

STATE OF NEW MEXICO )  
CITY OF CLOVIS ) ss.

The Planning & Zoning Commission met at 3:00 p.m., Wednesday, May 12<sup>th</sup>, 2022 at the North Annex, Clovis-Carver Library, 701 N. Main in full conformity with the laws of the State of New Mexico and the ordinances and resolutions of said city with the following members present:

Commissioner Juan Garza  
Commissioner Thom Moore  
Commissioner Marcus Smith  
Commissioner Travis Cline  
Commissioner Cody Stewart  
Vice Chairperson Candace London

ABSENT:

Chairperson Vincent Soule

ALSO PRESENT:

Les Ciano, Zoning Administrator  
Daron Roach, Building Safety Director  
Justin Howalt, City Manager  
Jared Morris, City Attorney  
Vicki Reyes Assistant City Clerk  
Members of the public

Vice Chairperson London called the meeting to order at 3:03 p.m. and established the presence of a quorum.

**Agenda Item No. 1 – Call to Order**

a. Approval of Agenda

Mr. Ciano advised the address item B under New Business should be 1021 S. Oak. Commissioner Smith moved for approval; Commissioner Moore seconded the motion. Upon a roll call vote, with all voting in the affirmative, the motion carried unanimously.

b. Approval of minutes of April 13, 2022

Commissioner Moore made a motion to approve the minutes of April 13, 2022 as presented; Commissioner Smith seconded the motion. Upon a roll call vote, with all voting in the affirmative, the motion carried unanimously.

**Agenda Item No. II – Old Business**

None.

**Agenda Item No. III – New Business**

a. Discussion and recommendation regarding a zone change at 109 Zia Place, changing an [RS-7] – Residential Single-Family District to an [RS-7 with Carport Overlay].

Said zone change to include lots 6-11 of block 20 and lots 1-7 of block 22 of Stagner unit 2 Subdivision

Mr. Ciano advised this meets the standards of Chapter 17 of the UDO. All adjoining property owners within 100 feet of the affected area were notified and there was zero responding in protest. Commissioner Garza moved for approval; Commissioner Cline seconded the motion. Upon a roll call vote, with all voting in the affirmative, the motion carried unanimously.

b. Discussion and recommendation regarding replat of 1021 S. Oak.

Mr. Ciano advised all adjoining property owners within 100 feet were notified and there was zero responding in protest. Commissioner Cline moved for approval; Commissioner Smith seconded the motion. Upon a roll call vote, with all voting in the affirmative, the motion carried unanimously.

c. Discussion and recommendation regarding a zone change at 414 Mitchell from Central Business District Industrial. Said zone change to include lot 1-6 of block 37 of Clovis Original Subdivision.

Mr. Ciano advised this does not meet the standards of the city's UDO and is not consistent with the city's Comprehensive Plan. All adjoining property owners within 100 feet were notified, with 30% responding with written protest. There is compelling evidence that there would be a threat to the public health, safety and welfare which is unique to the proposed request.

Mr. Brett Bowlby, 1809 Glenarm, advised he is making the request because the building was previously used as a wet chem lab. He is planning to open an organic business and doesn't see how there is any problem with this. If the city would like to prove and validate how this would be posing a threat, he would like to be enlightened on that. The property was already equipped with electrical paneling, a reverse osmosis system, a security vault, and everything that meets state requirements in order to use the business for his intended purpose. There will be no required structural changes.

Mr. Shaun Burns advised he has a vested interest in the building next to this one. This is one building that was divided and lot 2 is the one that is being considered for a zone change. The issue with this is zoning. If they change the zoning to industrial and the applicant goes out of business then there is an industrial lot next to him that will substantially decrease the value of his building next door.

He advised there was a Korean Church that is within 150 feet of the applicant, Potter's House is 250 feet from the applicant and Paul Reed holds church service in his building which is across the street. He read a list of business owners on Main Street that are opposed to this. Commissioner Cline advised there was no response from Mr. Burns on the letter that was sent to property owners. Mr. Burns advised this was his response. Mr. Ciano advised they have until this meeting for someone to protest. Two of the three protests Mr. Burns gave to him puts this at 50% protest. Mr. Burns advised this was not the time to turn anything in that area to industrial zoning.

Ms. Lisa Pellegrino-Spear, Clovis MainStreet, advised she has not spoken with the new business owner but several business owners downtown have reached out to her regarding opposing this zone change. She advised their business is a little larger than the central business district and they have informed other dispensaries that they will have to be outside the central business district. The concern is that it would be setting a precedence.

Mr. Howalt advised the industrial zones are grouped together so to create an industrial zone in this area they would be creating an island of an industrial zone in the middle of the central business district. The minimum square footage is 20,000 square feet for an industrial lot and this is 7,000 square feet. Once they rezone an area it opens it up for all the allowable uses within that particular zoning district.

Mr. Bowlby advised he spoke with Attorney Morris and it was never mentioned that Mitchell was part of the Central Business District. Attorney Morris agreed with him that from 7<sup>th</sup> to Mabry should not be zoned as Central Business District. If this is going to be an issue would the commission consider a conditional or variance of usage. He advised it was sold to him as a commercial/industrial zoned property and that was also the MLS listing.

Ms. Renee Chevalier, 716 Mitchell, advised she owns a building on Mitchell and two on 7<sup>th</sup> Street. She is an investor with her son and they looked at 44 different sites before she purchased this one with cash. When they purchased this property, it was zoned industrial. She advised she wanted to get into this business with her son because she has had friends whose kids have bought marijuana on the street that was laced with phytanyl so she would like a place for people to go. She advised they were misrepresented because it was listed as industrial/commercial on MLS.

Mr. Burns advised if they didn't do their due diligence that is their own fault. They bought the building with cash because of the type of business that they are in. They didn't have to get a mortgage, didn't have to get a survey, or prove any sort of concept. The argument that it's better to sale marijuana legally instead of getting it on the street is stupid.

Mr. Howalt advised this property has never been zoned as anything other than central business district. If the MLS had it listed incorrectly that is not a City of Clovis, it is a private sector issue.

Attorney Morris advised he spoke with Mr. Bowlby and his attorney four weeks ago and this property was purchased well after the cannabis ordinance was introduced and adopted. For all zone changes they have to make sure the zone change is consistent with the policy and intent of the Comprehensive Plan. If they don't and make a record of it then it could be reversible error or the zoning map amendment corrects an error inconsistency and is necessary or desirable to meet the challenge of a changed condition. They have to decide if it is spot zoning, which is illegal. To find out of a request is a spot zone they have to weigh different factors. They have to find whether or not the use fails to comply with a Comprehensive Plan or is inconsistent with the surrounding area, grants a discriminatory benefit to just the parcel owner and/or harms neighboring properties or the community welfare.

Commissioner Smith asked about the variance. Attorney Morris advised he explained to Mr. Bowlby that he could apply for a variance, but doesn't think there is any chance of getting it. Mr. Bowlby has hired an attorney so he can no longer contact Mr. Bowlby directly. He should be advised that under the criteria for the UDO and the city code he doesn't meet any of them.

Commissioner Smith advised they have worked to not patchwork the zones and this is looking to do that. This is not because of the type of business, but with this being a central business district. It is an inconsistency issue and that is why he is voting against it.

Commissioner Cline made a motion to deny the request; Commissioner Smith seconded the motion. Upon a roll call vote, with all voting in the affirmative, the motion carried unanimously.

Mr. Howalt advised this item would go before the City Commission for final action at their May 19<sup>th</sup> meeting.

d. Discussion and recommendation regarding replat of North Plains Mall.

Mr. Ciancio advised there was no one within 100 feet to notify. Mr. Chad Lydick, Lydick Engineers, advised the ownership group is parceling off part of the property and selling them to other entities. He advised they have prepared a declaration of reciprocal easements for these transactions. They discuss roof maintenance, utilities, etc.

Vice Chair London asked if the portion of the parking lot would go with the building. Mr. Lydick advised it would and they may have outside storage or displays.

Commissioner Moore moved for approval; Commissioner Cline seconded the motion. Upon a roll call vote, with all voting in the affirmative, the motion carried unanimously.

e. Discussion and recommendation regarding a zone change at 112 Dianne from a [RS-7] Residential Single Family [RS-7 MH] and Residential Single Family with Mobile Home Overlay to a [RM MH] Residential Multi-Family with Mobile Home Overlay. Said zone change to include a tract of land in the NW 1/4 of Section 20, T2N, R36E.

Attorney Morris advised the City of Clovis owns  $\frac{3}{4}$  of the L-shaped piece of property. The portion closest to Prince Street is owned by Western Management, LLP. They approached the city with the thought of purchasing the city's portion of the lot to sell and develop. They are vacant lots that the city maintains, but has no use for. There is residential single family with mobile home overlay, residential single family and residential multi-family. They wanted to turn everyone into one large zone. Commissioner Smith moved for approval; Commissioner Cline seconded the motion. Upon a roll call vote, with all voting in the affirmative, the motion carried unanimously.

**Agenda Item No. IV – Future Agenda Items**

None.

**Agenda Item No. V – For the good of the order**

Attorney Morris advised he put together a list of roles and responsibilities of this commission. The first page lists the statute that applies to all decisions this commission makes. He also identified more specific decisions that they would be called to make.

Vice Chairperson London advised the next meeting would be at 3:00 p.m., Wednesday, June 8<sup>th</sup>.

**Agenda Item No. VI – Adjournment**

There being no further business to come before the commission the meeting adjourned at 3:50 p.m.