

## Council rejects 'flawed' rezoning plan

By J.R. Logan

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The Taos Town Council denied a proposal Thursday (March 17) to rezone an area south of downtown Taos following several hours of public comment that was overwhelmingly in opposition to the plan.

Town councilors Judi Cantu, Nathaniel Evans and Darien Fernandez voted to deny the zone change. Councilor Fritz Hahn voted against the motion, instead arguing the public should have additional time to consider the proposal.

The council's decision to kill the deal was a decisive blow to the town administration, which was applying for the zone change and had been courting investors for more than a year.

The area up for rezoning stretched from the intersection of Paseo del Pueblo Sur/ Siler Road/Los Pandos Road in the south to the intersection of Paseo/Quesnel Street in the north. The new zoning would have allowed larger commercial development of the area, which lies just south of the historic district.

Rezoning applications are typically submitted by property owners. In this case, the town was asking for rezoning approval.

Taos Town Manager Rick Bellis said rezoning the area would allow for redevelopment of what one town report called "an arguably blighted" corridor leading to the downtown area. He said construction of a new shopping center, hotel or convention center would go a long way in boosting Taos' prestige as a tourist destination. But without the change, those kinds of projects would never get off the ground, Bellis said.

Further, Bellis said new investment on the east side of Paseo would dovetail with highway reconstruction, which is slated to begin in the next couple years. Bellis said there was a better chance of realigning the asymmetrical intersection at Paseo/Pandos/Siler if a developer gave the New Mexico Department of Transportation additional highway right of way rather than forcing the state to buy it.

But during more than five hours of public comment, opponents attacked the proposal from myriad angles.

Some said the rezone would invite more corporate presence near downtown, leading to hardship for small business owners who are already struggling.

"Visitors don't come to Taos to shop in large stores," said Ellen Wood, who lives in the nearby neighborhood. "They come for the galleries, the small shops and the charm. Let's keep Taos Taos."

Others said a major development did not fit the character of that part of town. Taos County resident Ken Manning argued the town staff failed to make basic considerations about the impact of promoting large-scale commercial projects near the adjacent residential neighborhood.

“Fundamental planning purposes say you don’t put intense commercial development right next to single family [residences]. You just don’t do it,” Manning said. “Why are we proposing that here?”

Also, many worried construction on an 8-acre section of open space known as the southern Couse Pasture would have harmful environmental effects.

Kristina Ortez de Jones, executive director of the Taos Land Trust, asked the council to postpone its decision. Ortez de Jones said the land trust and several groups — including the town — are currently preparing a comprehensive inventory of green space and potential trail corridors. Rezoning and allowing development of the Couse Pasture, Ortez de Jones said, might run contrary to potential parks, trails and open space proposals in the final plan.

Several speakers complained that the rezoning process itself did not adequately involve the public, missed several legal steps and was being rushed.

“You’d have to be operating in something of a bubble, insulated from your constituents, to think we have received due process and the proposal has been put forward in any measured, inclusive way,” said Bob Silver, who lives near the rezoning area, in comments to the council. “Good judgments, I submit, are not made in a closed environment.”

Questions about what prompted the rezoning added to unease about the process.

Bellis initially said there was no specific developer for which the rezoning was being proposed. But emails obtained by *The Taos News* through a request for public records last month showed Bellis and other town employees had met with Albuquerque developer John Mahoney for at least 18 months on a plan to relocate the existing Smith’s Food and Drug to the east side of Paseo del Pueblo Sur, inside the rezoning area. One email showed Bellis was scheduled to meet with Mahoney to discuss zoning the day after the first planning commission meeting. Emails also suggest Mahoney was planning to submit a more detailed project plan for consideration after the zoning was changed.

Bellis maintains rezoning was not meant to accommodate Mahoney or the Smith’s plan specifically.

Further, a September 2014 email from Mahoney to Floyd Lopez, town attorney, alluded to Lopez’s “[amazing] connection to the players in this deal.” Public documents show Lopez’s aunt and cousin were part of the original partnership that is still owner of record for the southern Couse Pasture.

Lopez has repeatedly denied he has any conflict of interest. The town did post a “disclosure of a familial relationship” acknowledging the connection and asserting that Lopez had no financial interest in the property.

By the end of Thursday’s meeting, most members of the town council were clearly swayed by the arguments of opponents.

Nathaniel Evans, who was elected to the council March 1, said the rezoning process “has been inherently flawed from the beginning and has not been transparent.”

“I do believe that there could come some good out of this situation, but not in the way that it’s been done,” Evans said.

Councilor Darien Fernandez, also elected this month, agreed. “The general sentiment in this room is that we’d all like more time,” Fernandez said.

Fernandez, who lives adjacent to the rezoning area on Montoya Street, was a vocal critic of the plan before being elected. At Thursday’s meeting, he suggested the proposal lacked adequate detail to allow the community and the council to make an informed decision.

Fernandez, Evans and Hahn voiced frustration with “*ex-parte*” rules that were in effect, which are meant to prevent councilors from discussing the issue outside the setting of a public meeting. The logic is that a councilor’s decision in these cases should be limited to evidence presented and heard only in an open setting.

But most of the council said the restrictions severely hindered their ability to gather useful information.

“I know I have serious, serious questions here that, in one way or another, have not been answered today,” Hahn said.

Hahn asked his fellow councilors to delay a vote in order to learn more about the subject.

“I think we need to walk our way through this very carefully, reflectively, patiently and with heart,” Hahn said.

But Fernandez, discussing a motion made by Cantu to reject the proposal immediately, said denying the existing application would give the council the freedom to seek out advice without being held to *ex-parte* restrictions.

“By voting ‘no’ today, we’re not killing this idea forever,” Fernandez said. “All we’re saying is that we are not approving of this particular request. That does not prevent Smith’s or Marriott [Hotels] or any other person from submitting a plan in the future with studies backing up that plan and proper community involvement.”

Bellis did not respond to an email asking if town staff planned to bring the rezoning back for consideration.

At a meeting Tuesday (March 23), Hahn suggested the town council schedule several public work sessions to revisit the proposal and discuss options to make it work.