



## **TOWN OF PERALTA**

Planning & Zoning Commission  
90A Molina Rd - PO Box 1830  
Peralta, NM 87042

## **Commissioners**

Waldy Salazar, Chairman  
Leroy Pacheco  
Vince Milavec  
Jerry Romero

### **PLANNING & ZONING COMMISSION MINUTES ALLOWING LIMITED PUBLIC ATTENDANCE & STREAMING LIVE ON ZOOM**

FRIDAY, MARCH 19, 2021, 5:00pm, at Peralta Town Hall, 90A Molina Rd. Peralta, NM

- 1) Call to order at 5:01PM by Chairman Waldy Salazar; Other Commissioner's present are Vince Milavec, Leroy Pacheco and Jerry Romero.
- 2) Pledge of Allegiance – was led by Chairman Salazar.
- 3) Consideration and Possible Action to Approve Agenda for March 19, 2021. Motion to approve agenda was made by Commissioner Milavec, second by Commissioner Romero. Approved.
- 4) Consideration and Possible Action to Approve Minutes from February 16, 2020 - Motion to approve of minutes by Commissioner Romero, second by Commissioner Pacheco. Approved.
- 5) Public Hearing - Chairman Salazar wanted to welcome the Town's Attorney, Steven Chavez to the meeting in Zoom. He asked the Town Clerk, Kori Taylor to swear in those residents that desire to speak before the Commission either in person or via Zoom. Residents and other significant parties listed are: Cherie Kiehne, Mark Evenco, Rhonda Jaramillo, John Erickson, Michael Montoya, Barbara Rumschlag, April Gonzales, Theresa Silva, Madeline King, Margarita Castillo, Janet Larson, Leanna Torres, Damian Gutierrez, Dominique Martinez and Tony Duarte.
  - a. Rehear and reconsider the following: A zone change request to amend the zone district map for Max L. Kiehne and Barbara C. Kiehne, Trustees and Elizabeth Otero, Owners of the tracts more particularly described as Tracts 113A2, 115B1 and 116A, MRGCD Map 66, Sections 13 and 24, Township 7 North, Range 2 East of the New Mexico Principal Meridian in Peralta, New Mexico, wholly within the municipal boundaries of the Town of Peralta, comprising approximately 2.8660 acres and located at 3605 Highway 47, Peralta, NM 87042. The request is to rezone the above tract to a Commercial zone district.
- 6) Action Item –
  - a. Consideration and Possible Action to Approve recommendation to the Town's Governing Body to request zone change amendment to the zone district map for Max L. Kiehne and Barbara C. Kiehne, Trustees and Elizabeth Otero, Owners of the tracts more particularly described as Tracts 113A2, 115B1 and 116A, MRGCD Map 66, Sections 13 and 24, Township 7 North, Range 2 East of the New Mexico Principal Meridian in Peralta, New Mexico, wholly within the municipal boundaries of the Town of Peralta, comprising approximately 2.8660 acres and located at 3605 Highway 47, Peralta, NM 87042.

Chairman Salazar made a Motion to include the Comprehensive Zoning Plan in the final vote for this Action Item, second to approve was made by Commissioner Romero. Approved.

Chairman Salazar noted that there are several residents requesting to address the Commission, both in person and via

Zoom. He stated that each resident will be granted three (3) minutes to speak. He further stated thanks to the residents who brought the oversight of improper notification to the Commission's attention. It was noted that initially residents on the East side of Highway 47 were duly notified via Certified Return Receipt Mail and regular mail delivery, however many of the certified green return receipt cards were returned to the Town unsigned and their letters unclaimed. The reason this request is being heard for a third time is that certain residents on the West side of Highway 47 were not notified as stated in the Zoning Ordinance. This was an unintentional error on the Town's behalf and is now being corrected by this return to re-address and rehear the Action Item. Fifteen residents on both sides of Highway 47 have been mailed via Certified Return Receipt and regular mail delivery Notice of Public Hearing for a Zone Change Request.

Chairman Salazar began the proceedings by first asking Mrs. Kiehne if she would state the property owner's request and if she had any comments.

Thank you for reconsidering our zone change application. This land was originally part of the Otero family farm. While this process has taken longer than we anticipated, we have followed all procedures and believe that commercial zoning is appropriate for this tract along Highway 47 as was previously recommended by this very body and approved by the Town Council. Mrs. Kiehne further stated their property has been taxed since 1960 as one (1) parcel of land by the Valencia County and MRGCD. The property is comprised of three (3) tracts with the parcel fronting Highway 47 as Commercial and the 2 (two) tracts to the rear (east) as Rural Residential.

Peralta is a diverse community with many horse properties and small farms as well as single family homes, some of which are adjacent to businesses all up and down Highway 47. Between Valencia Road and South Bosque Loop, there are more than 30 businesses serving and benefiting the residents of the Town of Peralta.

The Comprehensive Land Use Plan for the Town of Peralta lists a goal (Goal K) to attract new businesses to the town to increase jobs for our residents, to strengthen the local economy, expand business activity, increase personal income and local revenues for the Town of Peralta.

The plan's strategy states that Commercial zoning regulations should be revised to promote incentives for business, commercial and retail activities with direct access to Highway 47. Virtually all of the properties fronting Highway 47 are zoned for commercial land use activities and business development. The strategy also includes that the town should use zoning in order to attract new development and enhance existing commercial and business enterprises along Highway 47.

By what appears to be a simple drawing mistake when the properties along Highway 47 were designated commercial, likely due to the strange shape of these lots, these lots were not properly zoned all commercial, but split commercial and residential through the middle of the lots. I recognize that in the Zoning Ordinances, the Overlay Zone district section states that the Overlay may contain only parts of lots. But having land with a zoning split creates issues with proper use and frustrates the overall purpose of the Highway 47 Design Overlay and Commercial Overlay Zone Ordinance, to attract new businesses, create jobs, increase personal income, expand business activity and increase local revenues for the Town of Peralta.

Since the majority of the lots are zoned commercial for the purposes of the Highway 47 Design Overlay Zone/Commercial Overlay Zone Ordinance and these lots only have access on Highway 47, I believe it is in the best interest of the Town's goals and strategies to have the whole of the lots zoned commercial, instead of the split-zoning.

There must be consistent zoning on our property and all properties along the Highway 47 corridor. The current zoning has caused confusion because we really do not know exactly where the dividing line is between the commercial and neighborhood residential zone or why it was split this way. No one has been able to explain this to us. The division does not follow property lines, and actually creates 2 zones on one tract of land. In addition, it appears as one tract on surveys and various deeds. You possess copies of all these documents as exhibits.

Because of these factors, we request that you remedy the split-zoning by designating the entire 2.866 acres Commercial.

State Highway 47 was widened several years ago with turn lanes added for safety. In fact, there is one such left turn lane right at the entrance of this property.

The owners are requesting a zone change from partial or split zoning of Commercial and Rural Residential to entirely Commercial.

Residents asking to address the Commission are as follows:

Tony Duarte – asked the Commission why are we here? Chairman Salazar repeated his statements mentioned at the beginning of Action Item 6a. – Please see Chairman Salazar’s comments previously stated above. Mr. Duarte then questioned the property owners about the piles of dirt and gravel that have been brought unto the property – what does that signify; an intent to bring commercial use? Chairman Salazar again stated; to determine a future business of the property is not the purpose of this meeting. We are not here to forecast the perceived use or future use of this property. The purpose of this meeting is a request to rezone the entire property to Commercial.

Damian Gutierrez – asked to address Mrs. Kiehne’s claim that a left turn lane exists on the South bound side of Highway 47 unto their property. He stated that is not true and that there are no left turn stripes allowing this practice. He stated there are no left turn stripes nor a median allowing left turns onto the property.

Many residents spoke up about this issue and Steven Chavez stated that speakers are not allowed to debate answers from respondents if they do not agree.

Dominique Martinez – stated she respected the comments concerning a left turn left, however the median that was allowed by NMDOT to be placed in front of her residence on Highway 47 must be raised or changed to allow her to make a North turn. She fears for her life when turning unto Highway 47, she must turn south then, make a U turn to travel North. She further stated that there are no left turn stripes or median allowing for left turns unto this property.

John Erickson – has a question for the Town attorney – if the P&Z Commission and the Town Council both approved the rezoning of this property, it’s a done deal. Why are we here – why again? Steven Chavez stated through the diligent efforts of the residents of Peralta it was recognized an error was made and the scheduling of this meeting it is now being corrected. The Mayor of Peralta directed the P&Z Commission to hold a Special Meeting to rehear the zoning request and correct the mistake. The purpose of this Special P&Z Meeting is to correct the error as soon as possible. Mr. Erickson further questions the potential of flooding on the vacant land due to the piles of dirt and gravel. He also questions the validity of a legal south bound left turn lane unto the property.

Margarita Castillo – asked why rezone the property to Commercial in a Rural Residential area, when the Town could have a potential addition of 3 homes? She believes this is an example of ‘spot zoning’ for the benefit of government entities, sellers and not municipal residents. Mrs. Kiehne stated, once again stated the request to rezone Commercial is to coincide with the rest of like properties within Peralta along the Highway 47 corridor. This request joins the Town of Peralta in its Comprehensive Zoning Ordinance for properties along the Highway 47 corridor to be zoned Commercial.

Laura Silva – asked the Commission to deny this request due the unsafe travel that already exists along Highway 47 and an additional left turn lane would cause greater danger to both north and south bound traffic.

John Erickson – added that a new petition requesting denial of this request had been circulated within the Town with 45 signatures and was presented to the Commission. Chairman Salazar noted they had received and will forward to the Council the new petition.

Rhonda Jaramillo – asked Mrs. Kiehne what were the plans for the property? Ms. Jaramillo stated any type of manufacturing concern would have a very serious effect on her brother who has severe medical issues, especially while eating. Mrs. Kiehne answered they have received many offers on this property. Initially, they were in a purchase contract with Mr. Jerry Nelson. However, due to several extensions there are no current sales contract or offer to purchase. Chairman Salazar stated again, this is not what we are here for tonight. Any request concerning a future commercial business that will come before the Commission by a new property owner will be heard at a later date when the property is sold.

Margarita Castillo – asked Mrs. Kiehne that in the October, November or December P&Z meetings that the property is under contract with a potential buyer that was proposing a commercial construction business. Mrs. Kiehne stated again there are no current purchase agreements in process.

Tony Duarte – asked Mrs. Kiehne if she was aware since piles of dirt and gravel had been placed on the property that Title Companies would not issue title insurance due to the potential of any unpaid liens. Mrs. Kiehne stated when you can receive fill dirt you take it. It was their desire to build up the entrance driveway to the property.

Damian Gutierrez – asked Mrs. Kiehne her opinion as to the percentage of the property pertaining to Residential vs. Commercial, do you believe it is 75% Residential and 25% Commercial? Mrs. Kiehne said she could only make a visual estimate and her opinion was that the percentage may be 60/40 favoring residential.

Chairman Salazar asked if there any further public comments and that residents were now allowed to address the P&Z Commission with any final statements.

Rhonda Jaramillo – please do not rezone this property to Commercial. It's not about revenue it is about the residents. Listen to the residents.

Damian Gutierrez – I believe that the P&Z Commission and Town Council should investigate why this whole situation has turned into a fiasco. I believe the Mayor should at the very least terminate the person responsible for these P&Z mistakes. Highway 47 is dangerous enough without creating increased traffic by adding a commercial business. The Commission nor the Council are listening to the town residents. This is not the time to rezone and the Mayor should look further into this request.

Tony Duarte – I agree with Margarita Castillo on her 'spot zoning' claim. Default zoning could jeopardize other properties in this area. There are better businesses other than manufacturing – the residents deserve better.

Janet Larson – I have been an elementary school teacher and my concern is when I see a potential manufacturing business being set up in close proximity to an elementary school, I become opposed to the increased traffic and potential danger by semi-trucks.

Madeline King – I am opposed to the rezoning request, but more than the request I am opposed to way this request has been handled from the beginning. It appears there is a lack of transparency and an under handed, back door transaction taking place.

April Gonzales – Commissioners please watch for further petitions that will be coming. I am the President of the Sutton Estates Association and I can tell you the residents in my area believe there is a risk to our children with the approval of a commercial business and the increased traffic caused by semi-trucks.

Dominique Martinez – my family has been living in the Peralta area since the 1800's and so has the Mayor's family. I am extremely disappointed in our Town leadership. Why can it stay residential? Travel on Highway 47 is dangerous enough – where are you guys in keeping us safe?

John Erickson – we want the Commission and Council to hear its residents and stay with our slogan of Preserving the Rural character of our town.

Margarita Castillo – I ask the Commission and Council if they understand the difference between manufacturing and industrial? The residents want better, we do not want commercial zoning in a residential zoning area. We want homes and more residents. The Kiehne's, the Nelson's are not residents for Peralta. There is a perception of back door deals with the Town leadership when it comes to these types of requests. The residents want to be heard and not ignored any further.

Chairman Salazar asked if there were any further public comments. There were none. He asked for a Motion to Consider and possibly approve Action Item 6a. Motion to approve the Action Item 6a was made by Commissioner Pacheco, second by Commissioner Milavec. Approved. The request will now move forward to the Town Council for approval at their next meeting on Tuesday, March 23, 2021 beginning at 6:00pm.

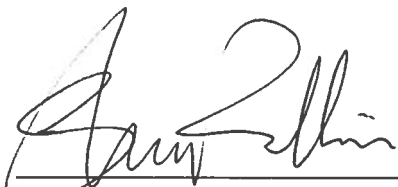
7. Next Meeting is scheduled for Tuesday, April 20, 2021 at 6:00pm.

8. Adjournment – Chairman Salazar asked for a Motion to Adjourn. Motion to adjourn was made by Commissioner Milavec, second by Commissioner Pacheco. The P&Z meeting was adjourned at 6:25pm.

\*Agenda Subject to change.

Appeals. Any person aggrieved by a decision of the Code Enforcement Officer or the P & Z commission in carrying out the provision of this ordinance may appeal the decision to the Town Council.

INDIVIDUALS WITH DISABILITIES: TO REQUEST AN ACCOMMODATION OR INFORMATION ABOUT PHYSICAL ACCESSIBILITY, CALL 505-869-2050



Steven Robbins, Deputy Clerk/Treasurer



Urban Burris, Code Enforcement Officer