

MINUTES

Planning and Zoning Commission

September 13, 2023 – 5:30 P.M.

*Virtual participation for this meeting was made available via Zoom.
The proceeding can be viewed at <http://losalamos.legistar.com/Calendar.aspx>*

1. CALL TO ORDER / ROLL CALL

Vice Chair Nakhleh called the meeting to order at 5:57 PM. Roll call was administered. A quorum was present.

Members Present:

Rachel Adler, Chair (arrived 6:02 PM)
Stephanie Nakhleh, Vice Chair
Karen Easton, Commissioner
Benjamin Hill, Commissioner
David Hampton, Commissioner
Katherine Bruell*, Commissioner
Rebecca White, Commissioner

Members Absent:

Neal D. Martin, Commissioner
Charlene Hutchinson, Commissioner

Staff Present:

Sobia Sayeda, Planning Manager
Jane Mathews, Senior Planner
Desirae J. Lujan, Associate Planner
Katie Thwaites, Deputy County Attorney
Larissa Breen, Assistant County Attorney

** Attended virtually via Zoom*

2. PUBLIC COMMENT

Brenda Fleming, 1420 45th Street, spoke about the tennis courts on Canyon Road.

3. APPROVAL OF AGENDA

Commissioner Hampton motioned to approve the agenda as presented. Vice Chair Nakhleh seconded. Motion carried unanimously.

4. PLANNING AND ZONING COMMISSION BUSINESS

A. Minutes from the Planning and Zoning Commission Meeting for August 23, 2023.

Commissioner Hill motioned to approve the Minutes as drafted. Seconded by Commissioner White. Motion carried, 6-0 vote.

B. Approval to extend Chapter 16, Code Clean-Up Agreement #ARG20-50 with Dekker/Perich/Sabatini

Sobia Sayeda, Planning Manager, explained that the request is a part of the Code rewrite which the county worked on and approved in January 2023. In October, Council sessions determined that

staff would return with clean-up items after the Code was implemented. Approval would extend the agreement with D/P/S to clean up items in terms of correcting errors and adjusting where needed.

Commissioner Hampton moved to extend the agreement with Dekker/Perich/Sabatini to do the clean-up on Chapter 16. Commissioner White seconded the motion.

Commissioner Easton inquired about a timeframe. Ms. Sayeda responded that once the agreement is amended, staff will coordinate with D/P/S. They have been on notice, and the staff has reviewed and made comments about changes. It is anticipated that the Code Clean-Up would go before the Planning and Zoning Commission by the end of this year for a recommendation to County Council.

For:

Benjamin Hill
Rebecca White
Karen Easton
David Hampton
Katherine Bruell
Stephanie Nakhleh

Motion carried, 6-0 vote.

Chair Adler arrived at 6:02 PM and assumed the role of Chair.

5. PUBLIC HEARING(S)

- A. CASE NO. VAR-2023-0000. Robert Qualick, Property Owner/Applicant, is requesting a variance from the Development Code, Use Specific Standards, to construct a 192-square foot accessory structure less than 5-feet from rear and side property lines at 100 Confianza St., White Rock, NM. The property, MIR05022, is within the Mirador Subdivision and is zoned White Rock Town Center (WRTC) zone district.**

Robert Qualick, property owner/applicant, explained his request for variance, presented neighborhood existing conditions with photos, and outlined why he should be granted a variance. He stated that the structure was built to the highest standards and designed to look like structures within the subdivision. He acknowledged his mistake with permitting, and requesting a variance is the only path forward. He shared that there has been a \$11,000 investment into the structure, and it would cost another \$6,000-\$7,000 to disassemble – affecting carbon footprint. He asked the Commission to consider approving the request.

Richard Gaddis, 102 Confianza St., stated that he is the adjacent neighbor and is mostly impacted. He communicated that he does not have an issue with the structure. He recognizes that Mr. Qualick's property is three (3) feet higher than his – making the structure look imposing – but it is not. He questioned the 5-foot requirement stating it is arbitrary and capricious.

Kevin Bennett, 98 Confianza St., explained that he is the adjacent neighbor on the west side. He shared that his property is three (3) feet higher than Mr. Qualick's, so the structure is not detrimental to him, or his property. He has no issue with the structure.

Desirae Lujan, Associate Planner, provided staff's report which gave background information and outlined Accessory Structures, Use Specific Standards, and staff's response to the Variance review criteria. She stated that it is staff's expert opinion that the application met the criteria, except for criteria "D" and "F". However, the Commission, based on evidence and testimony presented could decide differently.

Vice Chair Nakhleh questioned the purpose of the 5-foot setback requirement. Ms. Lujan explained that small structures are defined as less than 200 sq.ft. and only get reviewed by the Planning Divisions for compliance with the Development Code. If the structure was greater than - it would be reviewed by the Building Division for compliance with the International Residential Building Code. This would include confirming that the materials had the required fire rating for Los Alamos County. The 5-foot is intended to maintain a 10' separation for potentially another structure on an adjacent lot – providing a delay in the event of a fire. Vice Chair Nakhleh noted that the Fire Marshal did not have any issue. It was explained that the Fire Marshal had no issue because he could access the back of the property in the event of a fire. The building code and fire code would not be applied to the request because it is less than 200 sq.ft. The regulation was placed to provide some security between structures. It was confirmed that currently there are no structures on the adjacent lot that are near the structure in question.

Commissioner Hampton discussed criterions D and F. He asked if those were the only objections from staff. Ms. Lujan explained that the staff's review of the request was that the application did not provide enough information to demonstrate that there are difficulties inherent of the lot. As far as placement, there is sufficient space for it to comply. She acknowledged that it has been constructed, but had it been permitted prior to construction, there is no evidence or explanation that it could not have complied.

Commissioner Easton asked if the structure had a foundation. Mr. Qualick confirmed. She asked from where measurements were taken. It was explained that measurements are taken from the exterior wall to the property line. Commissioner Nakhleh asked if the Code changed the distance for accessory structures. Ms. Lujan communicated that prior to the Code update, January 23, 2023, accessory structures were allowed to be 3 feet from property lines if they were in the rear yard. It has changed and is now regulated to a minimum of 5 feet. She explained that during the Code revision process, it was recognized that the county did not have a mechanism to ensure safety between small accessory structures because their review was outside the Building Division's purview.

Chair Adler asked legal staff what the possibilities were to impose conditions on adjacent neighbors to maintain the separation. Katie Thwaites, Deputy County Attorney, stated that it essentially borders on the line of a restricted covenant, if adjacent neighbors will remain there. Otherwise, the condition is imposed on future property owners. She explained, however, that that it would not change the inquiry of the Code on whether the structure meets the regulations. Larissa, Assistant County Attorney, added the neighbors agreeing does not mitigate the responsibility to comply with the Code.

Commissioner Hill stated that from a fire perspective the zoning code is meant to apply to many different property conditions. In this case there is a concrete structure within concrete walls, and no surrounding trees. He noted that the structure type gives more than adequate fire protection, which is the purpose of the increased setback.

Vice Chair Nakhleh shared a concern with setting a precedent. Ms. Thwaites responded that variances are case specific; they are different in their facts applicable to the law at the time. It does not create a precedence because each is specific to the case, property, zone, and issue.

Public comment opened.

Mr. Gaddis spoke about air conditioners on concrete pads within the subdivision being within 5 feet setback; and fireplaces that project into the 5-foot setback. This makes a portion of the houses within 5 feet. Mr. Qualick added that those examples are within his presentation. Ms. Lujan clarified that those examples are considered a part of the main dwelling, being attached to the home, and therefore have different regulations and dimensional standards. The WRTC zone district has

setbacks of zero, so they follow the zone district standards. The 5-foot separation is specific to Section 16-18(b), Accessory Structures.

Public comment closed.

The Commission reviewed and discussed the Variance review criteria, specifically criterion D and F where staff did not find the application to meet the criteria.

Commissioner Hill motioned to approve Case No. VAR-2023-0000, a request by property owner Robert Qualick, for a variance from the Development Code, Use Specific Standards, to construct a 192 sq.ft. accessory structure 50" from the rear property line and 57" from the side. As concrete boundary walls and a concrete accessory structure provides sufficient fire separation. The property, MIR05022, is addressed as 100 Confianza Street and zoned White Rock Town Center.

Seconded by Commissioner White. Motion carried, 7-0 vote.

For:

Benjamin Hill
Stephanie Nahkleh
Rebecca White
Katherine Bruell
Rachel Adler
Karen Easton
David Hampton

- B. CASE NO. SIT-2023-0064. Dekker/Perich/Sabatini (D/P/S), on behalf of Transcor Development Inc., property owner, is requesting Site Plan approval for a mixed-use development named Cañada Bonita, a 60,559-square foot mixed-use development that proposes 160 residential units and 7,192 square feet of commercial space. The properties, EA3 Q1 and EA3 Q2, are respectively addressed as 2100 and 2202 Canyon Road, Los Alamos, NM, and are within the Mixed-Use (MU) zoning district.**

Daniel Monk, representing D/P/S and Transcor Development Inc., presented the project proposal for 160 dwelling units and 7,192 sq.ft. of commercial space that will accommodate restaurant, business and personal service uses. He explained the proposed site plan and demonstrated elevations of the proposed building. The Site Plan review criteria was addressed, and he identified how each were met.

Commissioner Hampton questioned the parking. He stated that 162 spaces are required, but 184 will be provided. He asked why they did not take full advantage of the county's parking reductions for this zone district. Mr. Monk replied that some reductions were taken, but they also wanted to provide sufficient parking for the project. Commissioner Hampton asked if parking would accommodate public transit, or a bus stop on Canyon Road. Mr. Monk stated that he was unaware; however, Commissioner Bruell shared that it was her experience with the PEEC that there would not be any other stops along Canyon Road, and the closest would be the one at the Aquatic Center.

Commissioner Hampton asked if they had considered working with the county or acquiring grant funding to provide a variety of housing that would provide some below market rate housing. Adam Thornton, Transcor Development Inc., stated that there is nothing being considered at this time, but they are open to exploring options to make housing more affordable for residents to enjoy Cañada Bonita.

Commissioner White inquired about drainage and the mitigation measures mentioned by the Interdepartmental Review Committee (IDRC). She asked if it was standard language. It was confirmed to be standard and explained that it will be required as part of the coordination with the county during construction. Commissioner White asked about drainage within the parking lot. The Commission was informed that the parking lot is designed to distribute evenly across parking and drain into an underground storage pond. It will not increase current discharge.

Commissioner Bruell asked if they are proposing any connections to other trails besides Urban Trail. Mr. Thornton replied that they looked at the trail system extensively, with county staff, to explore other opportunities to integrate the development into the trail system – it was decided to keep Cañada Bonita from the trail connection, as the adjacent trail head is safe and usable.

Mr. Thornton shared that they attempted to incorporate elements that would provide the community with a quality of life. Each building has amenities that align with that, such as terrace lounges, hot tubs, work out facilities, and child play facilities. Moving forward, there are opportunities to have a dual story primary use restaurant in Building 3 and Building 2 has three commercial areas for professional services, such as a daycare. He noted that the commercial uses depend on what the tenants want to do, are allowed by the zone district, and have the neighbor's approval. He acknowledged that they have been working with the Los Alamos Jewish Center and was thankful for their cooperation.

Commissioner Hill questioned improvement responsibilities for the Urban Trail. Mr. Thornton clarified that the site's entrance was designed to be integrated with the Urban Trail. Traffic connectivity allows Cañada Bonita residents to take advantage of the trail. They are coordinating with the county to correlate construction of the two. Communication and planning are good, and they are willing to take on the endeavor to make the two work.

Commissioner Hill asked for the height of the parking light poles. Mr. Monk stated that the are 16-feet, max., and sidewalks along the buildings will be illuminated with low level ball type lighting. Commissioner Hill questioned if the project was electric. Mr. Monk confirmed that that dwelling units would be all electric, but gas services would be made for some amenities and the commercial spaces.

Jane Mathews, Senior Planner, presented the staff's report which outlined the request and described the proposed site and its elements. She gave an overview of the site plan decision criteria and explained the staff's response as they related to the application.

Commissioner Hill asked if Keith Wilson, Public Works Project Manager, could provide a timeline for the completion of the Urban Trail. Mr. Wilson described the Urban Trail and shared that the contractor has a year to complete the project, so by this time next year – it should be substantially complete.

Commissioner Nahkleh asked if the lighting would comply with the Dark Sky standards. Ms. Mathews confirmed that they comply based on the specifications provided.

Public comment opened and closed without comment at 8:42 PM.

Chair Adler voiced that the application meets the site plan review criteria. She asked if there were any objections from the Commission. Commissioner Hill agreed, he stated that staff's acceptance of the criteria was well reasoned.

Commissioner White motioned to approve Case No. SIT-2023-0064, a request for Site Plan approval for a 60, 559 sq.ft. mixed-use development that proposes 160 residential units and

7, 192 sq.ft. of commercial space. The properties, EA3 Q1 and Q2, respectively addressed as 2100 and 2202 Canyon Road, Los Alamos, NM are within the Mixed-Use district.

Approval is based on the Findings of Facts established at the hearing and conclusion that the Applicant has met the decision criteria for Site Plan adoption within Section 16-74(i)(4) of the Los Alamos County Development Code and that the Commission is acting under the authority granted by Section 16-69-(b)(2)(h) of the Development Code.

I further move to authorize the Chair to sign a Final Order approving the application and Findings of Fact and Conclusions of Law for this case, based on this decision to be prepared by county staff.

Seconded by Vice Chair Nahkleh. Motion carried, 5-0 vote.

For:

Rebecca White
David Hampton
Stephanie Nahkleh
Benjamin Hill
Rachel Adler

Recused:

Karen Easton

6. COMMISSION/DIRECTOR COMMUNICATIONS

A. Department Report

Ms. Sayeda shared a status update on Short-term Rentals, and conceptual plans for 20th Street. She noted that tonight's approval to extend the contract with D/P/S would help staff address items like the variance application heard tonight. She explained that staff is finding some language in the Code that are not working and changed, or that could be proposed differently and handled administratively.

B. Chair's Report

Chair Adler acknowledged and welcomed newly appointed Commissioner, Rebecca White.

C. Council Liaison's Report

Councilor Hand provided her report sharing regional planning training and planned activities and noted that the Los Alamos Downtown MRA will be presented to Council in the upcoming months.

D. Commissioners' Comments

Commissioner Hampton stated that Chapter 16 encourages density within the Downtown, and it was time to have a new parking discussion. He expressed that the parking for Cañada Bonita was large, and they were providing more than required. He requested that the Commission start discussing the possibility of parking maximums. Commissioner Nahkleh supported the discussion. Ms. Sayeda commented that it can be placed on an upcoming agenda.

7. PUBLIC COMMENT

8. ADJOURNMENT

8:58 PM