried.

Upon roll call, the following votes were:

Commissioner F. Kozeliski (Yes)  
Commissioner M. Long (Yes)  
Commissioner K. Mackenzie-Chavez (Yes)  
Commissioner J. Dooley (Yes)

*Chairman Wilson administered the oath required by State Law for public forum.*

Chairman Wilson stated anyone wishing to speak limit their comments to three minutes and not to duplicate a previous point; they will have one opportunity to testify.

**ITEM ONE: CASE # 17-00600004:** Request by USA RV Park/John Moore, property owner, for the Rezoning of a 0.47 acre portion of an existing parcel containing approximately 13.8 acres **FROM** Heavy Commercial (C3-B) **TO** Planned Mixed Use District (PMU). The property is located at 2925 West Highway 66, more particularly described as 13.8 Acs M/L in Sec. 24 & 25, T15 R19 K.O.A. Subdivision.

CB Strain explained that the rezone request was for the property located at 2925 West Highway 66, which was being operated as a recreational vehicle park. The property owner wants to rezone only a portion of the existing lot from Heavy Commercial (C3-B) to Planned Mixed Use (PMU) District so they could replace three (3) existing mobile homes. CB used the overhead projector to display the GIS map showing the property location. The Land Development Standards section 10-4D-3J (Residential Uses in Commercial Districts) specifically prohibits single family detached dwellings within any commercial zoning district. CB explained that since a manufactured home was considered a single family detached dwelling the rezone was not permitted. He pointed out that State Law prohibits spot zoning, whereas the appellant only wants to rezone a portion of the existing lot. CB spoke about the Planned Mixed Use (PMU) district's purpose, which was to provide procedures and standards for the development of new mixed use areas to a community or neighborhood scale; not designed for one (1) specific lot. The extensive PMU process requires public hearings and master plan approvals, which is why it is being removed during the Land Development Standards update. CB added that the Land Development Standards section 10-4-K2A (Limitations and Grounds for Zoning Amendments) listed the minimum rezone qualifications, whereas the request did not meet any. CB stated that he did not recommend approval of the rezone because it was a spot zone within a single lot, which violates State Law.

At Commissioner Kozeliski's request, CB re-explained the rezone and reason for request. The Code doesn't allow mobile homes in a commercial district, but since the mobile homes were pre-existing they're considered non-conforming whereas they're not required to conform to current standards. CB went on to state that the three (3) mobile homes can remain as is, but once they're removed they can't be replaced. Commissioner Kozeliski commented that there was already a mobile home park next to the appellant's lot. CB responded that the neighboring lot was zoned for a mobile home park and the appellant's lot was zoned heavy commercial. Commissioner Kozeliski asked if the appellant's lot could be considered a grandfather situation. CB explained that the existing mobile homes are grandfathered in and considered non-conforming per the Code. CB reiterated that once the mobile homes are removed they can't be replaced because that would be allowing an illegal use within a zone. CB read aloud the Limitations and Grounds for Zoning Amendments criteria items one (1) through six (6), which the appellant did not meet. CB reaffirmed that the rezone request did not meet any of the criteria required by the Code. CB emphasized that it was illegal to spot zone an area, a single lot or a portion of a single lot.

The Commission suggested different alternatives such as, resubdividing or rezoning to a different district. CB explained that neither would be possible due to a landlocked situation and an RV park only being permitted in a heavy commercial district.

There was a moment where Commissioners proposed noncompliant alternatives to staff. Those

suggestions included, renting out cabins instead of RV's, removing wheels from a trailer to classify as a house and connecting a porch to classify as an attached dwelling. CB explained that none of those changes would allow the Code to permit the appellant's rezone request.

Chairman Wilson asked CB if there were any changes in the City Land Development Standards update that would affect Nizhoni Self Storage's rezone request. CB responded no; in the Code update RV parks are still only permitted in the heavy commercial districts.

Commissioner Mackenzie-Chavez asked if there was a provision in the Code that allowed someone to live on a heavy commercial site. CB explained that the Code only allowed living quarters within the principal use. For instance if they had a building where the principal use was an office and had a separate area within that building, they could use that as their living quarters. The Code specifically forbids detached single family dwellings in a heavy commercial district. Commissioner Mackenzie-Chavez clarified that the RV park would be allowed to have living quarters within their existing structures such as, their community center or bathrooms. CB indicated that was correct; as long as it was within the business.

Chairman Wilson asked if anyone wanted to speak in favor of the case to approach the podium and state their name. John Moore, property owner thanked CB and the Commission for their assistance. Mr. Moore purchased the RV park over ten (10) years ago and stated he had since doubled the business. Mr. Moore explained that the RV park provided twelve (12) jobs to the community and that the three (3) mobile homes needing replacement were extremely important to run his business. Mr. Moore went on stating that they operate the RV park from each of the offices within the mobile homes and maybe soon they can make offices. Mr. Moore stated that their RV park's lodgers tax brings in about thirty-five thousand dollars (\$35,000) per year to the community. He believes one of the reasons for their success is due to their continuous presence onsite. Spoke about his mobile homes falling apart because they were built thirty-five (35) years ago. Mr. Moore noted that the mobile homes were previously grand-fathered in. Mr. Moore expressed his appreciation for CB and understood that he had a job to do, but he wants to continue to run a successful business. Mr. Moore stated that he wouldn't quit if he didn't get approved (from the Planning & Zoning Commission) because they wanted to live in nice and decent homes. Mr. Moore indicated that his son, Patrick would be speaking next since he would be the next manager and maybe owner.

Commissioner Kozeliski asked Mr. Moore how they would monitor the park if they couldn't live there. Mr. Moore stated that they have to be on the park to monitor; "that's all there is to it." Mr. Moore explained how they independently secure their park whereas any unidentified vehicle or person is immediately approached. He added that their continuous onsite presence was a very important part to prevent trespassing and break-ins. He spoke about being ranked the third (3<sup>rd</sup>) busiest RV park in New Mexico.

Patrick Moore approached the podium stating that Gallup was a big tourist town and that's how they made all their money. Mr. Patrick Moore explained how the park deals with over fifteen thousand (15,000) customers per year whom they give visitor guides to and encourage visits to the local shops and events such as, the Indian dances. Mr. Patrick Moore emphasized the importance of being onsite

to monitor the fourteen (14) acres of property. He went on to state that they've successfully doubled their business since purchasing in 2007 due their ability to reside on the park premises.

Chairman Wilson asked if there were any questions by Commissioners; there were none.

Judy Fitzjerrell approached the podium introducing herself as the general manger of Clayton Homes. Ms. Fitzjerrell explained that she's been inside the existing trailers to observe the conditions and in her opinion they do need to be replaced. The property owner wants to live in an energy efficient trailer whereas the existing trailer was not. Ms. Fitzjerrell stated that the property owner was trying to get a better place to live and trying to make it look better in their RV park community. Ms. Fitzjerrell acknowledged that the property owners were being very considerate of the City and wanted to do things right, but they also wanted the ability to be warmer and cooler in their home.

Chairman Wilson asked if there were any questions by Commissioners; there were none.

Commissioner Kozeliski again suggested carrying the grandfather status over to allow the mobile homes to remain. CB reiterated that the Code didn't allow single family dwellings in a commercial district and the Code didn't give exceptions. CB reminded the Commission that if they approved the rezone request they would be breaking the law.

Commissioner Long asked CB what the appellant had to do in order to allow the replacement of the mobile homes. CB explained that the Commission's duty this evening was to vote on the rezone and if the appellant decided to go an alternative route then that would be discussed with the Planning & Development Department. If needed, the case would be brought back to the Commission. Chairman Wilson explained to the Commissioners that it was not their job to resolve the problem, but to uphold the law. CB explained that the only other alternative would be to build a brand new office facility with apartments inside where the principal use was an office.

Chairman Wilson asked if there were any further questions by Commissioners; there were none.

Chairman Wilson stated the hearing was closed.

Motion to approve or deny the request for Case Number 2017-00600004. Commissioner Mackenzie-Chavez motioned for denial of Item One. Seconded by Commissioner Dooley. Motion Carried.

Upon roll call, the following votes were:

Commissioner K. Mackenzie-Chavez (Yes)

Commissioner J. Dooley (Yes)

Commissioner F. Kozeliski (No)

Commissioner M. Long (Yes)

Chairman Wilson acknowledged that the USA RV Park was a very clean and well used park. He went on to thank Mr. Moore for providing local jobs and being a good business.

**INFORMATION ITEMS**

**ITEM TWO:** Recognition of new Vice Chair, Matthew Long

**ITEM THREE:** City Council Actions Taken

**ITEM FOUR:** December 2017 Building Permit Activity Report

**ITEM FIVE:** Building Permit Five-Year Comparison {2013 thru 2017}

Chairman Wilson commented that the local newspaper had published the 2017 building permit report.

**ITEM SIX:** Planning & Zoning Agenda Five-Year Activity Report {2013 thru 2017}

**OPEN FLOOR:**

There was a brief discussion between Commissioners and staff regarding a possible illegal mechanic/body shop on Puerco Drive and Philipin Avenue. CB explained that code enforcement officers have received multiple complaints and are keeping an eye on the property. Thus far they have no evidence to support the accusations and are unable to confirm if it's an after-hour operation.

There was a discussion between Commissioners and staff about boarding up vacant houses. CB explained the due process of notifying property owners and the clean and lien program. If a property was in bad condition and had continuous violations it could eventually go to condemnation. When CB takes the condemnation case to City Council he has to prove that it's a threat to the health, safety and welfare of the public. CB explained the condemnation process, time frame and cost.

Commission Adjourned at 6:45 p.m.

PLANNING & ZONING COMMISSION

*for*   
KENT WILSON, CHAIRMAN

ATTEST:

  
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CLYDE (C.B.) STRAIN  
SECRETARY TO PLANNING & ZONING COMMISSION