



MINUTES

Planning and Zoning Commission

Tuesday, October 7, 2014
Grant County Administration Building
1400 Hwy 180 East
Silver City, New Mexico

Commissioners Present

Sherry Clements, Chair
Nickolas Seibel, Vice Chair
Lita Furby

Commissioners Absent

Carmon L. Steven

Staff Present

Peter F. Russell, Community Development Department Director
Jaime L. Embick, Planner/Zoning Administrator

The regular meeting of the Planning and Zoning Commission was called to order at 6:03pm by Chair Sherry Clements. The Pledge of Allegiance was recited. A roll call of commissioners was taken and a quorum of three commissioners was present.

Approval of Agenda

Commissioner Seibel moved to approve the agenda as submitted. Commissioner Furby seconded the motion and it passed by unanimous voice vote of 3 to 0.

Approval of Minutes

Commissioner Furby stated that only the Chair approves the Notice of Decision and the wording of the motion cannot be changed later. She stated that the commissioners should be careful in the wording of their motions. Commissioner Furby moved to approve the minutes of the September 2, 2014 meeting as written. Commissioner Seibel seconded and the motion was approved by unanimous voice vote of 3 to 0.

Public Hearings

Commissioner Clements explained the public hearing process.

Commissioner Clements asked the commission members if they had any ex-parte conversations. Commissioner Furby and Commissioner Seibel both stated no. Commissioner Seibel disclosed that he owns a piece of property adjacent to the church property stating that it does not have any bearing on the subject property but happens to be next to the property.

Thirteen people were sworn-in for testimony.

CU- 14-02 A request for a Conditional Use Permit for a church to be located in a residential A zoning district. The 9.6 acre property is addressed as 1727 Alabama Street. The applicant is the owner, St. Francis Newman Center Parish, Inc.

The Notice of Decision is attached as Appendix A.

Commissioner Seibel moved that we approve CU 14-02 request for conditional use permit to allow a church on a parcel of land zoned residential A, and it's a 9.6 acre property addressed 1727 Alabama Street, applicant St. Francis Newman Center Parish, Incorporated with the following conditions: that access to and from the parish site be limited on Alabama Street to emergency vehicles only until such time as the chief of police certifies that substantial improvements have been made to Alabama Street, the intersection of Alabama Street and Highway 180 West, and number two at the intersection of Hill Street and Kentucky Street, stop sign and advance warning sign be installed for west bound traffic approaching the intersection of Hill Street with on-street parking restricted for 40 feet on each approach to the intersection, and at the intersection of Hill Street, Mississippi Street and Parish easement a three-way stop be established with advance warning signs installed as well, and further although it's outside the scope of this motion, we need to do everything we can, and we've said it before, to get the highway department, the transportation department, to do something about this situation.

The motion was seconded by Commissioner Furby.

The Commission approved by a roll-call vote of 3 to 0, the applicant's request for a Conditional Use Permit.

Community Development Director, Peter Russell, addressed the commission and hearing assembly to give further information on the appeal process and commission decision.

Commissioner Seibel spoke about the previous conditional use permit application of the church and participation in the task force to encourage continued participation in that effort.

Community Development Director, Peter Russell, provided follow-up information on the appeal process. The appeal period is 15 days from when the notice-of-decision is mailed to the applicant. Conditions and restrictions will be given within five days.

New Business

None

Community Forum

None

Reports from Staff

None

Reports from Commission

Commissioner Seibel stated that early voting began today, gave voting information and encouraged attendees to vote.

Community Input

None

Adjournment

Commissioner Seibel moved to adjourn the meeting. Commissioner Furby seconded and the motion passed unanimously by voice vote. The meeting was adjourned at 8:02 pm.

Sherry Clements, Chair
Planning & Zoning Commission

Date Approved

NOTICE OF DECISION

**PLANNING & ZONING COMMISSION
OF SILVER CITY**

Case No. CU 14-02

IN THE MATTER OF:

An application by St. Francis Newman Center to develop a church (Religious Assembly Use) on a parcel of land zoned Residential A. This use is allowed in a Residential A district with a Conditional Use Permit, according to the Land Use Code Table 3.2

BACKGROUND:

Location: 1727 Alabama Street, Silver City NM

Applicant: Saint Francis Newman Center Parish, Inc. Jerry Sheyka is the applicant's representative.

The building committee of the Saint Francis Newman Center Parish has proposed constructing a parish hall on an undeveloped parcel of land located in the NW1/4 SW1/4, Section 34, T17S, R14W, N.M.P.M, Grant County, New Mexico. This parcel contains 9.68 acres more or less. The parcel was divided from a larger parcel that was the site of St. Mary's Academy, which has since closed. The Saint Francis Newman Center parcel is currently bounded on the east by the Montessori School. There is a 50-foot wide section of the parcel that extends east 665 feet to Alabama Street/Cottage San Road (see note). The parcel is bound on the north by a part of the Warren Place Subdivision, on the south by a part of the Hardee Subdivision, and on the west by large undeveloped parcels, including a parcel administered by the Bureau of Land Management.

Note: Cottage San Road is the extension of Alabama Street beyond the Town limits. In the case of the TIA, the two names are used interchangeably, and represent a single corridor of traffic.

The Parish parcel is zoned Residential A. This zone allows by right the following uses:

- Single-Family Detached Housing, including multi-section manufactured homes
- Accessory Dwelling Units
- Assisted Living Facilities
- Home Businesses
- Family Child Care Homes
- Parks
- Police and Fire Substations
- Elementary and Secondary Schools

Some additional uses are allowed in this zone with conditions as authorized by a Conditional Use Permit. These uses include institutions such as libraries, museums, and churches. The purpose of conditions is to mitigate impacts of the proposed uses.

The Parish is a religious institution that provides worship services Saturday evenings at 5 pm, Sunday mornings at 8 am and 10 am, Sunday evenings at 7 pm, and weekdays at noon. It provides religious education classes on one weekday evening and sponsors other activities and events at various times. The congregation and activities of the Parish have outgrown the meeting space and parking availability at its current location that is addressed 914 W. 13th Street, Silver City.

The new parish hall structure, which is proposed for completion by 2015, will house a classroom area and office, restroom, lobby and kitchen facilities as well as an adjacent assembly area.

Note: The parish previously applied for a Conditional Use Permit to construct a parish hall on the 9.68 site in November 2011. The application was heard by the Planning and Zoning Commission in January 2012 at its regularly scheduled meeting and was approved unanimously with the following conditions:

- 1. Saint Francis Newman Center Parish will consistently encourage its membership, through design, signage, and communication, to use the Mississippi Street extension as the primary ingress and egress for all church activities.*
- 2. Saint Francis Newman Center Parish will appoint a representative to the Alabama Street Corridor Study Task Force to be actively involved in the meetings of that task force when it is created.*

The parish did not move forward with its development proposal, however, and without activity the permit expired at the end of one year per Section 6.2.18 of the Town's Land Use Code.

A Corridor Study Team for Alabama Street was never appointed.

Staff Report: A staff report to the Planning and Zoning Commission was submitted by Community Development Department staff stating that the applicant has submitted a completed application and now requests a Conditional Use Permit.

THE EVIDENCE:

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

Introduction.

Peter Russell, the Community Development Director, reported that the parcel owned by the Saint Francis Newman Center was zoned Residential A and that a Conditional Use Permit would be required to locate a Religious Assembly Use on that property.

He stated that a Conditional Use Permit could be issued by the Planning and Zoning Commission to ensure that the proposed use would not be detrimental to the public health, safety, and welfare of the community and would not impair the integrity and character of the zoning district in which it is located.

Mr. Russell further noted that the 2010 Land Use Code requires that:

The Planning and Zoning Commission, in approving a Conditional Use Permit, shall make the following findings and may attach to the permit such reasonable requirements, in addition to those specified in the Land Use Code, to ensure that the development in its proposed location:

- 1) Will not endanger the public health or safety,*
- 2) Will not injure the value of adjoining or nearby properties,*
- 3) Will be in harmony with the area in which it is located, and*
- 4) Will be in conformity with the Town's Comprehensive Plan, or other plans officially adopted by the Town.*

These findings were posted on the wall of the meeting room for reference.

Mr. Russell also posted on the wall of the meeting room an aerial photograph of the applicant's property and adjacent properties, nearby streets, rights-of-way, and Highway 180 West, including its intersection with Alabama Street/Cottage San Road.

Mr. Russell noted:

- the size of the property (9.68 acres),
- the location of Hwy 180 W and its average daily traffic volume (3900 VPT),
- the location of Alabama Street/Cottage San Road and its average daily traffic volume (2500 VPT),
- the location of an easement that Saint Francis Newman Center owns, which links its property to the intersection of Mississippi Street and Hill Street,
- the date Saint Mary's Academy was established (1918),
- and the various ages of the surrounding subdivision (Hardee 1883, Bealls 1928, Warren 1954).

Mr. Russell reported that Public Hearings such as the one for consideration by the Planning and Zoning Commission of Conditional Use Permits require Public Notice and a solicitation for comments by phone, by letter, or by attendance at the Public Hearing. In this case, he said that the Community Development Department contacted 86 people who owned property within 300 feet of the Saint Francis Newman Center, providing notice of the application for a Conditional Use Permit, soliciting comments, and notifying the recipients of the letter about the time, the date, and the location of the Public Hearing.

He said that the applicant also contacted the same people by mail with a similar solicitation for comments and a notification about the Public Hearing. The applicant prepared a report on the comments received, which was submitted to the Community Development Department and attached as part of the Staff Report to the Planning and Zoning Commission. Mr. Russell noted that the applicant also held an Open House meeting at the current location of the Saint Francis Newman Center to present and discuss the future development plans of the parish.

The comments received by the Community Development Department and the applicant raised several concerns about the proposed use. The concerns involved the following topics:

- Increased traffic and its impact on public safety
- Aesthetic compatibility of the proposed parish hall with the surrounding historic neighborhoods
- Noise
- Parking adequacy
- Lighting and Dark Sky requirement
- Sewer capacity
- Drainage, given the existing water flows after storm events

Mr. Russell said that the concerns regarding parking, lighting, sewer capacity, and drainage were issues that would be addressed during the plan review process prior to issuing a Building Permit. Such an application would only be considered if a Conditional Use Permit were approved. Noise is a nuisance that is regulated by the Police Department based on standards incorporated into the Town's nuisance code.

Traffic and compatibility, Mr. Russell said, were issues specifically relevant to the findings required for approval of a Conditional Use Permit. At this point, he began a review of each finding in terms of the proposed parish hall project:

Finding 1: Effect on Public Safety.

Since the most likely effect on public safety from the Religious Assembly use is expected to be increased traffic, according to Mr. Russell, the Community Development Department asked that a Traffic Impact Analysis be performed for the project.

Engineers Inc. performed this analysis. It considered existing traffic in the vicinity of the proposed parish hall site and projected traffic that relocation of the St Francis Newman Center might generate. The analysis looked at access points to Alabama/Cottage San Road, which is an urban arterial street and carries approximately 2500 vehicles per day when daily traffic to the Montessori school is included. It also looked at Kentucky, Hill Street, and Mississippi streets, which are low traffic volume streets that provide alternative access to the proposed Parish Hall site.

The TIA considered three access scenarios to the Parish Hall site:

- Alternative 1 has entry and exit access to the site from a private easement that connects to the intersection of Mississippi and Hill Streets and also entry and exit access to the site from Alabama Street/Cottage San Road.

This alternative, which allows entry and exit access to the parish site from Alabama Street/Cottage San Road, would cause “significant back up of north bound traffic and delays during the Saturday PM and the Sunday AM masses.” To alleviate this problem, the TIA recommended that Alabama Street be widened to accommodate left-turn lane into the parish driveway.

Another problem is that this alternative also increases traffic using the intersection at Alabama Street/ Cottage San Road and Highway 180 West, which is generally acknowledged as a difficult intersection with poor sight distances to the east. In fact, the TIA states that site distance to the east needs to be improved and a right-turn lane onto Alabama Street/ Cottage San Road needs to be constructed given the current level of traffic regardless of whether the Conditional Use Permit is approved for the St. Francis Newman Center.

- Alternative 2 has entry and exit access to the site from the easement that connects to the intersection of Mississippi and Hill Streets but exit only access from the site to Alabama Street/Cottage San Road.

This alternative would eliminate the backups and delays on that road, the need for a left-turn lane onto Alabama Street/Cottage San Road, and the need for a right turn lane at the intersection of that street and Highway 180 West.

However, this alternative would still allow traffic to leave the parish site onto Alabama Street/ Cottage San Road and enter the intersection of Alabama Street/Cottage San Road and Highway 180 West, where the east sight line needs improvement.

- Alternative 3 provides entry and exit to the parish site from the easement (Mississippi Street extension) only. The simplest travel route to this easement from Highway 180 West uses the Kentucky Street intersection, where the TIA stated that sight distances were good.

This alternative also eliminates the backups and delays on Alabama Street/Cottage San Road and avoids the need to use the intersection of Alabama Street/Cottage San Road and Highway 180 West.

The TIA recommended Alternative 3 to accommodate the traffic generated by the construction of a new parish hall by the Saint Francis Newman Center.

With all entry and exit access to the parish site using the easement (Mississippi Street extension), the TIA additionally recommended the installation of a stop sign and advanced warning sign for west bound traffic at the intersection of Kentucky Street and Hill Street as well as a three-way stop sign and advanced warning sign installation at the intersection of Mississippi Street, the

easement (Mississippi Street extension), and Hill Street. In addition, the TIA recommended that on-street parking be restricted for 40 feet at all approaches to the Hill Street and Kentucky Street intersection.

The implementation of these measures will improve traffic safety, meeting the requirement of the first finding.

Mr. Russell noted that the New Mexico Department of Transportation (Deming Office) reviewed the TIA and declined to comment other than saying the parish proposal would have no effect on the intersection of Alabama Street/Cottage San Road and Highway 180 West since most traffic generated by the proposal would not occur during peak traffic hours. The Community Development Department disagrees and is preparing on behalf of the Town a report to NMDOT on the inadequacy of sight distances east of that intersection.

Mr. Russell added that should improvements be made to the intersection, the egress restrictions from the parish site could be reconsidered.

Finding 2: Effect on Value of Adjoining or Nearby Properties.

Mr. Russell observed that mere change in the neighborhood is not an adequate basis to assert that property values have been injured. He noted that while the 9.68-acre parcel owned by the Saint Francis Newman Center was currently vacant with easy access to Highway 180 West, which carries on average 3900 vehicles a day, it would not be reasonable to assume that such property would remain vacant indefinitely.

Mr. Russell pointed out that a property of that size could accommodate a 50-unit subdivision, for example, with each residence generating 10 vehicle trips per day for average total of 500 cars a day. The property could also accommodate a school of perhaps 200 students. Without daily bus service, which a charter school might not have, transportation for the students might generate 400 vehicle trips five days each week. Neither the subdivision nor the school use would require a Conditional Use Permit, Mr. Russell added.

Mr. Russell said that anyone asserting harm to the value of the adjoining or nearby properties would have to document something specific about building a church that would be detrimental in a way that other developments projects would not. He observed that churches located in residential areas such as St. Vincent de Paul (Market Street and Bayard Street), the Church of the Good Shepherd (Texas and 7th Streets), and Messiah Lutheran Church (Swan and 25th Streets) appeared to have no detrimental effects on nearby residences.

Given the potential for alternative development on the parish property and the benign effects of existing churches on residential properties elsewhere in Town, the Saint Francis Newman Center proposal would not harm the value of adjacent or nearby properties, meeting the requirement of the second finding.

Finding 3: Harmony with the Area.

Mr. Russell reported that the property where Saint Francis Newman Center proposes to construct a parish hall has been owned by institutions of the Catholic Church since 1918. He noted that this property was formerly part of St. Mary's Academy, which has been closed and subdivided, but that all of the current uses comport with the religious and educational history of the area. The parish hall site is adjacent to the Anglican Church of the Holy Trinity and the Guadalupe Montessori School.

Mr. Russell did note that, while the Anglican Church and the Montessori School were part of a historic district (Saint Mary's Historic District) recognized by the New Mexico Preservation Division, the district included only a portion of the original Saint Mary's property and did not extend to the area where Saint Francis Newman Center plans to construct its parish hall.

Mr. Russell also observed that the parish site, the Anglican Church and its associated buildings, and the Montessori school represent an area of approximately 20 acres where institutional uses are embedded within a residential neighborhood. This scenario occurs in other areas of Silver City, as well, including, for example, the campus of Western New Mexico University, the campus of the Junior and Senior High School; and the area of the Sixth Street Elementary School and Saint Vincent de Paul Catholic Church.

Given the historical contest and the long continuity of existing uses on the former St Mary's property and given the repeated occurrence in Silver City of other institutional complexes embedded in residential neighborhoods, the new use by the Saint Francis Newman Center would be in harmony with the area in which it is proposed to be located and meets therefore the requirement of the third finding.

Finding 4: Conformity with the Town's Comprehensive Plan or other plans officially adopted by the Town.

Mr. Russell reported that by using vacant property within the municipal limits the proposed parish hall project conformed with Land Use Goal #4 of the 2004 Comprehensive Plan:

- *Encourage infill development as a way to accommodate new growth in established areas within the town limits.*

He also stated that this application for a Conditional Use Permit was in conformity with the policies of the 2010 Land Use Code.

As a result of these conformities, the application meets the requirement for the fourth finding.

Recommendation.

Mr. Russell recommended that the Planning and Zoning Commission approve the application by Saint Francis Newman Center for a Conditional Use Permit. He noted that the Commission had previously approved a very similar application by the Saint Francis Newman Center for a Conditional Use Permit allowing a Religious Assembly Use in the same location.

Questions from the Commission.

- Commissioner Sherry Clements asked if a 40-foot parking restriction at the intersection of Hill and Kentucky Street is a standard restriction.

Duane Gray, of Engineers Inc., responded that 40 feet is typical when there is a need to have more sight distance at an intersection. From Kentucky Street looking to the right, there is a crest on Hill Street that restricts the view. The parking restriction makes it easier to see people who are approaching.

- Commissioner Clements noted that the Fire Marshal and the Chief of Police recommended that access to the parish hall site from Alabama Street be restricted to emergency vehicles and asked if either of them were present to give their reasoning.

Milo Lambert, Fire Marshal for the Town of Silver City, responded that the potential back up of traffic on Alabama in an emergency situation would be unfeasible for emergency vehicles--especially if vehicles are trying to leave the site via Alabama Street during an emergency.

- Commissioner Clements asked if a drainage report would be required.

Mr. Russell responded that the applicant's engineer could address the question as part to the applicant's presentation that was coming up next.

- Commissioner Clements asked why parishioners leaving the site from the Mississippi easement would not bypass the Kentucky Street access onto Highway 180 West and continue instead down Hill Street to use the Alabama Street intersection.

Mr. Russell responded that the applicant was aware of neighborhood concerns about the intersection would encourage parishioners to not use the intersection, but more importantly, the Kentucky Street intersection was an easier intersection to use with better sight lines. Most people would choose to use it because it was easier.

- Commissioner Lita Furby noted an inconsistency between the number of in the vehicle trips (100) reported in the TIA and the number of vehicles (200) in the Staff Report, regarding traffic generated by an evening class during the week.

Mr. Gray explained a vehicle trip included a vehicle going to and then returning from a site. Mr. Russell said that in the Staff Report he had considered a vehicle trip to constitute two occurrences of a car passing a particular spot. He was trying to denote activity in order that the effects of noise not be minimized. He agreed that only 100 individual cars were actually involved.

Commissioner Furby said that her concern had been that parking would not be adequate for 200 cars.

- Commissioner Furby asked whether Alternative 2, by dispersing traffic between Alabama Street and Hill Street, would have less impact on Hill Street.

Mr. Russell noted that her point was true in a modest way, reducing projected traffic on Hill Street by about 20 percent. (He referred to page PVT1429P in the TIA.) But he noted since the Town is asserting to NMDOT that the intersection of Alabama Street and Highway 180 West is unsafe it would be inappropriate to ignore the impact of the church traffic at the same time.

He also noted that the restriction to of ingress and egress to the parish site through the Mississippi easement was a condition of the 2012 Conditional Use Permit that was previously approved for Saint Francis Newman Center. The current recommendation is consistent with the past one.

- Commissioner Clements asked if the parish would have to come back to the Commission to be relieved of the egress restrictions if somehow the Alabama Street intersection were fixed.

Mr. Russell said that the conditions accompanying the permit approval could be modified to allow relief at such time as the Chief of Police and NMDOT are satisfied with the condition of the intersection. He added that such relief does not get at the issues of delays and blocking going into parish site from Alabama Street or the wall obstructing sight line leaving the site onto Alabama Street.

Applicant's Presentation.

Pam and Tracy Weber of Weber Engineering made a brief presentation on behalf of the applicant. Ms. Weber reported that design work so far had been preliminary—just enough to help the applicant get through the application process for a Conditional Use Permit. They did not want to charge for final design work if the applicant was not going to be able to use it because the application for a Conditional Use Permit had been denied for some reason.

Ms. Weber said the firm looked at access, at the fit of the architect's plans on the site, at cut and fill balances for grading, and the location of parking space adequate to meet the requirements of the Land Use Code.

On behalf of the applicant, Weber Engineering had also sent letters to neighbors, soliciting comment on the parish proposal inviting the public to an Open House meeting that was held at the current location of the Saint Francis Newman Center. Ms. Weber reported that the principal concerns were about traffic and drainage.

She reported that about 75 people had attended the Open House, mostly parishioners, with some neighbors from Alabama, Hill, and Luck Streets.

In response to queries, she had explained the next steps of the building review process if the Conditional Use Permit were approved. These steps included a full drainage report (the highest

level of required analysis by the Town on the topic of drainage). The report would determine pre-development (current) drainage emanating from the parish site and post development drainage. The applicant would be required to hold back any additional drainage generated by the development, releasing it slowly so as to not impact downstream properties. Detention would have to be able to hold water from a 10-year storm event or a 100-year storm event, whichever is the greater volume.

Earth work, lighting, access, and the construction of buildings would all be reviewed by Town staff to ensure compliance with the relevant codes. She showed the Commission some architectural renderings of the parish hall in response to questions about aesthetic compatibility with neighboring structures.

Questions from the Commission.

- Commissioner Clements asked where the parish hall will be located on the parcel owned by the Saint Francis Newman Center.

Ms. Weber responded that it be located a little north of the center of the property, about 75 feet from the northern property line and about 120 feet from the eastern property line.

- Commissioner Clements asked about plans for future buildings.

Ms. Weber said that the architect had placed an outline on the architectural plat for a future church building, but added that the parish had no current plans to do anything additional. She said that the proposed parish hall would be used fellowship and worship and that if a church building were constructed in the future, both buildings (the parish hall and the church) would not be simultaneously occupied. As a result, the engineers would design parking for the largest single use. She added that they would ensure that drainage facilities would be able to accommodate an enlarged footprint.

- Commissioner Nickolas Seibel asked if additional parking would be required if an additional building were built.

Mr. Russell answered that the Town would require parking for the principal use and additional parking that satisfied 50% of any accessory use such as dining facilities and classrooms. The parking requirement would be based on plans which would be submitted for the actual construction.

- Commissioner Clements asked about the amount of outdoor lighting that would be provided on the site.

Ms. Weber said that all outdoor lighting would meet the state's Dark Sky requirements. Mr. Russell added that the Town outdoor lighting standards were more stringent than the Dark Sky requirements.

- Commissioner Clements asked why the parish had not built at the time of the last approval for a Conditional Use Permit and why no one had been appointed to an

Alabama Corridor Study team (which had been one of the conditions of the previous Conditional Use Permit).

Mr. Russell said that no such team had ever been appointed.

The Reverend Anthony Basso of the Saint Francis Newman Center said that the reasons for failing to begin construction previously included a change in leadership, a new pastor, and the need for parish consensus on the affordability of the design and especially on the use of a metal building.

Mr. Russell noted that there have been other cases where a project that had received a Conditional Use Permit had not been started and the permit had timed out. It was not uncommon, especially for complicated projects.

- Commissioner Clements asked if something were going to be done to blend the metal building with the area.

Father Basso showed pictures of a stuccoed building as drawn by the architect.

- Commissioner Seibel asked if the parish had the funds to build such an attractive building and about the time line for its construction.

Father Basso responded that the parish did and that the project would be completed in 12 months.

Speaking in Favor of the Application.

- Deborah Nennich said that she and her husband owned numerous business in town and that she felt the new parish hall would bring additional revenue and tourism to the community. She noted that Catholics are noted for numerous gatherings. Visitors would stay in town hotels and eat at local restaurants. They would go downtown.

She said that the parish building was attractive and would fit in. She said its construction would be win-win, bringing visitors for marriage encounters and for youth meetings. Everyone would benefit.

- Mr. Luis Terrazas said that he had lived on Alabama Street as a child and that he does not think traffic has changed much and that there has not been much development since he lived there. Traffic was not different now but there were new traffic stop signs and speed bumps. He said that he does not remember accidents in that area. The Saint Mary's site has been used by El Refugio. Mass used to be held at Saint Mary's and there used to be a school on site.

He said he thought the possibility of a serious crash was low—especially since the parish hall would mostly be used on Sunday when people were not going to work. He did not think that there would be 200 or 300 vehicles leaving the site.

If all the vehicles were limited to one particular street he did not know how it would be policed.

He said that the church had worked hard to get to this point and that it would be an asset to the area. He added that there were people living in the area who would attend the parish functions.

- John Vento said that he was a retired civil engineer and that if ever an exit onto Alabama Street were to be approved he had already coordinated with the Montessori School and the Anglican Church regarding a safe route - one that minimized the need to take down trees. Meanwhile, he said, the parish would have an emergency route that worked for both of those neighbors.

He said the new parish hall would provide an opportunity to increase outreach for the distribution of food. It would be good for humanitarian purposes.

- Commissioner Furby asked for clarification on emergency exit coordination. Mr. Vento said that the Montessori School wanted to see an emergency exit routed away from the current access route to school.

Mr. Russell said that town encouraged the church to work with neighbors to find a way out that impacted all of them the least.

Ms. Weber showed on a map a conceptual route that was different from the current narrow (flag) access and would preserve trees in that location.

- Dr. Trinidad Tolar and Adalena Martinez said that they represented a new club for students, faculty, and staff at Western New Mexico University and that the club supported this project. It would provide a facility for meetings and for humanitarian work.

Speaking in Opposition to the Application.

- Edith Fisher said that she was co-owner of a home on Hill Street. She thought that a church was good thing but that there would be a lot of activity.

She said that the issue of traffic was still not resolved. A little bottleneck at an exit with 100 cars exiting and going in would be a problem. The crest on Hill Street limits visibility and there have been problems with traffic issues in the past because of cars shooting up and down the street. She said there used to be speed bumps on Hill Street but that they had been removed. There were children in the neighborhood and old people and bike riders and people walking dogs, and she believed that it would be a hazard for there to be that many cars coming through that area.

She said it was dangerous for Hill Street and that congestion at Kentucky Street needed to look at as well.

- Commissioner Clements asked if speed bumps lower on Hill Street would improve safety.

Ms. Fisher said that it was possible.

- Commissioner Furby asked whether most traffic would leave by way of Kentucky Street.

Ms. Fisher said that because of congestion on Kentucky Street, many would continue down Hill Street to Alabama Street.

Mr. Vento pointed out that time separation between services meant that people would not be leaving and arriving simultaneously, a feature that would reduce the amount of congestion.

- Commissioner Clements asked about the procedure for getting a speed bump. Mr. Russell said the normal procedure was to petition the Public Works Department. He noted that concern about speed and the limited sight distance created by the crest on Hill Street were likely reasons that the TIA recommended a stop sign at Hill Street and Kentucky Street. A full stop requirement would slow people down.

He thought that a speed bump request was reasonable and that the Community Development Department could approach Public Works about the possibility although wider speed tables might be more effective than speed bumps.

- Commissioner Seibel pointed out that speed bumps were a poor compensation for bad street design. He said this kind of conversation had got the corridor talk going but that the Town obviously had not had funds at that time to follow through but that the idea should be reconsidered.

Ms. Nennich said that the church had a history of communicating good routes for events and would continue to do so.

- Margaret Bender said that she lived on Hill Street and that she was concerned about Finding 2--not decreasing the value of property. She wondered how long that preservation of value would last.

She thought that after a while the Town would widen Alabama Street. Since the Town would not take down an historic wall (on the eastside of the street), it would have to take the front yards of people living across the street. She said such a taking would change property values.

She said there was an easement through her property that would divide her property into two parcels 1/3 and 2/3s the size of her current parcel if the easement were to be developed and that such a division would change value of her property.

- Commissioner Clements asked where the property was.

Ms. Bender pointed it out on slide projected on wall. Its northern boundary was adjacent to the southern boundary of the parcel owned by Saint Frances Newman Center.

Mr. Russell stated what Ms. Bender had called an easement was in fact an undeveloped right-of-way that was owned by the Town.

Ms. Bender said that people from the parish had said that they would put a road through there.

Mr. Russell acknowledged it was conceivable that the Town could put a road through there. He pointed to several other ROWs on the slide leading to the parish property where streets could be placed in the future.

He said that these ROWs were undeveloped Town property but that the Town had no plans to put streets in.

Mr. Russell observed that the question of what the future might hold regarding property values was thoughtful. He said that he does not think that the Town would take property to widen Alabama Street. Instead he thought street design strategies were more likely to make lanes narrower in order to slow traffic down. There were now stop signs and street jogs that already slowed traffic.

He said the Town's greatest concern was about safety at the Alabama Street/Highway 180 West intersection and that it was trying to get NMDOT to do something about this problem. There have been 18 accidents in the last 10 years, 5 of them with injuries, and lots of near misses. There had been a fatality at the intersection in that time period. He said poor sight lines require a car (A) to enter into the intersection to see if traffic is coming from the east. If another car (B) were closely following the first car (A) and a third car (C) did approach from the east, there would be no place for the first car (A) to go.

Mr. Russell said that this problem had been an issue at the time of the 2012 Conditional Use Permit for the Saint Francis Newman Center and when the Branding Iron Subdivision was reviewed in 2005.

He added that if a church were not built, the parish site would still be attractive to some other type of development that would generate an amount of traffic that might fall into a different pattern of intensity but might also be more constant—a school for example. Since there is likely to be future development, the important questions are to see how it could be accommodated in a safe manner and how the rights of neighbors could be reasonably protected.

Mr. Russell said that he is unaware of the Town condemning any property for more right-of-way.

Ms. Bender mentioned the Senior Center.

Mr. Russell said that he did not think that any condemnation had been involved.

Ms. Bender said that she had heard that the Town had built roads, and some people who could not afford to pay for the roads had to give up their houses.

Mr. Russell said that she was alluding to assessment districts that the town used in the past to pay for street improvements such as paving. People with property fronting the improved streets would be taxed an extra assessment to pay off a bond that the Town floated to finance the improvements. He said that it was unfortunately true that some people lost their properties because they could not pay their assessed taxes, but noted that the Town had not used this financing option since the 1960s or 1970s. Because people had lost property, it was unlikely that the Town would again use assessment districts.

- Ms. Bender raised the issue of drainage. She said that with big rains lots of water comes down the arroyo (behind her house). She said it can look like a small river and that there will need to be lots of things to carry the water off.

She said that Sunday was the only quiet day because of school being open the rest of the time. Traffic will not be only source of noise.

- Commissioner Clements asked if Mr. Russell's response had been satisfactory.

Ms. Bender said it had not been. She said that changes will come about because of the church and that people on Alabama Street will lose their front yards.

- Commissioner Clements observed that zoning will not prevent development. She said that a church was actually a best case scenario. She added that she personally lived next to a church and that it was a much better neighbor than someone with barking dogs, noisy barbeques, and parties.

She said that drainage will be accounted for in Town's review process which is thorough. She acknowledged that there would be some noise and that there would be some traffic that would be limited to specific times and for short increments. She said that the Town would not allow bright lights.

She said that there were concerns about traffic and safety but there were probably more concerns in the parish's current location. The intersection of Alabama Street and Highway 180 West was the biggest concern noted in the TIA. She said it was one of the scariest intersections in Town and that it has to be addressed.

Commissioner Clements discussed an article that she had read about a Religious Land Use and Institutionalized Persons Act, a Federal Law that was passed to correct discriminations against churches. Across the country, Planning and Zoning Commissions that do not allow churches are being sued successfully because of that act. She is

concerned about lawsuits here in Silver City and suggested that zoning restrictions be reconsidered regarding churches--perhaps in consultation with the Town Attorney.

Mr. Russell said that he would be happy to do that, adding that this issue had come up during a hearing Conditional Use Permit along Pinos Altos Road. He said the Conditional Use Permit requirement for churches was not different from libraries and museums and that there would be no discrimination if limitations were based on addressing impacts. The purpose of the requirement was to avoid problems like those that exist at the current location of the Saint Francis Newman Center. Nevertheless, he thought a second look at the requirement for churches would be worthwhile. Schools, which were a similar use as Commissioner Clements had noted, did not have a requirement for a Conditional Use Permit.

- Commissioner Furby asked if the condition restricting egress onto Alabama Street depended on solving the problems of the intersection of Alabama Street and Highway 180 West, who would be an appropriate authority to determine that the problem had been solved.

Mr. Russell suggested the Town Chief of Police and NMDOT, working together.

Commissioner Seibel said that it might be difficult to get NMDOT to make such a determination and that the recommendation of the Chief of Police should be adequate.

Mr. Russell agreed.

Motion

- Commissioner Clements asked for a motion.

Commissioner Seibel asked if the conditions recommended in the report were things the Town would do.

Mr. Russell responded that the parish would be required to pay for those improvements. He said that it was important to adopt the recommendations of the report.

Commissioner Seibel moved to approve the application for Conditional Use Permit with conditions.

Commissioner Furby seconded the motion.

FINDINGS OF FACT:

According to Table 3.2 of the Land Use Code, a Religious Assembly is allowed in a Residential A zone with a Conditional Use Permit.

The Commission finds that the record provides them with substantial evidence to support the following four findings found in Section 6.3.7.

1. Will not endanger the public health or safety
2. Will not injure the value of adjoining or nearby properties
3. Will be in harmony with the area in which it is located, and
4. Will be in conformity with the Town's Comprehensive Plan, or other plans officially adopted by the Town.

CONCLUSIONS OF LAW:

Section 6.3.7 of the Land Use and Zoning Code of 2010 permits a Conditional Use Permit for those "uses that are not permitted in the district 'by right', 'A', but denoted as a 'conditional', 'C' in the Use Table 3.2 in order to ensure that the use will not be detrimental to the public health, safety and welfare of the community and will not impair the integrity and character of the zoning district in which it is located." The applicant's proposed use is designated as a "C" in Residential A zone.

DECISION:

The Commission hereby grants by unanimous vote, the applicant's request for a Conditional Use Permit with the following conditions:

1. Access to and from the parish site be limited on Alabama Street to emergency vehicles only until such time as the Chief of Police certifies that substantial improvements have been made to the intersection of Alabama Street and Highway 180 West.
2. At the intersection of Hill Street and Kentucky Street, a stop sign and an advanced warning sign be installed for west bound traffic approaching the intersection on Hill Street. On-street parking be restricted for 40 feet on each approach to the intersection,
3. At the intersection of Hill Street, Mississippi Street, and the parish easement (Mississippi Street extension), a three-way stop sign be established with advanced warning signs as well.

In granting the Conditional Use Permit, the Commission finds that the spirit of the Land Use Code will be observed, that public safety and welfare has been secured, and that justice has been done.

Sincerely,

Peter Russell
Community Development Director
October 24, 2014

Sherry Clements
Commission Chair
October 27, 2014

