



MINUTES

Planning and Zoning Commission

Tuesday, December 2nd, 2025
Grant County Administrative Building
1400 US Hwy 180 E.
Silver City, New Mexico

Commissioners Present:

Simon Wheaton-Smith, Chair
John Balas
Susan Moody
Dave Stone

Commissioners Absent: Susan Mittelstadt

Staff Present:

Ms. Olea, Assistant Town Manager
Mr. Kretek, The Town of Silver City Attorney
Ms. Hickle, Planning/Mapping Technician

The regular meeting of the Planning and Zoning Commission was called to order at 6:05 pm. The Pledge of Allegiance and the New Mexico State Flag salute were recited. A roll call was taken among the commissioners, and a quorum was present.

Approval of Agenda:

The Chair approved the agenda after the Commission held a voice vote and unanimously agreed there would be no revisions, 4/0.

Approval of Minutes:

Commissioner Balas motioned to approve the minutes from the regular meeting scheduled for November 6th, 2025, regular meeting minutes. Commissioner Moody seconded, motion approved by a unanimous voice vote, 4/0.

Reports:

None

Community Input:

Many interested parties provided input in favor of and against both Conditional Use Permits; all of these proceedings are available to the public on the [Town of Silver City's YouTube Channel](#).

Public Hearings:

VA 25-02: A Request for a Variance to the Minimum Lot Area Allowed for an Administrative Subdivision, for the Property Addressed as 413 & 415 W. Bremen St., Silver City, New Mexico. The applicants are Silver Casitas LLC, represented by Ms. Becky Smith of Smith Real Estate and Property Management.

The Chair stated this was a quasi-judicial process. The Chair asked if any of the commissioners had any financial connection to the application or had any ex parte communication; the commission unanimously answered no. Questions and answers were to be directed through the chair. Staff, the representative of the applicant, and members of the public were sworn in.

Ms. Hickle read her report into the record. The variance request, VA25-02, was submitted by Smith Real Estate and Property Management for the property at 413 & 415 W. Bremen Street.

Town of Silver City Land Use and Zoning Code of 2010, Appendix C – Article III – Section 3.1 Intent and purposes of zoning Districts: defines the Residential B Mixed Housing Types (RB-2) District as “the Residential B Mixed Housing Types District is intended to accommodate low, medium and moderate-density single-family, two-family, and multi-family residential development, and to provide land-use protection for areas that develop in such a manner. The RB District shall exist until the adoption of an amended official zoning map designating RB-1 and RB-2. Uses and dimensional requirements for the existing RB district shall be as established herein for the RB-2 zoning district.”

Table 3.4.2 Density and Dimensional Standards: defines the minimum lot area for a single-family attached dwelling unit in the Residential B (RB-2) zoning district as 2,500 square feet per dwelling unit, and the minimum lot area for a single-family detached is 5,000 square feet per dwelling unit. This proposal would create two parcels: 415 W. Bremen would be 0.112 acres or 4878.72 square feet, and 413 W. Bremen would be 0.038 acres or 1655.28 square feet.

After a departmental review of the application, the Code Enforcement, Engineering, Fire, Police, Public Works, Utilities, and Meters Department had no comment.

Staff noted that forty-three neighbors were notified, the community development department received one in-person inquiry, in which the inquirer wished for clarification on the impact of their property.

Staff recommended approval, stating the request met all seven required findings:

1. The hardship of which the applicant complains is one that is unique to the applicant rather than one suffered by the neighbors or the general public, and
2. The hardship relates to the applicant's land or property, and
3. The hardship was not created by the deliberate action of the applicant, or by one under his control, and reasonable remedies are not presently available, and
4. The granting of the variance is consistent with the Town's Comprehensive Plan, and
5. The granting of the variance is in harmony with the purposes and intent of the Land Use Code, and
6. The granting of the variance will not be injurious to the neighborhood surrounding the property where the variance is proposed, and otherwise is not detrimental to the public welfare, and
7. The variance will not result in the extension, expansion or enlargement of a non-conforming structure in violation of Article VII, and will not authorize the initiation of a non-conforming use of land.

Ms. Becky Smith then began her presentation, and as required, she explained how the property owner she is representing wished to sell the property. There were two dwellings: one was a duplex and one was a little house. They were going to sell more readily, and it made more sense to just sell them separately. To achieve this, they conducted a survey, which revealed a lot size exercise that they needed to undergo. The resulting first house they had under contract to sell was the one with the smallest lot. It was just a little

one-bedroom house, and the resulting lot size was proportionate to the house. It was not very different than a lot of other very small houses on Chihuahua Hill with similarly very small lots underneath them. So, it was not asking for anything that was going to be out of character with its surrounding neighborhood. Furthermore, there was no other way to separate those buildings other than to draw the line where it was, based on other structures, trees, and existing fences. There wasn't any good way to take more lot space from the other side; it would have just resulted in a long skinny strip for the purpose of adding square footage, but it wouldn't have made any sense. Nothing was going to change about the way those houses were used or their appearance if they did that. It was basically just going to allow them to be owned separately, which she thought would be ultimately good for them because they were going to have owner-occupants who would likely take better care of them than what was customarily seen for rental properties. Those had been rentals for years and years, and it was going to be nice for them to be owned individually. Those properties had been situated in that way for a long time. If you hadn't known they were commonly owned, you would have assumed they were separately owned just by the way they looked on the exterior. They wanted to formalize what it looked like it already was.

Commissioner Balas motioned, and Commissioner Stone seconded to approve Case VA 25-02, confirming all seven findings had been met and remedied. A roll call vote was taken: The motion passed unanimously, confirming all required findings had been met and remedied. A roll call vote was taken: The motion passed 4/0. Commissioner Stone (aye), Commissioner Moody (aye), Commissioner Balas (aye), and Chairman Wheaton-Smith (aye).

The Chair explained that the variance was granted, subject to an appeal timeline. Community Development would draft a Notice of Decision, and any appeals would go to the Town Council and subsequently to the District Court.

CU 25-03: a Conditional Use Permit to operate a manufacturing class I, II, and III, production, and future retail cannabis within the Historic Downtown Commercial District, at the property addressed as 205 N. Bullard St. The applicants are Ronald and Yolanda Quintana.

The Chair stated this was a quasi-judicial process. The Chair asked if any of the commissioners had any financial connection to the application or had any ex parte communication; the commission unanimously answered no. Questions and answers were to be directed through the chair. Staff, the applicant, and members of the public were sworn in.

Ms. Jacqui Olea read the report into the record. The Conditional Use requested for the property addressed as 205 N. Bullard St.

Class I Cannabis Manufacturer, defined in section 3.3.1 H) 1) d) 1) as: “A licensee that only packages or repackages cannabis products, or labels or relabels the cannabis product container.” Class II Cannabis Manufacturer is defined in section 3.3.1 H) 1) d) 2) as: “A licensee that conducts Class I activities and manufactures edible products or topical products using infusion processes, or other types of cannabis products other than extracts or concentrates and does not conduct extractions.” Class III Cannabis Manufacturer defined in section 3.3.1 H) 1) d) 3): A licensee that conducts Class I and Class II activities, and extracts using mechanical methods or nonvolatile solvents.” Cannabis Producer, defined in section 3.3.1 H) 1) e) as: “a person that: (1) cultivates cannabis plants; (2) has unprocessed cannabis products tested by a cannabis testing laboratory; (3) transports unprocessed cannabis products only to other cannabis establishments; or (4) sells cannabis products wholesale.” Cannabis retailer is defined in section 3.3.1 H) 1) i) as: “a person that sells cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.”

As stated in section 3.3.1 H) 2) b) 1) “A cannabis manufacturer Class I, II, and III is allowed in the Industrial and Highway Commercial Zoning Districts, and also allowed in the Mixed-Use and Historic Downtown Commercial Zoning Districts with a conditional use permit.” Section 3.3.1 H) 2) c) states: “A cannabis producer is allowed in the Industrial and Rural Zoning Districts, and in the Historic Downtown Commercial and Highway Commercial Zoning Districts with a conditional use permit.” Section 3.3.1 H) 2) d) also states “A cannabis retailer is allowed in the Highway Commercial Zoning District, and in the Historic Downtown Commercial and Mixed-Use Zoning Districts with a conditional use permit.”

After a departmental review of the application, the Code Enforcement, Engineering, Fire, Police, Public Works, Utilities, and Meters Department had no comment.

Staff noted that forty-five neighbors were notified, the community development department received one in-person inquiry, in which the inquirer wished for clarification on the application. Six phone calls were also received, each expressing concern and disapproval for the case.

Staff recommended the permit approval, as it met all four of the required findings:

1. Will not endanger the public health or safety,
2. Will not injure the value of adjoining or nearby properties,
3. Will be in harmony with the area in which it is located, and
4. Will be in conformity with the Town’s Comprehensive Plan, or other plans officially adopted by the Town.

Commissioner Moody asked staff to elaborate on how this case would be in harmony with the area. Ms. Olea explained that two cannabis businesses have been operating within the historic district. Based on legal advice, both are considered in harmony with the area.

Commissioner Stone asked staff to elaborate on the evidence used for finding two—will not injure the value of adjoining or nearby properties—Ms. Olea reported that the evidence is based on the two cannabis businesses currently in operation. She offered to do further research on the County Assessors' data.

Commissioner Balas asked staff if they would be able to obtain records from the taxpayers’ department to ascertain the property values before and after the installation of the other two Cannabis businesses. Following Commissioner Balas’ own question with a request to consult an appraiser who happens to have a solid understanding of the Commercial Historic District, to give counsel to the commission. Before any staff could answer, the Chair asked staff who had the burden of proof to establish whether there had been injury to any adjoining property values. Mr. Charles Kretek responded that the burden of proof for the findings would fall on staff and the applicant, but when sworn in, the requirements state that it must be accurate to the best of their knowledge. This would apply to both staff and all the witnesses. For any person attempting to refute the staff report, the burden of proof would fall on the refuter.

Ms. Olea then made a note, within the letter sent out by Staff as part of the citizen’s participation requirements, that a clerical error was made in identifying the address associated with this case. The letter mentioned two addresses; however, only one—205 N. Bullard St.—was relevant to the case. Mr. Kretek added that this would not be considered a material change.

Mr. Quintana then began his presentation. He began by acknowledging the concerns raised by the community, stating that he understood the frustrations regarding previous downtown operations. He clarified that his business followed all Cannabis Control Division (CCD) rules and had operated at 910 North Pope Street for three years without violations or disturbances.

The application requested a conditional use permit for cannabis production and manufacturing (Classes I, II, and III), with the potential for future retail and consumption licenses. Mr. Quintana detailed the following points:

- **Project Scope:** The primary focus was a 3,000-square-foot indoor grow space in the basement of the "Buffalo project" facility. Retail operations were not planned for at least two to four years and would be located on the Texas Street side of the property.
- **Facility Suitability:** He argued that the basement offered ideal climate conditions for cultivation. He emphasized that the overall goal was a multi-purpose venue including food, beverage, a dance hall, affordable living, and vendor spaces.
- **Renovations and Mitigation:** Mr. Quintana noted that the basement would undergo total reconstruction, including proper ventilation and insulation to prevent odors from affecting future tenants or neighbors. He stated that professional filtration systems, such as HEPA filters, would be utilized.
- **Security:** He explained that state law mandated rigorous security, including cameras in every room and vault doors. He noted that being downtown provided the benefit of proximity to the police station.
- **Community Impact:** He expressed a commitment to the community, noting that the business provided local jobs and supported various charitable causes. He clarified that the manufacturing aspect involved non-volatile extraction for products like edibles and was not "industrial" in a traditional sense.

Commissioner Stone asked the applicant for more information on the Security Details and requirements. Mr. Quintana clarified that while he preferred privacy, security measures were strictly required by the state to prevent burglary and ensure safety. Commissioner Stone then asked the applicant about his knowledge on the potential mold issues in an underground space, Mr. Quintana testified that the natural cool temperature of the concrete basement was an advantage, and that strict ventilation and filtration protocols would be followed to meet occupancy permits.

Commissioner Balas raised concerns about public consumption, citing issues with previous downtown businesses. Mr. Quintana responded that his business would not look for loopholes and his staff would be responsible for ensuring patrons did not smoke in prohibited areas. He emphasized that his current location at 101 College Avenue maintained a clean record.

Mr. Jeffrey Castillo testified, identifying himself as a micro-business producer and manufacturer from Grant County, and spoke in favor of the conditional use license for manufacturing and production. He stated that there were effective ways to mitigate community concerns such as odor and emphasized that no consumption would occur on the property. Mr. Castillo distinguished the current applicant's professional operation from past illegal businesses that had negatively impacted the reputation of the downtown cannabis scene. He highlighted the economic significance of the industry, noting that total cannabis sales in Silver City reached approximately \$400,000 per month and that over \$17 million had been contributed to the local industry since 2022.

Mr. Castillo testified to the applicant's long-standing commitment to legal compliance, noting that both he and Mr. Quintana had worked with industrial hemp since 2018 while waiting for the recreational

market to open in 2022 rather than operating illegally. He explained that the production facility would not be open to the public, as it would require vaulted doors, employee badges, and visitor sign-in procedures. Regarding odor, he argued that the smell of growing plants was distinct from exhaled smoke and compared the scent of fresh cannabis to natural terpenes like lemon or pine found in other herbs. He further noted that New Mexico law allowed private residents to grow plants in their homes, suggesting that shunning a professional business based on smell was inconsistent with current legal standards.

Finally, Mr. Castillo addressed the technical aspects of manufacturing, clarifying that Class 3 manufacturing utilized non-volatile extraction methods. He described the process as involving ice baths and screened bags to collect trichomes without the use of volatile solvents, which are already prohibited in the downtown area. He concluded by praising the applicant's record of compliance and urged the Commission to approve the request, asserting that the business would provide jobs and support the community without causing a disturbance.

Commissioner Balas then made a motion for a six-minute break; Commissioner Moody seconded. The commission then went into recess

Ms. Wendy Phillips testified and identified herself as the owner of 405 North Bullard Street and other downtown properties and provided testimony regarding the conditional use permit. While she noted that she did not necessarily hold a personal stance for or against the use of cannabis, she argued that the facts of the situation necessitated an unfavorable recommendation. Ms. Phillips acknowledged the integrity of the applicant's family but stated that there were fundamental differences in opinion regarding community respect and property maintenance.

To illustrate her concerns, she presented a photograph of the rear of 205 North Bullard Street. She testified that the building had remained in a state of disrepair with visible graffiti for the five years the applicants had owned it. She stated that despite offering a group of volunteers to whitewash the walls three years prior, the offer was not accepted. She argued that this lack of maintenance was disrespectful to the community, specifically to neighboring hotel guests and artists whose studios faced the building. She believed it symbolized a giant f*** you to the community.

Regarding the issue of odor, Ms. Phillips testified that cannabis smells were already a nuisance in the downtown area, specifically noting strong odors near the post office and the museum. She shared a personal anecdote involving a 10,000-square-foot rental building she owned, where the scent of unsealed cannabis flowers in a plastic cooler permeated the entire structure. She asserted that growers and consumers were often desensitized to the smell, comparing it to cigarette smokers and cigarette smoke, and argued that a production facility would inevitably contribute to the existing odor issues in the historic district.

Finally, Ms. Phillips attempted to read a statement into the record on behalf of Meredith Blake, owner of the Gila Theater. After a procedural discussion with the Chair and Mr. Kretek regarding the admissibility of unsworn statements, it was determined that the document would be treated as general public input rather than sworn testimony. Ms. Phillips concluded by questioning the Commission on the timing and process for adding specific stipulations to the conditional use permit, should it be approved. The Chair responded with a brief explanation on how the hearings work, the requirements stipulated in the notice of decision, and the appeal process for the decision.

Ms. Phillips continued her testimony by engaging in a procedural and legal dialogue with the Commission and Mr. Kretek regarding the scope of the Conditional Use Permit (CUP) and its intersection with state law. Ms. Phillips questioned the feasibility of the applicant's plan to operate a beer garden and a cannabis production facility within the same building. She argued that the applicant might not fully grasp

the legal complexities of co-locating alcohol and cannabis. Mr. Kretek clarified that while the licensed cannabis area must be physically separated from alcohol sales, the final determination on such arrangements rests with the state's Alcohol and Gaming Division and the Cannabis Control Division. Ms. Phillips urged the Commission to consider these potential conflicts when deciding on the permit, suggesting that the application for the entire property at 205 North Bullard Street as a multi-use facility was inherently problematic. Timeframes and Regulatory Permanence Inquiry was made regarding the duration of the CUP once approved. Ms. Olea confirmed that the permit is generally open-ended with no specific expiration date for implementation, meaning the applicant could potentially take years to establish the business. Furthermore, Mr. Kretek clarified that new ordinances cannot be applied retroactively to existing licenses due to constitutional protections against ex post facto laws, meaning any business approved under current rules would be "grandfathered" in. Ms. Phillips cited several municipal ordinances (including Ordinance 1041 and 1309) to argue that the town has a long-standing mandate to protect air quality as a matter of public health, safety, and welfare. She contended that cannabis odors constitute a public nuisance and a health detriment. She challenged the notion that high-tech filtration would be a perfect solution, asserting that the town's commitment to "clean air" should take precedence over the introduction of large-scale cultivation downtown. The testimony concluded with a focus on the "harmony" of the proposed use with the surrounding neighborhood. Ms. Phillips referenced Ordinances 1173 and 1230, which established the downtown area as a dedicated Arts and Cultural District. She argued that cannabis manufacturing and retail are fundamentally at odds with an environment designed for families and children. She questioned how "pot culture" aligns with the town's established economic goal of fostering an inclusive arts district, stating that the large-scale presence of such businesses excludes a significant portion of the population and disrupts the intended character of the historic district.

Ms. Phillips continued her testimony by addressing the role of the Commission and the practicalities of code enforcement regarding public nuisances. She noted that while Table 3.2 of the land use code outlines allowable uses as determined by the Town Council, the Commission's responsibility was to apply specific facts to the existing table. She argued that the Town Council had spent two years revising the code and had reached a consensus against allowing cannabis in the downtown area. While acknowledging that the current application was submitted before the formalization of those changes, she asserted that the Council's recent actions clearly reflected the true intent and desired harmony for the district.

Ms. Phillips raised concerns regarding how the community should respond to potential odor issues, specifically citing ongoing complaints near the old post office. She questioned what recourse was available for hotel guests and residents when smells become a nuisance. Ms. Olea clarified that if a business was deemed to be in violation of nuisance regulations, code enforcement would first seek compliance through notification. Failure to comply would result in citations, which are handled as municipal offenses through the municipal court.

Mr. Kretek and Ms. Olea further explained that while municipal offenses are local matters, significant or repeated violations could potentially be elevated to the State Cannabis Control Division for independent investigation. Ms. Phillips ended her testimony by emphasizing that the community deserved clear answers on how these businesses would be held accountable for the health and well-being of the neighborhood.

Ms. Loretta Maruo, a resident of the community for 44 years and co-owner of High Lonesome Cannabis, testified in support of the application. She stated that her micro-business, which focuses on production and manufacturing in the county, frequently conducts business with the applicant and other local vendors. Based on her experience making weekly deliveries and pickups at various manufacturing and cultivation facilities, she noted that appropriate ventilation systems successfully prevented odors from escaping outside or even being noticeable inside the facilities. Ms. Maruo addressed the concerns raised by previous speakers, suggesting that much of the opposition was rooted in a lack of familiarity with the

industry. She emphasized that the state maintained extremely strict testing and inspection protocols designed to identify flag issues such as mold, pesticides, or microbial growth. She argued that an applicant investing hundreds of thousands of dollars into a facility would not risk their investment by allowing mold to develop. Finally, Ms. Maruo touched upon the topic of "culture," sharing that her parents had stopped shopping downtown once the Arts and Cultural District was established because they no longer felt welcome in the area, suggesting that community identity and inclusivity are subjective and have shifted over time.

Mr. Quintana then presented again to address the concerns raised regarding the exterior maintenance of the building at 205 North Bullard Street. He clarified that the decision not to whitewash the back of the building was not a refusal to maintain the property, but a strategic choice made in response to persistent vandalism in the area. He noted that the graffiti was being perpetrated by the same individual tagging youth murals downtown and argued that a fresh coat of paint would simply result in the building being targeted again, requiring costly and repetitive work. Mr. Quintana expressed frustration with what he characterized as a lack of understanding regarding the complexity and expense of the ongoing renovation. He defended his family's deep roots in the community, stating their presence predated the town's incorporation, and took offense at suggestions that they were neglectful or financially incapable of completing the project. He noted that hundreds of thousands of dollars had already been invested in the demolition and interior renovation of the bar area.

Regarding the concept of culture, Mr. Quintana stated that the "Buffalo project" aimed to honor the historic, "renegade" identity of the Buffalo Bar while evolving into a modern melting pot for food, artisans, and vendors. He asserted that the renovation of the facade, including the Bullard and Texas Street sides, would be completed in stages according to the project's timeline rather than at the demand of neighbors. He concluded by stating that the current economic decline of downtown was not the fault of any one group but argued that the rift in the community was fueled by unnecessary pushback against hardworking local families who were willing to invest in the town's future.

The Chair began to limit the repetitive nature of those who stand opposed to this project. Ms. Phillips attempts to interrupt; however, the Chair reiterated his position. He moved on to ask those who wished to speak to limit any mention of odor within their testimony.

Ms. Phillips then came back to the podium to clarify her previous statement, noting that her presentation of the photograph was intended only to document the existing graffiti on the back of the building and suggested that she had not meant to curse at the applicant, Mr. Quintana. She reiterated her position that graffiti should be addressed promptly as a matter of standard property maintenance. She argued that painting over such markings is a simple task that takes minimal time and resources, asserting that it is a common expectation in any community for owners to keep their buildings clear of such tags.

Mr. John Eder then testified. He identified himself as a resident of Silver City and a former member of two other city councils where he resided previously, testified in opposition to the application. He expressed concern that promises made during the permitting process often go unfulfilled once approval is granted. He suggested that if the Commission chose to approve the request, it should be contingent upon the completion of all proposed amenities, including the affordable housing units, the full facade reconstruction on both Bullard and Texas Streets, and all on-site and off-site improvements, before the issuance of an occupancy permit. He also questioned whether the inclusion of multiple apartments would classify the site as a multi-family housing building, potentially triggering additional smoking ordinances. Mr. Eder argued that the issue was not the nature of the cannabis industry itself, but rather the appropriateness of the location. He noted that the Buffalo Bar had remained in a state of disrepair for several years and questioned the sudden availability of funds to perform extensive renovations just as the town's old rules were set to expire. He alleged that there appeared to be an inordinate amount of pressure

to "railroad" the project through the approval process despite the recently enacted code amendments that prohibit cannabis business in the historic downtown.

Finally, Mr. Eder criticized the transparency of the process, claiming that the planning file for the project was unusually thin and that staff reports and minutes had been unavailable on the city website for months. He urged the Commission to slow the process down and conduct more due diligence, questioning whether the city staff or the Commission possessed the technical knowledge to understand the ramifications of a cannabis manufacturing facility. He concluded by asking the Commission to do "the right thing" by continuing the hearing to allow for better public familiarization and a more thorough review of the project's impact on the downtown area.

Ms. Laura Aubrey, owner of June Junes—a business located within a block of the applicant's current location—testified in support of the proposal. She clarified that she had no personal or professional investment in the cannabis industry and did not consume the product herself. Ms. Aubrey emphasized that while the community felt a sense of fear regarding the unknown, it was important to evaluate these specific applicants as isolated business owners rather than comparing them to the previous "Grateful Living" operation. As a neighbor for the past eleven months, Ms. Aubrey shared her unique perspective, noting that she and her family had been at her business every day and had never experienced negative impacts or odors from the applicant's current Pope Street facility. She recalled a conversation with the applicant where he shared a vision for the Buffalo project as a multi-use space for housing, production, and various vendors. She found this community-focused approach unique and beneficial for Silver City. Ms. Aubrey noted that the building at 205 North Bullard Street had sat vacant for nine years and expressed appreciation for a local family willing to invest resources into improving a derelict historic property, noting that such renovations required grace and patience.

Ms. Aubrey also addressed technical concerns regarding security and odor. Having researched the matter during a meeting break, she explained that high security was a legal necessity due to the high market value of the product and the cash-heavy nature of the business caused by federal banking restrictions. Regarding odor, she stated she had never smelled anything from the applicant's current facility or the production happening at the old post office. Despite owning a family- and kid-centered business, she stated she felt completely safe near the applicant's operations. She concluded by urging the Commission to base their decision on facts and testimony rather than personal opinions, stating that increased small business activity and a focus on future generations would ultimately benefit the historic district.

Ms. Karen Hymer, owner of 209 West Broadway and operator of Light Art Space since 2018, testified in opposition to the proposed cannabis facilities. She highlighted her significant investment in the downtown area, noting that she was drawn to its vibrant character and the strength of the Main Street program. While acknowledging the "rift" between longtime residents and newcomers, she expressed a desire for community unity but maintained that the town's formal adoption of the Arts and Cultural District was a primary factor in her decision to establish her business there. Regarding the specific impacts of the industry, Ms. Hymer stated that while she could accept the applicant's assurances that manufacturing would not produce odors, her personal experiences with nearby cannabis operations suggested otherwise. She specifically commended the applicant's family for their restaurant, *Mick's 33*, but noted that her dining experiences there were negatively impacted by the smell, sound, and visuals from the adjacent "Buffalo Bud" facility. She argued that the current Pope Street location is isolated with few neighbors, whereas the Buffalo Bar sits in the heart of the downtown tourist corridor. Ms. Hymer expressed concern that if the presence of cannabis facilities caused a decline in tourism, it would directly harm her business income and property values.

Ms. Hymer concluded by suggesting that the applicant consider moving their successful restaurant concept into the Buffalo Bar instead of cannabis production, which she felt belonged on the edges of

town. She also addressed the applicant's mention of creating space for artists and vendors, stating that if those intentions were serious, the applicants needed to proactively reach out and collaborate with the existing arts community rather than maintaining a sense of privacy.

The applicant then provided a brief response to the comments once more. He provided additional clarification regarding the legal separation of uses and his plans for odor mitigation. Addressing concerns about co-locating alcohol and cannabis, he explained that the building would be subdivided into distinct units with separate addresses and entrances, similar to a commercial plaza. He emphasized that there would be no internal access between the different business types, ensuring full compliance with state liquor and cannabis regulations. Mr. Quintana also addressed the feedback regarding odors at his current location on Pope Street. He acknowledged that the smell noted by a previous speaker was primarily due to the outdoor consumption lounge, where smoke can travel more easily. To address this, he confirmed he is investing in an upgraded filtration system for that site to protect the experience of nearby diners and neighbors. However, he distinguished that operation from the proposed Buffalo Bar facility, noting that the new site would not permit consumption and would focus strictly on production and manufacturing. He reiterated his commitment to installing high-quality filtration at the downtown location to ensure that his business does not deter customers from his own ventures or neighboring shops like the bike stores and the local co-op.

Commissioner Stone then commented on what he referred to as the “Rift” between those who rely on tourism to support themselves and those who rely on residents of the town to frequent their business.

Mr. Quintana made another presentation, in which he provided clarification regarding his project's vision and financial status. He addressed his previous comments about his family's history, noting that he recognizes all community members have a vested interest in the town's future and did not intend to be disrespectful. Describing himself as an artist who treats historic buildings as his canvas, he emphasized his deep passion for the restoration work and his commitment to doing the project correctly. He specifically corrected previous testimony regarding his funding, stating that the project is not waiting on grant money. Mr. Quintana clarified that the vast majority of the work is being funded out of pocket or through a bank that allows for sectional progress. He noted that while he did receive one grant to assist with demolition, he only discovered the availability of such funds late in the process. Regarding the project timeline, he explained that the renovation of the Buffalo Bar has been slow due to the rigors of following modern building codes and the delays caused by the COVID-19 pandemic. He reiterated that the promised HVAC and filtration systems are a priority and not "lip service," asserting that the work is being done in stages as resources allow. He concluded by stating that the bar portion of the facility is the primary focus of the current phase and is projected to open by the upcoming summer.

Ms. Marcia Lustig testified as a resident of Silver City and former Community Development Director for a different town before she retired in Silver City, provided testimony in opposition to the application. Drawing on her professional experience in municipal planning, she challenged the staff's findings that the project lacked controversy or potential for nuisance. She directly addressed the issue of odor, testifying that she had personally experienced a potent and "ripe" cannabis smell near the museum and post office on multiple occasions during the late summer. She argued that these existing odors indicated that current HVAC and filtration systems in the area were insufficient and expressed concern that a manufacturing facility would further degrade the air quality.

Ms. Lustig argued that a manufacturing plant was fundamentally incompatible with the harmony of a historic downtown intended for families and door-to-door retail shopping. She raised the issue of "oversaturation," questioning the appropriateness of allowing multiple cannabis-related uses within the same small district and noting that having such businesses across the street from one another did not serve the town's long-term economic goals. She asserted that cannabis manufacturing does not encourage the

type of retail exploration that supports adjacent small businesses and restaurants, but rather tends to attract only related cannabis services.

Furthermore, Ms. Lustig warned the Commission that once a conditional use permit is granted, it becomes legally and financially difficult for a town to revoke or modify it. She contended that the potential for neighborhood nuisances clearly outweighed the community's need for another cannabis business in the historic center. She concluded by urging the Commission and the Town Council to prioritize the protection of existing merchants and the established character of the Arts and Cultural District by denying manufacturing uses in the heart of downtown.

Ms. Mary Ragins, a resident and professional municipal planner, provided detailed testimony in opposition to the application. Drawing on her professional background, she argued that the proposal was inconsistent with the town's Comprehensive Plan, which prioritizes walkable, livable spaces and the preservation of Silver City's historic character. She noted that the downtown core serves as the community's "front porch" and argued that cannabis establishments undermine the social and economic vitality of this area by discouraging families and individuals with health sensitivities, such as her own asthma, from lingering downtown due to odor and secondhand smoke.

Ms. Ragins raised several technical and legal concerns regarding the application and the hearing process:

- Criteria #3 (Harmony) and #4 (Comprehensive Plan): She argued the request failed to meet the standard of "harmony," which she defined as a pleasing arrangement or agreement. She asserted that the existing facilities cited by staff were contextually removed from the intimate historic core and did not establish a precedent for harmony in this specific two-block thoroughfare.
- Legal Notification Issues: She questioned whether legal notification requirements were met, as the public notice only listed 205 North Bullard, while the testimony and plans discussed a project spanning 211 North Bullard and an additional address on Texas Street.
- Conflict with State Statute: Citing New Mexico State Statute 26-2C-6 (2024), she argued that cannabis businesses cannot share premises with a liquor-licensed building. She testified that her review of the applicant's floor plans showed interior connections (open doors) between the proposed cannabis facility and the adjacent bar, which she suggested would violate state law and create a potentially unlawful combined use.
- Application Completeness: Ms. Ragins testified that as of the week prior to the hearing, the application was missing the required civic participation component and did not specifically address findings criteria one through four, rendering it incomplete when it was placed on the agenda.

Regarding the issue of "saturation," Ms. Ragins responded to a commissioner's inquiry by linking the concept back to the Harmony clause. She argued that having a large "cannabis campus" at the corner of Pope and College Streets and then an expansion just six blocks away in the heart of the historic district constituted an over-concentration of a single use that is inappropriate for such a small geographic area.

Mr. Michael Metcalf, representing the Murray Hotel, provided testimony focused on zoning legalities and the potential impact on downtown hospitality. He challenged the Town Attorney's earlier comments regarding "grandfathering." He introduced the concept of amortization, noting that it is a recognized zoning tool in New Mexico used to phase out legal non-conforming uses over time. He expressed concern that if the business were approved and later deemed incompatible, the town might eventually be forced to use such tools, which would be detrimental to the applicant's investment. As a neighbor, he emphasized that the Murray Hotel features operable, double-pane windows. He stated that the hotel is highly susceptible to increases in ambient sound and odors, which directly affects the guest experience and the viability of his business. He cited the "helmet factory" as a local example of a business where nuisances

remained unresolved once established. He argued that the current public outcry is a form of "brinksmanship" caused by a lack of faith in the town's ability to regulate or change a business's operations once a permit is granted. Mr. Metcalf questioned a discrepancy in the application, noting that while the applicant's letter mentioned "possible consumption," the verbal testimony suggested it might be eliminated. He asked for clarification on whether an approval tonight would include the right to operate a consumption lounge.

Mr. Quintana provided another rebuttal to address concerns regarding the project's scope, legal configuration, and long-term intent. He clarified that while his application mentioned "possible" consumption and retail, these were never the primary focus of the Buffalo Bar project. His main priority remains the food and beverage storefront, with production and manufacturing located in the basement. He expressed a willingness to compromise, noting that if the Commission chose not to grant the retail or consumption portions, it would not deter his overall vision for the property.

He explained that when the building was first purchased, the current restrictive ordinances were not in place, and the town had already granted the necessary water rights for production. He addressed concerns regarding multiple addresses by clarifying that the property consists only of 205 and 211 North Bullard, which have historically been treated as a single unit since the 1980s. Regarding state liquor and cannabis laws, he reiterated that the building would be physically subdivided with permanent walls and separate entrances. He noted that the floor plans currently on file are broad architectural footprints and that many more construction steps are required to meet both municipal codes and state licensing requirements. Mr. Quintana stated his goal is to create a collaborative space for local growers to remain competitive with larger markets, emphasizing that from the street level, the facility would appear as a standard food and beverage establishment with the production side remaining invisible to the public.

Ms. Olea then reminded the Commission that the hearing's focus was strictly on the land use. They noted that the technical specifics of partitions and internal separation are part of a multi-step process vetted by the State of New Mexico, which requires "standalone" status, including separate HVAC systems and entrances.

Mr. Metcalf returned to the podium to ask a clarifying question regarding the scope of the application and the potential for compromise. He asked the Commission if the applicant had formally adjusted his letter of intent to remove the mention of "possible consumption." Michael expressed concern that if the conditional use for cannabis were granted as currently written, the applicant would then have the legal right to move forward with consumption on-site. He questioned whether the applicant could officially modify the application at this stage to remove that specific use as a way to address the concerns and "appease" the members of the public who were specifically opposed to a consumption lounge in the downtown area.

Ms. Olea added the applicant may choose to withdraw any of the uses he requested on the application.

Mr. Quintana addressed the question regarding whether he would be willing to modify his application to ease the concerns of the community. He noted that if he chose to remove specific uses—such as retail or a consumption lounge—the Commission would only vote on the remaining requested uses, such as production and manufacturing. He expressed a strong willingness to "meet in the middle," stating that retail and consumption were not part of his initial primary focus for the property. He emphasized that his main goal was utilizing the basement space for grow operations and manufacturing to remain competitive in the industry. Mr. Quintana reiterated that this hearing was only the first step in a long process involving building codes and state licensing. He shared that the project had been a long-term plan with no initial pushback, and while he valued his privacy, he was open to having direct conversations with neighbors to

ensure the project remained in harmony with the community. He specifically mentioned his neighbor at the Murray Hotel, noting that he would prioritize community comfort over having a consumption lounge.

However, Mr. Quintana expressed some hesitation about making a definitive change at that exact moment. He noted the risk of formally removing a use only to have the entire application denied anyway. He also clarified his role, stating that while he manages the vision and operations, he would need to consult with his mother, the legal owner of the business, before officially striking any uses from the application. He concluded by inviting anyone in the audience to visit his place of business to discuss the project further, stressing that he wanted to do right by both his supporters and the community at large.

Commissioner Balas then asked for clarification on the specific language used in the application, noting that the document explicitly includes "future retail." He expressed concern regarding the ambiguity of the term, pointing out that many members of the public are worried that "retail" implies on-site consumption of cannabis products. He questioned whether the term "retail" as defined by the state or the local code automatically encompasses on-premises consumption, or if those are distinct legal uses that should be listed separately. He asked for clarification on whether the specific phrasing "consumption on premises allowed" is a designation required by state control officers, and why the current application relies on the broader term "retail" if consumption is a potential component of the business.

Mr. Quintana then clarified the distinction between different state-issued cannabis licenses to address Commissioner Balas's question. He explained that while every consumption lounge must possess a retail license, not all retail licenses include a consumption lounge. He detailed that his current Pope Street location operates under four separate licenses: manufacturing, consumption lounge, retail, and production. Regarding the Buffalo Bar project, Mr. Quintana reiterated that his primary intent is to move production and manufacturing into the basement. He stated that he does not have a definitive timeframe for other operations but plans to focus on the bar and "bigger side" of the building starting this summer. He emphasized that the bar operation involves partners who have no connection to the cannabis aspect of the business, illustrating the "many factions" involved in the property. He concluded by assuring the Commission that all work would be performed strictly according to building codes, ordinances, and Construction Industries Division standards.

The Chair then added his proposal of adding conditions rather than removing a use on the application. He then suggested the use of an executive session. Then, an unnamed audience member interrupts to ask for a recess until the following day, as the meeting had reached five hours, the audience member cited the opportunity for a fair hearing for both applicants and those who stood in opposition.

As the meeting approached the five-hour mark, the Chair and Mr. Kretek addressed the late hour and the exhaustion of the participants. Mr. Kretek advised that, because there were still significant legal questions to address and another full case—CU 25-04—remaining on the agenda, it would be appropriate to recess the meeting rather than adjourn. This would allow the Commission to reconvene at a later time to deliberate on the testimony heard for Case CU 25-03 and to begin the hearing for the final item.

Commissioner Balas moved to recess the meeting until the following morning at 11:00 am. Commissioner Moody seconded and it passed unanimously. The Chair clarified for the public that the evidentiary portion of the hearing for Case CU 25-03 was essentially complete, but the Commission's formal deliberations and final vote on that matter—along with the entirety of the next case—would take place upon reconvening.

The Planning and Zoning Commission reconvened on Wednesday, December 3rd, to formally establish the date and time for the continuation of the recessed hearing. Ms. Olea reported that both the applicants

and a quorum of the Commission were available to meet on December 5th at 2:00 PM. The meeting was scheduled to take place at the Grant County Administration Building.

The Chair addressed several procedural matters to ensure the efficiency of the upcoming session. He emphasized that he would strictly enforce points of order and would not permit sidebar conversations or disruptions. He also clarified that while the Town Attorney serves as counsel to the Commission and staff, it is the responsibility of witnesses and members of the public to seek their own legal advice if they have legal questions.

Regarding public notice, Ms. Olea confirmed that the meeting would be noticed at City Hall, the City Hall Annex, the Grant County Administration Building, and on the town website. She stated that under the Open Meetings Act, designating the continuation during a noticed public hearing and posting it on public buildings maintains legal conformity.

The Chair discussed the technical differences between "recess" and "adjournment" under Robert's Rules of Order and New Mexico State Statutes. He noted that using the term "recess" for a continuation within a short time frame is more efficient than the traditional process of fixing a time to adjourn. He expressed his intent to update the Commission's handbook to reflect this streamlined approach.

Commissioner Balas motioned to recess until Friday, December 5th, at 2:00 PM, and Commissioner Moody seconded. The Commission voted unanimously to approve the recess. The Chair noted that upon reconvening, the Commission would resume the proceedings exactly where they had stopped, beginning with the testimony of a specific witness from the neighborhood.

The Chair called the meeting to order on December 5th, 2025, at 2:00 pm as a continuation of the session held on December 2, 2025. Following the Pledge of Allegiance and the salute to the New Mexico flag, a roll call confirmed a quorum was present. Before resuming testimony on Case CU 25-03, the Chairman issued a formal statement clarifying that the Commission must evaluate applications based on the ordinances in effect at the time of the completed application. He noted that after twenty public statements and nine sworn testimonies, the Commission was fully aware of concerns regarding odor, HVAC efficacy, and property values. To ensure efficiency, he implemented a three-minute limit on remaining testimonies and warned that redundant or purely legislative arguments would be limited.

Mr. Metcalf provided testimony opposing the application, focusing on urban density, historical enforcement failures, and environmental risks. He noted that the site sits at the most densely developed intersection in the historic district, with a footprint covering a quarter-acre and parking utilization already exceeding 80%. He argued that the building was designed for retail, not industrial production, and expressed concern that the town's past inability to enforce nuisance ordinance, specifically citing the "bad actor" at 306 Bullard and the historic "helmet factory" litigation, demonstrates that municipal recourse is often ineffective once a permit is granted.

Regarding safety and harmony, Mr. Metcalf raised several points before being ruled out of order. He characterized cannabis manufacturing as a high-intensity use requiring ventilation significantly greater than standard retail. He questioned the town's safety plan in the event of a power outage, suggesting that odors and toxins could permeate the densely populated residential area of downtown and risk the health of both workers and neighbors. Speaking as an affiliate of Western New Mexico University, he added that the historic district is a primary tool for recruiting faculty and students, noting that previous negative experiences with hemp operations had already forced the university to change its recruitment approach. He also highlighted that the tallest building in Silver City sits directly across the street and relies on open windows, making it highly susceptible to the noise produced by industrial-scale ventilation. Mr. Metcalf suggested that if the permit were granted, it should be for a limited duration only. He recommended that

the town implement an amortization clause to eventually phase out non-conforming uses and suggested rezoning areas north of College Avenue to accommodate such facilities instead of the historic core. He was silenced by the Chair after exceeding the three-minute time limit by one minute.

Ms. Cecilia McNichol, owner of the commercial building at 211 North Texas Street, testified in opposition to the conditional use permit. She noted that her property supports four local businesses, some of which have operated for 15 years, and argued that the proposed cannabis activity—located only a few feet away—would jeopardize their sustainability. Ms. McNichol emphasized the legal weight of the word "ensure" within the town's criteria, asserting that by approving the permit, the Commission would provide a guarantee to the community that the use would not be detrimental to public health or the integrity of the historic district. She argued that the applicant failed to provide compelling reasons for such a nonconforming use in the historic district, especially given that other areas in town are available for cannabis operations. Ms. McNichol predicted that commercial property values in the area would decline and described the proposed activity as non-harmonious with the neighborhood's character. She expressed a profound sense of broken trust, stating that property owners invested their futures in the Arts and Cultural District under the belief that town leaders would protect its historic integrity. She warned that if the permit were approved, she would feel misled by community leadership and would be inclined to sell her property and invest elsewhere.

In her concluding remarks, Ms. McNichol recommended that the Commission deny the permit and instead move to amend permitted uses in the historic district using the amortization planning tool. She pointed to several municipalities in Colorado that have successfully used such tools to phase out similar uses. She urged the Commission to err on the side of caution, suggesting that neither the Commission nor the community possesses the necessary expertise to fully evaluate the long-term environmental and social impacts of the applicant's proposed manufacturing and production activities.

Ms. Jennifer Olsen testified by sharing data from other municipalities to illustrate the potential societal and environmental impacts of cannabis density. Citing a 2019 University of Colorado study, she noted that neighborhoods in Denver with dispensaries initially saw crime rates significantly higher than those without, and while that association weakened over time, it did not disappear. She also highlighted public health concerns, pointing to studies correlating the presence of cannabis products with increased pediatric emergency room visits and poison control calls due to unintentional ingestion.

Addressing odor mitigation, Ms. Olsen argued that the Commission should not rely solely on an applicant's verbal assurances. She referenced a study by the Santa Barbara Coalition for Responsible Cannabis, which found that even high-end carbon scrubbers, while reducing emissions by nearly 84%, still allowed approximately 16% of odorous air to escape. She provided a technical estimate for the proposed 30,000-square-foot facility, suggesting it would require at least three industrial scrubbers at a cost of approximately \$20,000 each to achieve a significant reduction. Ms. Olsen also introduced the "Nasal Ranger" as an objective standard for measuring odor intensity, noting that standing near a flowering plant typically registers as a level seven on that scale. She concluded by citing research that links increased dispensary density to higher rates of hospitalizations for marijuana-related dependence. She urged the Commission to limit the concentration of such businesses within the proportionately small geographic area of the commercial historic district to prevent these documented negative outcomes.

Ms. Blake Farley, a qualifying broker and owner of the largest real estate company in Grant County, provided testimony focusing specifically on Criteria Number Two: that the application must not injure the value of nearby properties. With nearly 20 years of industry experience, Ms. Farley introduced the legal concept of an adverse material fact, which she argued is triggered by the approval of a cannabis production facility.

Ms. Farley explained that in New Mexico, sellers have a mandatory duty to disclose any information about a property or the surrounding area that could influence a buyer's decision or the price they are willing to pay. She presented Exhibit A (the New Mexico mandatory disclosure form) and Exhibit B (an explanation of adverse material facts) to show that cannabis production is specifically categorized by the New Mexico Association of Realtors under "hazardous, environmental, and toxic situations."

She contended that by even sending out the required public notice letters to neighbors within 300 feet, the town had effectively created a disclosure event. If approved, nearby property owners would be legally burdened with disclosing the existence of the production facility to any future buyers, particularly if it affects the "use or enjoyment" of their property. According to Ms. Farley, this mandatory disclosure creates an automatic negative impact on desirability and value.

Concluding her testimony, Ms. Farley noted that the downtown commercial market is already struggling, with properties staying on the market longer and fewer sales occurring. She asserted that the existence of cannabis businesses has already harmed nearby property values and warned that adding a production facility would impose a permanent legal and financial burden on all surrounding property owners.

Commissioner Stone questioned the origin and application of the term "adverse material fact" within the real estate industry. Ms. Farley clarified that while she could not cite the specific historical origin of the legal term, it is rooted in New Mexico state statutes requiring sellers to disclose all facts that could influence a transaction. She noted that while current statutes available to her had not been revised since 2021—before the full implementation of the state's cannabis laws—industry standards and the New Mexico Association of Realtors already categorize cannabis production as a disclosure item under hazardous or environmental conditions.

Ms. Olea sought further clarification on whether this duty to disclose applies only to the subject property being sold or to adjoining properties as well. Ms. Farley responded that the legal definition is broad, encompassing any information about the property or the "surrounding area" that could influence a buyer's decision or the price they are willing to pay. She emphasized that if an adjacent use negatively affects the desirability, use, or enjoyment of a property, it constitutes an adverse material fact that must be disclosed by the seller to any potential buyer.

Mr. John Eder, a resident of Silver City, testified with concerns regarding the procedural integrity of the application and the perceived lack of technical oversight. He characterized the application process as inappropriate and suggested that the Commission was placed in an awkward position due to what he described as inexperienced town staff. Mr. Eder claimed that the application file was reportedly sparse, containing only one or two sheets of paper, yet it was still deemed complete by the Community Development Department.

He raised several specific technical and safety questions that he believed should have been addressed before the hearing. Specifically, he questioned whether the Fire Department had signed off on the project, noting the potential for high-intensity fire risks in a manufacturing facility. He asked about the adequacy of water flow for 4-inch large-diameter hoses and the location of the nearest fire hydrants. Furthermore, he highlighted potential safety issues for the residential units located upstairs, inquiring about the existence of emergency exit plans and exterior fire escapes for the affordable housing occupants.

Beyond fire safety, Mr. Eder questioned whether electrical or HVAC engineers had certified that the building's systems could handle the increased loads and ensure that no odors would be detected off-site. He argued that the project is significantly more complex than a standard retail store and requires a thorough, multi-disciplinary analysis. He concluded by urging the Commission to recognize the weight of

the community's trust in their hands, suggesting that the current process felt unfairly biased toward approval despite these unresolved safety and infrastructure concerns.

The chair then asked staff about the departmental review. Ms. Olea responded that both the Fire and Police Departments had no comment on the case.

Mary Ragins addressed the Commission to explain the discrepancy between the high number of individuals on the sign-in sheet and the smaller number of people remaining to give sworn testimony. She stated that the initial procedural instructions provided by staff were unclear, leading many community members to believe that their "public input" statements were legally equivalent to formal testimony.

Ms. Ragins noted that she witnessed confusion among the audience members, many of whom believed they had fulfilled their civic duty after speaking during the public comment period. She emphasized that most of these individuals are local business owners who could not afford to take a second afternoon off to repeat their statements under oath. She clarified that while she was not introducing new information, she wanted the record to reflect that the lack of physical presence at the reconvened hearing was due to procedural misunderstanding and professional commitments, rather than a lack of continued interest or opposition.

Ms. Phillips returned to the podium to attempt to submit a formal letter to the Commission again and seek clarification on land use regulations. She argued that under Article 6, Section 6.2.2, the Commission should require a "citizen participation report." She contended that because cannabis retail and production in the historic district are controversial, high-impact, and sensitive to public opinion, such a report is necessary to protect long-term established businesses in the high-density commercial area.

Ms. Phillips also raised a question regarding the duration of a Conditional Use Permit, asking if such a permit remains attached to the property in perpetuity. The Chair and Town Attorney clarified that this is not the case. Under the New Mexico Cannabis Act and local alignment, the permit is tied to a one-year state license and is not transferable. This means that if a business closes or a tenant moves out, the Conditional Use Permit expires and does not automatically apply to the next tenant or the property owner.

Ms. Lustig addressed the Commission to challenge the legal basis for determining "harmony" in the historic district again. She argued that the existing cannabis businesses downtown should not serve as a benchmark for compatibility, noting that, depending on their application date, those businesses may only exist as tolerated non-conforming uses. She warned the Commission against allowing cannabis businesses to become the default standard for harmony, expressing concern that the downtown area could eventually be dominated by a single industry. Additionally, Ms. Lustig raised concerns regarding the administrative handling of the application. She stated that she had photographed the case files only a few days before the hearing and alleged that they were incomplete at the time the meeting was advertised and scheduled. She urged the Commission to scrutinize the definition of a "complete application" and to verify whether all required documentation had actually been submitted before the public hearing process was initiated.

Mr. Quintana responded to public testimony by emphasizing that the requested conditional use permit is a necessary first step that allows him to develop a formal architectural and engineering plan. He clarified that the current stage is about securing the legal right to the "use" of the space, which then enables him to invest in the technical designs required to meet municipal codes, safety ordinances, and zoning requirements. He reiterated that the production facility would be entirely subterranean and invisible from the street, minimizing its impact on the historic district's aesthetic.

Addressing the "adverse material fact" concern raised by real estate experts, Mr. Quintana pointed out that if the mere presence of a cannabis business in the vicinity triggers mandatory disclosures, that

condition already exists due to established businesses on Broadway. He argued that his project would not be the sole catalyst for such disclosures. He described the Buffalo Bar property as a "blank slate," noting that there is currently no liquor license on the property, which gives him the flexibility to construct a comprehensive, multi-use facility from the ground up rather than trying to retrofit a conflicting operation.

Mr. Quintana concluded by stating that every technical concern raised—including air filtration, fire safety, and electrical loads—has a solution through proper professional planning and construction. He noted that his head grower, with 20 years of experience, was available to discuss specific filtration technology if required. He urged the Commission to see cannabis as only one element of a larger project designed to restore and utilize the building correctly.

Mr. Castillo testified in response to previous concerns regarding "adverse material facts" and mandatory real estate disclosures. He argued that the requirement to disclose cannabis activity should be viewed in the context of statewide legality. He pointed out that under New Mexico law, every household is permitted to grow between 6 and 12 cannabis plants for personal use. Mr. Castillo contended that because the potential for cannabis cultivation and its associated odors exists in every residential area across the state, the argument that a commercial facility creates a unique disclosure burden is essentially nullified.

Following Mr. Castillo's statement, Ms. Farley provided a legal clarification for the record. He noted that while residential growth is legal, if cannabis production has occurred on a residential property, it is indeed a statutory requirement in New Mexico that such information be disclosed during a property sale.

Ms. McNichol returned to the podium to address the comparison between residential homegrown cannabis and the proposed commercial project. She argued that the legal allowance for six household plants is fundamentally different from a large-scale commercial operation.

As a property owner with a commercial building currently on the market, she testified that she is now legally obligated to disclose the proposed subterranean production facility to potential buyers. She emphasized that while recreational marijuana use in private homes is a known factor statewide, the environmental and economic impacts of a 3,000-square-foot underground manufacturing facility create a specific, burdensome disclosure requirement that negatively affects her property's marketability and value.

Mr. Metcalf returned to the podium to address the industrial nature of the proposed activity. He argued that cannabis manufacturing facilities are typically located in industrial districts, noting that the Town of Silver City's Comprehensive Plan specifically identifies 95 acres designated for industrial-manufacturing, warehousing, and trucking uses. Citing pages 3-15 of the plan, he contended that these areas are the appropriate location for the scale of operations proposed by the applicant.

He concluded by asserting that the proposal is not in harmony with the current surrounding uses. He stated that it "does not make sense" to grant a special use permit for manufacturing when the three closest neighbors to the property are the town's only two downtown hotels and a courthouse, which he suggested are incompatible with the noise, ventilation requirements, and environmental impacts of a large-scale cannabis production facility.

Mr. Philip Cave, General Manager of the Murray Hotel, provided testimony centered on tourism and the family-oriented nature of the downtown district. He argued that the expansion of age-restricted businesses creates a barrier for families who visit Silver City, as children are unable to enter certain establishments, thereby limiting their overall experience of the downtown area. He also suggested a perceived correlation between the presence of cannabis-related shops and the local transient population, noting that this is a specific concern for the hospitality industry and the tourism-driven economy.

Mr. Quintana responded to these concerns by disputing the connection between cannabis dispensaries and transient activity, stating that no such issues exist at his current location. He argued that the problems being described by the public existed long before any cannabis businesses opened in Silver City and suggested that the industry is being unfairly blamed for general community challenges. Mr. Quintana reiterated that the Buffalo Bar project is designed specifically to attract tourists by creating an "entertainment mecca" featuring restaurants, art, and retail. He emphasized that the cannabis portion is only one aspect of a larger redevelopment project aimed at creating jobs and expanding an existing industry. He concluded that his plan is in full harmony with making downtown a vibrant destination for entertainment and commerce.

Ms. Olea addressed public concerns regarding the integrity of the application process and the citizen participation report. She affirmed that the department followed the identical process used for every other conditional use permit presented to the Commission. She explained that the Community Development Department utilizes a specific matrix of designated timelines for filing documents and managing public notifications. Ms. Olea clarified that the citizen participation report is structured to allow a specific window of time for the public to offer comments after an item has been officially noticed. She noted that these procedural steps were followed in accordance with town requirements, responding directly to allegations that the application was incomplete or improperly fast-tracked for the hearing.

The Chair clarified that the Commission's current role is quasi-judicial, not legislative. He noted that while the public's concerns are valid, many address policy issues that should have been raised during the year-long process of revising the Land Use Code. He emphasized that for this hearing, the Commission is legally required to set aside personal feelings and strictly compare the evidence against the four mandatory findings. The Chair announced that the Commission would enter an Executive Session to discuss legal questions and the phrasing of potential motions with the Town Attorney. He stressed that no decisions would be made in private and that deliberations would be based solely on the sworn testimony provided during the hearing.

The Chair then moved to go into an executive session to discuss the case. Commissioner Balas seconded, and the Commission voted unanimously to go into an executive session for approximately an hour.

Once the Chair called the meeting back to order, roll call was retaken, and a quorum was present. The chair then moved to approve CU 25-03: a Conditional Use Permit to operate a manufacturing class I, II, and III, production, and future retail cannabis within the Historic Downtown Commercial District, at the property addressed as 205 N. Bullard St. The applicants are Ronald and Yolanda Quintana. Commissioner Balas seconded. The commission went into debate. In which the Chair added the following conditions to the application's approval. He stipulated that these conditions are conceptual in that they may be refined after legal review:

1. This Conditional Use Permit is nontransferable for any other business at this address; and,
2. This Conditional Use Permit has a life of 12 months; applicants must renew to continue this use; and,
3. The applicants must implement the best practices for odor mitigation; and,
4. If the State License to sell or operate a cannabis business license is revoked, then the Conditional Use Permit will automatically expire.

Confirming all required findings had been met and remedied. A roll call vote was taken: The motion passed 3/1. Commissioner Stone (nay), Commissioner Moody (aye), Commissioner Balas (aye), and Chairman Wheaton-Smith (aye).

The Chair explained that the variance was granted, subject to an appeal timeline. Community Development would draft a Notice of Decision, and any appeals would be heard by the Town Council, followed by a subsequent appeal to the District Court if necessary.

CU 25-04: a Conditional Use Permit for cannabis retail within the Historic Downtown Commercial District, at the property addressed as 306 N. Bullard St., Silver City, New Mexico, the applicant was Katrina Gardea.

The Chair stated this was a quasi-judicial process. The Chair asked if any of the commissioners had any financial connection to the application or had any ex parte communication; the commission unanimously answered no. Questions and answers were to be directed through the chair. Staff, the applicant, and members of the public were sworn in.

Ms. Jacqui Olea read her report into the record. The Conditional Use requested for the property addressed as 306 N. Bullard St.

Any cannabis retail within the Historic Downtown Commercial District requires a Conditional Use Permit per the Town of Silver City's Land Use and Zoning Code of 2010. Ms. Gardea submitted a Conditional Use Application to the Community Development Department on October 24th, 2025. If the applicants receive a Conditional Use Permit, they may move forward with the Cannabis Zoning verification process, and all applicable standards of Section 3.3.1 (H) of the Town of Silver City Land Use and Zoning Code of 2010 shall apply.

Cannabis retailer is defined in section 3.3.1 H) 1) i) as: "a person that sells cannabis products to qualified patients, primary caregivers, or reciprocal participants or directly to consumers."

Per section 3.3.1 H) 2) d) "cannabis retail is allowed in the Highway Commercial Zoning District, and in the Historic Downtown Commercial and Mixed-Use Zoning Districts with a conditional use permit."

After a departmental review of the application, the Code Enforcement, Engineering, Fire, Police, Public Works, Utilities, and Meters Department had no comment.

Staff noted that thirty-eight neighbors were notified, and the community development department received one in-person inquiry, in which the inquirer wished for clarification on the application. Six phone calls, each expressed concern and disapproval for the case.

Staff recommended its approval, as it met all four of the required findings.

Ms. Gardea then began her presentation. Katrina and Eliceo Gardea, representing Mary J. Lane LLC, presented their application for a retail-only cannabis dispensary in the historic district. They formally requested that the Commission evaluate their proposal strictly on its own merits and disregard testimony regarding "Grateful Living LLC," a former hemp business at the same location. They emphasized that they have no affiliation with the previous tenant and, unlike a hemp business, they operate under the state's strict, heavily regulated licensing framework. The applicants addressed the four criteria for a Conditional Use Permit as follows:

- **Health and Safety:** They proposed a "two-tier" ID verification process (at entry and point of sale) and a 24/7 surveillance system. They pledged a zero-tolerance policy for on-site consumption and will enforce a 25-foot non-smoking perimeter around the entrance.

- **Property Values:** The business will follow a "grab-and-go" model to ensure high customer turnover and low traffic impact. They argued that by maintaining a professional atmosphere and 24/7 security, they would prevent the disorder that typically affects property values.
- **Harmony with the Area:** The facility will be strictly retail with no on-site cultivation or manufacturing. To ensure zero odor, they will sell only prepackaged, hermetically sealed products and utilize an HVAC system with activated carbon filtration. They also committed to restoring the building's historical facade to enhance the district's aesthetic.
- **Conformity with the Plan:** The applicants cited the significant tax revenue cannabis generates for Silver City (over \$5 million in sales through early 2024). They positioned their business as a "retail linker" that would attract new demographics to the historic core while remaining a responsible, local-rooted business.

The applicants concluded by noting that while the city recently voted to remove cannabis operations from the historic district, their application should be judged under the ordinances in effect at the time of their formal submission.

Commissioner Balas asked for clarification on any previous businesses they operated within this industry. He then asked if their license had been revoked when the applicants expressed their desire to move to Silver City. The applicant responded that their previous business was located in Las Cruces; however, they sought to relocate to Silver City, NM and that their license was not revoked.

Commissioner Stone then asked the applicants where they plan on sourcing their prepackaged products. The applicants responded that they plan to use a variety of sources that other dispensaries in town do not offer.

Commissioner Balas questioned the impact on downtown parking. The applicants explained their "grab-and-go" model relies on prepackaged goods rather than "deli-style" service. By eliminating the time customers spend smelling open jars, they aim to ensure high turnover and minimal parking stall usage. Commissioner Balas then asked how they would differ from existing shops; the Gardeas stated they would source from nearly 2,000 statewide producers. They plan to carry niche brands and products from micro-producers not currently found in the 13 other local dispensaries. Commissioner Balas addressed their background, and Katrina Gardea confirmed she was born and raised in Silver City. While the couple spent time in Las Cruces, she remained a resident, and they are now focused on building their business in her hometown.

Ms. Chuko testified in opposition to the application, beginning with a procedural objection that citizen testimony was being time-limited while the applicant's time remained unrestricted. She further alleged that the public notice was insufficient because it did not clearly specify whether the address at 306 Bullard was North or South, potentially misleading concerned citizens. Regarding the specific site, Ms. Chuko claimed that police records show an increase in visits to 306 North Bullard due to illegal open smoking, arguing that the applicants' promises of future control are unreliable given this history. She also asserted as fact that the location fails to meet the legal distance requirements from nearby youth education centers and noted a lack of documentation from staff or the applicant to prove compliance. Ms. Chuko expressed concern over previous public statements made by the applicants regarding their desire to attract "youth" downtown, pointing out that the legal definition of youth includes those under 18. She challenged the city's "harmony" findings by arguing that other cannabis locations, such as the old post office, are standalone structures with open-air separation, whereas the proposed site abuts adjacent buildings. Finally, she argued that the high density of cannabis operations negatively impacts property values and announced her intention to file for a property tax assessment reduction. She contended that any tax

revenue gained from the industry would be offset by the cumulative loss in property values for all residents of Silver City, and she concluded by stating that citizen-provided facts have been ignored in favor of unenforceable promises.

Ms. Wendy Phillips submitted a formal written objection citing Town Ordinances 1173 and 1230, which mandate protections for the historic character, pedestrian environment, and public health of the downtown district. She noted that Chapter 22 and Chapter 32 of the town code define odor as a health hazard and a public nuisance. Despite her stated opposition to cannabis shops in the historic district, Ms. Phillips expressed satisfaction with the strict conditions the Commission placed on the previous applicant. She requested that if this permit is approved, it should include the same rigorous conditions, specifically a total ban on on-site consumption and a reminder that the permit is non-transferable to ensure a future tenant cannot bypass the same level of scrutiny. While remaining "split" on the issue, Ms. Phillips spoke favorably of the applicants' character and initiative. She observed that they have already addressed community complaints by whitewashing their building and presented a signage plan that fits the town's character. She concluded by suggesting that if the Commission approved the prior case, these applicants should be given a similar chance, especially given the support they have received from city staff.

Ms. Marcia Lustig requested that her prior comments regarding the economic impact on downtown merchants be incorporated into the current case. She argued that cannabis businesses tend to attract other cannabis-related entities, leading to a saturation that shifts the town's identity toward a "weed town" atmosphere. While she acknowledged that the Commission's previous approval made a denial of this case unlikely, she maintained that comparing art galleries to an overabundance of cannabis shops is inconsistent. She concluded that the long-term changes to the downtown core would eventually reveal the negative consequences for local merchants.

Ms. Barbra Bush expressed disappointment over the absence of the Main Street Director at the hearing and noted her discouragement regarding the Commission's prior decision. While she complimented the applicants on an "intelligent and well-thought-out" plan, she argued that the historic core is not the appropriate location for such businesses. She cited the city's Main Street program goals, which focus on maintaining a historic, family-friendly core. She questioned how long the downtown could remain a destination for "quaint shops" and families if the current trend of cannabis expansion continues, expressing concern for the stability of surrounding traditional neighborhoods.

Ms. Farley then began her presentation. Ms. Farley, a real estate professional, provided statistical evidence regarding property values at 302 and 304 North Bullard, directly adjacent to the application site. She noted that when the subject property (306 North Bullard) operated as an art gallery in 2022, the neighboring properties sold quickly and for higher prices. However, since the subsequent occupation by a hemp business and the current vacancy, the market data has shifted significantly.

She highlighted that 304 North Bullard had sat on the market for over 470 days with a price reduction, while 302 North Bullard has been listed for 624 days. Ms. Farley revealed that 302 is currently under contract; however, the mere existence of this cannabis application triggered a mandatory "adverse material fact" disclosure. Upon being informed, the buyers immediately expressed concern to town officials. Ms. Farley testified that if the permit is approved, she must provide a formal written disclosure, which gives the buyers the legal right to terminate the transaction or demand a price reduction. In her professional opinion, the approval of the dispensary will negatively impact the sale and pricing of adjacent historic properties.

At the Chairman's request, the following email from the buyers of 302 North Bullard was read into the record as public input only.

"We are the buyers for 302 North Bullard. We are writing to express our strong opposition to the proposed cannabis dispensary at 306 North Bullard. We chose this property for its historic charm and the vibrant, family-friendly atmosphere of the downtown district. The introduction of a cannabis retail outlet immediately adjacent to our intended investment and future business significantly changes the character of the block. We are deeply concerned about the potential for loitering, odors, and the negative impact on our property value. We urge the Commission to deny this permit to protect the integrity of the historic district."

Mr. Metcalf argued that the proposed location at 306 Bullard violates New Mexico state guidelines regarding proximity to public spaces. He stated that the property is within 300 feet of Big Ditch Park and the parklet at Texas and Yankee Street. Furthermore, he identified the Virus Theater (operating in the El Sol Theater) as a youth center that hosts numerous children's workshops and productions within that same 300-foot radius. Given past enforcement difficulties, he suggested that if a permit is granted, it should be for a limited duration and accompanied by an amortization clause to eventually phase out non-conforming uses in the historic district.

Ms. Katherine Clemens, a certified sustainable tourism and destination management professional, testified that the economic health of historic main streets depends on a specific mix of specialty retail, dining, and entertainment. She argued that the town's existing redevelopment and arts and culture plans were developed before cannabis legalization, making it difficult to claim the application aligns with the public's best interest as defined in those documents. She cited research indicating that the presence of non-retail businesses in storefronts—specifically noting a nearby storefront church—is a proven economic indicator of an unhealthy historic district. She urged a "no" vote to protect the district's economic base, suggesting that dispensaries are better suited for locations outside the historic core.

Jennifer Olsen, a local property owner who participated in developing the 2025 zoning and land use code, testified in opposition to the permit. She emphasized that the applicants have the option to open their business outside of the historic district to avoid potential community conflict. Citing public health data, Ms. Olsen noted studies from California indicating that localities with bans on retail storefronts saw an 18% reduction in harmful cannabis exposures for children aged 12 and under. Regarding property values, she referenced research from Washington state showing that residential home prices within a 0.34-mile radius of a new dispensary dropped by an average of 3% to 4%. She also highlighted recent international trends, mentioning that Amsterdam has begun restricting takeaway sales and public smoking to mitigate neighborhood impacts. Finally, she expressed skepticism regarding local oversight, arguing that Silver City's history of inconsistent enforcement suggests that any conditions placed on this new permit would likely be enforced unreliably.

Ms. Mary Ragins, a resident and active supporter of downtown merchants, testified in opposition to the application, specifically citing failures to meet the Commission's criteria for harmony and conformity with the Comprehensive Plan. She characterized the historic downtown as the community's "front porch" and "public face," arguing that the introduction of cannabis retail establishments undermines the town's guiding principles of preserving historic aesthetics and fostering a family-friendly, walkable environment. She noted that the proposed site is less than 250 feet from the previously approved establishment, further compounding concerns about odors and secondhand smoke that may deter visitors from lingering and socializing downtown.

Regarding the legal requirement for "harmony," Ms. Ragins argued that the public discord evidenced during the hearing proves the project is not in accord with the area. She challenged the applicant's comparison to existing cannabis businesses, stating that those shops are merely tolerated as non-conforming uses and should not serve as a benchmark for new approvals. Finally, Ms. Ragins addressed procedural concerns, noting that even the applicants seemed confused by the shifting legal landscape. She

urged the Chair and the Commission to improve transparency and refine the Land Use Code. Specifically, she requested that if the Commission lacks the authority to regulate technical requirements like HVAC systems or self-closing doors, those requirements should be moved to sections of the ordinance where the appropriate staff are mandated to enforce them, rather than remaining in the Planning and Zoning regulations where enforcement is currently inconsistent.

Ms. Cecilia McNichol, a local real estate professional and former downtown shop owner, testified in opposition to the permit. Drawing on her daily presence downtown, she argued that the district's character has fundamentally shifted, stating that "old-timers" and long-term residents no longer feel comfortable visiting the area. While acknowledging that the Commission must review the application under older procedural rules, she maintained that the use is inherently incompatible with the historic district. Ms. McNichol strongly advocated for the use of "amortization"—a planning tool used to phase out non-conforming uses over a set period. She argued that granting short-term or conditional approvals is unfair to both the community and the business owners, who would eventually face the "upset" of being forced to relocate. She cited Colorado as a cautionary example, noting that several tourist destinations, such as Estes Park, have had to reverse their early cannabis policies by utilizing amortization or requiring dispensaries to move at least one mile outside of tourist districts. She urged the Commission not to repeat the mistakes of neighboring states and to deny the application to protect Silver City's status as a tourist destination.

Ms. Laura Schoen expressed deep concerns regarding the lack of transparency and the timing of the application. She pointed out that the public was not given sufficient time to review the revised citizen participation report or the specifics of the building's layout before the hearing. She argued that the town's focus should remain on the "core values" of the historic district—specifically the arts, culture, and family-oriented tourism—which she believes are being diluted by the rapid influx of cannabis businesses. She further noted that while the applicants seem well-intentioned, the "clustering" of these businesses in a small geographic area creates a "monoculture" that discourages diverse retail growth. Ms. Schoen urged the Commission to consider the long-term precedent being set, stating that once the historic character of Bullard Street is lost to a "dispensary row" image, it will be nearly impossible to recover. She concluded by asking the Commission to prioritize the existing merchants who have invested decades into the downtown's aesthetic and social fabric.

Mr. Gardea returned to the podium to briefly address the real estate concerns raised by Ms. Farley. He challenged the claim that the pending application had injured property values, noting that the email from the potential buyers of the neighboring building did not actually include a request for a price reduction. He argued that the presence of a dispensary should not be assumed to lower market prices, citing his own experience as someone currently looking to purchase property downtown. He concluded by stating that he doubted sellers would lower their asking prices simply because a dispensary is located down the street.

The Chairman asked Mary Ragins to clarify her concerns regarding the applicant's "revised plan." Ragins argued that the original submission lacked substance. She contended that if the Commission was now reviewing a more detailed version presented mid-hearing, the current staff report might be obsolete, as staff likely hadn't vetted the new details.

The Chair then swore in another who wished to testify. Ms. Aubrey, a business and property owner at 820 North Bullard, testified in support of the application. Despite having small children and a family-centered business, she stated she felt no concern for her family or the neighborhood regarding this specific proposal. She argued that since the new town ordinance now prohibits future cannabis shops in the district, the threat of "oversaturation" has been neutralized. Ms. Aubrey emphasized that additional retail variety and foot traffic benefit all downtown merchants. She recommended approval, suggesting the Commission apply similar strict conditions regarding state license violations or revocations.

Ms. Chuko registered a formal objection regarding the "unequal treatment" of parties during the hearing. She raised three primary concerns. She noted that the Chair allowed a late swearing-in for the current case but did not explicitly offer that same opportunity during the previous case, preventing others from testifying as the meeting unfolded. She argued that the sudden shift from a five-minute limit to a three-minute limit was unannounced, forcing citizens to truncate prepared testimony while the applicants remained largely "time-boundless." She alleged the meeting details were "buried" on the town website and only published late the previous afternoon, hindering participation for working citizens. She concluded by calling for a formal evaluation of equity between citizens and applicants in future proceedings.

The Chair made a motion to go into recess, and Commissioner Moody seconded. The vote passed with a unanimous roll call, 4/0. They recessed for approximately twenty minutes. The Chair then called the meeting back to order after the recess, and after a roll call, a quorum was present.

The Chair moved to approve case CU 25-04: a Conditional Use Permit for cannabis retail within the Historic Downtown Commercial District, at the property addressed as 306 N. Bullard St., Silver City, New Mexico, the applicant was Katrina Gardea.

The commission went into debate. In which the Chair added the following conditions to the application's approval. He stipulated that these conditions are conceptual in that they may be refined after legal review:

1. This Conditional Use Permit is nontransferable for any other business at this address; and,
2. This Conditional Use Permit has a life of 12 months; applicants must renew to continue this use; and,
3. The applicants must implement the best practices for odor mitigation; and,
4. If the State License to sell or operate a cannabis business license is revoked, then the Conditional Use Permit will automatically expire.

Confirming all required findings had been met and remedied. A roll call vote was taken: The motion passed 4/0. Commissioner Stone (aye), Commissioner Moody (aye), Commissioner Balas (aye), and Chairman Wheaton-Smith (aye).

The Chair explained that the variance was granted, subject to an appeal timeline. Community Development would draft a Notice of Decision, and any appeals would go to the Town Council and subsequently to the District Court.

New Business:

None

Community Input:

None

Reports from Staff:

Under staff reports, Ms. Olea announced that the town will introduce a new Community Development Director, Susan Middelstadt, the following week.

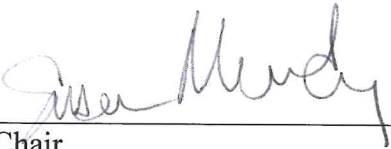
Reports from Commission:

Commissioner Balas congratulated the applicants on their storefront design, stating it would be a "great addition" to the Bullard Street byway. He noted that the aesthetic of the building would be attractive to passersby and fits the character of the area.

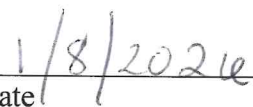
The Chair announced that this was his final public hearing before assuming the role of Mayor in January. Reflecting on his seven-year tenure, he praised the work of the commissioners and the value of public input. He addressed the frustrations expressed during the meeting, clarifying that the Commission must balance factual findings and legal advice regardless of personal opinions. He encouraged residents to continue engaging with the land use code process and thanked the public for their patience and participation.

Adjournment:

Commissioner Stone moved to adjourn the meeting. Commissioner Moody seconded the motion, passing by a unanimous voice call 4/0. The meeting was adjourned at 6:33 pm.



Chair
Planning & Zoning Commission



Date