

PLANNING COMMISSION MINUTES

April 28, 2016

6:30 p.m.

1. CALL TO ORDER & ROLL CALL

The meeting was called to order at 6:30pm.

Members Present:

Fred Britain
Dan Bullock
Scott Leason
David Lewis
Kyle McLaren
Allen Potter
Gerald Watson

Staff Present:

Jay Shivers

Visitors:

Ray Debita
Rebecca Debita
Judie Storandt
Janice Zuk
Zac Sundgren
Jeff Parks
Eric Shaver
Vince Haines

2. APPROVAL OF MINUTES

Commissioner Potter moved to approve the minutes from the March 24th, 2016, meeting. Commissioner Leason seconded the motion. The Commission voted by voice vote to unanimously (7-0) approve the motion.

3. OLD BUSINESS

CASE NO. 16-002-REZ: PUBLIC HEARING FOR THE CONSIDERATION OF A REQUEST TO REZONE 1237 AND 1239 W. CENTRAL AVENUE FROM R-1 LOW DENSITY RESIDENTIAL DISTRICT TO C-1 GENERAL BUSINESS DISTRICT.

A) CASE UPDATE

Jay Shivers informed the Commission that the case had been reviewed by the City Commission and returned to the Planning Commission for further review. Mr. Shivers said that the staff

recommendation has not changed and that the application is in line with the Comprehensive Plan and Future Land Use Map. Mr. Shivers stated that a public hearing is not required and the Commission may open the floor for public comment at their discretion.

B) DISCUSSION BY PLANNING COMMISSIONERS

Chairman Britain opened the floor for public comment.

Judie Storandt, residing at 105 S. Race Street, spoke against the rezoning. Ms. Storandt referenced a letter provided to the Planning Commission. She stated the Future Land Use Map shows the area as a transition area. She encouraged the Commission to approve a mixed use designation. She says Zac has stated the intent of the property owner is to sell and redevelop into a small office use and possibly put restrictions on the property. Ms. Storandt stated she will contact the property owner about purchasing some of the property on the south end of the lots. She said she spoke with neighbors about collectively purchasing the properties. Mr. Storandt stated that everyone is entitled to the highest and best use of their land.

Janice Zuk, residing at 125 S. Race Street, stated that the donut shops nearby makes noise at two o'clock in the morning. She stated that another commercial property nearby will reduce her quality of life. She stated that she opposes the rezoning.

Zac Sundgren, representing the property owner, stated that it meets the Future Land Use Map. He says the homes are in poor condition and the time is right of redevelopment. He thinks a commercial use would be an improvement to the neighborhood. Mr. Sundgren stated that the restrictions on commercial should reduce impacts on neighboring properties.

Commissioner Watson asked if the value of the house is more or less than the cost to repair the structures. Mr. Sundgren said that he thought the cost to repair the homes would exceed their value.

Commissioner Bullock asked if there had been an appraisal or review by a construction manager. Mr. Sundgren stated there hasn't and that the homes haven't been occupied for a long time.

Commissioner Potter asked if Mr. Sundgren had a rental history on the properties. Mr. Sundgren replied that he wasn't aware of a rental history. He was told they were unoccupied for eight to ten years. Chairman Britain closed the public comment period.

Commissioner Bullock stated that he would like to see the property owner have a say what type of business goes in there. He acknowledged that she has no control over that after the rezoning is complete. Commissioner Bullock said if they approve the rezoning, they are saying they would allow lights in their back yards. He asked if the Commission would want that in their back yards. He stated they are being asked to extend commercial east further east along W. Central.

Commissioner Potter asked if they had the option to rezone the properties separately. Mr. Shivers replied that individually the lots do not meet minimum lot width requirements; they must be rezoned as a combined zoning lot.

Commissioner Watson asked if the rezoning was denied, would the houses sit there for another 10 or 20 years before they could be sold. Commissioner Watson stated that no one will want to build a residence on these lots.

Commissioner Bullock said they need to make a decision based on the neighboring property owners, not the one applicant. The property owner can still rehabilitate the properties.

Chairman Britain commented that the neighbors don't own applicant's land. The Commission considers their input but they have to consider the application. He stated the Planning Commission is a land use board only. Commissioner Bullock asked if the property owner has tried to sell the property. Chairman Britain replied that that is not in the decision criteria for rezoning property; rezoning is not based on whether someone tried to sell their property or not. Chairman Britain stated the neighboring property owners are entitled to provide input on the case but the Commission cannot vote solely on the opinions of the neighbors.

Commissioner Bullock asked if there is a benefit to moving commercial zoning eastward. Commissioner McLaren replied that it will happen eventually. He stated it isn't always about the benefit and they have to consider the rights of the applicant if it is a reasonable use. Commissioner McLaren said the City has told us it is a reasonable use. Chairman Britain stated that if and when the property is rezoned, the zoning regulations address the concerns about buffering and lighting. These are reviewed through the site plan review process.

Commissioner Potter asked what the City can do if these properties remain vacant since that is a possibility. He also asked Mr. Sundgren if he has been the only realtor involved with the property. Mr. Sundgren replied that it had been listed with another agent one to two years ago. Mr. Shivers stated that the Building Official does acquire and demolish dilapidated houses that are public safety hazards from time to time. Commissioner McLaren stated that that is a different issue from land use.

Commissioner Lewis asked what could be developed that would be harsh to the neighborhood on such a small lot.

Commissioner Potter referenced the decision-making criteria. He said these properties could become rodent problems for the neighborhood. He said they could make a decision based on the property owner but it also affects daylight donuts and the neighbors. Commissioner Potter asked if these are viable residential properties.

Commissioner McLaren said that if you own property on the first half of the block north and south of Central Avenue, owners must know that rezoning to commercial is a possibility; it is a risk people take when they purchase those properties. Commissioner McLaren also noted that the Commission voted to unanimously approve commercial zoning at Summit and Central in August of last year. He also noted the lot was further into the neighborhood than this case. He said that a number of residents objected to that case.

Commissioner Bullock noted that the Summit rezoning was different because of restrictions due to the proximity to a church. Commissioner McLaren stated that this property still has restrictions. Mr. Shivers clarified that adult entertainment must be 1,000 feet from a church or

residential zoning district so both lots in discussion were restricted from that use. He also stated that alcohol sales must be 200 feet from a church and that could be done on this property. Commissioner McLaren stated that there is a liquor store across the street. Chairman Britain agreed and noted that QuikTrip was nearby that sold alcohol.

Chairman Britain noted how similar this rezoning is to the Summit rezoning last year. Commissioner Bullock noted that if approved, the commercial zoning will continue to move east. Chairman Britain agreed and stated that it will follow the Future Land Use Map recommendation.

Ms. Zuk expressed concern about how close 1237 is to the house next door and if a buffer could be placed there. Chairman Britain replied that the buffer would be the new owner's responsibility and it is an ordinance requirement.

C) MOTION

Commissioner Bullock moved to recommend denial of the rezoning application for 1237 and 1239 W. Central Avenue. Commissioner Leason seconded the motion.

Roll Call Vote

Fred Britain	N
Dan Bullock	Y
Scott Leason	Y
David Lewis	Y
Brad Long	Absent
Kyle McLaren	N
Samuel McVay	Absent
Allen Potter	Y
Gerald Watson	N

The motion passed by a split vote (4-3).

4. NEW BUSINESS

ITEM NO. 1 – CASE NO. 16-001-SUP: PUBLIC HEARING FOR THE CONSIDERATION OF A REQUEST FOR A SPECIAL USE PERMIT AT 701 RANDOM ROAD TO ALLOW A 1,500 SQUARE FOOT ACCESSORY STRUCTURE.

A) PRESENTATION OF REQUEST

Mr. Shivers made a brief presentation on the case. He explained that, unlike many lots in town, Mr. Debita has a large lot that can accommodate a large accessory structure.

B) PUBLIC HEARING

The public hearing was opened. There being no one to speak, the public hearing was closed.

C) DISCUSSION BY PLANNING COMMISSIONERS

Commissioner Watson asked if the building would meet the setback requirements. Mr. Shivers responded that it would meet the setbacks. Mr. Shivers said he met with the property owner to discuss the location and regulations before starting the Special Use Permit process.

Commissioner Potter asked Mr. Debita to explain what an accessory structure is. Mr. Shivers explained that it is a structure that is secondary to the main structure on a property. In this case, Mr. Debita's home is the primary use and primary structure on the property. Any other buildings, such as detached garages, workshops, or storage buildings, are considered accessory structures. Commissioner Potter asked if the applicant already has plans for the building, such as wall and roof height. Mr. Debita responded that the wall height would be 10 feet with 6:12 pitch roof. Mr. Shivers informed the Commission that the maximum side wall height is 12 feet for accessory structures.

Commissioner Bullock asked if there is an existing structure. Mr. Debita stated that there is an existing structure they would be expanding it.

D) MOTION

Commissioner Leason moved to recommend approval of the Special Use Permit for 701 Random Road, seconded by Commissioner Potter. The Commission voted by voice vote to unanimously (7-0) approve the motion.

ITEM NO. 2 – CASE NO. 16-004-REZ: PUBLIC HEARING FOR THE CONSIDERATION OF A REQUEST TO REZONE 301 AND 307 N. STAR STREET FROM R-1 LOW DENSITY RESIDENTIAL DISTRICT TO R-3 MULTIPLE FAMILY DWELLING DISTRICT.

Chairman Britain stepped out for this item.

A) PRESENTATION OF REQUEST

Mr. Shivers made a brief presentation on the application and explained that the rezoning would be to accommodate a new three-unit townhome structure.

Commissioner Bullock clarified that he no longer owns property near 301 and 307 N. Start Street.

B) PUBLIC HEARING

Commission Potter opened the public hearing. Vince Haines, representing NSRD Group, explained that the site has been awarded a Middle Income Housing grant to redevelop this property. Commissioner Bullock asked Mr. Haines to explain moderate income. Mr. Haines replied that it is not low income and they can be rented to families with dual income up to \$98,000. He stated

the grant is issued from the Kansas Housing Resource Commission. He said this is the first time El Dorado has gotten this award.

Commissioner Leason asked about the size of the lots. Mr Haines said they are a combined 100 by 155 feet.

Commissioner Lewis asked if the townhomes would face Second Avenue. Mr. Haines explained that one of the units will face Star Street and the other two Second Avenue.

Commissioner Watson asked about garage locations. Mr. Haines stated that two of the units will access Second Avenue directly and the third would access the alley.

Jeff Parks, residing at 220 N. Washington, stated that he was concerned his taxes may increase with this rezoning. He said there is a number of good vacant homes in the area that need to be rehabilitated. Commissioner Watson asked if he was concerned the project would increase his taxes. Mr. Parks stated that there's drug dealers that live in the area and graffiti on fences. Commissioner Bullock stated that increased property values might be a benefit to the neighborhood in the short term.

Commissioner Potter stated that he thought the townhomes will improve the neighborhood.

Eric Shaver, residing at 315 N. Star Street, stated that he wants to stop the higher density residential zoning from moving into his neighborhood. He stated that the Comprehensive Plan says this area should be low density residential. Mr. Shaver reviewed the Planning Commission's decision making criteria. Mr. Shaver stated that the rezoning does not meet the Comprehensive Plan. He referenced a survey in the Comprehensive Plan that showed 88% of those surveyed would like more single-family residential development. He expressed concern about overloading utilities and transportation routes in the area.

Mr. Haines stated this is an opportunity to invest in the community. He said intent of rezoning is not true high-density residential. He stated utilities and transportation infrastructure can handle the new development. He also noted the grant is from the state and not from the city. There being no one else to speak, the public hearing was closed.

Commissioner Bullock stated that the townhomes will benefit the neighborhood.

C) DISCUSSION BY PLANNING COMMISSIONERS

Mr. Shivers responded to some of the comments made by Mr. Shaver. Mr. Shivers noted that the Comprehensive Plan Vision calls for a variety of housing options and that Goal 4 focuses on improving housing within El Dorado. The Comprehensive Plan also calls for redevelopment of deteriorated structures.

D) MOTION

Commissioner Leason moved to recommend approval of the rezoning for 301 and 307 N. Star Street, seconded by Commissioner Watson. The Commission voted by voice vote to unanimously (6-0, Chairman Britain abstained) approve the motion.

5. STAFF ITEMS

PUBLIC HEARING TO AMEND THE ZONING REGULATIONS

A) PRESENTATION OF AMENDMENTS

Mr. Shivers explained to the Commission that he has noticed a few parts of the zoning ordinance that needs to be reviewed. The amendments fix one error, address front yard and side yard fences, and the jurisdiction. He noted the fence amendments are in response to feedback from residents. He also noted the City already has jurisdiction three miles around the city limits and that this adds the text to the ordinance.

Commissioner Bullock asked why chain link is not allowed in front yards. Mr. Shivers replied that the intent is to have decorative fencing in front yards.

Commissioner Watson asked about the location of screening in the buffering regulations. Mr. Shivers clarified that that section explains where on the property the screening is required.

B) PUBLIC HEARING

The public hearing was opened. There being no one to speak, the public hearing was closed.

C) DISCUSSION BY PLANNING COMMISSIONERS

D) MOTION

Commissioner Bullock moved to recommend approval of the zoning text amendments, seconded by Commissioner Leason. The Commission voted by voice vote to unanimously (7-0) approve the motion.

Mr. Shivers discussed other staff items with the Commission. He said the city is working with Scott Dunakey of Professional Engineering Consultants to lead a training session for the Planning Commission and Board of Zoning Appeals. He also explained that the Planning Commission will elect a Chairman and Vice Chairman at their next meeting.

6. ADJOURNMENT

The meeting was adjourned at 8:00pm.