



CITY OF RIO COMMUNITIES

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BEFORE THE PLANNING & ZONING COMMISSION OF THE CITY OF RIO COMMUNITIES

For a rezoning a commercial 3 zone at Proposed Location: UPC 100902637524000000 Subd: PLAYA ESTATES Tract: PARCEL 5 11.52 ACRES 1994 SPLIT, UPC 100902637514000000 Subd: PLAYA ESTATES Tract: PARCEL 7 27.26 ACRES 1994 SPLIT

For a rezoning an industrial 3 zone at Proposed Location: UPC 101002614508500000 Subd: PLAYA ESTATES Tract: PARCEL 12 14.29 ACRES 1994 SPLIT, UPC 101002627012000000 Subd: PLAYA ESTATES Tract: PARCEL 14 19.56 ACRES 1994 SPLIT, UPC 101002629418700000 Subd: PLAYA ESTATES Tract: SOUTH PORTION OF PARCEL 15 5.65 ACRES 2006 SPLIT, UPC 101002639713100000 Subd: PLAYA ESTATES Tract: PORTION OF PARCEL 16 REMAINING 16.44 ACRES 2006 REV, UPC 101002632005000000 Subd: PLAYA ESTATES Tract: PARCEL 19 54.00 ACRES 1994 SPLIT, UPC 101002619502000000 Subd: PLAYA ESTATES Tract: PARCEL 20 12.84 ACRES 1994 SPLIT, UPC 101002619502000000 Subd: PLAYA ESTATES Tract: PARCEL 20 12.84 ACRES 1994 SPLIT, UPC 100902649003500000 Subd: PLAYA ESTATES Tract: PARCEL 22 35.56 ACRES 1994 SPLIT, UPC 100902636501500000 Subd: PLAYA ESTATES Tract: PARCEL 23 33.40 ACRES 1994 SPLIT, UPC 101002506047500000 Subd: PLAYA ESTATES Tract: PARCEL 24 47.01 ACRES 1994 SPLIT

A hearing was held before the Planning & Zoning Commission ("Commission") on January 19, 2023, at 4:00 p.m. and a second hearing on February 16, 2023, at 4:00 pm. The following members of the Commission were present: Thomas Scroggins (Chairman); Melodie Good (Secretary); Scott Adair (Commissioner) Adelina (Lina) Benavidez, Chad Good (Commissioner) . A quorum was present.

The hearing on the above Application was convened at approximately 4:25 p.m. on January 19, 2023 and at 4:32 p.m. on February 16, 2023. The Chair asked all individuals who intended to testify on the matter of the Application to provide their names and addresses, and they were thereafter sworn prior to providing testimony. Testimony ended and the public hearing portion on the Applicant was closed at 6:28 p.m. on January 19, 2023 and 8:20 p.m. on February 16, 2023.

I. Preliminary findings.

The Application filed by Cibola Land Corporation C/O Harvey Yates ("Applicant") was submitted in a format stipulated by the City as required by Zoning Code 4-3-10 A(1)(2)(3)(4)(5)(6) & 4-3-11 B(1). The Application has been reviewed by City staff and no further information or documentation has been requested.

FINDINGS OF FACT AND RECOMMENDED DECISION

Pursuant to §3-19-3 NMSA 1978, the Planning and Zoning Commission Chairman and Commissioners set forth the following Findings and Recommended Decision.

FINDINGS

1. Applicant Cibola Land Corporation submitted two applications for the re-zoning of several parcels on December 14, 2022.
2. One application requested the re-zone of approximately 262.2 acres from Planned Development to Industrial 3 (I-3) zoning.
3. The second application requested the re-zone of approximately 38.78 acres from Planned Development to Commercial 3 (C-3).
4. The Rio Communities Zoning Code provides that “the intent and purpose of this Zoning Code [is] to encourage the most appropriate use of the land...stimulate a climate for balanced and harmonious development...preserves the general health, welfare, safety and order...[of] all residents” and that “[p]reservation of the character of current and future planned neighborhoods is also a goal of this ordinance.” (Section 4-1-2. Purpose).
5. I-3 Zoning permits “a wide variety of heavy manufacturing, commercial processing, storage, packaging, compounding and wholesaling and distribution operations with no limit on size.”
6. C-3 Zoning was established to enable “the conduct of business activity that is located at the edge of residential areas but serves a larger trade area than the immediately surrounding residential neighborhoods.” Moreover, “the C-3 heavy commercial district shall provide more intensive retail trade and commercial services[.]”
7. The Zoning Code provides that in rezone petitions, the petitioner shall “promptly notify...any landowner whose property is located within one hundred (100) feet of the proposed zoning change...by posting a sign provided by the City at the property line closest to a street.” 4-18-10. Such notice was provided by the Applicant in conjunction with the City Planning Staff.
8. One public hearing regarding the I-3 and C-3 Rezoning applications was conducted on January 19, 2023. Members of the public expressed concern during the hearing that only property owners within 100 feet received formal notice. As a result, the Planning Commission elected to hold a second public hearing on February 16, 2023 with property owners within 300 feet receiving notice.

9. Both public hearings regarding the I-3 and C-3 rezone applications were conducted pursuant to 4-18-3, requiring that “[n]o zoning regulation, restriction, or boundary shall be recommended for change...until after a public hearing where all parties in interest shall have an opportunity to be heard.”
10. The Applicant was given opportunity to present evidence and testimony regarding the rezoning application at both public hearings. The Applicant set forth numerous statements of intent to create a minimum 300-foot buffer between the existing residential zoned lots and the property to be zoned I-3; intent to clean up the properties, which prior to development have been the subject of illegal dumping; intent to develop a roadway through the property to curb industrial traffic from traveling through the City; and intent to provide the requisite water needs for any prospective operations on the property.
11. The Application states only that “[w]e intend to bring in industrial and commercial development” as its justification for seeking C-3 and I-3 zoning designations.
12. A Rezoning action generally requires conformance with a city’s comprehensive plan. Goal 4 of the Comprehensive Plan is to “diversify the local economy” in concert with a City Local Economic Development Plan (LEDP). The City’s LEDP identifies that its core weaknesses are “manufacturing and commercial” uses. The LEDP, also specifies that “a grocery store, pharmacy, clinic, and full-time restaurant” are primary ~~the~~ goals of the City in pursuing commercial development. (Ordinance 2018-62, Section 10-B-2-2.)
13. The Comprehensive Plan also identifies “protecting natural resources,” “improve public mobility and transportation,” and “sustain and improve infrastructure” as core focuses for the City.
14. The Applicant addressed transportation by indicating an intent to pursue a road project and capitalize on nearby access to the railroad.
15. The Applicant only spoke to natural resources insofar as expressing intent to procure the necessary water rights for industry to occupy the land proposed for rezoning.
16. The Applicant clearly stated that Cibola Land Corporation had no intent to engage in the storage, extraction, or other activities which involved petroleum in large quantities; the Applicant did express that it may be economically feasible for some industry to store small quantities of fuel on-site for operations.

17. During the public hearings, the Planning Commission heard over five hours of testimony from members of the public, including residents of Rio Communities, Valencia County, tribal representatives, and other communities outside of the county.
18. The speakers at the public hearing generally expressed concerns relating to the impact of industry on infrastructure, nearby residential homes, natural resources, and citizens' health.
19. The Applicant did not elaborate on what specific industry or commercial businesses may occupy the properties, so the Commission was unable to consider with any specificity the impacts of future commercial or industrial development on:
 - a. The City's water distribution and sewer collection systems, electricity, and water supply.
 - b. The health, safety, and welfare of the citizens; especially emissions of sound, odor, or water/soil/airborne pollutants.
20. The information presented by the Applicant was too general for the Commission to make a responsible, informed recommendation for I-3, which would have made permissive such activities as "heavy manufacturing," "petroleum or liquified petroleum bulk storage plants," "feed mills, grain elevators," and "similar uses in character" to those enumerated.
21. The proximity of the proposed I-3 Zone to residential properties (three hundred to six hundred feet) with no clear direction from the Applicant regarding which commercial and industrial uses would be pursued made it impractical for the Commission to ascertain conformance with the Comprehensive Plan.
22. The information provided by the Applicant regarding the prospective C-3 zoned area made limited mention of intended use, if any. The Commission felt similarly that the lack of specific use disclosure made it difficult to ascertain the compatibility of the property with neighboring zone properties pursuant to the Comprehensive Plan.
23. The Applicant expressed willingness to comply with restrictions or conditions placed upon the proposed developments, but the current Zoning Code does not allow for additional conditions beyond enumerated development standards to be placed on permissive uses within I-3 or C-3 zones.

RECOMMENDED DECISION

1. Based upon the above Findings, the Planning Commission recommends that the Cibola Land Corporation’s application as presented for the rezoning of 38.78 acres from Planned Development to Commercial 3 be denied.
2. Based upon the above Findings, the Planning Commission recommends that the Cibola Land Corporation’s application as presented for the rezoning of 262.2 acres from Planned Development to Industrial 3 be denied.
3. The Planning Commission recommends the City Council consider denial or alternative Zone designations to those initially sought by the Applicant.

PASSED, APPROVED AND ADOPTED THIS 2nd DAY OF MARCH 2023 BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF RIO COMMUNITIES, NEW MEXICO.

Thomas Scroggins, Chairman

Melodie Good, Secretary

Scott Adair, Commissioner

Adelina (Lina) Benavidez, Commissioner

Chad Good, Commissioner

ATTEST:

Elizabeth F. Adair, Municipal Clerk