

MINUTES
Tuesday, September 2, 2008
Planning and Zoning Commission Meeting
County Administration Building
1400 Highway 180 East
Silver City, New Mexico

Commissioners Present

Chair David Gershenson
Alice Jones
Teri Matelson
Lori Ann Bonomo
Roxana Marsh
Ken Foster
Doug Abbott

Commissioners Absent

None

Staff Present

Alexandra Perrault
Luan Mitchell

The regular meeting of the Planning and Zoning Commission for the Town of Silver City was called to order at 7:00 p.m. by Chairman David Gershenson. The Pledge of Allegiance was recited. A roll call of commissioners was taken and a quorum was present.

Approval of Agenda

Commissioner Marsh moved to approve the agenda. Commissioner Bonomo seconded the motion. All in favor, motion carried.

Approval of Minutes

Commissioner Matelson remarked that one of the conditions to the approved Variance 08-7 was not written as she had stated in her motion. The condition was for an approved landscape plan, but she said her motion included a condition requiring a fence as well as a landscape plan. Commissioner Abbott moved to approve the minutes as corrected. Commissioner Bonomo seconded and the motion was passed unanimously. Chair Gershenson apologized for the mix up and said he believed it is up to the Chair to be sure all motions are phrased clearly and correctly.

Old Business

None

New Business

Public Hearings

ZC 08-3 – A request for a Map Amendment/Zone Change from Rural to Residential B for a tract of land approximately one acre in size and located within the NW ¼ SE ¼ of Section 15, within the Town of Silver City. The applicant is the Town of Silver City.

Two people were sworn in for testimony. There was no ex parte conversation or conflict of interest on the part of any commissioner. Alexandra Perrault presented the case. She said there were only two responses to the letters sent to surrounding land holders and both were just questions. The request is being made by the Town because the other properties to the north and south are zoned residential B and the Town would like to eliminate the gap in the zoning map. She noted the Community Development Department recommended the zone change.

Mr. Peter Falley questioned if mobile homes would be allowed. When told that mobile homes of a certain size and age are allowed in Residential B, he commented that he lives in Silver Acres, across Ridge Road and outside town limits but still near the area in question, and is concerned about more and more mobile homes being moved to the area. Chair Gershenson pointed out that changing the zoning of this one acre would not make any difference on how the area would be developed. Mr. Falley said the commission needs to consider these things on an ongoing basis as making this area all mobile homes is not just a concern for others living nearby, but for the Town as well in terms of policing and other problems. Chair Gershenson mentioned the Land Use Code revision and encouraged Mr. Falley and others watching to attend the public meetings when the revisions are presented and to voice their concerns. Commissioner Jones asked if there was an anticipated time that the revisions would be completed. Chair Gershenson noted that there had been about 28 meetings so far. He explained that the code is very detailed and the task force was taking a very detailed look at it and that doing it thoroughly and correctly took priority over doing it fast. Luan Mitchell said it looked like maybe two or three more task force meetings and then the presentation to the public, the commission and the council.

Commissioner Matelson opined that although she had supported the previous zone change for the property neighboring the Town's parcel, she felt that the commission had recommended the change to the council without enough information, that they had no idea how neighboring land owners felt about it and this is a perfect example of what she meant. Maybe the area would be better suited for Residential A or even commercial. For instance a grocery store could be put there so people wouldn't have to drive to Albertson's. She felt that when Silver 400 starts developing the area people would ask why this development is even happening when there has been no warning and no process. Alexandra explained that the public hearing is the process; that it is noticed in the paper, signs are put out and letters are sent to surrounding land owners. In the case of Silver

400's request there was no response from the public. She asked for suggestions on how the process should be changed, and if the commissioners didn't have enough information, how could we better educate them? Commissioner Matelson said she felt the commission has a responsibility to see that land is developed in a way that is healthy for the community. Commissioner Jones spoke suggesting the department show the parcel in a larger context, a larger area. Commissioner Abbott suggested more questions should be asked such as how many homes could be put there and what would be the traffic impact for instance.

Commissioner Matelson stated she didn't think changing the zoning just to be consistent with the surrounding area was a good enough reason and she was going to start voting no on zone changes until zoning issues have more reason for the commission to make a recommendations for the change. Chair Gershenson explained that the commission is a reactive body, voting on what is brought before them, but rather than voting no, just more questions should be asked, such as what the traffic impact will be. Zan explained that when a development is proposed a traffic study is done, but to expect that for a zone change application would mean every zone change would have to be attached to a development plan. She suggested that she could list in the staff report every possible use allowed in the zone that's being requested. Commissioner Jones objected to tying all zone change requests to a development as so many requests are for the purpose of fixing zoning mistakes of the past. Commissioner Foster commented that he thought one purpose of revising the land use code was to make it more consistent, but also to allow for more leniency. He then moved to approve ZC 08-3 with the finding that the proposed change was in essential compliance with the Town's comprehensive plan. Commissioner Jones seconded the motion. The motion was passed by a six to one roll call vote, with Commissioner Matelson casting the single no vote.

Reports from Staff

Luan Mitchell mentioned that at the last Town Council meeting Councilor Ward had mentioned an email she had gotten from a citizen asking why the Council always drank bottled water instead of Silver City water. Luan was asking the commission's thoughts on that. It was agreed to continue using bottled water because of the convenience.

Reports from Commission

Commissioner Jones commented that she felt the commission had perhaps done an injustice to Mr. Jacquez at the last meeting by denying his application for a variance because he was not in attendance and had not attended the first meeting when his application was to be heard. She felt there was enough information for them to make a decision and as it is not required by law that the applicant appear in person, they should have discussed the case. Unless the rule is changed to make it mandatory that the applicant appear, they should not be punished for not showing up. In considerable discussion it was brought out that if the applicant is not at the meeting, neither side can hear arguments pro or con and no cross examination can take place. It defeats the purpose of a public hearing if someone doesn't show up. The report is staff's interpretation but it

is the testimony that carries the most weight. The decision could have been deferred a second time, but for each hearing letters have to be sent, signs replaced and phone calls made. It takes a lot of the staff's time. There needs to be a limit on how many deferrals there can be.

Commissioner Abbott asked whatever happened to the new movie theater that was to be built. Chair Gershenson explained a bit of background and suggested no one hold their breath while waiting for construction to start.

Community Input

None

Adjournment

Commissioner Bonomo moved to adjourn the meeting. Commissioner Matelson seconded the motion. All in favor, the meeting adjourned at 7:54 p.m.

David Gershenson
Planning & Zoning Commission Chair

October 7, 2008
Approved