




CHAVES COUNTY		ETZ Commission
Date: July 19, 2022	<i>Meeting Minutes</i>	

Members Present:

Michael Lackey
Matthew Bristol
Mona Kirk – *via phone*
Rita Kane-Doerhoefer- *via Phone*
Neil Roe
Royce “Pancho” Maples

Guests:

Ian Austin, AMP/ASA Holdings NM LLC
Maria Garza
Mike Hubbard and Brain Bailey
Alex Palomino, Souder-Miller & Associates
Merideth Hildreth, City of Roswell P&Z
Cindy Larson O’Neil, Amaresco

Staff Present:

Louis Jaramillo
Richard Gutierrez

A regular meeting of the Roswell Chaves County Extraterritorial Zoning Commission (ETZ Commission) was held at the Chaves County Administrative Center in the Commission Chambers on July 19, 2022, at 5:30 PM.

Minutes

A motion to approve the minutes from the May 17, 2022 meeting, as presented, was made by Commission Kirk and second by Commissioner Roe. The motion was approved unanimously.

NEW BUSINESS

Case ETZ 2022-08

Request for a Rezone to Industrial for a Community Solar Array Facility; located in S29 T11S R24E SE4NE4 W of Hwy less 8.27 ac to Hwy Dept.; at or near SW corner of S. Main St. and Roswell Relief Rte; landowner- WM F & Jean Brainerd; agent- AMP Solar Development dba ASA Holdings NM I LLC

Louis Jaramillo gave a brief description of the case. He stated staff was in agreement of the Zone Change supported by the eight (8) Conditions of Approval and four (4) Findings of Fact listed in Staff’s Report.

Commissioner Bristol asked if there was still concern from Staff about the engineering for this site.

Mr. Jaramillo stated no because AMP Solar has employed Souder Miller and Associates who provided a preliminary drainage plan and one of the Conditions of Approval is that Roswell City Engineering Department must approve the development plan.

Commissioner Bristol noted the application was for a SUP. **Mr. Jaramillo** stated a change of request was made at the last minute to a rezone so that the agent may purchase the property, if approved. He noted all advertisements and notices met ETZ Ordinance and State Statute requirements.

Ian Austin AMP Solar representative spoke about the overall State project, the company's history, the solar facility project itself and its prospective benefit to the community.

Commissioner Lackey asked about the stated 16-foot high solar panel on the site and if there are any glare concerns for the adjacent intersection.

Ian Austin stated that height from the maximum height from tip of the panel to the ground at its greatest angle in the morning and evening hours. He noted there should be not glare from the panels that would affect the road ways or the overhead planes and a screen fence would be installed, along with landscaping.

Commissioner Doerhoefer inquired about the adequacy of the drainage on the project site. **Mr. Jaramillo** stated there was and that Roswell's City Engineering Department, Staff and Souder Miller were working on an acceptable design.

Commissioner Kirk asked if Staff received any letters of protest. **Mr. Jaramillo** stated no.

Alex Palomino (Souder-Miller 500 N. Main St.) spoke in favor of the case. Mr. Palomino stated the preliminary design to move the water to the existing culverts and move along as designed.

Chairperson Maples asked about the fence being a barrier to the flow. Mr. Palomino state the design will take the fence and landscaping into account.

Chairperson Maples called on Merideth Hildreth.

Merideth Hildreth inquired whether the width of the access road would meet City Marshal's requirements.

A motion to approve case ETZ-2022-08 including the eight (8) Conditions of Approval based on the Findings of Fact was made by **Commissioner Bristol** and seconded by **Commissioner Roe**. The Motion was approved unanimously.

Case ETZ 2022-09

Request for a Rezone to Commercial and a Variance to the 5-acre minimum lot size to allow sales of portable buildings and thrift store; located in S8 T12S R25E NE4NE4 W210' E445' S of Hwy 285; at or near 64 Yakima Rd., Dexter; landowner and applicant- Maria L. Garza.

Louis Jaramillo gave a brief description of this case and stated Staff is not in favor of the request because it may set a precedent in the area with similar size lots. Mr. Jaramillo noted that NMDOT did not provide an opinion.

Maria Luis Garza (64 Yakima Road-Dexter) spoke in favor the case and gave a brief description of her intended use of the property as noted in her site plan.

Commissioner Doerhoefer asked Ms. Garza if the access road was approved for commercial use by NMDOT, why did she purchase the property in March 2022, how would she use the property and would the building face Yakima Road.

Ms. Garza stated she contacted NMDOT but has not heard back from Curtis Griffin-NMDOT. She purchased the property from family and intends on using it as an outdoor thrift shop.

Commissioner Bristol reiterated to Mrs. Garza the conditions for approving a variance is that a peculiar hardship to the property or the area must exist.

A motion to deny case ETZ 2022-09 Zone Change from Rural Suburban to C-1 Commercial and Variance to the 5-acre minimum lot size based on Finding of Facts 4,5, & 6 was made by **Commissioner Bristol**, seconded by **Commissioner Lackey**. The motion was approved unanimously.

Case ETZ 2022-10

Request for a Variance of 5 feet to the required 20 feet side yard setback in the Rural Suburban District; Lot 3 of the Brian and Michelle Bailey Boundary Survey Plat (S26-12); at 3249 N. Sycamore Ave. Roswell; landowners- Brian and Michelle D. Bailey; agent- Hubbard and Sons Inc.

Louis Jaramillo gave a brief description of the request, required setbacks, and noted that Staff received one (1) letter of approval from Mr. and Mrs. Harrell, the adjacent neighbors to the south of the project.

Mike Hubbard (Hubbard & Sons) agent and contractor spoke in favor of the case. He explained the design of the new addition requires the encroachment of five feet into the twenty-foot side yard setback. He noted that the interior wall would be increased in height to eight foot and the neighbors has approved the request.

Chairperson Maples asked why the five-feet is needed. **Mr. Hubbard** stated the AC units are on the south side of the existing structure and on the new addition.

Commissioner Bristol asked if the lot was five acres in size. **Mr. Hubbard** stated yes and the twenty acres to the east.

Commissioner Bristol asked what the particle hardship is for granting this variance. **Mr. Hubbard** stated the design of the addition requires it.

Commissioner Bristol stated there seem to be no hardship or economic loss for granting the variance.

Discussion ensued on reasons for granting a variance.

Commissioner Lackey asked if the structure wall or the AC units would be fifteen-feet from the property line. **Mr. Hubbard** stated it would be the wall.

Commissioner Doerhoefer asked if the addition would affect the value of the surrounding homes and would you be able to see the addition from Sycamore Road. **Mr. Hubbard** state the values would increase and a small area of the addition would be visible from Sycamore Road as most of the structure would be to the east.

Brain Bailey- owner (3249 N. Sycamore Road) gave his explanation for the addition and how it would flow with the existing home. He stated the large room would be a museum type area and the dining area is for their large family to gather for holidays. He stated it would be attractive and increase the value of the property.

Chairperson Maples asked is there a possibility of purchasing five feet from the neighbors. **Mr. Bailey** was unsure but stated that would be five feet that he would own on the other side of the wall and the cost of moving the wall would be a lot.

Discuss ensued about the possible purchase of five feet, the reasoning for granting a variance, tabling the case and the delay of construction.

Motion to table the case ETZ 2022-10 by **Chairperson Maples**, seconded by **Commissioner Bristol**. **Commissioner Roe** stated there were no letters of protest, the property value would increase, the time and money he put into plans, and the adjacent neighbor was in agreement to the variance. The motion failed by a 2-4 vote.

Discuss ensued- five reasons to grant a variance and purchasing of five feet.

Mr. Jaramillo read the reasons to consider a variance Section 2.7. He noted this request only meets two of those reasons, at best.

Commissioner Bristol asked **Mr. Bailey** if the addition could be redesigned to not encroach into the setback area. **Mr. Bailey** explained the design plans are complete.

Mr. Jaramillo suggested the addition be reduced in size to not encroach into the setback. **Mr. Bailey** stated they would not be able to get around the table and it would reduce the big room.

Motion to approve case ETZ 2022-10 with one Condition of Approval stated in Mr. and Mrs. Harrell's letter, by **Commissioner Roe**, seconded by **Commissioner Doerhoefer**. The motion was approved by a vote of 5-1. Findings of Facts- 1. The granting of the variance would not be injurious to the public health, safety and general welfare. 2. The use and value of the area adjacent to the property, including the variance, will not be affected in a substantially adverse manner. 3. The support letter from Mr. and Mrs. Harrell.

Case ETZ 2022-11

Request for a Rezone to Industrial for a Community Solar Array Facility; located in Fruitland Subdivision Block 27 Lots 5 & 6, Block 33 Lots 2 thru 4 and Lots 5 thru 8; at or near 2400 block of S. Atkinson Ave. Roswell; landowners- Armin A. Jr., Jasmine and Hunter Grado; agent- Ameresco

Louis Jaramillo gave a brief description of the case requesting a Zone Change from Rural-Suburban and C-1 Commercial to Industrial District for the purpose of building a Community Solar project citing the thirteen (13) Conditions of Approval (including one (1) additional condition providing revised setbacks) and the four (4) Findings of Fact.

Cindy Larson O'Neil (Amaresco) gave a brief description of the project, area, scope of work, and compliance with County and City requirements. She stated they did visit with six adjacent neighbors who seems positive with the project.

Chairperson Maples stated the Commission is familiar with community solar. **Ms. O'Neil** stated one thing, they are a community-based company and believe in hiring locally.

Commissioner Roe are you aware of the conditions of approval and are the neighbor aware the project may take years for approval by the State. **Ms. O'Neil** stated she did have the City's but not conditions from the County. She read the 13 conditions stated in the report and then stated she had no issue with the conditions.

Commissioner Doerhoefer asked if there will be a fence, will you be using City services, how many access driveways will be along S. Atkinson Ave., near the fairgrounds and letter of protest.

Ms. O'Neil stated the fence would be a six-foot chain-link, no utility service required, plans will be approved by the City and County, one access driveway, and its across from the fairgrounds.

Commissioner Kirk asked who will be maintaining the site. **Ms. O'Neil** stated the property will be maintained by a local company at least once a month.

Commissioner Lackey asked if there was there any opposition. **Ms. O'Neil** stated no.

Michael O'Mara (902 S. Adams Drive) spoke against the case. He stated he is the owner of Lot 4, located at the intersection of Atkinson Ave. and Poe St. (Records state Yriart Trust-Vivian Yriart). He stated he did not want it in his backyard, was concern with vacating alleys and roads, and does not agree to the 50-foot setback requirement.

Mr. Jaramillo stated that the previously approved Special Use Permit required a setback of 100 feet from Mr. O'Mara property.

Ms. Hildreth stated a condition stating if the community solar facility is not constructed in five years to rezone is terminated and fire hydrate location in reference to the project.

Commissioner Roe asked Ms. O'Neil if the 100 foot setback from the north property line would be acceptable. Ms. O'Neil stated the county map did not show him as the owner.

Ms. O'Neil stated she would be accepting to 50 foot setback from all exterior property lines.

A motion to approve case ETZ 2022-011 with 14 Conditions of Approval based on Finding of Facts, by **Commissioner Roe**, seconded by **Commissioner Doerhoefer**. The motion was approved by a vote of 4-2.

Case ETZ 2022-12

Request for a Special Use Permit for a Medical Cannabis Facility in the Rural Suburban District; located in part of SE4NW4 and SW4NE4 of S27 T10S R24E; at 1705 E. 19th St., Roswell; landowners- Fredda and Lorin Sanders, Sanders Trust; agent-Tim Fresquez.

Louis Jaramillo gave a brief description of the case requirements including the four (4) Conditions of Approval, five (5) Findings of Fact and the letters of opposition staff received prior to the meeting.

Tim Fresquez described his intent and expectations for the micro-grow operation for stimuli the economy.

Commissioner Doerhoefer asked about the access to the facility, security, employee make-up, building ventilation, processing and conditions of distribution. **Mr. Fresquez** stated the access point would be different than the residential on, sales are only to distribution centers and not the public, and they would only be using the existing metal building.

Commissioner Kirk asked Ms. Hildreth (City of Roswell) if there was any opposition to this project. **Ms. Hildreth** stated they had no objection and that growers have to comply with State of New Mexico requirements for ventilation, filtration etc.

Jack Mayfield (508 S. Spruce Ave.) spoke in favor of the case. He stated he is familiar with the cannabis growth process, the proposed site is a good location, in favor of small business, they would provide a good produce and succeed in a new business.

Jim Bloodheart (1506 E. 19th St.) spoke against the case. He stated he lives within 1000 feet of the property but was not notified of the case. (Staff verified his P.O.Box). He is against more traffic on 19th St.

Tel Trammel (2304 Urton Road) spoke against the case. He stated it was not a good thing for the neighborhood.

Jeremy Kohler (1302 E. 19th St.) spoke against the case. He stated he too did not receive a notice. (Staff verified his home is outside the 1000 ft. area). He is against the production of legal and illegal mind-altering produces, not a good fit with the surrounding area, property value, and don't want it near his kids.

Ray Willis, (Hansen Operating Company) spoke against the case. He stated there is a pre-school located on N. Atkinson Avenue, it would reduce property values, not good for the community and would affect his future residential subdivision development.

Bryan Adams (1807 Fowler Road) spoke against the case. The use is not permitted by the Federal Government.

Amy Kohler (1302 E. 19th St.) spoke against the case. She is does not want it near her kids. She presented a letter from Stephen and Abby Sorenson of 1802 Fowler Rd. stating they are against the case. Staff took it into record.

A motion to deny case ETZ 2022-12 by Commissioner Bristol, seconded by Chairperson Maples. Discussion ensued. The motion to deny was approved unanimously. Finding of Facts 1. No detailed plans showing the necessary upgrades to the metal building, 2. No detailed site plan 3. Is not in the best interest of the neighborhood. (Section 25.3.a-e.)

OTHER BUSINESS

None

Since there was no other business to come before the Commission, the meeting was adjourned at 7:42 PM.

Approved this 16th day of August, 2022.



Vice-Chairman



Attest