

Planning & Zoning Commission
February 8th, 2017 Minutes
City Council Chambers

The regular meeting of the Planning and Zoning Commission was called to order at 6:00 p.m. by Chairman Kent Wilson.

Upon roll call, the following were present:

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

Upon roll call, the following were absent:

Commissioner L. Miller

Presented to the Chairman and Commissioners for their approval were the minutes of the January 11th, 2017 regular meeting.

Commissioner Kozeliski motioned for approval of minutes as presented. Seconded by Commissioner Dooley, A.V.A. Motion Carried.

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

ITEM ONE: CASE # 16-00600003: Request by Rehoboth Christian School Association, property owner, for the Rezoning of approximately 11.04 acres **FROM** Planned Mixed Use (PMU-M) **TO** Single Family Residential (RS-2) Zoning District and approximately 93.53 acres **FROM** Heavy Commercial (C3-B) **TO** Single Family Residential (RS-2) Zoning District.

CB pointed out on the overhead GIS map the areas included in this request. He explained that a few years back a certain area was rezoned to the Planned Mixed Use (PMU-M) Zoning District but then never used as such. At this time, the current property owners would like to change this area's zoning back to Single Family Residential (RS-2) Zoning District. There are areas adjacent to the Rehoboth School that the property owner would like to change to Single Family Residential (RS-2) Zoning District. The school would like to build some ballfields, and ballfields are permitted in the RS-2 Zoning District.

When CB discussed the frontage lots he explained that when Rehoboth was being annexed into the City, the zoning was carefully considered. It was decided that the only appropriate zoning designation for the areas on the I'40 frontage was Heavy Commercial (C3-B). Being that this area is adjacent to the I'40 frontage, it is not a practical area to build homes. A buffer is necessary between a housing area and a high use interstate. Instead this is a good area for commercial development. As for the small lot adjacent to the interstate, rezoning this lot would be considered spot zoning; this is not allowed and would be considered illegal.

For the reasons he just mentioned, staff is not supporting the rezoning of the area that fronts the I'40 corridor nor the smaller lot adjacent to I'40. Staff feels these lots should remain Heavy Commercial (C3-

B) Zoning District; this is the more appropriate zoning district.

Commissioner Long asked about the lot north of Churchrock Street that is currently in Planned Mixed Use (PMU-M) District, ie, Block 1, Lots 1 thru 5, Rehoboth Subdivision and why this lot is being rezoned to Residential and should it not be Heavy Commercial (C3-B) zoning district instead. CB explained that there is enough of a buffer from the interstate that rezoning to RS2 will not be an issue. Commissioner Mackenzie-Chavez also asked about the same lot and her concern if there was enough of a buffer. CB explained that this lot had been RS2 prior to being rezoned to PMUM so staff saw no issue with rezoning it back to the original zoning designation. He also explained in detail why the area was zoned the way it was when it was originally annexed into the City.

Commissioner Dooley asked CB if he entered into his recommendation which lots are being recommended for approval and which lots are not. CB referred to his memo to the Commission and stated he did so. Commissioner Long asked if the Commission could recommend the lot he referenced earlier be rezoned as Commercial instead of Residential. CB noted that this would be a recommendation to modify the zoning request by the property owner. As the property owners are present, CB stated they could state how they feel about this request.

A woman from the audience; that did not come to the microphone nor state her name, asked what the difference between the RS-1 and RS-2 Zoning Districts is. Chairman Wilson asked CB to explain the difference and CB did so.

Chairman Wilson asked if such a request would have to come from the property owners. CB noted that the Commission can make the recommendation but he added that this was not the intent of the property owners when they submitted their request. Commissioner Long asked what the plans were for this lot in the future. Mr. Dominic McGavran, Rehoboth Christian Schools, addressed this question and stated that they would object to rezoning this lot to a commercial zoning designation and at this time there are no plans for development on this parcel. Commissioner Long explained why he feels it should be rezoned to commercial instead of residential. Mr. McGavran reiterated that they would prefer it be rezoned to the RS-2 Zoning District. There was a discussion between the Commissioners and property owner regarding this particular parcel but no formal recommendation was made by the Commission.

Motion was made by Commissioner Mackenzie for approval of this item per staff's recommendations. Seconded by Commissioner Pawlowski. A.V.A., Motion Carried.

ITEM TWO: CASE # 17-00700001: Request by Nafiz Abusufiah, on behalf of Mohammad Safiah, property owner, for a Conditional Use Permit to allow the operation of a used car sales lot in an Industrial Zoning District. The property is located at 100 West Historic Highway 66.

CB explained that the way the property is laid out now, it is very limited in space. He used the imagery on the GIS map and pointed out where the subject property/business and the neighboring businesses are located. He noted that the building is built out almost to the sideyard property lines. Currently the business does not meet the minimum required number of off street parking spaces, thus it is already a conforming use. The parking area to the east cannot be counted as parking spaces because that property belongs to the City, so it has a different property owner. It has always been this way and this lot is very limited as to what type of business can go in there due to the limited parking area. The type of use or business determines how many parking spaces will be required. This site will not accommodate a used car sales business. There is not enough space for a used car lot and still meet the minimum required number of off street parking spaces. Our City Code states that if there is a use permitted in a Commercial (C-3) District then it can be an approved use in the Industrial District as a conditional use. But it must still meet

the minimum requirements; off street parking, landscaping etc. We cannot expand on a non-conforming use thus staff is recommending that the Commission not approve the request for a used car sales lot at this location.

Mr. Nafiz Abusufiah, applicant, noted that he would only be using the six existing parking spaces on the front of the property. He plans on using this location primarily for his office and the majority of his business dealings will be over the internet. He presented to the Commission a letter that was provided to him from the City Attorney. He stated that the letter reads that he would be allowed to use the City parking area to the east of his property. He added that there is space to the north, or behind, his business to park an additional six vehicles, although the spaces will not be needed because he only wants to use 6 spaces in front of his business. Currently he has 5 spaces on the east side of his building, including a handicap space but he wanted to let the Commission know there is plenty of space behind his building to park a minimum of 6 vehicles.

CB addressed the statement about the available parking spaces to the rear of the building, he pointed out where the BNSF Railroad Right of Way sits and where an access/utility easement is located. All are behind the building – due to the access easement which was dedicated as part of the subdivision plat, no vehicles would be allowed to park there. Instead vehicles use this access easement to get to Chamber and to park at the City Parking Lot.

Anna Biava, owner of Reservation Direct, noted her understanding that any used car lot is required to have a fence around where the vehicles are located. If this is so, how will this affect the flow of traffic at the entrance which has a stoplight and is the entrance to the Chamber and to the parking lot on the east side? Secondly she stated her concern, knowing that BID and the City have worked hard on a City Masterplan and making this area a Cultural Corridor. Hopefully in the near future a skate park will be built on the east side parking lot, so how will a used car lot blend itself to that goal?

CB addressed her question regarding the fence; currently our City Code does not require a fence for a used car lot or any vehicle sales business. However this does not mean the owner cannot apply for a fence permit and build a fence if they choose to.

Stan Henderson, Public Works Director, noted that he is neither for nor against the request, but he wanted to make the Commission aware of some changes that would be coming to this particular area before the end of the year. The City has already advertised for the construction project of a skateboard park which will be located to the east of this business. This skateboard park, when it is completed, will wipe out most of the parking to the east of the multi-cultural center and it will put more pressure on the parking lot adjacent to the east of Mr. Abusufiah's business that belongs to the City. This means that the City will most likely not be in a position to honor or provide any additional parking to Mr. Abusufiah for his used car lot. It will be reserved for residents, tourists, etc.

Commissioner Dooley asked if the letter Mr. Abusufiah referred to is from the City Attorney and was it granting parking spaces to Mr. Abusufiah? CB stated he is unaware of the letter and does not know what it contains.

Chairman Wilson then read the Letter that was presented by the applicant. In summary, the letter is an email from the City Attorney, stating that the entrance to the family business will not be closed. Highway 66 is a state highway and is the entrance to the Chamber of Commerce as well at the family business and the west access entrance to the train station. It is a confirmation that if it is possible, the City will vacate the 16' easement on the east side of the building. The City will need to do some research to determine why the easement was initially created. If the vacation is granted the City could then rezone all this area to a commercial designation which will allow the business owner to build up to the property line on the

eastside. Currently the downtown area does not require off street parking spaces and this building would then fall into that exception. The City asked that the letter address to Mr. Abusufiah, from NMDOT, asking for the right of entry, be signed by the close of business on the day of the email. The email was dated September 9th 2015.

CB informed the Commission that the easement that was referenced in the email has not been vacated and this property has not been rezoned to commercial. He interprets the email to read that if these two things were to happen, then the business would not be required to have off street parking, but they did not.

Mr. Abusufiah wanted the Commission to know that if vehicles were parked horizontally on the eastside of his business, then 5 to 6 vehicles would fit and he would meet the minimum required spaces, allowing the front of the business to be used to park the used vehicles for sale.

Neal Butler, Gallup Chamber of Commerce, informed the Commission that the Chamber has heard from many of the memberships and they are against this request. Also, they do not believe this is in accordance with the City's Masterplan for the downtown area.

Mr. Stan Henderson provided some background to the email from the City Attorney and explained that at one time there was discussion of closing one of the drivepads Highway 66, especially since this drivepad is located where a major signal light sits. The City Attorney was reassuring the property owner that if agreed to grant the easements needed for construction then the City would not close the entrance. Also, the City was allowing use of parking on their parking lot if absolutely necessary, never envisioning that the property owner would want to have a used car lot and use their existing parking as spaces to place vehicles for sale.

Commissioner Mackenzie-Chavez wanted to point out that in Exhibit "A" of staffs' memo to the Commission, numbers 1, 6 and 9 clearly support staff's recommendation to deny the conditional use permit request.

Motion was made by Commissioner Kozeliski for denial of this item per staff's recommendation. Seconded by Commissioner Long. The vote was as follows: Commissioner Kozeliski, Yes; Commissioner Long, Yes; Commissioner Mackenzie-Chavez, Yes; Commissioner Dooley, Yes; Commission Pawlowski, No; Motion Carried.

CB informed the applicant of his right to appeal this action and explained the process.

ITEM THREE: CASE # 14-00200005: Request by Ahmad Ayesh, property owner, for Final Plat approval of a Major Subdivision; Replat No. 1 of Lots 1 and 2, Sunrise Subdivision.

CB explained that this request is for final plat approval and the applicant has not requested a zone change for the subdivision. The infrastructure that was required by the City has been installed and all requirements have been met. If final plat is approved tonight, we will then record the final plat. Once recorded, the lots become legal lots for of record and can be sold by the property owner.

Commissioner Dooley asked if this was the time to ask if the lots would be built up – she recalls when homes were built on Plateau, the front doors were required to be at street level. CB informed the Commission that this issue will be addressed at time of building permit. He explained some of the items that would be required when the building process begins.

Mr. Paul Martin, Sukura Engineering, informed the Commission that as the project engineer, he would be happy to answer any questions.

Motion was made by Commissioner Dooley for approval of this item as presented by staff. Seconded by Commissioner Long. A.V.A., Motion Carried.

ITEM FOUR: CASE # 13-00200008: Request by Khalaf Investments, Inc., property owner, for Final Plat Approval of La Paloma Subdivision Unit One, containing 34 lots

CB explained that this item is also for final plat approval. He reminded the Commission that if approved, the applicant will be requesting a zone change from Single Family Residential District (RS-1) to Single Family Residential District (RS-2). The 34 lots in Phase One have been platted per the RS-2 zoning district requirements and meet the minimum lot sizes; the required infrastructure has been installed, accepted and approved by the City. CB also reminded the Commission that this is for Unit One of the subdivision and Unit Two will come before the Commission at a later date.

Commissioner Dooley stated her concern regarding sidewalks and asked if the sidewalks would meet the curb. CB explained that Code allows the developer to choose whether to place the sidewalks directly behind the curb or set back from the curb. Whichever option the developer chooses, it must be consistent throughout the subdivision. There was a brief discussion regarding sidewalks and the City's sidewalk requirements.

Commissioner Long asked what the current zoning is for this area. CB replied that is currently RS-1. Commissioner Long asked if approval tonight of this plat is for RS-1 or RS-2, since in the memo to the Commission staff states that the lot size and infrastructure is platted and constructed per the RS-2 zoning requirements. CB explained that when the applicant appeared before the Commission for Preliminary Plat approval, they disclosed their intent to rezone the subdivision; a portion being rezoned to RS-2 and a portion being rezoned to RM-4. That initial request was approved at that time. After approval, the developer proceeded with design per RS-2 zoning requirements.

A member of the audience, John (only the first name was heard), asked if the lots would meet the requirements for approval for RS-1 zoning district as they are currently laid out? CB replied that they would not; they are too small for the RS-1 District. He then asked if the Commission is being asked to approve a plat for an area that is currently zoned as RS-1 but was designed to meet RS-2 zoning requirements. CB explained that whenever property is being subdivided and it is already zoned into a particular zoning district, the subdivision can be approved although it is platted as per the requirements of what it will be re-zoned to and then immediately thereafter approve the re-zone request.

Commissioner Long questioned how a plat can be designed per zoning requirements that actually aren't required yet – and won't be until the property has been rezoned. CB explained that an applicant comes before the Commission during the Preliminary Phase of subdivision and discloses what zoning designation they are requesting for the subdivision. Once the preliminary plat is approved the applicant/developer can begin construction of the infrastructure and all requirements requested by the City. Once the City accepts and approves these, they come before the Commission for final plat approval and rezone. If approved, the plat will then be recorded

and the lots become legal lots of record. It is only after recordation that the lots are legal lots and can be sold as such. There was a lengthy discussion as to whether or not the subdivision could remain as a RS-1 Zoning District and if not, why not.

Many of the members of the audience voiced their opinion against this project. The concerns consisted of things such as: decreasing property values in the area, the higher density, higher traffic flow, the possibility of low income housing being construction at the site and would the existing schools, and the one being proposed, be sufficient if this subdivision is inhabited quickly.

CB addressed the issues related to our City Code and Zoning Regulations.

The other issues were addressed by: Elizabeth Hamilton, Palo Duro Homes/Keller Williams and Mr. Paul Martin, Sukura Engineering. Mrs. Hamilton stated that the pricing of the homes will start at approximately \$225,000. She assured the Commission that this community will by no means be “low income” housing. She believes the development will increase and not decrease the values of existing homes.

Mrs. Hamilton also addressed the concerns regarding the sidewalks. After a discussion on this subject, it was noted that the developer has the option of having a sidewalk abutting the curb or set back from the curb. Whichever they choose, they must remain consistent throughout the subdivision.

Mr. Kurt Spolar, resident of Mossman area, expressed his disapproval of the RM-4 Zoning District that is being proposed for Unit 2 of this subdivision. He understands that at this meeting, the Commission is voting on only Unit 1, but he wanted everyone to understand that the Zoning Designation that will come before the Commission at a later date, is RM-4, Multiple Family Residential – Mixed Use District.

CB reminded the Commission that the next agenda item tonight is regarding the zoning designations of the area, he asked that we complete this item and then allow the zoning questions to be asked/addressed on the next agenda item.

Motion was made by Commissioner Kozeliski for approval of this item as presented by staff. Seconded by Pawlowski. A.V.A., Motion Carried.

ITEM FIVE: CASE # 16-00600004: Request by Khalaf Investments, Inc. property owner for the rezoning of 34 lots in Unit One of the La Paloma Subdivision. The request is to rezone Lots 1 thru 22, Block 1 and Lots 1 thru 12, Block 2, La Paloma Subdivision Unit One, from Single Family Residential District (RS-1) to Single Family Residential District (RS-2).

CB reminded the Commission that on June 11th, 2014, they had approved the Preliminary Plat. At that time, the applicant/developer disclosed their desired zoning designation for both Unit 1 and Unit 2. The reason for disclosing at the Preliminary Plat Phase is to advise the Commission and the public of their intentions for the subdivision prior to designing and installing the infrastructure per the approved plat. CB also reminded the Commission that the applicant had

requested two extensions on this subdivision approval, both of which were granted by the Commission.

There was a very lengthy discussion regarding the issue of rezoning Unit 2 and allowing the RM-4 Zoning District south of this location. Both the Commissioners and members of the audience had questions and concerns. The biggest concern is that the approval of a zone change request would come before the Commission “after” the infrastructure has been installed – at a great cost to the developer. Some feel that the request should be submitted and voted on by the Commission prior to the installation of any infrastructure.

The discussion concluded with CB informing the Commission that if they so choose to, they could make a recommendation to the owner that they reconsider the zoning designation for Unit 2. The infrastructure has not been installed so they may be able to re-design Unit 2. But he reiterated that the proposed zone change from RS-1 to RM-4 was disclosed to the Commission and the public during Preliminary Plat Approval – The Commission approved that plat as submitted.

Mr. Martin, Sukura Engineering, addressed the Commission and expressed how this area is a prime area, beautiful lots and should be extremely marketable. He wanted the Commission to know that the property owner appreciates the concerns expressed tonight and he wants to provide Gallup with the type of housing most needed. When they are ready to begin development of Unit 2, they will revisit what the needs of Gallup are at the time as they do not want to develop lots that will not sell. The sentiments expressed tonight and other factors will be considered before they proceed with Unit 2.

Thereafter, other audience members spoke and continued to express their disapproval of allowing the RM-4 in the next phase, primary fear of future development of apartments in that area. Elizabeth Hamilton explained that they requested the RM-4 Zoning Designation because they plan on building townhomes and not apartments during Unit 2. CB wanted to be sure everyone understood, RM-4 Zoning District will allow for townhomes, duplexes, multi-family, single-family and some commercial – which means that the developer will have to design the structures according to City code for those types of residences. He does not want anyone to think that apartments etc will not be allowed in this area. In this instance, the developer submitted plans with the intent to construct townhomes in Unit 2; but he wanted to be very clear of the various types of structures allowed in an RM-4 zoning district.

Chairman Wilson, Commissioner Long and Commissioner Mackenzie-Chavez reminded the property owner that they expressed concern of apartments being built in this area at the meeting for Preliminary Plat approval meeting in 2014. They reiterated that they were assured then that indeed townhomes and not apartments would be built during Unit 2 Phase of construction.

Motion was made by Commissioner Dooley Kozeliski for approval of this item as presented by staff. Seconded by Pawlowski. A.V.A., Motion Carried.

INFORMATION ITEMS

ITEM SIX: City Council Actions Taken

ITEM SEVEN: January 2017 Building Permit Activity Report

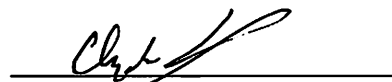
Commission Adjourned at 8:05 p.m.

PLANNING & ZONING COMMISSION



KENT WILSON, CHAIRMAN

ATTEST:



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