

AGENDA

FOR THE REGULAR MEETING OF THE CITY OF BELEN PLANNING AND ZONING COMMISSION, STATE OF NEW MEXICO, COUNTY OF VALENCIA TO BE HELD ON TUESDAY THE 13th OF NOVEMBER 2018 AT 6:00 PM IN THE COUNCIL CHAMBERS AT CITY HALL, 100 SOUTH MAIN STREET, BELEN, NEW MEXICO 87002.

ALL P & Z COMMISSION MEETINGS ARE VIDEO AND AUDIO RECORDED.

A COPY OF THE AGENDA MAY BE OBTAINED FROM THE OFFICE OF THE CITY OF BELEN PLANNING & ZONING DEPARTMENT.

1. CALL TO ORDER

2. ROLL CALL

3. PLEDGE OF ALLEGEANCE

4. APPROVAL OF AGENDA

5. APPROVAL OF MINUTES

Minutes of October 9, 2018

Minutes of October 29, 2018

6. PUBLIC COMMENT 3 MINUTE PRESENTATIONS: If more time is needed for presentation, please ask to be scheduled on the next agenda.

7. DISCUSSION

Comprehensive Plan

8. INFORMATIONAL ITEMS

a. Communication from the Commission and Staff

9. ADJOURNMENT

RESPECTFULLY SUBMITTED

/s/

Lisa R Miller, Planning & Zoning Administrator

cc: Mayor & City Council
News Bulletin

Belen Chamber of Commerce
Belen Recreation Center

Belen Public Library
Belen City Hall

JERAH R CORDOVA
MAYOR
LEONA VIGIL
CITY MANAGER



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WAYNE GALLEGOS
CITY COUNCIL
DAVID CARTER
CITY COUNCIL
RONNIE TORRES
CITY COUNCIL
FRANK ORTEGA
CITY COUNCIL

**CITY OF BELEN
PLANNING & ZONING COMMISSION MEETING
MINUTES
OCTOBER 9, 2018**

Vice Chair Pete Armstrong called the regular meeting of the Belen Planning and Zoning Commission meeting to order at 6:00 PM.

PRESENT: Chairman Steve Ethridge
Vice Chair Pete Armstrong
Commissioner Claudine Montano
Commissioner Jim Lardner

ABSENT: Commissioner Gordon Reeves

CITY STAFF: Steven Tomita, Planning & Economic Development Director
Lisa R Miller, Planning & Zoning Administrator

OTHER: Dolores Lola Quintana, Self
Tom Patrick, Community Sciences
Greg Anderson, GNA Investments II
Tony Yanchulis, CSC
Kelly Cross, Self
Ronnie Torres, Self
Patricia Armendariz, Self
Ruben Armendariz, Self
Duane Fritz, Self
David

APPROVAL OF THE AGENDA

The Commission added one item to the agenda. That item was swearing in of participants/witnesses in the public hearing under item number 6.

Vice Chair Pete Armstrong moved to approve the Amended Agenda.

Commissioner Claudine Montano seconded the motion.

Motion Carried.

APPROVAL OF THE MINUTES

The minutes of September 24, 2018 were read.

Commissioner Claudine Montano moved to approve the minutes of September 24, 2018 as presented.

Vice Chair Pete Armstrong seconded the motion.

Motion carried.

PUBLIC COMMENT – 3 MINUTE PRESENTATIONS

There were none.

All participants in the public hearings were sworn in.

PUBLIC HEARING WITH POSSIBLE ACTION

- A. **REQUEST TO CONSIDER CORRECTIONS AND AMEND THE ZONE MAP FROM C-1 TO R-4: City of Belen. LEGAL DESCRIPTION:** Township 5 North, Range 1 East, Section 25, Tract A, Lands of Louis & Gloria Trujillo, Containing 16.33 Acres, located off of Don Luis Trujillo Blvd, Belen NM 87002.

Steven Tomita informed the Commission that this item was initiated by the Planning & Zoning Staff. It is for the De La Reina Subdivision, which presently has homes under construction by Westway Homes. The reason why this has been initiated is that questions arose, and a couple of variances have been granted on the setbacks, there has been previous variances granted and previous hearings on this project. He became more and more concerned because these records and more were scattered all over the place, and they go back quite a few years when the property was annexed into the City, when it underwent zoning and when it went through the platting process. All the records were not assembled in one place for all of those processes to be fully counted. The question arose when the zoning was changed to C-1. All the records were checked to see if there were any documents that show that this property was changed to reflect the residential zone. No documents could be located. We do not know if it was ever changed back to a residential zone or not. There have been meetings, a sketch plat was presented to the Commission and the Council in 2006 that was approved. The preliminary plat went before the Commission and the Council in 2007 and was approved. The preliminary construction plans were prepared and presented and the developer moved forward and built the subdivision. The variance that was granted, at that time, was for the lot size to make them smaller. He does not know what that was based on due to the fact it was not zoned residential and there was no basis for a variance for the size of the lots. The Commercial zoning does say that residential homes on a minimum lot size of 7,000 sq. ft. The subdivision was inspected after it was constructed and there were comments and lists provided on what needed to be changed and repaired before final approval of the subdivision. Then two incidents happened, the builder was killed and that stopped the subdivision for a while and then the recession hit, so nothing happened until now. The

present Commission granted a variance on the rear setback which does apply under the C-1. There has been no discussion at any of the hearings or meetings that support a discussion or approval of any zone change for residential use. The subdivision is built and there were five or six building permits issued when the preliminary plat was approved. Currently the subdivision has been modified to fit some new requirements that we have imposed and some of their own studies that showed that the drainage was inadequate, so the current builders corrected the drainage. They are re-grading the lots because you could not get into the driveways the way there were and they hired a consultant/surveyor and they are doing some corrections to the plat because the original plat some errors on it and didn't match what was built. A lot of work has been done and all the corrections have been done. Their home models have been done. The staff initiated a corrective zoning to zone the subdivision residential to bring it all into compliance. Reflecting on the size of the lots being built and platted an R-1 zone would not be correct so we initiated an R-4 that would match the size of the lots. The documents that you received are the records that we have found concerning this subdivision to show the Commission the sequence of what happened.

Mr. Greg Anderson, GNA Investments and also representing Westway Homes, and they are the purchasers of the subdivision and redeveloper. Westway homes will ultimately build the subdivision out. He informed the Commission that Mr. Tomita has pretty much explained the process they have gone through to bring it back. We inherited what was existing. The existing lots were not graded correctly, they were a little off and there were corrections that needed to be done on the drainage and the roads. These have all been done. The lots a just a tiny bit smaller than the original ones were. They are wanting to get the corrective zoning to bring it into compliance and it will also help with the financing for the potential buyers. Banks are now requiring that it be zoned for what the use is.

Steven Tomita said that the Commission has faced that before on some homes on lots within the City. We have had to rezone these lots so that the lenders will finance purchase or any repairs that an owner might want to do.

Mr. Anderson said they would be able to build the subdivision but would not be able to sell the homes due to this financing issue.

Commissioner Jim Lardner said that they are ten years into this process and asked how it got that far down the road without someone catching it and have there been put into place triggers that would notify the staff that this is happening so that it can be corrected in a timely manner.

Steven Tomita said yes. The staff review the plans to make sure that everything is compatible and adhere to our regulations. We have become sticklers when it comes to our regulations and requirements. There may have been a confusion. In a C-1 you can build a residential home but only one on one lot, so creating a subdivision is different.

Chairman Steve Ethridge open the floor for any public comments. There were no comments so he asked for a motion.

Commissioner Jim Lardner moved to change the zone from C-1 to R-4.

Vice Chair Pete Armstrong seconded the motion.

Vote was as follows:

Commissioner Claudine Montano	Yes
Vice Chair Pete Armstrong	Yes
Commissioner Jim Lardner	Yes

Motion Carried.

Lisa Miller informed them that this will be heard by the City Council for final approval on the 15th of October.

B. REQUEST FOR FINAL PLAT APPROVAL OF DE LA REINA SUBDIVISION: GNA INVESTMENTS. LEGAL DESCRIPTION: Township 5 North, Range 1 East, Section 25, Tract A, Lands of Louis & Gloria Trujillo, Containing 16.33 Acres, located off of Don Luis Trujillo Blvd, Belen NM 87002.

Steven Tomita said that the Commission that there was a sketch plat presented to the Commission and Council early on this subdivision that was approved. Then the preliminary plat was presented and approved which once the construction plans were approved, allowed the previous owner to build the subdivision. With that being done, and staff having reviewed the new plans to ensure that it is built to City standards. At that point the final plat was prepared and reviewed by staff to make sure it is in compliance. They are now coming before the P & Z Commission for approval and then before the City Council for final approval. With the final plat approval, and the recording of the final plat, the homebuilder is then allowed to sell the homes.

Mr. Tom Patrick, Community Science Services surveyor, informed the Commission that are asking for the final approval of the plat for De La Reina Subdivision. It consist of 93 lots and two tracts. They have fixed up the boundaries and have gone through all of the lots and made the adjustments that were needed. He is there to answer any questions that the Commission has on this. The engineer and developer are also here to address any questions.

Chairman Steve Ethridge asked if there were any questions from the Commission.

Vice Chair Pete Armstrong said that they were supplied with a lot of information to review concerning this and now have the knowledge to see what you have done.

Steven Tomita said that the developer did install new storm inlets because the existing ones were too small. They have redone the roads, the utility staff has gone out and tested the lines, the lots have been re-designed for drainage, and this has all been done to correct the subdivision and bring it up to code.

Chairman Steve Ethridge opened up the floor for public comments or questions. He asked if there was anything additional for the applicant or the staff.

Mr. Anderson said that they have upgraded the water system, sewer system, and storm drains that have been sitting there for 10 years plus, have all been tested and approved with these upgrades. The storm drain inlets have all been replaced and the lots will be upgraded as needed and the grading on the roads will be starting this week and they will be re-paving a week from the time the grading is done. As soon as the final plat is approved the builders plan on starting on five or six homes immediately.

Commissioner Claudine Montano asked if the two homes that are already under completion, have been sold.

Mr. Anderson said that they can't sell anything until the final plat is approved and recorded. By law we can't even take a reservation until that is done.

Chairman Steve Ethridge asked if anyone else wanted to speak. No one did. He asked the Commission for a motion.

Vice Chair Pete Armstrong moved to approve the De La Reina Subdivision Final Plat as presented.

Commissioner Jim Lardner seconded the motion.

Vote was as follows:

Commissioner Claudine Montano	Yes
Commissioner Jim Lardner	Yes
Vice Chair Pete Armstrong	Yes

Motion Carried.

Lisa Miller informed them that this will be heard October 15, 2018 at 6:00 PM by the City Council for final approval.

Steven Tomita said that he would like commend the developer and the builder working with us to get everything up to date and up to standards.

- C. **REQUEST FOR A CONDITION USE for the purpose of placing a fence within the front setback at 508 Becker Ave, Belen NM 87002: James Kelly Cross. LEGAL DESCRIPTION:** Township 5 North, Range 2 East, Section 18, Map 100, BTS addition, Lots 19 & 20, Block 29.

Lisa Miller informed the Commission that Mr. Cross had come in to get a re-roof permit. He was informed that they have to go to CID for the permit. He also came in to ask questions about putting awnings on the front windows of his building. He also asked about placing a fence on his property so that he could have a little privacy in his back yard. He will be living there. The back part of the building will be his living area and the front part will be his art studio, display area. The fence regulations were explained to him and he decided to apply for a conditional use. This area of Becker Ave has a Zoning of C-R and it requires a front setback of 20', a 15' rear setback and a 5' side setback. Most of the area along Becker Ave consists of businesses. The Art League is across the street, a barber shop, the City Courthouse, the old city hall, Blue Star Insurance,

Churches, etc. Behind him, on Dalies Ave. it is basically all residential. The fence will be located between the old Tabet Realty building at 512 Becker Ave and 508 Becker Ave. He wants a little privacy for his back yard. He will be opening it up once in a while to hold art shows and sales for the area. He has included a rendering of what he would like to put there. The photos provided shows that he has already put a fence up.

Vice Chair Pete Armstrong asked if the existing fence that is there, would meet the current height requirements in the zoning ordinance.

Lisa Miller said no.

Vice Chair Pete Armstrong said that they were going to adjust both the height and the setbacks with this Conditional Use.

Lisa Miller said yes. In his letter it states the height and the setbacks are requested.

Commissioner Claudine Montano said that a fence is already there.

Lisa Miller said that when he came in with his paperwork, the fence was not there. That just went up recently.

Commissioner Jim Lardner said that the buildings are basically right up to the sidewalk and there is no real setback in that area. If he were to build another building next to his, he would have to place that building back to meet setbacks. He wanted to know how far back was the setback request for.

Lisa Miller said 5'.

Commissioner Claudine Montano asked what building or wall was located set back in that area.

Steven Tomita said that it was an old building wall. There are only two walls of that old building that are standing.

Mr. Cross informed the Commission that the existing fence was an act of desperation. He had a heating and air-conditioning unit installed in the building and the condenser was placed in that area. He temporarily put up three fence panels to keep someone from seeing this condenser and walking away with it. It was an act of desperation. That is a temporary fence and not the permanent fence he will be putting up. The temporary fence is sitting 20' back from the sidewalk. They have already had one event at the lot during Rio Abajo Days and that turned out nice. When it is not being used as an open air art market, he would like to have the privacy because it is his yard. The gate is so they can be opened when he does have an event and then close them when he is not. The reason he chose the five feet from the sidewalk is because at 20' it leaves a lot of room for vagrants, collect trash and other similar things. Within the 5' he is requesting there will be landscaping, that he will maintain himself.

Vice Chair Pete Armstrong asked him if he was going to be using that gate as a driveway in and out of the property.

Mr. Cross said that he would not be using it for that.

Commissioner Jim Lardner asked him if he had a time frame for finishing this project.

Mr. Cross said that he is getting to the stage of repairs to occupy the building. He has fenced off an area for his pets but he would like to open that up into the rest of the yard so the sooner the better as far as putting up the fence along the front.

Commissioner Claudine Montano asked him if he cleaned out the whole building.

Mr. Cross said that he took it down to the bare bones and quite a big task. The gentleman that he purchased the building from went through all of the contents inside the building and removed what he wanted to keep and he discarded what he didn't want. It took him three months to do this.

Duane Fritz asked if they knew what size the gates were. If there is an event and someone gets injured, has a seizure or heart attack and an ambulance or fire truck is called out, will there be enough room for them to enter the yard through the gates.

Steven Tomita said that the City will need to speak with the fire department and get their input. If a motion was made that could be one of the conditions that would need to be met.

Mr. Fritz said that he like the idea and likes the look but if there are going to be people in the yard for an event and something does happen, this needs to be addressed.

Lisa Miller said that there is also an alley behind the property.

Commissioner Jim Lardner asked if the plans for the fence are going to reviewed by the City for approval.

Steven Tomita said that if the fence does not go any higher than 6' it does not require any footings or designs. If he went higher than that, they would be required. We will still issue a permit to show that they have been reviewed and approved. The staff feels that the fence being proposed and the activity the applicant is planning on doing is fitting with the vision that was set forth with the C-R zoning Ordinance, and with the changes that the Commission has done to the Ordinance for approval, it is meeting the vision that they had for this zone and activities that we want to see on Becker Ave.

Chairman Steve Ethridge said that gate size in the drawing that was provided, was a double gate.

Mr. Cross said that the lot is 25' wide and the idea was to have at least four to eight feet from the sides of both of the buildings were stationary and the rest of it were gates slid across gates. This was the gates are not in the way of people coming and going or swinging out into the sidewalk. These gates would be 8' to 12' gates.

Steven Tomita said that the emergency response will not drive in there. They would stay out in the sidewalk and move whatever equipment was needed into the area.

Chairman Steve Ethridge asked if the fence was going to look just like the rendition does.

Commissioner Claudine Montano suggested that a bench not be placed in the landscaped area. The benches at the library have a lot of questionable people hanging around them.

Mr. Cross said that he was not sure if he would be placing a bench in that area or not. He is basically going to landscape the area.

Chairman Steve Ethridge asked if anyone else had any questions or comments. There were none. He said that he would take a motion.

Vice Chair Pete Armstrong moved to approve the conditional Use for the changing of the front setback from the required 20' to 5' and the fence height from the required heights to a solid fence the height of 6' with the condition that the fence plans be submitted to the Planning & Zoning department for review and approval by the departments required.

Commissioner Jim Lardner seconded the motion.

Vote was as follows:

Commissioner Claudine Montano	Yes
Vice Chair Pete Armstrong	Yes
Commissioner Jim Lardner	Yes

Motion Carried.

- D. REQUEST TO EXTEND THE CONDITIONAL USE for the purpose of temporarily parking an RV and using this RV as living quarter at 904 Didier Ave., Belen NM 87002: Dolores Quintana. LEGAL DESCRIPTION:** Township 5 North, Range 1 East, Section 13, Map 100, Didier Addition, Lots 1-6, Block 3, Containing .30 acres.

Lisa Miller informed the Commission that this was before the Commission approximately 90 days ago and received a 90 day Conditional Use Permit. She was trying to find an RV space for this trailer. The area it is in has plenty of parking available and has two entrances, one on Didier and one on 9th St. She did sign a Conditional Use Agreement with certain conditions. One of those conditions was to be disconnected from City utilities and a monthly report on the progress of finding a RV spot. On September 9th the RV was still hooked up to city utilities and there has been no monthly progress report submitted. When she came in to fill out the form to request an extension on the Conditional Use, she informed us that she did not have any proof of contacting the RV parks in the area and the fact that the RV was the proof because it is still at 904 Didier Ave. She did get a notice to cease and desist because the RV was still hooked up to City Utilities. On the 4th of October another inspection was conducted and the RV sewer was disconnected but the water was still connected. A copy of the signed Conditional Use Agreement has been provided, in their packets, for Commission review.

Vice Chair Pete Armstrong said that when he looked over some of the photos provided the electricity was still connected.

Ms. Quintana said that was for the lights.

Lisa Miller said that it was still connected to the electricity.

Ms. Quintana informed the Commission that she would like to have an additional temporary use of the Conditional Use for another 90 days. She does not have another place in an RV park to place that trailer. Her granddaughter, the new baby and the husband are using the RV to live in but they use the utilities in the house for their showers, etc. She does not have an extra room in her house for them to move into because it needs to be remodeled and fixed and that is why she and her sister allowed them to park and live in the RV. She said that they are still looking for an RV park space to move it to. There is a need for them to be where they are, so she is asking for an extension.

Commissioner Claudine Montano asked Ms. Quintana where she had looked for an RV park.

Ms. Quintana said that she has looked in Rio Communities, on S Main St, and on Camino Del Llano.

Ms. Quintana was speaking over the Commissioner while Commissioner Montano was speaking.

Commissioner Claudine Montano said that she knows that there are some available in Rio Communities.

Ms. Quintana said that the places she looked at are already full.

Commissioner Claudine Montano said that there were spaces at Vista Del Rio in Rio Communities.

Ms. Quintana said that the one on South Main was in an unlivable area and she would not want her granddaughter living there.

Commissioner Claudine Montano said that the ones in Rio Communities were nice.

Ms. Quintana said that eventually the RV will be moved. She needs additional time to find someplace to park it.

Vice Chair Pete Armstrong said that he looked at the overhead and it looks like there is room behind the house to place the trailer as opposed to having on the side of her home and suggested that it may be a solution by moving it. He asked the staff if that could be done, or would she still have to apply for a Variance or Conditional Use.

Lisa Miller said that she would if someone was living in it.

Ms. Quintana said that there is an alley but did not want to block that alley just in case it was needed.

Commissioner Jim Lardner said the original agreement, the sewer would be removed, the water would be removed and that they would be getting an update report on a monthly basis. It did not say anything about the electricity because we understand that if someone was going to be in there that would be needed for lights and cooling. The problem is that there are two things that have not happened and they are the fact that it is not disconnected from the water and sewer utilities and the fact that there has been no report on the progress of finding and RV park to place the RV in.

Ms. Quintana said that she was not aware that she was to supply a monthly report.

Commissioner Claudine Montano said that was one of the conditions and there are some RV spots available in Rio Communities.

Ms. Quintana said that she is only thinking of her grandkids.

Vice Chair Pete Armstrong said that they are sensitive to that issue also, but, there was an agreement and that agreement has not been lived up to. It is that simple.

Ms. Quintana asked if it was the monthly reports.

Vice Chair Pete Armstrong said it was also the fact that the RV was hooked up to the water and sewer utilities.

Ms. Quintana said they weren't being used. They only used the lights.

Vice Chair Pete Armstrong said he understood. He lives in a neighborhood where an alley runs behind his home. There was an agreement and that agreement was not being lived up to and that is the short story.

Ms. Quintana said she just needs a little more time, 30 to 60 days to find a place.

Commissioner Claudine Montano said that if she says that she couldn't find a place now what makes her sure she can find one in 30 days.

Ms. Quintana said that she thinks she can find one in 60 days.

Commissioner Claudine Montano said that she has already had 90 days to find one.

Mr. Duane Fritz said he lives across the street from Ms. Quintana and he thought that temporary living for a short period of time, out of respect, he did not attend the first hearing and thought that it would not be approved. When they started hooking up the utilities to it, without permits, and there are fines for those kinds of things, and the big one which is plugging in the extension cord. They have had a fifth wheel sit out on the street, at night time an extension cord was run, and somebody living in it, and it catches on fire the next day. It is very unsafe to try to power another residence off of an extension cord. It should have a temporary post station hook up, it should have a pad

foundation and the bottom enclosed. He has been where he is, come February, for 20 years. He has been through horrific thing with his home, almost bankruptcy twice over making things right. He has made sure that he has gone by the codes and enforcements put forth and he thought that when someone puts a trailer in, to live in, it should be set up as such. There are storage centers, to park an RV, for \$60 a month. He does like seeing it there. His whole view is now gone all down the street. He thought it was only going to be for a couple of weeks. It is coming up to winter time and having a new grandbaby is not a good situation. This is not the only one going on in town. There are a couple of them. There is one that is being used as an office running an extension cord across the street to keep it juiced up. If we do not have any Ordinances for this type of situation then one should be looked at. To him it is a safety issue.

Ms. Patricia Armendariz said that she that Ms. Quintana is a very good neighbor, but, we have Ordinances and there is an Ordinance that does not allowed in a residential neighborhood.

Lisa Miller said that they can be stored on you property but they cannot be used as a residence and lived in.

Ms. Armendariz said that the problem is that this would set a precedence and other people would want to have one. I could if I wanted to, her lot is big enough. The view from Main St is clear and you can see the RV and Belen is going through a renovation where are finally going well. We need to abide by the Ordinances or change them.

Ms. Quintana said that if she has to she will put the trailer in the alley and get a permit to leave it there permanently.

Vice Chair Pete Armstrong said that it is important to note that there are a couple of issues here. One is living in a camper, essentially, and living in a camper with utilities, and you are not allowed to connect up to the utilities. If you do then you are going to be suspect and being fined and other things.

Ms. Quintana said the trailer can be disconnected and just placed in the alleyway.

Lisa Miller said that if it is a public alley it cannot be blocked. She would not be able to place it in the alley.

Mr. Fitz said that the alley is a public alley. He remembers asking, at one time, that you could park a car in the alley as long as it did not impede any others from using the alley.

Steven Tomita said that you cannot block a public alley. He looked up the area and it does not show an alley there. There is no alley.

Mr. Fritz said that he is pretty sure that it was an alley at one time. There is a cut driveway there, power lines and utility lines there. He tried to have his alley closed and was told that they could not shut down that alley.

Steven Tomita said that there may be utility easements but not public access easements. He is on the County Assessors page and it shows that there is no alley behind Ms. Quintana's. There is no public access alley there.

Ms. Armendariz said that she is not sure of all the laws but she tried to put a carport on her property and they couldn't.

Steven Tomita said it was probably due to the required setbacks.

Ms. Quintana said that it used to be an alley all the way across. The City was closing different alleys and people wanted alleys closed. She then fenced in the alley and Mr. Tabet came to her and said that half of the alley should have gone to him and the other half to her. He told her he wanted to build two buildings on his property and instead of a fence he wanted to build a brick wall. He said that he would take down her fence and put up a brick wall and that is what was done. The alleys used to be used for trash pickup in the alleys.

Chairman Steve Ethridge closed the floor for any other public comments. He asked the Commission if they had any other comments or questions.

Commissioner Jim Lardner asked the staff if the issue is not where the trailer is setting but with the fact that there is someone living in the trailer.

Staff said that was correct.

Commissioner Jim Lardner said that the trailer doesn't necessarily need to be moved, it needs to be disconnected from the utilities and not lived in while it is setting there. He just wanted to make sure of that.

Staff said that was correct.

Chairman Steve Ethridge asked if there were any other questions of comments from the commission. There were none. He called for a motion.

Vice Chair Pete Armstrong moved that the Commission not extend the Conditional Use for Ms. Quintana.

Commissioner Claudine Montano seconded the motion.

Vote was as follows:

Commissioner Claudine Montano	Yes
Vice Chair Pete Armstrong	Yes
Commissioner Jim Lardner	Yes.

Motion carried.

Steve Tomita informed Ms. Quintana that she had the right to appeal this decision with the City Council. If you file an appeal, then everything stays as it is until the Council hears it.

Ms. Quintana asked if this would be done at the next Council meeting.

Lisa Miller informed her that it would have to be set up the same way that the original hearings are set up. There is a Notice of Hearing that has to be published 15 days before a hearing date, the neighbors need to be notified and it needs to be set up a date with the City Clerk for a date to be placed on the Council Agenda.

DISCUSSION

There was none.

INFORMATIONAL ITEMS

Communications from the Commission and Staff

Steven Tomita said that he is extremely pleased and feels that this is the best Planning & Zoning Commission that the City has had. To undertake the Comprehensive Plan is a challenge and something to be proud of. The MRCOG has informed him that they are impressed that the Commission has read the Comprehensive Plan and has undertaken the job of updating it.

Lisa Miller informed the Commission that her new computer has come in and it is in the process of getting everything loaded onto it. Once it is set up at her desk, everything from her existing desktop will be moved over to the new computer and running smoothly, then they will add the GIS into it.

Steven Tomita said that Circle K is still working on an electrical easement with PNM and once they get that done they will be breaking ground. The City is moving forward with Project Flight. They have had a couple of glitches but they are being work out.

ADJOURN

There being no further business to come before the City of Belen Planning & Zoning Commission, Vice Chair Pete Armstrong moved to adjourn.

Commissioner Jim Lardner seconded the motion seconded the motion.

Motion carried.

The regular meeting of the City of Belen Planning & Zoning Commission adjourned at 7:24 p.m.

Chairman Steve Ethridge

ATTEST: _____
Lisa R Miller, Planning & Zoning Administrator

JERAH R CORDOVA
MAYOR
LEONA VIGIL
CITY MANAGER



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PLANNING & ZONING COMMISSION MEETING
MINUTES
OCTOBER 29, 2018**

Vice Chair Pete Armstrong called the regular meeting of the Belen Planning and Zoning Commission meeting to order at 6:01 PM.

PRESENT: Chairman Steve Ethridge
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Commissioner Claudine Montano

ABSENT: Commissioner Gordon Reeves
Commissioner Jim Lardner

CITY STAFF: Steven Tomita, Planning & Economic Development Director
Lisa R Miller, Planning & Zoning Administrator

OTHER: Brian McBain, City of Belen Clerk
Jim Sloan, Citizen
Hector Hernandez, Citizen

APPROVAL OF THE AGENDA

Vice Chair Pete Armstrong moved to approve the Agenda.

Commissioner Claudine Montano seconded the motion.

Motion Carried.

APPROVAL OF THE MINUTES

The minutes of October 9, 2018 were not included with the packet so they will be reviewed and voted on at the next meeting.

PUBLIC COMMENT – 3 MINUTE PRESENTATIONS

There were none.

PUBLIC HEARING WITH POSSIBLE ACTION

- A. All participants were sworn in.
The hearing process was explained to the participants.

B. REQUEST FOR A CONDITIONAL USE for the purpose of keeping an 8ft. high non-conforming fence at 919 S Main St.: Hector Hernandez. LEGAL DESCRIPTION: Township 5 North, Range 2 East, Section 19, Tract D2, Lands of Joe & Vickie Maestas, Containing .63 acres.

Lisa Miller informed the Commission that this had started several months ago when she received several complaints on the vehicles located behind the building at 919 S Main St. She noticed that the fence was at least 8 ft. high but was within the front setback. It does not meet the height restriction which is 6 ft. Mr. Hernandez was informed that he needed to come in and apply for a Conditional Use. He filled out the application and brought in the paperwork to go along with the application. She did not receive the letter of intent until after the packets went out but a copy has been provided. A map of what is existing is included, the owners affidavit, there are also copies of the police reports he has filed concerning break ins and thefts at that business. The existing land use on the North, East, and South is all Commercial and on the West side it is Residential.

Vice Chair Pete Armstrong asked if the residential area was adjacent to this.

Lisa Miller said that they were. The setbacks on a Commercial business on a Commercial Zoned lot is 6 ft. If it was being used as a residence it would be 20 ft. Mr. Hernandez more than meets the setback. There are no clear site issues. He would like to keep the existing 8 ft. fence he has and would like to add two ft. to the rear and side fences that are only 6 ft. high because he is still having issues with break ins.

Commissioner Claudine Montano asked if this business was located on the east side or west side of Main St.

Lisa Miller said it is on the west side of Main St. It is across the street from the Dance studio and the Yucca Veterinarian building.

Steven Tomita asked if there have been any issues concerning this property.

Lisa Miller said yes. It has been in court for the vehicles he had in the backyard. The backyard was pretty crowded with vehicles. He has cleaned up and still has a few vehicles. There is an RV and a big truck all the way in the back of the yard, a white truck at the northwest corner of the building, a couple of trucks and a car on a lift and a pile of tires on the south side of the building. It has really been cleaned up.

Steven Tomita asked if it was in compliance or are there still a few things that need to be done to bring it into compliance.

Lisa Miller said that you really cannot see the vehicles that are left unless you look through the cracks of the fence. The vehicles are not located within a covered enclosure which is what the Ordinances required, but Mr. Hernandez is in the process of repairing the vehicles that he has located there. It is a repair/body shop.

Steven Tomita said that disassembled vehicles was one of the complaints that the City received concerning this location. The fence does conceal to a certain extent.

Commissioner Claudine Montano said that it looks like there are eight different reports to the police included in the packet and asked if that is accurate.

Lisa Miller said that is what was provided to include in the packet and asked if they had any more questions.

Mr. Hernandez was brought up to present his case.

Mr. Hernandez informed the Commission that he did place the higher fence up front to protect the vehicles and cover the view so that it would not affect anyone. This is a body shop where they bring in wrecked vehicles and repair them. There are only two of us and it does take longer to repair the vehicles. He has had a lot of people breaking in through the sides of the property. They have stolen batteries, stereos, and the last time they took a truck and all the tools inside his shop and that is why he would like to keep the eight foot fence in the front and add two more feet to the remaining 6 foot fence.

Vice Chair Pete Armstrong asked if he could put in a security system in the building such as alarms, cameras, etc.

Mr. Hernandez said that he has checked into it and it would cost a lot of money to have one installed so he cannot afford it.

Vice Chair Pete Armstrong said that from the reports provided, it appears that he should really look at an alarms system that enunciates at the police station. He said that they are not as expensive as they used to be and can be installed easily by the owner.

Chairman Steve Ethridge asked if they had a business license with the City.

Mr. Hernandez said that they do.

Chairman Steve Ethridge asked if the fence hinders any City Utilities from regular maintenance and reading the meters.

Mr. Hernandez said that all that is located in front and are outside the fence. The fence does not start until the corner of the building and the building is set back quite a bit from S Main St.

Chairman Steve Ethridge asked if there were any public safety issues concerning this request and could see where it might be an issue due to the fact that anyone could hide back there and the police may not even see them.

Mr. Hernandez said that he has done a lot to that structure and the yard. When he acquired it there were piles of tires in the back and the building was in bad shape. He has cleaned up and repaired the building and tries to keep it in good shape.

Chairman Steve Ethridge asked if there was any public comments. There were none. He then asked if the City had received any comments.

Lisa Miller said she has received nothing.

Chairman Steve Ethridge asked if the complaints that were received beforehand, were phone in complaints or were they written.

Lisa Miller said that they were phone in complaints and these complaints were done when he had a multitude of vehicles in the back yard. He has cleaned up a lot of that and being that he is a body shop we are leery about any more vehicles coming in.

Steven Tomita said that he thinks the concern is that, we recognize that a vehicle that was brought in was involved with a collision and are being brought in to repair, but our concern is maintaining control where it does not become a salvage yard. The City is a little gun shy after the last one became a huge salvage yard. The fence is good as far as shielding the residential area from having to stare at vehicles that are in different stages of disrepair, but that it something that can be considered on any conditions the Commission places on the Conditional Use permit.

Chairman Steve Ethridge asked what the fence regulation are in a Commercial Zone.

Steven Tomita said that it is the same as it is for the R-2 zone. If a fence goes over 6 ft. it has to have engineered footings but this is not a solid fence and feels that all they would have to provide is that the footings are sufficient enough to hold and maintain that height of a fence. He would have to bring in some drawings of what materials and depth was used for the poles to make sure they are sufficient.

Vice Chair Pete Armstrong said that he is sure that there are specks on 6 ft. fences as far as the depth of the footing, the type of concrete that needs to be used, etc. so there has to be specks for an 8 ft. fence.

Mr. Hernandez said that the footing is three feet concrete within an 8' hole, so it should be sufficient and more than what it needs for stability.

Chairman Steve Ethridge asked if there were any more questions or concerns. There were none. He said he would entertain a motion.

Vice Chair Pete Armstrong said that before the Commission does that he would like to know how many vehicles is too many, and the reason is because there have been complaints, in the past, because of the number of vehicles there, and could the Commission limit the number of vehicles that they could have on site and would that have a negative effect on his business.

Mr. Hernandez said it probably would not affect the business. It just got out of hand with the amount of vehicles that he brought in. He would bring in another like vehicle to repair the first one and the vehicles just started piling up. He no longer does that.

Vice Chair Pete Armstrong asked how many bays he had.

Mr. Hernandez said that he has four bays and all four are occupied. He now likes to keep the amount of vehicles he has to 10.

Vice Chair said that he was thinking 8 which would include what was already inside the bays.

Mr. Hernandez said that would be small considering that he has almost an acre of land there. He would like to have 10-12 at the minimum. That is what he has right now. He used to have over 30. He tries to repair them and get them out as soon as possible.

Commissioner Claudine Montano asked if the certified notifications to the neighbors were sent out and if there were any responses to these.

Lisa Miller said that they were sent out and there were no replies.

Vice Chair Pete Armstrong moved to approve the Conditional Use for the 8 ft. fence with the following provisions:

- The number of vehicles on the lot are not to exceed 10 with a time period of 6 months to remove any excess vehicles that exist at this time.
- After the six months are up the maximum amount shall not exceed a total of 10.

Commissioner Claudine Montano seconded the motion.

Vote was as follows:

Commissioner Claudine Montano	Yes
Vice Chair Pete Armstrong	Yes
Chairman Steve Ethridge	Yes

Lisa Miller informed Mr. Hernandez that he will be sent a Conditional Use Agreement that will need to be signed, notarized and returned. The City will then sign the agreement and a copy will be sent to him.

C. REQUEST AN AMENDMENT TO THE MUNICIPAL CODE TITLE 15; Building & Construction, and adding Chapter 15.33; erosion Control; Storm Drainage and Stormwater Quality: City of Belen.

Steven Tomita informed the Commission that this was brought to him by the City of Belen Engineering Advisor John Best. The City is required to have a Storm Drainage and Stormwater Quality Ordinance. What this deals with is the sediment that is in the water when it rains and how that sediment drains off of lands into the street and into the international water and this also includes fecal matter. The City has to have an Ordinance that controls that. Just last week he was informed that this was not the final document but he wanted it brought to the attention of the Commission. It will be requiring Planning & Zoning Commission review before it will go before the City Council to be formally adopted. This document is a Federal Government mandate. It is really needed because, just a few weeks ago there was a property owner on the south side of Camino Del Llano and he decided that he was going to go and grade his lot and expose the land to blowing sand, water runoff, etc. we have nothing that protects us on that case. We cannot go out there and tell the owner that he is causing a problem of when it rains it will be draining a lot of sand and debris into our streets and flow into our storm drains then into the river. We need an Ordinance to control that. It is important that we have an Ordinance in place

so that they would be required to get permits, a plan of what they are going to do. Anything they are going to do to disturb the soil will require a permit from Planning & Zoning, Engineering, public works, etc. They are going to have to submit a plan showing what they are going to do, how they are going to control runoff, and how and what they are going to do to re-seed it. This Ordinance will put that in place. At this time the City has to have their run off tested quarterly to check for contaminants to show we are in compliance with the Federal Government. When you go to build a subdivision or improve your own lot, you will not be able to create or allow any discharge off that lot onto city streets.

Vice Chair Pete Armstrong said that one of the things that struck him when reading this document, was the amount of work this document is creating for the City and its engineer. He asked who the City engineer was.

Steven Tomita said that the City does not have an Engineer but right now our consultants, Moltzen Corbin acts as our City Engineer in cases like this. Loves and Circle K had to submit a grading & drainage report to show how they were going to control everything and then it was forwarded to Moltzen Corbin for their review and comments. This is basically called a SWPPP plan.

Vice Chair Pete Armstrong said that the City is taking on a lot of responsibility if this Ordinance is approved as it is written.

Steven Tomita said that it is mandated and there is not anything we can do about it.

Vice Chair Pete Armstrong said that this is pretty much a black and white document. There are no gray areas and there are a lot of specificity in it. This document needs to specify who the City Engineer is.

Steven Tomita said that at this time it is Moltzin Corbin who is our City Engineer. We do not have to have an in house engineer. The language in the document still applies to anyone who acts as our Engineer.

Vice Chair Pete Armstrong said that he does not see any fluidity in this as you do in other documents that have come before the planning & Zoning Commission for review. There is no wiggle room.

Steven Tomita said that is right, there is no wiggle room and the reason for that is that it is a Federal requirement and law and we have to follow it. If you don't follow this document the Federal Government steps in.

Vice Chair Pete Armstrong said that he thinks that needs to be specified somewhere in the document.

Steven Tomita said that it can be added that this is bringing us into compliance with the Federal Stormwater Control Act.

Vice Chair Pete Armstrong the acronyms are a problem. There are so many of them and it took him awhile to understand what they were.

Brian McBain said that the definitions section of the Ordinance can clarify what they are, for example, where it says the City Engineer you could put that in the definitions as 'the City's contracted consultant/engineer'. He was concerned that this is going to a whole lot of extra work on the City of Belen.

Steven Tomita said that we are already enforcing this. The Water quality and Stormwater Act was put into place many years ago and the Federal Government has been a little lacking in making sure it is followed. The bigger cities have been pushed to enforce this but the smaller cities have kind of been ignored. We knew that this was coming and we have been following it lately. The Federal Government is now paying attention to the small communities and telling them that they will follow these regulations.

Vice Chair Pete Armstrong said in 15.33.20, in subparagraph (F), he questioned where it says that detention ponds defined as minor facilities shall be constructed on private properties, and the way he is reading it, you get the impression that they can only be constructed on private properties.

Steven Tomita said that we are going to have to define what a major facility is and a minor facility is, in the definitions of the document. Public ponding is placed on public property and ponding for private use is constructed on private property. At De La Reina they have to have their own ponding on their own property for the subdivision.

Vice Chair Pete Armstrong asked how this would affect single family residences.

Steven Tomita said that that is a gray area right now. The lots at De La Reina have been designed to drain into their own pond as required but as to the existing single family lots, they cannot increase the flow that already happens.

Chairman Steve Ethridge said that is a concern for him also because if he owned three acres and decided to take a tractor to clear up all of the weeds and stuff...

Steven Tomita said that when this is passed you will not be able to do something like that without getting a permit from the City.

Vice Chair Pete Armstrong said that near the end of that same paragraph it refers to the fact that the ponding has to be designed and constructed to be emptied in 96 hours or less and he sees a major problem with that because there are no existing ponding sites in the city will never get down to that level. None of the existing ponds ever drain in that time period.

Steven Tomita said that is the nightmare that the cities are facing. This Ordinance has to be adopted and you can see the nightmare this document is going to create for everybody but unfortunately it is Federal Law.

Vice Chair Pete Armstrong said that the pond that is over at the Senior Center and Re Center area are noting but mosquito magnet.

Steven Tomita said that this is going to force private people and government people to put in things like dry wells to get those ponds drained in the appropriate amount of time.

Vice Chair Pete Armstrong said that we are on a clay soil in the area and clay does not percolate.

Steven Tomita said that problem that he has, and it is the same problem that the State has with this, is that the Federal Government is forcing everyone to clean the water up before discharging it. They are imposing things that are going to be a real challenge to meet.

Vice Chair Pete Armstrong said that the next paragraph said the revegetation is going to be required on any disturbance or destruction area and person/persons who did the disturbance or destruction are the one who are responsible for revegetation at the earliest practical time. We are working two sides of the streets here. We would be allowing them to come in and clean up the area but at the earliest practical time you are responsible for the disturbance or destruction and it is going to take revegetation for that. That is going to put the City and the local businesses in a bind.

Steven Tomita said that since he has been with the City he has brought up, several times, when he was developing in Albuquerque, he would deal with Dr. Dust, and when you disturbed the soil you could not let anything go in the air, and when Belen and Los Lunas joined the Albuquerque Metropolitan Planning Organization, it became a part of the greater part of Albuquerque, this document affected us a lot sooner than expected. We can't let dust get into the air, we can't let soil run off of the lots, and everything has to be controlled. You just can't go randomly clear off property and we have no say so about it. That's the way it has to be done now. He knows what they are saying and yes it is a burden, and yes it is going to be cumbersome to everybody, but it is now Federal Law.

Vice Chair Pete Armstrong said under (H) on that same page, it refers to an NPDES permit and asked where you can acquire one of those permits.

Steven Tomita said that those permits are done with the State. There are some conflicts because that allows storm waters to be discharged into the streets when in fact they cannot. If there is off site discharge running on your land, you can allow that to run off. That is in conflict with the States agreement with Mexico and Texas, where we have agreed to allow water to discharge so that they get the storm water so that they can use it. The Federal Law and the State are in conflict with these international agreements which causes a mess.

Vice Chair Pete Armstrong said in paragraph (I) it talks about a grading and drainage plan and its approval. It goes on to say that all storm water discharge resulting from the storm water quality event is to be kept on site for water quality prior to discharge from the property. WOW!

Steven Tomita said that you have mainly two items, which is sediment and fecal matter. These are the things that must be removed from the run off before it can be discharged. It is just easier to keep it on your property.

Vice Chair Pete Armstrong said in paragraph (K) it mentions that the paving permit and site plan are to be evaluated by the applicant when it is the applicant who is filling out the paperwork and asked if this was meaning that the applicant is evaluating his own paperwork.

Steven Tomita said that this needs to be clarified. It should say that the applicant needs to prepare and submit and study and report of the impact this would have.

Vice Chair Pete Armstrong moved on to the next page under paragraph (c) Storm water quality protection for post-construction phase, it says that off-site storm water mitigation shall be determined by the City and he asked if it is the City or State is responsible for this.

Steven Tomita said that the State is holding the City responsible for this. The Federal Government will hold the State responsible for state lands and the State will hold the local governments responsible for their lands.

Vice Chair Pete Armstrong went into 15.33.23 Crossings. In (D) it holds the developer responsible for all crossings of arroyos over streets other than arterials and collectors, and asked if he read that correctly.

Steven Tomita said yes. De La Reina is a perfect example where they came in a developed the infrastructure and then it sat for an extended period of time and then a new developer came in to continue the subdivision. That new developer is responsible for any changes or upgrades that are now required.

Vice Chair Pete Armstrong went to 15.33.35 (K) where it talks about grading or paving. This talks about a 12 month time period and he questions this time period limit.

Steven Tomita said that the reason for the time period is because if you do not build within that time period, State and Federal laws could change. If you do not build out in the 12 month time period and you came back later you might have to change the whole thing to comply with the current regulations. Just like De La Reina had to redo their drainage plan and update the infrastructure to adhere to the current regulations.

Vice Chair Pete Armstrong said that he does not know of any developer that comes in and has their plans reviewed and approved and gets their project done in 12 months. They usually take longer than that. Most of them are staged and done in phases.

Steven Tomita said that you do not have to build out the whole project just complete the infrastructure, such as the streets, drainage, utility lines, etc. then they can come back and build out the development. If it is a bigger project you can take and do it in phases and each phase has to be reviewed and approved before anything can be done. You have 12 months from the time the permit is approved. This document is not a pleasant document. It is going to create a lot burden's for us and everybody else. All of the new projects that have already come in to Belen have followed these rules. There is even one new store that is vaulting the runoff and storm water.

Chairman Steve Ethridge said that this is an action item.

Steven Tomita said it is not because it is not a finished document.

Chairman Steve Ethridge said that he does not like it and it smacks of global warming and ocean raising, etc., and is forcing micro-management of water. He understands the pollutant problem but it just tastes bad.

Steven Tomita said his problems is like in Albuquerque, when they were putting in filtration ponds for the silt and then discharge the clean water, it would wash out everything. It will pick up more silt on the discharge therefore washing out of arroyos and the banks of the channels which would cause more problems. There are certain areas that have cleaner water than we have here because of the arroyos. The water in the Rio Grande picks up silt and deposits silt as it travels down the river, so if you are developing that changing the characteristics of the area being developed, you are adding more to the silt traveling down the river.

Lisa Miller said that being it was published as a public hearing with possible action, should it not be tabled until the final draft is done.

Steven Tomita said that all that needs to be said is that the document was not prepared for action at this time, so no action is taken.

Chairman Steve Ethridge said that this is a public hearing and he could ask for a motion, and nothing happens it would die. He asked for a motion.

There was no motion. The issue dies at this time.

Vice Chair Pete Armstrong said that other entities need to be involved with this also. This needs to include all of them also.

DISCUSSION

Comprehensive Plan

Steven Tomita showed the Commission the information that MRCOG compiled and gave him access to the web site JOBSEQ. This software is used by NM State Economic Development, NM Partnership, MRCOG, and Albuquerque Economic Development. This information can be used to market an area for development. It includes information such as history, employment, census information, and the can look at what is present and what was there five years ago. This software can even do projections and impact studies. He was granted one of the extra licenses for this software because we are members of MRCOG's Albuquerque Rural Development Association. The information that was given to you can be used for the numbers in the tables of the Comprehensive Plan.

Vice Chair Pete Armstrong said that the information is really depressing when you look at it.

Steven Tomita said it is but it tells us what happened and it tells us where we are. It shows the impact of the recession that occurred. It shows that in 2002 we did some really good growing, and then the recession hit and we took a nose dive. The whole State of NM was crashing at the same time and it is a major ordeal to recover from this kind of recession. It take some time. The

City is beginning to come out of it. With some of the new businesses that have come in has helped.

Vice Chair Pete Armstrong said that one of the things that he would like to see factored into this is the 65+ categories be put into all of the profiles. We have a big population of the older generation throughout this whole area.

Steven Tomita said that was just some of the information that he now has access to. We can create what information we would like to see. There is a lot of information that can be used in the Comprehensive Plan.

INFORMATIONAL ITEMS

Communications from the Commission and Staff

Lisa Miller said that she has a question to put before the Commission. One of the Commissioners has missed four meetings in a row and asked what the Commission what they would like to do.

Steven Tomita said that our Ordinance says that if you miss three meetings consecutively, you can be up for removal from the Commission. He recommends that the Commissioner be contacted to see if he is going to remain active or not.

Chairman Steve Ethridge asked the Commission to think of someone who might be good for the Commission in case the one Commissioner decides to resign. The Council will make the final appointment.

Commissioner Claudine Montano said that this Commissioner has his plate full and he is not employed part time which adds more to his plate.

Steven Tomita informed the Commission that a Disney movie is filming in Belen at this time and a few others looking. He is hoping that Circle K will be breaking ground the middle of December. The broker for Loveless Hospital met with him and the Manager. They showed them 6 sites for possible placement of a hospital. It was encouraging.

Commissioner Claudine Montano asked the staff to look into an empty home located at the corner of Reinken Ave and Third St. She also received a complaint about someone living on the second story of the old Railroad Club.

Lisa Miller said that she would ask the police to check the Railroad Club due to the fact it has been condemned. She is also working on the Reinken Ave. and Third St. home.

Chairman Steve Ethridge asked what was going to be on the next agenda.

Steven Tomita said the Comprehensive Plan, but they need to go back and start working on the numbers in the tables by placing current numbers in them.

Chairman Steve Ethridge said that the monotonous commercial concerning the elections will be over Tuesday.

ADJOURN

There being no further business to come before the City of Belen Planning & Zoning Commission, Commissioner Claudine Montano moved to adjourn.

Vice Chair Pete Armstrong seconded the motion.

Motion carried.

The regular meeting of the City of Belen Planning & Zoning Commission adjourned at 7:45 p.m.

Chairman Steve Ethridge

ATTEST: _____
Lisa R Miller, Planning & Zoning Administrator