

PLANNING AND ZONING COMMISSION
REGULAR MEETING
TUESDAY, DECEMBER 6, 2022

1. The regular meeting was called to order at 6:30 p.m., and was opened with the Pledge of Allegiance. Commission members present were Chairperson Robert Rime, Rebecca Levy, Jim Skvorc, and Katrina Weiss. Commission member Lance McDaniel was absent. City staff present included Contract City Planner Nancy Dosdall, Director of Community and Economic Development Rachael Marchbanks, City Clerk Linda Smith, City Manager Drew Sanders, and City Attorney Patrick Coleman. There were 17 people present in the audience.
2. Commissioner Weiss moved that the minutes of October 4, 2022, be approved. Commissioner Skvorc seconded the motion, and the vote was as follows:

Levy	McDaniel	Rime	Skvorc	Weiss
Yes	absent	Yes	Yes	Yes

3. PUBLIC PARTICIPATION – None.

4. PUBLIC HEARING

- a. Application from James and Jean Wootton, DBA Yellow Car Country Wine, Located at 1345 South Broadway, for a Zoning Map Amendment for the Rezoning of Section: 34 Township: 36 Range: 16 tr. In. SE1/4NW1/4; 0.52 ac. Contract City Planner Dosdall stated that James and Jean Wootton, owners of Yellow Car Country Wine, have requested a rezoning of their property located at 1345 South Broadway. The property is currently zoned R-1 (Single Family Residential) and the request is to rezone to C (Commercial Highway). She stated that the parcel is .52-acres in size and has operated as both a residence for the Woottons and the Yellow Car Winery since 2018. It was noted that the winery was originally established under the existing zoning as a home business, although it has outgrown that designation and the strict requirements that a home business allows. Contract City Planner Dosdall stated that the applicants were served with a zoning violation this fall and staff believes that the winery is now complying with the restrictions of a home business; however, the applicants wish to rezone the parcel to a Commercial zone. The site is bounded on the north by single family homes (zoned R-1), on the west by unincorporated land in Montezuma County, and on the east and south by commercially zone land. Access to the property is through the commercially zoned property which is also owned by the Woottns. Contract City Planner Dosdall reviewed the criteria for a zoning amendment from Land Use Code Section 6.02 (a-h). She noted that the property at 1835 South Broadway was originally used for a church and served as the home for Hospice of Montezuma County from 1997 until 2018. The staff comments were reviewed regarding the criteria for considering the zoning request and it was noted that the area is a mix of land uses, including single family homes, rural properties, and existing commercial uses. The proposal meets numerous goals in the Cortez Comprehensive Plan and portions of the

neighborhood have been developed commercially over the years. Contract City Planner Dosdall stated that if the rezone was approved, she would recommend that the applicants complete a site development plan for the property so that any issues that the public may have could be worked out through the review process. She commented that the site development plan would be reviewed by both the Planning and Zoning Commission and City Council. Discussion was held on the frontage road (owned by the Colorado Department of Transportation) that is used off South Broadway to access the property and it was noted that much improvement is needed for the road to be used. Contract City Planner Dosdall stated that staff is recommending approval of the rezone; however, it is a tough case due to the location of the residential homes next to the property. Chairman Rime opened the public hearing.

James Wootten, applicant and owner of property located at 1345 South Broadway, 1349 South Broadway, and eight acres (through J4G Holdings LLC) that is adjacent to 1345 South Broadway stated that the winery was established in October 2019 and has operated under the State Liquor Enforcement rules. He noted that a patio expansion was completed in February 2022. Discussion was held on the access road used for the winery and also for the residential homes. It was noted that the access road is owned by J4G Holdings LLC; however, the residential homes have an easement to use the road for access to their homes. Mr. Wootten stated the reason they are requesting to rezone the property to Commercial is to allow the winery to expand in operation and in occupancy which the home based code does not allow. He noted that the winery liquor license is issued through the State of Colorado; however, the winery is required to have a City of Cortez sales tax license. Discussion was held on the property that is located between the winery and the frontage road and Mr. Wootten noted that J4G Holdings LLC owns the property which is zoned Commercial. He stated that he is hopeful that the winery will expand eventually onto that property. He spoke about the vision for the expansion that would include RV parking, condos, and the winery. Commissioner Levy asked about the use of a home on property that is zoned commercial, as her understanding is that a home would require an approved Conditional Use Permit. Contract City Planner Dosdall noted that the home is already on the property and would be considered a non-conforming use if the commercial zoning were to be approved. She stated that a Conditional Use Permit could be obtained for the home during the site development review process should the applicants wish to make the home a conforming use. Discussion was held on the frontage road which is owned by the Colorado Department of Transportation (CDOT) and the need for upgrading the road. Mr. Wootten stated that he and others have been talking with CDOT on many of the frontage road issues.

Tammy Lindsay, 1205 South Broadway, stated her objection to the proposal and noted the issues that they have had with the winery as they are direct neighbors to the property. She spoke about the history of the property which was zoned residential for more than 100 years. She stated that the patio has been expanded to accommodate several dozen people and spoke of the issue with parking along with the noise that comes with the use of the property as it is currently being used. She stated that there is no room for people to turn around on the property and that the frontage road and driveway cannot accommodate the vehicles that are accessing the winery. She shared photos of the

property noting that the driveway is unsafe and does not allow for access for emergency vehicles. She stated that they have legal use of the driveway to access their homes and many times the road has vehicles parked on the road which makes it very difficult to drive on it. She stated that a porta potty was used all summer and was placed directly in view of their home. She also spoke of the dangerous issue of turning onto the highway at the end of the driveway due to the speed and slope of the highway. Kent Lindsay, 1201 South Broadway, stated that he has concerns with safety issues, such as fires in the canyon, as well as access. He stated that the frontage road is a single lane road and needs improvement and maintenance and a turning lane is needed from the highway to allow for any development in the area.

Jedekiah Coy, 703 Hartman Road, located on the north side of the property, stated that he knows all the neighbors. He stated that he hopes the neighbors can work things out so both can enjoy their property. He questioned why the property was not zoned commercial when it was first developed as a church. Brian Bartlett, Mesa Verde Country, stated that Yellow Car Winery has been a great partner in bringing in tourists to the community and that they offer a place for people to gather and enjoy the area. He stated that Yellow Car Winery is always willing to help with events and are great ambassadors for the community. Connie Coy, 703 Hartman Road, stated that she had previously owned the White Eagle Inn and commented that the traffic on Highway 491 is very scary. She stated that turning onto the frontage road can be very difficult as well. She suggested that the speed limit in that area be reduced to help with the already congested issues for the two lane highway.

Wanda Martin, 7399 Highway 160, stated that she is friends with the Lindsay family and has visited their home many times. She also has visited the winery and they had a very loud band playing with the noise going into the back yard of Tammy and Grant Lindsay's home. She asked that the Commission take into account the issues that the winery is causing for the neighbors as well as the concern for the dangerous highway access. Marla Wootten, 1345 South Broadway, stated that she and her husband just moved to Cortez and is helping their family with the winery. She spoke about the many people that they have met from all over the globe and the stories they have shared. She stated that the winery is a place to be happy and commented that there are ways to work around the issues noting that the winery is closed at the latest by 8:00 p.m. She spoke about her concern for the neighbors driving too fast on the access road. Grant Lindsay, 1205 South Broadway, spoke about his concern of motor homes coming onto the road and blocking access to his driveway. He stated that the loud music is also a concern as well as the foul language that comes with some of the parties. He stated that this is his home and he would just like some peace and quiet. He asked why the expansion can not be moved to the other side of the property so that it doesn't impact the neighbors like it has. He stated that when the winery began it was supposed to allow for two to four people on the patio and to sell retail wine; however, the winery has expanded further and now allows campers and RV's with a porta potty on the corner of the lot.

Commissioner Skvorc asked Mr. Wootten why he expanded the patio in the direction towards the neighbors rather than to the south of the building which is totally open. Mr. Wootten stated that the

direction of the patio was placed where it is due to State Liquor Enforcement laws on crossing property lines for alcohol operations. He also stated that more infrastructure upgrades would have been required. Discussion was held on the parking area located next to the neighbors homes. Mr. Wootten stated that the front of the house is kept open so emergency vehicles can come in and out of the area. Mr. Wootten stated that he would eventually like to move the winery to the property located in front of his property towards the frontage road area; however, there are issues with Colorado Department of Transportation using that property at this time. He stated that CDOT is allowing the winery to stay where it is as they are grandfathered in and that discussion continues with CDOT on what could be done to allow the winery to move to the vacant land. Mr. Wootten commented that the proposed location for moving the winery would allow distance from the neighbors. Commissioner Skvorc stated that he noticed the patio is delineated on the property; however, the parking area is not roped off and Mr. Wootten stated that they try hard to keep the road open and as soon as the RV's come in, they are parked so that there is no issues with road access. No one else spoke and Chairman Rime closed the public hearing.

Commissioner Weiss noted that the proposal currently before Planning and Zoning for review is the rezone request and, if the rezone is approved, a site development plan would need to be reviewed by both the Planning and Zoning Commission and City Council. Contract City Planner Dosdall commented that the criteria for the rezoning should be discussed by the Commission prior to a vote. She stated that the main concern for the rezone is if the proposed use is compatible with the surrounding area or uses; will there be adverse impacts; and/or can any adverse impacts be mitigated. She stated that if the rezone is approved, the site development plan review would be the next process and would be the time when discussion would be held on how to mitigate the impacts on the neighbors, such as requirements for buffering, noise mitigation, and traffic issues. It was noted that the photographs presented by Ms. Lindsay would become part of the official record and if Ms. Lindsay wanted the originals back, copies could be made. Commissioner Weiss commented that she is sorry for what the neighbors are going through but noted that the property has been used for a commercial use before and has commercial property around it and meets several objectives of the Comprehensive Plan.

Commissioner Weiss moved that Planning and Zoning recommend to Council that the request to rezone from R-1 (Residential Single Family) to C (Commercial) for property located at 1345 South Broadway, Cortez, be approved. Commissioner Levy seconded the motion. Commissioner Skvorc stated that he doesn't feel the rezoning meets criteria (d) (the proposed use is compatible with the surrounding area or uses; will there be adverse impacts; and/or can any adverse impacts be mitigated). He stated that he feels there are already impacts as the owners have exceeded the home business requirements and if the rezone is approved the adverse impacts will be even greater given the size of the road, traffic on the highway, and the issues with the neighbors which has been instituted recently. He stated for that reason he will vote no as he feels the proposed use is not compatible with the area and there will be adverse effects.

The vote was as follows:

Levy
Yes

McDaniel
absent

Rime
Yes

Skvorc
No

Weiss
Yes

Chairman Rime noted that the motion carries.

b. Application from Donetta Hegwood, Represented by Casey Spitzer, Requesting a Zoning Map Amendment for TBD N. Chestnut Street. Contract City Planner Dosedall stated that Donetta Hegwood is asking to rezone a .59-acre vacant parcel located on the southwest corner of the intersection of North Chestnut Street and West Empire Street. Currently the property is zoned R-1 (Residential Single-Family) and the request is to rezone to R-2 (Residential Multi-Family). The site is bounded on the north and south by single family homes zoned R-1, on the west by the Rust Mobile Home Park which is a non-conforming property zoned R-1, and commercially zoned property is located to the northwest. Contract City Planner Dosedall noted the criteria for approving a rezoning request from Land Use Code Section 6.02 a-h and commented that the request to rezone the property from R-1 to R-2 would allow for single-family (4 lots), duplex (6 units), or multi-family development (8 townhome style units). The property would allow for 12 units should affordable housing be proposed. It was noted that manufactured homes and parks are not allowed in the R-2 District. Contract City Planner Dosedall stated that the neighborhood does not appear to have experienced many changes in recent years, except perhaps for deterioration of the property to the west, which given its nonconforming status is likely to continue. She stated that there does seem to be a need in the neighborhood for more of a transition from the highway corridor and existing mobile home park to the developed single-family neighborhoods to the east. It was noted that the property has been for sale for some time and there has not been an interest to develop the property with a single family home, but more interest for multi-family development. Several goals and policies were reviewed from the Comprehensive Plan that would support the rezoning request. Contract City Planner Dosedall stated that the property is surrounded by R-1 zoning with the exception of a small corner to the northwest; however, due to the nonconforming status of the property immediately to the west creates a more complicated picture for the property. She stated that staff recommends approval of the rezoning request as there is a demonstrated need for additional housing in Cortez and the proposed use of multi-family housing is compatible with existing development in the surrounding area.

In answer to a question from Commissioner Skvorc, Contract City Planner Dosedall stated that the height for R-1 and R-2 developments is 35 feet. Commissioner Levy asked if the use is residential and the density is just being increased but remains residential, would the rezone be considered spot zoning. Contract City Planner Dosedall stated that state of the art would encourage that there is a mix of housing throughout a community and a lot of communities feel that the single lot zoning should be eliminated. City Attorney Coleman spoke about spot zoning and noted that a zoning should not be changed to benefit a property owner, but should be consider on the merits of the rezone and how it would benefit the community as a whole and fits within the surrounding property (such as keeping with residential in a residential area). Chairman Rime opened the public hearing.

Marti Spitzer, representing Donetta Hegwood, stated that the lot is large and has been hard to sell as one single-family lot. She stated that anything (duplex/affordable housing) that was built on the property would enhance the neighborhood especially with the property (trailer park) located to the west. Brian Bartlett stated that he supports any kind of housing that is developed in the community as there is such a need for employee housing. No one else spoke and the public hearing was closed.

City Attorney Coleman stated that if the preference of the Commission is to approve the rezoning, he would like to remind the Commission that there is a draft resolution included in the packet; however, if the action by the Planning and Zoning Commission is to not approve the rezoning, a resolution would need to be written stating denial with a recommendation made to Council noting the reasons for the denial.

Commissioner Levy moved that Planning and Zoning approve Resolution No. 12, Series 2022, recommending approval to City Council of the rezone of a .59-acre parcel located on the southwest corner of North Chestnut Street and West Empire Street, also known as CRSP Addition, Lots 2-8, Block 1 B612 P165-66, from R-1 (Residential Single Family) to R-2 (Residential Multi-Family). Commissioner Skvorc seconded the motion, and the vote was as follows:

Levy	McDaniel	Rime	Skvorc	Weiss
Yes	absent	Yes	Yes	Yes

5. NEW BUSINESS

a. Application for a Site Plan Review and a Special Exception from Monique Weese, Craig Weese, and Oliver Hart, Representing Zuma Apartments, formerly Mesa Verde Inn. Contract City Planner Dosdall stated that Zuma Apartments, LLC, has purchased the former Mesa Verde Inn located at 550 and 640 South Broadway. The applicant applied for and was granted variances by the Board of Adjustment to the percentage of commercial uses required on the ground floor and unit size to allow for conversion of the existing motel rooms to apartment living. Generally, site development plans are only required for new development or changes in use that would intensify the impacts on the property. In this case, it could be argued that permanent residents would create less impact than the transient or overnight residents that a motel generates. Contract City Planner Dosdall stated that if a change of use results in changes in traffic or the proposal involves deviations or variances from the applicable development standards, the site plan review is required. She stated that the applicant is proposing to add parking; however, the applicant would still not meet the full parking requirements of the City of Cortez Land Use Code and is requesting an exception. It was noted that motels have a much lower parking requirement than full time residential living requirements which results in the need for additional parking. Parking has been added where reasonable, but the application still does not meet the minimum parking requirements of Section 5.02. The proposal is to provide 90 parking spaces for residential and there are 20 existing spaces reserved for the commercial use. She commented that there are approximately 33 spaces that the development would be short. Discussion was held on various parts of the property that could be used for parking that is owned by the

applicants; however, other uses are being proposed for the property, such as green space/playground area for children/pet area/maintenance sheds. She stated that staff is recommending approval of the site development plan and the special exception to the parking requirements for Zuma Apartments with three conditions, which one of the conditions would say: should parking become a problem in the future, the applicants will propose additional spaces in either the adjacent properties or existing green spaces on the property. A revised site plan will be required to be submitted to the City and reviewed by the Planning Commission/City Council should revisions/additional parking be deemed necessary. Discussion was held on the parking spaces required per code and the parking that the applicants are proposing for the site. Chairman Rime opened the public hearing.

Oliver Hart and Craig and Monique Weese, owners of Zuma Apartments, LLC, spoke to the Commission about the parking issues and noted that they are proposing 20 studios which will have one parking space each; 10 one-bedrooms would have 1.5 parking spaces each; 26 two-bedrooms would have two parking spaces each; and 1 three-bedroom would have 3 parking spaces for a total of 90 spaces, equaling out to 1.58 spaces per unit for the entire complex. It was noted there will be an office/maintenance area as well as a laundromat for the residents. Mr. Weese stated that they are not moving right away (a couple years) with the storage units and if needed parking could be placed in that area. It was noted that many of the residents in the units will have only one car, if they have one at all and there is a parking space for every unit. Brian Bartlett spoke about the importance of the housing that will be offered through the Zuma Apartments, LLC, and that he supports the proposal as it is presented. He stated that keeping the open green space for the families to gather is so important for the project and will be a hub gathering place for the families. Commissioner Weiss stated that the parking issue was approved by the Board of Adjustment and Appeals and that the affordable housing is so needed and out weighs the need for the parking spaces. She stated that she owns a business downtown and there are no parking spaces and feels this proposal will work as presented. Contract City Planner Dosedall stated that after reading the math on the parking spaces, the amount of spaces that would be included in the exemption is 28 spaces (not 33 spaces).

Commissioner Levy moved that Planning and Zoning recommend to City Council approval of the site development plan for Zuma Apartments on property located at 550 and 640 South Broadway, in the Commercial Highway (C) zone, as submitted by Zuma Apartments, LLC, through Planning and Zoning Resolution No. 14, Series 2022, with three conditions as stated in the resolution. Commissioner Weiss seconded the motion, and the vote was as follows:

Levy	McDaniel	Rime	Skvorc	Weiss
Yes	absent	Yes	Yes	Yes

b. Application from Montezuma County, Applicant Basin Co-Op Proposes to Amend the Existing High Impact Permit to include an 80 ft. X 150 ft. Warehouse Facility. Contract City Planner Dosedall stated that the applicant proposes to amend the existing High Impact Permit to include an 80 foot x 150 foot warehouse facility. There would be no retail sales at this location and it would be primarily used for storage of agricultural products. It was noted that the Montezuma County Planning and

Zoning Commission will hold a public hearing for the permit on December 8, 2022. The portion of the property, which has direct access to Highway 491, is located within the one mile area of influence, and therefore City review is required. The Commission reviewed the proposal and had no comments. No vote was taken on the proposal.

6. UNFINISHED BUSINESS – None.

7. OTHER ITEMS OF BUSINESS

a. Permits issued in October and November 2022.

8. PREVIOUS BUSINESS – None.

Commissioner Skvorc moved that the meeting be adjourned at 8:40 p.m. Commissioner Levy seconded the motion, and the vote was as follows:

Levy
Yes

McDaniel
absent

Rime
Yes

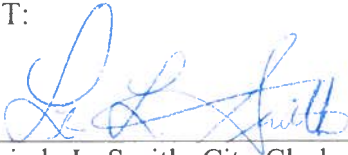
Skvorc
Yes

Weiss
Yes



Robert Rime, Chairperson

ATTEST:



Linda L. Smith, City Clerk