



City of Clovis, New Mexico
Request for Commission Approval

Type of Action: Ordinance
Date Action Required: September 19, 2024

Requestor: Pete Wilt
Department: Building Safety
Date: 09/19/2024

IX.1

Request for Approval of Adoption of Ordinance Number 2235-2024 to Re-Zone Lots 7-11, Block 1, of the American Business Park Subdivision from (CG) Commercial General to (I) Industrial, Pete Wilt, Building Safety Director.

Background/Summary: The request will not meet the requirements of Chapter 17 of the City's Unified Development Ordinance and is not consistent with the City's Comprehensive Plan. There is no compelling evidence that there would be a threat to the public health, safety and welfare, which is unique to the proposed request. All adjoining property owners within one hundred feet of the proposed re-zoning were notified and there were zero percent protest filed.

Staff recommendation is to deny the request as it is not consistent with the City Comprehensive Plan or the adjoining neighborhood.

The Planning and Zoning Commission met Sept. 11 2024, and heard discussion to rezone lot 7-11, Block 1 of the American Business Park, 3221 Axtell. After discussion Planning and Zoning Voted 7-0 to deny the request because it was not consistent with the City Compressive plan and adjoining neighborhood. Please see below excerpt from the Planning & Zoning Commission minutes:

Request for approval of zone change from (CG) commercial general to (I) industrial. Address of zone change is 3221 Axtell, Pete Wilt.
III.1)

Department: Building Safety

A request to approve a zone change from (CG) Commercial General to (I) Industrial was submitted and processed. All surrounding property owners within 100' were notified. This request is not contestant with the Compressive Plan for the city, and there is no Industrial zone in the vicinity.

Mr. Wilt advised regarding the matter. Surrounding properties were notified and no one replied. The request is not consistent with the comprehensive plan and there is not a industrial zone win the vicinity and it would therefore be spot zoning. Staff's recommendation was to deny the request.

Rosa Cazarez, 3221 Axtell, approached the podium and was sworn in. She advised they requested the zone change because they are operating as a "deli-style" cannabis retailer, which means a consumer has their marijuana weighed and the cannabis is not pre-packaged. In order to perform this service, the business must have a manufacturing license with the State of New Mexico. In Clovis, a manufacturing license must be located in an industrial zone. She noted the property is not on the main road and is not in a visible commercial location and there is housing around it.

Commissioner Moore said the cards were stacked against her today.

Commissioner Martin asked if she was operating at the location currently. Ms. Cazarez said they were. Commissioner Martin asked if she was operating within the law. Ms. Cazarez said they needed an allowance for. They would have to buy their product prepackaged if the zone was not approved. They are currently operating deli style. The state is getting with businesses. They have been given time to get the right license to serve deli style.

Commissioner Martin asked if there were any other cannabis businesses in the same situation in Clovis. Mr. Wilt advised not that he was aware of. Mr. Jared Morris advised they are allowed to sell retail. The four lots would need to be changed to an industrial zone. They can sell pre-packaged but they cannot sell deli style if they do not get a zone change. Ms. Cazarez said they would like to grow as it would add value.

Commissioner Martin asked if they have done zone changes for other businesses. Mr. Morris said the zone changes to an industrial zone is not part of the comprehensive plan. This request is near residential zones. Once the industrial zone is approved anything can occur in that area. This is another consideration as well. It is not necessarily spot zoning, but it does not meet the neighborhood characteristics.

Commissioner Martin asked if he was talking spot or an area larger than their businesses. Mr. Wilt said it would be lots 7-11 which is more than their businesses occupy. Mr. Morris said you have to have a half block to avoid spot zoning. You can ask for a neighboring lot to be changed. Anyone within 100 feet are notified. The other three lots is firearms retail and electrical supply, but not within the four lots.

Commissioner Smith asked if could not be within so many feet of a residential area. Mr. Morris said he would have to look again. It made the available property shrink by 80-90% and they felt it was too restrictive.

Commissioner Moore if anyone would like to speak for or against this request. Maryanna Vagas 3221 Axtell approached the podium and was sworn in. The location is discreet for people around them. A lot of people don't want others to know they consume. The gun store is a little way away from there. There is a supply store next to them and Snider Electric is next door to them. The lot next to them is vacant, and the next one is an electrical supply store.

Commissioner Martin said his concern was he hated to deny a business the ability to stay in business. If currently they are operating, they are in business. On the other hand he did not know they wanted to start spotting the city with changes, especially if those lots are not currently occupied as they could become anything once they are industrial.

Commissioner Smith asked what made it not a spot zone. Mr. Wilt said it was because it was more than one lot. Mr. Morris said you had to develop a policy as to how you would do it and Mr. Howalt has said $\frac{1}{2}$ a block. The neighborhood characteristics, the comprehensive plan etc.

Mr. Morris advised there is still a chance this is spot zoning.

Commissioner Garza made a motion to deny the request; Commissioner Cline seconded the motion. Upon a roll call vote, with all voting in the affirmative, the request was denied.

This request will go to the Commission for action at the September 19th, 2024 Commission meeting.

Fiscal Impact: Not applicable.

Requestor's Suggested Alternative(s): None.

Requestor's Recommendation(s): Deny request.